



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/1999/8
3 August 1999

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions
affecting Transport

(Ninety-third session, 18-22 October 1999,
agenda item 7 (b) (i))

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

Revision of the Convention

Phase II of the TIR revision process

Status and functions of the international organization(s)

Note by the secretariat

GE.99-

1. The Working Party on its ninety-second session took the following decision on the status and functions of the international organization(s) (TRANS/WP.30/184, para. 24):

Add a new paragraph 2 bis, article 6 of the Convention to read as follows:

“2 bis. An international organization, as referred to in paragraph 2, shall [may] be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility.”

2. It was noted that use of the word “may” in this new paragraph would align it with the wording used in the existing paragraph 1, article 6 (see *ibid*). Nevertheless, the ad hoc Group of Experts on Phase II of the TIR revision process, at its fourth session, decided to leave the word “shall” in the above wording (TRANS/WP.30/1999/7, para 14).

3. It should be realized that the words “shall” and “may” in this context may lead to quite different consequences. Use of “shall” would mean that the Administrative Committee must entrust an international organization to take on the above responsibility as soon as it accepts this responsibility. Thus, Contracting Parties would imply that the only way of effectively organizing such an international guarantee system is to delegate such a function to an international organization.

4. The guarantee system is recognized to be one of the basic elements of the TIR Convention. At present it is a centralized insurance system. As stressed in 1997 by the group of experts on a revised guarantee system for the TIR procedure, it seemed neither possible nor necessary for the time being to radically change this system (TRANS/WP.30/R.195 and Corr.1).

5. At that session, the group of experts took note of the shortcomings of the present system. In particular, the group of experts pointed out that “... it seems to be necessary to reflect at a later stage in more detail on the question whether the provisions and spirit of the TIR Convention allow for an international guarantee system based on insurance contracts, irrespective of national or international insurance systems. In other words, is it acceptable that the facilities provided by Governments in the TIR Convention and the ensuing risk involved for State revenues are covered by an insurance system or the TIR Customs transit procedure, as it is designed, requires a guarantee system based on suretyship and bank guarantees?” (TRANS/WP.30/R.195, para. 26).

6. The expert group also considered possibilities to complement the present international insurance system with additional reserve funds to be kept by national associations and the TIRExB with a view to shortening drastically the period for notification of discharged TIR Carnets by Customs authorities and

thus reducing the required time period for insurance coverage. Various models of such systems were discussed, but no decisions were taken in this respect.

7. It may be concluded that there exist possibilities of improving, in the long term, the present guarantee system and replacing it, possibly, by a “decentralized” system - if such a system could provide for a better guarantee coverage than the present system. All these possibilities might be jeopardized if the word “shall” is to be inserted into a new paragraph 2 bis, article 6 of the Convention.

8. On the other hand, the word “may” would provide for more flexibility in resolving these issues. It caters for the present guarantee system and leaves room for improvement.

9. The Working Party may wish to consider these views expressed by the secretariat.
