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Conference of the Contracting Parties to
the 1957 European Agreement Concerning
the International Carriage of Dangerous
Goods by Road (ADR)

REPORT OF THE CONFERENCE ON ITS FIRST SESSION
(Geneva, 28 October 1993)

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1. The Conference of the Contracting Parties to the 1957 European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) was held at Geneva on 28 October, 1993 pursuant to Article 13 of the Agreement, at the request of the Government of France (Depositary Notification CN.158.1993.TREATIES-2 of 1 June 1992), with the consent of the Governments of Austria, Belgium, Finland, Netherlands, Slovakia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland (Depositary Notification CN.358.1993.TREATIES-3 of 7 October 1993) and Portugal (consent received by the Depositary on 7 October 1993).

2. All the Contracting Parties to the Agreement, the States members of the Economic Commission for Europe and the States admitted to the Commission in consultative status, in accordance with paragraph 8 of the terms of reference of the Commission, were invited to take part in the Conference. The following States accepted the invitation and took part in the Conference: Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Norway, Portugal, Slovakia, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland.

3. The Conference was opened by Mr. Y. Berthelot, Executive Secretary of the Economic Commission for Europe.

4. The secretariat of the Economic Commission for Europe acted as secretariat for the Conference.

ORGANIZATIONAL MATTERS

Election of officers

5. The Conference elected Mr. G. Kafka (Austria) Chairman and Mr. J. Franco (Portugal) Vice-Chairman.

Rules of procedure

6. In view of the fact that the Conference was being convened in the context of the fifty-third session of the Working Party on the Transport of Dangerous Goods of the Inland Transport Committee of the Economic Commission for Europe, the Chairman proposed that the Rules of Procedure of the Economic Commission for Europe should apply to the Conference. He further proposed that, pursuant to Article 9, Paragraph 2, of the Vienna Convention on the Law of Treaties of 23 May 1969, which stated that: "The adoption of the text of a treaty of an international conference takes place by the vote of two thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule", Rule 35 of the Rules of Procedure of the Economic Commission for Europe should be replaced by the following provisions:

"(a) Decisions of the Conference on all matters of substance, including the adoption of a protocol to amend ADR shall be taken by a two-thirds majority of the Contracting Parties present and voting.

(b) Decisions of the Conference on all matters of procedure shall be taken by a majority of the Contracting Parties present and voting.

(c) If the question arises whether a matter is one of procedure or of substance should arise, it shall be decided by the Conference by a majority of the Contracting Parties present and voting.

(d) If a vote is equally divided, the proposal or motion shall be regarded as rejected."

7. The Chairman's proposal was adopted.

CREDENTIALS

8. In accordance with Rule 12 of the Rules of Procedure, the Chairman and the Vice-Chairman examined the credentials.

9. Formal credentials were received from the following Contracting Parties:

Denmark, Finland, France, Luxembourg, Netherlands, Portugal, Sweden, and the United Kingdom.

10. Information concerning the appointment of their representatives to the Conference was communicated to the Executive Secretary of the Economic Commission for Europe by means of a facsimile communication from the Head of State or Government or the Minister for Foreign Affairs; by means of a letter or note verbale from the department of the Contracting Party dealing with transport matters or from the Permanent Mission concerned, by the following Contracting Parties: Austria, Belgium, Czech Republic, Germany, Greece, Hungary, Italy, Norway, Slovakia and Spain. At the proposal of the Chairman, the Conference accepted those provisional credentials on the understanding that formal credentials for the representatives of the Contracting Parties which had not yet sent them would be communicated to the Executive Secretary as soon as possible.

Adoption of the agenda

11. The Conference adopted the agenda prepared by the secretariat (TRANS/WP.15/CD/1), on the understanding that the Final Act would be replaced by a report prepared by the secretariat for adoption by the Conference and signed by the Chairman.

CONSIDERATION AND ADOPTION OF A PROTOCOL AMENDING ADR

Document: TRANS/WP.15/CD/2

12. This document contained a proposal by the Government of France to amend Article 14 (1) of the Agreement in order to reduce the period for the notification of amendments to Annexes A and B of the Agreement, by allowing the Secretary-General to propose for formal adoption, according to the

Article 14 procedure, draft amendments prepared by the Working Party on the Transport of Dangerous Goods of the Inland Transport Committee of the United Nations Economic Commission for Europe. That procedure would enable Contracting Parties which, under their constitutions, are required to ensure the translation of the texts of such amendments into languages other than English and French, to more easily carry out such translations.

