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Geneva, 7 February 2019

Item 7 (b) of the provisional agenda

Revision of the Convention

Amendment proposals to the Convention transmitted by the Working Party

Note by the secretariat

I. Background and mandate

1. The Committee, at its sixty-sixth session (October 2017), considered document ECE/TRANS/WP.30/AC.2/2017/6, transmitted by the TIR Executive Board (TIRExB) on a revised 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, in particular, but not limited to, authorized consignor and consignee. The Committee noted that the Explanatory Note was designed to allow those contracting parties that so wish, to provide certain facilities that would be subject to stringent and extensive additional conditions and requirements. Unable to make any progress, the Committee decided to request the Working Party on Customs Questions affecting Transport (WP.30) to assess the proposal and see if further improvements could be made (see ECE/TRANS/WP.30/AC.2/135, paras. 38–40).

2. The Working Party, at its 148th session (February 2018), considered document ECE/TRANS/WP.30/2018/5, containing background information on the issue, as well as a number of examples of best practice of the use of the concept of authorized consignor/consignee in various Contracting Parties. The Working Party noted that TIR Carnet holders in various countries already benefitted from the facilitations of authorized consignor or consignee, while noting, at the same time, that the requirements and conditions differ from country to country. The delegation of the European Union confirmed its provisional agreement with the proposals prepared by TIRExB and conveyed its willingness to continue sharing its experiences with the concepts of authorized consignor/consignee with other Contracting Parties. In its view, although there was broad consensus about the application of greater facilities in the today's world, it seemed that

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some Contracting Parties did not wish to go along with this development. The delegations of France, Latvia, Poland, Turkey and Ukraine shared their positive experience with the application of either or both concepts on its territory and clarified the strict conditions and requirements that applied for authorized TIR Carnet holders to be granted such facilitations under the application of the provisions of national law. The delegation of the Russian Federation confirmed that it could not support the proposals, considering that the absence of any evidence about the accuracy of the checks applied or the requirements imposed on TIR Carnet holders created risks for recipient countries. In addition, it felt that in order to accept the concepts, a clear description of conditions and requirements for the application of greater facilities in the TIR Convention would be required. It could only see any merit in the application of greater facilities at the end of a TIR transport, as it did not affect the application of the TIR Convention in other countries. The delegation of Belarus argued that any further discussions should focus on drafting a new provision to the convention, which would address all aspects of the TIR procedure involved in the application of greater facilities. The Working Party concluded that, in the absence of consensus on the proposal, it only seemed feasible to make progress in the field of authorized consignee, while taking note that, in the meantime, the described practices in various contracting parties would continue (see ECE/TRANS/WP.30/296, para. 29).

3. The Working Party, at its 149th session (June 2018), took note of the confirmation of positions from various delegations on how to reflect the application of greater facilities in the text of the TIR Convention. It had transpired not to be possible to reach consensus among contracting parties. Taking into account the fact that discussions on the subject had been ongoing for many years without having made significant progress on the draft proposals, the Working Party encouraged contracting parties to submit concrete proposals that could help move the discussions forward to the secretariat and decided to revert to the issue at its next session (see ECE/TRANS/WP.30/298, para. 24).

4. The Working Party, at its 150th session (October 2018), in the absence of any comments from contracting parties on the issue at stake, noted the continued interest of several countries to grant operators greater facilities in accordance with Article 49 of the convention, expressing their support for the proposal by TIRExB. Thus, the Working Party decided to submit the proposal to the Committee for consideration and, possibly, adoption at its February 2019 session. The Working Party encouraged contracting parties, which are not interested in the application of these facilities, to not block the adoption process, as they are not obliged to introduce such facilities on their territories if they do not wish so (see ECE/TRANS/WP.30/300, para. 24).

5. Further to the decision by the Working Party, the secretariat prepared document ECE/TRANS/WP.30/AC.2/2019/5 for consideration and, possibly, adoption by the Committee¹.

¹ See also document ECE/TRANS/WP.30/AC.2/2015/11 for the justification of the proposal.

II. Explanatory Note to Article 49

6. 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, duly authorized persons 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 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. Duly authorized persons who have been granted any greater facility should put in place a system of record-keeping, enabling customs authorities to carry out effective customs control as well as to supervise the procedure and carry out random controls. Greater facilities should be granted without prejudice to the liability of TIR Carnet holders as stipulated by Article 11, paragraph 2 of the Convention.”

III. Comment to Explanatory Note 0.49

7. 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. Further considerations by the Committee

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