

USAID Trade Project

A Study of the TIR Convention, 1975 for Pakistan

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Acronyms and Initialisms

Acronym	Definition
ADB	Asian Development Bank
APTTA	Afghanistan-Pakistan Transit Trade Agreement
ATA	Admission Temporaire/Temporary Admission
CAR	Central Asian Republic
CAREC	Central Asia Regional Economic Cooperation Program
CBTA	Cross Border Transport of Persons, Vehicles and Goods Agreement
ECO	Economic Cooperation Organization
ECO-TTFA	Economic Cooperation Organization Transit Transport Framework Agreement
FBR	Federal Board of Revenue
GATT	General Agreement on Tariffs and Trade
GoP	Government of Pakistan
IRU	International Road Union
MoC	Ministry of Commerce
PNC-ICC	Pakistan National Committee of the International Chamber of Commerce
SAARC	South Asian Association of Regional Cooperation
SAD	Single Administrative Document
TIR	Transports Internationaux Routiers (International Road Transport)
UN	United Nations
UNECE	United Nations Economic Commission for Europe
WeBoC	Web Based One Customs
WTO	World Trade Organization

1. Introduction

Regional trade has been an important factor in the economic success of many countries. Within most trading blocs, intra-regional trade composes 40 percent or more of these countries' individual trade; however, for the regional arrangements of which Pakistan is a member, intra-regional trade accounts for less than 5 percent. Pakistan's strategic location is its greatest asset, but it has not been leveraged to Pakistan's advantage. Pakistan's ports can provide Central Asia with the shortest land route to the sea, and there is tremendous export potential among the Central Asian markets.

Realizing the potential of regional trade, the Government of Pakistan (GoP) is developing and implementing Vision 2025. One of the key objectives for this strategic plan is to promote Pakistan's regional trade and achieve regional connectivity and integration.

Pakistan is suitably placed to launch its regional trade agenda as it is a member of the following three regional co-operations:

- **Economic Cooperation Organisation (ECO)**, currently comprising ten member states: Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, Turkey, and Uzbekistan
- **South Asian Association of Regional Cooperation (SAARC)** with eight member states: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka
- **Central Asia Regional Economic Cooperation (CAREC) Program** with ten member states: Pakistan, Afghanistan, Azerbaijan, China, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Turkmenistan, and Uzbekistan

Pakistan has signed a number of bilateral and regional trade, transit, and transport agreements but there have been serious challenges to their implementation. The only agreement operational to some extent is the bilateral transit agreement with Afghanistan (Afghanistan-Pakistan Transit Trade Agreement, or APTTA, 2010); however, there have been persistent complaints from both sides and resistance to the full implementation of APTTA as well. The stringent control requirements enforced under APTTA have in fact resulted in a substantial decline in the volume of Afghanistan's transit trade through Pakistan, to the benefit of the Iranian route via Chabahar.

Over the last few decades improvements in the handling of freight in international trade has resulted in reduced costs and better quality of services covering the entire logistics chain. With the introduction of containerized carriage of goods in the 1960s (an innovative and far safer mode of carriage), the concept of a "door to door delivery" and "just in time" supply chain connectivity is now a normal requirement in most trade transactions. These process improvements have developed over years of trade experience, resulting in the development of streamlined international conventions and trade facilitation standards.

One of the key conventions that has been adopted by 68 Contracting Parties, including the European Union, and is presently operational in 58 is the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention, 1975). This convention is operational in all CAREC countries with the exception of Pakistan and China. The TIR Convention facilitates the movement of (i) multimodal transport (provided one leg of the movement is on road transport); and (ii) goods in secure units are allowed to cross multiple borders of TIR member states without having to undergo examination or furnish a financial surety, as their transit is covered under an international guarantee system that can be invoked should a discrepancy be detected while transiting a TIR member country. The TIR system is advantageous to both public and private sectors as it facilitates trade through harmonization of procedures and standardization of documents resulting in an expeditious clearance process that reduces costs.

