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INLAND TRANSPORT COMMITTEE

Working Party on Road Transport (SC.1)
Ad hoc Working Group on the Revision
of the AETR
(Second session, 11-12 April 2002)

**REPORT ON THE SECOND SESSION OF THE AD HOC WORKING GROUP ON
THE REVISION OF THE EUROPEAN AGREEMENT CONCERNING THE
WORK OF CREWS OF VEHICLES ENGAGED IN
INTERNATIONAL ROAD TRANSPORT (AETR)**

ATTENDANCE

1. The Ad hoc Working Group on the Revision of the AETR held its second session in Geneva on 11 and 12 April 2002. Representatives of the following ECE member States participated: Czech Republic, France, Latvia, Luxembourg, Malta, Netherlands, Russian Federation, Slovak Republic, Slovenia, Sweden, Switzerland and United Kingdom.
2. Also represented were the European Commission and the International Road Transport Union (IRU).

ADOPTION OF THE AGENDA

Documentation: TRANS/SC.1/AC.6/3.

3. The agenda was adopted without modification.

ELECTION OF CHAIRPERSON

4. The Ad hoc Working Group elected Mr. José Piscitelli (Luxembourg) as Chairperson of its second session.

STATUS OF ACCESSION TO THE AETR AND PRIOR AMENDMENTS

Documentation: TRANS/SC.1/AC.6/2002/1/Add.1.

5. The secretariat informed the Ad hoc Working Group that there are 41 Contracting Parties to the AETR and that Turkey acceded to the Agreement with effect from 16 January 2001 and Yugoslavia (by succession) with effect from 12 March 2001.
6. The Ad hoc Working Group was also informed that a new text of Article 12 on AETR checks had been adopted by SC.1 at its 93rd session (October 1999). The final text of Article 12 was made available in TRANS/SC.1/AC.6/2002/1/Add.1.
7. The representative of France expressed the intention of her country to send the new text of Article 12 to the Secretary-General of the United Nations for formal amendment procedures in accordance with Article 21 of the AETR.

RELEVANT DECISIONS OF THE WORKING PARTY ON ROAD TRANSPORT (SC.1) AND THE INLAND TRANSPORT COMMITTEE (ITC)

Documentation: TRANS/SC.1/367; TRANS/SC.1/369; TRANS/SC.1/2000/16; TRANS/SC.1/2001/1.

8. The Working Group was informed about the relevant decisions of the 94th and 95th sessions of the Working Party on Road Transport (SC.1) (November 2000 and October 2001) and of the 64th session of the Inland Transport Committee (18-21 February 2002).

INFORMATION FROM THE EUROPEAN COMMISSION ON THE STATUS OF ANNEX 1B

9. The representative of the European Commission informed the Ad hoc Working Group that on 19 September 2001 the annex 1B proposal had been presented for adoption to the Committee for Adaptation to Technical Progress (CATP). As the proposal did not receive a majority vote in favour, it was submitted by the Commission, in accordance with Community rules and after finalization of the translations and written procedure (without major changes in content), to the Council on 30 November 2001.
10. As the Council did not react within the deadline of three months, the proposal was adopted by the Commission as a Commission regulation. The Regulation accompanied by Annex 1B is expected to be published in August 2002. From that moment, the different periods (12 months for type approval, 21 months for card issuing and 24 months for fitting the tachograph in vehicles) will start running.

PREPARATION OF FINAL AMENDMENT PROPOSALS TO THE AETR

Documentation: TRANS/SC.1/AC.6/2002/1 ; TRANS/SC.1/AC.6/2002/2 ; TRANS/SC.1/AC.6/2002/3 ; TRANS/SC.1/AC.6/2002/4 ; TRANS/SC.1/2000/16 ; TRANS/SC.1/1999/4 ; Informal document No. 3; Informal document 4.

11. Before examining the text of the new Annex to the AETR introducing the digital control device, the Working Group decided to examine proposals made by the secretariat for consequential modifications which would be required in the Agreement itself.

(a) Articles of the AETR to be amended

Article 10

12. The Working Group confirmed its agreement to modifications to Article 10 of the AETR as found in Annex I to the present report.

Article 13

13. The Working Group agreed to replace Article 13 of the AETR by new transitional provisions (TRANS/SC.1/AC.6/2002/4) as proposed by the secretariat. These provisions introduce a period of four years to become mandatory (instead of five as previously proposed) but starting from the date of their entry into force (and not from the date of their adoption which it was agreed was not such a clear concept). The Working Group agreed that four years was sufficient since the formal amendment procedures outlined in Article 21 could take up to two years. Moreover, there was agreement on the necessity of allowing a transitional period for tachograph implementation for States which become Contracting Parties shortly before the end of the 4-year deadline or after this period. This is defined in paragraphs 4 and 5.

14. The new text of Article 13 is found in Annex I to the present report.

Articles 21 and 22

15. The Working Group adopted in principle the text of a new paragraph 5 bis of Article 21 and 4 bis of Article 22 of the AETR (Informal document No. 3 of the session) which cover the rare case of a country which becomes a Contracting Party to the AETR during the period allowed for notification of amendment proposals. It was agreed that the secretariat would check with the United Nations Legal Office in New York on the final wording of the proposal.

