

# **FUNCTIONING AND DEVELOPMENT OF THE TIR CUSTOMS TRANSIT PROCEDURE**

## **INTRODUCTION**

We have gathered here to discuss deeply about the problems of the TIR procedure, to exchange views and draw conclusions concerning the harmonized and efficient implementation of the amendments of the second phase of one important for the international economy convention, the T.I.R. Convention, 1975.

This International Convention which was drawn up with the interest, the initiative and the coordination of the Economic Commission for Europe of the United Nations and by which the established customs transit system consisted a lever for the development on the international production, the international trade, the international transport industry and generally the international economic development.

## **BACKGROUND OF THE TIR CONVENTION, 1975**

Let us have a look at the background of the TIR Convention, 1975 and the International Custom' s transit system, which was established by this Convention.

The overcoming problems and obstacles of crossing the customs borders towards the reassurance of the Custom's duties and interests on the international movement of goods for the International Economic Development which was left behind during the Second World War, has driven a small number of States to the establishment, in 1949,of the first TIR Convention.

The efficiency of this Convention on the international traffic of the world wide produced goods as well as the reassurance of the custom's duties and interests led to the establishment of a new TIR Convention, in 1959, with the participation of more States.

The awareness of the benefits for the international trade and the International Economy from the implementation of the TIR Convention, 1959, led to the revision of this Convention, in 1975.

## **BASIC POINTS OF FUNCTIONING OF THE TIR PROCEDURE, IN ACCORDANCE WITH THE TIR CONVENTION, 1975**

With the revised TIR Convention, 1975, which is still in force, the procedures for its application were improved and mainly the Convention was

extended to other means of transport besides the road vehicles. It was extended to means such as the containers in cases the needs of packing requested the use of such means.

Therefore the current TIR Convention, 1975, is not applied only for the road transport of goods. It is applied for the transport of goods by ship and railways.

Let us see in general how the TIR Customs Transit Procedure which is defined by the TIR Convention, 1975, functions, how it benefits the producers and what would had happened if it was not established.

The TIR Customs transit system establishes the suspension of customs duties, taxes and other charges on the goods internationally transported when they cross the Customs territory of the Contracting Parties of the TIR Convention, as well as the simplification of the customs inspection at the border crossing points. These two points consist the great benefit towards the Economic Operators and the International Transport Operators, in particular. Certainly, the TIR procedure on the other side does not overlook the customs secure, the protection of which requires the following:

- a) The load compartments of the vehicles or the containers should be approved for the International transport of goods under customs seals and the approval should be granted from the Customs authorities,
- b) The existence of an authorized International Guaranteeing Association, which undertakes the responsibility to secure the customs claims, in cases of irregularities,
- c) The use of the TIR Carnet, which consists a customs document as well as a title of guarantee,
- d) The performance of strict inspections at the customs offices of Departure and
- e) The authorization of the persons who use the TIR procedure.

### **IMPORTANCE OF THE TIR PROCEDURE FOR TRANSPORT OPERATIONS AS WELL AS FOR THE ECONOMY**

At the rendering of the mentioned above services, the TIR system is a privilege to any economic operator for the facilitation of the production and the movement of goods.

To realize its importance at the world -wide economy we can imagine what would have happened if it should not be established. In this case the cost of the operators would had been enormous.

The economic transport operators would have to allocate agents in each border crossing point.

A separate guarantee or secure should be required (a customs deposit or a bank guarantee), should be required in each country, in order to be sure that the goods should cross in transit.

There is no doubt, that the systematic inspections at the frontiers of the countries would have produced traffic troubles. Ques of several kilometers should be produced every day at the border crossing points and a huge amount of economical losses should be produced.

Also the ports would have been places of frightful crush and delays.

On the other hand, the lack of TIR procedure would have had as a result the smuggling of goods, the result of which should be the avoidance of payment of the customs duties and taxies, as well as the increasing of the cost and troubles.

### **DEVELOPMENT OF THE TIR CONVENTION, 1975 - AMENDMENTS**

The TIR Convention, having a very important function in the world developing economy, it was not possible to stay unaffected by the transport, trade and technology developments.

On the contrary it is a Convention that serves the Member-States interests and those of the transport and economic operators.

In this context, it follows the developments and for the facilitation of trade it accommodates its content to the new requirements, through the competent authorities of the "Economic Commission for Europe". Till today the TIR Convention, 1975, has been modified 22 times.

The first 16 amendments mainly concern the accommodation of TIR procedure's terms on the basis of the needs of new technologies that are used at the construction of load compartments either it concerns vehicles or containers.

Namely the TIR Convention taking for granted the new construction techniques of load compartments has established new rules as concerns the construction ways that offer customs security.

