



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/1998/17
12 November 1998

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions
affecting Transport

Ad hoc Group of Experts on Phase II
of the TIR Revision Process

**REPORT OF THE AD HOC GROUP OF EXPERTS
ON ITS THIRD SESSION
(19 and 20 October 1998)**

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REPORT

ATTENDANCE

1. The group of experts held its third session on 19 and 20 October 1998 under the chairmanship of Mr. F. Paroissin (France).
2. The session was attended by experts from the following countries: Austria, Belarus; Belgium; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Italy; Latvia; Netherlands; Norway; Poland; Romania; Russian Federation; Slovakia; Slovenia; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom. Representatives of the European Community (EC) were also present.
3. The following intergovernmental organization was represented: World Customs Organization (WCO).
4. The following non-governmental organization was represented: International Road Transport Union (IRU).

ADOPTION OF THE AGENDA

5. The group of experts adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/1998/13) with the addition of the following item:

Agenda item 3 (k): Follow-up on the revision of the TIR Convention.

IMPLEMENTATION OF PHASE I OF THE TIR REVISION PROCESS - IMPLEMENTATION OF NEW ANNEX 9, PART I, PARAGRAPH 1 (f)(v)

Documentation: TRANS/WP.30/1998/11; TRANS/WP.30/AC.2/51; TRANS/WP.30/1998/7;
TRANS/WP.30/AC.2/49; TRANS/WP.30/180.

6. The group of experts recalled that the TIR Administrative Committee, at its twenty-fifth session, had amended a comment, adopted earlier, on the application of Annex 9, Part I, paragraph 1 (f)(v) of the revised Convention since, in a number of Contracting Parties, national legislation prohibited an association and an international insurer entering into a contractual agreement and, therefore, concluding an international insurance contract. For this reason, the Administrative Committee had felt that, for a temporary period (refer to TRANS/WP.30/AC.2/51, paras 17 and 18), it was exceptionally permissible to conclude a global insurance contract under the Convention between the international

insurers and the IRU, the latter acting on its own behalf as well as on behalf of its member associations and third parties.

7. On the basis of this interpretation, the group of experts continued its examination of the new draft global insurance contract which had been prepared by the international insurers and the IRU in consultation with its member associations (TRANS/WP.30/1998/7). It felt that, from a Customs point of view, the present draft global insurance contract was in line with the provisions and the spirit of the revised Convention, subject to the following modifications:

Article 1:

Replace the word ~~Associations~~ by: ~~Member Associations or third parties~~.

Article 2:

Modify the word ~~Anommées~~ by: ~~Anommés~~ (French only).

Article 3:

Leave the text unchanged with the following exception: Amend the term ~~TIR Convention~~ by: ~~TIR Convention, 1975~~".

Article 4:

Delete the reference to the TIR Convention of 1959 and refer only to the TIR Convention, 1975.

Article 5, paragraph 1

Leave the text unchanged. It is however recommended that the Working Party on Customs Questions affecting Transport considers the preparation of a comment to article 8 of the Convention on national practices for the calculation of default interest and of the equivalent in local currency of the recommended guarantee of US\$ 50,000.- per TIR Carnet.

Article 10, paragraph 2

Replace the term ~~third parties~~ by: ~~parties~~.

Article 11, paragraph 1

Modify the present text to provide for a notification period for termination of the global insurance contract of six (6) months also for the year 1999.

8. The delegations of the Russian Federation and of the Ukraine indicated that they would still need to consult with competent national authorities and would inform the ECE secretariat and the IRU on the outcome of these consultations in due course.

9. The group of experts was of the view that the examination of the draft global insurance contract by Customs authorities at the international level, prior to its conclusion, contributed to the required transparency of the international guaranteeing chain. It was hoped that the above suggestions of the group of experts would allow for acceptance of the global insurance contract by all competent national authorities, in line with Annex 9, Part I, paragraph 1 (f)(v) of the revised Convention.

