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

**TIR Executive Board (TIRExB)**

Twenty-seventh session, 17-19 October 2005

**PROVISIONAL AGENDA  
FOR THE TWENTY-SEVENTH SESSION OF THE TIR EXECUTIVE BOARD (TIRExB)  
to be held in Moscow starting on Monday, 17 October 2005, at 09.30 hours**

**1. ADOPTION OF THE AGENDA**

The TIRExB may wish to consider and adopt the provisional agenda of its present session (TIRExB/AGE/2005/27).

**2. ADOPTION OF THE REPORT OF THE TWENTY-SIXTH SESSION OF  
THE TIRExB**

The Board may wish to adopt the report of its twenty-sixth session (Geneva, 17-18 May and 14 June 2005) on the basis of document TIRExB/REP/2004/26draft as well as comments transmitted by some TIRExB members and the IRU.

**3. AMENDMENT PROPOSALS MADE IN THE FRAMEWORK OF THE TIR  
REVISION PROCESS**

At its previous session, the TIRExB discussed at length Informal document No. 8 (2005), prepared by the secretariat, containing an overview of the amendment proposals of a technical nature made in the framework of the TIR revision process, which the TIRExB had been requested to consider. Having concluded its considerations concerning some proposals, the Board decided to continue its deliberations on Articles 28, 40 and 41 at the present session with a view to reporting back to WP.30 the full package of its findings (TIRExB/REP/2005/26draft, paras. 10-20).

Article 28: The TIRExB requested the secretariat, in cooperation with the European Community, to elaborate on the underlying draft amendments and to report back to the Board. The Board also invited its members to transmit to the secretariat their proposals on the issue.

Article 40: The TIRExB was not in a position to clarify the practical application of Article 40 and its relation to other provisions of the TIR Convention, in particular Articles 19 and 39.2. Therefore, it requested the secretariat to draft a comment on the application of Article 40 and submit it to the Board for consideration.

Article 41: The TIRExB requested the secretariat to study the apparent linguistic inconsistency in the English and French text and to draft a new proposal, also taking account of possible repercussion of any change to the Russian version of the text.

Against this background, the Board may wish to consider Informal documents Nos. 16, 17 and 18 (2005) devoted, respectively, to Articles 28, 40 and 41.

#### **4. PREVENTION OF CUSTOMS FRAUD WITHIN THE TIR SYSTEM**

##### **(a) Survey on TIR fraud patterns**

At its previous session, the TIRExB discussed Informal document No.9 (2005) prepared by the secretariat, containing a draft proposal for a so-called “Fraud Report Form (FRF)”, which could be distributed among TIR Customs Focal points and, possibly, other interested bodies, in order to disseminate fraud related information. The Board generally endorsed the scope of the FRF, but felt that a number of improvements were required. The TIRExB requested the secretariat to include these improvements when redrafting the FRF and to come up with a client-friendly format and layout. In order to speed up the process, the Board agreed that further drafts could be discussed by means of a written consultation procedure (TIRExB/REP/2005/26draft, para. 21).

In line with the above request, the secretariat prepared an updated FRF which is reproduced as Informal document No.19 (2005).

##### **(b) Harmonized application of Article 38 of the TIR Convention**

At its previous session, the TIRExB considered at length Informal document No.10 drafted by the secretariat, containing an example of best practices regarding the application of Article 38 of the Convention. The Board delivered a number of remarks concerning the form and content of the example and requested the secretariat to modify the draft accordingly. In particular, the TIRExB felt that a standard notification form should be developed to inform the person being excluded from the TIR procedure (TIRExB/REP/2005/26draft, para. 23).

Following the above request, the secretariat has modified its original proposal (Informal document No.20 (2005)) for consideration of the TIRExB.

(c) **Application of Annex 9, Part II of the TIR Convention (controlled access to the TIR procedure for natural and legal persons)**

The TIRExB may wish to recall that, at its twenty-fifth session, the Board considered Informal document No. 6 (2005) by the secretariat, containing the results of the survey on the application of Annex 9, Part II of the TIR Convention. The TIRExB was of the view that further improvement and harmonization of the application of Annex 9, Part II at the national level should be conducted through examples of best practice and requested the secretariat to prepare relevant proposals. The Board also decided that the main results of the survey should be brought to the attention of the TIR Administrative Committee (TIRExB/REP/2005/25, paras.16-18).

In line with this request, the secretariat has drafted document TRANS/WP.30/AC.2/2005/21 for consideration by the TIR Administrative Committee at its October 2005 session. The TIRExB will be informed of the guidance that the Committee may wish to provide to the Board with respect to follow-up actions.

