



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

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Agenda item V (c)

Submission of data using the International TIR Data Bank (ITDB)

Note by the secretariat

I. Background

1. In October 2012, the TIR Administrative Committee (AC.2) considered Explanatory Notes to Annex 9, Part II of the TIR Convention, which clarified that the transmission of required data on authorized TIR operators to the International TIR Data Bank (ITDB) made submission of such data in any other form, for example, on paper or by e-mail, redundant. In its consideration, AC.2 had noted that, at some point in the future, the transmission of data into the ITDB by electronic means could become mandatory (see ECE/TRANS/WP.30/AC.2/111, para. 15).
2. At the seventieth session of TIRExB (December 2016), the secretariat pointed out that the Model Authorization Form (MAF) in Annex 9, Part II, still allowed countries to submit ITDB data on paper, which was a resource consuming practice and led to delays in keeping the ITDB up to date. TIRExB emphasized that countries should send any data or update related to authorized TIR Carnet holders to the TIR secretariat, preferably by means of the proper use of electronic applications developed to that end by the TIR secretariat as stipulated by Explanatory Note 9.II.4 (see TIRExB/REP/2016/70final, para. 17).
3. At the seventy-first session of TIRExB (February 2017), a proposal was made that the next composition of TIRExB could study the prospect of amending Annex 9, Part II, towards making the use of the ITDB mandatory to have an accurate source of information (see TIRExB/REP/2016/71final, para. 16).
4. At its seventy-third session (June 2017), the Board was informed that similar concerns as for the MAF (see para. 2 above) existed for the submission of the annual list under Annex 9, Part II, paragraph 5 and for the submission of exclusions from the operation of the TIR Convention pursuant to Article 38, paragraph 2. The Board noted two possibilities on how to advance data submission via the ITDB with regard to Annex 9, Part II, paragraphs 4 and 5 and Article 38, paragraph 2: (a) Legal amendments, or (b) comments to the TIR Convention, taking into consideration that only option (a) would achieve the obligatory use of the ITDB. There was general agreement that the moment had come to make data submission via the ITDB mandatory. To facilitate the considerations, the Board requested the secretariat to prepare proposals for the wording of legal amendments or comments of the aforementioned provisions (see TIRExB/REP/2017/73draft, para. 17).

II. Proposals by the secretariat¹

5. Against this background, the secretariat has prepared draft proposals for the wording of legal amendments and comments to the Explanatory Note to Article 38, paragraph 2, Annex 9, Part II, paragraphs 4 and 5 as well as the Explanatory Notes thereto.

1. Proposals by the secretariat for legal amendments to the TIR Convention

a. Explanatory Note to Article 38, paragraph 2

6. On 6 February 2014, AC.2 adopted Explanatory Note 0.38.2.² To achieve mandatory data submission via the ITDB to TIRExB, the secretariat proposes the following wording for the Explanatory Note:

0.38.2 “The ~~legal provision to notify~~ **notification to** the TIR Executive Board that a person has been temporarily or permanently excluded from the operation of the Convention ~~is deemed to be fulfilled~~ **shall be submitted** by means of the proper use of electronic applications developed to this end by the TIR secretariat under the supervision of the TIR Executive Board.”

b. Annex 9, Part II, paragraph 4

7. In view that the electronic submission of data via the ITDB renders the MAF redundant, the secretariat proposes to delete the reference to the MAF specimen from Annex 9, Part II, paragraph 4.

8. Consequently, and to clarify the information needed concerning the “particulars of the person” referred to in paragraph 4, the secretariat proposes to include a brief, illustrative list at the end of paragraph 4. This non-exclusive list would reflect the text previously set out after the MAF in a technology neutral and thus forward looking way.

9. The Board may wish to note that the entry of “earlier withdrawal of authorization” in the list following the MAF is dispensable, since the ITDB would automatically keep track of and show this information.

10. In this light and in keeping the structure of the paragraph and Explanatory Note to it, the secretariat proposes the following wording for Annex 9, Part II, paragraph 4:

“The competent authorities shall transmit within one week from the date of authorization or withdrawal of authorization to use TIR Carnets, the particulars of each person to the TIR Executive Board, ~~in conformity with the specimen authorization attached (MAF)~~ **including**

(a) Individual and unique identification (ID) number assigned to the person by the guaranteeing association, in cooperation with the international organization to which it is affiliated, in accordance with the harmonized format determined by the Administrative Committee;

(b) Name(s) and address(es) of the person(s) or enterprise, for a business association, also the names of responsible managers;

(c) Contact person with complete contact information; and

(d) Commercial registration number or international transport licence number or other.”

¹ Deleted text is marked in strikethrough, new text in bold italics.

