International Rail Transport Committee
Comité international des transports ferroviaires
Internationales Eisenbahntransportkomitee

Common consignment note as way forward for legal challenges in international railway transport

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Comité international des transports ferroviaires (CIT): www.cit-rail.org

- 200 railway undertakings and shipping companies
- Association under Swiss law, located in Bern
- Tasks:
  1. Implementation of COTIF and EU law for practical use
  2. Standardisation of contractual relationships
  3. Representation of the interests of members to authorities and other associations

Railway and gouvernemental organisations

COTIF - OTIF

COTIF

Convention relative aux transports internationaux ferroviaires
du 9 mai 1980 dans la teneur du Protocole de modification du 3 juin 1999

Titre premier	Généralités
Article premier	Organisation intergouvernementale
Article 2	But de l'Organisation
Article 3	Coopération internationale
Article 4	Reprise et transfert d'attributions
Article 5	Obligations particulières des Etats membres
Article 6	Règles uniformes
Article 7	Définition de la notion "Convention"

COTIF = Convention concerning International Carriage by Rail

- Aim = to establish **uniform rules** for international rail transport
- Entry into force: 1 July 2006
- Many revisions since 19th century!

OTIF = Intergovernmental organisation for International Carriage by Rail

- 49 Member States (incl. EU since 2011)
- Recent members = Russia, Armenia, Georgia → it is expanding towards East
- Based in Bern (Switzerland)

COTIF 1999

Vilnius Protocol 1999

COTIF

Convention concerning International Carriage by Rail

Protocol on the Privileges and Immunities of OTIF

Appendix A	Appendix B	Appendix C	Appendix D	Appendix E	Appendix F	Appendix G
CIV	**CIM**	**RID**	**UR CUV**	**UR CUI**	**UR APTU**	**UR ATMF**
Uniform Rules concerning the Contract for International Carriage of Passengers by Rail	Uniform Rules concerning the Contract for International Carriage of Freight by Rail	Regulations concerning the International Carriage of Dangerous Goods by Rail	Uniform Rules concerning the Contracts of Use of Vehicles in International Rail Traffic	Uniform Rules concerning the Contract of Use Of Infrastructure In International Rail Traffic	Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic	Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic

OTIF : a coordination and interfacing role

COTIF

Convention concerning

International Carriage by Rail

Appendix A	Appendix B	Appendix C	Appendix D	Appendix E	Appendix F	Appendix G
CIV	**CIM**	**RID**	**CUV**	**CUI**	**APTU**	**ATMF**
Uniform Rules concerning the **Contract of International Carriage of Passengers by Rail**	Uniform Rules concerning the **Contract of International Carriage of Goods by Rail**	Regulation concerning the **International Carriage of Dangerous Goods By Rail**	Uniform Rules concerning **Contracts of Use of Vehicles in International Rail Traffic**	Uniform Rules concerning the **Contracts of Use of Infrastructure in International Rail Traffic**	Uniform Rules concerning the **Validation of Technical Standards and Adoption of Uniform Technical Prescriptions applicable to Railway Material**	Uniform Rules concerning the **Technical Admission of Railway Material used in International Traffic**

Champ d'application géographique de la COTIF et ses appendices
Geografischer Anwendungsbereich des COTIF und dessen Anhänge
Geographical scope of COTIF and its appendices

État au 1er mars 2015
Stand 1. Marz 2015
Situation on 1st March 2015

- Tous les appendices de la COTIF (36)
  Alle Anhänge des COTIF (36)
  All COTIF appendices (36)
- Sans ATMF (2)
  Ohne ATMF (2)
  Without ATMF (2)
- Sans CUI/APTU/ATMF (3)
  Ohne CUI/APTU/ATMF (3)
  Without CUI/APTU/ATMF (3)
- Sans CUV/CUI/APTU/ATMF (1)
  Ohne CUV/CUI/APTU/ATMF (1)
  Without CUV/CUI/APTU/ATMF (1)
- Sans CIV/RID/CUV/CUI/APTU/ATMF (2)
  Ohne CIV/RID/CUV/CUI/APTU/ATMF (2)
  Without CIV/RID/CUV/CUI/APTU/ATMF (2)
- COTIF 1999 pas encore ratifiée (2)
  COTIF 1999 noch nicht ratifiziert (2)
  COTIF 1999 not yet ratified (2)
- Suspension de la qualité de membre (2)
  Ruhen der Mitgliedschaft (2)
  Membership suspended (2)
- Membres associés (1)
  Assoziierte Mitglieder (1)
  Associate Members (1)

