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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

##### 140th session

Geneva, 9–12 June 2015

Item 3 (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:**

##### **Amendment proposals to the Convention:**

##### **Audit requirements for an authorized international organization**

### **Audit requirements for an authorized international organization**

#### **Note by the secretariat**

## **I. Mandate**

1. At its previous session, the Working Party took note of document ECE/TRANS/WP.30/2015/5, containing the results of consultations between the secretariats of the International Road Transport Union (IRU) and United Nations Economic Commission for Europe (UNECE) on the wording of the possible new provisions (o), (p) and (q) to Annex 9, Part III of the Convention.

2. The Working Party decided that the secretariat should prepare, in consultation with IRU, a new document on other relevant aspects of an auditing procedure by a United Nations competent body or, in particular, persons duly authorized by the United Nations or other competent bodies (such as TIR Executive Board (TIRExB) or the TIR Administrative Committee (AC.2)) to carry out inspections and audits of records and accounts relevant to the TIR Convention, of an authorized international organization (See ECE/TRANS/WP.30/278, paras. 21–22).

3. The present document has been prepared by the secretariat in line with the request of the Working Party.

## II. Amendment proposals containing audit requirements

4. Proposal by the Russian Federation (2014):

To add the following paragraphs 4 and 5 to Annex 8, Article 1 bis:

**“4. The Committee shall conduct regular examinations of all records and accounts of the international organization in order to ensure the effective organization and functioning of the international guarantee system relating to the application of the Convention, with subsequent disclosure of the results of such examinations to the Contracting Parties. Such examinations shall be conducted at least once a year.**

**5. As part of the examination mentioned in subparagraph 4, the Committee shall carry out independent audits of the activities of the international organization and guaranteeing associations, with subsequent disclosure of the results to the Contracting Parties.”**

5. Proposal by the secretariat (2010):

To add the following provisions (o), (p) and (q) to Annex 9, Part III, paragraph 2:

**“(o) maintain separate records and accounts containing information and documentation which pertain to the organization and functioning of an international guarantee system and the printing and distribution of TIR Carnets;**

**(p) allow access to the above records and accounts to the United Nations Office of Internal Oversight Services (OIOS), the United Nations Board of Auditors (BOA) or other persons duly authorized by the United Nations and at all times facilitate inspections and audits performed by them;**

**(q) engage an independent external auditor to conduct annual audits of the above records and accounts. Guidelines and terms of reference for the external audit shall be adopted by the Administrative Committee. The external audit shall be performed in accordance with International Standards on Auditing (ISA) and shall result in an annual audit report and a management letter, issued by the independent external auditor to the Administrative Committee, with copies sent directly to the Executive Secretary of the United Nations Economic Commission for Europe and the international organization concerned.”**

## III. Comments received (in 2011) from Contracting Parties on the provisions (o), (p) and (q)

6. The secretariat received inputs from the following countries (in English alphabetical order): Iran (Islamic Republic of), Kazakhstan, Russian Federation, Turkey and Ukraine. A summary of their comments is given below.

7. Iran (Islamic Republic of) is of the view that the provisions of the Agreement between IRU and UNECE meet all the requirements of transparency and strong financial position and, because of that, it would be appropriate to consider new Annex 9, Part III without (o), (p) and (q).

8. Kazakhstan feels that, in substance, the draft new Annex 9, Part III duplicates the provisions of the UNECE–IRU Agreement which meet all the requirements of transparency and sound financial standing. For this reason, Kazakhstan sees no need for introducing (o),

(p) and (q), as the requirements therein have been already fulfilled by the international organization and included in the UNECE-IRU agreement.

9. The Russian Federation proposes to keep (o) unchanged and to delete in (p) the reference to other persons duly authorized by the United Nations. To streamline audits by various actors and keep to a minimum possible differences between the outcome of external audits and audits by the United Nations services, it is also proposed that (p) be complemented with a new provision stipulating that audits by the United Nations services should be conducted upon request and according to the guidelines of AC.2. Thus, the following wording of (p) is proposed: "allow access to the above records and accounts to the United Nations Office of Internal Oversight Services (OIOS), the United Nations Board of Auditors (BOA) and at all times facilitate inspections and audits performed by them on the basis of requests and terms of reference established by the TIR Administrative Committee". The Russian Federation supports the proposed wording of (q), but feels that the issue of correspondence between the ISA and the national law of the country where the international organization is resident should be studied further.

