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Inland Transport Committee

Working Party on Customs Questions affecting Transport

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

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

Revision of the Convention:

Amendment proposals to the Convention

Amendment proposals to the Convention

Transmitted by the Government of Ukraine*

I. General information and mandate

At its 139th session, the Working Party considered document ECE/TRANS/WP.30/2014/17, transmitted by the Government of the Russian Federation and containing various proposals to amend the TIR Convention, in combination with document ECE/TRANS/WP.30/2015/1 and its Add.1, consolidating comments from various contracting parties on the proposals made by the Russian Federation in documents ECE/TRANS/WP.30/2014/17 and ECE/TRANS/WP.30/2014/14 (see ECE/TRANS/WP.30/278, paragraphs 7–15). Following the discussion, the Working Party invited delegations to transmit any further comments relating to the proposals to the secretariat by 1 April 2015 (ECE/TRANS/WP.30/278, paragraph 15, last line). This document contains comments submitted by the Government of Ukraine.

* The present document contains the text submitted to the secretariat reproduced without any changes.



A. Comments relating to the amendment proposals submitted by the Russian Federation

<i>Provision of the TIR Convention, 1975</i>	<i>Proposal of the Russian Federation</i>	<i>Argument for the Russian proposal</i>	<i>Comments of the State Fiscal Service of Ukraine</i>
<p><u>Annex 9, part I, paragraph 3, subparagraph (ii)</u></p> <p>(ii) accept the maximum sum per TIR Carnet determined by the Contracting Party which may be claimed from the association in accordance with Article 8, paragraph 3 of the Convention;</p>	<p><u>Amend Annex 9, part I, paragraph 3 (ii) as follows:</u></p> <p>(ii) accept the maximum sum per TIR Carnet which may be claimed from the association, if a maximum sum is determined by the Contracting Party in accordance with Article 8, paragraph 3 of the Convention;</p>	<p>Exemption of the contracting party from the obligation to set the maximum amount of customs duties for which payment may be claimed under a single TIR Carnet from the guaranteeing association, in order to recover payment in full of the customs duties from the guaranteeing association.</p> <p>There have recently been many cases in which the amount of customs duties payable on goods transported under a TIR Carnet has exceeded the maximum amount that could be claimed from the guaranteeing association under a TIR Carnet. Such situations result in additional customs operations for such goods, including those of a customs escort. Furthermore, if the goods are lost, there are then significant difficulties in collecting the full amount of customs duties payable, which is prejudicial to the budget of the Russian Federation.</p> <p>If the contracting parties are allowed to decide themselves whether it is necessary to set a maximum amount of customs</p>	<p><u>Annex 9, part I, paragraph 3, subparagraph (ii)</u></p> <p>The national guaranteeing association's obligation to guarantee operations carried out under cover of TIR Carnets is governed by the contract between the guaranteeing associations and the competent authorities.</p> <p>In that regard, the information provided by the Russian Federation in the explanatory note does not correspond with the proposed amendments. Ukraine therefore proposes that this issue should be taken up at the next session of WP.30, during which the Russian Federation must present additional arguments.</p>

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		duties to be covered by the relevant guaranteeing association, the average duration of customs operations at the customs border of the customs union will decline, and the full amount of customs duties will be secured for the budget of the Russian Federation.	
<u>Annex 8, article 1 bis</u>	Add the following subparagraphs 4 and 5 to Annex 8, Article 1-bis:		<u>Annex 8, article 1 bis</u>
1. The Committee shall consider any proposed amendment to the Convention in accordance with Article 59, paragraphs 1 and 2.	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.	Delegation of authority to the TIR Administrative Committee to conduct periodic examinations of all records and accounts of the International Road Transport Union relating to application of the Convention, with subsequent disclosure of the results of such examination to the contracting parties.	An effective system of internal controls under the TIR Convention will help to minimize financial and operational risks and the risk of deterrence and improve the quality of financial reporting.
2. The Committee shall monitor the application of the Convention and shall examine any measure taken by Contracting Parties, associations and international organizations under the Convention and their conformity therewith.	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.		It is very important to ensure the quality of all statutory audits required by the international legislation. Therefore, all statutory audits must be performed on the basis of international auditing standards.
3. The Committee, through the TIR Executive Board, shall supervise and provide support in the application of the Convention at the national and international levels.			Auditors should perform statutory audits independently and must not participate in the internal decision-making processes of the audited entity.
			An analysis of the regulation proposed by the Russian Federation reveals that the proposed regulation is declaratory in nature and does not contain rules governing the auditing procedure. An auditing system can be introduced by specifying the requirements, objectives and methods of the audit, stipulating which bodies perform the audit and which entities are subject to it, and establishing the limits of the terms of reference and a uniform procedure for

