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Administrative Committee for the TIR Convention, 1975

Seventy-first session

Geneva, 16–17 October 2019

Item 4 (c) of the provisional agenda

Revision of the Convention

Amendment proposals to the Convention prepared by the TIR Executive Board*

Submitted by the International Road Transport Union

I. Background

1. At the sixty-eighth session of Administrative Committee for the TIR Convention, 1975 (AC.2) in June 2018, TIR Executive Board (TIRExB) submitted the amendment proposals to the TIR Convention aimed at eliminating the paper-based procedure for the submission of information foreseen by Annex 9, Part II, paras. 4 and 5 and Article 38, para. 2 (ECE/TRANS/WP.30/AC.2/2018/12).

2. In view of the increasing problems faced by TIR transport operators and the concerns raised by their TIR associations in relation to the practical use of International TIR Data Bank (ITDB) by certain customs authorities, International Road Transport Union (IRU) submitted the amendment proposals (explanatory notes) to the TIR Convention aimed at further clarification of the provisions proposed by TIRExB (Informal document No. 22 (2018)).

3. At the seventy-ninth session of TIRExB in December 2018, IRU submitted further rationale behind its amendment proposals, such as the results of the survey performed among TIR associations regarding the use of ITDB, the procedure for the issuance of TIR carnets to transport operators and the general analysis of the issue (Informal document No. 25 (2018)). The questions raised in the survey were:

(a) What is the current practice of the use of ITDB and how do national customs intend to implement the amendments proposed by TIRExB?

(b) Are the IT systems of the customs administrations and all customs offices open for the TIR procedure connected to ITDB through a web service in real time (online)? If not, is ITDB data exported and made available to customs offices open for the TIR procedure?

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(c) Is there an agreement or procedure clearly defining the responsibilities of customs authorities and national associations on data entry/validation, timelines for data communication etc.?

(d) What is the liability of the customs administration and national association, (1) in the absence of authorisation data (both currently and following the entry into force of the amendment proposals) in ITDB; (2) if the data on exclusion is entered/not updated?

(e) What is the fall-back procedure in case of system failure or the absence of data?

4. At the sixty-eighth session of AC.2 in October 2018, the Committee decided to give IRU access to ITDB, in order to assist all stakeholders keeping information on TIR transport operators continually updated.

II. Developments and current status

5. While the resonance created at the last meetings of the competent bodies of the TIR convention helped to mitigate the negative consequences for transport operators with regards to checking their status in ITDB, IRU continues to receive complaints and evidence of delays or refusals by customs authorities to accept TIR carnets due to absence of data in ITDB (see some examples in Annex I). Moreover, despite the clear wording of the new European Union regulation regarding the transmission of TIR Holders' data via ITDB, according to the information available to IRU, certain customs administrations have issued an instruction on using ITDB for checking the status of TIR Holders, giving instructions to reject the customs declaration based on the results of the checks of the Holder's status in ITDB (see Annex II).

6. One year after the decision of AC.2 to grant IRU access to ITDB, the international organisation responsible for the effective organisation and functioning of an international guarantee system has still not received this access, and thus cannot ensure its member associations and their transport operators the smooth acceptance of TIR carnets at all customs offices for legitimately authorised TIR carnet holders.

7. At the same time, the preliminary comparison of data in ITDB versus TIR associations'/customs' data performed by the TIR secretariat revealed that a number of TIR transport operators (174 in total) were not registered in ITDB at all, while they were duly admitted by their national customs authorities and were receiving TIR carnets.

III. IRU analysis and proposals

8. Every initiative or amendment proposal should serve a purpose and preserve the legal rights of the parties concerned. Along with the main goal of ITDB to foster the exchange of information between competent authorities of Contracting Parties and national associations and to ensure the controlled access to the TIR system, it is crucial to preserve the legal rights of the TIR carnet holders by introducing the following amendments proposed by IRU:

(a) To add to Annex 9, Part II, paragraph 4: "The absence of data in the electronic applications developed by the TIR secretariat under the supervision of the TIR Executive Board on the authorization of a person to use TIR Carnets, shall not constitute grounds for refusal of acceptance of TIR Carnets by the customs authorities. In case of absence of the relevant information entry, the customs authorities should verify alternative sources of data (e.g. control system for TIR Carnets established by an international organization authorized under Article 6, paragraph 2 bis)";

(b) To add to the Explanatory Note to Article 38 (0.38.2): "Information on the temporary or permanent exclusion of any person from the operation of this Convention, should be notified through and be visible in the electronic applications developed by the TIR secretariat under the supervision of the TIR Executive Board, only to the competent authorities of the country where the person concerned is established or resident, to the

association(s) in the country or Customs territory where the offence has been committed and to the TIR Executive Board."

