



**Economic and Social
Council**

Distr.
RESTRICTED

ECE/TRANS/WP.30/AC.2/2006/
Informal document No. 6 (2006)
6 September 2006

ENGLISH ONLY

ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975

Forty-second session
Geneva, 28 September 2006
Item 3 (b) (iii) of the provisional agenda

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT
OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION 1975)**

Activities and administration of the TIR Executive Board (TIRExB)

Transmitted by the International Road Transport Union (IRU)

Note: The secretariat reproduces below a communication transmitted by the International Road Transport Union (IRU).

the world road transport organisation

International
Road Transport Union

By fax and by mail

DIVISION No. 227 Received by Date 28 AUG 2006 H. Hansen AD/G52829/MMM	Mr Poul Hansen Economic Officer Transport Division of the United Nations Economic Commission for Europe (UNECE) Palais des Nations 8-14 Avenue de la Paix Room 414 CH - 1211 GENEVE 10 Geneva, 28 August 2006
---	---

Dear Mr Hansen,

Further to your letter dated 31 July 2006, received on 3 August 2006, on the budget proposal and cost plan of the TIRExB and the TIR Secretariat for the year 2007, which requests a transfer by the IRU of US\$ 955,000 before the 15th of November 2006, and our correspondence of 7 August 2006, following a careful analysis of your correspondence, allow me to inform you as follows:

Your letter refers to the decision by the Administrative Committee (AC.2) confirming the authorisation of the IRU, quoting the following: "...which had it had granted at its one-hundred-and-twelfth session". This quotation leads to two severe misunderstandings.

Firstly, we do not understand the meaning of the expression "had it had granted", which could be interpreted to mean that the authorisation has not been granted. If so, the AC.2 report does not correspond to the understanding by the IRU of the decision taken.

Secondly, you justify the demand of this important financial transfer by quoting a decision taken at the "one-hundred-and-twelfth session" of the TIR Administrative Committee. After analysing the published report of the relevant session concerning this issue, we noted that this report, according to our records, should have referred to the fortieth session. This error has now been reproduced in the Secretariat's letter of 31 July 2006, without any consideration of the fact that a letter making such an important financial request is of great legal importance for the financial and political decision-making Bodies of the IRU in the context of the UNECE-IRU Agreement.

Therefore, in order to permit the IRU to properly inform these IRU Bodies and prepare the appropriate decisions, as well as to prevent any additional difficulties concerning this major financial issue, please confirm the correction of these errors, where appropriate, by re-sending your letter with the corresponding corrections.



International Road Transport Union • Secretariat General
 3, rue de Varembe • B.P. 44 • CH-1211 Geneva 20 • Switzerland
 Tel: +41-22-918 27 00 • Fax: +41-22-918 27 41 • E-mail: iru@iru.org • Web: www.iru.org

In anticipation that we shall receive your corrected letter, I can inform you of the following:

A. TIR Executive Board and TIR Secretariat draft cost plan for 2007:

In line with Annex 8, article 13, paragraph 2 of the TIR Convention, the text of the Agreement between UNECE and IRU endorsed by the AC.2 and the practice established between UNECE and IRU, we have carefully studied the draft cost plan.

IRU has no comment on the budget lines related to the work of TIRExB.

However, on the budget lines related to the TIR Secretariat, mainly the line "Project Personnel", IRU would like to raise the three following important points requiring clarifications:

1. It has been officially announced that the UNECE Transport Division has been allocated an extra post in the UN regular budget due to the importance of its work and activities in trade and transport facilitation, including the TIR Convention. As the TIR Convention has been specifically mentioned in the reports leading to this additional allocation of one person, the IRU, which remains the only private organisation financing public Bodies involved in any of the UNECE conventions, had expected that this additional post would be allocated to TIR activities.

That should allow the TIR Secretariat - which under the TIR Convention is to be financed by the IRU only for an interim period of time through the specific current financial arrangement - to be reduced by one person, thereby integrating the costs of these two bodies, still entirely financed by the IRU, step by step, into the regular budget of the UN as foreseen since 1999 by the TIR Convention. We do not understand why what is foreseen by the TIR Convention is not implemented by the Secretariat. Therefore we request the Secretariat to make the appropriate correction in the current draft cost plan by withdrawing the cost of the person newly allocated to the Secretariat by the regular UN budget.

2. The explanation concerning the budget line: "Project personnel US\$ 732,500", indicates that this amount will be used notably for the development of EDI, computer information system, including the provision for an expert to assist in the development of mandated IT projects.

