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INLAND TRANSPORT COMMITTEE

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agenda item 17 (d))

CUSTOMS QUESTIONS AFFECTING TRANSPORT

**Draft Conventions on International Customs Transit Procedures
for the Carriage of Goods by Rail**

Note by the secretariat

A. MANDATE

1. The Working Party on Customs Questions affecting Transport (WP.30), at its ninety-sixth session (16-20 October 2000), having terminated at this stage its activities towards the preparation of harmonized pan-European Customs transit procedures for international rail transport, decided to transmit the two draft conventions it had prepared for this purpose, via diplomatic channels, to the Contracting Parties to the COTIF Convention and to the SMGS Agreement respectively with a view to soliciting their views on the approach taken and on the Customs transit procedures proposed therein. On the basis of the comments received, the Committee was invited to consider the adoption of the two conventions. If required, the Working Party would be ready to review the provisions of the conventions once more in light of guidance to be provided by the Committee (TRANS/WP.30/192, para. 19).

2. The Committee may wish to consider the adoption of the two conventions as contained below in Sections C and D as well as their opening for signature.

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B. INTRODUCTION AND BACKGROUND

3. In November 1995, the Working Party has already completed in principle the preparation of a Convention on International Customs Transit Procedures for the Carriage of Goods by Rail providing for the use of the CIM Consignment Note as a Customs document (TRANS/WP.30/164, paras. 59-61; TRANS/WP.30/R.141).

4. The text of this draft convention covering the countries applying the COTIF Convention is contained below in Section C. The text of paragraphs 8 and 10 of Article 26 of the draft convention has not yet been finalized by the Working Party as there existed conflicting views on the representation and the number of votes of regional economic integration organizations. The Committee may wish to decide on the wording of these two paragraphs before adopting the text of the convention.

5. Following considerations by the Committee in 1997 on possibilities of extending the scope of the draft convention also to countries applying the SMGS Agreement (ECE/TRANS/119, paras. 136-139), the Working Party, at its ninety-second session, decided to prepare, as a first step, two similar, but independent United Nations conventions, one providing for the use of the CIM Consignment Note as a Customs document in those countries applying the COTIF railway regime and another convention, providing for the use of the SMGS Consignment Note as a Customs document in the countries applying the SMGS regime. The offer of the Organization for Co-operation between Railways (OSZhD) to prepare a revised draft convention covering the SMGS countries was welcomed (TRANS/WP.30/184, paras. 68 and 69). At its ninety-sixth session in October 2000, the Working Party considered a revised draft convention prepared by an OSZhD expert group meeting (TRANS/WP.30/2000/17) covering those countries applying the SMGS Agreement (TRANS/WP.30/192, paras. 14-21).

6. The Working Party noted that this draft contained the same provisions and procedures for use of a railway Consignment Note as the draft convention finalized by the Working Party in 1995 for use of the CIM Consignment Note, i.e. similar Customs facilities for rail transit. This included far reaching facilitation measures applicable to Customs transit procedures in rail transport, such as exemption to furnish guarantees and to provide sealing of wagons, no physical inspection of the cargo by Customs authorities and a waiver of Customs formalities during transit operations.

7. The text of this draft convention covering the countries applying the SMGS Agreement is contained below in Section D.

8. Some Customs experts pointed out that the provision of such far-reaching facilities should be restricted to only such railway companies being State entities on the basis of well defined responsibilities vis-à-vis Customs authorities. The Working Party noted that modern Customs rail transit procedures should possibly also address issues related to the emergence of private rail transport operators (TRANS/WP.30/192, para. 17). These issues have not yet been addressed in the draft convention.

9. In its considerations of the two draft conventions, the Committee may wish to consider whether it would be appropriate to establish two separate Customs transit conventions for the UN/ECE region which, while in substance virtually identical, did not provide for a harmonized pan-European Customs transit system for international rail transport as is provided, for example for international road transport, by the TIR Convention. In this context, the preliminary considerations of WP.30 to extend possibly the scope of the TIR Convention to cover also international rail transport on an equal basis might need to be taken into account (TRANS/WP.30/192, paras. 41 and 42).

10. The Committee may also consider whether the underlying railway treaties, i.e. the COTIF Convention and the SMGS Agreement, would provide for necessary and sufficient mechanisms and security schemes which would guarantee Customs control, avoid fraudulent activities and the safeguard of the legitimate interests of Governments to recover, if necessary Customs duties and taxes due.

