

## RECOMMENDATION

### FRAMEWORK FOR BILATERAL AGREEMENTS IN ROAD TRANSPORT

[CEMT/CM(97)21 - CM(97)21/ADD1]

#### COVER NOTE

One of the main conclusions of the seminar organised by the ECMT in Paris on 16-17 March 1995 on the integration of central and eastern operators in European transport markets was that markets in Europe, particularly road transport markets, were highly fragmented for various reasons. Although there was a certain degree of standardisation and approximation of transport law in the European Union, ECMT Member countries still had a variety of different interpretations and approaches.

This situation was not without serious problems both for operators and the authorities, problems that tended to worsen with growing trade and tourism.

The experts are therefore highly in favour of moving away from the current system of numerous bilateral agreements towards multilateralism, common standards and qualitative criteria instead of quantitative restrictions.

In the shift towards multilateralism, which has been under way for a very long time now, the institutionalisation of relations has assumed considerable importance over the traditional "relational" approach.

Pending further moves in this direction, the system of bilateral agreements between European countries continues to be the main means of regulating transport relations in general and road transport relations in particular. This applies especially to non-Members of the European Union or the European Economic Area and to relations between EU/EEA States, on the one hand and the so-called third countries, the Central and Eastern European countries, on the other hand.

The Central and Eastern European States have signed either association, co-operation or partnership agreements with the European Union, committing them to bring their legislation into line with Community law and making provisions for subsequent either sector agreements, or transit agreements to tackle the most pressing matters first -- and the European Commission has just obtained another mandate from the Council to negotiate a transit agreement. However, it is already apparent that a universal, multilateral system embracing all European countries will not be set up overnight but will be a long-term project.

Bilateral agreements will thus continue to play a large role -- and for a while to come yet -- in moulding and shaping European road transport relations.

This prompted the ECMT seminar participants to propose, in their conclusions, an attempt to harmonise bilateral agreements as far as possible by offering ECMT Member countries a model agreement containing definitions, rules, principles, standards and criteria, based primarily on ECMT resolutions and European Union law.

A model agreement such as this, *which would obviously be optional*, would nevertheless play a key role in approximating the international law formed by bilateral agreements. The process of developing autonomous national law in the newly-created states may even benefit discussions and work on the formulation of common definitions and concepts.

At its meeting in Vienna on 7-8 June 1995, the ECMT Council of Ministers took up the seminar's suggestion, adopting a resolution on access to the European transport markets which recommended, inter alia, that "since bilateral arrangements will continue to exist in road transport -- at least among the Central and Eastern European countries -- principles for bilateral agreements should be drawn up, taking account of European Union competencies, and harmonisation through common rules included in future bilateral agreements be speeded up".

The Committee of Deputies proposes therefore that Ministers adopt the following Draft Recommendation presenting a Model agreement and a commentary on it.

## RECOMMENDATION

The Council of Ministers of the ECMT, meeting in Berlin on 21 and 22 April 1997;

**HAVING REGARD** to the Consolidated Resolution on Road Goods Transport adopted on 26 and 27 May 1994;

**HAVING REGARD** to the Resolution on International Passenger Transport by Buses and Coaches adopted on 7 and 8 June 1995;

**HAVING REGARD** to the Resolution on Access to the European Transport Markets adopted on 7 and 8 June 1995;

**HAVING REGARD** in particular to the recommendation in the latter Resolution to draw up principles for bilateral agreements -- taking account of European Union competencies -- and to speed up harmonisation through common rules included in future bilateral agreements;

**CONSIDERING** that the implementation of this recommendation must be seen against the background of the conclusions of the Pan-European Transport Conference of 14-16 March 1994 recommending the application of social market economy principles, free and fair competition and mutual advantage;

**CONSIDERING** also that implementation implies adopting standards, criteria and definitions which, in accordance with the conclusions of the Crete Conference, are compatible and consistent with the patrimony of the European Union and the European Economic Area and with the results of the harmonisation efforts of the European Conference of Ministers of Transport and the United Nations Economic Commission for Europe;

**CONSIDERING** further that the European Association Agreements between the European Union and the Central and Eastern European States commit the Associated States to seeking to approximate their laws to bring them progressively into line with Community law in the fields of competition, technical standards and regulations, transport and the environment, inter alia;

