



**Economic and Social
Council**

Distr.
GENERAL

ECE/TRANS/WP.30/2008/13/Rev.2*
5 August 2008

ENGLISH ONLY

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions Affecting Transport

One-hundred-and-twentieth session

Geneva, 7-10 October 2008

Item 8 (b) (iii) of the provisional agenda

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

Revision of the Convention

Revised amendment proposals for the Convention

Note by the secretariat**

1. At its one-hundred-and-eighteenth session, the Working Party requested the secretariat, inter alia, to prepare a working document which would clearly enumerate all adopted amendments in a concise manner in the three official UNECE working languages (ECE/TRANS/WP.30/236, para. 27).
2. At its one-hundred-and-nineteenth session, the Working Party requested the secretariat to revise document ECE/TRANS/WP.30/2008/13, so that it would reflect all preliminary adopted amendments, so far, for consideration and, possibly, adoption, at its forthcoming session (ECE/TRANS/WP.30/238, para. 30.)
3. In line with this request, the secretariat prepared this document, which contains in annex a consolidated version of the relevant text of the TIR Convention, including the agreed amendments to

* The UNECE Transport Division has issued this document in order to correct formatting mistakes occurring in document ECE/TRANS/WP.30/2008/13/Rev.1

** The UNECE Transport Division has submitted the present document after the official documentation deadline.

the text as contained in document ECE/TRANS/WP.30/236, para. 26. The text is reproduced as it appears in the eighth revision of the TIR Handbook (ECE/TRANS/TIR/6/Rev.8), meaning: the text of the legal provisions appears in **bold**, the text of Explanatory Notes in regular font and the text of comments in *italics*. Adopted amendments are underlined and deletions are in ~~strike through~~. In those cases, where the existing text is already underlined, an asterisk* is added for easy recognition.

Annex

**BODY OF THE TIR CONVENTION, 1975
(including Explanatory Notes
and comments thereto)**

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

THE CONTRACTING PARTIES,

DESIRING to facilitate the international carriage of goods by road vehicle,

CONSIDERING that the improvement of the conditions of transport constitutes one of the factors essential to the development of co-operation among them,

DECLARING themselves in favour of a simplification and a harmonization of administrative formalities in the field of international transport, in particular at frontiers,

HAVE AGREED as follows:

Chapter I*

GENERAL

(a) DEFINITIONS

Article 1*

For the purposes of this Convention:

- (a) The term "TIR transport" shall mean the transport of goods from a Customs office of departure to a Customs office of destination under the procedure, called the TIR procedure, laid down in this Convention;**
- (b) the term "TIR operation" shall mean the part of a TIR transport that is carried out in a Contracting Party from a Customs office of departure or entry (en route*) to a Customs office of destination or exit (en route*);**

Explanatory Note to Article 1 (b)*

- 0.1 (b) Article 1 (b) implies that, where several Customs offices of departure or destination are located in one or several countries, there may be more than one TIR operation in a Contracting Party. Under these circumstances the national leg of a TIR transport carried out between two successive Customs offices, regardless of whether they are offices of departure, destination or en route, can be considered as a TIR operation.

- (c) **the term “start of a TIR operation” shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of departure or entry (en route*) together with the load and the TIR Carnet relating thereto and that the TIR Carnet has been accepted by the Customs office;**
- (d) **the term “termination of a TIR operation” shall mean that the road vehicle, the combination of vehicles or the container have been presented for purposes of control to the Customs office of destination or of exit (en route*) together with the load and the TIR Carnet relating thereto;**
- (e) **the term “discharge of a TIR operation” shall mean the recognition by Customs authorities that the TIR operation has been terminated correctly in a Contracting Party. This is established by the Customs authorities on the basis of a comparison of the data or information available at the Customs office of destination or exit (en route*) and that available at the Customs office of departure or entry (en route*);**
- (f) **the term "import or export duties and taxes" shall mean Customs duties and all other duties, taxes, fees and other charges which are collected on, or in connection with, the import or export of goods, but not including fees and charges limited in amount to the approximate cost of services rendered;**

