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GROUP ON REVISION OF THE
INTERNATIONAL HEALTH REGULATIONS**

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Review and approval of proposed amendments to the International Health Regulations

Ground crossings and ground transport conveyances in the International Health Regulations

Note by the Secretariat

1. During the first session of the Intergovernmental Working Group on Revision of the International Health Regulations in November 2004, delegates commented and made textual submissions on the provisions applicable to ground crossings and ground transport conveyances (including trains, lorries, buses and other road vehicles). Some Member States requested additional provisions on these subjects, covering for instance capacity, definitions and application of health measures. These comments arose under Articles 18, 19, 23 and 25 and a number of other articles, most of which were discussed in subgroup B. The amendments submitted with respect to ground crossings and ground transport conveyances were set forth initially in the conference papers of that subgroup. This note provides further information on the draft revision submitted to the first session;¹ some additional provisions to be found in the Chair's proposal;² and the scope for further enquiries in relation to these issues.

EXISTING PROVISIONS

2. Ground crossings and ground transport conveyances are already considered in the many existing provisions to be found in the draft revision, which are reproduced (with some further revisions) in the Chair's proposal. Most of these provisions apply to all points of entry and all ground transport conveyances.

¹ Document A/IHR/IGWG/3.

² Document A/IHR/IGWG/2/2.

3. **Ground crossings and capacity.** As provided in Article 17(a) and Annex 1B,¹ the core capacity requirements for designated airports, ports and ground crossings are the same for each type of designated point of entry. (As noted below, there are now also specific criteria for designating ground crossings under Article 19.) Under Annex 1A (Core capacity requirements for surveillance and response), the provisions on utilization of existing national structures and resources apply specifically to ground crossings as well as ports and airports. Moreover, the response capacities in Annex 1 concerning communications links at the national level with key operational areas have been revised to include ground crossings as well as the other points of entry. Furthermore, the notification provisions in Annex 2 do not generally distinguish between events or risks based upon the mode of transportation and those based on the type of point of entry.

4. **Application of health measures.** Member States have broad options and obligations concerning application of health measures (including inspections and various other measures), as well as being subject to other requirements, applicable to all types of points of entry and conveyances. Under these provisions, States Parties:

(a) may require inspections and application of appropriate health measures, inter alia, to all types of conveyances, on arrival or departure at points of entry (Article 21);

(b) may apply appropriate health measures to “affected conveyances” of all types (Article 24);

(c) may apply additional health measures, including, inter alia, to conveyances of all types, as appropriate (Article 39);

(d) have responsibilities through their competent authorities for health measures applicable, inter alia, to all types of conveyances and at all points of entry (Article 20);

(e) have obligations regarding implementation of health measures by operators of all types of conveyances (Article 22);

(f) are subject to the same general requirements – such as transparent and non-discriminatory – when implementing health measures pursuant to the Regulations (Article 38);

(g) have obligations to provide documentation (at points of entry) regarding application of health measures to conveyances, containers or cargo (Annex 4, paragraph 4 and Annex 5, paragraph 2);

(h) have requirements concerning charges for health measures applicable, inter alia, to conveyances at points of entry (Article 36);

(i) have public health obligations regarding their military conveyances (Article 44bis, formerly Article 46);

(j) may receive WHO recommendations concerning health measures applicable to conveyances (Article 16); and

¹ Unless otherwise indicated, all references are to the Chair’s proposals (document A/IHR/IGWG/2/2).

(k) must provide “in transit” protection to “goods”– subject to certain exceptions – regardless of the type of conveyance (Article 29).

NEW PROVISIONS

5. In response to Member States’ comments, some additional provisions on these subjects have been prepared to complement the articles already mentioned. These provisions include key definitions requested by Member States: “ground crossing” (drafted at the end of the first session), “ground transport vehicle” (including trains, coaches, lorries and automobiles), and “road vehicle.” These are located with other definitions in Article 1 of the Chair’s proposal.

6. Also in response to Member States’ requests, new draft criteria are proposed under Article 19 for consideration by States Parties in determining whether to designate particular ground crossings as developing the capacity requirements for designated points of entry as set out in Annex 1B.

7. A further new paragraph 3(b) in Article 19 encourages States Parties sharing common borders to consider “joint designation of adjacent ground crossings for the capacities in Annex 1” when contemplating designation of ground crossings under Articles 17 and 19.

FURTHER ENQUIRIES ON RELATED ISSUES – TRANSPORT INDUSTRY CONSULTATIONS

8. The Secretariat is also studying additional potential provisions or guidelines concerning health measures applicable to ground transport conveyances, for instance in consultation with international organizations representing ground transport industries. Issues for review include the following:

(a) The potential application of Articles 23 (“Ships and aircraft in transit”) and 25 (“Ships or aircraft at points of entry”, including *free pratique*) to ground transport vehicles such as trains or buses, a matter raised by some Member States: these issues, on which no consensus was reached during the previous session, raise complex questions. For example, while a few requests were made to extend Articles 23 and 25 to ground transport vehicles, there were indications that ensuring the potential for application of health measures to such conveyances was a core concern. It should, however, be noted that the aforementioned articles to a great extent potentially limit the options of States Parties to apply health measures to conveyances; consequently, the omission of ground-based conveyances from those articles actually facilitates the introduction of health-based controls for ground transport vehicles by States Parties. Moreover, States Parties have, as noted above, broad options to inspect and apply health measures to all types of conveyances, including ground transport, under other articles and annexes.¹ Additional concerns arise about the potential for interference with international traffic if “in transit” or “*free pratique*” rules were to be applied to modes of transportation where there is no extensive history of their use (as there is, for example, in the shipping industry).

¹ It should also be noted that the Chair’s proposal also specifically provides for “in transit” transport of “goods” without transshipment – without restriction to only ships or aircraft.

(b) The potential for a ground transport health declaration for use regarding such vehicles: the inclusion of such a declaration will require further technical discussions. The title for such a potential provision has been bracketed as Article 35bis in the Chair's proposal.

(c) Potential guidelines for inspection of ground transport vehicles and/or documents regarding such inspections, which may contribute to increased consistency in the application of measures: as above, one potential concern is that the introduction of new documentary requirements of this type, or a declaration as referred to under (b), could result in significant interruption of international traffic in the absence of any worldwide history of use such as there is for the Ship Sanitation Control Certificates (the Deratting Certificate), the Maritime Declaration of Health and the Health Part of the Aircraft General Declaration.

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