



Economic and Social Council

Distr.: General
27 August 2010
English
Original: English and Russian

Economic Commission for Europe

Inland Transport Committee

Working Party on Customs Questions affecting Transport

126th session

Geneva, 28 September – 1 October 2010

Item 9 (b) (ii) 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

Administrative Committee for the TIR Convention, 1975

Fiftieth session

Geneva, 30 September 2010

Item 6 (b) of the provisional agenda

Revision of the Convention: Other proposals for amendments to the Convention

Revision of the Convention

Note by the secretariat*

1. At its 123rd session, the Working Party (WP.30) reviewed the text of the amendment proposals to Annex 9, Part I, contained in Informal document WP.30 No. 6 (2009), with a slightly amended wording for Article 3 (vi) proposed by the secretariat. After extensive discussion, the Working Party decided that the above provision should read: "provide the TIR Executive Board annually, as per 1 March, with the price of each type of TIR Carnets it issues." The International Road Transport Union (IRU) reiterated its opposition to this proposal. Finally, the Working Party requested the secretariat to submit the amendment proposals in the appropriate format as an official document in all working languages for adoption at its next session (ECE/TRANS/WP.30/246, paragraph 28).

2. At its 124th session, the Working Party considered document ECE/TRANS/WP.30/3, containing the text of the amendment proposals to Annex 9, Part I in the appropriate legal format. The Working Party adopted the document, subject to the

* The present document has been submitted after the official document deadline due to resource constraints.

following minor changes in the Annex: at the end of new paragraph 1 (d), delete “of this Article”; and amend new paragraph 3 (ix) to read “comply strictly with the decisions of the competent authorities of the Contracting Party in which it is established concerning the revocation or withdrawal of the authorization in line with Article 6 of the Convention and Part II of this Annex or the exclusion of persons in line with Article 38 of the Convention.” (ECE/TRANS/WP.30/248, paragraph 24)

3. At its 49th session, the Committee took note that WP.30 had finalized its considerations of the amendment proposals to Annex 9, Part I, as contained in document ECE/TRANS/WP.30/2010/3-ECE/TRANS/WP.30/AC.2/2010/4/ The Committee generally supported these proposals, but decided to postpone a final decision to the next session, thus allowing countries to complete their internal domestic approval procedures (ECE/TRANS/WP.30/AC.2/101, paragraph 25).

4. This document contains in Annex I the precise wording of the legal amendment proposals to amend Annex 9, Part I of the Convention, in the presentation format prescribed by the United Nations and as revised in accordance with the above instructions from WP.30 at its 124th session. In addition, Annex I is now preceded by a rationale, as requested by the Committee at its 49th session (ECE/TRANS/WP.30/AC.2/101, paragraph 22). Amendment proposals involving comments are contained in Annex II.

Annex I

Amendment proposals for approval by the Working Party on Customs Questions affecting Transport and adoption by the Administrative Committee for the TIR Convention

The Administrative Committee,

Having regard to the TIR Convention, 1975,

Whereas;

- (1) The text of Annex 9, Part I should not only reflect that national associations are authorized to act as guarantor, but also, in accordance with the provision of Article 6 of the Convention, that they are authorized to issue TIR Carnets
- (2) The text of Annex 9, Part I requires various textual and logical amendments or deletions in order to improve its understanding.
- (3) In view of the changing economic environment in which TIR Carnet holders operate it is no longer appropriate to limit the authorization to associations representing the transport sector or in any other way.
- (4) As long as it is ensured by other means, it is not necessary for the competent authorities to monitor the requirement that the staff of national associations disposes of proven knowledge in the proper application of the Convention.
- (5) It is important that the national association clearly states in writing that it accepts its duties.
- (6) In order to allow the TIR Executive Board to better fulfil its function to monitor the price of TIR Carnets in accordance with Annex 8, Article 10 (h), it seems appropriate to include into the list of duties to be performed by the national association the obligation to provide the TIRExB annually with the price of each TIR Carnet it issues.
- (7) The requirement for national associations to strictly comply with the decisions taken by national competent authorities needs to be amended in order to cover not only the exclusion of persons but also the revocation or withdrawal of authorizations.
- (8) The text of Annex 9, Part I needs to be amended to provide a legal basis for the standing practice that national associations inform the international organization of the reception of any claim.
- (9) For the sake of clarity it seems appropriate to include in the legal text of the Convention a minimum period of three months for the revocation of the authorization to become effective,

