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### Economic Commission for Europe

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#### Working Party on Customs Questions affecting Transport

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#### **International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952**

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

**Submitted by the Organisation for Cooperation between Railways**

#### **Introduction**

1. It is recalled that at its previous sessions the Working Party discussed preparation of a new convention to facilitate the crossing of frontiers for passengers and baggage carried by rail and the activities of an informal group of experts established to elaborate a draft of such convention.
2. The current document contains a first draft of such new convention as presented by the Organization for Cooperation between Railways (OSJD). The current document is reproduced in the form and languages (Russian and English) as received by the secretariat. The accompanying explanatory letter from OSJD on a new convention is reproduced in the Informal document WP.30 (2015) No. 12.

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\* This document was submitted late due to delayed inputs.

## Annex

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

*The States Parties* to this Convention (hereafter referred to as “the Parties”),

*Taking* into account the need to facilitate the border crossing condition for passengers, luggage and load-luggage carried in international traffic by rail,

*Bearing in mind* the objectives to facilitate and accelerate border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail with preservation of the effectiveness of state controls, as well as unconditional security, convenience, comfort and high quality services for passengers while reducing the train movement time,

*Have agreed* as follows:

## Chapter 1 General provisions

### Article 1

For the purposes of this Convention the following terms are used:

(a) "luggage" means items of the passenger taken by the carrier for carriage in the baggage car of a passenger train;

(b) "rail transport infrastructure" (hereinafter referred to as the "infrastructure") means a technological complex that includes a rail network and other facilities, railway stations, power supply devices, communications networks, signalling, centralisation and blocking systems, information complexes and train control systems, and other buildings, structures, facilities, equipment and devices securing the functioning of such a complex;

(c) "international carriage by rail" means the carriage of passengers, luggage and load-luggage by rail performed between two or more railway stations in different countries (including through the territory of a third country) as well as carriage within a single country with the route running across the territory of another (other) country(-ies);

(d) "passenger" means a natural person who is travelling on a train with a valid travel ticket or who has a travel ticket and is in the territory of a railway station or on a passenger platform when entering or alighting from a train;

(e) "carrier" means a legal person who has entered into a contract of carriage with a passenger (consignor), undertaking to carry the passenger or the registered luggage or load-luggage consigned by the consignor from the point of departure to the point of destination;

(f) "rail border crossing" means a railway station as well as another specific place located in close proximity to the border, where state control procedures are performed;

(g) "hand luggage" means the items belonging to a passenger which the passenger has with him or her in the car free of charge and whose weight and dimensions do not exceed the established limits;

(h) "load-luggage" means the items that a carrier accepts from a natural or legal person in accordance with the established procedure for their carriage in the luggage car of a passenger train;

(i) "infrastructure manager" means a person who is authorised to provide services associated with the use of the infrastructure to legal or natural persons in accordance with national legislation;

(g) "staff" means a group of employees of the carrier or other organizations engaged in passenger service en route, not being a part of the train crew;

(h) "special control" means veterinary, sanitary-quarantine, phytosanitary and other types of state control, requiring the use of special forms and methods of control.

## **Article 2**

This Convention regulates the following issues:

(a) organization of cooperation between the Parties on facilitation of border crossing in international carriage by rail;

(b) definition of a complex of measures to agree on conditions of state control, harmonize the requirements regarding the processing of documents and conducted procedures of state control;

(c) improving the efficiency of rail border crossings and reducing time needed to carry out the state control;

(d) organization of coordinated work by representatives from border, customs authorities and carriers of the Parties.

## **Article 3**

With a view to achieve the objectives of this Convention, the Parties may conclude bilateral agreements, complementing and clarifying its provisions. Terms and conditions of bilateral agreements may not contravene the provisions of this Convention.

## **Article 4**

1. The Parties shall cooperate to ensure the most complete uniformity of requirements for execution of documents and performed procedures in all areas related to international rail transport.

2. The Parties shall seek to use international standards, new technologies in the field of railway transport, in particular, the technology of automatic gauge change over systems, and best practices to improve rail border crossings and facilitate the performed procedures in all areas related to international carriage by rail.

3. The Parties shall exchange practical achievements to improve the efficiency of rail border crossings and reduce the time needed to carry out the state control.

## **Article 5**

1. The Parties crossing the state borders of other Parties may carry out the following types of state control:

(a) border control;

(b) customs control;

(c) other types of state control established by national legislation of the Parties.

2. The state control can be carried out in the following places:
  - (a) at border crossing point, in particular during the change of gauge or automatic gauge change over;
  - (b) in the train while running between border crossing points;
  - (c) partly at rail border crossing, partly during the movement of train.

