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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975

Working Party on Customs Questions affecting Transport

(Ninety-fourth session, 21-25 February 2000,
agenda item 7 (c) (ii))

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS
UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)**

Application of the Convention

Draft Recommendation on the validity of multi-user TIR operations

Note by the TIR and the UN/ECE secretariats

1. At its ninety-third session, the Working Party took note of a draft Recommendation on the validity of multi-user TIR operations (see below) which has been prepared by the TIR and the UN/ECE secretariats in order to provide for the possibility that, under certain conditions, TIR operations could also be undertaken by persons other than the TIR Carnet holder who, however, remained responsible for the proper application of the Convention.
2. The objective of the draft Recommendation was to accommodate different interpretations by Contracting Parties on the validity of multi-user TIR operations and to provide as a temporary short-term measure, for transparency in the application of the Convention in all Contracting Parties,

realizing that harmonization of relevant national legislation and of different interpretations relating to the responsibility of the TIR Carnet holder to be inserted into the Convention might not be achieved in the foreseeable future. In particular, the draft Recommendation was designed to overcome a number of practical problems for the transport industry which had arisen as a result of the interdiction of multi-user TIR operations.

3. At its ninety-third session the Working Party could not reach a consensus on legality and advisability of the draft Recommendation and divergent opinions were expressed by the delegates on this issue (TRANS/WP.30/186, paras. 65-68).

4. The Administrative Committee, at its twenty-seventh session, also considered briefly the draft Recommendation and requested the Working Party to reconsider this issue at its next session with a view to providing guidance to the Administrative Committee on this subject (TRANS/WP.30/AC.2/55, paras. 9-12).

5. Before considering in detail the provisions of the draft Recommendation, its basic principles would need to be approved. Essentially, the draft Recommendation is based on the following three assumptions:

- it is 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 responsible for the execution of the TIR operation;

- such multi-user TIR operations do not contradict the provisions of the present Convention. The practical problems in this field are due to differences in national Customs legislation in various Contracting Parties and diverse interpretations of the Convention rather than due to lack of relevant provisions in the Convention;

- 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" that may take more than two years. Thus, short-term solutions seem to be required given the numerous practical problems in the application of the Convention in this field.

6. The Working Party may wish to consider the draft Recommendation on the basis of the above three principles.

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VALIDITY OF MULTI-USER TIR OPERATIONS

Draft Recommendation

adopted by the Administrative Committee for the TIR Convention, 1975

on 25 February 2000

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 1 April 2000 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 May 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 1 April 2000 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 10 April 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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