The USAID Trade Project’s study of the TIR Convention, 1975 gives an overview of the Convention, its successful operation in several Central Asian countries, legal issues which have hindered its implementation in Pakistan, how the system operates, and key requirements for establishing a TIR system.

2. Overview

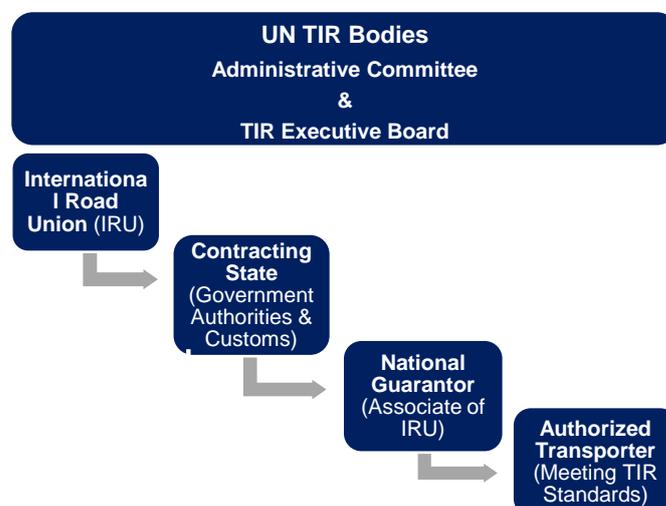
A system to facilitate the transit of goods through war-ravaged European countries after World War II was initiated in 1949 under the auspices of the United Nations Economic Commission for Europe (UNECE), and a TIR Convention was concluded in 1959. A more comprehensive international convention with a much wider scope and controls was signed in 1975 and came into force in 1978. The TIR Convention, 1975 is the culmination of years of experience gained from the initial transit instrument and subsequent amendments. This Convention is one of the key international instruments supporting multimodal movement of goods and transport over multiple borders, provided one leg of the journey is by road. A total of 68 Contracting Parties, including the European Union, are spread over Europe, Asia, Africa, and the Americas. At present it is operational in 58 of these countries (see **Annex A**).

The TIR Convention addresses issues related to carrying cargo in containers on multimodal transport. A single administrative document (SAD) that is compliant with trade facilitation standards applies to cargo in containers as well as the transport units. The wide appeal of the TIR Convention results from the universal acceptance of TIR Carnets among member countries, and improved efficiencies resulting from increased security for transit goods and the ability for goods to cross multiple borders without having to undergo examination or furnish extra financial surety.

An Administrative Committee is established under the TIR Convention, comprising all the Contracting Parties. The International Road Union (IRU) based in Geneva, Switzerland operates the routine management of the TIR system and has exclusive authority to issue and distribute the TIR Carnet document to national associates in the contracting states.

Each member state is required to form a national entity that is an associate of the IRU with legal recognition to administrate the TIR system and stand as guarantor in that country. In the case of an infringement in the rules this IRU associate is required to meet the necessary TIR obligations in that country. Authorized transporters are also part of the TIR system. They may use this facility provided they meet the basic requirements as established by the convention and continue to fulfil their responsibilities and obligations (see **Figure 1**).

Fig. 1 – TIR Structure



The advantage of the TIR system to public sector stakeholders is the better use of resources, especially by Customs administrations who need not physically examine cargo that is crossing international borders. Furthermore, the entire logistics chain is covered by a single transit document, the TIR Carnet, which minimizes the risk of presenting inaccurate information to Customs authorities. In the event of any infringement to national rules the host country has recourse for recovering, under the international guarantee mechanism, the loss to its exchequer. Since the TIR system operates under an inter-governmental body there is the option of appealing any difficulties observed in the system to a TIR Executive Board for guidance and redress.

The TIR system is also advantageous to the commercial and transport sectors. Once Customs formalities are completed at the place of origin and the goods are sealed in a secure container/transport, there is minimum Customs interference at any of the border crossing points until the seals are broken at the destination Customs station where final Customs clearance occurs. The private sector also benefits by having the option of selecting the most suitable mode of transport since the TIR system covers multimodal transport as long as one leg of the journey is overland. These trade facilitation measures enhance the commercial sector's competitiveness by minimizing delays in transit and in turn reducing costs. By improving traders' competitiveness the country's export potential is also enhanced.

