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Item 3 (a) of the provisional agenda

Revision of the Convention–

Amendment proposals to the Convention

prepared by the TIR Executive Board

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Note by the secretariat

I. Background and mandate

1. At its sixty second session, TIR Executive Board (TIRExB), considered a proposal for a new Explanatory Note to Article 49 of the Convention, so as to widen the scope of greater facilities that Contracting Parties may grant to transport operators. The Board adopted the proposal, with its accompanying text, and requested the secretariat to transmit the proposal to AC.2 for further consideration. Further to this request, the secretariat prepared document ECE/TRANS/WP30/AC.2/2015/11 for consideration by the Committee, containing an the text of the new Explanatory Note, an accompanying Comment to Article 49 together with a justification as elaborated by TIRExB.

II. Explanatory Note to Article 49

2. Amend Annex 6, with a new Explanatory Note to Article 49 of the Convention:

“0.49 Contracting Parties may grant, in line with national legislation, greater facilities in the application of the provisions of the Convention. The conditions prescribed by the competent authorities upon granting such facilities should, at least, include, the application of information and communication technologies to ensure the good conduct of the TIR procedure, the exemption to produce goods, road vehicle, the combination of vehicles or the container with the TIR Carnet at the Customs offices of departure, en route or destination, as well as instructions for duly authorized persons to perform specific duties entrusted pursuant to the TIR Convention to customs authorities, such as, in particular,

the filling in and stamping of the TIR Carnet and the affixing or checking of customs seals. Greater facilities affecting persons authorized to utilize TIR Carnets should be granted without prejudice to their liability as stipulated by Article 11, paragraph 2 of the Convention. Contracting Parties are recommended to monitor the application of any granted facility.

III. Comment to Article 49

3. In order to ensure that, inter alia, the concepts of authorized consignor and consignee will be considered to be encompassed by Explanatory Note 0.49, the secretariat proposes the following comment.

Comment to Explanatory Note 0.49

Contracting Parties are recommended to grant greater facilities, such as authorized consignors and authorized consignees, as extensively as possible when they are satisfied that the prescribed conditions laid down in national legislation are met.

IV. Justification of the proposal

4. In order to ensure that national competent authorities can independently decide on the conditions under which they would be willing to grant additional facilities within the meaning of Article 49, it is considered essential that greater facilities are granted in accordance with applicable provisions of national law.

5. The proposed Explanatory Note makes reference to facilitative measures involving the use of information and communication technology as well as to the possibility for exemption from the obligation to present the vehicle and TIR Carnet at any competent customs office of departure, en route or destination. Although for the time being, the main facilities addressed by this Explanatory Note are the concepts of authorized consignor and consignee, which are related to the tasks and responsibilities entrusted by the Convention to the customs offices of departure and destination, the general nature of the text of this Explanatory Note requires the inclusion of a reference to the customs office en route as well, as it may occur, at some point in time, that facilities will be granted implying their involvement as well.

6. As a final note, although it is the sole competence of national competent authorities to formulate the specific conditions under which they would grant any facility, the Explanatory Note also indicates certain pre-requisite elements that are considered important for inclusion in the authorization of natural or legal persons to utilize such greater facilities. The authorization should, for example, include detailed instructions concerning which persons are granted certain specific and well-defined tasks, which the TIR Convention usually entrusts to customs authorities. Such tasks include, but do not need to be limited to, the filling in and stamping of the TIR Carnet and the affixing or checking of customs seals. TIR Carnet holders who have been granted any facilitation, cannot invoke any circumstance related to the granted facilitation to release themselves from the liability imposed on them by virtue of Article 11, paragraph 2 of the Convention. Finally, competent authorities of Contracting Parties are recommended to closely monitor any facility granted in line with the provisions of national law and, in particular, apply stricter conditions to safeguard the proper functioning of the Convention.

V. Further considerations by the Committee

7. The Committee is invited to consider and, possibly, adopt the text of the Explanatory Note to Article 49, together with its accompanying comment.
