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## **Economic Commission for Europe**

Inland Transport Committee

### **Working Party on Transport Trends and Economics**

**Thirty-first session**

Geneva, 3–5 September 2017

Item 11 (c) of the provisional agenda

**Review of the transport situation, transport trends  
and economics in ECE region**

### **Transport Trends and Challenges in the road sector**

**Submitted by the Government of Austria**

## Effects of Brexit on Transport



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Geneva, 4 September 2018

## Historical Background (I)

- **1951/57:** Founding of the EEC
- **1963 and 1967:** UK applies for membership -> rejected by French President Charles de Gaulle
- **1973:** UK joins EEC (together with Ireland and Denmark)
- **1975:** 1st referendum on UK-membership (67% in favour of remaining - turnout of voters 64%)
- Full integration into common market, but no participation in certain policy areas (e. g. Schengen-Agreement on border controls)
- **2013:** PM Cameron announces referendum in case of re-election 2015
- **May 2015:** Tories win elections
- **December 2015:** EU-referendum act
- **1st half of 2016:** Re-negotiations of certain conditions of UK-membership to the EU

## Historical Background (II)

- **23 June 2016:** Referendum -> 51.9% in favour of BREXIT (turnout of voters 72.2%); PM Cameron steps down
- **13 July 2016:** Theresa May new PM
- **20 July 2016:** UK communicates not to hold EU-Presidency in 2017
- **29 March 2017:** Letter by PM May to European Council President Tusk triggers 2-year-period of Art 50 TEU.
- **April 2017:** UK elections lead to hung parliament -> tory government tolerated by Northern Irish DUP
- **Since June 2017:** Brexit negotiations (to be concluded by October/ November 2018 to ensure timely ratification of possible exit agreement)
- **29 March 2019, 11 PM GMT (12 PM CET):** UK ceases to be member of the EU

## Structure of the Negotiations (I)

- Chief negotiator for the EU is Mr Michel Barnier (former EU Commissioner, nominated by Commission)
- Supported by Mr Guy Verhofstadt ((EP/ALDE; BE; former Prime Minister) and Mr Didier Seeuws (Council; BE; diplomat)
- Negotiation rounds prepared by specialized Council Working Group of the EU 27 on Art 50 – permanent chair by EC, UK not admitted to meetings, followed by special COREPER and Council Meetings
- UK Team led by BREXIT Minister, Mr Dominic Raab (followed Mr David Davis in June 2018)
- **29 April 2017:** European Council (EU-27) accepted negotiating guidelines for EC
- **2-phased approach**
  - Phase 1: negotiation on terms and conditions of divorce, especially on three principal topics:
    - Citizens' rights (EU/UK)
    - Financial affairs
    - UK/Ireland border
  - Phase 2: negotiation on future relation; to be opened, when European Council declares sufficient progress on phase 1
  - Principles for final agreement: level playing field, integrity of the single market (no sector to sector approach), non-member can't have the same rights like members, 4 freedoms are indivisible (no cherry-picking), EU preserves autonomy in decision making and enforcement (ECJ)

## Structure of the Negotiations (II)

- So far 21 official negotiation rounds
- **8 December 2017:** Joint EU/UK-report on progress of negotiations
- **15 December 2017:** European Council declares opening of phase 2
- **23 March 2017:** European Council adopts new guidelines on future relationship
- **July 2018:** Publication of UK White Paper on future relations with EU

## Possible Scenarios

### Scenario I: Leaving Agreement Concluded

- Transitional period (to end at the latest on 31 December 2020)
- UK to fully apply EU-acquis
- full financial contribution to EU-Budget and participation in EU-programmes
- no representation in EU's decision making bodies
- clearly defined, precisely limited in time, and subject to effective enforcement mechanisms (ECJ)
- respective deal needed to be ratified by both sides by 29 March 2019

## Scenario II: No Deal General Consequences

- UK no longer subject to EU law in general and no more member of the common market
- WTO-rules apply
- UK no longer party/subject to international agreements concluded by EU (e. g. trade or aviation agreements with third countries)
- Border controls for customs, (technical) standards etc. necessary -> timely delivery of goods/passengers seriously endangered
- Hard border between Ireland and Northern Ireland with possible consequences for Good Friday Agreement
- Guidelines on future relations foresee sectoral agreements for transport: if no deal and no implementation period -> disruptions of transport operations possible

## Scenario II: No Deal

# Consequences for Transport by Sector

### I. Road

- **Type Approvals:** UK type approvals for cars and car parts will lose validity -> Commission recently presented proposal for regulation to enable transfer of UK type approvals to one of the other 27 MS without further tests -> to be concluded by end of 2018
- **Transport of goods:** UK no longer member of common market for road transport services -> UK operators in EU (and vice versa EU operators in UK) would need:
  - Authorization under bilateral agreement between EU-MS and UK, or
  - ECMT-authorization, or
  - Special authorization by national authority of an EU-MS (e. g. for Austria: § 7 (1) (4) Transport of Goods Act)
  - NO MORE CABOTAGE
- **Transport of Passengers:** UK operators in EU (and vice versa EU operators in UK) would need:
  - Authorization under bilateral agreement between EU/MS and UK, or
  - Special authorization by national authority of an EU-MS (e. g. for Austria: Transport of Passengers Act)
  - NO MORE CABOTAGE

- **Non-scheduled Transport of Passengers:**

- Authorization under bilateral agreement between EU/MS and UK, or
- Special authorization by national authority of an EU-MS
- Authorization under Interbus

- **Driving licenses:** Directive on driving licenses no longer applicable to the UK. UK citizens living in the EU would have to transcribe their UK driving licenses into a national one of the MS, where they reside (vice versa for EU citizens in the UK); for cross-border operations the relevant international agreements, to which UK and EU-Ms are parties

