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## Economic Commission for Europe

### Inland Transport Committee

### Working Party on Customs Questions affecting Transport

#### 139th session

Geneva, 3–6 February 2015

Item 4 (b) (i) 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 to the Convention**

## List of outstanding amendment proposals to the Convention

### Note by the secretariat

#### I. Background and mandate

1. At its previous session, the Working Party discussed the benefits of applying a more comprehensive, holistic and systematic approach to considering amendment proposals within the framework of a broader “package” of measures to modernize the TIR Convention. In this context, it requested the secretariat to prepare, for its next session, a comprehensive document on all outstanding proposals for amendments to the Convention, including issues that have been discussed but on which decisions have not yet been taken. It was also agreed that this document should prioritize proposals with a tentative timeline for completion of their consideration.

2. The present document ECE/TRANS/WP.30/2015/2 contains information on the background, content and status of discussions on proposals to amend the TIR Convention that have been on the agenda of the Working Party for several consecutive sessions, with a decision pending. Where possible, the text of the proposed amendments has been reproduced and references to documents on each item are provided. Each of the proposals listed below is also scheduled to be discussed at the present session under dedicated agenda items with corresponding documentation.



## **II. Outstanding amendment proposals**

### **A. Proposed audit provisions, Annex 9, Part III, paragraph 2, sub-items (o), (p) and (q)**

#### **(i) Background of the proposal**

3. The Working Party first considered these proposals in the process of discussing the adoption of Annex 9, Part III of the TIR Convention at its 124th session in February 2010. The Working Party was unable to reach an agreement on items (o), (p) and (q) of proposed Annex 9, Part III, which address the audit requirements for an authorized international organization. In view of the lack of consensus, WP.30 approved the text of Annex 9, Part III without sub-items (o), (p) and (q) at its 129th session in October 2011. Annex 9, Part III as approved by WP.30 was subsequently transmitted to the Administrative Committee (AC.2) for adoption. Annex 9, Part III came into force on 10 October 2013. In the meantime, WP.30 has continued its discussions on items (o), (p) and (q) for their possible inclusion in Annex 9, Part III.

#### **(ii) Content of the proposal**

4. The text under discussion for items (o), (p) and (q) reads:

“Pursuant to the authorization, the international organization shall:

[items (a) through (n) followed by:]

(o) maintain separate records and accounts containing information and documentation which pertain to the organization and functioning of an international guarantee system and the printing and distribution of TIR Carnets;

(p) allow access to the above records and accounts to the United Nations Office of Internal Oversight Services (OIOS), the United Nations Board of Auditors (BOA) or other persons duly authorised by the United Nations and at all times facilitate inspections and audits performed by them;

(q) engage an independent external auditor to conduct annual audits of the above records and accounts. Guidelines and terms of reference for the external audit shall be adopted by the Administrative Committee. The external audit shall be performed in accordance with International Standards on Auditing (ISA) and shall result in an annual audit report and a management letter, issued by the independent external auditor to the Administrative Committee, with copies sent directly to the Executive Secretary of the United Nations Economic Commission for Europe and the international organization concerned”.

#### **(iii) Status of discussions**

5. At the outset, some delegations doubted the necessity of audit provisions altogether, while others were not in agreement with the proposed wording. Delegations were requested to send their counter-proposals and views to the secretariat, in writing, for discussion at the 128th session of the Working Party in June 2011. The consolidated inputs provided by Contracting Parties for the 128th session can be found in document ECE/TRANS/WP.30/2011/6. Further and more recent proposals submitted by the Russian Federation and comments thereto by other Contracting Parties, related to the substantive content of the proposed items (o), (p) and (q) (i.e. audit requirements) can be found in document ECE/TRANS/WP.30/2014/17 and ECE/TRANS/WP.30/2015/1, respectively.

These documents are scheduled to be discussed under the relevant agenda items at the current session.