3. Pakistan's Regional Access through TIR

Accession to the TIR Convention would enhance Pakistan's market access in the region and beyond. The accession would also help Pakistan implement the Economic Cooperation Organization Transit Transport Framework Agreement (ECO-TTFA) which uses TIR Carnet as financial surety for goods and transport units. The ECO-TTFA is a transit agreement among the ten ECO members. This agreement came into operation in 2006 but Pakistan has not been able to benefit from ECO-TTFA because it has not acceded to the TIR Convention.

APTTA also has an option to use TIR Carnets as financial surety for transit goods. At present the Contracting Parties are using insurance guarantees instead of TIR Carnets because Pakistan has not yet acceded to the Convention. The insurance guarantee system in place for APTTA is cumbersome and expensive, and has been responsible for diverting transit business from Pakistan to the ports of Iran. Early accession to the TIR Convention would considerably facilitate traffic in transit and bring back the transit business to the ports of Pakistan.

Pakistan has shown interest in joining the Cross Border Transport of Persons, Vehicles and Goods Agreement (CBTA), a transit facilitation initiative in the CAREC region. The CBTA also uses TIR Carnet as the principle financial security for transit of goods and transport units. Accession to the TIR Convention would become important in the event that Pakistan joins the CBTA.

In the CAREC region Pakistan and China are the only non-TIR countries. The other eight CAREC member states have not only acceded to the TIR Convention but have made it operational in their respective countries. The Central Asian states, in particular Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, are making use of TIR for long haul movement to Europe and the Far East.

According to an IRU report, the number of TIR Carnets used in Azerbaijan, Iran, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan has increased from 25,000 in 2001 to 60,000 in 2005 and more than 110,000 in 2010. This upward trend is likely to continue – especially if security improves and Afghanistan broadens its role as a transit route between Pakistan and the CARs.

The bulk of trade within the four CAR states of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan¹, however, continues to be cleared in the conventional manner where goods are physically examined. This inefficiency is mainly due to the fact that most logistics service providers consider the TIR economically unviable for short haul regional traffic.²

4. TIR and Concerns Regarding Controlling Access to Transit Routes

In 2002 Pakistan decided to accede to the TIR Convention and in 2004 submitted the instrument of accession to the TIR Convention, 1975 to the United Nations (UN) in New York. The accession document submitted by Pakistan included a proposed reservation to Article 8 Paragraph 4 of the Convention requesting that “*acceptance of TIR Carnet by the Customs office means that national legislation allows the transit of such goods to and from a particular country*”.³ The Office of Legal Affairs at the UN, however, rejected this reservation.

The main GoP concern underlying the proposed reservation relates to the GoP’s policy for restricting overland movement of logistic services from India across Pakistan’s land borders, especially to Afghanistan. The transit of Indian goods to Afghanistan is currently allowed via seaports so the restriction would only apply to Wagah or other land border crossings opened in the future.

The following provisions in the Convention address the GoP’s concerns with regard to retaining control of transit access to India through its land borders even without the proposed reservation:

- India has not as yet acceded to the TIR Convention; therefore it cannot make any claims under this Convention.
- The TIR Convention has adequate provisions to deal with any country’s sovereignty concerns. These include Article 45 which authorizes each Contracting Party to publish a list of the Customs offices of departure, Customs offices en route and Customs offices of destination approved by it for accomplishing TIR operations. Thus, Pakistan is at liberty not to notify any border stations through which it does not want the TIR facility to operate. There are a number of examples where neighbouring contracting states have not declared a TIR enabled Customs office on their common borders: (i) Turkey and Armenia; (ii) Armenia and Azerbaijan; (iii) Lebanon and Israel; (iv) Syria and Israel; and (v) Russian Federation and Georgia.
- In addition, there are provisions (Article 57) for settlement of disputes. Pakistan can declare in the instrument of accession that it does not consider itself bound by Article 57, paragraphs 2 to 6, of this Convention. This reservation is allowed under the TIR Convention.