**CONSIDERING** that the Co-operation Agreements also accord importance to collaboration in the transport field;

**CONSIDERING** that the resolutions, conclusions and principles adopted by the UN, Pan-European Conferences and the ECMT should be incorporated into the binding law governing relations between European States, either by concluding or amending multilateral and bilateral agreements or by amending national law;

**CONSIDERING** that bilateral agreements are an important source of international law;

**CONSIDERING** that the adoption of an optional model agreement for negotiations to conclude bilateral agreements and amend existing agreements, without prejudice to the modifications and deletions required to take into account the powers and jurisdiction of the European Union, is likely to achieve, if not standardisation, at least approximation of the law in the field of bilateral agreements;

**CONSIDERING** that the compilation of a list of bilateral law and the mutual exchange of information by Member countries could also contribute to achieving the desired result;

**RECOMMENDS** that ECMT Member countries:

- adopt the model agreement appended hereto as a possible frame of reference for bilateral agreements on road transport;

**INSTRUCTS** the Committee of Deputies to monitor application of the present Recommendation and to take all necessary steps to compile a list of the law governing bilateral relations between Member countries with a view to achieving a very high degree of approximation and consistency in this field. A coordinated action with ECE/UN which collects on a regular basis the text of agreements signed and the date of entry into force, would be required for this purpose (cf. document TRANS/SC1/R.187).

## **EXPLANATORY NOTE ON THE MODEL AGREEMENT**

### **General considerations**

International law contains no principle that guarantees foreign transport operators the freedom of transport on national territories. A non-resident transport operator is not permitted to carry out any transport services on a State's territory without the agreement of the competent authorities of that State.

As international economic and trade relations grew, the authorities therefore needed to agree a framework of rules for resolving the problems posed in their trade and relations.

Hence the conclusion of numerous bilateral agreements that were virtually all different.

Bilateral interstate agreements, supplemented by agreements and arrangements at subordinate or business levels, are one of the most importance sources of law in the field of international road transport.

Although multilateral agreements have either replaced or supplemented bilateral agreements in specific sectors, and although co-operation relations between States have, especially since the Second World War, largely been institutionalised through the gathering momentum of historical change, there is still a need for bilateral agreements, even between European Union Member States. However, in these latter relations, a large part of the substance of bilateral agreements has been absorbed into community law.

As a result of the political and economic upheavals which have occurred in Europe since 1989, the breaking up of whole states reforming into different independent states and the intensification or restoration of relations between East and West, there is a need for collaboration founded on bilateral and multilateral agreements. The purpose of such agreements is to pave the way for positive and harmonious development of economic relations and, hence, transport.

These agreements should also aim towards the protection of the environment and of the population. In this respect emphasis should be made on the promotion of high technical standards for the vehicles and of environmental friendly transport modes.

Furthermore, the intermodal aspect should be stressed. Provisions to cover this aspect should be added to the frame attached, whenever possible and according to the specificities of the contracting parties.

The principle underlying the agreements needs to be that of the equality and sovereignty of States, established in the Charter of the United Nations, along with mutual advantage and interest.

## **Foreword**

The preamble to the draft model agreement is based on the above ideas, amongst others.

The contracting parties are taken as being the governments in the proposed model, but there is nothing to prevent States from entering into the agreement at another level if that is customary and if another approach is necessary or desirable due to constitutional or statutory provisions and the power structure.

## **General provisions**

All road transport relations are included in the model's scope, even though liberalisation initially only applies to some relations.

The main advantage of a model agreement lies in promoting common and standard concepts. ECMT Member countries are still entirely free to enter into separate agreements for goods and for passengers, if this seems to be a better course of action, or to enter into agreements limited in scope to some fields only because they have transferred some powers to international bodies. Hence European Union Member States can no longer enter into bilateral commitments in fields which come under Community jurisdiction, whether an agreement has already been signed at this level, or a mandate issued.

The definitions pose particular difficulty. There are currently as many different definitions as there are bilateral agreements. Definitions often vary according to the purpose and scope of the document.

The definitions have generally been taken from previous ECMT Resolutions and from Community law. Anything intended more to define scope rather than clarify the concept has been omitted.

