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Working Party on Customs Questions

affecting Transport

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

Application of the Convention

Functions and roles of the TIRExB, the TIR secretariat and the IRU

Transmitted by the Government of the Russian Federation

Note: The secretariat reproduces below a communication transmitted by the Government of the Russian Federation.

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* The present documentation has been submitted after the official documentation deadline by the Transport Division due to resource constraints.

A. INTRODUCTION

1. The Ministry of Transport of the Russian Federation, being the competent body on the TIR Convention in the Russian Federation informs you that, for satisfaction of all parties, the December crisis of the TIR system on the Russian territory has been resolved in practice by the signing of the agreement between SCC RF, ASMAP and IRU. The aim of this agreement “is not to determine whether a claim is justified or not”, but “to concentrate the resources of the Parties on the sound management of the TIR Convention to facilitate the international trade of the Russian Federation, using all means and methods described in the existing documents on cooperation between SCC RF and IRU”.

2. At the same time, the analysis of the reasons for the above mentioned crisis revealed some questions, and in particular:

- (a) Are the provisions of the TIR Convention, determining the mechanism of the settlement of claims of the competent bodies of the TIR Convention, exhaustive if the same situations arise periodically in the different European countries?
- (b) Could a competent body, except the TIR Administrative Committee (AC.2), suspend the functioning of the TIR Convention on the territory of a Contracting Party, and which is the mechanism of implementation?
- (c) Is it justified that in the TIR Convention there are some provisions concerning the questions of claims considering (Articles 11.2 and 8.7) which permit to interpret in two ways the procedures foreseen by the Convention?
- (d) Which procedures shall be initiated to solve the disputes, arising from the TIR Convention implementation, including - between fiscal bodies and the chain of guarantee?
- (e) Shall an international organization, responsible for the functioning of the international guaranteeing system, consider the claims, issued to the chain of guarantee, based on the insurance contracts concluded in accordance with p. 1 f (v) of part II of Annex 9 to the TIR Convention?

B. PROPOSAL

In order to overcome the difference in the interpretation of the TIR Convention, the understanding of the functions of its Working Bodies (AC.2 and TIRExB) and an international organization involved in the TIR system, and to make more precise the procedure of consideration of payment requests issued by the Competent Authorities to the TIR guarantee chain, it is considered expedient to submit the following amendments to the TIR Convention.

I. Supplement art. 2-bis. 6 by the following paragraph:

“An international organization, provided that it accepts the responsibility for the effective organization and functioning of an international guarantee system, shall, at the same time, confirm in writing its readiness to strictly implement the provisions of the TIR Convention, the decisions of the TIR Administrative Committee and the TIR Executive Board, taken in the scope of their competence”.

II. Include in art. 11 a new point 2-bis, as follows:

“The guaranteeing association in the period referred to in p. 2, shall present the claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 for the consideration of an international organization referred to in Article 6, paragraph 2-bis, and of an insurer, with whom an insurance contract in the limits of the guarantee system, foreseen by the present convention, was signed.

The guaranteeing association together, with the above-mentioned international organization and insurers, shall consider the question concerning the grounds of the claim for payment or opposition of it by mentioning of reasons.

If the competent bodies consider the reasons of opposition as ungrounded, they have a right to appeal to the Court in accordance with the national legislation”.

4. The adoption of the above-mentioned amendments would permit to avoid conflict situations in the TIR Convention implementation, such as in the Russian Federation and some other countries.
