



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)

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Agenda item X

Other matters

Homologation of TIR containers

Note by the secretariat

I. Background

1. On 27 January 2015, the secretariat received from the TIR focal point of Luxembourg a set of questions regarding the approval of TIR containers. An extract of the email is reproduced in Annex 1 and an unofficial translation is contained in Annex 2.
2. Taking into account that the TIR Convention is not very specific with regard to the delegation of powers conferred to the competent authorities, the secretariat reproduces in Annex 3 “Schedule 2 of the Proposal for Revision 3 of the 1958 Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations”. The Board may wish to take this text into consideration when providing their views on the questions addressed by Luxembourg.

II. Considerations by the Board

3. TIRExB may wish to consider the questions in Annex 1 (translated in Annex 2), and advise the TIR secretariat on how to reply.
4. Furthermore, on the basis of the example provided in Annex 3, the Board may wish to consider if this aspect of the TIR Convention should be further clarified/specified, by means of a recommendation, a comment or an Explanatory Note.

Annex 1

Extract of email received from Laurent Brandenburger (TIR focal point for Luxemburg) on 27.1.2015

Je me permets de poser certaines questions au Secrétariat TIR concernant l'agrément de conteneurs afin de transporter des marchandises sous le couvert des carnets TIR.

La société privée luxembourgeoise « XYZ » a montré son intérêt pour avoir une autorisation pour :

- homologuer des conteneurs par type de construction au stade de la construction
- homologuer des conteneurs individuels au stade postérieur à la fabrication.

Etant donné que :

- le Luxembourg n'a pas une grande expérience en matière des agréments TIR
- les conteneurs sont produits surtout dans des Pays tiers
- il est difficile de faire parvenir ces conteneurs au Luxembourg pour faire les contrôles nécessaires, la XYZ soumettra à la Direction des douanes, outre tous les documents nécessaires, des photographies des conteneurs
- la XYZ assumera la responsabilité afin de faire des contrôles sur place et la Direction des douanes émettra l'agrément en vertu de la certification technique de la XYZ

nous voulons demander l'avis du Secrétariat TIR si la Direction des douanes luxembourgeoise pourrait confier en vertu d'une relation contractuelle, sous forme d'accord de principe avec la XYZ, l'homologation des conteneurs concernant les exigences techniques formulées par la Convention TIR.

Selon la lecture des dispositions de la Convention TIR, il semble que rien n'interdit cette façon de procéder et de déléguer les tâches en relation avec l'octroi d'un agrément TIR.

Ainsi nous désirons poser les questions suivantes :

- est ce que la convention et en particulier l'annexe 7 permet une telle délégation de la tâche et de la responsabilité de certifier techniquement la conformité des conteneurs ?
- est ce qu'il y a des requis spécifiques que la XYZ devrait remplir pour une telle délégation du contrôle ?
- est ce que outre la délégation du volet « constat de la conformité technique » on saurait déléguer aussi le volet administratif « homologation des conteneurs / octroi d'un agrément » ?
- est-ce que d'autres Etats Membres appliquent cette procédure ?

Annex 2

Unofficial translation of Annex 1

I would like to ask a few questions to the TIR secretariat concerning the approval of containers for the transport of good under cover or TIR Carnets.

The private Luxemburg company « XYZ » has shown interest in:

- approving containers by design type at the manufacturing stage;
- approving individual containers subsequent to manufacture.

Taking into account that:

- Luxembourg has not much experience with the TIR Convention;
- containers are mainly produced in third countries;
- it is difficult to get these containers in Luxembourg for the necessary controls, XYZ will submit to the Customs directorate all the necessary documents, photographs containers;
- XYZ will take on the responsibility to make the checks on site and the Customs directorate will issue the approval certificate according to the technical certification made by XYZ.

We would like to ask the opinion of the TIR secretariat whether the Luxemburg Customs directorate may delegate, pursuant to the establishment of the relevant contract, which would be in the form of an agreement in principle with XYZ, the approval of containers on the basis of the technical requirements set by the TIR Convention.

According to our reading of the provisions of the TIR Convention, it seems that nothing prevents the delegation of the tasks related to the granting of a TIR Certificate of Approval.

Therefore we would like to ask:

- Does the Convention, and in particular Annex 7, allows such a delegation of the inspection (technical controls), and the responsibility, to certify the compliance of containers?
- If there is a specific requirement that XYZ should meet for such delegation of the inspection (technical controls)?
- Could we not only delegate the technical controls but also the issuance of the Certificate of Approval?
- Are there other Contracting Parties that apply this procedure?

