

TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)



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**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

(Forty-first session, 14 and 15 October 2009,
agenda item 7 (B))

APPROVAL OF SPECIFIC CONSTRUCTIONS OF ROAD VEHICLES

Request from the Estonian Customs authorities

Transmitted by the government of Estonia

In annex, the secretariat reproduces a note transmitted by the government of Estonia.

1. Estonian Tax and Customs Board, having examined the challenge and other documents, detected the following:
2. Pursuant to Article 12 of the TIR Convention in order to fall within the provisions of sections (a) and (b) of Chapter III of this Convention, every road vehicle must as regards its construction and equipment fulfil the conditions set out in Annex 2 to this Convention and must have been approved according to the procedure laid down in Annex 3 to this Convention.
3. As the basis of the contested decision Northern Tax and Customs Centre has referred to the provisions laid down in Article 1 (c) and (d) of Annex 2 to the TIR Convention, according to which approval for the international transport of goods under Customs seal may be granted only to vehicles, the load compartments of which are constructed and equipped in such a manner that they contain no concealed spaces where goods may be hidden and all spaces of vehicles capable of holding goods must be readily accessible for Customs inspection. In this controversial case Northern Tax and Customs Centre came to a conclusion that the technical requirements arising from the TIR Convention were not fulfilled.
4. Firstly, Estonian Tax and Customs Board considers it necessary to check if in this case the condition established in Article 1 (c) of Annex 2 to the TIR Convention has been fulfilled, i.e. if the load compartments of the vehicle are constructed and equipped in a manner that they contain no concealed spaces where goods may be hidden.
5. Pursuant to Article 2 (2) of Annex 2 to the TIR Convention notwithstanding the provisions of Article 1 (c) of these Regulations, constituent parts of the load compartment which, for practical reasons, have to include empty spaces (for example, between the partitions of a double wall) shall be permitted. In order that the said spaces cannot be used to conceal goods:
 - (i) where it covers the full height from floor to roof, or, in other cases, where the space between it and the outer wall is completely enclosed, the lining inside the load compartment shall be so fitted that it cannot be removed and replaced without leaving obvious traces; and
 - (ii) where a lining is of less than full height and the spaces between the lining and the outer wall are not completely enclosed, and in all other cases where spaces occur in the construction of a load compartment, the number of such spaces shall be kept to a minimum and these spaces shall be readily accessible for Customs inspection.
6. Proceeding from the abovementioned, the fact that this specific space has either economic justification, or has been constructed for technical safety reasons for transporting of certain cargoes (rolls of sheet metal), does not in this case preclude from the possible use of this additional construction as the space where the goods may be concealed. Such empty space is allowed only if it is constructed in compliance with the conditions established by Article 2 (2) of Annex 2 to the TIR Convention. But in this case the trapdoor covers the space and there is no additional lining on the floor, which would not allow easy access to the space without leaving obvious traces. Consequently, the requirements established under point (i) of Article 2 (2) of Annex 2 to the TIR

Convention have not been met in this case. As this empty space is quite large and is accessible in the course of customs control only after the goods have been removed from top of the trapdoor then the respective empty space is also not readily accessible for customs inspection. Consequently, the requirements established under point (ii) of Article 2 (2) of Annex 2 to the TIR Convention have also not been met in this case. Therefore Estonian Tax and Customs Board must form the opinion that the controversial road vehicle does not conform to Article 1(c) of Annex 2 to the TIR Convention. As this empty space is not easily accessible for customs examination for the above stated reasons (requiring the unloading of the whole cargo) then the requirement established in Article 1 (d) of Annex 2 to the TIR Convention is also not met.

7. Concerning the statement that this construction enables to transport rolls of sheet metal in a more economical and safe way, Estonian Tax and Customs Board is of the opinion that transportation of rolls of sheet metal may be regarded as transport of heavy or bulky goods, in respect of which Article 29 of the TIR Convention applies and for which no certificate of approval is required (see the explanatory note to Article 29). Therefore, refusal to issue a certificate of approval for the road vehicle does not prevent from transporting these goods under the TIR Convention, for what purpose this road vehicle has been specially reconstructed.

8. Reference has been made in the challenge to Article 2 (4) of Annex 2 to the TIR Convention according to which the person filing the challenge has come to the conclusion that such empty space under the floor of a controversial road vehicle is allowed. Estonian Tax and Customs Board disagrees with this viewpoint, because the abovementioned provision of the TIR Convention does not regulate whether the empty spaces in the load compartment are allowed or not, but provides that the openings made in the floor are allowed on certain conditions. As this case concerns not the openings made in the floor of the load compartment, but the empty space constructed under the floor then the reference to the provision of Annex 2 to the TIR Convention is inappropriate.

9. Proceeding from the above stated Estonian Tax and Customs Board is of the opinion that the decision of the Northern Tax and Customs Centre No 10.3-2/2968-1 of 11.02.2009 is lawful and the challenge should not be satisfied.
