I. Implementation of the multimodal aspects of the TIR procedure

1. At its previous session, the Board had a first exchange of views on how to approach this part of its programme of work. Although the TIR Convention provides for the multimodal use of the TIR Carnet, there is little or no information available how this should be done in practice. Thus, TIRExB decided that the ultimate aim of its work should be to draft one or more examples of a multimodal TIR transport for inclusion in the TIR Handbook.

2. TIRExB agreed that as a first step, it would review those parts of the TIR Handbook which already now refer to multimodal aspects of the TIR procedure and identify the definition of the term “multimodal” within the context of the UNECE Conventions. As a next step, the issue of liability in the various modes of transport would need to be addressed. IRU was invited to share the experiences of the private sector (or the absences thereof) with the Board.

3. In a first reaction, IRU informed that the private sector was very interested in this important issue and that, thus, IRU was available to share its experiences with the Board.

4. TIRExB requested the secretariat to prepare a document for discussion at its next session, addressing the above mentioned issues of terminology and available information from the TIR Handbook. IRU offered to contribute to the document by providing information on the private sector’s experiences with multimodal transports as well as its views on liability in the various modes of transport (TIRExB/REP/2011/47draft, paras 23–26).

5. Further to this request, the secretariat prepared Informal document No. 18 (2011) for consideration by the Board.

II. Definitions of multimodal transport

6. Going back in time, the most authoritative definition stems from Article 1 of the United Nations Convention on International Multimodal Transport of Goods of 24 May 1980 (MT Convention)\(^1\), which reads as follows:

\[^{1}\] This Convention has not yet entered into force, due to an insufficient number of Contracting Parties.
“international multimodal transport means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken into place by a multimodal transport operator to a place designated for delivery situated in a different country.”

7. This definition should be read in conjunction with the definition of the term multimodal transport operator (MTO), also provided in the MT Convention, Article 1 (2), which stipulates:

“Multimodal transport operator means any person who on his own behalf or through another person acting on his behalf concluded a multimodal transport contract and who acts as principal, not as agent or on behalf of the consignor or of the carriers participating in the multimodal transport operations, and who assumes responsibility of the performance of the contract.”

8. Thus, according to these definitions, the main features of a multimodal transport are:

(a) the carriage of goods by two or more modes of transport,
(b) under one contract,
(c) one document,
(d) one responsible party (MTO),
(e) for the entire carriage
(f) who might subcontract the performance of some, or all modes, of the carriage to other carriers.

9. In the absence of legally binding definitions, much reference is made to the UNECE publication containing terminology on Combined Transport (ECE/TRANS/NONE/2001/17). Relevant definitions are the following:

Multimodal transport: carriage of goods by two or more modes of transport

Intermodal transport: the movement of goods in one and the same loading unit or road vehicle, which uses successively two or more modes of transport without handling the goods themselves in changing modes.

Combined transport: intermodal transport where the major part of the European journey is by rail, inland waterways or sea and any initial and/or final legs carried out by road are as short as possible.

10. According to these definitions, intermodal transport is, therefore, a particular type of multimodal transport, where no handling of the goods take place, but where, for example, one and the same container is transported by road, rail and sea. However, in practice, the terms multimodal/intermodal are used interchangeably as being two terms to describe one and the same concept².

III. Multimodal aspects in the TIR Convention and TIR Handbook

11. With regard to the multimodal aspect of the TIR Convention, the following provisions seem to be of particular interest: Article 1 (o), Article 2, Explanatory Note 02-2 and a comment to Article 2 (and Article 26).

² Note by the secretariat: in view of the fact that Article 2 of the TIR Convention stipulates that under the TIR system the transport of goods takes place without intermediate reloading, the term “intermodal” seems more appropriate than “multimodal”.
Article 1 (o)

The term “holder” of a TIR Carnet shall mean the person to whom a TIR Carnet has been issued in accordance with the relevant provisions of the Convention and on whose behalf a Customs declaration has been made in the form of a TIR Carnet indicating a wish to place the goods under the TIR procedure at the Customs office of departure. He shall be responsible for presentation of the road vehicle, the combination of vehicles or the container, together with the load and the TIR Carnet relating thereto at the Customs office of departure, the Customs office en route and the Customs office of destination and for due observance of the other relevant provisions of the Convention.

Article 2

This Convention shall apply to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more frontiers between a Customs office of departure of one Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR transport is made by road.

