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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, on the proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975)
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Delegations will find attached Commission document COM(2014) 491 final.

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EUROPEAN
COMMISSION

Brussels, 24.7.2014
COM(2014) 491 final

2014/0225 (NLE)

Proposal for a

COUNCIL DECISION

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Grounds for and objectives of the proposal

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 European Economic Community by way of Council Regulation (EEC) No 2112/78. The Convention entered into force in the European Union on 20 June 1983.

The purpose of the proposed Decision is for the European Union to adopt the latest amendments to the TIR Convention agreed by the United Nations Economic Commission for Europe (UNECE) Working Party on Customs Questions Affecting Transport and further adopted by the Administrative Committee for the TIR Convention, subject to completion of the EU's internal procedures.

On 6 February 2014 the Administrative Committee for the TIR Convention adopted at its 57th session in Geneva proposals of amendments to Annex 1 and Annex 6 to the text of the Convention. On 12 June 2014 the Administrative Committee for the TIR Convention adopted at its 58th session in Geneva a proposal of an amendment to Annex 9 to the text of the Convention. The proposals will be transmitted to the UN Secretary-General, in accordance with the provisions of Article 59 (1) and (2) and Article 60 of the Convention and shall enter into force on 1 January 2015, unless, by 1 October 2014, at least five Contracting Parties notify the UN Secretary-General their objections to the amendments.

1.2. General context

The TIR Convention, which is administered by the UNECE, has established a customs transit procedure for the international movement of goods by road. The Convention enables goods, which are under customs and tax suspension, to cross international borders with a minimum of intervention en route by the customs authorities. By easing traditional impediments to the international movement of goods, the TIR system encourages the development of international trade. By reducing delays in transit, it enables significant economies to be made in transport costs. The most important advantage of the system is the fact that the TIR Convention provides, through its international guarantee chain, relatively simple access to the required guarantees.

The UNECE Working Party on Customs Questions Affecting Transport and the Administrative Committee for the TIR Convention agreed that some modifications of the TIR Convention are necessary. These modifications concern:

- the amendment of Annex 1, Model of the TIR Carnet:VERSION 2, point 5 and Annex 6, Explanatory Note to Article 8, paragraph 3, point 5 as a result of the amendments to the International Convention on the Harmonised Commodity Description and Coding system (HS Convention), in particular a creation of a separate subheading in heading 24.03 for water pipe tobacco

- the amendment of Annex 6 introducing two new Explanatory Notes to Annex 9, Part II, paragraphs 4 and 5 regarding the transmission of the data on authorised TIR operators using the International TIR Data Bank (ITDB) online+ application
- the amendment of Annex 6 introducing a new Explanatory Note to Article 38 paragraph 2 regarding transmission of data on exclusions to TIR Executive Board (TIRExB) using the ITDB online+ application
- the amendment of Annex 6 introducing two new Explanatory Notes to Annex 8, Article 9, paragraph 1 and 2 concerning the representation and the election of a TIRExB replacement member
- the amendment of Annex 9, Part I, paragraph 3 (vi) by replacing the existing wording on the deadline of 1 March by an improved text.

1.3. Existing provisions in the area of the proposal

There are no existing provisions in the area of the proposal.

1.4. Consistency with the other policies and objectives of the Union

The proposed Decision is consistent with the common policy in trade and transport. The TIR system, providing facilitation in road transport, allows goods to travel across 68 Contracting Parties with a minimum of interference by customs administrations and provides, through an international guarantee chain, relatively simple access to the required guarantees. The simplifications achieved through the TIR Convention are in line with the revised Lisbon strategy.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

Consultations with approval on the proposals were carried out with the Member States within the Customs Legislation Committee (Co-ordination Geneva) meetings. Consultations took place during sessions of the UNECE Working Party on Customs Questions Affecting Transport and the Administrative Committee for the TIR Convention.

Summary of responses and how they have been taken into account

Favourable opinion.

2.2. Collection and use of expertise

There was no need for external expertise.

2.3. Impact assessment

The proposed amendment to HS code 24.03.10 is caused by the amendments to the codes of the Harmonised system and does not alter the original product coverage. It leads to an alignment of the provisions in the transit area.

The amendments introducing the possibility to transmit legally required data on authorised TIR operators and data on exclusions using the ITDB online+ application instead of sending these data in any other form (on paper or by email) introduce a facilitation tool for customs authorities using the ITDB online+ application. This web application, managed by the UNECE TIR Secretariat, facilitates the management of the national TIR Carnet holder's data. The transmission of data into ITDB using electronic means could become mandatory at some point in the future.

The amendments in the procedure regarding the by-election and representation of the TIRExB clarify the situation after a resignation of the TIRExB member and outline the professional requirements for the prospective TIRExB members.

All the proposed amendments to Annex 6 do not change the substance of the TIR Convention as according to Article 43 of the TIR Convention the explanatory notes interpret certain provisions of the TIR Convention and its Annexes and describe certain recommended practices.

The amendment on the wording on the deadline in Annex 9, Part I, paragraph 3 (vi) will ensure proper understanding of the current obligation for the national association to provide the TIRExB annually with the prices of each type of TIR carnet it issues.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

The proposed Decision lays down the position to be taken by the European Union concerning the proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets.

3.2. Legal basis

Articles 207 and 218 (9) of the Treaty on the Functioning of the European Union.

3.3. Subsidiarity principle

The proposal falls within an area of exclusive competence of the European Union (common commercial policy) and therefore does not deserve an examination with regard to the principle of subsidiarity (Article 5 (3) of the Treaty on the Functioning of the European Union).

The proposed amendments were preliminarily adopted by the UNECE Working Party on Customs Questions Affecting Transport and Administrative Committee for the TIR Convention.

3.4. Proportionality principle

The proposal is in conformity with the principle of proportionality. It allows the implementation of an amendment to the international agreement which as such respects the principle of proportionality.

3.5. Choice of instruments

Proposed instrument: Decision.

International agreements and amendments to these arrangements are normally introduced into the European Union's legal order by way of a Decision.

4. BUDGETARY IMPLICATION

The proposal has no implication for the European Union budget.

Proposal for a

COUNCIL DECISION

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

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 European Economic Community by Council Regulation (EEC) No 2112/78 of 25 July 1978¹ and entered into force in the European Union on 20 June 1983².
- (2) A consolidated version of the TIR Convention was published as Annex to Council Decision 2009/477/EC of 28 May 2009³, according to which the Commission shall publish future amendments to the Convention in the Official Journal of the European Union indicating their date of entry into force.
- (3) Various amendments to the International Convention on the Harmonised Commodity Description and Coding system (HS Convention) have been agreed. These amendments entered into force for all Contracting Parties to the HS Convention on 1 January 2012. The amendments make it necessary to amend the Model of the TIR Carnet and a reference in the Explanatory note.
- (4) As a consequence of the introduction of ITDB online+, an international repository of information concerning all persons authorised by Contracting Parties to use the TIR procedure, the Administrative Committee for the TIR Convention agreed that using ITDB online+ to transmit to ITDB the legally required data on authorized TIR operators makes submission of such data in any other form, for example, on paper or by e-mail, redundant. To clarify this principle in the text of the Convention, the Committee advocated the introduction of two new Explanatory Notes. A similar Explanatory Note is proposed regarding transmission of data on exclusions to TIR Executive Board (TIRExB).

¹ OJ L 252, 14.09.1978, p. 1.

² OJ L 31, 2.2.1983, p. 13.

³ OJ L 165, 26.6.2009, p. 1.

- (5) Following the discussion of the TIRExB on the professional requirements for the nomination of TIRExB members and on the intermediate election of replacement TIRExB members, including considerations how to amend the existing Rules of Procedures, the TIRExB transmitted to the Administrative Committee for the TIR Convention proposals for two new Explanatory Notes. The first proposed Explanatory Note aims to address the professional requirements of prospective TIRExB members, in order to signal to Contracting Parties how to best proceed when nominating a candidate. The second new Explanatory Note recommends the practice to follow in case a member of the TIRExB resigns or is unable to complete his/her mandated term of office. It also gives the Administrative Committee for the TIR Convention an opportunity to decide whether the by-election will take place. The amendment to Rules of Procedures of the TIRExB containing both modifications were adopted at its 49th and 50th sessions.
- (6) An amendment of the Annex 9, Part I of the Convention entered into force on 1 January 2012 (OJ L66/1 from 6 March 2012) and introduced, among others, a new obligation for the national associations to provide the TIRExB with the prices of TIR Carnets. However the deadline to fulfill this obligation was not very clear. The proposed amendment will clarify this deadline.
- (7) In its 57th and 58th session in February 2014 the Administrative Committee for the TIR Convention adopted the proposed amendments of the TIR Convention, subject to the completion of the Union's internal procedures.
- (8) Therefore, the Union position concerning the proposed amendment should be determined,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the Administrative Committee for the TIR Convention shall be based on the draft amendments attached to this Decision.

Minor changes to the draft amendments may be agreed to by the representatives of the Union in the Administrative Committee for the TIR Convention without further decision of the Council.

Article 2

This Decision shall enter into force on the day of its adoption.

The Commission shall publish the amendment, once adopted, in the Official Journal of the European Union indicating its date of entry into force.

Done at Brussels,

*For the Council
The President*