



**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

(Twenty-seventh session, 17-19 October 2005,
agenda item 8)

**TRANSPORT OF PASSENGER CARS ON THEIR OWN WHEELS
UNDER THE TIR PROCEDURE**

Note by the TIR Secretary, in cooperation with the IRU

A. BACKGROUND

1. At its twenty-sixth session, the TIRExB was informed of different interpretations, at national level, of the provisions of Article 3 (a) (iii) relating to vehicles "exported and therefore themselves considered as goods travelling by their own means". Some Contracting Parties seemed to accept that passenger cars travelling on their own wheels fall under the above description, while in other Contracting Parties national legislation explicitly forbids the use of TIR Carnets for transport of passenger cars, unless these cars are loaded onto another vehicle. These differences in interpretation had led to situations where TIR Carnets had been opened for transport of passenger cars in one Contracting Party, but were subsequently refused by a Customs office en route in another Contracting Party. Following a short exchange of views, the TIRExB felt that this issue should be studied in depth, in particular from the legal point of view, and requested the secretariat to prepare, in cooperation with the IRU, a document for consideration at the next session (TIRExB/REP/2005/26draft, para.44).

B. RELEVANT PROVISIONS OF THE TIR CONVENTION

2. The following provisions of the TIR Convention seem to be relevant for the discussion:

Article 3

For the provisions of this Convention to become applicable:

(a) the transport operation must be performed

(i) ...

(ii) ...

(iii) by road vehicles or special vehicles such as buses, cranes, sweepers, concrete-laying machines, etc. exported and therefore themselves considered as goods travelling by their own means from a Customs office of departure to a Customs office of destination under the conditions set forth in Chapter III (c) ...

Article 1

(g) the term "road vehicle" shall mean not only any power-driven road vehicle but also any trailer or semi-trailer designed to be coupled thereto...

3. This definition does not contain any indication that passenger cars are excluded from the application of the provisions of the Convention, as stipulated in Article 3 (a) (iii).

4. However, additional considerations need to be taken into account:

- when Article 3 was recently amended¹, the purpose of the amendment was to extend the TIR procedure to commercial road vehicles (tractor units, trailers and semi-trailers) exported and therefore themselves considered as goods travelling by their own means. The issue of passenger cars was not considered at that time;
- from its origin, the TIR Convention has been intended for international road haulage of cargo and never focused on passenger cars.

5. Because it may not be possible to find legal arguments which would explicitly allow or prohibit TIR transports of passenger cars on their own wheels, it may seem advisable to analyze the consequences entailed by such possibility. Following that, a decision could be taken (finally by the TIR Administrative Committee) whether or not to allow this type of operations. Any decision should then be expressed in the appropriate form, i.e. through a comment, best practice or even amendment to the text of the TIR Convention. Only in this way a harmonized approach to this matter can be ensured among Contracting Parties.

¹ (ECE/TRANS/17/Amend.22; entered into force on 12 May 2002)

C. CONSEQUENCES ENTAILED BY THE USE OF THE TIR PROCEDURE FOR PASSENGER CARS TRAVELLING ON THEIR OWN WHEELS

6. From the short exchange of views that the TIRExB had at its twenty-sixth session, it became clear that many Customs authorities as well as representatives of the TIR guarantee chain consider that TIR transports of this kind are difficult to put under control and, thus, subject to Customs fraud. In particular, the use of the TIR procedure for the export of passenger cars travelling on their own wheels would have the following consequences:

- Given the vast number of passenger cars and their higher mobility, compared to trucks, it seems difficult to trace them and to take control measures;
- There are no common accompanying commercial documents, e.g. CMR consignment note, thus leading to some uncertainty as to the quantity and type of goods transported (no cross-checks possible);
- The TIR Convention has not been designed for personal goods, including passenger cars;
- Usually, the consignee and/or transport operator is a physical person. Many Customs administrations consider physical persons to be less reliable than legal persons. Consequently, the application of the TIR procedure for the transit of passenger cars intended for further import/export may have consequences on the reliability of the TIR system, as it may not be considered appropriate if transport operators join the TIR system for this kind of transports only;
- ...

7. In addition, if passenger cars travelling on their own wheels were accepted for the TIR procedure, several requirements of the TIR Convention would have to be fulfilled, such as:

- TIR plates should be affixed to the front and to the rear of the car (Article 16);
- the TIR Carnet should bear the inscription "Heavy or bulky goods";
- it is not allowed that a passenger car is used for transport of goods which are put inside the car. Such goods cannot be considered as heavy or bulky and, thus, can only be transported in a preliminary approved sealed load compartment or in a sealed container (see comment to Article 29);
- ...

8. Furthermore, the market demand for this type of TIR transports could only be of a limited nature. As in the case of other goods, in order to obtain a TIR Carnet for a passenger car a transport operator not only has to meet the minimum conditions and criteria of Annex 9, part II and be authorized by Customs, but he also has to fulfil additional requirements introduced by the guarantee chain, including cash/guarantee deposit. It seems unlikely that an ordinary natural person is in a position (or has a desire) to meet such conditions.

D. FURTHER CONSIDERATIONS

9. The members of the TIRExB may wish to complement the listings contained in paras. 6 and 7 above with a view to deciding whether or not this type of operations should be allowed under the TIR regime. The members of the TIRExB may also wish to consider whether the TIR Convention should comprise a more precise description of road vehicles in order to define whether some vehicles (passenger cars, but also minibus, vans, etc.) could be considered as road vehicles in the sense of Article 3(a)(iii).
