



铁路合作组织委员会  
波兰共和国  
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КОМИТЕТ ОРГАНИЗАЦИИ  
СОТРУДНИЧЕСТВА  
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CT/11/16

Warsaw, 19 September 2016

To: OSJD Members  
Republic of Korea  
UN ECE ITC, UN ESCAP  
DG MOVE  
Eurasian Economic Commission  
OTIF, ECO  
CIT, UIC, CCTT

*for information:* Members of the Conference of  
General Directors (authorized representatives) of  
OSJD Railways

Dear Sir or Madam Ministers,  
Dear Sir or Madam,


Following the letter CT 7/9/16 from 2 August 2016, please find attached the proposals and/or comments on the draft Convention on international through railway traffic submitted by the OSJD Committee. Above mentioned documents placed on the OSJD website ([osjd.org](http://osjd.org)) could be downloaded from the menu field "Convention". In order to ensure the more efficient transfer of documents as well as, due to the fact that less than 2 months remain to the first meeting of the Conference ( 14-18 November 2016, Poland, Warsaw), I would like to ask the Members of the Ministerial Conference of OSJD to submit this letter to the Ministry of Foreign Affairs of Your Countries as soon as possible.

Let me take this opportunity to remind you that the information on the composition of the delegation to the first meeting of Conference including the registration forms to be filled in by 30 September 2016 at latest shall be submitted to the OSJD Committee.

Looking forward to meeting you in Warsaw

Best regards

Chairman of OSJD Committee

  
Tadeusz Szozda

## **Amendment proposals submitted by the Ministry of Transport and Communication of Republic of Belarus.**

The articles 68, 70, 72, 73 shall be worded as follows:

### **Article 68 Entry into force**

This Convention shall enter into force on the first day of the month after a period of four months from the date on which the Depository received the eighth written consent to be bound by this Convention.

For each Contracting Party that has expressed to the Depository its written consent to be bound by this Convention after its entry into force, this Convention shall enter into force on the first day of the third month following the date of receipt of the consent.

### **Article 70 Provisional application**

1. This Convention shall be provisionally applied by the Contracting Parties from the date of its entry into force except for those which will make a statement that they will not apply this Convention provisionally.

2. The provisional application of this Convention by the Contracting Party which has not submitted to the Depository its written consent to be bound by this Convention shall terminate as from the date on which the Depository received the notification of its intent not to become a Party to this Convention.

### **Article 72 Reservations**

2. Reservations may be made only if clearly provided for by this Convention.

### **Article 73 Interpretation of the text**

When interpreting this Convention and its Annexes and Acts of the OSJD adopted on the basis thereof, their character as international law and the need for uniformity in their application shall be taken into account.

Annex 1, Article 15, Paragraph 7

It was proposed to replace the word “sanitary” by the word “sanitary-quarantine”.

Annex 2, Article 11, Paragraph 2

It was proposed to delete the following words “where possible”.

## Annex 3, Article 1

It was proposed to insert an additional paragraph:

The OSJD Members submit to the OSJD Committee their sanitary- epidemiological requirements relating to the carriage of dangerous goods.

## Annex 5

It was proposed to add the words “requirements, medical and sanitary measures provided by the International Health Regulations 2005” to the Article 3.1.

The Article 3.2 shall be worded as follows:

“Sanitary-epidemiological requirements including requirements relating to the sanitary-quarantine control”.

We would like to focus your attention on the following:

In compliance with Article 1 of the draft Convention the Contracting Parties (the governments of states) following the signature of the Convention will transform the Organisation for Co-operation between Railways (here in after referred to as OSJD) into an international intergovernmental organization. They will act within the framework of this organization on a basis of the Convention.

In compliance with Article 9 of the draft Convention the membership of the OSJD shall comprise the Contracting Parties, as well as the governments of the States and regional organisations for economic integration that have acceded to this Convention.

Do you have any information on the membership of Eurasian Economic Union (EAEU), being international organisation for regional economic integration with full legal subjectivity in the OSJD?

This issue is very important for the Belarusian regulatory authorities to appoint the authorized body (authorized bodies) of the OSJD member. Taking into account the abovementioned aspects the prescriptions of the Article 13.2-13.3 of the draft Convention should be analyzed additionally with regard to personal composition of the body which will be bound by the decisions of the Ministers Conference.

