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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

##### 150th session

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Item 5 of the provisional agenda

#### **Draft Convention on the Facilitation of Border Crossing Procedures for Passengers, Luggage and Load-Luggage carried in International Traffic by Rail**

### **Draft 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 Annex, the secretariat reproduces comments on the draft 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 comments should be read and understood in connection with document ECE/TRANS/WP.30/2018/19, also by the Government of Turkey.


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## Annex

1. We have evaluated your explanations/comments fully in depth.<sup>1</sup> In this vein, please let us share our own views to better express the Turkish clarifications:

2. **As regards Article 1 (m):** we are pleased with the new drafting which has a precise meaning. Therefore, this is just an editorial formulation.

3. **For Article 4:** inserting a new paragraph will be a more appropriate way to strengthen the existing text. As a matter of fact, the comments raised by the Russian Federation at the 149th session of WP.30 and the existing provisions relate to other kind of technical controls such as railway checkpoints rather than the technical control for the rolling stock and its adjacent bodies. Therefore, we consider it useful to cover a missing point for all the stakeholders by taking into consideration safety and security issues.

4. Moreover, it will not serve as a new provision but as a complementing part of the convention. Another dimension of the proposal is related to the bilateral and multilateral agreements among the States which will assist in facilitating the transport links between each other.

5. On the other hand, as you are well aware, the original Turkish proposal is: **"4. Technical controls for the conveyance shall be conducted duly in line with the bilateral or multilateral agreements."** but to obtain uniformity and compliance with the first three paragraphs of the text, the drafters may reformulate it as: **"4. The Parties shall conduct technical controls for the conveyance duly in line with bilateral or multilateral agreements."**

6. Besides, from the point of view of Turkey, specifically the Ministry of Transport, Maritime Affairs and Communications with its subsidiary bodies, we insist on the proposal to obtain a well functional and standardized process for the technical controls of the rolling stock. Therefore, this paragraph is not a duplication but a more comprehensive method for the application of the convention.

7. We would kindly refer this to you for further considerations.

8. **In line with the Article 25, paragraph 1:** It is better either to define/write all the common means of settlement including consultation, conciliation, mediation, good offices or panel procedures other than negotiation in the first paragraph or to simply delete the phrase *"or by other means of settlement."*

Thus, it is up to the drafters' own initiative to take a decision.

9. **Considerations of Article 27:** Since international agreements are mostly in charge of the Ministry of Foreign Affairs, they insist on the proposal to have a mechanism for a due implementation of the convention. As a matter of fact, we fully recognize the concerns of the UNECE secretariat to prevent a two-tier system for the State Parties. However, it is essential to protect the rights of non-participating countries against new amendments which may cause unforeseen results for them. Without approving, ratifying etc. an amendment, it is problematic being directly bound by it. Actually, the proposal by the Ministry of Foreign Affairs aims at addressing a missing part in the draft, which might become a bottleneck for future accessions or might jeopardize the implementation of the convention.

10. Therefore, to prevent discrepancy we would like to keep just one proposal which is indicated below:

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<sup>1</sup> Note by the secretariat: Reference is made to a statement by the delegation of the Russian Federation at the 149th session of the Working Party (see ECE/TRANS/WP.30/299, para. 40).

“1. Any Party may propose an amendment to the present Convention and submit it to the secretariat of the Convention. The secretariat of the Convention shall communicate any proposed amendments to the Parties with a request to be notified whether they favour a conference of Parties for the purpose of considering and deciding upon the proposals. If within four months from the date of such communication at least one third of the Parties favour such a conference, the secretariat of the Convention shall convene the conference under the auspices of the United Nations Economic Commission for Europe. Any amendment adopted by a majority of two thirds of the Parties present and voting shall be communicated by the Depositary to Parties for their acceptance.

**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.”**

11. Looking forward to your considerations.

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