



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

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Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Sixtieth session

Antalya, 23–24 September 2014

Agenda item VI (b)

**Adaptation of the TIR procedure to modern business,
logistics and transport requirements**

Authorized consignors

Note by the secretariat

I. Background and mandate

1. At its fifty-ninth session, the Board took note of Informal document No. 20 (2014) prepared by the secretariat and containing a draft proposal for an Explanatory Note to Article 49 of the TIR Convention that would enable the introduction of the authorized consignor as a national facility, as well as a draft recommended practice on how it could, potentially, be applied. The Board stressed that the envisaged provisions of the TIR Convention should allow maximum flexibility to national competent authorities on the modalities and national law requirements for authorized consignors. The Board was of the general view that the authorized consignor needs not be defined in exhaustive detail in the Explanatory Note but, rather, only give enough scope to allow such simplifications (as well as, possibly, others) in any way that national administrations deem suitable. As a next step, members of the Board were invited to provide, in writing (and not later than by 1 September 2014), comments or proposals on the basis of informal document No. 20 (2014), so as to enable the secretariat to prepare a revised version for further discussion at its next session (see TIRExB/REP/2014/59draft, para. 18).

2. Based on feed-back provided by TIRExB members, the secretariat prepared this Informal document for consideration by the Board.

II. Comments by individual TIRExB members

3. The secretariat received comments and remarks by email from Mrs. Jelinkova, Mrs. Dirlik and Mrs. Gajda. All TIRExB members were copied on these emails. The secretariat analysed the comments and formulated four main areas of discussion which require further clarification before a new proposal for an Explanatory Note or example of best practice could be drafted.

In annex to this document, comments by TIRExB members have been consolidated, which, in the view of the secretariat, do not require in-depth considerations by the Board.

III. Areas of discussion.

Discussion Point 1: Is it necessary that the other Contracting Parties are informed that a TIR transport was initiated by an authorized consignor?

The secretariat included in the proposed Explanatory Note to Article 49 an obligation to inform the other Contracting Parties that a TIR transport has begun from the premises of an “authorized consignor”. For this, the secretariat was inspired by the NCTS system where it is clearly mentioned in the Transit Accompanying Document (TAD) that an authorized consignor started a transit operation.

(See Annex 45a, Chapter 2, point 4-box c of the EU Customs Code Implementing Provisions).

Before the customs transit procedure was computerized in the EU, it was also an obligation for the authorized consignor to mention the phrase “simplified procedure” on the T-document (Article 402 of the original EU Customs Code Implementing Provisions).

The secretariat is of the opinion that, for risk analysis purposes, it could be useful that customs are informed if a TIR transport has begun from the premises of an authorized consignor.

In their comments, both Mrs. Dirlik and Mrs. Jelinkova question the requirement to inform the other Contracting Parties involved in the TIR transport.

If the Board decides to follow the above comments, this item could be deleted from the proposed Explanatory Note and example of best practice, without any further discussion.

Discussion point 2: Are changes to definitions in Article 1 necessary?

The secretariat assessed that the following articles of the TIR Convention could conflict with the authorized consignor concept:

Article 2 “This Convention shall apply to the transport of goods ...between a customs office of departure and ...a customs office of destination...”

Article 8.4 “the liability of the guaranteeing association ... shall commence at the time when the TIR Carnet is accepted by the customs office”

The secretariat was of the opinion that it should be made clear that the definition of customs office of departure should also include the places specified in the authorized consignor concept

For this reason, the secretariat proposed to introduce an Explanatory Note to Article 1, k.

Following the comments received from Mrs. Jelinkova and Mrs. Gajda, the secretariat no longer supports this proposal, considering that:

- similar provisions as in Article 2 of the TIR Convention are in the Common Transit Convention without having created any problem with regard to the authorized consignor concept;
- the term “accepted by customs” has not been defined in the TIR Convention and this also has also not created any problems.

Therefore, introducing an Explanatory Note to Article 1 no longer seems warranted.

The Board is invited to indicate if it wishes to continue considering the introduction of a new Explanatory Note to Article 1 in relation to the concept of authorized consignor.

Discussion point 3: Must the example of best practice be identical to the practice in Poland?

Best practices are included into the TIR Handbook to facilitate the application of the Convention in countries that have newly acceded to the Convention and/or in which TIR operations can be newly undertaken (see TIR Handbook, Chapter 5.1).

