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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

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#### **Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975):**

##### **Application of the Convention:**

##### **Settlement of claims for payments**

### **Situation of claims for payment of customs duties\***

**Transmitted by the Government of Uzbekistan**

### **Introduction**

In the annex to the present document, the secretariat reproduces a letter and a document from the Government of Uzbekistan.

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\* The present document contains the text submitted to the secretariat, reproduced without any changes.



## Annex

### I. Letter to the TIR secretariat from the Acting First Deputy Chairman of the State Customs Committee of Uzbekistan, Mr. I. Mukhtorov

In accordance with paragraph 26 of the Report of the Working Party on Customs Questions affecting Transport (document ECE/TRANS/WP.30/312 of February 2021), the State Customs Committee of Uzbekistan is hereby sending an informal document on the status of 28 requests for the payment of customs duties on certain transports from the People's Republic of China to Uzbekistan, through the territory of Kazakhstan.

In this connection, we hereby request the following assistance:

- Submission for discussion, by the TIR Executive Board, of the question of satisfying the requests of the State Customs Committee<sup>1</sup> for the payment of amounts due for customs duties by an international organization;
- Submission for discussion, by the Working Party on Customs Questions affecting Transport (WG.30), of the text proposed by Uzbekistan for the amendment of annex 10 of the TIR Convention, as contained in the enclosed informal document.

Annex: 3 pages.

### II. Annex to the letter on the situation of claims for payment of customs duties

In November–December 2019, the customs authorities of Uzbekistan, on the basis of article 11 of the TIR Convention, sent notifications to TIR Carnet holders and to the national guaranteeing association that TIR operation termination certificates had been obtained in an improper or fraudulent manner in respect of 28 TIR operations in Uzbekistan.

Subsequently, three months after the notifications were sent, the State Customs Committee sent requests for payment of the customs duties due, as no evidence had been provided that the TIR operations in question had been properly completed in Uzbekistan.

Specifically, between September 2017 and February 2018, 28 trucks carrying consumer goods crossed the border at the Syrdarya border crossing in Uzbekistan (across from the Atamaken border crossing in Kazakhstan), with the use of the following TIR Carnets: XZ80796214, XT80796442, XX80797093, UX80797161, XX79774053, XW80797570, XN80812402, MX79774127, XH80797450, RX79774212, XF79774211, XK80812792, XT79774161, XC79774532, XT80812818, YX80812052, XQ80810931, XN80810930, XT79774046, VX80811246, XT80811369, XZ79775083, MX79775001, PX80811773, YX80813179, VX80813178, XT79786098, and XQ79786097.

Based on the results of an inquiry conducted jointly with the Customs Service of Kazakhstan, and also on the original TIR Carnets received from the International Road Transport Union, it was ascertained that the goods in question were transported from the People's Republic of China to Uzbekistan through the territory of Kazakhstan.

The TIR Carnets were registered at the Bakhty departure customs post in Kazakhstan and transited together with cargo in vehicles through Kazakhstan to the Atamaken destination customs post (adjacent to the Syrdarya border customs post of Uzbekistan), as evidenced by the entries of the customs authorities of Kazakhstan on the relevant sheets of the TIR Carnets and in other shipping documents.

When the vehicles entered Uzbekistan, the officials at the Syrdarya border customs post in most cases (except for TIR Carnets XC79774532, RX79774212, XF79774211, XK80812792, XT79774161, XT80812818 and YX80812052) stamped the TIR Carnets with

<sup>1</sup> (State Customs Committee, SCC)

authentic stamps and seals, but false information about missing goods on the vehicles was entered into the SCC database.

In other cases of entry, and in all the cases of completion of TIR operations in Uzbekistan, customs clearance was carried out with customs seals that did not correspond with the original seals and stamps of the customs authorities.

