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of the TIR Procedure

(21 June 2001, agenda item 6)

**REPERCUSSIONS OF THE COMPUTERIZATION PROCESS ON EXISTING
LEGAL PROVISIONS AND ADMINISTRATIVE PROCEDURES**

Note by the secretariat

A. BACKGROUND

1. The main objective of Phase III of the TIR revision process is to allow for the introduction of modern information, management and control technologies based on automated and secured electronic procedures. These procedures should not affect the basic philosophy of the TIR procedure, even if some of the legal and administrative structures may need to be revised (TRANS/WP.30/2001/5, paragraph 11).
2. The objective of this document is to outline the possible repercussions of the introduction of new technologies on the current legal provisions of the Convention and its annexes as well as on existing administrative procedures. Possible changes to the Explanatory Notes of Annex 6 of the Convention or to the existing Comments are not discussed. It is assumed that the use of new technologies will not affect the basic operational aspects of the TIR system, meaning that TIR Carnets will remain to be issued by national associations, affiliated to the same international organization, that a guarantee still will

need to be provided and that the discharge procedure continues to exist.

3. At this point no decision has yet been taken on the approach and extent of the computerization process (see TRANS/WP.30/2001/5 paras. 40 and 41). For that reason, the document describes two different situations. The first part describes what would happen when the present paper based TIR system would be complemented by portable electronic data files. The second part describes which changes are required when an international EDI system is introduced with on-line links between all Customs posts in all countries utilizing the TIR system.

B. THE TIR CONVENTION AND THE USE OF PORTABLE ELECTRONIC DATA FILES

4. The main assumption for the introduction of the use of electronic portable data files, such as the so-called Smart Card or the Smart Document, is that they can be used in parallel to the existing paper-based TIR system. This means that their introduction should leave the text of the Convention (and its annexes) untouched and that amendments should only be introduced where the current text is clearly limited to paper documents as such. The following paragraphs enumerate the articles which would be involved once this option is followed. Where possible, suggestions for amendments are given.

5. The current text of the Convention does not contain a definition of the TIR Carnet, but its model is given in Annex I. Given the fact that the Convention was drawn up in 1975 and in line with the references to the TIR Carnet forms in the Articles 7 and 44 (b), it seems plausible that whenever the term TIR Carnet is used, it refers to the paper version only. In order to simplify the introduction of portable electronic data files into the Convention and in order to limit the amount of changes in the text to a minimum, it may be suggested that a definition of the term 'TIR Carnet' be introduced into the Convention by amending Article 1 with a new subparagraph (x), which could read as follows:

(x) the term "TIR Carnet" shall mean the TIR Carnet as specified in Annex I, Part I of the Convention or any other data processing technique in line with the specifications of Annex I, Part II of the Convention.

6. By creating a Part I and a Part II inside Annex I, the existing references to Annex I could remain as they are and would not need to be amended (see also paragraph 8 below).

7. Articles 7, 24, 25, 32, 33, 34, 35 and 44 (b) in the Convention all refer to specific aspects of the paper version of the TIR Carnet (payment of import and export duties for the TIR Carnet forms, the use of the vouchers and counterfoil, the completion of the report, the use of the endorsement “heavy and bulky goods” and the transfer of currency for payment of TIR Carnet forms). These articles may have to be amended once the use of portable electronic data files has been introduced. As long as it has not been decided which types of files can be used as TIR Carnet, it is of course not possible to submit detailed proposals for amending the articles concerned.

8. Major changes to Annex 1 would be necessary. In order to simplify the situation, Annex 1 may be split up in a Part I, containing the text of the current Annex I and a Part II, which could contain the technical specifications of acceptable types of electronic data processing techniques.

9. One of the major points, to be addressed when amending Annex I, will be the use of the signature, mentioned as rule No. 12 regarding the use of the TIR Carnet. At this point it is worth mentioning that, as part of the outcome of a questionnaire, distributed by the secretariat, it has already become clear that around half of the Contracting Parties to the Convention dispose of some form of legislation enabling the use of electronic signatures at the national level.

10. Finally, Annex 8, Articles 10 (b) and (h) may have to be reviewed.

11. As a preliminary conclusion, it can be said that, from the legal point of view, the introduction of portable electronic data files in the TIR Convention is a relatively simple operation, which will not require major changes to the current text of the Convention. Main focus will have to be put on the definition of the technical specification of acceptable types of data processing techniques.

12. In case amending the Convention turns out to be a more complicated task than envisaged, a simpler and even more straightforward path may be followed. In stead of amending the Convention itself at various stages, the matter could also be addressed by just inserting one new article into the Convention, which would allow for the use of new technologies in general. All the other articles of the Convention would remain unchanged and keep their value, unless a newly to be inserted Annex “X” would contain divergent provisions. In those cases, the more specific provisions of this Annex “X” would prevail over the general provisions of the body of the Convention. Such an article could read as follows:

Article ... All the provisions of this Convention are applicable, regardless of the type of data processing technique that is used, unless the special provisions of Annex “X” make an exception.