11. Relevant background information on the relevant activities of WP.30 in this regard is contained in the following UN/ECE documents: TRANS/WP.30/192, paras. 14-21; TRANS/WP.30/2000/17; TRANS/WP.30/186; TRANS/WP.30/1999/13; TRANS/WP.30/186; TRANS/WP.30/184; ECE/TRANS/119; TRANS/WP.30/174; TRANS/WP.30/168; TRANS/WP.30.166; TRANS/WP.30/164; TRANS/WP.30/162; TRANS/WP.30/R.161; TRANS/WP.30/R.160; TRANS/WP.30/R.159; TRANS/WP.30/R.140/Rev.1 and Corr.1(Russian only).

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**C. DRAFT CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES
FOR THE CARRIAGE OF GOODS BY RAIL UNDER COVER OF CIM
CONSIGNMENT NOTES**

PREAMBLE

The Contracting Parties,

Conscious of the importance of the international transport of goods by rail,

Desirous of promoting international cooperation with a view to ensuring the harmonious development of this mode of transport,

Declaring themselves in favour of simplified administrative formalities in international transport by rail, with a view to reducing, in particular, border controls,

Considering the possibility of making use to this end of railway documents as Customs documents,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Convention:

- (a) The term "international Customs transit" shall mean a Customs procedure under which goods are carried without breaking bulk, across one or more frontiers, from a Customs office of departure to a Customs office of destination;
- (b) the term "COTIF Convention" shall mean the Convention Concerning International Carriage by Rail, signed at Berne on 9 May 1980;

(c) the term "Consignment Note" shall mean the CIM Consignment Note and Express Parcels Note for consignments subject to the Uniform Rules concerning the Contract for International Carriage of Goods by Rail (CIM) (appendix B to the COTIF Convention) or to the Regulations concerning the contract on the International Carriage of Express Parcels by Rail (RIEx); the Consignment Note may consist of an electronic data exchange system;

(d) the term "railway company" shall mean an undertaking carrying out direct international transport by rail and comprises complementary railway undertakings carrying out direct international transport other than by rail as prescribed under the Standard Regulations concerning the contract on the International Carriage of Goods by Rail (CIM);

(e) the term "Contracting Party" shall mean a State or regional economic integration organization, Party to this Convention;

(f) the term "regional economic integration organization" shall mean an organization constituted by and composed of States referred to in article 22, paragraphs 1 and 2 of this Convention which has competence to adopt its own legislation that is binding on its Member States, in respect of matters governed by this Convention, and has competence to decide, in accordance with its internal procedures, to sign, ratify or accede to this Convention;

(g) the term "country" shall mean all States, Contracting Parties to this Convention, as well as all States, members of a regional economic integration organizations, if it is a Contracting Party to this Convention;

(h) the term "competent authorities" shall mean the Customs authority or any other authority responsible for applying this Convention;

(i) the term "office of departure" shall mean any Customs office of a country where the international Customs transit operation begins in respect of all or part of the load;

(j) the term "office of destination" shall mean any Customs office of a country where the international Customs transit operation ends in respect of all or part of the load;

(k) the term "office of transit" shall mean any Customs office through which a consignment is entering or leaving the territory of a Contracting Party during an international Customs transit operation;

- (l) the term "duties and taxes" 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 and charges limited in amount to the approximate cost of services rendered;
- (m) the term "principal" shall mean the person which, if need be, by means of an authorized representative and by means of a declaration intended to this effect, shows his willingness to carry out an international Customs transit operation;
- (n) the term "ratification" shall mean ratification, acceptance or approval.

Article 2

Objective

The objective of this Convention is to establish an international Customs transit procedure for the carriage of goods undertaken by railway companies under cover of a Consignment Note.

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.

Article 4

Modification of the Consignment Note

The form or the contents of the Consignment Note may not be modified without the prior agreement of the Administrative Committee as provided for in article 26 of the Convention.

Article 5

Legal value

1. A Consignment Note used in accordance with this Convention and identification measures taken by the competent authorities of a Contracting Party shall have the same legal effect in the other Contracting Parties as a Consignment Note used in accordance with the rules and identification measures taken by each Contracting Party's own competent authorities.
2. The 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

Mutual assistance

1. The competent authorities of the Contracting Parties concerned shall communicate to one another, as far as their laws permit, all information available to them which might contribute to the satisfactory application of this Convention.
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 occurred in the course of or in connection with such operations.

