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Working Party on Customs Questions Affecting Transport

One-hundred-and-sixteenth session
Geneva, 13–15 June 2007
Item 8 (b) (iii) of the provisional agenda

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER
COVER OF TIR CARNETS (TIR CONVENTION, 1975)**

Revision of the Convention

Revised amendment proposals for the Convention

Note by the secretariat

BACKGROUND

1. At its one-hundred-and-twelfth session, the Working Party considered a number of the amendment proposals of a strategic nature as well as the findings of the TIRExB concerning a number of amendment proposals of a technical nature. Furthermore, it had been informed of the outcome of the fifth session of the Ad hoc Expert Group on Phase III of the revision process. The Working Party requested the secretariat to prepare a document containing a consolidated overview of all amendment proposals, so far, with a view to making further progress in the considerations (see ECE/TRANS/WP.30/224; paras.40-46).

2. Although taking account of all underlying documentation on the issue of revision of the TIR Convention, this document only reflects the latest state of play with regard to the various amendment proposals, as contained in the following documents: ECE/TRANS/WP.30/2006/6; ECE/TRANS/WP.30/2006/2; ECE/TRANS/WP.30/224; TRANS/WP.30/AC.2/79; TRANS/WP.30/2005/29; TRANS/WP.30/2005/24 and Corr.1; TRANS/WP.30/2005/19; TRANS/WP.30/2005/7; TRANS/WP.30/2004/14; TRANS/WP.30/GE.2/2005/10; TRANS/WP.30/GE.2/2005/9; TRANS/WP.30/GE.2/2005/8; TRANS/WP.30/GE.2/2005/6; TRANS/WP.30/GE.2/2005/5; TRANS/WP.30/GE.2/2005/2; Informal document No. 4 (2006).

3. Because of their extensive character, the consolidated document contains separate columns for the proposals submitted by the Netherlands (TRANS/WP.30/GE.2/2005/2), the European Commission (TRANS/WP.30/GE.2/2005/8) and the IRU (ECE/TRANS/WP.30/2006/6), whereas all other amendment proposals have been consolidated in the column “various other proposals”.

4. Document ECE/TRANS/WP.30/2006/5/Rev.1 takes account of the outcome of the discussions by the Working Party, at its one-hundred-and-fourteenth session as well as additional proposals, submitted by Contracting Parties after the session. The material changes with regard to the original document are the following:

- Only the final text of the amendment proposals regarding Article 1 (q) and (r) is maintained, as the Working Party reached agreement on them (ECE/TRANS/WP.30/228, paragraph 36);
- Amendments to Article 4, submitted by the government of Turkey, regarding the removal of the Comment to Article 4 and converting the current Comment to Explanatory Note 0.8.3. into new Explanatory Note 0.4.;
- Document ECE/TRANS/WP.30/GE.2/2005/8, containing proposals by the European Commission, is replaced by document ECE/TRANS/WP.30/2007/5 containing proposals by the European Community;
- The text of Article 4 reflects the latest stage of discussion, pending conclusion of the entire package of amendments (ECE/TRANS/WP.30/224, paragraph 41);
- The text of Explanatory Notes to Article 6.2bis and Annex 8, Article 10 (b), which entered into force on 12 August 2006, has been removed.

5. At its one-hundred-and-fifteenth session, the Working Party considered document ECE/TRANS/WP.30/2006/5/Rev.1, prepared by the secretariat and consolidating all proposals for amendments that have been transmitted until now by Contracting Parties, the Expert Group on revision and the TIRExB. In this context, a number of Contracting Parties from the European Community, as well as the European Commission agreed that the proposals they had made, so far, concerning amendments to various articles of the Convention could be deleted from the document, as they will be substituted by the forthcoming proposals to be submitted by the European Community. For its next session, the Working Party requested the secretariat to prepare a new document consolidating the new proposals from the European Community, the proposals agreed by the Expert Group on the revision process, the proposals agreed by the TIRExB and, finally, the proposals made by the IRU. The secretariat was requested to highlight

those proposals where, so far, there seemed to be a principle agreement on the proposed text (ECE/TRANS/WP.30/230, paragraph 38).

6. Document ECE/TRANS/WP.30/2006/5/Rev.2 takes account of the outcome of the discussions by the Working Party, at its one-hundred-and-fifteenth session:

- document ECE/TRANS/WP.30/2007/5, submitted by the European Community has been replaced by document ECE/TRANS/WP.30/2007/13 (please refer to this document to view the differences between both documents in track changes);
- various other proposals have been deleted from the text to simplify the reading of the document;
- text, where there seemed to be principal agreement by the Working Party, is presented in bold;
- all textual changes in this document compared to document ECE/TRANS/WP.30/2006/5/Rev.1 are underlined.

