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INLAND TRANSPORT COMMITTEE

Working Party on Road Transport (SC.1)

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Item 6 (a) (ii) of the provisional agenda

ROAD TRANSPORT INFRASTRUCTURE

Consideration of proposal to amend the AGR

Note by the Netherlands and the secretariat

Introduction

The most recent amendments to Annex II (circulated by depositary notification C.N.198.2005.TREATIES-2) entered into force on 7 January 2006. Within the six-month period mentioned in Article 9.4 of the Agreement, the Netherlands notified the Secretary-General of its objection to the proposed amendments.

At the 20th session of the Ad hoc Meeting on the Implementation of the AGR, the question was raised whether Contracting Parties that notify the Secretary-General are bound by the amendment that they objected to, once the amendment enters into force.

Article 7.2 (c), relating to amendments to the main text of the Agreement, provides that amendments enter into force with respect to “all Contracting Parties except those which, before it comes into force, make a declaration that they do not accept the amendment”. Article 8.5 provides that amendments to Annex I will be accepted only if none of the Contracting Parties notify the Secretary-General of their objection to the amendment. If there is an objection, the amendment is not accepted. If accepted, however, the amendment enters into force for all Contracting Parties.

Article 9.5, relating to Annexes II and III, does not use the term “all Contracting Parties” with regard to the entry into force of an amendment. In response to a request for clarification on this issue, the New York UN Treaty Section stated that Article 9.5 was not clear on this issue. Article 9.5 does not unambiguously state that an amendment will not come into force for those States which made an objection.

The New York UN Treaty Section suggested that SC.1 might wish to consider amending the AGR to clarify this situation.

In the Agreement itself, two different possibilities to clarify this situation are present: Article 7.2 (c), and Article 8.5. The advantage of the first option is that an objection does not obstruct the acceptance and entry into force of an amendment. The drawback is that a record should be kept of the various objections in order to have a sound grasp of which amendment has entered into force for which Contracting Party.

The Ad hoc Meeting asked the Netherlands to prepare a proposal for consideration and possible adoption by SC.1 at its 100th session. The proposal is set out below.

Proposal to amend article 9 of the European Agreement on Main International Traffic Arteries (AGR)

Insert the text in bold in the fifth paragraph:

“Any amendment accepted shall be communicated by the Secretary-General to all Contracting Parties and shall come into force three months after the date of its communication **with respect to all Contracting Parties except those which, during the six-month period referred to in Article 9.4, make a declaration that they do not accept the amendment.**”