Explanatory Note to Article 1 (f)*

0.1 (f) The fees and charges excepted in Article 1, subparagraph (f) mean all sums, other than import or export duties and taxes, levied by Contracting Parties on or in connection with importation or exportation. These sums shall be limited in amount to the approximate cost of the services rendered and shall not represent an indirect protection to domestic products or a tax on imports or exports for fiscal purposes. Such fees and charges include inter alia* payments relating to:

- certificates of origin if they are required for transit,
- analyses carried out by Customs laboratories for control purposes,
- Customs inspections and other clearance operations carried out outside normal working hours or away from Customs offices,
- inspections for sanitary, veterinary or phytopathological reasons.

- (g) **the term "road vehicle" shall mean not only any power-driven road vehicle but also any trailer or semi-trailer designed to be coupled thereto;**
- (h) **the term "combination of vehicles" shall mean coupled vehicles which travel on the road as a unit;**
- (j) **the term "container" shall mean an Article of transport equipment (lift-van, movable tank or other similar structure):**

- (i) **fully or partially enclosed to constitute a compartment intended for containing goods,**
- (ii) **of a permanent character and accordingly strong enough to be suitable for repeated use,**
- (iii) **specially designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading,**
- (iv) **designed for ready handling, particularly when being transferred from one mode of transport to another,**
- (v) **designed to be easy to fill and to empty, and**
- (vi) **having an internal volume of one cubic metre or more,**

"demountable bodies" are to be treated as containers;

Explanatory Note to Article 1 (j)*

- 0.1 (j) The term "demountable body" means a load compartment which has no means of locomotion and which is designed in particular to be transported upon a road vehicle, the chassis of which, together with the under-framing of the body, is especially adapted for this purpose. It covers also a swap-body which is a load compartment designed especially for combined road and rail transport.

Explanatory Note to Article 1 (j) (i)*

- 0.1 (j) (i) The term "partially enclosed", as applied to equipment in Article 1, subparagraph (j) (i), relates to equipment generally consisting of a floor and a superstructure marking off a loading space equivalent to that of a closed container. The superstructure is generally made up of metal members forming the frame of a container. Containers of this type may also comprise one or more lateral or frontal walls. In some cases there is only a roof attached to the floor by uprights. This type of container is used in particular for the transport of bulky goods (motor cars, for example).

- (k) **the term "Customs office of departure" shall mean any Customs office of a Contracting Party where the TIR transport of a load or part load of goods begins;**
- (l) **the term "Customs office of destination" shall mean any Customs office of a Contracting Party where the TIR transport of a load or part load of goods ends;**
- (m) **the term "Customs office en route*" shall mean any Customs office of a Contracting Party through which a road vehicle, combination of vehicles or container enters or leaves this Contracting Party in the course of a TIR transport;**
- (n) **the term "person" shall mean both natural and legal persons;**

- (o) **the term “holder” of a TIR Carnet shall mean the person to whom a TIR Carnet has been issued in accordance with the relevant provisions of the Convention and on whose behalf a Customs declaration has been made in the form of a TIR Carnet indicating a wish to place goods under the TIR procedure at the Customs office of departure. He shall be responsible for presentation of the road vehicle, the combination of vehicles or the container together with the load and the TIR Carnet relating thereto at the Customs office of departure, the Customs office en route* and the Customs office of destination and for due observance of the other relevant provisions of the Convention;**
- (p) **the term "heavy or bulky goods" shall mean any heavy or bulky object which because of its weight, size or nature is not normally carried in a closed road vehicle or closed container;**
- (q) **the term "guaranteeing association" shall mean an association ~~approved~~authorized by the competent authorities of a Contracting Party to act as ~~surety~~guarantor^{2/} for persons using the TIR procedure;**
- (r) **the term “international organization” shall mean an organization authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system.**

(b) SCOPE

Article 2*

This Convention shall apply to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more frontiers between a Customs office of departure of one Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR transport is made by road.