#### **Article 6**

1. State control bodies carry out coordinated actions to control passengers' documents as well as their hand luggage, luggage and load-luggage.
2. The method, type, procedure, state control points, time specifications to carry out state control, passengers data to be transmitted to state control bodies shall be determined by the Parties in separate agreements.
3. The parties may agree on a non-stop running of international passenger trains through the railway crossing points.

#### **Article 7**

1. In carrying out state control the Parties shall help to prevent the non-observance of train schedules.
2. Infrastructure managers shall promptly inform the state control bodies of the Parties on the train schedule and its changes, the schemes of international passenger trains, as well as the cancellation and determining of trains.
3. The Parties shall ensure the fulfilment of time limits determined by separate agreements for state control, seek the reduction of time limits by simplifying and improving methods, technologies and means of state control.

#### **Article 8**

The Parties in relation to each other seek to reduce the use of paper documents and facilitate procedures on conducting documents, using electronic data exchange in accordance with national legislation of the Parties.

### **Chapter 2**

#### **State border crossing by train crew employees, employees of state control bodies and service personnel in international rail transport**

#### **Article 9**

Authorized employees of state control bodies are exempted from the passport and visa formalities in international rail transport. The provision of their official documents authorizing them to carry out state control is considered sufficient to authenticate their identity, position and authority.

#### **Article 10**

1. The Parties shall seek to facilitate the border crossing procedures for train crews and service personnel, including procedures for issuing visas.
2. The Parties may agree on crossing state borders by train crews and service personnel in international rail transport in accordance with name lists.

## **Chapter 3 Organization of state control**

### **Article 11**

With a view to facilitate and accelerate the state control the Parties shall observe the following requirements for rail border crossings open for international passenger traffic.

(a) presence of buildings (premises), facilities, equipment and technical devices which enable to carry out daily non-stop state control at a rail border crossing;

(b) the rail infrastructure of border crossing points and the surrounding areas shall facilitate state control without a breach of the train schedule;

(c) the availability of equipment, facilities, information and communications systems to enable the exchange of information in advance, including information on passenger trains approaching the railway crossing points;

(d) the presence at railway border crossings of skilled personnel from carriers, border, customs and other state bodies in accordance with the volume of traffic.

### **Article 12**

In order to confirm the authority of officials carrying out the state control, they have to wear uniforms or insignia in accordance with the legislation of the Parties.

## **Chapter 4 Carrying out state control**

### **Article 13**

1. The information on passengers, luggage and load-luggage crossing the state border, (in accordance with the technological features) shall be transmitted in advance by carriers to the state control bodies.

2. The Parties determine in separate agreements the amount of information necessary for carrying out state control.

3. If the transmitted information is confidential and protected by legislation of the Parties (state, commercial, banking secrecy and others) the persons participating in international rail transport, commit themselves not to disclose such information to third parties without the prior written consent by the authorized person.

4. Public authorities may exchange information.

### **Article 14**

1. The Parties shall choose the place for carrying out state controls by concluding a separate agreement.

2. The state control can be carried out jointly by state control bodies of the Parties.

### **Article 15**

1. Regardless of the method of state control, if it does not require the use of special forms and methods of control, state control can be carried out directly in the train cars.

2. Passengers cannot leave their places occupied in accordance with the travel document (ticket) up to the end of state control.

3. In case of necessity to use special forms and methods of control according to the national legislation of the Parties, the state control can be carried out in special premises of the station.

#### **Article 16**

1. State control is carried out sequentially by the state control bodies of the state of departure, and then the state control bodies of the state of entry.

2. The control bodies may stay on the territory of one Party on the basis of a separate agreement.

3. The following procedures apply, if there is no separate agreement on carrying out sequential state control on the territory of one Party:

(a) border control – carried out by state control bodies of the country of entry;

(b) customs control and other types of control carried out by control bodies of the country of exit;

(c) border control carried out by state control bodies of the country of exit;

(d) customs control and other types of control carried out by state control bodies of the country of entry.

4. In the case of sequential state control on the territory of one Party the following procedure applies.

(a) border control carried out sequentially by state control bodies of the country of exit and then the country of entry;

(b) customs control and other types of control carried out sequentially by state control bodies of the country of exit and then the country of entry;

5. The state control bodies of the country of entry may carry out state control only in those parts of the train where the state control had already been carried out by state control bodies of the country of exit.

#### **Article 17**

1. The Parties seek to reduce time limits on performing technical operations connected with the reception of trains at the border crossing points.

2. The Parties seek to reduce time limits for state control by improving technologies and technical equipment. The Parties undertake to achieve the maximum reduction of time regulations within the framework of state control over the following years.

