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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions

affecting Transport

(One-hundred-and-second session, 22-25 October 2002,
agenda item 6 (c) (v))

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

Application of the Convention

Trade facilitation and Customs controls

Note by the secretariat

A. BACKGROUND

1. The TIR Executive Board, at its eleventh session (18-22 October 2001), adopted a comment to Article 47 of the TIR Convention which stipulated that the application of additional restrictions and controls, mentioned therein, only referred to other Governmental bodies than Customs and should not be used to justify supplementary Customs requirements (TIRExB/REP/2001/11/Rev.1).

2. At its one-hundredth session (12-15 February 2002), the Working Party discussed a draft proposal for a new Article (and comment), prepared by the European Community, on the limitation of restrictions, controls or other provisions, applied by the competent authorities to the transport of goods carried under the TIR procedure (TRANS/WP.30/2002/1).

3. As both proposals refer to the application of the TIR Convention at the national level and seem to address the same concern, the Working Party requested the secretariat to prepare a document containing both texts, allowing for further, detailed study of the matter, possibly in co-operation with the representative of the European Community (TRANS/WP.30/200, para. 76).
4. At its one-hundred-and first session, the Working Party considered the document (TRANS/WP.30/2002/13), prepared by the secretariat and consolidating the proposals of TIRExB and the European Community. The Working Party welcomed the general approach of the newly proposed comment, but felt that a precision of the wording would be necessary. The European Commission submitted a proposal to slightly amend the text of the proposal in order that it would also take account of the fact that the application of restrictions and delays within the context of Article 47 of the Convention would usually lead to delays and extra costs for the transport industry. The secretariat was requested to prepare a new document for the next session of the Working Party, taking account of the observations and proposals made by the Working Party (TRANS/WP.30/202, para. 56).
5. The underlying document, which has been drawn up in cooperation with the services of the European Commission, reflects the outcome of the discussion and the amendment proposed by the European Community.

B. CURRENT SITUATION

6. There already exists a comment to Article 47 of the TIR Convention which stipulates that the controls applied within the context of the Article should be kept to a minimum and limited to the cases where the circumstances or the real risks justify such controls. However, both the European Community and the TIRExB feel that this comment has not been sufficiently clear to prevent Article 47 from being used as a tool to justify additional Customs controls. Therefore, an amendment to the comment seems appropriate (TRANS/WP.30/2002/13, para. 7).
7. To obtain a dedicated use of Article 47, para. 1, the secretariat proposes to replace the existing comment by a new one, to read as follows:

“Comment to Article 47, paragraph 1

Trade facilitation and Customs controls

The TIR Convention is a Customs Convention aimed at the Customs transit regime. The objective of Article 47 is to allow for the application of additional restrictions and controls based on national regulations other than Customs regulations. Therefore it should not be used to justify supplementary Customs requirements.

Where Article 47, paragraph 1 becomes applicable, such restrictions and controls will usually lead to delays and extra costs for transport businesses. In recognition of this, such restrictions and controls shall be kept to a minimum and be limited to the cases where the circumstances or the real risks justify them.

8. This revised proposal to amend the comment to Article 47, paragraph 1 reflects the fact that, although Article 47 is not intended to preclude certain specific restrictions and controls, it should be read against the background of the general objective of the TIR Convention and should therefore not be used to justify additional Customs controls. In addition, it clarifies to a wider extent than the current comment, that restrictions and controls, applied by virtue of Article 47, paragraph 1 usually lead to delays and extra costs and should therefore be limited to cases where they are justified by the circumstances and real risks.
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