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Working Party on Customs Questions Affecting Transport

One-hundred-and-eighteenth session
Geneva, 29 January-1 February 2008
Item 9 (b) (iii) of the provisional agenda

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

Revision of the Convention

Amendment proposals for the Convention

Note by the secretariat

1. At its one-hundred-and-seventeenth session, the Working Party considered document ECE/TRANS/WP.30/2007/18, transmitted by the European Commission on behalf of the European Community, containing a number of amendment proposals. Due to practical difficulties in discussing the EC's amendment proposals and counterproposals, the Working Party requested the secretariat to prepare a consolidated document. This document should contain the proposals of the European Community (ECE/TRANS/WP.30/2007/18) as well as other parties' comments, counterproposals and additional amendment proposals.

2. The Working Party further decided that the proposal contained in ECE/TRANS/WP.30/2007/19 would become an integral part of the consolidated amendment proposals (see ECE/TRANS/WP.30/234, paras. 25-27).

3. This document contains in annex the consolidated version of outstanding amendment proposals, as submitted to the secretariat by 15 November 2007 for consideration by the Working Party.

4. The structure of the document is as follows:

- Column 1: contains the proposals by the European Community, as contained in document ECE/TRANS/WP.30/2007/18;
- Column 2: contains amended proposals by the European Community; differences in comparison to document ECE/TRANS/WP.30/2007/18 are indicated by means of underline and ~~striketrough~~;
- Column 3: contains amendment proposals submitted by the International Road Transport Union (IRU); the proposals are based on document ECE/TRANS/WP.30/2007/18 and take also into consideration other proposals by the IRU set out in document ECE/TRANS/WP.30/2006/5/Rev.2; justifications to the various proposals are contained in footnotes;
- Column 4: contains various other proposals (by the Working Party, the ad Hoc Expert Group on Phase III of the TIR Revision (GE.2), the Government of Belarus, the Government of the Russian Federation).

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
Article 1 (q)			
		<p>The term “guaranteeing association” shall mean an association, authorised by the competent authorities of a Contracting Party to issue TIR Carnets, and to act as guarantor for the persons using the TIR procedure.²</p>	<p>the term “guaranteeing association” shall mean an association, authorized by the competent authorities of a Contracting Party to issue TIR Carnets, and to act as guarantor [surety] for persons using the TIR procedure, having undertaken in writing to pay jointly and severally with the person(s) directly liable the sums due, as laid down in this Convention. (ECE/TRANS/WP.30/228, para. 36)</p>
Article 1 (r)			
		<p>The term “international organization” shall mean an organization authorised by the Administrative Committee to take on the responsibility for the effective organization and</p>	<p>the term “international organization” shall mean an organization authorized by the TIR Administrative Committee to take on responsibility for the effective</p>

¹ Changes compared to document ECE/TRANS/WP.30/2007/18 are underlined and ~~strike through~~.

² Justification by IRU: The only change required to this article concerns the replacement of the word “surety” with “guarantor” in order to align the three language versions of the Convention.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>functioning of an international guarantee system and to centrally print and distribute TIR Carnets.³</p>	<p>organization and functioning of the international guarantee system and to centrally print and distribute TIR Carnets. (ECE/TRANS/WP.30/228, para. 36).</p>
Article 1 (s)			
		<p>The term “TIR Carnet” shall mean the international Customs document which also provides proof of the existence of an international guarantee for the goods carried under the TIR procedure. Certain information contained in the TIR Carnet may, additionally, be furnished to the competent Customs authorities by means of a data processing technique in</p>	

³ Justification by IRU: This text has already been considered by the WP.30. The only modification concerns the deletion of “TIR” in respect of the Administrative Committee.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		accordance with national legislation.⁴	
Article 3			
		(a) [no change]	
		(b) the transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6 and must be performed under cover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to the Convention. In cases where some of the information contained in the TIR Carnet is additionally	

⁴ Justification by IRU: The IRU fully supported the European Community's intention that the TIR Convention should explicitly allow the possibility for TIR Carnet holders to submit the TIR Carnet declaration data by electronic means where this is allowed under national legislation (document ECE/TRANS/WP.30/2007/13 refers). In the interests of clarity and legal certainty the IRU believes the most appropriate way to achieve this is through an amendment to Article 1 with consequential amendments to Article 3. Currently the TIR carnet is the unique and consistent medium through which TIR Carnet holders, the guarantee chain and the competent authorities apply and implement the TIR Convention. The TIR Carnet ensures not only the provision of a common set of declaration data but also a standardized method of presenting the TIR declaration. These features represent one of the essential characteristics of the "basic philosophy and structure" of the TIR system which should, as agreed by the Contracting Parties, be maintained in the electronic environment. It is therefore necessary to introduce the equivalent of Annex 1 in order to secure the consistent and harmonious application of the TIR procedure in the electronic environment and so avoid the proliferation of disparate data requirements and technical standards for presenting the TIR declaration electronically. To that end a new Annex has been proposed.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		furnished by means of a data processing technique, the information shall conform to the data elements laid down in Annex 11 to this Convention.⁵	
		<i>Comment to Article 3 [no change]</i>	
Article 4			
		Goods carried under the TIR procedure shall not be subject to the payment or deposit of import or export duties and taxes.⁶	As long as goods are carried under the TIR procedure, the payment of import and export duties shall be suspended and security other than that mentioned in Article 3 (b) shall not be required. (WP.30, ECE/TRANS/WP.30/224, para. 41)
		<i>Comment to Article 4 [no change]</i>	

⁵ Justification by IRU: This new sentence is required to provide a comparable legal basis for those situations where the TIR Carnet data is also to be provided by electronic means. Furthermore Articles 1 (s) and 3 (b) together with Annex 11, provide the legal basis for the implementation of the computerisation of the TIR procedure in a harmonized and mutually recognized environment.

⁶ Justification by IRU: The IRU fully supports the efforts made by the Contracting Parties to clarify the meaning of this article. However in recognition of the difficulties in reaching an agreement on the text, the IRU proposes the afore-mentioned simple text which reflects the essence of the equivalent WCO Standard in the Revised Kyoto Convention.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
Article 6.2bis			
		<p>An international organization shall be authorised by the Administrative Committee to take on the responsibility for the effective organization and functioning of an international guarantee system and to centrally print and distribute TIR Carnets. The authorization shall be granted as long as the organization fulfils the conditions and requirements laid down in Annex 9, Part III. The authorization shall be revoked if these conditions and requirements are no longer fulfilled.⁷</p>	<p>An international organization shall be authorized by the Administrative Committee to take on responsibility for the [effective] organization and functioning of an international guarantee system and to print and distribute TIR Carnets. The authorization shall be granted as long as the organization fulfills the conditions and requirements laid down in Annex 9, Part III to this Convention. The authorization shall be revoked if the fulfillment of these criteria is no longer ensured (Expert Group on Revision, TRANS/WP.30/GE.2/2005/3).</p>
		Explanatory Notes to Article 6.2bis [no change]	

