

COUNCIL DECISION

of 27 June 2013

on the position to be adopted, on behalf of the European Union within the Administrative Committee for the TIR Convention, as regards the proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975)

(2013/421/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Customs Convention on the International Transport of goods under cover of TIR Carnets (TIR Convention) of 14 November 1975 was approved on behalf of the Community by Council Regulation (EEC) No 2112/78 ⁽¹⁾ and entered into force in the Community on 20 June 1983 ⁽²⁾.
- (2) A consolidated version of the TIR Convention was published as an Annex to Council Decision 2009/477/EC ⁽³⁾, according to which the Commission is to publish future amendments to the TIR Convention in the *Official Journal of the European Union* indicating their date of entry into force.
- (3) Following extensive deliberations, in October 2011 the United Nations Economic Commission for Europe (UNECE) Working Party on Customs Questions Affecting Transport decided that some modifications to the TIR Convention are necessary. These modifications concern Article 6 and the introduction of a new Part III in Annex 9 to the TIR Convention, establishing the conditions and requirements to be complied with by an international organisation which is authorised to take on the responsibility for the effective organisation and functioning of an international guarantee system and to print and distribute TIR Carnets.
- (4) The proposed amendments to the TIR Convention introduce a definition of the international organisation and clearly define its authorisation process. The introduction of a new Part III in Annex 9 would complement the purpose of that Annex by defining clearly the roles

and responsibilities of all actors in the TIR system and would increase the transparency of its management. The introduction of these conditions and requirements in the legal text of the TIR Convention would also simplify the text of the written agreement between UNECE and the international organisation in accordance with Explanatory Note 0.6.2 bis 2 to Article 6 paragraph 2 of the TIR Convention.

- (5) Delegates of all Member States expressed their positive opinion as regards the amendment proposal within the Customs Legislation Committee (Coordination Geneva).
- (6) In its 53rd session in February 2012, the Administrative Committee for the TIR Convention adopted the proposed amendments to the TIR Convention, subject to the completion of the internal procedures of the Union.
- (7) On 5 July 2012, the Administrative Committee transmitted to the Secretary-General, in accordance with the Article 59(1) and (2) of the TIR Convention, proposals for amendments to Article 6.2 bis and Annex 9 to the text of the TIR Convention, adopted at its 53rd session held in Geneva on 9 February 2012. On 10 July 2012, the Secretary-General issued the Depository Notification C.N.358.2012.TREATIES, communicating that if, by 10 July 2013, none of the Contracting Parties had notified any objections to the amendment proposals, they would enter into force on 10 October 2013.
- (8) The position to be adopted on behalf of the Union concerning the proposed amendments should therefore be determined,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on behalf of the European Union within the Administrative Committee for the TIR Convention shall be based on the draft Annex by the Administrative Committee attached to this Decision.

The amendments to the Convention shall be published by the Commission in the *Official Journal of the European Union* indicating their date of entry into force.

⁽¹⁾ OJ L 252, 14.9.1978, p. 1.

⁽²⁾ OJ L 31, 2.2.1983, p. 13.

⁽³⁾ OJ L 165, 26.6.2009, p. 1.

Article 2

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 27 June 2013.

For the Council
The President
E. GILMORE

ANNEX

In Article 6, a new paragraph is introduced as follows:

Article 6, paragraph 2 bis

Modify paragraph 2 bis to read:

2 bis An international organization shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system. The authorization shall be granted as long as the organization fulfils the conditions and requirements laid down in Annex 9, Part III. The Administrative Committee may revoke the authorization if these conditions and requirements are no longer fulfilled.

