



Economic Commission for Europe**Inland Transport Committee****Working Party on Customs Questions affecting Transport****155th session**

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Item 3 (b) of the provisional agenda

**Customs Convention on the International Transport of
Goods under Cover of TIR Carnets (TIR Convention, 1975):
Revision of the Convention:
Amendment proposals to the Convention****Flexibility in the guarantee system****Note by the secretariat****I. Background and mandate**

1. At its 154th session (February 2020), the Working Party on Customs Questions affecting Transport (WP.30) recalled that, in the past, it had discussed, but never finalized, the issue of introducing more flexibility in the guarantee system. Against this background, the Working Party took note of Informal document WP.30 (2020) No. 6 by the International Road Transport Union (IRU), providing a map and a list with the different guarantee levels (\$50,000, 60,000 euros and 100,000 euros) that currently apply. The Working Party mandated the secretariat to prepare, for consideration at the next session, a document providing a succinct overview of its past discussions of the issue. In this context, the delegation of the Russian Federation requested the secretariat to include in the document its proposals to introduce full guarantee coverage and to also refer to recommendation No. 3 from the audit report of the United Nations Office of Internal Oversight Services (OIOS). In reply to a comment from the delegation of the European Union that 100,000 euros had become the guarantee amount for its Member States, IRU informed the Working Party that, as yet, not all national agreements between national competent authorities and their national associations had been updated accordingly. The delegation of Greece confirmed that, indeed, due to some pending issues related to controls of the financial statements of the national association, this had not yet been the case. The delegation of the European Union established that, with regard to other Member States, (Cyprus, Ireland, Malta and Portugal), this was due to the fact that, for various years now, no TIR Carnets had been used by them (ECE/TRANS/WP.30/308, paragraph 14).

2. As requested, the secretariat provides, in this document, a succinct overview of past considerations by the Working Party on introducing more flexibility in the guarantee system. At the request of the delegation of the Russian Federation, its proposals to introduce full



guarantee coverage are included as well as a reference to recommendation No. 3 from the audit report of the United Nations Office of Internal Oversight Services (OIOS).

II. Prior considerations by the Working Party

3. At its 138th session (October 2014), the Working Party held first considerations of document ECE/TRANS/WP.30/2014/17, transmitted by the Government of the Russian Federation, on proposals to amend the TIR Convention. In the view of the Russian Federation, the main aim of these proposals is to (a) strengthen the control function of AC.2; (b) provide more transparency in the functioning of the international guarantee system; (c) offer immediate and full compensation in case of losses to the state budget; and (d) reform the TIR Executive Board. The Working Party also took note of Informal document WP.30 (2014) No. 11 by IRU in support of these proposals. The Working Party was invited to submit written comments on the various amendment proposals to the secretariat, not later than 15 November 2014 (ECE/TRANS/WP.30/276, paragraph 23).

4. At its 139th session (February 2015), the Working Party held extensive discussions on the proposal to amend Annex 9, Part I, paragraph 3(ii), and took note of the position of the Russian Federation that the TIR Convention would benefit from further flexibility, if a Contracting Party will be granted a right to establish its own maximum level of guarantee or remove it based on the market conditions, transport sector specificities and economic realities. The Working Party was of the view that it would also be necessary to consider other options, as well as to carefully consider other provisions of the Convention that may be affected by such an amendment. In conclusion, the Working Party was of the view that this proposal was substantively related to current discussions taking place in the TIR Executive Board (TIRExB). In view of this, the Working Party agreed to request the Administrative Committee to mandate TIRExB to include this proposal in its considerations and to provide its expert opinion, while, at the same time the Working Party would continue its deliberations at subsequent sessions. WP.30 agreed that further feedback from Contracting Parties would be warranted to facilitate discussions and an eventual decision. The IRU supported the need to progress on this key issue and mentioned that the approval of the amendment proposed by the Russian Federation would not prevent TIRExB from continuing to develop further recommendations in relation to the TIR guarantee level (ECE/TRANS/WP.30/278, paragraph 8).

5. At its 143rd session (June 2016), the Working Party considered document ECE/TRANS/WP.30/2016/8. In view of the fact that it was not yet possible to make a full assessment of the consequences of the Russian proposal to allow contracting parties to determine a maximum sum per TIR Carnet, but also to allow for the possibility that countries could claim the full amount of customs duties and taxes, the Working Party decided to first await the outcome of further assessment by TIRExB of the consequences of full guarantee coverage and revert to the issue at a later stage (ECE/TRANS/WP.30/286, paragraph 20).