16. The new texts of 21.5 bis and 22.4 bis appear in Annex I of the present report.

Article 22 bis

17. The Working Group agreed that a modification of the AETR would be required in order to introduce a new amendment procedure for Appendix 1B. The Working Group examined a proposal by the secretariat (TRANS/SC.1/AC.6/2002/2) on which the United Nations Legal Office in New York had given positive feedback. The new procedures defined in paragraphs 2 and 3 are simplified and do not allow countries to make objections, but are intended to make them aware of all changes adopted at the level of the EU. They take into account the different procedures relating to the amendment of Appendix 1B.

18. The adopted text of a new Article 22 bis appears in Annex I to the present report.

(b) Annex to the AETR

19. The Working Group then turned to consideration of the Annex introducing the new digital control device or tachograph. It was informed that the English version of the new Annex contained in document TRANS/SC.1/AC.6/2002/1 did not reflect closely enough the latest version of Regulation (EEC) 3821/85 although the French version of the document was a more accurate reflection of the Regulation. It was agreed that it was essential that the Regulation and the AETR be as similar as possible to avoid any possibility of misinterpretation.

20. The Working Group therefore decided to work on a text in English provided by the representative of Sweden (Informal document No. 4 of the session) which had been adapted for the AETR. The Working Group read the text paragraph by paragraph and at the same time compared it with the French version to ensure consistency between the two language versions.

21. The Working Group agreed to certain additional modifications to the English text such as the replacement of “recording equipment” by “control device” and adaptation of references to other Articles and paragraphs. However, the Group noted a significant difference between the French and English version concerning provisions contained in Articles 12.8 and 13.2. After examination by the Working Group, it was decided to adapt the English text to the French version of Article 13.2. Concerning Article 12.8, the representative of the European Commission was asked to check with other language versions of the Regulation in order to ensure consistency in the texts of this article.

22. The delegate of the Russian Federation informed the Working Group about an error in the Russian text of TRANS/SC.1/AC.6/2002/1, Article 12, paragraph 3 (c), first subparagraph which erroneously used the word “??” in the first line.

23. The adopted text of the Annex is found in Annex II of the present report.

(c) Appendixes to the Annex

24. At its 95th session the Working Party on Road Transport (SC.1), after consideration of different solutions proposed for introducing annex 1B of Regulation (EEC) 3821/85 on the digital tachograph into the AETR agreed that the most appropriate and pragmatic solution for the future, given the size and technical character of the annex, was accepting the Community version of annex 1B without changes as published in the Official Journal of the European Communities and prefacing it with an introduction which, by cross references, would highlight points where modifications would be required. This approach was endorsed by the Inland Transport Committee at its 64th session.

25. In line with these decisions, the Working Group considered document TRANS/SC.1/AC.6/2002/3 which contained a proposal for an introduction with cross references for the new Appendix 1B to the AETR on requirements for the construction, testing, installation and inspection of the digital control device in road transport.

26. The Working Group agreed to certain modifications to the proposal particularly concerning references to equivalent ECE legal texts which could replace references to Council Directives mentioned.

27. The Working Group also agreed to the amendments introduced in Appendix 2 of the Annex concerning approval mark and certificates.

28. The final proposed texts of the introduction to Appendix 1B of the AETR and of the amendments to Appendix 2 appear in Annexes III and IV to the present report.

OTHER ISSUES

Documentation: *Informal document No.2 of the session.*

29. The representative of the IRU informed the Working Group about the need for harmonising the control procedure implied by Article 15.7 of Regulation (EEC) 3821/85 and the corresponding provision in the AETR regarding the production, for inspection, of the record sheet for the last driving day of the previous week. The English, French and German versions refer to the “last day of the previous week on which he drove”. The Italian and Dutch texts are different and speak about “the last day of the previous week in which he drove”.

30. The difference can become problematic if the driver did not drive in the week immediately preceding the week in which the control took place. Recently, two drivers of a non-EU vehicle were fined a considerable sum in an EU Member State because they did not have records for their last driving day, which was before the start of the previous week, despite an employer’s declaration confirming that the drivers concerned had been on leave the previous week.

31. The representative of the European Commission stated that the different language versions had been checked and said that the concerned member States would be invited to consider this issue. The delegate of Sweden specified that there had been a case before the European Court of Justice in Luxembourg (C/158/69) in which this issue was in question and it would be necessary analyse the judgement.

32. The delegation of the United Kingdom provided the Working Group with copies of draft amendments to regulation (EEC) 3821/82 which it had been invited to submit by the European Commission following a Transport Working Group meeting on 17 January 2002. If these changes are agreed, they would also need to be incorporated into the AETR.

33. The proposed changes include an obligation for drivers to enter into the digital tachograph data about non-driving work; a provision on downloading data; requirements for drivers to make printouts at the start of a journey when driving without a driver card; and on the retention of printouts.

