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**Economic Commission for Europe****Administrative Committee for the TIR Convention, 1975****Sixty-third session**

Geneva, 10–11 February 2016

Item 7 (b) of the provisional agenda

**Revision of the Convention:****Amendment proposals to the Convention prepared  
by the TIR Executive Board****Proposals for a new Explanatory Note and accompanying  
comment to Article 49 of the Convention****Note by the secretariat\*****I. Background and mandate**

1. At its previous session, the Committee continued its considerations of document ECE/TRANS/WP.30/AC.2/2015/11, transmitting a proposal by the TIR Executive Board (TIRExB) to introduce a new Explanatory Note and accompanying comment to Article 49 of the Convention, so as to widen the scope of greater facilities that Contracting Parties may grant to transport operators. The Committee may wish to recall that this proposal reflects a growing demand by customs and industry for further facilitations under the TIR Convention, and that the secretariat had explained that the proposed amendment represents the simplest avenue for adapting the legislative framework to the new concept, although several other elements could remain for further analysis and clarification.

2. Further to a request from the Committee, the secretariat prepared this document, outlining in a succinct way the course of discussions of TIRExB in preparation for the proposed Explanatory Note and accompanying comment. The Committee is invited to continue its discussions on the proposed amendment, in light of the additional information provided in this document (see ECE/TRANS/WP.30/AC.2/127, paras. 26–29).

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\* The present document was not edited before being sent to the United Nations translation services.



## II. Excerpts from TIRExB reports

3. At its fifty-first session (October 2012), TIRExB took note of Informal document No. 29 (2012), submitted by the government of Poland and containing a copy of a letter by the European Commission, in which it expresses its support of the proposal to request TIRExB to look, once more, into the possibilities of introducing the concepts of authorized consignor and consignee within the context of the TIR Convention. TIRExB members also expressed their support. TIRExB was of the view that future discussions should first focus on the relevance of introducing these concepts and then, as a second step, assess which amendments would be required to fully accommodate them within the scope of the TIR Convention. In parallel to this discussion, TIRExB members also proposed that the ongoing trend in certain countries to start the TIR procedure at the Customs office of exit rather than at an internal Customs office of departure should be further studied. IRU expressed its interest to contribute to the issue. As a first step, TIRExB invited IRU to submit, for information, its considerations on the introduction of authorized consignor within the current text of the TIR Convention, as referred to in Informal document No. 29 (2012), page 2, paragraph 6 (ECE/TRANS/WP.30/AC.2/2013/5, para. 37).

4. At its fifty-third session (June 2014), TIRExB had a first round of discussions on the possible introduction of the concept of authorized consignors in the TIR Convention. It felt that the concepts of authorized consignor and consignee should be studied in parallel even if, already today, some countries accept authorized consignees. TIRExB took note that, in Poland, on top of the already existing TIR authorized consignee status, a TIR authorized consignor status will be introduced later in 2013. Some participants expressed concerns on the influence of the introduction of the concept of authorized consignor before AC.2 would decide if the introduction of those concepts would require amending the TIR Convention. Pending a decision by AC.2, the treatment of TIR Carnets by others than the customs authorities of one country could pose a problem for customs authorities in other countries. TIRExB recognized that the use of TIR authorized consignees and consignors within the TIR system would further facilitate trade but stressed a need for further clarifications, in particular, who would be entitled to obtain the status of authorized consignor or consignee, the requirements that consignees and consignors would have to comply with to be authorized, the consequences on Annex 10 as well as the consequences on and opportunities brought by computerization of the TIR procedure (ECE/TRANS/WP.30/AC.2/2014/1, paras. 13–15).

5. At its fifty-sixth session, TIRExB started a first round of discussions by means of a presentation [...] 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). 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.

6. As part of [...] the presentation, [...] it was also sketched how the concept of authorized consignor in TIR 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). 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. Paragraphs [5] and [6] contain the same description of the concept of authorized consignor in TIR, with the difference that paragraph [6] reflects the situation in Community transit, using NCST and including references to the specific NCTS messages. Textual differences in paragraph [6] as compared to paragraph [5] are in *italics underlined*.

7. 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 amending the text of the Convention. In addition, some members 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 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.

8. 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 [...] the presentation in the report of the session (see ECE/TRANS/WP.30/AC.2/2014/7, paras. 34–38).

9. At its fifty–eighth session (April 2014), TIRExB took note of [...] an analysis of the substantive practical and legal considerations to be taken into account for the introduction of the concept of authorized consignor into the TIR Convention. In the view of the Board, the document seemed more focused on potential drawbacks rather than on elaborating the positive facilitation aspects of the proposed concept. The Board stressed that, nowadays, the use of electronic tools greatly facilitates the supervision by customs of authorized consignors. The Board, after extensive discussions, concluded that it wished to move forward with the introduction of the authorized consignor by eventually making a complete and concrete proposal to AC.2 and that it would strive doing so by means of a new Explanatory Note to Article 49 of the TIR Convention, which should provide a general legal basis for the introduction of further simplifications. The choice for Article 49 would also underline the Board’s overall opinion that the concept of authorized consignor should be treated as a national facilitation which did not impede the application of the TIR Convention. To this end, the Board requested the secretariat to prepare – using available existing examples as basis, as well as the Power Point presentation [...] of the Board’s fifty–sixth session (see Informal document No. 27 (2013)) – a document describing the possible modalities of implementing the concept (possibly by means of an example of best practice) including proposals for an Explanatory Note to Article 49. Mr. Retelski (IRU) informed the Board that the Polish national customs authorities, in close collaboration with the Polish national association, ZMPD (Association of International Hauliers in Poland), had granted more than one hundred Polish TIR Carnet holders the opportunity to fulfil the tasks of the customs office of departure, i.e. checking the vehicle and the goods, affixing seals and filling in boxes 16 to 23 of the TIR Carnet, including putting customs stamps, before reporting to the customs office of exit and that appropriate measures had been taken to amend the national guarantee agreement as well as the TIR Electronic Pre-Declaration (EPD) tool accordingly. TIRExB agreed to further assess the Polish situation (see ECE/TRANS/WP.30/AC.2/2014/9, paras. 27–28).