**5. LOST, STOLEN, "INVALID" AND "INVALIDATED" TIR CARNETS**

The Board, at its previous session, held a first exchange of views regarding Informal document No.11 (2005) in which the secretariat had studied the validity of a TIR Carnet in various situations during the TIR Carnet life cycle (before issuance to the holder, between issuance and acceptance by the Customs office of departure and following such acceptance). In particular, the following key questions concerning the relation between the TIR Carnet and TIR guarantee were touched upon (TIRExB/REP/2005/26draft, para. 26):

- Is the TIR Carnet covered by the guarantee from the moment it is printed? If not, at which moment is the TIR guarantee "attached" to the TIR Carnet?
- Who or what "attaches" the guarantee to a TIR Carnet? Is it done purely in line with the provisions of the TIR Convention or is it the international TIR guarantee chain which takes a decision in this regard, in line with its own rules and procedures?
- Which incidents can put the validity of a TIR Carnet into question?

In line with its earlier decision, the TIRExB may wish to continue its deliberations on this issue at the present session.

**6. POSSIBILITY OF UNDERTAKING A TIR TRANSPORT WHEN A TRACTOR UNIT DOES NOT BELONG TO THE TIR CARNET HOLDER**

At its twenty-fifth session, the TIRExB considered practical situations where a TIR transport (or a part of it) was conducted by a tractor unit which did not belong to the holder of the TIR Carnet (Informal document No. 3 (2005)). Such a situation occurs, for example, if trailers or semi-trailers with goods arrive at a sea port by ferry, and TIR Carnets have been already accepted in the country

of departure where the holders are resident. In the port, the vehicles are picked up by tractor units belonging to transport companies who are resident in the country of destination.

The TIRExB felt that this matter is closely linked to the issue of responsibility of the TIR Carnet holder. The Board also noted that such operations are becoming more and more common in every day's practice, being a particular example of so-called intermodal operations where several transport operators take part in one delivery. To begin with, the Board decided to study modern logistical schemes applicable in this field and requested the secretariat, possibly in cooperation with the IRU, to draft a document for consideration by the TIRExB (TIRExB/REP/2005/25, paras.23 and 24).

Following this request, the secretariat, in cooperation with the IRU, has drafted Informal document No.21 (2005) which the Board may wish to consider. The TIRExB may also wish to recall that, in conjunction with this issue, it decided to discuss Informal document No.14 (2005) on the IRU's general rules prescribed for the issue of TIR Carnets related to the use of sub-contractors in the course of a TIR transport (TIRExB/REP/2005/26draft, para.25).

## **7. APPLICATION OF THE TIR CONVENTION IN TRANSNISTRIA (PART OF THE REPUBLIC OF MOLDOVA)**

The TIRExB, at its previous session, was informed that in 2001-2003 the Customs Department of Moldova had implemented a number of measures with a view to banning the application of the TIR procedure in the region of Transnistria which did not subordinate to the Government and other authorities of Moldova. For instance, the Customs Department had excluded the border crossings located at the border between Ukraine and Transnistria from the list of Customs offices approved for TIR operations. In addition, the Customs Department of Moldova had introduced new Customs seals and stamps which were not delivered to the former Customs offices situated in Transnistria. Nonetheless, those Customs offices continued clearing TIR operations with the old Customs seals and stamps, in particular, at the Ukrainian-Transnistrian border. At the request of the secretariat, the Ukrainian Customs Administration also clarified that no restrictions had been imposed on TIR transports through the border between Ukraine and Transnistria.

The IRU felt that this situation could lead to legal insecurity and, thus, should be resolved as soon as possible. The TIRExB took note of this information and decided to come back to this issue at the present session (TIRExB/REP/2005/26draft, paras.40 and 41).

## **8. TRANSPORT OF PASSENGER CARS ON THEIR OWN WHEELS UNDER THE TIR PROCEDURE**

At its previous session, the TIRExB was informed of different interpretations, at national level, of the provisions of Article 3 (a) (iii) relating to vehicles "exported and therefore themselves considered as goods travelling by their own means". Some Contracting Parties seemed to accept

that passenger cars travelling on their own wheels fall under the above description, while in other Contracting Parties national legislation explicitly forbid the use of TIR Carnets for transport of passenger cars, unless these cars are loaded onto another vehicle. These differences in interpretation had led to situations where TIR Carnets had been opened for transport of passenger cars in one Contracting Party, but were subsequently refused by a Customs office en route in another Contracting Party. Following a short exchange of views, the TIRExB felt that this issue should be studied in-depth, in particular from the legal point of view, and requested the secretariat to prepare, in cooperation with the IRU, a document for consideration at the next session (TIRExB/REP/2005/26draft, para.44).