Annex 3

Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these United Nations Regulations

Proposal for Revision 3 of the 1958 Agreement

Schedule 2

Part one: Assessment, designation and notification of Technical Services

1. Designation of Technical Services

- 1.1. When an approval authority designates a Technical Service, the latter shall comply with the provisions of this Schedule.
- 1.2. The Technical Services shall carry out themselves, or supervise, the tests required for approval or inspections specified in UN Regulations, except where alternative procedures are specifically permitted. They may not conduct tests or inspections for which they have not been duly designated.

The performance of Technical Services and the quality of the tests and inspections they are carrying out shall ensure that the products for which UN type approval is requested are adequately verified for their compliance with the requirements of the applicable UN Regulations for which the Technical Services are designated.
- 1.3. The Technical Services shall be designated according to one or more of the four following categories of activities, depending on their field of competence:
 - (a) Category A: Technical Services which carry out the tests referred to in UN Regulations in their own facilities;
 - (b) Category B: Technical Services which supervise the tests referred to in the UN Regulations, performed in the manufacturer's facilities or in the facilities of a third party;
 - (c) Category C: Technical Services which assess and monitor on a regular basis the manufacturer's procedures for controlling conformity of production;
 - (d) Category D: Technical Services which supervise or perform tests or inspections in the framework of the surveillance of conformity of production.
- 1.4. Technical Services shall demonstrate appropriate skills, specific technical knowledge and proven experience in the specific fields covered by the UN Regulations for which they are designated.

In addition, Technical Services shall comply with, but not necessarily be approved/accredited in accordance with, the standards listed in Part two of this Schedule which are relevant for the categories of activities for which they are designated.

The Technical Services shall ensure that they are free from any control and influence of interested parties which may adversely affect the impartiality and quality of the tests and inspections.

The Technical Services shall have access to the test facilities and measurement devices necessary to supervise or perform tests or inspections referred to in the UN Regulations for which the Technical Services are designated.

- 1.5. An approval authority may act as a Technical Service for one or more of the activities referred to in paragraph 1.3. Where an approval authority acting as a Technical Service has been appointed by national law of a Contracting Party and is financed by the latter, the provisions of this Schedule or equivalent rules to the provisions in paragraphs 1, 2 and 3.4 of this Schedule shall be complied with. The same applies for Technical Services that have been appointed by national law of a Contracting Party and are subject to financial and managerial control by the Government of that Contracting Party. The equivalent rules shall guarantee the same level of performance and independence.
- 1.6. Regardless of paragraph 3.3, a manufacturer or its representative acting on its behalf may be designated as a Technical Service for category A activities for only those UN Regulations which make provision for such a designation. In this case, and regardless of paragraph 1.4, such Technical Service shall be accredited in accordance with the standards referred to in paragraph 1 of Part two of this Schedule.
- 1.7. The entities referred to in paragraphs 1.5 and 1.6 shall comply with the provisions of paragraph 1.

2. Assessment of the skills of the Technical Services

- 2.1. The skills referred to in paragraph 1 shall be demonstrated in an assessment report established by a competent authority.¹ This may include a certificate of accreditation issued by an accreditation body.
- 2.2. The assessment referred to in paragraph 2.1 shall be conducted in accordance with the provisions of Part three of this Schedule.
The assessment report shall be reviewed after a maximum period of three years.
- 2.3. The assessment report shall be communicated to the UNECE secretariat and to the Contracting Parties upon request.
- 2.4. The approval authority which acts as a Technical Service shall demonstrate compliance with documentary evidence.
This includes an assessment which shall be conducted by auditors independent of the activity being assessed. Such auditors may be from within

¹ "Competent authority" means either the approval or designated authority, or an appropriate accreditation body acting on their behalf respectively.

the same organization provided that they are independent of the personnel undertaking the assessed activity.

- 2.5. A manufacturer or its representative acting on their behalf, designated as the Technical Service, shall comply with the relevant provisions of paragraph 2.

3. Procedures for notification

- 3.1. Contracting Parties shall notify the UNECE secretariat of the name, the address including electronic address and the category of activities of **each** designated Technical Service. They shall also notify the UNECE secretariat any subsequent modifications thereof.

The notification act shall state for which UN Regulations the Technical Services have been designated.

- 3.2. A Technical Service may conduct the activities described in paragraph 1 for the purposes of UN type approval only if it has been notified to the UNECE secretariat.
- 3.3. The same Technical Service may be designated and notified by several Contracting Parties, irrespective of the category of activities which they conduct.
- 3.4. The UNECE secretariat shall publish the list and contact details of the approval authorities and Technical Services on its website.