## II. Rail Transport:

- Licenses for railway operators, access to infrastructure safety certificates and driving licenses: UK no longer member of the common market
  - no more operations possible of UK enterprises in EU territory and vice versa (UK certificates no longer valid in the EU)
    - > UK envisages bilateral agreements with neighbor MS;
- **Safety certificates and certifications for wagons :** UK certificates no longer valid in EU -> would have to be applied for in every MS or under COTIF
- **Interoperability:** Constituent placed on the market before the withdrawal date with a certificate of conformity/suitability for use issued by a Notified Body in UK can be used, during the duration of validity of the certificates of conformity/suitability for use, in subsystems or vehicles the placing in service of which has been authorized before the withdrawal date

- After Brexit: if product is placed on the market -> remains valid
- **Vehicles:** Authorizations for placing in service of vehicles before the withdrawal date will retain their validity after the withdrawal date even if they have been authorized based on certificates of verification issued by UK
- The same applies to authorizations for placing in service of subsystems
- After Brexit: Authorizations for placing in service shall be based on certificates of verification issued by Notified Bodies/Designated Bodies in the EU ->use of railway material authorized in the United Kingdom in international traffic in the EU will be governed by COTIF
- **Train drivers:** Railway undertakings providing cross-border services between UK and EU and wishing to continue after Brexit, will have to ensure that the drivers on the sections of cross-border services in EU territory have required licenses/certificates issued in EU

## II. Inland Waterway Transport (IWT)

- Operators carrying out international transport of goods or passengers by IWT in the Union must be established in an EU-MS
- Vessels used for IWT operations must also be registered in an EU-MS  
-> no more access to IWT in EU for UK operators and vessels
- No more cabotage by UK vessels or operators
- Boatmaster's certificates issued by UK under Directive 96/50/EC no longer valid

#### IV. Infrastructure

- UK from co-financing of infrastructure projects by EU (e. g. CEF)
- Commission issued proposal to amend CEF-Regulation (adaptation of North-Sea-Mediterranean corridor for non-participation of UK) –
- No more UK contribution to budget

#### V. Aviation

- Most severely affected transport sector (possible disruptions of transport operations)
- UK operating licenses will no longer be regarded as EU licenses (Regulation (EC) No 1008/2008 -> EU carriers must have at all times their principal place of business in the EU and be majority owned and effectively controlled by EU-MS or EU-nationals)
- UK will no longer be covered by rules for EU single market on aviation
- UK no longer covered by EU's **international aviation agreements** with third countries or by designation / traffic rights from agreements of other MS with third countries (vice versa for EU carriers / UK agreements with third countries)
- No more air traffic rights for third country carriers to or from the UK stemming from agreements with the EU

- **Old bilateral agreements between UK and other MS** are considered to have ceased to exist under Art 59 of the Vienna Convention on the Law of Treaties and will not revive automatically
  - > possibly serious disruptions of air traffic between UK and EU27
  - > eventual bare bone agreement to uphold minimum service
- UK operators can no longer offer air transport services within the territory of the EU 27 (and vice versa for EU operators in UK), as UK aircraft and operators are considered as third country aircraft and carriers
- **Aviation safety:** UK no longer member of EASA -> UK Civil Aviation Authority will no longer need to ensure compliance by UK-based companies with EU aviation safety legislation
- Type certificates by EASA for persons or organizations in UK no longer valid in EU
- Certificates issued before BREXIT by competent UK authorities on the basis of the provisions of EASA Regulation and implementing rules will no longer be valid. This concerns specifically:
  - Certificates of airworthiness
  - Pilot licenses, medical certificates
  - Certificates for air operators and attestations for the cabin crew
  - Certificates for aerodromes

## VI. Maritime Transport

- **UK nationals no longer meet criteria for intra-EU shipping service and third country traffic from and to EU** (reserved for nationals of MS established in a MS other than that of the person for whom the services are intended and nationals of MS established outside the EU, or shipping companies established outside the EU and controlled by nationals of a MS, if their vessels are registered in that Member State in accordance with its legislation)
- Cabotage in EU is restricted to EU shipowners -> UK-owners no longer meet criteria
- **Recognition of organisations (classification societies):** UK can no longer participate in assessments of organisations -> Commission published proposal to amend relevant regulation accordingly
- Directive on **Port State Control** will no longer apply to UK -> EU-UK relations will be governed by Paris MoU
- **Passenger transport:** UK will no longer have to carry out such inspections in accordance with Directive 1999/35/EC (system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services)
- **Safety of fishing vessels:** UK fishing vessels subject to prohibition/certification by MS flag state authority
- UK no longer to participate in works of EMSA

- **Certificates for seafarers:** UK certificates can no longer be subject to endorsement attesting recognition; seafarers with UK-certificates can continue to work until expiry of validity of certificate; UK will have to be added to list of recognized third countries
- **Ports:** UK no longer subject to state aids -> could be used to subsidize UK ports
- UK ports no longer part of EU TEN-T network

## VII. Consumer Protection and Passenger Rights

- **Consumer protection:** EU courts will continue to apply relevant legislation on consumer protection, if consumer is placed in EU and UK companies direct activities to consumer's country of residence
- **Air passenger rights:** EU legislation will only apply for flights of EU-carriers departing from or flying to UK, not for UK carriers
- **Ship passenger rights:** EU legislation continues to apply for transport from UK to the EU for EU carriers
- **Bus and coach passenger rights:** EU legislation continues to apply for transport between EU and UK on distances of more than 250km
- **Rail passenger rights:** Only applicable to transport within EU-territory

## For more information:

[https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_de#move](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_de#move)

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7633#fullreport>

# Thank you very much for your attention

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