6. By the 139th session of February 2015, WP.30 has agreed that substantive requirements of items (o), (p) and (q) should, in some way, shape or form be included in Annex 9, Part III. Thus, the pending question is that of reaching consensus on the text and, by extension, on what exactly these provisions will entail.

**(iv) Tentative timeline for the completion of considerations on this proposal**

7. Following informal consultations between Contracting Parties, the Chair, the TIR secretariat and IRU, the interested parties seem confident that a compromise may be found in the near future, on the appropriate formulation of these provisions. The secretariat is not able to indicate with any degree of certainty when the required consensus will be reached by Contracting Parties. However, taking into consideration that these proposals have been under discussion since 2010, the secretariat is of the view that agreement may be reached in the course of 2015.

**B. Proposals submitted by the Russian Federation for Article 1, Article 3, Annex 8, and Annex 9, Part 1**

**(i) Background of the proposal**

8. In the context of the discussion on ways to improve the TIR Convention in light of the developments, since 2013, in its application in the territory of the Russian Federation, a package of amendment proposals has been submitted to the Working Party at its 138<sup>th</sup> session of October 2014, by the delegation of the Russian Federation.

**(ii) Content of the proposal**

9. The proposed text for the amendments is available in document ECE/TRANS/WP.30/2014/17. The proposals reflect the intention of the Russian Federation to (a) strengthen the control function of AC.2; (b) provide more transparency in the functioning of the international guarantee system; (c) offer immediate and full compensation in case of losses to the state budget; and (d) reform the TIR Executive Board.

**(iii) Status of discussions**

10. The Working Party was invited to submit written comments on these amendment proposals to the secretariat, not later than 15 November 2014. These comments have been consolidated by the secretariat in document ECE/TRANS/WP.30/2015/1, for discussion at the current session.

**(iv) Tentative timeline for the completion of considerations on this proposal**

11. Considering the recent receipt of these proposals, the secretariat is not able to indicate with any degree of certainty when the required consensus will be reached by Contracting Parties. However, these proposals in substance appear to be relevant to the discussions on the proposed audit provisions (o), (p) and (q) and as such, the secretariat expects the two sets of proposals to be considered in conjunction.

## C. Application of the TIR procedure in a Customs Union with a single Customs territory

### (i) Background of the proposal

12. The considerations on the possible use of the TIR procedure for internal transport of foreign goods within a Customs Union first commenced at the 133rd session of WP.30 in February 2013. Belarus, Kazakhstan and the Russian Federation, having formed a Customs Union, were considering the modalities of applying the TIR procedure for such transport and, in that context, the delegation of Kazakhstan submitted an analysis of the benefits of such application for the consideration of the Working Party. In the context of its discussions, WP.30 assessed the proposal against the provisions of the TIR Convention in order to determine whether the Convention already provided sufficient scope for that, or if an amendment would be needed. Upon request, the secretariat provided for the 134th session, draft amendments to Articles 2 and 48 of the TIR Convention, so as to clarify the meaning of the provisions relevant to Customs Unions and the use of the TIR procedure therein.

### (ii) Content of the proposal

13. Amendment proposal for Article 2:

(The proposed modifications to the current text of Convention are marked in **bold**)

“1. This Convention shall apply to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more [**Customs**] frontiers between a Customs office of departure of one Customs territory Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR transport is made by road.

2. **The provisions of paragraph 1 of this Article shall not prevent the Contracting Parties [in particular those which form a Customs or Economic Union], from unilaterally, bilaterally or multilaterally enacting legislation that would allow the application of the TIR Convention solely in their Customs territory without the crossing of a Customs frontier.”**

14. Proposal for a new Explanatory Note 0.2-3 to Article 2:

**“0.2-3 The provisions of this Article do not prevent Contracting Parties that form a Customs or Economic Union from, upon mutual agreement, implementing the TIR procedure for transport operations within their territory of goods not originating in their territory, as long as the conditions of such operations are specified and do not otherwise contradict the [object and purpose] [spirit and text] of the TIR Convention.”**

15. Amendment proposal for Article 48:

(The proposed modifications to the current text of Convention are marked in **bold**)

“Nothing in this Convention shall prevent Contracting Parties which form a Customs or Economic Union from enacting special provisions in respect of transport operations commencing **and/or** terminating **and/or** passing through, their territories, provided that such provisions do not attenuate the facilities provided for by this Convention.”

