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Administrative Committee for the TIR Convention, 1975
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Item 5 (b) 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

Note by the secretariat

1. At its 120th session, the Working Party requested the secretariat to submit to both WP.30 and AC.2 sessions in February 2009 a document containing all amendment proposals endorsed so far. To ensure the alignment between the three language versions, French and Russian speaking delegations were invited to review the amendment proposals and to send their remarks to the secretariat as soon as possible (ECE/TRANS/WP.30/240, paragraph 30).

2. With reference to documents ECE/TRANS/WP.30/2008/13/Rev.1 and ECE/TRANS/WP.30/13/Rev.2, presenting all amendment proposals in a consolidated format and to paragraph 30 of the report of WP.30 at its 120th session (ECE/TRANS/WP.30/240), containing final additions thereto, this document contains in Annex I the precise wording of the legal amendment proposals, so far, in the presentation format prescribed by the United Nations. Amendment proposals involving comments are contained in Annex II.

Annex I

Amendment proposals for approval by the Working Party on Customs Questions affecting Transport (WP.30) and adoption by the Administrative Committee for the TIR Convention (AC.2)

Article 1 (q), line 1

Replace approved by authorized

Article 1 (q), line 2

Replace surety by guarantor ¹

Article 1 (q)

After Article 1 (q) insert a new paragraph (r) to read:

- (r) the term “international organization” shall mean an organization authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system.

Article 6, paragraph 2bis

Modify paragraph 2bis to read:

2 bis. An international organization shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system. The authorization shall be granted as long as the organization fulfils the conditions and requirements laid down in Annex 9, Part III. The Administrative Committee may revoke the authorization if these conditions and requirements are no longer fulfilled.

Article 8, paragraph 1

Modify paragraph 1 to read:

1. The guaranteeing association shall undertake to pay up to the maximum of the guaranteed amount of the import and export duties and taxes together with any default interest due under the Customs laws and regulations of the Contracting Party in which an irregularity leading up to a claim against the guaranteeing association has been established in connection with a TIR operation. It shall be liable, jointly and severally

¹ English and French only, in the Russian text the existing term remains unchanged.

with the persons from whom the sums mentioned above are due, for payment of such sums.

Article 8, paragraph 7

Delete the text of paragraph 7

Article 10, paragraph 2, line 1

Replace country by Contracting Party

Article 11, paragraph 1

Modify paragraph 1 to read:

1. Where a TIR operation has not been discharged, the competent authorities shall
 - (a) notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge;
 - (b) notify the guaranteeing association of the non-discharge.

The competent authorities shall notify the guaranteeing association with a maximum period of one year from the date of acceptance of the TIR Carnet by those authorities or two years when the certificate of termination of the TIR operation was falsified or obtained in an improper or fraudulent manner.

Article 11, paragraph 1

After paragraph 1 insert a new paragraph 2 to read:

2. Where the payment of the sums mentioned in Article 8, paragraphs 1 and 2 becomes due, the competent authorities shall, so far as possible, require payment from the person or persons liable for such payment before making a claim against the guaranteeing association.

Article 11, paragraph 2

Renumber paragraph 2 to become paragraph 3.

Article 11, paragraph 3

Modify paragraph 3 to read:

3. 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 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 competent authorities or courts becomes enforceable.

Article 11, paragraph 3

Renumber paragraph 3 to become paragraph 4.

Article 11, paragraph 4

Modify paragraph 4 to read:

4. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it, unless it contests the claim in accordance with the laws of the Contracting Party concerned [or send to the competent authorities a motivated opposition to the claim for payment. If the competent authorities consider the reasons of the opposition as ungrounded, they have the right to start [legal] proceedings against the guaranteeing association in accordance with national legislation].

Article 11, paragraph 4

After paragraph 4 insert a new paragraph 5 to read:

5. The sums paid shall be reimbursed to the guaranteeing association if, within a two year period following the date on which the claim for payment was made against it, it has been established to the satisfaction of the competent authorities that no irregularity was committed in connection with the TIR operation in question. The two year time limit may be extended in accordance with national legislation.