Explanatory Notes to Article 2*

- 0.2-1 Article 2 provides that a transport operation under cover of a TIR Carnet may begin and end in the same country on condition that part of the journey is performed in foreign territory. In such cases there is nothing to prevent the Customs authorities of the country of departure from requiring, in addition to the TIR Carnet, a national document, intended to ensure duty-free reimportation of the goods. It is nevertheless recommended that Customs authorities should not insist on the use of such a document but accept instead an appropriate endorsement on the TIR Carnet.
- 0.2-2 The provisions of this Article allow goods to be carried under cover of a TIR Carnet 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 at some point between the beginning and the end of the TIR transport. However, it may

^{2/} English and French only, in the Russian text the existing term remains unchanged.

happen that, for unforeseen reasons of a commercial or accidental nature, no part of the journey can be made by road, despite the intentions of the sender at the start of the journey. In these exceptional cases the Contracting Parties shall nevertheless accept the TIR Carnet and the liability of the guaranteeing associations shall remain in force.

Comments to Article 2*

Use of TIR Carnets

On some occasions TIR Carnets have been used for journeys entirely within a country (for instance from an office in the interior of the country to the frontier exit office, without presentation of the Carnet on entry to the following country) for the purpose of obtaining Customs seals for fraudulent purposes. IRU undertakes to inform the national Customs authorities of such cases.

Use of the TIR procedure in case a part of the journey is not made by road

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:

- *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 be easily 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*
- *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): entry (en route), exit (en route) and destination.*

Article 3*

For the provisions of this Convention to become applicable:

- (a) the transport operation must be performed**

- (i) **by means of road vehicles, combinations of vehicles or containers previously approved under the conditions set forth in Chapter III (a), or**
 - (ii) **by means of other road vehicles, other combinations of vehicles or other containers under the conditions set forth in Chapter III (c), or**
 - (iii) **by road vehicles or special vehicles such as buses, cranes, sweepers, concrete-laying machines, etc. exported and therefore themselves considered as goods travelling by their own means from a Customs office of departure to a Customs office of destination under the conditions set forth in Chapter III (c). In case such vehicles are carrying other goods, the conditions as referred to under (i) or (ii) above shall apply accordingly;**
- (b) **the transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6 and must be performed under cover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention.**

Comment to Article 3*

Road vehicles considered as heavy or bulky goods

If road vehicles or special vehicles regarded themselves as heavy or bulky goods are carrying other heavy or bulky goods so that both vehicle and goods at the same time fulfil the conditions set forth in Chapter III (c) of the Convention, only one TIR Carnet is needed bearing at the cover and all vouchers of the TIR Carnet the endorsement set forth in Article 32 of the Convention. If such vehicles are carrying normal goods in the load compartment or in containers, the vehicle or the containers must be previously approved under the conditions set forth in Chapter III (a) and the load compartment or the containers have to be sealed.

The provisions of Article 3 (a) (iii) of the Convention apply in the case of road vehicles or special vehicles being exported from the country where the Customs office of departure is located and being imported into another country where the Customs office of destination is located. In this case, the provisions of Article 15 of the Convention referring to the temporary importation of a road vehicle are not applicable. Thus, the Customs documents in respect of temporary importation of such vehicles are not required.

(c) PRINCIPLES

Article 4*

Goods carried under the TIR procedure shall not be subjected to the payment or deposit of import or export duties and taxes at Customs offices en route*.

Comment to Article 4*

Please refer to the comments to Explanatory Note 0.8.3 (Duties and taxes at risk) and to Article 23 (Escort of road vehicles).

Article 5*

1. Goods carried under the TIR procedure in sealed road vehicles, combinations of vehicles or containers shall not as a general rule be subjected to examination at Customs offices en route*.

2. However, to prevent abuses, Customs authorities may in exceptional cases, and particularly when irregularity is suspected, carry out an examination of the goods at such offices.