For this reason, the secretariat drafted the example of best practice for the authorized consignor concept on the basis of the (simplified) Polish example. Mrs. Gajda was involved in drafting the text to ensure that all main points of the concept in Poland are included and that the drafted text is not in conflict with the Polish practice.

Main issues which could additionally be included to make the draft example more identical are:

- Make it mandatory that the authorized consignor is the TIR Carnet holder. This issue is left open in the current draft. In Poland, only the TIR Carnet holder can be granted the status of authorized consignor. The fact that the authorized consignor authorization can only be given to TIR Carnet holders often means in practice that the TIR Carnet holder needs to dispose of a customs warehouse or be represented by another operator (an exporter, a customs warehouse holder etc);
- Make it mandatory that the communications with the customs authorities are done via NCTS. In the current draft it is also possible to communicate without a computerized customs transit system (e.g. by fax);
- Make reference to the TAD. These references are currently not included because the transit accompanying document is purely a NCTS document;
- Exclude the provisions to inform the other Contracting Parties (see also discussion point 1).

The secretariat was under the impression that the authorized consignor concept had not yet been introduced in Finland, but this must be a misunderstanding judging from the comments received from Mrs. Jelinkova and Mrs. Dirlik. Mr Lindstrom may wish to clarify this misunderstanding and indicate the differences between the proposed draft and the Finnish practice, if any.

The Board is invited to indicate if the example of best practice should be identical to the Polish example. If so, further instructions are welcome whether more information from the Polish authorities is required or if modifying the current draft with the above mentioned points is sufficient.

Discussion point 4: Are major changes to Explanatory Note 0.19 necessary?

The secretariat was mandated to draft an Explanatory Note to Article 49. The secretariat took the freedom to propose a minor change to the Explanatory Note to Article 19 in order to eliminate the obligation that the customs office of departure must check the condition of the each road vehicle or container. This obligation makes it mandatory that, for each TIR transport, the vehicle or container is presented at the customs office of departure. The authorized consignor concept has as specific goal to avoid that the goods (and the vehicle/container used as means of transport) have to be presented physically at the customs office of departure.

Mrs Jelinkova, supported by Mrs. Gajda, proposes to consider redrafting the Explanatory to Article 19 as a whole.

At this moment, Mrs. Dirlik is of the opinion that such redrafting is not necessary. Instead, she proposes to discuss the need thereof, once the discussions on the new Explanatory Note to Article 49 and the best practice have been finalized.

The Board is invited to indicate if a new Explanatory Note to Article 19 should be drafted.

IV. Considerations by the TIR Executive Board

4. The Board may wish to consider and, possibly, decide on the above mentioned discussion points. The Board may also wish to instruct the secretariat how to proceed with the issue.



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Annex

Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Fifty-ninth session

Geneva, 30 June – 1 July 2014

Agenda item VI (b)

Authorized consignors and consignees

Received comment No. 1: Mrs. Jelinkova proposed to delete the words “and consignee” from the title. The secretariat supports this proposal

Note by the secretariat

I. Background and mandate

1. At its fifty-third session, TIRExB considered Informal document No. 5 (2013), prepared by Mr. H. Lindström (Finland), and commenced a first round of discussions on the possible introduction of the concept of authorized consignors in the TIR Convention. TIRExB recognized that the use of authorized consignees and consignors within the TIR system would further facilitate trade but stressed a need for further clarifications, in particular, who would be entitled to obtain the status of authorized consignee or consignor, the requirements that consignees and consignors would have to comply with to be authorized, as well as the consequences of and opportunities brought by computerization of the TIR procedure (see TIRExB/REP/2013/53final, para.14).

2. At its fifty-sixth session, TIRExB continued its examination of the issue and took note of a presentation by Mr. Lindström (Finland), as contained in Informal document No. 27 (2013) which highlighted potential benefits of as well as possible scenarios for the application of the concept of authorized consignor in TIR (see TIRExB/REP/2013/56final, para. 34).

3. At its fifty-eighth session, TIRExB took note of Informal document No. 9 (2014), containing an analysis of the substantive practical and legal considerations to be taken into account for the introduction of the concept of authorized consignor into the TIR Convention. After extensive discussions, TIRExB concluded that it wished to move

forward with the introduction of the authorized consignor by, eventually, making a complete and concrete proposal to AC.2 and that it would strive doing so by means of a new Explanatory Note to Article 49 of the TIR Convention, which should provide a general legal basis for the introduction of further simplifications. The choice for Article 49 would also underline the Board's overall opinion that the concept of authorized consignor should be treated as a national facility which did not impede the application of the TIR Convention (see TIRExB/REP/2014/58draft, paras.25 and 26).