ARTICLE 1 (q)

Original text	Various other proposals
<p>The term “guaranteeing association “ shall mean an association approved by the Customs authorities of a Contracting Party to act as surety for persons using the TIR procedure</p>	<p>The term “guaranteeing association” shall mean an association, authorized by the competent authorities of a Contracting Party to issue TIR Carnets, and to act as guarantor [surety] for persons using the TIR procedure, having undertaken in writing to pay jointly and severally with the person(s) directly liable the sums due, as laid down in this Convention. (ECE/TRANS/WP.30/228, para. 36)</p>

ARTICLE 1 (r)

Original text	Various other proposals
<p>-</p>	<p>The term “international organization” shall mean an organization authorized by the TIR Administrative Committee to take on responsibility for the effective organization and functioning of the international guarantee system and to centrally print and distribute TIR Carnets. (ECE/TRANS/WP.30/228, para. 36).</p>

ARTICLE 4

Original text	Various other proposals
Goods carried under the TIR procedure shall not be subjected to the payment or deposit of import or export duties at Customs offices <u>en route</u> .	As long as goods are carried under the TIR procedure, the payment of import and export duties shall be suspended and security other than that mentioned in Article 3 (b) shall not be required. (WP.30, ECE/TRANS/WP.30/224, para. 41)
-	Explanatory Note to Article 4 0.4. Goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties whatsoever, even if the duties and taxes at risk exceed the amount of guarantee provided by the TIR Carnet. In such cases Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country (Government of Turkey, 28 October 2006)
Comment to Article 4 Please refer to the comments to Explanatory Note 0.8.3. (Duties and taxes at risk) and to Article 23 (Escort of road vehicles).	Delete (Government of Turkey, 28 October 2006)

ARTICLE 6.2**bis**

Original text	Various other proposals
An international organization, as referred to in paragraph 2, shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility.	An international organization shall be authorized by the Administrative Committee to take on responsibility for the [effective] organization and functioning of an international guarantee system and to print and distribute TIR Carnets. The authorization shall be granted as long as the organization fulfills the conditions and requirements laid down in Annex 9, Part III to this Convention. The authorization shall be revoked if the fulfillment of these criteria is no longer ensured (Expert Group on Revision TRANS/WP.30/GE.2/2005/3).

ARTICLE 8

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
1. The guaranteeing association shall undertake to pay the import and export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity has been noted in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums	1. <u>The guaranteeing association shall undertake to pay the import and export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity has been established in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums</u>	1. The guaranteeing association shall undertake to pay the guaranteed amount of import or export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity leading to a payment obligation for the above mentioned duties and taxes has been established in connection with a TIR operation. It shall be liable for payment of such sums, jointly and severally with the persons from whom the sums mentioned above are due.	1. The guaranteeing association shall undertake to pay the import and export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country in which an irregularity has been [noted] [established] in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums (Expert Group on Revision, TRANS/WP.30/GE.2/2005/10).¹
Comments to Article 8, paragraph 1 Administrative fines The liability of the guaranteeing associations as provided for in Article 8, paragraph 1 does not include administrative fines or other pecuniary sanctions.	No change	No change	
Collection of additional sums Article 8, paragraphs 1 and 2 allow Customs authorities to collect additional sums such as liquidated damages or other penalties from the holder of the Carnet should they deem that to be necessary.			

¹ Text, where there seemed to be a principal agreement by the Working Party at its one-hundred-and-fifteenth session, is presented in bold

Original text	<u>European Community</u> ECE/TRANS/WP.30/2007/13	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
2. In cases where the laws and regulations of a Contracting Party do not provide for payment of import or export duties and taxes as provided for in paragraph 1 above, the guaranteeing association shall undertake to pay, under the same conditions, a sum equal to the amount of the import or export duties and taxes and any default interest.	No change	Delete	
Explanatory Note to Article 8, paragraph 2 0.8.2 The provisions of this paragraph shall be applicable where, in case of irregularities of the type covered in Article 8, paragraph 1, the laws and regulations of a Contracting Party provide for the payment of sums other than import or export duties and taxes, such as administrative fines or other pecuniary sanctions. However, the sum to be paid shall not exceed the amount of import or export duties and taxes which would have been due if the goods had been imported or exported in accordance with the relevant Customs provisions, this amount being increased by any default interests.	No change	Delete	
3. 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 paragraphs 1 and 2 above.	No change.	2. 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 above.	

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
<p>Explanatory Note 0.8.3: Customs authorities are recommended to limit to a sum equal to \$US 50,000 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, and which exceed the threshold levels provided further below, Customs authorities are recommended to increase the maximum amount which may be claimed from the guaranteeing associations to a sum equal to \$US 200,000:</p> <p>(1) Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher (HS code: 22.07.10)</p> <p>(2) Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages (HS code 22.08)</p> <p>(3) Cigars, cheroots and cigarillos, containing tobacco (HS code 24.02.10)</p> <p>(4) Cigarettes containing tobacco (HS code: 24.02.20)</p>		<p>Explanatory Note to Article 8, paragraph 2: 0.8.2 Customs authorities are recommended to limit to a sum equal to \$US 50,000 per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. The following types of goods cannot be transported under cover of TIR Carnet, given the extraordinarily high risk of fraud: (1) – (5)</p>	<p>Explanatory Notes to Article 8, paragraph 2: 0.8.2-1 Customs authorities are recommended to limit to a sum equal to \$US 50,000 per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. The following types of goods cannot be transported under cover of TIR Carnet, given the extraordinarily high risk of fraud: (1) – (5)</p> <p>0.8.2-2: In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of US\$ 50,000 for consignments transported under the normal TIR Carnet or a similar sum fixed by the national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country (Expert Group on</p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
			Revision, TRANS/WP.30/GE.2/2005/3)
<p>(5) Smoking tobacco, whether or not containing tobacco substitutes in any proportion (HS code: 24.03.10). The maximum amount which may be claimed from guaranteeing associations is recommended to be limited to a sum equal to \$US 50,000, if the following quantities are not exceeded for the above tobacco and alcohol categories:</p> <p>(1)300 litres (2)500 litres (3)40,000 pieces (4)70,000 pieces (5)100 kilograms.</p> <p>The exact quantities (litres, pieces, kilograms) of the above categories of tobacco and alcohol must be inscribed into the goods manifest of the TIR Carnet.</p>			<p><i>P.M: Explanatory Note to Article 23 will have to be amended accordingly.²</i></p>