Explanatory Note 0.2-2

The provisions of this Article allow goods to be carried under cover of a TIR Carnet when only part of the journey is made by road. They do not specify what part of the journey has to be made by road and it is sufficient that this should occur at some point between the beginning and the end of the TIR transport. However, it may happen that, for unforeseen reasons of a commercial or accidental nature, no part of the journey can be made by road, despite the intentions of the sender at the start of the journey. In these exceptional cases the Contracting Parties shall nevertheless accept the TIR Carnet and the liability of the guaranteeing associations shall remain in force.

Comment on the use of the TIR procedure in case a part of the journey is not made by road.

According to Article 2 of the Convention, as long as some portion of the journey between the beginning and the end of a TIR transport is made by road, other modes of transport (railways, inland waterways, etc.) can be used. During a non-road leg, the holder of a TIR Carnet may either:

- ask the Customs authorities to suspend the TIR transport in accordance with the provisions of Article 26, paragraph 2 of the Convention. In order to resume the suspended TIR transport, Customs treatment and Customs control should be available at the end of the non-road leg. If the whole part of the journey in the country of departure is not made by road, the TIR operation may start and be immediately certified as terminated at the Customs office of departure by tearing off vouchers No. 1 and No. 2 of the TIR Carnet. Under these circumstances, no TIR guarantee is provided for the remainder of the journey inside this country. However, the TIR transport could be easily resumed at the Customs office situated at the end of the non-road leg in another Contracting Party in accordance with the provisions of Article 26 of the Convention; or

- use the TIR procedure. However, in this case the holder should take into account that a TIR operation in a given country may apply only in case the national Customs authorities are in a position to ensure the proper treatment
of the TIR Carnet at the following points (as applicable): entry en route, exit (en route) and destination.

12. The only reference in the TIR Handbook can be found on page 1-2, where it is stated that due to the emergence of new combined or multimodal transport techniques in the early 1960’s, through the introduction of the maritime and inland container and the swap body, it became necessary to accept, under certain conditions, the container as a Customs secure loading unit. This meant that the TIR regime no longer only covered road transport, but was extended to rail, inland waterways and even maritime transport, although at least one part of the total transport operation still has to be made by road.

IV. Discussion on the utilization of the ‘new’ multimodal TIR Carnet: a historic overview

Documentation: TRANS/GE.30/AC.2/21, TRANS/WP.30/R.20, TRANS/WP.30/R.16, TRANS/WP.30/R.9, TRANS/GE.30/R.223, TRANS/WP.30/123, TRANS/WP.30/125, TRANS/WP.30/127, TRANS/WP.30/129 (available upon request).

13. At its tenth session (18–20 November 1987), IRU reported to the TIR Administrative Committee (AC.2) that, for the time being, no markets existed for the proper utilization of the ‘new’ multimodal TIR Carnet (viz. the TIR Carnet introduced by IRU on 1 September 1987, containing an additional sheet identifying the persons making up the transport chain), the reason being that containers arriving at European ports were usually not sealed by overseas Customs authorities adhering to the TIR Convention. The Committee asked Contracting Parties to study the issue (TRANS/GE.30/AC.2/21, paras. 27–29).

14. In document TRANS/GE.30/R.223, the government of Yugoslavia, appealing to a large group of international organizations to promote the use of the multimodal TIR Carnet, recalled its main advantages:

(a) The advantages of a costless and continuous Customs transit system without payment of guarantees, deposits or other security expenses, the guarantee in the case of lost of transported goods, Customs fraud or any irregularity being taken over by the national guaranteeing association incorporated in the international guaranteeing chain;

(b) The advantages of facilitation of the transport in general, in particular the facilitation of evidence in transport, i.e. proof of quantity, quality or other features of transported goods. (The new TIR Carnet is conceived so that each successive overtaking carrier confirms on a separate sheet for the multimodal transport that the previous leg of transport was accomplished with seals and other markings on the container intact, or – if this is not the case – to state different observations to that effect;

(c) Besides these advantages of easier ascertaining of the evidence on which leg of transport the goods were lost or damaged, there are others. The most important of these is the diminishing of costs of transport in general and the offering of a good basis for insurers when necessary to settle the relevant claims.

15. At its sixty-second session (29 February–3 March 1988), the Working Party noted, inter alia, that overseas transport operators obviously did not have an incentive to initiate a TIR transit procedure in overseas ports, but rather relied on Customs authorities in European ports for the implementation of the relevant Customs transit procedures required. This situation was likely to continue as long as overseas transport operators were not convinced that the advantages of a TIR procedure initiated abroad might not only accelerate but also reduce the cost of the transport of goods vis-à-vis transport procedures starting in European ports (TRANS/WP.30/R.123, paras. 23–25).
16. At its sixty-third session (4–7 July 1988), the Working Party considered, inter alia, document TRANS/WP.30/R.9, prepared by IRU and enumerating advantages of the multimodal TIR Carnet.

