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### **ECONOMIC COMMISSION FOR EUROPE**

INLAND TRANSPORT COMMITTEE

<u>Working Party on Customs Questions</u>

<u>affecting Transport</u>

Informal ad-hoc expert group on Customs
Rail Transit based on the SMGS
Consignment Note
(11 February 2002)

## DRAFT CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL UNDER COVER OF SMGS CONSIGNMENT NOTES

Overview of Comments received to the draft

Note by the secretariat 1/

 $^{1/}$  The document containing the original comments submitted by Contracting Parties will be contained in Informal document No. 4 (2002) and will be distributed at the meeting.

The present document has been prepared by the UNECE secretariat in order to provide an overview of the comments received by the secretariat in reply to the letter of the Executive Secretary of the UNECE, dated 30 May 2001, requesting Contracting States to the COTIF Convention and the SMGS Agreement to provide proposals or comments to the two draft Conventions on International Customs Transit Procedures for the Carriage of Goods by Rail contained in document TRANS/2001/10.

The objective of the document is to provide a basis for discussion.

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# 1101110/ H1 .50/ E00

## COMMENTS TO TRANS/2001/10, SECTION C DRAFT CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL UNDER COVER OF CIM CONSIGNMENT NOTES

Article	Text of draft Conventions	Comments received
Article 8 4	4. In accordance with the responsibilities stipulated in	TURKEY
	paragraphs 1 to 3, the railway companies (railways) shall be	[DELETE]
	liable to the competent authorities of their country, in	
	accordance with their national legislation, for any Customs	
	payments which may become due as a result of an	
	infringement or irregularity committed in the course of or in	
	connection with the underlying transit operation	
Article 11 1.	1. Railway companies shall ensure that consignments	TURKEY
and Annex 1	carried by rail under the international Customs transit	The model label is considered to small and thus not suitable to be
	procedure carried out in accordance with the provisions of	affixed to railway wagons.
	this Convention are identified by a label bearing a	
	pictogramme, a specimen of which is given in Annex 1	
Article 11 2.	2. The labels shall be affixed to the Consignment Note	TURKEY
	and the relevant railway wagon in the case of a full wagon	[DELETE]
	load or to the package or packages in other cases	
Article 16 2.	2. The office of destination shall forthwith return sheet	TURKEY
	2 to the railway company after stamping it and shall retain	2. The Customs office of destination shall forthwith return
	sheet 3.	the consignment note to the railway company after stamping
		sheet 3 and shall retain sheet 2 of the freight bill.

## COMMENTS TO TRANS/2001/10, SECTION D DRAFT CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL 4 UNDER COVER OF SMGS CONSIGNMENT NOTES

Article	Text of draft Conventions	Comments received
Article 1 (a)	(a) The term "international Customs transit" shall mean	RUSSIAN FEDERATION
	a Customs procedure under which goods are carried across	(a) The term "international Customs transit" shall mean a
	one or more frontiers under Customs controls from a	procedure under which goods are carried across the frontiers of
	Customs office of departure to a Customs office of	one or more States under Customs controls from a Customs office
	destination;	of departure to a Customs office of destination;
Article 1 (b)	(b) The term "SMGS Agreement" shall mean the	RUSSIAN FEDERATION
	Agreement on International Goods Transport by Rail which	(b) The term "SMGS Agreement" shall mean the Agreement
	entered into force on 1 November 1951;	on International Goods Transport by Rail <i>of</i> 1 November 1951;
Article 1 (c)	(c) The term "Consignment Note" shall mean an	RUSSIAN FEDERATION
	SMGS Consignment Note subject to the Agreement on	(c) The term "Consignment Note" shall mean an SMGS
	International Goods Transport by Rail; the Consignment	Consignment Note as provided for by the SMGS; the
	Note may consist of a system of electronic exchanges of	Consignment Note may consist of a system of electronic
	data;	exchanges of data;
Article 1 (f)	(f) The term "country" shall mean any State which is a	RUSSIAN FEDERATION
	Contracting Party to this Convention;	(f) The term "third country" shall mean a State which is not a
		Contracting Party to this Convention;

