

Distr.: General
1 October 2018

English only

Economic Commission for Europe

Inland Transport Committee

Working Party on Road Transport

113th session

Geneva, 16-18 October 2018

Item 7 (a) of the provisional agenda

Facilitation of international road transport

International Motor Insurance System (Green Card)

Facilitation of international road transport

Report from the Secretary-General, of the Council of Bureaux (CoB)

Submitted by Council of Bureaux

This document, submitted by the Council of Bureaux, provides the COB President's report to SC.1.

113th Session of the Working Party on Road Transport of the Economic Commission for Europe

16th-18th October 2018 – Geneva

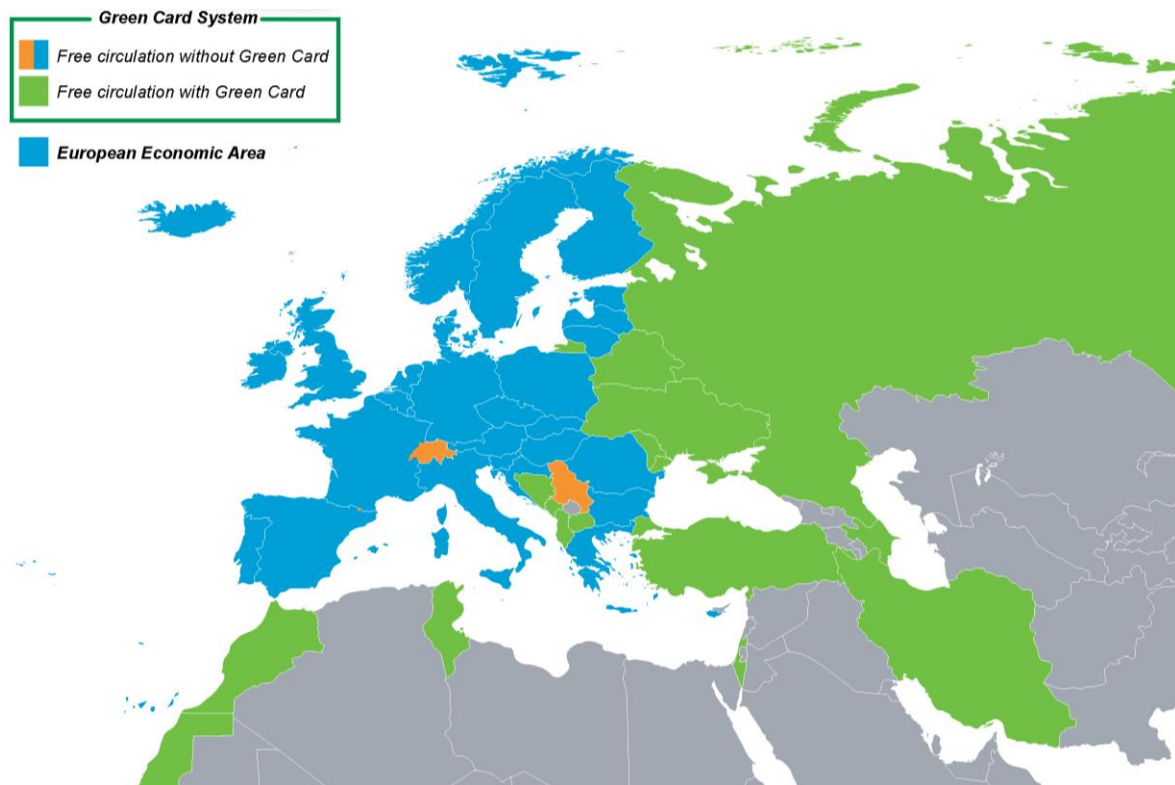
Report of the Secretary General of the Council of Bureaux

Ms Greet Floré

Report of the President of the Council of Bureaux to the 113th Session of the Working Party on Road Transport of the Economic Commission for Europe

This year, the 52nd General Assembly of the Council of Bureaux (CoB) was held on 7th June, in Madrid , Spain. The main issues addressed over the last 12 months are presented below.