The prescriptions of the Article 26.4 (Option I) and Article 27.1 (Option II) of the draft Convention concerning the citizenship of the Chairman of the Committee and the Deputies of the Chairman of the Committee require additional justification.

## **Position submitted by the RAI (Railways of the Islamic Republic of Iran).**

We do agree with the Article 25 (Option I)

### **Article 25 Option I: Staff of the Committee**

1. The staff of the Committee shall be composed of:
  - 1.1. officials of the Committee delegated by the plenipotentiary bodies of the OSJD Members on the basis of qualification requirements approved by the Ministers Conference;
  - 1.2. employees recruited on a competitive basis to work in the Committee who are nationals of OSJD Member States and perform administrative and technical functions in the Committee.
2. The legal status of the Committee's staff shall be determined by the international agreement referred to in paragraph 2 of Article 56 of this Convention, and the separate document referred to in paragraph 4 of this Article, while in the part not covered by these documents the law of the State of the Committee's permanent seat shall apply.
3. The provisions of paragraph 2 of this Article shall not be deemed to prevent an official from being in an employment relationship in the State of the OSJD Member delegating them to work in the Committee.
4. The Committee Staff Regulations shall be approved by the Ministers Conference.

### **As regards Article 26 of the draft Convention.**

We do agree with the second option that the Chairman shall be elected for a term of four years and shall be released from office by decision of the Ministers Conference. We also agree that the post of Chairman of the Committee shall be not held by a citizen of the same state for more two successive terms of office.

### **As regards Article 27 of the draft Convention.**

We do agree with the second option that the Deputy Chairman shall be elected for a term of four years and the post of the Deputy Chairman shall be not held by the citizen of the same state for more than two successive terms of office.

In general we agree with the opinion of the member of the Committee from Kazakhstan to consider mixed version of Articles 24-29 of the Section 7 "OSJD Committee" of the draft Convention preventing the holding leading post by the same OSJD member-states and introducing the principle of rotation.

**As regards Article 36 of the draft Convention.**

We agree with the principle laid down in the Article 36 “Voting at sessions” according to which decisions at a Ministers Conference shall be adopted by three-quarters of the votes of the plenipotentiary bodies of the OSJD Members present at the session, save for decisions on the matters specified in subparagraphs 1.2, 1.3, 1.4, 1.6, 1.7, 1.10 and 1.14 of Article 14 of this draft Convention, decisions on which shall be adopted unanimously, and save for decisions on the matters referred to in subparagraph 1.11 of Article 14 of this draft Convention, decisions on which shall be adopted by four-fifth of the votes.

It's worth mentioning that the principle of unanimity relating to the matters mentioned in subparagraph 1.10 of Article 14 is not consistent with Article 26 (Option II) “The Chairman of the Committee” and Article 27 (Option II) “Deputies of the Chairman” of this draft Convention.

**As regards Article 63(new) of the draft Convention.**

As regards Article 63 (new) “Accession to the Convention by regional economic integration organisations” we do support the second option.

**As regards Article 72 of the draft Convention.**

As regards Article 72 “Reservations” we do support the wording which was proposed by the participants of the Ad-hoc working group from Lithuania and Estonia. We also consider it appropriate that any Contracting Party may at any time make a statement to the effect that it will not apply in full certain Annexes to this Convention.

As regards other legal issues and matters concerning a settlement of disputes the RAI will present its position at the conference for the adoption of this Convention.

## **Position submitted by the State Administration of Railways of the People's Republic of China.**

### **1. As regards the text of the Convention:**

It was proposed to formulate subparagraph 2.4 of Article 2 as follows:

Act on legal proceedings as long as the provisions of the Protocol on the privileges and immunities of the OSJD are fulfilled.

It was proposed to delete the last sentence of the paragraph 1 of Article 44 "Any party to the dispute may appeal the decision of the Ministers Conference within 180 days of its adoption in the International Court of Justice".

It was proposed to delete the words "other international agreements" in paragraph 1 of Article 45.

It was proposed to add the words "arbitration decisions shall be final " in the first sentence of Article 48. It was proposed to insert an additional paragraph concerning the costs of arbitration: "The parties to the dispute shall bear the costs of the arbitrator appointed by them and representatives participating in arbitration proceedings". The parties to dispute shall bear the costs of the main arbitrator and expenses of the arbitration proceedings in equal parts.

