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Administrative Committee for the TIR Convention, 1975

**Sixty-third session**

Geneva, 9–10 February 2016

### Report of the Administrative Committee for the TIR Convention 1975 on its sixty-third session

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## I. Attendance

1. The Committee (AC.2) held its sixty-third session on 10–11 February 2016 in Geneva.
2. The session was attended by representatives of the following countries: Austria; Azerbaijan; Belarus; Belgium; Bulgaria; Czech Republic; Denmark; Estonia; Finland; France; Georgia, Greece; Hungary; Iran (Islamic Republic of); Italy; Kazakhstan; Latvia; Lithuania; Netherlands; Poland; Republic of Moldova; Russian Federation; Spain; Sweden; Switzerland; the former Yugoslav Republic of Macedonia, Turkey; Ukraine; Uzbekistan. Representatives of the European Union (EU) were also present.
3. The following non-governmental organization was represented as an observer: International Road Transport Union (IRU).
4. The Committee noted that the required quorum for the purposes of taking decisions — of at least one-third of the States which are Contracting Parties (according to Annex 8 Article 6 of the Convention) — was attained.
5. Mr. Miodrag Pesut, TIR Secretary, welcomed the Committee and delivered an opening statement in which he welcomed the accession of Pakistan to the TIR Convention, following the date of entry into force on 21 January 2016 and expressed the hope that the TIR Convention will continue to grow and benefit countries all over the world. Against this background, he urged the Committee to expediently address all pending issues on the agenda, particularly the various amendment proposals that would make the TIR Convention a more reliable and more efficient tool for all actors involved.

## II. Adoption of the agenda (agenda item 1)

6. The Committee adopted the agenda as contained in document ECE/TRANS/WP.30/AC.2/126 and Corr.1. The secretariat informed the Committee about the addition of Informal document WP.30/AC.2 (2016) No.1 under agenda item 4(a) (iv), Informal document WP.30/AC.2 (2016) No.2, under agenda item 10(a), transmitted by the Government of the Russian Federation, Informal document WP.30/AC.2 (2016) No.3 under agenda item 4(b)(ii) transmitted by IRU and finally, Informal document WP.30/AC.2 (2016) No. 4 under agenda item 7(b), also transmitted by IRU. The Committee was also informed that a Corrigendum had been issued to the provisional agenda, whereby document ECE/TRANS/WP.30/AC.2/2015/22/Rev.1 under agenda item 7(a) had been issued under a new symbol and document ECE/TRANS/WP.30/AC.2/2016/10 and document ECE/TRANS/WP.30/AC.2/2015.23/Rev.1 under agenda item 7(d) was issued as ECE/TRANS.WP.30/AC.2/2016/9. Finally, the Committee was informed about Addendum 1 to document ECE/TRANS/WP.30/AC.2/2016/5, transmitted by the Government of Switzerland.
7. During the adoption of the Agenda, the delegation of the Russian Federation, as well as other Russian speaking delegations, pointed to the fact that the report of the sixty-second session had only been made available in the Russian language a few days before the session and stressed that this had prevented the effective preparation and inter-agency coordination for the sixty-third session. The late availability of other documents in the Russian language was also pointed out, and the secretariat was requested to ensure the timely availability of documents and reports. The secretariat informed the Committee that it had sent a memo, requesting the Executive Secretary of UNECE to intervene in the matter of translation of documents, and encouraged delegations to raise this issue at the forthcoming session of the Inland Transport Committee, as this is affecting all Working Parties and Administrative Committees.

### **III. Election of officers (agenda item 2)**

8. In accordance with the rules of procedure of the Committee and established practice, the Committee elected Mr. Shahin Baghirov (Azerbaijan) as Chair and Mr. Hugo Mayer (Austria) as Vice-Chair for its sessions in 2016.

### **IV. Status of the TIR Convention, 1975 (agenda item 3)**

9. The Committee was informed that, as per depositary notification C.N.420.2015.TREATIES-XIA.16 and article 53 of the TIR Convention, 1975, the Convention entered into force for Pakistan on 21 January 2016. More detailed information on these issues as well as on depositary notifications is available on the TIR website.<sup>1</sup>

### **V. Activities and administration of the TIR Executive Board (agenda item 4)**

#### **A. Activities of the TIR Executive Board**

##### **1. Report by the Chair of TIR Executive Board**

10. The Committee endorsed the report of the TIR Executive Board (TIRExB) at its sixty-fourth (June 2015) session (ECE/TRANS/WP.30/AC.2/2016/1) and was orally briefed by the Chair of TIRExB (Mrs. Didem Dirlik) about the major decisions and considerations of the Board at its sixty-sixth (February 2016) session.

