



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/2004/34
2 August 2004

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport
(One-hundred-and-eighth session, 11-15 October 2004,
agenda item 6 (c) (i))

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT
OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION 1975)**

Application of the Convention

Functions and roles of the TIRExB, the TIR secretariat and the IRU

Note by the secretariat

A. BACKGROUND

1. The Working Party, at its one-hundred-and-seventh session, considered document TRANS/WP.30/2004/16, prepared by the secretariat, which contained the elements to be included into point 1.9 of the introduction of the TIR Handbook concerning the roles and responsibilities of the national guaranteeing associations, the international organization, the TIRExB and the TIR secretariat. The Working Party, in general, agreed with the proposals. However, a number of amendments of both a linguistic nature and more substantial nature were proposed. Therefore, the Working Party decided to consider the question once more at its forthcoming session and requested the secretariat to prepare a revised document to this purpose (TRANS/WP.30/214, para.44).

B. REVISED PROPOSALS BY THE SECRETARIAT

2. Revised proposals with regard to chapter 1.9 of the TIR Handbook are reproduced below. For the sake of visibility, the introduced changes are highlighted in ***bold italic***.

Modify the title and introductory part to read as follows:

"1.9 ROLES AND RESPONSIBILITIES OF DIFFERENT PARTIES INVOLVED IN THE TIR SYSTEM

The TIR system is a well-balanced mechanism based on cooperation among the Contracting Parties and transport industry. With a view to ensuring its smooth functioning, it is essential that all parties involved - Governments, TIR Executive Board, national guaranteeing associations, transport operators, international organizations – meet their obligations in accordance with the provisions of the TIR Convention. An overview of the roles and responsibilities of the main players in the TIR system is given below."

Modify chapter 1.9.2 "Responsibility of the national guaranteeing association" to read as follows:

"1.9.2 ***ROLES AND RESPONSIBILITIES*** OF THE NATIONAL GUARANTEEING ASSOCIATION

- Conclude a contract (agreement) of commitment with the national Customs authorities and undertake to pay import or export duties and taxes, together with any default interest, due under Customs laws and regulations of the country in which an irregularity has been noted in connection with a TIR operation. The association is liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums (Article 8, paragraph 1);
- Conclude a written agreement on the functioning of the international guarantee system with an international organization (at present the International Road Transport Union, (IRU) is managing the only existing international guarantee system) (Explanatory Note 0.6.2 bis);
- Act as guarantor (Article 6, paragraph 1). This guarantee should also cover the liabilities incurred in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated (Article 6, paragraph 2);

- Issue TIR Carnets only to persons who fulfil the minimum conditions and requirements (Article 6, paragraph 4 and Annex 9, part II) and whose access to the TIR Procedure has not been refused by the competent authorities of Contracting Parties in which the person is resident or established (Article 6, paragraph 3);
- Conclude a declaration of commitment with the transport operator requesting TIR Carnets (the guaranteeing association can require a bank guarantee or a deposit);
- Issue TIR Carnets on the basis of a risk management based system;
- Take, in close cooperation with the competent authorities, all necessary measures to ensure the proper use of TIR Carnets (Article 42 bis);
- Transmit to the competent national authority the following documentation and information:

International guarantee system

- A certified copy of the insurance or financial guarantee contract as well as any modifications thereto (deadline: as soon as possible);
- A copy of the (annually to be renewed) insurance certificate (deadline: as soon as possible).

Controlled access to the TIR procedure

- The particulars of each person requesting authorization from the competent authorities to use TIR Carnets;
- A complete and updated list of all persons authorized by the competent authorities to use TIR Carnets or whose authorization has been withdrawn (deadline: as per 31 December each year within one week following 31 December)."

Modify chapter 1.9.4 "Responsibility of the international organization" to read as follows:

"1.9.4 **ROLES AND RESPONSIBILITIES** OF THE INTERNATIONAL ORGANIZATION
(AT PRESENT: IRU)

- Obtain the authorization to take on responsibility for the effective organization and functioning of an international guarantee system, granted by the TIR Administrative Committee (Article 6, paragraph 2 bis of the Convention);