Article 7

Control of records

1. Each Contracting Party shall have the right to carry out controls regarding the correct application of this Convention.
2. In application of paragraph 1, the railway companies of each Contracting Party shall make available at their central accounting offices, to the competent authorities of the Contracting Parties within which they are established, for purposes of control, the records, notably the records of accounts between railway companies.

3. In order to allow the control as stipulated in paragraph 2, railway companies have to keep all Consignment Notes at the disposal of competent authorities, possibly on the basis of jointly agreed arrangements.

Article 8

Responsibilities

1. The railway company which accepts goods for carriage accompanied by a Consignment Note equivalent to a Customs document shall be the principal and 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 operation.

2. Where goods are accepted for carriage by a railway company of a third country, the railway company which takes over a consignment accompanied by a Consignment Note when the consignment enters the territory of that Contracting Party shall be the principal to all intents and purposes and shall 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 operation.

3. The railway companies of Contracting Parties shall be jointly and severally responsible with the railway companies referred to in paragraphs 1 and 2 to the competent authorities of those Contracting Parties for the proper conduct of transit operations entering the territories of the said Contracting Parties.

4. In accordance with the responsibilities stipulated in paragraphs 1 to 3, the railway companies are liable for the payment of duties and taxes which may become due as a result of an infringement or an irregularity committed in the course of or in connection with the underlying transit operation.

Article 9

Exemption from duties and taxes

A railway company responsible for the proper conduct of a transit operation in accordance with the provisions in this Convention shall be exempted from payment of duties and taxes in relation to goods which:

(a) have been destroyed as a result of force majeure or unforeseeable circumstances, duly established;

(b) are recognized as missing for reasons resulting from their actual nature.

Article 10

Guarantee waiver

In the framework of the application of this Convention, the railway companies of the Contracting Parties shall be exempted from the obligation to furnish a guarantee.

Article 11

Label

1. Railway companies shall ensure that consignments carried by rail under the international Customs transit procedure carried out in accordance with the provisions of this Convention are identified by a label bearing a pictogramme, a specimen of which is given in Annex 1.
2. The labels shall be affixed to the Consignment Note and to the relevant railway wagon in the case of a full wagon load or to the package or packages in other cases.

Article 12

Amendment to the transport contract

Without prejudice to the special rules to be adopted in line with the provisions of article 18, paragraph 2 of the Convention, railway companies are not allowed to carry out a modified transport contract if the modification has the effect of terminating a transport operation in a country different from the one originally prescribed in the transport contract, without prior agreement of the office of departure.

Article 13

Formalities on departure

1. At the start of a transport operation the Consignment Note shall be produced at the office of departure together with the documents required for the purpose of completing the formalities and controls incumbent upon that office. The office of departure shall stamp the Consignment Note.
2. Each Contracting Party shall be able to make provisions, under conditions which it shall determine, that goods may be placed under the international Customs transit procedure without the Consignment Note for the goods being presented to the office of departure.

Article 14

Identification measures

As a general rule and having regard to identification measures applied by the railway company, the office of departure shall not seal the wagons or the packages.

Article 15

Waiver of formalities at the office of transit

1. No formalities under this Convention shall be carried out at the offices of transit.
2. The records provided for in article 7 shall be treated by the competent authorities as documents enabling them to check the proper conduct of transit operations.

Article 16

Formalities at destination

1. The railway company which is in charge of the transport operation in the territory of the Contracting Party responsible for the office of destination shall forward to the latter sheets 2 and 3 of the Consignment Note.
2. The office of destination shall forthwith return sheet 2 to the railway company after stamping it and shall retain sheet 3.

Article 17

Infringements and irregularities

1. Where an infringement or an irregularity is committed in the course of or in connection with the international transit procedure carried out under this Convention, the duties and taxes due, if any, must be paid in accordance with the laws and regulations of the Contracting Party in the territory of which the infringement or irregularity was committed.
2. Where it is not possible to determine the territory on which an infringement or irregularity has been committed, it shall be deemed to have been committed on the territory of the Contracting Party where it was discovered.

