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**INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER
CONTROLS OF GOODS, 1982**

Comments to Draft new Annex 9

Transmitted by the Intergovernmental Organization for International Carriage by Rail (OTIF)

Facilitation of Border Crossing in International Rail Transport

Draft new Annex 9 to the 1982 International Convention on the Harmonization of Frontier Controls of Goods – Proposals from OTIF

Draft Annex 9 – Result of the meeting in Warsaw (28-30.3.2006)	Proposals	Comments
<p style="text-align: center;">Article 1</p> <p style="text-align: center;">Principles</p> <ol style="list-style-type: none"> 1. The purpose of this annex, supplementing the regulations of the Convention, is to determine the measures, which shall be carried out in order to facilitate border crossing procedures by the railway stock. 2. The Contracting Parties have committed themselves to cooperate in order to ensure maximum synchronization of formalities, requirements concerning documentation and procedures in all the fields connected with the carriage of goods by rail. 3. The contracting Parties seek to organize at the border (transfer) stations all types of joint control on the basis of bilateral agreements. 	<p style="text-align: center;">Article 1</p> <p style="text-align: center;">Principles</p> <ol style="list-style-type: none"> 1. The purpose of this annex, supplementing the regulations of the Convention, is to determine the measures to be carried out in order to facilitate and accelerate border crossing procedures for international carriage by rail. 	<p>- Cf. Russian text.</p> <p>- Cf. also wording in doc. TRANS/SC.2/2005/2:</p> <ol style="list-style-type: none"> 1. This Annex, supplementing the provisions of the Convention, is intended to define the steps that need to be taken to facilitate and expedite border crossing procedures for international rail transport. 2. The Contracting Parties pledge to cooperate in order to standardize as fully as possible formalities and requirements in respect of documents and procedures in all areas connected with the movement of goods by rail. 3. The Contracting Parties shall endeavour to base all forms of joint controls at border (transfer) stations on bilateral agreements.

<p style="text-align: center;">Article 2</p> <p style="text-align: center;">Border Crossing</p> <p>1. The Contracting Parties facilitate all border crossing procedures including visa formalities for the engine crews, members of refrigerator section teams, for the persons accompanying cargo, as well as for the personnel of the adjacent border railway (transfer) stations [hereinafter border (transfer) stations].</p> <p>2. The frontier crossing procedures for the persons listed in paragraph 1 of Article 2, including their service identification papers, are set up by bilateral agreements.</p>	<p style="text-align: center;">Article 2</p> <p style="text-align: center;">Facilitation of Border Crossing Procedures for Engine Crews and Other Personnel</p> <p>1. The Contracting Parties facilitate visa procedures for the engine crews, members of refrigerator section teams, for persons accompanying cargo, as well as for the personnel of the adjacent border railway (transfer) stations [hereinafter border (transfer) stations] in accordance with national best practice accorded [to diplomats] [for any other visa applicants enjoying preferential treatment] under national immigration rules or international commitments.”</p> <p><i>Alternative: at least align with the text as set out for the road transport sector in the Annex to document TRANS/WP.30/AC.3/2005/1, i.e. Annex 8 to the 1982 Harmonisation Convention, which has already been adopted.</i></p> <p>“Facilitation of visa procedures for engine crews [and other personnel]</p> <p>1. The Contracting Parties should endeavour to facilitate the procedures for the granting of visas for engine crews... engaged in international rail transport in accordance with national best practice for all visa applicants.</p>	<p style="text-align: center;"><i>See p. 4 of the report of the Vilnius meeting.</i></p>
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<p>3. When carrying out joint control the officials of the border, customs and other agencies, assigned to execute control functions at the border (transfer) stations, in performing their official duties, cross the state line by the documents, specified by the Contracting Parties.</p>	<p>2. The Contracting Parties agree regularly to exchange information on best practices with regard to the facilitation of visa procedures for engine crews....</p> <p>3. When carrying out joint control the officials of the border, customs and other agencies, assigned to execute control functions at the border (transfer) stations, in performing their official duties, cross the state line by the documents, specified by the Contracting Parties for their nationals.</p>	
<p style="text-align: center;">Article 3</p> <p style="text-align: center;">Requirements for Border (Transfer) Stations</p> <p>In order to organize properly and speed up prescribed formalities at border (transfer) stations the Contracting Parties shall respect the following minimum requirements set up for border (transfer) stations, which are open for the international railway cargo traffic:</p> <p>1. availability of buildings (premises), facilities, equipment and materiel, allowing corresponding everyday all-day-round control at border stations if it is justified and corresponds to the cargo traffic volume;</p>	<p style="text-align: center;">Article 3</p> <p style="text-align: center;">Requirements for Border (Transfer) Stations</p> <p style="text-align: center;">[addition to the existing text]</p>	