Although TIR has built-in provisions to provide comfort to Pakistan in the event India joins the TIR system and demands transit rights from Pakistan, the fact remains that Pakistan and India are already obligated as members of the World Trade Organization (WTO). Article V of the General Agreement on Tariffs and Trade (GATT) 1994 provides freedom of transit rights to other WTO members. Under the provisions of this article, India could demand transit across Pakistan’s land borders for a journey that begins in India and ends in Afghanistan. Even though there is no separate transit trade agreement between India and Pakistan specifying the entry and exit points, India could make a claim under GATT Article V:2 that the restrictions imposed by Pakistan on transit from India constitute restrictions on its “freedom of transit” via the routes most convenient for international transit. Consequently,

¹ Elena Kulipanova, “International Transport in Central Asia: Current Problems and Ways Forward,” Policy Brief, *University of Central Asia*, July 2012.

² Asian Development Bank (ADB), “Facilitation of Regional Transit Trade in CAREC,” December 2013.

³ Article 8, Paragraph 4 of the TIR Convention reads: “*The liability of the guaranteeing association to the authorities of the country where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office. In the succeeding countries through which goods are transported under the TIR procedure, this liability shall commence at the time when the goods enter these countries or, where the TIR transport has been suspended under Article 26, paragraphs 1 and 2, at the time when the TIR Carnet is accepted by the Customs office where the TIR transport is resumed.*”

Pakistan is under a legal obligation to provide freedom of transit to WTO Members pursuant to Article V of the GATT 1994 irrespective of whether Pakistan accedes to the TIR Convention.

Furthermore, under Article 54 (Denunciation Clause) should a contracting state have serious issues with the Convention, and should it consider that the disadvantages outweigh benefits as it is no longer in the country's best interest to continue, that country may terminate its accession to the TIR Convention, 1975. Under Article 54 Paragraph 2 "*Denunciation shall take effect fifteen months after the date of receipt by the Secretary-General of the notification of denunciation*".

5. How the TIR Operates

At the Customs office of departure, the load is checked on the basis of information supplied in the TIR Carnet completed by the authorized transport operator. Customs authorities then seal the load compartment, report it in the TIR Carnet, keep one sheet, fill in the corresponding counterfoil, and return the TIR Carnet to the transport operator. When crossing the exit border of that country, Customs officials check the seals once again and detach a second sheet from the TIR Carnet and fill in counterfoils. Once this operation has been conducted, the vehicle may leave the country. The TIR Carnet therefore contains two sheets for each country of departure, transit, and destination.

Customs authorities in the country of departure will then proceed to ascertain whether the TIR operation has been terminated correctly by comparing the detached sheet from the border of exit with the one that was initially retained. If there are no objections or reservations by the outgoing Customs office, the TIR operation can be discharged by the Customs authorities in that country. If that is not the case, an inquiry will be launched. The transport operator and the national guaranteeing association concerned will be informed of any concerns and will be requested to provide explanations. If the Customs authorities deem these explanations unsatisfactory, they will apply the provisions of the TIR Convention and national legislation to determine the taxes and duties due. If it is not possible to collect these from the persons directly liable, the guaranteeing association will pay the claimed amount.

In every country for which the load is in transit, the system is similar to the one implemented in the country of departure. In the country of destination, if the incoming border office is also the office of destination, the Customs authorities will complete the TIR Carnet, retain two sheets and become responsible for the goods. In case the load has to be carried to another Customs office within the same country, the incoming office acts like an incoming border office, and the latter becomes that of final destination.

Article 20 of the TIR Convention permits Customs administrations to fix a time limit for journeys within their territory and to require the road vehicle or container "to follow a prescribed route". Consequently, each Contracting Party may designate prescribed routes for traffic in transit within its territory. The Explanatory Note to Article 20 provides, however, that "*it is recommended that these authorities should exercise their right to prescribe a route only when they consider it essential*".