⁷ Justification by the IRU: The Contracting Parties have made it clear that they would like to see the international organization's responsibilities described in Annex 9. In order to achieve this objective it is necessary to introduce the possibility through an amendment to the body of the Convention.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
Article 8			
<p>1. The guaranteeing association shall undertake to pay the guaranteed amount of the import or export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity 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 the payment of such sums.</p>	<p>1. The guaranteeing association shall undertake to pay <u>up to the maximum of the</u> guaranteed amount of the import or export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity 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 the payment of such sums.</p>	<p>1. The guaranteeing association shall undertake to pay up to the maximum of the guaranteed amount of the import or 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 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 the payment of such sums.⁸</p>	

⁸ Justification by the IRU: The text of paragraph 1 reflects the wording of the European Community’s proposal in document ECE/TRANS/WP.30/2007/18 but with the use of the term “Contracting Party” rather than “country”. For consistency sake this change has been introduced elsewhere. It is proposed to delete the current paragraph 2 because the Contracting Parties have already agreed that it has no relevance as far as the application of the TIR Convention is concerned. As a consequence the succeeding articles need to be renumbered and aligned. Although the current paragraph 7 has been deleted it is to be repositioned in Article 11. The opportunity has been taken to clarify the meaning of Explanatory Note 0.8.4 by replacing the potentially ambiguous phrase “if the guarantee is questioned” with a clearer text.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><i><u>Comments to Article 8, paragraph 1</u></i></p> <p><i>Administrative fines</i> <i>The liability of the guaranteeing associations as provided for in Article 8, paragraph 1 does not include administrative fines or other pecuniary sanctions.</i></p> <p><i>Collection of additional sums</i> <i>Article 8, paragraph 1, allows Customs authorities to collect additional sums such as liquidated damages or other penalties from the holder of the Carnet should they deem that to be necessary.</i></p>	
		<p>2. Each Contracting Party shall determine the maximum sum per TIR Carnet, which may be claimed from the guaranteeing association on the basis of paragraph 1 above.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><u>Explanatory Note to Article 8, paragraph 2</u> 0.8.2 Customs authorities are recommended to limit to a sum equal to \$US 50,000 per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. The following type of goods cannot be transported under cover of TIR Carnet, given the extraordinarily high risk of fraud:</p> <ol style="list-style-type: none"> (1) Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher (HS code: 22.07.10); (2) Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages (HS code: 22.08); (3) Cigars, cheroots and cigarillos, containing tobacco (HS code: 24.02.10); (4) Cigarettes containing tobacco (HS code: 24.02.20); (5) Smoking tobacco, whether or 	<p><u>Explanatory Notes to Article 8, paragraph 2</u> 0.8.2-1 Customs authorities are recommended to limit to a sum equal to \$US 50,000 per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. The following types of goods cannot be transported under cover of TIR Carnet, given the extraordinarily high risk of fraud: (1) – (5) (see IRU proposal)</p> <p><u>For \$US 50,000 read €60,000</u> (Government of Belarus; ECE/TRANS/WP/30/2007/19).</p> <p>0.8.2-2: In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of US\$ 50,000 for consignments transported under the normal TIR Carnet or a similar sum fixed by the</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>not containing tobacco substitutes in any proportion (HS code: 24.03.10).</p>	<p>national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country. (Expert Group on Revision, TRANS/WP.30/GE.2/2005/3) P.M: Explanatory Note to Article 23 will have to be amended accordingly.</p> <p><u>For \$US 50,000 read €60,000</u> (Government of Belarus; ECE/TRANS/WP/30/2007/19).</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><i><u>Comment to Explanatory Note 0.8.2</u></i></p> <p><i>Duties and taxes at risk</i></p> <p><i>In accordance with article 4 of the Convention, goods carried under the TIR procedure shall not be subject to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of \$US 50,000 or a similar sum fixed by the national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country.</i></p>	
		<p>3. The liability of the guaranteeing association to the authorities of the Contracting Party where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office. In the succeeding Contracting Parties through which goods are transported under the TIR procedure, this liability shall commence at the</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>time when the goods enter these countries or, where the TIR transport has been suspended under Article 26, paragraphs 1 and 2, at the time when the TIR Carnet is accepted by the Customs office where the TIR transport is resumed.</p>	
		<p>4. The liability of the guaranteeing association shall cover not only the goods which are enumerated in the TIR Carnet but also any goods which, though not enumerated therein, may be contained in the sealed section of the road vehicle or in the sealed container. It shall not extend to any other goods.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><u>Explanatory Note to Article 8, paragraph 4</u> 0.8.4 If a payment request is established against the person or persons directly liable and a claim is subsequently made against the guaranteeing association for goods not listed in the TIR Carnet, the administration concerned should indicate the facts on which it based its opinion that the goods were contained in the sealed section of the road vehicle or the sealed container.</p>	
		<p>5. For the purpose of determining the duties and taxes mentioned in paragraph 1 of this Article, the particulars of the goods as entered in the TIR Carnet shall, in the absence of evidence to the contrary, assumed to be correct.</p>	
		<p><u>Explanatory Note to Article 8, paragraph 5</u> 0.8.5 1. In the absence in the TIR Carnet of particulars detailed enough to enable charges on the goods to be determined, the Parties concerned may produce evidence of their precise nature.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		2. If no evidence is furnished, duties and taxes will be charged, not at a flat rate unrelated to the nature of the goods, but at the highest rate applicable to the kind of goods covered by the particulars in the TIR Carnet.	
7. Deleted ⁹			
Article 10			
2. When the Customs authorities of a Contracting Party have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless proof of the termination of the TIR operation was falsified or was obtained in an improper	2. When the Customs authorities of a Contracting Party have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless proof of the termination of the TIR operation was falsified or was obtained in an improper	2. When the Customs authorities of a Contracting Party have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraph 1 unless the certificate of the termination of the TIR operation was obtained in an improper or fraudulent	

⁹ Paragraph moved to Article 11, paragraph 2.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
or fraudulent manner or no termination has taken place.	or fraudulent manner or no termination has taken place.	manner or no termination has taken place.¹⁰	
<u>Explanatory Note to Article 10</u> 0.10. Proof of the termination of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs seals,	<u>Explanatory Note to Article 10, paragraph 2</u> 0.10-1. The certificate Proof of the termination of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents,	<u>Explanatory Note to Article 10, paragraph 2</u> 0.10-1 The certificate of termination of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs	