Against this background, the Board may wish to consider Informal document No.22 (2005) prepared by the secretariat, in cooperation with the IRU.

## **9. IMPLEMENTATION OF THE TIR PROCEDURE IN UKRAINE**

The TIRExB may wish to recall its earlier considerations regarding obligatory suspension of a TIR transport in Ukraine in cases where the amount of Customs duties and taxes at stake was above the TIR guarantee level (TIRExB/REP/2004/22, paras. 55-56, TIRExB/REP/2004/24, paras.17-19 and TIRExB/REP/2005/26draft, paras. 38-39). At its previous session, the Board was informed that, in the absence of new explanations from the Customs Administration of Ukraine, the secretariat had sent a letter to the Ukrainian Customs authorities inviting them to review the underlying control measures which did not seem to be in line with the provisions of the TIR Convention.

In July 2005, the secretariat received a reply from Ukraine which was distributed to TIRExB members for comments. On that basis, the secretariat has drafted and transmitted to Ukraine another letter which still remains unanswered. The Board will be informed of new developments on this issue, if any.

## **10. APPROVAL OF ROAD VEHICLES WITH SLIDING SHEETS**

At its previous session, the TIRExB noted with concern that, apparently, one Contracting Party had issued a certificate of approval for a road vehicle with sliding sheets which did not conform to the provisions of Annex 2 to the TIR Convention. As a result, it was possible to have access to the sealed load compartment without leaving obvious traces of tampering. Members of the Board also recalled few other examples where road vehicles which did not meet Customs requirements had, nonetheless, been issued with certificates of approval. The TIRExB felt that, in general, those facts could be attributed to lack of competence and/or attention of the approving authorities, rather than to inadequate provisions of the TIR Convention. The Board also stressed that, pursuant to Article 19 of the Convention and the Explanatory Note therein, the Customs office of departure should check the condition of the road vehicle, in particular, the sheets and fastenings in case of sheeted vehicles.

The TIRExB was of the view that the attention of the competent authorities of all Contracting Parties should be drawn to reinforcement of the application of Article 19 as well as of Annex 2 to the Convention. The Board also considered that an example of best practice could be prepared in this respect, for example, in the form of a check-list for the Customs office of departure. In this context, the TIRExB also recalled the training manual on the issue of non-compliance of road vehicles with the TIR technical regulations, prepared by the EU Customs and Fiscal Assistance Office to the FYR of Macedonia (TIRExB/REP/2005/24, para.27). The Board looked forward to the permission by the EU to transmit the manual to the Contracting Parties (TIRExB/REP/2005/26draft, paras. 42-43).

Following the session, the secretariat has been informed of new cases where road vehicles with sliding sheets, which do not conform to the provisions of Annex 2, have been approved for TIR transports under Customs seals. Against this background, the Board may wish to continue its deliberations on the issue.

#### **11. TIR GUARANTEE LEVEL**

When considering the implementation of the TIR Convention during the previous session of the TIRExB, some members indicated that the issue of the TIR guarantee level should be considered in more detail. In line with this request, the Board may wish to have a first exchange of views concerning this issue and whether to proceed with this matter at future sessions. In particular, the Board may wish to consider whether the present guarantee level is sufficiently flexible for the application in modern transport in all regions where the Convention is applied. In this context, the Board may also wish to be informed by the IRU about its considerations in this respect.

#### **12. ACTIVITIES OF THE TIR SECRETARIAT**

The Board will be informed of activities of the TIR secretariat that have been carried out in accordance with its mandate, in particular:

- providing on-line access to the International TIR databank for TIR Customs focal points, pursuant to the decisions of the TIR Administrative Committee;
- current status of the eTIR project and the activities of the Informal Ad hoc Expert Group on Conceptual and Technical aspects of Computerization of the TIR Procedure;
- national and regional TIR seminars.

#### **13. OTHER MATTERS**

The TIRExB may wish to consider any other matter falling within the competence of the TIRExB.

**14. RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS**

The TIRExB may wish to decide whether there should be any restrictions with respect to the distribution of documents issued in connection with its current session.

**15. DATE AND PLACE OF NEXT SESSIONS**

The Board may wish to take a decision on the date and venue for its next session.

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