



Economic Commission for Europe**Working Party on Rail Transport****Group of Experts on International Railway Passenger Hubs****Third session**

Geneva, 23–25 May 2022

Item 5 of the provisional agenda

Identification of the legal instrument or tool to be used for international railway passenger hub and draft the necessary legal provisions**Defining a legal instrument: Updating the European Agreement on Main International Railway Lines****Submitted by the secretariat****I. Introduction**

1. This document has been prepared in accordance with the decision at the second meeting of the Group of Experts (ECE/TRANS/SC.2/HUBS/2021/6 paragraph 22). It provides further analysis for the updating of the European Agreement on Main International Railway Lines (AGC). This document is provided as further background to facilitate discussions amongst experts. It remains subject to further legal analysis and review by the Office of Legal Services of the United Nations.
2. In addition to the information on updating the AGC, section III below provides comments received from Belgium on the wider approach to defining a legal instrument.

II. Updating the AGC

3. Document ECE/TRANS/SC.2/HUBS/2021/10 provided a list of options for possible legal instruments to form the backbone of the work on the identification of international railway passenger hubs. During the second session of the Group of Experts, delegates decided that it would be favourable to focus current attention of a potential legal instrument on a modification or update of the AGC. This section provides further information on this option. Experts chose to review this option further as it was seen as providing a good balance between having a legal instrument that was binding with a potentially simpler process related to the changes coming into force.

Potential steps for updating the AGC

4. As set out in document ECE/TRANS/SC.2/HUBS/2021/10, incorporating changes into the AGC to reflect international railway passenger hubs will require a modification of the main text, and potentially the insertion of additional annexes. The additional annexes would be necessary as, given the specific nature of current annex I – Railway lines of major

international importance – and current annex II – Parameters for railway lines of major international importance – it would not seem appropriate to modify these annexes directly by adding stations and related technical and service parameters.

5. A more appropriate solution could be to add an annex III on “International railway passenger hubs” and an annex IV on “Technical and service parameters for international railway passenger hubs”. This would, to a certain extent, mirror the layout and provisions in the European Agreement on Important International Combined Transport Lines and Related Installations (AGTC) where the “Railway lines of importance for international combined transport” (annex I) are in a separate annex to the “Installations important for international combined transport” (annex II).

6. This option would also allow for amendment proposals to be tabled independently for individual annexes to the AGC.

7. The work of this group, through agenda items 3 and 4 discussed earlier, will provide recommendations to the Working Party on Rail Transport on what the contents of these new annexes should be.

Potential amendments to the AGC

8. If the approach of amending the AGC is chosen and recommended through the addition of two annexes, a number of changes would need to be proposed to the main text. A preliminary review of the text suggests that at least Articles 1, 2 and 13 would need to be altered and that additional articles would need to be inserted to reflect the existence of the new annexes. If this is the agreed approach going forward, the secretariat could assist experts and contracting parties in the identification of possible amendment proposals.

Amendment procedure

9. In order for these changes to be implemented, the provisions of Article 10 of the AGC need to be followed:

Article 10 (Procedure for amending the main text)

1. The main text of this Agreement may be amended by either of the procedures specified in this article.

2.(a) Upon the request of a Contracting Party, any amendment proposed by it to the main text of this Agreement shall be considered by the Working Party on Rail Transport of the Economic Commission for Europe.

(b) If it is adopted by a two-thirds majority of the members present and voting and if this majority includes a two-thirds majority of the Contracting Parties present and voting, the amendment shall be communicated by the Secretary-General to all Contracting Parties for acceptance.

(c) If the amendment is accepted by two thirds of the Contracting Parties, the Secretary-General shall so notify all the Contracting Parties and the amendment shall enter into force 12 months after the date of such notification. The amendment shall enter into force with respect to all the Contracting Parties except those which, before its entry into force, make a declaration that they do not accept the amendment.

3. At the request of at least one third of the Contracting Parties, a conference, to which the States referred to in article 5 shall be invited, shall be convened by the Secretary-General. The procedure specified in paragraph 2, subparagraphs (a) and (b), of this article shall be applied in respect of any amendment submitted to the consideration of such a conference.

10. This article shows that it is for an existing contracting party to the AGC to initiate any such amendment proposals. These amendment proposals are submitted to the Working Party

on Rail Transport for consideration by the members of the Working Party and the Contracting Parties. All such amendment proposals need to be forwarded to the secretariat three months in advance of the relevant session to ensure that the proposals can be translated into the three official languages of UNECE. If the amendments are adopted as per the process indicated above then they will be notified to Contracting Parties by the Secretary-General and, if there are no objections, will enter into force 12 months after the date of notification.

11. Article 10 also notes in paragraph 3 that a conference can be called by at least one third of the Contracting Parties. At such a conference the same procedures as under paragraph two of this article apply.

12. As a separate point, it is important to note that the AGC is open for signature and accession to: "...[those] States which are either members of the United Nations Economic Commission for Europe or have been admitted to the Commission in a consultative capacity in conformity with paragraph 8 of the terms of reference of the Commission, from 1 September 1985 to 1 September 1986." This is fully compatible with the current AGC network which only covers UNECE member States but may need to be reviewed at a future date if one or more annexes of the AGC were to cover non-UNECE member States.

III. Comments on defining the legal instrument from Belgium

13. Concerning the identification of the legal instrument or tool to be used for international passenger railway hub and draft the necessary legal provisions (document: ECE/TRANS/SC.2/HUBS/2021/10), the Belgian government had already expressed its general interest to develop Brussels as an international train hub. The aim was to get concrete results which means that time is of the essence. For this reason, option B, the development of a new convention would preferably be an option of last resort and if possible, avoided because of the delays that would result of the creation of a new convention.

14. On the other hand, it should be noted that a good common framework, that can be established with a convention, can result in a better and easier way to set up the international passenger hubs and thus may be better in the long run.

15. In this regard, option C, the establishment of a new protocol to the AGC, aligns best with the needs/wishes of the Belgian government. Furthermore, it has the advantages of a new convention but would still be faster and easier because it would be adjacent to the existing AGC. The basis of the convention would already be there and with the choice of a protocol the UNECE would simply be able to build on that basis and mirror the style and structure of the AGTC. Despite not being a new convention, it would still carry the legal weight of the already existing AGC Convention which is something that seems desirable in this case.

16. Regarding the option to modify the AGC, we are not sure if a simple modification to the main text and annexes would be sufficient for the goal at hand. Although it may be quicker than option B and C, it would seem that this option would be a bit lacking in light of the importance of the aim of this working party. This would be an option that is simple and time-efficient, but it may also fall short in terms of categorizing international railway passenger hubs effectively.

17. Lastly, the preparation of recommendations as a potential solution would be a non-option. It may be the quickest way, but it lacks the desired effectiveness as part of their non-binding nature. The goal is to harmonize the development of the international passenger hubs and there is no guarantee that this approach will yield this result. Thus, Belgium opposes the use of recommendations for the reasons stated above.

18. It is recommended to further examine the option of the establishment of a new protocol to the AGC in main order and subsidiary the development of a new treaty in case the other option would not suffice.

IV. Next Steps

19. Experts may wish to review the information in this document and discuss it at the third session of the Group.