9. Moreover, for such an important repository system of the TIR Holders' data, to serve its purpose for authentication reasons, ITDB should be open to all TIR stakeholders, notably: to customs, national associations, all registered TIR holders and IRU. Every TIR holder must be confident that a TIR carnet represents not only a financial guarantee and customs declaration, but is also proof of controlled access recognised at every customs office. For this reason, IRU's access to ITDB should be enabled without further delay and equally TIR holders should be able to consult ITDB as other stakeholders. The future eTIR procedure would ideally imply that the eTIR system communicates with IRU systems representing the private sector, in real time and through the web service. When access to ITDB through web service is enabled for IRU, it will create an instant cross-checking facility upon the issue of TIR carnets/e-guarantees, which would compare the data available in ITDB with the data of its member TIR issuing association. In the case of any discrepancy, both the association and its TIR holder would be alerted in order to fix any potential mismatch of information with their national customs administration prior to the use of the TIR carnet/e-guarantee. Such a procedure would significantly reduce, if not completely avoid, the illegitimate refusal of the acceptance of TIR carnets or e-guarantees in the cases of absence or the mismatch of information.

10. We are confident that if the above mentioned IRU proposals on behalf of the private sector are considered positively, it would give greater opportunities to all stakeholders in the TIR system to regain competitiveness vs. any new upcoming transit services.

Annex I

Copy of email of Kyrgyz association reporting of the problem encountered by TIR carnet holder at the Czech customs of departure, due to absence of his status. The situation was resolved after intervention of Czech TIR association.

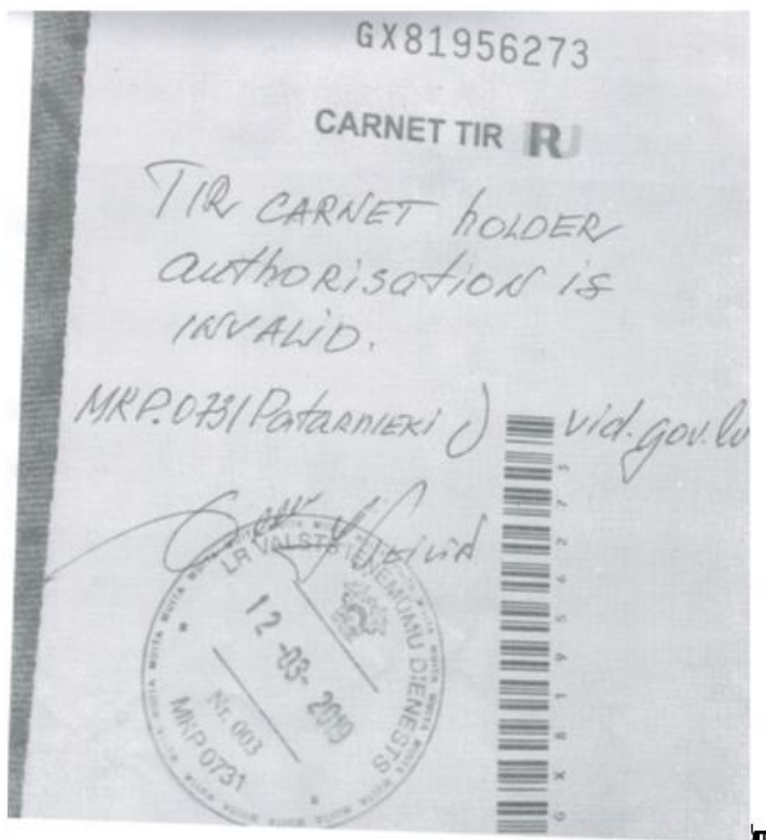
From: Beknazar Mamytov [<mailto:b.mamytov@airto-kr.com>]
Sent: vendredi 7 juin 2019 11:37
To: asktirweb.support <asktirweb.support@iru.org>
Subject: problem with TIR Carnet XB79614788

Good day,

Our carrier encountered a problem when transporting from the Czech Republic. Customs officer says that he does not see carrier status and TIR Carnet № XB79614788 in his system.

