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IMPLEMENTATION OF THE AETR AGREEMENT

**Note by the secretariat concerning the situation of amendments to the AETR
relating to the introduction of the digital tachograph**

I. Reminder of the background

The Working Party on Road Transport at its ninety-fourth session approved in principle the amendments to the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport (AETR) proposed by the representatives of France and the European Commission with a view to introducing the digital tachograph into the Agreement (TRANS/SC.1/2000/16). These amendments concerned the body of the Agreement itself as well as its Annex and its Appendices. The Working Party considered, however, that their final adoption could not take place until the voluminous technical Annex 1B defining the technical specifications for the new digital tachograph, which is in the process of being finalized at European Community level, had been published officially (in the various Community languages) in the Official Journal of the European Communities.

The Working Party further considered that a check was required in order to adapt the text of the Annex as far as was necessary to the context of the AETR. It therefore decided to convene an informal meeting in the spring of 2001 (TRANS/SC.1/367, para. 32), composed of a few volunteers from non-EU Contracting Parties to the AETR and representatives of the

European Commission, to review the contents of Annex 1B and propose the necessary amendments for its incorporation into the AETR. It may be recalled that the text of the draft Annex 1B may be consulted at the following Internet address, by clicking on "library": "<http://forum.europa.eu.int/Public/irc/tren/digtacho/library>"

The small informal group, composed of representatives of Romania, Switzerland, the European Commission and the secretariat, met on 3 May 2001 at the Palais des Nations, Geneva, and reviewed the entire Annex 1B (approximately 250 pages).

II. Results of the meeting

The small group noted that the incorporation of Annex 1B into the AETR (when it would become Appendix 1B) would require:

- (1) At the formal level, replacement of the following terms or acronyms (in their English version) each time they are mentioned (this occurs very frequently):

Member States	by	Contracting Parties
MS	by	CP
Annex	by	Appendix
Appendix	by	Sub-appendix
Regulation	by	Agreement
Community	by	AETR

- (2) Replacement, when the equivalent exists in United Nations regulations, of references to Community Directives or Regulations by references concerning UN/ECE, or, in the absence of these, an indicative reference to the Community texts;
- (3) Modification of some wording to adapt it to the AETR context (cf. for example, page 31 of the main body of Annex 1B and paragraph 181 in particular);
- (4) Deletion of provisions concerning the Community context only (cf. for example, page 29 of the main body where the titles of the various cards which will be used appear in the European Union's 12 official languages);
- (5) Deletion of the transitional provisions which will be obsolete when the amendments to the AETR come into force (cf. in particular, paragraphs 291 to 295 of the main body).

III. Solutions proposed

The small group also considered the various possible solutions for incorporating Annex 1B into the AETR by weighing up the advantages and disadvantages of each, bearing in

mind that Annex 1B is composed of a main body and 11 appendices. The European Commission (DG TREN) has since then sent the secretariat a document setting out two possible solutions contained in document TRANS/SC.1/2001/1/Add.1 (in English only). The solutions are the following:

- (a) **The first solution** (cf. solution 1 of document TRANS/SC.1/2001/1/Add.1) consists in taking the Community version of Annex 1B as it stands and prefacing it with an introduction which, in summary form and by means of cross-references, brings out the points for which an adaptation is necessary.

Advantages: Since Annex 1B is required to develop rapidly and substantively over the years, the reference to the Community text appears to be the simplest and most practical solution given the volume of the Annex. In case of need, only the introduction would have to be amended. The AETR would thus develop in practical terms at the same speed as the Community Regulations.

Disadvantages: It would be the responsibility of the Contracting Parties to make the necessary adaptations by means of references to the introduction.

Remarks by the secretariat: This solution, supported by the European Commission, has undeniable advantages and would be the most efficient and the safest in that no substantive amendment could be made to the content of Annex 1B.

- (b) **The second solution** (cf. solution 2 of document TRANS/SC.1/2001/1/Add.1) consists of integrating into the text of the future Appendix 1B all the amendments required to be in keeping with the context of the AETR.

Advantages: Appendix 1B would be easier to read.

Disadvantages: The procedure for modifying this Appendix would be cumbersome to manage and could lead to delays which it would be difficult to reconcile with taking into account technological progress at the Community level.

- (c) **The third solution**, which is a variant on solutions 1 and 2 combined, consists in including the detailed list of amendments of solution 2 as the introductory document to the Community text (solution 1).

Advantages: This would enable the Contracting Parties to locate precisely the amendments to be taken into account, and to preserve the flexibility of solution 1.

Disadvantages: The same as for solution 1. Furthermore, given the very detailed nature of the introduction, any amendment to this list will involve creating a more weighty procedure and may in the long term make the text more complicated to read.

- (d) **Solution 4**, which is another variant on solutions 1 and 2 combined, consists in drawing a distinction between the main body and the Appendices to Annex 1B. Thus, the main body, which is less technical than the Appendices, may be included in full with the incorporation of the necessary amendments (solution 2). The Appendices for their part would be prefaced by a general introduction along the lines of solution 1.

Advantages: The aspects of greatest importance for the Contracting Parties would be easy to read.

Disadvantages: This version would require the introduction of a two-tier amendments procedure, depending on whether the amendments concerned the main body or the Appendices to Annex 1B; this would mean a more weighty general procedure which could become complex when an amendment concerning one part has repercussions for the other.

Comments by the secretariat: Whatever the solution the SC.1 Working Party adopts, the secretariat considers that it will be necessary to introduce a new provision (article 22 bis?) into the AETR Agreement itself so as to define a trimmer special procedure for incorporating the amendments which will be made to Annex 1B without going through prior formal adoption by the SC.1 Working Party as currently required by article 22 of the AETR.

In the context of solution 1, this procedure could, for example, consist in making it mandatory for the secretariat to inform the Contracting Parties of any amendment published in the Official Journal of the European Communities; this information could be associated with a relatively short period following which the amendment would automatically enter into force within the AETR. In addition, in order to make it easier to consult the voluminous Annex 1B (Appendix 1B of the AETR), the secretariat considers that, independently of the implementation of the official procedure, it would be useful also to have a consolidated reference version in UN/ECE's three official languages - which would not, however, be legally binding - to include all amendments in order to take account of the context of the AETR. Approaches of this type already exist in other fields, particularly that of dangerous goods.

IV. Future stages

Since there have been delays in the final adoption of Annex 1B and a fortiori its publication at the Community level, the SC.1 Working Party will only have before it at its ninety-fifth session a provisional version of the text drafted in April 2001. A hard copy of the document, in English and French, as transmitted by the European Commission, will be made available to delegations as an informal document at the SC.1 meeting. It is obvious that these delays have a direct impact on the work of SC.1 which will not be able, as it had anticipated at its last session, to adopt the full set of amendments necessary for the introduction of the digital tachograph into the AETR.

Aside from this Community level delay, SC.1 needs to consider the follow-up to be given to the work of the small group and therefore decide on the most appropriate solution to be implemented for incorporating Annex 1B in the AETR. Whatever the solution adopted, it should take the form of the submission of a formal proposal, along with a proposal to amend the AETR for the introduction of an amendment procedure, bearing in mind the specific nature of Annex 1B.

As a result, the SC.1 Working Party will only be able to proceed to the overall adoption of the amendments at its ninety-sixth session. The secretariat intends to take advantage of this further delay to submit a finalized document, taking into account all the amendments which either have already been adopted in principle by SC.1, or which will be adopted by SC.1 at its October 2001 session. Depending on the decisions which SC.1 will take concerning Annex 1B it is possible that a further small informal meeting will be necessary in order to make a final review of the amendments as a whole.
