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Inland Transport Committee

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

Report of the second meeting of the Conference of the Contracting Parties to the 1957 European Agreement Concerning the International Carriage of Dangerous Goods by Road

held in Geneva on 13 May 2019

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I. Participation

1. The second meeting of the Conference of the Parties to the 1957 European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) was held in Geneva on 13 May 2019, pursuant to Article 13 of the Agreement, at the request of the Government of Portugal (letter 2018/OES/395/TRANS of 12 October 2018, from the Executive Secretary of the Economic Commission for Europe), with the consent of the Governments of Azerbaijan, Belarus, Czech Republic, Finland, Georgia, Greece, Netherlands, Russian Federation, Serbia, Slovakia, Spain, Switzerland, Tunisia, Turkey and Ukraine.
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, Contracting Parties to the Agreement, accepted the invitation and took part in the Conference: Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Georgia, Germany, Hungary, Italy, Latvia, Luxembourg, Montenegro, Morocco, Netherlands, Nigeria, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom. Representatives of Myanmar and Vietnam (States non-Contracting Parties to the Agreement) attended the session in a consultative capacity.
3. The following intergovernmental organization was represented: Intergovernmental Organisation for International Carriage by Rail (OTIF).
4. The following non-governmental organization was represented: European Chemical Industry Council (CEFIC).

II. Opening of the Conference (agenda item 1)

5. The Conference was opened by Ms. Olga Algayerova, Executive Secretary of the Economic Commission for Europe.

III. Election of officers (agenda item 2)

6. The Conference elected Mr. Pfauvadel (France) as Chair and Mr. Simoni (Italy) and Mr. Oyeyemi (Nigeria) as vice-chairs.
7. The secretariat of the Economic Commission for Europe acted as the secretariat for the Conference.

IV. Credentials (agenda item 3)

8. The Chair and the vice-chairs examined the credentials submitted by Contracting Parties.
9. As of 13 May 2019, the following Contracting Parties had submitted credentials issued either by a Head of State or Government or by a Minister for Foreign Affairs: Denmark, Finland, France, Georgia, Germany, Italy, Latvia, Netherlands, Nigeria, Poland, Portugal, Romania, Russian Federation, Slovakia, Spain, Turkey and United Kingdom.
10. Information concerning the appointment of their representatives to the Conference of the Parties to ADR by means of a communication from the Head of State or Government or the Minister for Foreign Affairs, by means of a letter or note verbal from the Permanent Mission concerned, was received from the following States: Austria, Belgium, Bulgaria, Croatia, Hungary, Luxembourg, Montenegro, Morocco, Romania, Serbia, Sweden, Switzerland, Tunisia, Vietnam. The representative of Myanmar did not submit credentials.
11. The Conference approved the report of the Bureau, which verified that the credentials submitted by Contracting Parties were in good order.

12. At the proposal of the Chair, the Conference accepted the provisional credentials on the understanding that formal credentials for the representatives of the Contracting Parties which had not yet sent them, would be provided as soon as possible.

V. Adoption of the agenda (agenda item 4)

Document: ECE/TRANS/ADR/CONF/2019/1 and Add.1

13. The Conference adopted the agenda prepared by the secretariat.

VI. Rules of procedure (agenda item 5)

14. Pursuant to the precedent of the Conference of the Contracting Parties held on 28 October 1993, the Chair proposed that the same rules of procedure be applied to this Conference, i.e., that the rules of procedure of the Economic Commission for Europe (ECE) (E/ECE/778/Rev.5)¹ apply, with the replacement of rules 39 and 43 by the provisions in (a) to (d) below, pursuant to Article 9 paragraph 2 of the Vienna Convention on the Law of Treaties:

- “(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, 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.”

15. In accordance with the established practice in the United Nations, and for the purposes of these rules, the phrase "members present and voting" is understood as Contracting Parties casting an affirmative or negative vote. Contracting Parties which abstain from voting are considered as not voting.

16. The Conference adopted the proposal by the Chair.

VII. Consideration and adoption of a Protocol amending ADR (agenda item 6)

Documents: ECE/TRANS/ADR/CONF/2019/3
ECE/TRANS/ADR/CONF/2019/4

17. The Conference noted that the proposal to remove the word “European” from the title of the Agreement has been under consideration by the Inland Transport Committee (ITC) and the Working Party on the Transport of Dangerous Goods (WP.15) since 2009, and that the request to convene a Conference of the Parties had only been made when a consensus on its adoption had been reached.

18. Following an intervention from the representative of Austria, who indicated that in his opinion the conditions of paragraph 2 of article 13 of the Agreement had not been respected, it was pointed out that the proposal from Portugal was well known, as it had been under discussion for the last 10 years both at sessions of the Inland Transport Committee and of WP.15. It was noted that this procedure followed the recommendation in paragraph 3 of the Protocol of amendment of 1993.