10. Turkey fully supports the proposal for a separate and detailed description of the authorization and duties of an international organization through the introduction of a new Part III to Annex 9. Turkey is also of the view that, to ensure efficiency and transparency of the TIR system, it is necessary that the authorized international organization be subject to audit according to the TIR Convention. In parallel with Annex 9, Part I Article 1 (f) (vi) which requires that the national guaranteeing associations "...allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure", records and accounts of the international organization should be audited as well. To this end, Turkey supports the draft new Annex 9, Part III, including provisions (o), (p) and (q). On the other hand, taking into account the discussions at the 127th session of WP.30, it is considered that in (p) the reference to "other persons duly authorized by the United Nations" should be deleted.

11. Ukraine proposes to delete item (p) and modify (q) to read "engage an independent external auditor to conduct annual audits of the above records and accounts. The external audit shall result in an annual audit report to the Administrative Committee to confirm that the accounts of the international organization comply with the applicable national legislation".

#### **IV. Comments received in 2014–2015 from Contracting Parties on Annex 8, Article 1 bis, paragraphs 4 and 5**

12. The secretariat received inputs from the following countries (in English alphabetical order): Belarus, European Union (EU), Turkey and Switzerland. IRU also made some comments. A summary of their comments is given below.

13. Belarus supports the proposal to amend Annex 8, Article 1 bis to extend the competence of AC.2 to conducting regular examinations of the all records and accounts kept by IRU in relation to the application of the Convention.

14. The EU welcomes any proposal which would achieve full transparency of the financial issues related to the functioning of the TIR system. In this sense, the EU also suggests to continue discussing the amendment proposals to the TIR Convention relating to the audit requirements for an authorized international organization. The EU also supports the request made by TIRExB to UNECE to seek advice on the implementation of the new obligations under Annex 9, Part III and on the proposed provisions (so called o, p, q) from the United Nations OIOS as reported in ECE/TRANS/WP.30/276, para. 21.

15. Turkey sees the delegation of authority to AC.2 to conduct periodic examinations of all records and accounts of IRU relating to application of the Convention, with subsequent disclosure of the results of such examination to the Contracting Parties, as a move towards transparency and accountability of the international organization. It would reinforce the well-being and success of the TIR system. On the other hand, Turkey indicates that the amendment proposal to subparagraph 5 contains “carry[ing] out independent audits” as well, which most probably might bring a requirement for a matter of financial resources. Without addressing the financial background of the foreseen activity, the arrangement might remain ineffective. Accordingly, the wording of the proposal to subparagraph 5 might be edited in order to give AC.2 the option for choosing the way on how it fulfils this mandate by using the word “may” instead of “shall.” Turkey further believes that the proposal has virtually the same content with the proposal which came up with the amendment packages and the approval of the revaluation process of the articles (o), (p) and (q) in Annex 9, Part III. Therefore, it would be more appropriate to unite this proposal together with the already existing studies.

16. Switzerland indicates that according to the proposed paragraph 4, Contracting Parties should conduct regular examinations of all records and accounts of the international organization. The proposed paragraph 5 stipulates that the audits carried out have been conducted independently. In the view of Switzerland there seems to be a contradiction between these two provisions. Usually, the bodies authorized to conduct such audits are trusted international companies, which operate independently from their clients. This being the case, AC.2 could be informed of the results of the audit and invite, if required and in consultation with the international organization, a representative of the audit company to participate in its meetings. It goes without saying that the examinations by AC.2 are limited to the application of the TIR Convention by the concerned international organization. In conclusion, this proposals requires further discussions.

17. IRU is not opposed to providing requested documentation, or to undergoing a specific audit related to the management of the TIR system that may be required by virtue of the TIR Convention, as results from its current version or would result from any amendment. IRU already supported the idea of including "more transparency requirements in the Convention" during a previous meeting of the Working Party.

## **V. Consultations between the United Nations Office of Internal Oversight Services and UNECE secretariat**

18. The secretariat met several times with OIOS in Geneva to discuss the requirements to be fulfilled by IRU as well as the wording of the possible new provisions (o), (p) and (q).

19. OIOS in Geneva has, in March 2015, asked the opinion of its headquarters in New York on the provisions (o), (p) and (q). The services in New York were in favour of including an audit clause based on the one contained in the general conditions of contracts for the provisions of services to the United Nations. However the secretariat was advised against referring to OIOS or the United Nations Board of External Auditors (BOA) by name in the Convention.

20. OIOS also clarified that it selects its audits on the basis of risk assessment. Therefore, OIOS will not perform any audit on request, but will include any information it receives in its risk assessment.