## **Passenger transport**

The passenger transport section of the model agreement broadly reflects the current degree of liberalisation -- achieved through bilateral agreements and the ASOR -- and uses the same wording in parts as Regulation (EEC) n°684/92. With regard to shuttle services, it is proposed to class some as regular services and some as occasional services in line with European Union initiatives to reform Regulation n° 684/92. This also has the virtue of simplification.

It is fitting to include so-called hired vehicles in this chapter, that is vehicles holding less than 10 seats. The area of small vehicles is not yet part of European Union regulations.

## **Goods transport**

This part is mainly based on the ECMT Consolidated Resolution on Road Goods Transport adopted at Annecy on 26 and 27 May 1994.

There were no reservations on the Consolidated Resolution and so the degree of liberalisation proposed in Article 7 is effectively just implementing the commitments made by the Ministers of Transport at Annecy.

Rather than burdening the agreement with detail on permits and the conditions and practicalities of their issue, it was thought better to leave that to the joint committee, which will include ad hoc provisions in a possible implementation protocol. Indeed, if the agreement has to be approved by the national parliaments, which will be the case in many countries, its subsequent modification on non-substantive points of detail may pose problems. It is also proposed to make the agreement a living document to a certain extent and this would be impossible if the contracting parties were not left a degree of room to manoeuvre.

## **Common provisions**

In addition to the usual provisions found in bilateral agreements, this section introduces the principle of a link between the degree of liberalisation and compliance with minimum safety and environmental standards. This concern has been expressed on numerous occasions by the Ministers of Transport, including in the Vienna Resolution of 7 and 8 June 1995 on international passenger transport by buses and coaches.

It will be the responsibility of the joint committee to handle quota introduction and increases and the responsibility of the competent authorities to make passenger transport permits dependent on environmental criteria which could be applied gradually and, if necessary, asymmetrically to allow for the fact that certain countries are lagging behind in this area.

## **Final provisions**

The final provisions concern entry into force and length of the Agreement, repeal of lapsed agreements, ratification, etc. These primarily formal provisions will be drafted in the light of the legal and statutory framework of the two contracting parties.

## **Adoption of the model agreement<sup>1</sup>**

It is proposed to adopt the model agreement by a Recommendation of the ECMT Council of Ministers recommending that Member countries use this text when negotiating future bilateral agreements and amending existing agreements in order to achieve a certain standard approach and to approximate the law in European countries. Mutual information may also play a part in the approximation process. Hence the proposal that the ECMT establish a list of Member countries' bilateral agreements that is open to everyone.

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<sup>1</sup> A Declaration of Austria is reproduced in Annex.

# **DRAFT MODEL BILATERAL AGREEMENT BETWEEN ECMT MEMBER COUNTRIES ON ROAD TRANSPORT**

## **Agreement**

between the Government of

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\_\_\_\_\_ and the Government of

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\_\_\_\_\_ on Road Passenger and Goods Transport.

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The Government of

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and the Government of

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Anxious to contribute to the development of trade and economic relations between their countries;

Determined to promote collaboration in road transport within the framework of the market economy;

Concerned about environment and people protection, the rational use of energy, road safety and the improvement of drivers' working conditions;

Aiming towards the development of transport intermodality;

Taking into account the resolutions and principles adopted within the framework of the United Nations Economic Commission for Europe, the European Conference of Ministers of Transport (ECMT), the Pan-European Conferences and agreements between the European Union and third countries;

Recognising the mutual advantage and interest of an agreement on road transport;

Has agreed and decided as follows:

## **Part I. - General provisions**

### **Article 1. - [Scope]**

[1] The present agreement applies to road transport by transport operators established on the territory of a Contracting Party by means of vehicles registered on that territory with the points of departure and destination in the said territory and involving transit through that territory and through the territory of the other Contracting Party.

[2] The present Agreement does not affect the rights and obligations arising from the other international commitments of the two parties, nor does it affect European Union law or the agreements between the European Union and non-Member States.

### **Article 2. - [Definitions]**

In this Agreement:

*"Transport Operator"* means any natural person, any legal person, any association or group of persons without legal personality, or any official body whether having its own legal personality or being dependent upon an authority having such personality

- profit-making or not
- authorised by the competent authority to transport passengers or goods by road internationally:

- a] exercising the occupation of operator engaged in the activity of transport, as governed by specific national legislation regulating access to the occupation of transport operator;
- b] exercising the occupation of operator on own account engaged in the activity of transport as an ancillary activity to the activities of its enterprise or association.