Article	Text of draft Conventions	Comments received
Article 1 (g)	(g) The term "competent authorities" shall mean the Customs authority or any other authority responsible for applying this Convention	RUSSIAN FEDERATION  (g) The term "competent authorities" shall mean the Customs authority or any other authority designated by a Party to monitor
Article 1 (i)	(i) The term "Customs office of destination" shall mean any Customs office in a country where an international Customs transit operation ends in respect of all or part of a consignment;	the implementation of this Convention;  RUSSIAN FEDERATION  (i) The term "Customs office of destination" shall mean a Customs office in a country where an international Customs transit operation ends in respect of all or part of a consignment;
Article 1 (j)	(j) The term "Customs office of transit" shall mean a Customs office through which a consignment enters or leaves the territory of a Contracting Party during an international Customs transit operation.	RUSSIAN FEDERATION  (j) The term "Customs office of transit" shall mean a Customs office through which a consignment enters or leaves the territory of a Contracting Party during an international Customs transit operation. The Customs office of transit may be the same as the Customs office of destination or the Customs office of departure;

Article	Text of draft Conventions	Comments received
Article 1 (k)	(k) The term "Customs payments" shall mean Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the importation or exportation of goods, but not including fees	RUSSIAN FEDERATION  (k) The term "payments" shall mean Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the importation or exportation of goods,
	and charges limited in amount to the approximate cost of services rendered;	with the exception of fees payable for specific categories of services;
Article 1 (l)	(l) The term "principal" shall mean a which, if need be by means of an authorized representative, manifests through a declaration designed for this purpose a willingness to carry out an international Customs transit operation;	RUSSIAN FEDERATION  (1) The term "principal" shall mean a <i>private individual or legal entity</i> which, if need be by means of an authorized representative <i>undertakes to carry out</i> an international Customs transit operation;
Article 2		RUSSIAN FEDERATION [Editorial change only]
Article 3	SCOPE  Each Contracting Party shall accept the Consignment  Note used in accordance with the provisions of this  Convention as a Customs transit document.	SCOPE  This Convention shall apply to the carriage of goods under cover of a Consignment Note accepted by each Contracting Party and used in accordance with the provisions of this Convention as a Customs transit document.

Article	Text of draft Conventions	Comments received
Article 5	LEGAL VALUE	RUSSIAN FEDERATION
	1. A Consignment Note used in accordance with this	LEGAL VALUE
	Convention and identification measures taken by the	1. A Consignment Note used in accordance with this
	competent authorities of a Contracting Party shall have the	Convention and identification measures taken by the competent
	same legal effect in the other Contracting Parties as a	authorities of a Contracting Party shall have the same legal effect
	Consignment Note used in accordance with the rules and	in the other Contracting Parties as a Consignment Note used in
	identification measures taken by each Contracting Party's	accordance with the rules and identification measures taken by
	own competent authorities.	each Contracting Party's own competent authorities.
	2. Findings of the competent authorities of one	
	Contracting Party made when inspections are carried out	
	under this Convention shall have the same probative force	
	in the other Contracting Parties as findings of each	
	Contracting Party's own competent authorities.	
Article 6 1.	MUTUAL ASSISTANCE	<u>RUSSIAN FEDERATION</u>
	1. The competent authorities of the Contracting	MUTUAL ASSISTANCE
	Parties shall communicate to one another, as far as their	1. The competent authorities of the <b>[editorial change in</b>
	laws, all information available to them which might	Russian only] Contracting Parties shall communicate to one
	contribute to the satisfactory application of this	another, in accordance with their legislation, all information
	Convention.	available to them which might contribute to the satisfactory
		application of this Convention.

Article	Text of draft Conventions	Comments received
Article 6 2.	2. Where necessary, the competent authorities shall communicate to one another all findings, documents, reports, records of proceedings and information relating to transit operations carried out under the cover of a Consignment Note, and to infringements and irregularities which have occurred in the course of or in connection with such operations.	RUSSIAN FEDERATION  2. Where necessary, the competent authorities <i>of the Contracting Parties</i> shall communicate to one another all findings, documents, reports, records of proceedings and information relating to transit operations carried out under the cover of a Consignment Note, and to infringements and irregularities which have occurred in the course of or in connection with such operations.
Article 7 1.	1. The railway companies (railways) of each Contracting Party shall for control purposes supply the competent authorities of the Contracting Parties in which they are established with copies of the transport documents which they have at their disposal.	REPUBLIC OF BELARUS  1. Transport documents (consignment notes) shall contain at least goods' particulars necessary for purposes of control by competent authorities. The railway companies (railways) of each Contracting Party shall for control purposes supply the competent authorities of the Contracting Parties in which they are established with copies of the transport documents which they have at their disposal.
		RUSSIAN FEDERATION  1. The railway companies (railways) of each Contracting Party shall for control purposes supply the competent authorities of the Contracting Parties in which they are established with copies of the transport documents which they have at their disposal and the required number of additional copies of freight bills as documentation enabling the competent authorities to control the proper conduct of international Customs transit operations.