Freight Traffic CIM/SMGS
Situation on 1st March 2015

- SMGS
- CIM
- CIM + SMGS
- Membership suspended
- Associate Member

Legal duality for East – West rail transport

CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail - Appendix B to COTIF)	SMGS (Agreement on International Goods Transport by Rail)
Annex to the main convention	Main convention
Consensual contract	Formal contract
Contractual freedom	Obligation to set and publish tariffs and to carry
Consignment note design within the competence of RUs	Consignment note defined in SMGS itself
Joint and several liability	Individual liability

Why is legal interoperability important for the business and competitiveness?

Country A

- Transport contract
- Liability
- Transport documents / consignment note
- Tickets
- Claims

Country B

- Transport contract
- Liability
- Transport documents / consignment note
- Tickets
- Claims

A → **One legal regime** → **B**

- 10% administrative costs
- Optimisation of business operation
- Legal certainty, less legal costs

Legal interoperability is the aim of the CIT

Opportunities & challenges for railway companies today:

Eurasian Freight Corridors - An existing market with potential

Freight traffic China-Europe
~90% Sea/40 days
<10% Air/1 day
~1% Railway/ ~15 days
~ 70 freight trains per week

Freight traffic Europe – Asia

	Proportion	Duration	Convention
	~90%	> 40 days	Hamburg/ Rotterdam Rules
	< 10%	1 day	Montreal Convention
	~1%	~15 days	national law, COTIF/CIM, SMGS, EU Law

Success key for railways

→ Good Quality of infrastructure

→ Technical interoperability (vehicle authorisation and safety certification)

→ Level playing field with other transport modes

→ Competitive and stable charges for use of infrastructure

→ Less administrative burdens: New regulatory requirements when customers benefit

→ Stable and fair legal framework

Potential for parcels transportation between China and Europe by rail

Alibaba wächst wieder kräftig

LOGISTIK Der chinesische Onlinehändler Alibaba hat auch im vierten Quartal des vergangenen Jahres kräftig zugelegt. Der Umsatz stieg im Jahresvergleich um 40 Prozent auf 4,2 Mrd. USD; das entspricht aktuell umgerechnet 3,7 Mrd. EUR. Das teilte das Unternehmen am Donnerstag an seinem Sitz im ostchinesischen Hangzhou mit. Der Gewinn sank dagegen um 28 Prozent auf 964 Mio. USD. Damit verfehlte das im vergangenen Jahr an die Börse gegangene Unternehmen die Erwartungen des Marktes. Die Vorlage der Geschäftsergebnisse kurz vor dem Handelsauftakt am Aktienmarkt in New York wurde überschattet von einer Kontroverse um schwere Vorwürfe chinesischer Aufsichtsbehörden gegen die weltgrößte Online-Handelsplattform. An der Börse sackte die Aktie im vorbörslichen Handel ab. *(reg)*

CIT/OSJD Project: Legal Interoperability CIM/SMGS

Phase 1:

Common CIM/SMGS consignment note

Phase 2:

Standardised claims handling mechanism

Phase 3:

Unified Rail Transport Law

An overview of the CIM/SMGS consignment note

- Implements both contracts of carriage
- Recognised as a customs and bank document
- Does not undermine the CIM/SMGS liability conditions
- The “sum” of the CIM and SMGS consignment notes
- Based on:
  - Article 6 § 8 CIM + Article 6 § 11 and 7 § 15 SMGS
  - Layout based on the United Nations Layout
  - Key for trade documents

Electronic CIM/SMGS Consignment note

Legal and **functional** specifications:

- Last update – 1 July 2012;
- Revision by the CIM/SMGS Legal and Experts Group;
- Key issues: enforceability of standard clauses (applicable law, place of jurisdiction and duration / amendment / termination of the EDI contract) + accompanying documents in e-form (lack of legal basis);

Technical specifications:

- No update since issuance May 2009;
- Revision by the ad hoc technical Expert Group since 2012;

Specifications for the CIM/SMGS e-consignment note (new edition 1st October 2013)

Edition 2013-10-01

Functional and legal specifications for the Electronic CIM/SMGS Consignment Note

Remarks:

- This document includes the consignment note which was a 8 July 2009. It takes account of 03-15 inclusive and the decisi CIM/SMGS Legal Group and Gr
- This document has the status o an electronic version of the CIM

2013-10-01

Technical specifications for the Electronic CIM/SMGS Consignment Note

Remarks:

- This document includes the technical specifications for the electronic CIM/SMGS consignment note which was reviewed at the twelfth meeting of the CIM/SMGS Steering Group on 8 July 2009.
- This document has the status of a recommendation for the benefit of undertakings who wish to use an electronic version of the CIM/SMGS consignment note.