1. Some Key Figures



The system covers 48 countries and has 47 Members.

Over 450 million vehicle fleet (source: CoB Member Bureaux and other sources, 2013-2015).

Around 470 000 cross-border accidents annually (source: CoB Member Bureaux, estimate, 2017).

Cash flow turn-over: circa 1.5 billion EUR (rough estimate, based on the number of Green Card accidents reported by Member Bureaux and estimates of average claim cost.

Approximately 1.500 MTPL insurers are active through the whole system (source: CoB, 2017).

2. Financial Stability

It would be a repetition of past years' reports to say that overseeing and safeguarding the financial stability of the Green Card system was a major priority of the Council of Bureaux (CoB) in the passing year; the specific challenges and tasks underlying this priority were, however, not entirely the same.

With the ever-increasing integration between Green Card member countries – both within the EEA and between EEA and non-EEA Members, and with economic growth picking up in most countries, cross-border road traffic is more and more likely to increase, bringing about larger and more complex cross-border cash flows at any given time. Having as its mission the protection of cross-border road traffic victims, the CoB is the penultimate entity charged with taking necessary steps, together with its Member Bureaux as well as 4th MID entities (national Guarantee Funds and Compensation Bodies), to ensure that these cash flows are executed in a timely and efficient manner. The compensation of the victims being the first and ultimate priority, any such compensation in a cross-border accident triggers a chain of financial obligations and reimbursements on multiple levels, and the solvency and liquidity capacity of all involved entities (insurers, claims handlers, national Bureaux and Guarantee Funds, etc.) at all times becomes primordial.

In the passing year, the complexity of the financial landscape of the international MTPL system continued to increase; we continued to observe stronger cross-border activity and deeper interdependencies. As an example: if in 2013, among all Green Card Member countries, the largest net balance between 'exported' and 'imported' Green Card accidents¹ was in the order of 35 000 accidents in *one* country, in 2017 this number rose to *four* countries (32 000 – 37 000 net balance). The system-wide total absolute value of these net discrepancies² increased from around 125 000 in 2013 to above 160 000 in 2017. This means, *inter alia*, that there is less 'uniformity' in the geographical distribution of cross-border accidents, which in turn puts more significant liquidity and solvency pressures on national Bureaux in case they have to intervene either to reimburse handling parties or to ultimately guarantee the obligations of their member insurers.

The nature of challenges faced by the CoB and its Member Bureaux in relation to financial stability issues also changes over time. While the CoB limits itself, in its scope and competences, to the financial stability of Member Bureaux, in many countries the latter is potentially strongly affected by the situation on national markets and the financial health of insurance companies acting on these markets. What is more, in recent years we see that the activities of insurers even *beyond* their national markets in the EEA (freedom to provide services (FOS), freedom of establishment(FOE)) can also influence the financial health of the insurer; indirectly, this can in turn lead to undesirable consequences for the market(s) where the insurer is operating and the National Bureau(x) involved.

Indeed, these insurers seem to be more vulnerable to financial troubles than 'traditional' local insurers acting only in their national markets. This phenomenon is even more pronounced in case of insurers that largely

¹ The absolute-value difference between the number of accidents caused abroad by vehicles registered in a country on the one hand, and accidents caused by foreign vehicles in that country on the other hand. The 'direction' of the net balance is ignored, i.e. net 'exporters' and net 'importers' are treated alike. Data is based on statistics provided by CoB Member Bureaux, for information purposes only and may contain estimates.

² The sum of the net balances of all net 'exporters', indicating the total number of accidents exported more than imported for this group of countries. This is, by definition, equal to the sum of the net balances of all net 'importers', indicating the total number of accidents imported more than exported for this group of countries.

transact business in 'host' countries on the basis of FOS, with very little or no presence in their 'home' markets where they are effectively supervised.