In between these 16 amendments we have also those concerning the facilitation of transport operation, such as the suppression of limitation according to which the Customs offices of departure had to be at the same country. They have had also modifications that facilitate customs inspections and the calculation of duties, taxes and other charges.

The next three amendments that had been accomplished from 1994 concern increased measures of control and support of the TIR procedure, which since 1989 had faced a great threat from the organized financial crime. It is true that during that period the TIR procedure was threaten to collapse from organised contrabands, which were realised from existing or non-existing companies (bogus companies) using falsified documents to profit by the Customs duties and taxes.

The elements that have contributed to this crisis were:

- a) The increase of the transactions between the countries of the Eastern and Western Europe.
- b) The abolition of the Customs controls in the internal frontiers of the EU Member-States due to the establishment of the internal market since, 1-1-1993.
- c) The extension of the organised multi-national crime.
- d) The undertaking of transit operations from transport operators and from Guaranteeing Associations without sufficient checks on their faith, as well as,
- e) The lack of International Cooperation on the competent authorities side, both during the supervision of the implementation of the TIR Convention, and during the prosecution of the persons responsible for irregularities.

In this context, by the 17th amendment of the TIR Convention, which entered into force on the 1st October 1994, a special form of TIR Carnet has been established -the TIR TOBACCO /ALCOHOL for the transport operations of tobacco and alcoholic products, under the TIR procedure. These products due to high customs duties are in a higher risk to be smuggled. This form of TIR Carnet provides a higher guarantee cover, however, as it is known, it was suspended because of the weakness of granting a guarantee cover for these products, on behalf of the international guarantee chain. So today, despite, in a great degree, the reform of the status, some of the signs of the crisis continue to exist and tobacco and alcoholic products, unfortunately, are exempted from TIR procedure.

But the 19th amendment is the one, which conducted to the enforcement of TIR procedure to cope with difficult circumstances. This amendment was the result of the works of the first phase of the revision process of the TIR Convention. From this amendment two innovations were raised.

The first one is the establishment of the obligatory authorization based on the examination of the relevant terms and conditions from the competent authorities, so that there will be an access to the TIR procedure of the guaranteeing associations as well as of the transport operators (users).

Concerning this issue it is understandable that the TIR procedure which consists a concession to the economic and transport operators, it shouldn't be accessible to all operators but only to the healthy ones, so that this will be a motive for the restoration of the International Economy.

The access criteria, which were established by the 19th modification of the TIR Convention are: the capacity, the morality and the financial healthy position of the transport operators, as well as of the Guaranteeing Associations.

The second important innovation that has been introduced by the same amendment, is the establishment of the TIR Executive Board, which acting as a body of the Administrative Committee for the TIR Convention, is composed by 9 elected members from the Contracting Parties of the Convention. This body is monitoring the functioning of the TIR procedure and is interfering in order to improve it.

The TIR Executive Board is the International Body that, as it is familiar with all parties related to the TIR procedure, such as the competent authorities, the International guaranteeing Organization, the national guaranteeing associations and the authorised users, supervises its functioning and records the needs, problems and disfunctioning.

To overcome the problems and for the efficient functioning of the procedure, the Board is interested in the training of the users of the procedure and facilitates:

- The cooperation between competent authorities
- The distribution of useful information, as well as
- The resolution of the risen differences

Generally, the TIR Executive Board's task is to care on the transparency on the functioning of the TIR procedure in order to identify the problems in its functioning and find solutions, to promote the healthy operators and devitalise the bad users with the aim to restrict the «grey market».

Thus we arrive to the last three amendments of the TIR Convention, which were adopted from the Administrative Committee on the 20-10-2000 and as they are entering into force, on 12<sup>th</sup> May 2002, they will be the issue for discussion, at the present meeting, which will lead us to their efficient and harmonized implementation.

I shall refer epigrammatically to the content of these amendments, as these will attract the interest during the coming discussions.

The application of the recent amendments will improve the functioning of the TIR procedure for its effective and equitable administration.

In this context very important terms of the TIR procedure are defined, such as:

- TIR operation,
- Start and termination of TIR operation,
- Discharge of the TIR carnet,
- Holder of the TIR carnet,
- Procedures for the discharge of the TIR Carnet are precipitated,
- The minimum obligatory actions that should be taken by the competent Customs Authorities against the holder of the TIR Carnet before the notification of claims against the guaranteeing associations are defined.

Finally, the relations with the International Guaranteeing Organization are determined, by authorising the Administrative Committee to take on responsibilities for the effective functioning of the International guarantee system.

This presentation is a brief description of the Structural functioning and evolution of the TIR procedure, which reveals the positive development and potentiality of the TIR Convention that supports the financial needs and interests of the Contracting Parties.

In the conclusion I would like to make a wish for the TIR procedure to keep on covering effectively all goods, including tobacco, alcoholic and other sensitive goods.