Use of the common CIM/SMGS consignment note

More than fifty traffic flows along four TEN corridors

Some 80% of the traffic between the CIM and SMGS areas

Savings in time:

- some 40 minutes per wagon
- 8 to 10 hours per train

Cost savings of some € 40 per consignment

CIM/SMGS Consignment Note for Multimodal Transport in the Black Sea Region

Application of the CIM/SMGS to multimodal transport on the Black Sea:

<u>Existing routes:</u>

→ Constanca – Derince

→ Constanca – Samsun

→ Varna – Kavkaz

<u>Planned routes:</u>

→ Illichivsk – Derince

→ Illichivsk - Samsun

→ Poti/Batumi – Constanca

→ Poti/Bautmi – Varna

The common CIM/SMGS consignment note: now also more accessible for clients in China

GET THERE FASTER – FOR LESS MONEY AND WITH GREATER LEGAL CERTAINTY

The common CIM/SMGS consignment note is seeing success: this modern instrument is being used for more and more shipments in the Eurasian region between Western Europe, Russia and China. And with good reason: the common CIM/SMGS consignment note saves costs and time. Read on for more details.

The economies of Eastern Europe, Russia and Asia – and China in particular – are dynamic and are growing. As a result, the exchange of goods between Europe, Russia and Asia is on the increase. Rail could handle a much larger percentage of this tonnage on freight services between the East and the West and vice versa. All the more reason to improve the conditions for rail transport – and to improve them as quickly as possible! The corridors are in place. And so is the common CIM/SMGS consignment note!

БЫСТРОЕ ДОСТИЖЕНИЕ ПУНКТА НАЗНАЧЕНИЯ ЗА МЕНЬШИЕ ДЕНЬГИ, С БÓЛЬШИМИ ПРАВОВЫМИ ГАРАНТИЯМИ

Унифицированная накладная ЦИМ/СМГС пользуется значительным успехом: всё больше количество перевозок в евразийском пространстве между Западной Европой, Россией и Китаем осуществляются с использованием этого современного инструмента. Причина ясна: Унифицированная накладная ЦИМ/СМГС позволяет сэкономить деньги и время. Мы объясним почему.

Национальная экономика Восточной Европы, России и Азии – в особенности Китая – растёт и быстро развивается. Обмен товарами между Европой, Россией и Азией увеличивается. Железная дорога могла бы перенять намного бóльшую долю этих перевозок в грузовом сообщении между Востоком и Западом, а также в обратном направлении. Поэтому сейчас очень важно улучшить условия для железнодорожных перевозок в кратчайшие сроки! Для осуществления этих перевозок существуют не только транспортные коридоры, но и унифицированная накладная ЦИМ/СМГС.

更快的目标——花费更少且拥有更大的法律保障

国际货约/国际货协统一运单的采用取得了巨大的成功：欧亚范围内西欧、俄罗斯和中国间越来越多的运送采用了该现代化的方法。原因在于：国际货约/国际货协统一运单有助于节约金钱和时间。下面我们解释一下原因。

东欧、俄罗斯和亚洲（尤其是中国）的国家经济正在增长和快速发展。欧洲、俄罗斯和亚洲间的商品交易量正在增长。铁路可在东西方间及相反方向货物联运的商品运送中承担大量的份额。且目前铁路运输条件的更快改善也是一个重要因素！其运输走廊和国际货约/国际货协统一运单均已经存在！

LONG AND COMPLEX

Shipments by rail from west to east and vice versa frequently travel thousands of kilometres. Many countries, languages, borders, clearances and loading gauges, in addition to the various legal regimes encountered on the route, make the long journey even more arduous and slow. Nevertheless, CIM/SMGS interoperability is making progress: in Western and Central Europe, a uniform law applies to rail transport (CIM), whereas in Eastern Europe, Russia, China and parts of Asia another rail transport law applies, albeit a uniform one (SMGS). And this is where the common CIM/SMGS consignment note comes in. It simplifies and speeds up rail shipments between the two legal regimes CIM and SMGS considerably.

