

Problems concerning the Agreement on Periodical Technical Inspections and proposals for their solution

Transmitted by the representative of Finland

1. BACKGROUND

The preparations for amending two Agreements done in Vienna in November 1997: EUROPEAN AGREEMENT (1971) SUPPLEMENTING THE CONVENTION ON ROAD TRAFFIC (1968) and AGREEMENT CONCERNING THE ADOPTION OF UNIFORM CONDITIONS FOR PERIODICAL TECHNICAL INSPECTIONS OF WHEELED VEHICLES AND THE RECIPROCAL RECOGNITION OF SUCH INSPECTIONS began in the ECMT in 1993.

The reason for this preparation was that certain ECMT member countries were concerned that the Vienna Road Traffic agreement does not give the Contracting Parties the right to prevent in their area international transport by lorries and coaches that do not meet environmental requirements in force on the territory of that Contracting Party. This was considered to cause environmental hazards and distort competition.

In 1994, the ECMT proposed to the ECE, responsible for the management of the European Agreement, to amend the Agreement in order to require the lorries and coaches used in international transport to meet the ECE Regulations R24 (corresponds to Directive 72/306/EEC) and R49 (corresponds to Directive 88/77/EEC) on exhaust emissions and R51 (corresponds to Directive 70/157/EEC) on noise, which were in force when the vehicles in question were taken into use.

While the proposal was dealt with by the ECE, the idea to include requirements on the roadworthiness was raised. Justifiably, it was stated that on a longer term it is not sufficient that the vehicle meets the requirements only when it is taken into use. It must be certified that the vehicle has been maintained to meet those requirements all the time.

2. AGREEMENTS

As a result of the preparation it was agreed to amend the European Agreement to meet the both requirements by including the following clauses:

"4. (a) Motor vehicles in international traffic whose permissible maximum mass exceeds 3,500 kg, except those used for the carriage of persons and having not more than eight seats in addition to the driver's seat, shall satisfy specific requirements with regard to noise and pollutant emissions. In this respect:

(i) Such motor vehicles shall have met as a minimum the technical requirements and limits of the series of amendments to the relevant ECE Regulations in force for the purpose of the 1958 Geneva Agreement at the date of their first registration after the manufacture;

(ii) Such motor vehicles shall meet the minimum inspection requirements specified in the relevant ECE Rule(s); the compliance with the said requirements shall be checked during periodic technical inspections referred to in paragraph 2 of this Article.

5. (a) The driver of a motor vehicle referred to in subparagraph 4 (a) above shall, in proof of its passing a periodic technical inspection, referred to in the aforesaid subparagraph as well as of its being in good working order, carry a valid, duly completed international technical inspection certificate."

A Contracting Party may apply the requirement in 4. (a) (i) on the vehicles registered 27 January 2003 or later and the requirement in 5. (a) from the same day on both new and old lorries and coaches.

In order to define exactly the content of the roadworthiness test and the certificate to be carried by the driver, a new Agreement on periodic inspections was established, parallel to the European Agreement. The Inspection Agreement is mainly administrative in nature and provides a framework for the technical rules to be attached to the Agreement. A model form for international inspection certificate, which a Contracting Party may use, is annexed to the Agreement. If a Contracting Party decides not use this form, the national periodical inspection reports may be used as an alternative. A sample of them shall be transmitted to the Secretary-General of the United Nations in order to inform other Contracting Parties.

This Agreement was also applied as of 27 January 2003 and it covers both old and new lorries and coaches.

So far, only Rule No 1 has been attached to the Inspection Agreement. Rule No 1 covers the checking points and rejection criteria for the environmental inspection of lorries and coaches. The exhaust emission test limits correspond to the requirements of the Annex of Directive 96/96/EC. However, in the Directive the inspection method has been described in more detail, whereas Rule No 1 only refers to Regulation R24.

Although the second Rule, No 2, which is in preparation, has not been adopted, the amendment of the European Agreement, Inspection Agreement and its Rule No 1 together achieve the original target: in international transport the Contracting Parties should use lorries and coaches that represent the best technology available at the date of their registration and are maintained properly.