11. At its sixty-sixth session, TIRExB, inter alia:

(a) had a final review of its assessment of various scenarios to bring more flexibility to the TIR guarantee system (see document ECE/TRANS/WP.30/AC.2/2016/7);

(b) took note of written information by IRU on the breakdown in prices. Considering the late submission of the information, TIRExB decided to revert at this at its next session. IRU also reconfirmed its willingness to raise the level of the guarantee up to 100,000 euros for interested countries, subject to amending the national guarantee agreement accordingly. In this context, she reminded Contracting Parties of the obligation to deposit any such amendment with TIRExB;

(c) approved plans and tentative timelines to improve the International TIR Database (ITDB) and to start the development of a central database of customs offices and, at a later stage, on certificates of approval. A first version of the new ITDB should be ready for testing by June 2016. TIRExB members and national focal points would be involved in the testing of the new ITDB. The development of a central database of customs offices should be available before the end of 2016. With reference to ITDB and the data contained therein, she reminded Contracting Parties of their obligation to regularly update ITDB. This not only applies to admission or re-admission of TIR Carnet holders, but also to any other contact data that may change over time;

(d) continued its discussions on the intermodal use of the TIR procedure. In particular, the Board, in collaboration with the Working Party on Intermodal Transport

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<sup>1</sup> [www.unece.org/tir/tir-depositary\\_notification.html](http://www.unece.org/tir/tir-depositary_notification.html).

(WP.24) and IRU, was looking for one or more representative examples of intermodal TIR transports for inclusion in the TIR Handbook;

(e) took note of information that the Russian customs authorities had published a decree with a list of 45 border crossings posts that can be used for TIR transports. TIRExB welcomed this important step, but, at the same time, expressed caution, considering that not all appointed border crossing posts seemed to be suitable for international TIR transport and important border crossings points were still missing from the list;

(f) was orally informed about the progress in the claims survey over the years 2011-2014. So far, only 29 countries had responded to the survey. She urged those countries that have not done so to reply to this survey in the nearest future, irrespective whether or not they had contributed to the previous surveys. In this context, she reminded the Committee of its statement at a previous session that TIRExB could only fulfil the functions entrusted to it by the Convention or by AC.2 if Contracting Parties duly responded to justified requests, such as, in this case, a request to participate in a claims survey, which is the only way in which TIRExB could perform its legal function to supervise the functioning of the international guarantee system;

(g) decided to convene its next session on 27 and 28 April 2016 in Paris, at the kind invitation of the French customs.

## **2. Monitoring the prices of TIR Carnets**

12. The Committee recalled the assessment by the secretariat and the suggestions received from Contracting Parties (Belarus, Switzerland, Turkey and EU), on the need for a specific methodology for TIRExB to analyse the price information of TIR Carnets in detail (ECE/TRANS/WP.30/AC.2/2015/4). The Committee requested TIRExB, with the assistance of the secretariat, to work on the pilot analysis and to report to the Committee at one of its future sessions.

13. In line with this mandate, TIRExB, at its sixty-fifth session, welcomed the preliminary analysis prepared by the secretariat and requested its transmission to the Committee together with the 2015 TIR Carnet prices. The Committee considered the preliminary analysis, as contained in document ECE/TRANS/WP.30/AC.2/2016/2 and Corr.1 as well as the 2015 prices reported by national associations. The Committee was of the view that the analysis provides useful information in fulfilment of the mandate of TIRExB to monitor TIR Carnet prices, and should be repeated annually and reported to the Committee whenever significant changes in TIR Carnet prices are identified. The delegation of EU suggested that it would also be useful for TIRExB to compare the results of these analyses of different years. In conclusion, the Committee requested TIRExB to continue the publication of the TIR Carnet prices on the TIR website and reiterated that associations should provide the prices of TIR Carnets not later than 1 March 2016.

## **3. International databases and electronic tools managed by the TIR secretariat**

14. The Committee was informed about the status of transmitting data to the International TIR Data Bank (ITDB) (see Informal document WP.30/AC.2 (2016) No. 1), as well as about the progress in implementing ITDB online+ and other Information Technology (IT) projects managed by the TIR secretariat. The Committee noted that, in view of the increase in the guarantee level per TIR Carnet as of 1 July 2016, the secretariat had received in some cases, two insurance certificates covering the period till 30 June 2016 and as of 1 July 2016 respectively. In this regard, the secretariat called upon delegations to check with their national associations as to the precise modalities of the insurance coverage as of 1 July 2016. Furthermore, the Committee highlighted the importance of regularly updating the information in the ITDB. Finally, the Committee noted that all IT tools

provided by the TIR secretariat were functioning well and that the first prototype of the new application is expected to be released to a group of focal points in June 2016 for testing. This version will include the existing TIR applications (ITDBonline+, ITDB web services and UNECE register on seals and stamps).