Annex 6, Explanatory Note 0.8.3, line 1

Replace Customs authorities by Contracting Parties

Annex 6, Explanatory Note 0.8.3, line 1-2

Replace \$US 50,000 by EUR 60,000 ²

Annex 6, Explanatory Note 0.8.5, line 1

² Submitted as separate proposal; see ECE/TRANS/WP.30/AC.2/96, paragraph 19.

Replace the guarantee is questioned by a payment request is made against the guaranteeing association

Annex 6, Explanatory Note 0.8.7

Delete Explanatory Note 0.8.7

Annex 6, Explanatory Note 0.10

Renumber Explanatory Note 0.10 to become Explanatory Note 0.10-1

Annex 6, Explanatory Note 0.10-1

After Explanatory Note 0.10-1 insert a new Explanatory Note 0.10-2 to read:

0.10-2 The phrase “or no termination has taken place” includes those situations where the certificate of termination has been falsified.

Annex 6, Explanatory Note 0.11-1

Modify Explanatory Note 0.11-1 to read:

0.11.-1 The method of notification is left to national legislation.

Annex 6, Explanatory Note 0.11-1

After Explanatory Note 0.11-1 insert a new Explanatory Note 0.11-2 to read:

0.11-2 The efforts to be made by the competent authorities to require payment from the person or persons liable shall include, at least, the sending of the claim for payment to the TIR Carnet holder, at his address indicated in the TIR Carnet, or the person or persons liable, if different, established in accordance with national legislation. The claim for payment to the TIR Carnet holder may be combined with the notification referred to in paragraph 1 (a) of this Article.

Annex 6, Explanatory Note 0.11-2

Renumber Explanatory Note 0.11-2 to become Explanatory Note 0.11-3-1

Annex 6, Explanatory Note 0.11-3-1, line 1

Replace Customs by competent

After Explanatory Note 0.11-3-1 insert a new Explanatory Note 0.11-3-2 to read:

0.11-3-2 The competent authorities may inform the guaranteeing association that administrative or legal proceedings concerning the payment obligation were initiated. In any event, the competent authorities should inform the guaranteeing association of such proceedings that may be terminated after the two year time limit before that time limit has expired.

Annex 6, Explanatory Note 0.11-3

Renumber Explanatory Note 0.11-3 to become new Explanatory Note 0.11-4.

Annex 6, Explanatory Note 0.11-4, line 2

Replace Article 11 by this Article

Annex 6, Explanatory Note 0.11-4

At the end of the paragraph insert a phrase to read:

The time limit also applies in the event that the guaranteeing association, on receipt of the claim, consults the international organization referred to in Article 6, paragraph 2 over its position concerning the claim.

Annex 6, Explanatory Note 0.28

Renumber Explanatory Note 0.28 to become Explanatory Note 0.28-1

After Explanatory Note 0.28-1 insert a new Explanatory Note 0.28-2 to read:

0.28.2 This Article provides that the termination of a TIR operation shall be subjected to the goods being placed under another Customs procedure or another system of Customs control. This includes clearing the goods for home use (either full or conditionally), the transfer across the border to a third country (export), or to a free zone, or the storage of the goods in a place approved by the Customs authorities while awaiting the declaration for another procedure.

Annex II

Proposals for comments for adoption by the Working Party on Customs Questions affecting Transport (WP.30) and endorsement by the Administrative Committee for the TIR Convention (AC.2)

Comment to Explanatory Note 0.8.3, line 4

Replace \$US 50,000 by EUR 60,000

Comment to Explanatory Note 0.8.3, last sentence

Delete last sentence³

Comments to Article 11, paragraph 1

Delete comment Payment of duties and taxes

Comment to Article 11, paragraph 3

Add a new comment to Article 11, paragraph 3 to read as follows:

Claim for payment of duties and taxes

The claim for payment should be supported by copies of the relevant documentation. In cases where part of the goods has been subject to an irregularity, the competent authorities should apportion the claim for payment of the evaded duties and taxes referred to in Article 8, paragraphs 1 and 2 accordingly. Without prejudice to any national provisions concerning the right of appeal, should the guaranteeing association obtain alternative proof of the termination of the TIR operation, it should submit the proof to the competent authorities who notified the non-discharge of the TIR operation.”

Comments to Article 28

Delete comment Applicable procedures after termination of a TIR operation

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³ Modification of comment subject to discussion by WP.30 (See: ECE/TRANS/WP.30/240, paragraph 27).