



**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

(Forty-second session, 1 February 2010,
agenda item 4)

BEST PRACTICES WITH REGARD TO THE USE OF THE TIR CARNET

Note by the secretariat

A. INTRODUCTION

1. At its thirty-ninth session, the TIRExB reviewed Informal document No. 1 (2009) and established that the refusal for a TIR transport to enter a country is usually based on formal reasons, such as, but not limited to, the expiry of the validity of the TIR Carnet, the absence of required documentation or the application of Article 38 of the Convention. However, and more worryingly, there seem to be situations where a TIR transport is refused entry without the reason being specified in writing by Customs. Although, all in all, the factual number of cases of refusal may be limited, the TIRExB agreed that each situation gave rise to considerable problems in the processing of the TIR Carnet. Therefore, the TIRExB agreed that it would seem useful if Customs could be encouraged to indicate the reason of refusal in the TIR Carnet (Box “For official use”) and detach the concerned Vouchers No. 1 and No. 2 from the TIR Carnet. This would then enable the Customs authorities of the country of return to further process the TIR Carnet. In order to further the issue, the TIRExB requested the secretariat to prepare a document for discussion at the present session, containing, on the one hand, proposals for an Explanatory Note encouraging Customs authorities to indicate the reason of refusal in the TIR Carnet and, on the other hand, an example of best practice, clarifying how Customs authorities should process a TIR Carnet in the case of refusal (Informal document TIRExB/REP/2009/39draft, paras 11-12).

2. At its fortieth session, the TIRExB agreed with the secretariat that, due to the absence of a specific legal provision covering the issue of refusal and in view of the nature of the information, being a recommendation, a comment to Annex 1 seemed to be the most appropriate form of conveying the intended message. Furthermore, the TIRExB was of the opinion that the wording of both the comment and the example of best practices should be strengthened and that information on

¹ Revised text is underlined, deletions are in ~~strikethrough~~

the filling-in of box 5 of the corresponding counterfoils should be included. After extensive discussion, the TIRExB also agreed that, in line with standing procedures, the required information in box “For official use” needed to be indicated in all remaining vouchers of the TIR Carnet. In addition, the TIRExB felt that the example of best practices should contain more specific information on the fact that the same TIR Carnet could be used for the remainder of the TIR transport after refusal (or a second one in case an insufficient number of vouchers would remain in the TIR Carnet to end the TIR transport, in accordance with a comment to Article 28 (Informal document TIRExB/REP/2009/40draft, para. 10)).

3. At its forty-first session continued its discussions on the basis of Informal document No. 9/Rev.1 (2009). Although there was continued support from the TIRExB for the example of best practice, the Board felt that the document would benefit from further improvement. In particular, the Board was of the opinion that the document should only focus on those situations where a decision by Customs authorities to refuse access was not based on the provisions from the TIR Convention. Furthermore, the Board was of the view that the example should be limited to those situations where no alternatives, such as the use of a national transit regime, were available to continue the transport operation (Informal document TIRExB/REP/2009/41draft, paras 7-8).

4. As requested, the secretariat prepared this revised Informal document for consideration and, possibly, adoption by the Board.

B. INTRODUCTION OF A NEW COMMENT TO ANNEX 1 OF THE CONVENTION

5. At its fortieth session, the TIRExB decided that, due the absence of a specific legal provision covering the subject to which the instruction could be attached and considering the qualification of the information, being a recommendation, a comment to Annex 1 seemed to be the most appropriate form to express the preoccupation by the TIRExB with regard to the situation of refusal of a TIR transport to enter the territory of a country.

6. Introduce a new comment to Annex 1 of the Convention to read as follows:

Use of the TIR Carnet in case goods carried under the TIR procedure are refused to enter the territory of a Contracting Party

In case, in exceptional circumstances, competent authorities take the decision not to allow goods under the TIR procedure to enter the territory of their country, Customs authorities are strongly recommended to clearly indicate in Box “For official use” of all remaining Vouchers No. 1/2 the precise reason for this decision, including a clear reference to the provision(s) of national or international law on which this decision was based. In addition, Customs authorities should indicate in Box 5 of the concerned counterfoils No. 1 and 2: “Access refused”.

C. BEST PRACTICE IN CASE OF REFUSAL OF A TIR CARNET

7. The secretariat proposes to insert the following text as part of Chapter 5 of the TIR Handbook.

“Example of best practices on the use of the TIR Carnet

It may occur that for ~~various reasons~~ not related to the application of the provisions of the TIR Convention, ~~such as, but not limited to, the fact that the Customs office of departure has, by mistake, accepted a TIR Carnet after expiry of its validity, the detection that some data on the TIR Carnet are missing, the fact that the transported goods are banned from importation or because Article 38 of the TIR Convention needs to be applied,~~ that the competent authorities of a country decide not to allow a TIR transport to enter the territory of their country. In case this occurs, Customs authorities of the Customs office of entry en route are strongly recommended to apply the following procedure:

- (a) Fill-in, stamp and tear off Voucher No.1 and 2, certifying the start and termination of the TIR operation for their country;
- (b) Indicate in Box “For official use” of all remaining Vouchers No. 1/2, the precise reason for the decision to refuse entry to the TIR transport. A reference to the decision leading to the refusal should be indicated as well as, if possible, to the provisions of national or international law on which this decision is based;
- (c) Indicate in Box 5 of the concerned counterfoils No. 1 and 2 “Access refused”.
- (d) Upon return at the Customs office of exit en route, Customs authorities should endorse the changes made to Box 6 (Country/countries of destination) in the remaining Vouchers No. 1/2 and proceed to open the TIR Carnet for a TIR operation in the territory of their country.

TIR Carnet holders are advised that they can use the remaining pages of the TIR Carnet to pursue the TIR transport. In case the number of remaining pages is not enough to carry out the total TIR transport, a second TIR Carnet can be used. In line with the text of the relevant comment to Article 28 of the Convention, the first part of the TIR transport has to be ended in accordance with Article 27 and 28 of the Convention and a new TIR Carnet has to be accepted by the same Customs office having certified the termination of the previous TIR operation and used for the remainder of the TIR transport. Proper inscription shall be made in both TIR Carnets to reflect this fact.”