In Annex 9, a new Part III is introduced as follows:

Annex 9, new Part III

Insert a new Part III to read:

Authorization of an international organization, as referred to in Article 6, to take on the responsibility for the effective organization and functioning of an international guarantee system and to print and distribute TIR Carnets

Conditions and requirements

1. The conditions and requirements to be complied with by an international organization in order to be authorized, in accordance with Article 6.2 bis of the Convention, by the Administrative Committee to take on the responsibility for the effective organization and functioning of an international guarantee system and to print and distribute TIR Carnets are:
 - (a) Proof of sound professional competence and financial standing for the effective organization and functioning of an international guarantee system and the organizational capabilities to fulfil its obligations under the Convention by means of annual submissions of consolidated financial statements duly audited by internationally recognized independent auditors;
 - (b) Absence of serious or repeated offences against Customs or tax legislation.
2. Pursuant to the authorization, the international organization shall:
 - (a) provide the Contracting Parties of the TIR Convention via the national associations affiliated to the international organization with certified copies of the global guarantee contract and proof of guarantee coverage;
 - (b) provide the competent bodies of the TIR Convention with information on the rules and procedures set out for the issue of TIR Carnets by national associations;
 - (c) provide the competent bodies of the TIR Convention, on a yearly basis, with data on claims lodged, pending, paid or settled without payment;
 - (d) provide the competent bodies of the TIR Convention with full and complete information on the functioning of the TIR system, in particular, but not limited to, timely and well founded information on trends in the number of non-terminated TIR operations, claims lodged, pending, paid or settled without payment that might give rise to concerns with regard to the proper functioning of the TIR system or that could lead to difficulties for the continued operation of its international guarantee system;
 - (e) provide the competent bodies of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party, broken down by type;
 - (f) provide the TIR Executive Board with details of the distribution price by the international organization of each type of TIR Carnet;
 - (g) take all possible steps to reduce the risk of counterfeiting TIR Carnets;
 - (h) take the appropriate corrective action in cases where faults or deficiencies with the TIR Carnet have been detected and report these to the TIR Executive Board;
 - (j) fully participate in cases where the TIR Executive Board is called upon to facilitate the settlement of disputes;

- (k) ensure that any problem involving fraudulent activities or other difficulties with regard to the application of the TIR Convention is immediately brought to the attention of the TIR Executive Board;
 - (l) manage the control system for TIR Carnets, provided for in Annex 10 of the Convention, together with national guaranteeing associations affiliated to the international organization and the Customs authorities and inform the Contracting Parties and the competent bodies of the Convention of problems encountered in the system;
 - (m) provide the competent bodies of the TIR Convention with statistics and data on the performance of Contracting Parties with regard to the control system provided for in Annex 10;
 - (n) conclude, not less than two months before the provisional date of entry into force or renewal of the authorization granted in accordance with Article 6.2 bis of the Convention, a written agreement with the United Nations Economic Commission for Europe secretariat, mandated by and acting on behalf of the Administrative Committee, which shall include the acceptance by the international organization of its duties set out in this paragraph.
3. When the international organization is informed by a guaranteeing association of a claim for payment, it shall, within a period of three (3) months inform the guaranteeing association of its position concerning the claim.
 4. All information acquired, directly or indirectly, by the international organization under the Convention, which is by nature confidential or which is provided on a confidential basis, shall be covered by the obligation of professional secrecy and shall not be used or processed neither for any commercial purpose nor for any other purpose than for which it has been provided or disclosed to any third party without the express permission of the person or authority that provided it. Such information may, however, be disclosed without permission to competent authorities of Contracting Parties to this Convention, where there is an authorization or obligation to do so pursuant to provisions of national or international law or in connection with legal proceedings. The disclosure or communication of information shall take place in full compliance with data-protection provisions in force.
 5. The Administrative Committee shall have the right to revoke the authorization granted in accordance with Article 6.2 bis in case of non-compliance with the above conditions and requirements. Should the Administrative Committee decide to revoke the authorization, the decision will become effective at the earliest six (6) months after the date of revocation.
 6. The authorization of an international organization under the terms set out above shall be without prejudice to that organization's responsibilities and liabilities under the Convention.
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