4. The Board requested the secretariat to prepare – using available existing examples as a basis, as well as the Power Point presentation made by Mr. Lindström (Finland) at the Board's fifty-sixth session (see Informal document No. 27 (2013)) – a document describing the possible modalities of implementing the concept (possibly by means of an example of best practice) including proposals for an Explanatory Note to Article 49.

5. To this end, the secretariat, after consultation with Polish customs prepared the present informal document No. 20 (2014) which contains a draft proposal for an Explanatory Note and a draft recommended practice that would enable the introduction of the authorized consignor as a national facility. Although the example is to some extent based on Polish practice, it has been modified and broadened to make the solution suitable for different Contracting Parties to the TIR Convention.

II. Amendment Proposals to the Convention

6. As per the discussions of TIRExB at its fifty-eighth session, adding an Explanatory Note to Article 49 would broaden its scope as to allow the application of the concept of the authorized consignor as a national facility. This Explanatory Note could be formulated as follows:

7. In Annex 6 add a new Explanatory Note to Article 49

0.49 Contracting Parties can introduce the “authorized consignor” concept as a national facilitation measure. An authorized consignor means a person who is duly authorized by the competent authorities of the country of departure to start TIR transports at his premises or at any other specified place.

Received comment No.2: Mrs Dirlik was of the opinion that no details of the authorization need to be included, considering that it is a national facilitation tool. The secretariat is of the opinion that this first paragraph needs to be included in the Explanatory Note. The following paragraphs can be deleted if the Board so agrees.

Received comment No. 3: Mrs. Jelinkova proposed to use the term “Contracting party” instead of “Country of departure”. The secretariat supports the use of the term “Contracting Party”, considering that this is the term used in Article 49.

Received comment No. 4: Mrs. Jelinkova proposed to consider using the term “places specified in the authorization” instead of “premises or at any other specified place”. The secretariat included the word premises because it is used in other international customs conventions in the same context. However, the secretariat can agree with changing the wording as proposed by Mrs. Jelinkova.

Received comment No. 5: Mrs. Jelinkova considered the proposed definition to be rather weak: e.g. items like presentation of goods, vehicle and TIR Carnet at the customs office of departure are absent. In this context the secretariat refers to the “received comment No. 2”, by Mrs. Dirlik, proposing not to go into details. The authorized consignor concept is maximally

beneficial when no goods, vehicle or TIR Carnet have to be presented at the customs office of departure, so this possibility should exist without imposing it. The need to redraft the Explanatory Note to Article 19 should be reassessed (see discussion point 4 in the main document)

The authorization shall:

apply solely in the Contracting party where the authorization was granted.

apply only to TIR transports that begin at the premises specified in the authorization.

Received comment No. 6: Mrs. Jelinkova proposed to use the term “places” instead of term “premises specified in the authorization” instead of “premises or at any other specified place”. Mrs. Dirlik proposed to use “at premises or other specified places determined by the Contracting Parties”. The secretariat is of the opinion, if the Board were to decide to delete the term premises in the first paragraph (see received comment No. 2), it should also be deleted here.

The competent authorities shall prescribe, in accordance with their national legislation, the conditions for granting the authorization, as well as install control measures to ensure that the TIR procedure under the authorized consignor concept is not less secure than the TIR procedure as described in the Convention.

Received comment No. 7: Mrs. Jelinkova proposed to reconsider the term “is not less secure”. Mrs. Dirlik indicated the same term as sounding too negative and proposed the following phrase: “The competent authorities shall prescribe, in accordance with their national legislation, the conditions for granting the authorization and install control measures for the authorized consignor fully be in compliance with the procedures as in the Convention”. As alternative option, the secretariat could propose to delete a part of the paragraph and only keep: “The competent authorities shall prescribe in accordance with their national legislation the conditions for granting the authorization and install control measures”.

For the purpose of informing the competent authorities of the other Contracting Parties en route, the Contracting Party where the authorization was granted is advised to arrange:

Received comment No. 8: Mrs. Jelinkova and Mrs. Dirlik were of the opinion that it is not needed to inform the other Contracting Parties. This item is included in the main document under discussion point 1. If the board agrees with the point of view of Mrs. Jelinkova and Mrs. Dirlik, this paragraph and the paragraphs hereunder could be deleted.