## VI. Consultations between UNECE and IRU secretariats

21. After analysing the amendment proposals and received comments, and following consultation with IRU, the UNECE secretariat is of the view that the proposals seem complementary.

22. From the received comments by Contracting Parties it could be concluded that there is a broad support for providing the Committee with the possibility to conduct regular examinations of the accounts of the international organization regarding the application of the Convention. Various Contracting Parties mention also that in provision (p) the reference to “other persons duly authorized by the United Nations” should be deleted.

23. However, since the Committee is physically not in the position to check the records and accounts on site of the international organization, such examination has to be conducted on the basis of documentation and financial statements submitted by the international organization in fulfilment of Annex 9, Part III. In order to assure the Committee that the submitted financial statements are accurate and truthful, they should be accompanied by an audit report by an independent auditor. It is a standard practice that audit reports are financed by the auditee. To facilitate the examination by the Committee of such financial matters, the Committee could invite the representative of the independent auditor to attend that session. Furthermore, to provide the Committee with flexibility in this task, the Committee could also request that such examinations are performed by the competent United Nations services.

24. Taking into account paras. 18–23 above, the UNECE secretariat suggests that the amendments proposals could be modified as follows. The proposed modifications to the original amendments proposals are marked in bold and strikethrough.

25. To add the following paragraphs 4 and 5 to Annex 8, Article 1 bis:

“4. The Committee ~~shall~~ **may** conduct ~~regular yearly~~ **regular yearly** examinations of ~~all records and accounts of the international organization~~ **the records and accounts relating to the application of the Convention based on documentation submitted by the international organization, as per Annex 9, Part III**, in order to ensure the effective organization and functioning of the international guarantee system ~~relating to the application of the Convention~~, [with subsequent disclosure of the results of such examinations to the Contracting Parties]<sup>1</sup>. ~~Such examinations shall be conducted at least once a year.~~

5. ~~As part of~~ **Without prejudice to** the examination mentioned in paragraph 4, the Committee **may request additional examinations to be carried out by the competent United Nations services of all records and accounts containing information and documentation which pertains to the organization and functioning of an international guarantee system and the printing and distribution of TIR Carnets maintained by the international organization** ~~carry out independent audits of the activities of the international organization and guaranteeing associations~~, with subsequent disclosure of the results to the **Committee.”** Contracting Parties.”

<sup>1</sup> Considering that the Contracting Parties are members of the Committee, this sentence is in the view of the secretariat superfluous.

26. To add the following provisions (o), (p) and (q) to Annex 9, Part III, paragraph 2:

“(o) maintain separate records and accounts containing information and documentation which pertain to the organization and functioning of an international guarantee system and the printing and distribution of TIR Carnets;

~~(p) — allow access to the above records and accounts to the United Nations Office of Internal Oversight Services (OIOS), the United Nations Board of Auditors (BOA) or other persons duly authorized by the United Nations and at all times facilitate inspections and audits performed by them;~~

**(p) provide its full and timely cooperation with any inspections or audit carried out by the United Nations on behalf of Contracting Parties, upon the request of the TIR Administrative Committee, and relating to any aspect of its authorization as well as the obligations and operations performed thereunder. Such cooperation shall include, but shall not be limited to, the obligation of the international organization to make available its personnel and any relevant documentation for such purposes at reasonable times and under reasonable conditions and to grant to the United Nations or to any other competent entity duly authorized by the United Nations on behalf of Contracting Parties, access to the premises, personnel and documentation of the international organization at reasonable times and on reasonable conditions. The international organization shall require its agents, including, but not limited to, its attorneys, accountants or other advisers, to reasonably cooperate with any such inspections or investigations.<sup>2</sup>**

(q) engage an independent external auditor to conduct annual audits of the ~~above~~ records and accounts mentioned under paragraph (o). ~~Guidelines and terms of reference for the external audit shall be adopted by the Administrative Committee.~~ The external audit shall be performed in accordance with International standards on Auditing (ISA) and shall result in an annual audit report and a management letter **which shall be submitted to the Committee.**”

## VII. Considerations by the Working Party

27. The Working Party is invited to consider the proposals for an audit procedure by the UNECE and IRU secretariats, the outcome of the consultations between the UNECE secretariat and OIOS, as well as discuss the way forward.

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<sup>2</sup> Clause drafted by the UNECE secretariat based on the audit clause in the General conditions of Contracts for the provisions of Services to the United Nations as requested by OIOS. IRU proposed to maintain the clause as follows:

“(p) allow access to the above records and accounts to the competent United Nations Services and at all times facilitate inspections and audits performed by them; .”