### **2. Unsettles issues**

**As regards Article 25** "Staff of the Committee", Article 26 "Chairman of the Committee" and Article 27 "Deputies of the Chairman of the Committee" we do support the first version of above-mentioned articles.

**As regards Article 39** "Voting at Committee meetings and meetings of Commissions " we do support the first version of this article. We propose to formulate paragraph 2 as follows: "Decisions at meetings of Commissions shall be taken by three-quarters of the votes of the experts present at the meeting". We also propose to insert an additional paragraph in article 32: "The presence of at least two thirds of the project participants shall constitute a quorum for the meeting of the Commission".

**As regards Article 62** "Accession to the Convention by regional economic integration organisations" we do support the second version of this Article.

**As regards Article 72** "Reservations" we do support the first version. We also propose to insert an additional paragraph: "The reservations against amendments and changes to the Convention and its Annexes can be made before its entry into force.

### **3. Annexes to the Convention**

We propose to add in Article 1 “General Provisions on the Contract of Carriage in International Traffic” (Annex 1 to this Convention) definition of the term “Agent” and insert an additional paragraph in Article 15: “The Carrier and the consignor shall have the right to complete themselves customs and other administrative formalities or appoint agents to complete these formalities. The consignor may declare in the consignment note that he performs customs and other administrative formalities. All necessary documents and papers may be provided by the consignor himself or by his agent. Customs duties and other fees may be paid by the consignor himself or by his agent unless otherwise provided by applicable national law.

The definitions of term “consignment” which can be found in Article 1 and Article 14 of General Provisions on the Contract of Carriage in International Traffic (Annex 1) contradict each other. They shall be harmonized.

**As regards paragraph 1 of Article 15** of “General Provisions on the Contract of Carriage in International Traffic” (Annex 1)

The words “quarantine and control” shall be inserted before the words “customs and other administrative formalities”.

**As regards Article 15** of General Provisions on the Contract of Carriage of Passengers International Traffic (Annex 2)

The words “quarantine and control” shall be inserted before the words “customs and other rules”.

Taking account of the cross-border online trade booming and strong tendency for carriage of piece goods by passenger trains we propose to insert in “General Provisions on the Contract of Carriage in International Traffic” the provisions concerning carriage of postal items.

By taking into the account the absence of provisions concerning carriage of dangerous goods in hand luggage and luggage in General Provisions on the Carriage of Dangerous Goods in International Traffic (Annex 3) we propose to delete paragraph 3 of Article 12 and paragraph 3 of Article 13 in “General Provisions on the Carriage of Passengers in International Traffic” and insert a new subparagraph 5 in paragraph 2 of Article 12 (Annex 2) “inflammable, pyrophoric, self-ignitable, explosive, radioactive, toxic, caustic and corrosive substances (articles); firearms in a loaded condition” .

We also propose to insert a new subparagraph 4 in paragraph 2 of Article 14 “General Provisions on the Carriage of Passengers in International Traffic” (Annex 2): 24 hours if a luggage was transshipped once during its transportation.

We propose to insert in paragraph 1 of Article 16 of “General Provisions on the Carriage of Passengers in International Traffic”(Annex 2) the words “charge for declaration of value of the luggage” after the words “charge for the carriage of luggage”.

Amounts of compensation resulting from “General Provisions on the Carriage of Passengers in International Traffic” (Annex 2) shall be paid in the currency fixed in the International Tariff for Carriage of Passengers by Rail.

Does the term “health” in Article 19 “Carrier's liability in the event of damage to the life or health of a passenger”, Article 20 “Compensation in the event of damage to the life or health of a passenger”, Article 31 “Action under the contract of carriage. Jurisdiction” and Article 32 “Limitation period” cover only physical health or extend also to the psychological health?

We propose to insert in “General Provisions on the Carriage of Passengers in International Traffic” (Annex 2) an additional paragraph: “Contracting Parties may make reservations against the provisions on compensations in the event of delay of a train or a through coach provided in Articles 21, 22, 29 of these General Provisions”.

We propose to insert in Article 26 of “General Provisions on the Carriage of Passengers in International Traffic” (Annex 2) a new paragraph 4: “Compensation procedure and amount of compensation for damage of hand luggage shall be defined by applicable national law”.

