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Group of Experts on European Agreement Concerning Work of Crews of Vehicles Engaged in International Road Transport (AETR)

Fifth session

Geneva, 24 June 2013

Report of the Group of Experts on European Agreement Concerning Work of Crews of Vehicles Engaged in International Road Transport (AETR) on its fifth session

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I. Attendance

1. The AETR Group of Experts held its fifth session in Geneva on 24 June 2013, chaired by Mr. R. Symonenko (Ukraine).
2. Representatives of the following UNECE member States participated: Belgium, Germany, Hungary, Netherlands, Russian Federation, Sweden and Ukraine.
3. The European Commission and International Road Transport Union (IRU) were also represented. Continental Automotive participated as observer.
4. The Director of the Transport Division, Ms. E. Molnar, attended the opening of the meeting. She noted that the stated objectives of the terms of reference for the Group of Experts had yet to be achieved, and encouraged the representatives to fully cooperate and to reach consensus on the issues on the agenda expeditiously.

II. Adoption of the Agenda (agenda item 1)

5. The Group of Experts adopted the session's agenda (ECE/TRANS/SC.1/GE.21/12). For future sessions, the Group of Experts requested to have the issue of the exemption in Article 12, paragraph 6 (b) identified and discussed under a separate agenda item.

III. Adoption of the Report (agenda item 2)

6. The Group of Experts adopted the report of its fourth session (ECE/TRANS/SC.1/GE.21/11). Upon the request of the European Commission, the first sentence of paragraph 8 was modified to read: "In addition, the European Commission provided a detailed explanation of the proposed revisions to Articles 22bis, Article 14 and of a new Article 10bis."

IV. Programme of Work (agenda item 3)

A. Development of proposals for amending the AETR Agreement, in particular Article 22bis and Article 12, paragraph 6(b)

7. The Group of Experts resumed its discussion on the proposed changes to Article 22bis by reviewing the consolidated proposal contained in the Annex of ECE/TRANS/SC.1/GE.21/11 and ECE/TRANS/SC.1/GE.21/13 submitted by the European Union (EU).
8. Despite extensive discussion, the Group of Experts was not able to agree on the wording of a revised, text of Article 22bis.
9. The Russian Federation – also on behalf of the Commonwealth of Independent States – stated it was against the proposal to allow "regional integration organizations" to become Contracting Parties to the AETR Agreement. Ukraine concurred and expressed a similar reservation. It also indicated that the EU proposal of decisions taken by majority vote of those present and voting (ECE/TRANS/SC.1/GE.21/13 para. 8) was not acceptable. The Russian Federation asked if other options for EU participation could be considered.
10. The EC did not offer alternative options other than those contained in ECE/TRANS/SC.1/GE.21/13. It added that the EU would bring value to the discussions of the Group of Experts and would not add a further bureaucratic layer. It stressed that the

possibility of EU accession to the AETR Agreement is a necessary condition of revising Article 22bis while the voting procedures and thresholds are negotiable.

11. The secretariat clarified that Article 22bis of the AETR Agreement was restricted to the amendment of Appendix 1B (Requirements for the construction, testing, installation and inspection of the digital control device used in road transport). The secretariat further clarified that if established, the role of the proposed administrative committee would be largely restricted to agreeing to or opposing future amendment proposals. Discussions between Contracting Parties would take place prior to the submission of amendment proposals at either the annual meeting or additional meetings of the Working Party on Road Transport (SC.1).

12. The Russian Federation made the further point that ECE/TRANS/SC.1/GE.21/13 also envisaged amendments to Appendices 1, 2 and 3 of the AETR Agreement. The EC explained that they had been included in order to simplify the decision-making related to the AETR Agreement, but that it was open to limiting the present discussion to Appendix 1B only.

13. As neither the Russian Federation nor Ukraine nor the EC were prepared to change their positions at the meeting, the Chair recommended that the Russian Federation (and the Commonwealth of Independent States) provide written statements describing their positions and proposals and submit them to the secretariat prior to the next meeting of the Group of Experts. This would facilitate reaching compromise so this issue may finally be resolved.