34. The representative of Slovenia spoke about the difficulties which her country had encountered regarding type approval of tachographs. Slovenia has no domestic producer and depends on tachographs manufactured in other countries.

35. She cited Article 4 in the Annex to the AETR which provides that: *“The competent authorities of the Contracting Party to which the application for type approval has been submitted shall, in respect of each type of control device or model record sheet which they approve or refuse to approve, either send within one month to the authorities of the other Contracting Parties a copy of the approval certificate accompanied by copies of the relevant specifications, or, if such is*

the case, notify those authorities that approval has been refused; in cases of refusal they shall communicate the reasons for their decision”.

36. She said that it was currently impossible to comply with the provisions of Article 4 because there was no comprehensive list of addresses of the competent authorities of other Contracting Parties.

37. The secretariat said in response that it had started to compile such a list and would continue efforts to do so. Some addresses were to be found in documents TRANS/SC.1/2001/13 and Add.1. It appealed to all Contracting Parties to provide contact information (address, telephone, fax, e-mail) for their competent authorities as soon as possible.

38. The delegate of the Russian Federation remarked that in Annex 1B of the Commission Regulation, chapter III, point 025, there appeared to be a mistake. At the end of point 025 it is noted that "the recording equipment shall [...] measure the speed with a tolerance of +/- 1 km/h (at constant speed)". According to the Russian delegate this should read + 1km/h, instead of +/- 1 km/h. The representative of the Commission was asked to check this point and subsequently confirmed to the secretariat that +/- 1 km/h is correct.

REPORT OF THE MEETING

39. The report on the Working Group was prepared by the secretariat after the session. The final text of proposed amendments to the AETR are annexed to it for consideration and adoption by the 96th session of SC.1 (7-10 October 2002).

Annex I

PROPOSALS TO AMEND THE BODY OF THE AETR

*It is proposed to replace the current provisions of Article 10 by the following:
(technical/operational paragraphs of this article have been transferred to the Annex)*

“Article 10 Control device

1. The Contracting Parties shall prescribe the installation and use on vehicles registered in their territory of a control device according to the requirements of this Agreement and the Annex and Appendices thereto.
2. The control device within the sense of this Agreement shall, as regards construction, installation, use and testing, comply with the requirements of this Agreement and the Annex and Appendices thereto.
3. A control device conforming to Council Regulation (EEC) No. 3851/85 of 20 December 1985 as regards construction, installation, use and testing shall be considered as conforming to the requirements of this Agreement and the Annex and Appendices thereto.”

It is proposed to replace the current provisions of Article 13 by the following:

“Article 13 - Transitional provisions

1. All the new provisions of the present Agreement, including its annex and appendices 1B and 2, relating to the introduction of the digital control device, shall become mandatory for countries which are Contracting Parties to this Agreement at latest 4 years after the date of entry into force of the relevant amendments resulting from the procedure specified in article 21. All vehicles covered by this Agreement which entered into service for the first time after the expiry of this deadline shall accordingly be equipped with a control device conforming to these new requirements.
2. The Contracting Parties shall take the necessary steps to be able to issue the driver cards referred to in the annex to the present Agreement, as amended, at latest three months before the expiry of the 4-year deadline referred to in paragraph 1. This minimum period of three months shall also be complied with in the event of the implementation by a Contracting Party of the provisions relating to the digital control device before the expiry of the 4-year deadline. Such State shall keep the secretariat of the Working Party on Road Transport of the Economic Commission for Europe informed of progress in the introduction of the device on its territory.

3. Any instrument of ratification or accession deposited by a State after the entry into force of the amendments referred to in paragraph 1 shall be deemed to apply to the Agreement as amended, including the deadline for implementation specified in paragraph 1.

If accession takes place less than two years before the expiry of the deadline referred to in paragraph 1, the State shall inform the depositary of the date on which the digital control device will be brought into effective use in its territory when it deposits its instrument of ratification or accession. Such State may make use of a transitional period not exceeding two years from the date of entry into force of the Agreement for the State. The depositary shall so inform all Contracting Parties.

The provisions of the preceding paragraph shall also apply in the event of the accession of a State after the expiry of the 4-year deadline for implementation referred to in paragraph 1.”

Articles 21 and 22

*It is proposed to add to article 21 of the AETR a new paragraph 5 **bis** as follows:*

“**5 bis**. In the case of a country which becomes a Contracting Party to this Agreement between the moment of notification of a draft amendment and the moment when it is considered accepted, the secretariat of the Working Party on Road Transport of the Economic Commission for Europe shall notify the new State Party of the draft amendment as soon as possible. The latter may inform the Secretary-General of any objection before the end of the sixth-month period from the date of transmission of the original amendment to all Contracting Parties.”

*It is proposed to add to Article 22 of the AETR a new paragraph 4 **bis** as follows:*

“**4 bis**. In the case of a country which becomes a Party to this Agreement between the moment of notification of a draft amendment and the moment when it is considered accepted, the secretariat of the Working Party on Road Transport of the Economic Commission for Europe shall notify the new State Party of the draft amendment as soon as possible. The latter may inform the Secretary-General of any objection before the end of the sixth-month period from the date of transmission of the original amendment to all Contracting Parties.”