PROPOSALS FOR AMENDMENTS TO THE TIR CONVENTION, 1975 - PHASE II OF THE TIR REVISION PROCESS

10. The group of experts decided to continue its considerations of this issue on the basis of the results of its first and second sessions (TRANS/WP.30/1998/5 and Corr.1; TRANS/WP.30/1998/11).

11. A document transmitted by the Government of Belarus, containing a number of concrete amendment proposals, could not be considered by the group of experts at the present session due to its late issuance and lack of time (TRANS/WP.30/1998/16) .

(a) Stable and well-functioning international guarantee system

Documentation: TRANS/WP.30/1998/11; TRANS/WP.30/1998/5 and Corr.1;
TRANS/WP.30/180; TRANS/WP.30/1998/1; TRANS/WP.30/178;
TRANS/WP.30/R.195 and Corr.1; TRANS/WP.30/R.186;
TRANS/WP.30/R.182; TRANS/WP.30/R.181; TRANS/WP.30/R.178.

12. The group of experts confirmed its earlier decision to improve the present international guarantee system by inserting into the Convention a number of key elements providing for a stable, well-functioning and transparent international guarantee system.

(b) Status and functions of the international organization(s)

Documentation: TRANS/WP.30/1998/5 and Corr.1; TRANS/WP.30/1998/8;
TRANS/WP.30/R.186.

13. The majority of experts confirmed the decision taken at its second session to propose the inclusion of a new paragraph 2 bis in article 6 of the Convention as well as a new explanatory note 0.62 bis describing in general terms the role of an international organization with regard to the effective functioning of an international guarantee system (TRANS/WP.30/1998/11, para. 11).

14. During the present session, some experts proposed, however, an alternative wording for a new paragraph 2 bis of article 6 of the Convention to read as follows:

A2 bis An international organization, as referred to in paragraph 2, shall be authorized by the Administrative Committee as a body administering the centralized guarantee systems provided that such an organization assumes the responsibility for the functioning of this system.®

(c) Harmonized discharge procedures

Documentation: Informal document No.11 (Turkey); TRANS/WP.30/1998/15;
TRANS/WP.30/1998/11; TRANS/WP.30/1998/5 and Corr.1;
TRANS/WP.30/1997/1; TRANS/WP.30/178; TRANS/WP.30/176;
TRANS/WP.30/164; TRANS/WP.30/134.

15. The group of experts recalled that the details of the discharge procedure depended to a large extent on national legislation and administrative procedures and were not prescribed in the Convention. It felt, however, that for an efficient and rapid settlement of Customs claims, internationally accepted definitions and transparent procedures in this area would be extremely useful.

(i) Definition of termination and discharge procedures

16. On the basis of a document prepared by the secretariat (TRANS/WP.30/1998/15), the group of experts considered a number of amendment proposals to the Convention, aiming at a clear distinction between (a) the termination of a TIR operation, (French: Afin de l-opération TIR®, Russian: Прекращение®) as an obligation of the TIR Carnet holder and (b) the discharge of a TIR operation (French: Apurement de l-opération TIR®, Russian: Азавершение®) as the recognition by Customs authorities that a TIR operation has been terminated correctly.

17. Several experts, while approving in principle the definitions proposed and the approach taken by the secretariat to ensure that a TIR operation is restricted to the transit transport operation only and that Customs claims for payment of duties and taxes were clearly linked to the discharge procedure and not to the termination of the TIR operation, felt that

- certification of the termination of the TIR operation by Customs authorities might become part of the relevant definition on Atermination®,

- in English, the word Termination might be replaced by Ending in line with the terminology used in the European Community and that, in general, the precise wording of the newly defined terms would still need to be reviewed;
- termination of a TIR operation should only be allowed if another system of Customs control followed in an uninterrupted way;
- definitions for partial and final termination of a TIR operation, while not contained in the present text of the Convention might need to be prepared for use under the international EDI control system for TIR Carnets as recommended by the TIR Administrative Committee on 20 October 1995;
- Article 11, paragraph 1 of the Convention should not only provide for notification of the association, but also, as far as possible, of the TIR Carnet holder (even though such a provision might be better placed eventually in article 8, paragraph 7); furthermore such notification might also refer to conditional termination of the TIR operation).