**(iii) Status of discussions**

16. The Working Party has not reached consensus on whether or not an amendment is warranted. While some delegations are of the view that the Convention as it stands suffices in clarity as to the use of the TIR procedure in a Customs Union, others are in favour of adopting the proposed amendments.

**(iv) Tentative timeline for the completion of considerations on this proposal**

17. The proposal has been on the agenda for the past seven sessions, without any indication that the divergent views are moving towards compromise. The secretariat is not able to indicate with any degree of certainty when the required consensus will be reached by Contracting Parties.

**D. Increase in the number of loading and unloading places****(i) Background of the proposal**

18. At the 125th session of the Working Party in May 2010, the delegation of Turkey requested that the issue of the number of loading and unloading places be re-examined.

**(ii) Content of the proposal**

19. The proposal is to increase the total number of customs offices of departure and destination from four (4) to eight (8) departure and destination points and to amend the related provisions of the TIR Convention accordingly. No specific wording has been submitted for consideration.

**(iii) Status of discussions**

20. The discussions on this issue have been linked, at several sessions, with the level of the guarantee and the need seen by some delegations to increase it. In other instances, some delegations did not share the view of the delegation of Turkey on the necessity of increasing the number of loading and unloading places.

**(iv) Tentative timeline for the completion of considerations on this proposal**

21. The proposal has been on the agenda for the past fifteen sessions, without any indication that the divergent views are moving towards compromise. The secretariat is not able to indicate with any degree of certainty when the required consensus will be reached by Contracting Parties.

**E. Legal aspects of the computerization of the TIR procedure****(i) Background of the proposal**

22. With the completion of the eTIR Cost Benefit Analysis, the Working Party was of the view that the circumstances have matured as to allow a shift of the work focus from the technical to the legal aspects of the eTIR project. Against this background, WP.30 started, as of 134th session, to systematically address the key legal aspects of the computerization of the TIR procedure by, initially, deciding to explore the various options available to introduce the legal provisions required to enable a fully computerized TIR system. It discussed the pros and cons of the various options and has, initially indicated a preference for elaborating an additional protocol to the TIR Convention.

**(ii) Content of the proposal**

23. Upon the request of the Working Party, the secretariat has elaborated draft substantive provisions of the envisaged Protocol. These may be found in documents ECE/TRANS/WP.30/2014/7 and ECE/TRANS/WP.30/2014/13, to be considered under the relevant agenda item at the current session.

**(iii) Status of discussions**

24. Having considered the basic starting points of designing the eTIR legal framework, WP.30 is now considering the Terms of Reference and tentative work plan for the establishment of a formal Group of Experts with the objective of drafting a Protocol on the basis of which Contracting Parties could negotiate. The provisional Terms of Reference and Programme of Work of such Expert Group is contained in document ECE/TRANS/WP.30/2014/14.

**(iv) Tentative timeline for the completion of considerations on this proposal**

25. WP.30 seems to agree in principle with the envisaged work to be undertaken by the Group of Experts, and the tentative timeline for the completion of the legal framework. As such, the secretariat would assume that the Working Party may approve the establishment of the Group of Experts already at its current, or at its next session. On the basis of the programme of work envisaged for the Group of Experts, the item on the legal aspects of the computerization of the TIR procedure is expected to remain on the agenda until such time as the legal framework is adopted and at minimum for two years after the date of establishment of the Group of Experts.

### **III. Considerations by the Working Party**

26. The Working Party is invited to consider the priority with which it would like to address the pending amendment proposals and to advise the secretariat with regard to the preparation of the agenda in relation to these proposals, for the next session.

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