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<p><u>Article 1, paragraph (q)</u></p> <p>the term “guaranteeing association” shall mean an association authorized by the Customs authorities of a Contracting Party to act as guarantor for persons using the TIR procedure.</p>	<p>Bring <u>Article 1, paragraph (q)</u>, into conformity with Article 6, paragraph 1, omit the term “Customs authorities”</p> <p>the term “guaranteeing association” shall mean an association authorized by a Contracting Party to act as guarantor for persons using the TIR procedure.</p>	<p>Amendment to standardize terminology used in the Convention</p>	<p>the audit.</p> <p><u>Article 1, paragraph (q)</u></p> <p>We propose defining the term “guaranteeing association” as follows: “the term ‘guaranteeing association’ shall mean an association authorized by the competent body of a Contracting Party to act as guarantor for persons using the TIR procedure.”</p>
<p><u>Article 3, paragraph (b)</u></p> <p>the transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6 and must be performed under cover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention.</p>	<p>Bring <u>Article 3, paragraph (b)</u>, into conformity with Article 6, paragraph 1. In Article 3, paragraph (b) replace the word “approved” with the words “authorized by a Contracting Party”</p> <p>the transport operations must be guaranteed by associations authorized by a Contracting Party in accordance with the provisions of Article 6 and must be performed under cover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention.</p>	<p>Amendment to standardize terminology used in the Convention</p>	<p><u>Article 3, paragraph (b)</u></p> <p>The proposals of the Russian Federation contradict the TIR Convention, which states that compliance by the guaranteeing association with the minimum conditions and requirements, as laid down in Article 6 and Annex 9, Part I, of the Convention is essential. If that requirement is met, the contracting party authorizes the guaranteeing association to guarantee the transport operations under cover of a TIR Carnet conforming to the model in Annex 1 to the Convention.</p>
<p><u>Annex 9, part I, paragraph 3, subparagraph (vii)</u></p> <p>allow the competent authorities to</p>	<p>Amend <u>Annex 9, part I, paragraph 3, subparagraph (vii)</u> as follows:</p> <p>allow the competent authorities to</p>	<p>Amendment to standardize</p>	<p><u>Annex 9, part I, paragraph 3, subparagraph (vii)</u></p> <p>In accordance with Article 1, paragraph</p>

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verify all records and accounts kept relating to the administration of the TIR procedure;	verify all records and accounts kept relating to the application of the Convention ;	terminology used in the Convention	(q), the term “guaranteeing association” means an association authorized by the customs authorities of a contracting party to act as guarantor for persons using the TIR procedure. Annex 9 to the Convention governs access to the TIR procedure and the conditions and requirements to be complied with by associations in order to be authorized by contracting parties to issue TIR Carnets and act as guarantor. Accordingly, a guaranteeing association authorized to act as guarantor under the TIR Convention is responsible only for the TIR procedure, and not for the implementation of the TIR Convention as a whole. Therefore, Ukraine does not support the proposal of the Russian Federation.
<u>Annex 9, Part I, paragraph 5</u>	<u>Amend Annex 9, part I, paragraph 5</u> as follows: The Contracting Party in which the association is established shall revoke the authorization to issue TIR Carnets and to act as guarantor in case of non-compliance with these conditions and requirements. Should a Contracting Party decide to revoke the authorization, the decision shall become effective at the earliest three (3) months after the date of revocation.	Amendment to standardize terminology used in the Convention	<u>Annex 9, part I, paragraph 5</u> We propose amending Annex 9, Part I, paragraph 5 as follows: “The Contracting Party in which the guaranteeing association is established shall terminate the agreement concluded in line with national law, in case of non-compliance by the guaranteeing association with the conditions and requirements laid down in Annex 9, Part I.”
<u>Annex 9, Part I, paragraph 7</u>	<u>Amend Annex 9, Part I, paragraph 7</u> as follows: The conditions and requirements laid down above are without prejudice to	Amendment to standardize terminology used in the	<u>Annex 9, Part I, paragraph 7</u> In the interests of ensuring a uniform approach to the interpretation of Annex 9,