That being said, we also continue to observe similar challenges even in the more 'traditional' business model: insurers transacting business predominantly on local markets (but still exposed to cross-border risks due to their Green Card exposures) can face grave financial difficulties or fall into insolvency; when these represent a major share on their national markets, repercussions for those markets and beyond are often inevitable.

The Monitoring and Management Committees of the CoB, as well as the Secretariat, have therefore worked hard during the past year. A vast range of internal financial indicators have been followed up closely; in markets exposed to specific risks, close cooperation with Member Bureaux has been ongoing, including receipt and examination of periodic reports, worst-case scenario analyses dealing with insolvency scenarios or other pertinent risks, etc. Transitional and 'Monitored' Members' financial guarantees, the financial health and operational discipline of their markets, the governance structure and the functioning of these Bureaux have been a focal point of attention as always.

Apart from identifying and reacting to existing threats, the CoB also worked pro-actively to strengthen the financial stability of the system and its Members. We facilitate the procurement of adequate, well-structured reinsurance cover for 'Monitored' and Transitional Members as well as those subscribing reinsurance cover on voluntary basis. We work closely with Members that are required to furnish bank guarantees to the CoB, by developing best practice recommendations for the structuring of such instruments as well as providing knowledge support to Bureaux negotiating their bank guarantees. The Monitoring Committee is working on issuing, in the near future, recommendations and/or guidelines for Member Bureaux on matters such as business continuity, the monitoring / quality assessment of correspondents (claims handling organisations acting on their markets on behalf of the Bureau or foreign insurers), etc.

In summary, while the overall financial stability and the financial discipline of the system as a whole can be reported as having improved, targeted work on specific issues and in individual 'underperforming' markets has been and will be ongoing.

3. Revision of the structure of the Council of Bureaux to optimise cooperation between Green Card Bureaux, Guarantee Funds and compensation Bodies

CoB not only handles the so-called Green Card system (Green Card pillar), but also provides secretarial and administrative support to Guarantee Funds and Compensation Bodies of the EEA countries in the framework of the protection of foreign visitors as foreseen in the Motor Insurance Directive (Protection of Visitors pillar).

In order to increase the efficiency of these tasks and to facilitate even better international road traffic and the protection of victims of cross border accidents, the CoB started working on the integration of these bodies as members of the CoB structure.

This important project goes along with a revision of the CoB Constitution and the organisational as well as the managerial structures of the CoB. In future the Supervisory board, the decision making body beside the General Assembly, will no longer be composed solely of Green Card Bureaux but also by Guarantee Funds.

In the new structure, the respective bodies (Green Card Bureaux and Guarantee Funds) will not jointly decide on files specific to one of the two pillars during the General Assembly.

In future, the organisation will no longer be led by one President elected by the Green Card Bureaux but by a triumvirate consisting of a representative of the EEA-Bureaux, a representative of the non-EEA Bureaux as well as a representative of the Guarantee Funds.

This important reorganisation proved to be more complex than initially thought, a proper balance had to be pursued on several fronts: between EEA and non-EEA countries, between Green Card Bureaux and Guarantee Funds/Compensation Bodies. We expect however to be ready with the new constitution by the end of this year, after which the Members will be consulted on the result. In the course of 2019, it is expected to have a vote on the new constitution.

4. Membership Issues

4.1. Armenia

In the accession process of the Armenian Bureau to the Council of Bureaux, both the Armenian Bureau and the CoB have agreed to temporarily suspend the necessary amendments to the Armenian MTPL insurance legislation and to the Charter of the Armenian Bureau in order to first find a solution for the insurance situation in Nagorno-Karabakh. The CoB wishes to respect the United Nation's view on the region of Nagorno-Karabakh as an entire part of the territory of Azerbaijan.

Therefore, the CoB insists on:

- The exclusion of the possibility that any Green Card can be issued under the authority of the Armenian Bureau to vehicles originating from Nagorno-Karabakh;
- Drivers of foreign vehicles entering the Armenian territory with a Green Card valid for that country to be made aware, in a clear and unambiguous way, that the Green Card cover will not extend to the territory of Nagorno-Karabakh.