² Editorial remarks by the secretariat are in italics

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
<p>Comment to Explanatory Note 0.8.3 Duties and taxes at risk In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of \$US 50,000 for consignments transported under the normal TIR Carnet and \$US 200,000 for consignments transported under the "Tobacco/ Alcohol" TIR Carnet or a similar sum fixed by the national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country.</p>	<p><i>Converted into Explanatory Note 0.8.3-2</i></p>	<p>Comment to Explanatory Note 0.8.2 Duties and taxes at risk In accordance with article 4 of the Convention, goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of \$US 50,000 or a similar sum fixed by the national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country.</p>	<p>Comment converted into new Explanatory Note 0.4. Government of Turkey, 28 October 2006³</p>

³ Further discussion on this proposal postponed until finalization of discussion on Article 4

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
4. The liability of the guaranteeing association to the authorities of the country where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office. In the succeeding countries through which goods are transported under the TIR procedure, this liability shall commence at the time when the goods enter these countries or, where the TIR transport has been suspended under Article 26, paragraphs 1 and 2, at the time when the TIR Carnet is accepted by the Customs office where the TIR transport is resumed.	No change	<i>Renumbered into paragraph 3</i>	
5. The liability of the guaranteeing association shall cover not only the goods which are enumerated in the TIR Carnet but also any goods which, though not enumerated therein, may be contained in the sealed section of the road vehicle or in the sealed container. It shall not extend to any other goods.	No change	<i>Renumbered into paragraph 4</i>	
Explanatory Note 0.8.5 0.8.5 If the guarantee is questioned for goods not listed in the TIR Carnet, the administration concerned should indicate the facts on which it based its opinion that the goods were contained in the sealed section of the road vehicle or the sealed container.	No change	<i>Renumbered into Explanatory Note 0.8.4</i>	

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
6. For the purpose of determining the duties and taxes mentioned in paragraph 1 and 2 of this Article, the particulars of the goods as entered in the TIR Carnet shall be assumed to be correct, in the absence of evidence to the contrary.	No change	5. For the purpose of determining the duties and taxes mentioned in paragraph 1 of this Article, the particulars of the goods as entered in the TIR Carnet shall, in the absence of evidence to the contrary, be assumed to be correct.	
Explanatory Note 0.8.6: (1) In the absence in the TIR Carnet of particulars detailed enough to enable charges on the goods to be determined, the Parties concerned may produce evidence of their precise nature.	No change	<i>Renumbered into Explanatory Note 0.8.5</i>	
(2) If no evidence is furnished, duties and taxes will be charged, not at a flat rate unrelated to the nature of the goods, but at the highest rate applicable to the kind of goods covered by the particulars in the TIR Carnet.			
7. When payment of sums mentioned in paragraphs 1 and 2 of this Article becomes due, the competent authorities shall so far as possible require payment from the person or persons directly liable before making a claim against the guaranteeing association.	Deleted	Deleted	
Explanatory Note 0.8.7: Measures to be taken by the competent authorities in order to require payment from the person or persons directly liable shall include at least notification of the non-discharge of the TIR operation and/or transmission of the claim for payment to the TIR Carnet holder.	Deleted	Deleted	

ARTICLE 10

<u>Original text</u>	European Community ECE/TRANS/WP.30/2007/13
1. Discharge of a TIR operation has to take place without delay	
2. When the Customs authorities of a country have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless the certificate of termination of the TIR operation was obtained in an improper or fraudulent manner or no termination has taken place	2. When the Customs authorities of a Contracting Party have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless the discharge of a TIR operation was obtained in an improper or fraudulent manner.
Explanatory Note 0.10: The certificate of termination of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs seals, etc., have been discovered, or when the certificate has been obtained by other illicit means.	Explanatory Note 0.10: The discharge of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs seals, etc., have been discovered, or when the discharge has been obtained by other illicit means.

