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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions
affecting Transport

Ad hoc Group of Experts

on Phase II of the TIR revision process

(Third session, 19 and 20 October 1998,
agenda item 3)

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

Proposals for amendments to the Convention

Phase II of the TIR revision process

Transmitted by the Ministry of Transport of Belarus

Note: The proposals reproduced below have been made on the basis of the provisional agenda prepared by the secretariat for the second session of the group of experts (TRANS/WP.30/1998/6). As the proposals have reached the secretariat only in July 1998, the secretariat are distributing them under the corresponding headings relating to the provisional agenda for the third session of the group of experts (TRANS/WP.30/1998/13).

The following proposals are submitted for the consideration of the group of experts:

1. Agenda items 3 (a) and 3 (b):

Add the following sub-paragraphs to article 1 of the TIR Convention 1975:

(m) The term Aguarantee system shall mean the whole range of measures (insurance, guarantee funds, etc.) guaranteeing payment of import or export duties and taxes;

(n) The term Ainternational organization shall mean an organization recognized by the Contracting Parties as a body organizing the international guarantee system;

Add the following paragraph to article 6:

3. An international organization may be recognized by the Contracting Parties as a body organizing the international guarantee system provided that it assumes liability for the functioning of this system.

Add an explanatory note 0.6.3 to article 6, as follows:

0.6.3 An international organization recognized by the Contracting Parties as a body organizing the guarantee system shall cooperate with the associations concerned with the functioning of the guarantee system in accordance with Annex 9 to this Convention.

Add the following sentence to article 8, paragraph 1:

The international organization shall bear subsidiary liability with the guaranteeing associations in respect of TIR Carnets issued by foreign associations.

2. Agenda items 3 c (i) and 3 c (ii):

A commentary to Annex 1 (AModel of TIR Carnet, ADischarge of TIR Carnets) should give a precise description of the procedure and practice for the discharge of TIR Carnets by the issuing association, the TIR Carnet holder and the competent authorities.

3. With regard to agenda item 3 (c) (iii) (ARecommended inquiry procedure) we propose that paragraph 24 (2) of document TRANS/WP.30/1998/5 should read: AWhen voucher N° 2 of a TIR Carnet is not returned to the Customs office of departure or entry within a period fixed by the competent authorities, but not exceeding three months...[remainder as per text]

Concerning paragraph 24 (3), an explanation and full list of all relevant information and data

which should accompany the notification must be provided in an annex.

Sub-paragraph (4) should be deleted as it duplicates sub-paragraph (2) and is an internal procedure of the competent authorities.

4. With regard to the relationship between the international organization and the associations concerned with the functioning of the guarantee system (TRANS/WP.30/R.186 of 13 December 1996), the proposed wording is considered unacceptable because of the incompleteness of the procedure, which may eventually lead to problems in the settlement of any disputes.

The following proposals therefore seem appropriate:

- (a) The criteria defining the grounds on which the international organization or guaranteeing association may reject a claim should be indicated in an explanatory note to article 11;
 - (b) A list of the documents which must be attached to a claim in order to help reduce the time required to consider and settle or reject claims should be provided in an annex to the Convention or in an explanatory note;
 - (c) An additional article should be included in the Convention, as follows:

Disputes between national associations and the international organization arising from the operation of the guarantee system shall be considered by a court of arbitration in the country of registry of the national association. Such disputes shall be considered on the basis of the rules of the procedural and substantive law of the said country taking into account the provisions of this Convention@.
 - (d) Procedural matters related to insurance should be dealt with in an annex to the Convention.
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