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Item 5 (b) of the provisional agenda

Revision of the Convention:

**Amendment proposals to the Convention
transmitted by the Working Party**

Amendment proposals to the Convention transmitted by the Working Party

Note by the secretariat

I. Background and mandate

1. At its 142nd session, the Working Party considered and accepted proposals to amend Annex 8, Article 1 bis with new paragraphs 4–6 and to amend Annex 9, Part III, paragraph 2 with new items (o), (p) and (q) and requested the secretariat to transmit the proposals to the TIR Administrative Committee (AC.2) for further considerations, which could then also address the procedural aspects of the examinations by AC.2 and the financing of any additional examinations (see ECE/TRANS/WP.30/284, para. 22).
2. At its 143rd session, the Working Party considered and accepted proposals to:
 - (a) Align Article 6, paragraph 1, Explanatory Note 0.6.2. and Annex 9, Part I, paragraph 1 with the already adopted wording of Article 1 (q): for “customs authorities” read “customs authorities or other competent authorities” (see ECE/TRANS/WP.30/AC.2/127, para. 32);
 - (b) Replace the term “approved” by “authorized” throughout the text of the Convention;
 - (c) Amend Annex 9, Part I, paragraph 7 in accordance with the proposal to replace “Contracting Parties” by “each Contracting Party”;
 - (d) To amend Article 18, to increase the number of places of loading and unloading from four to eight.
3. During the adoption, the Working Party took note of a reservation from the Government of Kazakhstan for the proposal to amend Article 6, paragraph 1, and requested

the secretariat to transmit the adopted amendment proposals, including the reservation by Kazakhstan to AC.2 (see ECE/TRANS/WP.30/286, paras. 17–18). Similarly, the Working Party took note of a reservation expressed by the Government of the Russian Federation to proposals to amend Article 18 (see ECE/TRANS/WP.30/286/para. 28).

4. As requested by the Working Party, the secretariat submits the above-mentioned proposals in Annex I to the Committee for further consideration and, possibly, adoption. In Annex II, the secretariat submits the reservations expressed by various delegations.

Annex I

A. Proposals to amend Annexes 8 and 9 of the Convention with regard to audit requirements for an authorized international organization*

Annex 8, Article 1 bis

After the existing text insert

“4. The Administrative Committee shall receive and examine the annual audited financial statements and audit report(s) submitted by the international organization pursuant to the obligations under Annex 9, Part III. In the course and within the scope of its examination, the Administrative Committee may request that additional information, clarifications or documents be provided by the international organization or the independent external auditor.

5. Without prejudice to the examination mentioned in paragraph 4, the Administrative Committee shall, on the basis of a risk assessment, have the right to request additional examinations to be carried out. The Administrative Committee shall mandate the TIR Executive Board or request the competent United Nations services to carry out the risk assessment.

The scope of additional examinations shall be determined by the Administrative Committee, taking into account the risk assessment of the TIR Executive Board or of the competent United Nations services.

The results of all examinations referred to in this article shall be kept by the TIR Executive Board and provided to all Contracting Parties for due consideration.

6. The procedure for undertaking the additional examinations shall be approved by the Committee.

Explanatory Note to Annex 8, Article 1 bis, paragraph 6

8.1 bis.6 The Administrative Committee may ask the competent United Nations services to perform the additional examination. The Administrative Committee may, alternatively, decide to engage an independent external auditor and mandate the TIR Executive Board to prepare the terms of reference of the audit, based on the object and purpose of the audit as determined by the Administrative Committee. The terms of reference shall be approved by the Administrative Committee. The additional examination by an external independent auditor shall result in a report and a management letter that shall be submitted to the Administrative Committee. In such a case, the financial cost of engaging an independent external auditor, including the related procurement procedure, shall be incurred by [the budget of the TIR Executive Board].

Comment to Explanatory Note 8.1 bis.6

The competent United Nations services will independently decide, based on resource availability and on the results of their own risk assessment, whether they would perform such additional examination.

