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Working Party on Customs Questions
affecting Transport

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agenda item 6 (c) (i))

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

Application of the Convention

Settlement of claims for payment

**Statements by the International Road Transport Union (IRU) and
the application of the Convention in the Russian Federation**

Transmitted by the Russian Federation

Note: At the one hundred and first session of the Working Party, the International Road Transport Union (IRU) issued a policy statement concerning a threat to the sustainability of the TIR procedure. In its view, such factors as organized crime, misunderstanding about the function of the TIR guarantee chain and the absence in the Convention of the provisions of the Recommendation of 20 October 1995, which underpinned the SAFETIR system, could lead to the collapse of the TIR system (TRANS/WP.30/202, para. 12). Soon after the session, IRU sent certain Contracting Parties the text of this statement along with an accompanying letter affirming that the most critical situation in respect of the application of the Convention was to be found in the Russian Federation. The paper set out below contains the reply of the State Customs Committee of the Russian Federation. It has been sent to IRU, the secretariat of the Economic Commission for Europe and the Chairman of the TIR Executive Board.

A. Concerning the “increasing cases of violation of Customs legislation as a result of the uncontrolled activity of organized criminal groups in the Russian Federation”

The dissemination by IRU of incorrect information alleging a worsening situation of Customs violations in the Russian Federation bears witness to the fact that IRU has exhausted its arguments justifying the ineffective functioning of the international guarantee chain. In order to avoid leading the Contracting Parties to the TIR Convention, 1975 into error, we should like to bring to your attention information on the actual situation in this field.

Thanks to measures taken consistently by the Customs bodies, an effective control mechanism for the delivery of goods has been set up and is successfully operating, based on standards of international law and domestic legislation. This mechanism makes it possible to minimize cases of non-delivery of goods to the final Customs office (see appendix).

Every year, some 500,000 consignments are transported in the Russian Federation using TIR Carnets. Fewer than 1% cent involve violations of Customs regulations. Thanks to a restrictive procedure for access to TIR Carnets, the proportion of violations by Russian carriers has been kept to a minimum. For every 1,000 TIR Carnets used in the Russian Federation, one request for the payment of Customs duties and penalties is filed with the international guarantee chain. If we take into account the fact that a quarter of all TIR Carnets issued are used in the Russian Federation, this situation may be deemed to be satisfactory.

B. Concerning the “control system for the completion of all TIR operations using EDI”

The Customs bodies of the Russian Federation have actively contributed information to the SAFETIR system, using it to communicate up to 98% of the information on the termination of TIR Carnets in the country. This ensures transparency as regards the situation in this field, not least for IRU, and affords scope for taking action at an early stage in response to trends. That opportunity exists thanks to the procedures used for the transfer of records and decisions regarding Customs violations, under which any party involved in TIR carriage procedures (the carrier, the national association or IRU) has sufficient information at an early stage concerning actual violations of Customs regulations.

C. Concerning the “misinterpretation of the TIR Convention and the working principle of its guarantee chain”

IRU’s position on this matter shows that it is in fact avoiding the responsibilities as a guarantor conferred upon it by the TIR Convention, 1975. Among the IRU priorities, the payment of requests filed by Customs bodies and reimbursement to the budgets of the Contracting Parties of debts arising as a result of TIR procedure violations is conspicuously absent. It is thus clear that there is an imbalance between the two fundamental principles of the TIR Convention, 1975:

- (1) To provide carriers with privileges;
- (2) To ensure Customs security and guarantees.

The failure to implement the second principle may be evidence of either the absence of sufficient guarantee amounts or poor management of the guarantee chain. Both are the responsibility of IRU. If IRU is incapable of ensuring the necessary conditions for the functioning of the international guarantee system, we should recall that the Russian Federation has already submitted a well-reasoned proposal for the decentralization of the guarantee system of the TIR Convention, 1975.

The IRU statement that “at any moment a system of guarantees exists ensuring coverage for international trade in goods amounting overall to US\$ 300 billion” is merely rhetorical, and is not borne out by the practical application of the TIR Convention, 1975 in the Russian Federation over the years. For example, the existence of such insurance coverage has not prevented a situation where one claim per thousand used TIR Carnets filed by the Customs bodies of the Russian Federation is not reimbursed, and where the accumulated debt to the State budget of the Russian Federation amounting to some US\$ 60 million for the period 1999-2001 arising from unpaid claims has not been repaid within the time frame established by the TIR Convention, 1975.

One of the distinguishing characteristics of the centralized guarantee system currently in operation is the complexity of contractual relations between IRU, the national guaranteeing associations and insurers. This is an insurmountable barrier hindering Customs bodies from receiving compensation for budgetary losses related to violations of TIR procedures. The complete inability of both national guaranteeing associations and national insurers to act independently, without IRU consent, paralyses the guarantee chain at the national level.

D. Concerning the statement that “neither false importers or fraudsters ... , nor the assumption of liability for the consequences of possible shortcomings in observance of the TIR Convention or domestic legislation, are covered by the guarantee chain”

The IRU has asserted that when Customs bodies are incapable of recovering amounts due directly from debtors, such cases are not the responsibility of the international guarantee chain. That is completely in contradiction with the provisions of the TIR Convention, 1975. Under those provisions, it is precisely such cases that fall under its competence. If that were not the case, then according to IRU’s interpretation, there would never be any grounds for pressing claims under the international guarantee chain.

Furthermore, it is unacceptable that IRU, an organization called upon to contribute to the functioning of the TIR Convention, 1975, has made unfounded criticism of the legislation and activities of State bodies of the Contracting Parties to that Convention.

E. Concerning the “strengthening of cooperation between the private sector and Customs bodies”

The TIR Convention, 1975 is an international legal instrument signed by the Governments of 64 States. Its application must defend the economic interests of these States, which are also watched over by the Customs bodies. If the private (or commercial) interests of organizations directly or indirectly linked with the application of the TIR Convention, 1975 do not correspond to these aims or contradict them, then it must be recognized that their activities are incompatible with the Convention.

If such organizations unconditionally fulfil the provisions of the TIR Convention, 1975, then their activities can help to enhance the effectiveness of the Convention’s application, and the Customs bodies are willing to work constructively with them. At the same time, the competent bodies must be provided fully with any information required for monitoring of the application of the TIR Convention, 1975.

In the light of the above, the State Customs Committee of the Russian Federation considers that the maintenance and effective functioning of the TIR system are directly dependent on the strict implementation of the provisions of the TIR Convention, 1975 by all parties involved. As a body whose mandate is to defend the economic interests of the State, the Committee will continue to work consistently to improve the efficiency of the international guarantee system established by the Convention.

APPENDIX


