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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975

(Thirty-sixth session, 5-6 February 2004,
agenda item 9 (d))

OTHER PROPOSALS FOR AMENDMENTS TO THE CONVENTION

Other amendment proposals

Funding fee for TIR Executive Board (TIRExB)

Note by the secretariat

A. BACKGROUND

At its thirty-fifth session, the Administrative Committee took note of the observations of the Chairman of WP.30, contained in Informal document No. 9 (2003), para. 8 (b) concerning the use of the term levy and requested the secretariat to prepare a document for its forthcoming session containing a revised formulation proposed by the Chairman, to be contained in Annex 8, Article 13 of the Convention (TRANS/WP.30/AC.2/71, para. 54).

This note by the secretariat contains the proposal, submitted by the Chairman of WP.30, together with an evaluation of the proposal by the secretariat, which may give guidance to the discussion by the Administrative Committee.

B. ISSUE

Within the context of the discussion on the organization of the TIR Trust Fund, the “Friends of the Chairman”, at their second meeting, held in the Hague on 21 and 22 August 2003, inter alia addressed the nature of the collection of the funds to be transmitted to the TIR Trust Fund. In order to achieve clarification of the nature of the collection, the Chairman announced that he would submit a draft proposal to AC.2, proposing to replace the word “levy” in the text of Annex 8, Article 13 of the Convention by a more appropriate term, reflecting the fact that the amount is only intended as an administrative fee to cover the costs incurred by the TIRExB and the TIR secretariat (Informal document 9 (2003), para. 8 (b)).

C. PROPOSAL BY THE CHAIRMAN OF WP.30

Replace the existing text of Annex 8, Article 13, para. 1 by the following text:

“1. The operation of the TIR Executive Board and the TIR secretariat shall be financed, until such time as alternative sources of funding are obtained, by an administrative fee on each TIR Carnet, hereinafter referred to as “TIRExB fee”.”

Replace in Annex 8, Article 13, para. 2 the words “the amount of the levy” by “the TIRExB fee”.

D. EVALUATION BY THE SECRETARIAT

The secretariat is aware of the misunderstanding, which exists over the use of the term “levy”. As has been pointed out on various occasions, the word “levy” may be understood as “tax”. In such case, its imposition would have to be based on a specific formal law (in many legal systems, such specific formal law would require explicit approval by the Parliament). It is doubtful whether in all Contracting Parties the adoption of the amendments of Phase I of the TIR revision process, containing, inter alia, the amendment of Annex 8, Article 13, has taken place in accordance with such requirement.

The proposal by the Chairman intends to clarify that the levy in Annex 8, Article 13 should not be considered as a tax measure, but as compensation for the costs incurred by the TIRExB and the TIR secretariat. Such compensation would not require the fulfilment of the obligation to have a basis in a formal law.

E. FURTHER CONSIDERATIONS

The Administrative Committee may wish to discuss the proposal, submitted by the Chairman of the Working Party, aimed at improving the wording of the text of Annex 8, Article 13.
