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Item 9 (m) of the provisional agenda

**ISSUES THAT NEED CONSIDERATION AND REQUIRE DECISIONS
BY THE COMMITTEE**

Review of the most important issues related to the transport of dangerous goods

Note by the secretariat ^{*/}

1. At its seventy-first session, the Inland Transport Committee (ITC) noted the proposal by the Chairman of the Working Party on the Transport of Dangerous Goods to delete the word "European" from the title of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), in order to facilitate the accession by non-European countries, and requested the secretariat to consider how this could be legally achieved in the simplest and fastest way, e.g. through a tacit acceptance procedure (ECE/TRANS/206, para. 93).

2. When this request was brought to the attention of the Working Party on the Transport of Dangerous Goods at its eighty-sixth session, it was recalled that ADR was open to countries other than those of the United Nations Economic Commission for Europe (UNECE) and that its geographical scope had gradually been extended with the accession of UNECE member countries in Central Asia and the Caucasus, and of North African countries such as Morocco and Tunisia. The Working Party had on numerous occasions expressed its satisfaction with that gradual expansion. It noted that several other countries wished to accede to ADR but the word "European" in the title presented a diplomatic obstacle. The Working Party supported the

^{*/} In accordance with the programme of work of the Inland Transport Committee for 2006-2010 (ECE/TRANS/166/Add.1, programme activity 2.7(a)).

Chairman's proposal to remove that obstacle. The secretariat was therefore requested to determine with the Office of Legal Affairs an appropriate solution for amending the title as soon as possible (ECE/TRANS/WP.15/201, para. 15).

3. The secretariat consulted the Office of Legal Affairs accordingly. 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 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."
4. 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.
5. Should the Parties decide to go ahead with the amendment, the Office of Legal Affairs will be available to review the draft before adoption.
6. The secretariat would like to remind the Committee that there are currently 45 Parties to the ADR, as follows: Albania, Andorra, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania,

Luxembourg, Malta, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tunisia, Ukraine and United Kingdom of Great Britain and Northern Ireland

7. Therefore, 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. 12).

8. 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, and 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.

9. The secretariat suggests that the Committee should seek the views of its members which are Parties to the ADR during this forthcoming session. Should there be no objection in principle to convening such a conference, the secretariat could prepare a draft text for the Protocol of amendment, in consultation with the Office of Legal Affairs. This text, as a first step, could be considered by the Working Party on the Transport of Dangerous Goods at its eighty-eighth session (5-8 May 2010) and a conference could be organized during the eighty-ninth session (25-29 October 2010) subject to a request by a Party and concurrence by 12 other Parties before 30 June 2010.
