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Customs Convention on the International

Transport of Goods under Cover of TIR Carnets

(TIR Convention, 1975): Application of the Convention –

Application of the TIR Convention in the Customs

Union of Belarus, Kazakhstan and the Russian Federation

Investigation into feasibility of transport of goods under Customs control within the customs territory of the Customs Union

**Transmitted by the Ministry of Transport and Communications of the
Republic of Kazakhstan**

**“Research and Development Institute of Transport and
Communications”, LLP – “R&DTC”**

**Research Project Report – Investigation into feasibility of
transport of goods under Customs control within the customs
territory of the Customs Union**

Almaty, 2012

Research

Report 15 pages, 6 appendixes, 8 sources

Keywords: TIR, Customs Union, TIR Convention, transit, security

The subject of the research is use of TIR Carnets for transport of goods under customs control within the customs territory of the Customs Union, when such transport under TIR Carnet proceeds from a customs office of departure of one Customs Union state to a customs office of destination in another Customs Union state.

The work objective is to assess impact of TIR within the Customs Union on the Republic of Kazakhstan.

The research methods include system analysis, comparative analysis, and expert evaluation.

This research covers and demonstrates appropriateness of use of TIR Carnets and TIR Convention provisions for the above transport within the Customs Union, describes the main Customs Union methods of providing security for payment of customs duties and taxes, presents comparative analysis of costs and profits of Kazakhstan road carriers from delivery of cargoes within the Customs Union under the TIR Procedure, and other issues in the international transport area.

Conclusions have been drawn as a result of analysis conducted as follows:

- For the Customs Union, the TIR system is the most effective and practical means of security of customs transit. It allows customs authorities, national associations and road carriers to significantly increase the effectiveness of risk management measures. In addition, application of the TIR system results in reduced transportation costs.
- According to Art. 48 and Art. 49 of the TIR Convention, this Convention may be expressly applied with reference to internal transport of goods within the Customs Union.

These conclusions shall be taken into account within the frame of Contracting Parties' Agreement as to details of application of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (1975) on the customs territory of the Customs Union subject to the above principles.

The main user of the information in this report is the Ministry of Transport and Communications of the Republic of Kazakhstan.

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References:

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7. Letter of LLC “Pepelyaev Group”, “On potential application of the TIR procedure for transport of goods under customs control within the Customs Union member states within EurAsEC”
8. Research Report on “Assessment of Positive and Negative Consequences (Risks) of “TIR Internal Transportation” for the Republic of Belarus within the Territory of the Customs Union” (The State Scientific Institution of Economy), Minsk, 2012

Investigation into use of TIR Carnets for internal transport of goods under customs control within the Customs Union

1. Introduction

This research has been conducted by “the Research and Development Institute of Transport and Communications”, LLP, by order of the Ministry of Transport and Communications of the Republic of Kazakhstan (Appendix 1) for the purpose of additional justification of appropriateness and advantages of use of TIR Carnets for internal transport of goods under customs control within the Customs Union.

As is known, international road transportation is associated with passing through territories of various states, and application of national control systems and customs procedures. These procedures and regulations vary among countries. However, traditionally they foresee goods examination at border and provision of various means of security of payment of relevant taxes, fees and duties during goods transit through the territory of the country. The specified measures applied to goods in each transit country, can cause delays, down-time, intervention into the course of transportation and, finally, to considerable additional expenses. These problems may be successfully solved by means of international transport of goods based on the TIR Convention.

Creation of the Customs Union (Kazakhstan, Russia, Belarus) raised certain issues of appropriateness and peculiarities of use of TIR Carnets within the Customs Union territory, in particular, for internal transport of goods under customs control, which is important not only for Kazakhstan, but also for the Customs Union in general.

It should be noted that volume of such international transport within the Customs Union is constantly growing.

