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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

Revision of the TIR Carnet: Insertion of additional data elements

(HS code and value of the goods)

Note by the UN/ECE secretariat

A. MANDATE

1. The Working Party, at its ninety-seventh session (20-23 February 2001), requested the UN/ECE secretariat to prepare a document on the Customs needs with regard to the HS Code and the

value of goods to be inserted into the TIR Carnet, as well as on the possibilities of how and by whom these needs, if justified, could be met. The study should also take account of the interests and possibilities of the transport industry. The study should make use of the considerations of a special working group, which has been convened by the European Commission on this subject (TRANS/WP.30/194, para 39).

B. CUSTOMS OBJECTIVES FOR INCLUSION OF ADDITIONAL DATA ELEMENTS

2. Taking account of the discussions conducted by the European Commission and the proposals made by the Russian Federation (TRANS/WP.30/1999/5), the main objectives, from a Customs point of view, for including HS codes and values into the TIR Carnet are:

- Calculation of Customs debt;
- Facilitation of subsequent Customs procedures;
- Risk analysis.

3. Furthermore, during the discussions conducted by the European Commission, Customs authorities have pointed out that the question of facilitating any future computerized TIR Carnet environment should also be considered in relation to the inclusion of additional data elements.

I. Calculation of Customs debt

4. Customs authorities have expressed a clear need for data that will permit a proper valuation of goods in case of infringements. To this end, Customs authorities found it useful that the value of the goods would be included in the TIR Carnet in order to assist the recovery process and to be able to initiate immediate measures against persons directly liable. During the discussions conducted by the European Commission, some Customs authorities have pointed out that an indicative value could be sufficient, even though the actual value would have to be provided for the debt calculation. In general the value of the goods seems to be available, although in many cases the value is only made available for insurance or statistical purpose.

5. Customs authorities also felt that it would be useful to provide the HS code for goods in connection with recovery procedures. For such purpose it might not be necessary to include the HS code into the TIR Carnet, but it might be sufficient to provide it when required in order to calculate Customs debts.

II. Facilitation of subsequent Customs procedures

6. Customs authorities stressed that the TIR procedure must be closely aligned with and linked to other Customs procedures. This is especially important in connection with the termination of a TIR operation, after which goods, in most cases, are put in free circulation. The indication of the HS code and the value of the goods would supplement the data already provided in the TIR Carnet thereby, on the one hand, ensuring the proper transfer of goods from one Customs procedure to another without any false declarations and, on the other hand, facilitating efficient Customs procedures.

7. Some Customs authorities have pointed out that indication of the value of goods should not pose any problems with regard to commercial confidentiality, as has been stated by industry representatives, particularly not in relation to termination of the TIR procedure, since the consignee in principle does not obtain access to this information. Customs authorities have also pointed out that since they are law-enforcement agencies, they have a mandate to obtain the relevant commercial information. It is, however, understood that Customs authorities are fully responsible for the non-disclosure of such information in accordance with relevant national legislation.

III. Risk analysis

8. Customs authorities have pointed out that the use of risk analysis is one of the most effective tools in combating organized crime and fraud constituting a minimum of interference in trade and transport procedures. Several authorities have mentioned computerization to be a prerequisite to carry out proper risk analysis. To this end, the inclusion of the HS code in the TIR Carnet would be essential, since it is difficult to generate a computerized risk assessment on the basis of the general description of the goods, especially considering the large number of languages used in the TIR system.

9. In the same context, the indication of the value of goods was also felt to be important in order to have a sufficient basis for evaluating individual value declarations on the TIR Carnets and avoid declaration of artificial values.

10. In the context of the discussions conducted by the European Commission, some Customs authorities noted that proper risk analysis based on readily available data would speed-up Customs handling procedures for around 80 per cent of all transit consignments.

IV. Computerization of the TIR procedure

11. As indicated above, computerization of transit procedures, at national levels and in the future also the international level in one form or the other, requires that the TIR system contains the necessary elements that will facilitate this process in order to fully exploit the benefits of computerization.

12. Customs authorities have pointed out that the inclusion of the HS Code in the TIR Carnet seems essential in this respect, as it will otherwise be difficult to codify the information on the goods description in a multi-lingual environment.

C. TRADE AND TRANSPORT INDUSTRY VIEWS

I. Insertion of the HS code

13. In connection with the discussions conducted by the European Commission, industry representatives have expressed the view that, in many cases, the HS code will not be available at the start of a TIR operation. This could, for example, be due to the fact that the person presenting the TIR Carnet at the Customs office of departure has not been provided with the required information or because the consignor of the goods, under EU regulations, is not required to provide the statistical data for export before the physical export of the goods. In cases where the TIR Carnet holder is also responsible for freight forwarding and Customs brokerage activities, the HS code would usually be available.

14. Industry representatives also questioned the usefulness of using the HS code. Firstly, it was pointed out that since information was often only provided for statistical purposes, the correctness may be questionable. Secondly, it was felt that it was indispensable that a harmonized codification is applied on a global level in order to avoid problems concerning reliability of data. Finally, industry representatives have pointed out the question of liability for the principal in cases of very specific data such as the HS code being provided by the consignor, but being declared by the principal.

II. Insertion of the value of goods

15. Concerning the value of goods, industry representatives stressed the problem of commercial confidentiality. The value of goods at exportation often needs to be hidden from the final customer, especially in triangular sales or as a means of protection against theft. Industry representatives have proposed that in case it is believed that the value is important, the information concerning the value should remain with the Customs office of departure and only be provided in case of a Customs claim.

D. FURTHER ISSUES FOR CONSIDERATION

16. Considering the usefulness of additional data elements such as the HS code and the value of goods for the TIR procedure, the Working Party may wish to exchange views on how the TIR procedure should be regarded in relation to other Customs procedures, which are also part of the trade and transport operation. On the one hand the TIR procedure could be regarded as a stand-alone arrangement to facilitate transit operations. In such a case, the facilitation of subsequent Customs operations is not relevant. On the other hand, the TIR procedure could be seen as a link in a Customs/trade chain, whereby one Customs procedure is dependent on the other. In the latter case, the facilitation of subsequent Customs operations would be extremely important.

17. In view of the above, the Working Party may wish to consider how additional data elements, such as the HS code and the value of goods could be provided. It could be considered to include these additional data as mandatory information to be inserted into the TIR Carnet. Alternatively, it could be considered that such data should only be provided in case of need. In the latter case, the Working Party may wish to consider how to implement a procedure that would facilitate the provision of such additional data.

18. In this respect, the Working Party may wish to recall that, in connection with Phase II of the TIR revision process, an inquiry procedure has been established for Customs authorities in case of non-discharge of TIR Carnets (TRANS/WP.30/AC.2/59, para. 47 and annex 7). The Working Party may wish to consider whether this inquiry procedure could facilitate the procurement of additional data, such as the HS code and the value of goods.

19. The Working Party may also wish to consider how additional information relating to the Customs procedure prior to the TIR procedure (i.e. exportation) could be exploited. It could be envisaged that a reference to a prior Customs document to be inserted into the TIR Carnet could provide sufficient certainty for Customs authorities that additional data exists in case they are needed. In practice this could, for example, mean that the reference number for the export declaration would be indicated in the TIR Carnet.

20. The Working Party may also wish to consider whether other data elements should possibly be included in the TIR Carnet such as, for example, the consignor and the consignee, in order to ensure that Customs authorities may obtain the required additional information in case of need.
