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Working Party on Customs Questions
affecting Transport

Ad hoc Group of Experts
on Phase II of the TIR revision process
(Fourth session, 21-24 June 1999,
agenda items 4(d), 4(e) and 4(h))

**PROPOSALS FOR AMENDMENTS TO THE TIR CONVENTION, 1975 -
PHASE II OF THE TIR REVISION PROCESS**

Recommended procedure for the discharge of a TIR operation

Recommended inquiry procedure

Inclusion of additional information into the TIR Carnet

Transmitted by the Russian Federation

Note: The proposals contained below have been reproduced by the secretariat as received from the Russian Federation.

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A. RECOMMENDED PROCEDURE FOR THE DISCHARGE OF A TIR OPERATION

1. The recommended procedures for the discharge of a TIR operation (TRANS/WP.30/1999/1, para. 22) should be supplemented by the provisions laid down below:
2. The Customs office of departure or entry (en route) may inform preliminarily the Customs office of destination or exit (en route) on the dispatch of the goods transported within the TIR procedure, in order to hinder the improper or fraudulent discharge of a TIR operation.
3. A special e-mail or teletype message containing data from voucher No. 2 of the TIR Carnet may be used as a confirmation of discharge, instead of sending by mail voucher No. 2 (or a return slip) from the Customs office of destination or exit (en route) to the Customs office of departure or entry (en route).
4. The Customs authorities shall take necessary measures to protect their telecommunications from unauthorized access and to prevent the possibility of sending falsified confirmations of discharge.
5. Beside voucher No.2 and counterfoil No.2 of the TIR Carnet, the Customs office of destination or exit (en route) may issue additional documents and may use complementary means of identification to facilitate disclosure of false Customs stamps in TIR Carnets.
6. In order to detect irregularities as soon as possible the Customs authorities are recommended to verify the legality of counterfoil No. 2 of the TIR Carnet and of other documents which confirm discharge during the return trip of a vehicle and/or upon exit from a country.

B. RECOMMENDED INQUIRY PROCEDURE

7. The recommended inquiry procedures (TRANS/WP.30/1999/1, para. 25) should be supplemented by the following provisions:
8. In case electronic data interchange systems are used, the inquiry procedure shall start if the Customs office of departure or entry (en route) does not receive confirmation by a message from the Customs office of destination or exit (en route) within _____ days following expiration of the set deadline for the delivery of the goods.
9. In _____ days following expiration of the set deadline for the delivery of the goods, the Customs office of destination or exit (en route) shall send a written notification on non-arrival of the goods to the Customs office of departure or entry (en route). Upon receiving the above notification, the Customs office of departure or entry (en route) shall start an investigation procedure on the

Customs infringement.

10. If the Customs office of departure or entry (en route) does not receive confirmation by a message or a written notification on non-arrival of the goods, a reminder to the Customs office of destination or exit (en route) will be send in order to find out whether the goods have arrived or not.
11. As soon as an investigation procedure on the Customs infringement is taken, the Customs office shall inform the transport operator either by sending a copy of the record or by handing it over to a representative of the transport operator.
12. The Customs office shall give particular attention to documents which may be presented by the transport operator as proof of the proper discharge as well as verification that a possible consignee of the goods has not committed a Customs infringement.
13. The Customs office carrying out an investigation procedure shall calculate the amount of Customs duties and taxes to be paid, together with default interest, and fill in a request for payment which shall be sent to the transport operator or shall be handed over to its representative.
14. In case such a payment requested is not honoured by the transport operator (or by any other person having committed a Customs infringement) within one month, the Customs office shall send the request and other relevant documents to a central body that monitors the application of the TIR procedure in a given country. The total time from the date of acceptance of the TIR Carnet by the Customs office of departure or entry (en route) until the date of sending the necessary documents to the central body shall not exceed six months. The central body shall notify the national guaranteeing association and then shall lodge a claim in accordance with the provisions of the TIR Convention.
15. In case the central body has received to its satisfaction, proof of proper discharge, this body shall withdraw, within three months, the notification or the claim, if the latter has been sent already.
16. In case such proof is recognized to be insufficient, the central body shall inform, within three months, the national guaranteeing association about it.
17. In case electronic data interchange systems are used, the Customs authorities are recommended to transmit by means of telecommunications to the national guaranteeing association data on the TIR Carnets which have not been discharged for 30 days and more following expiration of the set deadline for the delivery of the goods. This information may be considered as non-official preliminary notification.

