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Economic Commission for Europe

Administrative Committee for the TIR Convention, 1975

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Item 6 of the provisional agenda

Agreement between the United Nations Economic Commission for Europe and the International Road Transport Union

Comments by the European Union

In Annex, the secretariat reproduces a non-paper by the European Union on the agreements between UNECE and IRU.

Non paper

UNECE-IRU agreements

Comments by the European Union

ECE/TRANS/WP.30/AC.2/2019/24

AC.2 (February 2020), agenda item 6

The TIR Administrative Committee discussed in October 2019 the draft ECE/IRU agreement for the period 2020 – 2022. Time pressure was high and some contracting parties could not examine in detail the new draft and its considerable changes. Nevertheless, in order to avoid practical complications, the TIR Administrative Committee adopted the draft agreement so that it could be concluded in time before 15 November 2019 by the parties concerned, i.e. on the one hand the UNECE, mandated by and acting on behalf of the TIR Administrative Committee, and on the other hand the IRU.

This paper examines

- a) if the ECE-IRU agreement 2020 – 2022 needs adaptations, and
- b) whether suggestions should be made for the next agreement (2023 - 2025).

A) UNECE-IRU agreement 2020 – 2022

The new agreement as set out in paper ECE/TRANS/WP.30/AC.2/2019/24 settles a number of issues. It is clearer and more detailed and can be seen as a substantial improvement.

While some suggestions could be made, they seem minor and would not justify a new procedure leading to adaptations of the adopted and concluded agreement.

B) Suggestions for the subsequent UNECE-IRU agreement (2023 - 2025)

- 1)** The issue of the ‘authorisation of the international organisation’, the ‘adoption of the draft agreement by AC.2’ and the ‘conclusion of the agreement by UNECE and IRU’

Perhaps the distinction between the ‘authorisation of the international organisation’, the ‘adoption of the draft agreement by AC.2’ and the ‘conclusion by UNECE and IRU’ should be made clearer.

This could possibly be done by inserting on page 3, IX, sixth line a new sentence after ‘...and the requests of TIRExB:

The draft agreement shall be adopted by the TIR Administrative Committee before it is finally concluded by the parties concerned. The agreement shall be concluded by the UNECE Secretariat, mandated by and acting on behalf of the TIR Administrative Committee in line with Annex 9 Part III, paragraph 2, letter n.

Justification: We understand that the respective paragraph in the agreement comes from the Explanatory Note 0.6.2 bis-2.

However, for the next ECE-IRU agreement, the sequence of steps of the procedure to grant the authorisation, to adopt the draft agreement and the conclusion of the agreement by ECE- IRU could be clarified.

According to the provisions of Article 9 Part III para. n), the international organisation shall **“conclude (...), a written agreement with the United Nations Economic Commission for Europe secretariat, mandated and acting on behalf of the Administrative Committee (...)”**.

This provision implies that the UNECE, prior the conclusion of the agreement with IO, has received a mandate from AC.2. AC.2 can either give a mandate to UNECE without a text or give a mandate together with **a draft ECE-IRU agreement** adopted by AC.2.

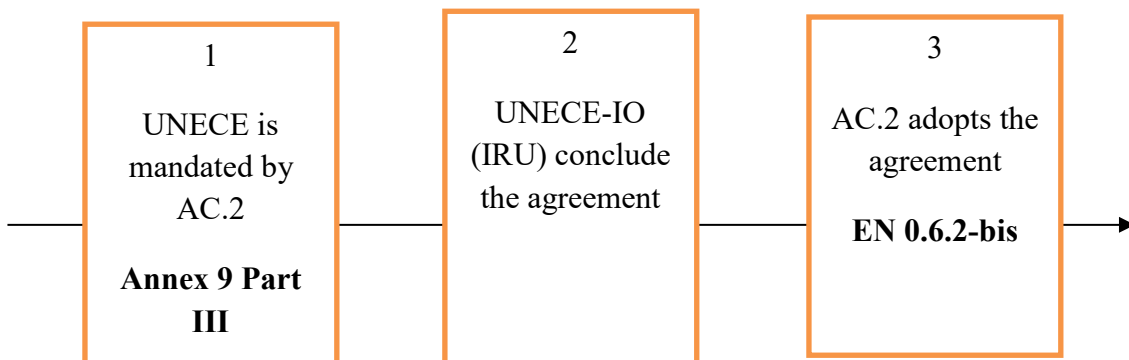
The problem could be caused by the following: the explanatory note 0.6.2 bis-2 stipulate that **“The agreement shall be adopted by the Administrative Committee”**.

