Railways' single transport documentation: optimizing the Black Sea ferry connections

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Scope of the CIM and SMGS

State of 1. January 2009
## Differences in law

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Differences in organisations

OTIF (Intergovernmental Organisation for International Carriage by Rail)

 Bern
 Since 1985
 43 Member States
 Only Member States
 Majority
 German/French/English

OSJD (Organisation for Cooperation between Railways)

 Warsaw
 Since 1956
 27 Member States
 States and railways
 Unanimity
 Russian and Chinese
COTIF

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

- **OTIF** = Intergovernmental organisation for International Carriage by Rail
- 43 Member States (from 1.2.2010 44 after the accession of the Russian Federation to COTIF)
- Since 1985
COTIF’s structure

COTIF
Convention concerning International Carriage by Rail

Protocol on privileges et immunities of OTIF

Vilnius Protocol 1999

Appendix A
CIV

Appendix B
CIM

Appendix C
RID

Appendix D
CUV

Appendix E
CUI

Appendix F
APTU

Appendix G
ATMF
List of the maritime lines

- COTIF/CIM – **rail+** agreement
- Legal base:

  Article 1 § 4 CIM Uniform Rules: *“When international carriage being the subject of a *single* contract of carriage includes carriage by sea (...) as a supplement to carriage by rail, these Uniform Rules shall apply if the carriage by sea (...) is performed on services included in the list of services provided for in Article 24 § 1 of the Convention.”*

  Article 24 § 1 COTIF: *“The maritime (...) services referred in Article 1 of the (...) CIM Uniform Rules, on which carriage is performed in *addition* to carriage by rail subject to a single contract of carriage, shall be *included* in two lists:

  (...) 

  b) the CIM list of maritime (...) services.*

- **Procedure:**

  Article 24 § 3 COTIF:
  - COTIF member states shall notify the maritime lines
  - Two member states are necessary (in the praxis is notification of one member enough)
  - OTIF Lists of the maritime lines
Special Liability in respect of rail-sea traffic

- Article 38 § 1 CIM – additional exemptions from the general liability in the rail-sea traffic
  - Fire;
  - Saving or attempting to save life or property at sea;
  - Loading the goods on the deck;
  - Perils, dangers and accidents of the sea or other navigable waters
- Notification from the member states together with the maritime lines
- Article 23 § 2 CIM – basis of the liability
  - Fault of the person entitled
  - Inherent defect of the goods
  - Circumstances which the carrier could not avoid and the consequences of which he was unable to prevent (force magiore but not in the sense of the nautical fault of the Haag-Visby)
- Article 30 § 2 CIM – compensation for loss shall not exceed 17 SDR (about 25 € per kg.)
Competence for the consignment note

CIM

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

SMGS

Article 7 SMGS: The design of the consignment note is defined in the SMGS itself (Annex 12.1 SMGS – competence of the OSJD)
The CIT

125 Railway undertakings (soon also RZD)

Association under Swiss law located in Bern

Tasks:
1. Implementation of COTIF for practical use
2. Standardisation of contractual relationships
3. Representation of the interests of the members
CIT/OSJD Project: Legal Interoperability CIM/SMGS

Phase 1:
Common CIM/SMGS consignment note

Phase 2:
Standardised claims handling mechanism

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

- "Sum" of the CIM- and SMGS-consignment notes
- Based on the United Nations Layout Key for Trade Documents
- Recognition as:
  - Customs document
  - Letter of credit
Common CIM/SMGS formal report, legal presumption and claims handling rules

- **CIM/SMGS formal report** (Annex 8, 8.1)
  - used by the RU when it sees loss or damage

- **Legal presumption** (28 § 3 CIM / 23 § 10 SMGS)
  - when there is no formal report of loss or damage
  - advantage for the consignee: the last carrier must handle his claim

- **Claims handling rules** (Point 12.3)

- **Payment of compensation rules** (Point 12.4)
Practical use of the CIM/SMGS consignment note

• Traffic movements: *More* than 30 traffic axes in 4 TEN Corridors

• Examples:
  – Germany – Russia (via Poland and Belarus)
  – Germany – Ukraine
  – Czech Republic / Slovak Republic – Russia / Ukraine
  – Romania – Russia

• The CIM/SMGS consignment note:
  – Saves time – 40 minutes per wagon
  – Saves money – 30-40 € per consignment note
  – Improves the overall legal certainty reducing possible red tapes

Further improvements:
  – Using *one* CIM/SMGS consignment note plus a wagon list or container list
  – *Extending* the scope of the CIM/SMGS consignment note
Use of the CIM/SMGS consignment note
The Kaliningrad Declaration

1. Extension of the CIM/SMGS Consignment note to
   • Kazakhstan, Mongolia and China
   • International ferry links

2. Completion of the work on the electronic CIM/SMGS Consignment note

3. Training and spread of information

4. Further Improvements of the legal framework

5. Evaluation of different proposals through CIT and OSJD
Global supply chain from railway prospective
Phase 3: Two legal areas one single law

SMGS/SMPS

COTIF

Eurasian Rail Transport Law
Uniform law for CIM/SMGS traffics

Uniform CIM/SMGS law

Common CIM/SMGS consignment note

CIM/SMGS claims handling rules

CIM/SMGS liability

CIM and SMGS