6. At its 151st session (February 2019), at the request of AC.2 at its sixty-eighth session (October 2018) (ECE/TRANS/WP.30/AC.2/139, paras. 43 and 44), the Working Party reverted to outstanding amendment proposals to the convention with regard to the maximum level of guarantee per TIR Carnet, on the basis of document ECE/TRANS/WP.30/2016/13, containing the most recent proposals to amend Explanatory Note 0.8.3 with a reference to 400,000 euros as maximum guarantee amount for the Tobacco-Alcohol TIR Carnet, either with or without maintaining the exception for the transport of small quantities of some tobacco and alcohol products. The Working Party decided to agree on raising the reference amount to 400,000 euros, while keeping the amount for small quantities at 100,000 euros and requested the secretariat to transmit the proposal to AC.2 for consideration and, possibly, adoption. The Working Party requested IRU to consult with the insurers to see if for such small quantities, which were currently excluded from guarantee coverage, coverage could be re-established (ECE/TRANS/WP.30/302, paragraph 12).

7. At its 152nd session (June 2019), the Working Party recalled that, at its previous session, it finalized its discussions of a proposal to amend Article 20 and to raise the maximum amount for the transport of certain alcohol and tobacco products, as stipulated by

Explanatory Note 0.8.3, from \$200,000 to 400,000 euros, while keeping the amount for small quantities at 100,000 euros and had requested the secretariat to transmit the proposals to AC.2 for consideration and, possibly, adoption.

8. At the request of the delegation of Ukraine, IRU informed the Working Party that an increase of the maximum amount for the transport of certain alcohol and tobacco products from \$200,000 to 400,000 euros would not be accepted by its insurers, nor the re-introduction of the transport of small quantities of such products at 100,000 euros. According to IRU it was very unlikely that insurers would agree to provide coverage for the two products under one and the same TIR Carnet (Tobacco/Alcohol TIR Carnet). Nor was it likely that even small quantities of, in particular, tobacco products would be covered by the global insurers due to a restrictive underwriting policy, excluding any affairs linked to a tobacco conflict of interests. Such a restrictive policy had been notably adopted by the global insurers as a joint effort in the anti-tobacco fight, implemented by numerous governments of the world including the European Union, the Russian Federation, Switzerland, etc. (ECE/TRANS/WP.30/304, paras. 10 and 11).

III. Past considerations by TIRExB and the TIR Administrative Committee

9. For the sake of providing the Working Party with a complete overview of the main considerations of the issue, the secretariat reproduces, in Annex, concerned excerpts from considerations by TIRExB and AC.2.

IV. Russian proposal to amend Article 8, paragraph 3

“Each contracting party shall be entitled to determine the maximum sum per TIR Carnet which may be claimed from the guaranteeing association on the basis of the provisions of paragraphs 1 and 2 of Article 8.”

10. According to the Government of the Russian Federation, “the purpose of the proposal is not to oblige contracting parties to determine a maximum sum per TIR Carnet, but to allow the flexibility of claiming from the national association the full amount of custom duties and taxes” (see ECE/TRANS/WP.30/2016/8, paras. 2 and 3).

V. OIOS recommendation No. 3

“ECE should bring to the attention of the Administrative Committee the need to develop appropriate procedures concerning: (a) evaluation of qualified organizations before selection of the authorized international organization for TIR operations; and (b) periodic assessment of the authorized international organization’s compliance with the stipulated conditions and requirements” (ECE/TRANS/WP.30/AC.2/2019/25, page 8).

VI. Preliminary summary of the discussions by the secretariat

11. In 2014, the Working Party started considering the original Russian proposal, which aimed at allowing contracting parties the freedom not to set a maximum amount per TIR Carnet, as stipulated by Article 8, paragraph 3 of the Convention. This proposal was referred to TIRExB for its assessment. In the meetings of the Working Party, discussions continued on raising the amounts of \$50,000 and \$200,000, mentioned in Explanatory Note 0.8.3. The Working Party never reverted to the issue of introducing more flexibility in the guarantee system.

12. TIRExB delivered its assessment of various scenarios to introduce more flexibility in the guarantee system in document ECE/TRANS/WP.30/AC.2/2016/7.

13. At its October 2017 session, AC.2 recalled that TIRExB could not unequivocally recommend any change in the current system other than raising the recommended guarantee amount from \$50,000 to 100,000 euros.

14. The amendment to replace, in Explanatory Note 0.8.3., the amount of \$50,000 by 100,000 euros entered into force on 1 July 2018. The proposal to amend, in that same Explanatory Note, the amount of \$200,000 by 400,000 euros for Tobacco/Alcohol TIR Carnets was accepted by AC.2 at its seventy-second session (February 2020), pending formal adoption at its seventy-third session (October 2020) (ECE/TRANS/WP.30/AC.2/147, paragraph 23).

15. At its 154th session, the Working Party took note of Informal document WP.30 (2020) No 5 by IRU, with the TIR contracting parties and the different guarantee levels they presently apply, showing that, as yet, not all of them have raised the recommended amount to 100,000 euros.

VII. Considerations by the Working Party

16. The Working Party may wish to establish that discussions in the various fora about introducing more flexibility in the guarantee system have come to a standstill, without being able to draw any tangible conclusion on how to move the issue forward.