14. The Group of Experts discussed the matter of the readiness of the Contracting Parties to removing the exemption in Article 12, paragraph 6(b). The Russian Federation and Ukraine stated that they were not yet in a position to remove the exemption and needed more time to consider the implication of doing so. The Chair decided that this matter could be raised at a future meeting under a separate agenda item.

15. Despite the lack of progress on the above-noted elements of Article 22bis, the Group of Experts modified: paragraph 6 (e), paragraph 7 (b) and 7 (c) and decided to not to delete paragraphs 6 (c) and 6 (d) of Annex, ECE/TRANS/SC.1/GE.21/11. The revised version is attached to this report in the Annex.

B. Third party rights and obligations under the AETR Agreement

16. The secretariat reported that following the fourth session, it had not received any additional responses to the table templates/questionnaires prepared by IRU on which legal instrument the respective Contracting Parties considered was applicable in different transport scenarios (i.e. journeys undertaken either partially or entirely within the EU by EU and non-EU AETR transport companies). The status quo remained at nine responses.

17. At the Chair's request, IRU agreed to deliver a presentation at the next meeting of the Group of Experts based on its earlier analysis and conclusions of the nine responses in order to facilitate a conclusion and agreement by the Group of Experts of the prevailing legal instrument in the different transport scenarios.

C. Exchange of information on issuing digital tachograph cards

18. Experts continued discussion of issues related on the exchange of information related to issuing digital tachograph cards. In this context, they agreed to introduce a new Article 10bis in the AETR Agreement. The text of Article 10bis article is included in the Annex of this report.

V. Other business

19. The Chair recalled Continental Automotive's presentation from the fourth AETR Group of Experts session on the relationship between the provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and the AETR Agreement, and raised the possibility of introducing ADR-related amendments in the AETR Agreement requirements.

20. Continental Automotive agreed to deliver another presentation highlighting the relationship between some selected regulatory requirements and AETR at the next meeting of the Group of Experts.

21. It was noted that in the relevant EU legislation, there are no specifications for ADR-compliant digital tachographs.

22. The Group of Experts acknowledged and thanked the SC.1 Chair, for his many valuable contributions to the Group of Experts.

VI. Date and place of next meeting

23. The Group of Experts was informed that the secretariat has scheduled the sixth session for 31 October 2013 (Thursday) in Geneva.

Annex

Amended consolidated proposal for new articles 10bis and 22bis (incorporating changes and suggestions made on 24 June 2013 at the fifth session of the AETR Group of Experts)

Article 10bis

1. In order to ensure that drivers do not already hold a valid driver card in the sense of Appendix 1B of the Annex to the Agreement, Contracting Parties shall maintain national electronic registers containing the following information on driver cards for a period at least equivalent to their period of validity:

- Surname and first name of the driver;
- Birth date and, if available, place of birth of the driver;
- Driving permit number and country of issue of driving permit;
- Status of the driver card;
- Driver card number.

2. Contracting Parties shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout their territories to card issuing authorities and control officers appointed to check the compliance with the rules on driving time and rest periods of professional drivers.

3. When issuing, replacing and, when necessary, renewing a driver card, Contracting Parties shall verify through electronic data exchange that the driver does not already hold another valid driver card. Contracting Parties shall ensure an adequate level of protection of the personal data exchanged, in line with the highest international standards. This shall include that the data exchanged be limited to the data necessary for the purpose of this verification and not used for any other purpose without the prior authorisation of the Contracting Party providing the personal data.

Article 22bis

Paragraph 1

(a) There shall be an Administrative Committee that shall be responsible for deciding on amendments to Appendix 1B of the present Convention, based in Geneva.

Proposals to be discussed:

- Replace the term “Appendix 1B” with “Appendix 1B of the Annex to the AETR, Requirements for construction, testing, installation, and inspection of the digital control device used in road transport” (NB. If replaced in paragraph 1(a), need to replace all other references to “Appendix 1B”);
- Expand the mandate of an Administrative Committee from “Appendix 1B” to “Appendices 1, 1B, 2 and 3”. (NB. If replaced in paragraph 1(a), need to replace all other references to “Appendix 1B with “Appendices 1, 1B, 2 and 3”);

(b) The Administrative Committee shall be composed of all the Contracting Parties to the Agreement.

