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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975
(Twenty-seventh session, 21 and 22 October 1999,
agenda item 3)

Working Party on Customs Questions affecting Transport
(Ninety-third session, 18-22 October 1999,
agenda item 7 (c) (xiii))

**ACTIVITIES OF THE TIR EXECUTIVE BOARD (TIREXB)
APPLICATION OF THE CONVENTION**

Draft recommendation on the validity of multi-user TIR operations

Note by the TIR and the UN/ECE secretariats

1. In accordance with its mandate and Terms of Reference, the TIRExB shall supervise and provide support in the application of the Convention at the national and international levels. In line with this mandate, the TIRExB, at its first session, was informed that it was a matter of great priority for modern transport operations to allow for the possibility that TIR procedures could also be undertaken by other persons than the TIR Carnet holder who remained always responsible for the proper application of the Convention in accordance with article 21.
 2. Unfortunately, there exist today different interpretations by Contracting Parties on the validity of such multi-user TIR operations. This was confirmed by the results of a questionnaire which had been transmitted by the TIR secretariat to all Contracting Parties utilizing the TIR regime.
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3. The TIRExB took note that the practical problems in this field were due to differences in national Customs legislation in various Contracting Parties and diverse interpretations of the TIR Convention rather than due to lack of relevant provisions in the Convention. This situation has led to an increasing number of practical problems in the application of the TIR Convention.
4. It was felt that a general resolution of this problem in the framework of the Convention might require the adoption by the TIR Administrative Committee of relevant amendments, explanatory notes and/or comments to the Convention clarifying and defining in particular the term "TIR Carnet holder". While work on these issues is under way in the framework of the UN/ECE Working Party on Customs Questions affecting Transport (WP.30), no solution has yet emerged that found the unanimous acceptance of the Contracting Parties.
5. Another approach is thus required, as a temporary measure, to arrive at practical solutions, possibly already by the end of 1999. This is of particular importance due to the control measures introduced in November 1996 by the State Customs Committee of the Russian Federation prohibiting the use of multi-user TIR operations on the territory of the Russian Federation in order to cope with an increase in Customs fraud related to such type of TIR operations.
6. During informal consultations preceding the third session of the TIRExB in Moscow on 22 and 23 September 1999, the TIRExB and the State Customs Committee of the Russian Federation agreed on the principles of a draft recommendation for consideration and possible adoption by the TIR Administrative Committee. Such a recommendation concerning the validity of multi-user TIR operations in different Contracting Parties would, as a temporary solution, provide for clarification and consistency about the different interpretations given by various Contracting Parties. It would also provide the transport industry with full transparency about whether or not multi-user TIR operations are permissible on the territory of a specific Contracting Party and under which conditions.
7. Due to lack of time at the third session of the TIRExB, the TIR and the UN/ECE secretariats were requested to draft a Recommendation on the validity of multi-user TIR operation for possible adoption by the TIR Administrative Committee at its twenty-seventh session (21 and 22 October 1999).
8. In accordance with this mandate, the TIR and the UN/ECE secretariats have prepared the draft recommendation given below, taking account of the principles agreed and the considerations held by the TIRExB at its third session in Moscow as well as at its previous sessions held in Geneva.

9. The TIR and the UN/ECE secretariats propose the following procedure for consideration and adoption of this recommendation, subject to the approval by the UN/ECE Working Party WP.30 and the TIR Administrative Committee:

(a) The text of the draft recommendation given below will be briefly introduced and discussed at the ninety-third session of the UN/ECE Working Party on Customs Questions affecting Transport (WP.30) (18-22 October 1999). Thereafter, the draft recommendation will be considered with a view to its adoption by the TIR Administrative Committee at its twenty-seventh session (21 and 22 October 1999).

(b) Should the TIR Administrative Committee not arrive at a consensus on the text of the recommendation, it is proposed to put the recommendation as a whole to the vote in accordance with Annex 8, Article 5 of the Convention. It is also proposed that, in accordance with Annex 8, Article 1 (ii) of the Convention, only representatives of Contracting Parties to the Convention should attend the session of the TIR Administrative Committee during the voting procedure.