17. To kickstart discussions, the Working Party is invited to revisit document ECE/TRANS/WP.30/AC.2/2016/7, which contains the assessment by TIRExB of various scenarios to introduce more flexibility in the guarantee system.

18. Further to the request from the delegation of the Russian Federation, the Working Party is also invited to assess the role of OIOS recommendation No. 3 in the context of its discussions.

Annex

I. Past considerations by the TIR Executive Board

1. At its sixty-third session (April 2015), TIRExB recalled that AC.2, at its sixtieth session (February 2015), had been of the view that the proposals by the Russian Federation to amend Annex 9, Part I, paragraph 3 (ii) as well as Article 8, paragraph, 1 were closely related to issues on the introduction of several guarantee levels (20,000, 60,000, 100,000, 200,000 euros and, possibly, full guarantee coverage) or the use of additional guarantees, currently under discussion by TIRExB and, therefore, had mandated the Board to consider them. Against this background, TIRExB took note of Informal document No. 6 (2015) by the secretariat, containing the state of play of the Board's discussions so far, the text of the proposals by the Russian Federation and some first preliminary considerations.

2. Further to a request from TIRExB at its sixtieth session (September 2014), Mrs. Kasko (IRU) presented the intermediate results of a – still ongoing – analysis by IRU on the level of the guarantee. TIRExB took note that there seems to be a strong interest in having more flexibility in the guarantee level. Indeed, as elaborated in her presentation, the average amount of customs claims did not exceed approximately 30,000 euros and did not demonstrate that there seemed to be a need for a global increase in the level of the guarantee level in all TIR Contracting Parties. However, the analysis of 595 claims, addressed at TIR Carnet holders for TIR Carnets issued between 2008 and 2014, showed that in more than 50 per cent of cases the duties and taxes did not exceed 10,000 euros, whereas a guarantee of more than 60,000 euros would be needed in 14 per cent of cases. The analysis of TIR-EPD data sent to the customs authorities of Belarus (being one of the main users of the TIR-EPD system) in the first two months of 2015 showed similar patterns, i.e. that the average amount of customs duties and taxes per TIR Carnet was approximately 30,000 euros, whereas only in 10 per cent of the cases the guarantee limit of 60,000 euros was exceeded.

3. TIRExB thanked Mrs. Kasko (IRU) for the presentation but regretted that IRU had not yet been able to provide estimates of the prices of TIR Carnets in case various guarantee levels were introduced. In addition, various TIRExB members reiterated the position that the TIR+ solution, offered by IRU to meet growing demands from certain countries for higher guarantees, is not in line with the provisions of the TIR Convention. They recalled that Contracting Parties have the right to raise the maximum amount, in case they are of the view that the currently recommended maximum amount of \$50,000 is insufficient. Mrs. Jelinkova (European Commission) encouraged countries to submit proposals to AC.2 to amend the Convention rather than applying irregular measures.

4. In a first reply, Mrs. Kasko (IRU) explained that the calculation of the price of TIR Carnets for various guarantee levels is complex as it depends on a number of variables, such as volume of operations and the use of various guarantee levels. Furthermore, in the view of the current TIR situation, notably in the Russian Federation, suddenly affecting global volumes, as well recent fluctuations in the currency exchange rates in various countries, more time is required to obtain estimations from the financial partners of the TIR system but she promised to come up with the requested figures within one month. In addition, further to a request from TIRExB, she promised to provide the breakdown of the price of TIR Carnets. In reply to a question from TIRExB on the costs of the guarantee level of 100,000 euros offered by TIR+, she recalled that the TIR+ project had originally been launched on a pilot basis for a single country, i.e. Kazakhstan, at the request of the customs authorities. The implementation of TIR+ required considerable effort and investments from the side of IRU, in particular in the field of information technologies. The IRU price fixed for this pilot was 70 Swiss francs. However, this figure could not be used as such within the context of a global assessment of TIR Carnets at 20,000, 60,000, 100,000 and 200,000 euros, considering that the TIR+ project has a very limited scope, i.e. only Kazakh operators in Kazakhstan with low volumes (less than 1,000 operations in two years) can obtain the additional voucher of 100,000 euros. Finally, Mrs. Kasko confirmed that, as requested by TIRExB, IRU would speed up its analysis, in cooperation with its financial partners and would provide, as soon as possible, its assessment of the implications and costs related to a TIR Carnet guarantee coverage of 20,000, 60,000, 100,000 and 200,000 euros.

5. Regarding the situation in the Russian Federation, Mr. Amelyanovich (Russian Federation) explained that in his country transports under cover of a TIR Carnet are only allowed when the calculation by customs inspectors at the borders confirms that the amount of customs duties and taxes at stake does not exceed 60,000 euros. For transports with higher duties and taxes at stake, transporters must resort to guarantees under the provisions of national law. Mr. Fedorov (Belarus) and Mr. Somka (Ukraine) confirmed that similar procedures are in place in their countries and that such procedures are intended to protect the state budget. Mr. Somka informed the Board that Ukraine is considering raising the level of guarantee in Ukraine to 100,000 euros.