#### **4. National and regional TIR workshops and seminars**

15. The Committee was informed that the secretariat had participated in the World Customs Organization (WCO) Working Group on the World Trade Organization Trade Facilitation Agreement (Brussels, 12–13 October 2015) and in the joint UNECE-IRU event held at the end of the Working Group session with the objective of promoting accession to the TIR Convention by African countries. Furthermore, in collaboration with IRU, the TIR secretariat had promoted the UNECE-IRU eTIR pilot project at the fifth WCO Technology and Innovation Forum (Rotterdam, Netherlands, 26–29 October 2015). The Committee was also informed about the participation of the TIR secretariat in the Asia-Pacific Trade Facilitation Forum in Wuhan (China) on 20–21 October 2015 and its contribution to the panel discussion on “Enhancing regional connectivity through trade and transport corridor facilitation” by showcasing the potential benefits of TIR in the Asia-Pacific region. The secretariat also took part in the twenty-sixth Forum of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), which was held in Marseille, France on 3–6 November 2015. The secretariat followed the discussions on the CEFACT “Transport & Logistics Domain” and presented the latest developments of the eTIR project as well as the linkages between the TIR Convention and the Trade Facilitation Agreement. Furthermore, the secretariat presented the TIR Convention and the eTIR project at the Workshop on Customs-to-Customs Electronic Data Exchange, which took place in Casablanca (Morocco) on 2–4 December 2015. Finally, the TIR secretariat took part in the Second Inter-Agency Consultative Group (IACG) Meeting on the Follow-up and Implementation of the Vienna Programme of Action for LLDCs for the Decade 2014–2024 (VPoA), which was organized in New York on 10 and 11 December 2015 by the United Nations Office of the High-Representative for Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLS).

### **B. Administration of the TIR Executive Board and the TIR secretariat**

#### **1. Status report on the accounts for the year 2015**

16. The Committee recalled that, in accordance with Annex 8, Article 11, paragraph 4 of the Convention, TIRExB shall submit audited accounts to the Committee at least once a year or at the request of the Committee. The Committee was informed that the competent financial services of the United Nations were not be able to formally finalize the accounts for 2015 in time for the sixty-third session of the Committee. As such, the report on the complete and final accounts would be transmitted, as in the past, to the October 2016 session of the Committee for formal approval.

#### **2. Procedure for financing the operation of the TIR Executive Board and TIR secretariat**

17. The Committee was informed that the required funds for the operation of TIRExB and the TIR secretariat for the year 2016 had been transmitted in full by IRU to the TIR Trust Fund in line with the UNECE-IRU agreement. The Committee also noted that the amount per TIR Carnet (US\$ 0.87) approved at its previous session (ECE/TRANS/WP.30/AC.2/127, para. 20) had been expressed in Swiss Francs according to the prevailing US dollar-Swiss franc exchange rate on the day of the transfer and was equal

to SwF 0.8869. Thus, the amount to be invoiced per TIR Carnet distributed in 2016 would be SwF 0.88 (rounded).

18. The Committee was informed that, in line with the procedure for the collection and transfer of the amount per TIR Carnet to finance the operation of TIRExB and the TIR secretariat (ECE/TRANS/WP.30/AC.2/89, para. 38 and Annex 2), on 14 January 2016, the external auditor of IRU had produced an audit certificate reflecting the amount transferred by IRU and the total amount actually invoiced by IRU when distributing the TIR Carnets. According to the certificate, in 2015, there was a deficit (i.e. less was received than initially transferred) of SwF 231,662 (rounded), due to the lower number of TIR Carnets distributed in 2015 than had originally been forecasted.

19. In line with the above procedure and on the basis of a proposal of IRU, the Committee was asked to approve a recalculation of the amount per TIR Carnet to be invoiced in 2016, as contained in Informal document WP.30/AC.2 (2016) No. 3, amounting to SwF 1,03, effective retroactively from 1 January 2016. The secretariat explained that this recalculation aims to balance the amount invoiced in 2015 with the amount actually transferred for the operation of TIRExB and the TIR secretariat for 2015, and would not result in any additional costs than those originally approved. Various delegations drew attention to the fact that the information provided on this important and sensitive issue in advance of the session was, in their view, insufficient; as a result the Russian delegation informed the Committee that it had not been able to prepare a substantiated position on this matter that would enable a decision at the current session. Furthermore, the Russian delegation requested the secretariat to provide further information and the relevant audit certificate of the IRU accounts in which the deficit is recorded. As a final note, the delegation of the Russian Federation was of the view that the issue of the deficit accrued in 2015 should be reviewed not only from the revenue point of view but also by taking into account related expenditures.

20. As a conclusion, the Committee recognized the importance of taking a decision on this matter and considered this information but was not in a position to approve a recalculation of the amount per TIR Carnet at its current session. The Committee, therefore, requested that more information on the nature of the deficit and the ways to address it in accordance with the relevant provisions of the UNECE-IRU agreement currently in force be provided for decision at the next session.

## **VI. Authorization for printing and distributing TIR Carnets and the organizing and functioning of the guarantee system (agenda item 5)**

21. In accordance with Article 6, paragraph 2 *bis* of the Convention, the Committee authorized IRU to centrally print and distribute TIR Carnets and to organize the functioning of the guarantee system for the period 2017–2019 inclusive.