According to KazATO, the volumes of internal transport of goods between Kazakhstan and Belarus, Kazakhstan and Russia in 2011 are given below.

| <i>Country</i> | <i>Export</i> | | <i>Import</i> | |
|----------------|----------------------|---------------------|----------------------|---------------------|
| | <i>Qty. of trips</i> | <i>Weight, tons</i> | <i>Qty. of trips</i> | <i>Weight, tons</i> |
| Russia | 2850 | 57000 | 3200 | 48000 |
| Belarus | 50 | 1000 | 750 | 11250 |

Thus, today it is necessary to ensure appropriate facilitation of customs procedures for the above transports, which shall neither be complex for customs authorities nor burdensome for carriers.

2. Practical use of TIR Carnets by Kazakhstan road carriers for international transport of goods

As is known, Kazakhstan joined the TIR Convention more than 17 years ago (5/12/1995) by way of presidential decree, having the force of a law. Extensive experience has been gained in these years as to application of provisions of the Convention.

Kazakhstan has signed more than forty bilateral intergovernmental agreements in the area of transport used as a basis for regular mutually beneficial international transport of goods between Kazakhstan and most countries of Europe and Central Asia. Moreover, only to the European countries the transport operators perform tens of thousands of trips

(Appendix 2), which has become possible solely thanks to application of the TIR system, providing even higher degree of safety and reduced delivery terms after implementation of SafeTIR and TIR-EPD.

It should be noted that Kazakh business partners are at a great distance from main contractors, for which the goods are transported through plenty state borders, including those in Customs Union member states. Without TIR Carnet, the high costs, including customs formalities costs, would render international transport non-rational and inefficient. 10 to 15 percent of these transports are multimodal. Goods are delivered from Western European countries and other parts of the world to Russian seaports and terminals located along the Western border of the Customs Union. Then, a part of these goods are shipped to Kazakhstan by road.

Similarly, for transport of goods from the PRC (China), the Kazakh road vehicles are loaded in the PRC and deliver goods to Kazakhstan under the national Chinese procedure through five customs border crossing points. Then, a TIR Carnet is open (taken into charge) on the territory of Kazakhstan, and the goods are transported through Kazakhstan to many countries in Europe and Asia, including Russia and Belarus, based on the TIR Convention (Appendix 3).

TIR Carnets used for such transport of goods, reduce time and transport costs and, as a result, provides the advantages for the road transport industry and trade not only in Kazakhstan, but also the Customs Union in general.

Moreover, it allows the road transport industries in Kazakhstan and other countries of the Customs Union to maintain and enhance their competitiveness compared to other types of transportation.

Considering these dynamics, administrative barriers for motor transport through the Customs Union shall be reduced even more, including by means of use of TIR Carnets for transport of goods under customs control among customs authorities situated within the customs territory of Customs Union.

3. Justification of use of TIR Carnets for transport of goods under customs control within the Customs Union

The legal opinion provided by “Pepelyaev Group”, LLC, dated February 28, 2011 “On possibility of use of the TIR Procedure for Transport of Goods under Customs Control within the Customs Union Member States in EurAsEC” has demonstratively proven the possibility of use of a TIR Carnet for internal transport.

Thus, based on provisions of Article 48 and Article 49 of the TIR Convention , according to which nothing in the Convention shall prevent Contracting Parties which form in this case a Customs Union within the frame of the Eurasian Economic Community from enacting special provisions in respect of transport operations under TIR Carnets, provided that such provisions do not attenuate the facilities provided for by this Convention, and shall not prevent the application of greater facilities which Contracting Parties grant by virtue of relevant agreements.

Based on provisions of the TIR Convention and Customs Code of the Customs Union, the use of a TIR Carnet for transport of goods under customs control is acceptable in the following cases:

(a) When a transport operation begins or ends outside the Customs territory of Customs Union,

(b) When a transport operation is effected between two points in the customs territory of Customs Union through the territory of a third country, which is not a CU member state,

(c) When a transport operation begins at a point of arrival one territory of one Customs Union member state and ends at a destination point of another Customs Union member state, as well as when a transport operation is performed between two internal customs offices of the Customs Union.

