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**Working Party on Rail Transport**

**Sixty-ninth session**

Geneva, 23–25 November 2015

Item 10 of the provisional agenda

**New convention on the facilitation of crossing of  
frontiers for passengers and baggage carried by rail**

**New Convention on facilitation of border crossing procedures  
for passengers, luggage and load-luggage carried in  
international traffic by rail**

**Explanatory note on the new convention**

**Submitted by OSJD**



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No. 3П-1711/2015

Warsaw, 17 November 2015

SC.2 Secretariat  
ITC UNECE

Ladies and Gentlemen!

We send you in attachment the draft new Convention on facilitation of border crossing procedures in international transportation of passengers, luggage and load-luggage by rail (hereafter referred to as “the Convention”) in order to consider it at the 69<sup>th</sup> session of the UNECE Working Party on Rail Transport (SC.2). This draft document has been prepared by ITC informal working group.

It must be mentioned that the current situation in the field of international passenger traffic by rail between Europe and Asia is raising concerns. Due to the reduction of international passenger traffic volumes in the course of several years, the XLIII session of the OSJD Ministerial Conference decided to request the Governments of the OSJD member-countries to take consolidated measures on eliminating this situation. It was noted that some countries have already taken correspondent measures on improving the situation by using new technologies, high-speed rolling stock, passenger wagons with adjustable wheel sets and so on.

The implementation of these measures requires an absolutely new approach in passenger control at border crossing points that would allow to reduce the check time significantly. In this regard, in accordance with the decision by the ITC UNECE an informal group was established under the auspices of UNECE on preparation of draft new Convention instead of the Convention on facilitation of transportation of passengers and luggage by rail (Geneva, 10 January 1952) (hereafter referred to as the Convention of 1952).

At the first stage of its work this group had prepared a concept of the new Convention, which was considered and approved by the countries taking into account comments and proposals.

At the second stage, a draft new Convention was prepared and sent to the countries for consideration. The improved draft Convention was submitted for consideration at the VIII International interagency meeting of OSJD member-countries “The practice of border crossing by rail” and was adopted by conference members with some comments and proposals.

After that, the improved draft new Convention was considered at the WP.30 on 6-9 October 2015 and supported in general. WP.30 decided to prepare a document

which should contain a comparative analyses of the new Convention and other correspondent legal tools in order to facilitate the consideration of the draft text of the new Convention and avoid the overlap and duplication of legal documents.

The main novelties of the proposed draft new Convention in comparison to the Convention of 1952:

1. The draft new Convention was prepared with regard to current international agreements. It also has a Glossary which contains important terms used in international practice.

2. The provisions of the Convention of 1952 concerning the transportation of goods in international passenger trains are not relevant anymore. The draft new Convention has been developed taking into account current conditions and regulates the transportation of passengers, luggage and load-luggage only.

3. The draft new Convention presupposes to include to the transportation process parties from European and Asian countries in order to implement new large-scale projects on the routes between Europe and Asia.

4. The draft new Convention is added by a preamble determining the main aims of the document, in particular, the preamble emphasizes the need to keep the effectiveness of the state control and absolute security which had not been emphasized before in the Convention of 1952.

5. In the draft new Convention a new type of control is introduced that enables to carry out inspection partly at the station and partly during the movement of the train.

6. Furthermore, in the draft new Convention the parties to the Convention shall confirm the intent to use international standards, new technologies in the field of railway transport, in particular the automatic gauge change-over systems, as well as the best practices for improvement of operation of border crossing points and facilitation of procedures in all fields connected with international railway transport. In addition, taking into account the importance of developing and implementing modern technologies (in particular, trains with automatic gauge change-over systems and high-speed rolling stock) the Convention ensures, if possible, to organize the carrying out of state control during the movement of the train on the route.

7. Article 11 of the Convention determines the need to follow minimum requirements for border crossing points open for international passenger traffic, in particular, the presence of equipment, devices, information systems and communication tools that enable to exchange information in advance.