We also propose to formulate paragraph 1 of Article 28 of “General Provisions on the Carriage of Passengers in International Traffic” (Annex 2) as follows:

The passenger or consignor shall be liable for the damage caused to the carrier during the journey and the carriage of luggage as a result of failure to comply with his obligations under these General Provisions, or if damage has been caused by transported items or animals. The passenger or consignor shall compensate the carrier and also the coach operators and/or third party for a loss.

**As regards paragraph 3.2 of Article 3 “General Positions on Railway Rolling Stock in International Traffic”** we propose to delete the words “requirements relating to the activation of the emergency brake valve and the rapid separation of the friction parts of the brakes if locked”.

**As regards “General Provisions relating to the use of freight wagons in international traffic” (Annex 6)** we propose to add an additional article after the Article 6 “Conditions governing the use of wagons”: “Article 7 Wagons of railway undertakings

The railway undertakings may also negotiate other terms concerning signs and markings, hand over, technical maintenance, repair and use of these wagons and charges and fees to be raised for its use. These terms agreed by the railway undertakings may differ from the conditions provided in these General Positions.

**As regards paragraph 1 of Article 2 “Protocol on the privileges and immunities of the Organization for Cooperation between Railways (Annex 8)** we propose to delete the words “value added taxes”.

**As regards paragraphs 2 and 3 of this Article** we propose to delete the words “other



payments”.

**As regards Article 2** “Exemption from taxes and dues” and paragraph 1.6 “The same immunities and privileges concerning their personal luggage as are accorded to diplomatic representatives” of Article 6 “Representatives of OSJD members” we propose to add a new footnote as follows: Will be considered valid as soon as the OSJD will be inserted in the list of specialized agencies of the United Nations.

## **Position submitted by the Ministry of Transport and Road Infrastructure of Republic of Moldova**

**As regards a version of Article 72** “Statements and reservations”, which was proposed by representatives of Lithuania and Estonia we do support the position of State Enterprise “Railways of Moldova” (CFM), which was submitted in the letter of 23<sup>rd</sup> January 2015:

1. Any Contracting Party may at any time make a statement to the effect that it will not apply in full certain Annexes to this Convention. Moreover, reservations and statements regarding the non-application of certain provisions of the Convention itself or of Annexes to it shall be permitted only if such reservations and statements are expressly provided for in the provisions themselves.

2. Reservations and statements shall be sent to the Depositary. They shall take effect from the entry into force of this Convention for the State concerned. Any statement submitted after this Convention enters into force shall take effect from 31 December of the year following the year in which the statement was submitted. The Depositary shall inform the Contracting Parties accordingly.

**As regards Article 25** “Chairman of the Committee” we do support the second version in compliance with which: *The post of Chairman of the Committee shall not be held by a citizen of the same state for more than two successive terms of office performing functions under this Convention and other functions determined by decision of the OSJD’s governing bodies within their remit.*

## **Position submitted by the State Enterprise “Railways of Moldova”**

**As regards of Article 72 “Statements and reservations”** we do support the version which was submitted by representatives of Lithuania and Estonia:

1. Any Contracting Party may at any time make a statement to the effect that it will not apply in full certain Annexes to this Convention. Moreover, reservations and statements regarding the non-application of certain provisions of the Convention itself or of Annexes to it shall be permitted only if such reservations and statements are expressly provided for in the provisions themselves.

2. Reservations and statements shall be sent to the Depository. They shall take effect from the entry into force of this Convention for the State concerned. Any statement submitted after this Convention enters into force shall take effect from 31 December of the year following the year in which the statement was submitted. The Depository shall inform the Contracting Parties accordingly.