6. In the view of Mr. Amelyanovich (Russian Federation), the role of TIRExB is to propose to AC.2 the most effective and user-friendly solution for all parties involved in the TIR Convention. He also underlined that, in his view, this could only be achieved by following the Russian proposal to introduce a guarantee that would cover the entirety of taxes and duties at stake, as it would provide maximum facility to both customs and the transport industry. Considering that in the majority of cases, the required guarantee amount would not exceed the current maximum guarantee level, the repercussion of such change on the price of the TIR Carnet would be, according to him, minimal. At the same time, it would be the task of TIRExB to ensure that the international guarantee chain would offer the TIR Carnet with full guarantee coverage at the lowest possible cost.

7. Various other members of the Board agreed that the introduction of full guarantee coverage would provide the TIR system with maximum facility for the customs administrations. However, in their view, this development might lead to a substantial increase in the price of TIR Carnets and, therefore, requires careful assessment.

8. Mr. Ciampi (Italy) and Mrs. Jelinkova (European Commission) cautioned the Board not to forget or understate the role of the TIR Carnet holder in the discussions. The holder is and remains the main debtor under the provisions of the TIR Convention and all efforts should aim to ensure that he fully honours his responsibilities. Both expressed the view that the introduction of full guarantee coverage would change the relationship between national associations and their authorized holders and could, potentially, lead to the formulation of stricter selection criteria. In this context, Mr. Fedorov (Belarus) noted that the discussions of TIRExB should not be limited to the issue of guarantee, as the topic cannot be judged in isolation, but should be conducted against the bigger picture of issues such as the security of TIR transports and the criteria for access to the TIR Convention.

9. Mrs. Kasko (IRU) reminded the Board that any global increase (i.e. for all TIR countries) in the level of the guarantee would have repercussions on the price of TIR Carnets. In the context of the ongoing discussions on the level of the guarantee, she pointed out that such option would not necessarily have to be introduced globally, but that, perhaps, a cost-effective solution could be found by means of applying a flexible approach, as outlined in the preliminary assessment of IRU.

10. Several members of the Board recalled that several major users of the TIR system had not responded to the 2013 TIRExB claims survey, which included a part on the guarantee level, thus limiting the capacity of the Board to substantively and objectively assess the results that would be relevant to the current discussion. However, the Board agreed that all available results should be used in as far as they can yield representative conclusions. In this respect, the Board once more underlined the importance of the survey and called upon all Contracting Parties to respond to the forthcoming survey, to be launched in 2015, covering the years 2011–2014.

11. To wrap up the session's discussions, TIRExB requested the secretariat to extensively reflect the findings of the Board in its report, which would then serve as a basis for an informal document for discussion at the June 2015 session of AC.2. The Board also requested the secretariat to include in the draft informal document the pros and cons for each of the envisaged options: (a) each country determines independently maximum guarantee amount valid in that country; (b) the introduction of various guarantee levels (at 20,000 euros, 60,000 euros, 100,000 euros and 200,000 euros); (c) unlimited guarantee coverage; (d) general increase of the recommended maximum guarantee amount. A final document should be

presented to AC.2 at its October 2015 session (ECE/TRANS/WP.30/AC.2/2015/19, paras. 13–23).

12. At its sixty-fourth session (June 2015), the Board continued its assessment of the various options, identified at its previous session as possibilities to introduce more flexibility in the TIR Convention on the basis of Informal document No. 17 (2015) by IRU and Informal document No. 11 (2015) by the secretariat.

13. TIRExB took note of Informal document No. 17 (2015), in which IRU provided its preliminary analysis of introducing various guarantee levels. The possible impact thereof on the TIR insurance premiums (paid by IRU to AXA Assurances SA to provide guarantee coverage) could range from –10/–5 per cent for 20,000 euros TIR Carnets, 0/+5 percent for 60,000 euros TIR Carnets, +20/+25 per cent for 100,000 euros TIR Carnets to a potential increase of +35/+40 percent for 200,000 euros TIR Carnets, depending on the number of TIR Carnets used per guarantee level and the number of vouchers per TIR Carnet (4, 6, 14 or 20), amounting up to twenty different scenarios. In the view of IRU, such complexity would increase the workload for IRU and its member associations and, thus, would undoubtedly increase the operational costs, perhaps even up to +15 per cent for the TIR Carnet distribution price, invoiced by IRU. In addition, introducing a flexible guarantee system would require a number of legal and financial adjustments, such as, but not limited to, amendments of the national guaranteeing agreements, as well as creating many practical problems for TIR Carnet holders and customs authorities in determining which TIR Carnet to use for a particular TIR transport. In conclusion, based on the described assessment, it appeared, in the view of IRU, that introducing flexible guarantee levels leads to an increased level of complexity of the system, with little or no real advantages for the public and the private sector. Based on the experiences with its TIR+ voucher pilot, IRU stated that a general global increase of the guarantee level to, for example, 100,000 euros seemed to provide an appropriate solution to safeguard the TIR system in the nearest future.

