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Working Party on Customs Questions affecting Transport

148th session

Geneva, 6-9 February 2018

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. At its 147th session, the Working Party considered a proposal by the Government of the Russian Federation, which develops a proposal to replace the word “limit” in Explanatory Note 0.8.3 by “determine”, although, in the document, the term “establish” was used. The Working Party took note of Informal document WP.30 No. 16 (2017) by the Government of Ireland which states that the word “establish” is not as appropriate as the word “limit” in the text of Explanatory Note 0.8.3. After an intervention by the delegation of Azerbaijan, the Working Party concluded that it was unable to make progress. Therefore, it decided to revert to this issue at its next session and requested the secretariat to submit a document, recapitulating the original Russian proposals, together with comments thereto (see ECE/TRANS/WP.30/294, para. 14).

2. The Working Party is invited to continue its discussions on the basis of document ECE/TRANS/WP.30/2018/1.

II. Original Russian proposal

3. In document ECE/TRANS/WP.30/2017/9, the Government of the Russian Federation submitted a proposal to replace, in the first phrase of Explanatory Note 0.8.3, the word “limit” by “establish”. However, as explained at the 146th session of the Working Party, the term should rather be “determine”, so that the proposed text would read:

GE.17-20966(E)



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“0.8.3 Contracting Parties are recommended to determine a sum equal to \$US 50,000 [100,000 Euros] per TIR Carnet as maximum amount which may be claimed from the guaranteeing association...”

III. Considerations by the Working Party at its 146th session

4. The Working Party took note of document ECE/TRANS/WP.30/2017/9 by the Government of the Russian Federation. After an intervention by the delegation of Azerbaijan, the delegation of the Russian Federation clarified that, indeed, its proposal, in English, should rather refer to “determine” than to “establish”, as mentioned in the document, in order to align the text of the Explanatory Note with the wording of Article 8, paragraph 3. Various delegations requested the delegation of the Russian Federation to further elaborate on the objective of the proposed amendment. In the absence thereof, so they argued, the current text of Explanatory Note 0.8.3 seemed to be fully satisfactory and had not led to any difficulty in its application. The delegation of Ireland informed the Working Party that it was conducting internal consultations to understand the rationale behind the proposed amendment. The secretariat informed the Working Party that a first and preliminary assessment had led it to believe that it could not be excluded that the proposed amendment, although seemingly mainly of an editorial nature, could have major impact on the application of the TIR system. According to its assessment, it seemed that, whereas the term “limit to” in E.N. 0.8.3. referred to and emphasized the setting of a maximum amount as a limitation of the sum which may be claimed from the national association regardless of the amount of duties and taxes at stake, the term “establish/determine” alluded to a link between the maximum amount to be claimed from the national association and the maximum amount of the duties and taxes at stake for a TIR transport. In that light, the change from “limit to” to “establish/determine” might be interpreted as a change in policy in the TIR guarantee system (see ECE/TRANS/WP.30/292, paras. 12-14).

IV. Comments by the Governments of Ireland

5. In Informal document WP.30 (2017) No. 16 (English only), the Government of Ireland informs that the Irish Administration has examined the proposal of the Russian Federation to change the wording of the Explanatory Note to Article 8, paragraph 3 of the TIR Convention.

6. The Irish Administration was the opinion that the use of the word “establish” is not appropriate in this instance as it does not improve the wording of the Explanatory Note and is not as appropriate as the word “limit”. Article 8, paragraph 3 states that “Each Contracting Party shall determine the maximum sum per TIR Carnet, which may be claimed from the guaranteeing association on the basis of the provisions of paragraph 1 and 2 above”.

7. The Irish Administration was not proposing an amendment, at that time, but if the Russian Federation was adamant that the word “establish” had to be included, it believed a more complete rewording was necessary. In that case, the Irish Administration would be proposing to the European Union that the amendment be along the following lines, as opposed to the Russia Federation proposal that does not improve the wording in any way.

“0.8.3 Contracting Parties may establish the maximum amount to be claimed from the guaranteeing association for each TIR Carnet. However, the maximum amount that may be claimed from the guaranteeing association cannot exceed 100,000 euros per TIR Carnet. In the case of transport of alcohol and tobacco, details of which are

given below, customs authorities are required to increase the maximum amount which may be claimed from the guaranteeing association to a sum equal to \$US 200,000.”

V. Considerations by the Working Party at its 147th session

8. The Working Party recalled its considerations of document ECE/TRANS/WP.30/2017/9 by the Government of the Russian Federation, which develops a proposal to replace the word “limit” in Explanatory Note 0.8.3 by “determine”, although, in the document, the term “establish” was used. The Working Party took note of Informal document WP.30 No. 16 (2017) by the Government of Ireland which states that the word “establish” is not as appropriate as the word “limit” in the text of Explanatory Note 0.8.3. In case, according to the assessment, the Russian Federation would continue to favour a change in wording, the Irish delegation would submit a more elaborate rephrasing of the Explanatory Note concerned. In reply, the delegation of the Russian Federation stated that, in its view, the use of the term “limit” in Explanatory Note 0.8.3 contradicts the provision of Article 8, paragraph 3, which speaks about the authority of Contracting Parties to “determine” the maximum sum per TIR Carnet. In reaction, the delegation of Azerbaijan stated that, in its view, the competence of Contracting Parties to “determine” the maximum amount per TIR Carnet was delineated by the text of Explanatory Note 0.8.3 which recommends Contracting Parties to limit the maximum amount per TIR Carnet which may be claimed from the guaranteeing association to a sum equal to \$50,000 / 60,000 euros per TIR Carnet. Unable to make progress, the Working Party decided to revert to this issue at its next session and requested the secretariat to submit a document to continue its discussions (see ECE/TRANS/WP.30/294, para. 14).