**As regards Article 25 “Chairman of the Committee”** we do support the second version in compliance with which: *The post of Chairman of the Committee shall not be held by a citizen of the same state for more than two successive terms of office performing functions under this Convention and other functions determined by decision of the OSJD’s governing bodies within their remit.*

**As regards Article 57 (55) “Accession to the Convention by regional economic integration organisations”** we do support the second version of this Article in compliance with which: *The number of votes possessed by a regional economic integration organisation shall be equal to the number of its members which are also member states of the OSJD and are present at the meeting. This kind of organisation shall not exercise the right to vote if any of its members exercises its right to vote, and vice versa.*

## **Position submitted by the Ministry of Transport, Construction and Regional Development of Republic of Slovakia**

As regards Article 56.1 and Protocol on the privileges and immunities of the OSJD (Annex 8)

We propose to take account of the separate position of the Republic of Slovakia. See the Annex 4 to the Protocol of 41<sup>st</sup> Meeting of the Ad-hoc Working Group on actualization of basis documents of OSJD, which was held in Warsaw from 17<sup>th</sup> to 21<sup>st</sup> November 2014: *We do not support the extension of privileges and immunities of the OSJD when comparing with privileges and immunities resulting from the treaty concluded between the OSJD and the OSJD Member State, on which territory the Committee of OSJD is situated.*

We propose to delete paragraph 1 of Article 56 of this Convention and delete Annex 8 to this Convention. We would like to propose to deal with this issue only within the framework of a treaty that has been concluded between the OSJD and the OSJD Member State, on which territory the Committee of OSJD is situated.

### **As regards Annex 8.**

The Ministry for Finance of Republic of Slovakia insists to withdraw all articles of Annex 8 of this convention concerning exemption from direct taxes and dues. Or the Ministry for Finance of Republic of Slovakia will make a reservation against the use of these Articles in the Republic of Slovakia.

### **Questions concerning interpretation**

#### **As regards paragraph 4 of Article 11.**

4. The Assembly of Railway Companies may grant a commercial organisation or association whose activity coincides with the aims and principles of the OSJD the status of Associated Enterprise of the OSJD in accordance with an official written application addressed to the Chairman of OSJD Committee.

*What does it mean "a commercial organisation"? Would you be so kind to give explanation to this notion.*

#### **As regards paragraph 3 of Article 26 (Option I)**

3. The Chairman of the Committee shall be appointed for a term of four years, and shall also be released from office, by a decision of the Ministers Conference. The post of Chairman of the Committee shall not be held by the same person for more than two terms of office.

*In compliance with Article 26.3 (Option I) the post of Chairman of the committee shall not be held by the same person for more than two terms of office. Does it mean that the post of Chairman of the Committee shall not be held by the same person for more than two successive terms of office or for more than any two terms of office?*

**As regards paragraph 1 of Article 34**

1. The Audit Commission shall be composed of three representatives of OSJD Members, one from each of the OSJD Members except for the regional economic integration organisations.

*Would you be so kind to give explanation to this paragraph.*

**As regards paragraph 1 of Article 44**

1. Any dispute between or among two or more Members of the OSJD concerning the interpretation or application of this Convention which cannot be settled by negotiation within 180 days of its commencement shall, at the request of an OSJD Member involved in that dispute, be referred to the Ministers Conference for a decision. Either or any party to the dispute may appeal the decision of the Ministers Conference within 180 days of its adoption in the International Court of Justice.

*Would you be so kind to give explanation to the notion "International Court of Justice"? Does it mean the International Court of Justice in the Hague? We propose to determine current status of the court in the text of this Convention.*

**As regards paragraph 1 of Article 70**

1. Contracting Parties which have not submitted their written consent to be bound by this Convention shall provisionally apply it from the entry into force except for those which will notify the Depositary in a written form at the signing of the Convention that they will not apply this Convention provisionally.

*In compliance with Article 70.1 the Contracting Parties notify the depositary at the moment of signing that they will not apply this Convention provisionally. Would you be so kind to give explanation to this paragraph. If the Contracting parties will not apply this Convention provisionally, what they will apply then at that moment? How will the Contracting Parties carry out its operational activity?*

**As regards paragraph 1 of Article 71 (subparagraphs 3.12 – 3.16)**

3. Upon the entry into force of this Convention, the following treaties, agreements and other documents shall cease to have effect:

3.12. Agreement on International Goods Transport by Rail (SMGS), which entered into force on 1 November 1951, with all amendments and additions approved and introduced in the prescribed manner during the entire term of its validity;

- 3.13. Agreement on International Passenger Transport by Rail (SMPS), which entered into force on 1 November 1951, with all amendments and additions approved and amended in the prescribed manner during the entire term of its validity;
- 3.14. Agreement on Organisational and Operational Aspects of Combined Transport between Europe and Asia, signed in Tashkent on 4 June 1997;
- 3.15. Manual to the Agreement on International Goods Transport by Rail (Manual to SMGS), which entered into force on 1 November 1951, with all amendments and additions approved and introduced in the prescribed manner during the entire term of its validity;
- 3.16. Manual to the Agreement concerning International Passenger Traffic by Rail (Manual to SMGS), which entered into force on 1 November 1951, with all amendments and additions approved and amended in the prescribed manner during the entire term of its validity.

