Agreement on the particularities of customs transit of goods transported by rail within the customs territory of the Customs Union

The Governments of the Member States of the Customs Union within the Eurasian Economic Community, hereinafter referred to as the Parties,

Based on the Treaty on the Customs Code of the Customs Union of November, 27 2009;

For the purpose of ensuring the application of customs procedure of customs transit in respect of goods transported by rail within the customs territory of the Customs Union,

Have agreed as follows:

Article 1

This Agreement defines the particularities of the customs transit in respect of goods transported by rail within the customs territory of the Customs Union, and does not apply to legal relationship connected with the movement of goods and vehicles by individuals for personal use.

Article 2

For the purposes of this Agreement, the following terms and definitions shall apply:

1)SMGS - Agreement on International Goods Transport by Rail of November 1, 1951;

2) Railways – company engaged in the transportation of goods by rail;

3) Railway of the Customs Union – a company of the Member States of the Customs Union, engaged in the transportation of goods by rail in accordance with the SMGS within the territory of one of the Member States of a Customs Union;

4) Consignment – a SMGS consignment or a rail CIM/SMGS consignment specified in the SMGS.

Other terms that are not specified in this article, shall be used in the meaning established by the customs legislation of the Customs Union.

Article 3

When transporting goods by rail, either a Consignment (additional copies of the freight bill - for the Customs Authorities of departure and destination) or commercial or customs documents containing information prescribed by the customs legislation of the Customs Union may be used as a transit declaration.

If a consignment and commercial documents are used as a transit declaration, the Consignment shall be the basis of transit declaration, and other commercial documents shall be its integral part.

One transit declaration is issued on a consignment of goods transported from one consignor to one consignee at one destination station under one consignment.

Submission of the transit declaration to the customs authority of departure must be accompanied by mailing of an electronic copy of it.

If a Railway of the Customs Union acts as a customs broker and a customs document is submitted for a transit declaration, the Railway of the Customs Union shall stamp the transit declaration in the manner prescribed by the Commission of the Customs Union, and certify it by the signature of the responsible officer of the station.

If a Railway of the Customs Union acts as a customs broker and a Consignment and commercial documents are submitted for a transit declaration, the Railway of the Customs Union shall stamp the additional copies of the freight bill.

Additional copy of the freight bill which had been stamped is a document which confirms the authority of the Railway of the Customs Union to act as a declarant of the customs procedure of customs transit.

If the customs procedure of customs transit applies when foreign goods are transported from the customs authority in the place of arrival in the customs territory of the Customs Union to the customs authority in the place of departure from this territory, then an indication of the cost of goods in the transit declaration is not required.

If the assessment of the amounts of payable customs duties and taxes in respect of the goods which had not been delivered to the customs authority of destination is not possible due to the lack of accurate information in the customs authorities about their cost, then the amount of customs duties and taxes are determined on the basis of the maximum value of the rates of customs duties and taxes, as well as the quantity and (or) value of the goods that can be determined on the basis of available information.

Should subsequent accurate information on the value of goods be determined, then the amount of overpaid or overcharged customs duties, taxes or recovery of outstanding amounts is done in accordance with the Customs Code of the Customs Union.

Article 4

The customs administration of departure may require the submission of commercial and other documents as provided in the customs legislation of the Customs Union in order to identify the transported goods for the purposes of customs control.

In the case of non-submission of necessary documents, the customs administration of departure shall have the right to detain vehicles of international transportation carrying goods at the border railway stations, including for the purpose of their return outside the customs territory of the Customs Union.

Article 5

The period of customs transit is determined by the customs authorities of departure in accordance with the customs legislation of the Customs Union, taking into account the provisions of SMGS.

In determining the period of customs transit there shall be taken into account possible delays of the vehicle en route due to the dissolution of trains in marshalling yards, technical maintenance of vehicles and operations of the supervisory authorities.

Article 6

1. Unloading, reloading (transshipment) and other cargo operations with goods transported by rail, and not related to the removal of imposed customs seals and stamps on the vehicles of international transportation, or if customs seals and stamps had not been imposed on the vehicle of international transportation, shall be permitted after prior notification to the Customs Authority in the region where the overloading of goods is carried out.