ARTICLE 11

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU <u>ECE/TRANS/WP.30/2006/6</u>	Various other proposals
<p>1. Where a TIR operation has not been discharged, the competent authorities shall not have the right to claim payment of the sums mentioned in Article 8, paragraphs 1 and 2, from the guaranteeing association unless, within a period of one year from the date of acceptance of the TIR Carnet by those authorities, they have notified the association in writing of the non-discharge. The same provision shall apply where the certificate of termination of the TIR operation was obtained in an improper or fraudulent manner, save that the period shall be two years.</p>	<p><u>1. Where a TIR operation has not been discharged the competent authorities shall as soon as possible:</u> <u>(a) notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non discharge,</u> <u>(b) notify the guaranteeing association of the non-discharge.</u> <u>The notification of the guaranteeing association shall be made within a period of one year from the date of acceptance of the TIR Carnet or two years when the discharge of the TIR operation was obtained in an improper or fraudulent manner.</u></p>	<p>1. Where a TIR operation has not been discharged and a payment obligation for import or export duties and taxes has arisen, the competent authorities shall: (a) notify the holder of the TIR carnet in writing of the non discharge, as soon as possible; (b) notify the guaranteeing association in writing of the non-discharge, as soon as possible and not later than a period of one year from the date of acceptance of the TIR Carnet by those authorities. The same provision shall apply where the certificate of termination of the TIR operation was obtained in an improper or fraudulent manner, save that the period shall be two years; (c) make every effort to ensure that the payment is made by the identified person or persons directly liable before making a claim against the guaranteeing association for the payment of the sums mentioned in Article 8, paragraph 1.</p>	<p><u>Deleted</u></p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
		(d) provided that the conditions mentioned under subparagraphs (a) to (c) above have been implemented, have the right to claim, in accordance with the provisions of paragraphs 2 and 3 of this Article, payment of the sums mentioned in Article 8, paragraph 1, from the guaranteeing association.	
<p>Explanatory Note 0.11-1: In addition to the notification to the guaranteeing association, Customs authorities should also notify the TIR Carnet holder as soon as possible when a TIR operation has not been discharged. This could be done at the same time as the notification to the guaranteeing association</p>	<p><u>Explanatory Note 0.11-1: The method of notification is left to the competent authorities.</u></p>	<p>Explanatory Note 0.11-1(b): Once the guaranteeing association has been notified of the non discharge it should make its own enquiries concerning the apparent irregularity and, if possible, obtain alternative proof of termination of the TIR operation. Any relevant information so obtained should be referred to the competent authorities who notified the non-discharge.</p> <p>Explanatory Note 0.11-1(c): In the majority of cases it should be envisaged that the person or persons directly liable shall be the TIR Carnet holder or his representative. However, and without prejudice to national legislation, other parties may also be identified as being directly liable for the payment of sums due. These other parties may include:</p>	<p><u>Deleted</u></p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU <u>ECE/TRANS/WP.30/2006/6</u>	Various other proposals
		<ul style="list-style-type: none"> - the person/persons who unlawfully removed the goods from Customs supervision, or - the person/persons who knowingly participated in the removal, or - the person/persons who knowingly acquired or held the goods so removed. 	
<p>Comments to Article 11, paragraph 1: Payment of duties and taxes The competent authorities should restrict themselves in their recourse to the guaranteeing associations to the payment of the duties and taxes evaded applying to the portion of goods for which irregularities have been committed.</p> <p>Time limit for notifications As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is the decisive one. However, the method of proof of notification is left to the Customs administration concerned (registered mail, for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more.</p> <p>Notification to (a) guaranteeing association(s)</p>	<p><u>Comments to Article 11, paragraph 1</u> <u>Notification to the national guaranteeing association</u> <u>As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is the decisive one.</u> <u>However, the method of proof of notification is left to the competent authorities concerned (registered mail, for example, being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more.</u></p> <p><u>Notification to the TIR Carnet holder</u> <u>The requirement of notification to the TIR Carnet holder could be fulfilled by transmission of a registered letter or other means of notification.</u></p>	<p>Comment to Article 11, paragraph 1(b) Time limit for notification As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is the decisive one. However, the method of proof of notification is left to the Customs administration concerned (registered mail, for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more.</p> <p>Comment to Article 11, paragraph 1(d): Payment of duties and taxes The competent authorities should restrict themselves in their recourse to the guaranteeing</p>	<p><u>Deleted</u></p>