*"Vehicle"* means a motor vehicle:

- on its own or a combination of vehicles;
- intended for the carriage of passengers or goods by road,
- at the disposal of the transport operator through being its own property or through a hiring or leasing contract.

*"Registration"* means the allocation of an identification number to the vehicle by a competent authority. In the case of a combination of vehicles, the motor vehicle is the determining factor in permit issue or exemption, even if the carrier vehicle is not registered under the same name or is registered or authorised to operate in another country.

*"Transport"* means the runs by a vehicle, either laden or unladen even if the vehicle, trailer or semi-trailer is carried by train or boat for part of the journey.

*"Cabotage"* means the transport operations on the territory of the Contracting Party, the host country, with the loading and unloading points being located on that territory, of a transport operator established on the territory of the other Contracting Party. The unladen runs of a vehicle within a territory between two international transport operations and the initial or terminal national legs of an international combined transport operation are not considered to be cabotage.

*"Transport on own account"* means transport:

- using vehicles owned by the operator or which it has hired under a long-term contract or leased and which are driven by employees of the enterprise of a member of the association;
- which is only an ancillary activity in the context of all the other activities of the enterprise or association;
- either of goods which are the property of the enterprise or association or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the undertaking, the purpose of the transport being to carry the goods to or from the enterprise or to move them for its own requirements;
- or of employees of the enterprise or members of a non profit-making association for whom the transport is part of its social or welfare activities.

*"Combined transport"* means the transport of goods whereby the lorry, trailer, semi-trailer, swap body or container, with or without tractor, use the road for the initial or terminal leg of the journey, which is as short as possible, and travel by rail, waterway or sea for the major part of the journey.

*"Territory of a Contracting Party"* means respectively the territory of \_\_\_\_\_ and the territory of \_\_\_\_\_

*"Country of establishment"* means the territory of a Contracting Party within which the transport operator is established and the vehicle registered.

"Host country" means the territory of a Contracting Party in which the vehicle is operating without being registered there and without the transport operator being established there.

"Bus" and "Coach" mean vehicles which are purpose built and designed for the transport of persons which has, in addition to the driver's seat, more than eight sitting places.

"Hire car" means a vehicle which is built and designed to carry up to nine people and their luggage, including the driver, and is used for paid transport for account of a third party.

"Regular passenger service" means a service which carries passengers over a specified route, according to a timetable and for which set fares are charged. Passengers are picked up or set down at predetermined stopping points and the service is accessible to everyone notwithstanding, in some cases, the need to book.

The term "regular passenger service" also includes a service that fulfils most of the above criteria and which operates as such.

In particular, it includes a service which carries specified categories of passengers to the exclusion of other passengers. This service is called a "special regular service". The service as a regular service is not affected by the fact that the transport is organised to suit the varying needs of the users.

"Shuttle service" means a service whereby, by means of repeated outward and return journeys, previously formed groups of passengers are carried from a single place of departure to a single destination. Each group, consisting of the passengers who made the outward journey, is carried back to the place of departure on a later journey. Place of departure and destination respectively mean the place where the journey begins and the place where the journey ends, together with, in each case, the surrounding locality within a 50 km radius.

The first return journey and the last outward journey in a series of shuttles are made unladen.

The service as a shuttle service is not affected by the fact that some passengers make the return journey with another group, nor by the fact that the first outward journey and the last return journey are made unladen. This type of shuttle service is called "reversed shuttle".

A shuttle service which provides accommodation for at least 80 per cent of passengers at its destination and, if need be, on the journey, with or without meals, is called a "shuttle with accommodation".

"Occasional service" means a service falling neither within the definition of a regular passenger service nor within the definition of a shuttle service. The frequency or number of services does not affect their classification as an occasional service.

"Control document" means the waybill for buses and coaches, conforming to the specimen laid down in ECMT Resolutions and, where so provided for by this Agreement or the conclusions of the joint committee referred to in Article 14, the technical environmental and safety report referred to in the same Resolutions.

## **Part II - Passenger transport**

### **Article 3. - [Regular and similar services]**

[1] Regular services and shuttle services without accommodation operated by bus or coach and by hire vehicle are subject to a system of permits issued by the competent authority in the country of departure, destination or transit.

