



# Economic and Social Council

Distr.: General  
22 November 2018

Original: English

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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

##### 151st session

Geneva, 5–8 February 2019

Item 4 (b) (i) of the provisional agenda

#### Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975):

##### Revision of the Convention

## Amendment proposals to the Convention

### Note by the secretariat

#### I. Background and mandate

1. The Working Party may wish to recall that, at its previous session, it continued its discussions on proposals to amend article 20, on the basis of document ECE/TRANS/WP.30/2018/20. The delegation of the Russian Federation expressed clear support for its own proposal, which it considered balanced. The delegation of the European Union reiterated its proposal to replace “country” by “contracting party”, but stated its readiness to look into other proposals as well. The delegation of Turkey, with support from the delegations of the European Union and Ukraine, questioned the relevance of references to “within the limits of its competence” and “in conformity with the provisions of article 48” in the proposal by the Russian Federation and proposed to delete them. The delegation of the Russian Federation stated it could agree with the proposed deletions, which would make the text read as follows: “For a TIR operation in the territory of a contracting party or several contracting parties forming a customs or economic union, the customs authorities [customs office of departure or entry en route] may fix a time limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route”. The delegation of Azerbaijan, while expressing general consent with the latest proposal, pointed at the text of Article 1 (b), which would require an adjustment to make it also applicable for TIR operations involving various contracting parties. The delegation of Turkey was of the opinion that such amendment was not required. The secretariat proposed to reconsider the original wording of article 20 and refer to “journey” rather than “TIR operation”. In conclusion, the Working Party requested the secretariat to prepare a final

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document for its consideration, elaborating on the difference in wording between “journey” and “TIR operation” and clarifying the consequences, if any, of amending Article 1 (b) (see ECE/TRANS/WP.30/300, paras. 9–12).

2. The Working Party is invited to continue its considerations of the issue with the support of document ECE/TRANS/WP.30/2019/1.

## II. Amendment proposal under consideration

3. The amendment proposed as currently under consideration, reads as follows:

“For a TIR operation in the territory of a Contracting Party or several Contracting Parties forming a customs or economic union, the customs authorities [customs office of departure or entry en route] may fix a time limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route.”

## III. Article 1 (b) of the Convention

4. Article 1 (b) of the Convention defines a TIR operation as “part of a TIR transport that is carried out in a Contracting Party from a customs office of departure or entry (en route) to a customs office of destination or exit (en route). Further to the proposal by the delegation of Azerbaijan, the proposal to amend the text of Article 1 (b) would read:

**“TIR operation shall mean the part of a TIR transport that is carried out in a Contracting Party or in several Contracting Parties forming a customs or economic union from a customs office of departure or entry (en route) to a customs office of destination or exit (en route).”**

5. First of all, it has to be stated that the term “TIR operation” appears in many places in the body of the Convention, such as Article 8, paragraph 1, Article 9, Article 10, Article 11, Article 15, Article 28, Article 39, Article 45 and Article 49. Although one might argue that for some of those articles the extended definition of the term “TIR operation” would not impede their application, there are certain places where it would, viz. Article 8, paragraph 1, Article 10, paragraph 2 and Article 15, paragraph 2, where the term is used within the specific context of a single Contracting Party. Thus, it seems justified to raise the question what the added value of the amended definition of Article 1 (b) is if it would trigger amendments to the text of the Convention.

6. At the same time, if such amendment proposal were to be accepted it would no longer be necessary to include the reference to “Contracting Party of Contracting Parties forming a customs or economic union” in Article 20, which could then read as follows:

**“For a TIR operation, the customs authorities [customs office of departure or entry (en route)] may fix a time limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route.”**

## IV. Use of the term “journey”

7. The term “journey” is used in various places of the body of the Convention, viz. Article 2, Article 17, Article 20, Article 24, Article 26 and Article 35. It appears that the term is used in the general sense of the word as “the act of traveling from one place to

another<sup>1</sup>” without any further legal connotation or requiring a specific legal definition for use in the text of the TIR Convention.

## V. Proposal by the secretariat

8. In view of the above, and in order to avoid new discussions, implying further amendment proposals, the secretariat proposes to revert, in part, to the original wording of Article 20. In addition, to avoid confusion about which customs authorities can prescribe such route, the secretariat proposes to add the word “competent” before customs authorities, considering that in any situation, whether it be a one contracting party or several contracting parties, there is always a single competent customs authority. Finally, in order to avoid further confusion, the secretariat is of the opinion that it is better to use the generic term “competent customs authorities” than “customs office of departure or entry en route”, as the task of prescribing a route may not always be granted to only the said customs office, but could, for example, also be based on an instruction from the customs authorities in charge of risk assessment etc.

9. Thus, the proposal of the secretariat reads as follows:

**“For journeys in the territory of a Contracting Party or several Contracting Parties forming a customs or economic union, the competent customs authorities may fix a time limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route.”**

## VI. Considerations by the Working Party

10. The Working Party is invited to consider and, possibly, adopt the proposal by the secretariat.

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<sup>1</sup> Oxford Dictionary, eleventh edition.