Article 18

Territorial arrangements

1. For the purposes of this Convention, the territories of Contracting Parties which form a regional economic integration organization may be taken to be a single territory.
2. Nothing in this Convention shall prevent a regional economic integration organization, Contracting Party to this Convention, from enacting special provisions in respect of operations conducted under cover of a Consignment Note departing from, bound for or in transit through the territory of that organization, provided that those provisions do not reduce the facilities provided for by this Convention.

Article 19

Greater facilities

This Convention shall not prevent the application of greater 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.

Article 20

Electronic data exchange

The provisions of this Convention may be adapted, by means of bilateral or multilateral agreements between Contracting Parties, to allow the use of an electronic data interchange system instead of the Consignment Note, provided that the adaptations agreed upon do not impede the implementation of the provisions of this Convention.

CHAPTER II

EXPLANATORY NOTES

Article 21

The Explanatory Notes set out in Annex 2 describe certain recommended practices and interpret certain provisions of this Convention. The Explanatory Notes 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.

CHAPTER III

FINAL PROVISIONS

Article 22

Signature, ratification and accession

1. Member States of the United Nations or its specialized agencies, which are Contracting Parties to the COTIF Convention may become Contracting Parties to this Convention by:
 - (a) signature without reservation of ratification;
 - (b) depositing an instrument of ratification, after signature subject to ratification;
 - (c) depositing an instrument of accession.
2. Any State other than those referred to in paragraph 1 of this article, to which an invitation to that effect has been addressed by the Administrative Committee, may become a Contracting Party to this Convention by acceding thereto after its entry into force.

3. Any regional economic integration organization, of which at least one member State is a Contracting Party to the COTIF Convention, may become, in accordance with the provisions of paragraph 1 of this article, a Contracting Party to this Convention. Such organization, Contracting Party to this Convention, shall inform the depositary of its competence and any subsequent changes thereto, with respect to the matters governed by this Convention. The organization concerned shall, for the matters within its competence, exercise the rights and fulfil the responsibilities which this Convention confers on States which are Contracting Parties to this Convention. In matters within the competence of the organization, of which the depositary has been informed, the member States of the organization, which are Contracting Parties to this Convention, shall not be entitled to exercise individually these rights, including inter alia the right to vote.

4. This Convention shall be open for signature from to inclusive at the Office of the United Nations in Geneva and from to inclusive at the Office of the United Nations in New York. Thereafter, it shall be open for accession.

Article 23

Entry into force

1. This Convention shall enter into force six months after the date on which five Contracting Parties to the COTIF Convention or regional economic integration organizations referred to in article 22, paragraphs 1 and 3 have signed this Convention without reservation of ratification or have deposited their instruments of ratification or accession. For the purpose of this paragraph, any signature without reservation of ratification of, or any instrument deposited by, a regional economic integration organization shall not be counted as additional to those of its member States.

2. This Convention shall enter into force for all additional States or regional economic integration organizations referred to in article 22, paragraphs 1, 2 and 3, six months after the date of signature without reservation of ratification, or of deposit of instruments of ratification or accession.

3. Any instrument of ratification or accession deposited after the entry into force of an amendment to this Convention in accordance with article 28 shall be deemed to apply to this Convention as amended.

4. Any such instrument deposited after an amendment has been accepted but before it has entered into force shall be deemed to apply to this Convention as amended on the date when the amendment enters into force.

Article 24

Denunciation

1. Any Contracting Party may denounce this Convention by so notifying the depositary.
2. Denunciation shall take effect fifteen months after the date of receipt by the depositary of the notification of denunciation.

Article 25

Termination

1. If, after the entry into force of this Convention, the number of Contracting Parties is for any period of twelve consecutive months reduced to less than three, the Convention shall cease to have effect from the end of the twelve-month period.
2. For the purpose of the present article, the presence of a regional economic integration organization shall not be counted as additional to its Member States.

Article 26

Administrative Committee

1. There shall be established an Administrative Committee (hereinafter called "the Committee") to consider the operation of the present Convention, to consider any amendments proposed thereto and to consider measures to secure uniformity in the interpretation and application thereof.
2. The Contracting Parties shall be members of the Committee. The Committee may decide that the competent administration of any Contracting Party to the COTIF Convention which is not a Contracting Party, or representatives of international organizations may, for questions which concern them, attend the sessions of the Committee as observers.
3. The Executive Secretary of the United Nations Economic Commission for Europe, (hereinafter called the "Executive Secretary") shall provide the Committee with secretariat services.
4. The Committee shall, on the occasion of every session, elect a Chairman and a Vice-chairman.