#### **Article 18**

1. The competent bodies authorized in accordance with the legislation of the Parties on the basis of separate agreements define the railway border crossings located near the state border or within one of the countries on which territory the state control is carried out.

2. In all cases of determination of such railway border crossings in separate agreements the zone shall be defined in which the officers by the Parties have the right to inspect passengers crossing the state border of the Parties in any direction, their hand luggage, luggage and load-luggage.

3. The zone in which the officers by the Parties may inspect the passengers usually includes:

- (a) buildings, facilities and platforms, attributable to the railway border crossing point;
- (b) passenger trains.

#### **Article 19**

The parties to the Convention shall strive to organize the state control when the train is en route in cases where the duration of the train's non-stop run up to and after the rail border station of each neighbouring state is long enough to exercise the state control for the trains equipped with automatic gauge change systems (AGCS) and for high-speed trains.

#### **Article 20**

The parties to the Convention shall strive to organize the state control partially at the rail border station and, partially, when the train is en route in cases where the duration of the train's non-stop run up to and after the rail border station of each neighbouring state is long enough to exercise the state control on the territory of only one of the states.

### **Chapter 5 Final provisions**

#### **Article 21**

1. This Convention shall be subject to ratification. The ratification instruments shall be deposited with the Secretary-General of the United Nations Organization.
2. This Convention shall come into force immediately when the third instrument of ratification has been deposited with the Secretary General.
3. Upon the entry into force, this Convention will be open for accession by any state which has not signed this Convention.
4. The instruments accession shall be deposited with the Secretary-General of the United Nations Organization, who shall notify all the other Parties thereof.
5. When the third instrument of ratification has been deposited, this Convention shall enter into force for any state becoming a Party to this Convention on the 90th day after depositing of the accession instrument by this state.

#### **Article 22**

1. A regional economic integration organization established by sovereign states and having competence on specified matters covered by this Convention may also sign and ratify this Convention or accede to it. In that case the regional economic integration organization has rights and obligations of a Party to the extent only to which it has competences on matters covered by this Convention. In cases where the number of Parties will matter to this Convention, the regional economic integration organization shall not be considered as a Party in addition to its member states which are Parties to this Convention.

#### **Article 23**

1. Any party to this Convention may apply for modification of this Convention to the Secretary General of the United Nations Organization.
2. The Secretary General of the United Nations Organization shall notify the Parties of the proposed modification requesting them whether they stand for a conference to be called by the Parties in order to consider the proposed modification and vote on it.

3. At the request of no less than one third of the Parties to this Convention, the Secretary General of the United Nations Organization shall call the conference to include modifications into this Convention.

4. The modification of this Convention shall enter into force for all the Parties to this Convention after depositing of the instruments of approval by the majority of the Parties. Henceforth, the modification shall enter into force for any Party on the day on which it has deposited its instrument of accession with the Secretary General of the United Nations Organization.

5. It shall be considered that any instrument of ratification and document of accession deposited after the entry into force of the modification to this Convention shall be related to this Convention with modifications included.

#### **Article 24**

1. Any disputes concerning the interpretation and application of this Convention, arising between the Parties, which may not be solved within reasonable time through negotiations and consultations, by express assent of the Parties involved in the dispute, shall be submitted to the arbitration board for settlement.

2. Each of the Parties shall designate one arbitrator to the arbitration board within one month following the date on which consensus was reached by the Parties to submit the dispute to the arbitration board for settlement.

3. The chairman of the arbitration board shall be appointed by the Secretary General of the United Nations Organization. The board shall make arbitration awards by a majority of vote. In case the votes are divided equally, the vote of the chairman shall be decisive.

4. Arbitration awards shall be binding upon parties at variance.

#### **Article 25**

1. This Convention may be denounced by means of notification sent by the Party concerned to the Secretary General of the United Nations Organization who, in turn, shall notify the other Parties hereof. Upon expiry of six months following the receipt of such a notification by the Secretary General of the United Nations Organization, this Convention shall cease to be force in respect of the Party that has denounced it.

2. If upon the entry into force of this Convention, the number of the Parties is found, as a result of denunciations, to be less than three, this Convention shall cease to be force on the date on which the latest of those denunciations has become valid.

#### **Article 26**

1. This Convention the texts of which being equally authentic in the \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ languages shall be deposited with the Secretary General of the United Nations Organization who shall send verified copies to the States that have signed it or acceded to it.

2. Upon the entry into force of this Convention, the Secretary General of the United Nations Organization shall register it in accordance with Article 102 of the Charter of the United Nations.

*In Witness Whereof*, the undersigned, being duly authorized to that effect by their appropriate Governments, have signed this Convention.

Done at \_\_\_\_\_ in \_\_\_\_\_ copies \_\_\_\_\_ date

\_\_\_\_\_