Best regards,
Beknazar Mamytov
TIR Department
Association of International Road Transport Operators of the Kyrgyz Republic (AIRTO KR)
720000, Kyrgyz Republic, Bishkek,
Igemberdieva str.,1/A

Copy of tear-off of the TIR carnet withdrawn by Latvian customs authorities due to “invalid authorisation of TIR carnet holder”. The Ukrainian TIR holder had to complete the transport operation under European Union transit procedure.



Annex II



MINISTERUL FINANTELOR PUBLICE
Agenția Națională de Administrare Fiscală

Direcția Generală a Vămirilor
Direcția Reglementări Vamale



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Sector 6, București
Tel: 021.315.58.58
Fax: 021.313.82.51
E-mail: vama@customs.ro

Către: Agenții economici autorizați NCTS -TIR
Ref: informare în aplicarea regimului TIR
Nr/Data: 31321/TZ/14.12.2018

Prin prezenta vă informăm următoarele:

Începând cu data de 18.12.2018, se va efectua în aplicația NCTS-TIR verificarea automată a validității numărului de identificare al titularului carnetului TIR prin conectarea NCTS –TIR la baza de date transportatori TIR autorizați a UNECE, denumită International TIR Data Bank (ITDB).

Această verificare vizează rubrica 50 din declarația de tranzit TIR, respectiv câmpul „deținător carnet TIR” și se realizează în momentul în care declarantul accesează butonul „submit”.

Astfel, în urma verificării automate, se vor întâlni următoarele situații:

1. Dacă numărul de identificare al titularului carnetului TIR este valid, declarația se validează și trece în starea submitted, iar fluxul de vămuire își urmează cursul, conform etapelor existente în prezent;
2. Dacă numărul de identificare al titularului carnetului TIR nu este valid, NCTS va afișa unul din următoarele mesaje: „002 - Holder revocat”, „003 - Holder cu valabilitate expirată”, „004 - Holder exclus”. În aceste cazuri, declarația este respinsă.
3. Dacă numărul de identificare al titularului carnetului TIR nu se află înregistrat nici în baza de date ITDB nici în baza de date NCTS, în momentul accesării butonului „submit”, NCTS va afișa mesajul „Holder inexistent”. În acest caz, se va contacta autoritatea vamală în vederea luării măsurilor corespunzătoare.

Având în vedere aspectele prezentate, vă solicităm să informați persoanele din cadrul societății dvs. responsabile de completarea declarațiilor de tranzit în aplicația NCTS-TIR, pentru procesarea corectă a acestora.

Director:
Elena Spătaru



Unofficial translation from Romanian

National Tax Administration Agency (A.N.A.F.)

General Directorate of Customs

To: authorized economic operators NCTS-TIR

Ref: information on the application of the TIR procedure

No. 31321/TZ/14.12.2018

We hereby inform you of the following:

Starting with 18.12.2018, the NCTS-TIR application will automatically check the validity of the TIR Carrier ID number by connecting NCTS-TIR to ITDB.

This verification concerns box 50 of the TIR transit declaration, namely the 'TIR carnet holder' field and seizures when the declarant accesses the 'submit' button.

Following automated verification, next situations will occur:

1. If the TIR carnet holder identification number is valid, the declaration is validated and passed to the submitted status and the customs flow follows its course according to the current stages.
2. if the identification number of the TIR holder is invalid, NCTS will display one of the following messages: "002-Holder revoked", "003-Holder with expired validity", "004-Holder excluded". In these cases, the declaration is rejected.
3. If the TIR carnet holder identification is not recorded in either the ITDB or the NCTS, when the "submit" button is accessed, NCTS will display the "Holder non-existent" message. In this case the Customs Authority will be contacted to take appropriate action.

In this regard, we ask you to inform the persons in your company responsible for filling in the transit declarations in the NCTS-TIR application, in order to process them correctly.

Director

Elena Spataru
