



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

Distr.: General
23 May 2012
Original: English

Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Forty-ninth session

Geneva, 6 February 2012

Report of the forty-ninth session of the TIR Executive Board (TIRExB)

I. Attendance

1. The TIR Executive Board (TIRExB) held its forty-ninth session on 6 February 2012 in Geneva.
2. The following members of TIRExB were present: Mrs. A. Dubielak (Poland), Mr. H. Köseoğlu (Turkey), Mr. H. Lindström (Finland), Mrs. L. Korshunova (Russian Federation), Mrs. M. Manta (European Commission), Mr. I. Makhovikov (Belarus), Mrs. H. Metaxa Mariatou (Greece) and Mr. V. Milošević (Serbia).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. M. Azymbakiev.

II. Adoption of the agenda

Documentation: Informal document TIRExB/AGE/2011/49draft

4. TIRExB adopted the agenda of the session, as prepared by the secretariat, with the inclusion of the following issues:

Under Agenda item 15 “Other matters”:

- Issue raised by IRU on the application of the TIR procedure in Albania;
- Issue raised by the Romanian national association on the use of TIR Carnets in Turkey;
- Issue raised by the Polish national association on the application of the TIR procedure in the territory of the new Customs Union.

III. Election of the chair

5. The Board recalled that, in accordance with its Rules of Procedure “a Chair shall be elected at the first meeting each year, who shall hold office until his/her successor is elected. He/she shall be eligible for re-election” and re-elected Mrs. H. Metaxa Mariatou (Greece) to chair the Board’s meetings in 2012.

IV. Opening statement by the director of the UNECE Transport Division

6. In her opening statement, Mrs. Molnar, pointed at the major challenges ahead for TIRExB in 2012. In particular, she referred to the eTIR Project, where, with the technical description nearing finalization and the cost/benefit analysis well underway, it was now time to start taking decisions on further steps in order to introduce computerization into the TIR Convention. She called upon TIRExB to remain fully engaged in the process and provide its guidance to TIR Contracting Parties on how to achieve satisfactory results for all parties concerned. Furthermore, she encouraged TIRExB to continue strengthening the TIR system by means of expanding the examples of best practice and other useful tools which it has developed so far. Finally, she invited TIRExB to collaborate with UNECE in providing technical assistance in areas falling under its competence.

V. Adoption of the report of the forty-eighth session of TIRExB

Documentation: Informal document TIRExB/REP/2011/48draft

7. TIRExB adopted the report of its forty-eighth session (Informal document TIRExB/REP/2011/48draft) without changes.

VI. Current status of the eTIR Project

8. The Board took note of recent developments regarding the eTIR project. The TIRExB expressed its appreciation for the fact that the Czech Customs administration had invited the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of the TIR Procedure (GE.1) to hold its twentieth session in Prague, on 19-20 April 2012 and was informed by the TIR secretariat of the main issues to be discussed at that session. With regard to the ongoing discussions by GE.1 on the creation of international declaration mechanisms, TIRExB was of the opinion that it should not only be considered by IT expert but also by Customs experts. The secretariat recalled that any amendment to the eTIR Reference Model will, ultimately, be discussed and decided by WP.30, but that, at this stage, various technical aspects of the issue, mainly related to the use of electronic signatures, are still under discussion by GE.1.

9. The Board took note that the secretariat had taken the necessary steps and hired a consultant to undertake the eTIR cost-benefit analysis (CBA). The final CBA report is due to be submitted to GE.1 at its twentieth session.

10. TIRExB discussed once more its request to the secretariat to draft a letter to Directors-General (DG) of Customs, outlining the relevance of the eTIR Project for the future of the TIR system and clarifying the importance for each administration to become actively involved in the activities of GE.1 by means of, inter alia, nominating eTIR Focal Points. TIRExB agreed that the letter could be brief and to the point, rather than containing full details of the eTIR Project. In addition to its previous instruction, TIRExB requested the secretariat to clarify in the letter that the activities of GE.1 are of interest to technical (IT) as well as to Customs experts. The letter should also encourage DG's to liaise with their counterparts in other governmental authorities (in particular, the Ministry of Transport), in order to trigger maximum interest in and support for the eTIR Project.

11. Finally, TIRExB welcomed the fact that the project ("Strengthening the capacities of developing countries and countries with economies in transition to facilitate legitimate border crossing, regional cooperation and integration") submitted for funding by the UNECE Transport Division to the United Nations Development Account, had been approved by the UN General Assembly.

VII. Procedure prior to suspension of the guarantee on the territory of a Contracting Party

Documentation: Informal document No. 1 (2012)/Rev.1 (restricted)

12. TIRExB considered Informal document No. 1 (2012)/Rev.1, submitted by the secretariat and containing an amended proposal for an example of best practice on a procedure prior to the suspension of the guarantee in the territory of a Contracting Party, which took note of comments made by TIRExB at its previous session as well as of additional proposals submitted by members of the Board. TIRExB expressed its general satisfaction with the presented draft. However, the Board was of the opinion, that, considering that the revocation of the authorization pursuant to Article 6.2bis should be avoided at all costs as being detrimental to the international transport industry as a whole, the text should put more stress on the importance of joint efforts by national competent authorities and the international organization to find solutions to ensure the uninterrupted guarantee coverage in the territory of a particular Contracting Party.