Article	Text of draft Conventions	Comments received
Article 7.2	2. Railway companies (railways) must arrange to keep the transport documents which they have at their disposal for at least three years.	RUSSIAN FEDERATION  2. Railway companies (railways) must arrange to keep the transport documents which they have at their disposal for at least <i>five</i> years.
Article 8 1.	1. A railway company (railway) which accepts goods for carriage under international Customs transit procedures shall be a principal and shall as such be responsible to the competent authorities of the Contracting Party whose territory is entered in the course of such carriage for the proper conduct of the international Customs transit operation.	RUSSIAN FEDERATION  1. A railway company (railway) which accepts goods for carriage <i>at a point of departure</i> under international Customs transit procedures shall be a principal and shall as such be responsible to the competent authorities of the Contracting Party whose territory is entered in the course of such carriage for the proper conduct of the international Customs transit operation.
Article 8 2.	2. Where a consignment is accepted for carriage from a railway company (railway) of a third country, the railway company (railway) which takes over the consignment under international Customs transit procedures shall when that consignment enters the territory of the Contracting Parties become a principal and be responsible to the competent authorities of the Contracting Parties whose territory is entered in the course of such carriage for the proper conduct of the international Customs transit operation.	RUSSIAN FEDERATION  2. Where a consignment is accepted for carriage from a railway company (railway) of a third country, the <i>first</i> railway company (railway) of the Contracting Party which subsequently takes over the consignment under international Customs transit procedures shall when that consignment enters the territory of the Contracting Parties become a principal and be responsible to the competent authorities of the Contracting Parties whose territory is entered in the course of such carriage for the proper conduct of the international Customs transit operation.

Article	Text of draft Conventions	Comments received
Article 8 3.	3. The railway companies (railways) of the	RUSSIAN FEDERATION
	Contracting Parties shall be jointly and severally	3. The railway companies (railways) of the Contracting
	responsible with the railway companies (railways) referred	Parties shall be jointly and severally responsible with the railway
	to in paragraphs 1 and 2 to the competent authorities of the	companies (railways) referred to in paragraphs 1 and 2 of this
	Contracting Parties for the proper conduct of international	article to the competent authorities of the Contracting Parties for
	Customs transit operations entering the territories of the	the proper conduct of international Customs transit operations
	said Contracting Parties.	entering the territories of the said Contracting Parties.
Article 8 4.	4. In accordance with the responsibilities stipulated in	RUSSIAN FEDERATION
	paragraphs 1 to 3, the railway companies (railways) shall	4. In accordance with paragraphs 1 to 3 <i>of this article</i> , the
	be liable to the competent authorities of their country, in	railway companies (railways) shall be liable to the competent
	accordance with their national legislation, for any Customs	authorities of their country, in accordance with their national
	payments which may become due as a result of an	legislation, for any Customs payments which may become due as a
	infringement or irregularity committed in the course of or	result of an infringement or irregularity committed in the course of
	in connection with the underlying transit operation.	or in connection with the underlying transit operation.

Article	Text of draft Conventions	Comments received
Article 9	EXEMPTION FROM DUTIES AND TAXES	RUSSIAN FEDERATION
	A railway company (railway) responsible for the	EXEMPTION FROM DUTIES AND TAXES
	proper conduct of an international Customs transit	A railway company (railway) responsible for the proper
	operation in accordance with the provisions of this	conduct of an international Customs transit operation in
	Convention shall be exempted from Customs payments in	accordance with the provisions of this Convention shall be
	relation to goods which:	exempted from liability, including Customs payments in the event
	(a) Have been destroyed as a result of <u>force</u>	of the loss or destruction of goods in carriage as a result of force
	<u>majeure</u> or unforeseeable circumstances, duly established;	majeure or unforeseeable circumstances, duly established, and
	(b) Are recognized as missing for reasons deriving	natural wear or shrinkage under normal conditions of transport
	from their nature and characteristics, including natural wear or	and storage.
	shrinkage under normal conditions of transport.	
Article 10	GUARANTEE WAIVER	RUSSIAN FEDERATION
	For the purposes of applying this Convention, the	GUARANTEE WAIVER
	railway companies (railways) of the Contracting Parties	For the purposes of applying this Convention, the railway
	shall be exempted from the obligation to furnish a	companies (railways) of the Contracting Parties shall be exempted
	guarantee.	from the obligation to furnish a guarantee to the competent
		authorities, unless otherwise provided for by the national
		legislation of the Contracting Parties.