14. TIRExB then considered Informal document No. 11 (2015) by the secretariat, in which it provided an overview of the prior discussions of the Board on the level of the TIR guarantee up and until the latest considerations at the previous session. In addition, further to a request by the Board, the document contained a consolidated table of pros and cons of the scenarios identified by the Board as potential ways forward to introducing more flexibility in the TIR guarantee system.

15. TIRExB thanked IRU for its comprehensive assessment, but reiterated its request to IRU to provide the breakdown of the price of TIR Carnets, which it confirmed it would do so.

16. TIRExB extensively reviewed Informal document No. 11 (2015) and, in particular, the various options (see ECE/TRANS/WP.30/AC.2/2016/1, paras. 6–11).

17. At its sixty-fifth session (October 2015), the Board continued its assessment of the various scenarios, identified at its previous sessions as possibilities to introduce more flexibility in the TIR Convention on the basis of Informal document No. 11/Rev.1 (2015) by the secretariat.

18. In her introductory statement, the Chair carefully formulated that, so far, the assessment of the Board seemed inconclusive to warrant a change from the current guarantee system. On that note, she hoped that the Board could finalize its assessment at the current session, so that it could be officially transmitted to the TIR Administrative Committee, for consideration at its next session.

19. TIRExB concluded its assessment of the various scenarios and decided that a finalized version of Informal document No. 11/Rev.1 (2015) should be submitted to AC.2 for its consideration (see ECE/TRANS/WP.30/AC.2/2016.11, paras. 7, 8 and 11).

20. At its sixty-sixth session (February 2016), the Board shortly revisited document ECE/TRANS/WP.30/AC.2/2016/7, as previously approved as TIRExB Informal document No. 11/Rev.1 (2015) and containing the assessment by the Board of the various scenarios to introduce more flexibility in the guarantee system. The Board agreed that the Chair would give a comprehensive introduction of the document to the Administrative Committee, without singling out a specific scenario. In case the Committee so requested, the Board was

available to further review any specific scenario or pending issue (ECE/TRANS/WP.30/AC.2/2016/12, paragraph 8).

21. At its sixty-seventh session (April 2016), TIRExB took note of the considerations of the secretariat as contained in Informal Document No. 7 (2016) on, namely, the financial and other possible implications of introducing full guarantee coverage as described in scenario 3 of the TIRExB assessment (either full guarantee coverage for all Contracting Parties or, alternatively, that each country is free to set its own maximum guarantee amount or could decide not to set a maximum at all) (see also ECE/TRANS/WP.30/AC.2/2016/7, Part VI). The Board was of the view that the main concern would be the impact on the prices of TIR Carnets; in this regard, the representative of IRU was requested to provide information on how the scheduled increase of the guarantee level per TIR Carnet to 100,000 euros as of 1 July 2016 would affect the prices, as this would perhaps provide an indication on the basis of which further discussions could take place. The representative of IRU clarified that, further to extensive negotiations with the insurers and mainly due to the low overall number of claims, IRU had been able to secure the increase of the guarantee level without any effect on the current TIR Carnet prices. However, IRU also indicated that, from the insurers' perspective, a calculation of risks for unlimited guarantee coverage would not be possible and that, in such a case, a dramatic increase in premiums – which would be reflected in the TIR Carnet prices – would be unavoidable. TIRExB took note of this, but invited IRU to provide, nevertheless, as much information as possible on the scenario of unlimited guarantee coverage as contribution to the Board's assessment.

22. Furthermore, questions were raised with regard to the possible implications of scenario 3bis namely, that some countries may opt for not setting a maximum amount at all, while others would operate on the basis of a fixed maximum amount. In this regard, the issue at stake was that the fact that the unlimited guarantee risk would be distributed evenly over all countries and, ultimately, reflected in the TIR Carnet price for all operators, i.e. the entire system would be equally contributing to the higher risks/insurance premiums of few Contracting Parties. Against this background, questions on fairness and equitability were raised. In addition, the increased complexities of managing the guarantee chain under scenario 3bis were also highlighted. As a result, several Board members were of the view that any change in the guarantee level should follow a harmonized approach, i.e. be applicable in all Contracting Parties as per scenario 3. The Board also was of the view that it may be useful to invite insurance specialists at a future session, in order to obtain a clearer understanding of the risk calculation processes.

