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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

##### 144th session

Geneva, 11–14 October 2016

Item 3 (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**

### **Various other amendment proposals to the Convention**

#### **Note by the secretariat**

#### **I. Background and mandate**

1. At its previous session, the Working Party considered document ECE/TRANS/WP.30/2016/9 on the consistency of the use of various terms in Articles Article 14, paragraph 1, Article 15, paragraph 2, Article 20, Article 22, Annex 9, Part I, paragraph 7 as well as on the proposals to replace “conditions and requirements” by “minimum conditions and requirements”. While a decision was taken on a number of these proposals, the Working Party was of the view that further discussions were needed to reach a decision on the appropriate way to amend Article 20, particularly with regard to its implementation in Customs Unions. In addition to the original proposal submitted by the delegation of the European Union (EU), various other proposals were put forward on a possible wording. The Working Party requested the secretariat to include these proposals in a new document for further discussion at the next session. Furthermore, the Working Party was of the view that further information and assessment would be necessary for the treatment of the phrase “minimum conditions and requirements” throughout the text of the Convention and, particularly, in Article 6, paragraph 1. Substantive discussions ensued on how maintaining or deleting the word “minimum” would affect the discretion of Contracting Parties to introduce additional conditions and requirements. The Working Party requested the secretariat to include, in the new document, any additional information that may assist discussions, and decided to revert to this issue at its current session. In line with this request, the secretariat has prepared the present document.

## II. Proposals to amend Article 20

2. Article 20 refers to the task of customs authorities to fix a time-limit or prescribe a route. The amendment proposals refer to replacing the word “country” with a word or phrase that would be more suitable for the purposes of Customs Unions or non-State Contracting Parties. At present, the EU is both a Customs Union and a non-State Contracting Party to the TIR Convention. The Eurasian Economic Union (EEU), on the other hand, is a Customs Union whose member-States are individually Contracting Parties to the TIR Convention, but the EEU itself has not acceded to the Convention in its own right. Therefore, the proposals for Article 20 should, in as far as possible, accommodate both situations.

### A. Proposal to amend Article 20

3. Deletions are marked in ~~strike through~~ and additions are marked in ***bold italics***:

“For journeys in the territory of their ~~country~~ ***Contracting Party***, the Customs authorities may fix a time-limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route”.

### B. Alternative proposal to amend Article 20

4. Deletions are marked in ~~strike through~~ and additions are marked in ***bold italics***:

“~~For journeys in the territory of their country, the~~ Customs authorities may fix a time-limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route ***from a customs office of departure or entry (en route) to a customs office of destination or exit (en route)***”.

## III. Use of the term [minimum] conditions and requirements

5. Conditions and requirements for various actors in the TIR procedure are primarily laid down in the three parts of Annex 9, with corresponding references in the main body of the Convention, namely Article 6.

6. At the previous session, it was determined that the Convention refers consistently to “minimum conditions and requirements, with only one exception: the title of Annex 9, Part I, which refers to conditions and requirements (without “minimum”). This creates an inconsistency with Article 6, paragraph 1, which refers to “minimum conditions and requirements” with reference, in particular, to Annex 9, Part I.

7. Annex 9, Part I, originally referred to “minimum conditions and requirements” both in its subtitle and in its first paragraph. Pursuant to a proposal by the European Community in 2008 (see ECE/TRANS/WP.30/2008/11), the word “minimum” was deleted in two places by decision of the Administrative Committee at its fifty-first session on 3 February 2011 (see ECE/TRANS/WP.30/AC.2/105, para. 32). The amendment entered into force on 1 January 2012 as per depositary notification C.N.321.2011.TREATIES-1 (see also ECE/TRANS/17/Amend.29).

8. On the other hand, the corresponding reference in Article 6, paragraph 1 was not amended at that time, hence creating the editorial inconsistency. As referred to in document ECE/TRANS/WP.30/2016/9 from the previous session, the existence or not of the word “minimum” does not affect the *de jure* right of Contracting Parties to impose additional

conditions and requirements to associations and operators (Annex 9, Part I and Part II, respectively), due to the fact that there are separate paragraphs in each part that confirm this right for all Contracting Parties. On the other hand, pursuant to previous discussions of WP.30, it transpired that:

(i) The existence of the word “minimum” re-affirms the established rights of Contracting Parties to impose additional conditions and requirements under the existing provisions; and

(ii) It would be strange to delete it with reference to Annex 9, Part I and not in Part II.

9. Against this background, the alternative proposal would be to reinsert the word “minimum” in Annex 9, Part I. This would entail the smallest number of changes to the Convention and would address the concerns of Contracting Parties with regard to the possible implications of deleting it in Article 6. As such, the revised proposal would read as follows (deletions are marked in ~~strike through~~ and additions are marked in ***bold italics***):

*Amend Annex 9, Part I, subtitle to read:*

***Minimum*** Conditions and requirements

*Amend Annex 9, Part 1, paragraph 1, first line to read:*

1. The ***minimum*** conditions and requirements to be complied with by associations in [...]

#### **IV. Considerations by the Working Party**

10. The Working Party is invited to decide on the above proposals.

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