

CIM/SMGS LEGAL INTEROPERABILITY

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To start with, there are two main organizations that are in charge of all carriage of goods and passengers by rail transport within Europe and partly Asia.

First, the Intergovernmental Organization for International Carriage by Rail (OTIF) was set up on 1 May 1985. The Organization's basis under international law is the Convention of 9 May 1980 (COTIF), which applies in Europe, the Maghreb and in the Middle East.

The system of law that applies to the international carriage of goods and that was provided by the OTIF is known as the CIM Uniform Rule.

Second, the OSJD (Организация сотрудничества железных дорог) was set up on 28 July 1956. The Organization's basis under international law is the SMGS convention.

The SMGS is an international convention which applies in Eastern Europe and Asia to the international carriage of goods by rail. Some Member States of OSJD, which are sometimes also members of OTIF, apply both of these conventions.

Now it is time to mention the main differences in principals of organization and management of those structures.

To start with, there are different headquarters, number of members and time of existence. Then, only state members can be a part of OTIF, while OSJD includes both state members and railways.

Speaking about conventions we can also discover fundamental differences: the CIM is an annex to the main convention, while the SMGS is the main convention by itself; the CIM provides contractual freedom, when in the SMGS there is the obligation to set and publish tariffs; there some differences in consignment note designing.

In the area of rail transport, two basic legal systems (COTIF, SMGS) continue to exist side by side. The traffic between the COTIF and SMGS countries has traditionally involved time-consuming border procedures, including the alignment and translation of relevant documents. Some steps must be done to improve a degree of two systems interoperability, and here they are: 1. Implementation of a common CIM/SMGS consignment note.

2. Development of a unique claim handling mechanism.
3. Law harmonization