II

*(Non-legislative acts)*

# INTERNATIONAL AGREEMENTS

## Amendment to the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention, 1975 [1])

*According to the UN Depositary Notification C.N.326.2011.TREATIES-2 the following amendments to the TIR Convention enter into force on 13 September 2012 for all Contracting Parties*

Article 1(q), line 1:
For 'approved' read 'authorised'

Article 1(q), line 2:
For 'surety' read 'guarantor' [2]

Article 1(q):
After Article 1(q) insert a new paragraph (r) to read:

'(r) the term "international organisation" shall mean an organisation authorised by the Administrative Committee to take on responsibility for the effective organisation and functioning of an international guarantee system.'

Article 8, paragraph 1:
Modify paragraph 1 to read:

'1. The guaranteeing association shall undertake to pay up to the maximum of the guaranteed amount of the import and export duties and taxes together with any default interest due under the Customs laws and regulations of the Contracting Party in which an irregularity leading up to a claim against the guaranteeing association has been 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.'

Article 8, paragraph 7:
Delete the text of paragraph 7

Article 10, paragraph 2, line 1:
For 'country' read 'Contracting Party'

Article 11, paragraph 1:
Modify paragraph 1 to read:

'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.

[1] Consolidated text published in Council Decision 2009/477/EC (OJ L 165, 26.6.2009, p. 1).
[2] English and French only, in the Russian text the existing term remains unchanged.

The competent authorities shall notify the guaranteeing association with a maximum period of one year from the date of acceptance of the TIR carnet by those authorities or two years when the certificate of termination of the TIR operation was falsified or obtained in an improper or fraudulent manner.'

Article 11, paragraph 1:
After paragraph 1 insert a new paragraph 2 to read:

'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 for such payment before making a claim against the guaranteeing association.'

Article 11, paragraph 2:
Renumber paragraphs 2 and 3 to become paragraphs 3 and 4

Article 11, new paragraph 3:
Modify paragraph 3 to read:

'3. The claim for payment of the sums referred to in Article 8, paragraphs 1 and 2, shall be made against the guaranteeing association at the earliest three months after the date on which the association was notified that the operation had not been discharged or that the certificate of termination of the TIR operation had been falsified or obtained in an improper or fraudulent manner and not more than two years after that date. However, in cases of TIR operations which, during the abovementioned 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 or courts becomes enforceable.'

Article 11, new paragraph 4:
For the existing text read:

'4. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it.

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.'

Annex 6, Explanatory Note 0.8.3, line 1:
For 'Customs authorities' read 'Contracting Parties'

Annex 6, Explanatory Note 0.8.5, line 1:
For 'the guarantee is questioned' read 'a payment request is made against the guaranteeing association'

Annex 6, Explanatory Note 0.8.7:
Delete Explanatory Note 0.8.7

Annex 6, Explanatory Note 0.10:
Renumber Explanatory Note 0.10 to become Explanatory Note 0.10–1

Annex 6, Explanatory Note 0.10–1:
After Explanatory Note 0.10–1 insert a new Explanatory Note 0.10–2 to read:

'0.10–2 The phrase "or no termination has taken place" includes those situations where the certificate of termination has been falsified.'

Annex 6, Explanatory Note 0.11–1:
For the existing text read:

'0.11–1 The method of notification in writing is left to national legislation.'

Annex 6, Explanatory Note 0.11–2:
For the existing text read:

'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.'

Annex 6, Explanatory Note 0.11–3:
For the existing text read:

'0.11–3–1 In deciding whether or not to release the goods or vehicle, 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 shall inform the guaranteeing association of such proceedings that may be terminated after the two-year time limit before that time limit has expired.'

Annex 6, Explanatory Note 0.11–4:
Add a new Explanatory Note 0.11–4 to read:

'0.11–4 If a guaranteeing association is asked, in accordance with the procedure set out in 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 organisation referred to in Article 6, paragraph 2, over its position concerning the claim.'

Annex 6, Explanatory Note 0.28:
Renumber Explanatory Note 0.28 to become Explanatory Note 0.28–1
After Explanatory Note 0.28–1 insert a new Explanatory Note 0.28–2 to read:

'0.28–2 This Article provides that the termination of a TIR operation shall be subjected to the goods being placed under another Customs procedure or another system of Customs control. This includes clearing the goods for home use (either full or conditionally), the transfer across the border to a third country (export), or to a free zone, or the storage of the goods in a place approved by the Customs authorities while awaiting the declaration for another procedure.'