



**AGENZIA DELLE DOGANE
E DEI MONOPOLI**

**Comunicato relativo alle misure adottate nell'ambito del regime TIR
dall'Amministrazione doganale russa a partire dal 1° Dicembre 2013.**

L' Amministrazione doganale russa (FCS) ha reso noto il 2 Dicembre u.s. che il regime TIR continua ad essere applicato in Russia.

Tale annuncio, rettifica una precedente dichiarazione della FCS secondo la quale la procedura doganale del TIR non sarebbe più stata applicabile nell'ambito della Federazione russa a partire dal 1° dicembre, a causa della risoluzione dell'accordo istituito tra la FCS e l'associazione garante russa ASMAP.

Adesso, alla luce del comunicato rilasciato il 2 dicembre u.s., la risoluzione del predetto accordo è stata rinviata al 1° luglio 2014.

L'Amministrazione doganale russa ha dichiarato di continuare ad accettare i carnet TIR nei distretti doganali di Vyborg, Carella e Murmansk come procedura doganale di transito. In altri distretti doganali, il carnet TIR continua ad essere accettato come procedura di transito, ma una garanzia addizionale, non prevista dalla Convenzione TIR, è ancora richiesta.

La Commissione europea, nella "newsletter" pubblicata il 3 dicembre 2013 nel sito web della DG TAXUD, ha reiterato il proprio impegno affinché la FCS accetti che il regime TIR sia applicato dagli operatori così come previsto dalla Convenzione TIR e che si giunga ad una soluzione chiara e definitiva della questione prima della data del 1° luglio 2014.

Inoltre, la Commissione europea ha recentemente pubblicato talune informazioni (allegate) in ordine alle procedure nazionali russe di transito che, alternativamente, possono essere utilizzate per il transito nella Federazione Russa.

Roma, 05 dicembre 2013

ANNEX 1

Information obtained from the FCS of Russia²

The procedure for implementing customs operations by customs officials during the transportation of goods through the customs territory of the Customs Union (CU) must be viewed in the context of each specific case, since it depends directly on a number of factors, including the characteristics of goods, their cost, terms of delivery, etc.

*That is why, in order for the persons concerned to obtain advice in accordance with the Administrative Regulation of the Federal Customs Service on the provision of a public service in reporting on acts of customs legislation by the Customs Union, the customs legislation of the Russian Federation and other legal acts of the Russian Federation in the field of customs and on consultation concerning customs and other issues within the competence of the customs authorities, approved by Order No 1128 of FCS Russia of 9 June 2012, it is necessary for them to **contact the competent customs authorities in those regions** where customs operations involving goods are planned.*

The references to relevant legal texts are in **Appendix 1**.

1. Management of TIR operations in the Russian Federation as from 1.12.2013

*If the goods are imported across the Russian section of the customs border of the Customs Union and are transported in accordance with the customs transit procedure to customs authorities of destination located in the territory of the CU member states, **the TIR procedure will be terminated at the place of arrival of goods into the customs territory of the Customs Union.***

*If the goods are imported across the Russian section of the customs border of the Customs Union and are transported in accordance with the customs procedure through the territory of the Customs Union for further export, then at the time the goods are present in the customs territory of the Customs Union **the TIR procedure will be suspended.***

2. Customs transit procedure in the Russian Federation

Transit procedure for the entry and transit of goods in Russia

In accordance with the provisions of Article 215 of the Customs Code of the Customs Union (CC CU), the transportation of foreign goods through the customs territory of the Customs Union is carried out using the customs transit procedure.

One of the conditions for placing goods under the customs transit procedure in accordance with Article 216(5) of the CC CU is the adoption of measures to ensure the observation of the procedure, including the provision of security for the payment of customs duties and taxes.

² Disclaimer: This note is solely based on information provided by FCS and has not been verified. The European Commission cannot therefore guarantee its accuracy and completeness.