It is proposed to insert a new Article 22 bis which reads as follows:

“Article 22 bis

1. Appendix 1B of the Annex to the present Agreement shall be amended according to the procedure defined in the present Article.
 2. Any amendment proposal to the introductory Articles of Appendix 1B shall be adopted by the Working Party on Road Transport of the Economic Commission for Europe by a majority of the Contracting Parties present and voting. Any amendment thus adopted will be transmitted by the secretariat of the Working Party to the Secretary-General for notification to all Contracting Parties. It shall enter into force three months after the date of notification to Contracting Parties.
 3. Appendix 1B, adapted for the present Agreement from Annex IB of Regulation (CEE) 3821/85 as cited in Article 10 of the present Agreement as amended by Commission Regulation No. _____ of 13 June 2002) (Official Journal No. _____ of ____ August 2002), depending directly on evolutions introduced into this Annex by the European Union, any amendment made to this Annex shall be applicable to Appendix 1B under the following conditions:
 - the secretariat of the Working Party on Road Transport of the Economic Commission for Europe will officially inform the competent authorities of all Contracting Parties of the publication in the Official Journal of the European Communities of the amendments introduced to Annex IB of the Community regulation and at the same time will communicate this information to the Secretary-General accompanied by a copy of the relevant texts.
 - these amendments shall enter directly into force for Appendix 1B three months after the date of communication to Contracting Parties of the information.
 4. When a proposal to amend the Annex to the present Agreement also implies an amendment to Appendix 1B, the amendments concerning the Appendix may not enter into force before those concerning the Annex. When, in this framework, amendments to Appendix 1B are presented at the same time as amendments to the Annex, their date of entry into force shall be determined by the date resulting from application of the procedures outlined in Article 21.”
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Annex II

PROPOSAL TO AMEND THE ANNEX OF THE AETR

Annex - Control device

GENERAL PROVISIONS

CHAPTER I : TYPE APPROVAL

Article 1

For the purposes of this Chapter, the words “control device” shall mean “control device or its components”.

Applications for the approval of a type of control device or of a model record sheet or memory card shall be submitted, accompanied by the appropriate specifications, by the manufacturer or his agent to a Contracting Party. No application in respect of any one type of control device or of any one model record sheet or memory card may be submitted to more than one Contracting Party.

Article 2

A Contracting Party shall grant its type approval to any type of control device, to any model record sheet or memory card which conforms to the requirements laid down in Appendix 1 or 1B to this Annex, provided that the Contracting Party is in a position to check that production models conform to the approved prototype.

The control device may not be granted type-approval until the whole system (the control device itself, driver card and electrical gearbox connections) has demonstrated its capacity to resist attempts to tamper with or alter the data on driving times. The tests necessary to establish this shall be carried out by experts familiar with up to date tampering techniques.

Any modifications or additions to an approved model must receive additional type approval from the Contracting Party which granted the original type approval.

Article 3

Contracting Parties shall issue to the applicant an approval mark, which shall conform to the model shown in Appendix 2, for each type of control device or model record sheet or memory card which they approve pursuant to Article 2.

Article 4

The competent authorities of the Contracting Party to which the application for type approval has been submitted shall, in respect of each type of control device or model record

sheet or memory card which they approve or refuse to approve, either send within one month to the authorities of the other Contracting Parties a copy of the approval certificate accompanied by copies of the relevant specifications, or, if such is the case, notify those authorities that approval has been refused; in cases of refusal they shall communicate the reasons for their decision.

Article 5

1. If a Contracting Party which has granted type approval as provided for in Article 2 finds that a certain control device or record sheet or memory card bearing the type approval mark which it has issued does not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the approved prototype. The measures taken may, if necessary, extend to withdrawal of the type approval.

2. A Contracting Party which has granted type approval shall withdraw such approval if the control device or record sheet or memory card which has been approved is not in conformity with this Annex or its Appendixes or displays in use any general defect which makes it unsuitable for the purpose for which it is intended.

3. If a Contracting Party which has granted type approval is notified by another Contracting Party of one of the cases referred to in paragraphs 1 and 2, it shall also, after consulting the latter Contracting Party, take the steps laid down in those paragraphs, subject to paragraph 5.

4. A Contracting Party which ascertains that one of the cases referred to in paragraph 2 has arisen may forbid until further notice the placing on the market and putting into service of the control device or record sheets or memory card. The same applies in the cases mentioned in paragraph 1 with respect to control devices or record sheets or memory cards which have been exempted from the initial verification, if the manufacturer, after due warning, does not bring the equipment into line with the approved model or with the requirements of this Annex.

In any event, the competent authorities of the Contracting Parties shall notify one another within one month, of any withdrawal of type approval or of any other measures taken pursuant to paragraphs 1, 2 and 3 and shall specify the reasons for such action.

5. If a Contracting Party which has granted type approval disputes the existence of any of the cases specified in paragraphs 1 or 2 notified to it, the Contracting Parties concerned shall endeavour to settle the dispute.