23. The Board also considered the potential implication of full guarantee coverage compromising the principle of seeking payment from the person(s) directly liable. In this respect, the Board was of the view that this principle would not and should not be compromised, as the provisions of the Convention in this respect are clear: customs authorities ought to direct any claim firstly to the responsible TIR Carnet holder, before seeking payment from the guarantor. On the other hand, several Board members recognized the difficulty of finding the directly liable TIR Carnet holder when he is registered/domiciled in another Contracting Party, which makes resorting to the guarantor the only realistic solution. Such difficulties, according to several members, have occurred for various reasons but mainly due to either refusal to pay/refusal to acknowledge receipt of notification, or – quite often – because the person(s) directly liable cannot be found. In this respect, TIRExB was of the view that, on the one hand, ensuring a fully updated ITDB should become a priority, whereas, on the other hand, it seemed warranted to strengthen cooperation between customs authorities in different countries and explore mechanisms to find and notify foreign TIR Carnet holders as well as to secure payment from them (ECE/TRANS/WP.30/AC.2/2016/13, paras. 8–10).

II. Past considerations by the Administrative Committee

24. At its sixtieth session (February 2015), the Committee was informed about the proposal of WP.30 which invited the Committee to mandate the TIRExB to consider the proposal to amend Annex 9, Part I, paragraph 3(ii) as well as Annex 8, Article 1bis. The Committee was of the view that these amendment proposals were closely related to questions

currently under discussion by the TIRExB and that its expert opinion would substantively assist Contracting Parties in their deliberations. Thus, the Committee decided to mandate the TIRExB to consider these proposals (ECE/TRANS/WP.30/AC.2/123, paragraph 24).

25. At its sixty-second session (October 2015), the Committee recalled that, at its sixty-first session, it had decided not to address those proposals that are currently under parallel discussion at WP.30 to avoid duplication of work but, rather, to wait for the Working Party to transmit its findings. The Committee, thus, continued its discussions of the amendment proposals, as follows:

(a);

(b) The proposal to amend Article 8, paragraphs 1 and 3, pertaining to the possibility to claim the full amount of duties and taxes at stake in the event that no maximum amount is set by the Contracting Party: the Committee recalled the assessment of TIRExB on this issue whereby several scenarios with their corresponding pros and cons have been identified, as well as the information provided by IRU, namely that, pursuant to deliberations with the relevant institutions, the guarantee chain would be able to raise the maximum guarantee coverage to 100,000 euros per TIR Carnet, as of 1 July 2016. The Committee was of the view that it would be preferable to continue its discussions at its next session, on the proposal to amend Article 8, paragraphs 1 and 3, on the basis of the final assessment by TIRExB, which would be made available as a formal document. Furthermore, various delegations provided their preliminary comments to the information provided by IRU; the delegation of EU was of the view that Explanatory Note 0.8.3 on the maximum recommended amount may need to be amended to reflect this change and requested further information from IRU on the impact, if any, of the change in the guarantee level on the distribution price of TIR Carnets. Against this background, the delegation of the Russian Federation reiterated its request to IRU for detailed information on the elements that determine the price of TIR Carnets, as an important factor in the consideration of these issues. IRU informed the Committee that the prices currently include the insurance premium as well as a set of fixed costs, and that further information relating to the specific elements comprising the distribution prices, as well as on how distribution prices will be affected – if at all - by the increase in the guarantee level, will be provided at the next session. The delegation of Turkey was of the view that the increase in the guarantee level per TIR Carnet is, initially, a positive development for customs administrations, but questioned whether this development would have an impact on guaranteeing associations that issue a low number of TIR Carnets, but have a large number of TIR transports terminating in their territory. The delegation of Turkey also requested further information on the impact of this change on costs and on the distribution price of TIR Carnets. In conclusion, the Committee decided to revert to this issue at its next session and looked forward to receiving further information at its next session from IRU on the questions raised during the discussions (ECE/TRANS/WP.30/AC.2/127, paragraph 34 (b)).

26. At its sixty-third session (February 2016), the Committee noted that TIRExB had completed its assessment of various scenarios to amend the level of the guarantee at its sixty-fifth session and had transmitted its final observations for the consideration of the Committee (ECE/TRANS/WP.30/AC.2/2016/7). The Chair of TIRExB provided an oral summary of the findings of TIRExB on this issue. In particular the Committee took note that each scenario examined by TIRExB, despite having its advantages, also brought along setbacks and disadvantages and that, thus, the Board could only recommend the Committee to take full account of all the positive and negative implications attached to each scenario, before taking a decision to change to current system of a generic recommended maximum amount. The Committee thanked TIRExB for its in-depth assessment and decided to take account of this document when discussing the amendment proposal transmitted by the Russian Federation on the level of the guarantee per TIR Carnet, under agenda item 7 (e) (ECE/TRANS/WP.30/AC.2/129, paragraph 30).

