



Economic Commission for Europe

Inland Transport Committee

Working Party on Road Transport

**Small Group of Experts on the Multilateral Agreement on
International Regular Transport by Bus and Coach –
OmniBUS (3 September 2010)**

I. Background

1. At its 104th session (19-21 October 2009), the UNECE Working Party on Road Transport (SC.1) decided to create a small group of experts to further develop the proposal for a multilateral agreement on the international regular transport of passengers by bus and coach (OmniBUS). The secretariat was requested to take all the necessary measures for preparing these meetings, with the support of the International Road Transport Union (IRU).

2. The first meeting of the small Group of Experts on OmniBUS, representing nine UNECE member States and the IRU, took place on 16 March 2010 in Geneva. The report and the background documents can be found at <http://www.unece.org/trans/main/sc1/sc1omnibus1st.html>.

3. The second meeting of the small Group of Experts on OmniBUS took place on 3 September 2010 in Geneva, with the participation of experts from Czech Republic, Germany, Netherlands, Russian Federation, Switzerland, Turkey and Ukraine. The International Road Transport Union (IRU) was also represented.

4. In the absence of the Chairman, Mr. Daniel Crochemore (France), the meeting was chaired by the Vice-Chairman, Mr Anatoly Pinson (Russian Federation). It was decided that in case the Chairman will not be able to participate in the next meeting of the small Group, a new election of officers will take place.

5. It was once again reminded that participation in the small group is open to all UNECE member States' national experts.

6. The Secretariat informed about a letter of the European Commission services to EU Member States' representatives in Brussels, sent out in July 2010, raising the issue of the competence of EU Member States to participate in the UNECE discussions on OmniBUS, and stating the willingness of the European Commission to request the EU Council to issue a mandate to the European Commission to extend the scope of the Interbus Agreement with the objective to cover regular bus and coach lines as well. So far, the UNECE Secretariat

has not been officially informed about these intentions of the European Commission services.

7. The representatives of the Netherlands declared that they were seeing the meeting as a welcome opportunity to exchange views with other experts; in particular they have formulated some questions for the IRU and other European member states. The Netherlands would like to prevent bus trips to suffer different regimes at the same time: if the Netherlands would sign the OmniBUS agreement and Germany also, then bus trips from Rotterdam to Berlin for instance are subject to both the OmniBUS agreement and the European Regulation on access to the market for coach and bus services. And bus trips to Moscow will be subject to both Netherlands' bilateral agreement with the Russian Federation and the OmniBUS agreement. The problem is that the proposed OmniBUS agreement differs from the European Regulation on access to the market which was concluded in 2009, and there are also differences with for instance the bilateral agreement between Netherlands and the Russian Federation just signed in the beginning of this year. Regarding the so-called exclusive competence of the European Union according to the Treaty of Lisbon to negotiate and conclude an international treaty on international regular passenger-transport by bus and coach (except maybe for some environmental and safety-issues): the Netherlands will participate in this meeting only on an expert-basis. Nothing the delegates will say can be understood as a form of negotiation or putting forward the Dutch point of view.

8. The representative of Netherlands addressed a number of questions to the IRU at the beginning of the meeting, namely:

(a) does the proposed agreement address the problems at stake for the carriers, for example long waiting-times at borders, unexpected delays because of road-inspections, drugs-related controls, overload of luggage and problems to keep the time-tables or the necessary driving and resting times?

(b) and if this is only partly so, should not other measures be considered to be arranged?

(c) more data are being asked according to articles 8 and 15. Is IRU aware that administrative costs for carriers are not diminishing? And what does IRU think of that?

9. The meeting made clear the fact that IRU was welcome to answer as representative of the road transport industry but the draft OmniBUS agreement is now a SC.1 document.

II. Discussion on the proposed text of OmniBUS

10. After an overview and discussion on the items agreed at the previous meeting (Articles 1-7), the debate focused on the rest of the articles and the related annexes.

A. Agreement was reached on:

11. Ad article 1:

(a) two additional definitions were proposed:

(b) "passenger" means any person who, in the performance of a contract of carriage made by himself or on his behalf, is carried either for reward or free of charge by a carrier;

(c) "ticket" means a document issued by the carrier or on his behalf, which confirms the right of the passenger to be transported and serves as the evidence of the

conclusion of the contract of carriage between the passenger and the carrier.(d) The definition of “carrier” in Article 1 was amended to read "Carrier" ('operator') means an undertaking, registered in the territory of a Contracting Party, which is authorized to carry out international road passenger transport services, and which satisfies the national rules and regulations in force on admission to the occupation of road passenger transport operator, covering at least the following requirements:

- (i) to have an effective and stable establishment in a Contracting Party;
- (ii) to be of good repute;
- (iii) to have appropriate financial standing; and
- (iv) to have the requisite professional competence.”

(e) The definition of “bus and coach terminal” in Article 1 shall read: “Bus and coach terminal” means a dedicated infrastructure facility where passengers are taken up or set down in the course of an international regular service carried out within the provisions of this Agreement, equipped with facilities, such as a waiting room, ticket office, toilets etc.

12. Ad article 2 paragraph 3 the last line shall read “...shall only be allowed if they are allowed by the national legislation and are specifically included in the authorization.”