## **VII. Authorization for concluding an agreement between the United Nations Economic Commission for Europe (UNECE) and the International Road Transport Union (IRU) (agenda item 6)**

22. The Committee approved a new draft UNECE-IRU agreement, as contained in document ECE/TRANS/WP.30/AC.2/2016/3. AC.2 mandated the secretariat to conclude the new agreement for 2017-2019 inclusive. The Russian delegation indicated, under this

agenda item, that the late availability of the draft agreement in the Russian language on the AC.2 website had not provided sufficient time for the preparations required and had created difficulties in reaching a decision in an interagency format. The secretariat was, therefore, requested to transmit to the Government of the Russian Federation, via official channels, written information and clarifications on (a) the reasons for which it was decided that the validity of the authorization and corresponding UNECE-IRU agreement would be three years and (b) the reasons for which certain provisions that appeared in the 2014–2016 agreement were no longer included in the new agreement.

## **VIII. Revision of the Convention (agenda item 7)**

### **A. Accepted amendment proposals to the Convention pending formal adoption**

23. The Committee formally adopted the proposal to amend Article 42 bis with an Explanatory Note 0.42 bis, as well as the proposal for a new design of a vehicle and container to the TIR Convention as contained in document ECE/TRANS/WP.30/AC.2/2016/10, subject to minor linguistic corrections in the Russian text as provided by the delegation of Ukraine, contained in document ECE/TRANS/WP.30/AC.2/2016/10/Corr. 1 (Russian only). The Committee requested the secretariat to transmit them to the Secretary-General of the United Nations for communication to the Contracting Parties for their acceptance. In accordance with the provisions of Article 60, paragraph 1, the Committee decided that the amendments shall enter into force on 1 January 2017, unless at least five objections were raised before 1 October 2016.

24. The Committee also considered document ECE/TRANS/WP.30/AC.2/2016/4 containing the list of accepted proposals to amend:

- (a) Article 1, paragraph (q), on the definition of a “guaranteeing association”;
- (b) Article 2 to specify that the word “frontier” refers to a customs frontier;
- (c) Article 11, paragraph 3, on reducing the earliest moment at which a claim to an association can be made.

25. The Committee took note of document ECE/TRANS/WP.30/AC.2/2016/4 and decided to postpone the formal adoption of these proposals until a larger package is formed. The Committee also noted that the delegation of Kazakhstan reserved its position against the proposal to amend Article 2 to specify that the word “frontier” refers to a customs frontier, as well as reserved its right to raise this issue again at a later stage. The Committee noted the request of Kazakhstan to revisit this issue at its next session. In conclusion, the Committee instructed the secretariat to periodically issue revised versions of this document every time there are new proposals to be added.

### **B. Amendment proposals to the Convention prepared by the TIR Executive Board**

26. The Committee continued its discussions on the proposal by TIRExB to introduce a new Explanatory Note and accompanying comment to Article 49 of the Convention, so as to widen the scope of greater facilities that Contracting Parties may grant to transport operators. Against this background, the Committee welcomed document ECE/TRANS/WP.30/AC.2/2016/5, prepared by the secretariat and elaborating on the



questions raised by the Committee at its previous session, as well as Addendum 1 to the aforementioned document, submitted by the Government of Switzerland.

27. When introducing its replies, the secretariat once more highlighted the concepts behind the proposed text of the Explanatory Note, stipulating that the concept of authorized consignors remains: (a) within the existing legal framework; (b) under the sole competence of national authorities; and (c) does not lead to differences in treatment of transports en route or at destination.

28. The delegations of Iran (Islamic Republic of), Turkey and EU expressed their support for the proposals. Other delegations (Kazakhstan and Ukraine), although not against the principle of granting further facilitations as such, felt that the proposed Explanatory Note did not fully meet the provisions of the Convention, frustrated the principle of mutual recognition and further increased the risk potential of TIR transports. They further argued that the delivery of any authorization should, at least, foresee the involvement of or approval by all competent authorities involved in TIR transport with authorized consignors. Ultimately, the requirements to be granted the status of authorized consignor should be set by the provisions of the TIR Convention. The Russian delegation informed the Committee it could not agree with the proposed amendment neither in substance nor in form, as, in its view, such a facilitation would result in significantly increased risks, especially for customs offices of destination. The Russian delegation, further, stated that until a complex and well-designed system of regulation and control to ensure confidence accompanies this proposal it would be premature to consider the introduction of authorized consignors in the TIR system.

29. The Committee, further, took note of document ECE/TRANS/WP.30/AC.2/2016/6, outlining the discussions of TIRExB in preparation of the proposed Explanatory Note and accompanying comment. The Committee also took note of Informal document WP.30/AC.2 (2016) No. 4, transmitted by IRU and providing examples of the practical application of the concept of authorized consignor and consignee in various countries. The Committee agreed that these examples would merit further consideration. The Committee invited TIRExB to further assess the examples by IRU and decided to resume its considerations on this proposal at a future session when TIRExB has finalized its findings.

