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Item 4 (c) (i) of the provisional agenda

Customs Convention on the International Transport

of Goods under Cover of TIR Carnets (TIR Convention, 1975) –

Application of the Convention:

Application of the Convention in the Russian Federation

Application of the Convention in the Russian Federation

Transmitted by the Government of Ukraine*

The secretariat reproduces below a document transmitted by the Government of Ukraine containing a legal assessment based in part on the responses provided by the Federal Customs Service in answer to the questions raised by the TIR Executive Board at its fifty-seventh session.

* This document contains the text transmitted to the secretariat reproduced without any changes.



Chapter I

GENERAL

(a) DEFINITIONS

Article 1

For the purposes of this Convention:

(a) The term “TIR transport” shall mean the transport of goods from a Customs office of departure to a Customs office of destination under the procedure, called the TIR procedure, laid down in this Convention;

The functioning of the TIR Convention is ensured throughout the territory of the Russian Federation, as any competent customs authority of the Russian Federation can act as a customs office of departure and a customs office of destination of goods transported under cover of TIR Carnets.

The provisions of the TIR Convention do not make the presence of guaranteeing associations on their territory a mandatory obligation for the Contracting Parties.

Chapter I

GENERAL

(b) SCOPE

Article 3

For the provisions of this Convention to become applicable:

(b) The transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6 and must be performed undercover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention.

... we consider it important to point out that, in accordance with article 6, paragraph 1, of the TIR Convention, each Contracting Party may authorize associations to issue TIR Carnets ... and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, of the TIR Convention, are complied with.

If the minimum conditions and requirements contained in Annex 9, Part I, are not met, this authorization shall be revoked.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

The provisions of the TIR Convention do not make the presence of guaranteeing associations on their territory a mandatory obligation for the Contracting Parties.

In accordance with the provisions of Article 26 of the TIR Convention and the comments thereto, TIR transport shall be suspended in a Contracting Party where no approved guaranteeing associations exist.

Chapter II

ISSUE OF TIR CARNETS

LIABILITY OF GUARANTEEING ASSOCIATIONS

Article 6

1. Each Contracting Party may authorize associations to issue TIR Carnets, ... to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, are complied with. The authorization shall be revoked if the minimum conditions and requirements contained in Annex 9, Part I are no longer fulfilled.

... we consider it important to point out that, in accordance with Article 6, paragraph 1, of the TIR Convention, each Contracting Party may authorize associations to issue TIR Carnets ... and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I of the TIR Convention, are complied with.

If the minimum conditions and requirements contained in Annex 9, Part I, are not met, this authorization shall be revoked.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

The agreement of 7 June 2004 concluded between the State Customs Committee of Russia (Federal Customs Service of Russia) and ASMAP on obligations related to the application of the Customs Convention on the International Transport of Goods under the Cover of TIR Carnet, 1975 (the TIR Convention) does not comply with the provisions of the customs legislation of the Customs Union or of the legislation of the Russian Federation on customs matters.

2. An association shall not be approved in any country unless its guarantee also covers the liabilities incurred in that country in connection with operations under cover of TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

... we consider it important to point out that, in accordance with Article 6, paragraph 1, of the TIR Convention, each Contracting Party may authorize associations to issue TIR Carnets ... and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, of the TIR Convention, are complied with.

If the minimum conditions and requirements contained in Annex 9, Part I, are not met, this authorization shall be revoked.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

Points from the official letter from the Federal Customs Service of the Russian Federation to the Director of the Transport Division, United Nations Economic Commission for Europe, No. 01-18/21411 of 12 May 2014

Selected provisions of the TIR Convention

Annex 9

ACCESS TO THE TIR PROCEDURE

Part I

AUTHORIZATION FOR ASSOCIATIONS TO ISSUE
TIR CARNETS AND TO ACT AS A GUARANTOR

Conditions and requirements

1. The conditions and requirements to be complied with by associations in order to be authorized by Contracting Parties to issue TIR Carnets and act as guarantor in accordance with Article 6 of the Convention are:

(d) Establishment of a written agreement or any other legal instrument between the association and the competent authorities of the Contracting Party in which it is established, including the acceptance by the association of its duties as set out in paragraph 3.

... we consider it important to point out that, in accordance with Article 6, paragraph 1, of the TIR Convention, each Contracting Party may authorize associations to issue TIR Carnets ... and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, of the TIR Convention, are complied with.

