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Working Party on Customs Questions

affecting Transport

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**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT
OF GOODS UNDER COVER OF TIR CARNETS**

(TIR CONVENTION 1975)

Revision of the Convention

Preparation of Phase III of the TIR revision process

Transmitted by the European Community (EC)

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BACKGROUND

1. The appearance of the Community on the international scene, with exclusive competence in specific fields, and particularly in customs matters, has resulted in the need to include the Community as a full member when instituting or revising multilateral international customs instruments, for matters falling within its competence.
2. When we consider actual customs conventions, we can see that 1973 is the date from which the "customs union clause" appears in these conventions. Before this date, the customs conventions of the CCC (nomenclature, valuation for customs purposes, and several temporary importation conventions) and of the UNECE (temporary importation of vehicles) did not contain this "clause". Since then, they have included a number of provisions which determine the procedures for the participation of "customs or economic unions" (in the language of the instruments of the CCC and the TIR Convention) or of "regional economic integration organizations" (in the majority of the UN instruments) in international conventions.
3. The "clause" in question has developed by adapting to the special conditions of each convention, taking into account the development of legal discussions in the Community and according to the needs and requirements of the partners of each negotiation.
4. Thus, the Kyoto Convention (1973) is open to the participation of the Community, but the latter does not have voting rights (the revision completed in 1999 henceforth grants voting rights to customs or economic unions). The TIR Convention (1975) stipulates that the Community, as a customs or economic union, may become a Contracting Party together with all its Member States or at any time after all its Member States have become contracting parties (Article 52.3 of the Convention). But the Community does not have voting rights. The Convention on the Harmonization of Frontier Controls of Goods (1982) already constitutes a decisive step in the direction of what will later be called the principle of "alternative" participation of the Community and of its Member States. The Community, as a "regional economic integration organization", can become a Contracting Party. For matters within its competence, it exercises its rights and discharges its responsibilities in its own name.
5. These principles appear in later instruments. Latterly, the Community has taken part in the negotiation of two new conventions:
 - (a) Convention on Temporary Importation (WCO) - Istanbul Convention (1993);
 - (b) ECE/UN Container Pool Convention (1994);as well as in negotiations concerning the amendment of the (UNECE) Conventions on the Temporary Importation of Private (1954) and Commercial Road Vehicles (1956), already in force, and of the revised (WCO) Kyoto Convention that was adopted on 26 June 1999.

6. In all these conventions, provisions have been introduced to make it possible for the Community to become a Contracting Party alongside its Member States (classic case of mixed competence). The principle of “alternative” participation has been established, the Community, on the one hand, and its Member States, on the other hand, exercising their rights and obligations within the limits of their respective competence. In all these conventions, when the Community exercises its voting rights, it does so with a number of votes equal to that of its Member States which are contracting parties to the Convention in question.

REASONS FOR GRANTING VOTING RIGHTS TO REGIONAL ECONOMIC INTEGRATION ORGANIZATIONS SUCH AS THE EUROPEAN COMMUNITY

7. This Commission initiative is based on:

- (a) political reasons (international recognition of the important position that the Community occupies in international relations);
- (b) reasons of logic (clearly a matter of Community competence); and
- (c) reasons of consistency (the only UNECE customs convention which still does not grant voting rights to regional economic integration organizations).

EXPLANATION FOR THE PROPOSED TEXT

8. In order to align the text of the TIR Convention with that of other customs conventions administered by the UNECE, it is proposed to refer to regional economic integration organizations (Article 52(3)(a)) in place of customs or economic unions. The definition used for this term has been transposed exactly from the definition of customs or economic unions in Article 1(k) of the revised Kyoto Convention.

9. The text proposed for the last phrase of Article 52(3)(a) and for Article 52(3)(b) of the TIR Convention is based on the text of Article 8(5)(a) and (b) of the Kyoto Convention. It is needed in order to establish the rights and responsibilities of regional economic integration organizations with respect to the TIR Convention.

10. The text proposed for Annex 8, Article 5(2) of the TIR Convention is transposed from Article 6(9) of the revised Kyoto Convention. It meets the need for the determination, in the event of a vote, of the number of votes that may be cast by a regional economic integration organization that is a Contracting Party to the TIR Convention.