Original text	European Community <u>ECE/TRANS/WP.30/2007/13</u>	IRU <u>ECE/TRANS/WP.30/2006/6</u>	Various other proposals
<p>Customs authorities should notify their respective national guaranteeing association(s) as soon as possible of cases covered by Article 11, paragraph 1, that is when a TIR operation has not been discharged.</p> <p>Notification to the TIR Carnet holder. The requirement of notification to the TIR Carnet holder referred to in Explanatory Notes 0.8.7 and 0.11-1 could be fulfilled by transmission of a registered letter.</p>		<p>associations to the payment of the duties and taxes evaded applying to the portion of goods for which a payment obligation for import or export duties and taxes has arisen.</p>	
<p>2. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to the guaranteeing association at the earliest three months after the date on which the association was informed that the operation had not been discharged or that the certificate of termination of the TIR operation had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date. However, in cases which, during the above-mentioned period of two years, become the subject of legal proceedings, any claim for payment shall be made within one year of the date on which the decision of the court becomes enforceable.</p>	<p><u>2. Where the payment of the sums mentioned in Article 8, paragraphs 1 and 2 becomes due, the competent authorities shall, so far as possible, require payment from the person or persons liable for the payment of the sums before making a claim against the guaranteeing association.</u></p>	<p>2. The claim for payment of the guaranteed amount referred to in Article 8, paragraph 1, shall be made to the guaranteeing association at the earliest three months after the date on which the association has been notified that the TIR operation had not been discharged or that the certificate of termination of the TIR operation had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date. However, in cases which, during the above-mentioned period of two years, become the subject of legal proceedings, any claim for payment shall be made within one year of the date on which the decision of the court becomes enforceable.</p>	<p><u>Deleted</u></p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU <u>ECE/TRANS/WP.30/2006/6</u>	Various other proposals
<p>Explanatory Note 0.11-2: In deciding whether or not to release the goods or vehicle, Customs authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of duties, taxes and default interest payable by the holder of the Carnet.</p>	<p>Explanatory Note 0.11-2: <u>The efforts to be made by the competent authorities to require payment from the person or persons directly liable shall include, at least, the notification of the claim for payment to the TIR Carnet holder or the person(s), if different.</u></p>	<p>Explanatory Note 0.11-2: (1). In deciding whether or not to release the goods or vehicle, Customs authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of the guaranteed amount of duties, taxes and default interest payable by the holder of the Carnet. (2). Before making a claim against the guaranteeing association the competent authorities should make full use of the time scales offered under the paragraph in order to identify the person or persons directly liable. Subject to and in accordance with national legislation, the guaranteeing association may have the right to contest the claim.</p>	<p><u>Deleted</u></p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
	<p><u>Comment to Article 11, paragraph 2</u> <u>Identification of the person or persons liable</u> <u>It should be assumed that the person liable for the payment of the sums due is the TIR Carnet holder. However, where provided for in national legislation, other parties may also be identified as being liable; these parties could include the person(s) who unlawfully removed the goods, who knowingly acquired or held the removed goods or who participated in the removal.</u></p>		
<p>3. The guaranteeing association shall have a period of three months, from the date when a claim for payment is made upon it, in which to pay the amounts claimed. The sums paid shall be reimbursed to the association if, within the two years following the date on which the claim for payment was made, it has been established to the satisfaction of the Customs authorities that no irregularity was committed in connection with the transport operation in question.</p>	<p><u>3. Having complied with the requirements of paragraphs 1 and 2, the competent authorities shall have the right to claim payment of the sums mentioned in Article 8, paragraphs 1 and 2 from the guaranteeing association.</u></p>	<p>3. The guaranteeing association without delay informs the international organization referred to in Article 6, paragraph 2bis of the reception of a claim for payment. The international organization shall have a period of one month to inform the guaranteeing association of its position concerning the claim for payment. The guaranteeing association shall have a period of three months, from the date when the claim for payment is made upon it, in which to pay the amounts claimed, or to send to the competent authorities a motivated opposition to the claim for payment. If the competent</p>	<p>3. The guaranteeing association without delay informs the international organization referred to in Article 6, paragraph 2bis of the reception of a claim for payment. The international organization shall have a period of one month to inform the guaranteeing association of its position concerning the claim for payment. The guaranteeing association shall have a period of three months, from the date when the claim for payment is made upon it, in which to pay the amounts claimed, or to send to the competent authorities a</p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
		<p>authorities consider the reasons of opposition as ungrounded, they have the right to start legal proceedings against the guaranteeing association according to the national legislation.</p>	<p>motivated opposition to the claim for payment. If the competent authorities consider the reasons of the opposition as ungrounded, they have the right to start [legal] proceedings against the guaranteeing association according to the national legislation (Russian Federation, TRANS/WP.30/2005/19 and Expert Group on Revision, TRANS/WP.30/GE.2/2005/10).</p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
<p>Explanatory Note 0.11-3: If a guaranteeing association is asked, in accordance with the procedure set out in Article 11, to pay the sums referred to in Article 8, paragraphs 1 and 2, and fails to do so within the time-limit of three months prescribed by the Convention, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law.</p>		<p>failure to carry out a contract of guarantee entered into by the guaranteeing association under the national law.</p>	<p>Explanatory Note 0.11-3: If a guaranteeing association, in accordance with the procedure set out in Article 11, is asked to pay the sums referred to in Article 8, paragraphs 1 and 2, and fails to do so within the period of three months prescribed by the Convention and the competent authorities do not receive a motivated opposition to the claim for payment, the competent authorities may relay on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under the national law (Russian Federation, TRANS/WP.30/2005/19).</p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
			<p>If a guaranteeing association, in accordance with the procedure set out in Article 11, is asked to pay the sums referred to in Article 8, paragraph[s] [1 and 2], and fails to do so within the period of three months prescribed by the Convention and the competent authorities do not receive a motivated opposition to the claim for payment, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under the national law.</p>
	<p><u>4. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to the guaranteeing association at the earliest three months after the date on which the association was notified that the operation had not been discharged or discharge of the TIR operation had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date. However, in cases which, during the above-mentioned period of two years,</u></p>	<p>4. The sums paid shall be reimbursed to the association if, within the two years following the date on which the claim for payment was made, it has been established to the satisfaction of the Customs authorities that no irregularity leading to a payment obligation of import or export taxes and duties was committed in connection with the transport operation in question.</p>	<p>4. The sums paid shall be reimbursed to the association if, within the two years following the date on which the claim for payment was made, it has been established to the satisfaction of the Customs authorities that no irregularity was committed in connection with the transport operation in question (Russian Federation, TRANS/WP.30/2005/19)</p>

