# COUNCIL REGULATION (EEC) No 719/91

## of 21 March 1991

## on the use in the Community of TIR carnets and ATA carnets as transit documents

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, pursuant to the rules on Community transit, goods may be carried within the Community under cover of TIR carnets (Customs Convention on the International Transport of Goods under cover of TIR carnets (TIR Convention), done at Geneva on 14 November 1975) or under cover of ATA carnets (Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention), done at Brussels on 6 December 1961) within the limits laid down by those rules;

Whereas, pursuant to Article 48 of the TIR Convention, Contracting Parties which form a customs or economic union may enact special provisions in respect of transport operations commencing or terminating in, or passing through, their territories, provided that such provisions do not attenuate the facilities provided for by that Convention; whereas, pursuant to Article 14 of the ATA Convention, the territories of Contracting Parties which form a customs or economic union may be taken to be a single territory;

Whereas designating the Community as a single territory for the purposes of the rules governing the use of TIR or ATA carnets would entail the abolition of all formalities and checks for crossing the Community's internal frontiers provided for in those rules and would mark a further step towards progressive elimination of these frontiers; whereas, to this end, the necessary measures should be adopted and provision made for them to be implemented before the scheduled date for completion of the internal market;

Whereas the incorporation of this reform in the operation of the TIR and ATA procedures requires the adoption of implementing provisions; whereas, to that end, close cooperation between the Member States and the Commission must be established within a Committee,

(1) OJ No C 142, 12. 6. 1990, p. 6.
(2) OJ No C 324, 24. 12. 1990 and Decision of 20 February 1991 (not yet published in the Official Journal).
(3) OJ No C 41, 18. 2. 1991, p. 36.

HAS ADOPTED THIS REGULATION:

### CHAPTER I

### TIR Convention

*Article 1*

Where, in accordance with the provisions in force, goods are transported from one point in the Community to another under the procedure for the international transport of goods under cover of TIR carnets (TIR Convention), the Community shall, for the purposes of the rules governing the use of the TIR carnet for such transport, be considered to form a single territory, as defined by Council Regulation (EEC) No 2151/84 of 23 July 1984 on the customs territory of the Community (4), as last amended by Regulation (EEC) No 4151/88 (5).

*Article 2*

Within the meaning of Article 1 (h) of the TIR Convention, 'customs office en route' shall mean any customs office through which a road vehicle, combination of vehicles or container, as defined in the TIR Convention, is imported into or exported from the customs territory of the Community in the course of a TIR operation.

*Article 3*

Where, in the course of transport from one point in the Community to another, goods pass through the territory of a third country, the checks and formalities associated with the TIR procedure shall be carried out at the points where the goods leave the customs territory of the Community temporarily and where they re-enter that territory.

*Article 4*

For the purposes of applying Article 8 (4) of the TIR Convention, where a consignment enters the customs territory of the Community or transport thereof commences at a customs office of departure situated in the customs territory of the Community, the guaranteeing association shall become or shall be responsible to the authorities of each Member State, the territory of which the TIR consignment enters up to the point at which it leaves the customs territory of the Community or up to the customs office of destination in that territory.

(4) OJ No L 197, 27. 7. 1984, p. 1.
(5) OJ No L 367, 31. 12. 1988, p. 1.

*Article 5*

1. When goods are transported under cover of TIR carnets within the customs territory of the Community, they shall be deemed non-Community goods, unless their Community status is duly established.

2. The rules for establishing the Community status of the goods referred to in paragraph 1 shall be determined in accordance with the procedure laid down in Article 12.

CHAPTER II

## ATA Convention

*Article 6*

Where in accordance with the provisions in force, the transit of goods is carried out under cover of ATA carnets (ATA Convention), the territories of the Member States of the Community shall, for the purposes of such transit, be considered to form a single territory within the meaning of Article 1.

*Article 7*

For the purposes of using ATA carnets as transit documents, 'transit' shall mean the transport of goods from a customs office situated in the customs territory of the Community to another customs office situated within the same territory.

*Article 8*

Where, in the course of transport from one point in the Community to another, goods pass through the territory of a third country, the checks and formalities associated with the ATA procedure shall be carried out at the points where the goods leave the customs territory of the Community temporarily and where they re-enter that territory.

*Article 9*

1. When goods are transported under cover of ATA carnets within the customs territory of the Community, they shall be deemed non-Community goods, unless their Community status is duly established.

2. The rules for establishing the Community status of the goods referred to in paragraph 1 shall be determined in accordance with the procedure laid down in Article 12.

CHAPTER III

## Common provisions

*Article 10*

1. This Article shall apply without prejudice to the specific provisions of the TIR and the ATA Conventions concerning the liability of the guaranteeing associations when a TIR or an ATA carnet is being used.

2. Where it is found that, in the course of or in connection with a transport operation carried out under cover of a TIR carnet or a transit operation carried out under cover of an ATA carnet, an offence or irregularity has been committed in a particular Member State, the recovery of duties and other charges which may be payable shall be effected by that Member State in accordance with Community or national provisions, without prejudice to the institution of criminal proceedings.

3. Where it is not possible to determine in which territory the offence or irregularity was committed, such offence or irregularity shall be deemed to have been committed in the Member State where it was noted unless, within a period to be determined, proof is furnished to the satisfaction of the competent authorities, of the regularity of the operation or of the place where the offence or irregularity has actually been committed.

If, in the absence of such proof, the said offence or irregularity remains deemed to have been committed in the Member State in which it was noted, the duties and other charges relating to the goods in dispute shall be levied by that Member State in accordance with Community or national provisions.

If, subsequently, the Member State where the said offence or irregularity was actually committed is determined, the duties and other charges (apart from those levied, pursuant to the second subparagraph, as own resources of the Community) to which the goods are liable in that Member State shall be reimbursed to it by the Member State which had originally recovered them. In that case, any overpayment shall be returned to the person who had originally paid the charges.

Where the amount of the duties and other charges originally levied and reimbursed by the Member State which had recovered them is smaller than that of the duties and other charges due in the Member State where the offence or irregularity was actually committed, that Member State shall levy the difference in accordance with Community or national provisions.

Member States shall take the necessary measures to deal with any offence or irregularity and to impose effective penalties.

*Article 11*

1. Findings made by the competent authorities of a Member State in applying this Regulation shall have the same force in other Member States as those made by the competent authorities of each of those Member States.

2. Where necessary, the competent authorities of the Member States shall communicate to one another all findings, documents, reports, records of proceedings and information relating to TIR or ATA consignments and to any irregularities and offences noted.

*Article 12*

1. The Committee on Community Transit, provided for in Article 42 of Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit (1), may examine any matter concerning the application of this Regulation or raised by its Chairman either on his own initiative or at the request of the representative of a Member State.

2. The provisions necessary for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 44 (2) and (3) of Regulation (EEC) No 2726/90.

CHAPTER IV

**Final provisions**

*Article 13*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 January 1992.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 March 1991.

*For the Council*

*The President*

G. WOHLFART

(1) OJ No L 262, 26. 9. 1990, p. 1.