LEGAL CERTAINTY

The common CIM/SMGS consignment note is building a bridge – between the different legal regimes of CIM and SMGS that eliminates the obstacles of languages and borders. Behind each CIM/SMGS consignment note, there is a *contractual link* between those involved in the CIM or SMGS region: between the consignor of the goods, the carrier and the consignee. On this way, the common CIM/SMGS consignment note provides greater legal certainty:

- The route the goods take from the consignor throughout the carrier to the consignee is specified
- The assumption of the transport costs between consigner and consignee is *stipulated*
- In the event of loss or damage to the goods, the procedure for providing compensation is *laid down*
- System-based errors in the reconsignment of consignment notes are *eliminated*

The common CIM/SMGS consignment note is also recognised as a customs transit and bank document. It is used for block trains, wagon groups, single wagons or containers, in either paper or electronic format.

WEST TO WEST: DELIVERING GOODS FASTER FROM WESTERN CHINA TO WESTERN EUROPE

The common CIM/SMGS consignment note contains all the key information for the consignment: consignor, consignee; type, weight and special features of the goods. When all the details are clear from the very beginning, then everything is much simpler and faster. One factor, however, is particularly important: using the common CIM/SMGS consignment note means that all the geographical points of intersection between the CIM and SGMS legal regimes and the carriers are defined. Transition procedures at these "reconsignment points" run smoothly and are much faster. Without a common consignment note, the procedure for despatching the goods from these points would have to be repeated ("reconsignment") – and that means more time lost and higher costs.

THE FUTURE STARTS TODAY

The common CIM/SMGS consignment note will shape the future. Subject to continuing development and optimisation in joint committees, it is already being used successfully for rail freight shipments from Western China to Western Europe – and this trend will rise. The electronic CIM/SMGS consignment note is to be given more emphasis and at a later date will take precedence over the paper-based document. The procedure for paying compensation to customers in the event of damage during transit is also to be optimised.

ПРЕОДОЛЕВАЯ РАССТОЯНИЯ И ПРЕГРАДЫ

Железнодорожные перевозки с Запада на Восток и в обратном направлении зачастую преодолевают тысячи километров. Множество стран, языков, границ, габаритов, а также различные правовые режимы усложняют и без того длинный путь и замедляют прохождение маршрута. Однако, с помощью интероперабельности ЦИМ/СМГС был достигнут прогресс: в Западной и Центральной Европе в железнодорожном грузовом сообщении применяется единое право (ЦИМ), в Восточной Европе, России, Китае и частях Азии применяется уже другое, но опять же единое право (СМГС). Именно здесь находит свой применение унифицированная накладная ЦИМ/СМГС. Она в значительной степени упрощает и ускоряет железнодорожные перевозки.

ПРАВОВЫЕ ГАРАНТИИ

Унифицированная накладная ЦИМ/СМГС является мостом между различными правовыми режимами ЦИМ и СМГС, между языками и границами. За каждой накладной ЦИМ/СМГС стоит договорное отношение между участниками в сфере ЦИМ или СМГС: между отправителем груза, перевозчиком и получателем груза. Таким образом, унифицированная накладная ЦИМ/СМГС предоставляет больше правовых гарантий:

- Заборный путь груза от отправителя посредством перевозчика к получателю
- Хрекуплрованное распределение транспортных расходов между отправителем и получателем
- Установленный порядок возмещения в случае утери или повреждения груза
- Отсутствие системных ошибок, возникающих при переотправке и переоформлении накладных

Кроме того, унифицированная накладная ЦИМ/СМГС является признанным таможенным транзитным и банковским документом. Она используется в маршрутных поездах, группах вагонов, отдельных вагонах или контейнерах, в бумажной или электронной форме.

С ЗАПАДА НА ЗАПАД: ИЗ ЗАПАДНОГО КИТАЯ В ЗАПАДНУЮ ЕВРОПУ - БЫСТРЕЕ У ЦЕЛИ

Унифицированная накладная ЦИМ/СМГС содержит в себе все важную информацию об отправке: данные об отправителе и получателе, вид, массу, вес и особенности груза. Если с самого начала учтены все детали, то перевозки могут осуществляться намного проще и быстрее. Однако, наиболее весомым является следующий фактор: благодаря унифицированной накладной ЦИМ/СМГС определены все географические места пересечений между правовыми режимами ЦИМ и СМГС и перевозчиками. Переход через эти «места переотправок» осуществляется беспрепятственно и намного быстрее. А без общей накладной там нужно было бы ещё раз проводить процедуру отправки («реэкспедиции») - это бы стоило дополнительного времени и затрат.

