



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.4.2004
COM(2004) 331 final

2004/0116 (ACC)

Proposal for a

COUNCIL DECISION

**on the position to be taken by the Community concerning the proposal to amend
the TIR Convention 1975**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The TIR Convention 1975 enables the movement of goods that are under duty and tax suspension to cross international borders with the minimum of intervention by Customs en route. The TIR system is based on the use of an internationally accepted Customs transit document, the TIR carnet, which also provides a financial guarantee for the suspended duties and taxes. The guarantee system is managed by an International Organization authorized by the Administrative Committee of the TIR Convention. The organization currently authorized is the International Road Transport Union (IRU).
2. On 20 October 1995, the Administrative Committee adopted a Recommendation for the introduction of a control system for TIR carnets in order to apply Resolution No 49 (adopted on 3 March 1995 by the UNECE Working Party on Customs Questions Affecting Transport – WP.30) on the short-term measures needed to ensure the security and the efficient functioning of the TIR system. In accordance with this recommendation, Customs authorities should transmit to the competent national guaranteeing associations by the fastest available means and, if possible, on a daily basis, the information concerning the termination of all TIR carnets presented at their Customs offices of destination. Consequently the IRU developed an electronic control system designed to monitor the termination of the TIR transport. The system, known as SafeTIR, potentially enables better control of the TIR system and is recognised by the Customs authorities as being a useful tool in the fight against fraud.
3. For some time it has been the IRU's ambition to enhance the profile (and usage) of SafeTIR and to incorporate reference to the system in the body of the TIR Convention. At the beginning of 2003 the Latvian government presented to the WP.30 a proposal to amend the TIR Convention to effectively replace the Recommendation and to introduce reference to the SafeTIR into the TIR Convention.
4. The matter has been discussed in subsequent sessions of the WP.30 and the Commission, taking into account the views of the Member state's TIR policy experts, has suggested certain modifications to the Latvian proposal.
5. As a result of these discussions the original proposal by Latvia has been modified and now comprises a proposal to amend the Convention to create a new Article 42ter and a new Annex 10. The new Article 42ter merely serves to introduce the new Annex 10, which in turn essentially reproduces the text of the Recommendation of 20 October 1995. For purely technical reasons Article 60 (1) also requires to be amended.
6. There is a consensus among the Member States in support of the modified proposal and this support is shared by the Commission services. The WP.30 at its June 2003 session endorsed the modified proposal (as subsequently set out in UNECE document TRANS/WP.30/AC.2/2004/6), and the proposal now has to be formally adopted by the Administrative Committee – the highest organ under the TIR Convention.

7. Given this level of support it is likely that the proposal will be adopted without further amendment. However it is possible that some minor drafting changes might be proposed by the Administrative Committee but it is anticipated that the essence of the proposal shall remain intact.
8. In the light of the above, the Commission proposes that the Council adopt the annexed decision.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with 300 (2),

Having regard to the proposal from the Commission,

Whereas:

- (1) The Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) of 14 November 1975 was approved by the Regulation (EEC) No 2112/78, of 25 July 1978¹ and entered into force in the Community on 20 June 1983²,
- (2) The Council, on 29 June 2000, authorised the Commission to negotiate, on behalf of the European Community, amendments to the TIR Convention³,
- (3) The United Nations Economic Commission for Europe (UN/ECE) Working Party on Customs Questions Affecting Transport – WP.30 at its June 2003 session endorsed a proposal initially submitted by the Latvian government and subsequently modified, to amend the TIR Convention to introduce in the Convention a reference to an electronic control system for TIR carnets,
- (4) The Administrative Committee, being the highest organ under the TIR Convention, has been asked to formally adopt the proposed amendment at its February 2004 session,
- (5) The Community position concerning the proposed amendment should be determined.

HAS DECIDED AS FOLLOWS:

¹ OJ L 252, 14.9.1978

² OJ L 31, 2.2.1983, p. 13.

³ Council document 9496/00 refers, adopted by the Council on 29 June 2000.

Article 1

The Community's position within the Administrative Committee shall be based on the draft amendment annexed hereto.

Done at Brussels, [...]

*For the Council
The President*

ANNEX

Draft

PROPOSED AMENDMENTS TO THE TIR CONVENTION

"Article 42 ter

The competent authorities of the Contracting Parties shall, as appropriate, provide authorized associations with information that they require to fulfill the undertaking given in accordance with Annex 9, part 1, Article 1 (f) (iii).

Annex 10 set out the information to be provided in particular cases.”