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
	<u>become the subject of administrative or legal appeal proceedings, any claim for payment shall be made within one year of the date on which the decision of the competent authorities or courts becomes enforceable.</u>		
	<u>Explanatory Note 0.11-4-1: In deciding whether or not to release the goods or vehicle, competent authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of duties, taxes and default interest payable by the person or persons liable.</u>	Explanatory Note 0.11-4: The reimbursement of the sums paid shall also be granted in cases where the person or persons directly liable subsequently pays the sums mentioned in Article 8, paragraph 1.	
	<u>Explanatory Note 0.11-4-2: The competent authorities can notify the guaranteeing association that administrative or legal appeal proceedings were initiated and, in any event, will make this notification for any proceedings that may be completed after the two year time limit.</u>		

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
	<p><u>Comment to Article 11, paragraph 4</u> <u>Claim for payment of duties and taxes</u> <u>Before notifying a claim against the guaranteeing association the competent authorities might have the opportunity to make full use of the time scales offered in paragraph 4 of this Article to identify the persons liable as referred to in the Comment to Article 11, paragraph 2.</u></p> <p><u>The claim for payment should be supported by copies of the relevant documentation required to demonstrate the justification and validity of the claim. In cases where part of the goods has been subject to an irregularity, the competent authorities should apportion the claim for payment of the evaded duties and taxes referred to in Article 8, paragraphs 1 and 2 accordingly.</u></p> <p><u>Without prejudice to any national provisions concerning the right of appeal, should the guaranteeing association obtain alternative proof of the termination of the TIR operation it should refer that proof to the competent authorities who notified the non-discharge of the TIR operation.</u></p>		

Original text	European Community <u>ECE/TRANS/WP.30/2007/13</u>	IRU <u>ECE/TRANS/WP.30/2006/6</u>	Various other proposals
	<p><u>5. The guaranteeing association shall [pay the amount claimed within the period of three months from the date of its notification, or contest the claim in accordance with the laws of the Contracting Party concerned.</u></p>		
	<p><u>Explanatory Note 0.11.-5: If a guaranteeing association is asked, in accordance with the procedure set out in this Article, to pay the sums referred to in Article 8, paragraphs 1 and 2, and fails to do so within the time limit of three months prescribed by the Convention, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The three month time limit also applies in the event that the guaranteeing association, on receipt of the claim, consults the international organization referred to in Article 6, paragraph 2 over its position concerning the claim.</u></p>		

Original text	<u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u>	IRU ECE/TRANS/WP.30/2006/6	Various other proposals
	<p>6. The sums paid shall be reimbursed to the guaranteeing association if, within a two year period following the date on which the claim for payment was notified to it, it has been established to the satisfaction of the competent authorities that no irregularity was committed in connection with the TIR operation in question. The two year time limit may be extended in accordance with national legislation.</p>		

ARTICLE 28

Original text	Various other proposals
<p>1. Termination of a TIR operation shall be certified by the Customs authorities without delay. Termination of a TIR operation may be certified without or with reservation: where termination is certified with reservation this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR Carnet.</p>	<p><u>No change</u></p>
<p>2. In cases where the goods are placed under another Customs procedure or another system of Customs control, all irregularities that may be committed under that other Customs procedure or system of Customs control shall not be attributed to the TIR Carnet holder as such or any person acting on his behalf.</p>	
<p>Explanatory Note 0.28: The use of the TIR Carnet must be restricted to the function which it was intended to cover, namely the transit operation. The TIR Carnet must not, for example, be used to cover the storage of goods under Customs control at destination.</p>	<p>Explanatory Note 0.28-1: The use of the TIR Carnet must be restricted to the function which it was intended to cover, namely the transit operation. The TIR Carnet must not, for example, be used to cover the storage of goods under Customs control at destination. Explanatory Note 0.28-2: This Article provides that the termination of a TIR operation shall be subjected to the goods being placed under another Customs procedure or another system of Customs control. This includes clearing the goods for home use (either in full or conditionally), the transfer across the border to a third country (export) or to a free zone, or the storage of the goods in a place approved by the Customs authorities while awaiting the declaration for another procedure (TIRExB, ECE/TRANS/WP.30/2006/2</p>
<p>Comments to Article 28 Return of TIR Carnets to the holder or any other person acting on his behalf It must be stressed that the immediate return of the TIR Carnet to the holder or any other person acting on his behalf, whether certified as terminated with or without reservation, is an essential duty of the Customs office of destination. This not only facilitates checking by the issuing association and the international organization referred to in Article 6, but also enables these organizations, on return of the Carnet, to issue a new Carnet to the holder, since the number of Carnets in use (in the holder's possession) at any one time may be limited. Possibility of using two TIR Carnets for a single TIR transport Occasionally, the number of vouchers in the TIR Carnet are not sufficient to carry out a total TIR transport. In these cases the first part of a TIR transport has to be</p>	

