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PUBLIC NOTICE NO. 153/2018

Subject: Procedure for movement of goods under TIR Carnets-reg.

Attention of the Importers, Exporters, General Trade and all other stakeholders is invited to Central Board of Indirect Taxes & Customs Circular No. 48/2018-Customs dated 03.12.2018 on the above mentioned subject.

2. The Customs Convention on International Transport of Goods under Cover of TIR Carnets, 1975 (TIR Convention or the Convention) (<https://www.unece.org/tir/welcome.html>) is an international transit system under the auspices of the United Nations Economic Commission for Europe (UNECE). The Convention applies to the transport of goods without intermediate reloading, in road vehicles, combinations of vehicles or in containers, across one or more borders, between a Customs office of departure of one Contracting Party and a Customs office of destination of another or of the same Contracting Party, provided that some portion of the journey between the beginning and the end of the TIR transport is made by road.

3. The movement of goods under the Convention is under the cover of a carnet issued by the National Guaranteeing Association (NGA). The TIR Carnet opened in the country of departure serves as a Customs control document in the countries of departure, transit and destination. It also serves as proof of the existence of an international guarantee for the goods transported under the Carnet. The Federation of Indian Chambers of Commerce and Industry (FICCI) has been appointed by CBIC as the NGA for issuance of Carnets under the Convention in India. The NGAs in each Contracting Party to the Convention constitute a guarantee chain linking all TIR countries with the International Road Transport Union (IRU), a non-governmental organization in Geneva, Switzerland, at the apex of the guarantee chain. The presentation of a valid TIR Carnet bearing the names, stamps and signatures from IRU and those of the issuing association and duly filled-in by the transport operator is the proof of the existence and validity of the guarantee.

4. The National Guaranteeing association shall fix the period of validity of the TIR Carnet by specifying a final date of validity after which the Carnet may not be presented

for acceptance at the Customs office of departure. However, if the carnet has been accepted by the Customs office of departure on or before the final date of validity, the Carnet shall remain valid until the termination of the TIR operation at the Customs office of destination.

5. The TIR carnet is available in 4,6,14 and 20 vouchers and each TIR operation (between two customs station) requires the use of one pair of vouchers (1 white, 1 green). Step by step guidance on how to fill the TIR carnet is available at the IRU website (www.iru.org). The TIR carnet serves as a guarantee for the customs duties and taxes in transit and as the Customs transit declaration. Thus, where India is the country of departure or the country of destination, a shipping bill or bill of entry, as the case may be, is also required to be filed for import or export of consignments under the cover of a TIR carnet.

PROCEDURE

6. The procedure at the Customs office of Departure is as follows:

(i) At the Customs office of departure, the Customs authorities shall check the cargo on the basis of information contained in the TIR Carnet completed by the transport operator. The Customs authorities shall then seal the load compartment, report it in the TIR Carnet, keep one sheet (white voucher) and fill-in the corresponding counterfoil. The TIR Carnet will then be handed back to the transport operator.

(ii) When crossing the outgoing border of the country, Customs authorities shall check the seals, detach a second sheet (green voucher) from the TIR Carnet and fill-in the corresponding counterfoil.

(iii) The filled-in counterfoils by Customs provide evidence to the transport operator that the TIR operation in that country has been terminated.

(iv) The outgoing Customs office (i.e. that at the border) shall send the detached sheet (green voucher) to the office of departure within 7 days of the departure of the goods. The latter shall compare the received sheet with the one it initially retained. If there are no objections and no reservations by the outgoing office, the TIR operation may be discharged by Customs authorities in that country.

(v) If the sheet, detached by the outgoing office, contains reservations or if it does not reach the Customs office of departure or if Customs authorities have any other reason to question the proper application of the TIR operation, an internal

inquiry will be started. The transport operator and the NGA shall be informed that the termination of the TIR operation has been certified with reservations or has not taken place at all or that other reasons have led to doubts about the proper application of the TIR operation and that they are requested to provide explanations. If a satisfactory reply is not received, the Customs authorities shall apply the provisions of the TIR Convention and national legislation to determine the taxes and duties due to Customs.

(vi) If after sufficient effort, the Customs authorities are unable to collect the duties payable from the carnet holder, the Customs authorities shall claim the amount so payable from the NGA within the timelines stipulated in the Convention.

7. The procedure at the Customs office of Transit and country of destination:

(i) The incoming Customs office of transit checks the seals and withdraws one sheet from the TIR Carnet, and the outgoing office proceeds likewise. Both sheets are compared for a final control and the TIR operation can be discharged or, in the case of irregularities, submitted to the procedure outlined above.

