



Comité international
des transports ferroviaires

Internationales
Eisenbahntransportkomitee

International Rail
Transport Committee

Legal interoperability for Rail in the Euro-Asian Links

Group of Experts on Euro-Asian Transport Links

5th Session

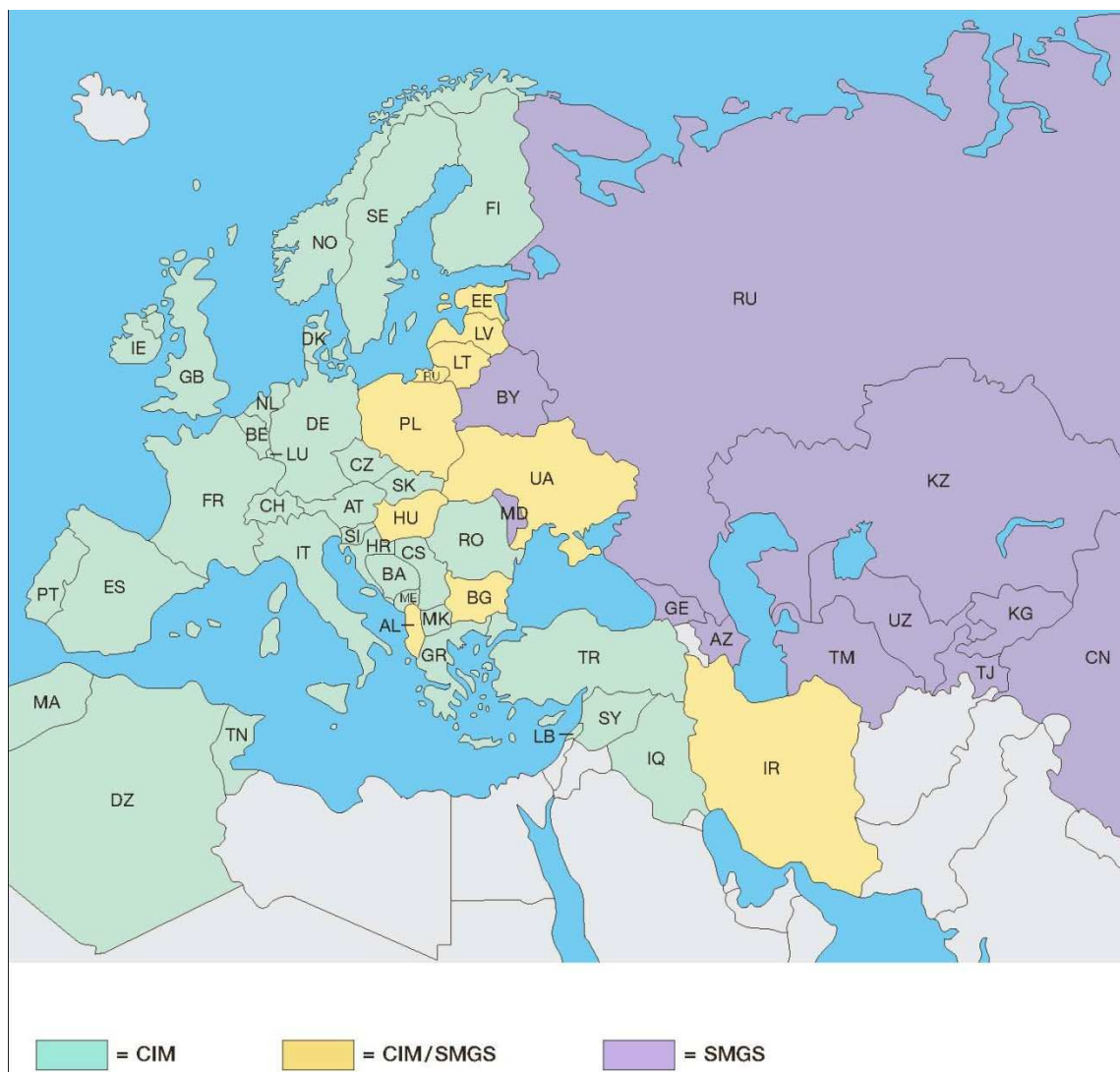
Tashkent, 1-2 November 2010

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Scope of the COTIF/CIM and SMGS vs EGKS

