



## Economic and Social Council

Distr.

GENERAL

TRANS/WP.30/1998/15  
12 October 1998

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions  
affecting Transport

Ad hoc Group of Experts  
on Phase II of the TIR revision process  
(Third session, 19 and 20 October 1998,  
agenda items 3 (c)(I) and (ii))

### PROPOSALS FOR AMENDMENTS TO THE TIR CONVENTION, 1975 PHASE II OF THE TIR REVISION

Harmonized discharge procedures  
Definition of discharge and recommended discharge procedure

Note by the secretariat

#### A. MANDATE AND BACKGROUND

1. As requested by the Ad hoc Group of Experts on phase II of the TIR revision process, the secretariat has prepared the proposals contained below taking account of the deliberations of the group of experts during its first and second meeting (TRANS/WP.30/1998/5 and TRANS/WP.30/1998/11).

PLEASE NOTE: The distribution of documents of the Inland Transport Committee and its subsidiary bodies is no longer Arestricted@. Accordingly, the secretariat has adopted a new numbering system whereby all documents other than reports and agendas of the Working Party will be numbered as follows: TRANS/WP.30/year/serial number. Reports and agendas of the Working Party will retain their previous numbering system (e.g., TRANS/WP.30/177).

2. The secretariat has also consulted with a number of Customs experts as well as experts from the transport industry with a view to understanding national procedures in the implementation of the relevant provisions of the Convention.
3. The group of experts had been of the view that it was neither possible nor necessary to harmonize national Customs procedures in all Contracting Parties in order to arrive at a well-functioning TIR transit regime. Rather, the objective pursued was to define and possibly standardize the provisions in the Convention relating to (a) the termination of the TIR transit procedure, i.e. the presentation of the goods, the load compartment and the TIR Carnet at the Customs office of exit (en route) or destination and (b) the completion of the required control procedures as provided for in the Convention and in national Customs regulations, with a view to arriving at clear indications as to when and under which circumstances the liability of the TIR Carnet holder vis-à-vis the Customs authorities ended.
4. The group of experts had also noted that the details of the discharge procedure depended to a large extent on national legislation and administrative procedures and were not prescribed in the Convention. It also noted that the procedures for the settlement of Customs claims was basically a matter to be agreed upon between the national guaranteeing association(s) and the Customs authorities. However, it was felt that efforts should be made at the international level to facilitate an efficient and rapid settlement of claims, particularly with regard to foreign TIR Carnets and to provide the basis for an effective risk management system by the international insurance system.
5. Finally, it had been agreed that, as a first step, the meaning of the term Adischarge@ (French: Adécharge@; Russian: A'L@D<:,>4,@) had to be clearly defined in the Convention (TRANS/WP.30/1998/11, paras. 12 and 13).

## B. DEFINITION OF DISCHARGE

6. The secretariat proposes a number of amendments to some of the relevant provisions in the Convention on the basis of two separate terms replacing the existing term Adischarge@ (French: Adécharge@; Russian: A'L@D<:,>4,@) used in the Convention:
  - (a) Atermination of a TIR operation@ (French: Afin de l=opération TIR) referring to the obligation of the TIR Carnet holder under the Convention (the term Aholder@ still needs to be defined);
  - (b) Adischarge of a TIR operation@ (French: Aapurement de l=opération TIR@) as the material and legal act by the competent Customs authorities certifying the correct termination of the TIR operation in a country or Customs Union and inter alia liberating the guarantee.
7. In detail, the following amendments to the Convention as well as modifications to the comments contained in the TIR Handbook are proposed for consideration by the group of experts:

### Article 1

Add new paragraphs (a bis and a ter) to article 1 of the TIR Convention, 1975:

A(a bis) the term Atermination of a TIR operation@ shall mean that the obligations of the holder of a TIR Carnet have been met in a Contracting Party when the road vehicle, the combination of vehicles or the container are produced for purposes of control to the Customs office of destination or of exit (en route) together with the load and the TIR Carnet relating thereto and all other relevant provisions of the Convention have been complied with;

(a ter) the term Adischarge of a TIR operation@ shall mean the recognition by Customs authorities that the TIR operation has been terminated correctly in a Contracting Party. This is established by the Customs authorities on the basis of a comparison of the data or information supplied by the Customs office of destination or exit (en route) and those supplied by the Customs office of departure or entry (en route);@