(ii) In the country of destination, if the incoming border office also is the office of destination, it fills-in the TIR Carnet, retains two sheets and becomes responsible for the goods to be transferred to another Customs procedure (warehousing, import clearance, etc.) in that country. If the cargo has to be carried to another Customs office in the same country, the incoming office acts like an incoming border office, and the next office inside the country becomes that of final destination.

CLAIMS

8. FICCI shall comply with the obligations laid down for NGAs in the TIR Convention and provide guarantee for all liabilities incurred in India, in connection with operations under cover of TIR carnets issued by itself and by foreign associations affiliated to IRU. It shall be liable to pay up to the maximum of the guaranteed amount of the import or export duties and taxes, together with applicable interest, if an irregularity has been noted in connection with a TIR operation resulting in a defined sum payable to customs. However, before making a claim against the NGA, the competent customs authorities shall, so far as possible, require payment from the person or persons directly liable.

9. For India, the maximum amount that may be claimed by the competent customs authorities of India from the Association shall be limited to a sum equal to USD 50,000/- (Fifty-thousand US dollars) per TIR carnet. At present, the liability of the NGA does not

cover transport of alcohol and tobacco, details of which are given in Explanatory Note 0.8.3 of the TIR Convention, irrespective of the transported quantity of the mentioned goods. Thus no TIR Carnet can be issued/ accepted for movement of alcohol and tobacco in India.

10. The value of the above amounts in national currency shall be determined according to the exchange rate notified by the Central Board of Indirect Taxes and Customs and applicable on the day of issuance of the claim for payment.

11. Where a TIR operation has not been discharged, the competent customs authorities shall:

(a) Notify the TIR Carnet holder at his address indicated in the TIR Carnet of the non-discharge;

(b) Notify the guaranteeing association of the non-discharge. The competent authorities shall notify the guaranteeing association with a maximum period of one year from the date of acceptance of the TIR Carnet by those authorities or two years when the certificate of termination of the TIR operation was falsified or obtained in an improper or fraudulent manner.

(c) The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it.

AUTHORIZED CUSTOMS STATIONS

12. TIR is being introduced in a phased manner in India. The Customs Stations in India authorized for use of TIR shall be,—

Ports (i)	Inland Container Depots (ICDs) (ii)
1. Nhava Sheva, 2. Mundra, 3. Kolkata, 4. Chennai, 5. Cochin,	1. Tughlakabad 2. Patparganj 3. Dadri 4. Ahmedabad 5. Hyderabad

6. Visakhapatnam,	6. Pune
7. Krishnapatnam	7. Durgapur

13. TIR convention is expected to help in boosting trade with Central Asian /Commonwealth of Independent States (CIS) countries. Most of the Central Asian Republics/CIS Countries/Iran are signatories to the TIR convention. The TIR Convention can also be deployed for facilitating the movement of goods along the International "North-South" Transport Corridor (INSTC).

14. The trade with the above regions/countries would entail movement of cargo in containers, with India being either the country of export or the country of import. The cargo would transit through one more countries during its journey from/to India. The beneficial impact of TIR operations in relation to facilitating transit can be leveraged by Indian exporters and importers.

15. For the above purpose, authorization has to be accorded to –

- i. operators who can apply, obtain and use the TIR for movement of cargo;
- ii. Containers that would be deployed in TIR operations, conforming to the standards laid down in the convention.

AUTHORIZATION OF OPERATORS

16. The criteria laid down for authorization of Operators in the Convention include sound financial standing, absence of serious or repeat offences against Customs or tax legislation and the deposit of a written declaration with the National guaranteeing Association issuing TIR Carnets specifying the responsibilities of the transport operator.

17. In this regard, several operators have been accorded with the status of Authorized Economic Operator (AEO) in India. The grant of AEO status is based on criteria specified in Circular 33/2016 customs dated 22nd July, 2016 that include record of legal compliance; managing commercial and transport records; financial solvency; safety and security protocols etc.

18. In view of the above, it has been decided to leverage the certification of operators based on the above rigorous criteria and authorize the operators with valid AEO-LO status for the purpose of operations under TIR.

19. Such entities having the status of AEO – LO shall inform CBIC and FICCI (NGA) of their intention to use TIR and deposit a written declaration with FICCI in form Annex-A. Thereafter, they shall be entitled to apply for TIR document.

