



Economic Commission for Europe**Administrative Committee for the TIR Convention, 1975****Seventy-first session**

Geneva, 16–17 October 2019

Item 4 (b) of the provisional agenda

Revision of the Convention:**Amendment proposals transmitted by the Working Party****The use of subcontractors in the Convention****Note by the secretariat****I. Mandate**

1. At its 151st session, the Working Party on Customs Questions affecting Transport (WP.30) adopted a comment to Article 1(o) on the use of subcontractors by consensus and requested the secretariat to transmit the adopted comment to the Committee for endorsement (ECE/TRANS/WP.30/302, para. 24).
2. The secretariat drafted existing document which in its annex contains the text of the proposed comment.

II. Background and the amendment proposal

3. The Committee may wish to recall that the use of subcontractors was discussed for a long period of time firstly by the TIR Executive Board (TIRExB) and then the Committee itself. At its sixty-sixth session, the Committee revisited document ECE/TRANS/WP.30/AC.2/2012/13, which contained proposals by Belarus and the secretariat to amend Article 1 (o) with a comment that would provide a procedure for customs to allow the use of a TIR Carnet by other persons than the TIR Carnet holder, and which had been on the table of the Committee for several years without any substantial progress towards reaching a consensus opinion. As it had become obvious that progress could not be achieved without further review and, possibly, considerable redrafting of the proposal, the Committee decided to request the Working Party to reconsider the matter and to resubmit a new proposal to the Committee only after tangible consensus would have been achieved (ECE/TRANS/WP.30/AC.2/135, para. 49).
4. From its 148th to 151st session, the Working Party considered the proposals together with supporting information on the use of subcontractors provided by International Road Transport Union (IRU) in document ECE/TRANS/WP.30/2018/18.
5. At its 150th session, the Working Party concluded that the proposals by Belarus and the secretariat had adequately responded to the main concerns of contracting parties, in particular with regard to the liability for the payment of customs duties and taxes and the indications on the TIR Carnet, but that the proposal by the secretariat provided a clearer and

more flexible approach for application in different contracting parties (ECE/TRANS/WP.30/300, para. 25).

6. At its 151st session, the Working Party finalized its considerations of the issue (ECE/TRANS/WP.30/302, paras. 22–24). The delegate of Azerbaijan stated still having reservations, in particular, on the status (authorized or not) of subcontractors, he could accept the proposal for the comment to article 1 (o), because of its non-binding status. This reservation was shared by the delegation of the Russian Federation, which raised particular concerns for the liability of the TIR Carnet holder, or absence thereof. The delegation of the European Union reiterated its full support for the secretariat's proposal for the comment. The delegation of Italy added that the current proposal would not pose any risk for customs, considering that the use of subcontractors did not challenge the liability of the TIR Carnet holder vis-à-vis customs. The delegations of Turkey and Ukraine recalled the pertinent considerations by TIRExB, which had been highlighted and elaborated in various documents submitted to the Committee as well as the Working Party.

7. At the same session, in reply to a question from the delegation of the Russian Federation, the secretariat confirmed that TIR Carnet holders could only make use of subcontractors if approved by the national guaranteeing association. In countries where such mechanism is not applied, TIR Carnet holder cannot resort to the use of subcontractors. Therefore, TIR Carnet holders wishing to use subcontractors should carefully inform themselves about the acceptance of subcontractors by the countries of transit or destination, before embarking on such activity. The delegation of Ukraine stated that subcontractors should meet the same requirements as authorized TIR Carnet holders. The delegation of the Russian Federation stated that it could agree to transmitting the comment to the Committee for endorsement, with the reservation that, in its view, it is not wise to adopt a non-legal comment on an issue which falls under the competence of contracting parties and their national legislation. Accepting the comment would only lead to confusion, increase the risk of fraud and misuse of the status of authorized TIR Carnet holder. The Working Party further discussed whether it would be warranted or appropriate to request countries to inform the secretariat in case they did not accept the use of subcontractors. After an exchange of views, the Working Party concluded that, for now, this issue not need be further discussed but that it could decide to revert to it at a later stage. In conclusion, the Working Party adopted the comment by consensus, while taking note of the afore-mentioned reservation by the delegation of the Russian Federation and requested the secretariat to transmit the adopted comment to the Committee for endorsement.

8. The comment as adopted by the Working Party is reproduced in the annex to this document.

III. Considerations by the Committee

9. The Committee may wish to consider and, when possible, endorse the comment.

Annex

Proposal for comment for endorsement by the Administrative Committee for the TIR Convention

Add a new comment to Article 1, paragraph (o) to read as follows:

Use of a TIR Carnet by (an) other person(s) than the holder

Some Contracting Parties accept that, with the consent of the TIR Carnet holder, (an)other person(s) perform(s) a TIR transport or part of it by means of a TIR Carnet issued to the TIR Carnet holder. In those Contracting Parties, when the TIR Carnet is presented at the Customs office of departure by (an)other(s) than the TIR holder, the latter shall, as proof of his or her consent, indicate in Box 11 of the cover page of the TIR Carnet the following:

- (a) The name(s) of the person(s) performing the TIR transport or part of it;
- (b) The words “acting on behalf of” followed by;
- (c) The name of the TIR Carnet holder.

Box 12 of the cover page should bear the signature of the TIR Carnet holder.

Once the customs office of departure has accepted the duly filled in TIR Carnet, all other competent authorities en route and at the customs office of destination involved in that TIR transport are recommended to accept such TIR Carnet without further requirements.