5. The competent administrations of the Contracting Parties shall communicate to the Executive Secretary proposals for amendments to the present Convention and the reasons therefor, together with any requests for the inclusion of items on the agenda of the sessions of the Committee. The Executive Secretary shall bring these communications to the attention of the competent administrations of the Contracting Parties and to the depositary.

6. The Executive Secretary shall convene the Committee:

- (a) two years after the Convention has entered into force;
- (b) thereafter, at a date fixed by the Committee, but at least every five years;
- (c) at the request of the competent administrations of at least two Contracting Parties;
- (d) when an amendment proposal to the Consignment Note must be submitted to the Committee in accordance with article 4 of this Convention.

He shall circulate the draft agenda to the competent administrations of the Contracting Parties and to the observers referred to in paragraph 2 of this article, at least six weeks before the Committee meets.

7. On the decision of the Committee taken by virtue of the provisions of paragraph 2 of this article, the Executive Secretary shall invite the competent administrations of the States and the organizations referred to in the said paragraph 2 to be represented by observers at the sessions of the Committee.

[8. A quorum consisting of not less than one-third of the Contracting Parties shall be required for the purpose of taking decisions. For the purpose of this paragraph, the presence of a regional economic integration organization shall not be counted as additional to its member States. However in the case where a regional economic integration organization has exclusive competence for the matters covered by this Convention and thus its Member States are not allowed to become Contracting Parties to the Convention, that organization has, for the establishment of the quorum, a representation equal to that of its Member States as if they were Contracting Parties.]

9. Proposals shall be put to the vote. Except as provided in paragraph 10 of this article, each Contracting Party represented at the meeting shall have one vote. Proposals other than proposals for amendments shall be adopted by the Committee by a majority of the members present and voting. Proposals for amendments shall be adopted by a two-thirds majority of those present and voting.

[10. Where article 22, paragraph 3 applies, the regional economic integration organizations, Contracting Parties to this Convention, shall have, in case of voting, only a number of votes equal to the total votes allotted to their member States which are Contracting Parties to this Convention. However in the case where a regional economic integration organization has exclusive competence for the matters covered by this Convention and thus its member States are not allowed to become Contracting Parties to the Convention, that organization has, in the case of voting, a number of votes equal to the total votes which would be allotted to their individual Member States if they were Contracting Parties to this Convention.]

11. Before the closure of its session the Committee shall adopt a report.

12. In the absence of relevant provisions in this article, the Rules of Procedure of the Economic Commission for Europe shall be applicable unless the Committee decides otherwise.

Article 27

Settlement of disputes

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall, in so far as possible, be settled by direct negotiation between them.

2. Any dispute which is not settled by direct negotiation shall be referred by the Contracting Parties in dispute to the Committee which shall consider the dispute and make recommendations for its settlement.

3. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Committee as binding.

Article 28

Amendment procedure

1. In accordance with article 26 of this Convention, the Committee may recommend amendments to this Convention.

2. The text of any amendment so recommended shall be communicated by the depositary to all Contracting Parties to this Convention and to the other signatories.

3. Except as provided for under article 29, any recommended amendment communicated in accordance with paragraph 2 of this article shall enter into force with respect to all Contracting Parties three months after the expiry of a period of eighteen 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 Contracting Party.
4. If any objection to the recommended amendment has been notified to the depositary by a Contracting Party before the expiry of the period of eighteen months specified in paragraph 3 of this article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 29

Special procedure to amend Annex 2

1. Any recommended amendment to Annex 2 considered in accordance with paragraphs 1 and 2 of article 28 shall enter into force on a date to be determined by the Administrative Committee at the time of its adoption, unless, by a prior date determined by the Administrative Committee at the same time, one-fifth or five of the Contracting Parties, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendment. Determination by the Administrative Committee of the dates referred to in this paragraph shall be by a two-thirds majority of the members present and voting.
2. On entry into force, any amendment adopted in accordance with the procedures set out in paragraph 1 above shall replace and supersede for all Contracting Parties any previous provisions to which the amendment refers.

Article 30

Depositary

1. The Secretary-General of the United Nations is designated as the depositary of this Convention.
2. In the event of any difference appearing between a Contracting Party and the depositary as to the performance of the latter's functions, the depositary or that Contracting Party shall bring the question to the attention of the other Contracting Parties and the signatories or, where appropriate, to the Committee.