[2] The permit application should be made to the competent authority in the country of establishment of the transport operator. If the authority approves the application, the permit is communicated to the competent authority of the other Contracting Party.

The joint committee set up under Article 14 hereof decides on the form that the permit application takes and the supporting documents required.

[3] Permits are issued by joint agreement by the competent authorities of the Contracting Parties. The joint committee set up under Article 14 may decide that the permit issued by the country of establishment is also valid as a transit permit and determine the terms and conditions of this liberalisation.

The decision to grant or refuse a permit is taken within a period of three months unless there are special circumstances.

Permits are valid for a maximum of five years. They set out the operating conditions, including environmental and safety standards, which vehicles must meet.

[4] Changes in operating conditions and the cancellation of the service are decided under the procedure set out in paragraphs [2] and [3].

If there is no longer any demand for the service, the operator can cancel it giving three weeks notice to the competent authorities which issued the permit and to customers.

[5] If a service is being operated on a pool or sub-contracted basis, only one permit is issued to the lead firm but with as many copies as there are operators. The permit mentions the names of the pool members and sub-contractors.

#### **Article 4 - [Occasional or similar services]**

[1] The occasional services and the shuttle services with accommodation operated by bus or coach and by hire vehicle are subject to a system of permits issued by the competent authority in the country of departure, destination or transit.

[2] As an exception to paragraph [1], the services listed below are exempt from any permit system on the territory of the host country:

**2.1** closed-door tours whereby the same vehicle is used to carry the same group of passengers throughout the journey and to bring them back to the place of departure;

**2.2** services which make the outward journey laden and the return journey unladen;

**2.3** services which make the outward journey unladen and the return journey laden, provided that passengers:

**a]** constitute a group formed under a contract of carriage entered into before their arrival in the territory of the Contracting Party where they picked up and carried to the territory of the country of establishment;

- b] have been previously brought by the same carrier into the territory of the Contracting Party where they are picked up again and carried into the territory of the country of establishment;
- c] have been invited to travel into the territory of the country of establishment, the cost of transport being borne by the person issuing the invitation.

**2.4 Services on own account.**

**2.5 Transport in hire vehicles.**

A single passenger travelling in a hire vehicle is considered the same as a group of passengers.

- [3] The picking up of passengers on a liberalised service journey is not permitted unless special authorisation is granted.

The joint committee set up under Article 14 hereof may extend the permit exemption to other categories of occasional services, in particular to services where passengers are picked up on the journey and to other cat. C sub 2.3 services. In such a case, the joint committee lays down the conditions for that liberalisation, having regard inter alia to Article 11 para. 3.

- [4] The permit application should be made to the competent authority in the host country.

The joint committee set up under Article 14 hereof decides on the form that the permit application takes and the supporting documents required.

The decision to grant or refuse a permit is taken within a period of one month unless there are special circumstances.

- [5] The occasional services and shuttles with accommodation exempted from permit requirements and operated using buses or coaches must be covered by a control document. The conditions of use and the content of the control document are laid down by the joint committee referred to in Article 14 hereof.

#### **Article 5 - [Provisions common to passenger services]**

- [1] Transport permits are personal and are not transferable to other transport operators.

- [2] The running of cabotage services is prohibited. Local trips organised solely for a group of passengers brought to that location by the same transport operator are not deemed to be cabotage services provided that they are entered on the waybill.

### **Part III - Goods transport**

#### **Article 6 -[Permit system]**

- [1] Transport operators established on the territory of a Contracting Party may, under the system of prior authorisation by permit, undertake on the territory of the other Contracting Party:

- a] transport between the territories of the two Contracting Parties;

- b] transport between a point on the territory of the other Contracting Party and a point on the territory of a third State, providing that the journey includes the country of establishment<sup>2</sup>. This restriction does not apply to unladen runs;
- c] transit transport.

[2] Cabotage is only permitted with the special authorisation of the host country.