### **C. Amendment to the Convention with regard to the maximum level of guarantee per TIR Carnet**

30. The Committee noted that TIRExB had completed its assessment of various scenarios to amend the level of the guarantee at its sixty-fifth session and had transmitted its final observations for the consideration of the Committee (ECE/TRANS/WP.30/AC.2/2016/7). The Chair of TIRExB provided an oral summary of the findings of TIRExB on this issue. In particular the Committee took note that each scenario examined by TIRExB, despite having its advantages, also brought along setbacks and disadvantages and that, thus, the Board could only recommend the Committee to take full account of all the positive and negative implications attached to each scenario, before taking a decision to change to current system of a generic recommended maximum amount. The Committee thanked TIRExB for its in-depth assessment and decided to take account of this document when discussing the amendment proposal transmitted by the Russian Federation on the level of the guarantee per TIR Carnet, under agenda item 7 (e).

#### **D. Amendment proposals to the Convention: Audit requirements for an authorized international organization**

31. The Committee recalled its considerations of document ECE/TRANS/WP.30/AC.2/2015/12 containing the checklist of all documents submitted by IRU to fulfil its obligations under Annex 9, Part III, as well as of document ECE/TRANS/WP.30/AC.2/2015/23 on various ways by which these documents could be distributed to interested Contracting Parties while, at the same time, safeguarding the applicable confidentiality requirements. Several delegations reiterated that the Committee would not be effectively able to determine whether the requirements of Annex 9, Part III had been met, unless Contracting Parties would be able to substantively examine the submitted documents.

32. Against this background, the Committee considered document ECE/TRANS/WP.30/AC.2/2016/9, prepared by the secretariat based on the comments received at the previous session, and elaborating revised procedural guidelines for the distribution of these documents to interested Contracting Parties. The secretariat also informed the Committee that it has been consistently receiving various updated documents by IRU, and that a new list for 2015 would be issued as soon as all the relevant documents are received. The Committee was of the view that the procedure outlined in the document could be accepted as a way forward; therefore, the secretariat was requested to include the procedure described in Part IV, A and B of the document as Annex to the report. The secretariat informed the Committee that the procedure would take immediate effect upon the adoption of the report.

#### **E. Proposals transmitted by the Government of the Russian Federation**

33. The Committee continued its consideration of the proposals submitted by the Government of the Russian Federation, to amend various provisions of the body of the Convention as well as of Annex 9 as contained in document ECE/TRANS/WP.30/AC.2/2014/14. The Committee recalled that comments to these proposals from Contracting Parties had been consolidated in ECE/TRANS/WP.30/2015/1/Rev.1–ECE/TRANS/WP.30/AC.2/2015/7/Rev.1, and that additional justifications had been submitted by the Russian Federation, contained in document ECE/TRANS/WP.30/AC.2/2015/17–ECE/TRANS/WP.30/2015/16.

34. At its sixty-first session, the Committee had decided not to address those proposals that had been under parallel discussion at WP.30, to avoid duplication of work and, rather, to wait for the Working Party to transmit its findings (ECE/TRANS/WP.30/AC.2/125, para.20).

35. The Committee also noted that at its sixty-first and sixty-second sessions, it decided that it would not continue discussing the proposals to amend Article 1(o), Article 11, paragraph 4 (with an additional phrase), Article 19 and its Explanatory Note 0.19 (See ECE/TRANS/WP.30/AC.2/125 paras. 22 and 26; ECE/TRANS/WP.30/AC.2/127, para. 34(f)).

36. The Committee, therefore, decided to continue its consideration of the amendment proposals as contained in ECE/TRANS/WP.30/AC.2/2014/14 and comments thereto in ECE/TRANS/WP.30/2015/1/Rev.1–ECE/TRANS/WP.30/AC.2/2015/7/Rev.1, as follows:

(a) Amendment of Article 8, paragraphs 1 and 3, pertaining to the possibility to claim the full amount of duties and taxes at stake in the event that no maximum amount is set by a Contracting Party: the Committee considered the assessment of TIRExB as contained in document ECE/TRANS/WP.30/AC.2/2016/7 and recalled the information

provided by IRU at the previous session namely that, pursuant to deliberations with the relevant institutions, the guarantee chain would be able to raise the maximum guarantee coverage to 100,000 euros per TIR Carnet, as of 1 July 2016. The Committee also noted that other amendment proposals were relevant to the discussion on the guarantee level (such as Annex 9, part I, paragraph 3 (ii), submitted by the Russian Federation). The Committee was of the view that the increase in the guarantee level per TIR Carnet by IRU should be discussed separately from the overall discussion on the various different options for amending the guarantee level. As such, the discussions proceeded as follows:

(i) With regard to the assessment by TIRExB, the Committee was in general agreement as to the need to increase the guarantee level to meet modern needs and requirements. At the same time, several delegations expressed their views on the preferred avenues for introducing such an increase. The delegation of the Russian Federation was of the view that the best approaches would be to consider the scenario of a high maximum amount that would in effect cover all associated risks or the option of not setting a maximum amount at all (full coverage), which would also be the ideal outcome. In the view of the Russian Federation, this would facilitate international transport and ensure that potential losses to the State budget of importing countries are covered. The delegation of the Russian Federation also pointed to the benefit of drastically reducing the need for escorts, as well as not needing to calculate the duties and taxes at stake in such a case. The delegations of Ukraine and EU pointed to the potential practical difficulties relating to the calculation of the amount of duties and taxes that may become due in various situations throughout the TIR transport. The delegation of Belarus made reference to the wide range of TIR Carnet prices already at this stage when the guarantee level is more or less uniform; in this regard the question was whether different guarantee scenarios would result in dramatic changes in the range of TIR Carnet prices. The delegation of Turkey proposed that, perhaps, the increase in the guarantee level per TIR Carnet to 100,000 euros as of 1 July 2016 could be an interim step or a temporary measure that would allow risks to be covered more satisfactorily while further discussions take place. At the same time, the delegation of Turkey underscored the need to clarify the exact implications of this increase on TIR Carnet prices. The delegation of the Republic of Moldova was of the view that a guarantee level of 100,000 euros per TIR Carnet would cover more than ninety-nine per cent of cases and could therefore be seriously considered as a way forward. The delegation of Azerbaijan put forward the proposal that the increase to 100,000 euros per TIR Carnet could be the first step, but that the Committee could decide to review and, if necessary, revise this amount periodically, for example every three to five years. Finally, the delegation of Kazakhstan proposed that perhaps the use of the additional vouchers under the TIR+ system of IRU could be sufficient to address the concerns raised with regard to the guarantee level. After extensive and constructive discussions, reflecting a variety of views and proposals, the Committee decided that the financial and other possible implications of introducing full guarantee coverage as described in scenario 3 of the TIRExB assessment, should be further analysed by TIRExB and reported to the Committee at a future session for further discussion.

(ii) Concerning the increase in the guarantee level per TIR Carnet to 100,000 euros, as announced by IRU, the Committee was of the general view that it would be necessary to amend Explanatory Note 0.8.3 of the TIR Convention to reflect this increase; in this respect, the Committee noted that the Working Party was already in the process of looking at amending Explanatory Note 0.8.3 comprehensively and accepted the proposal by the Chair of WP.30 to examine and possibly adopt a concrete amendment proposal after WP.30 has finalized and transmitted its findings to AC.2. As a final note on this point, the delegation of IRU reiterated the readiness

of the guarantee chain to undertake an increase in the guarantee level per TIR Carnet to 100,000 euros, as well as indicated that, on the side of the guarantee associations, this could be reflected in an addendum to their guarantee agreement with customs authorities. Finally, IRU informed the Committee that it continued providing assistance to TIRExB in its assessment of the financial and other possible implications of the introduction of full guarantee coverage.

(iii) As a general conclusion, the Committee agreed to continue discussing the possible ways to increase or modify the guarantee level at its next session.

(b) Amendment of Article 11 with a new paragraph 4 bis, stipulating that claims for payment could be sought through court proceedings within deadlines prescribed in the national guarantee agreement: the Committee recalled its previous discussions, namely that that Explanatory Note 0.11.4 could not be seen in isolation from the rest of Article 11 and should be reviewed in conjunction with current practices and legislation of Contracting Parties, as well as to revisit Chapter 5.4 of the TIR Handbook on enquiry and recovery procedures (see ECE/TRANS/WP.30/AC.2/127, para. 34(d)). Against this background, the Committee continued its consideration of this proposal; the delegation of the Russian Federation provided further clarifications on the rationale of this proposal, namely that, it had transpired in national legal proceedings that the lack of specification of a concrete time frame during which the customs authorities could resort to the national judicial system had in some cases resulted in diverging interpretation of the provisions. In the course of discussions, the Committee noted various other proposals for addressing this concern such as by amending Explanatory Note 0.11.4 or by converting the Explanatory Note into a new paragraph 4 bis. The Committee requested the secretariat to prepare a document, based on the views expressed during the discussion, as a basis for further consideration on this amendment proposal at the next session.

(c) Amendment of Article 38 in order to, unequivocally, entitle a Contracting Party to assess whether a customs offence is serious enough to constitute grounds for exclusion: the Committee considered document ECE/TRANS/WP.30/AC.2/2016/8 prepared by the secretariat and containing prior considerations by WP.30, the Committee and TIRExB on this issue and noted that, in past discussions, it had transpired that due to considerable differences in national legislations, it would be quite difficult to come to a common understanding of "serious offence against customs laws or regulations", and that it should remain within the purview of national law. At the same time, it was pointed out that, Annex 9, Part II paragraph 1(d) of the TIR Convention stipulates the absence of repeated offences is a requirement for granting authorization to natural and legal persons to use TIR Carnets. As such, adding the phrase "or repeated" in Article 38 would ensure consistency in the provisions. On the other hand, the Committee concluded that what in effect constitutes a serious offence cannot be defined in the Convention and that Contracting Parties should determine, based on their national law, which customs offences are serious enough to warrant exclusion. As such, the Committee decided to provisionally accept this amendment proposal, and requested the secretariat to include it in the package of proposals contained in document ECE/TRANS/WP.30/AC.2/2016/4.

