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**ECONOMIC COMMISSION FOR EUROPE**

**INLAND TRANSPORT COMMITTEE**

Working Party on Customs Questions Affecting Transport

One-hundred-and-nineteenth session

Geneva, 2-5 June 2008

Item 8 (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. However, following a request by the Working Party at its one-hundred-and-eighteenth session, the secretariat has restructured the original document (ECE/TRANS/WP.30/2008/1) and deleted all preliminary adopted amendments (up and until the text of Article 11, paragraph 2).

4. The structure of the document is as follows:

Column 1: 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 ~~strikethrough~~;

Column 2: 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 3: 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).

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)   | Other proposals   |
|---|---|---|
| <b>Article 11, paragraph 2</b>  |   |   |
| <p><b>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.</b></p>   | <p><b>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.<sup>2</sup></b></p>  | <p><b>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).</b></p>   |
| <p><u>Explanatory Note to Article 11, paragraph 2</u><br/>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) liable, if different in accordance with national legislation</u>. The claim for payment <u>to the TIR Carnet holder</u> may be <del>made at the same time as</del> <u>combined with the notifications referred to in Article 11, paragraph 1.</u></p> | <p><u>Explanatory Note to Article 11, paragraph 2</u><br/>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><br/>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 <del>may be made at the same time</del> <u>can be regarded</u> as the notifications referred to in Article 11, paragraph 1. (Government of the Russian Federation).</p> |

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

<sup>2</sup> 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.

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)  | Other proposals   |
|---|--|---|
| <p><u>Comment to Article 11, paragraph 2</u><br/> <i>Identification of the person or persons liable</i><br/> <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 include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i></p>  | <p><u>Comment to Article 11, paragraph 2</u><br/> <i>Identification of the person or persons liable</i><br/> <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 unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</i></p> | <p><u>Comment to Article 11, paragraph 2</u><br/> <del>Identification of the person or persons liable</del><br/> <del>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 include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods, or who participated in the removal.</del><br/>           (Government of the Russian Federation).</p> |
| <p><b>3. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made <del>to</del> <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> <del>proof</del> of termination of the TIR operation was <u>has been</u> falsified or <del>had been</del> 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</b></p> | <p><b>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.<sup>3</sup></b></p>  |   |

<sup>3</sup> 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.

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU) | Other proposals   |
|---|---|---|
| <p><b>period of two years become the subject of administrative or legal proceedings concerning the payment obligation of the person referred to in paragraph 2, 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.</b></p>   |   |   |
| <p><u>Explanatory Notes to Article 11, paragraph 3</u><br/> 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.<br/> 0.11-3-2 The competent authorities may inform the guaranteeing association that administrative or legal proceedings <u>concerning the payment obligation</u> were initiated. <del>and,</del> In any event, <u>the competent authorities should inform the guaranteeing association of such</u> <del>provide this information for any</del> proceedings that may be</p> |   | <p>Wording of 0.11.3-2 can be improved. (Government of the Russian Federation).</p> |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals   |
|--|---|---|
| <p><del>terminated</del><del>completed</del> after the two year time limit <del>before that time limit has expired.</del></p>  |   |   |
| <p><i><u>Comment to Article 11, paragraph 3</u></i><br/> <i><del>Claim for payment of duties and taxes</del></i><br/> <i><del>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.</del></i><br/> <i><del>The claim for 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, paragraphs 1 and 2 accordingly.</del></i><br/> <i><del>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.</del></i></p> |   | <p><i><u>Comment to Article 11, paragraph 3</u></i><br/> <i>Same text proposal</i><br/>           (Government of the Russian Federation).</p> |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)   | Other proposals   |
|--|---|---|
| <p><b>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 <del>against</del> upon it, <u>unless it</u> contests the claim in accordance with the laws of the Contracting Party concerned.</b></p> | <p><b>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.<sup>4</sup></b></p> | <p><b>(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, they have the right to start [legal] proceedings against the guaranteeing association according to the national</b></p> |

<sup>4</sup> 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 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.