The registration process for vehicles originating from Nagorno-Karabakh remains an issue to be further discussed with and adapted by the Armenian authorities. At present, vehicles in Nagorno-Karabakh are subject to the same registration process and enter into the same registration database as vehicles in Armenia. The shape of license plates does not allow distinguishing between vehicles originating from Nagorno-Karabakh and Armenian vehicles. Only the combination of the license plate with the vehicle holder's address allows making this distinction. This issue will be subject to further discussion between the CoB and the Armenian Bureau.

4.2 Algeria

The Algerian Bureau recently informed the CoB that they are preparing a documentation file for their Supervisory Authority regarding the possible future participation of Algeria in the Green Card system. Since no specific modifications to the legislation have been submitted to the CoB yet, the accession of the Algerian Bureau is not to be expected in the very near future.

4.3 Georgia

In the course of the last working year, the CoB received from the Georgian Bureau a project of amendments to the Georgian legislation. The aim was to create a compulsory MTPL insurance for foreign vehicles.

In our answer, it has been underlined that compulsory MTPL insurance for foreign vehicles only, does not reply to the conditions set out to become a Member of the Green Card system, the MTPL legislation should be compulsory for all motor vehicles, including those registered in Georgia.

4.4. Kazakhstan

The CoB President visited Kazakhstan and had a meeting with representatives of the Kazakh Bureau.

The public authorities of Kazakhstan are strongly in favour of the country's accession to the Green Card system, but the insurance industry is more reluctant (loss of income related to frontier insurance premiums; the industry is also aware of high value claims in Europe and the fear exists that this could bring them in financial difficulties).

4.5 Cooperation with other Card systems

- Orange Card system

The Orange Card System is established between most of the members of the Arab League (except Comoros, Djibouti and Palestine) and is applicable primarily in the Middle East and North Africa.

Participants to this system are: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen. Morocco and Tunisia are also Members of the Council of Bureaux.

Notwithstanding the fact that the system is operational, they asked in 2016 for closer cooperation with the Green Card system in view of obtaining a more efficient functioning. We expressed our willingness to cooperate but are still waiting for a date to meet.

- White Card System (ECO)

ECO is a ten-member organisation (comprised of Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan), out of which two members are also Members of the Council of Bureaux (Iran & Turkey). ECO has adopted initiatives to set up a regional MTPL scheme (known as the White Card system with a secretariat in Teheran).

The CoB remains ready to continue its efforts to assist the ECO Secretariat with the implementation of the ECO White Card system in the ECO Region, but is without any contact since some years.

- Brown Card system

The Brown card is established between most of the members of ECOWAS (= Economic Community of West African States, being Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo).

We received in the course of 2018 a request for closer cooperation. However our positive response has not led, for the time being, to further reaction from them.

5. Brexit – impact on the functioning of Green Card Bureaux

The National Bureau of the United Kingdom (MIB) and the insurance industry behind have confirmed several times that MIB's intention is to remain a signatory to the MA (=agreement based on deemed insurance) after Brexit.

The CoB identified three aspects related to the MA that may jeopardise the application thereof in the case of a "hard" Brexit scenario:

- Single premium

The countries of the signatories form a territory where the vehicles circulate across the borders without checks on MTPL insurance (deemed insurance cover). This entails the need to provide insurance cover for the whole territory in question. The requirement of European cover suggests that there should be no different levels or types of premium for MTPL cover in the countries, signatory of the MA. The requirement of a single premium is also laid down as a "*conditio sine qua non*" of adhering to the MA (determined by General Assembly Decision No 5-1 of 2016).

The CoB could not predict whether the British insurance industry and the UK government would desire to maintain Europe-wide MTPL cover after Brexit, although the UK delegates have indicated that this is very likely to be the case. Since this is also a requirement under the Motor Insurance Directive (MID), the question will most probably be considered during Brexit negotiations.