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additional conditions and requirements Contracting Parties may wish to prescribe.	<p>prejudice to additional conditions and requirements a Contracting Party may wish to prescribe.</p> <p>Expansion of the membership of the Executive Board of the Convention and establishment of a rule whereby the Board should consist predominantly of experts from the Contracting Parties to the Convention that have the largest trade turnover under the TIR regime.</p>	<p>Convention</p> <p>Expansion of the membership of the Executive Board of the Convention and establishment of a rule whereby the Board should consist predominantly of experts from the contracting parties to the Convention that have the largest turnover under the TIR regime.</p>	<p>Part I, paragraph 7, we propose discussing the preparation of an explanatory note to that provision, setting out its recommended implementation.</p> <p>The main role of the TIR Executive Board is to supervise the implementation of the TIR Convention. As it stands currently, the procedure to establish the membership of the TIR Executive Board is based on the individual qualities of the Board members, which fully complies with standards of the TIR Convention and is not dependent on the size of trade turnover under the TIR regime.</p>

B. Proposals of Ukraine to amend the TIR Convention

<i>Provision of the TIR Convention, 1975</i>	<i>Proposal of Ukraine</i>	<i>Arguments for the amendments</i>
<p><u>Article 11, paragraph 4</u></p> <p>4. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it.</p>	<p><u>Amend Article 11, paragraph 4 as follows:</u></p> <p>4. The guaranteeing association shall pay the amounts claimed within a period of one month from the date when a claim for payment is made against it.</p>	<p><u>Article 11, paragraph 4</u></p> <p>Reduction of the claim period in order to accelerate the process to recover the guaranteed amount – import and export duties and taxes and any default interest that may be due in accordance with the customs laws of the Contracting Party.</p>
<p>Chapter II, Article 6</p> <p>ISSUE OF TIR CARNETS</p>	<p>Supplement Article 6 with paragraph 2 ter</p> <p>2 ter</p> <p>If guaranteeing associations no longer comply with the minimum conditions and requirements laid down in Article 6 and Annex 9, Part I, of this Convention, the international organization authorized by the Administrative Committee under Article 6.2 bis of the Convention to take on responsibility for the effective organization and functioning of an international guarantee system may suspend the issuance of TIR Carnets to them, and also the guarantee of TIR Carnets issued to them.</p>	<p>Chapter II, Article 6</p> <p>As it stands currently, the TIR Convention needs to be supplemented by a self-regulation mechanism, in order to minimize the negative impact on the interests of the Contracting Parties.</p> <p>Therefore, Ukraine proposes introducing a self-regulation mechanism, by recognizing the right of the international organization responsible for the effective organization and functioning of the international guarantee system to suspend the issuance of TIR Carnets to the guaranteeing association and its guarantee of TIR Carnets issued to the guaranteeing association if such an association no longer complies with the minimum conditions and requirements laid down in Article 6 and Annex 9, Part I, of the Convention.</p>
<p><u>Article 18</u></p> <p>A TIR transport may involve several Customs offices of departure and destination, but the total number of Customs offices of departure and destination shall not exceed four. The TIR Carnet may only be presented to Customs offices of destination if all Customs offices of departure have accepted the TIR Carnet.</p>	<p><u>Amend article 18 as follows:</u></p> <p>A TIR transport may involve several Customs offices of departure and destination, but the total number of Customs offices of departure and destination shall not exceed eight. The TIR Carnet may only be presented to Customs offices of destination if all Customs offices of departure have accepted the TIR Carnet.</p>	<p><u>Article 18</u></p> <p>To enable the holder of the TIR Carnet to transport consolidated cargo to customs offices of destination in the Contracting Party where the TIR transport of a part load of goods ends.</p>