Article	Text of draft Conventions	Comments received
Article 12	AMENDMENT OF THE CARRIAGE CONTRACT	RUSSIAN FDERATION
	Railway companies (railways) shall not be	AMENDMENT OF THE CARRIAGE CONTRACT
	permitted to modify a carriage contract without prior	Railway companies (railways) shall not be permitted to
	agreement from Customs at the point where the contract is	modify a carriage contract without prior agreement from Customs
	modified.	at the point where the contract is modified.
		Customs at the point where the contract is modified means the
		Customs office in whose jurisdiction the railway station where
		the movement of goods has been interrupted with a view to
		modifying the carriage contract is located.
Article 13	FORMALITIES AT THE CUSTOMS OFFICE OF	RUSSIAN FEDERATION
	DEPARTURE	FORMALITIES AT THE CUSTOMS OFFICE OF
	At the start of a transport operation the	DEPARTURE
	Consignment Note shall be presented to Customs at the	At the start of a transport operation the Consignment Note
	office of departure together with the documents required	shall be presented to Customs at the office of departure together
	for the purpose of completing formalities and controls.	with the documents required for the purpose of completing
		formalities and controls in accordance with national legislation.

Article	Text of draft Conventions	Comments received
Article 14	IDENTIFICATION MEASURES	RUSSIAN FEDERATION
	As a general rule, and having regard to	IDENTIFICATION MEANS
	identification measures applied by the railway company	As a general rule, and having regard to identification
	(railway), customs at the office of departure shall not seal	means applied by the railway company (railway), Customs at the
	the wagons or the packages.	office of departure <i>may</i> not seal the wagons or the packages.
Article 15 1.	1. Pursuant to this Convention, no formalities shall be	REPUBLIC OF BELARUS
	carried out at Customs offices of transit.	1. Goods carried under the Convention shall not as a
		general rule be subject to examination at Customs offices <u>en</u>
		route. However, to prevent abuse, competent authorities of
		countries en route may in exceptional cases, and particularly
		when irregularity is suspected, carry out examination of the
		goods.
		RUSSIAN FEDERATION
		Pursuant to this Convention, a Consignment Note shall be
		used as a Customs transit document for the processing of goods
		at a Customs office of transit.

Article	Text of draft Conventions	Comments received
Article 15 2.	2. The transport documents provided for in article 7 shall be treated by the competent authorities as documents enabling them to check the proper conduct of transit operations.	REPUBLIC OF BELARUS  2. The transport documents provided for in article 7 shall be <i>considered</i> by the competent authorities as documents enabling them to check the proper conduct of transit operations.  RUSSIAN FEDERATION  [Delete]
Article 16 1	1. The railway company (railway) carrying out the transport operation in the country of destination shall submit to the Customs office of destination the Consignment Note and an additional copy of the freight bill.	RUSSIAN FEDERATION  1. Upon completion of the international Customs transit procedure, the goods and vehicles shall be submitted by the railway company (railway) to the Customs office of destination together with the Consignment Note and the transport documents.
Article 16 2.	2. The Customs office of destination shall forthwith return the Consignment Note to the railway company (railway) after stamping sheet 2 and shall retain the additional copy of the freight bill.	RUSSIAN FEDERATION  2. The Customs office of destination, having duly completed the formalities of the international Customs transit procedure, shall forthwith return the Consignment Note to the railway company (railway).

Article	Text of draft Conventions	Comments received
Article 17 1.	1. Where an infringement or irregularity is committed in the course of or in connection with an international Customs transit procedure carried out under this Convention Customs payments, if any, must be made in accordance with the laws and regulations of the Contracting Party in the territory of which the infringement or irregularity was committed.	RUSSIAN FEDERATION  1. Where an infringement or irregularity is committed in the course of or in connection with an international Customs transit procedure carried out under this Convention, <i>any</i> Customs payments <i>due</i> , must be made in accordance with the laws and regulations of the Contracting Party in the territory of which the infringement or irregularity was committed.
Article 17 2.	2. Where it is not possible to determine the territory in which an infringement or irregularity has been committed, it shall be deemed to have been committed in the territory of the Contracting Party where it was discovered.	RUSSIAN FEDERATION  2. Where it is not possible to determine the territory <i>of the country</i> in which an infringement or irregularity has been committed, it shall be deemed to have been committed in the territory of the Contracting Party where it was discovered.
Article 18	This Convention shall not prevent the application of additional facilities which Contracting Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of the provisions of this Convention.	RUSSIAN FEDERATION  This Convention shall not prevent the application of additional facilities which Contracting Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the <i>proper</i> application of the provisions of this Convention.