² ECE/TRANS/17/Amend.32 entered into force on 1 January 2015, not yet in the TIR Handbook.

c. Explanatory Note to Annex 9, Part II, paragraph 4

11. On 6 February 2014, AC.2 adopted Explanatory Note 9.II.4.³ To achieve mandatory data submission via the ITDB to TIRExB, the secretariat proposes the following wording for the Explanatory Note:

9.II.4 ~~“The legal requirements for [D]ata submission, as set out in paragraph 4 are deemed to be fulfilled~~ **shall be submitted** by means of the proper use of electronic applications developed to this end by the TIR secretariat under the supervision of the TIR Executive Board.”

d. Annex 9, Part II, paragraph 5

Deletion of the annual list

12. Paragraph 5 specifies the obligation of the national associations to submit annually an updated list of all authorized persons and of persons whose authorization has been withdrawn to the competent authorities, which shall forward a copy of the list to TIRExB.

13. The annual list was introduced as one of the measures to avoid fraud. However, if the competent authorities respect their obligation to submit all required data via the ITDB, the ITDB would always correctly contain all issued and withdrawn authorizations. Moreover, the TIR secretariat witnessed only seldom differences between the submitted authorizations and withdrawals compared to the annual lists.

14. In addition, the Board may wish to note that paragraph 5 does not contain any specification on the exact content or format of the annual lists. This makes their processing currently extremely time consuming and prone to errors.

15. Therefore, the secretariat proposes to delete the requirement to submit an annual list.

Amendment to paragraph 5

16. In practice, the annual list fulfilled a second function: The update of information related to TIR Carnet holders. Paragraph 4 requires the competent authorities to notify TIRExB only in cases of authorization or withdrawal of authorization to use TIR Carnets. When national associations are sending the annual lists, they can also update other information related to the TIR Carnet holder.

17. Therefore, the secretariat proposes to modify paragraph 5 to impose an obligation on the national associations to promptly update information on all authorized TIR Carnet holders and inform their competent authorities and TIRExB accordingly.

18. In this light, the secretariat proposes the following wording for Annex 9, Part II, paragraph 5:

~~“The associations shall transmit annually an updated list as per 31 December of all authorized persons as well as of persons whose authorization has been withdrawn~~ **as soon as they become aware of it to the competent authorities and the TIR Executive Board. This list shall be transmitted one week following the 31 December to the competent authorities. The competent authorities shall forward a copy thereof to the TIR Executive Board.**”

e. Explanatory Note to Annex 9, Part II, paragraph 5

19. In accordance with the current practice of the ITDB, national associations can propose amendments to the information directly in the ITDB. The proposed updates would be accessible through the ITDB for the competent authorities for their approval. Once approved, the amendments would be visible for all ITDB users.

³ Ibid.

20. AC.2 adopted on 6 February 2014, Explanatory Note 9.II.5,⁴ which reads as follows: “Explanatory Note 9.II.4 applies mutatis mutandis to paragraph 5.”

21. If TIRExB considers the proposed modification to paragraph 5 appropriate, the Explanatory Note would stay as is, since it only reflects the requirement to use the ITDB.

f. Annex 9, Part II: The MAF specimen

22. In line with the proposed deletion of the reference to the MAF in Annex 9, Part II, paragraph 4 (see para. 7 above), the secretariat proposes to delete the MAF specimen reproduced in Annex 9, Part II. Consequently, the text explaining the information required following the MAF specimen would also be deleted (see para. 8 above).

g. Annex 9, Part II: Title of the comment to the MAF

23. In line with the proposed deletion of the reference to the MAF in Annex 9, Part II, paragraph 4 and the MAF specimen the secretariat proposes the following wording for the title of the existing comment to the MAF contained currently in Annex 9, Part II:

“Comment to *Part II, paragraph 4* ~~Model Authorization Form (MAF):~~ *Individual and unique identification (ID) number*”

h. Transitional period

24. In view of the time needed for legal amendments to enter into force (for amendments pursuant to Article 60 of the TIR Convention, AC.2 sets the deadlines for objections and entry into force, which are usually six months), the Board may wish to consider whether an additional transitional period would be needed.

2. Proposals by the secretariat for comments to the TIR Convention

25. The Board may wish to note that the wording of the proposed comments would merely mirror the proposals for legal amendments. However, comments as alternatives for legal amendments would only refer to existing text, i.e. the Explanatory Notes to Article 38, paragraph 2, Annex 9, paragraphs 4 and 5. Therefore, the scope and impact of comments would be more limited than legal amendments. In addition, the requirement to submit an annual list under Annex 9, paragraph 5 would still exist. Further, the MAF specimen and hence the complications it brings (see para. 2 above) would remain.

III. Considerations by TIRExB

26. TIRExB is invited to consider and comment on the draft proposals presented in this document and to provide guidance on the way forward.

27. Finally, TIRExB may wish to note that there are other provisions in the TIR Convention, which could be of relevance for data submission via the ITDB, including (a) Article 45 regarding the publication of the list of customs offices, (b) stamps and seals, (c) certificates of approval for road vehicles pursuant to Annex 3, and (d) certificates of approval for containers pursuant to Annex 7 (see also ECE/TRANS/WP.30/AC.2/2016/1, para. 14). In this regard, the Board is invited to consider whether and how the ITDB should become mandatory for those other provisions.

⁴ Ibid.