<p>2. the border (transfer) stations, at which phytosanitary, veterinary and other types of control are carried out, are equipped with all kind of facilities (premises) and technical means required to carry out the goods control;</p> <p>3. the carrying and transfer capacity of border (transfer) stations and adjacent areas shall be capable of dealing with the volume of traffic;</p> <p>4. availability of control areas and warehouse infrastructure for temporary storage of cargoes subject to customs and other types of control;</p> <p>5. availability of information systems and communication means enabling to exchange the advanced data to include that about the approach of cargoes to the border (transfer) stations with regard to the extent of the information in the railway consignment note and customs declaration;</p> <p>6. availability at the border (transfer) stations of the necessary railway, customs, border and other personnel in accordance with the volumes of the goods carried.</p>	<p>6. in accordance with the volumes of the goods carried availability at the border (transfer) stations of the necessary railway personnel who have been trained, practised and are ready for operation;</p> <p>7. ability to accept and use technical approval and inspection data.</p>	<p><i>See also comments on Article 5.</i></p> <p><i>This should be an additional requirement. As many checks as possible should be carried out at the earliest appropriate point, preferably the departure station and the results (reports) should be transferred and accepted by other parties further along the</i></p>
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<p style="text-align: center;">Article 4</p> <p style="text-align: center;">Inspection of Rolling Stock, Containers and Goods by Railways</p> <p>1. The Contracting Parties shall carry out coordinated actions to ensure the organization of fast inspection of rolling stock, containers, piggybacks, transit goods, as well as the processing of carriage and accompanying documents.</p> <p style="text-align: center;">Article 5</p> <p style="text-align: center;">Control</p>	<p style="text-align: center;">Article 4</p> <p style="text-align: center;">Inspection</p> <p>1. Where inspection at the border in accordance with paragraph 2 cannot be dispensed with, the Contracting Parties shall carry out coordinated actions to ensure the organization of fast inspection of rolling stock, containers, piggybacks, transit goods, as well as the processing of carriage and accompanying documents.</p> <p>Fast inspections to be performed at border crossings shall be restricted to essential points and to features that have changed. The Contracting Parties shall agree on the items and criteria to be controlled at border crossings.</p> <p>2. The Contracting Parties</p> <p>1. seek to shall to the extent possible ensure mutual recognition of all types of</p>	<p><i>As Articles 4 and 5 deal with the same subject of regulation, they should be combined. While the very generally worded Article 4 deals with "speeded" ("fast") inspection, Article 5 – Inspection - also covers individual cases where no controls are necessary, e.g. if rolling stock is transferred on a "trust basis", i.e. there is an accepted technical inspection carried out by other parties, provided this is really the aim of Article 5 i), or in those cases where inspection of the goods is transferred to the destination station. This relation between the two provisions should be made clear.</i></p> <p><i>Wherever possible, agreements on the criteria to be controlled should be concluded [see Annex].</i></p> <p><i>The present Article 5 should be incorporated into paragraph 2. In it, a distinction should be made between the technical inspections (including that the load is still properly</i></p>

