Legal Interoperability CIM/SMGS: toward unified rail transport law

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Dr. Erik Evtimov
Senior Legal Adviser & Project Coordinator
Use of the CIM/SMGS consignment note
Global supply chain from railway prospective
Uniform law for CIM/SMGS traffic

CIM and SMGS

Uniform CIM/SMGS law

- Common CIM/SMGS consignment note
- CIM/SMGS claims handling rules
- CIM/SMGS liability
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
**Electronic consignment note CIM/SMGS**

- Legal basis for the electronic exchange of consignment note data:
  - Article 6 § 9 CIM: based on functional equivalence
  - Article 7 § 14 SMGS: based on an agreement between the carrier and the customer

- Electronic consignment note CIM/SMGS:
  - √ Functional specifications
  - √ Legal specifications
  - √ Technical specifications
  - Practical Implementation – the participating railways (support Raildata / OSJD / CIT)
Practical use of the CIM/SMGS consignment note

Traffic movements:

• More than 50 traffic axes in 4 TEN Corridors
• Examples:
  – Germany – Russia (via Poland and Belarus)
  – Germany – Ukraine
  – Czech Republic – Russia / Ukraine
  – Romania – Russia
• Saves time – 40 min per wagon
• Saves money – 30 € per wagon
• Improves the overall legal certainty

Further improvements:
• Using one CIM/SMGS consignment note plus a wagon list or container list
• Extending the scope of the CIM/SMGS consignment note
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)
Overall advantages for customers and railway undertakings

- Mutual recognition of the formal report CIM/SMGS
- Matter of facts for partial loss or damage
- Transparent rules for the customers for the claims handling CIM/SMGS
- Standardised rules of procedure for the claims departments
- *Single window* for claims handling and payment of compensations
- *Harmonised* liability rules CIM/SMGS
- Overcome the *legal duality* in the international railway law
- *500 000 €: the CIM customers have lost in the time period 2008-2009*
Principles for harmonized CIM/SMGS liability

- *Special Terms and Conditions* for CIM/SMGS traffic (*STC-CIM/SMGS*)
- Inspired by CIM and SMGS principles
- The *contract of carriage* can refer to them
- Successive carriers on a long distance
- On some *transcontinental axes*
- Carriers taking part accept *joint* liability
- *Relief* from liability in accordance with the CIM and/or SMGS