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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport

Ad hoc Expert Group on Phase III of the TIR Revision

(15 and 16 November 2004)

PROVISIONAL AGENDA FOR THE SECOND SESSION

**to be held at the Palais des Nations, Geneva^{*/}
starting at 10.00 hours on Monday, 15 November 2004**

^{*/} New accreditation procedures have been introduced for all delegates attending meetings held at the Palais des Nations. Delegates are therefore requested to complete the attached registration form also available from the Internet Web site of the UNECE Transport Division (<http://www.unece.org/trans/welcome.html>) and to transmit it to the UNECE secretariat, at the latest two weeks prior to the session, either by fax (+41-22-917-0039) or by e-mail (Poul.Hansen@unece.org). Prior to the session, delegates are requested to present themselves at the Pass and Identification Unit of the UNOG Security and Safety Section, located at the Villa Les Feuillantines, 13, Avenue de la Paix (a map is attached) for the issuance of an identification badge. In case of difficulty, please contact by telephone the UNECE secretariat (internal extension 74030).

1. Adoption of the agenda TRANS/WP.30/2004/37

2. Background and mandate

3. Consideration of amendment proposals
of a strategic nature TRANS/WP.30/2003/11
TRANS/WP.30/2003/22
TRANS/WP.30/2004/11
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TRANS/WP.30/210
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TRANS/WP.30/AC.2/2004/4
Informal document No. 3 (2003)
Informal document No. 2 (2004)

4. Other matters

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1. ADOPTION OF THE AGENDA

Documentation: TRANS/WP.30/2004/37.

In accordance with the Commission's rules of procedure, the first item to be considered is the adoption of the agenda prepared by the secretariat (TRANS/WP.30/2004/37).

2. BACKGROUND AND MANDATE

Documentation: TRANS/WP.30/216; TRANS/WP.30/214; TRANS/WP.30/2004/32; TRANS/WP.30/2004/24.

At its one hundred-and-seventh session (15-18 June 2004), the UNECE Working Party on Customs Questions affecting Transport mandated the secretariat to convene an Ad hoc Expert Group on 30 and 31 August 2004 in Geneva with a view to dealing with amendment proposals that had been transmitted by Contracting Parties. The Working Party established the Ad hoc Expert Group, with an open-ended mandate, open to participation by all Contracting Parties and relevant organizations. As a first priority, it should consider the amendment proposals before it with a view to separating these into (a) questions of a more technical nature, which the Working Party or the TIR Executive Board (TIRExB) could deal with and (b) questions of a more strategic nature, which the Ad hoc Expert Group should consider how best to deal with. In this context, it was proposed also to organize a meeting of the TIR Contact Group, as it had been done in connection with Phase I of the TIR revision process (TRANS/WP.30/214, para. 42).

The Ad hoc Expert Group, at its first meeting (30 and 31 August 2004, Geneva), first undertook a discussion of the vision with regard to the future of the TIR procedure as well as the guiding principles and overarching ideas of the Convention. In conclusion, the Ad hoc Expert Group agreed on the following (TRANS/WP.30/2004/32, paras. 5-14):

- The well-functioning and sustainability of the TIR Convention should be ensured before the inclusion of any possible new elements in the Convention, apart from the issues provisionally foreseen as a result of the TIR computerization process, including supply chain security related issues. Therefore, the Ad hoc Expert Group agreed to apply a step-by-step approach, first dealing with the problems that have been raised in the context of the present text of the Convention and only thereafter dealing with other issues that are not addressed by the Convention, so far.

- The core of a sustainable TIR system is the well-functioning of the guarantee system. In this context, the Ad hoc Expert Group welcomed an offer by the IRU to make a presentation of the functioning of the IRU guarantee chain at the forthcoming session of the Working Party.
- The TIR procedure, as already agreed, should be computerized, as soon as possible, with the aim of serving Customs purposes. The computerized system should be fully controlled by Customs authorities, building on the necessary cooperation and partnership with industry.
- Supply chain security, in particular in relation to the TIR computerization, is important for the future applicability of the TIR Convention. The TIR computerization process should early in the process make provisions for the possible inclusion of supply chain security elements.

The Ad hoc Expert Group decided to recommend to the Working Party to consider a number of the amendment proposals as being of a technical nature, which could be discussed either by the Working Party or the TIRExB. Furthermore, the Ad hoc Expert Group decided to recommend to the Working Party that the following questions are of a strategic nature (TRANS/WP.30/2004/32, paras. 15-41):

- Article 6.2 bis; proposals by the Chairman of WP.30, the European Community and the Russian Federation.
- Article 8.5 (and 31); proposal by the European Community
- Article 8.7; proposals by the Chairman of WP.30 and by the European Community
- Article 11; proposals by the European Community and the Russian Federation
- Article 42 bis; proposal by the European Community
- Annex 8, Article 13; proposal by Turkey.

The Working Party, at its one-hundred-and-eighth session (11-15 October 2004), expressed its general agreement with the recommendations by the Ad hoc Expert Group and decided to convene the present session of the Ad hoc Expert Group with a view to discussing the issues of a strategic nature, as defined above.

The Working Party undertook first considerations with regard to the amendment proposal to Article 6.2 bis of the Convention, but decided to postpone further discussion of the issue and requested the Ad hoc Expert Group to take this issue into consideration at the present session. The Working Party also took note of the presentation by the IRU on the functioning of the guarantee system (TRANS/WP.30/216, paras. 50-56).

The Ad hoc Expert Group may wish to take into account the above.

3. CONSIDERATION OF AMENDMENT PROPOSALS OF A STRATEGIC NATURE

As mandated by the Working Party, the Ad hoc Expert Group may wish to consider the amendment proposals as list above, which relate to questions of a strategic nature.