¹⁰ Justification by the IRU: It is apparent from the various comments made by the representatives of the European Community that the proposal to introduce the new term “proof of termination” is based on the assumption that the word “certificate” implies the use of a paper based document. The IRU does not agree that the word “certificate” has such a narrow meaning but in order to address the European Community’s apparent concern it is proposed to use the Explanatory Note to Article 10 to make it clear that the certificate can additionally take the form of an electronic message. This proposal obviates the need to introduce a new, undefined term into the Convention. With regard to the European Community’s other proposal to introduce the concept that the certificate of termination can be “falsified”, the IRU believes that the justification for this amendment has not been made nor has the legal implications been fully considered. By definition a false or fake Customs stamp applied to the appropriate part of Voucher No 2 of the TIR carnet does not certify the termination of the TIR operation. The certification that the TIR operation has been terminated can only be given by Customs and this was confirmed by the WP.30 during its 88th session. Should the appropriate part of Voucher No 2 be applied with a false or fake stamp it follows that the competent Customs authorities are able to conclude that “no termination has taken place”. Moreover, in the electronic environment which will be under the full control and management of the Customs authorities, there can be no false discharge of the TIR operation based on a falsified message certifying termination. However a new Explanatory Note 0.10-2 has been proposed in anticipation that the WP.30 considers the situation requires clarification.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>etc., have been discovered, or when the proof of termination has been obtained by other illicit means.</p>	<p>the substitution of goods, tampering with Customs seals, etc., have been discovered, or when the certificate proof of termination has been obtained by other illicit means. <u>0.10-2. The phrase “or no termination has taken place” includes those situations where the certification of termination has been falsified.</u></p>	<p>seals, etc., have been discovered, or when the proof of termination has been obtained by other illicit means.</p> <p>0.10-2 The phrase “or no termination has taken place” includes those situations where the certificate of termination given on the appropriate part of voucher No 2 has been falsified by the use of forged signatures and/or false Customs stamps.</p> <p>0.10-3 The term “certificate of termination” refers to not only the endorsement by Customs of the appropriate part of voucher No 2 of the TIR Carnet, but also to the termination message provided by electronic means to complement the paper based certificate in cases where the Contracting Parties have approved the use of data processing techniques in accordance with Article 1 (s).</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
Article 11			
<p>1. Where a TIR operation has not been discharged the competent authorities shall:</p> <p>(a) as soon as possible notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge,</p> <p>(b) notify the guaranteeing association of the non-discharge.</p>	<p>1. Where a TIR operation has not been discharged the competent authorities shall:</p> <p>(a) as soon as possible notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge <u>before sending the notification under (b),</u></p> <p>(b) notify the guaranteeing association of the non-discharge.</p>	<p>1. Where a TIR operation has not been discharged the competent authorities shall:</p> <p>(a) notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge, as soon as possible; and</p> <p>(b) notify the guaranteeing association of the non-discharge.</p>	<p>1. Where a TIR operation has not been discharged the competent authorities shall:</p> <p>(a) as soon as possible notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge,</p> <p>(b) notify the guaranteeing association of the non-discharge</p>
<p>The notification of the guaranteeing association shall be made within a maximum period of one year from the date of acceptance of the TIR Carnet or two years when the proof of termination of the TIR operation was falsified or</p>	<p>The notification of competent authorities shall notify the <u>guaranteeing association shall be made</u> within a maximum period of one year from the date of acceptance of the TIR Carnet or two years when <u>if the proof certificate</u> of termination of the TIR operation was</p>	<p>The notification to the guaranteeing association shall be made as soon as possible and not later than one year from the date of acceptance of the TIR Carnet or two years when the certificate of termination of the TIR operation was obtained in an</p>	<p>The notification of the guaranteeing association shall be made within a maximum period of one year from the date of acceptance of the TIR Carnet <u>by those authorities</u> or two years when the proof of termination of the TIR operation was falsified or obtained in an improper or</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
obtained in an improper or fraudulent manner.	falsified or obtained in an improper or fraudulent manner.	improper or fraudulent manner.¹¹	fraudulent manner (Government of the Russian Federation).
<u>Explanatory Note to Article 11, paragraph 1</u> 0.11-1 The method of notification is left to national legislation.	<u>Explanatory Note to Article 11, paragraph 1</u> 0.11-1 The method of notification is left to national legislation.	<u>Explanatory Note to Article 11, paragraph 1</u> 0.11-1 The method of notification is left to national legislation.	

¹¹ Justification by the IRU: The European Community's proposal to apply the two year rule to situations involving certificates of termination that have been falsified has not been justified. The IRU firmly believes that previous decisions taken by the WP.30 (reference the 88th session) cannot simply be discarded because of what appears to be operational or administrative difficulties experienced by an isolated Contracting Party. The IRU believes that the appropriate use of elementary risk management techniques, including the establishment of a secure system for processing internal post containing Vouchers No 2 as well as recourse to the UNECE register of Customs stamps, should enable the competent Customs authorities to detect such falsifications within the time period of 12 months. It is also noted that under EU legislation (Article 450c of the Customs Code implementing provisions) the equivalent provisions for the Community transit system requires the notification of non discharge to the guarantor to be given "within 12 months of the date of acceptance of the transit declaration". It would appear that the European Community is therefore trying to introduce into the TIR Convention provisions which exceed the equivalent EU requirements in order to facilitate the making of claims against the TIR guarantee chain. If this assessment is correct then it seems reminiscent of the conclusions reached by the European Parliament's Temporary Committee of Inquiry that "Customs services are more concerned with collecting public revenue using guarantees as a form of insurance, than tackling the defects in the system as a means of facilitating trade".

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><u>Comments to Article 11, paragraph 1</u> Notification to the national guaranteeing association As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is decisive. However, the method of proof of notification is left to national legislation (registered mail for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more. Notification to the TIR Carnet holder The requirement of notification to the TIR Carnet holder could be fulfilled by transmission of a registered letter or other means of notification.</p>	<p><u>Comments to Article 11, paragraph 1</u> Notification to the national guaranteeing association As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets <u>it is the date of receipt and</u> but <u>not the date of dispatch that is decisive.</u> However, the method of proof of proving that the notification was sent is left to national legislation (registered mail for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more. Notification to the TIR Carnet holder The requirement of notification to the TIR Carnet holder could be fulfilled by transmission of a registered letter or other means of notification.</p>	<p><u>Comments to Article 11, paragraph 1</u> Notification to the guaranteeing association As regards the time limit for the notification to the guaranteeing association of the non-discharge of TIR Carnets, it is the date of receipt and not the date of dispatch that is decisive. However, the method of proving that the notification was sent is left to national legislation (registered mail for example being one example of proof of reception). Notification to the TIR Carnet holder The requirement of notifying the TIR Carnet holder could also be fulfilled by transmission of a registered letter or by some other means of notification.</p>	<p><u>Comments to Article 11, paragraph 1</u> Notification to the national guaranteeing association As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is decisive. However, the method of proof of notification is left to national legislation (registered mail for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more. Notification to the TIR Carnet holder The requirement of notification to the TIR Carnet holder could be fulfilled by transmission of a registered letter or other means of notification.-(Government of the Russian Federation).-</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><u>Explanatory Note to Article 11, paragraph 1(b)</u> 0.11-1(b) Once the guaranteeing association has been notified of the non discharge it should make its own enquiries concerning the apparent irregularity and, if possible, obtain alternative proof of termination of the TIR operation. Any relevant information so obtained should be referred to the competent authorities who notified the non discharge.</p>	
<p>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 liable for such payment before making a claim against the guaranteeing association.</p>	<p>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 <u>or persons</u> liable for such payment before making a claim against the guaranteeing association.</p>	<p>2. Where the payment of the sums mentioned in Article 8, paragraph 1 becomes due, the competent authorities shall, so far as possible, require payment from the person or persons directly liable for such payment before making a claim against the guaranteeing association.¹²</p>	<p>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 <u>or persons</u> liable for such payment before making a claim against the guaranteeing association. (Government of the Russian Federation).</p>

