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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions

affecting Transport

(One-hundred-and-sixth session, 2-6 February 2004,
agenda item 7 (c) (ix))

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

Application of the Convention

Other matters

Report of the Regional TIR Seminar

(Moscow, 2 and 3 October 2003)

Note by the secretariat

ATTENDANCE

1. The Regional TIR Seminar was held on 2 and 3 October 2003 in Moscow (Russian Federation) on the invitation of the Ministry of Transport of the Russian Federation and in cooperation with the State Customs Committee of the Russian Federation.

2. The Seminar was attended by Governmental representatives from the following countries: Azerbaijan; Belarus; Bulgaria; Denmark; Estonia; Finland; Georgia; Germany; Hungary; Iran (Islamic Republic of); Latvia; Lithuania; Mongolia; Netherlands; Russian Federation; Sweden and Turkey. A representative of the European Community (EC) was also present.

3. Upon invitation by the UNECE secretariat, the session was also attended by representatives of the following national associations issuing and guaranteeing TIR Carnets: AEBTRI (Bulgaria); AIRCU (Ukraine); AITA (Republic of Moldova); ARTRI (Romania); ASMAP (Russian Federation); ATRH (Hungary); BAIRC (Belarus); BGL (Germany); CESMAD Bohemia (Czech Republic); KAZATO (Kazakhstan); Latvijas Auto (Latvia); LINAVAL (Lithuania); NARTAM (Mongolia); SKAL (Finland); UNIONCAMERE (Finland); UND (Turkey); ZMPD (Poland). A number of representatives from international transport companies from various countries attended the Seminar. Representatives from “Inggotrakh” Insurance Company participated in the Seminar

4. The International Road Transport Union (IRU) was also represented.

5. Mr. Guus Jacobs of the Netherlands, Chairman of the Working Party on Customs Questions affecting Transport acted as moderator of the Seminar.

OPENING OF THE SEMINAR

6. In their opening statements, Mr. Anatoly Nasonov, First Deputy Minister of Transport of the Russian Federation, Mr. Valeriy Shpagin, Deputy Chairman of the State Customs Committee of the Russian Federation, Mr. Yuriy Sukhin, President of the Russian Association of International Road Carriers (ASMAP), Mr. Recai Sen, Chairman of the TIR Administrative Committee and Mr. José Capel Ferrer, Director of the Transport Division of the United Nations Economic Commission for Europe (UNECE) underlined the importance of the TIR system as a vital tool for the further development of trade between the Russian Federation and its neighbouring countries, in particular with the European Union. The introduction of a new Customs Code, based on the principles of the revised Kyoto Convention, would contribute to this development.

PRESENTATIONS

7. The first day of the Seminar was dedicated to a number of presentations, highlighting various aspects of the TIR system in general and its application in the territory of the Russian Federation in particular. The following presentations (which are also available at the TIR website at the following address: <http://www.unece.org/trans/bcf/tir/seminar/moscow/presentations.html>) were given:

TIR Convention as a tool for both transport facilitation and Customs security. Measures for revenue protection provided for in the TIR Convention. Comparison of the TIR procedure with other Customs transit systems

Presentation by Mr. Poul Hansen, TIR Secretary

8. The presentation gave a general outline of objectives, advantages and requirements of the TIR transit system. By means of a practical example, the so-called “five-pillars” of the TIR system were explained, demonstrating the specific features of the TIR system compared to other transit systems.

TIR revision process: phases and perspectives

Presentation by Mr. Artur Bouten, TIR secretariat

9. The presentation gave an overview of the historical development of the TIR Convention, with particular focus on phases I and II of the TIR revision process. With regard to phase III, containing *inter alia* the computerization of the TIR procedure, it was stressed that only with the active participation of and financial contributions by all Contracting Parties could tangible results be achieved.

Risk management in Customs matters in the European Community

Presentation by Mr. Jozef Hupperetz, European Commission

10. The presentation focused on the application and implementation of risk management as a tool to control and facilitate the flow of goods within the European Union. Preparations are under way to introduce into the European Community Customs Code a legal obligation for national Customs administrations to apply risk management tools.

Risk assessment as an indispensable tool for Customs control over transit operations: Italian experience

Presentation by the TIR Secretary on behalf of Mr. Mario Amelio, Italian Customs Administration

11. The Seminar was informed of experiences made by the Italian Customs authorities in applying risk analysis to commercial traffic coming from various Turkish ports and arriving in the port of Trieste, under cover of TIR Carnets. The experiences clearly demonstrated the advantages of the application of risk assessment techniques for both Customs authorities and transport industry.

Authorization procedure for access to the TIR system: Latvian experience

Presentation by Mrs. Ilona Soloviha, Latvian National Customs Board

12. The presentation provided information on how the Latvian Customs authorities apply the provisions of Annex 9, Part II of the TIR Convention as well as additional, national conditions and requirements to authorize transport operators to utilize TIR Carnets. In this context, it is worth noting that the Latvian Customs authorities reported that the translation of the TIR Handbook into Latvian had turned out to be a great advantage for the proper implementation of the provisions of the TIR Convention at the national level.