Consider adding a sentence about participation in a consultative capacity. For example:

The Administrative Committee shall, in discharging its functions, use information from all relevant sources when the Committee deems it appropriate to do so.

Paragraph 2

The Administrative Committee shall be based in Geneva. Its sessions will normally be held in Geneva. The Committee may decide to hold sessions in other locations.

No changes

Paragraph 3

The Executive Secretary of the United Nations Economic Commission for Europe shall provide the Committee with appropriate secretariat services.

No changes

Paragraph 4

The Committee shall elect a Chair and two Vice-Chairs every two years.

Paragraph 5

The Secretary-General of the United Nations shall convene the Administrative Committee under the auspices of the United Nations Economic Commission for Europe once per year. Additional sessions may (will) be convened, if it is so needed, at the request of a minimum of five Contracting Parties.

Paragraph 6

(a) A quorum of not less than one-half plus one (+1) of the Contracting Parties shall be required to be present for the Administrative Committee to be able to adopt decisions.

(b) The Administrative Committee shall adopt decisions by at least 75 per cent majority vote of Contracting Parties present and voting.

Proposal to be discussed:

The Administrative Committee shall adopt decisions by majority vote of those Contracting Parties present and voting.

(c) Amendments to Appendix 1B of the present Convention adopted in accordance with paragraphs (a) and (b) above shall be communicated by the Secretary-General to all Parties for ratification, approval or acceptance.

(d) The amendment shall enter into force within six months from the date of notification of the Contracting Parties or within the period specified in the text of the amendment, but not less than six months from the date of notification of the Contracting Parties.

(e) For the purpose of taking decisions, each Contracting Party shall have one vote.

Still to be discussed

For the purpose of taking decisions, each Contracting Party shall have a vote. The representative of a regional integration organization Contracting Party to the Agreement may [will] deliver the votes of its constituent member States without their presence in the vote being necessary.

Paragraph 7

- (a) Any Contracting Party may propose amendments to Appendix 1B of the present Agreement.
- (b) Any amendment proposal shall be submitted to the secretariat of the United Nations Economic Commission for Europe, in writing, at least 90 days before the meeting of the Administrative Committee at which it is proposed for decision.
- (c) The text of any proposed amendment shall be communicated in the three ECE languages to all Contracting Parties at least 30 days before the meeting of the Administrative Committee at which it is proposed for decision.

Still to be discussed

Paragraph 8

If a proposal for the amendment of Appendix 1B to this Agreement, leads to the amendment of other articles or annexes of the Agreement, the amendments to the Appendix cannot enter into force before entry into force of amendments relating to other parts of the Agreement. If, in such a case, the amendments to Appendix 1B are presented simultaneously with the amendments relating to other parts of the Agreement, the date of their entry into force shall be determined by the date established pursuant to application of procedures, which are described in general in Article 21, taking into account the date specified in the amendment to Appendix 1B, in the case envisaged by paragraph 7 of this article.

It appears that the Group of Experts does not wish to delete paragraphs 6(c) and 6(d) above. However, if paragraphs 6(c) and 6(d) above are deleted, the above version of paragraph 8 is to be replaced by the following version.

If a proposal for the amendment of Appendix 1B to this Agreement, leads to the amendment of other articles or annexes of the Agreement, the amendments to the Appendix cannot enter into force before entry into force of amendments relating to other parts of the Agreement. If, in such a case, the amendments to Appendix 1B are presented simultaneously with the amendments relating to other parts of the Agreement, the date of their entry into force shall be determined by the date established pursuant to application of procedures, which are described in general in Article 21.

Paragraph 9

The amendment of Article 22bis shall enter into force once at least one regional integration organization has become a Contracting Party to the Agreement.

Still to be discussed