<i>Provision of the TIR Convention, 1975</i>	<i>Proposal of Ukraine</i>	<i>Arguments for the amendments</i>
<p><u>Article 23</u></p> <p>The Customs authorities shall not:</p> <ul style="list-style-type: none"> • require road vehicles, combinations of vehicles or containers to be escorted at the carriers' expense on the territory of their country, • require examination <u>en route</u> of road vehicles, combinations of vehicles or containers and their loads <p>except in special cases.</p>	<p><u>Amend Article 23 as follows:</u></p> <p>The Customs authorities shall not:</p> <ul style="list-style-type: none"> • require road vehicles, combinations of vehicles or containers to be escorted at the carriers' expense on the territory of their country or require that the carriers apply another form of guarantee provided for under national legislation as an additional measure of guarantee; • require examination <u>en route</u> of road vehicles, combinations of vehicles or containers and their loads <p>except in special cases.</p>	<p><u>Article 23</u></p> <p>The legislation of the majority of Contracting Parties does not provide for the use of escort as a measure of guarantee. This provision is outdated and leads to additional expenses for the carriers that ultimately affect the cost of transport. In order to update the TIR Convention, Ukraine proposes supplementing Article 23 of the TIR Convention with a provision that regulates the ability to apply additional measures of guarantee (bank guarantees, monetary deposits and other guarantee documents) provided for under the national legislation of the Contracting Parties, which would allow the carrier to transport goods under the TIR procedure with minimal delays in the journey and allow the payment of customs duties in the event of a situation covered by a guarantee.</p>
<p><u>Article 42 bis</u></p> <p>The competent authorities, in close cooperation with the associations, shall take all necessary measures to ensure the proper use of TIR Carnets. To this effect they may take appropriate national and international control measures. National control measures taken in this context by the competent authorities shall be communicated immediately to the TIR Executive Board which will examine their conformity with the provisions of the Convention. International control measures shall be adopted by the Administrative Committee.</p>	<p><u>Article 42 bis</u></p> <p>The competent authorities, in close cooperation with the guaranteeing associations, shall take all necessary measures to ensure the proper use of TIR Carnets. To this effect they may take appropriate national and international control measures. National control measures taken in this context by the competent authorities shall be communicated immediately to the TIR Executive Board which will examine their conformity with the provisions of the Convention. International control measures shall be adopted by the Administrative Committee.</p>	<p><u>Article 42 bis</u></p> <p>Amendment to standardize terminology used in the Convention</p>
<p><u>Annex 9, part III, paragraph 2</u></p> <p>2. Pursuant to the authorization, the international organization shall:</p>	<p><u>Amend Annex 9, Part III, paragraph 2 with the following subparagraph:</u></p> <p>(o) suspend the issuance of TIR Carnets to the guaranteeing association and its guarantee of TIR Carnets issued to the guaranteeing association if such an association does not comply with the minimum conditions and</p>	<p><u>Annex 9, part III, paragraph 2</u></p> <p>As it stands currently, the TIR Convention needs to be supplemented by a self-regulation mechanism, in order to minimize the negative impact on the interests of the Contracting Parties.</p>

Provision of the TIR Convention, 1975

Proposal of Ukraine

Arguments for the amendments

requirements laid down in Article 6 and Annex 9, Part I of this Convention.

Therefore, Ukraine proposes introducing a self-regulation mechanism, by recognizing the right of the international organization responsible for the effective organization and functioning of the international guarantee system to suspend the issuance of TIR Carnets to the guaranteeing association and its guarantee of TIR Carnets issued to the guaranteeing association if such an association no longer complies with the minimum conditions and requirements laid down in Article 6 and Annex 9, Part I of the Convention.