Declarant for the customs transit procedure

Article 186 of the CC CU lays down that **the following entities may be declarants for the customs transit procedure:**

1. *a person from a CU member state:*
 - *who has concluded a foreign business transaction on his own behalf or on whose behalf the transaction has been concluded;*
 - *who has the right to own, use and/or dispose of goods (in the absence of a foreign business transaction);*
2. *foreign persons:*
 - *a natural person transporting goods for personal use;*
 - *a person enjoying customs privileges in accordance with Chapter 45 of the CC CU;*
 - *a person who has the right to dispose of goods not forming part of a transaction, one of the parties to which is a person from a CU member state;*
3. *a carrier, including a customs carrier;*
4. *a shipping agent, if he is a person from a CU member state.*

Transit declaration and documents needed

Transportation and commercial documents are accepted as a transit declaration. The basis of the transit declaration is the transportation document, while other documents constitute integral parts thereof.

The completed pages of a transit declaration printed out by an official at the customs authority of dispatch using the 'transit operations' software may be used as a transit declaration.

The transit declaration shall contain the following information:

1. *Details of the consignor and of the consignee of the goods in accordance with the transport documents (freight);*
2. *Details of the country of dispatch/export and the country of destination;*
3. *Particulars of the declarant;*
4. *Identification of the carrier/carriers;*
5. *Details on the means of transport for the international transport of the product concerned;*
6. *Name, quantities and costs of the goods in accordance with the trade, transport and transport documents;*

7. Commodity code in accordance with the Harmonised Commodity Description and Coding System of export or the goods nomenclature code (at least 6 digits);
8. Gross weight or size and quantity of the goods in additional units (if data available for each code/or export number of the nomenclature of the Harmonised Commodity Description and Coding System;
9. Quantity of cargo;
10. Destination of the goods according to transport (transport documents, freight orders);
11. Documents of compliance with the restrictions on the movement of goods across Community borders, where such movement is permitted in the presence of these documents;
12. Information concerning the planned means of the transshipment or reloading on the route.

3. Guarantees

Requirement for a guarantee on goods in transit and place where the guarantee shall be provided

In accordance with Article 85(5) of the CC CU, when transporting goods under the customs transit procedure, security for the payment of customs duties and taxes may be entrusted to the customs authority of dispatch or the customs authority of destination except where another customs authority to which the security may be presented is laid down by the legislation of a member state of the Customs Union.

*At the **customs authority of dispatch** located at the place of arrival of goods in the customs territory of the Customs Union, when the goods are placed under the customs transit procedure it is necessary to provide a document confirming the acceptance of security for the payment of customs duties and taxes.*

*In accordance with Article 3 of the Agreement of 21 May 2010 between the Governments of the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan concerning certain issues relating to the provision of security for the payment of customs duties and taxes for goods transported in accordance with the customs transit procedure, specific features of the collection of customs duties and taxes and the procedure for the transfer of recovered amounts for such goods, the **certificate of security** for the payment of customs duties and taxes ('the certificate')* is a document confirming the acceptance of security for the payment of customs duties and taxes when transporting goods in accordance with the customs transit procedure.

At present, in accordance with Instruction No. 262-r from FCS Russia of 9 August 2013 concerning the experiment of using the information concerning certificates of security for the payment of customs duties and taxes contained in the software of the Single Automated Information System for Customs Authorities when placing goods under the customs transit procedure, it is not necessary to present the second and third copies of the certificate when transporting goods in accordance with the customs transit procedure by automotive transport to the customs authorities of dispatch and of destination indicated in this Instruction. The information concerning the certificates is in electronic format.

Guarantee companies³

The guarantee may be obtained from the organization with which the FCS has a surety contract. At present, such contracts are concluded with the insurance companies Arsenal, Adal, Rostek, Customs card and Multiservice payment system.

Additional information on guarantees, as extracted from the instruction published on FCS website on 29.07.2013⁴, can be found in the Appendix 2.

