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Economic Commission for Europe**Inland Transport Committee****Working Party on Customs Questions affecting Transport****126th session**

Geneva, 28 September – 1 October 2010

Item 5 of the provisional agenda

**International Convention to Facilitate the Crossing of Frontiers
for Passengers and Baggage carried by Rail, of 10 January 1952****Amendment procedure****Note by the secretariat¹***Summary*

The present document contains draft proposals for an additional protocol to the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952, introducing provisions to amend the said Convention.

I. Mandate and background

1. At its 125th session the Working Party on Customs Questions affecting Transport (WP.30) recalled the deliberations at its 117th, 118th and 119th sessions, when it discussed consolidated proposals by the Organization for Cooperation between Railways (OSJD) and the Intergovernmental Organisation for International Carriage by Rail (OTIF) for a new International Convention to Facilitate the Crossing of Frontiers in International Railway Passenger Transport, as well as the relationship between these new proposals and the existing International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail of 1952. Furthermore, the Working Party recalled the absence of specific amendment provisions in the 1952 Convention and the proposal by the secretariat

¹ The present document has been submitted after the official document deadline due to resource constraints.

that the introduction of a standard amendment clause could be done by means of an additional protocol, which must be signed by all Parties to the Convention (ECE/TRANS/WP.30/248, para. 15).

2. WP.30 discussed document ECE/TRANS/WP.30/2010/9, prepared by the secretariat, containing proposals for an additional protocol to the 1952 Convention which would introduce provisions to amend the said Convention. The Working Party agreed to the proposed text with the exception of the so-called "opt-out" clause, allowing any Party opposing an amendment, to not be bound by it upon its entry into force, as this could create different legal regimes under a single treaty. WP.30 requested the secretariat to submit the text of the draft protocol as an official document in the three official United Nations Economic Commission for Europe (UNECE) languages for discussion and, possibly, endorsement at its next session. Some delegations expressed their reservations with regard to the time-consuming procedure required to bring the 1952 Convention in line with modern-day railway requirements and stressed the need to include, in the future, Russian as one of the Convention's authentic languages.

3. In line with above request, this document contains in Annex proposals for an additional protocol to the 1952 Convention, introducing provisions to amend the said Convention.

Annex

Protocol amending the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail of 10 January 1952

The Contracting Parties to the Convention,

Noting that the Convention does not contain provisions regarding its amendment,

Recalling that Article 39 of the Vienna Convention on the Law of Treaties provides that a treaty may be amended by agreement between the Parties,

Desiring to amend the Convention to include procedures for its amendment,

HEREBY AGREE as follows

Article 1

Amendment of the Convention

1. Without prejudice to its Article 16, the text of the Convention may be amended by the procedure specified in this Article.
2. Amendments may be proposed by any Party.
3. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations, who shall communicate the text thereof to all Parties for acceptance.
4. The amendment shall be deemed to be adopted and shall come into force nine (9) months from the date of the communication provided for in the preceding paragraph, unless before expiry of a period of six (6) months following that notification, at least one-third of the countries which are Party to the Convention have notified the Secretary-General of the United Nations of their objection to the amendment. For purposes of its determination, the one-third percentage shall be calculated based upon the number of countries which are Party to the Convention at the time that the Secretary-General communicates the proposed amendment to the Parties for acceptance.

Article 2

Final clauses

1. The Secretary-General of the United Nations shall notify all Parties of the text of this Protocol. If within a period of six (6) months from the notification by the Secretary-General, no Party to the Convention objects to it, the Protocol will be considered accepted and will enter into force automatically for all Parties.
2. If a country deposits an instrument of ratification or accession with respect to the Convention while the procedures laid down in paragraph 1 of the present Article are in progress, no additional time shall be provided to that country to object to the Protocol. The Protocol will enter into force for such country six (6) months after the date of the notification of the Protocol by the Secretary-General, but not before the Convention enters into force for such country, in which case the Protocol will enter into force for that country on the same date as the Convention.
3. Following the entry into force of this Protocol, any country that deposits an instrument of ratification or accession to the Convention shall also be automatically bound

by this Protocol. The Protocol shall enter into force for such a country on the same date as the Convention.

4. The provisions of this Protocol and the Convention shall be interpreted and applied together as a single instrument.

5. This Protocol shall be deposited with the Secretary-General of the United Nations as depositary of the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail of 10 January 1952.

Done in Geneva this _____ date _____ of _____ year _____ ,

in a single original in the English and French languages, each text being equally authentic.