These are for Customs:

(a) no physical inspection during transit, save for external verification of the container and seals;

(b) the suspension of physical inspection has been replaced by a standard procedure for all countries, keeping container traffic moving unless there has been a breaking of seals or fraudulent tampering with the load. In addition, the standard procedure is accompanied by an international guarantee, making the organization of national guarantee systems redundant.

And for transport operators:

(a) containers and means of transport are only inspected during loading and unloading. No inspections take place while in transit;

(b) The TIR Carnet provides operators a free Customs transit system (no charges) and a cost-efficient, internationally valid guarantee;

(c) As a result of faster transports with fewer interruptions, transport costs go down.

17. At its sixty-fourth session (21-25 November 1988), the Working Party finalized document TRANS/WP.30/R.16, subject to minor changes, as contained in the report of the session (TRANS/WP.30/127, paras. 36–39). The final version, as contained in document TRANS/WP.30/R.20 (See Annex), was approved by the Working Party at its sixty-fifth session (3–5 April 1989) (TRANS/WP.30/129. paragraph 57). Later reports of the Working Party do no longer contain any reference to this issue nor could the secretariat find any further mention of the multimodal TIR Carnet.

V. First considerations by the Board

18. In order to streamline its discussions, TIRExB may wish to consider the following issues:

(a) Definition of the concept “multimodal” within the framework of the TIR Convention;

(b) Assessment of the legal provisions of the TIR Convention, 1975 and the multimodal aspects in the TIR Handbook;

(c) Relevance of the failed introduction of the multimodal TIR Carnet in the nineteen eighties for the discussion;

(d) Information by IRU, to be provided on the private sector’s experiences with multimodal transports as well as its views on liability in the various modes of transport
Annex

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport

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

The new multimodal TIR carnet: A further step towards facilitation of international multimodal transport

A. Outline of the TIR system

1. Traditionally, when goods crossed the territory of one or more States in the course of the international carriage of goods by road, the Customs authorities in each State applied national controls and procedures. These varied from State to State but frequently involved the inspection of the load at each national frontier and the imposition of national security requirements (e.g., bond, deposit of duty) to cover the potential duty and taxes while the goods were in transit through each territory. These measures, applied in each succeeding country of transit, led to considerable expense, delay and interference with traffic. In an attempt to reduce the difficulties experienced by transport operators but at the same time to offer Customs administrations an international system of control which could replace the traditional national procedures while protecting as effectively the revenue of each State through which goods were carried, the TIR system was devised.

The distribution of documents of the Inland Transport Committee and its subsidiary bodies is limited. They are distributed only to Governments, to specialized agencies and to governmental and non-governmental organizations which take part in the work of the Committee and of its subsidiary bodies, and should not be given to newspapers or periodicals.

CE.88-24254/1.030b
2. The TIR system has its origins in an agreement drawn up in 1949 under the aegis of the Economic Commission for Europe between a small number of European countries. The success of this limited scheme led to the negotiation of the TIR Convention, 1959. That Convention was revised in 1975 to take account of advances and changing requirements. The resulting TIR Convention, 1975, came into force on 20 March 1978. To date (September 1966), the TIR Convention, 1975 has 42 Contracting Parties worldwide, including the European Economic Community.

3. In order to ensure that goods may travel with a minimum of interference on route and yet offer maximum safeguards to customs administration in all countries of transit, the TIR system contains four basic requirements:

   That goods should travel in secure vehicles or containers;
   That duties and taxes at risk should throughout the journey be covered by an internationally valid guarantee;
   That the goods should be accompanied by an internationally accepted carnets taken into use in the country of departure and serving as a control document in the countries of dispatch, transit and destination;
   That Customs control measures taken in the country of departure should be accepted by the countries of transit and destination.

4. The TIR Convention provides that goods shall be carried in containers which or in vehicles the load compartment of which are so constructed that there shall be no access to the interior when secured by Customs seal and that any tampering will be clearly visible. The Convention sets out standards of construction and approval procedures and goods may not be carried under cover of a TIR carnets save in vehicles approved in accordance with the above requirements or in containers approved in accordance with such requirements or with those of the Customs Convention on Containers, 1972. Special provisions apply to heavy and bulky goods which cannot be carried in normal transport.

5. Contracting Parties to the Convention are required to approve in their territories guaranteeing associations which must belong to an international guarantee chain and which must undertake to meet any liability under the chain's guarantee for duty etc. due from other associations in that chain in respect of claims arising in its territory. Such chains issue carnets for use by the guaranteeing associations which belong to it and the production of a TIR carnets in connection with a transit operation is proof in itself that the guarantee is in force.