Article 6

1. An applicant for type approval of a model record sheet shall state on his application the type or types of control device on which the sheet in question is designed to be used and shall provide a suitable device of such type or types for the purpose of testing the sheet.

2. The competent authorities of each Contracting Party shall indicate on the approval certificate for the model record sheet the type or types of control device on which that model sheet may be used.

Article 7

No Contracting Party may refuse to register any vehicle fitted with a control device, or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such device, if the control device bears the approval mark referred to in Article 3 and the installation plaque referred to in Article 9.

Article 8

All decisions pursuant to this Annex refusing or withdrawing approval of a type of control device or model record sheet or memory card shall specify in detail the reasons on which they are based. A decision shall be communicated to the party concerned, who shall at the same time be informed of the remedies available to him under the laws of the Contracting Party and of the time-limits for the exercise of such remedies.

CHAPTER II

Installation and inspection

Article 9

1. The control device may be installed or repaired only by fitters or workshops approved by the competent authorities of Contracting Parties for that purpose after the latter, should they so desire, have heard the views of the manufacturers concerned.

The period of administrative validity of approved workshop and fitter cards shall not exceed one year.

If a card issued to an approved workshop or fitter is to be extended, is damaged, malfunctions, is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect.

Where a new card is issued to replace an old one, the new card shall bear the same "workshop" information number, but the index shall be increased by one. The authority issuing the card shall maintain a register of lost, stolen or defective cards.

Contracting Parties shall take any measure necessary to prevent the cards distributed to approved fitters and workshops from being falsified.

2. The approved fitter or workshop shall place a special mark on the seals which it affixes and, in addition, shall enter for a control device in conformity with Appendix 1B, the electronic security data for carrying out, in particular, the authentication checks. The

competent authorities of each Contracting Party shall maintain a register of the marks and electronic security data used and of approved workshop and fitter cards issued.

3. The competent authorities of the Contracting Parties shall send each other their lists of approved fitters and workshops and the cards issued to them and also copies of the marks and of the necessary information relating to the electronic security data used.

4. For the purpose of certifying that installation of the control device took place in accordance with the requirements of this Annex an installation plaque affixed as provided in Appendix 1 or 1B shall be used.

Seals may be removed by fitters or workshops approved by the competent authorities in accordance with the provisions of paragraph 1 of this Article or in the circumstances described in Appendix 1 or 1B of this Annex.

CHAPTER III

Use of equipment

Article 10

The employer and drivers shall ensure the correct functioning and proper use of, on the one hand, the control device and, on the other, the driver card where a driver is required to drive a vehicle fitted with a control device in conformity with Appendix 1B.

Article 11

1. The employer shall issue a sufficient number of record sheets to drivers of vehicles fitted with the control device in conformity with Appendix 1, bearing in mind the fact that these sheets are personal in character, the length of the period of service, and the possible obligation to replace sheets which are damaged, or have been taken by an authorized inspecting officer. The employer shall issue to drivers only sheets of an approved model suitable for use in the control device installed in the vehicle.

Where the vehicle is fitted with a control device in conformity with Appendix 1B, the employer and the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in Appendix 1B can be carried out correctly in the event of an inspection.

2. The undertaking shall keep the record sheets in good order for at least a year after their use and shall give copies to the drivers concerned who request them. The sheets shall be produced or handed over at the request of any authorized inspecting officer.

3. The driver card as defined in Appendix 1B shall be issued, at the request of the driver, by the competent authority of the Contracting Party where the driver has his normal residence.

A Contracting Party may require any driver subject to the provisions of the Agreement and normally resident on its territory to hold a driver card.

(a) For the purposes of this Agreement “normal residence” means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Contracting Parties shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Contracting Party in order to carry out a fixed-term assignment.

(b) Drivers shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.

(c) Where the competent authorities of the Contracting Party issuing the driver card have doubts as to the validity of a statement as to normal residence made in accordance with point (b), or for the purpose of certain specific controls, they may request any additional information or evidence.

(d) The competent authority of the issuing Contracting Party shall, as far as this can be done, ensure that the applicant does not already hold a valid driver card.

4. (a) The competent authority of the Contracting Party shall personalise the driver card in accordance with the provisions of Appendix 1B.

The period of administrative validity of the driver card shall not exceed five years.

The driver may hold one valid driver card only. The driver is authorised to use only his own personalised driver card. The driver shall not use a driver card which is defective or which has expired.

When a driver card is issued replacing an old one, the new card shall bear the same driver card issue number but the index shall be increased by one. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of validity.

If the driver card is damaged, malfunctions or is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect.

In the event of a request for the renewal of a card whose expiry date is approaching, the authority shall supply a new card before the expiry date provided that the request was sent to it within the time limits laid down in the fourth subparagraph of Article 12 (1).

(b) Driver cards shall be issued only to applicants who are subject to the provisions of the Agreement.