Under Article 45 of the TIR Convention, each Contracting Party must publish "*the list of Customs offices of departure, Customs offices en route and Customs offices of destination approved by it for accomplishing TIR operations.*" This article also obliges the Contracting Parties of adjacent territories to consult each other to agree upon corresponding frontier offices and upon their operating hours. It is worth noting that the Explanatory Note to Article 45 recommends that Contracting Parties make the largest possible number of Customs offices available for dealing with TIR operations.⁴

⁴ TIR Convention, 1975 as mentioned in the TIR Handbook

6. Key Requirements for Establishing a TIR System

To implement the TIR system several requirements must be met. These include an enabling environment and an infrastructure that will allow a competent authority, with adequate capacity, to undertake periodic inspection of vehicles and cargo carrying units at key commercial centers. In addition, a number of designated workshops will have to be established at these commercial centers to maintain and repair the fleet in line with TIR standards.

One of the key areas that has been identified for further growth is the modernization of the trucking fleet in line with Pakistan's Trucking Policy⁵ (currently on hold), which the GoP can accomplish in collaboration with the private sector. Each TIR contracting state is required to have a legally recognized national organization that is associated with the IRU. In turn this organization stands as the national guarantor to meet TIR obligations if an infringement takes place in the territory of that state. The Pakistan National Committee of the International Chamber of Commerce (PNC-ICC) is the relevant associate of the IRU. PNC-ICC has maintained association with the IRU for over a decade even though Pakistan has not yet acceded to the TIR Convention.

The TIR Handbook provides a comprehensive structure that is required to implement the TIR system in a contracting state. For the TIR system to be operational specific requirements must be in place to support the following five key principles of this Convention as mentioned in the TIR Handbook:⁶

- 1) Goods should travel in Customs secure vehicles or containers;
- 2) Throughout the journey, duties and taxes at risk should be covered by an internationally valid guarantee;
- 3) Goods should be accompanied by an internationally accepted Customs document (TIR Carnet), opened in the country of departure and serving as a Customs control document in the countries of departure, transit and destination;
- 4) Customs control measures taken in the country of departure should be accepted by all countries of transit and destination;
- 5) Access to the TIR procedure for
 - national associations to issue TIR Carnets and to act as guarantor;
 - natural and legal persons to utilize TIR Carnets; and
 - international organizations to take on the responsibility for the effective organization and functioning of an international guarantee system

Specific requirements that support the five principles of the TIR system are: 1) legal standing of the national authority responsible for the scheme; 2) entities that are permitted to obtain a TIR document; 3) procedures involved in procuring this document; 4) other administrative responsibilities by key stakeholders, which would include but are not limited to regularly updating the status of each TIR Carnet, and 5) other related infrastructure required to be in place to allow proper implementation of the TIR system.

In order to operationalize the TIR system, the GoP will need to undertake a number of steps:

- The TIR system requires the transport units to meet certain specifications and quality standards. The present trucking fleet would require up-gradation in order to transport transit goods under the TIR system within regional countries. One of the key areas identified for further growth is the modernization of the trucking fleet in line with Pakistan's Trucking Policy, which the GoP can accomplish in collaboration with the private sector.

The long-haul trucking sector is mainly composed of old and underpowered two and three axle rigid trucks with a gradually increasing percentage of newer but also underpowered

⁵ Pakistan's Trucking Policy is available at: <http://www.engineeringpakistan.com/EngPak1/truckingpolicy.php>

⁶ UNECE. 2013. "TIR Handbook Tenth Revised Edition." <http://www.unece.org/tir/tir-hb.html> (accessed May 12, 2014).

tractor trailers (articulated vehicles). These units have engine technology that is over 40 years old and does not meet current fuel efficiency and environmental standards. Inspection, licensing for trucks and drivers and economic incentives will be necessary to upgrade Pakistan's trucking fleet so that it is competitive and eligible to travel on road systems in Afghanistan and the CARs.

