



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

TIR Executive Board (TIRExB)

(Thirty-eighth session, 3-4 December 2008,
agenda item 4)

BEST PRACTICES WITH REGARD TO THE USE OF THE TIR CARNET

Revised note by the secretariat

A. BACKGROUND

1. At its thirty-sixth session, the TIRExB considered a revised example of best practices (Informal document No. 5 (2007)/Rev.4) and decided to submit the document to the October 2008 session of the TIR Administrative Committee for consideration so that all the Contracting Parties will have an opportunity to comment on the example of best practices before it is published in the next edition of the TIR Handbook (ECE/TRANS/WP.30/AC.2/2008/8). The Board also recalled that, pending publication, it would tackle two additional issues identified at the previous session:

- (a) use of the TIR Carnet in the course of multimodal transport operations;
- (b) use of the TIR Carnet in case a Customs office of entry (en route) refuses the TIR transport to enter its country [if the goods are prohibited for importation]^{1/} and, therefore, should be returned to the previous country (TIRExB/REP/2008/36, para. 8).

2. At its thirty-seventh session, the Board welcomed Informal document No. 9 (2008), prepared by the secretariat. Concerning the use of the TIR Carnet in the course of multi-modal transport operations, the Board was of the opinion that, in view of the limited experience with the

^{1/} text in square brackets by the secretariat, following the TIRExB's decision at its thirty-seventh session (TIRExB/REP/2008/37draft, paragraph 10).

issue, it could agree with the findings of the secretariat. On the other hand, the Board felt that with regard to the issue of refusal of a TIR transport to enter a country, a more profound analysis seemed appropriate, which would clearly distinguish between situations where no, one or several border-crossings were involved before the refusal took place. In addition, the Board felt that the proposed Explanatory Note was too general to provide sufficient guidance to Customs authorities how to act in case a TIR transport would be refused entry. Finally, the Board was of the opinion that the issue should not be limited to the situation where the refusal was a consequence of the fact that importation of the goods was prohibited. Thus, the Board requested the secretariat to revise the document taking account of the indicated findings of the Board (TIRExB/REP/2008/37draft, paras 9-11).

B. USE OF THE TIR CARNET IN THE COURSE OF MULTIMODAL TRANSPORT OPERATIONS

3. According to Article 2 of the Convention, as long as some portion of the journey between the beginning and the end of a TIR transport is made by road, other modes of transport (railways, inland waterways, etc) can be used. During a non-road leg, the holder of a TIR Carnet may either:

- (a) ask the Customs authorities to suspend the TIR transport in accordance with the provisions of Article 26, paragraph 2 of the Convention. In order to resume the suspended TIR transport, Customs treatment and Customs control should be available at the end of the non-road leg. If the whole part of the journey in the country of departure is not made by road, the TIR operation may start and be immediately certified as terminated at the Customs office of departure by tearing off both vouchers No. 1 and No. 2 of the TIR Carnet. Under these circumstances, no TIR guarantee is provided for the remainder of the journey inside this country. However, the TIR transport could easily be resumed at the Customs office situated at the end of the non-road leg in another Contracting Party in accordance with the provisions of Article 26 of the Convention; or
- (b) use the TIR procedure. However in this case the holder should take into account that a TIR operation in a given country may apply only in case the national Customs authorities are in a position to ensure the proper treatment of the TIR Carnet at the following points (as applicable): [departure]²/₁ entry (en route), exit (en route) and destination.

4. Considering that, as a rule, no Customs transit procedure is required for maritime transport and putting aside the theoretical use of the TIR Carnet for air transport, the above indent would only apply if the non-road leg concerns transport by rail or inland waterway. Thus, for these modes of transport it is important to establish whether appropriate Customs treatment can be ensured at the

² Text in square brackets by the secretariat

points of departure, entry/exit (en route) and destination. This may not always be possible. In addition, Customs available at these points may often not be used to applying the TIR procedure, thus possibly creating complications in the correct handling of the TIR Carnet. Finally, using the TIR Carnet during the non-road leg may lead to additional problems with regard to the issue of liability in case of infringement.

5. In view of the limited experience with the use of a TIR Carnet in the course of a multi-modal transport operation and pending any new developments in this area, the TIRExB is of the opinion that, for the time being, the issue of the use of the TIR Carnet in the course of multimodal operations is sufficiently covered.

C. USE OF THE TIR CARNET IN CASE OF REFUSAL TO ENTER A COUNTRY

6. It may happen that a transport under cover of a TIR Carnet is refused to enter a country. In case this happens, two alternative scenarios are conceivable³:

(a) The transport does not cross a single border:

In this scenario, the transport does not qualify as constituting a TIR transport, because the requirements of Article 2 of the Convention are not fulfilled. See also paragraph 8;

(b) The transport has crossed one (or several) borders:

In this scenario, the Customs authorities of the Customs office of entry (en route) are recommended to start and immediately certify as terminated the TIR operation for their country (see section B above), indicating in Box “For official use” on all remaining Vouchers No. 1/2 the precise reason for the refusal to allow access to the vehicle and load. The holder will then return to the Customs office of exit (en route) of the first country, requesting a change in country and office of destination for the TIR transport. To that end, the holder will request the Customs authorities involved to certify the changes made in Box 7 on page 1 of the cover and in Boxes 6 and 12 of all remaining Vouchers No. 1/2.

In case the Customs authorities of the Customs office of entry (en route) do not follow the above procedure, the holder should request any other type of written information providing explanations why the TIR transport was refused entry. In particular, because the refusal impacts his contractual obligations vis-à-vis his consignor, it would be useful if such information be indicated in the CMR consignment note.

7. Alternatively, it may happen that a given transport, which has been refused to enter a country with a TIR Carnet, could continue when another, national transit procedure would be used.

³ Revised text is underlined.

In such case, Customs authorities should suspend the TIR transport for their territory, under application of Article 26 of the Convention.

8. As stated in paragraph 6 under (a), the fact that a transport does not cross a single border leads to the complication that, in hindsight, the requirements of Article 2 are not fulfilled, because the transport has not crossed any border. In order to address this situation it might be useful to amend Explanatory Note 0.2-2 to Article 2 to read as follows:

“0.2-3 The provisions of this Article allow goods to be carried under cover of a TIR Carnet **across one or more frontiers provided some portion**~~when only part~~ of the journey is made by road. They do not specify what part of the journey has to be made by road and it is sufficient that this should occur between the beginning and the end of the TIR transport. However, it may happen that, for unforeseen reasons of a commercial or accidental nature, no **portion** of the journey can be made by road, despite the intentions of the sender at the start of the journey. **Or, it may happen that, in case the competent authorities refuse goods to enter the territory of their country, these cannot be transported across at least one border, despite the intentions of the sender at the start of the journey to do so and for reasons which he could not reasonably anticipate or which go beyond his responsibility.** In these exceptional cases the Contracting Parties shall nevertheless accept the TIR Carnet and the liability of the guaranteeing associations shall remain in force.”

D. CONSIDERATIONS BY THE TIRExB

9. The TIRExB may wish to discuss the above considerations by the secretariat and provide guidance with regard to their insertion into the example of best practices. In order to facilitate further discussion of the issue, it would be useful if Board members could provide the secretariat with information of their national procedures in case a TIR transport is refused entry into their country.