In these cases, the relevant technical and criminal expert reports were ordered. These proved that the seals and stamps affixed when completing the above TIR operations did not correspond with the seals and stamps of the customs authorities of Uzbekistan, i.e., those that are in accordance with the TIR Convention. The TIR operation termination certificates were thus falsified or obtained in an improper or fraudulent manner.

These cases are covered by article 10 (2) of the TIR Convention, and also by explanatory notes 0.10-1 and 0.10-2, which set out the exceptional cases in which TIR termination certificates are obtained in an improper or fraudulent manner or where no termination has taken place for the TIR operation.

For information: The certificate of termination of the TIR operation is regarded as having been obtained in an improper or fraudulent manner when the TIR operation has been carried out by means of load compartments or containers adapted for fraudulent purposes, or when such malpractices as the use of false or inaccurate documents, the substitution of goods, tampering with customs seals, etc., have been discovered, or when the certificate has been obtained by other illicit means.

The phrase “or no termination has taken place” includes those situations where the certificate of termination has been falsified.

It should be noted that criminal cases were initiated in relation to these acts, and that the above-mentioned technical and criminal expert opinions were subsequently included in those cases.

In addition, at the moment of transport under TIR Carnet No. MX79774127, the holder of this TIR Carnet had been permanently deprived of right to use TIR Carnets in Uzbekistan since August 2016 (SCC decision No. 02-05/12-04450 of 26 July 2016), in accordance with article 38 of the TIR Convention.

Despite this, no action was taken by the national guaranteeing association of the holder’s country, or by the international organization, to clarify this situation and notify the customs authorities of Uzbekistan after the TIR Carnet was handed over.

Also, during the entire time since the sending of the notifications and requests, no evidence of proper completion of TIR operations was received from the carriers (for example, originals or legible copies of CMR consignment notes with the marks of the consignees and/or customs authorities, or copies of customs documents confirming payment of import duties and charges at the customs offices of destination, etc.).

At the same time, the international organization sent letters to the customs authorities of Uzbekistan exclusively aimed at commenting on the procedure for submission of claims to the guaranteeing association and the timing of such submissions and requesting the return of the claims sent by the SCC.

Also, for the entire time from the date of the notification and the request, the national guaranteeing association of Uzbekistan and the international association have provided no evidence of the proper completion of these TIR operations.

In response to this situation, the following measures have been taken by Uzbekistan:

- In accordance with article 38 of the TIR Convention, all the holders of the TIR Carnets listed above have been deprived of the right to use TIR Carnets in Uzbekistan;
- The officials of the Syrdarya customs post of Uzbekistan who performed the customs clearance for these TIR operations have incurred criminal penalties, including fines;
- Damages amounting to 454,663,563 sum have been reimbursed by one consignee.

To date, the total amount of losses in the form of non-payment of customs duties under these TIR Carnets is 29,247,496,087.7 sum (at the exchange rate of the Central Bank of Uzbekistan for 25 March 2021, where 1 US dollar = 10,490 sum, equivalent to US\$ 2,788,131.18).

It should be noted that, in line with annex 10 of the TIR Convention, a TIR Carnet control system has been set up to store data transmitted by the customs authorities and made accessible to associations and customs administrations on the termination of TIR operations at the customs office of destination (SafeTIR).

However, in case there are discrepancies between the information received from the customs authorities and that in the original TIR Carnet, or if information is missing, annex 10 does not specify the actions to be taken by the national association or international organization.

There is also no framework defining liability for a failure by an international organization or a national guaranteeing association to notify such discrepancies to the contracting parties.

In order to avoid such cases in other contracting parties to the TIR Convention, it is thus proposed to add the following text to annex 10 of the TIR Convention:

“(5) Where a discrepancy is found by an international organization in the reconciliation of the information received from the Customs authorities and the information in the original TIR Carnets, the international organization shall notify the Customs authorities of the discrepancy as soon as possible.

Such notification can be carried out by improving existing software and introducing a follow-up function into the software.”

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