"Article 60

Special procedure for amending Annexes 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10

1. Any proposed amendment to Annexes 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 considered in accordance with paragraphs 1 and 2 of Article 59 shall come into force on a date to be determined by the Administrative Committee at the time of its adoption, unless by a prior date determined by the Administrative Committee at the same time, one-fifth or five of the States which are Contracting Parties, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendment. Determination by the Administrative Committee of dates referred to in this paragraph shall be by a two-thirds majority of those present and voting.”

“Annex 10

INFORMATION TO BE PROVIDED BY CONTRACTING PARTIES TO AUTHORIZED ASSOCIATIONS AND AN INTERNATIONAL ORGANIZATION UNDER ARTICLE 42 TER

By virtue of Article 6, paragraph 1 and Annex 9, Part I, paragraph 1 (f) (iii) of this Convention, authorized associations are required to give an undertaking that they shall verify continuously that persons authorized to have access to the TIR procedure fulfill the minimum conditions and requirements as laid down in Annex 9, Part II of the Convention.

On behalf of its member associations and in fulfilment of its responsibilities as an international organization authorized under Article 6, paragraph 2 bis, an international organization shall establish a control system for TIR Carnets to hold data, transmitted by Customs authorities and accessible by the associations and Customs administrations, about the termination of TIR operations at offices of destination. To enable the associations to fulfil their undertaking effectively, Contracting Parties shall provide information to the control system in accordance with the following procedure:

- (1) Customs authorities shall transmit to an international organization or to the national guaranteeing associations, if possible via central or regional offices, by the fastest available means of communication (fax, electronic mail, etc.) and if possible on a daily basis, at least the following information in a standard format in respect of all TIR Carnets presented at Customs offices of destination, as defined in Article 1 (l) of the Convention:
 - (a) TIR Carnet reference number;
 - (b) Date and record number in the Customs ledger;
 - (c) Name or number of Customs office of destination;
 - (d) Date and reference number indicated in the certificate of termination of the TIR operation (boxes 24-28 of voucher No. 2) at the Customs office of destination (if different from (b));
 - (e) Partial or final termination;
 - (f) Termination of the TIR operation certified with or without reservation at the Customs office of destination without prejudice to Articles 8 and 11 of the Convention;
 - (g) Other information or documents (optional);
 - (h) Page number.
- (2) The annexed Model Reconciliation Form (MRF) may be addressed to Customs authorities by national associations or by an international organization
 - in case of discrepancies between the data transmitted and those on the counterfoils in the used TIR Carnet; or
 - in case no data have been transmitted whereas the used TIR Carnet has been returned to the national association.

Customs authorities shall reply to the reconciliation requests if possible by returning the duly filled-in MRF as soon as possible.
- (3) Customs authorities and national guaranteeing associations shall conclude an agreement, in line with national law, covering the above data exchange.
- (4) An international organization shall give Customs authorities access to the database of terminated TIR Carnets and to the database of invalidated TIR Carnets.”

Annex

Model Reconciliation Form (MRF)							
<i>To be filled-in by the initiator of the request for reconciliation</i>							
Destination:							
Regional Customs office (optional): Name:				Customs office of destination: Name:			
Received on:				Received on:			
Date: Stamp				Date: Stamp			
Data to be confirmed							
Data source:		<input type="checkbox"/> TIR Carnet		<input type="checkbox"/> Control system data			
TIR Carnet Reference Number	Name or number of Customs office of destination*	Reference number indicated in the certificate of termination of the TIR operation (boxes 24-28 of voucher No. 2) at the Customs office of destination*	Date indicated in the certificate of termination of the TIR operation at the Customs office of destination*	Page number	Partial / final termination	Termination of the TIR operation certified with or without reservation at the Customs office of destination	Number of packages (optional)
Attachments:		<input type="checkbox"/> Copy of TIR Carnet counterfoils			Other: _____		
<i>Response from Customs office of destination</i>							
<input type="checkbox"/> Confirmation		<input type="checkbox"/> Correction (please insert the corrections below)		<input type="checkbox"/> No reference found on the termination of the TIR operation			
TIR Carnet Reference Number	Name or number of Customs office of destination*	Reference number indicated in the certificate of termination of the TIR operation (boxes 24-28 of voucher No. 2) at the Customs office of destination*	Date indicated in the certificate of termination of the TIR operation at the Customs office of destination*	Page number	Partial / final termination	Termination of the TIR operation certified with or without reservation at the Customs office of destination	Number of packages (optional)
Comments:							
Date:		Stamp and signature of Customs office of destination:					
<i>Central Customs office (optional)</i>							
Comments:							
Date:		Stamp and/or signature					

* Please note that these data refer to the Customs office of Destination where the TIR movement terminated