<p>The Contracting Parties:</p> <ol style="list-style-type: none"> 1. seek to ensure mutual recognition of all types of control for rolling stock, containers, piggybacks, goods carried, if the objectives of such inspections match each other; 2. carry out customs control relying on the principle of selection on the basis of risk evaluation system; 3. carry out simplified control at the border (transfer) stations, with the transfer of certain types of control to the station of destination in accordance with the regulations of the Contracting Parties; 4. do not perform inspection of transit goods, if reliable information on them has been presented and if the goods available in(on) the vehicle, container, piggyback or wagon are closed and correspondently sealed excluding the customs control based on the principle of paragraph 2 of this article. 	<p>inspections for rolling stock and containers, carried out on the basis of agreed uniform standards (specifications), procedures, rules for form and content of reports and requirements concerning the qualifications of the staff carrying out these tasks if the object and the purpose of the inspection correspond. The Contracting Parties shall carry out coordinated actions to ensure that proof of inspections carried out is available as early as possible at the border crossing.</p> <ol style="list-style-type: none"> 2. carry out customs control (inspection) on the basis of risk evaluation (relying on the principle of selection), 3. shall transfer, to the extent possible and not only for transit traffic, all necessary control procedures to the places of departure and destination of the goods in accordance with the regulations of all the [the two adjacent] Contracting Parties; 4. do not perform inspection of transit goods, if reliable information on them has been presented and if the goods available in(on) the vehicle, container, piggyback or wagon are closed and correspondently 	<p><i>placed within the loading profile, secured and in good condition) on the one hand and the goods controls on the other. First of all, mutual recognition of technical inspections should be aimed at. However, a provision such as that contained in Article 5 item 1 does not seem sufficient for this purpose. A technical forum should draft appropriate specific rules for this in the form of an Appendix. OTIF will contribute to this work.</i></p> <p><i>Regarding technical inspection, proof of inspections carried out would have to be available as early as possible at the border crossing.</i></p> <p><i>Multilateral recognition of all kinds of inspections of railway vehicles (traction, other rolling stock, containers as proposed does not appear to be realistic without uniform standards (specifications), procedures, rules for form and content of reports and requirements concerning the qualifications of the staff carrying out these tasks, all of which should be agreed between the parties and should include possible sanctions in case of violations.</i></p> <p><i>Ad 3: As many checks as possible should be carried out at the earliest appropriate point, preferably the departure station and the</i></p>
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	<p>sealed excluding the customs control based on the principle of paragraph 2 of this article..</p>	<p><i>results (reports) should be transferred and accepted by other parties further along the journey. The data/reports from checks made should preferably be transferred electronically and available at the border and other official acceptance points before the train arrives at the border.</i></p> <p><i>See also Annex 8 regarding road transport in doc. TRANS/WP.30/AC.3/ 2005/1, Article 3 para. 2.</i></p>
<p style="text-align: center;">Article 6</p> <p style="text-align: center;">Time Standards</p> <p>1. The Contracting Parties shall ensure the accomplishment of time standards, set by bilateral agreements, for technological operations on the reception and transfer of trains at the border (transfer) stations, to include all types of control, and seek to minimize the time standards by means of perfecting technologies and using new equipment.</p> <p>2. [deleted]</p>	<p style="text-align: center;">Article 6</p> <p style="text-align: center;">Time limits</p> <p>1. The Contracting Parties shall ensure compliance with the time limits specified in bilateral agreements technical operations involving the reception and transfer of trains at border (transfer) stations, including all types of controls, and shall endeavour to reduce these deadlines through the use of better techniques and new technology. The contracting Parties agree to reach a minimum reduction of [10%] in the time limit in the first year, with a [5%] reduction in the following [4] years.</p> <p>2. The Contracting Parties shall ensure that delays to the transport operations at the border (transfer) stations are</p>	<p><i>Ad para. 1: see doc. TRANS/SC.2/2005/2. In addition, it would be desirable to agree a minimum objective, for instance a 10% reduction in the time limit in the first year, with a 5% reduction in the following x years. The reductions achieved at every border crossing should be reported to the UNECE every year together with the potential for further reductions. The time limits should be separate for block trains, trains in corridors and trains/wagons where necessary information has been sent (electronically) in advance and for random passages. The fact that the starting basis is bilateral agreements takes account of the fact that there are different conditions for each of the Contracting Parties to the Convention; but after that, all the Contracting Parties would have to make the same effort.</i></p>

