

**International Working Group on
Security Interests over Shipping Containers**

**Chairs on this International Working group are
David OSBORNE [UK] and Benoit GOEMANS [Belgium].**

**Report to the Executive Council
October 2022 meeting**

London, Antwerp, 27 September 2022

Circulation of this report

This report is addressed to Sec. Gen. Dr Rosalie BALKIN and Adm. Assistant Evelien PEETERS for the purpose of submitting to the President Christopher DAVIS the inclusion thereof in the agenda to the virtual November 2020 ExCo meeting.

This report is copied to the members of the IWG: Andrea BERLINGIERI [Italy] Allen BLACK [USA] Sheng CHEN [China] Ann FENECH [Malta] Souichirou KOZUKA [Japan] Camilla MENDES VIANNA CARDOSO [Brazil] Stefan RINDFLEISCH [Germany] Andrew TETLEY [France] Haco VAN DER HOUVEN VAN OORDT [Netherlands].

Summary, recommendation, instructions

For the reasons set out hereunder it is the view of the joint chairs, subject to further input by the members at the IWG's meeting in October 2022, to recommend to the Executive Council of the CMI to submit to Unidroit that the CMI consults with the market/industries concerned as to the opportunity to prepare a protocol to the Cape Town Convention to make it applicable to shipping containers.

From informal contacts it appears that this item is on the work programme of Unidroit, though with low priority.

Co-chairperson David Osborne volunteers to contact Secretary-General Ignacio Tirado to that end, if so instructed by the Executive Council of the CMI.

Reasons

The IWG was created to look into the question whether there is any merit to submit to Unidroit the possibility to prepare a protocol which would make the Cape Town Convention¹ applicable to sea containers.

Since the last report to the ExCo in 26 October 2020, there has been only one more response (from Brazil) to the questionnaire, bringing the total to as little as 10 responses.

Attached is a summary of 23 September 2021 of the responses to the questionnaires (not including Brazil).

The P+R fraud revealed a weakness in the investment system whereas saving funds and small individual savers provided funds for the purchase of containers and were advised the funds were used for the purchase of containers, while such containers never existed.

In sum, while the leasing industry of containers represent a very significant amount of investments the legal protection of the holders of right in the containers is not well-developed.

¹ Convention on International Interests in Mobile Equipment, done at Cape Town on 16 November 2001

The next question is whether the industries concerned consider this situation as sufficiently problematic to invest in the creation of an instrument, such as a Cape Town type international register, to cure the legal lack of protection.

The industries to consult with are, among others the investors and the container lessors.

It should also be pointed out that a private international register already exists, i.e. the one of the Bureau of International Containers (BIC), but which has no formal legal value. We suggest any industry consultation includes BIC.

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