



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/2003/19
22 July 2003

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions

affecting Transport

(One-hundred-and-fifth session, 23-26 September 2003,
agenda item 7 (c) (viii))

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

Application of the Convention

The concept of authorized consignee in the TIR Convention

Note by the secretariat

A. INTRODUCTION

1. At its one-hundred-and-fourth session, the Working Party took note of a presentation by the representative of France on the French experiences gained in a pilot study providing consignees with the right to receive goods under the TIR procedure directly at their premises, the outlines of which were contained in working document TRANS/WP.30/2003/12, based on the opinion of the TIRExB that the TIR Convention at present, already provides for the use of the concept of authorized consignee and that it was the competence of individual Contracting Parties to decide whether or not the facilitation could be applied and for which operators (TRANS/WP.30/2003/1, para. 34).

2. The Working Party welcomed the presentation and the detailed explanation on a number of practical matters such as the breaking of seals by other people than Customs and the application of the concept in case of part loads. Although the pilot study had not answered all the outstanding questions, the Working Party felt that, in view of the fact that the concept of authorized consignee was already applied in a number of Contracting Parties, it should continue its discussion on the subject at its next meeting. It requested the secretariat to prepare a new document, aimed at merging the theoretical analysis, made by the TIRExB and contained in document TRANS/WP.30/2003/1, with the practical experience gained by France, contained in document TRANS/WP.30/2003/12. The IRU, however, expressed concern about the consequences for the effective organization and functioning of the international guarantee system according to Article 6.2. bis of the Convention should the concept of authorized consignee be introduced in the Convention (TRANS/WP.30/2008, paras. 55-56).

B. EVALUATION BY THE TIRExB

3. Document TRANS/WP.30/2003/1 contains an extensive reflection of the discussions by the Board to decide on the acceptance of the concept of authorized consignee within the current text of the TIR Convention. It should be clearly stressed that the TIRExB endorsed the general idea that the existing provisions of the TIR Convention allow for the use of the concept of authorized consignee (TIRExB/REP/2002/14, paragraph 10). It did not find any provision in the TIR Convention which would run counter to this approach (TRANS/WP.30/2003/1, paras. 15-22), with the exception of Article 21, referring to partial and final termination of a TIR operation at the Customs office of destination. The TIRExB felt that the concept of authorized consignee was not compatible with the possibility of partial termination, because in such situations uninterrupted Customs controls could not be guaranteed.

4. Without being able to come to a conclusion, the TIRExB felt that the issue of termination and discharge needed to be further treated, in order to obtain a procedure which will comply with the provisions of Article 28 of the Convention, while at the same time allowing the TIR Carnet holder to benefit from the facilitation of being able to deliver goods directly at the premises of the authorized consignee and giving him the certainty that regular termination has taken place. The TIRExB preferred a solution for this issue which would not give the authorized consignee any right to perform Customs duties (TRANS/WP.30/2003/1, para. 25) (see para. 7 for the practical solution found in the French pilot).

5. The TIRExB was of the opinion that, with the proper mechanisms to supervise consignees who have obtained the right to receive goods directly at their premises, the existence of authorized consignees should not jeopardize the well functioning of the existing guarantee system (TRANS/WP.30/2003/1, paras. 29 and 34).

C. EVALUATION OF PILOT

6. The French pilot, as presented to the Working Party at its one-hundred-and-fourth meeting, is extensively described in document TRANS/WP.30/2003/12. It evolves around the assumption that the TIR Convention does not forbid the granting of facilities, such as authorized consignee, as long as uninterrupted Customs controls are ensured and that it is left to the competence of individual Contracting Parties to decide on the implementation of the facility and the conditions under which it is granted.

7. With this in mind the French pilot has designed a procedure, where selected consignees are authorized to receive goods directly at their premises, to break the seals and unload the goods. However, before being allowed to do so, approval has to be obtained from Customs. Within a certain response time after having received a request for the breaking of seals, Customs will decide whether or not physical inspection of the goods is required or the unloading can be approved. Whenever the consignee detects any irregularity (upon arrival of the goods, when breaking the seals or while unloading), he is obliged to inform the Customs immediately. At that moment the use of the facility will be stopped. Any further activity will require direct Customs involvement. After having unloaded the goods, the authorized consignee will have to present himself to Customs, together with the TIR Carnet, the vehicle certificate of approval, transport licenses and a copy of the summary declaration (as proof that the termination of the TIR transit will be followed by another Customs procedure). In case any discrepancy between the information in the TIR Carnet and the actual state of the goods is detected, the consignee has to report this immediately to Customs, so that this information can be taken on board when presenting the TIR Carnet, in order to define the occurrence of a Customs irregularity. If no discrepancy is reported upon unloading, but only detected by Customs later on, the irregularity will be deemed to have taken place while the goods were under the liability of the consignee.

8. As the French pilot shows, it is more the general trade than transport industry which will benefit from the use of the concept. However, transporter operators should bear in mind that, while the consignee presents the TIR Carnet and other documents to Customs, the vehicle remains at the consignee's premises. In case Customs would decide that an inspection is necessary, this will take place at the consignee's premises. This saves the transporter the trip to the Customs office, often located in densely populated urban areas, while at the same time offering him the opportunity to immediately start reloading his vehicle, before starting a new TIR transport at the Customs office of departure.

9. The French approach shows, that, as long as Customs have ensured uninterrupted Customs control and have set clear conditions when granting the facility to the consignee, the concept does not have any negative impact on the functioning of the guarantee system.

D. FURTHER CONSIDERATIONS

10. Neither the legal analysis, nor the pilot have been able to meet the Working Party's reluctance on the following two questions:

- (a) How can a transporter be sure that a consignee is indeed entitled to receive goods directly at his premises?
- (b) How to deal with the fact that the transporter hands over the TIR Carnet to a third party for presentation to Customs, in particular in the light of the comments to Article 28 (return of TIR Carnets to the holder or any other person acting on his behalf) and Article 30 (improved procedures in the use of TIR Carnets by transport operators)?

11. As indicated in para. 32 of document TRANS/WP.30/2003/1, the secretariat is of the opinion that the Customs office of entry in the country of destination plays an important role in solving the first question. In case goods are intended to be delivered directly to the premises of a consignee, Customs authorities should, on the basis of information they can extract from the CMR consignment note, instead of filling-in the name of a Customs office, insert the name and address of the consignee in box 22 of the TIR Carnet. Of course, they should only do this when they have established on the basis of their own records that the person concerned is indeed authorized to receive the goods directly at his premises. When the TIR Carnet holder is assured that the consignee is indeed authorized by Customs to receive goods directly at his premises, he will no longer be reluctant to hand over the TIR Carnet for presentation to Customs.

E. CONCLUSION BY THE WORKING PARTY

12. The Working Party is requested to endorse the opinion that extensive study has demonstrated that there are no legal or practical impediments to the application of the concept of authorized consignee under the current provisions of the TIR Convention. It is the competence of individual Contracting Parties to decide on the implementation of the facility and the conditions under which it is granted.

13. In order to clarify the remaining outstanding questions, Contracting Parties, having gained experience with the use of the concept of authorized consignee in their territory, are invited to share their experiences with the Working Party.
