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Economic Commission for Europe

Inland Transport Committee

Working Party on the Transport of Dangerous Goods

104th session

Geneva, 15-17 May 2018

Item 8 of the provisional agenda

Any other business

Revision procedure for the Title of ADR

Note by the secretariat*

1. At its 103rd session, the Working Party considered the proposal to delete the word “European” from the title of ADR.
2. It was noted that the word “European” in the current title of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) is not consistent with the conditions for the participation of non-European States in the ADR, as, in accordance with its article 6, the ADR is open to participation by States that are members of the Economic Commission for Europe and States admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference. The ADR is also open to such States as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's terms of reference by acceding to it after its entry into force.
3. There were no objections to the proposal. The Working Party requested the secretariat to once again consult the Office of Legal Affairs of the Secretariat of the United Nations about the procedure to follow and to present an updated version of document ECE/TRANS/2010/2 at the 104th session.
4. The secretariat consulted the Office of Legal Affairs accordingly. The Office of Legal Affairs confirmed the option already presented in ECE/TRANS/2010/2 and detailed below.
5. Article 13 of the ADR provides for a revision procedure for the purpose of modifying the text of the ADR. Such a procedure requires convening a conference of the parties at the

* In accordance with the draft programme of work of the Inland Transport Committee for 2018-2019, (ECE/TRANS/WP.15/237, annex V, (9.1)).

request of a Party following concurrence by not less than one-fourth of the parties. The text of Article 13 is reproduced below:

“Article 13

1. After this Agreement has been in force for three years, any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the text of the Agreement. The Secretary-General shall notify all Contracting Parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one-fourth of the Contracting Parties notify him of their concurrence with the request.
2. If a conference is convened in accordance with paragraph 1 of this article, the Secretary-General shall notify all the Contracting Parties and invite them to submit within a period of three months such proposals as they may wish the Conference to consider. The Secretary-General shall circulate to all Contracting Parties the provisional agenda for the conference, together with the texts of such proposals, at least three months before the date on which the conference is to meet.
3. The Secretary-General shall invite to any conference convened in accordance with this article all countries referred to in article 6, paragraph 1, and countries which have become Contracting Parties under article 6, paragraph 2.”
6. In the past, Parties to the ADR have adopted amendments to the text of ADR through the drafting of protocols of amendments (two protocols, one of them is not yet in force). As the conditions for the entry into force of amendments are not stipulated in the ADR, the Parties may decide to establish a non-objection acceptance method of entry into force. Because of the type of amendment and for the sake of clarity, it would be advisable to specify that the amendment, once in force, will bind all parties and that any State that becomes a Party after the conditions for the entry into force of the amendment have been met shall be considered as a Party to the Agreement as amended by the Protocol.
7. Should the Parties decide to go ahead with the amendment, the Office of Legal Affairs will be available to review the draft before adoption.
8. The secretariat would like to remind the Committee that there are currently 50 Parties to the ADR, as follows: Albania, Andorra, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine and United Kingdom of Great Britain and Northern Ireland.
9. The United Nations is promoting the Agreement as one of core legal instruments to help combat road safety crisis. A number of non-ECE States have expressed interest in acceding to the Agreement.
10. The Ministerial Resolution on Embracing the New Era for Sustainable Inland Transport and Mobility on 21 February 2017 set a vision to make the Inland Transport Committee as a regional and global centre for inland transport conventions.
11. Convening a review conference would first require a request to that effect by one Party, and then concurrence with that request by not less than one-fourth of the Parties (i.e. 13).

12. Considering the experience with the 1993 Protocol of amendment to ADR where the conditions of entry into force required the deposit of an instrument of definitive signature, or of ratification, acceptance or approval, or of accession by all Parties to the ADR, have not yet been met, a non-objection acceptance method of entry into force would indeed seem more efficient. Nevertheless, such a method may be envisaged only if there is sufficient evidence that not a single Party would have objection to this amendment.

13. At the 104th session of the Working Party, Contracting Parties to ADR may wish to consider whether they would agree in principle to convening such a dedicated conference, a special session during the Inland Transport Committee in February 2019 or a conference concurrently with the 106th session of the Working Party (May 2019).

14. The secretariat will prepare a draft text for the Protocol of amendment in the spirit of paragraph 6 above and in consultation with the Office of Legal Affairs. As a first step, this text will be circulated during the session for consideration with a view to convene a Conference of Parties.