Type of guarantees

According to the customs legislation of the Customs Union, the following methods are used for the payment of customs duties and taxes: cash, bank guarantee, surety and pledge of property.

The procedure for the deposit and return of cash (money) as security for payment of customs duties and taxes is defined by Articles 145 and 149 of Federal Law No 311-FZ of 27 November 2010 on customs regulation in the Russian Federation ('the Federal Law').

Bank guarantees are used in accordance with the provisions of Article 141 of the Federal Law.

The provision of a pledge of property or surety as security for payment of customs duties and taxes is in accordance with Articles 140 and 146 of the Federal Law.

If one and the same person in the territory of one of the CU member states carries out several customs operations within a certain time, the customs authority of that CU member state may be given a general security for payment of customs duties and taxes. The procedure for the application of a general security is defined by Article 87 of the CC CU and Articles 138 and 139 of the Federal Law.

Determination of the amount of the guarantee

*The total amount of security for the payment of customs duties and taxes when placing goods under the customs transit procedure in accordance with Article 88 of the CC CU is determined **on the basis of the amount of customs duties and taxes payable when placing goods under the customs procedures for release for internal consumption or export**, not including tariff preferences and privileges for the payment of customs duties and taxes in the CU member state whose customs authority releases the goods, but not less than the amounts of customs duties and taxes which would be due in other CU member states if such goods were to be placed under the customs procedures for release for internal consumption or export, not including tariff preferences and privileges for the payment of customs duties and taxes in the territory of these CU member states. To determine the amount of security for the payment of customs duties and taxes, the foreign currency exchange rate used is laid down by the legislation of the CU member state whose customs authority releases the goods in accordance with the customs transit procedure.*

³ http://www.customs.ru/index.php?option=com_content&view=article&id=18413:2013-10-29-11-13-01&catid=40:2011-01-24-15-02-45&Itemid=2094&Itemid=1835

⁴ http://customs.ru/index.php?option=com_content&view=article&id=17922:2013-07-29-14-59-37&catid=40:2011-01-24-15-02-45&Itemid=2094&Itemid=1835

Cost of the guarantees

FCS Russia does not have yet information on the cost of guarantees.

When to provide the guarantee

In accordance with point 3 of the Procedure for customs operations by customs authorities, in relation to the submission and registration of a transit declaration and completion of the customs transit procedure approved by Decision No 438 of the CU Commission of 17 August 2010, when submitting a transit declaration it is necessary to include a document confirming the provision of security for the payment of customs duties and taxes.

*Security for the payment of customs duties and taxes may be submitted not only at the actual crossing of the customs border of the Customs Union but **also in advance** of the crossing.*

Person providing the guarantee

*In accordance with Article 85(3) of the CC CU, security for the payment of customs duties and taxes is provided by the **payer**, while during the transportation of goods in accordance with the customs transit procedure it can be provided by a **person other than the payer** if this person has the right to own, use and/or dispose of the goods for which the security for the payment of customs duties and taxes is provided.*

*In accordance with Article 79 of the CC CU, a payer of customs duties and taxes is a **declarant** or other person subject to an obligation to pay customs duties and taxes in accordance with the CC CU, international agreements of the CU member states and/or the legislation of the CU member states.*

Exceptions, simplifications⁵

As of 1 November the FCS launched an experiment⁶ that will allow large and stable Russian operators to simplify the movement of goods carried by road in the customs transit.