(c) The driver card shall be personal. It may not, during its official period of validity, be withdrawn or suspended for whatever reason unless the competent authority of a Contracting Party finds that the card has been falsified, or the driver is using a card of which he is not the holder, or that the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Contracting Party other than the Contracting Party of issue, the former shall return the card to the authorities of the Contracting Party which issued it and shall indicate the reasons for returning it.

(d) Driver cards issued by Contracting Parties shall be mutually recognised.

Where the holder of a valid driver card issued by a Contracting Party has established his normal place of residence in another Contracting Party, he may ask for his card to be exchanged for an equivalent driver card; it shall be the responsibility of the Contracting Party which carries out the exchange to verify if necessary whether the card produced is actually still valid.

Contracting Parties carrying out an exchange shall return the old card to the authorities of the Contracting Party of issue and indicate the reasons for so doing.

(e) Where a Contracting Party replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement or renewal, shall be registered in that Contracting Party.

(f) Contracting Parties shall take all the necessary measures to prevent any possibility of driver cards being falsified.

5. Contracting Parties shall ensure that data needed to monitor compliance with the present Agreement which are recorded and stored by the control device in conformity with Appendix 1B to this Annex can be made available for 365 days after the date of their recording and that they can be made available under conditions that guarantee the security and accuracy of the data.

Contracting Parties shall take any measures necessary to ensure that the resale or decommissioning of a control device cannot detract, in particular, from the satisfactory application of this paragraph.

Article 12

1. Drivers shall not use dirty or damaged record sheets or driver card. The sheets or driver card shall be adequately protected on this account.

In case of damage to a sheet or driver card bearing recordings, drivers shall attach the damaged sheet or driver card to a spare sheet or a temporary sheet used to replace it.

If the driver card is damaged, malfunctions or is lost or stolen, the driver shall apply within seven calendar days for its replacement to the competent authorities of the Contracting Party in which he has his normal residence.

Where a driver wishes to renew his driver card, he shall apply to the competent authorities of the Contracting Party in which he has his normal residence not later than 15 working days before the expiry date of the card.

2. Drivers shall use the record sheets or driver card every day on which they are driving, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorized. No record sheet or driver card may be used to cover a period longer than that for which it is intended.

When, as a result of being away from the vehicle, a driver is unable to use the control device fitted to the vehicle, the periods of time indicated in paragraph 3, second indent (b), (c) and (d) below shall be entered on the sheet, either manually, by automatic recording or other means, legibly and without dirtying the sheet.

Drivers shall amend the record sheets as necessary should there be more than one driver on board the vehicle, so that the information referred to in paragraph 3 second indent (b), (c) and (d) below is recorded on the record sheet of the driver who is actually driving.

3. Drivers shall:

- ensure that the time recorded on the sheet agrees with the official time in the country of registration of the vehicle,
- operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:

- (a) under the sign  or ¹ driving time;
- (b) under the sign  or ¹ all other periods of work;
- (c) under the sign  or ¹ other periods of availability, namely:

¹ Symbols used for the digital tachograph.

- waiting time, i.e. the period during which drivers need remain at their posts only for the purpose of answering any calls to start or resume driving or to carry out other work,
- time spent beside the driver while the vehicle is in motion,
- time spent on a bunk while the vehicle is in motion;

d) under the sign  or ¹ breaks in work and daily rest periods.

4. Each Contracting Party may permit all the periods referred to in paragraph 3, second indent (b) and (c) to be recorded under the sign  on the record sheets used on vehicles registered in its territory.

5. Each crew member concerned shall enter the following information on his record sheet:

- (a) on beginning to use the sheet – his surname and first name;
- (b) the date and place where use of the sheet begins and the date and place where such use ends;
- (c) the registration number of each vehicle to which he is assigned, both at the start of the first journey recorded on the sheet and then, in the event of a change of vehicle, during use of the sheet;
- (d) the odometer reading:
 - at the start of the first journey recorded on the sheet,
 - at the end of the last journey recorded on the sheet,
 - in the event of a change of vehicle during a working day (reading on the vehicle to which he was assigned and reading on the vehicle to which he is assigned);
- (e) if relevant, the time of any change of vehicle.

5 bis. The driver shall enter in the control device in conformity with Appendix 1B the symbols of the countries in which he begins and ends his daily work period.

The above data entries shall be activated by the driver, and may be entirely manual or automatic if the control device is linked to a satellite tracking system.

6. The control device defined in Appendix 1 shall be so designed that it is possible for an authorized inspecting officer, if necessary after opening the equipment, to read the recordings

¹ Symbol used for the digital tachograph.

relating to the nine hours preceding the time of the check without permanently deforming, damaging or soiling the sheet.

The device shall, furthermore, be so designed that it is possible, without opening the case, to verify that recordings are being made.

7. (a) Where the driver drives a vehicle fitted with a control device in conformity with Appendix 1, he must be able to produce, whenever an inspecting officer so requests:

- the record sheets for the current week and, in any event, the sheet for the last day on which he drove during the previous week,
- the driver card if he holds one, and
- print-outs from the control device defined in Appendix 1B relating to the periods of time indicated in paragraph 3, second indent, (a), (b), (c) and (d) if he drove a vehicle fitted with such a control device during the period referred to in the first indent of this paragraph.