C. THE TIR CONVENTION AND THE INTRODUCTION OF AN INTERNATIONAL EDI SYSTEM

13. With regard to the introduction of an international EDI system, establishing on-line links between all Customs posts in all countries utilizing the TIR system, the same principles as outlined in paragraph 1 apply. Although the introduction of such a system will undoubtedly involve changes to the TIR Convention as it is known and used today, its basic philosophy should and could remain untouched. Indeed, modern technology is capable of offering an easy and efficient system through which effective communication between all Customs posts in all countries concerned can take place, without requiring significant changes in the way the TIR system is run today.

14. Describing possible repercussions of the introduction of an international EDI system on legislation and administrative procedures is only possible when some kind of outline of such a system exists. Therefore, the secretariat, by way of example, provides below a short description of a possible international EDI system, based on the following assumptions:

- (a) each country takes care of its own, national computerized TIR system;
- (b) there is no direct link between Customs authorities of different Contracting Parties;
- (c) each TIR authorized Customs office is connected to the internet (preferably directly, if not, then via a centralised office);
- (d) a set of standardized electronical messages exists, enabling an effective exchange of information between the various parties concerned.

15. On this basis, a possible international EDI system could be envisaged which only practical requirement would be the installation of a central server administered by an international governmental organization, such as the TIRExB. All parties concerned in a TIR operation (Customs, transport operator, national associations, IRU) can access the server by making use of available security technology, which authenticates parties, maintains data integrity and assures data confidentiality. Today's technology provides adequate security in situations where the various users of a given system do not know each other, but need each other in order to establish an effective exchange of information. The various parties could access the server by means of the internet.

16. A transport operator, desiring to carry out a TIR operation and having ascertained adequate guarantee coverage from his national association, will access the server through the internet, identify himself as an authorized user of the TIR system and will key in the necessary data on the basis of a standardized information sheet (which would serve as an "on-line TIR Carnet"). The server will file the data and provide him with a unique code and a copy of the on-line TIR Carnet, which will accompany

the goods until their final destination (this is comparable with the movement reference number (MRN) and the transport accompanying document, used in the European Commission's New Computerized Transit System (NCTS)). Together with the goods, the transport accompanying document and the identification code the transport operator will report to the Customs authorities of the Customs office of departure. This will access the server, identify itself, key in the identification code and will update the file, containing the on-line TIR Carnet, with its data, making sure that adequate guarantee is being provided. After having received permission from the Customs office of departure, the actual TIR transport can begin. Upon arrival at the Customs office of exit, the Customs authorities will access the server, identify themselves, access the file concerned by keying-in the identification code and update the data concerned. If the system does not report a difference between the data from the Customs office of departure and the Customs office of exit, national discharge can take place.

17. In the following countries, this procedure is repeated at each office of departure and exit until the goods reach their final destination. When it turns out that no change in data has taken place, final discharge can take place and the guarantee can be released.

18. Of course, it can well be imagined that, at the national level and in addition to the above, so to speak, international 'network', the office of departure sends a message to the office of exit, notifying it of the imminent arrival of a certain load, but this is a matter to be dealt with at the national level. Likewise, it is possible that the office of departure sends a message through the internet to the envisaged Customs office of final destination, announcing the arrival of a certain load. But the system does not need these additional features in order to work well. In fact, no co-operation at all between the various Customs offices involved is necessary to make the system work.

19. It goes without saying that the above description only outlines the basic philosophy for the introduction of an international EDI system and that a number of questions still remain unanswered, which have to be resolved before its real merit can be judged. But, as has been said in paragraph 14, the idea behind the description is just to give an example of what a possible system could look like, in order to enable a first analysis of its repercussions on the current text of the TIR Convention.

20. Looking at the text of the Convention with the above description in mind, it is clear that the text of the Convention would have to be amended at some points. However, bearing in mind that the basic concept behind the TIR procedure remains unchanged (an operation by an authorized user between a given office of departure and a given office of destination, possibly transiting one or more other Contracting Parties, covered by an international data file containing all the relevant data as well as by a guarantee) it is well possible that by just introducing a new definition of the term 'TIR Carnet', which would also cover the use of electronic messages, most existing articles would remain unchanged. To

this end, the proposed definition of 'TIR Carnet' as given in paragraph 5 could be used as well, leaving room for a new Annex I, Part III dealing with the standardized content of the electronic messages and containing other technical specifications.

21. Because the use of EDI will fundamentally influence the current discharge procedure, a review of the deadlines of Article 11 will be necessary. Additionally and in line with the observations in paragraph 8, the articles that specifically refer to procedures involving the paper TIR Carnet will have to be reviewed.

22. All in all, taking this approach and bearing in mind that modern technology is able to adapt itself to existing procedures, instead of procedures having to be changed to fit the available technology, even the introduction of an international EDI system, covering all Contracting Parties to the TIR Convention, should be feasible without considerably having to change the legislation.

D. REPERCUSSIONS ON ADMINISTRATIVE PROCEDURES

23. The fact that a possible introduction of both portable data files and an international EDI system seems feasible without major changes to the text of the Convention, will most likely lead to considerable consequences for the existing administrative procedures at national level. Because they are the means used to give detailed specifications regarding the execution of the actual TIR operation, the discharge procedure or the release of the guarantee, they undoubtedly will have to be revised fundamentally. However, as these national administrative procedures, though based on the text of TIR Convention, depend on national legislation, it is not possible for the secretariat to make a reasonable evaluation to what extent they will have to be amended.
