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

**TIR Executive Board (TIRExB)**

Thirty-second session, 29 and 30 March 2007

**PROVISIONAL AGENDA  
FOR THE THIRTY-SECOND SESSION OF THE TIR EXECUTIVE BOARD (TIRExB)  
to be held in Room VIII, Palais des Nations, Geneva,  
starting on Thursday, 29 March 2007, at 10.00 hours**

**1. ADOPTION OF THE AGENDA**

The TIRExB may wish to consider and adopt the provisional agenda of its present session (TIRExB/AGE/2007/32).

**2. ELECTION OF A CHAIRMAN**

The TIRExB may wish to recall that, at the short meeting of the newly elected TIRExB members on 1 February 2007, Mrs. Natalya Rybkina (Russian Federation) was elected Chairperson for 2007. This fact will be reflected in the report of the present session.

**3. ADOPTION OF THE REPORT OF THE THIRTY-FIRST SESSION OF  
THE TIRExB**

The Board may wish to adopt the report of its thirty-first session (Geneva, 25 and 26 January 2007) on the basis of document TIRExB/REP/2007/31draft as well as comments transmitted by some participants.

**4. PROGRAMME OF WORK FOR 2007 AND 2008**

According to the established practice, at the beginning of each two year term, the TIRExB develops a prioritized, yet flexible, work programme. This work programme ensures that the TIRExB's energies are focused on its prime functions. The Chairman periodically reports on the work programme to the TIR Administrative Committee.

The previous programme of work for 2005 and 2006 is reproduced in the annex to the present agenda. It was adopted by the TIRExB in May 2005 (TIRExB/REP/2005/26, annex), subsequently submitted to the TIR Administrative Committee as document TRANS/WP.30/AC.2/2005/20 and finally endorsed by the Committee (TRANS/WP.30/AC.2/79, para.14). At its thirty-first session (January 2007), the Board reviewed its programme of work and welcomed Informal document No.2 (2007) by the secretariat, outlining the main accomplishments of the TIRExB against its programme of work for 2005-2006 (TIRExB/REP/2007/31draft, para.23).

Taking account of the above documents, the Board may wish to establish its programme of work for 2007 and 2008.

## **5. TRACTOR UNITS IN THE FRAMEWORK OF THE TIR CONVENTION**

At its previous session, the TIRExB considered Informal document No.1 (2007) prepared by the secretariat, containing a proposal for a new comment to Article 15, paragraph 1, to address the issue of changing tractor units in the course of a TIR transport. The Board noted that, as soon as a foreign registered tractor unit is replaced, it does not fall under the scope of the TIR Convention, but under national regulations for temporary admission. In this context, the TIRExB held a short exchange of views with regard to national procedures applicable for temporary admission of single tractor units and/or empty trailers.

The TIRExB tentatively agreed on the following wording of a new comment to Article 15, paragraph 1:

*"Customs treatment of tractor units carrying out TIR transports*

*With a view to avoiding separate treatment for temporary admission of a foreign registered tractor unit, the holder of a TIR Carnet should indicate the tractor unit registration numbers on the cover page and vouchers of the TIR Carnet. Without prejudice to the application of other provisions of the TIR Convention, when the tractor unit is replaced in the course of a TIR transport, the holder should make the proper corrections in the TIR Carnet and, within the deadlines and according to the procedures established by national regulations, have them endorsed by Customs authorities. The replaced tractor unit which no longer carries out a TIR transport should be treated according to national legislation."*

The Board was of the view that the application of the above or a similar comment to open platforms used for the transport of containers or heavy/bulky goods might also be considered and decided to revert to this matter at its next session (TIRExB/REP/2007/31draft, paras.15-17).

Against this background, the TIRExB may wish to continue its deliberations on the issue.

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

At its twenty-ninth session (29-30 May 2006), the TIRExB considered Informal document No. 7 (2006) by the TIR secretariat, containing proposals for the introduction of the subcontractor into the TIR Convention. Some members maintained the view that subcontractors must fulfil the criteria of Annex 9, Part II, whereas others argued that the application of the TIR system would be deprived of its flexibility in case a subcontractor would de facto obtain the same status as the TIR Carnet holder himself. It was mentioned that often a subcontractor was hired to cover only a limited distance (e.g. between the port and the nearest Customs warehouse), within the territory of a single country, thus making it seem disproportionate to expect him to fulfil the criteria for authorized TIR Carnet holders. Against this background, it was argued that the relationship between the TIR Carnet holder and the subcontractor should be considered as purely private or commercial, without any transfer of financial liability taking place, as e.g. in the CMR Convention. However, at the same time, the Board recognized that it would be difficult to maintain this point of view when considering the application of Article 8.7. In case, in a given situation, the subcontractor could be identified by law as a person directly liable, it would be impossible to ignore neither his existence nor his liability.