In addition, the following tasks have to be accomplished by stakeholders:

Responsibilities of the Federal Board of Revenue (FBR):

- Draft / update and implement legislation to incorporate the provisions of the TIR Convention
- Include exemption from duties and taxes on goods and vehicles under TIR Carnet
- Put in place an electronic transmission of data within its countrywide network to meet TIR requirements (possibly as an extension of its Transit Module in Web Based One Customs (WeBOC))
- Designate TIR-trained Customs offices

The PNC-ICC Pakistan has been legally authorized as the national guaranteeing organization for TIR and Admission Temporaire/Temporary Admission (ATA) Carnets. Each contracting state is required to have a legally recognized national organization that is associated with the IRU. In turn this organization is responsible to meet all TIR obligations in Pakistan, including acting as national guarantor if an infringement takes place in Pakistan's territory. The PNC-ICC is the relevant associate of the IRU and has official recognition by the GoP.⁷

Responsibilities of the PNC-ICC:

- Maintain membership with IRU
- Obtain State Bank's authority to transfer remittances to IRU for payment of TIR Carnet forms, including transfer of currency necessary for the sums claimed by the authorities of contracting member states
- Nominate a "competent authority" with appropriate technical knowledge to carry out vehicle and container fitness examination to issue the Approval Certificate that is to remain valid for a period of two years
- Appoint or establish accredited workshops at commercial centers to undertake routine maintenance and repairs in accordance with TIR specifications

Because some Central Asian countries are not members of the WTO, the GoP would need to hold bilateral meetings to agree on modalities to operationalize the TIR system with these countries.

7. Conclusion

There is an urgent need to provide an enabling environment to promote regional trade. The TIR Convention, 1975 has proven to be an effective instrument for supporting multimodal movement of goods and transport over multiple borders. The perception that acceding to the TIR Convention would remove policy space for the GoP to restrict overland movement of logistic services from India through Pakistan, especially to Afghanistan, is not well-founded. The TIR Convention, 1975 has adequate provisions to deal with a country's sovereignty concerns. This system is working well in many Central Asian countries and Pakistan's accession would provide the necessary link for improving regional trade with those countries. Implementing the new Trucking Policy, updating legislation, putting in place the required infrastructure and technical teams to ensure TIR standards are maintained, and providing training to stakeholders will facilitate the smooth implementation of the TIR system in Pakistan.

⁷ Vide MoC Notification Ref. No. 13(7)/2002-ITO(ATA/CARNET)VI.VI dated March 17, 2004

Annex A – Contracting Parties to the TIR Convention (68)

(The 10 regional member states in ECO, CAREC and SAARC where TIR is operational are highlighted in yellow while the 10 non-operational countries are highlighted in red)

 Afghanistan	 Albania	 Algeria
 Armenia	 Austria	 Azerbaijan
 Belarus	 Belgium	 Bosnia-Herzegovina
 Bulgaria	 Canada	 Chile
 Croatia	 Cyprus	 Czech Republic
 Denmark	 Estonia	 Finland
 France	 Georgia	 Germany
 Greece	 Hungary	 Indonesia
 Iran (Islamic republic of)	 Ireland	 Israel
 Italy	 Jordan	 Kazakhstan
 Kuwait	 Kyrgyzstan	 Latvia
 Lebanon	 Liberia	 Lithuania
 Luxemburg	 Macedonia (FYROM)	 Malta
 Moldova	 Mongolia	 Montenegro
 Morocco	 Netherlands	 Norway
 Poland	 Portugal	 Republic of Korea
 Romania	 Russian Federation	 Serbia
 Slovakia	 Slovenia	 Spain
 Sweden	 Switzerland	 Syrian Arab Republic
 Tajikistan	 Tunisia	 Turkey
 Turkmenistan	 Ukraine	 United Arab Emirates
 United Kingdom	 United States of America	 Uruguay
 Uzbekistan		

Source: International Road Transport Union (IRU)