(d) Proposal to amend Article 21 to make the presentation of the vehicle, the load and the TIR Carnet by the TIR Carnet holder a mandatory requirement en route: various delegations referred to their comments submitted on this proposal as contained in document ECE/TRANS/WP.30/2015/1/Rev.1–ECE/TRANS/WP.30/AC.2/2015/7/Rev.1, and indicated that their positions had not changed thus far and would therefore not be in a position to accept this proposal at this time. The delegation of the Russian Federation requested that more time be given to consider the various comments, and to resume discussions on this amendment proposal at the next session. The Committee accepted this proposal.

## **F. Proposal to amend Annex 9, Part I, paragraph 5**

37. The Committee was informed that the Working Party had considered the proposal submitted by the Russian Federation on amending Annex 9, Part I, paragraph 5, to expressly specify that non-compliance with the duties of the association under paragraph 3 of Annex 9, Part I constitute grounds for termination of the agreement between the national association and the customs authorities (see ECE/TRANS/WP.30/2015/1/Rev.1 - ECE/TRANS/WP.30/AC.2/2015/7/Rev.1). The Committee noted that the Working Party was of the view that such an amendment is not warranted, due to sufficient clarity of the existing text. However, at the request of the Russian Federation, the Working Party had transmitted this proposal to AC.2 with the request to consider whether referring the question to TIRExB would be warranted. The Committee considered the amendment proposal and the information provided by the delegation of the Russian Federation on the details of this proposal and decided that there would be merit in further consideration by TIRExB. Therefore, the Committee decided to revert to this issue at a future session when TIRExB has transmitted its findings.

## **G. Phase III of the TIR revision process – Computerization of the TIR procedure**

38. Due to a lack of time, the Committee decided to refer to the information provided in the WP.30 report (see ECE/TRANS/WP.30/284, paras. 16–18) on the latest developments in the computerization of the TIR procedure and related projects.

## **H. Proposals to increase the membership and widen the geographical scope of the TIR Executive Board (TIRExB)**

39. The Committee took note of the information provided by the delegation of Iran (Islamic Republic of) on its intention to submit proposals to amend the TIR Convention so as to increase the TIRExB from nine to twelve members as well as to apply, to the composition of the Board, new criteria of geographical representation which would combine the principles of equitable geographical distribution among various regions and the degree of participation of countries in the TIR Convention. Various delegations expressed support for this initiative; however, the Committee was of the general view that this proposal would have to be examined carefully before reaching any decision. As such, the Committee decided to consider the written proposals that would be submitted by Iran (Islamic Republic of) under this agenda item at the next session. The secretariat informed the Committee that any delegation wishing to submit documents or proposals for consideration in any of the three UNECE working languages, should transmit them to the secretariat no later than 5 August 2016.

## **IX. Comments transmitted to the Committee for adoption (agenda item 8)**

40. The Committee considered document ECE/TRANS/WP.30/AC.2/2015/16/Rev.1 with a revised proposal by TIRExB to amend Article 23 of the Convention with a comment, recommending customs authorities to consider the use of modern facilities before prescribing escorts. The Committee was of the opinion that the term used by the secretariat to refer to satellite positioning systems was insufficiently generic to be included into a comment to a legal instrument. The delegation of Belarus questioned the logic of the proposal within the framework of the existing comment to Article 23. The delegation of the

EU requested to include in the comment that the purpose of the use of satellite positioning systems is for tracking purposes. Thus, the Committee requested TIRExB to review its proposals in the light of these considerations, taking also account of the forthcoming raise in the level of the recommended guarantee amount to 100,000 euros, together with the use of escorts and satellite positioning systems.

## **X. Best practices (agenda item 9)**

### **Use of subcontractors**

41. The secretariat shortly introduced document ECE/TRANS/WP.30/AC.2/2012/13, pointing out that the proposals to amend Article 1 (o) with a comment to allow the use of a TIR Carnet by other persons than the TIR Carnet holder had been on the table of the Committee for the last four years without any substantial progress towards reaching a consensus opinion. With reference to the fact that, currently, a number of countries already allow, under strict conditions, the use of subcontractors without this having led to legal or practical problems (in particular, but not limited to, the responsibility of the TIR Carnet holder in case of an infringement). The Committee decided to revert to this issue at its next session.

## **XI. Other business (agenda item 10)**

### **A. Application of Article 45 of the Convention**

42. Due to a lack of time, the Committee was not able to discuss Informal document WP.30/AC.2 (2015) No. 11, which had been transmitted by the delegation of Ukraine for consideration at its sixty-second session and Informal document WP.30/AC.2 (2016) No. 2, transmitted by the Government of the Russian Federation and containing the decree of the Federal Customs Service (FCS) of the Russian Federation, by which a list of border crossing points approved for TIR operations is established. The Committee recalled that this issue had been extensively discussed at the session of WP.30; against this background, the Committee agreed to refer to the information on this item in the relevant paragraphs of the report of WP.30 (ECE/TRANS/WP.30/284 paras. 20-23) and, possibly, revert to further discussion, if necessary, at a future session.

### **B. Date of next session**

43. The Committee decided to hold its sixty-fourth session on 13 October 2016.

### **D. Restriction on the distribution of documents**

44. The Committee decided that there would be no restriction on the distribution of documents issued in connection with its current session.

