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Economic Commission for Europe**Administrative Committee for the TIR Convention, 1975****Sixty-sixth session**

Geneva, 12 October 2017

Item 4 (b) of the provisional agenda

Revision of the Convention**Amendment proposals to the Convention transmitted by the Working Party****Note by the secretariat****I. Background and mandate**

1. At its previous session, the Committee continued its consideration of amendment proposals transmitted by the Working Party (ECE/TRANS/WP.30/AC.2/2016/18) and reached agreement on the majority of proposals therein; these have been included in the package of amendment proposals to the TIR Convention pending formal adoption, for consideration under agenda item 4(e). However, some delegations were not in a position to discuss, in particular, the amendment of Article 6, paragraph 1, Explanatory Note 0.6.2. and Annex 9, Part I, paragraph 1, to replace “customs authorities” with “customs authorities or other competent authorities”, due to ongoing internal consultations. For ease of reference, the secretariat has consolidated, in the present document, the main considerations and previous discussions with regard to this outstanding proposal, to facilitate further discussions by the Committee.

II. Proposals to amend Article 6, paragraph 1, Explanatory Note 0.6.2. and Annex 9, Part I, paragraph 1¹

2. For ease of reference, the proposals are as follows:

¹ Deleted text is marked in ~~strike through~~, new text in ***bold italics***.

A. 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.”

B. 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 *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.”

Note by the Secretariat: The Committee may wish to recall that it has agreed to amend Article 6, para.2 to replace “approved” by “authorize”, as reflected in document ECE/TRANS/WP.30/AC.2/2017/15 (package of accepted amendment proposals pending formal adoption, see agenda item 4(e)). As such, for reasons of consistency and legal clarity, it would be also necessary to make the equivalent amendment to the corresponding Explanatory Note 0.6.2 (see above).

C. 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 [...]”

III. Main considerations and previous discussions

3. At its sixty-second session (October 2015), the Committee agreed to a proposal to amend Article 1 (q), namely to replace “customs authorities” with “customs authorities or other competent authorities” when referring to the authorization of the national guaranteeing association (see ECE/TRANS/WP.30/AC.2/127, para. 32) and is now contained in the package of accepted amendment proposals pending formal adoption (see ECE/TRANS/WP.30/AC.2/2017/15, agenda item 4(e)). The proposal had been originally tabled for consideration by the Russian Federation, and was transmitted to the Committee by the Working Party for adoption. By way of background, the proposal was accepted in acknowledgment of the necessity to sufficiently broaden the provision to accommodate legal requirements of some Contracting Parties where the competent authorities may be more than just the customs administration (see ECE/TRANS/WP.30/280, para. 6(d)).

4. At its 143rd session (June 2016), the Working Party considered further editorial adjustments to various provisions of the TIR Convention and decided to transmit to the Committee a proposal to amend Article 6, paragraph 1, Explanatory Note 0.6.2. and Annex 9, Part I, paragraph 1 to, also, refer to “customs authorities or other competent authorities”, as this was deemed necessary for reasons of consistency (see ECE/TRANS/WP.30/286, paras. 17 and 18), considering the amendment to Article 1(q) (see para. 3 above). At the time of this decision, the Working Party took note of a

reservation from the Government of Kazakhstan for the proposal to amend Article 6, paragraph 1 (reproduced in Annex to the present document), and requested the secretariat to transmit the proposal, including the reservation by Kazakhstan to the Administrative Committee for the TIR Convention, 1975 (AC.2) (see ECE/TRANS/WP.30/286, paras. 17 and 18).

5. The Committee, at its sixty-fifth session, took note of the reservation by the delegation of Kazakhstan, as well as of the concerns raised by the delegation of Iran (Islamic Republic of) during the discussions, namely that the exclusive competence on these issues in Iran (Islamic Republic of) lies with the customs authorities. For this reason, the delegation of Iran (Islamic Republic of) could only indicate provisional agreement with a reservation, until central government institutions could come to a final position (see ECE/TRANS/WP.30/AC.2/133, para. 41(b)).

6. Against this background, the Committee stated, and included in its report, its understanding and interpretation of the formulation as proposed, notably that the formulation “customs authorities or other competent authorities” does not, in any way, preclude the possibility of customs authorities being the sole competent authority in any given Contracting Party (see ECE/TRANS/WP.30/AC.2/133, para. 41(b)).

IV. Considerations by the Committee

7. The Committee may wish to continue and, possibly, conclude its considerations on this amendment proposal, taking into account (a) the necessity for consistency throughout the text of the TIR Convention against the background of the amendment to Article 1(q); (b) the assessment of the Committee that the formulation does not restrict the competence of Contracting Parties to determine that sole competence lies with the customs administration and; (c) that some delegations may still be in the process of finalizing internal consultations regarding their position on this proposal.

Annex

Reservation raised by the Republic of Kazakhstan

Amendment proposal to 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 and 18).