8. Article 18 of the Convention determines a new obligation of the parties to register delayed trains or wagons at border crossing points and provide this information to concerned parties which carry out further analyses and suggest measures to reduce delay time.

9. The Convention determines the procedure for providing information by carriers to state control bodies concerning the passengers, luggage and load-luggage that contains secrecy protected by the legislation of the member-country.

10. In accordance with the draft new Convention the contracting parties shall seek to facilitate the procedure on visa issuing for train crews as well as they can agree on border crossing by train crews and service personnel according to agreed personnel lists which is not provided in the Convention of 1952.

11.11. The final provisions of the draft new Convention envisage the possibility of participation of regional organizations of economic integration as a party.

12. The procedure for settling disputes is provided with much more details.

13. In view of intensive development dynamics in the field of transport, draft Convention includes a new Article stipulating the procedure for its modification.

Draft Convention is, to the full extent, an independent international agreement taking into account all the technologies applied and being prepared for practical implementation in modern reality.

A comparative analysis of the following international agreements was carried out:

1. *Convention on facilitation of transportation of passengers and luggage by rail (Geneva, 10 January 1952).*

2. *International Convention on the Simplification and Harmonization of Customs procedures (Kyoto, 18 May 1973) (revised Kyoto Convention as in force on 26 June 1999 (hereinafter referred to as Kyoto Convention)).*

3. *International Convention on the Harmonization of Frontier Controls of Goods (Geneva, 21 October 1982 (hereinafter referred to as Harmonisation Convention)).*

The structured analysis of these documents shows that gaps are available in the legal regulation of procedures for state border crossing at international railway transport of passengers, luggage and load-luggage in the following main directions:

1. *Kyoto Convention:*

- defines general principles for conducting customs control, regulating in practical terms all the customs matters;

- the main subject matter of regulation includes the issues of cross-border movement of goods;

- the provisions are formulated not in the form of direct effect norms but in the form of principles summoned for drafting, on their basis, specific rules regulating any procedures;

- methods and places are not detailed for conducting state control, requirements are not established for border points and visa issues are not tackled.

Judging from the analysis of the Kyoto Convention, a conclusion can be made that its provisions are general principles and programme settings the implementation mechanisms of which must be specified by other international agreements, in particular by conventions on procedures for state border crossing when individual types of transportation is carried out.

2. *Convention on Harmonization:*

- creates an efficient legal basis for international transportation of goods;

- covers all import, export and transit goods in crossing one or several sea, air or land borders.

The provisions of the Convention on Harmonization regulate transportation of goods but are not adopted to passenger traffic.

### *3. Convention of 1952:*

- unlike other documents this Convention has never been revised and has been overtaken by events;
- does not correspond with current situation in regard of cooperation between states in international railway traffic;
- contains many legal archaisms such as the obligation to ensure telephone communication between border crossing stations;
- does not provide the use of new technologies and best practices and in such a way reduces the possibilities to develop international passenger traffic;
- the parties to the Convention are European countries only, which does not allow to apply it for long-distance transit traffic, there is no possibility for regional organizations to become a party to the Convention.

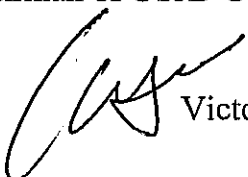
The analyses of the Convention of 1952 shows that it is not up-to-date anymore and de-facto not applicable.

A reasonable conclusion is that the existing documents are not able to regulate international passenger traffic sufficiently. For example, the current Convention of 1952 has been ratified by 9 EU-countries only; this means that the above-mentioned Convention has become irrelevant for many countries. Furthermore, this document does not contain an item regarding its improvement or amending.

Thus, the signing of the new Convention would allow the carriers to implement new projects in the field of railway traffic, especially with regard to Eurasian transport routes as well as could become one of prerequisites for the development of high-speed international traffic.

Sincerely yours,

Deputy Chairman of OSJD Committee



Victor Zhukov



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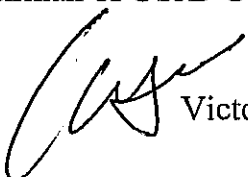
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