Importance of the TIR Convention for the development of international road transport in the territory of the Russian Federation

Presentation by Mr. Anatolyi Pinson, Ministry of Transport of the Russian Federation.

13. The presentation stressed the importance of the TIR procedure for the Russian economy with, on average, 10,000 operations per day. The main trading partner for the Russian Federation is the European Union. It is expected that the recent accession of Mongolia and the possible accession of China in the near future will have a significant impact on the use of the TIR system in the territory of the Russian Federation. Newly introduced measures, such as the use of sealed plastic envelopes, containing TIR Carnet and commercial documentation, new seals and stamps and the entry into force of the new Customs Code on 1 January 2004 are intended to improve the security of the TIR system in the long run.

Implementation of Annex 9, Part II of the TIR Convention in the Russian Federation. Cooperation between the Customs authorities and the national guaranteeing association. A posteriori control of TIR Carnet holders. Exclusion and withdrawals

Presentation by Mr. Mikhail Savin, ASMAP

14. The access and authorization of transport operators in the Russian Federation is managed jointly by the Ministry of Transport, the State Customs Committee and ASMAP and is based on a joint order by the two former parties. The presentation provided an overview of the three-phase access and authorization procedure. In particular, it is worth noting that the measures applied in the Russian Federation are stricter than the minimum requirements stipulated in the Convention and require both training and examination of the holder. Due to these procedures, claims against Russian transport operators have decreased considerably.

Application of the TIR Convention in the Customs Union of the Russian Federation and the Republic of Belarus. Procedures for the termination of and discharge of a TIR operation. Implementation of SafeTIR. Inquiry procedure. Additional control measures

Presentation by Mr. Viktor Diachenko of the State Customs Committee of the Russian Federation

15. Since 1995, the Russian Federation and the Republic of Belarus have been working on the coming into existence of a Customs Union between both countries. The establishment of the Customs Union falls within the perimeters set by Article 48 of the Convention. At this moment, a merger of both territories into one single Customs territory is under preparation. As part of the establishment of the Customs Union, an automated system has been installed to monitor cargo movements. This system provides data to the IRU SafeTIR system. At present, 99 per cent of data on termination are transmitted to SafeTIR. As a consequence of non-termination, already a number of authorizations have been revoked. The State Customs Committee of the Russian Federation has started a pilot on the use of electronic declarations.

Typical TIR infringement: Customs view. Application of Article 8.7 and difficulties encountered when taking measures against person(s) directly liable

Presentation by Mr. Marat Faizullin of the State Customs Committee of the Russian Federation

16. The presentation described the procedures, applied in accordance with the provisions of the Russian Customs Code in case of non-discharge of a TIR operation. In many situations, the consignee plays an active role in the fraud scheme, by informing the transport operator incorrectly or by disappearing shortly after delivery of the goods. Improvements in the enquiry procedures are mainly aimed at getting better control over consignees. In addition, practice had shown that frequently the same drivers and vehicles are involved in fraud schemes. Finally, it was reported that often well-reputed transport companies are taken over by criminals with the intention of misusing the company's good reputation for fraudulent purposes.

Typical border crossing problems encountered by Czech transport operators in CIS countries

Presentation by Mrs. M. Havelkova, CESMAD, the Czech national association

17. The presentation focused on practical problems encountered by Czech transport operators (as well as operators from other countries). Particular attention was paid to the strict application of Customs escorts, the insufficient communication between Russian and Belarusian authorities in the implementation of the Customs Union between both countries, the unsatisfactory transmission of SafeTIR data from specific Customs offices and the lack of clarity with regard to the requirement to

launch preliminary Customs declarations for certain goods. Although the final conclusion was that the situation is improving, many procedures still need further improvement and/or clarification.

Nature, structure and functioning of the present TIR guarantee system and key importance of risk management (SafeTIR)

Presentation by Mrs. Virginia Tanase, IRU

18. The presentation outlined the structure of the international guarantee system, insisting on the fact that the financial commitment of the national association should be considered as surety and not as guarantee. In addition, it called for the strict application of Article 8.7 to secure the sustainability of the TIR guarantee system. Finally, it addressed the importance of the IRU SafeTIR system as a risk management tool.

Typical TIR infringement and related claims' handling (Articles 8.7, 38 and 6.4 of the TIR Convention): transport industry view

Presentation by Mr. Christian Piaget, IRU

19. The presentation described a typical TIR infringement, in which goods were directly delivered at the premises of a consignee instead of at the Customs office of destination. According to the presentation, the consecutive inquiry procedures, launched by Customs, focused more on recovery from the guaranteeing association than on recovery from the consignee as person directly liable for the Customs claim.

