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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions
affecting Transport

(Seventy-ninth session, 28 June-1 July 1994,
agenda item 7 (b))

**ECE CONVENTION ON CUSTOMS TREATMENT OF POOL CONTAINERS
USED IN INTERNATIONAL TRANSPORT
(Customs Container Pool Convention)**

Draft Model Container Pool Agreement

Prepared by the informal Ad Hoc Group

Note: The informal ad hoc group, established by the Working Party to prepare a model of a Container Pool Agreement, met on 24 February 1994 in Paris at the invitation of the International Union of Railway (UIC) and on 12 April 1994 in London at the invitation of the International Chamber of Shipping (ICS). The two meetings were attended by representatives of Germany, Switzerland, United Kingdom, United States of America, the Commission of the European Communities, ICS, UIC, INTERCONTAINER, SeaLand and the secretariat of the ECE.

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Note (cont'd): The objective of this model of a Container Pool Agreement, which is a private law contract, is to provide guidelines to container operators regarding the content of the Pool agreements to be concluded among Pool members in the framework of the ECE Convention on Customs Treatment of Pool Containers Used in International Transport.

These Pool agreements need to be approved by Customs authorities as stipulated in article 5, paragraph 3 (b) of the ECE Convention.

The model of a Container Pool Agreement below contains only those provisions which, in the view of the ECE Working Party on Customs Questions affecting Transport, should be complied with by Pool members in order to obtain the approval of the individual Pool agreements by concerned Customs or other competent authorities. In practice, such Pool agreements will contain a number of other provisions regulating the exchange of containers among Pool members, such as financial arrangements, provisions on the use of Pool containers by the different operators, etc.

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MODEL CONTAINER POOL AGREEMENT

1. SCOPE

This Agreement will operate within the "ECE Convention on Customs Treatment of Pool Containers Used in International Transport" done at Geneva on 21 January 1994 (ECE/TRANS/106).

2. OBJECTIVE OF THE AGREEMENT

2.1 The objective of this Agreement is to organize, for Customs purposes, the use in common, on the basis of equivalent compensation, of containers by the members of the Pool for international transport, so that the containers will be put to profitable use by reducing empty movements.

2.2 The use of the containers as described below shall include internal traffic in the territory of States which are Contracting Parties to the ECE Convention within the limits of the activity of Pool members which have acceded to this Agreement.

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3. POOL MEMBERS

3.1 Membership of this Pool comprises the undermentioned companies:

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.....

3.2 Additions to the membership may be made under the conditions laid down in this Agreement with the unanimous agreement/simple/two-thirds majority of all members.

3.3 A member may terminate his membership of the Pool giving 3/6/9/12 months (or any other agreed period) written notice.

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4. CONTAINER ALLOCATION TO THE POOL

4.1 Each member will commit the following containers to the Pool:

Company	-	Type	-	Quantity
		[example only]		
XYZ		2200		500
XYZ		2232		50
XYZ		2232		25
...	
...	

4.2 Variations to the number of containers committed to the Pool as specified in 4.1 above will be made only with the agreement of all parties to this Agreement.

4.3 If a member loses or damages beyond repair a container belonging to another member, the other member will replace it at the cost of the first member.

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5. FUNCTIONING OF THE EXCHANGE OF CONTAINERS AMONG POOL MEMBERS

5.1 Pool members will exchange containers amongst themselves in the course of the international transport of goods.

5.2 When Pool members exchange containers with each other, inspection criteria (e.g. IICL4 (modified Jan 92) will apply unless otherwise mutually agreed between the members of the Pool.

5.3 Each Pool member may exchange one of its containers in the Pool with a container of the same type.

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6. TERRITORIAL COVERAGE OF THE AGREEMENT

6.1 The Pool will operate between and within the territories of the countries listed in Annex A. Additions to this list may be made with the unanimous consent of all Pool members.

6.2 Additional countries must be taken from the list of Contracting Parties contained in Annex B.

6.3 Each Pool member may have free and unrestricted use of containers under his control, within the limits set by the ECE Convention.

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7. CONDITIONS

7.1 Containers placed at the disposal of the Pool need to bear durable and unique marks which ensure the clear identification of each individual container (this may be the 10 digit alphanumeric container number as required by ISO 6346 or any other system of marking agreed upon in the Pool agreement).

7.2 The unique identification number will allow Customs authorities to identify the Pool in which a specific container is used, on the basis of the records to be kept by each Pool member.

7.3 Before this Agreement becomes valid, it must be submitted by each Pool member to its national Customs authority. The Agreement must have been approved as being in conformity with the ECE Convention by all Customs authorities in the territories of countries for which this Agreement applies.

7.4 In order to benefit from the facilities offered by the ECE Convention, container movements will need to comply with either of the following:

- (i) Upon importation containers must have previously been exported or will subsequently be re-exported; or
- (ii) Containers must comply with the principle of equivalent compensation, i.e. that an equal number of containers of the same type have previously been exported or will subsequently be re-exported.

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8. OBLIGATIONS FOR POOL MEMBERS

8.1 In order to enable Customs authorities to carry out any necessary checks, Pool members are to keep records of individual containers placed at the disposal of the Pool, itemized by type of container, and of the number of Pool containers of each type in the territory of the country in which the Pool member is established. These records need to be made available to Customs authorities on their request.

8.2 Customs authorities are entitled to check that the number of containers, used in the territory in which the Pool member is established during a period of 12 months (not necessarily the calendar year), does not exceed the number of containers of the same type placed at the disposal of the Pool by the Pool member.

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9. FINAL PROVISIONS

9.1 Pool members who fail to comply with the provisions of this Agreement or the principles and undertakings agreed upon for their

implementation, may be excluded from this Agreement.

9.2 Any modification of this Agreement also with regard to Pool membership and the number and type of containers put at the disposal of the Pool by Pool members, requires the approval of all Pool members as well as the approval of the Customs authorities of countries with and within which the Pool members operate under the provisions of this Agreement.

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10. ACCEPTANCE

I have read and understood this Agreement and agree to comply with all its conditions:

Signature:

Name:

On behalf of (company, organisation, etc.):

Date:
