



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

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Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

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Agenda item III (c)

Application of specific provisions of the TIR Convention

Proposals to amend the comment to Article 23 of the Convention

Note by the secretariat

I. Background and mandate

1. At its sixty-first session, the TIR Executive Board (TIRExB) considered a new comment to Article 23, recommending customs authorities to consider the use of modern facilities, such as Global Positioning System tracking devices or the use of e-seals before prescribing escort. The Board agreed on the text of the proposal and requested the secretariat to transmit the draft comment to Article 23 to the TIR Administrative Committee for further consideration.

2. At its sixty-first session (June 2015), the Committee considered document ECE/TRANS/WP.30/AC.2/2015/16 and its Corr. 1, elaborating other options than escorts to ensure the safe journey of transported goods, prepared by TIRExB. The representative of the Russian Federation informed the Committee that, in his view, the proposed Global Positioning System (GPS) as an element for customs authorities to include in their assessment prior to taking a decision whether or not to prescribe a customs escort was inconclusive, considering that GPS does not allow to register any tampering with the vehicle while en route. For this reason, his delegation could not support the proposal to amend the comment to Article 23. The Committee decided to revisit this issue at its next session (see ECE/TRANS/WP.30/AC.2/125/ para. 50).

3. At its sixty-second session (October 2015), the Committee continued its discussions of documents ECE/TRANS/WP.30/AC.2/2015/16 and Corr. 1, elaborating proposals for a new comment to Article 23. Various delegations pointed out the fact that GPS was not the only available satellite positioning system and requested the secretariat to revise the document, so that it would either accommodate all possible systems or refer to such systems with a generic all-encompassing term for consideration at the next session (see ECE/TRANS/WP.30/AC.2/127, para. 38).

4. At its sixty-third session (February 2016), the Committee considered document ECE/TRANS/WP.30/AC.2/2015/16/Rev.1 with a revised proposal by TIRExB to amend Article 23 of the Convention with a comment, recommending customs authorities to consider the use of modern facilities before prescribing escorts. The Committee was of the opinion that the term used by the secretariat to refer to satellite positioning systems (Global

Navigation Satellite System (GNSS)) was insufficiently generic to be included into a comment to a legal instrument. The delegation of Belarus questioned the logic of the proposal within the framework of the existing comment to Article 23. The delegation of the EU requested to include in the comment that the purpose of the use of satellite positioning systems is for tracking purposes. Thus, the Committee requested TIRExB to review its proposals in the light of these considerations, taking also account of the forthcoming raise in the level of the recommended guarantee amount to 100,000 euros, together with the use of escorts and satellite positioning systems (see ECE/TRANS/WP.30/AC.2/129, para. 40).

II. Pending proposal by TIRExB

5. After various requests for amendment, the latest proposal by TIRExB for a comment to Article 23 reads as follows:

"Prior to prescribing escort, customs authorities are recommended to consider the use of modern technologies that facilitate customs transit, such as Global Navigation Satellite System (GNSS) devices or the use of e-seals, in order to enhance security of goods transported under the TIR procedure."

III. Preliminary assessment by the secretariat

6. Further to the discussions in AC.2, the following issues need to be addressed.

(a) Correct generic reference to satellite positioning systems

7. In order to avoid any reference to the type of positioning system used and considering that such systems would be used for tracking purposes, the secretariat proposes to use the term "tracking systems".

(b) Relevance of tracking systems to replace custom escorts

8. At present, the comment to Article 23 states that "escort may be prescribed under exceptional circumstances only when compliance with Customs law cannot be ensured by other means". Furthermore, the comment indicates that various factors should be taken into account to estimate the risk that the goods will not be presented at the customs office of destination or exit (en route), i.e. information on customs infringements commented by the TIR Carnet holder as well as on his previous withdrawals or exclusions from the TIR procedure, his reputation, the amount of duties and taxes at risk, origin of the goods and their itinerary.

9. As such, tracking systems (including those that would alert customs in real-time when the loading unit is opened), do not provide the same level of security as a customs escort when it comes to ensuring that goods are not illegally put into free circulation. However, when tracking systems are combined with mobile intervention teams that could rapidly go to the location of the suspected infringement, the security level provided by such systems approaches that of a customs escort. Thus, such systems could provide an alternative means to ensure compliance with customs laws, in particular when used in combination with the adequate interventions teams on the ground..

(c) Forthcoming raise of the recommended guarantee amount to 100,000 euros

10. Finally, TIRExB was requested to assess its proposal against the background of the forthcoming raise of the recommended amount to 100,000 euros.

11. Considering that the purpose of introducing the use of tracking systems is to provide an alternative for the prescription of customs escort, the forthcoming raise in the recommended guarantee amount to 100,000 euros does, as such, not have any influence on its application, other than there will be less situations where customs will prescribe customs escort or, alternatively, agree that it be replaced by the use of a tracking system.

IV. Amended proposal

12. Based on the above, an alternative wording for a comment to Article 23 could be as follows:

Use of tracking systems

"Prior to prescribing customs escort, customs authorities are recommended to consider alternative technologies which can secure TIR operations, such as tracking systems or e-seals."

V. Considerations by the Board

13. TIRExB is invited to consider the preliminary assessment of the secretariat and the amended proposal for a new comment to Article 23 of the Convention.
