



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

Distr.: General
25 June 2014

ENGLISH ONLY

Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Fifty–ninth session

Geneva, 30 June–1 July 2014

Agenda item III

Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations

The decision of the Russian Federal Customs Service affecting the functioning of the TIR system

Note by the secretariat

1. Background

1. In order to provide TIRExB with a historic overview of the current situation with regard to the application of the TIR Convention on the territory of the Russian Federation, including the discussions held at the June 2014 sessions of the Working Party on Customs Questions affecting Transport (WP.30) and the TIR Administrative Committee (AC.2), the secretariat has prepared this document for information of the Board.

2. Chronological overview of events

2. On 5 July 2013, FCS announced on its website that, starting 14 August 2013, carriers transporting goods in the territory of the Russian Federation under cover of a TIR Carnet would be required to provide an additional guarantee, in accordance with provisions of the Customs Code of the EurAsEC Customs Union. On 8 August 2013, it was announced that the introduction of the measure was postponed until 14 September 2013. According to the information communicated by FCS, one of the reasons for requiring additional guarantees in connection with TIR operations on the Russian territory was the existence of a TIR related customs debt.

3. Upon its entry into force on 14 September 2013, the requirement to provide an additional guarantee was limited to the Siberian and Far Eastern customs regions. On 24 September 2013, the measure was first extended, to also include the Ural region.

4. Despite a judgement of the Supreme Arbitration Court of the Russian Federation dated 14 October 2013 (case number BAC-11682/2013), which confirmed that the FCS decision of 4 July 2013 was invalid, FCS continued to further extend the measure.

5. Over time, other areas became affected as well, so that, by 3 December 2013, the measure was applicable in the North Caucasian, Central, Southern, Far Eastern, Ural and Volga customs regions, , the customs offices of Pskov, Sebezh, Kingisepp and Kaliningrad

of the North-western customs district, as well as the Domodedovo, Sheremetyevo and Vnukovo airport customs.

6. On 24 February 2014, the Supreme Arbitration Court of the Russian Federation once more issued a judgement declaring the decisions of the FCS introducing TIR restrictions as invalid (case number BAC-17458/2013).

7. As of 21 April 2014, the scope of the measures was further extended to include the Finnish-Russian customs office of Torfyanovka in the customs region of Vyborg.

8. On 26 May 2014, the Supreme Arbitration Court of the Russian Federation rendered a decision, reconfirming that the decisions of FCS introducing TIR restrictions are invalid (case number BAC-4111/2014). In particular, the Court underlined in its judgement that the FCS measures are contrary to the provisions of the Customs Union and Customs Code of the Russian Federation.

3. Considerations by the Working Party and Administrative Committee

9. At the 138th session of the Working Party (10–13 June 2014), various delegations reiterated their positions and concerns expressed in previous meetings of the Working Party and other TIR governing bodies, considering that the main problems at stake remained unchanged and the situation still seemed far from being resolved. They expressed their lack of understanding of how, on the one hand, the Russian Federation continued to declare that it wishes to continue being a Contracting Party to the TIR Convention, whereas, on the other hand, no visible steps seemed to be made to restoring the functioning of the TIR system on its territory. Various delegations further referred to statements made at previous sessions of the TIR governing bodies, expressing the view that the measures taken by FCS were in violation of the TIR Convention. In addition, the European Commission took the view that the measures also conflicted with provisions of the WTO General Agreement on Tariffs and Trade (GATT) agreement. Moreover, the provisions of the Vienna Convention on the Law of Treaties would allow the EU as one of the most affected parties to take the necessary steps.

10. The representative of the Russian Federation underlined that his country had no intention to terminate the TIR Convention. On the contrary, proposals to reinforce the TIR Convention had been drafted with the aim to resume the functioning of the TIR system on the territory of the Russian Federation. In addition, it was expected that by mid June 2014 a second package of amendments to the TIR Convention would be finalized. In his view, a return to the previous situation, which had led to the current problems in the first place, would not solve the issues at stake (see ECE/TRANS/WP.30/138, paras. 26–30).

11. At its fifty-eighth session (12 June 2014), AC.2, inter alia, reiterated the conclusion of its previous session that the measures introduced by FCS violate the application of the TIR Convention on the territory of the Russian Federation (see ECE/TRANS/WP.30/AC.2/117, para. 55). The Russian delegation was not in a position to provide firm assurance that the full and proper implementation of the TIR system could be guaranteed after 1 July 2014. The Committee noted the request by the Ministry of Transport of the Russian Federation seeking extension of the current agreement between FCS and ASMAPP until the tender procedure is concluded and a new guarantor selected, and, furthermore, the Committee expressed its expectation that the functioning and proper implementation of the TIR Convention could be restored as soon as possible at all border crossing points of the Russian Federation. The Committee welcomed the proposal for amendments to the TIR Convention submitted by the Russian Federation and encouraged all Contracting Parties to actively engage in their consideration at the next session of the Working Party in October 2014 (ECE/TRANS/WP.30/AC.2/119, para. 31).

4. Latest activities

12. On 18 June 2014, IRU addressed a letter to Russian President, Vladimir V. Putin, to inform him of the negative consequences following the IRU's obligation to stop the issuance of TIR Carnets to Russian transport operators as of 1 July 2014, 00:00 GMT, if no progress would be achieved to prolong the current TIR guarantee agreement and fully reinstate the TIR procedure on Russian territory. Furthermore, IRU informed President Putin that it would be obliged to invalidate an estimated 70,000 Russian TIR Carnets already in circulation, which would prevent Russian operators from performing transport operations under TIR and which could have a further negative impact on Russian trade.

5. Further considerations by the Board

13. At the session, TIRExB may wish to consider any oral information about the latest state of play.