Received comment No. 9: Mrs. Jelinkova indicated that it was necessary for the procedure to be recognized and accepted by all Contracting Parties. The secretariat is of the opinion that, by the adopting this proposed Explanatory Note, this condition would be fulfilled.

Received comment No. 10: Mrs. Jelinkova proposed to consider rewording the phrase “is advised to arrange”. The secretariat proposes to change the phrase in “will arrange”, but could agree with any other proposal.

That the cover and all vouchers of the TIR Carnet used under this facilitation measure shall bear the marking “authorized consignor” in bold letters in English or French.

Received comment No. 11: Mrs. Jelinkova asked what the purpose of this marking was. The secretariat introduced this marking in order to inform the other Contracting Parties that the TIR transport has begun at the premises of an authorized consignor. The markings are aligned with those prescribed for heavy and bulky goods (Article 32 of the TIR Convention).

That stamps and seals used by authorized consignors are clearly distinctive from those used by customs officers. The models of stamps and seals should be notified for the inclusion in the UNECE Register of Customs Sealing Devices and Customs Stamps.

Received comment No. 12: Mrs. Jelinkova indicated that the seals and stamps are always recognized and accepted in all Contracting Parties and should be registered in the UNECE database. The secretariat agrees with this comment and proposes to delete the sentence “The models of stamps and seals should be notified for the inclusion in the UNECE Register of Customs Sealing Devices and Customs Stamps” because it is redundant.

8. In order to ensure full conformity with the provisions of the TIR Convention, there may also be a need to introduce a minor amendment to the Explanatory Note to Article 19.

Received comment No. 13: Mrs. Jelinkova indicated that for full conformity more changes to Explanatory Note 0.19 are necessary. Also Mrs. Gajda proposed to reconsider this issue (See main document under discussion point 4).

9. In Annex 6, amend Explanatory note to Article 19 to read:

0.19 The requirement that the Customs office of departure should check the accuracy of the goods manifest implies the need to verify at least that the particulars in the goods manifest tally with those in the export documents and in the transport or other commercial documents relating to the goods; the Customs office of departure may also have to examine the goods. The Customs office of departure must ~~also be able, before affixing seals,~~ **to** check the condition of the road vehicle or container and, in the case of sheeted vehicles or containers, the condition of the sheets and sheet fastenings, as this equipment is not included in the Certificate of Approval.

10. Furthermore, it should be noted that, at present, the TIR Convention in its Article 1 defines the term “Customs office of departure” as any customs office where a TIR transport begins (Article 1, para (k)). In order to avoid any direct contradiction between the practice of “authorized consignor” and the letter of the TIR Convention, it may be advisable to add a new Explanatory Note to Article 1 para. (k) to read:

11. In Annex 6 add a new Explanatory Note to Article 1, para. (k)

0.1 (k) The Customs office of departure may allow the road vehicle, the combination of vehicles or the container to be presented, for the purposes of control, in any other place.

Received comment No. 14: Mrs. Jelinkova indicated that Article 1(k) relates to the beginning of a TIR transport, not to the presentation. Even in case of an authorized consignor, the TIR procedure begins at this customs office, but all functions are performed by the authorized consignor. This issue is included in the main document under discussion point 2

III. Example of a Recommended Practice

A. Introductory remarks

12. In the authorized consignor concept, a TIR transport can begin at a location approved by the competent authorities of a Contracting Party, without the goods having to be physically presented at the customs office of departure. That is to say that the premises where the goods are loaded and sealed are designated by the competent authorities by means of authorization.

Received comment No. 15: Mrs. Jelinkova indicated that in the best practice it should be indicated if also the vehicle and TIR Carnet have to be presented at the customs office of departure. The secretariat is of the opinion that in a “best practice” this should not be the case. Thus, the secretariat proposes to change the phrase as follows: “without the goods, the vehicle and the TIR Carnet having to be physically presented at the customs office of departure...”

13. In order not to jeopardize the high level of protection provided for by the TIR procedure, stringent conditions should be set by the competent authorities in order grant an operator the status of authorized consignor. The authorized consignor procedure should be designed to allow for customs verifications and physical controls, in cases where it is considered necessary on the basis of risk assessment.

