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INLAND TRANSPORT COMMITTEE

Administrative Committee for the TIR Convention, 1975
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Geneva, 4 February 2010
Item 7 (b) of the provisional agenda

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS
UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)**

Revision of the Convention

Other proposals for amendments to the Convention

Note by the secretariat

1. At its forty-eighth session, the Committee considered the amendment proposals, as contained in document ECE/TRANS/WP.30/2009/4 - ECE/TRANS/WP.30/AC.2/2009/3 and corrigenda 1-3 thereto, and noted that the European Community had finalized its internal approval procedures for their formal acceptance. The Committee decided to delete the proposals with regard to Article 6, paragraph 2bis and Annex 6, Explanatory Note 0.8.3, line 1-2 and requested the secretariat to issue a revised document for the next session (ECE/TRANS/WP.30/99, para. 21).

2. With reference to documents ECE/TRANS/WP.30/2008/13/Rev.1 and ECE/TRANS/WP.30/13/Rev.2, presenting all amendment proposals in a consolidated format and to paragraph 30 of the report of WP.30 at its 120th session (ECE/TRANS/WP.30/240) and paragraph 21 of the report of the Committee at its forty-ninth sessions, containing final additions thereto, this

document¹ contains in Annex I the precise wording of the legal amendment proposals, so far, in the presentation format prescribed by the United Nations. Amendment proposals involving comments are contained in Annex II.

¹ Due to the fact that this document is intended for review by the Committee only and because the original document (ECE/TRANS/WP.30/2009/4 - ECE/TRANS/WP.30/AC.2/2009/3) required corrigenda in all three official languages, the secretariat took the initiative to issue a new document rather than submitting a revision to the original document.

Annex I

**Amendment proposals for adoption by the Administrative Committee
for the TIR Convention (AC.2)**

Article 1 (q), line 1

For approved read authorized

Article 1 (q), line 2

For surety read guarantor¹

Article 1 (q)

After Article 1 (q) insert a new paragraph (r) to read:

- (r) the term “international organization” shall mean an organization authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system.

Article 8, paragraph 1

Modify paragraph 1 to read:

1. The guaranteeing association shall undertake to pay up to the maximum of the guaranteed amount of the import and export duties and taxes together with any default interest due under the Customs laws and regulations of the Contracting Party in which an irregularity leading up to a claim against the guaranteeing association has been established in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums.

Article 8, paragraph 7

Delete the text of paragraph 7

Article 10, paragraph 2, line 1

For country read Contracting Party

Article 11, paragraph 1

Modify paragraph 1 to read:

¹ English and French only, in the Russian text the existing term remains unchanged.

1. Where a TIR operation has not been discharged, the competent authorities shall:
 - (a) notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge;
 - (b) notify the guaranteeing association of the non-discharge.

The competent authorities shall notify the guaranteeing association with a maximum period of one year from the date of acceptance of the TIR Carnet by those authorities or two years when the certificate of termination of the TIR operation was falsified or obtained in an improper or fraudulent manner.

Article 11, paragraph 1

After paragraph 1 insert a new paragraph 2 to read:

2. Where the payment of the sums mentioned in Article 8, paragraphs 1 and 2 becomes due, the competent authorities shall, so far as possible, require payment from the person or persons liable for such payment before making a claim against the guaranteeing association.

Article 11, paragraph 2

Renumber paragraphs 2 and 3 to become paragraphs 3 and 4.

Article 11, new paragraph 3

Modify paragraph 3 to read:

3. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made against the guaranteeing association at the earliest three months after the date on which the association was notified that the operation had not been discharged or that the certificate of termination of the TIR operation had been falsified or obtained in an improper or fraudulent manner and not more than two years after that date. However, in cases of TIR operations which, during the above-mentioned period of two years, become the subject of administrative or legal proceedings concerning the payment obligation of the person or persons referred to in paragraph 2 of this Article, any claim for payment shall be made within one year of the date on which the decision of the competent authorities or courts becomes enforceable.

Article 11, new paragraph 4

For the existing text read:

4. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it.