Thus, without being able to reach consensus about the de jure position, the TIRExB realized it had to address the de facto existence of the subcontractor in order to avoid that the absence of any information in the TIR Convention would be considered by Contracting Parties as a clear interdiction to allow subcontractors. For that reason, the TIRExB requested the secretariat to further elaborate its proposal for an Explanatory Note to Article 1 (o) of the Convention, for discussion at its next session (TIRExB/REP/2006/29, paras. 10-11).

At its thirtieth session (29 and 30 November 2006), the TIRExB considered several alternatives how the concept of subcontractor could be introduced into the text of the TIR Convention (Informal document No.12 (2006)). The Board came to the conclusion that none of the proposed options would reply to three basic questions that had to be addressed in order to allow for the smooth use of subcontractors in the framework of the TIR procedure:

- Does the subcontractor have to be authorized to use the TIR procedure, in line with Annex 9, part II of the Convention or not?
- Will the subcontractor be considered as one of the persons directly liable, as referred to in Article 8.7, thus necessitating the Customs authorities, in case of an infringement, to claim payment from the subcontractor before making a claim against the national guaranteeing association?
- In practice, how do the Customs authorities distinguish between the subcontractor and a third party to whom the holder must not transfer the TIR Carnet?

The TIRExB felt that the views of the transport industry on the matter should also be taken into account. In this respect, the IRU informed the Board of various opinions which exist among the national guaranteeing associations. While some associations believe that the use of subcontractors is an established practice and, therefore, should be reflected in the Convention, some others are of the view that there is no automatic right for subcontracting: subcontractors should be authorized according to Annex 9, part II of the Convention or, at least, should be checked by the associations. With a view to making progress on the issue, the TIRExB invited the secretariat, in cooperation with the IRU, the Board's Chairperson and the European Commission, to analyze the situation and to draft a new document for consideration at one of the future sessions of the Board (TIRExB/REP/2006/30, paras.11 and 12).

Following the above invitation, Informal document No.4 (2007) was prepared which the TIRExB may wish to consider.

## **7. APPLICATION OF ARTICLES 39 AND 40**

At the preceding session, the TIRExB considered Informal document No.3 (2006)/Rev.3, containing an example of best practice concerning the application of Articles 39 and 40 in case of discrepancies between the particulars on the goods manifest of the TIR Carnet and the actual content of the load compartment. The Board generally advocated the example, except for practical situation No. 2 (Article 40) as contained in paragraph 10 of the document. One TIRExB member was not in a position to accept this situation as it did not seem to comply with a recent ruling of the European Court of Justice. The Board invited the member to forward the underlying ruling to the TIRExB with a view to exploring to which extent it can be used for interpretation of Article 40 of the TIR Convention.

To better illustrate the application of Article 40, the TIRExB decided to complement the best practice with the following new situation:

*"In the country of departure, there existed restrictions (tariff and non-tariff) for the exportation of raw materials, including copper. At the same time, no such restrictions were imposed on articles made of copper. At the Customs office of departure, the exporter lodged an export cargo declaration where the goods were declared as "copper bushings". Following export formalities, the goods were sealed and placed under the TIR procedure. In both TIR Carnet and CMR consignment note, the goods description coincided with the one from the export declaration. The TIR truck arrived at the Customs office of exit (en route) with intact Customs seals. Nevertheless, the Customs office of exit decided to make physical inspection of the goods suspecting that the goods description was deliberately falsified in order to avoid the applicable export restrictions. A technical expertise proved that the articles could not be used as bushings and were actually foundry products (copper billets). Thus, the goods should have been declared as "raw copper". The exporter faced charges of non-authentic declaration, evasion of Customs payments and breaching export regulations. As the underlying infringement was essentially linked to the*

*preceding export procedure, the holder of the TIR Carnet was not considered responsible, in line with Article 40."*

The Board noted that the above example dealt with a discrepancy in the goods description related to the Customs procedure which preceded a TIR transport, whereas the contentious practical situation No. 2 referred to the importation procedure which followed a TIR transport. The TIRExB underlined the importance of having versatile practical examples and felt that either situation No. 2, possibly revised, or a new situation relating to importation should become part of the best practice. The Board decided that the example of best practice should be finalized before July 2007 with the aim to submit it to the September 2007 session of the TIR Administrative Committee.

Against his background, the TIRExB may wish to continue its discussions of the example of best practice concerning the application of Articles 39 and 40.

