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Economic Commission for Europe

Administrative Committee for the TIR Convention, 1975

Sixty-third session

Geneva, 10–11 February 2016

Item 7(d) of the provisional agenda

Revision of the Convention –

Amendment proposals to the Convention:

Audit requirements for an authorized international organization

Audit requirements for an authorized international organization

Note by the secretariat

I. Mandate

1. At its previous session, the Committee continued its considerations of document ECE/TRANS/WP.30/AC.2/2015/12, transmitted by the Working Party and containing the checklist of all documents submitted by the International Road Transport Union (IRU) to fulfil its obligations under Annex 9, Part III and welcomed document ECE/TRANS/WP.30/AC.2/2015/23, prepared by the secretariat and IRU and containing various ways by which these documents could be distributed to interested Contracting Parties, while at the same time, safeguarding the applicable confidentiality requirements. Further to substantive discussions, the Committee requested the secretariat to prepare a revised document, reflecting the comments received, as well as outlining the relevant procedural guidelines, for consideration and final decision at its next session (see ECE/TRANS/WP.30/AC.2/127, para.31). In line with this request, the secretariat has prepared the present new document.¹

¹ Due to the substantial amount of changes, this document replaces document ECE/TRANS/WP.30/AC.2/2015/23/Rev.1 as announced in the draft agenda of the session (ECE/TRANS/WP.30/AC.2/128).

II. Background

2. On 10 October 2013, a new Part III to Annex 9 of the TIR Convention entered into force. It requires the international organization, as referred to in Article 6 of the Convention, to submit various types of information to either the TIR Administrative Committee (AC.2) or the TIR Executive Board (TIRExB), for the sake of providing transparency in the management and organization of the international guarantee system.

3. IRU submitted documents to the secretariat of the United Nations Economic Commission for Europe (UNECE) in application of Annex 9, Part III of the TIR Convention. On 2 October 2014, the Executive Secretary of UNECE, Mr. Christian Friis Bach, met with the Secretary-General of IRU, Mr. Umberto de Pretto who officially handed over, as the last outstanding document, a copy of the 2013 accounts of IRU, approved by its General Assembly and duly audited by its external auditor. With this, IRU considered that it had fulfilled all requirements under the new provisions of Annex 9, Part III of the TIR Convention, subject to the approval by AC.2.

4. TIRExB, at its sixtieth session (September 2014) was of the view that that the submitted documentation should be kept by the TIR secretariat, where they would be available, upon appointment, for consultation by Contracting Parties (ECE/TRANS/WP.30/AC.2/2015/2, para. 27). The Administrative Committee endorsed the recommendation of TIRExB as reflected in its report at its sixty-first session (ECE/TRANS/WP.30/AC.2/125, para. 30).

5. Upon reflection, the Committee has decided to revisit its mandate as concerns dissemination of the above-mentioned documents.

III. Considerations of the Committee at its sixty-first and sixty-second session

6. At the sixty-first session of the Committee, IRU provided clarifications that, because some of the documents required under Annex 9, Part III, have been acquired by IRU from third parties (such as the global insurer), IRU would not be in a position to publish these documents in the public domain (such as the UNECE or IRU websites). At the same time, IRU was of the view that some of the information contained in the list of submitted documents is of a sensitive financial or commercial nature and its dissemination may require, in some cases, prior coordination with respective partners. As such, IRU stated, that it would be willing to allow the dissemination of such documents in the spirit of transparency and cooperation with TIR Contracting Parties, following respective coordination with persons concerned and upon receipt of assurances that these documents will not be made public either by intent or by omission, by the recipients.