УНИФИЦИРОВАННАЯ НАКЛАДНАЯ - ИНСТРУМЕНТ БУДУЩЕГО

У унифицированной накладной ЦИМ/СМГС есть будущее. Её постоянно оптимизируют и дорабатывают в совместных группах. К примеру, она впервые уже была успешно использована в железнодорожных грузовых перевозках из Западного Китая в Западную Европу – и в будущем это будет происходить всё чаще и чаще. Электронная накладная ЦИМ/СМГС должна приобрести большую значимость и в дальнейшем иметь преимущество по сравнению с бумажным документом. Кроме того, необходимо улучшить порядок рассмотрения претензий по ущербу, связанному с перевозкой, в пользу клиентов.

克服距离和阻碍

从西方至东方及相反方向的铁路运输往往需要克服几千公里的远距。多个国家、语言、国境、限界，以及不同的法律制度都造成了困难，除此之外，长距离延长了经路运行的时间。然而，借助国际货约/国际货协的畅通无阻性，情况已得到了一些改善：在西欧和中欧的铁路货物联运中适用统一的法律（国际货约），而在东欧，俄罗斯、中国和亚洲部分适用另一种铁路法（国际货协），也正因此。需要采用国际货约/国际货协统一运单。该运单在很大程度上简化并加快了铁路运送。

法律保障

国际货约/国际货协统一运单是国际货约和国际货协不同法律制度之间，以及不同语言和国境之间的桥梁。每一份国际货约/国际货协运单即在国际货约或国际货协领域的参加者之间确定了合同关系：在发货人、承运人和收货人之间。这样，国际货约/国际货协统一运单提供了更大的法律保障：

- 从发货人通过承运人至收货人的确定货物经路
- 协调发货人和收货人之间运输费用的分配
- 当货物灭失或损毁时规定的赔偿办法
- 避免了转发送和重新办理运单时产生的系统错误

此外，国际货约/国际货协统一运单是被认可的海关过境和银行文件。其以纸版或电子版形式在直达列车、车组、单独车辆或集装箱中采用。

从西部至西方：从中国西部至西欧——更快的目标

国际货约/国际货协统一运单其中包括有关货物的所有重要信息：发货人、收货人信息；货物类型、质地、重量和特性。如果从最初便清晰明了，则一切都将更加简单和快速。然而，下列因素最为重要：由于国际货约/国际货协统一运单，确定了国际货约和国际货协法律制度，以及承运人之间的所有过境地理位置。经过上述“转发地”的转换可以无阻且更加快速地进行。而如果没有共同运单，则需要再次办理发货手续（“再次代理”）——这需要额外的时间和费用。

未来立足于今日

国际货约/国际货协统一运单是有前景的，因且共同工作组长期对其进行着发展和修订。例如，其首次成功用于从中国西部到西欧的铁路货物运输，而未来这将会变得更加频繁。国际货约/国际货协电子运单起具有重要意义，将来会比纸质运单更具优势。此外，对于客户受益的有关运输损失的赔偿请求，应改善其审查程序。

UNECE-Declaration

Parallel and complementary approach for Unified Railway Law

Development of a single legal regime from Atlantic to Pacific

Elaboration of optional modal rules for Euro-Asian Rail Contracts

CIM/SMGS Legal Interoperability: GTC EurAsia

General Terms and Conditions for EurAsia Rail Transport Contracts of the CIT (GTC EurAsia)

- → **Point 3** - of the UNECE Political Declaration
- → **Framework contract** - for participating railways (on different corridors)
- → **Applicable law** - mandatory provisions of the national law shall apply
- → **Precondition** – opting-in through the participating railways (for example DB, PKP Cargo, BC, RZD, UZ, KZH and KZD)
- → **Legal basis** - international private law (IPR)

CIT
Comité international des transports ferroviaires
Internationales Eisenbahntransportkomitee
International Rail Transport Committee

Edition 1 July 2014

General Terms and Conditions of Eurasian carriage by rail (GTC EurAsia)

Applicable with effect from 1 July 2014

UNECE - International Rail Cooperation
Uniform railway law

Conclusions

- CIM/SMGS consignment note
- Standardised CIM/SMGS claims handling procedure
- General Terms and Conditions EurAsia
- Unified Rail Transport Law

Global supply chain from railway prospective

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Thank you for your attention!

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