13. The proposal by the Government of France was unanimously adopted.

Document: TRANS/WP.15/CD/5

14. This document reflected a suggestion by the representative of Germany to afford, in the case of amendments proposed by the Secretary-General and according to the new adopted procedure (see paragraphs 12 and 13 above), the same possibility as for the existing procedure of allowing a period of more than three months between the time an amendment was considered to have been adopted and its entry into force. This possibility is particularly important in the context of multimodal transport in order to ensure the simultaneous entry into force or implementation of identical or parallel amendments to each of the instruments or recommendations concerning a specific mode of transport [(European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR); Regulations concerning the International Carriage of Dangerous Goods by Rail (RID); International Maritime Dangerous Goods Code (IMDG Code); Technical Instructions for the Safe Transport of Dangerous Goods by Air; European Provisions concerning the International Carriage of Dangerous Goods by Inland Waterway (ADN)].

15. An amendment to Article 14, paragraph (3) (b), corresponding to that suggestion and proposed in the document, was unanimously adopted.

Document: TRANS/WP.15/CD/3

16. This document contained a proposal by the Government of Austria for an amendment of the definition of "vehicle" in Article 1 (a) of the Agreement. The proposal called for the replacement of the reference to Article 4 of the Convention on Road Traffic of 19 September 1949, which had been superseded, by a full definition corresponding to that used in Directive 92/53/EEC of the Council of the European Communities of 18 June 1992 amending Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers, published in the Official Journal of the European Communities, No. L225, of 10 August 1992.

17. The representative of Germany said that, although recognizing that the current definition was no longer appropriate, he would have preferred another solution such as a possible reference to the definition in the 1968 Convention on Road Traffic. However, he was prepared to accept the Austrian proposal.

18. The representative of Austria pointed out that the 1968 Convention was under revision and that, although it seemed unlikely that the definition of the term "vehicle" would be changed, it might be placed in a new article, which would entail a further amendment to ADR in order to change the reference.

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19. Regarding the question of the difference between a complete and incomplete vehicle, the representative of Luxembourg explained that an incomplete vehicle was a vehicle which had to undergo at least one more stage of construction before it satisfied the technical requirements for approval. A complete vehicle was a vehicle which had completed the multi-stage approval process and had met all approval requirements.

20. The Conference decided that the definition in Directive 92/53/EEC was satisfactory and that it was unnecessary for the time being to extend it to other vehicles. That possibility could be considered, in which case it would have to be presented in a separate proposal.

21. The Working Party on the Transport of Dangerous Goods was also invited to consider inserting a definition of a "complete" or "incomplete" vehicle in Annexes A and B to the Agreement.

22. The proposal by the Government of Austria was unanimously adopted.

Document: TRANS/WP.15/CD/4

23. This document contained two alternatives, A and B, for a draft protocol amending ADR. According to alternative A, Contracting Parties could express

their consent to be bound by the Protocol by several means: signature; deposition of the instrument of ratification, acceptance or approval; or deposition of the instrument of accession. According to alternative B, they could express their consent by deposition of an instrument of acceptance only.

24. A number of delegations suggested that the protocol should enter into force as soon as two-thirds of the Contracting Parties had deposited their instruments of acceptance. The Conference was, however, of the view that for entry into force such a provision would in practice create a two-tier system, one for the Agreement as amended and one for the unamended Agreement, which would merely complicate the situation, particularly insofar as the procedure for amending the annexes was concerned.

25. The Conference adopted the Protocol (see Annex to this report) as contained in alternative A. The Protocol will enter into force one month after the date on which all the Contracting Parties to the ADR have signed it without reservation of ratification, acceptance or approval, or have deposited their instruments of ratification, acceptance, approval or accession, as the case may be.