¹² Justification by the IRU: This text replicates Article 8 paragraph 7 and introduces it into Article 11. The IRU sees no reason why the text of Article 8.7 should be modified as a result of it being repositioned in Article 11.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><u>Explanatory Note to Article 11, paragraph 2</u> 0.11-2 The efforts to be made by the competent authorities to require payment from the person 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 liable, if different. The claim for payment may be made at the same time as the notifications referred to in Article 11, paragraph 1.</p>	<p><u>Explanatory Note to Article 11, paragraph 2</u> 0.11-2 The efforts to be made by the competent authorities to require payment from the person <u>or persons</u> 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 <u>to the person(s)</u> liable, if different <u>in accordance with national legislation</u>. The claim for payment <u>to the TIR Carnet holder</u> may be made at the same time as <u>combined with</u> the notifications referred to in Article 11, paragraph 1.</p>	<p><u>Explanatory Note to Article 11, paragraph 2</u> 0.11-2 The efforts to be made by the competent authorities to require payment from the person or persons directly 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 to the person liable, if different. The claim for payment may be made at the same time as the notifications referred to in Article 11, paragraph 1.</p>	<p><u>Explanatory Note to Article 11, paragraph 2</u> 0.11-2 The efforts to be made by the competent authorities to require payment from the person 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 liable, if different <u>established in accordance with national legislation</u>. The claim for payment may be made at the same time <u>can be regarded as</u> the notifications referred to in Article 11, paragraph 1. (Government of the Russian Federation).</p>
<p><u>Comment to Article 11, paragraph 2</u> <i>Identification of the person or persons liable</i> <i>It should be assumed that the person liable for the payment of the sums due is the TIR Carnet holder. However, where provided for in national legislation, other parties may also be determined as being liable; these parties could</i></p>	<p><u>Comment to Article 11, paragraph 2</u> <i>Identification of the person or persons liable</i> <i>It should be assumed that the person liable for the payment of the sums due is the TIR Carnet holder. However, where provided for in national legislation, other parties may also be determined as being liable; these parties could</i></p>	<p><u>Comment to Article 11, paragraph 2</u> <i>Identification of the person or persons liable</i> <i>It should be assumed that the person liable for the payment of the sums due is the TIR Carnet holder. However, and where provided for in national legislation, other parties may also be determined as being liable; these parties could include the person(s) who</i></p>	<p><u>Comment to Article 11, paragraph 2</u> <i>Identification of the person or persons liable</i> <i>It should be assumed that the person liable for the payment of the sums due is the TIR Carnet holder. However, where provided for in national legislation, other parties may also be determined as being liable; these parties could</i></p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<i>include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i>	<i>include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i>	<i>unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i>	<i>include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i> (Government of the Russian Federation).
3. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to 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 proof of termination of the TIR operation was falsified or had been 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-	3. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to<u>against</u> 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 <u>certificate</u> proof of termination of the TIR operation was <u>has been</u> falsified or had been obtained in an improper or fraudulent manner and not more than two years after that date.	3. Having complied with the requirements of paragraphs 1 and 2, the competent authorities shall have the right to claim payment of the sums mentioned in Article 8 paragraph 1 from the guaranteeing association.¹³	

¹³ Justification by the IRU: This paragraph was initially proposed by the European Community in document ECE/TRANS/WP.30/2007/13. The IRU supported the proposal then and believes it should be reinstated because it provides legal certainty and clarity.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>mentioned period of two years become the subject of administrative or legal proceedings, 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.</p>	<p>However, in cases of TIR operations which, during the above-mentioned period of two years become the subject of administrative or legal proceedings <u>concerning the payment obligation of the person referred to in paragraph 2</u>, 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.</p>		
<p><u>Explanatory Notes to Article 11, paragraph 3</u> 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 person liable. 0.11-3-2 The competent authorities may inform the guaranteeing association that</p>	<p><u>Explanatory Notes to Article 11, paragraph 3</u> 0.11-3-1 In deciding whether or not to release the goods or vehicle, <u>the</u> 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 person liable. 0.11-3-2 The competent authorities may inform the guaranteeing association that</p>		<p>Wording of 0.11.3-2 can be improved. (Government of the Russian Federation).</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
administrative or legal proceedings were initiated and, in any event, should provide this information for any proceedings that may be completed after the two year time limit.	administrative or legal proceedings <u>concerning the payment obligation</u> were initiated. and, <u>In any event, the competent authorities should inform the guaranteeing association of such provide this information for any proceedings that may be terminated completed after the two year time limit before that time limit has expired.</u>		
<p><u>Comment to Article 11, paragraph 3</u> <i>Claim for payment of duties and taxes</i> <i>Before making a claim for payment to the guaranteeing association the competent authorities should endeavour during the time scales laid down in paragraph 3 of this Article, to identify the person or persons liable as referred to in the comment to Article 11, paragraph 2.</i> <i>The claim for payment should</i></p>	<p><u>Comment to Article 11, paragraph 3</u> <i>Claim for payment of duties and taxes</i> <i>Before making a claim for payment to the guaranteeing association the competent authorities should endeavour during the time scales laid down in paragraph 3 of this Article, to identify the person or persons liable as referred to in the comment to Article 11, paragraph 2.</i> <i>The claim for payment should</i></p>		<p><u>Comment to Article 11, paragraph 3</u> <i>Claim for payment of duties and taxes</i> <i>Before making a claim for payment to the guaranteeing association the competent authorities should endeavour during the time scales laid down in paragraph 3 of this Article, to identify the person or persons liable as referred to in the comment to Article 11, paragraph 2.</i> <i>The claim for payment should</i></p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><i>be supported by copies of the relevant documentation required to demonstrate the justification and validity of the claim. 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.</i></p> <p><i>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.</i></p>	<p><i>be supported by copies of the relevant documentation required to demonstrate the justification and validity of the claim. 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.</i></p> <p><i>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.</i></p>		<p><i>be supported by copies of the relevant documentation required to demonstrate the justification and validity of the claim. 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.</i></p> <p><i>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. (Government of the Russian Federation).</i></p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>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 upon it, or contest the claim in accordance with the laws of the Contracting Party concerned.</p>	<p>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 upon it, <u>unless it</u> contests the claim in accordance with the laws of the Contracting Party concerned.</p>	<p>4. The claim for payment of the sums referred to in Article 8, paragraph 1 shall be made to 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 proof of termination of the TIR operation had been 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 legal proceedings concerning the payment of the import or export duties and taxes by the person or persons directly liable, any claim for payment shall be made within one year of the date on which the decision of the courts becomes enforceable.¹⁴</p>	<p>(3)4. The guaranteeing association without delay informs the international organization referred to in Article 6, paragraph 2bis of the reception of a claim for payment. The international organization shall have a period of one month to inform the guaranteeing association of its position concerning the claim for payment. The guaranteeing association shall have a period of three months, from the date when the claim for payment is made upon it, in which to pay the amounts claimed, or to send to the competent authorities a motivated opposition to the claim for payment. If the competent authorities consider the reasons of the opposition as ungrounded,</p>

¹⁴ Justification by the IRU: Based on the explanations provided by the European Community, its proposals were intended to make it clear that no claim can be made against the guaranteeing association before the completion of the legal proceedings. The IRU fully supports the

