

TIR EXECUTIVE BOARD (TIRExB)

COMMISSION DE CONTROLE TIR (TIRExB)

ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (TIRExB)



Restricted

TIRExB/REP/1999/4

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ENGLISH and
RUSSIAN ONLY

**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

**REPORT OF THE FOURTH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)**

(21 October 1999)

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its fourth session in Geneva on 21 October 1999.
2. The following eight members of the TIRExB were present: Mr. G. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia); Mrs. Kasikçi (Turkey). Mr. O. Fedorov (Ukraine) was excused.
3. The TIR Secretary attended the session in accordance with annex 8, article 9, paragraph 1 of the Convention.
4. The International Road Transport Union attended the session in accordance with annex 8, article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department and Mr. Jean Acri, Deputy Head of the TIR Department. Maitre Tinayre, representing the IRU and the guaranteeing associations in the arbitration procedure relating to the settlement of Customs claims against the insurance pool that denounced its insurance contract end of 1994, attended the meeting on invitation of the TIRExB.

ADOPTION OF THE AGENDA

5. The TIRExB adopted the agenda of its present session as prepared by the TIR Secretary (TIRExB/AGE/1999/4).

ADOPTION OF THE REPORT OF THE THIRD SESSION OF THE TIRExB

Documentation: TIRExB/REP/1999/3.

6. The TIRExB adopted the report of its third session as prepared by the TIR Secretary (TIRExB/REP/1999/3) with the following modifications:

Paragraph 17: To be deleted.

Paragraph 10: Modify to read as follows:

“The representative of the IRU informed the TIRExB that it is very difficult to give an overview of all components of the price of TIR Carnets and explained that the price of TIR Carnets consists in principle of the insurance premium and various other components. The price of the TIR Carnet is approved yearly by the competent bodies of the IRU. The accounts of the IRU are in full line with the Swiss fiscal law.”

Paragraph 11: Modify to read as follows:

“He further pointed out that the price of TIR Carnets differed in various countries. This could be explained by the fact that national associations issued TIR Carnets at currency rates calculated on the basis of the price at which IRU distributed them to the associations. The difference in prices for TIR Carnets between the countries was therefore not a result of IRU’s pricing policy, but due to for example membership fees policy, different levels of insurance, etc. calculated by the associations themselves. As a result the TIR Carnet issuing price provided in Informal document No 6 is not identical to the price asked by the national associations from the transport operators.”

Paragraph 14: Modify to read as follows:

“In order to receive more detailed explanations concerning the state of the arbitration process, IRU proposed to invite the lawyer of IRU involved in the arbitration procedure to an informal meeting of the TIRExB. The TIRExB accepted this proposal and suggested this meeting to be held in Geneva on October 21, 1999. IRU expressed the point of view that the question of the old pool was not a matter of the competence of the TIRExB since all the problems relating to this question occurred long before the establishment of the TIRExB. IRU expressed its wish that

the proceedings of this meeting of the TIRExB should be kept confidential. The TIRExB agreed to this request.”

Paragraph 19: New Paragraph 18; Modify to read as follows:

“The representative of the IRU expressed its shock about the draft prepared by the TIR Secretary and the Chairman of the TIRExB mainly since it would lead to an official recognition that the TIR Convention may be applied “à la carte”. In his view everything could be solved by eventually defining the term “TIR Holder” in the Convention who should be the only responsible person for the whole TIR operation. The responsibility of the holder cannot be passed on to someone else.”

7. The adopted report of the third session of the TIRExB is contained in document TIRExB/REP/1999/3/Rev.1.

SETTLEMENT OF CUSTOMS CLAIMS

8. The TIRExB took note of a report concerning the status of the arbitration procedure relating to the settlement of Customs claims against the insurance pool that denounced its insurance contract with the IRU at the end of 1994, given by the representative of the IRU, Maitre Tinayre.

9. The TIRExB welcomed the considerable efforts made by the IRU and its representative in the arbitration procedure leading to a rapid resolve of the still more than 5000 outstanding cases which, at the instigation of the “old” insurance pool had to be treated individually, on a case by case basis.

10. Following the presentation by Maitre Tinayre, which was welcomed by the TIRExB in an effort to provide transparency in the settlement of Customs claims against the “old” insurance pool, the TIRExB had the impression that the settlement of these “old” Customs claims still seemed to require considerable time which could well be beyond the time frame that Customs authorities were willing and able to provide for the suspension of relevant payment claims against national associations.

11. The TIRExB recalled that one of the main objectives of the TIR Convention had been to provide for the settlement of legitimate Customs claims at the national level on the basis of national legislation (see 1999 TIR Handbook, pages 9 and 10). The present arbitration procedure, which had been provided for in the “old” insurance contract, seemed to indicate however that the international guarantee system based on an insurance contract between the insurance companies on the one hand and the IRU and its associations on the other - the IRU and its associations being beneficiaries - was based, in the final analysis, on the provisions of this insurance contract made out under French and Swiss law respectively. As a consequence,

Customs authorities claiming payment from the national associations are not parties to this insurance contract and thus had no direct say in any negotiations relating to the application of such contract in the framework of the arbitration procedure.

12. Finally, the TIRExB agreed to consider the information provided by Maitre Tinayre as confidential.

OTHER MATTERS

13. No other matters were considered.

DATE AND PLACE OF NEXT SESSION

14. The TIRExB decided to hold its next session on 24 February 2000 in Geneva in the same week when the forthcoming ninety-fourth session of WP.30 and the twenty-eight session of the TIR Administrative Committee were held (21-25 February 2000).