With a view to facilitating the progress of the discussion, the Ad hoc Expert Group may wish to structure the sequence according to which the issues of a strategic nature should be discussed. The Ad hoc Expert Group may wish to follow the structure proposed below by the secretariat.

Article 6.2 bis, proposals by the Chairman of WP.30, the European Community and the Russian Federation.

Documentation: TRANS/WP.30/2004/33; TRANS/WP.30/2004/32; TRANS/WP.30/2003/11; TRANS/WP.30/2003/22; TRANS/WP.30/2004/11; TRANS/WP.30/2004/14; TRANS/WP.30/2004/25; TRANS/WP.30/216; TRANS/WP.30/214; TRANS/WP.30/210.

The Ad hoc Expert Group may wish to recall that, at its first session, it had considered whether Article 6.2 bis should be considered independently from the other amendment proposals. One delegation had pointed out, both during the last session of the Group (TRANS/WP.30/2004/32, para. 25) and during the one-hundred-and-eighth session of the Working Party (TRANS/WP.30/2004/216, para. 56), that the amendment proposal for adding a new Explanatory Note to Article 6.2 bis of the Convention should be urgently adopted with a view to more precisely defining the role of the international organization. The Ad hoc Expert Group had also considered whether the addition of a new Explanatory Note would be an appropriate short-term measure, bearing in mind that such an amendment would only come into force after some time as well as the fact that Explanatory Notes to the Convention, in general, should not be used as short-term measures given their legal nature.

The Ad hoc Expert Group may wish to consider document TRANS/WP.30/2004/33, prepared by the secretariat, containing three alternative proposals for a new Explanatory Note to Article 6.2 bis. In this context, the Ad hoc Expert Group may also wish to consider any alternative avenues for immediately including one of the proposed texts as part of the Convention.

Article 8 (and 31), proposals by the Chairman of WP.30 and by the European Community and Article 11, proposals by the European Community and the Russian Federation

Documentation: TRANS/WP.30/2003/32; TRANS/WP.30/2003/22; TRANS/WP.30/2004/14; TRANS/WP.30/2004/25; TRANS/WP.30/2004/11; TRANS/WP.30/2003/11; TRANS/WP.30/216; TRANS/WP.30/214; TRANS/WP.30/210.

The Ad hoc Expert Group, at its first session, considered that the issues, which are addressed by the proposals relating to the two Articles, should be considered in their entirety and decided to deal with the proposals at the same time (TRANS/WP.30/2004/32, para. 28).

The justification for considering the two articles together could be based on the fact that both articles deal with the question of liability; Article 8 with the establishment of the liability in general and Article 11 with the process for recovery when the liability has been established. However, the distinction made above is not clear-cut, since the two articles in some places seem to mix the issues they deal with.

Bearing the above considerations in mind, the Ad hoc Expert Group may wish to consider the two articles in questions together, including the Explanatory Notes and Comments to the respective articles.

With a view to defining the proper sequence, allocation and contents of various provisions, the Ad hoc Expert Group may wish to review the elements that should be included in the articles concerning establishment of the liability and recovery of a Customs debt, taking into due consideration the provisions of the present articles of the Convention. The Ad hoc Expert Group may also wish to take into account IRU's presentation on the guarantee system at the one-hundred-and-eighth session of the Working Party.

In order to do so, delegations are expected to be able to comment on the current provisions in Articles 8 and 11 and the national application of these articles as well as to discuss ideas on how to amend the articles with a view to arriving at a framework that would satisfy the needs of all parties concerned.

In this context, the Ad hoc Expert Group may wish to consider the following main issue which the secretariat has identified, without prejudice to any other issues that could be discussed under this point of the agenda:

- Article 8.1: What is the relationship between Article 1(q); Article 6.1 and Article 8.1 of the Convention? Is the Article 8.1 clear in describing the liability?
- Article 8.2: What is the purpose of this article?
- Article 8.3: Is it still relevant to include the provisions concerning Tobacco and Alcohol?
- Article 8.7: The article mentions the concept of the person(s) directly liable. Is the reference sufficiently clear to be used as a basis for identifying of the person(s) directly liable? It seems that the provision is more related to the recovery when a liability has been established. Therefore, should the provisions be placed under Article 11?
- Article 11: Delegations may wish to comment on the practical application and consequences of Article 11 at national level and if the article adequately meets the needs of Contracting Parties?

Based on the above considerations, delegations may also wish to consider if there are elements relating to the two articles, which should be included in the provisions but which are, so far, absent.

Article 42 bis, Proposal by the European Community

Documentation: TRANS/WP.30/2004/32; TRANS/WP.30/2004/14; TRANS/WP.30/2004/25; TRANS/WP.30/216; TRANS/WP.30/214.

The Ad hoc Expert Group, at its first session, took note of the view expressed by the European Community that the question of proper use of TIR Carnets could be considered either in a restricted sense or in a broader sense. In the view of the European Community, the latter seemed to be more in line with the TIR Convention and thus, the text should be changed as proposed “to ensure the proper application of the Convention”.

The Group may wish to continue its considerations concerning this article.

Annex 8 and Article 13, proposals by Turkey

Documentation: TRANS/WP.30/2004/25; Informal document No. 3 (2003).

The Ad hoc Expert Group may wish to consider the issue concerning the collection of the “levy” as described in Informal document No. 3 (2003), bearing in mind the above-mentioned discussions, in particular in relation to Article 6.2 bis.

4. OTHER MATTERS

The Ad hoc Expert Group may wish to consider any other matters of interest.

The Ad hoc Expert Group may also wish to consider the date of a possible next meeting.



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