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
			<p>they have the right to start [legal] proceedings against the guaranteeing association according to the national legislation (Expert Group on Revision, TRANS/WP.30/GE.2/2005/10).</p> <p>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 upon it, or <u>can</u> contest the claim in accordance with the laws of the Contracting Party concerned. (Government of the Russian Federation).</p>

intent of the European Community's proposal but has proposed a text which makes this intention clearer. For clarity it is proposed to elevate part of the Comment relating to the documentary information supporting a claim as an Explanatory Note. Finally, the Comment regarding the need to respect the time limits for notifying non discharged TIR operations would seem more appropriate in this article than in Article 11.1.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><u>Explanatory Note to Article 11, paragraph 4</u> 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 a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The time limits also apply 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.</p>	<p><u>Explanatory Note to Article 11, paragraph 4</u> 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 a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The time limits also apply 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.</p>	<p><u>Explanatory Notes to Article 11 paragraph 4</u> 0.11-4-1 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 person liable. 0.11-4-2 The competent authorities must, as soon as possible, notify the guaranteeing association in the event that legal proceedings have been initiated. Provided this has been done, any claim against the guaranteeing association can only be made following the completion of the legal proceedings and within the one year time period mentioned in paragraph 4. 0.11-4-3 The claim for</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>payment should be supported by copies of the relevant documentation required to demonstrate the justification and validity of the claim. 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, paragraph 1.</p>	
		<p><i><u>Comment to Article 11, paragraph 4</u></i> <i>Claim for payment of duties and taxes</i> <i>If the time limit mentioned in paragraph 1 is exceeded, no claim for payment can be made against the national guaranteeing association.</i> <i>Before making a claim for payment to the guaranteeing association the competent authorities should endeavour during the time scales laid down in paragraph 4 to identify the person or persons directly liable as referred to in the comment to Article 11, paragraph 2.</i> <i>Without prejudice to any national provisions concerning the right of</i></p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<i>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.</i>	
<p>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 to 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.</p>	<p>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 <u>against</u> 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.</p>	<p>5. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made upon it, unless it contests the claim in accordance with the laws of the Contracting Party concerned. The contestation of the claim can also take place after the claim has been paid, if this is permitted under the laws of the Contracting Party concerned.¹⁵</p>	

¹⁵ Justification by the IRU: Once again the IRU has proposed some clearer text in order to convey the intention of the European Community's proposal.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><u>Explanatory Note to Article 11, paragraph 5</u> 0.11-5 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, paragraph 1, 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 a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The time limits also apply 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.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>6. 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 to 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.</p>	
Article 23			
		<p>The Customs authorities shall not:</p> <ul style="list-style-type: none"> - require road vehicles, combinations of vehicles or containers to be escorted at the carriers' expense on the territory of their country, 	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>- require examinations <u>en route</u> of road vehicles, combinations of vehicles or containers and their loads except in special cases.¹⁶</p>	
		<p><i>Comment to Article 23 Escort of road vehicles etc In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subject to the payment or deposit of import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of \$US 50,000 for consignments transported under the TIR Carnet. In such cases the Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles, combinations of vehicles or containers to be escorted at the carriers' expense on the territory of</i></p>	<p>For \$US 50,000 read €60,000 (Government of Belarus; ECE/TRANS/WP/30/2007/19).</p>

¹⁶ Justification by the IRU: Increasingly the Customs authorities are applying risk management techniques to enhance the effectiveness and efficiency of Customs controls and the WCO through the Revised Kyoto Convention has provided the internationally recognized standard for risk management. The TIR Convention already provides some risk management techniques (Annexes 9 and 10 for example) but in respect of Customs' control of TIR transports the Convention is virtually silent. Following the precedent established in respect of Customs seals (see Article 19) it is judged appropriate to introduce a reference to another Revised Kyoto Convention/WCO provision which would be beneficial to the application of the TIR procedure.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p><i>the country. When assessing the risks involved in a specific TIR operation the Customs authorities should take into consideration all risk management factors and not just the potential amount of duties and taxes involved. In this context the attention of the Customs authorities is drawn to the World Customs Organization's Risk Management Guide which is based on the Standards of Chapter 6 of the General Annex of the Revised Kyoto Convention.</i></p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
Article 28			
		[no change] ¹⁷	
		<p><u>Explanatory Note to Article 28</u> 0.28-2 This article provides that the termination of a TIR operation shall be subject to the goods being placed under another Customs procedure or another system of Customs control. This includes clearing the goods for home use (either in full or conditionally), the transfer across the border to another 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.</p>	<p><u>Explanatory Note to Article 28</u> 0.28-1 The use of the TIR Carnet must be restricted to the function which it was intended to cover, namely the transit operation. The TIR Carnet must not, for example, be used to cover the storage of goods under Customs control at destination. Explanatory Note 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 in 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 (TIRExB,</p>

¹⁷ Justification by the IRU: The TIRExB has proposed that the text comprising one of the Comments to Article 28 (“Applicable procedures after termination of a TIR operation”) should be transposed as a new Explanatory Note to Article 28.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
			ECE/TRANS/WP.30/2006/2
<u>Annex 8</u>			
Article 1			
		<p>(i) The Contracting Parties shall be members of the Administrative Committee.</p> <p>(ii) The authorised international organization referred to in Article 6, paragraph 2bis of this Convention and the associations referred to in Article 6, paragraph 1 of this Convention shall attend the sessions of the Committee.</p>	
		<p>(iii) The Committee may decide that the competent administrations of States referred to in Article 52, paragraph 1 of the Convention may, for questions which interest them, attend the sessions of the</p>	

¹⁸ Justification by the IRU: There is a need to distinguish between the situation applying to the authorised international organization and its associations and the other parties who attend the Committee sessions as observers. This text is designed to make that distinction and also to

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		Committee as observers. ¹⁸	
Article 13			
		<p>1. The operation of the TIR Executive Board and the TIR Secretariat shall be financed, until such time as alternative sources of funding are obtained, through an amount per TIR Carnet distributed by the international organization referred to in Article 6. This amount shall be approved by the Administrative Committee.</p>	
		<p><u>Explanatory Notes to Article 13, paragraph 1</u> 8.13.1-1 (No change) 8.13.1-2 (No change) 8.13.1-3 Amount The amount referred to in paragraph 1 shall be based on (a) the budget and cost plan of the TIR Executive Board and the TIR secretariat as approved by the Administrative Committee and (b) the forecast of the number of TIR Carnets to be distributed as established by the international organization.</p>	
		2. The procedure to	

correct an oversight in the current text.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		implement the financing of the operation of the TIR Executive Board and the TIR secretariat shall be approved by the Administrative Committee.¹⁹	
		<u>Explanatory Note to Article 13, paragraph 2</u> 8.13.2 Following consultation with the international organization referred to in Article 6, the procedure referred to in paragraph 2 shall be reflected in the Agreement between the UNECE, as mandated by and acting on behalf of the Contracting Parties, and the international organization referred to in Article 6. The Agreement shall be approved by the Administrative Committee.	