C. INCLUSION OF ADDITIONAL INFORMATION INTO THE TIR CARNET

18. We propose the following items to be included into the revised TIR Carnet:

- identification number of a transport operator;
- commodity code in accordance with the Harmonized System (HS-code);
- commercial value of the goods.

These items should be filled in at the Customs office of departure.

I. Identification number of a transport operator

19. The delegation of the Russian Federation submitted already this matter for consideration at the eighty eighth session of the Working Party in 1997 (Conference Room Paper dated 17 June 1997). Since these proposals have not been considered in detail, the main arguments from the above document are reiterated below.

20. Situations often arise in the work of Customs authorities when the transport operator (TIR Carnet holder) needs to be clearly identified. The information in the TIR Carnet includes the operator's name and address as well as the country in which the TIR Carnet was issued. However, this is not sufficient in some cases because in many countries there are several (sometimes dozens of) operators with the same or similar names. Moreover, the name and address, as given in the language of the country in which the TIR Carnet was issued, may be written down incorrectly in the language of another country.

21. As a result, the Customs authorities may unfortunately treat honest transport operators as infringers which have not fulfilled in the past their obligations under the TIR procedure. Naturally, these misunderstandings will eventually be resolved, but some transport operators are caused moral (and possibly also financial) damage in the process.

22. This implies that it is necessary to indicate in the TIR Carnet, along with the name and address, some kind of a number that would allow the transport operator to be identified with certainty. In accordance with new Annex 9, Part II of the Convention and the Model Authorization Form (MAF) each person being granted access to the TIR procedure shall have an individual identification (ID) number assigned by the guaranteeing association. This ID-number accompanied by the association code and/or country code may be used as a unique number to be indicated in the TIR Carnet.

II. HS-code and commercial value of the goods

23. Inclusion of this information into the TIR Carnet has two main objectives:

- to determine correctly and quickly the amount of Customs duties and taxes to be paid in case of the Customs infringement;

- to facilitate carrying out of following Customs procedures (clearance for home use, etc.).

24. In accordance with articles 42 and 50 of the TIR Convention, Contracting Parties shall furnish each other with all available information regarding a certain TIR operation. In particular, the comment to article 42 notes that it is often difficult for the Customs authorities to establish the import or export duties and taxes to be claimed, since the description of the goods in the TIR Carnet is often very vague and its value not indicated. As usual, the inquiry procedure recommended in such cases takes too long time due to language and communication problems. This influences negatively on the notification period for Customs claims as well as on taking immediate measures against persons directly liable for the payment of the Customs duties and taxes.

25. It is common knowledge that the TIR regime has faced in recent years considerable difficulties as a result of activities of international organized crime which has abused the facilities provided by the TIR Convention. International organized crime deals with not only the TIR regime but also with other Customs procedures before and after the TIR operation. For instance, one of the most important problems for the time being is undervaluation of the Customs value by means of double invoices.

26. One of the main aims of the TIR Convention as well as Customs authorities is to facilitate legitimate international trade. The TIR Convention is a Customs convention which can not exist independently of other international agreements and national regulations in that field. Thus, it is of no use that Contracting Parties should try to combat criminal activities within the TIR regime only. Despite these efforts, the transport industry which is closely linked to exporters, importers, consignees, forward agents would be losing benefits from the TIR regime as a result of criminal activities on the one hand and of additional strict measures taken by Customs authorities from the other hand.

27. Inclusion of the HS-code and commercial value of the goods into the TIR Carnet would make it possible to disclose and prevent Customs fraud and would contribute to improving of international trade.
