



# Economic and Social Council

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## Economic Commission for Europe

### Administrative Committee for the TIR Convention, 1975

#### Sixty-fifth session

Geneva, 15 and 16 February 2017

Item 5 (f) of the provisional agenda

#### Revision of the Convention:

## Accepted amendment proposals to the Convention pending formal adoption

### Note by the secretariat

#### I. Mandate and background

1. The Committee at its sixty-second session, in light of the many amendments under discussion, instructed the secretariat to prepare a document consolidating provisionally accepted proposals, which would be expanded as the discussions progress, until the Committee would be ready to formally adopt them as a package (see ECE/TRANS/WP.30/AC.2/127, para. 34). At its previous session, the Committee requested the secretariat to issue a revised document, to include proposals accepted at the sixty-third session (see ECE/TRANS/WP.30/AC.2/129, para. 25). Against this background, the secretariat has prepared the present document, containing, in Annex, the provisionally accepted proposals to amend:

(a) Article 1, paragraph (q), on the definition of a “guaranteeing association” (see ECE/TRANS/WP.30/AC.2/127, para. 32 and ECE/TRANS/WP.30/AC.2/2015/24);

(b) Article 2 to specify that the word “frontier” refers to a customs frontier (see ECE/TRANS/WP.30/AC.2/127, para. 34 (a) and ECE/TRANS/WP.30/AC.2/2014/14, para. 2)<sup>1</sup>;

(c) Article 11, paragraph 3, on reducing the earliest moment at which a claim to an association can be made (see ECE/TRANS/WP.30/AC.2/127, para. 34(c) and ECE/TRANS/WP.30/AC.2/2014/14, para. 5);

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<sup>1</sup> In line with the decision of the Committee at its previous session, this proposal will be transmitted to the Depository in a separate document (see ECE/TRANS/WP.30/AC.2/131, para. 33), to be issued at a future session of the Committee.

(d) Article 38, in order to, unequivocally, entitle a Contracting Party to assess whether a customs offence is serious enough to constitute grounds for exclusion (see ECE/TRANS/WP.30/AC.2/129, para. 36(c)).

(e) Proposals to replace the term “approved” by “authorized” in Article 3 paragraph (b), Article 6, paragraph 2 and in Annex 9, Part II, as well as the proposal to amend Annex 9, Part I, paragraph 7 to replace “Contracting Parties” by “each Contracting Party”. In line with the decision of the Committee at its previous session, these proposals are included in the present document provisionally and in brackets, due to the positions expressed, at the previous session, by the delegations of Turkey and Ukraine namely that, due to ongoing consultations at the national level, neither delegation would be in a position to express a view or to support the proposals for the time being.

## **II. Considerations by the Committee**

2. The Committee is invited to take note of document ECE/TRANS/WP.30/AC.2/2016/4/Rev.2. The secretariat will periodically issue revised versions of this document every time there are new provisionally accepted amendment proposals to be added.

## Annex

### Legal amendments to the text of the Convention

For ease of reference, deletions are marked with ~~strike through~~ and new text is marked in ***bold italics***.

#### Article 1, paragraph (q)

*Modify paragraph (q) to read:*

(q) The term “guaranteeing association” shall mean an association authorized by the customs authorities ***or other competent authorities*** of a Contracting Party, to act as guarantor for persons using the TIR procedure.

#### Article 2

*Modify Article 2 to read*

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 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.

#### Article 11, paragraph 3

*Modify paragraph 3 to read*

The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made against the guaranteeing association at the earliest ~~three months~~ ***one month*** after the date on which the association was notified that the operation had not been discharged or that the certificate of termination of the TIR operation had been falsified or 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 administrative or legal proceedings concerning the payment obligation of the person or persons referred to in paragraph 2 of this Article, any claim for payment shall be made within one year of the date on which the decision of the court becomes enforceable.

#### Article 38

*Modify Article 38 to read*

Each of the Contracting Parties shall have the right to exclude temporarily or permanently from the operation of this Convention any person guilty of a serious ***or repeated*** offence against the Customs Laws or regulations applicable to the international transport of goods. ***The conditions in which the offence against the customs laws or regulations is considered to be serious shall be decided by the Contracting Party.***

**[Article 3 (b)]**

*Modify paragraph 3 to read*

“the transport operations must be guaranteed by associations ***authorized*** ~~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 this Convention.”

**Article 6, paragraph 2**

*Modify paragraph 2 to read*

An association shall not be ***authorized*** ~~approved~~ in any country unless its guarantee also covers the liabilities incurred in that country in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated.”

**Annex 9, Part II, Procedure, Model Authorization Form, paragraph 1**

*Modify paragraph 1 to read*

“For each person for which a request for authorization is transmitted by the ***authorized*** ~~approved~~ association, the following information shall, at least be provided to the competent authorities:...”

**Annex 9, Part I, paragraph 7**

*Modify paragraph 7 to read*

“The conditions and requirements laid down above are without prejudice to additional conditions and requirements ***that each*** Contracting ***Party*** ~~ies~~ may wish to prescribe”.]

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