

Best Practice: 5.10 EXAMPLE OF BEST PRACTICE WITH REGARD TO THE APPLICATION OF ANNEX 9, PART II (extract of the TIR handbook)*/

1. Controlled access to the TIR procedure for natural and legal persons is one of the five pillars of the TIR Convention which distinguishes the TIR procedure from many other systems of Customs transit. Controlled access was introduced into the TIR Convention in 1999 with a view to safeguarding the system against fraudulent activities by means of the careful selection of transport operators on the basis of a set of minimum conditions and requirements laid down in Annex 9, Part II of the Convention. The practical application of these criteria is based on national legislation.

2. There are two major players involved in the authorization procedure: the competent authorities (Customs, Ministry of Transport, etc.) and the national TIR issuing association. Their close cooperation is indispensable and could be organized, for example, through the establishment of a national authorization committee, as recommended by Explanatory Note 9.II.3 of the Convention. According to Annex 9, Part I of the Convention, the association shall verify continuously and, in particular, before requesting authorization for access of persons to the TIR procedure, the fulfilment of the minimum conditions and requirements by such persons as laid down in Part II of this annex.

3. However, only the competent authorities representing the Government can validate any finding by the association in this respect and take a legal decision concerning the access to the TIR procedure. In addition, information that is indispensable for the purposes of authorization can only be available within the competent authorities. Thus, the competent authorities should not outsource their official functions and responsibilities to the association.

I. VERIFYING MINIMUM CONDITIONS AND REQUIREMENTS

4. The table below shows the distribution of labour between the competent authorities and the association when checking the minimum conditions and requirements to be fulfilled by persons applying for access to the TIR procedure. With regard to natural persons, this table should apply as far as applicable in accordance with national legislation.

^{*/} {ECE/TRANS/WP.30/AC.2/91, paragraph 28}

Documents/information to be provided	Actions by association	Actions by competent authorities
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1.1 Proven experience or, at least, capability to engage in regular international transport

Official registration	Collect documents, analyze information and pass on to the competent authorities	Verify, analyze and assess
Licence for carrying out international transport		
Plate numbers and approval certificates of road vehicles		
Certificates of Professional Competence (CPC) of the senior management		
Proof of past business operations, CMR, orders and other documents		

1.2 Sound financial standing

Proof of financial viability, e.g. bank reference, credit rating, etc.	As far as national legislation permits, collect documents, analyze information and pass on to the competent authorities	Verify, analyze and assess
Financial status as reported by the national tax authorities, commercial registers		
Annual accountancy reports, balance sheets		

1.3 Proven knowledge in the application of the TIR Convention

Knowledge of the transport operator	Verify CPC's and/or certificates issued by Customs, interview	Verify, analyze and assess
Training for the management and staff	Provide, if required	Co-operate
Changes in the management and staff	Monitor and check	Be informed
Documents/information to be provided	Actions by association	Actions by competent authorities

Documents/information to be provided	Actions by association	Actions by competent authorities
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1.4 Absence of serious or repeated offences against Customs or tax legislation

Absence of serious or repeated Customs offences	<p>1. Monitor, as far as national legislation permits, and transmit relevant information to competent authorities.</p> <p>2. Monitor the performance of transport operators via SafeTIR.</p>	<p>1. Collect and consider relevant information from local Customs offices, establish a database.</p> <p>2. If necessary, verify relevant information from the national association.</p> <p>3. Take into due accounts any information on Customs offences committed abroad.</p>
Absence of serious or repeated tax offences		Request and consider, both on a case-by-case and regular basis, information from tax and other authorities. If necessary, verify relevant information from the national association
Absence of previous offences against Customs and tax legislation by the management and shareholders – obtain positive evidence of a "clean record"	Monitor, as far as national legislation permits, and transmit relevant information to competent authorities	
Active research for reputation	Collect and monitor	Be informed

1.5 Undertakings in a written declaration of commitment of the Association

Insertion of the appropriate undertakings (Annex 9, part II, para. 1 (e)) into a written declaration (Deed of Engagement)	Make the transport operator sign the declaration	Verify, if necessary
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5. Additional and more restrictive conditions and requirements for access to the TIR procedure may be introduced by the competent authorities of Contracting Parties and by the associations themselves unless the competent authorities decide otherwise. The competent authorities, in cooperation with the national association, have to publish all additional conditions and requirements at national level.

6. The authorization for access to the TIR procedure does not constitute in itself a right to obtain TIR Carnets from the associations. For this reason, any authorized person must follow the regulations established by the national association and/or international organization to which it is affiliated.

7. The fulfilment of the above conditions and requirements must be insured not only before requesting authorization for access to the TIR procedure, but also continuously after such authorization has been granted. These *à posteriori* checks should be done on a regular basis and not only if there is information on some problems (infringements, insolvency, etc.). It is up to the competent authorities to arrange a procedure for regular checks.

II. PROCEDURE

8. The competent authorities, together with the national association, should determine, in line with national legislation, the procedures to be followed for access to the TIR procedure on the basis of the above conditions and requirements. These procedures should in particular specify a deadline for consideration of applications for access to the TIR procedure, following which the applicant should be informed in writing of the decision taken. In case of refusal, the applicant should also be informed of possible appeal procedures.