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**INLAND TRANSPORT COMMITTEE**

Working Party on Road Traffic Safety

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Item 6 of the provisional agenda

**OTHER BUSINESS**

Sleeping coaches in international traffic

Note by the secretariat

1. This document is a follow-up to the preliminary discussions on this item held at the 53<sup>rd</sup> session of WP.1 (see ECE/TRANS/WP.1/113, para. 41).
2. Members of WP.1 will find below the position of the secretariat and the Legal Group of WP.1 concerning the problem of sleeping coaches in international traffic.

At the 52<sup>nd</sup> session of WP.1 (July 2-6, 2007), the Secretary of WP.29 presented an informal document concerning safety on board coaches with sleeping berths. WP.1 was asked if the Vienna Convention on Road Traffic or the European Agreement supplementing it contained provisions which could apply to these coaches enabling Contracting Parties to allow or refuse, at the international level, their use or the carriage of passengers in a lying position.

The WP.1, while reserving its position on the “safety” aspects of these coaches, specified that there is no provision in the Vienna Convention of 1968 or in the European Agreement supplementing it prohibiting or authorising the presence of sleeping berths on board coaches or the carriage of passengers in a lying position. However, WP.1 did not come to a conclusion about the legal consequences related to the absence of such a provision regarding the possibility of admitting or not admitting these coaches in international traffic.

In order to facilitate the consideration of this question, WP.1 requested the Legal Group (Luxemburg, Norway (chairman), Russian Federation, IMMA and the secretariat) to consider the informal paper prepared by the secretariat for the 53<sup>rd</sup> session and to give its opinion on the relevant provisions of the Vienna Convention and the European Agreement supplementing it which could apply in this regard. The relevant provisions are the following:

- (a) Article 3, paragraph 1 (a)(ii) of the Vienna Convention states that the Contracting Parties may include rules not contained in Chapter II (Rules of the road) of the Convention provided that the said rules are in no way incompatible with the provisions of this Chapter. (*The opinion of the Legal Group is that national authorities have the possibility to formulate provisions regulating the use of sleeping berths in coaches which are not in conflict with the provisions of Chapter II*).
- (b) In accordance with Article 3, paragraph 3, Contracting Parties shall accept on their territory vehicles which fulfil the technical conditions defined in Annex 5 of the Convention. (*Opinion of the secretariat shared by the other members of the Legal Group: as Annex 5 does not contain any direct or indirect provision that could apply to coaches equipped with sleeping berths, these vehicles should be accepted in international traffic provided they are in conformity with the requirements of Annex 5*).
- (c) In accordance with paragraph 2 a) of Article 3 of the Convention, Contracting Parties may adopt rules not contained in Annex 5 provided these rules are in no way contrary to the safety principles governing the provisions of this Annex. (*Opinion of the secretariat shared by the other members of the Legal Group: under the terms of this provision, countries may authorise equipment such as sleeping berths on board coaches given that this equipment is not contrary to any provision mentioned in Annex 5*).
- (d) Article 3, paragraph 8, of the Convention states that “each Contracting Party may make the admission to its territory, in international traffic, of motor vehicles... and of their drivers and their occupants, subject to its regulations concerning the commercial carriage of passengers...”. (*Opinion of the secretariat: the regulation of the commercial carriage of*

*passengers generally tackles questions other than those related to road traffic or road safety. However, nothing prevents a Contracting Party from introducing in a regulation concerning the commercial carriage of passengers conditions touching on the rules of road traffic. For example, it could be possible to specify that the long distance carriage of passengers must be always carried out in a sitting position. This would prohibit the use of sleeping berths even if there was no prohibition at the technical level. The Legal Group questions the relevance of this provision somewhat, since a ban on sleeping berths is a matter of road traffic, even if it affects commercial carriage of passengers).*

- (e) Article 7, paragraph 5 states that “the wearing of safety belts is compulsory for drivers and passengers of motor vehicles, occupying seats equipped with such belts, save where exceptions are granted by domestic legislation.” *(The opinion of the Legal Group is that this provision implies that a ban on the use of sleeping berths would in no way be incompatible with chapter II of the Convention).*
- (f) In accordance with paragraph 1 of Annex 5 of the Convention, any Contracting Party may, with respect to motor vehicles which it registers and to trailers which it allows on the road under its domestic legislation, lay down rules which supplement, or are stricter than, the provisions of Annex 5. All vehicles in international traffic must meet the technical requirements in force in their country of registration when they first entered into service. *(Opinion of the secretariat shared by the other members of the Legal Group: pursuant to this provision, a coach equipped with sleeping berths, approved as such and registered in a country, must be admitted in international traffic. This analysis is confirmed by the provision of Article 3, paragraph 3: “they (the Contracting Parties) shall also be bound to recognize registration certificates issued in accordance with the provisions of Chapter III as prima facie evidence that the vehicles to which they refer fulfil the conditions laid down in the said Chapter III”).*
- (g) Annex 1, paragraph 3 of the Convention enables Contracting Parties to refuse to admit to their territory in international traffic in particular articulated vehicles used for passenger transport, insofar as the use of such combinations is prohibited by their domestic legislation. *(Opinion of the secretariat shared by the other members of the Legal Group: pursuant to this provision, coaches with sleeping berths can only be prohibited at the international level if they are articulated.)*
- (h) In accordance with Annex 1, paragraph 4, Contracting Parties may refuse to admit to their territories in international traffic motor vehicles and trailers which benefit from the exemptions specified in paragraph 60 of Annex 5 of the Convention. *(Opinion of the secretariat shared by the other members of the Legal Group: Insofar as Annex 5 does not contain any provision that applies to coaches with sleeping berths, the provision of paragraph 4 cannot be used to prohibit the international traffic of such coaches because they cannot be exempted from a provision which does not exist).*

In conclusion, based on the provisions of the Vienna Convention on Road Traffic mentioned above, the Legal Group considers that:

1. from a technical point of view, there is no provision that opposes both the equipment of buses with sleeping berths and their admission in international traffic;
2. Contracting Parties are free to ban the use of sleeping berths when in motion;
3. before the admission of these coaches to international traffic, competent authorities should be assured of the safety of passengers, both as concerns sitting and lying down.

However, the Legal Group considers that the technical aspects of sleeping berths should be dealt with by WP.29.

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