Article 31

Registration and authentic texts

In accordance with article 102 of the Charter of the United Nations, this Convention shall be registered with the secretariat of the United Nations.

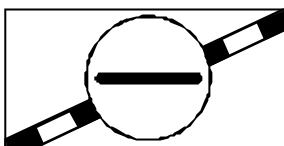
IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Geneva, this..... in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, the six texts being equally authentic.

Annex 1

Model of the label

(in accordance with article 11)



(Black on green background)

Annex 2

Explanatory Notes

(in accordance with article 21)

0 MAIN TEXT OF THE CONVENTION

0.3 Article 3

Whenever goods covered by an international temporary importation or admission procedure, by the transit regime provided for in the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) or by any other international transit procedure, are transported wholly or for part of the journey by rail under the international Customs transit regime provided for in this Convention, the international temporary importation or admission procedure, the TIR procedure or any other international transit procedure should be suspended during the part of the journey during which the transit regime of this Convention is utilized, unless the sender whose name appears in the Consignment Note requests otherwise.

0.13 Article 13

1. The Customs office of departure shall stamp sheets 1, 2 and 3 of the Consignment Note at the appropriate boxes reserved for Customs use.

2. The "stamp" (validation) must contain the name and the stamp of the Customs office of departure, the signature of the competent officer and the date of stamping.

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

PREAMBLE

The Contracting Parties,

Conscious of the importance of the international transport of goods by rail,

Desirous of promoting international cooperation with a view to ensuring the harmonious development of this mode of transport,

Declaring themselves in favour of simplified administrative formalities in international transport by rail, with a view to reducing, in particular, border controls,

Considering the possibility of making use to this end of railway documents as Customs documents,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Convention:

- (a) The term "international Customs transit" shall mean a Customs procedure under which goods are carried across one or more frontiers under Customs controls from a Customs office of departure to a Customs office of destination;
- (b) the term "SMGS Agreement" shall mean the Agreement on International Goods Transport by Rail which entered into force on 1 November 1951;
- (c) the term "Consignment Note" shall mean an SMGS Consignment Note subject to the Agreement on International Goods Transport by Rail; the Consignment Note may consist of a system of electronic exchanges of data;

- (d) the term "railway company" shall mean an undertaking carrying out direct rail or rail-and-ferry transport operations;
- (e) the term "Contracting Party" shall mean a State which is party to this Convention;
- (f) the term "country" shall mean any State which is a Contracting Party to this Convention;
- (g) the term "competent authorities" shall mean the Customs authority or any other authority responsible for applying this Convention;
- (h) the term "Customs office of departure" shall mean any Customs office of a country where an international Customs transit operation begins in respect of all or part of consignment;
- (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;
- (j) the term "Customs office of transit" shall mean any Customs office through which a consignment enters or leaves the territory of a Contracting Party during an international Customs transit operation;
- (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 and charges limited in amount to the approximate cost of services rendered;
- (l) the term "principal" shall mean a private individual or legal entity 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;
- (m) the term "ratification" shall mean ratification, acceptance or approval;

Article 2

Objective

The objective of this Convention is to establish an international Customs transit procedure for the carriage of goods undertaken by railway companies under cover of a Consignment Note.

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.

Article 4

Modification of the Consignment Note

For the purposes of this Convention, the Consignment Note may not be modified in form or content without the prior agreement of the Administrative Committee provided for in article 25 of the Convention.

Article 5

Legal value

1. A Consignment Note used in accordance with this Convention and identification measures taken by the competent authorities of a Contracting Party shall have the same legal effect in the other Contracting Parties as a Consignment Note used in accordance with the rules and identification measures taken by 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

Mutual assistance

1. The competent authorities of the Contracting Parties shall communicate to one another, as far as their laws permit, all information available to them which might contribute to the satisfactory application of this Convention.
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.

Article 7

Control of records

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.
2. Railway companies (railways) must arrange to keep the transport documents which they have at their disposal for at least three years.

