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Economic Commission for Europe

Inland Transport Committee

Working Party on Customs Questions affecting Transport

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Item 3 (b) (i) of the provisional agenda

Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975)

Amendment proposals to the Convention

Proposal to amend Explanatory Note 0.8.3

Transmitted by the Government of Ireland

Introduction

1. At its 146th session, the Working Party took note that the TIR Administrative Committee (AC.2), at its sixty-fifth session (February 2017), had taken note of an oral proposal by the delegation of the Russian Federation to replace the word “limit” in Explanatory Note 0.8.3 by “establish”. For the purpose of time efficiency, the Committee had agreed to ask WP.30 to consider the proposal and requested the secretariat to include it in the agenda of the 146th session of the Working Party in June 2017 (see ECE/TRANS/WP.30/AC.2/133, para. 37). Further to this request, the Working Party considered document ECE/TRANS/WP.30/2017/9 by the Government of the Russian Federation.

2. After an intervention by the delegation of Azerbaijan, the delegation of the Russian Federation clarified that, indeed, its proposal, in English, should rather refer to “determine” than to “establish”, as mentioned in the document, in order to align the text of the Explanatory Note with the wording of Article 8, paragraph 3. Various delegations requested the delegation of the Russian Federation to further elaborate on the objective of the proposed amendment. In the absence thereof, so they argued, the current text of Explanatory Note 0.8.3 seemed to be fully satisfactory and had not led to any difficulty in its application. The delegation of Ireland informed the Working Party that it was conducting internal consultations to understand the rationale behind the proposed amendment. The secretariat informed the Working Party that a first and preliminary assessment had led it to believe that it could not be excluded that the proposed amendment, although seemingly mainly of an editorial nature, could have major impact on the application of the TIR system. According to its assessment, it seemed that, whereas the

term “limit to” in E.N. 0.8.3. referred to and emphasized the setting of a maximum amount as a limitation of the sum which may be claimed from the national association regardless of the amount of duties and taxes at stake, the term “establish/determine” alluded to a link between the maximum amount to be claimed from the national association and the maximum amount of the duties and taxes at stake for a TIR transport. In that light, the change from “limit to” to “establish/determine” might be interpreted as a change in policy in the TIR guarantee system.

3. Unable to find consensus on the proposal, the Working Party agreed to revert to the issue at the next session. In the meantime, the delegation of the Russian Federation was invited to provide further explanations on the reasons for and, particularly, the purpose of its proposal (see ECE/TRANS/WP.30.292, paras. 12-14).

4. In Annex, the secretariat reproduces the outcome of the internal consultations by the Irish Administration of the Russian proposal.

ANNEX

The Irish Administration has examined the proposal of the Russian Federation to change the wording of the Explanatory Note to Article 8, paragraph 3 of the TIR Convention.

It is the opinion of the Irish Administration that the use of the word “establish” is not appropriate in this instance as it does not improve the wording of the Explanatory Note and is not as appropriate as the word “limit”.

Article 8, paragraph 3 states that “Each Contracting Party shall determine the maximum sum per TIR Carnet, which may be claimed from the guaranteeing association on the basis of the provisions of paragraph 1 and 2 above”.

(Article 8, paragraphs 1 and 2 set the liability of the guaranteeing association)

The current text of Explanatory Note 0.8.3 reads as follows.

0.8.3 Contracting Parties are recommended to limit to a sum equal to \$US 50,000 [100,000 euros] per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. In the case of transport of alcohol and tobacco, details of which are given below, customs authorities are recommended to increase the maximum amount which may be claimed from the guaranteeing association to a sum equal to \$US 200,000.

The Russian Federation is proposing the following amendment to Explanatory Note 0.8.3

0.8.3 Contracting Parties are recommended to establish a sum equal to \$US 50,000 [100,000 euros] per TIR Carnet as maximum amount which may be claimed from the guaranteeing association. In the case of transport of alcohol and tobacco, details of which are given below, customs authorities are recommended to increase the maximum amount which may be claimed from the guaranteeing association to a sum equal to \$US 200,000.

We are not proposing an amendment at this time but if the Russian Federation is adamant that the word “establish” has to be included, we believe a more complete rewording is necessary. We would be proposing to the EU that the amendment be along the following lines, as opposed to the Russia Federation proposal that does not improve the wording in any way.

Possible wording;

0.8.3 Contracting Parties may establish the maximum amount to be claimed from the guaranteeing association for each TIR Carnet. However, the maximum amount that may be claimed from the guaranteeing association cannot exceed 100,000 euros per TIR Carnet. In the case of transport of alcohol and tobacco, details of which are given below, customs authorities are required to increase the maximum amount which may be claimed from the guaranteeing association to a sum equal to \$US 200,000.