6. The system may therefore be considered as a succession of national transit movements relying, however, on international rather than national measures - that is travelling under cover of an internationally valid guarantee, using an international transit document authenticated by the Customs authorities in the country of departure and in conditions of security controlled by and under seals affixed by Customs authorities in the country of departure. The only currently existing international guarantee chain for the TIR system is administered by the International Road Transport Union (IRU) in Geneva, Switzerland.
2. Possibilities offered by the new multimodal TIR carnets

7. The TIR system was originally conceived solely for the international carriage of goods by road. This restriction of the system to road transport has, however, gradually been modified in the light of trade needs. The TIR Convention, 1975, does no more than require that some part of the journey must take place by road. As a consequence the Convention now covers not only movements by road vehicles but also, for example, the carriage of trailers in mixed road and rail movements and the carriage of containers by various modes. The advantages of a tried system of international transit of proved value both to transport operators and Customs authorities are consequently now available to a wide range of multimodal transport operations.

8. Even though the regular TIR carnets cover already multimodal transport operations, the introduction of the multimodal TIR carnets on 1 September 1987 now provides an additional internationally accepted carnets specifically catering for the requirements of regional and inter-continental multimodal transport.

9. The use of the multimodal TIR carnets is also subject to the provisions of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975).

10. The new multimodal TIR carnets, issued by the IRU, contain clearly separated from the usual sheets, an additional sheet exclusively designed for multimodal transport identifying the persons making up the transport chain. The holder of the multimodal TIR carnets, in transferring the merchandise covered by the TIR carnets in the course of a multimodal transport operation, enters the name and address of the successive bearer of the multimodal TIR carnets in the additional sheet who, in turn, ascertains the state of the seals or identification marks affixed by Customs authorities and confirms the number of transport documents attached to the carnets (if any).

11. This procedure is repeated whenever the merchandise covered by the multimodal TIR carnets is trans-shipped to a successive carrier whereby one copy of the declaration on the additional sheet is retained by the persons handing over the merchandise while the printed-through copy remains in the carnets.

12. This additional sheet for multimodal transport, which is not part of the Customs document and is therefore of an entirely private nature, thus provides evidence of persons responsible for an infringement of the TIR system and facilitates the settlement of claims between multimodal transport operators.

13. An example of the additional sheet contained in the multimodal TIR carnets is given in annex 1 to this document together with the detailed "instructions and rules of the international guaranteeing organization regarding the use of the sheet provided for multimodal transport operations".

C. Advantages for transport operators

14. The advantages for transport operators stemming from the TIR system as such are obvious, as goods covered by TIR carnets may travel across national frontiers of the current 42 Contracting Parties with a minimum of interference by Customs administrations. In Europe these advantages tend to increase even further with the abolition of the borders within the European Economic Community in 1992 which will then only necessitate stops at the external borders of the EEC, thus reducing considerably border-crossing operations.
15. In particular, the specific advantages for transport operators are the following:

(a) The speeding-up of transport, as a result of minimum interference by Customs authorities, reduces transport costs and provides transport operators with a better and more cost-effective utilization of containers and road vehicles;

(b) Goods transported in road vehicles or containers are normally not subject to material inspection during frontier crossings. In principle, inspections of goods have to be carried out only during loading and unloading;

(c) Transport operators have access to a Customs transit system, which normally exempts them from the charges which could be levied by Customs authorities on inspection of the loads of road vehicles or containers, seals and commercial transport documents;

(d) Transport operators are no longer required to deposit, at the request of Customs authorities of the countries they are transitting, sums which Customs authorities are sometimes slow to reimburse, or to provide bank guarantees or other costly security or to use Customs forwarding agents at each frontier;

(e) With the introduction of the multimodal TIR carnets, carnets holders are assured that only those persons involved in a multimodal transport chain which actually committed an infringement in the TIR system are held responsible as they can be easily identified.

D. Advantages for national Customs authorities

16. The advantages for Customs authorities of States Contracting Parties to the TIR Convention, 1975 are considerable, as the system reduces the normal requirements of national transit procedures (guarantees, documentary control, physical inspection) without jeopardizing Customs security.

17. In particular, the specific advantages for national Customs authorities are as follows:

(a) The physical inspection of the load at transit country frontiers, expensive in terms of labour and facilities, can be replaced by an inspection confined merely to the external condition of the container or the road vehicle and the seals affixed by competent authorities in the country of departure;

(b) Due to congestion in a number of European ports the physical inspection of containers arriving from abroad encounters serious problems. The TIR system, providing for the inspection and sealing of the load at the place of departure, could considerably improve this situation ensuring that container traffic is kept moving and that any breaking of seals or any fraudulent tampering with the load is easily discovered;

(c) It is no longer necessary to organize a national guarantee system since an international guarantee of up to US $50,000 per TIR carnets and per country is provided for by the TIR system (administered by the International Road Transport Union).