Article 8

Responsibilities

1. A railway company 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.
2. Where a consignment is accepted for carriage from a railway company of a third country, the railway company 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.
3. The railway companies of the Contracting Parties shall be jointly and severally responsible with the railway companies referred to in paragraphs 1 and 2 to the competent authorities of the Contracting Parties for the proper conduct of international Customs transit operations entering the territories of the said Contracting Parties.
4. In accordance with the responsibilities stipulated in paragraphs 1 to 3, the railway companies shall be liable 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 9

Exemption from duties and taxes

A railway company responsible for the proper conduct of an international Customs transit operation in accordance with the provisions of this Convention shall be exempted from Customs payments in relation to goods which:

- (a) have been destroyed as a result of force majeure or unforeseeable circumstances, duly established;
- (b) are recognized as missing for reasons deriving from their nature and characteristics, including natural wear or shrinkage under normal conditions of transport.

Article 10

Guarantee waiver

For the purposes of applying this Convention, the railway companies of the Contracting Parties shall be exempted from the obligation to furnish a guarantee.

Article 11

Label

Railway companies shall ensure that when consignments are carried by rail under international Customs transit procedures in accordance with the provisions of this Convention the Consignment Note bears a special mark (stamp), a specimen of which is given in Annex 1.

Article 12

Amendment of the carriage contract

Railway companies shall not be permitted to modify a carriage contract without prior agreement from Customs at the point where the contract is modified.

Article 13

Formalities on departure

At the start of a transport operation the Consignment Note shall be presented to Customs at the office of departure together with the documents required for the purpose of completing formalities and controls.

Article 14

Identification measures

As a general rule, and having regard to identification measures applied by the railway company, Customs at the office of departure shall not seal the wagons or the packages.

Article 15

Formalities at the Customs office of transit

1. Pursuant to this Convention, no formalities shall be carried out at Customs offices of transit.
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.

Article 16

Formalities at the Customs office of destination

1. The railway company 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.
2. The Customs office of destination shall forthwith return the Consignment Note to the railway company after stamping sheet 2 and shall retain the additional copy of the freight bill.

Article 17

Infringements and irregularities

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.
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.

Article 18

Additional facilities

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.

Article 19

Electronic exchanges of data

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.

CHAPTER II

EXPLANATORY NOTES

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.

CHAPTER III

FINAL PROVISIONS

Article 21

Signature, ratification and accession

1. Member States of the United Nations which are Contracting Parties to the SMGS Agreement may become Contracting Parties to this Convention by:
 - (a) signature without reservations concerning ratification;
 - (b) depositing an instrument of ratification, after signature subject to ratification;
 - (c) depositing an instrument of accession.
2. Any State other than those referred to in paragraph 1 of this article, to which an invitation to that effect has been addressed by the depositary at the request of the Administrative Committee, may become a Contracting Party to this Convention by acceding thereto after its entry into force.
3. This Convention shall be open for signature from to inclusive, at the United Nations Office at Geneva. Thereafter, it shall be open for accession

Article 22

Entry into force

1. This Convention shall enter into force six months after the date on which five Contracting Parties to the SMGS Agreement have signed this Convention without reservations concerning ratification or have deposited their instruments of ratification or accession.
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.
3. Any instrument of ratification or accession deposited after the entry into force of an amendment to this Convention in accordance with article 27 shall be deemed to apply to *the* Convention as amended.
4. Any such instrument deposited after an amendment has been accepted but before it has entered into force shall be deemed to apply to the Convention as amended as of the date on which the amendment enters into force.

Article 23

Denunciation

1. Any Contracting Party may denounce this Convention by so notifying the depositary.
2. Denunciation shall take effect 15 months after the date of receipt by the depositary of the notification of denunciation.

Article 24

Termination

If, after the entry into force of this Convention, the number of Contracting Parties is for any period of 12 consecutive months reduced to less than three, the Convention shall cease to have effect from the end of the twelve-month period.

Article 25

Administrative Committee

1. There shall be established an Administrative Committee (hereinafter called "the Committee") to consider the operation of the present Convention, to consider any amendments proposed thereto and to consider measures to secure uniformity in the interpretation and application thereof.
2. The members of the Committee shall be the Contracting Parties. The Committee may decide to admit to its sessions as observers, when matters concerning them are under discussion, the competent authorities of any Contracting Party to the SMGS Agreement which is not a Contracting Party to this Convention, or representatives of international organizations.
3. The Executive Secretary of the Economic Commission for Europe (hereinafter called the "Executive Secretary") shall provide the Committee with secretarial services.
4. The Committee shall elect a Chairman and a Vice-Chairman at every session.
5. The competent authorities of the Contracting Parties shall communicate to the Executive Secretary proposals for amendments to the present Convention and the reasons therefor, together with any requests for the inclusion of items on the agenda of the Committee. The Executive Secretary shall bring these communications to the attention of the competent authorities of the Contracting Parties and the depositary.
6. The Executive Secretary shall convene the Committee:
 - (a) two years after the Convention has entered into force;
 - (b) thereafter, at dates fixed by the Committee, but at least once every five years;
 - (c) at the request of the competent authorities of at least two Contracting Parties;
 - (d) when a proposal for amendment of the Consignment Note must be submitted to the Committee in accordance with article 4 of this Convention.

