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COMMISSION DE CONTROLE TIR (TIRExB)
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Agenda item VI (b)

Authorized consignees

Note by the secretariat

I. Background and mandate

1. At its fifty-ninth session, TIRExB took note of a presentation by Mrs. Gajda (Poland) on authorized consignees, as contained in Informal document No. 23 (2014). As the concept of authorized consignee is applicable in all European Union (EU) member States, TIRExB was of the opinion that it would be useful to include an example of best practice on the use of authorized consignees in the EU in the TIR Handbook and, accordingly, requested the secretariat to prepare such an example for consideration at its next session (see TIRExB/REP/2014/59draft, para. 18).

2. As requested at the session, the proposed example of best practice should be based on existing texts from the EU.

Option 1: the relevant legal provisions are contained in the Implementing Provisions to the Community Customs Code (Commission Regulation (EEC) No. 2454/93).

Option 2: the relevant guidance is contained in the EU Transit Manual (TAXUD/A3/0007/2010) which is the most comprehensive source of information on the common and the Community transit procedures.

II. Example of best practice on the use of authorized consignees in the European Union

Introductory remarks

3. The authorized consignee concept allows persons empowered by customs to receive goods in transit directly at his premises or any other specified place, without having to present them at the customs office of destination.

4. The authorized consignee concept is an international recommended practice and is as such included in various key agreements and conventions¹.
5. The UNECE Working Party on Customs Questions affecting Transport (WP.30) acknowledged already in 2003 that the granting and the implementation of the facilitation of authorized consignee is possible in the framework of the provisions of the TIR Convention (TRANS/WP.30/210, para. 47).
6. The concept of authorized consignee for TIR operations is applicable in all EU Member States and can as such be an example how this facilitation measure could be implemented by all Contracting Parties to the TIR Convention.

A. Option 1

E.U. legal provisions regarding authorized consignee

7. The following articles are extracts from the consolidated version of the “Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code” of 1 March 2014 (IPC).

“Article 454a

1. Following an application by the consignee, the customs authorities may grant him the status of authorised consignee, thereby authorising him to receive at his premises or at any other specified place goods transported under the TIR procedure.
2. The authorisation referred to in paragraph 1 shall be granted only to persons who:
 - (a) are established in the Community;
 - (b) regularly receive goods that have been entered for the TIR procedure, or whose customs authorities know that they can meet the obligations under that procedure;
 - (c) have not committed any serious or repeated offences against customs or tax legislation;
 - (d) use a data-processing technique to communicate with the customs office of destination.

Article 373(2) shall apply *mutatis mutandis*.

[Article 373

2. *To ensure the proper management of the simplifications, authorisations shall be granted only where:*
 - (a) *the customs authorities are able to supervise the procedure and carry out controls without an administrative effort disproportionate to the requirements of the person concerned, and*

¹ e.g. point 7.4 of the Bali Ministerial Declaration and Decisions (WTO Bali package) and point 5 of Chapter 1 of Specific Annex E of the International Convention on the Simplification and Harmonization Of Customs Procedures (WCO Revised Kyoto Convention).

(b) the persons concerned keep records which enable the customs authorities to carry out effective controls.]

The authorisation shall apply solely in the Member State where the authorisation was granted.

The authorisation shall apply only to TIR operations that have as the final place of unloading the premises specified in the authorisation.

3. Articles 374 and 375, Article 376(1) and (2), and Articles 377 and 378 shall apply *mutatis mutandis* to the procedure relating to the application referred to in paragraph 1.

[Article 374

1. An application for authorisation to use simplifications, hereinafter referred to as 'the application' shall be dated and signed. Under the conditions and in the manner which they shall determine the competent authorities shall provide that the application shall be made in writing or lodged using an electronic data-processing technique.

2. The application must include all the facts which will allow the customs authorities to check that the conditions subject to which use of the simplifications may be granted have been met.

