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## Economic Commission for Europe

Inland Transport Committee

### Working Party on Customs Questions affecting Transport

#### 155th session

Geneva, 13 and 16 October 2020

Item 2 of the provisional agenda

**Activities of United Nations Economic Commission for Europe bodies  
and other United Nations organizations of interest to the Working Party**

### Alignment of the work of the Working Party with the Inland Transport Committee Strategy

#### Note by the secretariat

## I. Background and mandate

1. At its 154th session, the Working Party started considering document ECE/TRANS/WP.30/2020/1, summarizing the main scope of the seventeen legal instruments under the auspices of the Working Party, reviewing the final clauses and proposing, where required or deemed appropriate, amendments. At the session, the Working Party decided to go through each of the seventeen legal instruments, providing a first assessment. Regarding various of them ((j), (o) and (p)), the secretariat was requested to make enquiries with other international organizations in order to obtain more information on their relevance (see ECE/TRANS/WP.30/308, paras. 6–8).

2. This document reflects the feedback received from representatives from various consulted international organizations. When assessing the provided information, the Working Party should be aware that such information was provided in the personal professional capacity of the consulted representatives and does not necessarily fully coincide with the official position of the international organizations concerned.

## II. Customs Convention concerning Spare Parts Used for Repairing EUROP Wagons, of 15 January 1958

3. At its 154th session, the delegation of the European Union informed the Working Party that it seemed that this Convention no longer fulfils any practical need and that it has been replaced by contractual arrangements between railway companies. As such, the concept of EUROP Wagons no longer seems to exist. It suggested that the secretariat would seek the advice of the International Union of Railways (UIC) and the International Rail Transport Committee (CIT). The Working Party decided to continue assessing the relevance of this



legal instrument at its current session, based on feedback from delegations (ECE/TRANS/WP.30/308, para. 8 (j)).

4. Despite repeated attempts from the secretariat, neither UIC or CIT replied to requests for information. However, alerted by CIT, the secretariat received information from the Community of European Railways and Infrastructure Companies (CER) on behalf of both organizations.

5. In a first email, CER stated that, in its current wording, the Convention certainly has become obsolete because, first of all, all its contracting parties are now member of the European Economic Area (EEA) and, secondly, because the concept of EUROP Wagons no longer exists. At the same time, it should be noted that, since 1958, new wagon pooling initiatives were created and have become functional. Thus, the question poses itself whether the text of the Convention should be updated in order to cover these new initiatives. CER would consult its members over this and revert to the secretariat at a later stage. After such consultation with CIT and based on feedback received from the Organization for co-operation between railways (OSJD) and the European Company for the Financing of Railroad Rolling Stock (Eurofima), CER confirmed to the secretariat that in the view of the concerned organizations the Convention had become obsolete, because (a) all its contracting parties (Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, Netherlands and Switzerland) are now member of EEA, (b) the railway market has been liberalized, (c) there are no more state railway administrations, and (d) the underlying EUROP agreement no longer exists. Hence, the concerned organizations consider that there is no point in continuing the existence of the Convention and would not be opposed to its gradual denunciation until, with less than five contracting parties for any period of twelve consecutive months, the Convention would cease to have effect (Article 8 of the Convention).

6. CER used the opportunity to reply to the preliminary considerations by the secretariat in point 10 (E) of document ECE/TRANS/WP.30/2020/1, stating that "mainly containers are nowadays used for goods transports by rail". According to CER, this statement is not fully correct as, even today, all types of wagons, including container wagons, may be damaged, although, through improved engineering, less than in the past.

7. Further to the information provided by CER, the secretariat would like to point out that, in accordance with its Article 5, only countries, member States of ECE and countries admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's Terms of Reference may currently become contracting party to this Convention. Article 11 of the Convention stipulates that any contracting party may propose one or more amendments to the Convention. The text of any proposed amendments shall be transmitted to the Secretary-General of the United Nations, who shall transmit it to all contracting parties and inform all other countries referred to in Article 5. Any proposed amendment shall be deemed to be accepted if no contracting party expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.

### **III. Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of SMGS<sup>1</sup> Consignment Notes, done at Geneva on 9 February 2006**

8. At its 154th session, the Working Party established that this Convention, which had been developed over a timespan of more than ten years upon request from the Inland Transport Committee (ITC), had not attracted much attention from countries and still had not a single contracting party. The delegation of Ukraine advised the secretariat to liaise with the Working Party on Rail Transport (SC.2) and the Working Party on Intermodal Transport and Logistics (WP.24) about the present use of the combined CIM<sup>2</sup>-SMGS consignment note, based on other legal instruments (ECE/TRANS/WP.30/308, para. 8 (p)).

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<sup>1</sup> SMGS stands for "Agreement on International Goods Transports by Rail".

<sup>2</sup> CIM stands for "Contract of International Carriage of Goods by Rail".

9. In its contribution, CER is of the view that this Convention seems to have lost its relevance, due to the establishment of a new customs transit convention between Belarus, Kazakhstan and the Russian Federation (joined by China and Mongolia) and recent developments in the field of the joint CIM-SMGS consignment note, including the computerization of the paper-based procedure.

#### **IV. Convention on Customs Treatment of Pool Containers Used in International Transport, done at Geneva on 21 January 1994.**

10. At its 154th session, the Working Party established that, since its entry into force, this Convention has not attracted much interest. So far, no session of the Administrative Committee of this Convention (AC.4) has ever been organized, despite its Article 19. The delegation of Ukraine recommended the secretariat to liaise with the Bureau International des Conteneurs (BIC) and the World Customs Organization (WCO) in order to obtain more information on the relevance of this Convention (ECE/TRANS/WP.30/308, para. 8 (o)).

11. In its extensive reply, BIC states that the concept of container pools has been considered and, even, attempted at various points in the past, but without success. Containers are today owned by individual ocean carriers (around 45 per cent) and container lessors (around 55 per cent). These companies are based in various countries around the world and, in the case of lessors, will have their containers registered in places like Bermuda or Bahamas. When it comes to ocean carriers, there is a very large concentration in only a handful of countries, such as China, Denmark, France, Germany or Switzerland. So, even if the industry were to decide to attempt a pool concept again, the distribution of ownership of such containers would render this Convention entirely unworkable, as there would be such an imbalance in terms of contribution of containers to the pool. There is not necessarily a correlation between the headquarters or location of the container owner/operator and the needs for containers in that country. And many locations with important import/export flows might not have any container owners/operators whatsoever. Even if the industry adopted a pool concept, and even if there were container owners/operators in all countries, it still strikes as unworkable, as it would not take into account the variances of trade flows, seasonality, etc. Final point would be that the other existing conventions in the field of temporary container admission (Union Customs Code and Istanbul Convention) are working just fine.

12. WCO reports not having any experience with regard to the implementation of this Convention. At the same time, it can imagine that Article 16, paragraph 5, which states that "This Convention shall apply to a specific pool only when all the States or regional economic integration organizations concerned by that pool have become contracting parties to this Convention", hugely complicates the application of this Convention. It the same time it mentions lack of awareness, lack of promotion or capacity building and the trend towards soft law (guidelines rather than binding international legal instruments which require formal accession) as possible factors for the lack of interest in this Convention.

#### **V. Considerations by the Working Party**

13. The Working Party is invited to take note of the above comments by CER, BIC and WCO in its further assessment of the concerned legal instruments in the light of the ITC Strategy instructions.