¹⁹ Justification by the IRU: This text has been taken from document ECE/TRANS/WP.30/AC.2/90/Add.1 (the provisional annotated agenda for the forty fourth session of the Administrative Committee) and has already been approved, in principle, by the Contracting Parties. Its inclusion here is just for completeness.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><u>Annex 9</u></p> <p><u>Part I</u></p> <p>AUTHORIZATION FOR ASSOCIATIONS TO ISSUE TIR CARNETS <u>AND TO AS GUARANTOR</u>²⁰</p>			
	<p>Minimum Conditions and requirements</p> <p>1. The minimum <u>conditions</u> and requirements to be complied with by associations in order to be authorized by Contracting Parties to issue TIR Carnets and <u>to</u> act as guarantor in accordance with Article 6 of the Convention are:</p> <p>(a) Proven existence for at least one year as an established <u>association established in the Contracting Party where the authorization is issued.</u> (Explanatory Note to paragraph 1 (a) is deleted)</p> <p>(b) Proof of sound financial standing and organizational capabilities</p>		

²⁰ Changes compared to the existing text of Annex 9, Part 1 (TIR Handbook, edition 2007) are underlined and ~~strikethrough~~.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>enabling it to fulfil its obligations under the Convention.</p> <p>(c) <u>Proven knowledge of its staff in the proper application of the Convention</u> Absence of serious of repeated offences against Customs or tax legislation.</p> <p><u>(d) Establishment of a written agreement or any other legal instrument between the association and the competent authorities of the Contracting Party in which it is established including the acceptance by the association of its duties as set out in paragraph 3 of this Article.</u></p>		
	<p><u>2.</u> A certified copy of the written agreement or any other legal instrument referred to under paragraph 1 (d) together, if necessary, with a certified translation into English, French or Russian,</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>shall be deposited with the TIR Executive Board. Any changes shall be immediately brought to the attention of the TIR Executive Board</p>		
	<p><u>3. The duties of the association are to:</u></p> <p>(i) shall comply with the obligations laid down in Article 8 of the Convention;</p> <p>(ii) shall accept the maximum sum per TIR Carnet determined by the Contracting Party which may be claimed from the association in accordance with Article 8, paragraph 3 of the Convention;</p> <p>(iii) shall verify continuously and, in particular, before requesting authorization for access of persons to the TIR procedure, the fulfilment of the minimum conditions and requirements by such persons as laid down in Part II of this Annex;</p> <p>(iv) shall provide its</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>guarantee for all liabilities incurred in the country in which it is established in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated;</p> <p>(v) cover its liabilities to the satisfaction of the competent authorities of the Contracting Parties in which it is established with an insurance company, pool of insurers or financial institution. The insurance or financial guarantee contract(s) shall cover the totality of its liabilities in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>organization as that to which it is itself affiliated.</p> <p>The time to give notice for the termination of the insurance or financial guarantee contract(s) shall be not less than the time to give notice for the termination of the written agreement or any other legal instrument under (e). A certified copy of the insurance or financial guarantee contract(s) as well as all subsequent modifications thereto shall be deposited with the TIR Executive Board, including a certified translation, if necessary, into English, French or Russian;</p> <p><u>(vi) submit to the competent authorities of each Contracting Party a true and certified copy of the full and integral text of the global insurance contract concluded between the international global insurers (layer three) on the one hand and each of the guaranteeing member</u></p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p><u>associations affiliated to the international organization authorized under Part III of Annex 9 of the IRU as beneficiaries on the other hand.</u></p>		
	<p><u>Comment to paragraph (vi)</u> (a) This contract, to be signed by the representative(s) of the international insurers, the associations and the <u>international organization authorized under Part III of Annex 9 IRU</u>, shall cover the totality of the liabilities of the associations to the satisfaction of the competent authorities and shall include all insurance conditions, deadlines and possible reasons for resiliation of the insurance contract. This global insurance contract is identical for all national associations participating under the TIR regime. As long as national legislation in one of the Contracting Parties to the</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>Convention prohibits signature by national associations as insured parties of the global insurance contract, it is exceptionally admissible, for a temporary period, that the global insurance contract may be concluded and signed by representatives of the <u>international organization authorized under Part III of Annex 9IRU</u>, acting on its own behalf, on behalf of its member associations and third parties, and by representatives of the international insurers only. This temporary provision does not change the responsibilities of the guaranteeing associations as stipulated in the Convention.</p> <p>(b) Certified and approved copies of the global insurance contract mentioned under (a) shall be immediately transmitted to the TIR Executive Board by the competent authorities of each Contracting Party, together with certified copies of the approved written agreement or any other legal instrument</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>concluded between the association and the competent authorities of the Contracting Party, as required in accordance with Annex 9, Part I, paragraph 1 (e) of the Convention.</p> <p>(c) Any modification in the global contract mentioned under (a) must be brought immediately to the attention of the competent authorities of each Contracting Party and to the TIR Executive Board by the associations and the IRU.</p> <p>(d) The time to give notice for the termination of the global insurance contract mentioned under (a) shall be six (6) months.</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>(vii) shall allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure;</p> <p>(viii) shall accept a procedure for settling efficiently disputes arising from the improper or fraudulent use of TIR Carnets, <u>whenever possible without recourse to courts</u>;</p> <p>(ixviii) shall agree that any serious or repeated non-compliance with the present minimum conditions and requirements <u>will shall</u> lead to the authorization to issue TIR Carnets being revoked;</p> <p>(ix) shall comply strictly with the decisions of the competent authorities of the Contracting Party in which it is established concerning the exclusion of persons in line with article 38 of the Convention and Part II of this</p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p>annex; (xi) shall agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board in as much as the competent authorities of Contracting Parties in which the association is established have accepted them.</p>		
	<p><u>4. When a guaranteeing association is asked, in accordance with the procedures set out in Article 11, to pay the sums referred to in Article 8 paragraphs 1 and 2, it shall in accordance with the written agreement referred to in the Explanatory Note to Article 6, paragraph 2bis, inform the international organization of the reception of the claim.</u></p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
	<p><u>5. Contracting Parties in which the association is established shall have the right to revoke the authorization to issue TIR Carnets in case of serious or repeated non-compliance with these minimum conditions and requirements. Should a Contracting Party decide to revoke the authorization, the decision will become effective at the earliest three (3) months after the date of revocation.</u></p>		
	<p><u>6. The authorization of an association under the terms set out above shall be without prejudice to that association's responsibilities and liabilities under the Convention.</u></p>		
	<p><u>7. The minimum conditions and requirements laid down above are without prejudice to additional conditions and requirements Contracting Parties may wish to prescribe.</u></p>		