19. In addition, it was also pointed out that during the 10 years during which WP.15 had been considering the possibility of amending the Agreement no formal indication or proposal

¹ http://www.unece.org/oes/nutshell/mandate_role.html

raising the need for an amendment to the Agreement, other than the one made by Portugal had been made, and on these grounds, it was understood that the Conference was organised with the sole purpose of considering the proposal from Portugal.

20. The Conference agreed with this interpretation and decided to consider the proposal for adoption during the session reiterating that, after having been under consideration by WP.15 and ITC for the last 10 years, it was well known and that it would not be justified to further delay or postpone its consideration.

21. The representative of Austria acknowledged that Article 6 of the Agreement already included the possibility for non-European countries to accede and that the change of the title was intended to be a promotion of the Agreement. However, following the expected increase in accession to the Agreement he indicated that, should the number of Contracting Parties continue to raise, it would become necessary to modify the rules for participation in the decision process for amendments to annexes A and B of ADR, for the final adoption of these amendments and for participation in the sessions of WP.15. The Conference invited the representative of Austria to consider discussing these matters within the framework of WP.15.

22. The representative of Turkey raised the point whether an approval from the Turkish parliament would be needed to allow the entry into force of the amendment in Turkey. It was confirmed that the conditions for the entry into force of amendments are not stipulated in the Agreement and that it is up to the Contracting Parties to establish the procedure of adoption. The non-objection procedure in the draft Protocol proposed to the Conference is in accordance with the principle of States to be bound.

23. After an exchange of views, the Conference adopted by consensus the proposal from Portugal in document ECE/TRANS/ADR/CONF/2019/3 and the related Protocol of amendment to the Agreement in document ECE/TRANS/ADR/CONF/2019/4, with a correction to a typographical mistake on the title of the Protocol (English version only) and an amendment to paragraph 3 of article 2. The Protocol of amendment as adopted by the Conference is reproduced in the annex to this report.

24. A member of the secretariat informed the Conference that this decision would be communicated to all Contracting Parties for acceptance, through a depositary notification. In the absence of any objection within the 6 months period following issuance of the depositary notification, the amendment would be deemed as accepted and would enter into force on 1 January 2021.

VIII. Other business (agenda item 7)

25. No discussion took place under this agenda item.

IX. Adoption of the report (agenda item 8)

26. The Conference adopted the report and its annex on the basis of a draft prepared by the secretariat.

Annex

[Original: English and French]

PROTOCOL AMENDING THE TITLE 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 article 6 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 eligibility of a country for accession to the agreement;

Noting that, in accordance with such article, the Agreement is open for accession not only to countries members of the Economic Commission for Europe and countries admitted to the Commission in consultative capacity under paragraph 8 of the Commission’s mandate, but also to countries members of the United Nations (not members of the Commission) that participate in the Commission’s work, in application of paragraph 11 of the Commission’s mandate;

Taking into account the General Assembly Resolution 72/271 of 12 April 2018 on Improving global road safety, reaffirming the role and importance of ADR as one of the main United Nations legal instruments contributing to road safety and encouraging Member States that have not yet done so to consider becoming contracting parties;

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 proposal from the Government of Portugal, that the mention “European” in the title of the agreement is not consistent with the conditions for the participation of non-European States stipulated on its article 6 and may represent an obstacle for accession to the agreement of States that are not members of the Commission;

Agree as follows,

ARTICLE 1

Amendment to the title of the Agreement

The title of the Agreement shall be amended to read “Agreement Concerning the International Carriage of Dangerous Goods by Road”. The acronym “ADR” remains unchanged.

ARTICLE 2

Entry into force

1. The amendment in Article 1 shall be deemed to be accepted provided that none of the Parties have given the Secretary-General written objection to it within six months from the date on which the Secretary-General circulates the adopted Protocol.
2. The Secretary-General shall notify all Parties as soon as possible whether an objection to the proposed amendment has been expressed within the six months following the date of notification. If an objection to the proposed amendment has been expressed during that period, the amendment shall be deemed not to have been accepted and shall be of no effect whatsoever.
3. If no such objection has been expressed during that period, the amendment shall enter into force for all Parties to the Agreement on 1 January 2021.
4. Any State that becomes a party to the ADR following the expiry of the six months period mentioned in paragraph 1 above but before the entry into force of this Protocol, shall become party to this Protocol upon its entry into force. Any State that becomes a party to the ADR after the entry into force of the Protocol shall be bound by the ADR, as amended by this Protocol.

ARTICLE 3

The original of this Protocol, which is authentic in English and French, shall be deposited with the depositary of the treaty.