The notification consists of a written statement in free format by the Railway of the Customs Union to the Customs Authority, using prompt communication channels, containing the following information :

- The number of transit declaration;
- Customs Authority of departure and the Customs Authority of destination;
- Railway station where cargo operation will be carried out;
- Container number (in case of transportation of goods in containers).

The application should be signed by an Authorized official of the Railway of the Customs Union.

2. Not later than one day after the freight operations, the Railway of the Customs Union sends by prompt channels of communication a copy of the Act in Common Form stipulated by the legislation of the Member States of the Customs Union to the regional Customs Authority where the cargo operation was carried out.

The first copy of the Act in Common Form is attached to the Consignment note and shall be present by the Railway of the Customs Union to the Customs Authority of destination.

It is not necessary to provide the regional Customs Authority where the cargo operation was carried out, the transit declaration or transport documents.

3. Not later than one day from the date of reception of a copy of Act in Common Form, the regional Customs Authority where the cargo operation was carried out, shall send by prompt channels of communication information on cargo operations to the Customs Authority of destination, including with the use of information systems and information technologies.

Article 7

Non-fulfillment of the duties in respect of the transport of goods in accordance with the customs procedure of customs transit by the Railway of the Customs Union which had received the goods to transportation according to SMGS, implies the responsibility of the latter according to the legislation of a Member States of the Customs Union on which territory the goods have been imported.

Article 8

1. If the Railway of the Customs Union was the declarant of the customs procedure of customs transit, the obligation to pay customs duties and taxes arise:

1) for the Railway of the Customs Union, which files the transit declaration to the Customs Authority of departure for the placement of goods under the customs procedure of transit – from the time of registration of the transit declaration by customs authorities of departure;

2) for the Railway of the Customs Union which accepts the goods for transportation from another Railway of the Customs Union - from the moment of acceptance by the accepting Railway of the Customs Union of the goods for transportation from other Railway of the Customs Union according to SMGS.

2. The obligation of a Railway of the Customs Union to pay customs duties or taxes terminates:

1) for the Railway of the Customs Union, transmitting the goods according to SMGS for carriage to another Railway of the Customs Union - from the moment of acceptance by other Railway of the Customs Union of the goods to transportation;

2) in cases stipulated in Articles 227 or 228 of the Customs Code of the Customs Union.

3. Time of payment of customs duties, taxes and their amount shall be determined in accordance with the Customs Code of the Customs Union.

4. If the declarant for the customs procedure of customs transit was not a Railway of the Customs Union, that Railway is jointly and severally liable for payment of customs duties and taxes with the declarant of the customs procedure of customs transit.

Article 9

In case of non-delivery of the goods to the Customs Authority of destination within the time prescribed by the Customs Authority of the departure, any of the Railways of the Customs Union shall provide information on goods in search at the request of Customs Authorities.

Request and information can be transmitted in written form or with the use of information systems and information technology.

Article 10

In case of absence of the Customs Authority at the station of destination for completion of the customs procedure of customs transit, the transit declaration and other documents at the disposal of the carrier may be submitted to the Customs

Authority of destination by a person who had concluded a contract with the Railway of the Customs Union, under which it can perform customs operations associated with the completion of the customs procedure of customs transit.

Article 11

1. Disputes between the Parties concerning the interpretation and (or) the application of the provisions of this Agreement shall be resolved primarily through negotiation and consultation.

2. If the dispute is not settled by the Parties through consultations and negotiations within 6 months from the date of official written request for their conduct submitted by one of the Parties to another, then, in the absence of another arrangement between the Parties concerning the manner in which it is to be settled, any Party to a dispute may bring the case to the Court of the Eurasian Economic Community.

3. The Commission of the Customs Union shall assist the Parties in resolving the dispute before it is submitted for consideration by the Court of the Eurasian Economic Community.

Article 12

This Agreement may be amended by separate protocols, which are integral parts of the Agreement.

Article 13

This Agreement shall be subject to ratification and shall be applied provisionally from the date of entry into force of the Treaty on the Customs Code of the Customs Union of 27 November 2009.

This Agreement shall enter into force on the date of receipt by the depositary of the last written notification through diplomatic channels on the implementation by States of the Parties of the internal procedures required for entry into force of this Agreement.

Done in the City of St. Petersburg on May 21, 2010 in one authentic copy in Russian.

The authentic copy of this Agreement shall be kept in the Commission of the Customs Union, which will send its certified copy to each Party.