Which seems to imply that, **in addition of the (facultative?) adoption of the draft ECE- IRU agreement** for the UNECE secretariat mandate, at the end of the process AC.2 should also formally **adopt** the concluded ECE-IRU agreement.

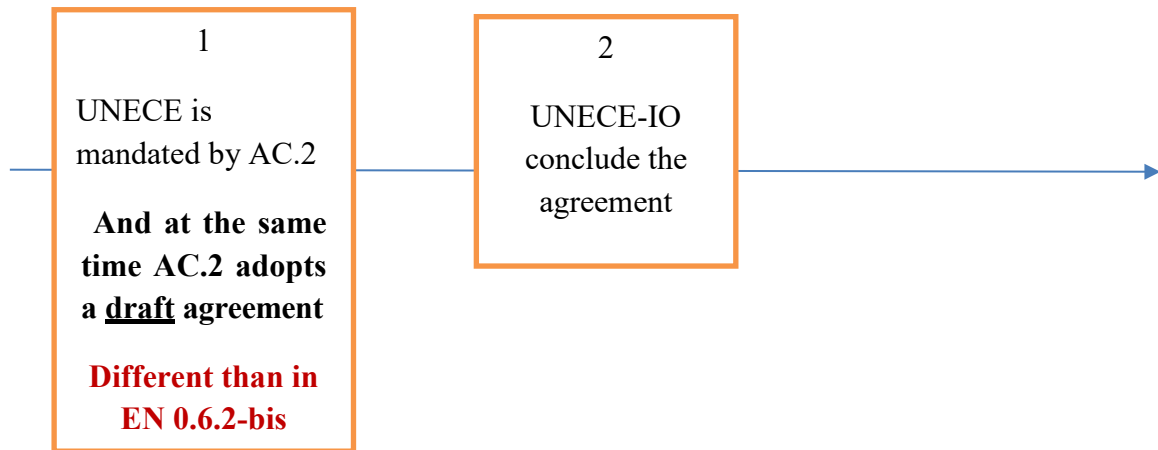
At the last AC.2 session (*ECE-TRANS-WP30-AC2-145e*, para. 57), the Committee (only) adopted **the new draft ECE-IRU agreement** for the period 2020-2022 (...) and mandated ECE and IRU to sign the **new agreement** (...) before 15 November 2019.

The conclusion to be drawn is that there seems to be a slight difference between the procedure described in Explanatory Note 0.6.2-bis (which stipulates **the adoption of the agreement by AC.2**) and the one currently applied, where AC.2 only adopts **a draft agreement** and gives a mandate that the agreement can be concluded.

One possible understanding of the TIR provisions:



The current practice:



- 2) Page 3, X Consider replacing the term ‘approved’ by ‘adopted’ in line with explanatory note 0.6.2 bis2.
- 3) **Handover clause: The written authorisation reflected in the concluded agreement could benefit from some sort of a handover clause**

On page 5, a handover clause could be inserted in a new paragraph 9.3

9.3 On the date of the written notice under the condition provided under paragraph 9.1, IRU shall ensure the proper hand over of its activities/services stipulated under this agreement to a new third Party (as approved by AC.2) during the notice period (six months).

1. Justification:

A handover clause would facilitate the change of international organization, if ever needed.

In IT contracts for specific services such a clause is often needed suppliers of services change regularly. Admittedly, the situation for the public private partnership concerning TIR is different as it has a history of decade-long collaboration.

Also, the provisions of Annex 9, Part III, paragraph 6, already stipulate that the authorization shall be without prejudice to that organization’s responsibilities and liabilities under the Convention. Annex 9, Part III, paragraph 6 seems to cover any ongoing duties of the international organization after the expiry of an agreement.

Nevertheless, a suitable handover clause could be elaborated.

4) Page 13, Annex III, Reporting requirements, 1st paragraph:

The audit report and management letter should be addressed to IRU, with copies of the report and of the management letter submitted directly and simultaneously to UNECE by the external auditor to avail the submission to AC.2.

2. Justification:

The UNECE's TIR secretariat shall distribute the audit report and management letter also to the TIR Administrative Committee, so that the latter has a complete picture of the situation.