*In compliance with Article 70.1 upon the entry into force of this Convention, the treaties, agreements and other documents including SMGS and SMPS and Service Instructions to SMGS and SMPS shall cease to have effect. By taking into consideration that draft Convention contains only main parts of above-mentioned agreements we would like to ask you to inform us which documents shall govern the carriage of goods and passengers from the entry into force of this Convention.*

## **Position submitted by the Ministry of Transport of Republic of Tajikistan**

### **As regards paragraph 5 of Article 7**

We propose to add in paragraph 5 of Article 7 the words “multimodal transport”

### **As regards paragraph 3 of Article 22**

We propose to formulate this paragraph as follows:

The Committee shall have a seal and a blank form (official letter- headed paper), the specimen of which shall be approved by the Ministers Conference

### **As regards Article 25**

We do support the second version.

### **As regards Article 26**

We do support the second version.

### **As regards Article 27**

We do support the second version.

### **As regards Article 29**

We do support the first version.

### **As regards Article 39**

We do support the second version.

### **As regards Article 44.1**

The status of the International Court and its location shall be determined.

### **As regards Article 55**

We do support the second version.

### **As regards Article 62**

We do support the second version.

### **As regards Article 71**

We propose to delete provisionally the paragraphs 3.12 – 3.16 as long as the new versions of SMGS and SMPS and Service Instructions to SMGS and SMPS are not analyzed, discussed and adopted.

**As regards Article 72**

We do support the second version.



UZBEK RAILWAY

2015-yil "30.09

No.H3-1/3040-15

OSJD Committee

Reply to the letter No. CT 7/7/15 of 31.08.2015

JSC Uzbek Railway after considering the draft Convention on direct international railway traffic hereby submits the following proposals and comments:

1. Paragraph 6 page 32 Appendix 1 to the Convention to be added by a point:
  - 4) under other circumstances that caused braking or restricting the traffic according to the order by the Government of a correspondent country.
2. Due to the lack of terms for providing claims in the new version of SMGS, to amend paragraphs 1 and 2 on page 42 Appendix 1 to the Convention as follows:

Claims and causes by a consigner or consignee to the contracting carriers as well as requirements and causes by carriers to the consigners or consignees on paying transport charges, fines and compensation of damage may be submitted within 9 months with the exception of claims and causes on delay in the delivery of goods that have the delivery period within 2 months.

The aforesaid terms shall be calculated:

- 1) for the claims on compensation for partial loss of goods, underweight, damage, spoiling or deterioration of goods quality for other reasons as well as for delays in the delivery of goods - from the date of delivery of the goods to the consignee;
  - 2) for the claim on compensation for complete loss of goods from the 30th day after the expiry of the delivery period calculated in accordance with Article 7;
  - 3) for the claims on additional payment or for claims on returning the freight charges, additional fees, fines or for the claims related to the correction of accountings due to incorrect application of tariffs as well as mistakes in calculating the payments – from the day of payment or from the date of the delivery of goods, if payment was not made;
  - 4) for all other claims and demands – since the establishment of the circumstances that provided the reason for their submission. The start date of expiry of limitation period shall not be included in the term
3. To add paragraph 3 on page 7 Appendix 1 to the Convention as follows:

the contract of carriage is considered to be concluded from the moment of taking the goods for carriage with a consignment note by the carrier. The acceptance of goods for carriage shall be certified by sealing the consignment note with a date stamp of the carrier.

After sealing the consignment note with a date stamp it can serve as a proof of the conclusion of the contract of carriage.