Article 375

1. The application shall be lodged with the customs authorities of the Member State in which the applicant is established.

2. The authorisation shall be issued or the application rejected within three months at most of the date on which the application is lodged.

Article 376

1. The dated and signed original of the authorisation and one or more copies thereof shall be given to the holder.

2. The authorisation shall specify the conditions for use of the simplifications and lay down the operating and control methods. It shall be valid from the date of issue.

Article 377

1. The holder of an authorisation shall inform the customs authorities of any factor arising after the authorisation was granted which may influence its continuation or content.

2. The date on which the decision takes effect shall be indicated in a decision revoking or amending authorisation.

Article 378

1. The customs authorities shall keep applications and attached supporting documents, together with a copy of any authorisations issued.

2. Where an application is rejected or an authorisation is annulled or revoked, the application and the decision rejecting or annulling or revoking the application, as the case may be, and all attached supporting documents shall be kept for at least three years from the end of the calendar year in which the application was rejected or the authorisation was annulled or revoked.]

4. Article 407 shall apply mutatis mutandis with respect to the procedure laid down in the authorisation referred to in paragraph 1.

[Article 407

1. The authorisation shall specify in particular:

(a) the office or offices of destination responsible for the goods received by the authorised consignee;

(b) when the authorised consignee receives, via the 'Unloading permission' message, the relevant data of the 'anticipated arrival record' message from the office of destination for the purpose of applying Article 361(3) mutatis mutandis;

(c) the excluded categories or movements of goods.

2. The customs authorities shall specify in the authorisation whether any action by the office of destination is required before the authorised consignee may dispose of goods received.]

5. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the requirements set out in point (c) of the first subparagraph of paragraph 2 of this Article and in Article 373(2)(b) shall be deemed to be met.

Article 454b

1. In respect of goods arriving at his premises, or at the place specified in the authorisation referred to in Article 454a, the authorised consignee shall comply with the following obligations, in accordance with the procedure laid down in the authorisation:

(a) he shall immediately inform the customs office of destination of the arrival of the goods by the 'arrival notification' message, including information concerning any irregularities or incidents that occurred during transport;

(b) he shall wait for the 'unloading permission' message before unloading;

(c) he shall without delay, enter the results of the unloading into his records;

(d) he shall send at the latest on the third day following the arrival of the goods the 'unloading remarks' message including information concerning any irregularities or incidents to the customs office of destination.

2. The authorised consignee shall ensure that the TIR carnet and the Transit accompanying document — Transit/security accompanying document are presented, without delay, to the customs authorities at the customs office of destination. Those authorities shall complete counterfoil No 2 of the TIR carnet and shall ensure that the TIR carnet is returned to the TIR carnet holder or to the person acting on his behalf. Voucher No. 2 shall be retained by the customs office of destination or exit.

3. The date of termination of the TIR operation shall be the date of the entry into the records referred to in paragraph 1(c).

However, in cases where any irregularity or incident has occurred during transport, the date of termination of the TIR operation shall be the date of the 'control results' message referred to in Article 455(4).

4. At the request of the TIR carnet holder, the authorised consignee shall issue a receipt, certifying the arrival of the goods at the premises of the authorised consignee and containing a reference to the Transit accompanying document — Transit/security accompanying document and the TIR carnet. The receipt shall not

be used as proof of termination of the TIR operation within the meaning of Article 1(d) of the TIR Convention or of Article 455b.

5. The customs office of destination shall introduce the ‘control results’ message in the computerised system.

The customs authorities shall also send the data foreseen in Annex 10 of the TIR Convention.

6. Where the authorised consignee's data processing application is not functioning, the competent authorities may permit other methods to communicate with the customs authorities at the customs office of destination.

Article 454c

1. The TIR carnet holder shall have fulfilled his obligations under point (o) of Article 1 of the TIR Convention when the TIR carnet together with the road vehicle, the combination of vehicles or the container and the goods have been delivered intact to the authorised consignee at his premises or at the place specified in the authorisation.