Has adopted the following amendments in accordance with the provisions of Article 59 of the Convention:

Annex 6, Explanatory Note 9.I.1 (a)

Delete Explanatory Note

Annex 9, Part I, title

At the end of the title *insert* AND TO ACT AS GUARANTOR

Annex 9, Part I, subtitle

At the beginning of the subtitle *delete* Minimum

Annex 9, Part I, paragraph 1, first line

After The *delete* minimum

Annex 9, Part I, paragraph 1 (a)

For established association representing the interests of the transport sector *read* association established in the Contracting Party where the authorization is issued

Annex 9, Part I, paragraph 1 (b)

For it *read* the association

Annex 9, Part I, paragraph 1 (c)

Delete paragraph

Annex 9, Part I, paragraphs 1 (d), (e)

Renumber paragraph 1 (d) and (e) to *become* paragraph 1 (c) and (d)

Annex 9, Part I, new paragraph 1 (d)

For the existing text *read*

(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.

Annex 9, Part I, new paragraph 1 (d)

After new paragraph 1 (d) *insert* a new paragraph 2 to *read*

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 Executive Board. Any changes shall be immediately brought to the attention of the TIR Executive Board.

Annex 9, Part I, paragraph 1 (f)

Replace the existing text of paragraph 1 (f) by new paragraphs 3 and 4 to *read*

3. The duties of the association are to:
 - (i) comply with the obligations laid down in Article 8 of the Convention;
 - (ii) accept the maximum sum per TIR Carnet determined by the Contracting Parties which may be claimed from the association in accordance with Article 8, paragraph 3 of the Convention;
 - (iii) verify continuously and, in particular, before requesting authorization for access of persons to the TIR procedure, the fulfilment of the minimum conditions and requirements as laid down in Part II of this Annex;
 - (iv) provide its guarantees 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;

(v) cover its liabilities to the satisfaction of the competent authorities of the Contracting Party 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 its is itself affiliated;

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 as referred to in paragraph 1 (d). A certified copy of the insurance or financial 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;

(vi) provide the TIR Executive Board, annually, as per 1 March, with the price of each type of TIR Carnets it issues;

(vii) allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure;

(viii) accept a procedure for settling efficiently disputes arising from the improper or fraudulent use of TIR Carnets, whenever possible without recourse to courts;

(ix) comply strictly with the decisions of the competent authorities of the Contracting Party in which it is established concerning the revocation or withdrawal of the authorization in line with Article 6 of the Convention and Part II of this Annex or the exclusion of persons in line with Article 38 of the Convention;

(x) agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board in as much as the competent authorities of the Contracting Party in which the association is established have accepted them.

4. When a guaranteeing association is asked, in accordance with the procedure 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 Explanatory Note 0.6.2**bis**-1 to Article 6, paragraph 2 **bis**, inform the international organization of the reception of the claim.

Annex 9, Part I, paragraphs 2, 3 and 4

Renumber the existing paragraphs 2, 3 and 4 to *become* paragraphs 5, 6 and 7

Annex 9, Part I, new paragraph 5

For the existing text *read*

5. The Contracting Party in which the association is established shall revoke the authorization to issue TIR Carnets and to act as guarantor in case of non-compliance with these conditions and requirements. Should a Contracting Party decide to revoke the authorization, the decision shall become effective at the earliest three (3) months after the date of revocation.

Annex 9, Part I, new paragraph 6

For Authorization *read* The authorization

Annex 9, Part I, new paragraph 7

After The delete minimum

Annex II

Proposals for comments for adoption by the Working Party on Customs Questions affecting Transport and endorsement by the Administrative Committee for the TIR Convention

Annex 9, Part I, comment to paragraph 1 (f) (v)

Delete comment