(d) The information contained in the additional sheet provided for multimodal transport operations in the new multimodal TIR carnets concerning persons involved in a multimodal transport chain could be used by Customs authorities whenever they require payment of taxes and duties from persons directly liable.
E. Prerequisites for the implementation of the TIR system

18. The TIR Convention, 1975 is open to accession by all States Members of the United Nations or of any of its specialized agencies or of similar international bodies. It is also open to any other State so invited by the General Assembly of the United Nations and to Customs or economic unions (a list of Contracting Parties to the Convention is given in annex 2). Management of the Convention is entrusted to an Administrative Committee of which all Contracting Parties are entitled to be members. The Committee is convened annually in order to consider questions related to the application of the Convention and, when appropriate, to modify it in accordance with present-day requirements.

19. In order to reap the benefits of the TIR system for international multimodal transport the following requirements must be fulfilled by a given country:

Accession to the TIR Convention, 1975;

Designation of Customs offices open to the international transport of goods under cover of TIR carnets;

Authorization of a national association, by the Customs authorities of the country, to issue TIR carnets to future users and to guarantee to the Customs authorities the payment of any duties and taxes which may become due in the event of any irregularity occurring during the use of the TIR carnet. This national guaranteeing association must belong to an international guaranteeing chain.

20. For the implementation of the TIR system and the use of its multimodal TIR carnet, particularly in countries not yet Contracting Parties to the TIR Convention, 1975, the expertise of the Economic Commission for Europe (ECE) and the International Road Transport Union (IRU) administering the TIR system might be useful to national authorities and Organisations concerned.

21. Detailed information on the principles and functions of the TIR transit system and its practical operation addressing international transport operators and Customs officials alike is contained in the TIR Handbook. The TIR Handbook, published by the secretariat of the Economic Commission for Europe (for the time being, in English and French only) can be obtained from the United Nations, Sales Section, Palais des Nations, 1211 Geneva 10, Switzerland or by writing to the Transport Division, Economic Commission for Europe (ECE), Palais des Nations, 1211 Geneva 10, Switzerland.
INSTRUCTIONS AND RULES OF THE INTERNATIONAL GUARANTEEING ORGANIZATION REGARDING THE USE OF SHEET PROVIDED FOR MULTIMODAL TRANSPORT OPERATIONS

1. The coupons (original and copy) comprising the sheets shall be completed and signed successively by each successive bearer of the TIR Carnet in the course of a multimodal transport operation.

2. It shall be presumed that the Customs seals or identification marks are intact if the following bearer has failed to complete the box provided for this purpose.

3. Under the item "additional information", each successive intervening party to a multimodal transport operation may enter the information if necessary (e.g., Identification number ofcompatible equipment, tyres, vehicle make).

4. No confirmation by the Customs authorities, of the information entered on the coupons is required. Customs authorities are free to decide in what extent they take into account information contained in these sheets.

5. On transmitting the TIR Carnet to the next intervening party, each bearer shall detach the original of the completed coupon and conserve it for 2 years from the date of its completion. The copy of the coupon shall remain, obligatorily, attached to the TIR Carnet.

6. Each bearer who transmits the TIR Carnet to the next intervening party without requiring the completion and signature of the coupon by who does not contain the original of the coupon for the prescribed period, shall be held liable by the International Organisa- tion whose name appears on the cover of the TIR Carnet, for all the consequences resulting from this omission and for which this Organisation may be held liable by third parties.

7. Each TIR Carnet bearer shall respect the "Rules regulating the use of the TIR Carnet" and, in the event of his infringement of them, shall accept his liability to the Customs authorities of the countries whose territory is crossed and to the International Organisa- tion whose name appears on the cover of the TIR Carnet.

8. Each TIR Carnet bearer shall:
   - sign surrender to the International Organisation whose name appears on the cover of the TIR Carnet or to the Organisation's insurance company, whoever makes the request, all his rights to initiate proceedings against any subsequent bearer responsible for the irregularity or infringement of the TIR Convention which has led to action by the customs authorities or for failure to respect the present Instructions and Rules,
   - shall reiterate this surrender of rights in a separate document, if so requested by the International Organisation whose name appears on the cover of the TIR Carnet or by the Organisation's insurance company.
List of Contracting Parties which have ratified the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) of 14 November 1975

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