Note: The secretariat is of the opinion that the term Aconditional termination of a TIR operation@ does not need to be defined in the Convention as the conditions for conditional termination vary considerably at the national level and a decision to conditionally terminate a TIR operation by filling-in box 27 on voucher No.2 and by placing an AR@ under item No.5 on the counterfoil No.2 could be left at the discretion of the concerned national Customs authorities. The term Apartial/final termination@ does not appear in the text of the Convention and therefore does not need to be defined either. The terms Acertificate of termination@ and Aimproper or fraudulently obtained certificate of termination@ are indirectly clarified by the newly proposed definitions of Atermination@ and Adischarge@ (TRANS/WP.30/1998/11, para. 15).

Comment to article 8 (Information to guaranteeing associations)

(1995 TIR Handbook, page 41)

Replace the wording: A... has not been discharged or has been discharged conditionally.@ by: A... has not been terminated or has been terminated conditionally.@

Article 10, paragraph 1

Delete paragraph 1.

Note: It is proposed that the amended article 10 refers only to discharge operations. Therefore the text of paragraph 1 has been moved to the revised article 28 describing termination procedures.

Article 10, paragraph 2

Delete paragraph No. A2".

Replace the wording: Ahave discharged a TIR Carnet unconditionally@ by: Ahave discharged a TIR operation@.

Replace the wording: Acertificate of discharge@ by: Acertificate of termination@.

Note: In the view of the secretariat there can be no Aconditional discharge@ of a TIR operation, as defined under article 1 (a~~ter~~) above, in contrast to a possible Aconditional termination@ of a TIR operation. The statement of discharge of a TIR operation by Customs authorities usually terminates the Customs procedures under the TIR regime; a statement of non-discharge will trigger the procedures as provided for under article 11 of the Convention.

Explanatory note 0.10 (Annex 6) to article 10

Replace the word: Acertificate of discharge@ by: Acertificate of termination@.

The existing comments to article 10 (1995 TIR Handbook, pages 44 and 45) will be placed under the revised article 28 (see below).

Article 11, paragraph 1

Modify the beginning of the first sentence to read as follows:

A1. Where a TIR operation has not been discharged, the competent authorities ...@.

Delete at the end of the first sentence the wording: Aor conditional discharge@.

Replace in the second sentence the word: Acertificate of discharge@ (French: décharge) by: Acertificate of termination@.

Article 11, paragraph 2

Modify the first sentence to read as follows:

A2. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made to the guaranteeing association at the earliest three months after the date on which the association was informed that the TIR operation had not been discharged or that the certificate of termination had been obtained in an improper or fraudulent manner and at the latest not more than two years after that date.@

Article 17, paragraph 2

Replace the word Adischarge@ by: Atermination of a TIR operation@.

Article 28

Replace the text of article 28 by the following:

A1. Termination of a TIR operation shall be certified by Customs authorities without delay. A TIR operation may be terminated unconditionally or conditionally: where termination is conditional this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR Carnet.

Note: Refer to the amended article 10 above.

2. Upon termination of a TIR operation at the Customs office of destination, the goods shall be placed under another system of Customs control (French: contrôle douanière) or shall be cleared for home use. @

Note: Paragraph 2 of article 28 may seem to be superfluous as it covers procedures following the termination and outside the scope of the TIR operation. The substance covered in this paragraph is therefore neither necessary for the termination nor for the discharge procedures under the TIR regime.

Explanatory note 0.28 (Annex 6)

(1995 TIR Handbook, page 56)

AExplanatory note 0.28" will become AExplanatory note 0.28-2".

Comment to article 28 (Return of TIR Carnets)

(1995 TIR Handbook, page 56)

Replace the wording "Whether discharged conditionally or unconditionally" by: "Whether terminated conditionally or unconditionally".

The existing comments to article 10 (1995 TIR Handbook, pages 44 and 45) will be placed following the revised article 28.