* All new text

Annex 9, Part III, paragraph 2

After subparagraph (n) *insert*

“(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) provide its full and timely cooperation, including, but not limited to, allowing access to the above records and accounts to the competent United Nations services or to any other duly authorized competent entity and, at all times, facilitating additional inspections and audits performed by them on behalf of Contracting Parties, pursuant to Annex 8, Article 1 bis, paragraphs 5 and 6.

(q) engage an independent external auditor to conduct annual audits of the records and accounts mentioned under subparagraph (o). 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 Administrative Committee.”

B. Proposals to amend Article 6, paragraph 1, Explanatory Note 0.6.2. and Annex 9, Part I, paragraph 1**

Article 6, paragraph 1

“The customs authorities or other competent authorities of a ~~Each~~ Contracting Party may authorize associations to issue TIR Carnets, either directly or through corresponding associations, and to act as guarantors, as long as the [minimum] conditions and requirements, as laid down in Annex 9, Part 1, are complied with. The authorization shall be revoked if the [minimum] conditions and requirements contained in Annex 9, Part I are no longer fulfilled.”

Annex 6, Explanatory Note to Article 6, paragraph 2

“0.6.2 Under the provisions of this paragraph, the customs authorities or other competent authorities of a country may authorize ~~approve~~ more than one association, each of which may incur liability arising from the operations undertaken under cover of the Carnets issued by it or by its corresponding associations.”

[Alternatively:

“0.6.2 Under the provisions of this paragraph, the customs authorities or other competent authorities of a Contracting Party~~country~~ may authorize ~~approve~~ more than one association, each of which may incur liability arising from the operations undertaken under cover of the Carnets issued by it or by its corresponding associations.”]

** Deleted text is marked in strikethrough, new text in bold italics

Annex 9, Part I, paragraph 1

“The conditions and requirements to be complied with by associations in order to be authorized by customs authorities or other competent authorities of a Contracting Parties to issue TIR Carnets and act as guarantor in accordance with Article 6 of the Convention are:...”

C. Proposals to replace “approved” by “authorized” throughout the text of the Convention, where it concerns the status of national associations***

Article 3 (b)

“the transport operations must be guaranteed by associations authorized ~~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.”

Article 6, paragraph 2

An association shall not be authorized ~~approved~~ in any country unless its guarantee also covers the liabilities incurred in that country in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated.”

Annex 9, Part II, Procedure, Model Authorization Form, paragraph 1

“For each person for which a request for authorization is transmitted by the authorized ~~approved~~ association, the following information shall, at least be provided to the competent authorities:...”

D. Proposal to amend Annex 9, Part I, paragraph 7***

Annex 9, Part I, paragraph 7

“The conditions and requirements laid down above are without prejudice to additional conditions and requirements that each Contracting Parties may wish to prescribe”.

E. Proposal to amend Article 18***

Article 18

“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 ~~four~~.”

*** Deleted text is marked in strikethrough, new text in bold italics

The TIR Carnet may only be presented to Customs offices of destination if all Customs offices of departure have accepted the TIR Carnet”.

Annex II

Reservations raised with regard to various amendment proposals as contained in Annex I

Republic of Kazakhstan

Article 6, paragraph 1

The Government of Kazakhstan raised a reservation on this proposal, on account of the pending finalization of internal consultations (see ECE/TRANS/WP.30/286, paras. 17–18).

Russian Federation

Article 18

Due to the late availability of the document ECE/TRANS/WP.30/2016/2 by IRU containing an assessment of the potential results of such an increase, the delegation of the Russian Federation felt that more time was needed for internal consultation, as it was of the opinion that, in the first instance, the assessment appeared to insufficiently address all the risks and dangers associated with increasing the number of places of loading or unloading from four to eight. Such risks and dangers were not, in the view of the Russian Federation, limited to the required checks at customs offices, but also affected the state budget as well as law enforcement agencies. The Russian delegation was also not convinced that a positive experience from one single country could justify a positive conclusion for all Contracting Parties. For these reasons neither the customs authorities nor the Ministry of Transport of the Russian Federation could support the amendment proposal (see ECE/TRANS/WP.30/286, 0para. 28).