27. At that same session, under agenda item 7 (e), the Committee decided to continue its consideration of the amendment proposals as contained in ECE/TRANS/WP.30/AC.2/2014/14 and comments thereto in ECE/TRANS/WP.30/2015/1/Rev.1 – ECE/TRANS/WP.30/AC.2/2015/7/Rev.1, as follows:

(a) Amendment of Article 8, paragraphs 1 and 3, pertaining to the possibility to claim the full amount of duties and taxes at stake in the event that no maximum amount is set by a Contracting Party: the Committee considered the assessment of TIRExB as contained in document ECE/TRANS/WP.30/AC.2/2016/7 and recalled the information provided by IRU at the previous session namely that, pursuant to deliberations with the relevant institutions, the guarantee chain would be able to raise the maximum guarantee coverage to 100,000 euros per TIR Carnet, as of 1 July 2016. The Committee also noted that other amendment proposals were relevant to the discussion on the guarantee level (such as Annex 9, part I, paragraph 3 (ii), submitted by the Russian Federation). The Committee was of the view that the increase in the guarantee level per TIR Carnet by IRU should be discussed separately from the overall discussion on the various different options for amending the guarantee level. As such, the discussions proceeded as follows:

(i) With regard to the assessment by TIRExB, the Committee was in general agreement as to the need to increase the guarantee level to meet modern needs and requirements. At the same time, several delegations expressed their views on the preferred avenues for introducing such an increase. The delegation of the Russian Federation was of the view that the best approaches would be to consider the scenario of a high maximum amount that would in effect cover all associated risks or the option of not setting a maximum amount at all (full coverage), which would also be the ideal outcome. In the view of the Russian Federation, this would facilitate international transport and ensure that potential losses to the State budget of importing countries are covered. The delegation of the Russian Federation also pointed to the benefit of drastically reducing the need for escorts, as well as not needing to calculate the duties and taxes at stake in such a case. The delegations of Ukraine and EU pointed to the potential practical difficulties relating to the calculation of the amount of duties and taxes that may become due in various situations throughout the TIR transport. The delegation of Belarus made reference to the wide range of TIR Carnet prices already at this stage when the guarantee level is more or less uniform; in this regard the question was whether different guarantee scenarios would result in dramatic changes in the range of TIR Carnet prices. The delegation of Turkey proposed that, perhaps, the increase in the guarantee level per TIR Carnet to 100,000 euros as of 1 July 2016 could be an interim step or a temporary measure that would allow risks to be covered more satisfactorily while further discussions take place. At the same time, the delegation of Turkey underscored the need to clarify the exact implications of this increase on TIR Carnet prices. The delegation of the Republic of Moldova was of the view that a guarantee level of 100,000 euros per TIR Carnet would cover more than ninety-nine per cent of cases and could therefore be seriously considered as a way forward. The delegation of Azerbaijan put forward the proposal that the increase to 100,000 euros per TIR Carnet could be the first step, but that the Committee could decide to review and, if necessary, revise this amount periodically, for example every three to five years. Finally, the delegation of Kazakhstan proposed that perhaps the use of the additional vouchers under the TIR+ system of IRU could be sufficient to address the concerns raised with regard to the guarantee level. After extensive and constructive discussions, reflecting a variety of views and proposals, the Committee decided that the financial and other possible implications of introducing full guarantee coverage as described in scenario 3 of the TIRExB assessment, should be further analysed by TIRExB and reported to the Committee at a future session for further discussion.

(ii) Concerning the increase in the guarantee level per TIR Carnet to 100,000 euros, as announced by IRU, the Committee was of the general view that it would be necessary to amend Explanatory Note 0.8.3 of the TIR Convention to reflect this increase; in this respect, the Committee noted that the Working Party was already in the process of looking at amending Explanatory Note 0.8.3 comprehensively and accepted the proposal by the Chair of WP.30 to examine and possibly adopt a concrete amendment proposal after WP.30 has finalized and transmitted its findings to AC.2. As a final note on this point, the delegation of IRU reiterated the readiness of the guarantee chain to undertake an increase in the guarantee level per TIR Carnet to 100,000 euros, as well as indicated that, on the side of the guarantee associations, this

could be reflected in an addendum to their guarantee agreement with customs authorities. Finally, IRU informed the Committee that it continued providing assistance to TIRExB in its assessment of the financial and other possible implications of the introduction of full guarantee coverage.

(iii) As a general conclusion, the Committee agreed to continue discussing the possible ways to increase or modify the guarantee level at its next session (ECE/TRANS/WP.30/129, paragraph 36).

28. At its sixty-fifth session (February 2017), the delegation of the Russian Federation put forward a proposal for future consideration, namely to replace the word “limit” in Explanatory Note 0.8.3 with “establish”. Pursuant to substantive discussions, the Committee agreed that the proposal to amend the reference to the amount and any other proposal to Explanatory Note 0.8.3 should be addressed separately. As such, and for the purpose of time efficiency, the Committee agreed to ask WP.30 to consider the proposal by the delegation of the Russian Federation and requested the secretariat to include it in the agenda of the 146th session of the Working Party in June 2017.