Part two: Standards which the Technical Services, referred to in paragraphs 1 to 3.5 of Part one of this Schedule, shall comply with

1. Activities in testing for UN type approval, to be carried out in accordance with UN Regulations

- 1.1. Category A (tests performed in own facilities):
ISO/IEC 17025:2005 on the general requirements for the competence of testing and calibration laboratories.
A Technical Service designated for category A activities may carry out or supervise the tests according to UN Regulations for which it has been designated, in the facilities of the manufacturer or of its representative.
- 1.2. Category B (supervising of tests performed in the manufacturer's facilities or in the facilities of its representative):
ISO/IEC 17020:2012 on the general criteria for the operation of various types of bodies performing inspection.
Before performing or supervising any test in the facilities of a manufacturer or of its representative, the Technical Service shall verify that the test facilities and measurement devices comply with the appropriate requirements of paragraph 1.1.

2. Activities related to Conformity of Production

- 2.1. Category C (procedure for the initial assessment and surveillance audits of the manufacturer's quality management system):
ISO/IEC 17021:2011 on the requirements for bodies providing audit and certification of management systems.
- 2.2. Category D (inspection or testing of production samples or supervision thereof):
ISO/IEC 17020:2012 on the general criteria for the operation of various types of bodies performing inspection.

Part three: Procedure for the assessment of Technical Services

1. Purpose

- 1.1. This part of Schedule 2 establishes the conditions by which the assessment procedure of the Technical Services shall be conducted by the competent authority referred to in paragraph 2 of Part one of this Schedule.
- 1.2. These requirements shall apply, *mutatis mutandis*, to all Technical Services irrespective of their legal status (independent organization, manufacturer or approval authority acting as Technical Service).

2. Principles of assessing

Assessment shall be characterized by reliance on a number of principles:

- (a) Independence which is the basis for the impartiality and objectivity of the conclusions;
- (b) An evidence-based approach which guarantees reliable and reproducible conclusions.

Auditors shall show trust and integrity, and shall respect confidentiality and discretion. They shall report truthfully and accurately findings and conclusions.

3. Auditor skills

- 3.1. The assessments may only be conducted by auditors with the technical and administrative knowledge necessary for such purposes.
- 3.2. The auditors shall have been trained specifically for assessment activities. In addition, they shall have the specific knowledge of the technical area in which the Technical Service will exercise its activities.
- 3.3. Without prejudice to the provisions of paragraphs 3.1 and 3.2 above, the assessment referred to in paragraph 2.5 of Part one of this Schedule shall be conducted by auditors independent of the activities for which the assessment is conducted.

4. Application for designation

- 4.1. A duly authorized representative of the applicant Technical Service shall make a formal application to the competent authority. The application shall include as a minimum the following:
 - (a) General features of the Technical Service, including corporate entity, name, addresses, legal status and human and technical resources;
 - (b) A detailed description including curriculum vitae of the personnel in charge of testing and of the managerial staff as evidenced by the skills both educational and professional;

- (c) In addition to the above, Technical Services which use virtual testing methods shall provide evidence of their ability to work in a Computer-Aided-x environment;
 - (d) General information concerning the Technical Service, such as its activities, its relationship in a larger corporate entity, if any, and addresses of all its physical location(s) to be covered by the scope of designation;
 - (e) An agreement to fulfil the requirements for designation and the other obligations of the Technical Service as applicable in the relevant UN Regulations for which it is designated;
 - (f) A description of the conformity assessment services that the Technical Service undertakes in the framework of the applicable UN Regulations and a list of the UN Regulations for which the Technical Service applies for designation, including its limits of capability where applicable;
 - (g) A copy of the quality assurance manual or comparable operational rules of the Technical Service.
- 4.2. The competent authority shall review for adequacy the information supplied by the Technical Service.
- 4.3. The Technical Service shall notify the approval authority of any modifications to the information provided in accordance with paragraph 4.1.

5. Resource review

The competent authority shall review its ability to carry out the assessment of the Technical Service, in terms of its own policy, its competence and the availability of suitable auditors and experts.

6. Subcontracting the assessment

- 6.1. The competent authority may subcontract parts of the assessment to another designated authority or ask for support from technical experts provided by other competent authorities. The subcontractors and experts shall be accepted by the applicant Technical Service.
- 6.2. The competent authority shall take into account accreditation certificates with adequate scope, in order to complete its global assessment of the Technical Service.

7. Preparation for assessment

- 7.1. The competent authority shall formally appoint an assessment team. The former shall ensure that the expertise brought to each assignment is appropriate. In particular, the team as a whole:
- (a) Shall have appropriate knowledge of the specific scope for which designation is sought; and
 - (b) Shall have sufficient understanding to reliably assess the competence of the Technical Service which operates within its scope of designation.