10. At its fifty–ninth session (June 2014), TIRExB welcomed Informal document No. 23 (2014) together with a presentation [...], on the TIR authorized consignor simplifications applied by the Polish customs administration. The Board was of the view that the presentation provided clarity on the practical aspects of the Polish example that could be used as a basis for the development of the TIR authorized consignor concept.

12. The Board, further, took note of [...] a draft proposal for an Explanatory Note to Article 49 of the TIR Convention that would enable the introduction of the authorized consignor as a national facility, as well as a draft recommended practice on how it could, potentially, be applied. The Board questioned whether the TIR authorized consignor concept should be introduced in the TIR Convention by means of definitions and terminology found in other international legal instruments. Furthermore, the Board stressed that the envisaged provisions of the TIR Convention should allow maximum flexibility to national competent authorities on the modalities and national law requirements for authorized consignors. The Board was of the general view that the authorized consignor needs not be defined in exhaustive detail in the Explanatory Note but, rather, only give enough scope to allow such simplifications (as well as, possibly, others) in any way that national administrations deem suitable (see ECE/TRANS/WP.30/AC.2/2015/1, paras. 17–18).

13. At its sixtieth session (September 2014), the Board took note of [...] comments by members of the Board [...], together with a first assessment by the secretariat. The Board generally appreciated the secretariat's efforts to find more common ground for the text of the proposal to introduce a new Explanatory Note 0.49 to Annex 6 of the Convention, but recalled its earlier view that the authorized consignor need not be defined in exhaustive detail in the Explanatory Note, but, rather, only give enough scope to allow such simplification (as well as, possibly, others) in any way that national administrations deem suitable (TIRExB/REP/2014/59final, para. 18). With regard to the text of the Informal document [...], Mrs. Gajda (Poland) pointed out that, contrary to what was stated on page 3 of the said document, the status of authorized consignor in Poland is not limited to the TIR Carnet holder only, whereas Mr. Lindström (Finland) informed the Board that, as yet, the concept of authorized consignor had not been introduced in Finland, as mistakenly stated also on page 3 of the said document. As a step forward, TIRExB agreed that, although Article 49 seems to be a sufficient legal basis for countries which already now grant the simplification of authorized consignor or consignee for TIR transports, an Explanatory Note might serve to, on the one hand, solidify this basis and, on the other hand, provide other countries sufficient legal arguments to also allow these simplifications in their countries. Thus, TIRExB requested the secretariat to prepare a new Explanatory Note to Article 49, providing a clear conceptual basis for Contracting Parties to introduce simplifications in their territory, subject to the requirements set by national competent authorities. TIRExB requested the secretariat to formulate, to the extent possible, the new Explanatory Note in such a way that other provisions of the Convention, such as, but not limited to, Article 1 (c) and (d), Article 8 and Article 19 would, possibly, remain unaffected.

14. Mrs. Kasko (IRU) confirmed the interest of the transport sector in introducing the concept of authorized consignor and consignee in the context of the Convention. At the same time, she reported having been informed by carriers that they are not always sure that persons posing as such have, indeed, been authorized. In the view of TIRExB it is the responsibility of the carrier, in particular in case of doubt, to verify with customs the status of the sender or receiver of the goods (see ECE/TRANS/WP.30/AC.2/2015/2, paras. 20–22).

15. At its sixty-first session (December 2014), the Board considered [...] a proposal for a new Explanatory Note to Article 49 of the Convention. The Board generally supported the approach taken by the secretariat. At the same time, the Board requested the secretariat to see if an even more appropriate choice of words could be found. Mrs. Jelínková (European Commission) felt that the proposed text did not adequately address issues related to the filling in of the TIR Carnet and the application of stamps. Mrs. Somka (Ukraine) was of the opinion that, in view of the generic nature of the text, a reference to customs offices of exit/entry en route should be included. As a step forward, TIRExB requested the secretariat to review the wording of the draft Explanatory Note in line with the Board's above comments and to provide a detailed justification of the various aspects contained therein.

16. IRU offered to cooperate with the secretariat in collecting and exchanging information on known applications of the concepts of authorized consignor and consignee (such as in, for example, Belarus, Latvia, Poland, Republic of Moldova and Turkey) in preparation of the establishment of examples of best practice for such facilities (see ECE/TRANS/WP.30/AC.2/2015/13, paras 25–27).

17. At its sixty-second session (February 2015), TIRExB welcomed an Informal document, prepared by the secretariat at the request of the Board and containing a revised proposal for a new Explanatory Note to Article 49 of the Convention. The Board adopted

the proposal, as contained in the informal document, subject to minor modifications<sup>1</sup> to the accompanying text, and requested the secretariat to transmit the amended proposal to AC.2 for further consideration (ECE/TRANS/WP.30/AC.2/2015/18, para. 14).

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<sup>1</sup> The final proposals are contained in document ECE/TRANS/WP.30/AC.2/2015/11.