- Commission decision

Under Article 8.2 of the MID, vehicles normally based in the UK can be treated as vehicles normally based in the Community if necessary MTPL obligations are in place. In this case, the European Commission shall fix a date from which the checks on insurance in respect of a vehicle from a third country, MA signatory, will be abolished in the Member States. The main concern of the CoB was whether the Commission would be willing to adopt this decision in respect of the UK before the Brexit, separately and quasi automatically or whether this issue will be part of the overall Brexit negotiations and deal. The Members agreed that since the adoption of the decision will affect the functioning of the MA in respect of the traffic between the UK and the other signatories, it is a common interest of MIB and the CoB to have this decision adopted without any complications.

The CoB decided therefore to find out the preliminary position of the Commission in this regard, and addressed a letter to the competent Directorate General of the Commission with this specific question. However, no substantive answer has been received by the CoB Secretariat.

In the unlikely event that the MIB withdraws from the MA, the cut-off date has to be determined as of which the MA would no longer apply to Green Card claims and Section II (based on the Green Card) would continue to apply. The Members unanimously preferred the date of accident in its relation to the date of Brexit to be the cut-off date. Their preference is to apply this date to every legal aspect of the claim, including private international law.

- Bilateral agreements between the Bureaux

Withdrawing from the Multilateral Agreement will most probably entail the need to sign bilateral agreements between the MIB and the MA signatories under the Internal Regulations. The cooperation between them after the withdrawal would no longer be based on Section III (deemed insurance) but Section II (Green Card) of the Internal Regulations.

6. Data Protection

Having regard to the number and content of data exchanged in the framework of the international claims handling process, among which personal data and in order to be in line with the General Data Protection Regulation (GDPR), the CoB Working Group on Data Protection worked on a number of tasks during the last working year, in particular on:

- CoB Tool Kit on Data Protection

In April 2016, the CoB Working Group on Data Protection started a review of the existing CoB Tool Kit on Data Protection. The CoB Tool Kit on Data Protection is intended to assist Green Card Bureaux, Guarantee Funds, Compensation Bodies and Information Centres with the implementation of the corresponding necessary measures and to determine important operational and practical issues relating to the GDPR, in order to remain at the forefront of data protection and privacy policies in the years to come. The CoB Tool Kit on Data Protection was adopted by the foregoing bodies during the 2018 International Motor Insurance Convention. The recommendations follow the structure of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

Equally important, the addressees of the CoB Tool Kit on Data Protection are also recommended to follow the opinions, recommendations and statements of best practices published by the European Data Protection Board (EDPB). Consequently, the CoB Tool Kit on Data Protection is a “paper in continuous change” in accordance with the work of the EDPB. Correspondingly, the GDPR encourages and calls for seeking continuous improvement in terms of compliance.

- Personal Data Processing Agreement

The CoB Working Group on Data Protection also started a review of its former data protection agreements (Controller to Controller, Processor and Data Transfer) in accordance with the requirements of the GDPR. What is more, the CoB is currently working on developing a new online collaboration platform intended to be used by its Members, which was also taken into consideration for this exercise.

As a result, the former agreements have been redrafted and merged into one single text, which is now entitled the CoB Personal Data Processing Agreement, which covers:

- all the Green Card Bureaux as controllers and the Council of Bureaux as a processor;
- all personal data processing, be it
 - via the CoB-platform
 - be it outside the CoB-platform bilaterally,

as long as it is within the scope of the Green Card activities or within the activities under the voluntarily Protection of Visitors (PoV)-Agreement.

The Personal Data Processing Agreement integrates, as an annex, the Standard Contractual Clauses issued by the European Commission for third country personal data transfer. The Personal Data Processing Agreement was also adopted during the 2018 International Motor Insurance Convention.