3. PROBLEMS AND SOLUTIONS

3.1. The State to perform the inspection

There exists an interpretation problem between the two Agreements:

- in accordance with the European Agreement:

“5. (b) The certificate shall be issued either by a competent authority of the Contracting Party in which territories the vehicle is registered or subdivision thereof or on behalf and by authorization of such Contracting Party or subdivision thereof by an association duly empowered thereto by that Contracting Party or subdivision thereof.”

- in accordance with the Article 12 of the Inspection Agreement:

“Bodies or establishments designated and directly supervised by the Contracting Party may carry out periodical technical inspections in accordance with this Agreement on behalf of another Contracting Party.”

This difference in wordings was discussed in the 114th session of WP.29, in March 1998. The Forum recommended that “specific authorization shall be required to carry out periodical technical inspections on behalf of another Contracting Party to the Agreement. WP.29 recommended that after the Agreement’s entry into force the necessity for such authorization be also endorsed by the Administrative Committee of the Agreement at its first session.”

This endorsement is still pending.

Finland supports this kind of “gentlemen agreement” and even wishes it to be strengthened so that the authorization of both Contracting Parties, the one where the vehicle has been registered and the other, where the inspection should be carried out, would be required.

So far in all countries where the vehicles are inspected for their roadworthiness this inspection only concerns vehicles registered in that country. “Reciprocal recognition” is understood to cover recognition in country A of inspections made in country B for vehicles registered in country B but not inspections of vehicles registered in country A carried out in country B.

3.2. Contracting Parties

Altogether 29 European states have acceded to the European Agreement. Estonia, Ireland, the Netherlands, Portugal, Norway, Spain and the UK have not acceded to it. As concerns EU Member States, 10 of them and 9 Applicant Countries (bar Estonia) have joined. The Contracting Parties have adopted the amendment referred to above and thus obtained a right to check that the other Contracting Parties use first-class vehicles, inspect them annually and grant the drivers an internationally valid inspection certificate.

Only six States have so far acceded to the Inspection Agreement: Estonia, the Netherlands, Finland, Hungary, Romania and Russia. These countries have thus committed themselves to conduct the inspections in accordance with Rule No 1 attached to the Agreement and to grant drivers an international inspection certificate.

A contradiction can be found in the lists of Contracting Parties to the two Agreements: Estonia and the Netherlands have not acceded to the European Agreement but they have acceded to the Inspection Agreement. As concerns the Netherlands, this contradiction is only a formal one, because Directive 96/96/EC in any case requests that the Netherlands inspects its vehicles in accordance with Rule No 1 and issues a certificate for that. As concerns Estonia, the inconsistency is more real but it can be assumed that Estonia, when preparing for EU membership due in 2004, has already developed an inspection system that meets the requirements of Directive 96/96/EC.

3.3. Ratification of the Agreement by the European Community

The Inspection Agreement was drafted to allow Regional Economic Integration Organizations (REIO's) to accede to it. Since the adoption of the Agreement, the European Commission has deliberated the possibility to ratify it. Some Member States have stated that they will wait for the Commission's decision on the issue before they can join.

In view of the Commission and certain Member States the following problems hinder their ratification:

- inspection methods are missing from Rule No 1, although the points to be inspected and the limits for rejection are the same as in Directive 96/96/EC,
- the contents of Rule No 2 are still pending; hence the Commission cannot be certain if they will literally correspond to Directive 96/96/EC,
- the ECE Agreements only cover lorries and coaches while the Directive also covers cars, vans and trailers,
- the Agreement only cover requirements linked to environment,
- the Commission is concerned with the principle of reciprocal recognition; the problem may result from Article 12 of the Inspection Agreement.

Solutions to facilitate the EC joining the Inspection Agreement could be the following:

- **to amend Rule No 1 to include the inspection methods in accordance with Directive 96/96/EC; when doing this, the Rule could be fully harmonised with the Directive,**
- **to finalise Rule No 2, avoiding all inconsistencies with Directive 96/96/EC,**
- **as concerns reciprocal recognition, see the "gentlemen agreement" above,**
- **to include also trailers as well as traffic safety items into the scope of the Inspection Agreement as well as Article 39 (4)(a) and other relevant parts of the European Agreement, particularly taking into account the forthcoming Rule No 2 and its scope of application.**

Helsinki 24 February 2003