



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

Distr.: General
23 January 2014

ENGLISH ONLY

Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Fifty-seventh session
Geneva, 3 February 2014
Agenda item VI (b)

Authorized consignors and consignees

Note by the secretariat

A. Background and mandate

1. At its fifty-sixth session, the TIR Executive Board (TIRExB), inter alia, started a first round of discussions by means of a presentation by Mr. Lindström (Finland), as contained in Informal document No. 27 (2013) and highlighting potential benefits of as well as possible scenarios for the application of the concept of authorized consignor in TIR. In such case, the TIR Carnet holder as authorized consignor has been granted the authorization by competent national authorities to prepare customs declarations for submission to customs, affix seals and start the TIR transport before or without the vehicle and goods having actually been presented to customs. The process would start with the principal of the goods under a previous customs procedure receiving an instruction from a TIR Carnet holder (as principal of the transit procedure) to prepare a specific load of goods for transportation under cover of a TIR Carnet. Before the goods being loaded at his premises, the sender should verify that the vehicle used for the transport is customs secure (disposes of a valid certificate of approval)¹. Then, the TIR Carnet holder loads the goods, affixes the seals, fills in the TIR Carnet (including the number of the seal(s) affixed, any required stamps) and signs it. He then sends the data as pre-declaration to the authorities indicated in his authorization as customs office of departure. The customs office of departure verifies the pre-declaration and decides if transportation under cover of a TIR Carnet is possible. The customs office informs the TIR Carnet holder of its decision. If accepted, the TIR Carnet holder inserts the reference number of the pre-declaration in Box “for official use” of Vouchers No. 1 and No. 2 of the TIR Carnet. The TIR Carnet holder then drives to the customs office of departure (which physically may coincide with the customs office of exit en route), where the vehicle and documents are presented to customs for approval. In case both are correct, the customs office processes the TIR declaration (possibly stamping boxes 17 and 23 of the TIR Carnet, unless these fields have already been stamped by the TIR Carnet holder). The actual TIR transport continues.

¹ The beginning of this sentence is subject to discussion. In the view of Mr. Ciampi (Italy) the wording should be rephrased to read: “Before the goods being loaded at the premises of the sender, the TIR Carnet holder should verify etc. etc.”

2. As part of his presentation, Mr. Lindström also sketched how the concept of authorized consignor in TIR is or² could be applied within the European Union. Again, the process would start with the principal of the goods under a previous customs procedure receiving an instruction from a TIR Carnet holder (as principal of the transit procedure) to prepare a specific load of goods for transportation under a TIR Carnet. Before the goods being loaded at his premises, the sender should verify that the vehicle used for the transport is customs secure (disposes of a valid certificate of approval)³. Then, the TIR Carnet holder loads the goods, affixes the seals, fills in the TIR Carnet (including the number of the seal(s) affixed, any required stamps) and signs it. He then sends the data as pre-declaration to the authorities indicated in his authorization as customs office of departure by means of sending message IE15⁴. The customs office of departure verifies the pre-declaration and decides if transportation under cover of a TIR Carnet is possible. NCTS generates the Movement Reference Number (MRN). The customs office informs the TIR Carnet holder of its decision by means of sending message IE29 (release for transit). If accepted, the TIR Carnet holder receives the IE29 from customs together with the Transport Accompanying Document (TAD) and inserts the MRN of the pre-declaration in Box “for official use” of Vouchers No. 1 and No. 2 of the TIR Carnet (or, alternatively, staples the TAD to Vouchers No. 1 and No. 2 of the TIR Carnet). The TIR Carnet holder then drives to the customs office of exit, where the vehicle and documents are presented to customs for approval. In case both are correct, the customs office processes the TIR declaration (possibly stamping boxes 17 and 23 of the TIR Carnet, unless these fields have already been stamped by the TIR Carnet holder) and sends messages IE06 and IE18. The actual TIR transport continues.