4. In Article 17 Appendix 1 to the Convention to add a paragraph with the following wording:  
The period of transportation shall be calculated based on the actual distance between the station of origin and station of destination.  
In Article 17 Appendix 1 to the Convention to add a paragraph with the following wording:  
A fine for the delay in delivery shall be paid only in the case when the total term for transportation from the station of origin to the station of destination calculated according to Article 38 was not kept.
5. At the end of paragraph 4 Article 7 Appendix 1 to the Convention to add the following wording:  
such as: 1) delays due to fulfilling customs and other rules;  
2) interruption of transportation caused not by fault of the carrier and temporary hindering the beginning and continuation of carriage;  
3) delay caused by changing the contract of carriage;  
4) delays due to inspection of compliance of data in the consignment note  
5) time spent for unloading the excess of mass, correction of goods or its packaging as well as for transshipment and correcting the loading cause by the fault of the consigner;  
6) other cases caused by the fault of the consigner or consignee.
6. In Article 38 Appendix 1 to the Convention to add a paragraph with the following wording:  
The fine for the delay in delivery shall be paid only in case when the total term for transportation from the station of origin to the station of destination calculated according to Article 17 was not kept.

In case when the goods were transported on some railways with delay and on others before the deadlines, the above-stated terms shall be included in determining the period of delay.

7. To amend paragraph 11 Article 8 Appendix 1 to the Convention as follows:  
Cargo weight (in words); for wagon loading Total cargo weight (in words); p.10 page 8  
Appendix 1 to the Convention to add with the following wording:  
number of cargo packages (in words).

First Deputy of the Chairman of the Board

Signature

Dekhkanov D.T.

**MINISTRY OF INFRASTRUCTURE OF UKRAINE**

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No. 5312/13/14-16

14 September 2016

*Original: in Russian*

To: Tadeusz Szozda  
Chairman of the Committee of the Organisation  
for Cooperation between Railways

Dear Mr. Szozda,

On behalf of the Ministry of Infrastructure of Ukraine please, allow me to present my complements to you and inform you as follows.

The Ministry of Infrastructure of Ukraine has considered the draft Convention on International Trough Railway Traffic and provided the following remarks and proposals.

1. Since in accordance with Article 59 of the draft Convention, the official languages of the Organisation for Cooperation between Railways are English, Chinese and Russian languages, and in view of international practice as well, we propose as follows:

- Article 35, Paragraph 4, the words “in the Russian alphabetical order” must be replaced by the words “in the English alphabetical order”;
- Article 51, Paragraph 4, the words “shall be conducted in Russian” must be replaced by the words “shall be conducted in English”;
- Article 59, Paragraph 4, the words “clarifications shall be given in the Russian language” must be replaced by the words “clarifications shall be given in the English language”;
- Final Provisions, following Article 73, the words “In the case of any discrepancies, the text in the Russian language shall be applied for the purpose of interpretation” must be replaced by the words “In the case of any discrepancies, the text in the English language shall be applied for the purpose of interpretation”.

2. As to Article 14, Paragraph 1.11 of the draft Convention, in view of the Ukraine’s foreign policy that has changed, we reserve the right to express at the International Conference on the adoption of text of the Convention our other position than the one that used to be before.

3. To bring the arbitration in line with international practice, we propose replacing the words “the third arbitrator who shall perform the duties of chairman of the arbitration board” by the words “the chairman of the arbitration board”, and the words “from a State to which neither

party belongs” must be replaced by the words “by citizens of the third State to which neither party belongs”.

4. Since the amendments and additions that were made to the Convention at the session may require new laws to be adopted or amendments to be made in the current legislation of the Member States, therefore we propose editing Article 69, Paragraph 3 as follows:

“Amendments and additions to this Convention shall be adopted at a session and shall enter into force for each Party upon expiry of one month following the submission to the Depositary a notification on the completion of domestic procedures required for carrying the amendments and additions into force. The amendments and additions to this Convention that have entered into force shall be an integral part of this Convention”.

5. We propose adding subparagraph 1.4 to Article 2 of Annex 8 with the content as follows: “In case of their alienation in a Member State to the territory of which they are imported, they shall be subject to taxation in accordance with legislation of this Member State”.

6. Article 2 of Annex 8, the words “customs duties and other payments” must be replaced by the words “customs payments” in the respective case.

7. We propose including in Annex 1 the provisions of Article 5 of the Agreement on International Freight Traffic by Rail (SMGS).

Taking this opportunity I would like to renew to you the assurances of my highest consideration and express my hope for further fruitful cooperation in the field of railway transport within the framework of the Organisation for Cooperation between Railways.

With regards,

V. Dovgan,  
Deputy Minister for European Integration