- Pending tasks for the coming working year
 - Enquiry on the eventual need to nominate a ‘Data Protection Officer’ (DPO), in the affirmative, to define the tasks
 - Transfer of personal data between an EEA insurer and a non-EEA Green Card Bureau
 - Encryption guidelines

7. International Insurance certificate – Green Card – moving towards an electronic version

The impact of digitalisation in nowadays’ society cannot be denied and in this context the CoB has been requested by its Members to start reflections on the possibilities to digitalise the International Motor Insurance Certificate (IMIC), nowadays known as the Green Card. As announced already in last year’s report, the CoB has created an ad hoc working group with this assignment.

As a first step in this process of digitalisation, the CoB worked on the possibilities to add a QR code on the IMIC and has issued related guidelines as a recommendation.

Before being able to start the process of digitisation of the IMIC, the WG started collecting 'what' the Members exactly expected when referring to an electronic IMIC (e-IMIC). Besides, the WG needs clear information of the members regarding:

- the current state of technological development;
- their financial capacities;
- legislative particularities;

and

- the existence of a liable database on MTPL contracts

Further to this enquiry amongst the CoB Members, representatives of the CoB Secretariat together with the Chair of the WG visited UNECE in Geneva to meet with the experts of the Insurance Domain of the UN/CEFACT Forum, on 23rd and 24th April 2018. The aim of the meeting was to examine the possible ways to replace the IMIC by a digital form. The CoB had learned that the UN/CEFACT can assist, consult and offer technical support to the CoB related to the project of digitalisation of the IMIC. A number of action points and time schedule have been agreed with the experts of the UN/CEFACT as a follow up of the meeting held in Geneva.

The working group believes that checking the validity of the insurance cover by means of electronic communication should be the main subject of activity as a strategic target and is of the general view that accessing secure information in real time would considerably benefit to all parties involved, i.e. victims, policyholders, insurers, CoB Members, police and/or border authorities.

Being aware of the fact that to reach such target could be a question of several years, the WG enquired the possibility of interim solutions. An analysis of the WG showed that many national markets are already sending the Green Cards to their customers by e-mail in pdf-format. Under these circumstances, the customer is obliged to use either a colour printer or a green sheet of paper. As this is not always easy to attain in practice it may create a feeling of discomfort to the customers and even unnecessary problems when IMICs are controlled either at frontiers or after road traffic accidents in those cases, where a humble customer for whatsoever reason printed the IMIC in a black and white version.

In this context, it is also important to be aware of the fact that in most countries participating in the Green Card system, Green Cards are not issued automatically but only on request.

To shift the colour from green to standard white colour could be an interim substantial facilitation for both, MTPL insurers and policyholders without harming the protection of the victims. For the insurers it will considerably lower the administrative burden and the cost price of the issuance of the IMIC. The insurer's clients will be able to receive this document much quicker with less administration.

For these reasons, the CoB recently contacted UNECE to consider the possibility to abolish the mandatory requirement to print the IMICs in green colour, and subsequently, to be able to use it in PDFs, in black on white colour versions.

Gradual transition to PDF version on white background will constitute the first practical step towards the electronic Green card.

8. MID – REFIT

The European Commission published on the 28th July 2017 a public consultation regarding the REFIT review of Directive 2009/103/EC on motor insurance.

The CoB, as a technical organisation in the field of International Motor traffic, participated in the consultation and formulated replies to questions of interest, related to:

- Uninsured driving and the measures to be taken at European Level
- Protection of injured parties when a cross border insurer is insolvent
- Minimum amounts of cover
- Deemed Insurance cover and insurance checks
- Protection of visitors
- Scope of protection provided under the MID
- Autonomous vehicles
- Transfer of vehicles from one MS to another

In the meantime, on 24th May 2018, the European Commission published its proposal for an amendment of the MID. In General, the CoB is of the opinion that the proposal presents a number of important improvements, leading to a better protection for victims of national and cross-border road traffic accidents in the internal market. Nevertheless, the CoB is of the opinion that the European Commission's proposal contains a number of small technical deficiencies that may jeopardise the application of the MID in daily practice. The CoB has formulated a number of observations and submitted these to the European Commission in July 2018.

Greet FLORÉ, Secretary General

October 2018