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**ECONOMIC COMMISSION FOR EUROPE**

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions

affecting Transport

(One-hundred-and-fourth session, 17-20 June 2003,  
agenda item 7 (b) (iv))

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

**Revision of the Convention**

**Draft amendments on the introduction of a control system for TIR Carnets**

**Note by the secretariat**

**A. INTRODUCTION**

1. At its one-hundredth-and third session, the Working Party considered the amendment proposals transmitted by Latvia concerning the introduction in the Convention of a control system for TIR Carnets (TRANS/WP.30/2003/5).

2. The Working Party, in general, considered that the proposal would contribute to improving the exchange of information between Customs authorities and guaranteeing associations and international organizations issuing TIR Carnets and would strengthen the security of the TIR system. The Working Party considered that the Convention should only make a generic reference to the international organization (and its control system) authorized to print and guarantee TIR Carnets. The Working Party invited Contracting Parties to submit their amendment proposals to the

secretariat as soon as possible, with the aim that the secretariat could prepare an amended proposal for the forthcoming session of the Working Party.

3. The secretariat has received proposals from Estonia and the European Community, amending the Latvian proposal, which are reproduced below, followed by an assessment by the secretariat.

## **B. PROPOSALS BY ESTONIA**

4. Paragraph 35, Subdivision I<sup>\*/</sup>: in order to avoid misinterpretation in the course of the exchange of information between competent authorities and authorized associations, it is proposed to replace the current wording (“Contracting Parties shall, as appropriate, provide information and other assistance to:”) by:

“Contracting Parties shall, as appropriate, provide information in line with national law and other assistance to:”...

5. Paragraph 35, Subdivision IV, paragraph 1 : taking account of the fact that Customs authorities cannot delegate the inspection of the implementation of Customs formalities to guaranteeing associations and that the so-called SafeTIR system only contains information concerning the termination of TIR operations at the Customs offices of destination, it is proposed to replace the wording “By virtue of Article 6 (1) and Annex 9, Part I, paragraph 1 (f) (iii) of this Convention, authorized associations are required to give an undertaking that they shall verify continuously that persons authorized to have access to the TIR procedure have complied with all Customs formalities required under the Convention at the Customs office of departure, en route and of destination.” by:

“In order to ensure the functioning of the international guaranteeing chain, Customs authorities and guaranteeing associations shall exchange information concerning the termination of TIR operations at the Customs offices of destination.”

### Assessment by the secretariat

6. With regard to the first proposal by Estonia, the secretariat is of the opinion that the wording “as appropriate” in the Latvian proposal also covers the fact that the information is subject to conditions of national law. Thus, it does not seem necessary to amend the current text.

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<sup>\*/</sup> This and further references refer to the corresponding paragraphs in document TRANS/WP.30/2003/5.

7. As far as the second proposal is concerned, the secretariat feels that the references in the beginning of the text are correct and could thus be maintained. The secretariat agrees, however, that the wording “verify continuously that persons authorized to have access to the TIR procedure have complied with all Customs formalities required under the Convention”, as used in the Latvian proposal, may give rise to confusion and that, therefore, the Working Party may wish to find a more neutral wording.

### C. OBSERVATIONS AND PROPOSALS BY THE EUROPEAN COMMUNITY

8. Paragraph 34: According to the European Community, the prior considerations to the proposals themselves may lead to misunderstanding. Therefore, the European Community proposes a different wording for the first consideration, to the extent that it should be clear that, for the Customs administration, the information exchanged will not have the same value as the copy of the stamped “souche” of a TIR Carnet. With regard to the second consideration, the European Community is of the opinion, that it should not contain any reference to the IRU or the guaranteeing associations, as it is the sole competence of the Administrative Committee to decide on any amendment to the Convention, including a possible new Annex 10.

9. Paragraph 35, Subdivision I: In order to consider the scope of the text and the appropriate location of the Article, needed to introduce the new Annex 10, it is necessary to consider the purpose of Annex 10. The opening paragraph of the draft Annex repeats the text of Annex 9, Part II, Article 1 (e) (i). Thus, it is clear that the Annex is concerned with just this aspect of the authorized association’s responsibility to ensure that the minimum conditions and requirements of the holder, as set out in Annex 9, Part II, are fulfilled. Yet the authorized association is responsible for more than that: it is also, subject to Annex 9, Annex II, Article 1 (e) (iii), to verify continuously that the holder:

- has the capabilities to engage in international transport;
- that he remains financially sound, and
- that he maintains proven knowledge in the application of the TIR Convention.

10. It seems to the European Community that the proposed Article 6.6 would have the effect of reducing the scope of the “information and other assistance” provided by the Customs authorities to the provision of just SafeTIR data. The European Community feels that this is not the intention of the proposed amendment.

11. In addition, the justification for this amendment is the need to create a reciprocal obligation on the part of the Customs authorities to provide information/assistance to the authorized associations in order to help them “verify continuously” the holders’ fulfilment of the minimum conditions and requirements. As paragraph 27 of document TRANS/WP.30/2003/5 recognizes,

there is no equivalent obligation on the Customs authorities to provide information to the international organization. Thus, the European Community believes the text should be further modified in order to remove any reference to the international organization.

12. The European Community considers that, first and foremost, the proposal concerns the application of “control measures” and doubts whether it is appropriate to seek an amendment to Chapter II of the TIR Convention. Of the possible alternative locations, and notwithstanding the reservations expressed in paragraph 33 of document TRANS/WP.30/2003/5, the appropriate solution would be to insert the introductory article in Article 42.

13. Paragraph 35, Subdivision IV and Annex: Both the WP.30 and AC.2 have already decided that this new Annex should use generic language in its references to the IRU and SafeTIR. The European Community agrees with this decision and would point out that this principle should also apply to the Model Reconciliation Request, which includes a reference to “SafeTIR”.

14. The European Community proposes the creation of a new Article 42ter to read as follows:

“Contracting Parties shall, as appropriate, provide authorized associations with information that they may require to fulfill the undertaking given in accordance with Annex 9, Part I, Article 1 (f) (iii).

Annex 10 sets out the information to be provided in particular cases.”

#### Assessment by the secretariat

15. In line with the consideration by the Working Party, that the Convention should only make a generic reference to the international organization (and its control system) authorized to print and guarantee TIR Carnets, the secretariat feels that, indeed, any reference to the IRU and SafeTIR, in both the text of the proposal and the Model Reconciliation Form should be replaced by generic descriptions.

16. Seeing that the proposed Annex 10 serves a specific purpose, i.e. the introduction of a control system, it seems more appropriate to introduce the Annex by means of a new Article 42ter, linked to the current Article 42bis of the Convention, which deals with national and international control measures than to amend Article 6 of Chapter II of the Convention, dealing with the liability of the national association.

**D. FURTHER CONSIDERATIONS**

17. The Working Party may wish to provide the secretariat with further guidance, so that it can draft a full-fledged amendment proposal on the introduction of a control system for TIR Carnets, to be discussed at the Working Party's next session.

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