⁵ http://www.customs.ru/index.php?option=com_content&view=article&id=18478:-12-----&catid=40:2011-01-24-15-02-45&Itemid=2094&Itemid=1835

⁶ http://customs.ru/index.php?option=com_content&view=article&id=18443:2013-11-01-10-31-59&catid=40:2011-01-24-15-02-45&Itemid=2094&Itemid=1835

Appendix 1

Relevant legal measures in the area of transit

- Customs Code of the Customs Union⁷
- Agreement of 21 May 2010 between the Governments of the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan concerning certain issues relating to the provision of security for the payment of customs duties and taxes for goods transported in accordance with the customs transit procedure, specific features of the collection of customs duties and taxes and the procedure for the transfer of recovered amounts for such goods, the certificate of security for the payment of customs duties and taxes ('the certificate')
- Instruction No 262-r from FCS of 9 August 2013 concerning the experiment of using the information concerning certificates of security for the payment of customs duties and taxes contained in the software of the Single Automated Information System for Customs Authorities when placing goods under the customs transit procedure
- Federal Law No 311-FZ of 27 November 2010 on customs regulation in the Russian Federation
- Decision No 438 of the CU Commission of 17 August 2010 on Procedure for customs operations by customs authorities, in relation to the submission and registration of a transit declaration and completion of the customs transit procedure
- Order No 1128 of FCS of 9 June 2012 on Administrative Regulation of the Federal Customs Service on the provision of a public service in reporting on acts of customs legislation by the Customs Union, the customs legislation of the Russian Federation and other legal acts of the Russian Federation in the field of customs and on consultation concerning customs and other issues within the competence of the customs authorities
- Decision No 289 of the CU Commission of 18 June 2010 governing the form and the copies of the transit declaration
- Order No 1067 of FCS of 26 May 2011 on the determination of procedures of customs staff, the importers and the customs supervision in the movement of goods using motor vehicle at the arrival (departure), the placing under the customs transit procedures, as well as in their temporary storage"

⁷ <http://eng.customs.ru/attachments/article/1677/TRANSLATION%20CUC.pdf>

Appendix 2

(FCS instruction on guarantees of 29.07.2013)

Guarantee of payment of customs taxes, duties for customs transit of goods⁸

Guarantee of payment of customs taxes, duties may be provided by any of the methods from the customs legislation of the Customs Union – surety, cash resources (money), bank guarantee or pledge of property.

The choice of a method of providing is made by the declarant of the customs transit procedure. Apart from the declarant's provision, the provision of transit goods may be granted by any other person if that person has the right to possess, use or dispose the transported goods.

Thus, the importer may also make the provision for the carrier, and this provision can be represented as to the customs office of departure (at a border checkpoint) and to the customs office of destination.

*The procedure of granting and taking the provision is defined in **Articles 140, 141, 145 and 146 of the Federal Law of November 27, 2010 № 311 "On Customs Regulation in the Russian Federation."***

The provision can be made in advance, even when goods are outside of the Russia's territory that will prevent the downtime of vehicles at checkpoints owing to the processing granting of the provision at the opening of the transit procedure.

Surety

When choosing surety as the method of the provision it is necessary to consider that there are several ways to make surety for customs transit procedure. Surety may be obtained from one of the organization which has with the Russian Federal Customs Service a contract of surety for the obligations of a few individuals. At present, there are several such contracts, including the contracts with the LLC "Insurance Company "ARSENAL" and LLC "Adal". So, these organizations have provided their obligations under the contract of surety by submitting to FCS of Russia bank guarantees, thus they can give surety to the amount of these bank guarantees.

A process of taking of surety by the customs authorities is during of declaring the customs transit procedure. And surety may take the form of a paper document or an electronic document with the use of electronic signature. For using of surety in the form of a paper document the carrier submits an addition to the contract of surety with the transit declaration to customs body. When making of surety is with the use of information technology it is sufficient to indicate information about the registration number of the

⁸ Extract from http://customs.ru/index.php?option=com_content&view=article&id=17922:2013-07-29-14-59-37&catid=40:2011-01-24-15-02-45&Itemid=2094&Itemid=1835

addition to the contract of surety in the electronic transit declaration. This registration number is communicated to the carrier by the surety (guarantor).

In these cases making of the guarantee certificate at checkpoints is not required. The technology of making of surety defined by **orders of the FCS of Russia No 917 (July 25, 2008) and No 245 (February 10, 2012)**.