ADOPTION OF THE REPORT

26. The Conference unanimously adopted the report .

SIGNATURE OF FINAL INSTRUMENTS

27. The report was signed by the Chairman of the Conference and replaces the Final Act.

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28. The Protocol amending Articles 1 (a), 14 (1) and 14 (3) (b) of ADR was signed on 28 October by the duly authorized representatives of the following Governments:

Denmark, France, Greece (subject to ratification), Luxembourg (subject to approval and ratification), Netherlands (subject to acceptance), Norway.

29. The Protocol is open for signature at Geneva in the office of the Executive Secretary of the Economic Commission for Europe until 31 January 1994.

30. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Annex

PROTOCOL AMENDING ARTICLE 1 (a), ARTICLE 14 (1) AND
ARTICLE 14 (3) (b) OF THE EUROPEAN AGREEMENT OF
30 SEPTEMBER 1957 CONCERNING THE INTERNATIONAL CARRIAGE
OF DANGEROUS GOODS BY ROAD (ADR)

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), done at Geneva on 30 September 1957 (hereafter referred to as "the Agreement"), relating to the definition of the term "vehicle" in article 1 (a) and the procedure for the amendment of the annexes to the Agreement, notably the provision of article 14 (1) of the Agreement;

NOTING in respect of the procedure for amendment of the Annexes that the Contracting Parties to the Agreement have been experiencing difficulties in implementing, within the time limits provided for by article 14 (3) of the Agreement, those internal measures that are required for the purpose of putting the amendments into effect;

NOTING FURTHER the views of the Working Party on the Transport of Dangerous Goods of the Inland Transport Committee of the United Nations Economic Commission for Europe and the proposals from the Governments of Austria and France to amend the Agreement;

AGREE as follows:

Article 1

Amendment to Article 1 (a) of the Agreement

Article 1 (a) of the Agreement shall be amended to read as follows:

"(a) The term "vehicle" shall mean any motor vehicle, other than a vehicle belonging to or under the orders of the armed forces of a Contracting Party, intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails and of agricultural and forestry tractors and all mobile machinery".

Article 2

Amendment to article 14 (1) of the Agreement

Article 14, paragraph (1) of the Agreement shall be amended to read as follows:

"1. Independently of the revision procedure provided for in article 13, any Contracting Party may propose one or more amendments to the Annexes to this Agreement. To that end it shall transmit the text thereof to the Secretary-General of the United Nations. The Secretary-General may also propose amendments to the Annexes to this Agreement for the purpose of ensuring concordance between those Annexes and other international agreements concerning the carriage of dangerous goods.

In addition, he may propose amendments to the Annexes to this Agreement which have been adopted by the Working Party on the Transport of Dangerous Goods of the Inland Transport Committee of the United Nations Economic Commission for Europe, at the request of the Working Party".

Article 3

Amendment to article 14 (3) of the Agreement

Article 14, paragraph (3) (b) of the Agreement shall be amended to read as follows:

"(b) The Contracting Party or, as may be the case, the Secretary-General, submitting the proposed amendment in accordance with paragraph 1 of this article may specify in the proposal, for the purpose of entry into force of the amendment, should it be accepted, a period of more than three months' duration".

Article 4

Signature, ratification, acceptance, approval or accession

1. The Contracting Parties to the Agreement may become Contracting Parties to this Protocol:

- (a) By signing it;
- (b) By depositing an instrument of ratification, acceptance or approval following signature subject to ratification, acceptance or approval;
- (c) by depositing an instrument of accession.

2. This Protocol shall be open for signature at the Office of the Executive Secretary of the Economic Commission for Europe, Geneva, from 28 October 1993 to 31 January 1994.

Article 5

Depositary

Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations.

Article 6

Entry into Force

This Protocol shall enter into force one month after the date on which all the Contracting Parties to the Agreement have signed it without reservation of ratification, acceptance or approval or have deposited their instruments of ratification, acceptance, approval or accession as the case may be.

Article 7

Any State which becomes a Party to the Agreement after the conditions of the entry into force of this Protocol according to Article 6 have been met shall be considered as a Contracting Party to the Agreement as amended by the Protocol.

Article 8

The original of this Protocol of which the English and French texts are equally authentic shall be deposited with the Secretary-General of the United Nations.