State of 1 July 2010



Legal duality in the international rail law

CIM (Uniform Rules concerning the Contract of International Carriage of Goods by Rail - Appendix B to COTIF)

Annex to the main convention

Consensual contract

Contractual freedom

Consignment note design within the competence of RUs

Joint and several liability

SMGS (Agreement on International Goods Transport by Rail)

Main convention

Formal contract

Obligation to set and publish tariffs and to carry

Consignment note defined in SMGS itself

Individual liability

Different organisations

OTIF (Intergovernmental Organisation for International Carriage by Rail)

Bern

Since 1985 (Central Office since 1893)

46 Member States

Only Member States with Infrastructure

Majority

German/French/English

OSJD (Organisation for Cooperation between Railways)

Warsaw

Since 1956

27 Member States

States *and* railways

Unanimity

Russian and Chinese

(1) Relevant international transport conventions and international transport organisations

Road transport:

CMR: Convention on the Contract for the international carriage of *goods* by road (1956)

Multilateral Protocol to the Convention on the contract for the international carriage of goods by road (1978)

Additional Protocol to the Convention on the contract for the international carriage of goods by road concerning the electronic consignment note (2008, not in effect)

ADR: European Agreement concerning the international carriage of dangerous goods by road (1957)

CVR: Convention on the Contract for the international carriage of *passengers* by road (1973)

UNECE – Transport division (Geneva)

IRU – International road transport union (Geneva)

(2) Relevant international transport conventions and international transport organisations

Air transport:

Warsaw Convention: Convention for the unification of certain rules relating to international carriage by air (1929)

Additional protocol No. 1 to amend the Convention for the unification of certain rules relating to international carriage by air (1975)

Additional protocol No. 2 to amend the Convention for the unification of certain rules relating to international carriage by air (1975)

Chicago Convention: Convention on Civil Aviation (1944)

Montreal Convention: Convention for the unification of certain rules for international carriage by air (1999)

ICAO – International Civil Aviation Organisation (Montreal)

IATA – International Air Transport Association (Montreal)

(3) Relevant international transport conventions and international transport organisations

Inland waterway:

CMNI: Convention on the Contract for the carriage of goods by inland waterway (2000)

ADN: European Agreement concerning the international carriage of dangerous goods by inland waterway (1997)

ADNR: Regulation for the carriage of dangerous substances on the Rhine (1972)

Danube Commission (Budapest)

Central Commission for Rhine Navigation (Strasbourg)

Other River Commissions (for Mosel or Main)

(4) Relevant international transport conventions and international transport organisations

Sea transport:

Hague rules: International Convention for the unification of certain rules of law relating to bills of lading (Brussels, 1924)

Visby rules: Protocol to amend the International Convention for the unification of certain rules of law relating to bills of lading (Brussels, 1968)

Hamburg rules: United Nations Convention on the carriage of goods by sea (Hamburg, 1978)

Rotterdam rules: United Nations Convention on contracts for the international carriage of goods wholly or partly by sea (Rotterdam, 2009)

IMO – International Maritime Organisation (London)

CMI – International Maritime Committee (Antwerp)

CIT/OSJD Project: Legal Interoperability for rail

Phase 1:

Common transport documentation

Phase 2:

Standardised legal instruments

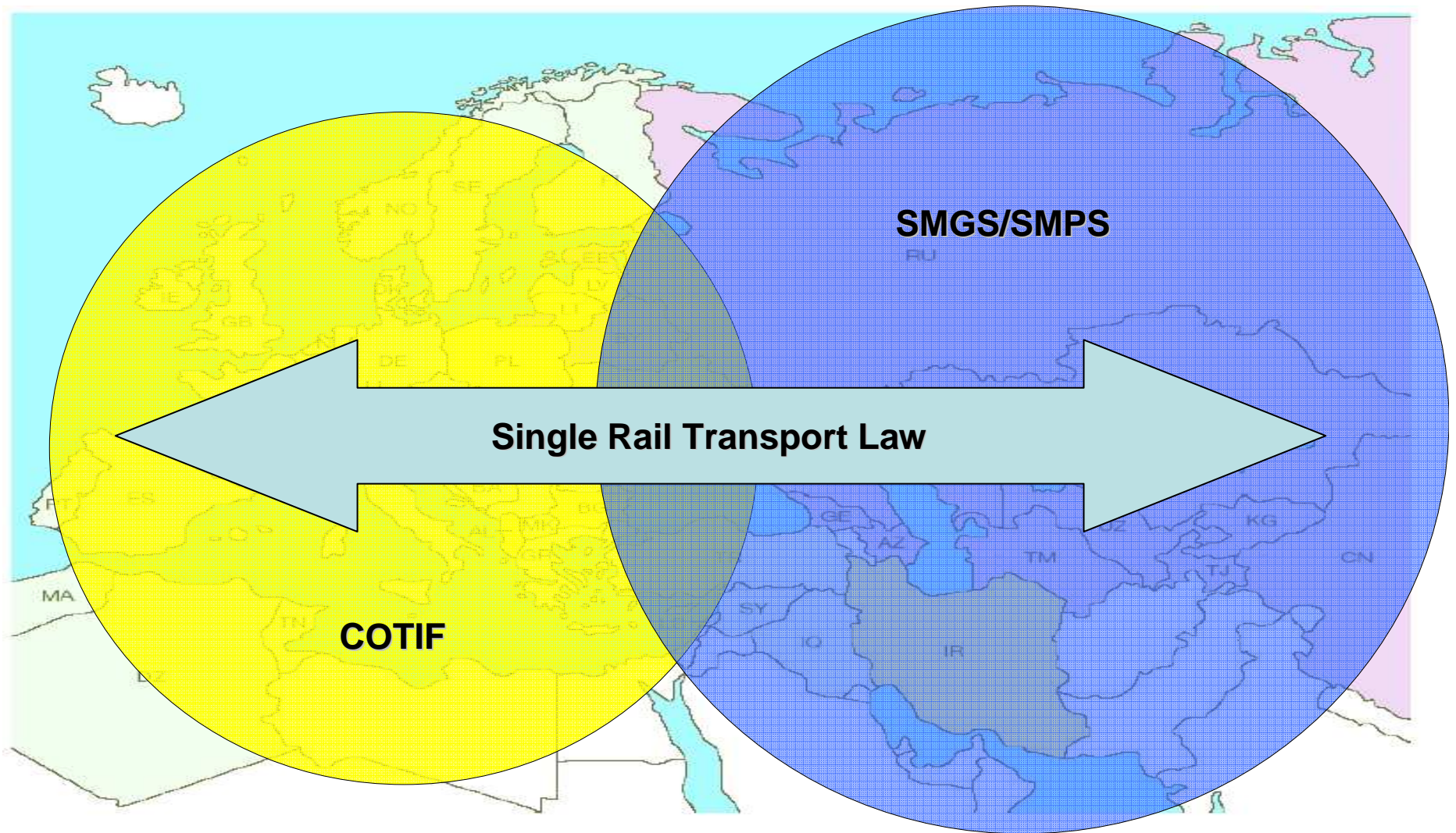
Phase 3:

