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Item 5 of the provisional agenda

International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail

Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail*

Transmitted by the Government of Turkey


In Annexes, the secretariat reproduces a letter (Annex I, English only) and comments (Annex II) on the Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail as transmitted by the Government of Turkey.

* The present document contains the text submitted to the secretariat, reproduced without any changes.

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Annex I

[English only]



REPUBLIC OF TURKEY
MINISTRY OF CUSTOMS AND TRADE
Directorate General for the EU and External Relations

Our Ref:31779692-730.99

Subject: New Draft Railway Convention

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Dear Mr. Li,

I would hereby extend you my warm appreciation and gratitude.

I am writing you in respect of the decisions of the 148. Session of the Working Party on Customs Questions affecting Transport meeting held between 6-9 February, 2018.

According to that meeting, please let me share the comments of Turkey attached with regard to the new draft Convention on the Facilitation of Border Crossing Procedures for Passengers, Luggage and Load-Luggage carried in International Traffic by Rail.

The Ministry of Customs and Trade of Turkey will be pleased to see the outcomes of the study conducted by all the stakeholders in this sense.

Please accept the assurances of my highest consideration.

Yours sincerely,

Hasan KÖSEOĞLU
Director General for the EU
and External Relations

Enclosure: Turkish Comments

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Annex II

Turkish comments with regard to the new draft Convention on the Facilitation of Border Crossing Procedures for Passengers, Luggage and Load-Luggage carried in International Traffic by Rail

1. On behalf of the Ministry of Customs and Trade of Turkey, we are pleased to see progress in the preparations of the new draft Convention concerning the 'Facilitation of Border Crossing Procedures for Passengers, Luggage and Load-Luggage carried in International Traffic by Rail' conducted under the aegis of the United Nations Economic Commission for Europe.

2. In this regard, we hereby share our willingness for a better environment in the railway transportation. Thus, we would like to thank all the stakeholders for their great endeavours during this lengthy study period.

3. Turkey welcomes the new draft and expresses its support for the initiative to conclude a new convention aimed at facilitating international traffic by rail.

4. Following a comprehensive analysis of the final text, Turkey would like to comment on some issues in relation to documents ECE/TRANS/WP.30/2018/6, ECE/TRANS/WP.30/2018/6/Corr.2 and ECE/TRANS/WP.30/2018/6/Rev.1:

(a) **Article 1 (m):** From the point of view of the Republic of Turkey, we are of the opinion that the text would be more meaningful and clear if the phrase "legislation of the relevant Party" would be replaced by the wording "legislation of the Parties".

This amendment is particularly proposed to help elucidating the text.

(b) **Article 4, a new paragraph:** In order to reflect the necessity of technical controls for means of transport, a new indent should be inserted under Article 4. This will pave the way for due implementation of the standardization process for controls.

"4. Technical controls for the conveyance shall be conducted duly in line with the bilateral or multilateral agreements."

(c) **Article 25, paragraph 1:** With a view to removing uncertainty in paragraph 1 of Article 25, it would be more beneficial to clearly state which are the other methods of reconciliation. As an alternative, the term "or by other means of settlement" could be deleted from the provision of the Article in question.

This will help to avoid any divergence in the interpretation of the text. Moreover, the existing ambiguity with regard to having recourse to the arbitration procedure defined in the relevant paragraphs will be more precise.

(d) **Article 27, paragraph 2 and onwards:** In Turkey, like many other States, international conventions become part of national legislation following their ratification by Parliament and publication in the Official Gazette.

The same procedure is also applicable to amendments to Conventions.

In this regard, we have certain hesitations as regards the amendment procedure and the transitional stage of the acceptance/entry into force of the draft Convention.

Since we are fully aware that the TIR Convention has been utilized for the preparation of certain provisions of the draft Convention, the new draft Convention does not require a mechanism to evaluate and accept the amendments, as is the case for the administrative bodies in the TIR Convention (such as the TIR Administrative

Committee (AC.2) or the Working Party on Customs Questions affecting Transport (WP. 30)).

5. As you may realize, there is a clear adoption and acceptance mechanism envisaged in the TIR Convention as well as an objection method. To prevent any problems that may rise in relation to the due implementation of the new Convention, two different proposals for paragraph 2 and onwards are formulated. By considering the first suggestion, we propose to add new paragraphs in the draft Convention by deleting the previously proposed ones.

“2. Amendments to this Convention shall enter into force for the States Parties ratifying or acceding to them three months after the deposit of the instruments of ratification or accession by two thirds of the States Parties. Such amendments shall not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

3. For each State Party ratifying or acceding to an amendment referred to in paragraph 2 after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force three months after the deposit of its instrument of ratification or accession.

4. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 2 shall, failing an expression of a different intention by that State:

- (a) be considered as a Party to this Convention as amended; and
- (b) be considered as a Party to the Convention as not amended, in relation to any State Party not bound by the amendment.

5. A State which becomes a Party to this Convention after an amendment has been accepted in accordance with the procedure in paragraph 2, but before it has entered into force, shall be deemed to apply to the Convention as not amended.”

6. By considering the second suggestion, we keep the proposed provisions and insert a new paragraph:

“5. If an objection to the proposed amendment has been communicated in accordance with paragraph 1 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.”

7. In that case, the existing paragraphs of 3 and 4 of the draft Convention may be deleted and thus may be replaced by the new paragraphs to be inserted as:

“3. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 2 shall, failing an expression of a different intention by that State:

- (a) be considered as a Party to this Convention as amended; and
- (b) be considered as a Party to the Convention as not amended, in relation to any State Party not bound by the amendment.

4. A State which becomes a Party to this Convention after an amendment has been accepted in accordance with the procedure in paragraph 2, but before it has entered into force, shall be deemed to apply to the Convention as not amended.”

8. We wish the Working Party to evaluate the proposals put forward by Turkey. We firmly believe that, establishing a well-functioning mechanism for railway transportation by contracting parties would be in the interest of all stakeholders.