Explanatory Note to Article 5*

0.5 This Article does not exclude the right to carry out spot checks on the goods but stresses that these checks should be very limited in number. The international TIR Carnet procedure, in fact, provides protection greater than that given by national procedures. Firstly the particulars on the TIR Carnet relating to the goods must agree with the particulars given on the Customs documents which may be required in the country of departure. In addition the countries of transit and destination are given protection by the controls which are carried out at departure and which are certified by the Customs authorities at the office of departure (see Explanatory Note to Article 19).

Comment to Article 5, paragraph 2*

Examinations at Customs offices en route or spot checks at the request of transport operators*

The exceptional cases, mentioned in Article 5, paragraph 2 include those where Customs authorities carry out examinations either at Customs offices en route or in the course of the journey on particular request from transport operators, who have suspicion that any irregularity has occurred in the course of the TIR transport. In such a situation Customs authorities should not refuse to carry out the examination unless they deem the request not to be justified.*

In cases where the Customs authorities carry out an examination on request by the transport operator, the charges involved will be borne by the latter, in accordance with the provisions of Article 46, paragraph 1 and its comment, together with all other costs that may arise as a consequence of the examination.

Chapter II*

ISSUE OF TIR CARNETS

LIABILITY OF GUARANTEEING ASSOCIATIONS

Article 6*

1. Each Contracting Party may authorize associations to issue TIR Carnets, either directly or through corresponding associations, and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, are complied with. The authorization shall be revoked if the minimum conditions and requirements contained in Annex 9, Part I are no longer fulfilled.

2. An association shall not be approved in any country unless its guarantee also covers the liabilities incurred in that country in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

Explanatory Note to Article 6, paragraph 2*

0.6.2 Under the provisions of this paragraph, the Customs authorities of a country may approve more than one association, each of which may incur liability arising from the operations undertaken under cover of the Carnets issued by it or by its corresponding associations.

2 bis*. An international organization as referred to in paragraph 2 shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility. The authorization shall be granted as long as the organization fulfils the conditions and requirements laid down in Annex 9, Part III. The Administrative Committee may revoke the authorization if these conditions and requirements are no longer fulfilled.

Explanatory Notes to Article 6, paragraph 2 bis*

0.6.2 bis*-1 The relationship between an international organization and its member associations shall be defined in written agreements on the functioning of the international guarantee system.

0.6.2 bis*-2 The authorization granted in accordance with Article 6.2bis* shall be reflected in a written Agreement between the UNECE and the International Organization. The Agreement shall stipulate that the International Organization shall fulfil the relevant provisions of the Convention, shall respect the competences of the Contracting Parties to the Convention and shall comply with the decisions of the Administrative Committee and the requests of the TIR Executive Board. By signing the Agreement, the International Organization confirms that it accepts the responsibilities imposed by the authorization. The Agreement shall also apply to the responsibilities of the

International Organization set out in Annex 8, Article 10 (b), in case the centralized printing and distribution of TIR Carnets is performed by the above-mentioned international organization. The Agreement shall be adopted by the Administrative Committee.

3. An association shall issue TIR Carnets only to persons, whose access to the TIR procedure has not been refused by the competent authorities of Contracting Parties in which the person is resident or established.

4. Authorization for access to the TIR procedure shall be granted only to persons who fulfil the minimum conditions and requirements laid down in Annex 9, Part II to this Convention. Without prejudice to Article 38, the authorization shall be revoked if the fulfilment of these criteria is no longer ensured.

5. Authorization for access to the TIR procedure shall be granted according to the procedure laid down in Annex 9, Part II to this Convention.

Article 7*

TIR Carnet forms sent to the guaranteeing associations by the corresponding foreign associations or by international organizations shall not be liable to import and export duties and taxes and shall be free of import and export prohibitions and restrictions.

Article 8*

1. The guaranteeing association shall undertake to pay up to the maximum of the guaranteed amount of the import or export duties and taxes, together with any default interest, due under the Customs laws and regulations of the country ~~country~~ Contracting Party in which an irregularity leading up to a claim against the guaranteeing association has been noted ~~established~~ in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums.

Comments to Article 8, paragraph 1*

Administrative fines

The liability of the guaranteeing associations as provided for in Article 8, paragraph 1 does not include administrative fines or other pecuniary sanctions.