29. Pursuant to a request by the Working Party to this effect (see ECE/TRANS/WP.30/288, para. 10), the Committee also separately considered document ECE/TRANS/WP.30/AC.2/2017/4 on a proposal to amend the recommended guarantee amount for Tobacco/Alcohol TIR Carnets from \$200,000 to \$400,000 in the same Explanatory Note 0.8.3. The Committee, in the first instance, took note of the results of a survey among Contracting Parties on the national levels of customs duties and taxes of tobacco and alcohol products, carried out by IRU and noted that, whereas the average claim for a transport of alcohol amounted to 103,972 euros, this went up to 519,058 euros for a transport of tobacco. Against this background, IRU raised the question as to whether or not tobacco and alcohol can be covered by one single TIR Carnet or, alternatively, to continue the practice of not issuing tobacco/alcohol TIR Carnets.

30. The Committee also noted that the Working Party had requested IRU, in consultation with the secretariat, to seek replies from the other countries before 31 March 2017, so that it could revert to this issue at its next session and that, in light of these developments, the planned pilot of a fixed number of 100 transports of specific alcohol products with the HS codes 22.07.10 and 22.08, had to be cancelled. In this context, the delegations of the Russian Federation and Ukraine reminded IRU of its mandate under Article 6, paragraph 2 bis, inviting Contracting Parties to explore other insurance companies.

31. The delegation of EU reminded the Committee that the provisions on the carriage of tobacco and alcohol under cover of TIR Carnets are still in force and that, therefore, if in the near future such transports are re-established, Contracting Parties would have to allow such operations on their territory under cover of a guarantee amounting to \$200,000. As such, the delegation of EU elaborated that, since it is established beyond doubt that the current amount of \$200,000 is significantly below the necessary level for tobacco and alcohol movements, it would be reasonable to increase the amount commensurately at this stage, without excluding further consideration and readjustment at a later stage. Further to substantive discussions, the Committee was not prepared to adopt this proposal and decided to resume discussions on this issue at its next session (ECE/TRANS/WP.30AC.2/133, paras. 37–40).

32. At its sixty-sixth session (October 2017), the Committee recalled that TIRExB had reported that it could not recommend unequivocally any change to the current system other than raising the recommended maximum guarantee amount from 60,000 to 100,000 euros. Against this background, the Committee agreed, at its previous session, to amend Explanatory Note 0.8.3. to refer to 100,000 euros rather than \$50,000. The Committee was also orally informed about ongoing considerations at the Working Party on the guarantee for carriage of tobacco and alcohol products. The delegation of the Russian Federation reiterated its earlier position that the guarantee system should be reconsidered as a whole, considering that the current level of guarantee leads to complex inspections and calculations. As such, the delegation of the Russian Federation was of the view that the possibility of full guarantee coverage for TIR transports should be revisited in discussions. Noting this position, the Committee decided to revert to further discussions on the level of guarantee at the next

session, possibly taking into account the findings of the Working Party (ECE/TRANS/WP.30/AC.2/135, paragraph 36).

33. At its sixty-seventh session (February 2018), the Committee recalled that, at its previous session, it agreed to amend Explanatory Note 0.8.3. to refer to 100,000 euros rather than \$50,000 (See C.N.700.2017.TREATIES-XI.A.16 of 3 November 2017). The Committee was also informed that the ongoing considerations at WP.30 on the guarantee for carriage of tobacco and alcohol products seemed to have come to a standstill, pending the availability of further results from an IRU survey among Contracting Parties on the national levels of customs duties and taxes of tobacco and alcohol products. The delegation of the Russian Federation reconfirmed the view that the possibility of full guarantee coverage for TIR transports should be discussed again. Noting this position, the Committee decided to revert to the issue at a future session, once the findings of the Working Party were available (see ECE/TRANS/WP.30/AC.2/135, para. 36) (ECE/TRANS/WP.30/AC.2/137, paragraph 29).

34. At its sixty-eighth session (October 2018), the Committee recalled that, on 1 July 2018, a proposal to amend Explanatory Note 0.8.3. to refer to 100,000 euros rather than \$50,000, had entered into force (see C.N.201.2018.TREATIES-XI.A.16 of 9 April 2018). The Committee also recalled that discussions at WP.30 on the guarantee for tobacco and alcohol products had come to a standstill. The Committee confirmed that it would only revert to the issue once the findings of the Working Party would be available.

35. At the initiative of the delegate of the Czech Republic, the Committee decided to request the secretariat to include the item again in future agendas of the Working Party, soliciting that the Working Party resume its considerations (ECE/TRANS/WP.30/AC.2/139, paras. 43–44).

36. At its sixty-ninth session (February 2019), the Committee reconfirmed that it would only revert to this issue once the findings of the Working Party would be available (ECE/TRANS/WP.30/AC.2/139, paras. 43 and 44) (ECE/TRANS/WP.30/AC.2/141, paragraph 39).
