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Inland Transport Committee

Working Party on Road Transport

Group of Experts on European Agreement Concerning Work of Crews of Vehicles Engaged in International Road Transport (AETR)

Thirty-fifth session
Geneva, 31 May 2024

Report of the Group of Experts on the European Agreement concerning Work of Crews of Vehicles Engaged in International Road Transport on its thirty-fifth session

I. Attendance

1. The AETR Group of Experts held its thirty-fifth session in Geneva on 31 May 2024, chaired by Mr. Roman Symonenko (Ukraine).
2. Representatives of the following ECE member States participated, Belarus, France, Georgia, Kazakhstan, Russian Federation, Türkiye, and Ukraine.
3. The representative of the European Union and Union of Chambers and Commodity Exchanges of Türkiye were present.

II. Adoption of the Agenda (agenda item 1)

4. The Group of Experts adopted the session's agenda (ECE/TRANS/SC.1/GE.21/75) while revising the title of item 5 to "Analysis of implementation and extension of the MOU between the European Commission Services and the United Nations Economic Commission for Europe".
5. The UNECE Deputy Executive Secretary (DES) welcomed the experts and affirmed the importance of the AETR Agreement as well as the Group of Experts on AETR. DES noted his discussions with Contracting Parties to ensure expedited resolution of all outstanding AETR issues. He also affirmed support and commitment of the UNECE secretariat to facilitating dispute resolutions. He expressed hope that a sustainable solution to managing the AETR Agreement – to the satisfaction of all Contracting Parties – can be found soon.

III. Programme of Work (agenda item 2)

A. Development of proposals for amending the AETR Agreement, including Article 22bis

6. The Group of Experts was informed that neither the Russian Federation nor the European Union have changed their positions regarding ECE/TRANS/SC.1/GE.21/2021/2. The Group will be invited to continue discussing this topic at the next session.

B. Appendix 1C

7. The European Union informed the Group that it was still reviewing ECE/TRANS/SC.1/GE.21/2023/3 (the Russian Federation comments on ECE/TRANS/SC.1/GE.21/2018/1/Rev.1 i.e. Portugal's proposal on Appendix 1C). As a result, the Group did not discuss ECE/TRANS/SC.1/GE.21/2018/1/Rev.1. The Russian Federation reiterated its openness to holding discussions with the European Union through informal meetings in order to make progress in adapting the European Union specifications on the smart tachograph to the AETR legal framework (as Appendix 1C). The Chair invited all Contracting Parties to provide comments on ECE/TRANS/SC.1/GE.21/2018/1/Rev.1 to the European Union.

C. Amendment proposal to Article 4, paragraph 2

8. Belarus and the Russian Federation recalled ECE/TRANS/SC.1/GE.21/2023/4 which proposes to amend Article 4 to facilitate the application of the AETR Agreement in the “force majeure” situations. The European Union reiterated its firm opposition to the proposal as it would fundamentally weaken enforcement – and thus effectiveness - of the AETR Agreement. The Chair drew attention to the fact that this discussion already took place at the previous session and Ukraine supported the EU position.

9. As requested, the secretariat provided some observations on legal aspects of “force majeure” situations in the context of contract law. The secretariat referred to the United Nations Convention on Contracts for the International Sale of Goods which in article 79 stipulates:

“(1) A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it, or its consequences.”

10. The secretariat noted that the key attributes (e.g., beyond control, unexpected, unavoidable) of claiming relief in force majeure situations were provided in this article. Similarly, in other countries the key features of “force majeure” situations were those which were extraordinary, unforeseeable, external, and insurmountable/unavoidable. It was noted that “force majeure” events – in cases of disagreement - were typically established and validated by courts.

11. The secretariat suggested that consideration can be given to revising ECE/TRANS/SC.1/GE.21/2023/4 by including some of these “force majeure” characteristics.

12. Belarus and the Russian Federation reiterated the need to address in general the “force majeure” situations hindering the implementation of the AETR Agreement.

13. The secretariat was requested to prepare an informal document elaborating the “characteristics” of “force majeure” situations for the next session.

IV. Application of Regulation (EC) No. 561/2006 in the “AETR area”(agenda item 3)

14. The Group discussed the importance of this agenda item and decided it should remain.

V. TACHOnet (agenda item 4)

15. The European Union did not submit a revised version of ECE/TRANS/SC.1/GE.21/2019/1/Rev.3 (a proposal to introduce a new Appendix 4 on exchange of information). The Group will be invited to discuss the revised document (ECE/TRANS/SC.1/GE.21/2019/1/Rev.4) if, and when, submitted.

VI. Analysis of implementation and extension of the Memorandum of Understanding between European Commission Services and United Nations Economic Commission for Europe (agenda item 5)

16. The secretariat informed the Group that the current administrative arrangement is expiring on 31 May 2024. Given this, the secretariat already began discussions with the European Commission Services on a further extension of MoU via an administrative arrangement which is expected to be valid until 31 December 2024. The discussions are ongoing and include, among others, a proposal that UNECE could act as an intermediary in the process of certification of national keys, similar to that proposed by the Russian Federation. Contracting Parties will be informed as soon as this administrative arrangement is signed.

17. On the basis of the established practice and terms of reference of the Group, Belarus requested that the administrative arrangement which was signed by the secretariat and the European Commission Services in November 2023 is made public.

18. Concerning the request by Belarus to have the signed administrative arrangement for the period 15 November 2023 to 31 May 2024 made available on the UNECE website, the European Commission Services confirmed the information provided by the secretariat. In principle, there were no objections on publishing the signed administrative arrangement, still internal clearance is pending.

19. A representative of the Russian Federation noted that despite the signing of the Administrative Arrangement, the MoU still does not work and the Joint Research Centre does not fulfil its obligations. He also noted the discriminatory policy towards the Russian Federation and the inefficiency of the MoU. He informed about the letter of the Director-General for Mobility and Transport of the European Commission of 11 March 2024 with a confirmation of the inability of the European Commission services to fulfil requests for tachograph key certification for the Russian Federation without explaining the reasons.

20. The Russian Federation asked the European Commission about the reasons for non-fulfilment of its obligations.

21. Belarus and the Russian Federation do not support the extension of the MoU without its revision, providing for the fulfilment of the MOU commitments by the European Commission Services.

VII. Terms of reference and procedures for the Group of Experts on AETR (agenda item 6)

22. Belarus made a number of informal, oral proposals concerning harmonization of the working methods by the Group with the rules of procedure of the UNECE bodies in general,

including SC.1, the secretariat elaborated on the UNECE procedures needed to affect these changes. The Group exchanged views on this topic.

VIII. Other Business (agenda item 7)

23. The Group of Experts took note of the Russian Federation's proposal to introduce a new agenda item at the next session on the "Establishment of multiple root certification and interoperability centres". The secretariat was requested to include this item for discussion at the next session.

24. Türkiye recalled informal document No. 2 (October 2023) on establishing multiple root certification and interoperability certification centres and reported that no comments from other experts were received. Türkiye expressed its willingness to contribute to further developing the report in order to work towards establishing multiple certification centres.

25. The secretariat was also requested to include an agenda item related to a possible extension of the Group's mandate until June 2027.

26. The Group exchanged views on production of digital tachographs and "smart" tachographs in the near future.

27. Belarus requested that the secretariat provide links to the documents referred to in the session's agenda.

IX. Date and Place of Next Meeting (agenda item 8)

28. The next meeting is scheduled for 28 October 2024 at Palais des Nations in Geneva. The deadline for submitting working documents is 5 August 2024.

X. Adoption of the Report (agenda item 9)

29. The Group of Experts adopted the report of this session.