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)   | Other proposals   |
|---|---|---|
|   |   | <p><b>legislation</b> (Expert Group on Revision, TRANS/WP.30/GE.2/2005/10).</p> <p><b>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.</b> (Government of the Russian Federation).</p> |
| <p><u>Explanatory Note to Article 11, paragraph 4</u><br/>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><br/>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.<br/>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.<br/>0.11-4-3 The claim for payment should be supported by copies of the relevant documentation required to demonstrate the</p> |   |



| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)   | Other proposals |
|--|---|-----------------|
|  | <p>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><br/> <i>Claim for payment of duties and taxes</i><br/> <i>If the time limit mentioned in paragraph 1 is exceeded, no claim for payment can be made against the national guaranteeing association. 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><br/> <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> |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)  | Other proposals |
|--|--|-----------------|
| <p><b>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.</b></p> | <p><b>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.<sup>5</sup></b></p>  |                 |
|  | <p><u>Explanatory Note to Article 11, paragraph 5</u></p> <p>1. 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> |                 |

<sup>5</sup> 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.

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

| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)   | Other proposals  |
|--|---|--|
|  | <p>- <b>require examinations <u>en route</u> of road vehicles, combinations of vehicles or containers and their loads except in special cases.</b><sup>6</sup></p>  |  |
|  | <p><i>Comment to Article 23</i><br/> <i>Escort of road vehicles etc</i><br/> <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 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 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</i></p> | <p><u>For</u> \$US 50,000 <u>read</u> € 60,000 (Government of Belarus; ECE/TRANS/WP/30/2007/19).</p> |

<sup>6</sup> 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.

| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)  | Other proposals  |
|--|--|--|
|  | <i>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>  |  |
| <b>Article 28</b>                                |  |  |
|  | [no change] <sup>7</sup>   |  |
|  | <u>Explanatory Note to Article 28</u><br>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. | <u>Explanatory Note to Article 28</u><br><u>0.28-1</u> 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 |

<sup>7</sup> 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.

|  |  |   |
|--|--|---|
| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)  | Other proposals   |
|  |  | 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, ECE/TRANS/WP.30/2006/2 |
| <b><u>Annex 8</u></b>                            |  |   |
| <b>Article 1</b>                                 |  |   |
|  | <b>(i) The Contracting Parties shall be members of the Administrative Committee.</b>   |   |
|  | <b>(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.</b>        |   |
|  | <b>(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 Committee as observers.<sup>8</sup></b> |   |
| <b>Article 13</b>                                |  |   |
|  | <b>1. The operation of the TIR Executive Board and the TIR Secretariat shall be financed, until such time as alternative</b>   |   |

<sup>8</sup> 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 correct an oversight in the current text.

| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)  | Other proposals |
|--|--|-----------------|
|  | <p><b>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.</b></p>   |                 |
|  | <p><u>Explanatory Notes to Article 13, paragraph 1</u><br/> 8.13.1-1 (No change)<br/> 8.13.1-2 (No change)<br/> 8.13.1-3 Amount<br/> 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> |                 |
|  | <p><b>2. The procedure to implement the financing of the operation of the TIR Executive Board and the TIR secretariat shall be approved by the Administrative Committee.</b><sup>9</sup></p>   |                 |

<sup>9</sup> 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.

|  |  |                 |
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| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)  | Other proposals |
|  | <p><u>Explanatory Note to Article 13, paragraph 2</u><br/>             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.</p> |                 |
| <p><b><u>Annex 9</u></b></p> <p><b><u>Part I</u></b></p> <p><b><u>AUTHORIZATION FOR ASSOCIATIONS TO ISSUE TIR CARNETS AND TO ACT AS GUARANTOR</u></b><sup>10</sup></p>   |  |                 |
| <p><b><u>Minimum</u> Conditions and requirements</b><br/> <b><u>1. The <del>minimum</del> conditions and requirements to be complied with by associations in order to be authorized by Contracting Parties to issue TIR Carnets and to act as guarantor in accordance with Article 6 of the Convention are:</u></b><br/> <b>(a) Proven existence for at least one year as an <del>established</del> association <u>established in the Contracting Party where the authorization is issued.</u></b></p> |  |                 |