Collection of additional sums

Article 8, paragraphs 1 and 2 allow Customs authorities to collect additional sums such as liquidated damages or other penalties from the holder of the Carnet should they deem that to be necessary.

2. In cases where the laws and regulations of a Contracting Party do not provide for payment of import or export duties and taxes as provided for in paragraph 1 above, the

guaranteeing association shall undertake to pay, under the same conditions, a sum equal to the amount of the import or export duties and taxes and any default interest.

Explanatory Note to Article 8, paragraph 2*

0.8.2 The provisions of this paragraph shall be applicable where, in case of irregularities of the type covered in Article 8, paragraph 1, the laws and regulations of a Contracting Party provide for the payment of sums other than import or export duties and taxes, such as administrative fines or other pecuniary sanctions. However, the sum to be paid shall not exceed the amount of import or export duties and taxes which would have been due if the goods had been imported or exported in accordance with the relevant Customs provisions, this amount being increased by any default interests.

3. Each Contracting Party shall determine the maximum sum per TIR Carnet, which may be claimed from the guaranteeing association on the basis of the provisions of paragraphs 1 and 2 above.

Explanatory Note to Article 8, paragraph 3 *

0.8.3 ~~Contracting Parties Customs authorities~~ are recommended to limit to a sum equal to ~~€ 60,000~~ \$US 50,000 per TIR Carnet the maximum amount which may be claimed from the guaranteeing association. In the case of transport of alcohol and tobacco, details of which are given below, and which exceed the threshold levels provided further below, Customs authorities are recommended to increase the maximum amount which may be claimed from the guaranteeing associations to a sum equal to \$US 200,000:

- (1) Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher (HS code: 22.07.10)
- (2) Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages (HS code 22.08)
- (3) Cigars, cheroots and cigarillos, containing tobacco (HS code 24.02.10)
- (4) Cigarettes containing tobacco (HS code: 24.02.20)
- (5) Smoking tobacco, whether or not containing tobacco substitutes in any proportion (HS code: 24.03.10).

The maximum amount which may be claimed from guaranteeing associations is recommended to be limited to a sum equal to \$US 50,000, if the following quantities are not exceeded for the above tobacco and alcohol categories:

- (1) 300 litres

- (2) 500 litres
- (3) 40,000 pieces
- (4) 70,000 pieces
- (5) 100 kilograms.

The exact quantities (litres, pieces, kilograms) of the above categories of tobacco and alcohol must be inscribed into the goods manifest of the TIR Carnet.

Comment to Explanatory Note 0.8.3*

Duties and taxes at risk

In accordance with Article 4 of the Convention, goods carried under the TIR procedure shall not be subjected to the payment or deposit of any import or export duties and taxes whatsoever, even if the duties and taxes at risk exceed the amount of \$US 50,000 for consignments transported under the normal TIR Carnet and \$US 200,000 for consignments transported under the "Tobacco/Alcohol" TIR Carnet or a similar sum fixed by the national Customs authorities. In such cases Customs authorities in transit countries could however, in conformity with Article 23 of the Convention, require road vehicles to be escorted at the carriers' expense on the territory of their country.

4. The liability of the guaranteeing association to the authorities of the country where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office. In the succeeding countries through which goods are transported under the TIR procedure, this liability shall commence at the time when the goods enter these countries or, where the TIR transport has been suspended under Article 26, paragraphs 1 and 2, at the time when the TIR Carnet is accepted by the Customs office where the TIR transport is resumed.

5. The liability of the guaranteeing association shall cover not only the goods which are enumerated in the TIR Carnet but also any goods which, though not enumerated therein, may be contained in the sealed section of the road vehicle or in the sealed container. It shall not extend to any other goods.

Explanatory Note to Article 8, paragraph 5*

0.8.5 ~~If the guarantee is questioned for goods not listed in the TIR Carnet a payment request is made against the guaranteeing association~~ for goods not listed in the TIR Carnet, the administration concerned should indicate the facts on which it based its opinion that the goods were contained in the sealed section of the road vehicle or the sealed container.