## **8. PROPER USE OF THE TIR CARNET**

### **(a) Flaws in the Customs clearance of TIR Carnets at the Customs office of departure**

The secretariat has lately been informed of mistakes committed by some Customs authorities at the start of a TIR transport, such as the acceptance of an expired TIR Carnet and the incorrect filling-in of certain boxes on the vouchers. Later on, these flaws led to difficulties experienced by the transport operators in subsequent countries. The TIRExB may wish to be informed in detail of these cases with a view to identifying and undertaking corrective measures.

### **(b) Best practices with regard to the use of the TIR Carnet**

In 2005, best practices with regard to the use of the TIR Carnet had been included in the programme of work of the TIRExB, namely a step-by-step instruction how to fill-in the TIR Carnet and an example of best practices on the use of the TIR Carnet by the Customs offices of departure, destination and en route. To start with, the Board invited Contracting Parties to share their national regulations on the filling-in of the TIR Carnet. Having received and reviewed a few of such regulations, the secretariat has produced a first draft instruction how to fill-in the TIR Carnet (Informal document No.5 (2007)) which the Board may wish to consider.

## **9. APPLICATION OF THE TIR PROCEDURE IN ITALY**

At its twenty-ninth session, the TIRExB was informed of problems that Turkish transport operators experience in Italy in case they pick up at the port of Trieste semi-trailers destined to Spain. The shortest way to Spain from Trieste goes to the west via Verona, Brescia, Genova and further to France and Spain, but this East-West route is subject to a quota which is fixed at the level of 4,000 operations per year for all Turkish operators, while the annual demand is equal to

around 23,000 operations. For operations above the quota, Turkish carriers intend to use the so-called South-North route going from Trieste to Tarvisio and further to Austria, Germany, France and Spain. Although this itinerary is about 600 km longer than the East-West route, it could be a viable solution to Turkish operators who exceed the established quota. However, making use of the provisions of Article 20 of the TIR Convention, the Italian Customs authorities at Trieste require Turkish transport operators to follow the East-West route and do not allow the South-North route, even when the quota is exceeded. The TIRExB noted that, according to the Explanatory Note to Article 20, the Customs authorities are recommended to exercise their right to prescribe a route only when they consider it essential. The Board also felt that the underlying difficulties might be seen as lack of coordination between the Customs and other Italian authorities responsible for quota issues. With a view to clarifying the situation, the TIRExB requested the secretariat to send an inquiry to the Italian Customs Administration (TIRExB/REP/2006/29, paras. 28 and 29).

Against this background, the TIRExB may wish to consider a reply received from the Italian Customs authorities which is reproduced in Informal document No.6 (2007).

#### **10. 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:

- follow-up actions to the previous decisions by the TIRExB;
- maintenance of the ITDB and the current status of data transmission by the Contracting Parties;
- national and regional TIR seminars.

#### **11. OTHER MATTERS**

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

#### **12. 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.

#### **13. DATE AND PLACE OF NEXT SESSIONS**

The Board may wish to decide on the date and venue for its next session.

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## Annex

### **PROGRAMME OF WORK OF THE TIR EXECUTIVE BOARD (TIREXB) FOR THE YEARS 2005 AND 2006**

#### **1. Introduction**

With a view to improving transparency among the TIR bodies, at the beginning of each two-year period of its mandate the TIRExB develops a prioritised work programme and presents it to the TIR Administrative Committee (AC.2) for endorsement. The Chairman periodically reports to AC.2 on its activities and the results achieved within the work programme.

The programme below is not exhaustive, the TIRExB is sufficiently flexible to enable itself to consider any unforeseen issue that might arise. Furthermore, it does not include some ongoing activities carried out by the TIR secretariat, which do not require the direct involvement of the Board (e.g. maintenance of the ITDB, etc).

#### **2. Overall aims**

Supervision of and support in the application of the TIR Convention at the national and international levels (Article 1 bis of Annex 8 to the Convention)

##### **2.1. Ongoing activities**

- (1) To study specific measures (both legal and practical) to combat fraud resulting from the misuse of the TIR procedure. Priority: 1**

Outputs expected in 2005 and 2006:

- Identification of possible weaknesses in the legal basis of the TIR Convention which could make it prone to fraud.
- Continue development of a mechanism aimed at the early identification of fraud in order to define the appropriate responses to prevent and combat such fraud.
- On the basis of the relevant survey of the Contracting Parties to the TIR Convention undertaken in 2003-2004 prepare an example of best practices with regard to the implementation of controlled access to the TIR procedure (Annex 9, part II of the Convention).