<sup>10</sup> Amended European Community proposal



| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals |
|--|---|-----------------|
| <p><u>(Explanatory Note to paragraph 1 (a) is deleted)</u></p> <p><b>(b) Proof of sound financial standing and organizational capabilities enabling it to fulfil its obligations under the Convention.</b></p> <p><b><u>(c) Proven knowledge of its staff in the proper application of the Convention</u></b><br/>Absence of serious or repeated offences against Customs or tax legislation.</p> <p><b><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></b></p> |   |                 |
| <p><b><u>2. 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, shall be deposited with the TIR</u></b></p>  |   |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals |
|--|---|-----------------|
| <p><b>Executive Board. Any changes shall be immediately brought to the attention of the TIR Executive Board</b></p>  |   |                 |
| <p><b><u>3. The duties of the association are to:</u></b></p> <p><b>(i) <del>shall</del> comply with the obligations laid down in Article 8 of the Convention;</b></p> <p><b>(ii) <del>shall</del> 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;</b></p> <p><b>(iii) <del>shall</del> 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;</b></p> <p><b>(iv) <del>shall</del> provide its 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;</b></p> |   |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals |
|--|---|-----------------|
| <p><b>(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 organization as that to which it is itself affiliated.</b></p> <p><b>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 (d). 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;</b></p> |   |                 |

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU) | Other proposals |
|---|---|-----------------|
| <p><b><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 associations affiliated to the international organization authorized under Part III of Annex 9 of the IRU as beneficiaries on the other hand.</u></b></p>  |   |                 |
| <p>Comment to paragraph (vi)<br/>           (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 Convention prohibits signature by national associations as insured parties of the global insurance contract, it is</p> |   |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals |
|--|---|-----------------|
| <p>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 9</u>IRU, 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 concluded between the association and the competent authorities of the Contracting Party, as required in accordance with Annex 9, Part I, paragraph 1 (d) of the Convention.</p> <p>(c) Any modification in the global contract mentioned under (a) must be</p> |   |                 |

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU) | Other proposals |
|---|---|-----------------|
| <p>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>   |   |                 |
| <p><b>(vii) shall allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure;</b></p> <p><b>(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>;</b></p> <p><b>(ixviii) shall agree that any serious or repeated non-compliance with the present minimum conditions and requirements <u>will</u> shall lead to the authorization to issue TIR Carnets being revoked;</b></p> <p><b>(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 annex;</b></p> |   |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU) | Other proposals |
|--|---|-----------------|
| <p><b>(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.</b></p>  |   |                 |
| <p><b><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></b></p> |   |                 |
| <p><b><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</u></b></p>  |   |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)   | Other proposals   |
|--|---|---|
| <b><u>(3) months after the date of revocation.</u></b>   |   |   |
| <b><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></b>   |   |   |
| <b><u>7. The <del>minimum</del> conditions and requirements laid down above are without prejudice to additional conditions and requirements Contracting Parties may wish to prescribe.</u></b>   |   |   |
| <p><b><u>Part III</u></b></p> <p><b>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</b></p> <p><b><u>Conditions and requirements</u></b></p>   |   |   |
| 1. The conditions and requirements to be complied with by <del>an</del> <u>the</u> international organization <u>in order to be</u> authorized by the Administrative Committee to take on the responsibility for the organization and functioning of <u>an</u> <del>the</del> international guarantee system and to <del>centrally</del> print and distribute TIR Carnets are: | 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 | ...<br>(d) Absence of serious or repeated offences against <del>Customs</del> or tax legislation (Government of the Russian Federation).<br>... |



| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)  | Other proposals   |
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| <p>(a) <del>Proven existence as an established organization representing the interests of the transport sector.</del> <u>Proof of the sound financial standing of the international guarantee system and organizational capabilities enabling it to fulfil its obligations under the Convention.</u></p> <p>(b) <del>Proven knowledge of its staff in the proper application of the TIR Convention.</del> <u>Absence of serious or repeated offences against Customs or tax legislation.</u></p> <p>(c) <u>Establishment of a written agreement or any other legal instrument between the organization and the Administrative Committee, including the acceptance by the international organization of its duties as set out in paragraph 2 of this Article.</u></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>2. <del>In order to be authorized by the Administrative Committee</del> <u>The duties of the international organization are to, in accordance with Article 6.2bis, accept by signing the agreement referred to in paragraph 1 (e), to perform the following functions:</u></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>(a) To provide, at the request of the <u>Administrative Committee or the TIRExB</u>, full and complete information on the functioning of the TIR system, <del>provided such request does not infringe legislation</del></p> |

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)  | Other proposals   |
|---|--|---|
| <p>(i) <del>To</del> 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) <del>To</del> 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) <del>To</del> provide the competent bodies of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;</p> <p>(iv) <del>To</del> provide the competent 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>(v) <del>To</del> provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;</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 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><del>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;</del></p> <p>...</p> <p>(i) wording can be improved</p> <p>...</p> <p>(l) 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;<br/>... (Government of the Russian Federation).</p> |

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)   | Other proposals |
|---|---|-----------------|
| <p>(vi) <del>To</del> provide, at the request of the <u>Administrative Committee for the TIR Convention</u> or the <u>TIR Executive Board</u>, full and complete information on the functioning of the TIR system, <del>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;</del></p> <p>(vii) <del>To</del> provide the <u>TIR Executive Board</u> with details of the issuing price by the international organization of each type of TIR Carnet;</p> <p>(viii) <del>To</del> take all <u>possible</u> <del>reasonable</del> steps to reduce the risk of counterfeiting <u>TIR Carnets</u>;</p> <p>(ix) <del>To</del> take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet, have been detected;</p> <p>(x) <del>To</del> fully participate in cases where the <u>TIR Executive Board</u> is called upon to facilitate the settlement of disputes;</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> <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> |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)   | Other proposals |
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| <p>(xi) <del>To</del> 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 <u>TIR Executive Board</u>;</p> <p>(xii) <del>In accordance with Annex 10 on the control system for TIR Carnets, to manage the</del> <u>such a control system for TIR Carnets provided for in Annex 10 together 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;</u></p> <p>(xiii) <del>To</del> 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) <del>To</del> seek continuously to enhance the control system <u>provided for in Annex 10</u> in order to improve its efficiency as a risk management and anti-fraud tool;</p> <p>(xv) <del>To</del> be available for meetings with the <u>TIR Executive Board</u>, the TIR Secretary,</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 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</p> |                 |

| Amended European Community proposal <sup>1</sup>   | Proposals by the International Road Transport Union (IRU)  | Other proposals |
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| <p>the TIR secretariat and other key organizations, active in the field of TIR;</p> <p><del>(p) To offer its good offices and experiences to support the training of interested parties, e.g. national associations.</del></p>   | <p>control system referred to in (m) above in order to improve its efficiency and effectiveness as a 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. <u>When 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.</u><del>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 reception of the claim.</del></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 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> |                 |

| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)  | Other proposals  |
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| <p><del>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.</del></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> |  |
| <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 <del>serious or repeated</del> 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 <del>serious or repeated</del> 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>6. In case the Administrative Committee decides to revoke the authorization in accordance with Article 6.2<u>bis</u> of the Convention, the decision will become effective</p>  |  |

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| Amended European Community proposal <sup>1</sup>  | Proposals by the International Road Transport Union (IRU)  | Other proposals |
|   | at the earliest six (6) months after the date of revocation. <sup>11</sup>   |                 |
| <p><b><u>Annex 11</u></b></p> <p><b>TIR CARNET DATA FURNISHED BY MEANS OF A DATA PROCESSING TECHNIQUE</b></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. |                 |
|   | The data to be furnished shall comprise the following elements:<br>-   |                 |

<sup>11</sup> 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.

| Amended European Community proposal <sup>1</sup> | Proposals by the International Road Transport Union (IRU)   | Other proposals |
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|  | 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. <sup>12</sup> |                 |

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<sup>12</sup> 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.