(b) Where the driver drives a vehicle fitted with a control device in conformity with Appendix 1B, he must be able to produce, whenever an inspecting officer so requests:

- the driver card of which he is the holder and,
- the record sheets corresponding to the same period as the one referred to in the first indent of subparagraph (a) during which he drove a vehicle fitted with a control device in conformity with Appendix 1.

(c) An authorised inspecting officer may check compliance with the Agreement by analysis of the record sheets, of the displayed or printed data which have been recorded by the control device or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Article 13 (2) and (3).

8. It shall be forbidden to falsify, suppress or destroy data recorded on the record sheet, stored in the control device or on the driver card, or print-outs from the control device as defined in Appendix 1B. The same applies to any manipulation of the control device, record sheet or driver card which may result in data and/or printed information being falsified, suppressed or destroyed. No device which could be used to carry out the manipulations mentioned shall be present on the vehicle.

Article 13

1. In the event of breakdown or faulty operation of the control device, the employer shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

If the vehicle is unable to return to the premises within a period of one week calculated from the day of the break-down or of the discovery of defective operation, the repair shall be carried out *en route*.

Measures taken by the Contracting Parties may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been put right as provided in the foregoing subparagraphs.

2. While the device is unserviceable or malfunctioning, drivers shall mark on the record sheet or sheets, or on a temporary sheet to be attached to the record sheet or to the driver card, on which he shall enter data enabling him to be identified (name and number of his driving licence or name and number of his driver card), including his signature, all information for the various periods of time which are no longer recorded or printed out correctly by the control device.

If a driver card is damaged, malfunctions or is lost or stolen, the driver shall, at the end of his journey, print out the information relating to the periods of time recorded by the control device and mark on that document the details that enable him to be identified (name and number of his driving licence or name and number of his driver card), including his signature.

3. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Contracting Party in which he has his normal residence. Theft of the driver card shall be the subject of a formal declaration to the competent authorities of the State where the theft occurred.

Loss of the driver card must be reported in a formal declaration to the competent authorities of the Contracting Party that issued it and to the competent authorities of the Contracting Party of normal residence where they are different.

The driver may continue to drive without a driver card for a maximum period of 15 calendar days or for a longer period if this is necessary for the vehicle to return to its premises, provided he can prove the impossibility of producing or using the card during this period.

Where the authorities of the Contracting Party in which the driver has his normal residence are different from those which issued his card and where the latter are requested to renew, replace or exchange the driver card, they shall inform the authorities which issued the old card of the precise reasons for its renewal, replacement or exchange.

Annex III

PROPOSALS TO AMEND THE APPENDIXES TO THE ANNEX TO THE AETR

New Appendix 1B (Introduction to this Appendix)

The Annex of the AETR is completed by a new Appendix (Appendix 1B) on requirements for the construction, testing, installation and inspection of the digital control device used in road transport , as follows:

“APPENDIX 1B

**Requirements for the construction, testing, installation and inspection
of the digital control device used in road transport**

Article 1. Preamble

1. As this Appendix is an adaptation of Annex IB of Council Regulation (EEC) No. 3821/85 of 20 December 1985 concerning recording equipment in the field of road transport, as last amended by Council Regulation (EC) No. 2135/98, of 24 September 1998, as well as by Commission Regulation No..... of 13 June 2002, the content of this Annex is not reproduced in the AETR because of its size and its very technical character. For the complete official text and its subsequent amendments, Contracting Parties shall refer to the *Official Journal* of the European Communities (OJEC). The content of the present Appendix 1B is limited to an introduction which only cites the references to the Official Journal in which Annex IB is published and points out, by means of cross references, the particular points where that Annex has had to be adapted to the context of the AETR.

2. In order to facilitate consultation of that Annex and to allow an overall view of Appendix 1B, including notably all the adaptations particular to the context of the AETR, a consolidated version of this Appendix in the official languages of the UNECE will be elaborated by the secretariat of the United Nations Economic Commission for Europe and will be updated periodically. However, this version will not have any legal force.

Article 2. Introductory provisions to Appendix 1B

1. In accordance with paragraph 1 of article 1 above, Contracting Parties are invited, in order to consult Annex IB annexed, to refer to Commission Regulation No..... of 13 June 2002 as published in the Official Journal of the European Communities No.of August 2002, adapting for the seventh time to technical progress Council Regulation (EEC) No. 3821/85 concerning recording equipment in the field of road transport.