The areas of possible practical use of TIR Carnet listed in these points, are in full compliance with the provisions of Article 2 of the TIR Convention which applies 'to the transport of goods (...) across one or more frontiers between a Customs office of departure of one Contracting Party and a Customs office of destination of another (...) Contracting Party (...)'. While the state borders between Kazakhstan, Belarus and Russia have not been dismantled.

Based on the above said, the "NIITK", LLP, believes that it will be lawfully to apply the provisions of the TIR Convention for internal transport of goods of foreign origin within the customs territory of Customs Union without any exclusions or limitations, including the case when transport operation begins at a point of arrival at the territory of one Customs Union member state and ends at a destination point of another Customs Union member state, without crossing the external frontier of this Union, as well as for transport operation performed between two internal customs offices of the Customs Union.

4. Measures for security of customs transit and methods of security of payment of customs duties and taxes in the Customs Union

Article 217 of the Customs Code of the Customs Union defines several measures to secure the customs transit upon transport of goods on the territory of the Customs Union. The security measures:

- security of payment of customs duties and taxes,
- Customs escort,
- Designation of the route for the transportation of goods.
- Payment of customs taxes and duties according to Article 86 of the Customs Code of the Customs Union may be secured by the following means:
- Cash assets (money),
- Banking guarantee,
- Surety,
- Pledge of property,
- Insurance Agreement.

The payer has the right to chose any of the means of security of payment of customs taxes, duties.

Moreover, according to item 2.3 of Article 217 of the Customs Code of the Customs Union, the security of payment of customs duties and taxes is not required in particular if it is established by the international agreements. Such international agreements include the Customs Convention on the International Transport of Goods under Cover of TIR Carnets.

As has been noted above, transport of goods under cover of a TIR Carnet is currently the most used and popular among the international road carriers.

As is known, a TIR Carnet attests the provision by the guaranteeing association of the guarantee of payment of customs duties and taxes, interest on arrears with regards to the goods transported by a TIR Carnet holder. The guaranteeing association of the Customs Union member state, on which territory a TIR operation begins, becomes responsible for payment of customs duties and taxes, interest on arrears from the moment when the TIR Carnet was taken into charge by a national customs office.

Based on the provisions of paragraph 3 of Article 8 of the TIR Convention the maximum amount per TIR Carnet, which may be claimed from the guaranteeing association, is determined on the customs territory of the Customs Union.

Based on provisions of the TIR Convention, such guarantee per TIR Carnet in the amount of EUR 60,000 is provided by the international guaranteeing chain for any transport of goods under customs control, including internal transport of such goods introduced to the Customs Union territory by any means of transportation, between any customs offices located in Customs Union member states.

5. Comparative analysis of costs incurred by Kazakhstan road carriers transporting goods within the Customs Union for payment of various types of customs transit security. Cost effectiveness of use of TIR Carnets.

Below is a comparative analysis of cost of security of customs transit for internal transport of goods via several most common routes under cover of TIR Carnet or without it.

A. Route from Brest (Republic of Belarus) to Karagandy (Republic of Kazakhstan)

Let us consider an example of transport of goods via this route with customs escort and third-party surety.

Decree of the Republic of Belarus Board of Ministers # 829 dated 7/4/2006 sets a rate of USD 0.5 per kilometer run by each escorted vehicle at the exchange rate of the National Bank of Republic of Belarus.

The distance between Brest and Smolensk is 710 km. Therefore, the cost of escort will make USD 355.

Customs escort rates for Russia have been set by RF State Customs Committee Decree # 1268 dated January 22, 2003 as follows:

Up to 50 km – RUB 2,000

51 km to 100 km – RUB 3,000

101 km to 200 km – RUB 4,000

Over 200 km – RUB 1000 per 100 km,

But not less than. RUB 6,000

The distance between Smolensk and Troitsk (Republic of Kazakhstan border) is 2405 km. The cost of escort will make RUB 31'005, or USD 1,000 (as of 10/28/2012). In reality, customs escort is not provided by RF Customs. Starting from 2009, the Russian

customs authorities require a ROSTEK guarantee. The cost of surety at carrier's expenses depends on the value of transported goods. In confirmation thereof we annexed the receipts paid by Kazakh carriers in 2010-2011 (three invoices: dated 3/15/ 2011, 2/3/2010, 3/15/ 2011) (Appendix 5). An average price of one surety is USD 1,300.