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VALIDITY OF MULTI-USER TIR OPERATIONS

Draft Recommendation

adopted by the Administrative Committee for the TIR Convention, 1975

on 22 October 1999

The Administrative Committee,

Recognizing that the holder of a TIR Carnet may not always be in a position or may not intend to carry out a TIR operation by his own means over the full distance between a Customs office of departure in one country and a Customs office of destination in another country in which case he may employ subsequent road transport operators that undertake, under his responsibility, TIR operations,

Aware that the Convention does not provide a clear indication as to whether such multi-user TIR operations are allowed or whether the TIR Carnet holder has to be the actual transport operator carrying out TIR operations, thus leaving it up to national interpretation, legislation and administrative procedures whether such multi-user TIR operations are permissive,

Recognizing that this situation leads to uncertainty for transport operators about the application of the Convention in the Contracting Parties,

Convinced that an internationally accepted recommendation on this subject would provide for transparency and stability in the application of the Convention as it would stipulate for all Contracting Parties the conditions under which multi-user transport operation can be carried out in the framework of the Convention,

Stressing that the recommendation would establish an interpretation of the relevant provisions of the Convention in line with the spirit of the Convention, i.e to facilitate the international carriage of goods by road without jeopardizing Customs control;

1. Decides to recommend to all Contracting Parties to accept multi-user TIR operations on their territories. Such multi-user TIR operations may be subjected by the respective Contracting Parties to the following requirements and inscriptions into the TIR Carnet:
 - (a) Subsequent transport operators are authorized to utilize TIR Carnets, in accordance with Article 6, paragraph 4 and Annex 9, Part II of the Convention, and fulfil the minimum requirements and conditions stipulated therein;
 - (b) Subsequent transport operators have concluded written agreements with the TIR Carnet holder inscribed in box 3 (three) on the cover of the TIR Carnet stipulating that subsequent transport operators carry out the TIR operation under the responsibility of the TIR Carnet holder as far as the provisions of the Convention are concerned;
 - (c) Subsequent road transport operators, in case of non-discharge of a TIR operation, may be held liable in accordance with national legislation and in line with article 8, paragraph 7 of the Convention when payment of the sums mentioned in article 8, paragraphs 1 and 2 of the Convention becomes due;
 - (d) On all vouchers of the TIR Carnet, in the box "For official use", the name, the address and the country of residence of the relevant subsequent transport operator (carrying out TIR operations in a given Contracting Party) is clearly inscribed by the TIR Carnet holder prior to presentation of the TIR Carnet at the Customs office of departure;
2. Urges all Contracting Parties to safeguard Customs control during TIR operations, taking due account of the particular risks that might be involved during transshipment operations of the sealed load compartment and from one transport operator to another;
3. Requests Contracting Parties, before claiming payment of sums mentioned in article 8, paragraphs 1 and 2 of the Convention from the national guaranteeing association, to provide evidence that a payment request has been transmitted in accordance with article 8, paragraph 7 of the Convention to the subsequent road transport operator and/or the TIR Carnet holder;
4. Encourages all Contracting Parties to take due account of any information provided by competent authorities of other Contracting Parties about serious and/or repeated offences against Customs and tax legislation committed by persons authorized in accordance with Annex 9, Part II of the Convention and to take all appropriate measures in accordance with the provisions of the Convention, particularly article 38;
5. Requests Contracting Parties to inform the UN/ECE secretariat by 30 November 1999 at the latest about an objection to this recommendation. In case no such objection is lodged, the

recommendation is deemed to be accepted by a Contracting Party and will become applicable as of 1 January 2000 on the territory of this Contracting Party;

6. Also requests those Contracting Parties that intend to subject multi-user TIR operations to one or several of the requirements and inscriptions into the TIR Carnet provided above, to inform the UN/ECE secretariat by 30 November 1999 at the latest about these requirements and inscriptions;
 7. Requests the UN/ECE secretariat to transmit all information received in accordance with paragraphs 5 and 6 of the present Recommendation to all Contracting Parties utilizing the TIR regime and to the international organization(s) referred to in Article 6, paragraph 2 of the Convention by 3 December 1999;
 8. Decides that Contracting Parties, wishing to reduce or increase one or more of the requirements and/or inscriptions into the TIR Carnet provided in paragraph 1 or wishing to withdraw acceptance of multi-user TIR transit operations on their territories in case of an increase in Customs fraud related to such transport operations, shall inform the UN/ECE secretariat at least 30 days before the coming into force of such withdrawal or modification;
 9. Requests the UN/ECE secretariat to inform immediately all Contracting Parties utilizing the TIR regime and the international organization(s) referred to in Article 6, paragraph 2 of the Convention about the information received in accordance with paragraph 8 of the present Recommendation.
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