2. For the purposes of Appendix 1B:

2.1 The terms in the left column below shall be replaced by the corresponding terms in the right column:

Terms used in Annex IB		Terms used in the AETR
Member States	Replaced by	Contracting Parties
MS		CP
Annex (IB)		Appendix (1B)
Appendix		Sub-appendix
Regulation		Agreement or AETR
Community		UNECE
Recording equipment (<i>English version only</i>)		Control device (<i>English version only</i>)

2.2 References made to legal texts in the left column below shall be replaced by those in the right column:

Legal texts of the European Community		Legal texts of the United Nations Economic Commission for Europe
Council Regulation (EEC) No.3820/85	Replaced by	AETR
Council Directive No. 92/23/EEC		ECE Regulation 54
Commission Directive No.95/54/EC adapting to technical progress Council Directive 72/245/EEC		ECE Regulation 10

2.3 A list of texts or provisions for which an ECE equivalent does not exist or for which more information is necessary appears below. These texts or information are only quoted for reference.

2.3.1 The limit for setting the speed limitation device, as defined in I (Definitions), bb) of Annex IB/Appendix 1B conforms to the provisions of Council Directive No. 92/6/EEC of 10 February 1992 (OJEC, No. L57, 02/03/1992).

2.3.2 The measurement of distances, as defined in I (Definitions), u) of Annex IB/Appendix 1B conforms to the provisions of Council Directive No. 97/27/EC of 22 July 1997, as last amended (OJEC, No. L 233, 25/08/1997).

2.3.3 Vehicle identification, as defined in I (Definitions), nn) of Annex IB/Appendix 1B conforms to the provisions of Council Directive No. 76/114/EEC of 18 December 1975 (OJEC, No. L 24, 30/01/1976).

- 2.3.4 The provisions on security shall conform with the provisions laid out in Council Recommendation No. 95/144/EC of 7 April 1995, on common information technology security evaluation criteria (ITSEC) (OJEC, No. L 93, 26/04/1995).
- 2.3.5 The protection of individuals with regard to the processing of personal data and on the free movement of such data conform to the provisions of Council Directive No. 95/46/EC of 24 October 1995, as last amended (OJEC, No. L 281, 23/11/1995).

2.4 Other provisions to be changed or deleted

2.4.1 The content of requirement 172 is deleted and replaced by “*reserved*”.

2.4.2 Requirement 174 is changed as follows:

“the distinguishing sign of the Contracting Party issuing the card. The distinguishing signs of non EU Contracting Parties are those drawn up in accordance with the 1968 Vienna Convention on Road Traffic or the 1949 Geneva Convention on Road Traffic”.

2.4.3 The reference to the EU flag with the letters “MS” meaning “Member State” in requirement 178 is replaced by the letters “CP” meaning “Contracting Party”, the flag of the non EU Contracting Party being optional.

2.4.4 Requirement 181 is changed as follows:

“After consulting the UNECE secretariat, Contracting Parties may add colours or markings, such as security features, without prejudice to the other provisions of this Appendix”.

2.4.5 Requirement 278 is changed as follows:

“Interoperability tests are carried out by a single competent body”.

2.4.6 Requirements 291 to 295 are deleted and replaced by “*reserved*”.

2.4.7 In Appendix 9/Sub-appendix 9 of the AETR (Type approval – List of minimum required tests), 1, 1-1, the introductory sentence is modified as follows :

“The type approval procedure for the recording equipment (or component) or tachograph card is based on:””

Annex IV

Annex - Appendix 2

1. The title of Appendix 2 is modified as follows:

APPROVAL MARK AND CERTIFICATES

2. Add the following countries to the list in paragraph 1 of chapter I “Approval mark”:

“- Hungary	7
- Switzerland	14
- Finland	17
- Liechtenstein	33
- Bulgaria	34
- Kazakhstan	35
- Lithuania	36
- Turkey	37
- Turkmenistan	38
- Azerbaijan	39
- The former Yugoslav Republic of Macedonia	40
- Andorra	41
- Uzbekistan	44”

3. The title of Chapter II “Approval certificate” is modified as follows:

“Approval certificate for products in accordance with Appendix 1”

4. A new chapter III to be added to Appendix 2 entitled **“Approval certificate for products in accordance with Appendix 1B”** appears below:

III. APPROVAL CERTIFICATE FOR PRODUCTS IN ACCORDANCE WITH APPENDIX 1B

Once the Contracting Party has effected an approval it issues the applicant with an approval certificate, drawn up in accordance with the model below. Contracting Parties use copies of this document in order to communicate to other Contracting Parties approvals granted or any withdrawals.

APPROVAL CERTIFICATE FOR PRODUCTS IN ACCORDANCE WITH APPENDIX 1B

Name of the competent administration

Communication concerning (1):

? Approval

? Withdrawal of an approval

? Of a control device model

? Of a control device component (2)

? Of a driver card

? Of a workshop card

? Of a company card

? Of an inspector's card

Approval No.

1. Manufacturing or commercial mark.....

2. Name of model.....

3. Name of manufacturer.....

4. Address of manufacturer.....

5 Submitted for approval on.....

6. Test laboratory or laboratories.....

7. Date and No. of reports.....

8. Date of approval.....

9. Date of withdrawal of approval.....

10. Model(s) of component(s) of control device with which the component is intended to be used.....

11. Place.....

12. Date.....

13. Descriptive documents annexed.....

14. Remarks (including the affixing of seals if required)

(Signature)

1. Tick the relevant boxes

2. Specify the component concerned in the communication