(ii) Recommended termination, discharge and inquiry procedures

Documentation: Informal document No. 13 (IRU).

18. The group of experts noted that the proposed amendments, as contained in the secretariat document, did not modify existing Customs procedures in the Contracting Parties to the Convention, but would allow for a better understanding of the rights and obligations of Customs authorities, TIR Carnet holders and national associations during TIR transit operations. Once a consensus had been achieved on these proposals, recommended termination, discharge and inquiry procedures (best practices) could be developed together with guidelines for the filling-in of TIR Carnets.

(d) Definition of the holder of TIR Carnets

Documentation: Informal document No. 12 (EC); TRANS/WP.30/1998/8;
TRANS/WP.30/1998/5; TRANS/WP.30/180; TRANS/WP.30/166;
TRANS/WP.30/162; TRANS/WP.30/R.149; TRANS/WP.30/R.138.

19. The group of experts took note of a document reflecting the divergent views of experts from Denmark and the Russian Federation on a possible definition of the holder of a TIR Carnet (TRANS/WP.30/1998/8).

20. Some experts felt that the TIR Carnet holder as inscribed in the model of the TIR Carnet (annex 1 of the Convention) must be the transport operator actually accompanying or transporting the sealed load compartment or container in accordance with national Customs laws and regulations. This interpretation would be in line with the provisions of the new annex 9, Part II of the TIR Convention

stipulating minimum conditions and requirements for persons utilizing TIR Carnets, such as proven experience to engage in regular international transport.

21. Other experts were of the view that the holder of a TIR Carnet is the person to whom a TIR Carnet has been issued by a national association and with whom it is jointly and severally liable vis-à-vis the national Customs authorities. Most of these experts felt that the holder was free to sub-contract transport operators in line with modern transport procedures and techniques (semi-trailers, containers, etc.). The multimodal TIR Carnet introduced earlier supported such an interpretation.

22. Due to time constraints, the group of experts did not consider this important issue in greater detail. It agreed, however, that a clear-cut and internationally accepted definition was urgently required in this field since the different interpretations by Contracting Parties had led to the non-acceptance of duly opened TIR Carnets which defeated the very objective of the Convention.

(e) Reduction in the notification periods for Customs claims

Documentation: TRANS/WP.30/1998/11; TRANS/WP.30/1998/5.

23. Not discussed due to lack of time

(f) Alternative forms of evidence as proof for the discharge of TIR Carnets

Documentation: TRANS/WP.30/1998/5; TRANS/WP.30/1997/1.

24. Not discussed due to lack of time.

(g) EDI control system for TIR Carnets: Implementation of the Recommendation of 20 October 1995

Documentation: TRANS/WP.30/1998/5; TRANS/W.30/1998/1; TRANS/WP.30/178; TRANS/WP.30/AC.2/37, annex 4.

25. The group of experts decided to invite the Working Party to consider this item at its ninety-first session (TRANS/WP.30/182).

(h) Re-introduction of the guarantee coverage for tobacco and alcohol

Documentation: TRANS/WP.30/1998/5.

26. Not discussed due to lack of time.

(i) Revised TIR Carnet

Documentation: TRANS/WP.30/1998/5; TRANS/WP.30/180; TRANS/WP.30/1998/1; Informal document No.5; TRANS/WP.30/R.176; TRANS/WP.30/176; TRANS/WP.30/172; TRANS/WP.30/166.

27. Not discussed due to lack of time.

(j) Computerization of the TIR transit system

28. Not discussed due to lack of time.

(k) Follow-up to phase II of the TIR revision process

29. The group of experts requested the secretariat to compile all amendment proposals considered and contained in its reports into a single document and to transmit it to the forthcoming session of the Working Party (22-26 February 1999). The group of experts recommended to the Working Party to request the Inland Transport Committee to provide for additional meeting days in 1999 to complete Phase II of the TIR revision process and to commence Phase III focusing on a revised TIR Carnet and the computerization of the TIR operation.

ADOPTION OF THE REPORT

30. The group of experts adopted the present report on the basis of a draft prepared by the secretariat.
