



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

TIR Executive Board (TIRExB)

(Forty-fourth session, 27 September 2010,
agenda item 7)

INVALIDATION OF TIR CARNETS ISSUED TO EXCLUDED TIR CARNET HOLDERS

Transmitted by the International Road Transport Union (IRU)

1. Further to the discussion about the informal document No. 11 (2010), the IRU is pleased to provide further clarification on this issue as requested by the TIRExB [at its forty-third session; see TIRExB/REP/2010/43draft, paras 18-23].
2. First of all, the IRU was surprised to learn of the concerns which were raised by some TIRExB members at the last session concerning the right of an association to discontinue the issuance of TIR carnets to a TIR Carnet holder on a temporary or a permanent basis.
3. Associations have been exercising this particular right, in full compliance with the TIR Convention's principles, IRU's rules and regulations, and applicable provisions of national legislation regarding financial guarantees. On the contrary, for many years, no particular concerns have been raised by any party involved.
4. Indeed, the implementation and strict follow-up of these principles by all IRU associations prevented the collapse of the TIR system in the mid-1990s by permitting associations, in the event of an irregularity or a serious suspicion of fraud, to immediately stop the issuance of TIR Carnets to the transport operator concerned. The existence of such clear rules is the only way to ensure the proper management of the TIR System. Any association finding itself deprived of this fundamental right to immediately suspend the issuance of carnets in such critical circumstances would simply leave the way open for fraudsters to continue to use and abuse the TIR System in total impunity.
5. It is worth noting that in implementing its own rules for managing the suspension of the issuance of TIR Carnets, the IRU and its associations are not only acting in full respect of the TIR Convention but in the direct interest of Customs authorities and that of the immense majority of

TIR Carnet holders who are performing their TIR transport in full compliance with the law and who would be themselves penalised in the absence of such strict management.

6. In this context, the IRU would like to remind that this fundamental right is duly confirmed in clause 6. of Annex 9, Part II of the TIR Convention. According to this provision, it is self evident and cannot be seriously contested that “the authorization for access to the TIR procedure does not constitute in itself a right to obtain TIR Carnets from the associations”.

7. Concerning the legal status of TIR Carnet holders, the IRU appreciates the concern expressed by the TIRExB regarding the level of protection enjoyed by all TIR Carnet holders but can reassure the TIRExB that the IRU rules are fully implemented by all associations in a strict but equitable manner.

8. All TIR Carnet holders duly acknowledge the validity of these rules and indeed sign a bilateral civil law contract (i.e. a Declaration of Engagement) voluntarily with their particular association.

9. If a TIR Carnet holder is of the opinion that the decision to suspend the issuance of TIR Carnets to him is unfounded, he is free to contest it, if need be before his national court, in the same way that any private individual can contest the implementation or validity of a bilateral civil law contract for any reason. The competent court will then decide whether the suspension of the issuance of TIR Carnets was founded.