Original text	Various other proposals
<p>ended in accordance with Articles 27 and 28 of the Convention and a new Carnet has to be accepted by the same Customs office having certified the termination of the previous TIR operation and used for the remainder of the TIR transport. Proper inscription shall be made in both TIR Carnets to reflect this fact.</p>	
<p>Applicable procedures after termination of a TIR operation Article 28 provides that termination of a TIR operation shall be certified by Customs authorities without delay. Termination will be subject to the goods having been placed under another Customs procedure or another system of Customs control. This may include clearance for home use, transfer across the border to a third country or a free zone or storage in a place approved by the Customs authorities while awaiting the declaration for another Customs procedure.</p>	
<p>Termination of a TIR operation 1. In cases where a TIR operation has been certified as terminated without reservation, the Customs authorities which declare that the certificate of termination has been obtained in an improper or fraudulent manner should specify in its notification of non-discharge and/or request for payment its reasons for declaring this termination improper or fraudulent. 2. The Customs authorities should not certify the termination of TIR operations subject to systematic unspecified reservations, without giving reasons, solely for the purposes of avoiding the requirements of Article 10, paragraph 1 and Article 11, paragraph 1.</p>	
<p>Indication of reservations Customs authorities should make any reservation about the termination of a TIR operation very clear and should also indicate the existence of a reservation by filling-in box 27 on voucher No. 2 of the TIR Carnet and by placing an "R" under item No. 5 on counterfoil No. 2 of the Carnet as well as by completion of the Certified Report of the TIR Carnet, if appropriate.</p>	
<p>Alternative forms of evidence for the termination of a TIR operation With a view to establishing alternative evidence for the proper termination of a TIR operation, Customs authorities are recommended to use exceptionally, for example, the following information provided it has been furnished to their satisfaction:- any official certificate or confirmation of the termination of a TIR operation covered by the same TIR transport made out by another Contracting Party following the respective TIR operation or confirmation of the transfer of the goods in question to another Customs procedure or another system of Customs control, e.g. clearance for home use;</p>	

Original text	Various other proposals
<p>-the duly stamped corresponding counterfoils No. 1 or No. 2 in the TIR Carnet by such a Contracting Party or a copy thereof to be provided by the international organization referred to in Article 6 of the Convention which must confirm that it is a true copy of the original.</p> <p>Improved procedures in the use of TIR Carnets by transport operators</p> <p>In some Contracting Parties the transport operator does not have direct contacts with the competent Customs officials at the Customs office of destination before the consignee or his agents undertake the necessary Customs formalities for clearance of goods for home use or by any other Customs procedure following the TIR transit operation. With a view to allowing the transport operator or his driver to verify that the TIR procedure is properly terminated by the competent Customs officials, the transport operator or his driver are allowed, if they so wish, to keep the TIR Carnet and to provide the consignee or his agents only with a copy of the yellow voucher No. 1/No. 2 (not for Customs use) in the TIR Carnet, together with any other required documentation. Following the clearance of goods for home use or by any other Customs procedure, the transport operator or his driver should then proceed in person to the competent Customs officials to have his TIR Carnet certified.</p>	

ANNEX 9, Part III

<p style="text-align: center;">European Community ECE/TRANS/WP.30/2007/13</p>	<p style="text-align: center;">IRU ECE/TRANS/WP.30/2006/6</p>
<p><u>AUTHORIZATION OF AN INTERNATIONAL ORGANIZATION, AS REFERRED TO IN ARTICLE 1 (r) FOR THE ORGANIZATION AND FUNCTIONING OF AN INTERNATIONAL GUARANTEE SYSTEM AND TO PRINT AND DISTRIBUTE TIR CARNETS</u> <u>Conditions and requirements</u></p>	<p>AUTHORIZATION TO TAKE ON RESPONSIBILITY FOR THE ORGANIZATION AND FUNCTIONING OF AN INTERNATIONAL GUARANTEE SYSTEM AND TO PRINT AND DISTRIBUTE TIR CARNETS</p>
<p>Article 1 <u>The conditions and requirements to be complied with by the international organization authorized by the Administrative Committee to take on the responsibility for the organization and functioning of the international guarantee system and to centrally print and distribute TIR Carnets are:</u> <u>(a) Proven existence as an established organization representing the interests of the transport sector.</u> <u>(b) Proof of the sound financial standing of the international guarantee system.</u> <u>(c) Proven knowledge of its staff in the proper application of the TIR Convention.</u> <u>(d) Absence of serious or repeated offences against Customs or tax legislation.</u> <u>(e) Establishment of a written agreement [or any other legal instrument] between the organization and the Administrative Committee.</u></p>	<p>Article 1 In order to be authorized by the TIR Administrative Committee, in accordance with the Article 6.2bis, the international organization accepts by signing the agreement originating from Article 6.2bis: (1) to take on responsibility for the [effective] organization and functioning of an international guarantee system, and (2) to print and distribute TIR Carnets.</p>
<p>Article 2 <u>In order to be authorized by the Administrative Committee, the international organization, in accordance with Article 6.2bis, accepts by signing the agreement referred to in paragraph 1 (e), to perform the following functions:</u> <u>(a) to provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage;</u> <u>(b) to provide the competent bodies of the TIR Convention with information on the rules and procedures set out for the issue of TIR Carnets by national associations;</u> <u>(c) to provide the competent bodies of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;</u> <u>(d) to provide the competent bodies of the TIR Convention with timely and well founded information on trends in the numbers of non-terminated TIR operations, claims lodged or pending that might give rise to concerns with regard to the</u></p>	<p>Article 2 Without prejudice to the provisions of the TIR Convention, and in particular to Article 6.2bis and whilst fully respecting the competencies of the Contracting Parties, the international organization accepts to perform the following functions: (1) to provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage; (2) to provide the competent body(ies) of the TIR Convention, being the TIR Administrative Committee, the TIRExB as well as the Working Party on Customs Questions affecting Transport (WP.30), with information on the rules and procedures set out for the issue of TIR Carnets by national associations; (3) – (6) <i>same as Netherlands;</i></p>