6. For the purpose of determining the duties and taxes mentioned in paragraphs 1 and 2 of this Article, the particulars of the goods as entered in the TIR Carnet shall, in the absence of evidence to the contrary, be assumed to be correct.

Explanatory Note to Article 8, paragraph 6*

- 0.8.6
1. In the absence in the TIR Carnet of particulars detailed enough to enable charges on the goods to be determined, the Parties concerned may produce evidence of their precise nature.
 2. If no evidence is furnished, duties and taxes will be charged, not at a flat rate unrelated to the nature of the goods, but at the highest rate applicable to the kind of goods covered by the particulars in the TIR Carnet.

~~**7. When payment of sums mentioned in paragraphs 1 and 2 of this Article becomes due, the competent authorities shall so far as possible require payment from the person or persons directly liable before making a claim against the guaranteeing association.**~~

Explanatory Note to Article 8, paragraph 7*

- ~~0.8.7 Measures to be taken by the competent authorities in order to require payment from the person or persons directly liable shall include at least notification of the non-discharge of the TIR operation and/or transmission of the claim for payment to the TIR Carnet holder.~~

Article 9*

1. The guaranteeing association shall fix the period of validity of the TIR Carnet by specifying a final date of validity after which the Carnet may not be presented for acceptance at the Customs office of departure.

2. Provided that it has been accepted by the Customs office of departure on or before the final date of validity, as provided for in paragraph 1 of this Article, the Carnet shall remain valid until the termination of the TIR operation at the Customs office of destination.

Article 10*

1. Discharge of a TIR operation has to take place without delay.
2. When the Customs authorities of a country Contracting Party have discharged a TIR operation they can no longer claim from the guaranteeing association payment of the sums mentioned in Article 8, paragraphs 1 and 2, unless the certificate of termination of the TIR operation was obtained in an improper or fraudulent manner or no termination has taken place.

Explanatory Note to Article 10, paragraph 2*

- 0.10-1 The certificate of termination of the TIR operation shall be regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractice as the use of false or inaccurate documents, the substitution of goods, tampering with Customs seals, etc., have been discovered, or when the certificate has been obtained by other illicit means.
- 0.10-2 The phrase “or no termination has taken place” includes those situations where the certification of termination has been falsified.

Article 11*

1. Where a TIR operation has not been discharged, the competent authorities shall
 - (a) notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge;
 - (b) notify the guaranteeing association of the non-discharge.

~~not have the right to claim payment of the sums mentioned in Article 8, paragraphs 1 and 2, from the~~ The competent authorities shall notify the guaranteeing association unless within a maximum period of one year from the date of acceptance of the TIR Carnet by those authorities they have notified the association in writing of the non-discharge. The same provision shall apply or two years when the certificate of termination of the TIR operation was falsified or obtained in an improper or fraudulent manner, save that the period shall be two years.

Explanatory Note to Article 11, paragraph 1*

- 0.11-1 The method of notification is left to national legislation. In addition to the notification to the guaranteeing association, Customs authorities should also notify the TIR Carnet holder as soon as possible when a TIR operation has not been discharged. This could be done at the same time as the notification to the guaranteeing association.

Comments to Article 11, paragraph 1*

Payment of duties and taxes

~~The competent authorities should restrict themselves in their recourse to the guaranteeing associations to the payment of the duties and taxes evaded applying to the portion of goods for which irregularities have been committed.~~

Time limit for notifications

As regards the time limit for the notification to the national guaranteeing association of the non-discharge of TIR Carnets the date of receipt but not the date of dispatch is the decisive one. However, the method of proof of notification is left to the Customs administration concerned (registered mail, for example being one example of proof of reception). If the time limit is exceeded the national guaranteeing association is not liable any more.

Notification to (a) guaranteeing association(s)

Customs authorities should notify their respective national guaranteeing association(s) as soon as possible of cases covered by Article 11, paragraph 1, that is when a TIR operation has not been discharged.