Kazakhstan customs escort rates have been approved by Government Decree of RK #24 dated 1/21/2011.

EUR 11 for a distance of up to 50 km

EUR 16 for a distance of 50 km to 100 km

EUR 26 for a distance of 100 km to 200 km

EUR 128 for a distance of 200 km to 400 km

EUR 178 for a distance of 400 km to 600 km

EUR 283 for a distance of 600 km to 800 km

EUR 385 for a distance of 800 km to 1,000 km

EUR 523 for a distance of 1,000 km to 1,500 km

EUR 743 for a distance of 1,500 km to 2,000 km

EUR 878 for a distance of 2,000 km to 2,500 km.

The distance between Troitsk and Karagandy is 1,050 km. Therefore, the customs escort on the territory of Kazakhstan will make EUR 523, or USD 682. Thus, the total customs escort cost within the Customs Union territory from Brest to Karagandy (according to effective rates) will make USD 1,355 plus EUR 523, that is in total makes USD 2,040; and with a ROSTEK surety on the territory of RF it will make USD 1,655 plus EUR 523 (total USD 2,340).

B. Route from Korgasa (RK) to Moscow (RF)

Let us consider an example of goods transport from Korgasa (RK on the PRC border) to Moscow with a transit through Kazakhstan under customs escort and third-party surety. The distance between Korgasa and Kayrak (RF border) is 2,275 km, and from Troitsk to Moscow is 2,010 km. In this case, the Troitsk (RF) and Kayrak (RK) border crossings points are situated on one route. Based on the above data, the customs escort will make: - EUR 878 in Kazakhstan and RUB 27,100 (or USD 874) in Russia (total USD 1,777).

At the same time, carrier costs incurred during transport of goods via the same routes (using the TIR system) are significantly lower, and for the both routes (Brest-Karagandy and Korgas-Moscow) make USD 107,42.

Comparative analysis of costs incurred by Kazakh carriers for various methods of security of internal transport of foreign goods within the Customs Union.

| <i>Figures</i> | <i>Eastward (Brest-Karaganda)</i> | <i>Westward (Korgas-Moscow)</i> | <i>Total:</i> |
|---|---------------------------------------|-------------------------------------|---------------|
| 1. Number of journeys in 2011 (according to KazATO) | 750 | 2850 | 3600 |
| 2. Escort costs per one | | | |

| <i>Figures</i> | <i>Eastward (Brest-Karaganda)</i> | <i>Westward (Korgas-Moscow)</i> | <i>Total:</i> |
|---|---------------------------------------|-------------------------------------|---------------|
| journey in USD: | | | |
| 2.1 Belarus | | | |
| 2.2 Russia (surety) | 355 | – | – |
| 2.3 Kazakhstan | 1000 | 874 | – |
| | (1300) | (1300) | |
| | 682 | 1146 | – |
| 2.4 Total: | 2037 | 2020 | – |
| 3. Costs per per 1 journey using the TIR System | | | |
| | 107,42 | 107,42 | – |
| 4. Cost increase in case of escort instead of the TIR system: | | | |
| 4.1. Per 1 journey in USD | | | |
| (§ 2.4 - § 3) | 1929,58 | 1912,58 | 1916,1 |
| 4.2. Total (potential losses) thousand USD | | | |
| (§ 4.1 x § 1) | 1447,2 | 5450,9 | 6898,1 |

We deem it necessary to consider individually a selection of measures of security of customs transit on the routes from Russian seaports to Kazakhstan, including the route St. Petersburg sea port (RF) - Karagandy (RK). Transported goods are bananas from Ecuador.