#### **Article 7 - [Exemption from permit requirements]**

[1] As an exception to Article 6, the following categories of transport are exempted from permit requirements:

- 1] Transport by vehicles whose Total Permissible Laden Weight [TPLW], including trailers, does not exceed 6 tonnes, or when the permitted payload, including trailers, does not exceed 3.5 tonnes.
- 2] Transport on an occasional basis, to or from airports, in cases where services are diverted.
- 3] Transport of vehicles which are damaged or have broken down and the transport of breakdown repair vehicles.
- 4] Unladen runs by a goods vehicle sent to replace a vehicle which has broken down in another country, and also the return run, after repair, of the vehicle that had broken down.
- 5] Transport of livestock in special purpose-built or permanently converted vehicles for the transport of livestock, and are recognised as such by the competent authorities in the country of establishment.
- 6] Transport of spare parts and provisions for ocean-going ships and aircraft.
- 7] Transport of medical supplies and equipment needed for emergencies, more particularly in response to natural disasters and humanitarian needs.
- 8] Transport of works and objects of art for fairs and exhibitions or for non-commercial purposes.
- 9] Transport for non-commercial purposes of properties, accessories and animals to or from theatrical, musical, film, sports or circus performances, fairs or fetes, and those intended for radio recordings, or for film or television production.
- 10] Transport on own account.
- 11] Funeral transport.
- 12] The initial and terminal legs -- international and national --, by road of combined transport, providing, respectively, that the appropriate freight loading and unloading station closest to the point of loading or unloading of the freight is used or that the river

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<sup>2</sup> In some cases -- peripheral countries, small territories -- this restriction virtually equates to a prohibition. In that case, a separate quota is preferable, without the transit restriction.

or sea port of loading or unloading is located within 150 km of the point of loading or unloading of the freight.

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- [2] Transport of perishable goods is subject to a quota-free permit system.
- [3] The Joint Committee referred to in Article 14 hereof may add to the list of transport categories exempted from the permit requirements set out in paragraph [1] and remove the quotas from categories other than the one specified in para. [2].
- [4] Removals carried out by enterprises with special staff and equipment for this purpose are subject to a special quota-free permit system, the form and condition of use of which are decided by the European Conference of Ministers of Transport.

#### **Article 8 - [Permit conditions]**

- [1] The competent authorities of the two Contracting Parties exchange an agreed number of blank permit forms every year.  
  
Permits are issued to resident transport operators by the competent authority or by a body designated by the said authority.
- [2] Permits are personal and are not transferable to third parties.
- [3] Permits can only be used for one vehicle at a time. In the case of combinations of vehicles, the motor vehicle is the determining factor in permit issue or exemption.
- [4] The Joint Committee referred to in Article 14 hereof determines the quota, categories [journey and time] and any further conditions governing permit use.
- [5] The running of cabotage services is prohibited except where specially authorised by the competent authority in the host country.  
  
The Joint Committee referred to in Article 14 determines the national legislative and administrative provisions in the host country applicable to cabotage. These provisions are applied without discrimination.

#### **Part IV - Common provisions**

##### **Article 9 - [Tax provisions]**

- [1] Transport by means of vehicles registered on the territory of a Contracting Party temporarily operating on the territory of the other Contracting Party under the terms of this Agreement is exempt from payment of all tax related to the ownership, registration and running of the vehicle as well as special taxes on transport services.
- [2] The fuel contained in the normal, by the manufacturer build-in fixed tanks of the vehicle intended to drive the vehicle and operate motor vehicles at controlled temperature \$\$, as

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<sup>3</sup> In the case of neighbouring countries: transport between adjacent border zones of a depth of 25 km, provided that the length of the journey does not exceed 100 km as the crow flies.

well as lubricants and spares are exempt from all import duty in the territory of the host country provided that the transport operator complies with the relevant customs regulations.

- [3] The transport covered by the terms of this Agreement is subject in the host country to the tolls and duties levied for the use of the road network or bridges. The tolls and charges are levied on resident and non-resident transport operators indiscriminately. The Contracting Parties may decide, on the proposal of the Joint Committee referred to in Article 14, to exempt the initial and terminal legs of combined transport from tolls and duties.

**Article 10 - [Weights and dimensions]**

- [1] The permissible maximum weight, axle weight and dimensions of vehicles must not exceed those entered in the registration documents nor the upper limits in force in the host country.
- [2] The use in the host country of vehicles whose weight, dimensions or load exceed the permissible upper limits is permitted only with a special permit applied for in advance.

**Article 11 - [Equipment and other characteristics]**

- [1] Vehicles carrying dangerous goods or perishable goods must be fitted out and equipped in accordance with the requirements of the ADR and ATP Conventions.
- [2] Equipment used to monitor crew driving and rest time on vehicles must comply with the provisions of the AETR Agreement.
- [3] The Contracting Parties undertake to promote, within the framework of this Agreement, the use of vehicles meeting stringent safety and emission standards.