Comment to article 10 (Discharge of TIR Carnets)

(1995 TIR Handbook, page 44)

Modify the existing comment to read as follows:

AComment to article 28, paragraph 1

Termination of a TIR operation

1. In cases where a TIR operation has been terminated unconditionally, the Customs administration which declares such termination as having been obtained improperly or fraudulently should specify in its request for payment its reasons for declaring this termination improper or fraudulent.
2. The Customs authorities should not terminate TIR operations subject to systematic unspecified reservations, without giving reasons, solely for the purposes of avoiding the requirements of Article 10, paragraph 2 and Article 11, paragraph 1. @

Comment to article 10 (Indication of reservations)

(1995 TIR Handbook, page 44)

Modify the existing comment to read as follows:

AComment to article 28, paragraph 1

Indication of reservations

Customs administrations should make any reservation, i.e. a conditional termination of a TIR operation, very clear and should indicate the existence of a reservation by filling-in box 27 on voucher No. 2 and by placing an AR@ under item 5 on the counterfoil No.2 of the TIR Carnet. @

Comment to article 10 (Alternative forms of evidence as proof for the discharge of TIR Carnets)

(1995 TIR Handbook, page 45)

Modify the existing comment to read as follows:AComment to article 28, paragraph 1

Alternative forms of evidence as proof for the termination of a TIR operation

Customs authorities are recommended to accept exceptionally, as alternative proof for the proper termination of a TIR operation, ..... to be provided by the international organization which must confirm that ...@

Annex 1Model of TIR Carnet Version I and Version IIReplace in box 24 on voucher No.2 the words ACertificate of discharge@ by: ACertificate of termination@.Modify in box 26 on voucher No.2 the words ANumber of packages discharged@ by: ANumber of packages for which the TIR operation has been terminated@.Modify under item 5 on the counterfoil No. 2 the words ADischarged ..... packages or articles (as specified in the manifest)@ by: ATerminated under the TIR operation ..... packages or articles (as specified in the manifest)@.Comment to annex 1 (Discharge of TIR Carnets)

(1995 TIR Handbook, page 73) (For reference: see proposed amended text of this comment as contained in document TRANS/WP.30/1997/1)

Modify the existing comment to read as follows:

ATermination of a TIR operation

In boxes 24 to 28 of voucher No. 2, in addition to the required inscriptions, only one Customs stamp and one signature are necessary and sufficient to terminate a TIR operation. Other authorities than Customs are not entitled to stamp and sign the vouchers (the sheets on the front cover).

The filling-in by competent authorities of the counterfoil to voucher No. 2, including one Customs stamp and one signature, confirm for the TIR Carnet holder and the guaranteeing association the termination of the TIR operation, with or without reservation."

Comment to annex 1 (Customs stamps on the counterfoil)

(1995 TIR Handbook, page 73)

Replace in the second sentence the wording: ADischarge the TIR Carnet unconditionally@ by: ATerminate the TIR operation unconditionally@.

Comment to annex 1 (Alternative forms of evidence as proof for the discharge of TIR Carnets)

(1995 TIR Handbook, page 74)

Modify the existing comment to read as follows:

Alternative forms of evidence as proof for the termination of a TIR operation

Customs authorities are recommended to accept exceptionally, as alternative proof for the proper termination of a TIR operation, ..... to be provided by the international organization which must confirm that ...@

Comment to annex 1 (Indication of reservations)

(1995 TIR Handbook, page 74)

Modify the existing text as follows:

Customs administrations should make any reservation, i.e a conditional termination of a TIR operation, very clear and should indicate the existence of a reservation by filling-in box 27 on voucher No. 2 and by placing an AR@ under item 5 on the counterfoil No.2 of the TIR Carnet.@

Note: Following consideration of the above amendment proposals by the group of experts , an authentication of the three language versions of the text of the Convention could be undertaken as requested earlier by the group of experts (TRANS/WP.30/1998/11, para. 17).

### C. RECOMMENDED TERMINATION AND DISCHARGE PROCEDURES

8. The secretariat is of the view that before administrative procedures for the termination and discharge of TIR operations can be recommended as proposed by the group of experts at its second session (TRANS/WP.30/1997/11, para. 18), a consensus should be achieved among Contracting parties on the proposed new definitions on Adischarge@ and Atermination@ of a TIR operation. Once this has been obtained, international recommendations could be prepared on

- obligations of the TIR Carnet holder (termination of a TIR operation)
  - discharge procedures to be fulfilled by Customs authorities
  - guidelines for the filling-in of a TIR Carnet by the holder and by Customs authorities, incl. the publication of a new example of a TIR Carnet duly filled-in for inclusion into the TIR Handbook.
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