3. When it comes to the legal provisions at stake, Mr. Lindström (Finland) was of the opinion that the use of authorized consignor in TIR should be made possible under application of Article 49 of the TIR Convention. In addition, Article 19 allows authorized persons to affix seals under the responsibility of the customs authorities. In his view, however, amendment of the national agreements between customs and national associations is required in order to get legal recognition for the pre-declaration lodged by the authorized consignor as constituting a filled in TIR Carnet as well as to achieve the recognition that, from a legal point of view, a regular TIR transport can start from other premises than a customs office of departure. Various TIRExB members were of a different view, doubting that the concept of authorized consignor in TIR could be introduced without substantial changes to⁵ the text of the Convention. In addition, they⁶ argued that the introduction of the concept would seriously undermine one of the five pillars of the TIR Convention, being mutual recognition, where customs authorities in, in particular, transit countries should be able to rely on the fact that the customs authorities of the customs office of departure had fulfilled their obligation in full compliance with the provisions of the TIR Convention. Some members questioned the usefulness of the concept, considering that it would only be beneficial to trade and not to customs. Reference was also made to prior TIRExB discussions on the issue (See Informal document No. 28 (2013)) and, in particular to a

² This wording is subject to discussions. According to Mrs. Jelinkova (European Commission) the words “is or” should be deleted, as the concept of authorized consignor is not yet applied in the European Union.

³ See footnote No. 1

⁴ Paragraphs 1 and 2 contain the same description of the concept of authorized consignor in TIR, with the difference that paragraph 2 reflects the situation in Community transit, using NCST and including references to the specific NCTS messages. Textual differences in paragraph 2 as compared to paragraph 1 are underlined.

⁵ This wording is subject to discussions. In the view of Mrs. Dirlik (Turkey), the words “substantial changes to” should be replaced by “amending”.

⁶ This wording is subject to discussions. In the view of Mrs. Dirlik (Turkey), the word “they” should be replaced by “some members”.

statement from 2001, stipulating that TIRExB decided “to limit its discussion to the concept of authorized consignee, stressing that the concept of authorized consignor was not in line with the provisions and spirit of the TIR Convention (TIRExB/REP/2001/11/Rev.1, paragraph 26).

3. TIRExB thanked Mr. Lindström for his efforts to put first ideas on the use of authorized consignor in TIR on paper and for his schematic presentation, which simplified the understanding of how the concept could work and served as a good basis for further discussions.

4. In order to be in a position to continue discussions at future sessions and allowing individual TIRExB members to contribute constructively to them, TIRExB requested the secretariat to include an extensive summary of Mr. Lindström’s presentation in the report of the session. TIRExB members were requested to provide the secretariat by 15 January 2014 with their written contributions to the issue. To this end, TIRExB members were encouraged to provide positive input to substantially feed the discussions rather than limiting themselves to commenting on statements made by other members. The secretariat was requested to use the individual contributions as basis for a further document on the issue, for discussion by the Board at its next session (TIRExB/REP/2013/56draft with comments, paras 34–37).

5. Further to this request, the secretariat prepared this Informal document. In addition to considerations by individual TIRExB members, the secretariat also received an extensive contribution by IRU, which is contained in Annex to the document.

C. Considerations by individual TIRExB members

5. The secretariat received considerations from four TIRExB members. On a general note, they all expressed their appreciation for Mr. Lindström’s presentation and his efforts to initiate discussions on this complex topic.

6. With regard to specific considerations, Mr. Ciampi (Italy) was of the view that it should be the task of the TIR Carnet holder to check the certificate of approval (face-value correctness and validity), considering that he, in his capacity of authorized consignor, is deemed to act on behalf of customs authorities. With regard to the legal framework, he can agree with the proposal to introduce the concept of authorized consignor by means of an Explanatory Note to Article 19 or 49.