	<p>recorded, in order to analyse [every six months] the reasons for non-compliance with the time limits. The results of the analysis shall be submitted to the UNECE [every year].</p> <p><i>Alternative proposal (Cf. Article 7 in document TRANS/WP.30/AC.3/2005/1 - Reporting mechanism):</i></p> <p>With regard to Articles 1 to 5 of this Annex, the Executive Secretary of the Economic Commission for Europe of the United Nations (UNECE) shall carry out, every [second] year [every six months], a survey among Contracting Parties on progress made to improve border crossing procedures in their countries.</p>	<p><i>Paragraph 2 originally drafted should have been maintained and made clearer by specifying the intervals at which analysis of the causes of delays should be carried out: every six months would seem appropriate. The results should then be submitted to the UNECE. The UNECE meetings should be used to intensify the exchange of positive experiences and progress achieved and for analysing continuing deficiencies.</i></p>
<p style="text-align: center;">Article 7</p> <p style="text-align: center;">Documents</p> <p>1. The Contracting Parties seek to process properly carriage and accompanying documents in accordance with the legal acts of the importing and transit countries.</p> <p>2. The Contracting Parties seek to use in the relations between each other the electronic data exchange systems to the extent of the information of the railway consignment notes and customs declarations accompanying</p>	<p style="text-align: center;">Article 7</p> <p style="text-align: center;">Documents</p> <p>1. The Contracting Parties shall not require a new document for checking by the administrative authorities, provided all the information required in accordance with national law is already contained in the documents presented.</p> <p>2. The Contracting Parties seek to use in the relations between each other the electronic data exchange systems</p>	<p><i>With regard to paragraph 1, the question arises as to whether this provision, which states the obvious, is necessary. It would be more useful to lay down the principle of using a document produced in accordance with national provisions for as many purposes as possible (not only the consignment note as a customs document, perhaps documents could also be combined for other checks by the administrative authorities). Provided the documents made out for the purpose of other checks by the administrative</i></p>

<p>the cargo prepared in accordance with the legislation of the Contracting Parties.</p> <p>3. The Contracting Parties seek to provide the customs bodies with an advanced information on the arrival of goods at the border (transfer) stations to the extent of the information contained in the railway consignment note and customs declaration.</p> <p>The composition, procedure and the time for the advanced information to be provided are defined by the Contracting Parties.</p>	<p>regarding documents accompanying the goods as well as documents and information relating to technical approval and checks of rolling stock.</p>	<p><i>authorities contain all the information necessary in accordance with national law for further checking by the administrative authorities, no new document should be required.</i></p> <p><i>Ad 2. Apart from documents accompanying the goods, documents and information (whether on paper or as an electronic file) relating to technical approval and checks of rolling stock, containers etc. should be dealt with in accordance with similar principles.</i></p>
<p style="text-align: center;">Article 8 (optional)</p> <p style="text-align: center;">Use of Unified CIM/SMGS Railway Consignment Note</p> <p>The Contracting Parties may use, in addition to other transport documents in effect, the unified CIM/SMGS railway consignment note, which at the same time is a customs document.</p>	<p style="text-align: center;">Article 8</p> <p style="text-align: center;">Use of Unified CIM/SMGS Railway Consignment Note</p> <p>The Contracting Parties may use, in addition to other documents in effect, the unified CIM/SMGS railway consignment note, which at the same time is a customs document, unless more favourable consignment procedures exist.</p>	<p><i>The wording adopted in Vilnius and retained in Warsaw indicated somehow that the CIM/SMGS consignment note does not represent the only possibility of how a transport document for carriage by rail must look. However, we doubt that the expression “in addition” takes sufficient account of the idea that simpler formats may exist. OTIF therefore maintains its proposal. In our view, describing the Article as “optional” (possibility of opting in or opting out?) does not resolve the problem; this does not sort out the potentially confusing wording, which indicates an additional transport document.</i></p>