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p><u>Part III</u></p> <p>AUTHORIZATION OF AN INTERNATIONAL ORGANIZATION, AS REFERRED TO IN ARTICLE 1 (r) FOR THE ORGANIZATION AND FUNCTIONING OF AN INTERNATIONAL GUARANTEE SYSTEM AND TO PRINT AND DISTRIBUTE TIR CARNETS</p> <p><u>Conditions and requirements</u></p>			
<p>1. The conditions and requirements to be complied with by the international organization authorized by the Administrative Committee to take on the responsibility for the organization and functioning of the international guarantee system and to centrally print and distribute TIR Carnets are:</p> <p>(a) Proven existence as an established organization representing the interests of the transport sector.</p> <p>(b) Proof of the sound</p>	<p>1. The conditions and requirements to be complied with by anthe international organization <u>in order to be</u> authorized by the Administrative Committee to take on the responsibility for the organization and functioning of an the international guarantee system and to centrally print and distribute TIR Carnets are:</p> <p>(a) Proven existence as an established organization representing the interests of the transport sector. Proof of the sound financial standing of the</p>	<p>1. In order to be authorised by the Administrative Committee in accordance with Article 6.2bis, the international organization by signing the Agreement between itself and the UNECE, as mandated by and acting on behalf of the Contracting Parties, accepts</p> <p>(a) To take on the responsibility for the effective organization and functioning of an international guarantee system, and</p> <p>(b) To print and distribute TIR Carnets.</p>	<p>...</p> <p>(d) Absence of serious or repeated offences against Customs or tax legislation (Government of the Russian Federation).</p> <p>...</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>financial standing of the international guarantee system.</p> <p>(c) Proven knowledge of its staff in the proper application of the TIR Convention.</p> <p>(d) Absence of serious or repeated offences against Customs or tax legislation.</p> <p>(e) Establishment of a written agreement or any other legal instrument between the organization and the Administrative Committee.</p>	<p><u>international guarantee system and organizational capabilities enabling it to fulfil its obligations under the Convention.</u></p> <p>(b) Proven knowledge of its staff in the proper application of the TIR Convention. Absence of serious or repeated offences against Customs or tax legislation.</p> <p>(c) Establishment of a written agreement or any other legal instrument between the organization and the Administrative Committee, <u>including the acceptance by the international organization of its duties as set out in paragraph 2 of this Article.</u></p>		
<p>2. In order to be authorized by the Administrative Committee the international organization, in accordance with Article 6.2bis, accepts by signing the agreement referred to in paragraph 1 (e), to perform the following functions:</p>	<p>2. In order to be authorized by the Administrative Committee The duties of the international organization are to, in accordance with Article 6.2bis, accepts by signing the agreement referred to in paragraph 1 (e), to perform the</p>	<p>2. Without prejudice to the provisions of the TIR Convention, and in particular to Article 6.2bis and whilst fully respecting the competencies of the Contracting Parties, the international organization accepts to perform the following functions:</p>	<p>...</p> <p>(e) To provide, at the request of the Administrative Committee or the TIRExB, full and complete information on the functioning of the TIR system, provided such request does not infringe legislation concerning</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>(a) To provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage;</p> <p>(b) To provide the competent bodies of the TIR Convention with information on the rules and procedures set out for the issue of TIR Carnets by national associations;</p> <p>(c) To provide the competent bodies of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;</p> <p>(d) To provide the competent bodies of the TIR Convention with timely and well founded information on trends in the number of non-terminated TIR</p>	<p>following functions:</p> <p>(i) To provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage;</p> <p>(ii) To provide the competent bodies of the TIR Convention with information on the rules and procedures set out for the issue of TIR Carnets by national associations;</p> <p>(iii) To provide the competent bodies of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;</p> <p>(iv) To provide the competent bodies of the TIR Convention with timely and well founded information on trends in the</p>	<p>(a) To provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage;</p> <p>(b) To provide the competent bodies of the TIR Convention, being the Administrative Committee, the TIR Executive Board and the Working Party on Customs Questions Affecting Transport (WP.30), with information on the rules and procedures set out for the issue of TIR Carnets by national associations;</p> <p>(c) To provide the competent bodies of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;</p> <p>(d) To provide the competent</p>	<p>confidentiality, data protection, etc.; in case such information cannot be given, the international organization will specify the legal provisions or other reasons prohibiting the exchange of information;</p> <p>...</p> <p>(i) wording can be improved</p> <p>...</p> <p>(1) In accordance with Annex 10 on the control system for TIR Carnets, to manage such a control system with national guaranteeing associations affiliated to the international organization and the Customs authorities and to inform the Contracting Parties and the competent body or bodies of the TIR Convention of significant problems encountered in the system;</p> <p>... (Government of the Russian Federation).</p>