13. Ad article 4, it was agreed to retain only a slightly modified version of paragraph 1, which should read: “Each Contracting Party shall publish, as appropriate, by means of an official Internet site, at the latest by the time of their entry into force, the laws, regulations, judicial decisions and administrative rulings as appropriate on all implementing measures which pertain to carriers and the services covered by this Agreement. It shall also publish the contact details of the relevant competent authority.” The rest of the article should be deleted.

14. Ad article 6, paragraph 2: it was decided to add a new wording at the end of the paragraph: “... as well as in the transit countries, subject to the agreement of the competent authorities in these countries.”

15. Ad article 7:

(a) paragraph 2: an explanatory wording was added in the following way “...a carrier, who receives the authorization may, if national legislation allows it and with consent of the authorizing authority...”.

(b) paragraph 3: the term “certified true copy” is to be used instead of simply “copies”.

(c) paragraph 4: the second sentence was modified as follows: “It may be set at less either at the request of the applicant or by decision of competent authorities in one of the states on whose territory passengers are picked up, set down or transited”.

(d) paragraph 6 (e): The “timetable” shall be attached to the authorization as a separate document. This should also be reflected in Annex 2, item 4.

(e) An additional letter should be added to Article 7, paragraph 6, to indicate if cabotage is allowed or not. This should also be reflected in the form provided for in Annex 2.

16. Ad article 8:

(a) paragraph 1: a wording should be added clarifying that this provision is applicable also in the case of partnerships concluded on a parity basis. If need be, a note on such partnerships can be entered into the respective fields of the authorization form (Annex 2, item 6).

(b) paragraph 9: the time-limit for the competent authorities to take a decision on carrier's application was increased from three to four months.

(c) paragraph 10 (b): the word "applicable" should precede "national legal requirements of insurance".

(d) paragraph 10: the wording of letter (f) should be modified or a new letter should be added to account for the possibility for Contracting Parties not to allow cabotage.

(e) paragraph 10: a new letter should be added to introduce an additional condition to refuse an application in line with the new EU rules, namely "a Contracting Party decides on the basis of a detailed analysis that the service concerned would seriously affect the viability of a comparable service covered by one or more public service contracts".

17. Ad article 10, paragraph 2: the end of the sentence should be modified to read as follows: "... the period of notice from the holder of the authorization provided for in paragraph 1 may be shortened up to 1 month, according to the holders' application".

18. Ad article 11:

(a) no agreement was reached on keeping or deleting paragraph 2 (c);

(b) paragraph 3 was deleted.

19. Ad article 12:

(a) paragraph 4: a new letter (a) "name of the carrier" was added;

(b) no agreement was reached on keeping or deleting paragraph 6.

20. Ad article 13: only a reduced version of the first paragraph [letters a) and b) to be deleted] and the last paragraphs will remain, the rest will be deleted.

21. Ad article 14, paragraph 3: the text should read: "These random inspections should be carried out, to the extent possible, at the passenger terminals to avoid disruption of the transport operation and inconvenience to passengers".

22. Ad article 15: only paragraph 3 will remain, whilst at the same time deleting the wording "already existing" in it. The rest of the article will be deleted.

23. Ad article 17 the reference to 600 liters of fuel to be exempted from import duty and other taxes shall be deleted.

24. Ad article 19, replace "the Executive Secretary of the United Nations Economic Commission for Europe (UNECE)" with "the Administrative Committee".

25. Ad article 20: several changes have been brought to the text, as reflected in document ECE/TRANS/SC.1/2008/4/Rev.1.

26. Ad annex 1:

(a) item 2: there should be no possibility for sub-contractors to enter an application. The respective entry should be deleted;

(b) item 6: the points to pick up and set down passengers should be indicated in some details, such as city and name of terminal.

27. Ad annex 2, item 6: indicate some examples such as “authorized for cabotage, operating under parity conditions etc.”

B. It was not possible to reach an agreement at this stage on:

28. Article 12, paragraph 6 and annex 3, regarding the list of passengers. However, it was proposed to keep the list of passengers as part of the agreement, to account for cases where such a list is requested. In such cases, it will be recommended to use the model list provided in Annex 3.

29. Article 16, on the facilitation of visa procedures for drivers (and auxiliary staff).

30. The discussion on Article 17 was not conclusive either, with proposals from some delegations to introduce the possibility for bilateral tax exemptions as provided for in some bilateral agreements. This was opposed by others, who preferred to keep the text as it was, since already in force with the same wording in Interbus.

31. Ad article 18: Germany and Switzerland have formulated reservations, no agreement was reached.

C. Additional issues raised by participants

32. Turkey raised a specific concern regarding the issues of cabotage and the sub-contracting, stating that both were not allowed under the current Turkish legislation. Hence, the need for Turkey to reserve its position on these two issues.

33. The need to refer to the rights of passengers and people with disabilities at an appropriate place in the agreement was also raised.

III. Conclusions

34. A revised version of the text of the OmniBUS Agreement as contained in document ECE/TRANS/SC.1/2008/4/Rev.1 will be prepared by the secretariat with kind support from IRU and submitted for consideration at the next meeting of SC.1, to take place on 29 September - 1 October 2010 in Geneva.