- Procure the acceptance of the national guaranteeing association by an international ~~insurance~~ *insurance* ~~of~~ guarantee system;
- Provide the competent bodies with certified copies of the global guarantee contract and proof of guarantee coverage;
- Conclude written agreements on the functioning of the international guarantee system with national guaranteeing associations (Explanatory Note 0.6.2 bis);
- Obtain the authorization to print and distribute TIR Carnets, granted by the TIR Administrative Committee (Annex 8, Article 10 (b));
- Inform all national guaranteeing associations and national Customs authorities of the authorization of new guaranteeing associations;
- Administer* the TIR guarantee system and provide competent bodies, on an yearly basis, with global data of claims lodged, paid and pending for each Contracting Party;
- Administer* the TIR Carnet system, including centralized printing and distribution of TIR Carnets to national guaranteeing associations:
 - Take all reasonable steps to reduce the risk of counterfeiting TIR Carnets;
 - Take the appropriate corrective action in cases where faults or deficiencies with the international Customs document, the TIR Carnet, have been detected;
 - Provide the competent bodies with information on the rules and procedures prescribed for the issue of TIR Carnets by the national guaranteeing associations;
 - Provide the competent bodies with statistical data on the number of TIR Carnets distributed to each Contracting Party;
 - Provide the TIRExB with details of the issuing price by the international organization of each type of TIR Carnets;
- Offer its good offices and experience to support training of interested parties, i.e. national associations;
- Manage an electronic control system for TIR Carnets, in particular:

* *In Russian: "осуществлять руководство".*

- Inform the Contracting Parties and competent bodies of *significant* problems encountered in the system;
- Provide the competent bodies with statistics and data on performances of Contracting Parties with regard to the electronic control system;
- Continually seek to enhance the electronic control system in order to improve its efficiency as a risk management and anti-fraud tool;
- *As observer*, take part in *sessions* of the TIR Administrative Committee (Annex 8, Article 1 (ii) of the Convention), TIRExB (Annex 8, Article 11, paragraph 5 of the Convention), UNECE Working Party on Customs Questions affecting Transport (WP.30) and TIR Contact Group;
- Participate in activities of the TIRExB, in particular:
 - Fully participate in cases where the TIRExB is called upon to facilitate the settlement of a dispute;
 - Provide, at the request of the TIRExB, full and complete information on the functioning of the TIR system, provided that such a request does not infringe legislation concerning confidentiality, data protection, etc.;
 - 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 TIRExB;
 - Be available for regular informal meetings with the TIR secretariat."

Add a new chapter 1.9.5 to read as follows:

"1.9.5 **ROLES AND RESPONSIBILITIES**** OF THE TIR EXECUTIVE BOARD AND TIR SECRETARY, IN ACCORDANCE WITH ANNEX 8, ARTICLE 10 OF THE TIR CONVENTION

- Supervise the application of the Convention. To this end, the TIRExB, *inter alia*, prepares samples, issues questionnaires, conducts selected field visits, etc. Special attention is paid to the following areas of concern:

** The Working Party may wish to consider whether, instead of "roles and responsibilities", the wordings appeared in the TIR Convention and the Terms of Reference of the TIRExB should be used, namely tasks, functions and obligations.

- conformity of vehicles;
- authorization of national associations;
- conformity of the termination and discharge procedures;
- identification, prosecution of and requesting payment from persons directly liable for TIR infringements;
- exclusions and withdrawals from the TIR procedure, in line with Article 38 and Annex 9, part II of the Convention;
- implementation of amendments to the Convention;
- conformity of the three official languages of the Convention and its Annexes;
- conformity of new control measures taken by any Contracting Party (Article 42 bis);
- Supervise the operation of the guarantee system. To this end, the TIRExB examines and questions (where necessary) the global guarantee contract, the national deed of guarantees and the annual guarantee certificates. The TIRExB also requests the international organization to furnish, on an annual basis, global data of the number of claims lodged, those paid and pending for each Contracting Party;
- Fulfill the functions entrusted to it by the Administrative Committee;
- Supervise the centralized printing and distribution to the associations of TIR Carnets which is performed by the international organization. This includes, *inter alia*, monitoring that the TIR Carnet is in conformity with the requirements of the Convention and providing preliminary approval of any modifications to its layout;
- Coordinate and foster the exchange of intelligence and other information among competent authorities of Contracting Parties. The TIRExB actively encourages the competent authorities to share knowledge and experiences on new trends and methods of fraud as well as examples of best practices. Once such information is received, the TIRExB acts as its depository and takes care of its dissemination;
- Coordinate and foster the exchange of information between competent authorities of Contracting Parties, associations and international organizations. This includes, for example, matters as the operation of an electronic control system, examples of best practices, etc.;

- Facilitate the settlement of disputes between Contracting Parties, associations, insurance companies and international organizations. The TIRExB uses its good offices to mediate and, where appropriate, to help resolve any dispute;
- Support the training of personnel of Customs authorities and other interested parties concerned with the TIR procedure;
- Maintain a central record for the dissemination to Contracting Parties of information on all rules and procedures prescribed for the issue of TIR Carnets by associations, as far as they relate to the minimum conditions and requirements laid down in Annex 9;
- Monitor the price of the TIR Carnet, *taking into consideration the sensitivity of this issue.*

Decisions of the TIRExB are executed by the TIR Secretary who is a member of the secretariat of the United Nations Economic Commission for Europe. The TIR Secretary is assisted by a small TIR secretariat, the size of which is determined by the Administrative Committee."
