Rail transport interoperability between Europe and Asia: Common consignment note CIM/SMGS

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Scope of the CIM and SMGS

State of 1. January 2009
## Differences in law

<table>
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<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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<tbody>
<tr>
<td>Consensual contract</td>
<td>Formal contract</td>
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<td>Contractual freedom</td>
<td>Obligation to set and publish tariffs and to carry</td>
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<td>Consignment note design within the competence of RUs</td>
<td>Consignment note defined in SMGS itself</td>
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<td>Joint and several liability</td>
<td>Individual liability</td>
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## Differences in organisations

<table>
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<tr>
<th>OTIF (Intergovernmental Organisation for International Carriage by Rail)</th>
<th>OSJD (Organisation for Cooperation between Railways)</th>
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<tr>
<td>Bern</td>
<td>Warsaw</td>
</tr>
<tr>
<td>Since 1985</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 <em>and</em> 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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COTIF

- **COTIF** = Convention concerning International Carriage by Rail
- Aim = to establish **uniform rules** for international rail transport
- Entry into force: 1 July 2006

- **OTIF** = Intergovernmental organisation for International Carriage by Rail
- 43 Member States (from 1.2.2010 44 after the accession of the Russian Federation)
- Since 1985
The CIT

124 Railway undertakings (soon also RZD)

Association under Swiss law located in Bern

Tasks:
1. Implementation of COTIF for practical use
2. Standardisation of contractual relationships
3. Representation of the interests of the members
COTIF’s structure

Appendix A
CIV
Appendix B
CIM
Appendix C
RID
Appendix D
CUV
Appendix E
CUI
Appendix F
APTU
Appendix G
ATMF

Vilnius Protocol 1999

COTIF
Convention concerning International Carriage by Rail

Protocol on privileges et immunities of OTIF
Competence for the consignment note

CIM

Article 6 § 8 CIM: “The international associations of carriers shall establish uniform model consignment notes in agreement with the customers’ international associations and the bodies having competence for customs matters …”

SMGS

Article 7 SMGS: The design of the consignment note is defined in the SMGS itself (Annex 12.1 SMGS – competence of the OSJD)
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
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
  1. customs document
  2. letter of credit
Common CIM/SMGS formal report, legal presumption and claims handling rules

• **CIM/SMGS formal report** (42 CIM / 18 SMGS)
  - 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

• **CIM/SMGS claims handling rules**
Practical use of the CIM/SMGS consignment note

Traffic movements:

• More than 20 traffic axes in 4 TEN Corridors
• Examples:
  – Germany – Russia (via Poland and Belarus)
  – Germany – Ukraine
  – Czech Republic – Russia / Ukraine
  – Romania – Russia
• Saves time – 16 hours per train
• Saves money – €40 per wagon
• Improves the overall legal certainty

Further improvements
• Using one CIM/SMGS consignment note plus a wagon list or container list
• Extending the scope of the CIM/SMGS consignment note
Use of the CIM/SMGS consignment note
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 geostrategic importance 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 recommissioning of the consignment note since 2006 and which has thus reduced both the time spent and costs of crossing frontiers,

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 complete 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 ensure 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
Extending the scope of the CIM/SMGS consignment note

- On the land bridge between Europe and Asia/China
- In transit through Mongolia
- On the TransSib
- In the Central Asia and on the Silk railroad to the ports
- Ferry connections on the Black Sea between the different ports and hinterland connections
- Starting with test transportations
Global supply chain from railway prospective
Phase 3: Two legal areas one single law

Eurasian Rail Transport Law

COTIF

SMGS/SMPS
Uniform law for CIM/SMGS traffics

Uniform CIM/SMGS law

Common CIM/SMGS consignment note

CIM/SMGS claims handling rules

CIM/SMGS liability

CIM and SMGS