USAGE OF SEALS

20. The customs officer at the port of departure shall affix the one-time customs seal and make necessary endorsements in the TIR carnet and affix the official stamp of the Custom House.

21. In cases where an examination is conducted by customs in the course of a journey and it is required to break seals and/or remove identifying marks, they shall affix and record the new seals and/or identifying marks on the vouchers of the TIR Carnet used in their country, on the corresponding counterfoils and on the vouchers remaining in the TIR Carnet.

22. Heavy or bulky goods, if the authorities at the Customs office of departure so decide, be carried by means of non-sealed containers.

Approval of containers

23. At present, Notification 104/94-Customs dated 16th March 1994 exempts containers which are of durable nature, imported into India from duties of customs, if the importer executes a bond to re-export the said containers within the prescribed period from the date of their importation and to furnish documentary evidence thereof. The above notification would continue to govern the customs duty exemption for temporary import of containers into India, including those moving under TIR.

24. Annex 7 of the Convention lays down the basic principles for coverage of containers under TIR. The containers shall be constructed and equipped in such a manner that:

- a) no goods can be removed from, or introduced into, the sealed part of the container without leaving visible traces of tampering or without breaking the Customs seal;
- b) Customs seals can be simply and effectively affixed to them;
- c) They contain no concealed spaces where goods may be hidden;
- d) All spaces capable of holding goods are readily accessible for Customs inspection.

25. Containers approved for the transport of goods under Customs seal in accordance with the Customs Convention on Containers, or any international instrument shall be considered as complying with the provisions of paragraph above and must be accepted for transport under the TIR procedure without further approval.

26. If, however there are reasons to doubt the integrity of the construction of the container, the container shall cease to be covered under the TIR and shall be eligible again for use for the transport of goods under Customs seal, on submission of satisfactory proof to the customs authorities that the container complies with the necessary standards.

27. All references to the Board in relation to TIR Carnets may be sent to:

Director (International Customs Division)
Central Board of Indirect Taxes and Customs,
Department of Revenue, Ministry of Finance,
Room No. 49, North Block, New Delhi -110001.
011- 2309 3380; 011-2309 3760 (fax.)
Email: diricd-cbec@nic.in

Annexure-A

Declaration/Undertaking (To be filed with CBIC and FICCI)

We, M/s _____, with Authorised Economic Operator-LO Certificate number _____ declare that we propose to use the TIR Convention (herein after referred to as the Convention) for movement of goods under the cover of TIR carnets issued by FICCI and undertake that, we,-

- (1) Will comply with all Customs formalities required under the Convention at the Customs offices of departure, en route and of destination;
- (2) Comply with all the provisions of the Customs Act, 1962, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Goods and Services Tax (Compensation to States) Act, 2017 and the rules and regulations made thereunder in respect of such goods;
- (3) Pay in the event of our failure to discharge our obligation, the full amount of duty chargeable on account of such goods together with their interest, fine and penalties payable under the Customs Act, 1962 in respect of such goods;
- (4) pay all penalties and fines incurred for contravention of the provisions of the Customs Act, 1962, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Goods and Services Tax (Compensation to States) Act, 2017 and the rules or regulations made thereunder, in respect of such goods;
- (5) Shall inform FICCI of the suspension/revocation of AEO-LO status immediately.

(Signature(s) of the operator/authorised signatory)

(Name)

Contact Telephone No.

Email:

Date:

Place:

28. In case of any difficulty, the specific issue may be brought to the notice of Deputy/Assistant Commissioner in charge of DC/AC Appraising main (Import), NS-I (email address:appraisingmain.jnch@gov.in) .

29. Action to be taken in terms of decisions taken in this Public Notice should be considered as standing order for the purpose of officers and staff.

(SUBHASH AGRAWAL)
COMMISSIONER OF CUSTOMS (NS-III).

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH.
2. The Commissioner of Customs, NS-G/ NS-I/ NS-II / NS-IV / NS-V, JNCH.
3. All Additional / Joint Commissioners of Customs, JNCH.
4. All Deputy / Assistant Commissioner of Customs, JNCH.
5. All Sections / Groups of NS-G, NS-I, NS-II / NS-III/ NS-IV / NS-V, JNCH.
6. Representative of BCBA / FIEO for information and circulation among their members for information.
7. Other associations: CFSAI / CSLA / MANSA
8. All Port Terminals (JNPCT, GTI, NSICT / NSIGT, BMCT)
9. AC/DC, EDI for uploading on JNCH website immediately