Rail Transport Interoperability
CIM/SMGS

UNECE Working Party on Intermodal Transport and Logistics
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Scope of the CIM and SMGS

State of 1. January 2009
## Differences in law

<table>
<thead>
<tr>
<th>CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail - Appendix B to COTIF)</th>
<th>SMGS (Agreement on International Goods Transport by Rail)</th>
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</thead>
<tbody>
<tr>
<td>Consensual contract</td>
<td>Formal contract</td>
</tr>
<tr>
<td>Contractual freedom</td>
<td>Obligation to set and publish tariffs and to carry</td>
</tr>
<tr>
<td>Consignment note design within the competence of RUs</td>
<td>Consignment note defined in SMGS itself</td>
</tr>
<tr>
<td>Joint and several liability</td>
<td>Individual liability</td>
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</tbody>
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## Differences in organisations

<table>
<thead>
<tr>
<th>OTIF (Intergovernmental Organisation for International Carriage by Rail)</th>
<th>OSJD (Organisation for Cooperation between Railways)</th>
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<tbody>
<tr>
<td>Bern</td>
<td>Warsaw</td>
</tr>
<tr>
<td>Since 1985 (before OCTI since 1893)</td>
<td>Since 1956</td>
</tr>
<tr>
<td>43 Member States</td>
<td>27 Member States</td>
</tr>
<tr>
<td>Only Member States</td>
<td>States and railways</td>
</tr>
<tr>
<td>Majority</td>
<td>Unanimity</td>
</tr>
<tr>
<td>German/French/English</td>
<td>Russian and Chinese</td>
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</tbody>
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CIT/OSJD Project: Legal Interoperability CIM/SMGS

Phase 1:
Common CIM/SMGS consignment note

Phase 2:
Standardised claims handling mechanism

Phase 3:
Single Eurasian Rail Transport Law
CIM/SMGS consignment note

• “Sum” of the CIM- and SMGS-consignment notes

• Based on the United Nations Layout Key for Trade Documents

• Recognition as
  1. customs document
  2. letter of credit
Use of the CIM/SMGS consignment note
Electronic CIM/SMGS consignment note

• Legal basis for the electronic exchange of consignment note data:
  – Article 6 § 9 CIM: based on functional equivalence
  – Article 7 § 14 SMGS: based on an agreement between the carrier and the customer

• The following provisions for the CIM/SMGS e-consignment note are still being drawn up:
  – Functional specifications (Appendix 1)
  – Legal specifications (Appendix 4)
  – Recommendation for the “Specifications for the Electronic CIM/SMGS Consignment Note”
  – Technical implementation – Raildata/OSJD/CIT
Phase 2:
Standardisation of the CIM/SMGS liability regimes

Objective:
- Harmonised provisions for the two legal relationships:
  - customer – RU
  - RU – RU

In practice:
- Guidelines for the CIM and SMGS liability regimes
- Common CIM/SMGS formal report
- Legal presumption following reconsignment
- Common CIM/SMGS claims handling rules
Global supply chains from railway prospective
Phase 3: Two legal areas one single law

Eurasian Rail Transport Law

SMGS/SMPS

COTIF
Uniform law for CIM/SMGS traffics

Uniform CIM/SMGS law

CIM and SMGS

- Common CIM/SMGS consignment note
- CIM/SMGS claims handling rules
- CIM/SMGS liability
The Kaliningrad Declaration

1. Extension of the CIM/SMGS Consignment note to
   • Kazakhstan, Mongolia and China
   • International ferry links
2. Completion of the work on the electronic CIM/SMGS Consignment note
3. Training and spread of information
4. Further Improvements of the legal framework
5. Evaluation of different proposals through CIT and OSJD

Declaration

The representatives of the railways of the states of the Eurasian area – the Republic of Belarus, the Federal Republic of Germany, the Republic of Kazakhstan, the People's Republic of China, Mongolia, the Republic of Lithuania, the Republic of Poland, the Russian Federation, the Republic of Slovenia, the Ukraine, the Czech Republic – and the representatives of the CIT and OSJD international organisations, of the forwarding agents and of customers who took part in the seminar on the topic of “Extending the scope of the common CIM/SMGS consignment note” held in Kaliningrad on 6 & 7 November 2008,

Conscious of the important role of rail transport for the lasting economic and social development of Asia and Europe against the backdrop of the geostrategically important role of the Eurasian Continent in the twenty-first century,

Noting the growing demand for reliable, effective, safe and environmentally friendly transport by rail between Europe and Asia to facilitate international trade,

Considering that administrative and legal barriers represent a significant barrier to the development of Eurasian freight traffic by rail,

Believing that efforts so far (the common CIM/SMGS consignment note and the standardised handling of claims, still being developed) should be taken even further in order to facilitate Eurasian traffic,

Recognising the progress made in implementing the common CIM/SMGS consignment note which has allowed the international carriage of freight between participants in the SMGS and the Member States of COTIF without reconsignment of the consignment note since 2006 and which has thus reduced both the time spent and costs of crossing borders,

propose to the participants in the SMGS and the railways and organisations involved that the geographical scope of this new consignment note should be extended and that its extension and use in the Eurasian railway space should be supported.

In this sense the participants in the seminar would like

- the scope of the common CIM/SMGS consignment note to be extended to traffic with Kazakhstan, Mongolia and China. To support this objective, use of Chinese to compile the CIM/SMGS consignment note is to be provided for;
- training and communications initiatives to be undertaken;
- the scope of the common CIM/SMGS consignment note to be extended to the through international ferry links;
- the work to create the electronic CIM/SMGS consignment note to be completed quickly;
- the CIT and the OSJD to evaluate proposals for further improvements to the legal framework for the use of the common CIM/SMGS consignment note.

Kaliningrad, Russian Federation
7 November 2008
The next steps in the third stage: „GTC-Eurasia“

- General Terms and Conditions (GTC)
- Based on international private law (IPR)
- Inspired by CIM and SMGS principles
- On some transcontinental axes
- Single paper consignment note and/or electronic records
- Carriers taking part accept joint and several liability
- Liability to the customer limited to the value of the goods
- Optional: Compensation up to the value declared
- Relief from liability in accordance with the CIM and/or SMGS
- Limits against whom can be taken action (contractual and last carrier)
- Compensation sharing (in proportion to tariff kilometres or carriage charges)
Demands for customs facilitations

- Common customs procedure for transcontinental transportation
- Single customs declaration based on single transport documentation
- Safety and security transportation on a long distances
- Better interconnection with the up-coming customs security obligation of the European Union
- Securing the comparative advantages of the railway on a global level
- Possible solutions:
  - Implementation of the existing UN Conventions
  - Up-grading the existing UN Conventions
  - Put in place a new UN Convention on simplified rail custom transit procedure for Eurasian rail corridors

- The role of the UN Bodies in the process?