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Revision of the Convention:

Amendment proposals to the Convention

prepared by the TIR Executive Board and TIR secretariat

Amendment proposals to the Convention prepared by the TIR Executive Board

Submitted by the International Road Transport Union (IRU)

I. Background

1. At its seventy-third session (June 2017), the TIR Executive Board (TIRExB) commenced considerations on how to achieve mandatory usage of the International TIR Data Bank (ITDB). At its seventy-seventh session (June 2018), TIRExB finalized its discussions on the mandatory use of the ITDB and decided on the draft amendment proposals. The Board requested the secretariat to submit the proposals to the Administrative Committee for consideration and, possibly, adoption. On 8 August 2018 the amendment proposals were published under reference ECE/TRANS/WP.30/AC.2/2018/12.
2. Since the beginning of 2018, the IRU secretariat has been receiving complaints from its member associations informing of various cases where the transport operators were facing difficulties with acceptance of TIR Carnets and even refusals, due to the fact that some customs authorities were checking the TIR Carnet holder status in the ITDB.
3. Upon request from its members, IRU assessed the amendment proposals prepared by TIRExB and the information received so far from the TIR associations concerned by the premature use of ITDB by the authorities of some TIR contracting parties and hereby is submitting the results of such analysis and proposal for additional explanatory notes to be added to the TIR Convention.

II. Analysis and proposal

4. According to the information received from a number of IRU member associations, in the absence of relevant provisions in the TIR convention, there are two problems associated with the use of the ITDB by the customs authorities of some contracting parties. If not addressed properly, these two problems may remain to some extent unresolved even after the amendments to the TIR Convention will enter into force.
5. The first problem is related to the verification of the status of the TIR Carnet holder at the customs office of entry or departure, in particular, the availability of information

regarding the authorization of the carrier to the TIR system. In the absence of any information in the ITDB, customs authorities refuse to accept the TIR Carnet (often without explaining the reasons to the TIR Carnet holder) and this has already been the case for some TIR Carnet holders from various countries. It should be noted that the issuance of a TIR Carnet and the availability of information on its status, validity, etc. in the IRU IT systems (to which all customs authorities have access), already confirms indirectly the carrier's authorization to the TIR system. Difficulties with the transfer of data to the ITDB (technical, administrative, etc.) should not create obstacles for the TIR Carnet holders while they have no opportunity to verify their status in the ITDB, and – even less – to ensure its availability in the international data bank. In view of this, IRU believe it necessary to supplement the amendments proposed by TIRExB in document ECE/TRANS/WP.30/AC.2/2018/12, by adding the following text to Annex 9, Part II, paragraph 4:

"The absence of data in the electronic applications developed by the TIR secretariat under the supervision of the TIR Executive Board on the authorization of a person to use TIR Carnets, shall not constitute grounds for refusal of acceptance of TIR Carnets by the customs authorities. In case of absence of the relevant information entry, the customs authorities should verify alternative sources of data (e.g. control system for TIR Carnets established by an international organization authorized under Article 6, paragraph 2 bis)".

6. The second problem relates to the dissemination of data on the application by the customs authorities of Article 38 through the ITDB. Under the provisions of Article 38, in particular paragraph 2 and its Explanatory Note, information on the exclusion from the operation of the TIR Convention shall be notified to the competent authorities of the country where the person concerned is established or resident, to the association(s) in the country or customs territory where the offence has been committed and to TIRExB. At the same time, this information is also made available to the customs authorities of third countries in the ITDB, in clear violation of the current provisions of Article 38, and therefore TIR Carnet holders are unreasonably denied the acceptance of TIR Carnets in third countries. In this regard, IRU considers it necessary to add the following text to the Explanatory Note to Article 38 (0.38.2):

"Information on the temporary or permanent exclusion of any person from the operation of this Convention, should be notified through and be visible in the electronic applications developed by the TIR secretariat under the supervision of the TIR Executive Board, only to the competent authorities of the country where the person concerned is established or resident, to the association(s) in the country or Customs territory where the offence has been committed and to the TIR Executive Board."

III. Conclusion

7. Taking into account that the security in the TIR system has been considerably improved, a fact confirmed by a significantly decreased number of customs irregularities over the last decade, IRU and its members – national TIR guaranteeing associations – are of the opinion that the system should not be overcomplicated and restricted by unnecessary additional controls. On the contrary, the system should further be simplified and digitalized in the spirit of trade and transit facilitation, as provided for in the current TIR Convention. Therefore, IRU invites all TIR contracting parties to carefully consider the proposals of the private sector and speed up the decision-making process to achieve these goals as soon as possible.