Insurance coverage of the TIR system in the Russian Federation

Presentation by Mr. Pavel Ivanov, Ingosstrakh Insurance Company, Russian Federation

20. Ingosstrakh outlined the functioning of the insurance system at the national and the international level. It also reported on the payments it had made over the recent years. In 2002, it was agreed that before May 2004 Ingosstrakh should reimburse the international guarantee chain the sum of US \$ 2.5 million in respect of the claims presented by the State Customs Committee of the Russian Federation for infringements committed by Russian TIR Carnet holders in Russia. So far around US \$ 2 million has actually been paid. At present, 65 claims regarding 26 different Russian TIR Carnet holders are under discussion. So far this year, the State Customs Committee of the Russian Federation has presented one claim, for an amount of US \$ 47,000. With regard to claims, presented by foreign Customs authorities against Russian TIR Carnet holders, Ingosstrakh has paid US \$ 263,000 in the period between 2000 and 2003. These payments have been reimbursed by the

IRU and the international guarantee chain. The amount of currently pending claims amounts to US \$ 235,000¹.

ISSUES RAISED IN REACTION TO THE VARIOUS PRESENTATIONS

Functioning of the Customs Union between the Russian Federation and the Republic of Belarus

21. At the request of the Seminar, the State Customs Committee provided extensive information on the functioning of the Customs Union between the Russian Federation and the Republic of Belarus. The Customs Union is based on an intergovernmental agreement and envisages the creation of a single Customs territory. It is the intention of the Customs Union to adhere to the main international Conventions in the field.

22. With respect to the application of the TIR procedure, two different systems are applicable. At the internal borders, in the direction West-East, notification posts have been established to replace the disappeared Customs offices, with the aim of assisting the national associations in deciding on the liability for undischarged TIR Carnets. In the East-West direction, no such posts are in function. Instead, voucher 1 is retained by the Russian office of departure (or entry en route), whereas the green voucher is retained by the Belarusian office of destination (or exit en route). In the beginning, violations by mala fide operators and corresponding double claims from both authorities have been reported, but nowadays an electronic information system is in place to avoid this from happening. A study is under way how on to further improve the implementation of the TIR Convention once the single territory has been established, in particular with regard to the issue of liability of the national associations. At present, the Customs Union does not yet apply a uniform Customs tariff, but this should be achieved in the near future.

The introduction of the new Customs Code in the Russian Federation

23. The Russian authorities reported working to a fixed schedule, which had led to the registration of a number of legal documents with the Ministry of Justice by the end of September 2003. Under normal circumstances, this would mean that at least the major part of the Customs Code, including the part concerning documents to be used, should enter into force on 1 January 2004. In order to improve transparency, the great number of existing orders and directives in force will be reviewed. This extensive work should be finalized in the spring of 2004.

Functioning of the TIR guarantee system

¹ Figures verified with and confirmed by Ingosstrakh.

24. The IRU pointed again to the various language versions of the TIR Convention as a basis for the existence of the conception that the national associations should be considered to provide guarantee instead of surety. In reaction, it was stressed that this matter was under study by the Legal Office of the United Nations in New York and that, until the time it would come up with its legal opinion, no difference in language versions or notions were deemed to exist.

25. The IRU offered that it would be ready to provide all necessary information concerning the functioning of the guarantee system and it was requested to submit data and figures on the guarantee system, as provided in its presentation, to the Working Party for further clarification and consideration.

26. The IRU reiterated the importance it attached to the full implementation of Article 8.7 of the Convention, referring to court cases in Germany, Turkey, Italy and Bulgaria, in which it had been stipulated that Customs authorities have to proceed against the person(s) directly liable before addressing the national association.

27. It was, however, pointed out that the TIR Convention does not deal with the consignee and that, therefore, he would not be covered by the provisions of Article 8.7. Thus, the consignee could only be addressed in accordance with principles of national law. Hungarian representatives informed the Seminar of a court decision by a Hungarian court to that extent.

Computerization of the TIR procedure and the introduction of risk management tools

28. The Seminar was of the opinion that, in itself, the introduction of risk management tools could be beneficial to the functioning of the TIR system, but advised to address the issue rather in connection with the development of the computerized TIR procedure than separately. Furthermore, it was pointed out that, whereas national developments in the field of risk management were encouraging, it might be too soon to start thinking of a uniform applicable system.

MAIN CONCLUSIONS

29. The Seminar adopted the following conclusions as summarizing the presentations and consecutive discussions:

- (1) Combating fraud and organized crime are essential for the sustainability of the TIR system; the Seminar had shown that the Russian Federation in the recent past has made considerable progress in this field;
- (2) Computerization and the introduction of risk management tools are inevitable for the future of the TIR system;
- (3) The functioning of the guarantee system needs further clarification.

CLOSE OF THE SEMINAR

30. The Seminar expressed its thanks to the Russian authorities and the UNECE secretariat for the professional organization of the meeting.

31. The list of participants to the Seminar is attached to this report

Annex

REGIONAL TIR SEMINAR

Moscow, 2-3 October 2003

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