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Working Party on Customs Questions
affecting Transport

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**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS
UNDER COVER OF TIR CARNETS**

(TIR CONVENTION, 1975)

Application of the Convention

Proposals for comments to Articles 21, 23 and 36 of the Convention

Transmitted by the International Transport Union (IRU)

A - CUSTOMS ESCORTS

I. Problem

1. TIR transports are more and more often stopped at the border crossings at certain countries because the value of the cargo or the Customs value of the goods transported amounts to USD 50,000 or above.
2. Some Customs authorities (request under these circumstances the use of escort services) or refuse the acceptance of the TIR Carnet and require a national Customs document or a T document - which is in principle and financially speaking the same as requiring an additional guarantee – which is not in line with Articles 4 and 23 as well as the comments to Article 8.3 of the TIR Convention.
3. Even though the TIR Convention foresees, in these cases, the right to impose, in exceptional cases, escort services, such a requirement depends in practice on subjective criteria which differ between Customs offices and between Customs officials.
4. In order to avoid such uncertainties for TIR Carnet holders which is both expensive in terms of money and time (for the transport operators and for his clients), it seems necessary that the WP.30 and the Administrative Committee reconfirm that this type of activity must, first of all, remain exceptional (and should only be applied in cases of imminent risk such as partial or total loss of the goods) and should moreover be clearly “explained to the TIR Carnet holders and their representatives, the drivers.
5. This could be achieved by modifying the comment to Article 23 (and to Article 8.3) which could read as follows:

II - Proposal

Comment to Article 23

“Escort of road vehicles

In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subject 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. (Similarly to and without prejudice to Article 48). Customs authorities shall not refuse acceptance of TIR Carnets and require the utilization of another national Customs transit procedure or the Community or Common transit procedure. 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 carrier’s expense on the territory of their country. In such cases, Customs authorities insert an appropriate inscription and explanation into the TIR Carnet (Certified report).

(TRANS/GE/.30//59, paragraphs 34 and 35; TRANS/WP.30/137, paragraphs 75 and 76; TRANS/WP.30/159, paragraph 25; TRANS/WP.30/....)”

B - TRANSPORT OF ILLEGAL IMMIGRANTS UNDER COVER OF TIR CARNETS

I - Problem

6. Unfortunately, it happens these days more and more often that, without knowledge of the TIR Carnet holder and his driver, illegal immigrants hide themselves within the sealed load compartment of a vehicle under cover of TIR Carnets.

7. With a view to avoid that such illegal immigration continues, it seems to be necessary that the Working Party and the Administrative Committee provide guidance to the TIR Carnet holder or to the Customs authorities on what should be done if such occurrences happen during a TIR transport.

8. This could be done by adding a comment to Articles 24 and 36 which could read as follows:

II - Proposal

Comment to Article 21

“Illegal immigrants

In case the road vehicle, the combination of vehicles or containers loaded is (are) presented spontaneously by the TIR Carnet holder or his representative to the Customs authorities with a view to verifying, at the time of loading onto another non-road mode of transport, whether such road vehicle, combination of vehicles or these containers carry illegal immigrants, these Customs authorities undertake such verification of the road vehicle, the combination of vehicles or containers loaded thereto. If such verification does not show the presence of illegal immigrants on board of the road vehicle, the combination of vehicles or containers loaded onto these vehicles, the Customs authorities indicate this fact in box 8 of the Certified report and proceed, with regard to other formalities, in accordance with the provisions of Article 35.

(TRANS/WP.30/...)”

Comment to Article 36

Application of sanctions

In case where, due to the circumstances or as a result of Customs control measures undertaken during loading of the road vehicle, the combination of vehicles or containers loaded thereon onto one of the non-road modes of transport, it has become obvious that:

- neither the TIR Carnet holder nor his staff are responsible for infringements into the TIR Convention and

- the infringements have occurred during the transport of the road vehicle, the combination of road vehicles or containers on board of one of the other non-road transport modes and
- during this non-road transport, it was not possible for the TIR Carnet holder or his staff to keep control over their vehicle, the combination of vehicles or containers loaded thereon as well as over the goods carried, particularly because of the rules applicable to this non-road transport,

concerned Customs authorities do not apply the sanctions which are foreseen in their legislation, particularly those relating to illegal immigration, neither to the TIR Carnet holder nor to his staff, but only to the persons actually responsible. In such a case, the TIR Carnet holder and his staff as well as the road vehicle, the combination of vehicles or containers loaded thereon and the transported goods are allowed by the Customs authorities to continue the TIR transport.