Article	Text of draft Conventions	Comments received
Article 19	The provisions of this Convention may be adapted, by means of bilateral or multilateral agreements between Contracting Parties, to allow the use of a system of electronic exchanges of data instead of the Consignment Note, provided that the adaptations agreed upon do not impede the implementation of the provisions of this Convention.	RUSSIAN FEDERATION The Contracting Parties may, on the basis of bilateral and multilateral agreements designed to expedite Customs control at Customs offices of transit, organize electronic exchanges of the data contained in the Consignment Note and transport documents.
Article 20	The Explanatory Notes set out in Annex 2 describe certain recommended practices and interpret certain provisions of this Convention. They constitute an integral part of the Convention. They do not modify the provisions of this Convention, but merely make their contents, meaning and scope more precise.	RUSSIAN FEDERATION  The Explanatory Notes <i>to this Convention</i> describe certain recommended practices and interpret certain provisions of this Convention. They constitute an integral part of the Convention. They do not modify the provisions of this Convention, but merely make their contents, meaning and scope more precise.
Article 22 1.		RUSSIAN FEDERATION [Editorial change only]
Article 22 2.	2. This Convention shall enter into force for all additional States referred to in article 21, paragraphs 1 and 2, six months after the date of signature without reservations concerning ratification or of deposit of instruments of ratification or accession.	RUSSIAN FEDERATION  2. This Convention shall enter into force for <i>the other</i> States referred to in article 21, paragraphs 1 and 2, six months after the date of signature without reservations concerning ratification or of deposit of instruments of ratification or accession.

Article	Text of draft Conventions	Comments received
Article 23 1.	Any Contracting Party may denounce this Convention by] so notifying the depositary.	RUSSIAN FEDERATION  1. Any Contracting Party may withdraw from this Convention by [editorial change in Russian only] so notifying the depositary no later than 15 months after the date of receipt by the depositary of the notification of denunciation.
Article 23 2	2. Denunciation shall take effect 15 months after the date of receipt by the depositary of the notification of denunciation.	RUSSIAN FEDERATION [Delete]
Article 25 9.		RUSSIAN FEDERATION  9. Proposals shall be put [editorial change in Russian only] to the vote. Each Contracting Party represented at the meeting shall have one vote. Proposals other than proposed amendments shall be adopted by the Committee by a majority of those present and voting. Proposed amendments shall be adopted by a two-thirds majority of those present and voting.

Article	Text of draft Conventions	Comments received
Article 26 1.	1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall, insofar as possible, be settled by direct negotiation between them.	RUSSIAN FEDERATION  1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall be settled by direct negotiation between them.
Article 27 3.		RUSSIAN FEDERATION  3. Except as provided for under article 28, any recommended amendment communicated in accordance with paragraph 2 of this article shall enter into force with respect to all Contracting Parties 3 months after the expiry of a period of 18 months following the date of communication of the recommended amendment if no objection to the recommended amendment has been notified during that period to the depositary by a [editorial change in Russian only] Contracting Party.
Article 29 1.	1. The Secretary-General of the United Nations is designated as the depositary of this Convention.	RUSSIAN FEDERATION  1. The Secretary-General of the United Nations <i>shall be</i> the depositary of this Convention.
Article 29 2.		RUSSIAN FEDERATION  2. The functions of the Secretary-General of the United Nations as [editorial change in Russian only] depositary shall be as set out in Part VII of the Vienna Convention on the Law of Treaties, concluded at Vienna on 23 May 1969.

Article	Text of draft Conventions	Comments received
Article 30	In accordance with article 102 of the Charter of the United	RUSSIAN FEDERATION
	Nations, this Convention shall be registered with the	In accordance with article 102 of the Charter of the United
	Secretariat of the United Nations.	Nations, this Convention shall be registered with the Secretariat of
	IN WITNESS WHEREOF, the undersigned, being duly	the United Nations.
	authorized thereto, have signed this Convention.	DONE at Geneva, this, in a single copy in the
	DONE at Geneva, this, in a single copy in	Arabic, Chinese, English, French, Russian and Spanish languages,
	the Arabic, Chinese, English, French, Russian and Spanish	all texts being equally authentic.
	languages, the six texts being equally authentic.	