



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

TIR Executive Board (TIRExB)

(Thirty-ninth session, 17 and 18 March 2009,
agenda item 5)

BEST PRACTICES WITH REGARD TO THE USE OF THE TIR CARNET

Note by the secretariat

A. BACKGROUND

1. At its 38th previous session, the TIRExB reviewed Informal document No. 9 (2008)/Rev.1 and agreed that, whereas part B (on the use of a TIR Carnet in the course of multimodal transport operations) was finalized, part C (dealing with the refusal of a TIR transport to enter a country) would benefit from a new and differently structured approach. For that reason, the TIRExB requested the secretariat to prepare a new document for its next session, which would deal with all aspects of the issue where the reasons of refusal were based on provisions of the TIR Convention, leaving other options aside. Conscious of the fact that refusals only take place in very exceptional circumstances, the Board agreed that contributions by Board members on national experiences on the would be most welcome (deadline for submission: 15 January 2009) (Informal document TIRExB/REP/2008/38draft, para. 10).

2. As requested, the secretariat prepared the present document, containing contributions from TIRExB members, for consideration by the Board.

B. CONSIDERATIONS BY TIRExB MEMBERS

3. According to Mrs. Dubielak (Poland), refusal to enter a Contracting Party occurs in exceptional cases. However, when it happens, it causes real problems for both drivers and Customs offices. Having consulted Polish border officials, it seems that the main reasons for Customs authorities to refuse a TIR Carnet are as follows:

- (a) Formal reasons, because some data on the TIR Carnet are missing or an invalid TIR Carnet was accepted by the Customs office of departure. Obviously, this situation concerns mistakes from both the TIR Carnet holder and the Customs office of departure.

If the carrier refuses to start a national transit procedure in the entering country, the truck is referred back to Poland;

- (b) Absence of required certificates, permits, authorizations or other documents concerning the goods which have to be presented at the Customs office of entry en route. Without such documents, the goods are not allowed to enter the Customs territory of a Contracting Party;
- (c) Goods banned from importation into the Customs territory of a Contracting Party;
- (d) Application of the provisions of Article 38 of the TIR Convention (exclusion). Two such incidents have been reported, where the driver refused to change to a national transit procedure;
- (e) No particular reason. These are the worst cases, because either no reason is given whatsoever or the reason is not clear to the driver. In any way, the driver is not allowed to enter the Customs territory of a Contracting Party, with or without TIR Carnet.

4. Mr. Milosević (Serbia) is of the opinion that, in case of refusal to enter a country, Customs authorities should indicate the reason of the refusal in the box "For official use" in the TIR Carnet. In case Customs authorities do not follow this procedure, the TIR Carnet holder should have the right to request any written statement/proof why entry has been refused.

5. Mr. Köseoğlu (Turkey) reports on two situations of refusal to enter country, based on provisions in the TIR Convention:

- (a) Expiry of validity date. In case the Customs office of departure has accepted a TIR Carnet after expiry of its validity date (contrary to the provisions of Article 9), Customs authorities at the office of entry en route have the right to refuse the TIR Carnet;
- (b) Exclusion. In case a carrier has been excluded from the TIR system in accordance with the provisions of Article 38 of the TIR Convention, Customs authorities at the office of entry en route have the right to refuse the TIR Carnet;

6. In addition, Mr. Köseoğlu (Turkey) would like to draw the attention of the TIRExB to some recent incidents, where the reasons for refusal were not directly based on provisions of the TIR Convention. According to a decree, issued by the Georgian authorities, as of 1 January 2009, TIR vehicles which:

- (1) exceed the maximum height of 4 metres,
- (2) are operated by lorry drivers who do not possess a proxy statement issued by their employer and its translation into Georgian,
- (3) are operated by lorry drivers whose passport has expired or
- (4) do not comply with periodical technical inspection requirements,

are not allowed to enter the territory of Georgia through the Sarpi border post, located at the Turkish/Georgian border. As a consequence, according to Mr. Köseoğlu (Turkey), seven TIR

vehicles owned by a Turkish company have been refused access, due to the fact that the height of the vehicles was slightly over 4 metres. The vehicles have had to wait a TIR parking area for a week. Further consultation with the Georgian authorities provided the information that the vehicles could only enter Georgia on fulfilment of the following conditions:

- (1) either the sender or the receiver of the goods should contact the Georgian authorities (police) by email prior to the arrival of the concerned vehicle at the border;
- (2) a copy of the approved application by the Georgian authorities should be submitted to the police at the border point;
- (3) the vehicle should be escorted;
- (4) payment of a fee for the approval and escort, varying between 1,200 and 2,000 US \$ per vehicle.

7. In view of the high fees, the drivers decided to return to Turkey with the goods. However, due to the fact that they did not receive any official document from the Georgian authorities, stating the reasons why the vehicles concerned had been refused entry, they experienced huge bureaucratic problems upon return to Turkey. In the end, the company saw itself forced to pay the high fees so that the vehicles could enter the Customs territory of Georgia.

8. According to Mr. Köseoğlu (Turkey), this example underlines the importance of any written proof, providing an explanation why the TIR transport was refused to enter the Customs territory of a given country. In addition, it might be useful to amend Explanatory Note 0.2-2, along the lines propose in Informal document No. 9 (2008)/Re.1, paragraph 8.

C. FURTHER CONSIDERATIONS BY THE BOARD

9. In the light of the above considerations, the TIRExB may wish to assess the situations where the refusal by Customs authorities to allow a TIR transport to enter the Customs territory of its county are based on provisions from the TIR Convention and provide guidance how to address them.

10. Separately, the TIRExB may wish to comment on the issue raised by Mr. Köseoğlu (Turkey) in paragraphs 6 and 7.

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