He shall circulate the draft agenda to the competent authorities of the Contracting Parties and to the observers referred to in paragraph 2 of this article at least six weeks before the Committee meets.

7. By decision of the Committee pursuant to paragraph 2 of this article, the Executive Secretary shall invite the competent authorities of the States and the organizations referred to in the said paragraph 2 to send observers to attend the sessions of the Committee.
8. A quorum consisting of not less than a third of the Contracting Parties shall be required for the purpose of taking decisions.
9. Proposals shall be put 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.
10. Before the closure of its session the Committee shall adopt a report.
11. In the absence of relevant provisions in this article, the rules of procedure of the Economic Commission for Europe shall be applicable unless the Committee decides otherwise.

Article 26

Settlement of disputes

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.
2. Any dispute which is not settled by direct negotiation shall be referred by the Contracting Parties in dispute to the Committee, which shall consider the dispute and make recommendations for its settlement.
3. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Committee as binding.

Article 27

Amendment procedure

1. In accordance with article 25 of this Convention, the Committee may recommend amendments to this Convention.

2. The text of any amendment so recommended shall be communicated by the depositary to all Contracting Parties to this Convention and to the other signatories.
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 Contracting Party.
4. If any objection to the recommended amendment has been notified to the depositary by a Contracting Party before the expiry of the period of 18 months specified in paragraph 3 of this article, the amendment shall be deemed not to have been accepted and shall have no effect.

Article 28

Special procedure for the amendment of Annex 2

1. Any recommended amendment to Annex 2 considered in accordance with article 27, paragraphs 1 and 2, shall enter into force on a date to be determined by the Administrative Committee at the time of its adoption, unless, by a prior date determined by the Administrative Committee at the same time, a fifth or five of the Contracting Parties, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendment. Determination by the Administrative Committee of the dates referred to in this paragraph shall be by a two-thirds majority of the members present and voting.
2. On entry into force, any amendment adopted in accordance with the procedure set out in paragraph 1 above shall replace and supersede for all Contracting Parties any previous provisions to which the amendment refers.

Article 29

Depositary

1. The Secretary-General of the United Nations is designated as the depositary of this Convention.
2. The functions of the Secretary-General of the United Nations as 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.

3. In the event of any difference appearing between a Contracting Party and the depositary as to the performance of the latter's functions, the depositary or that Contracting Party shall bring the question to the attention of the other Contracting Parties and the signatories or, where appropriate, to the Committee.

Article 30

Registration and authentic texts

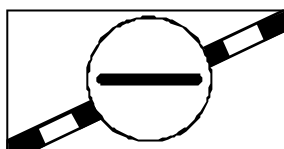
In accordance with article 102 of the Charter of the United Nations, this Convention shall be registered with the secretariat of the United Nations.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Geneva, this, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, the six texts being equally authentic.

Annex 1

Specimen mark (stamp)
(in accordance with article 11)



(Green on white background)

Annex 2

Explanatory notes

(in accordance with article 20)

0. MAIN TEXT OF THE CONVENTION

0.3 Article 3

Whenever goods covered by an international temporary importation or admission procedure, by the transit regime provided for in the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) or by any other international transit procedure are transported wholly or for part of the journey by rail under the international Customs transit regime provided for in this Convention, the international temporary importation or admission procedure, ~~the~~ TIR procedure or ~~any~~ other international transit procedure must be suspended during the part of the journey during which the transit regime of this Convention is utilized, unless the sender whose name appears in the Consignment Note requests otherwise.

0.13 Article 13

1. The Customs office of departure shall stamp sheets 1, 2 and an additional sheet of the SMGS freight bill in the appropriate boxes reserved for Customs use.
 2. The "stamp" (validation) must contain the name and the stamp of the Customs office of departure, the signature of the competent officer and the date of stamping.
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