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Working Party on Customs Questions

affecting Transport

(One-hundred-and-third session, 4-7 February 2003,
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**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT
OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION 1975)**

Application of the Convention

**Number of TIR Carnets required for transport
of a mixed cargo containing heavy or bulky goods**

Note by the secretariat

A. BACKGROUND

1. The TIR Administrative Committee, at its twenty-ninth session (19 and 20 October 2000), adopted a comment on the application of the newly adopted Article 3 of the Convention concerning road vehicles considered themselves as heavy or bulky goods (TRANS/WP.30/AC.2/59, paras. 61-62 and annex 6).

^{*/} Revision 1 of the document contains in section C a new draft proposal which has taken into account considerations at the one-hundred-and-second session of the Working Party (TRANS/WP.30/204, para. 62).

2. Following the adoption of this comment, the Working Party, at its ninety-eighth, ninety-ninth and one-hundredth sessions, conducted an in-depth review of the comment based on proposals submitted by the Government of Estonia (TRANS/WP.30/2001/20) and by the secretariat (TRANS/WP.30/2002/8) (see TRANS/WP.30/198, paras. 96 and 97 and TRANS/WP.30/200, paras. 69 to 73). In particular, the Working Party addressed the situation where road vehicles, or special vehicles, regarded themselves as heavy or bulky goods, are carrying normal goods in the sealed load compartment or in containers. The main question was whether or not an additional TIR Carnet is required for such a TIR transport.

3. The Working Party noted that the underlying situation was a specific case of a more general issue, namely how many TIR Carnets are required if heavy or bulky goods are transported together with normal goods. Finally, the Working Party decided to revert to the general discussion concerning heavy and bulky goods at its October 2002 session (TRANS/WP.30/200, para. 73). To facilitate this discussion, the secretariat has prepared the present document.

B. LEGAL ANALYSIS

4. Article 17, paragraph 1 of the Convention prescribes that “A single TIR Carnet shall be made out in respect of each road vehicle or container. However, a single TIR Carnet may be made out in respect of a combination of vehicles or for several containers loaded on to a single road vehicle or on to a combination of vehicles...”.

5. The following comment provides a further interpretation of the above provision:

Comment to Article 17

Issuance of TIR Carnets for road trains and tractor semi-trailer combinations

At the Customs office of departure it is left to the discretion of the Customs authorities whether a single or several TIR Carnets would need to be made out for a combination of vehicles or for several containers loaded onto a single road vehicle or onto a combination of vehicles as defined in Article 1 (g) and (h) of the Convention. Once the TIR Carnet(s) has (have) been made out, it is not allowed, however, in line with Article 4 of the Convention, to require additional TIR Carnets at Customs offices en route.

6. Thus, the wording of Article 17, paragraph 1 does not exclude the possibility of making out several TIR Carnets for a single TIR transport carried out by means of a combination of vehicles or several containers. On the contrary, it stipulates, as a general rule, that for each road vehicle or container a separate TIR Carnet is required even if they travel as a unit. However, with a view to

facilitating Customs procedures, another option is also foreseen - only one TIR Carnet may be made out for a combination of vehicles or for several containers loaded onto a single road vehicle or onto a combination of vehicles. This option is also provided for in Nos. 4 and 10 d) of the Rules regarding the use of the TIR Carnet.

7. It should be stressed, however, that only the Customs office of departure is entitled to take a decision regarding an option to follow, in line with the comment quoted above. As soon as such a decision is taken by the said office, it becomes obligatory for the TIR Carnet holder as well as for all Customs offices en route.

8. How do the above provisions apply in the case of heavy or bulky goods, for which specific articles of the Convention should be taken into account? According to Article 30 of the Convention, "all the provisions of this Convention, save those to which the special provisions of this section make an exception, shall apply to the transport of heavy or bulky goods under the TIR procedure". One of such exceptions is given in Article 32: "The cover and all vouchers of the TIR Carnet shall bear the endorsement "heavy or bulky goods" in bold letters in English or in French". The objective of Article 32 is to provide a clear distinction between normal goods to be transported under Customs seal and heavy or bulky ones which may be carried by means of non-sealed vehicles or containers in line with Article 29.

9. In case the cargo consists of heavy or bulky goods only, the provisions of Article 32 do not overlap with those of Article 17, and the latter remains fully applicable.

10. Another situation occurs if heavy or bulky goods are transported together with normal goods (e.g., normal goods are carried in the sealed load compartment of a trailer while heavy and bulky goods are transported on a load platform). Obviously, normal goods are not allowed to be transported under cover of the TIR Carnet bearing the endorsement "heavy or bulky goods". Therefore, if the Customs office of departure wished to accept a single TIR Carnet for such a mixed cargo, this TIR Carnet would have to bear the endorsement "heavy or bulky goods" and, on the other hand, should not bear that inscription for normal goods. This inconsistency may only be resolved by applying at least two separate TIR Carnets: one would cover normal goods and the other one would cover heavy or bulky goods.

C. CONCLUSION AND DRAFT PROPOSAL

11. If a mixed cargo consisting of both normal goods and heavy or bulky goods is transported under the TIR procedure, at least two TIR Carnets would need to be required: one TIR Carnet should bear the endorsement "heavy or bulky goods" and cover heavy and bulky goods, the other TIR Carnet without this inscription should cover normal goods transported under Customs seal. To reflect this view in the TIR Handbook, the following comment may be adopted:

Add a new comment to Article 17 to read as follows:

"Issuance of TIR Carnets for a mixed cargo consisting of normal goods and heavy or bulky goods

When taking a decision on the number of TIR Carnets required for the transport of a mixed cargo consisting of both normal goods and heavy or bulky goods, the Customs office of departure shall take into account the specific provisions of Article 32 according to which for the transport of heavy or bulky goods the cover and all vouchers of the TIR Carnet shall bear the endorsement "heavy or bulky goods". Since this endorsement does not apply to normal goods transported under Customs seal, a separate TIR Carnet (or TIR Carnets) shall be required to cover the transport of normal goods."

Add the same comment to Article 32.