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>operations, claims lodged or pending that might give rise to concerns with regard to the proper functioning of the TIR system or that could lead to difficulties for the continued operation of its guarantee system;</p> <p>(e) To provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;</p> <p>(f) To provide, at the request of the TIRExB, full and complete information on the functioning of the TIR system, provided such request does not infringe legislation concerning confidentiality, data protection, etc.; in case such information cannot be given, the international organization will specify the legal provisions or other reasons prohibiting the exchange of information;</p>	<p>number of non-terminated TIR operations, claims lodged or pending that might give rise to concerns with regard to the proper functioning of the TIR system or that could lead to difficulties for the continued operation of its guarantee system;</p> <p>(v) To provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;</p> <p>(vi) To provide, at the request of the <u>Administrative Committee for the TIR Convention or the TIR Executive Board</u>, full and complete information on the functioning of the TIR system; provided such request does not infringe legislation concerning confidentiality, data protection, etc.; in case such information cannot be given, the international organization will specify the legal provisions or</p>	<p>bodies of the TIR Convention with timely and well founded information on trends in the number of non-terminated TIR operations, claims lodged or pending that might give rise to concerns with regard to the proper functioning of the TIR system or that could lead to difficulties for the continued operation of its guarantee system;</p> <p>(e) To provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;</p> <p>(f) To provide, at the request of the TIR Executive Board, full and complete information on the functioning of the TIR system, provided such a request does not infringe legislation concerning confidentiality, data protection, etc.; in case such information cannot be given, the international organization will specify the legal provisions or other reasons prohibiting the exchange of information;</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>(g) To provide the TIRExB with details of the issuing price by the international organization of each type of TIR Carnet;</p> <p>(h) To take all reasonable steps to reduce the risk of counterfeiting TIR Carnets;</p> <p>(i) To take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet, have been detected;</p> <p>(j) To fully participate in cases where the TIRExB is called upon to facilitate the settlement of disputes;</p> <p>(k) To ensure that any problem involving fraudulent activities or other difficulties, with regard to the application of the TIR Convention, is immediately brought to the attention of the TIRExB;</p> <p>(l) In accordance with Annex</p>	<p>other reasons prohibiting the exchange of information;</p> <p>(vii) To provide the TIR Executive Board with details of the issuing price by the international organization of each type of TIR Carnet;</p> <p>(viii) To take all <u>possible</u> reasonable steps to reduce the risk of counterfeiting TIR Carnets;</p> <p>(ix) To take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet, have been detected;</p> <p>(x) To fully participate in cases where the TIR Executive Board is called upon to facilitate the settlement of disputes;</p> <p>(xi) To ensure that any problem involving fraudulent activities or other difficulties, with regard to the application of</p>	<p>(g) To provide the TIR Executive Board with details of the distribution price by the international organization of each type of TIR Carnet;</p> <p>(h) To take all reasonable steps to reduce the risk of counterfeiting TIR Carnets;</p> <p>(i) To take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet, have been detected;</p> <p>(j) To provide the appropriate electronic interface to enable TIR Carnet Holders to submit their TIR Carnet declaration data using a data processing technique in accordance with internationally agreed standards and data requirements.</p> <p>(k) To fully participate in cases where the TIR Executive Board is called upon to facilitate the</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>10 on the control system for TIR Carnets, to manage such a control system with national guaranteeing associations affiliated to the international organization and the Customs authorities and to inform the Contracting Parties and the competent body or bodies of the TIR Convention of significant problems encountered in the system;</p> <p>(m) To provide the competent bodies of the TIR Convention with statistics and data on the performances of Contracting Parties with regard to the control system;</p> <p>(n) To seek continuously to enhance the control system in order to improve its efficiency as a risk management and anti-fraud tool;</p> <p>(o) To be available for meetings with the TIRExB, the TIR Secretary, the TIR secretariat and other key organizations, active in the field</p>	<p>the TIR Convention, is immediately brought to the attention of the TIR Executive Board;</p> <p>(xii) In accordance with Annex 10 on the control system for TIR Carnets, to manage the such a control system <u>for TIR Carnets provided for in Annex 10 together</u> with national guaranteeing associations affiliated to the international organization and the Customs authorities and to inform the Contracting Parties and the competent body or bodies of the TIR Convention of significant problems encountered in the system;</p> <p>(xiii) To provide the competent bodies of the TIR Convention with statistics and data on the performances of Contracting Parties with regard to the control system <u>provided for in Annex 10</u>;</p> <p>(xiv) To seek continuously to enhance the control system</p>	<p>settlement of disputes;</p> <p>(l) To ensure that any problem involving fraudulent activities or other difficulties, with regard to the application of the TIR Convention, is immediately brought to the attention of the TIR Executive Board;</p> <p>(m) To manage, in accordance with Annex 10 on the control system for TIR Carnets, such a control system with national guaranteeing associations affiliated to the international organization and the Customs authorities and to inform the Contracting Parties and the competent bodies of the TIR Convention of significant problems encountered in the system;</p> <p>(n) To provide the competent bodies of the TIR Convention with statistics and data on the performances of Contracting Parties with regard to the control system referred to in (m) above;</p> <p>(o) To seek continuously to enhance the control system referred to in (m) above in order to improve its efficiency and effectiveness as a</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>of TIR;</p> <p>(p) To offer its good offices and experiences to support the training of interested parties, e.g. national associations.</p>	<p><u>provided for in Annex 10</u> in order to improve its efficiency as a risk management and anti-fraud tool;</p> <p>(xv) To be available for meetings with the <u>TIR Executive Board</u>, the TIR Secretary, the TIR secretariat and other key organizations, active in the field of TIR;</p> <p>(p) To offer its good offices and experiences to support the training of interested parties, e.g. national associations.</p>	<p>risk management and anti-fraud tool;</p> <p>(p) To be available for meetings with the TIRExB, the TIR Secretary, the TIR Secretariat and other key organizations, active in the field of TIR;</p> <p>(q) To offer its good offices and experiences to support the training of interested parties, e.g. national associations.</p>	
<p>3. When a guaranteeing association is asked, in accordance with the procedures set out in Article 11, to pay the sums referred to in Article 8, paragraph 1 it shall, in accordance with the written agreements referred to in Explanatory Note 06.2bis of Annex 6, inform the international organization of the</p>	<p>3. When <u>the international organization is informed by a guaranteeing association of a claim for payment, it shall, with in a period of three months, as prescribed Article 11, paragraph 4, inform the guaranteeing association of its position concerning the claim.—a guaranteeing association is asked, in accordance with the</u></p>	<p>3. The international organization shall meet the following conditions:</p> <p>(a) Proven existence as an established international organization representing the interests of the transport sector.</p> <p>(b) Proven existence of the financial coverage of the</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>reception of the claim. The international Organization shall, within a time period of three months as prescribed in Article 11, paragraph 5 for payment of the claim by the guaranteeing association, inform the guaranteeing association of its position concerning the claim.</p>	<p>procedures set out in Article 11, to pay the sums referred to in Article 8, paragraph 1 it shall, in accordance with the written agreements referred to in Explanatory Note 06.2bis of Annex 6, inform the international organization of the reception of the claim. The international Organization shall, within a time period of three months as prescribed in Article 11, paragraph 5 for payment of the claim by the guaranteeing association, inform the guaranteeing association of its position concerning the claim.</p>	<p>international chain of guarantee (by means of the certified and approved copy of the global guarantee contract referred to in Part I, paragraph 1 (f) (v) of this Annex.</p> <p>(c) Proven knowledge and experience of the international organization in the proper application of the Convention.</p> <p>(d) Absence of serious or repeated offences against Customs or tax legislation in the country of establishment.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
<p>4. The Administrative Committee shall revoke the authorization in case of serious or repeated non-compliance with these conditions and requirements. Should the Administrative Committee decide to revoke the authorization the decision will become effective at the earliest six (6) months after the date of revocation.</p>	<p>4. The Administrative Committee shall <u>have the right to</u> revoke the authorization <u>granted in accordance with Article 6, paragraph 2bis of the Convention</u> in case of serious or repeated non-compliance with these conditions and requirements. Should the Administrative Committee decide to revoke the authorization, the decision will become effective at the earliest six (6) months after the date of revocation.</p>	<p>4. The international organization shall agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board.</p>	<p>4. The Administrative Committee shall <u>have the right to</u> revoke the authorization in case of serious or repeated non-compliance with these conditions and requirements. Should the Administrative Committee decide to revoke the authorization the decision will become effective at the earliest six (6) months after the date of revocation. (Government of the Russian Federation).</p>
<p>5. The authorization of an international organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.</p>	<p>5. The authorization of an international organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.</p>	<p>5. The authorization of an international organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.</p>	

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>6. In case the Administrative Committee decides to revoke the authorization in accordance with Article 6.2bis of the Convention, the decision will become effective at the earliest six (6) months after the date of revocation.²¹</p>	
<p><u>Annex 11</u></p> <p>TIR CARNET DATA FURNISHED BY MEANS OF A DATA PROCESSING TECHNIQUE</p>			
		<p>By virtue of Articles 1 (s) and 3 (b) of the Convention it is permitted that some of the information contained in the TIR Carnet may, additionally, be furnished by means a data processing technique. In order to ensure legal certainty and consistency for all the parties concerned it is essential that Contracting Parties apply internationally agreed data requirements and standards for submitting the data.</p>	

²¹ Justification by the IRU: This proposed text is in line with the IRU's earlier proposal set out in document ECE/TRANS/WP.30/2006/6. The earlier proposal has been augmented in order to reflect the development of the means to enable TIR Carnet Holders to submit the TIR Carnet declaration data electronically.

European Community proposal ECE/TRANS/WP.30/2007/18	Amended European Community proposal ¹	Proposals by the International Road Transport Union (IRU)	Other proposals
		<p>The data to be furnished shall comprise the following elements:</p> <p style="text-align: center;">-</p> <p>These data elements must comprise a standard data set which can be transmitted electronically in a standard and secure manner to any Contracting Party to the TIR Convention using a common message format.²²</p>	

²² Justification by the IRU: It is proposed that the data elements to be furnished and the standards to be applied shall be determined by the competent bodies in the context of the development of Chapters 3 and 4 of the Reference Model for the eTIR project.