2. The termination of the TIR operation, within the meaning of Article 1(d) of the TIR Convention, shall have occurred when the requirements of Article 454b(1) and (2) first sentence have been met.”

B. Option 2

EU Transit Manual, Part IX, The TIR Procedure, Chapter 7, authorised consignee

The following text is based on the consolidated version of the “EU Transit Manual - TAXUD/A3/0007/2010” of 1 July 2010. The Transit Manual contains a detailed description of the EU transit procedure and clarifies the role of both administrations and traders. The purpose of the Manual is to provide a tool to promote a better understanding of how the transit procedure works and the roles of the various participants.

Application of the facility of authorized consignee in the European Union

Introduction

The general rule is that goods placed under the TIR procedure shall be presented at the office of destination together with the TIR Carnet.

However, authorization as an authorized consignee allows receiving goods at the premises, or any other approved place, without presenting them, together with the TIR Carnet at the customs office of destination.

The authorized consignee facility for the TIR procedure exists in the European Union since 1 October 2005 and is based on existing Community/common transit procedures with regard to simplifications (Articles 454a–454c of the Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code” of 1 March 2014 (IPC)).

In comparison to the standard TIR operation, the authorization as authorized consignee in TIR only applies to TIR operations, where the final place of unloading is the premises stipulated in the authorization.

Since 1 January 2009, the authorized consignee facility can only be granted if the trader, in addition to following the conditions with regard to simplifications (see point 3) also uses a data-processing technique to communicate with the customs authorities (Article 454a (2), point (d) of the IPC).

Authority to break and remove customs seals

The mutual recognition of customs controls is one of the pillars of the TIR procedure and the fixing and removal of customs seals is an essential element of this particular pillar. For this reason, the authority for the holder of the authorization or his representative to break and remove customs seals should be explicitly stipulated in the authorization.

In any case, the authorized consignee shall not remove the customs seals before having obtained permission from the customs office of destination via the “Unloading Permission” (IE043) message.

Arrival of the goods

The authorized consignee shall inform the customs office of destination of the arrival of the goods via the “Arrival Notification”(IE007) message, in accordance with the conditions laid down in the authorization, allowing the competent authorities to carry out controls, where necessary, before the consignee can start unloading the goods (Article 454b IPC).

The customs office of destination sends the “Arrival Advice” (IE006) message to the customs office of departure or entry en route to inform that the consignment has arrived.

The customs office of destination permits the unloading with the “Unloading Permission (IE043) message, if it does not intend to check the cargo before unloading. The authorized consignee shall:

- remove seals, control and unload the goods;
- compare them to the information given in the TIR Carnet and the “Unloading Permission” message;
- enter the unloaded goods into his records;
- send, at the latest, on the third day following the arrival of the goods the “Unloading Remarks” (IE044) message to the customs office of destination. This message includes information concerning any irregularities observed (Article 454b (1) (d) IPC).

Presentation of the TIR Carnet

The TIR Carnet shall be presented to the customs office of destination without delay, after the “Unloading Remarks” message has been sent.

Endorsement and return of the TIR Carnet to the TIR Carnet holder

The customs office of destination shall endorse the TIR Carnet by completing counterfoil No. 2 and retaining Voucher No. 2. Following the endorsement, the customs office of

destination shall return the TIR Carnet to the TIR Carnet holder. If the TIR Carnet holder is not present, the TIR Carnet shall be returned to the person having presented it and deemed to be acting on behalf of the TIR Carnet holder (Article 454 (b) (2) IPC).

The customs office of destination shall introduce the “Control Results”(IE018) message into the computerized system and transmit the data to the international organization, in accordance with the provisions of Annex 10 of the TIR Convention.

III. Considerations by the TIR Executive Board

9. The Board may wish to consider the above proposal of an example of best practice and indicate which option it prefers. The Board may also wish to instruct the secretariat how to proceed with issue.
