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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport

Ad hoc Expert Group on Phase III of the TIR Revision
(Fifth session, 10 and 11 November 2005, agenda item 3)

CONSIDERATIONS OF AMENDMENT PROPOSALS TO ARTICLE 11

Transmitted by the Government of the Russian Federation

1. In accordance with the considerations at the one-hundred-and-eleventh session of the WP.30 concerning the revision of the TIR Convention, delegations were proposed to forward to the secretariat their proposals on amendments to the TIR Convention for consideration at the next Expert Group meeting in November this year.
2. First of all, the Russian delegation would like to recall that the proposals of the Russian delegation on amendments to Article 11 of the TIR Convention were presented for consideration by the WP.30 as early as in 2003. At the request of a number of delegations, which generally regarded our proposals with understanding, the Russian delegation further elaborated its initial proposals and presented document TRANS/WP.30/2005/19. As it was noted at the one-hundred-and-eleventh session of the WP.30, consideration of this document was delayed without any ground.

3. Taking into account the submission of document TRANS/WP.30/GE.2/2005/2 by the delegation of the Netherlands, in which it offered to amend Articles 8 and 11 and also to include a new part in Annex 9 to the TIR Convention, the Russian delegation would like to note the following.

4. The Russian delegation has read with interest the above document, which, in our opinion, summarizes many proposals discussed during the meetings on the TIR revision, including some Russian proposals, which the Russian delegation could support.

5. At the same time, in the underlying document our basic proposal is unfortunately not shared, namely, to reflect in the TIR Convention the key elements of the procedure of the claims handling by the TIR guarantee chain.

6. The Dutch delegation questions whether the relations between the international organization and the national guaranteeing associations should be reflected in the TIR Convention.

7. Of course, not all of the above relations between the international organization and national guaranteeing associations should be governed by the Convention. However, the Russian delegation is of the opinion that namely the actions of the participants of the TIR system ensuring the compensation of the amounts claimed in favour of the Contracting Parties must be clearly reflected in the TIR Convention.

8. It means that the text of the TIR Convention should include the key points of claims handling by the international guarantee chain. Otherwise, the existing flaws in the Convention would allow for an arbitrary interpretation of its provisions and would in the future lead to a halt of the mechanism of financial compensations in case of TIR infringements which, in its own turn, would have a negative impact on the Customs interests, on the sustainability of the transport industry and, in general, on all Contracting Parties to the TIR Convention.

9. Moreover, the Russian delegation would like to point out that often the public law governs relations between subjects of the private law, in particular, if the public interests are at stake. Thus, the proposals to reflect in the TIR Convention the key points of the claims handling by the international guarantee chain seem to be quite logical.

10. In conclusion, the Russian delegation would like to express its thanks to the delegation of the Netherlands for the elaboration of document TRANS/WP.30/GE.2/2005/2 and hopes that our suggestions will be taken into consideration in the final version of amendments.

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