Notification to the TIR Carnet holder

The requirement of notification to the TIR Carnet holder referred to in Explanatory Notes 0.8.7 and 0.11-1 could be fulfilled by transmission of a registered letter.

2. Where the payment of the sums mentioned in Article 8, paragraphs 1 and 2 becomes due, the competent authorities shall, so far as possible, require payment from the person or persons liable of such payment before making a claim against the guaranteeing association.

Explanatory Note to Article 11, paragraph 2*

0.11-2 The efforts to be made by the competent authorities to require payment from the person or persons liable shall include, at least, the sending of the claim for payment to the TIR Carnet holder, at his address indicated in the TIR Carnet, or the person or persons liable, if different, established in accordance with national legislation. The claim for payment to the TIR Carnet holder may be combined with the notification referred to in paragraph 1 (a) of this Article.

23. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2 shall be made ~~to~~against the guaranteeing association at the earliest three months after the date on which the association was ~~informed~~notified that the operation had not been discharged or that the certificate of termination of the TIR operation had~~s~~ been falsified or obtained in an improper or fraudulent manner and at the latest not more than two years after that date. However, in cases of TIR operations which, during the above-mentioned period of two years,

become the subject of administrative or legal proceedings concerning the payment obligation of the person or persons referred to in paragraph 2 of this Article, any claim for payment shall be made within one year of the date on which the decision of the competent authorities courts becomes enforceable.

Explanatory Notes to Article 11, paragraph 23*

0.11-23-1 In deciding whether or not to release the goods or vehicle, the ~~Customs~~-competent authorities should not, when they have other means in law of protecting the interests for which they are responsible, be influenced by the fact that the guaranteeing association is liable for the payment of duties, taxes and default interest payable by the holder of the Carnet.

0.11-3-2 The competent authorities may inform the guaranteeing association that administrative or legal proceedings concerning the payment obligation were initiated. In any event, the competent authorities should inform the guaranteeing association of such proceedings that may be terminated after the two year time limit before that time limit has expired.

Comment to Article 11, paragraph 3*

Claim of payment of duties and taxes

The claim for payment should be supported by copies of the relevant documentation. In cases where part of the goods has been subject to an irregularity, the competent authorities should apportion the claim for payment of the evaded duties and taxes referred to in Article 8, paragraphs 1 and 2 accordingly. Without prejudice to any national provisions concerning the right of appeal, should the guaranteeing association obtain alternative proof of the termination of the TIR operation, it should submit the proof to the competent authorities who notified the non-discharge of the TIR operation.

34. The guaranteeing association shall pay the amounts claimed within ~~have a period of three months, from the date when a claim for payment is made upon~~against it, in which to pay the amounts claimed unless it contests the claim in accordance with the laws of the Contracting Party concerned. The sums paid shall be reimbursed to the association if, within the two years following the date on which the claim for payment was made, it has been established to the satisfaction of the Customs authorities that no irregularity was committed in connection with the transport operation in question. ~~[or to send to the competent authorities a motivated opposition to the claim for payment. If the competent authorities consider the reasons of the opposition as ungrounded, they have the right to start [legal] proceedings against the guaranteeing association in accordance with national legislation.]~~

Explanatory Note to Article 11, paragraph 34*

0.11-3 4 If a guaranteeing association is asked, in accordance with the procedure set out in ~~Article 11~~ this Article, to pay the sums referred to in Article 8, paragraphs 1 and 2,

and fails to do so within the time-limit of three months prescribed by the Convention, the competent authorities may rely on national regulations in requiring payment of the sums in question because what is involved in such cases is a failure to carry out a contract of guarantee entered into by the guaranteeing association under national law. The time limit also applies in the event that the guaranteeing association, on receipt of the claim, consults the international organization referred to in Article 6, paragraph 2 over its position concerning the claim.

5. The sums paid shall be reimbursed to the guaranteeing association if, within a two year period following the date on which the claim for payment was made against it, it has been established to the satisfaction of the competent authorities that no irregularity was committed in connection with the TIR operation in question. The two year time limit may be extended in accordance with national legislation.

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