B. Conditions to be met by an authorized consignor

14. The conditions to be met by authorized consignors could include the requirement to:

Received comment No. 16: Mrs. Dirlik proposed to modify this title as follows “14. The conditions to be defined by the national authorities and to be met by authorized consignors could include the requirement to”. The secretariat supports this proposal.

- (i) Be regularly involved TIR transports (e.g. a TIR Carnet holder, an exporter, a customs warehouse keeper, a customs broker).

Received comment No. 17: Mrs. Dirlik was of the opinion that it is not necessary to list who could possibly be considered as authorized consignor, as this depends on national authorities granting the facilitation. The secretariat supports this proposal.

- (ii) Not have committed any serious or repeated offences against customs or tax legislation.
- (iii) Use communication methods with the office of departure, approved by the customs authorities of the Contracting Party competent for granting the authorization.
- (iv) Be able to ensure that the location(s) where the goods are to be loaded and sealed is/are easily accessible to customs officers for the purposes of inspections when those are considered warranted. At that location it must also be possible to securely keep seals and stamps and customs officers must have access to the records which are kept by the authorized consignor in the framework of its authorization.
- (v) Be established in the Contracting Party where the authorization is issued.

C. Content of the authorization

15. The authorization could specify in particular:
- (i) The office(s) of departure responsible for the supervision of the beginning of TIR transports,
 - (ii) The address(es) of the designated location(s) from where the TIR transport(s) can begin,
 - (iii) The rules and time limits concerning the communication between the authorized consignor and the customs office of departure (including the content of the communication),
 - (iv) Information on the seals to be used as well as on security issues,
 - (v) Information on the stamps to be used as well as on security issues,
 - (vi) The obligation to keep records which enable the customs authorities to carry out controls,
 - (vii) Rules and guidelines on the procedure,
 - (viii) The goods which are excluded from the authorization,
 - (ix) Modalities for the treatment of voucher 1 of the TIR Carnet.

D. Example of the TIR procedure by an authorized consignor

16. An authorized consignor procedure could be applied as follows:

Step 1: The TIR transport is prepared at the designated location;

Step 2: The authorized consignor confirms that the specific TIR transport (e.g. goods, itinerary) is allowed by the authorization,

Step 3: The authorized consignor ensures that the TIR Carnet is duly filled in and valid, that the goods manifest is correct, and that the condition the vehicle conforms with the requirements for a TIR transport (checking the Certificate of Approval as well). If no irregularities are found, the authorized consignor fills in and stamps the boxes that are normally reserved for use by the customs office of departure, on all the vouchers and on the first counterfoil of the TIR Carnet. The authorized consignor also checks that the cover and all vouchers of the TIR Carnet bear the marking “authorized consignor” in bold letters in English or French. The authorized consignor then proceeds to affix the seals on the vehicle.

Step 4: The authorized consignor writes the details of the TIR Carnet, the number of the seals used and the time at which the customs office of departure is informed, in a register approved by customs.

Step 5: By means agreed with the customs authorities (e.g. fax, e-mail, an electronic declaration system) the authorized consignor informs the competent customs office of departure that a TIR transport is ready to start.

In order to enable customs authorities to decide, on the basis of risk analysis, if controls are needed, data regarding the TIR Carnet must be forwarded to the responsible customs office. This information can be sent e.g. by means of:

An electronic customs declaration system;

Fax or scanned image in an e-mail, containing the first voucher of the TIR Carnet and any accompanying documents that may be required by the customs authorities under customs legislation.

Step 6: If customs officers do not arrive at the location to verify the consignment within a pre-determined time limit (which should be adequate and taking into account the distances between the customs office of departure and the place of the start of the TIR transport), the TIR transport can begin (the vehicle with the goods can leave the approved place).

Step 7: When customs perform an inspection, Article 24 of the TIR Convention is applicable.

Step 8: The customs office of departure needs to follow up the discharge of the TIR operation. For that reason it can be agreed that, on a specified day of the week, the original voucher No. 1 of the TIR Carnet validated in the procedure and any accompanying documents are sent to the customs office of departure. It is also possible that the customs office of departure follows up the discharge of the TIR transports electronically and that the authorized consignor is obliged to archive voucher No. 1 of the TIR Carnet.

IV. Considerations by the TIR Executive Board

17. The Board may wish to consider the above proposals for Explanatory Notes and the proposal of an example of a recommended practice. The Board may also wish to instruct the secretariat how to proceed with issue.