<p style="text-align: center;">European Community <u>ECE/TRANS/WP.30/2007/13</u></p>	<p style="text-align: center;">IRU <u>ECE/TRANS/WP.30/2006/6</u></p>
<p><u>proper functioning of the TIR system or that could lead to difficulties for the continued operation of its guarantee system;</u></p> <p><u>(e) to provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;</u></p> <p><u>(f) to provide, at the request of the TIRExB, full and complete information on the functioning of the TIR system, provided such request does not infringe legislation concerning confidentiality, data protection, etc.: in case such information cannot be given, the international organization will specify the legal provisions or other reasons prohibiting the exchange of information;</u></p> <p><u>(g) to provide the TIRExB with details of the issuing price by the international organization of each type of TIR Carnet;</u></p> <p><u>(h) to take all reasonable steps to reduce the risk of counterfeiting TIR Carnets;</u></p> <p><u>(j) to take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet, have been detected;</u></p> <p><u>(k) to fully participate in cases where the TIRExB is called upon to facilitate the settlement of disputes;</u></p> <p><u>(l) to ensure that any problem involving fraudulent activities or other difficulties, with regard to the application of the TIR Convention, is immediately brought to the attention of the TIRExB;</u></p> <p><u>(m) In accordance with Annex 10 on the control system for TIR Carnets, to manage such a control system with national guaranteeing associations affiliated to the international organization and the Customs authorities and to inform the Contracting Parties and the competent body or bodies of the TIR Convention of significant problems encountered in the system;</u></p> <p><u>(n) to provide the competent bodies of the TIR Convention with statistics and data on the performances of Contracting Parties with regard to the control system;</u></p> <p><u>(o) to seek continuously to enhance the control system in order to improve its efficiency as a risk management and anti-fraud tool;</u></p> <p><u>(p) to be available for meetings with the TIRExB, the TIR Secretary, the TIR secretariat and other key organizations, active in the field of TIR;</u></p> <p><u>(q) to offer its good offices and experiences to support the training of interested parties, e.g. national associations.</u></p>	<p>(7) to provide the TIRExB with details of the issuing price by the international organization of each type of TIR Carnet;</p> <p><i>(8) – (11) same as Netherlands;</i></p> <p>(12) on the basis of the Recommendation adopted by the TIR Administrative Committee on 20 October 1995 on the Introduction of a control system for TIR Carnets [Annex 10 of the TIR Convention], to manage the control system with national guaranteeing associations affiliated to the international organization and the Customs Administrations and to inform the Contracting Parties and the competent body(ies) of the TIR Convention of significant problems encountered in the system;</p> <p><i>(13) – (16) same as Netherlands</i></p>

<p style="text-align: center;"><u>European Community</u> <u>ECE/TRANS/WP.30/2007/13</u></p>	<p style="text-align: center;">IRU ECE/TRANS/WP.30/2006/6</p>
<p><u>Article 3</u> When a guaranteeing association is asked, in accordance with the procedures set out in Article 11, to pay the sums referred to in Article 8, paragraph 1 it shall, in accordance with the written agreements referred to in Explanatory Note 0.6.2bis of Annex 6, inform the international organization of the reception of the claim. The international organization shall, within a time period of three months as prescribed in Article 11 paragraph 5, for the payment of the claim by the guaranteeing association, inform the guaranteeing association of its position concerning the claim.</p>	<p><u>Article 3</u> 1. The international organization shall meet the following conditions: (a) Proven existence as an established organization representing the interests of the transport sector. (b) Proof of the financial coverage of the international chain of guarantee by means of a certified and approved copy of the global guarantee contract referred to in Part I, Article 1(f)(v) of this Annex. (c) Proven knowledge and experience of the international organization in the proper application of the Convention. (d) Absence of serious or repeated offences against Customs or tax legislation in the country of establishment. 2. The international organization shall agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board.</p>
	<p>3. Authorization of an organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.</p>
<p><u>Article 4</u> The Administrative Committee shall revoke the authorization in case of serious or repeated non-compliance with these conditions and requirements. Should the Administrative Committee decide to revoke the authorization, the decision will become effective at the earliest six (6) months after the date of revocation.</p>	<p><u>Article 4</u> In case the Administrative Committee decides to revoke the authorization in accordance with Article 6.2bis of the Convention, the decision will become effective at the earliest six (6) months after the date of the revocation.</p>
<p><u>Article 5</u> The authorization of an international organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.</p>	
