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**ECONOMIC COMMISSION FOR EUROPE**

Informal document WP.30 No. 5 (2009)\*

INLAND TRANSPORT COMMITTEE

10 June 2009

Working Party on Customs Questions affecting Transport ENGLISH ONLY

One-hundred-and- twenty-second session

Geneva, 16 – 19 June 2009

Item 9 (b) (ii) of the provisional agenda

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Item 9 (b) (ii) of the provisional agenda

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

Amendment proposals for the Convention

Note by the secretariat

**A. BACKGROUND**

1. The Working Party, at its 121<sup>st</sup> session, considered the outstanding amendment proposals to Annex 9 (part I and a new part III), as laid down in document ECE/TRANS/WP.30/2009/5. The Working Party endorsed in principle the proposals by EC regarding Annex 9, part I, subject to the deletion of paragraph 3 (vi) and of the comment thereto.

2. The Working Party also had a first exchange of views with respect to the authorization and duties of an international organization, as proposed in a new part III of Annex 9. In particular, the Working Party discussed whether paragraph 1 (c) of part III should be redrafted to incorporate a mandate by AC.2 to UNECE to sign an agreement with an international organization which

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\* The present document replaces document ECE/TRANS/WP.30/2009/9 which has not been issued due to time constraints.

would include the acceptance of that international organization of its duties as set out in paragraph 2. The Working Party decided to revert to this issue at the present session. Having proposed some other modifications to the text, the Working Party requested the secretariat to revise the document accordingly and to align, where necessary, the content with the already existing provisions of the TIR Convention. With a view to facilitating discussions at its next session, the Working Party invited delegations to submit to the secretariat not later than on 15 March 2009 comments or proposals to document ECE/TRANS/WP.30/2009/5 (ECE/TRANS/WP.30/242, para. 32).

3. The secretariat has prepared Informal document WP.30 No. 5 (2009) for consideration by the Working Party, containing, the preliminary adopted text of Annex 9, Part I together with some suggestions by the secretariat for improvement of the text.

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Annex 9

Part I

AUTHORIZATION FOR ASSOCIATIONS TO ISSUE TIR CARNETS AND TO ACT AS  
GUARANTOR

Conditions and requirements

1. The conditions and requirements to be complied with by associations in order to be authorized by Contracting Parties to issue TIR Carnets and to act as guarantor in accordance with Article 6 of the Convention are:
  - (a) Proven existence for at least one year as an association established in the Contracting Party where the authorization is issued.
  - (b) Proof of sound financial standing and organizational capabilities enabling **the association**<sup>1</sup> to fulfil its obligations under the Convention.
  - (c) Absence of serious or repeated offences against Customs or tax legislation.
  - (d) Establishment of a written agreement or any other legal instrument between the association and the competent authorities of the Contracting Party in which it is established including the acceptance by the association of its duties as set out in paragraph 3 of this Article.
2. A certified copy of the written agreement or any other legal instrument referred to under paragraph 1 (d) together, if necessary, with a certified translation into English, French or Russian, shall be deposited with the TIR Executive Board. Any changes shall be immediately brought to the attention of the TIR Executive Board.
3. The duties of the association are to:
  - (i) comply with the obligations laid down in Article 8 of the Convention;

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<sup>1</sup> Proposal by the secretariat for editorial reasons.

- (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;
- (iii) verify continuously and, in particular, before requesting authorization for access of persons to the TIR procedure, the fulfilment of the minimum conditions and requirements as laid down in Part II of this Annex;
- (iv) provide its guarantee for all liabilities incurred in the country in which it is established in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated;
- (v) cover its liabilities to the satisfaction of the competent authorities of the **Contracting Party**<sup>2</sup> in which it is established with an insurance company, pool of insurers or financial institution. The insurance or financial guarantee contract(s) shall cover the totality of its liabilities in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

The time to give notice for the termination of the insurance or financial guarantee contract(s) shall be not less than the time to give notice for the termination of the written agreement or any other legal instrument **as referred to in paragraph 1 (d)**<sup>3</sup>. A certified copy of the insurance or financial contract(s) as well as all subsequent modifications thereto shall be deposited with the TIR Executive Board, including a certified translation, if necessary, into English, French or Russian.

- (vi) provide the TIR Executive Board annually with the price of each type of TIR Carnets it issues**<sup>4</sup>;
- (vii) allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure;
- (viii) accept a procedure for settling efficiently disputes arising from the improper or fraudulent use of TIR Carnets, whenever possible without recourse to courts;

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<sup>2</sup> The secretariat is of the view that the term 'Parties' should be changed into 'Party' for the sake of consistency with the rest of the text of the article.

<sup>3</sup> In view of the renumbering of the various paragraphs of Annex 9, Part I, the secretariat proposes to clarify that the reference is to 'paragraph 1 (d)' rather than to only '(d)'.

<sup>4</sup> The secretariat proposes to add a new subparagraph (vi) with a view to facilitate the mandate of the TIRExB to monitor the price of TIR Carnets in accordance with the provisions of Annex 8, Article 10 (h) of the Convention.

- (ix) ~~agree that any serious or repeated non-compliance with the present conditions and requirements will lead to the authorization to issue TIR Carnets and to act as guarantor<sup>5</sup> being revoked;~~<sup>6</sup>
- (ix) comply strictly with the decisions of the competent authorities of the Contracting Party in which it is established concerning the revocation of the authorization or the exclusion or withdrawal of persons in line with Article 6 and<sup>7</sup> Article 38 of the Convention and Part II of this annex;
- (x) agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board in as much as the competent authorities of the Contracting Party in which the association is established have accepted them.
4. When 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, it shall, in accordance with the written agreement referred to in the Explanatory Note 0.6.2bis-1<sup>8</sup> to Article 6, paragraph 2bis, inform the international organization of the reception of the claim.
5. The Contracting Party in which the association is established shall revoke the authorization to issue TIR Carnets and to act as guarantor<sup>9</sup> 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.
6. The authorization of an association under the terms set out above shall be without prejudice to that association's responsibilities and liabilities under the Convention.
7. The conditions and requirements laid down above are without prejudice to additional conditions and requirements Contracting Parties may wish to prescribe.

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<sup>5</sup> The secretariat is of the view that the words "and to act as guarantor" should be added for the sake of consistency with the title of Part I.

<sup>6</sup> The secretariat is of the view that this subparagraph should be deleted, as it does not seem to be relevant in view of the provision of Annex 9, Part I, Article 5.

<sup>7</sup> The secretariat proposes to amend the provision to also include the wording of Article 6, paragraph 4 and Annex 9, Part II, Article 4.

<sup>8</sup> Considering that Article 6.2bis has two Explanatory Notes, the text should be improved.

<sup>9</sup> The secretariat is of the view that the words "and to act as guarantor" should be added for the sake of consistency with the title of Part I.