5. The sums paid shall be reimbursed to the guaranteeing association if, within a two year period following the date on which the claim for payment was made against it, it has been established to the satisfaction of the competent authorities that no irregularity was committed in connection with the TIR operation in question. The two year time limit may be extended in accordance with national legislation.

Annex 6, Explanatory Note 0.8.3, line 1

For Customs authorities read Contracting Parties

Annex 6, Explanatory Note 0.8.5, line 1

For the guarantee is questioned read a payment request is made against the guaranteeing association

Annex 6, Explanatory Note 0.8.7

Delete Explanatory Note 0.8.7

Annex 6, Explanatory Note 0.10

Renumber Explanatory Note 0.10 to become Explanatory Note 0.10-1

Annex 6, Explanatory Note 0.10-1

After Explanatory Note 0.10-1 insert a new Explanatory Note 0.10-2 to read:

0.10-2 The phrase “or no termination has taken place” includes those situations where the certificate of termination has been falsified.

Annex 6, Explanatory Note 0.11-1

For the existing text read:

0.11.-1 The method of notification is left to national legislation.

Annex 6, Explanatory Note 0.11-2

For the existing text read:

0.11-2 The efforts to be made by the competent authorities to require payment from the person or persons liable shall include, at least, the sending of the claim for payment to

the TIR Carnet holder, at his address indicated in the TIR Carnet, or the person or persons liable, if different, established in accordance with national legislation. The claim for payment to the TIR Carnet holder may be combined with the notification referred to in paragraph 1 (a) of this Article.

Annex 6, Explanatory Note 0.11-3

For the existing text read

0.11-3-1 In deciding whether or not to release the goods or vehicle, competent authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of duties, taxes and default interest payable by the holder of the Carnet.

0.11-3-2 The competent authorities may inform the guaranteeing association that administrative or legal proceedings concerning the payment obligation were initiated. In any event, the competent authorities shall inform the guaranteeing association of such proceedings that may be terminated after the two year time limit before that time limit has expired.

Annex 6, Explanatory Note 0.11-4

Add a new Explanatory Note 0.11-4 to read

0.11-4 If a guaranteeing association is asked, in accordance with the procedure set out in this Article, to pay the sums referred to in Article 8, paragraphs 1 and 2, and fails to do so within the time-limit of three months prescribed by the Convention, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is the a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The time limit also applies in the event that the guaranteeing association, on receipt of the claim, consults the international organization referred to in Article 6, paragraph 2 over its position concerning the claim.

Annex 6, Explanatory Note 0.28

Renumber Explanatory Note 0.28 to become Explanatory Note 0.28-1

After Explanatory Note 0.28-1 insert a new Explanatory Note 0.28-2 to read:

0.28.2 This Article provides that the termination of a TIR operation shall be subjected to the goods being placed under another Customs procedure or another system of Customs control. This includes clearing the goods for home use (either full or conditionally), the transfer across the border to a third country (export), or to a free zone, or the

storage of the goods in a place approved by the Customs authorities while awaiting the declaration for another procedure.

Annex II

Proposals for comments for endorsement by the Administrative Committee for the TIR Convention (AC.2)

Comment to Explanatory Note 0.8.3, last sentence

Delete last sentence¹

Comments to Article 11, paragraph 1

Delete comment Payment of duties and taxes

Comments to Article 11, paragraph 3

After comment to Article 11, paragraph 3 insert a new comment to read

Claim for payment of duties and taxes

The claim for payment should be supported by copies of the relevant documentation. In cases where part of the goods has been subject to an irregularity, the competent authorities should apportion the claim for payment of the evaded duties and taxes referred to in Article 8, paragraphs 1 and 2 accordingly. Without prejudice to any national provisions concerning the right of appeal, should the guaranteeing association obtain alternative proof of the termination of the TIR operation, it should submit the proof to the competent authorities who notified the non-discharge of the TIR operation.”

Comments to Article 28

Delete comment Applicable procedures after termination of a TIR operation

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¹ Modification of comment subject to discussion by WP.30 (See: ECE/TRANS/WP.30/240, paragraph 27).