The Contracting Parties, in their road transport relations, shall generally endeavour to apply environmental and safety standards in force in the European Union, having regard to the dates vehicles were first registered and time frames agreed within the framework of international agreements and the European Conference of Ministers of Transport.

In line with this policy, the joint committee referred to in Article 14 can, when deciding on quotas and future liberalisation, give more favourable treatment to vehicles that meet the most modern safety and emission standards.

**Article 12 - [Control]**

The permits, control documents and other papers in order required under this Agreement, as well as the consignment note, waybills, insurance certificates, training certificates and all papers required under multilateral or bilateral agreements or under national law, must be kept in vehicles and be produced at the request of by control officials.

The transport operator on own account is required to provide evidence of this status at the request of control officials.

**Article 13 - [Obligations of transport operators and penalties]**

- [1] The transport operators of a Contractor Party have a duty, on the territory of the other Contracting Party, to comply with obligations arising from multilateral international agreements to which the two parties are contracting parties, from the present Agreement as well as other bilateral agreements, and from national legislation, particularly traffic and enforcement \$ rules, customs arrangements and any permit conditions and restrictions.

[2] Without prejudice to criminal proceedings, the competent authorities in the country of establishment may, in the event of serious or repeated infringements committed on the territory of the host country, and at the latter's request, take the following administrative action:

- issue a warning,
- prohibit access to the territory of the Contracting Party where the infringement(s) was(were) committed.

In particularly serious cases, the competent authority of the host country may temporarily prohibit access pending a decision by the authority in the country of establishment.

The Contracting Parties shall keep each other mutually informed on decisions taken.

#### **Article 14 - [Collaboration and joint committee]**

[1] The competent authorities of the Contracting Parties shall take the necessary steps to implement and apply this agreement and pass on any useful information to each other. The competent authorities shall also keep each other mutually informed of any change in national law affecting the application hereof.

The competent authorities shall afford each other mutual assistance for the purpose of implementing this Agreement. Personal data passed on within the framework of co-operation between the Contracting Parties shall be protected by a guarantee of confidentiality and cannot be used for any purpose other than the one for which they were communicated.

[2] A joint committee shall be set up, comprising delegates from each Contracting Party for the reasons stated in par. 1.

The joint committee is responsible for implementing Articles 3, 4, 7 and 8 hereof and, generally, for reviewing all questions concerning relations between the Contracting Parties in the field of road transport, including aspects concerning safety, environmental protection, crew employment rights, technical issues, promotion of inter-enterprise and intermodal collaboration and crisis management.

#### **Part V - Final provisions**

##### **Article 15 - [Entry into force and length of the Agreement]**

The present Agreement shall enter in force on \_\_\_\_\_

It may be denounced on \_\_\_\_\_

##### **Article 16 - [Cancellation clause]**

Possibly.

Made at \_\_\_\_\_, on \_\_\_\_\_

## ANNEX

### DECLARATION OF AUSTRIA

Austria welcomes and supports the model bilateral agreement between ECMT Member countries on road transport as a framework with the aim to harmonise bilateral agreements as far as possible. Since this model agreement is “recommended”, it is generally understood that its character is an optional one and not binding on the member States.

Austria would therefore like to stress it cannot -- and does not -- agree with every single item listed in the model agreement for various reasons. One of these reasons is that some items of the model agreement take up passages contained in ECMT Resolutions already adopted by the Council of Ministers without mentioning the reserves member countries deposited for these Resolutions. Concerning goods transport, this is the case for Article 7, paragraph 1 5) (transport of livestock), paragraph 1 10)(transport on own account) and paragraph 2 (transport of perishable goods). Other parts of the recommended model agreement are unacceptable for Austria since they suggest further liberalisation than the respective ECMT Resolutions, such as in the field of passenger transport Article 4, paragraph 2, point 2.4 (services on own account) and 2.5 (transport in hire vehicles) and in the field of goods transport Article 7, paragraph 1 13) (adjacent border zones of 25 km). Last but not least, Austria cannot accept provisions contradicting European Union regulations such as Article 9, paragraphs 2 and 3 concerning tax provisions.