Taking into account the explanation given on this budget line, and the repeated disregard of what has already been achieved in the IT development of the TIR System by the private sector, the announced intention in the budget proposal of the Secretariat could lead to reinventing and duplicating the IT systems which already exist and function well, and would also mean that the fleet operators and trade would be obliged, once again, to finance the development of a new IT replacement system.

Even more dramatically, such a budget line, which requires the financing of a new IT replacement system, is also in full contradiction with the repeated statements made during the WP.30 sessions to the effect that: the "e TIR should be independent of all other systems [that is the IRU's management and IT systems] and should be managed by the Customs" (WP.30, 111th, 112th, 113th sessions).

Concerning such a development, the IRU has always acknowledged that according to Article 6 of the TIR Convention, other international organisations could be involved in the TIR System. However, it is clear that according to the TIR Convention, and according to all the IRU contractual relations with UNECE concerning the TIR System, the IRU is responsible only for the financing of the two Bodies in charge of the management of the current TIR Convention. As such, it is also clear that it has never been agreed, nor foreseen, that the IRU as the unique private sector contributor for the management of any

of the 55 UNECE transport conventions would, in addition to its current important and unique financing, also be involved, even partially, in the financing of the development and implementation of another IT system, as mentioned in the reports of the above-mentioned WP.30 sessions and as required by this budget line in your draft budget.

Moreover, following the Ankara meeting where the IRU has been excluded from a TIR-related meeting for the first time, how can the Secretariat now expect the IRU to finance an activity from which the implementing partners, namely the IRU and its national associations, have been excluded?

To conclude on this issue, with a view to maintaining the partnership in the management of the TIR System which functioned well for almost 60 years, we request the Secretariat to withdraw all the costs related to the above in its final budget proposal.

3. In addition, in order to ensure appropriate transparency, as usual the IRU asks to receive the table illustrating, from year to year, the unspent budget, as well as detailed information about the actual costs in 2006, interests and reserves available at the end of 2005.

B. Fundamental difficulties resulting from the financing of the TIRExB and Secretariat through the collection of "the levy":

On the fundamental point of the "levy" mentioned in your letter related to the financing of the TIRExB and Secretariat, let me stress that since the beginning in 1999, the IRU has always provided the requested financing. However, as you have been fully informed, and according to the established practice since 1999 and in line with the UNECE-IRU agreements, including the agreement in force signed in October 2005 and approved by the AC.2, the IRU has never collected "the levy", but has always financed well in advance, and no later than 15 November each year, the requested amount of the annual budget for the following year, decided by the AC.2 for these two Bodies.

As you have likewise been well informed several times, the collection of a "levy", a service charge, or whatever amounts to a tax, by the IRU, as a private international organisation, is not authorised and even illegal in several countries. As you have been made well aware, to overcome these difficulties, the IRU has repeatedly proposed to you to implement a simple and moreover legal solution based on the current pre-financing of the budget of these two Bodies to eliminate all legal ambiguity once and for all.

Moreover, this simple solution, which requires a minor modification to Annex 8 of Article 13 of the TIR Convention by replacing "a levy on each TIR carnet distributed" by "a pre-financing", has been the object of a consensus agreed with the UNECE Acting Executive Secretary, the Director of the Transport Division and yourself during our meeting of 20 January 2006, for the sole purpose of continuing to ensure, in a legal manner, the current pre-financing of the budget decided by the AC.2, until this financing becomes fully covered by the regular UN budget.

Indeed, in line with the difficulties mentioned above, and as the Secretariat has been duly informed on this matter by the IRU, the IRU Presidential Executive was obliged to decide not to accept to contribute to an inappropriate financial arrangement based on "the levy" which is not authorised and even illegal in numerous countries, and which has already led to the repeated defamation of the IRU, in particular in the Management Letter of the UN auditors which has already been distributed by the UNECE to the leading figures of the UN and TIR Bodies.

Therefore, in order to continue the financing of these two Bodies, the IRU requests, yet again, the implementation by the Secretariat of the consensus based on the one hand, on the pre-financing by the IRU of the required amount, and on the other hand, on the suppression of any reference to "the levy" through the corresponding changes to Annex 8, Article 13 of the TIR Convention, as agreed during the meeting of 20 January 2006.

Furthermore, let me repeat that the Secretariat's continuing failure as reflected in your above-mentioned letter to implement this consensus, perpetuates the highly prejudicial and unfounded accusations towards the IRU made by the UN Board of Auditors in its Management Letter of 5 May 2005: "...IRU would collect and keep for itself levies (...) that should be handed over to the Trust Fund. (...) IRU could potentially have collected an excess amount that may have amounted to over USD 900.000".