- 7.2. The competent authority shall clearly define the assignment given to the assessment team. The task of the assessment team is to review the documents collected from the applicant Technical Service and to conduct the on-site assessment.
- 7.3. The competent authority shall agree, together with the Technical Service and the assigned assessment team, on the date and timetable for the assessment. However, it remains the responsibility of the competent authority to pursue a date that is in accordance with the surveillance and reassessment plan.
- 7.4. The competent authority shall ensure that the assessment team is provided with the appropriate criteria documents, previous assessment records, and the relevant documents and records of the Technical Service.

8. On-site assessment

The assessment team shall conduct the assessment of the Technical Service on the premises of the Technical Service from which one or more key activities are performed and, where relevant, shall perform eyewitness assessment at other selected locations where the Technical Service operates.

9. Analysis of findings and assessment report

- 9.1. The assessment team shall analyse all relevant information and evidence from the document and record review and the on-site assessment. This analysis shall be sufficient to allow the team to determine the extent of competence and conformity of the Technical Service with the requirements for designation.
- 9.2. The competent authority's reporting procedures shall ensure that the following requirements are fulfilled.
 - 9.2.1. A meeting shall take place between the assessment team and the Technical Service prior to leaving the site. At this meeting, the assessment team shall provide a written and/or oral report of its findings obtained from the analysis. The Technical Service shall have the opportunity to ask questions about the findings, including non-conformities, if any, and their basis.
 - 9.2.2. A written report on the outcome of the assessment shall be promptly brought to the attention of the Technical Service. This assessment report shall contain comments on competence and conformity, and shall identify non-conformities, if any, that need to be resolved in order to conform to all of the requirements for designation.
 - 9.2.3. The Technical Service shall be invited to respond to the assessment report and to describe the specific actions taken or planned to be taken, within a defined time, to resolve any identified non-conformities.
- 9.3. The competent authority shall ensure that the responses of the Technical Service are sufficient and effective to resolve non-conformities. If the Technical Service responses are found to be insufficient, further information shall be requested. Additionally, evidence of effective implementation of actions taken may be requested, or a follow-up assessment may be carried out to verify effective implementation of corrective actions.
- 9.4. The assessment report shall include, as a minimum:
 - (a) The unique identification of the Technical Service;

- (b) The date(s) of the on-site assessment;
- (c) The name(s) of the auditor(s) and/or experts involved in the assessment;
- (d) The unique identification of all premises assessed;
- (e) The proposed scope of designation that was assessed;
- (f) A statement on the adequacy of the internal organization and procedures adopted by the Technical Service supporting its competence, as determined through its fulfilment of the requirements for designation;
- (g) The information on resolving all non-conformities;
- (h) A recommendation on whether the applicant should be designated or confirmed as Technical Service and, if so, the scope of designation.

10. Granting/confirming a designation

- 10.1. The approval authority shall, without undue delay, make the decision on whether to grant, confirm or extend designation on the basis of the report(s) and any other relevant information.
- 10.2. The approval authority shall provide a certificate to the Technical Service. This certificate shall identify the following:
 - (a) The identity and logo of the approval authority;
 - (b) The unique identity of the designated Technical Service;
 - (c) The effective date of granting of designation and the expiry date;
 - (d) A brief indication of, or a reference to, the scope of designation (applicable UN Regulations or parts thereof);
 - (e) A statement of conformity and a reference to this Schedule.

11. Reassessment and surveillance

- 11.1. Reassessment is similar to an initial assessment except that experience gained during previous assessments shall be taken into account. Surveillance on-site assessments are less extensive than reassessments.
- 11.2. The competent authority shall design its plan for reassessment and surveillance of each designated Technical Service, so that representative samples of the scope of designation are assessed on a regular basis.

The interval between on-site assessments, whether reassessment or surveillance, depends on the proven stability of the Technical Service.
- 11.3. When, during surveillance or reassessments, non-conformities are identified, the competent authority shall define strict time limits for the implementation of corrective actions.
- 11.4. When the corrective or improvement actions have not been taken within the agreed timeframe, or are not deemed to be sufficient, the competent authority shall adopt appropriate measures such as, conducting further assessment, suspending/withdrawing the designation for one or more of the activities for which the Technical Service has been designated.

- 11.5. When the competent authority decides to suspend or withdraw the designation of a Technical Service, it shall inform the latter by registered mail, and shall inform the UNECE secretariat thereof accordingly. In any case, the competent authority shall adopt all the necessary measures to ensure the continuity of the activities already undertaken by the Technical Service.

12. Records on designated Technical Services

- 12.1. The competent authority shall maintain records on Technical Services to demonstrate that requirements for designation, including competence, have been effectively fulfilled.
- 12.2. The competent authority shall keep the records on Technical Services secure to ensure confidentiality.
- 12.3. Records on Technical Services shall include at least:
- (a) Relevant correspondence;
 - (b) Assessment records and reports;
 - (c) Copies of designation certificates.

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