## **XII. Adoption of the report (agenda item 11)**

45. In accordance with Annex 8, Article 7 of the Convention, the Committee adopted the report of its sixty-third session on the basis of a draft prepared by the ECE secretariat.

During the adoption of the report, the French and Russian speaking delegations deplored that the report was not available in all three official languages. Furthermore, the Committee requested the secretariat that the final report of its session be made available as a pre-session document well in advance of its next session, so that also French and Russian speaking delegations could take the findings of the report duly in consideration when preparing to attend the sixty-fourth session.

## Annex

### **Procedure for the distribution of the documents transmitted by IRU under Annex 9, Part III, to the Contracting Parties of the TIR Convention**

#### **A. Sending the request**

1. A governmental agency, interested in consulting the documents provided by IRU, sends a letter to its permanent mission in Geneva, which will transmit it, with a Note Verbale, to UNECE. The letter shall be addressed to the Executive Secretary of UNECE. Upon receipt, the letter will be forwarded to the TIR secretariat. A sample letter is provided in Appendix I.
2. The requesting governmental agency may prefer to send the letter electronically. In this case, the requesting governmental authority shall ask the permanent mission in Geneva to send it with a Note Verbale to the electronic address of UNECE, following the usual procedures for official communications. The Note Verbale, which may be based on the sample letter contained in Appendix I, will be forwarded to the TIR secretariat.
3. The letter shall indicate that it refers to a request for copies of a specific document or documents submitted by IRU under the provisions of Annex 9, Part III. The letter should also indicate the name and address of the requesting governmental authority.

#### **B. Upon receipt of the request**

4. The secretariat will register the Note Verbale and notify the sender and the permanent mission in Geneva by e-mail that the request has been received.
5. Following the above, the secretariat will prepare a watermarked<sup>2</sup> electronic or paper copy of the requested documents and transmit it to the permanent mission in Geneva, together with a transmittal letter. The watermarked copy(ies) will be marked as confidential. Appendix II provides a sample of a watermarked document.<sup>3</sup>

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<sup>2</sup> The watermark will indicate that the name of receiving authority, the name of the Contracting Party and the date at which the copies have been sent.

<sup>3</sup> IRU has requested to be notified of the incoming request from a governmental agency and to be informed of the date of the reply of the secretariat, as well as of the nature of the document transmitted to the requesting governmental agency.



## Appendix I

### Sample letter to the Executive Secretary of UNECE

Date

Ref.No.


Dear Mr. Bach,

I refer to the decision of the Administrative Committee of the TIR Convention at its sixty-third session, whereby any Contracting Party to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, 1975, may request the United Nations Economic Commission for Europe (UNECE), for a copy of any document provided by the International Road Transport Union (IRU), in relation to the effective organization and functioning of an international guarantee system and to print and distribute TIR Carnets, in accordance with its obligations described under Annex 9, Part III of the TIR Convention, 1975.

Based on the above-mentioned decision, the [name of the governmental agency/authority] of [country] requests that a copy of the [name of the document(s) listed in ECE/TRANS/WP.30/AC.2/2015/12] be made available to the permanent mission of [country] to the United Nations and other international organizations in Geneva.

## Appendix II

## Sample of a watermarked document

	United Nations <b>Economic and Social Council</b>	ECE/TRANS/WP.30/AC.2/2015/23/Rev1 Distr.: General 27 November 2015 Original: English
<hr/> <b>Economic Commission for Europe</b> <b>Administrative Committee for the TIR Convention, 1975</b> Sixty-third session Geneva, 10-11 February 2016 Item 7(d) of the provisional agenda <b>Revision of the Convention:</b> <b>Audit requirements for an authorized international organization</b>		
<b>Audit requirements for an authorized international organization</b>		
<b>Note by the secretariat</b>		
<b>Revision 1</b>		
<b>I. Mandate</b>		
<p>1. At its previous session, the Committee continued its considerations of document ECE/TRANS/WP.30/AC.2/2015/12, transmitted by the Working Party and containing the checklist of all documents submitted by IRU to fulfil its obligations under Annex 9, Part III and welcomed document ECE/TRANS/WP.30/AC.2/2015/23, prepared by the secretariat and IRU and containing various ways by which these documents could be distributed to interested Contracting Parties, while at the same time, safeguarding the applicable confidentiality requirements. Further to substantive discussions, the Committee requested the secretariat to prepare a revised document, reflecting the comments received, as well as outlining the relevant procedural guidelines, for consideration and final decision at its next session (see ECE/TRANS/WP.30/AC.2/127, para.31). In line with this request, the secretariat has prepared the present document.</p>		
<b>II. Background</b>		
<p>2. On 10 October 2013, a new Part III to Annex 9 of the TIR Convention entered into force. It requires the international organization, as referred to in Article 6 of the Convention, to submit various types of information to either the TIR Administrative Committee (AC.2) or the TIR Executive Board (TIRExB), for the sake of providing transparency in the management and organization of the international guarantee system.</p>		
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