According to Kazakh wholesale companies “Albana”, LLP (Almaty), “Sava”, LLP (Astana), “Petform”, LLP (Uralsk), the Baltic customs office suggests the following mode of security of customs transit instead of TIR Carnet. Kazakh importers (or road carriers) shall open deposit accounts in the amount of EUR 50’000 to EUR 150’000. In addition, the surety for each journey costs USD 500- USD 800. At the same time, one TIR Carnet costs USD 107.42. Therefore, the suggested measures of security of payment of customs duties significantly impair the conditions compared to the TIR system, and lead to increase of costs of goods transportation and product value.

As a result, the volume of transportations of bananas from Ecuador via Russian sea ports to Kazakhstan has been halved (Appendix 2). A lot of commercial companies (for instance, “Albata”, LLP) have gone bankrupt.

Data given in the analytical table on page 10, and the estimation of banana transportation from the St.Petersburg sea port to Karagandy demonstratively show the advantages of the TIR system compared to other measures of security of customs transit.

In case of application by the customs services of Belarus and Russia of a customs escort as a measure of security for transport operations within the Customs Union (and in Russia – also the surety of third-party) the costs incurred by carriers (importers) will **increase by average USD 1,916 per journey, and in total for routes Brest-Karagandy and Korgas-Moscow up to USD 7 millions per year.**

6. Additional advantages of the TIR system in the risk management

TIR system effectiveness compared to other measures of security of transit has significantly increased after implementation of the IRU Real-time SafeTIR, which provides the customs authorities and national associations with detailed information on a TIR Carnet and its holder, and is one of risk management measures necessary for TIR system security.

The SafeTIR system allows checking the status and validity of each TIR Carnet on in real-time basis at any moment. Information on partial and full termination of a TIR operation (delivery of goods accordingly) is transmitted by customs authorities of each Contracting Party to the TIR Convention to the IRU. Upon data receipt by the IRU the data becomes available in the electronic format for all TIR system members (customs authorities, issuing and guaranteeing associations and transport operators) in real-time.

Within the TIR system frame, this technology provides additional advantages to customs authorities of the Customs Union member states compared to application of the customs transit procedure and security measures of the Customs Union.

Also, preliminary electronic declaration (TIR-EPD) enhances the TIR system effectiveness and its computer security. It allows TIR Carnet holders to send information about TIR transportation, and customs authorities – to apply risk management measures well in advance of arrival of a vehicle at customs office. Using the application via Internet is free of charge for TIR Carnet holders, and allows a carrier to save time, reduce costs and to send the EPD directly, without involving third persons.

If the TIR carriers resorted to services of customs brokers (RUE “Beltamozhservis”, FSUE “Rostek” and JSC “Aktsent-Terminal”) for sending electronic information, it would lead to significant increase of the total cost of transport. Currently, the IRU TIR-EPD is used by 44 Kazakh operators.

According to KazATO 2011 data, 12.600 journeys were made by Kazakh carriers from EU countries to Kazakhstan and back using TIR Carnets. Moreover, the costs incurred in connection with filling in customs declarations on the external borders of the Customs Union amounted to EUR 466,200 (12.600 journeys x EUR 37), where EUR 37 is the cost of customs declaration filled in by customs brokers).

These costs would not be necessary if TIR-EPD had been used for the journeys. The both systems (Safe TIR and TIR-EPD) have proven their efficiency both for customs authorities and transport operators, providing customs authorities of the Customs Union with specific and effective risk management tools, and requiring no financial costs on the part of Customs Union member states compared to implementation and operation of any other system.

7. Conclusions

The research allows making the following conclusions:

1. For the Customs Union, the TIR system is the most effective and practical mean of provision of customs transit. It allows customs authorities, national associations and motor carriers to significantly increase risk management measure effectiveness. In addition, application of the TIR system results in reduced transportation costs.

2. According to Art. 48 and Art. 49 of the TIR Convention, application of this Convention is possible in regard of internal transport of goods within the Customs Union.

3. Based on the above, we deem it necessary to speed up acceptance of the Contracting Parties' Agreement as to particularities of application of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets on the customs territory of the Customs Union subject to the above principles.

**President of the Research and Development
Institute of Transport and Communications (“R&DTC”, LLP),
Doctor of Engineering Science, Academician
of the International Academy for Transport**

M. M. Bekmagambetov