If the minimum conditions and requirements contained in Annex 9, Part I, are not met, this authorization shall be revoked.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

The agreement of 7 June 2004 concluded between the State Customs Committee of Russia (Federal Customs Service of Russia) and ASMAP on obligations related to the application of the Customs Convention on the International Transport of Goods under the Cover of TIR Carnet, 1975 (the TIR Convention) does not comply with the provisions of the customs legislation of the Customs Union or of the legislation of the Russian Federation on customs matters.

3. The duties of the association are to:

(iv) provide its guarantees for all liabilities incurred in the country in which it is established in connection with operations under cover of TIR Carnets issued by ... foreign associations affiliated to the same international organization as that to which it is itself affiliated;

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

... we consider it important to point out that, in accordance with Article 6, paragraph 1, of the TIR Convention, each Contracting Party may authorize associations to issue TIR Carnets, ... and to act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, of the TIR Convention, are complied with.

If the minimum conditions and requirements contained in Annex 9, Part I, are not met, this authorization shall be revoked.

Selected provisions of the TIR Convention

Points from the official letter from the Federal Customs Service of the Russian Federation to the Director of the Transport Division, United Nations Economic Commission for Europe, No. 01-18/21411 of 12 May 2014

5. The Contracting Party in which the association is established shall revoke the authorization to issue TIR Carnets and to act as guarantor in case of noncompliance with these conditions and requirements.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

The agreement of 7 June 2004 concluded between the State Customs Committee of Russia (Federal Customs Service of Russia) and ASMAP on obligations related to the use of the customs Convention on the International Transport of Goods under the Cover of TIR Carnet, 1975 (the TIR Convention) does not comply with the provisions of the customs legislation of the Customs Union or of the legislation of the Russian Federation on customs matters.

Chapter II

ISSUE OF TIR CARNETS

LIABILITY OF GUARANTEEING ASSOCIATIONS

Comments to Article 26

Suspension of a TIR transport in a Contracting Party where no approved guaranteeing association exists

Article 26 also applies to Contracting Parties where no approved guaranteeing associations exist and where, thus, the provisions of the Convention are not applicable, in accordance with Article 3, paragraph (b).

The provisions of the TIR Convention do not make the presence of guaranteeing associations on their territory a mandatory obligation for the Contracting Parties.

The Federal Customs Service seeks to ensure the functioning of an authorized national guaranteeing association in accordance with the provisions of Article 6 of the TIR Convention.

In accordance with the provisions of Article 26 of the TIR Convention and the comments thereto, TIR transport shall be suspended in a Contracting Party where no approved guaranteeing associations exist.

The Federal Customs Service of Russia, together with the relevant federal executive authorities, is taking steps to identify a national guaranteeing association before 1 July 2014.

Chapter II

ISSUE OF TIR CARNETS

LIABILITY OF GUARANTEEING ASSOCIATIONS

Article 6

2 bis. An international organization shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system.

... we believe that ASMAP does not adequately provide for coverage of its liabilities in respect of the TIR operations carried out on the territory of the Russian Federation.

The agreement of 7 June 2004 concluded between the State Customs Committee of Russia (Federal Customs Service of Russia) and ASMAP on obligations related to the use of the Customs Convention on the International

Transport of Goods under the Cover of TIR Carnet, 1975 (the TIR Convention) does not comply with the provisions of the customs legislation of the Customs Union and with the provision of the legislation of the Russian Federation on customs matters.

The functioning of the TIR Convention is ensured throughout the territory of the Russian Federation, as any competent customs authority of the Russian Federation can act as a customs office of departure and a customs office of destination of goods transported under cover of TIR Carnets.

The provisions of the TIR Convention do not make the presence of guaranteeing associations on their territory a mandatory obligation for the Contracting Parties.

The Federal Customs Service seeks to ensure the functioning of an authorized national guaranteeing association in accordance with the provisions of Article 6 of the TIR Convention.

In accordance with the provisions of Article 26 of the TIR Convention and the comments thereto, TIR transport shall be suspended in a Contracting Party where no approved guaranteeing associations exist.

The Federal Customs Service of Russia, together with the relevant federal executive authorities, is taking steps to identify a national guaranteeing association before 1 July 2014.

In accordance with the provisions of Article 26 of the TIR Convention and the comments thereto, TIR transport shall be suspended in a Contracting Party where no approved guaranteeing associations exist.

Chapter II

ISSUE OF TIR CARNETS

LIABILITY OF GUARANTEEING ASSOCIATIONS

Article 6

2 bis. An international organization shall be authorized by the Administrative Committee to take on responsibility for the effective organization and functioning of an international guarantee system.

Explanatory notes to Article 6, paragraph 2 bis

0.6.2 bis-1 The relationship between an international organization and its member associations shall be defined in written agreements on the functioning of the international guarantee system.