- (2) **To facilitate the exchange of information between competent authorities of Contracting Parties, national guaranteeing associations, IRU and other Governmental and non-governmental organisations. To co-ordinate and foster the exchange of intelligence and other information among competent authorities of Contracting Parties.** **Priority 1**

Outputs expected in 2005 and 2006:

- Elaborate adequate instruments and undertake to find measures to improve international co-operation among Contracting Parties to the TIR Convention and their national associations, and the international organization in order to prevent and combat fraud.
- Taking into account the views of other international governmental and non-governmental bodies, and in consultation with the IRU, develop and disseminate guidelines concerning the use of risk analysis, and the identification of fraud prevention measures.
- On the basis of information provided by the TIR international guarantee chain, study the situation with regard to the new trends of fraud, the notifications of non-discharge and TIR infringements as a contribution to an "early-warning system" for identification and prevention of fraud.

- (3) **To supervise the national Customs control measures introduced in the framework of the TIR Convention.** **Priority: 1**

Outputs expected in 2005 and 2006:

- Identify national Customs control measures introduced in Contracting Parties to the TIR Convention and check their conformity with the provisions of the TIR Convention.
- Address the respective national authorities in order to modify or abolish measures which are in contradiction to the TIR Convention.

- (4) **To supervise the functioning of the TIR international guarantee system.** **Priority: 1**

Outputs expected in 2005 and 2006:

- Monitor constantly the settlement of Customs claims, on the basis of information provided by national Customs authorities and the IRU.

- (5) **To contribute to the computerization of the TIR procedure.** **Priority: 1**

Outputs expected in 2005 and 2006:

- Contribute to the activities undertaken within ad-hoc expert groups on the computerization of the TIR procedure.

- Promote the ITDB as one of future e-TIR components.
  - Develop on-line access to ITDB.
- (6) **To support training activities on the application of the TIR Convention, mainly in Contracting Parties where difficulties are experienced or might be expected in this area.** ***Priority: 1***
- Outputs expected in 2005 and 2006:*
- Organize, possibly in co-operation with the IRU, and substantially contribute to regional and national workshops and seminars on the application of the TIR Convention.
  - Update and distribute the TIR Handbook in several languages.
- (7) **To facilitate the settlement of disputes between Contracting Parties, associations, insurance companies and international organisations without prejudice to Article 57.** ***Priority: 1***
- Output expected in 2005 and 2006:*
- Analyse and monitor disputes referred to the Board and make recommendations (if necessary) to facilitate their settlement.
- (8) **To monitor the application of the EDI control system for TIR Carnets.** ***Priority: 2***
- Outputs expected in 2005 and 2006:*
- Continue activities, in co-operation with IRU, towards the full implementation of the Recommendation on an international EDI control system for TIR Carnets adopted by the TIR Administrative Committee on 20 October 1995\*.
  - Monitor performance and give feedback to the Contracting Parties.
- (9) **To supervise the centralised printing and distribution of the TIR Carnets, including the monitoring of the price of TIR Carnets.** ***Priority: 2***
- Outputs expected in 2005 and 2006:*
- Monitor modifications in the price of TIR Carnets as reported by IRU.
  - Approve any proposed modifications to the TIR Carnet in advance of its introduction and distribution.

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\* It is expected that this Recommendation will be superseded by the relevant amendments to the TIR Convention in 2006.

- (10) **To maintain the central record for dissemination to Contracting Parties of information on all rules and procedures prescribed for the issue of TIR Carnets by associations, as far as they relate to the minimum conditions and requirements laid down in Annex 9.**

**Priority: 1**

Output expected in 2005 and 2006:

- Study information provided by IRU, identifying the common rules and procedures prescribed for the issue of TIR Carnets by associations.

## **2.2. Activities of a limited duration**

- (11) **Consideration of amendment proposals to the TIR Convention of technical nature.**

**Priority: 1**

Outputs expected in 2005:

- Consider the amendment proposals of technical nature, as identified by the UNECE Working Party on Customs Questions affecting Transport (WP.30), and submit the results back to WP.30.

- (12) **Preparation of best practices regarding the use of the TIR Carnet.**

**Priority: 1**

Outputs expected in 2005-2006:

- Prepare an instruction on step-by-step filling-in of the TIR Carnet by the TIR Carnet holder and Customs authorities.
- Prepare an example of best practices on the use of the TIR Carnet by the Customs offices of departure, destination and en route.

- (13) **Preparation of best practices on effective implementation of Article 38 of the TIR Convention.**

**Priority: 1**

Outputs expected in 2005-2006:

- Prepare an example of best practices on effective implementation of Article 38 of the TIR Convention and transmit it to WP.30 and/or AC.2 for consideration and approval.
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