This insinuation came on the top of the similar implied accusations presented in the Dutch Government document suggesting that the IRU has kept for itself some USD 1,415 million. Both of these unfounded attacks are rooted in the same conditions which the 20 January 2006 consensus is intended to eliminate. The IRU therefore notes with particular concern that there is no suggestion whatsoever in your letter that the Secretariat intends to implement the solution based on the consensus.

In fact, the refusal by the Secretariat to implement the simple agreed consensus solution, due notably to the fact that, instead of duly informing the AC.2 of the severe difficulties faced by the IRU and of the need to eliminate them due to their severe consequences for the IRU's credibility, the Secretariat decided to promote two other proposals as mentioned in document ECE/TRANS/WP.30/AC.2/2006/3.

Concerning the forecasts delivered by the IRU in previous years, you are well aware that they have been misused by the Secretariat and consequently misinterpreted in the abovementioned UN auditors' management letter distributed by the Secretariat to the leading figures of the UN and TIR Bodies. This led not only to severe suspicions and complaints about lack of transparency in the important annual IRU financial transfer to finance through an imposed inappropriate financial arrangement the operations of the TIR Secretariat and the TIRExB, but led also to the defamation of the IRU, which is of great concern because it creates increasing difficulties in all our relations with the customs authorities, our members and partners, and even worse with the insurers.

In short, the Secretariat, well aware of the difficulties faced by the IRU and of their dramatic consequences, instead of presenting a document permitting the problem to be solved, seems deliberately to have chosen to perpetuate the situation. Such conditions make it impossible for the IRU to continue the pre-financing of the budget to be decided at the end of September by the AC.2.

In this context, and without being exhaustive:

- We cannot understand why the Secretariat has always been very reluctant to undertake any action to implement the simple solution as per the consensus agreed nor any action to be transparent and in so doing eliminate all suspicions.
- We cannot understand why the Secretariat has never passed on to the AC.2 the detailed explanations made systematically by the IRU to the Secretariat every year in connection with the forecasts in order to provide full transparency and thereby avoid such suspicions.
- We cannot understand why the revision of the forecasts sent by the IRU to the Secretariat on 23 January 2006, before the meeting of AC.2, was not communicated to the Administrative Committee.
- We cannot understand why the clarifications contained in the explicit statements of the external auditors at the AC.2 meetings on 2 February 2006 have never been considered by the Secretariat as sufficient to undertake the appropriate actions to implement the agreed consensus.

- We cannot understand why the Secretariat never responded to our mail of 27 January 2006 containing the draft engagement letter with KPMG, for approval by UNECE, and why several reminders remain unanswered, making it impossible for the IRU to organise the audit for 2006 in the way prescribed by the UNECE-IRU Agreement, annex 3, and expressed in the mutually agreed upon Terms of Reference.

For all the reasons mentioned above, so long as the appropriate clarifications and modifications in the final budget proposal and cost plan to be provided to the IRU are not realised, as the Secretariat has been informed on several occasions, the Presidential Executive of the IRU will not be in a position to confirm its ability to transmit the requested amount.

Conclusion:

The IRU is committed to continuing to work in a true partnership that has for almost 60 years been the cornerstone of the successful functioning of the TIR System. However, for this partnership to continue, the IRU requires the full support of the Secretariat to permit the IRU to fulfill, under regular and legal conditions, its functions and responsibilities in the management of the TIR System.

Therefore, in the name of the IRU and as decided by the IRU Presidential Executive, I would like to reiterate the readiness of the IRU to continue to finance the budget of the TIR Executive Board and TIR Secretariat for all its 2007 activities in favour of the current TIR Convention and to proceed to the appropriate pre-financing by implementing, jointly with the TIR Secretariat and in agreement with AC.2, the consensus reached on 20 January 2006.

To attain this objective, the Secretariat should provide to the IRU as soon as possible a new modified letter with its annexes, integrating the modifications set out above, in order to allow the IRU to inform its competent decision-making Bodies and thus ensuring the sustainability of the TIR System.

Taking into account the importance of this matter, I take the liberty to inform the Director of the UNECE Transport Division. I also expect that the content of this letter is brought to the attention of the Contracting Parties as well as the Executive Secretary of United Nations Economic Commission for Europe.

Yours sincerely,



Martin Marmy
Secretary General

cc: Mr José Capel Ferrer, Director Transport Division UNECE
Mr Paul Laeremans, IRU President