Unified railway law: Harmonization of the liability rules

Informal Group of Experts on Unified Railway Law
Second session
St. Petersburg, 8 July 2010

Dr. Erik Evtimov, Senior Legal Adviser
Uniform law for CIM/SMGS traffics

Common CIM/SMGS consignment note

- “Sum” of the CIM- and SMGS-consignment notes
- Based on the United Nations Layout Key for Trade Documents
- Recognition as:
  - Customs document
  - Letter of credit
Common CIM/SMGS formal report, legal presumption and claims handling rules

- **CIM/SMGS formal report** (Annex 8, 8.1)
  - used by the RU when it sees loss or damage

- **Legal presumption** (28 § 3 CIM / 23 § 10 SMGS)
  - when there is no formal report of loss or damage
  - advantage for the consignee: the last carrier must handle his claim

- **Claims handling rules** (Point 12.3)

- **Payment of compensation rules** (Point 12.4)

Principles for harmonized CIM/SMGS liability

- *Special Conditions* for CIM/SMGS traffic (*SC CIM/SMGS*)

- Inspired by CIM and SMGS principles

- The *contract of carriage* refers to them

- Successive carriers on a long distance

- On some *transcontinental axes*

- Carriers taking part accept *joint* liability

- *Relief* from liability in accordance with the CIM and/or SMGS
Further questions:

• Single paper consignment note and / or only electronic records?

• Liability to the customer limited to the value of the goods?

• Optional: Compensation up to the value declared?

• Liability for exceeding the transit period?

• Limits against whom can be taken action (contractual and/or last carrier)?

• Compensation between the carriers sharing in proportion to tariff kilometres or carriage charges?

• .......?