7. Mrs. Dirlik (Turkey) supports the efforts by TIRExB to develop methods to introduce the concept of authorized consignor as it would add another facilitation tool to the benefits of the TIR Convention. As a consequence, she does not think that the introduction of authorized consignor would conflict with the principle of mutual recognition, as national customs administrations would continue to rely on controls and checks performed by their colleagues in other countries (directly or by third parties duly authorized by them to perform well described tasks). However, she considers it prudent to have the mutual recognition of stamps ensured by means of a legal provision or Explanatory Note. In case of any infringement by a TIR Carnet holder as authorized consignor, Article 38 could be applied, which could eventually be extended to include the revocation of the status of authorized consignor. With regard to the legal framework, she thinks that Article 49 may provide a good basis for the application of greater facilities, but is of the opinion that it may be more prudent to first develop a good model/example before addressing the legal details. At present in Turkey, for facilitations authorized under national law, it is the task of the authorized economic operator to check the vehicle certificate, prepare the customs declaration and affix seals. These activities are later confirmed by customs by means of putting a stamp on the customs declaration / TIR Carnet.

8. Mrs. Jelinkova (European Commission) supports the further facilitation of the TIR Convention, but raises concerns whether the current text of the Convention provides sufficient legal basis to support the concept of authorized consignor. Thus, in her view, it is warranted to discuss both options for introducing the concept, both within the context of the current convention as well by means of amending it. In any case, details regarding the authorization (requirements, procedure, communication with customs etc.) could be dealt with at the national level. But even then issues such as, but not limited to, seals (customs or other seals and their mutual recognition), endorsement by competent authorities (stamps), controls (of goods and vehicle) and the aspect of irregularities / infringements should be addressed, first within the context of the Convention and, alternatively, by means of amendments thereto. In case solutions for the aforementioned issues could be found within the context of the current convention, the introduction of an Explanatory Note to Article 19 or 49 might be required, possibly in combination with the development of an example of best practice.

9. Mr. Milosevic (Serbia) supports the conceptual efforts by TIRExB to extend the facilitation tools provided by the Convention by means of allowing for the use of authorized consignor. However, he is not sure that the introduction of authorized consignor could be covered by means of Article 49 only, because of the general nature of this provision. In order to fully address the legal impact, he is of the opinion that further discussions are required.

D. Further considerations by the Board

10. TIRExB is invited to take due note of the above considerations by its individual members when discussing how to proceed with the further development of the concept of authorized consignor in TIR. In particular, TIRExB may wish to take into account the annexed contribution by IRU, which, in alia, addresses the introduction of the concept of authorized consignor within the context of the current text of the Convention as well as by means of amendments thereto.

Annex

Contribution by IRU

1. IRU welcomes this opportunity to discuss the practical aspects of this matter in the TIRExB meetings and, in particular, the very constructive Informal document No.27 (2013) prepared by the TIRExB. IRU is of the opinion that the introduction of the concepts of authorized consignor and consignee in TIR will bring benefits not only to the transport industry but also to customs authorities. Therefore, the TIRExB may wish to extend its current discussions to cover the concept of authorized consignee in TIR as well. From a general point of view, it would be possible for both concepts to be introduced without amendments being made to the current text of the TIR Convention. Further preliminary IRU considerations with regard to both concepts are provided below.

a. Concept of authorized consignor in TIR

2. In IRU's opinion, the TIR Convention allows for the implementation of this concept under articles 19 and 49. Implementation of the concept of an authorized consignor in TIR may be agreed at national level between customs authorities and its national TIR association. Relevant procedures may be established in the national TIR guarantee agreement or in an addendum to it. If required and in order to ensure a harmonized approach, an example of best practice could be included in the TIR Handbook to describe principles and procedures to be established between a TIR Carnet holder / authorized consignor and the customs office of departure (i.e. as suggested in TIRExB Informal document No.27 (2013)). Alternatively, a recommendation could be adopted by the AC.2 in this regard.

3. Should the TIR Contracting Parties decide that amendments to the text of the TIR Convention are required, in IRU's opinion, such amendments could be limited to the introduction of a general provision allowing customs authorities to handle TIR operations (e.g. start at the customs office of departure and termination at the customs office of destination) without the road vehicle, load or TIR Carnet being actually presented to them under certain conditions (i.e. where customs receive complete and accurate data with regard to a TIR operation – electronically and in advance – by means of secure electronic data interchange with an authorized person). To reduce the risk of customs irregularities, the status of authorized consignor in TIR could initially be made available to TIR Carnet holders only, as they have already been authorized by the customs authorities further to the fulfilment of the criteria established by Annex 9, Part II of the TIR Convention. Any introduction of additional restrictions for access to TIR procedures in Annex 9, Part II, as mentioned in TIRExB Informal document No.27 (2013), should be assessed in terms of a possible impact on those TIR Carnet holders not wishing to benefit from the status of authorized consignor in TIR. Therefore, the suggestion that additional requirements for TIR Carnet holders wishing to benefit from the status of authorized consignor in TIR be decided at national level is a better alternative. Such requirements could be included in the national TIR guarantee agreement or an addendum to it.