7. At its sixty-second session, the Committee, upon reviewing the proposals of the secretariat as contained in document ECE/TRANS/WP.30/AC.2/2015/22, provided further guidelines on the envisaged dissemination procedure to the effect that:

(a) The distribution of the documents should only take place via the UNECE secretariat rather than IRU;

(b) It should be possible to transmit requests for documents both electronically as well as by hard-copy;

(c) If such requests are transmitted to the secretariat via official channels, it would suffice to indicate the name of the requesting governmental authority, while the

name of the individual recipient and any justification of the request would not be a necessary requirement;

(d) IRU should notify its contractual partners that the relevant documents may be distributed to TIR Contracting Parties, pursuant to obligations arising for IRU under the TIR Convention;

(e) Requesting authorities would not be required to make any statement of confidentiality but, rather, the secretariat could despatch the documents with a note that these are to be treated as confidential.

8. IRU noted that it would appreciate a system of notifications for the documents distributed by the secretariat, as some of these documents may include information provided by contractual partners of IRU.

IV. Proposals by the secretariat

9. Having taken into account the considerations of the Committee and of IRU, the secretariat has prepared a revised dissemination procedure.

10. Considering that the secretariat is in the position to act as a focal point for distributing paper and electronic copies of the documents via the permanent missions to the United Nations in Geneva, and after consultations with the relevant legal services, the following procedure is proposed:

A. Sending the request

11. A governmental agency, interested in consulting the documents provided by IRU, sends a letter to its permanent mission in Geneva, which will transmit it, with a Note Verbale, to UNECE. The letter shall be addressed to the Executive Secretary of UNECE. Upon receipt, the letter will be forwarded to the TIR secretariat. A sample letter is provided in Annex I.

12. The requesting governmental agency may prefer to send the letter electronically. In this case, the requesting governmental authority shall ask the permanent mission in Geneva to send it with a Note Verbale to the electronic address of UNECE, following the usual procedures for official communications. The Note Verbale, which may be based on the sample letter contained in Annex I, will be forwarded to the TIR secretariat.

13. The letter shall indicate that it refers to a request for copies of a specific document or documents submitted by IRU under the provisions of Annex 9, Part III. The letter should also indicate the name and address of the requesting governmental authority.

B. Upon receipt of the request

14. The secretariat will register the Note Verbale and notify the sender and the permanent mission in Geneva by e-mail that the request has been received.

15. Following the above, the secretariat will prepare a watermarked² electronic or paper copy of the requested documents and transmit it to the permanent mission in Geneva,

² The watermark will indicate that the name of receiving authority, the name of the Contracting Party and the date at which the copies have been sent.

together with a transmittal letter. The watermarked copy(ies) will be marked as confidential. Annex II provides a sample of a watermarked document.³

V. Considerations by the Committee

16. The Committee is invited to consider the proposed procedure for distributing the documents under discussion and to instruct the secretariat accordingly.

³ IRU has requested to be notified of the incoming request from a governmental agency and to be informed of the date of the reply of the secretariat, as well as of the nature of the document transmitted to the requesting governmental agency.

Annex I

Sample letter to the Executive Secretary of UNECE

Date

Ref.No.

Dear Mr. Bach,

I refer to the decision of the Administrative Committee of the TIR Convention at its sixty-third session, whereby any Contracting Party to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, 1975, may request the United Nations Economic Commission for Europe (UNECE), for a copy of any document provided by the International Road Transport Union (IRU), in relation to the effective organization and functioning of an international guarantee system and to print and distribute TIR Carnets, in accordance with its obligations described under Annex 9, Part III of the TIR Convention, 1975.

Based on the above-mentioned decision, the [name of the governmental agency/authority] of [country] requests that a copy of the [name of the document(s) listed in ECE/TRANS/WP.30/AC.2/2015/12] be made available to the permanent mission of [country] to the United Nations and other international organizations in Geneva.

Annex II

Sample of a watermarked document

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Note by the secretariat

Revision 1

I. Mandate

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II. Background

2. On 10 October 2013, a new Part III to Annex 9 of the TIR Convention entered into force. It requires the international organization, as referred to in Article 6 of the Convention, to submit various types of information to either the TIR Administrative Committee (AC.2) or the TIR Executive Board (TIRExB), for the sake of providing transparency in the management and organization of the international guarantee system.

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