Single rail transport law

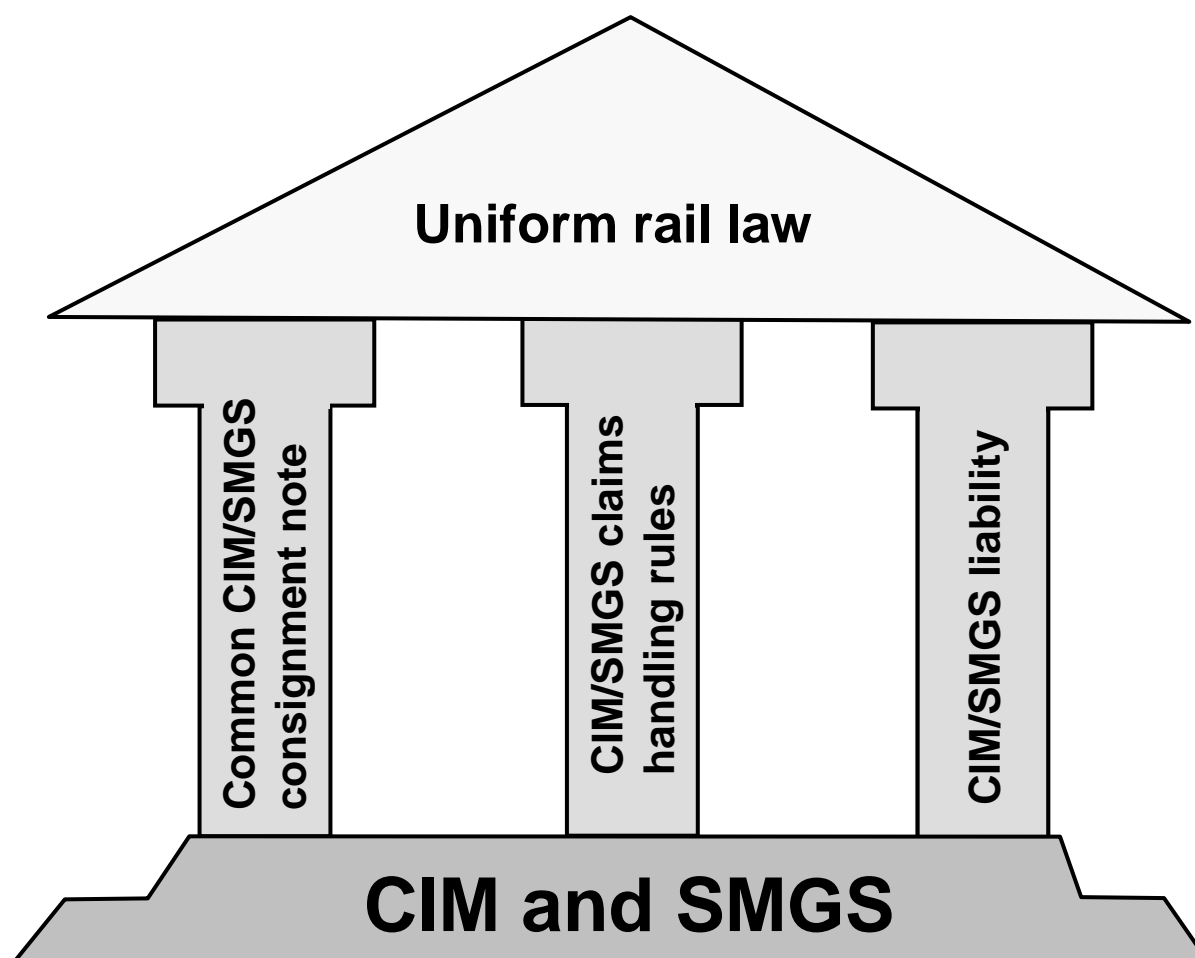
Electronic consignment note CIM/SMGS

- 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)

Phase 3: Two legal areas one single law



Uniform international law for rail



Overall advantages for railway customers

- Single transport documentation CIM/SMGS
- 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
- Standardised rules of procedure for the claims departments
- *Single windows* for claims handling and payment of compensations

- *Harmonised* liability rules CIM/SMGS
- Overcome the *legal duality* in the international carriage by rail

- *500 000 €: the CIM customers have lost in the time period 2008-2009*

Demands for customs facilitations for rail

- Common customs procedure for transcontinental rail transportation
- Single customs declaration based on single transport documentation
- Safety and security transportation on a long distances
- Better interconnection with the up-coming customs security obligation of the European Union
- The new Customs Union Russia, Belarus, Kazakhstan
- Securing the comparative advantages of the railway on a global level
- The role of the UN Bodies in the process

- Possible solutions:
 - Implementation of the existing UN Conventions
 - Up-grading the existing UN Conventions
 - Put in place a new UN Convention on simplified rail custom transit procedure to the Eurasian rail corridors