4. As regards the concerns related to the principle of the mutual recognition of customs controls (para. 36 of the draft TIRExB report), the following points could be put forward for further consideration:

- (i) Under Article 19 of the TIR Convention, the principle of mutual recognition requires Customs to satisfy themselves as to the accuracy of the goods manifest. For this purpose, the customs office of departure may verify the particulars of the goods manifest with the export documents. It may also examine the goods (but is it obliged to do so in each individual case?).

- (ii) Apart from checks of the actual content of a load (which is not always possible in containerized transport), the other crucial elements of the principle of the mutual recognition of customs control, include the obligation of the customs office of departure to ensure that seals and vehicles are compliant with technical requirements and are secure against fraud.
- (iii) Therefore, it would be possible to ensure the principle of mutual recognition in the framework of the implementation of the concept of authorised consignor in TIR, through the following:
 - (a) Customs office of departure responsible for starting a TIR operation receives complete and accurate data with regard to the TIR operation in order to verify this data with the corresponding export data.
 - (b) Other customs offices along the itinerary (i.e. customs offices of entry en route), receive identical information through an electronic pre-declaration.
 - (c) Information on the stamps and sealing devices used by the authorized consignors is available to customs offices along the itinerary (i.e. customs offices of entry en route).
 - (d) All of the above mentioned data is received by customs electronically and in advance. The IRU would be ready to analyse any adaptations required to the TIR-EPD application so that these needs may be met (i.e. introducing the seal number).

b. Concept of authorized consignee in TIR

5. During past discussions, TIRExB came to the conclusion that the TIR Convention is flexible enough to accept the concept of authorized consignee in TIR. This concept is currently implemented in the EU, whereby the TIR Carnet still needs to be presented to the customs office of destination for the completion of formalities. This model can be implemented by any interested Contracting Party through appropriate provisions at national level. Further simplification with regard to the concept of authorized consignee in TIR may be achieved by allowing such authorized consignee to establish respective formalities on the TIR Carnet following the unloading of the goods at its premises. The TIR operation must be terminated by the customs office of destination.

6. Similarly to the concept of authorized consignor in TIR, implementation of the concept of authorized consignee in TIR may be agreed at national level between customs authorities and the national TIR association, with respective procedures being established in the national TIR guarantee agreement or in an addendum to it, and an example of best practice or a recommendation could be adopted to ensure a harmonized approach.

7. Should the Contracting Parties consider that this additional simplification in the framework of the concept of authorized consignee in TIR requires an amendment to the text of the TIR Convention, the introduction of a general provision as mentioned in paragraph 1 of this document, could be sufficient. Considering the implication for SafeTIR, amending Article 42 ter and Annex 10 of the TIR Convention could be also considered. Equally, to reduce the risk of customs irregularities, the status of authorized consignee in TIR could initially be made available to TIR Carnet holders only, as they have been authorized by the customs authorities further to the fulfilment of the criteria established in Annex 9, Part II of the TIR Convention.

8. At a later stage, if any further simplification in the framework of the concept of authorized consignee in TIR is implemented for other persons, a clear delimitation of liability between TIR Carnet holders and the authorized consignee will be required. The respective criteria and recommendations for customs authorities in cases of customs debt, may again be determined either through an example of best practice to be included in the TIR Handbook, or by a recommendation to be adopted by AC.2. The authorization criteria

for the consignees to benefit from the status of authorized consignee in TIR may be dealt with at national level and are actually already established in many of the TIR Contracting Parties through various authorized economic operator (AEO) or trusted trader programs.