Surety can also be made directly at the customs house – it needs to sign the contract of surety with this customs house. For to do this, the person who has the intention to become a surety (guarantor), send to the customs house of departure or to the customs house of destination a draft of the contract of surety with a cover letter.

The contract of surety may be concluded if the surety (guarantor) provides assumed by the contract of surety obligations by giving of bank guarantees to the customs house. This customs house signs the contract of surety provided to ensure the obligations of one person (the carrier). If the contract of surety is issued the customs house gives a customs pay-in slip, on the basis of which the guarantee certificate is issued. This certificate is subsequently submitted to the customs office of departure.

Cash resources (money)

When choosing cash resources (money) as the method of the provision it is necessary to consider that the bail is paid by bank transfer to the account of the Federal Treasury. Details of the Federal Treasury account can be found at the customs office where the provision will be taken or at the customs fees department of the customs house.

Documenting a Finding of the cash resources bail is carried by the customs offices or the customs fees department of the customs houses of departure or the customs houses of destination. On the basis of the payment document on making the cash resources bail the customs authority shall issue a customs receipt. On the basis of this customs receipt the guarantee certificate is issued and it is subsequently submitted to the customs office of departure.

Customs receipt is issued subject to the coming of money to the Federal Treasury. Usually crediting of money to the Federal Treasury is during working day from the transfer of this money by credit institutions subject to details of the account are filled in correctly. After the delivery of goods the cash resources bail can be used for payment of customs duties and taxes for these goods.

Bank guarantee

When choosing bank guarantee as the method of the provision there is a wide range of guarantors - more than 200 banks and insurance companies, whose bank guarantees are accepted by the customs authorities.

The registry of guarantors to the customs authorities is available on the official website of the Federal Customs Service of Russia on the Internet - www.customs.ru in the section

"Information for economic operators", "Databases". The bank guarantee is submitted to the customs house with a cover letter and a proof of authority of the person who signed the bank guarantee. If such documents were presented previously, their re-submission is not required.

If the bank guarantee is issued the customs house gives a customs pay-in slip. On the basis of this customs pay-in slip the guarantee certificate is issued and it is subsequently submitted to the customs office of departure. For quick taking of bank guarantees there are their standard forms which are listed in the annex to the **letter of the FCS of Russia No 01-11/109 (January 12, 2011)**.

Pledge of property

To make a contract of pledge of property should contact the customs office of departure or to the customs office of destination.

Practice has shown that in case of a transit of goods the provision as pledge of property usually is not used.

There are some other ways of the provisions for customs transit procedure

Preliminary customs declaration of goods

Customs duties and taxes which were paid on preliminary customs declaration of goods can also be used as the provision for customs transit procedure, subject to that it will be transit of the declared goods. To do this the declarant has to submit a written statement. The use of these customs duties and taxes as the provision is carried out using of the guarantee certificate which subsequently is submitted to the customs office of departure.

It needs to consider that at customs transit procedure the amounts of customs duties and taxes which were paid on preliminary declaration may not be sufficient for the provision of the payment of customs duties and taxes. This is due to the fact that at the customs transit procedure the amount of the provision is determined without regard to benefits and privileges that are stated in the preliminary declaration. In this situation it is recommended to make another guarantee certificate for covering of the missing amount of the provision.

The appropriate ways of action is detailed in the **order of the FCS of Russia No 1179 (June 15, 2012)**.

General provision

In the case of submitting to the customs authorities the general provision (when using the surety, cash resources and bank guarantee) may be issued several guarantee certificates for the total amount of the taken general provision.

Customs carriers

The economic operators can also make use services of customs carriers. In this case, providing for the payment of customs duties and taxes at the customs transit procedure is not required.

There is a wide range of customs carriers. The registry of customs carriers is available on the official website of the Federal Customs Service of Russia on the Internet - www.customs.ru.