

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

Note transmitted by the European Community

A. BACKGROUND

Recently, enhanced customs controls were applied by one Contracting Party in respect of the carriers of another Contracting Party after cases had been discovered where some carriers of the latter Contracting Party had committed irregularities in respect of the TIR procedure or had breached customs legislation.

The investigations made by the Contracting Party where the TIR transports had started revealed that in some cases the goods had been carried under cover of TIR Carnets which had been invalidated or suspended by the issuing national guaranteeing association. The information about the decision to invalidate or suspend had been taken the day before the TIR transports were accepted by customs, which at that time, had not received information about the invalidation or suspension.

B. CONSIDERATIONS

The TIR Convention does not address the issue of lost, stolen or invalidated TIR Carnets and for customs a TIR Carnet presented for acceptance within the period of validity indicated on the TIR Carnet should be considered carrying a valid TIR guarantee.

Over the years, a practice developed whereby customs would not accept TIR Carnets which the guarantee chain had communicated to customs as being lost, stolen, invalid or invalidated (first by listings, and later via database CUTEWISE, both organised by the international organisation).

The guaranteeing chain, in whose interest it is to not be held liable for these TIR Carnets, expressed the view that from the moment the notification is received by customs the invalid or invalidated TIR Carnets no longer carry a guarantee.

The TIRExB already considered this practice in the past; in particular, questions concerning the validity of a TIR guarantee and the distribution of the information on invalidated TIR Carnets and stressed that at the start of a TIR transport customs must be sure about the existence of the TIR guarantee.

In the case at hand, the national guaranteeing association invalidated or suspended a number of TIR Carnets one day before their acceptance by customs. The information on invalidation or suspension from the international organisation reached the customs four days after the start of the TIR transports.

It is held that a position maintaining that these TIR transports started without a guarantee diminishes customs' trust in TIR system, the more so when considering that the TIR Convention contains no provisions on the invalidation of TIR carnets.

C. CONCLUSION

The European Community would like to invite the WP.30 to consider supplementing Article 8 of the TIR Convention with a provision which confirms the liability of the guaranteeing association for TIR Carnets accepted by the Customs office in case the information on the invalidation or suspension had not reached customs on time.