13. TIRExB tentatively approved the text of the draft example, subject to the above considerations and requested the secretariat to add the text to the draft TIRExB report (See Annex). TIRExB members were invited to submit their comments to the text, if any, to secretariat not later than by 15 April 2012.

VIII. Monitoring the functioning of the TIR guarantee system

Documentation: Informal document No. 2 (2012) (restricted)

14. The Board welcomed Informal document 2 (2012) by the secretariat, presenting the results of the survey on Customs claims and the guarantee level, together with some preliminary considerations and suggestions by the secretariat. In a first reaction, IRU stated that it regarded the positive evolution of the claims statistics as the result of joint efforts by the guarantee chain and Customs authorities.

15. The Board requested the secretariat to include in its further assessment of the results, at least, the following aspects:

- (a) the status of the guarantee level in the light of the evolution of currency exchange rates, inflation and, possibly, other economic factors;
- (b) the fact that 60 % of the claims raised in the European Union are withdrawn by Customs (in consultation with the European Commission);
- (c) the inclusion in future surveys of additional questions about pending claims with the aim to identify their origin.

16. The Board decided that at its next session it would also consider:

- (a) the reasons why the three month deadline for payment, as prescribed by Article 11, paragraph 3, is, more often than not, not respected and investigate options to improve this situation;
- (b) the conformity of the use of additional guarantees by certain TIR Contracting Parties with the provisions of Article 4 of the TIR Convention.
- (c) the preferred timing of the survey as well as its possible simplification, in particular if it would take place annually.

17. TIRExB invited IRU to meet with the secretariat in order to identify and, possibly, avoid for the future any methodological differences between the figures from the TIRExB

survey and IRU statistics and to share historical data on claims statistics which it has at its disposal. IRU agreed to provide the requested figures and confirmed it was available to discuss them as well as its methodology with the secretariat.

18. The Board requested the secretariat to submit its final assessment of the 2011 survey, including its considerations on the above mentioned issues as well the outcome of its meeting with IRU, for consideration by the Board at its next session.

IX. Issues raised by the Turkish Customs authorities

Documentation: Informal document No. 3 (2012)

19. Further to issues raised by the Turkish Customs authorities on the application of Article 38 of the Convention, TIRExB considered and generally approved Informal document No. 3 (2012), containing a revision of the existing example of best practice on the application of Article 38 (Chapter 5.8 of the TIR Handbook). IRU informed that it had some further proposals to improve the text of the example of best practice, which it would submit to the secretariat.

20. TIRExB requested the secretariat to revise Informal document No. 3 (2012), taking account of proposals submitted by IRU, for consideration by the Board at its next session.

X. Review of the examples of best practices on the application of Article 11 of the Convention

Documentation: Informal document No. 4 (2012)

21. The Board had a short exchange of views on Informal document No. 4 (2012), prepared by the secretariat and containing a first draft of a specimen pre-notification letter, for inclusion in Chapter 5.7. of the TIR Handbook. TIRExB invited its members to have a close look at the text of the specimen letter and inform the secretariat not later than by 15 April 2012 of their comments / suggestions for approval, if any. Based on input from TIRExB members, the secretariat was requested to revise Informal document No. 4 (2012), for consideration by the Board at its next session.

XI. Implementation of the intermodal aspects of the TIR procedure

Documentation: Informal document No. 5 (2012)

22. TIRExB discussed Informal document No. 5 (2012), containing a short survey among concerned stakeholders in the transport industry (logistic companies and intermodal transporters) in order to determine if there is a specific demand from the transport industry for a single intermodal Customs document and accompanying guarantee. The TIRExB generally endorsed the survey but felt more precision with regard to the use of term 'intermodality' was required, possibly by means of an introductory paragraph to the survey. In addition, it felt that its scope should not be limited to the private sector but should also include national administrations and that it seemed appropriate to add one more question, inviting respondents to leave any comments they might have on the issue.

23. IRU confirmed its interest in the topic and stressed that, in its view, any initiative to further the intermodal use of the TIR procedure should be driven by the transport industry itself, based on a need assessment. According to statistical data available, more than 200,000 TIR Carnets per year are used for intermodal transports.

24. TIRExB requested the secretariat to revise Informal document No. 5 (2012) according to the above instructions, for consideration by the Board at its next session.

XII. WCO e-learning course

Documentation: Informal document No. 6 (2012) (restricted)

25. The Board started its considerations of Informal document No. 6 (2012), containing the secretariat's assessment of the extensive list of follow-up actions undertaken jointly by World Customs Organisation (WCO) and IRU in reply to comments made by TIRExB on the contents of the e-learning course. Before going into the details of the document, the Board considered it appropriate to establish that a letter of reply should be addressed to WCO, expressing the Board's general satisfaction with the efforts undertaken by WCO and IRU to accommodate most of its comments. At the same time, the letter should encourage WCO to accept all comments by TIRExB and, for the future, in case of further amendments of or additions to the e-learning course, invite WCO to consult with TIRExB at a time where its involvement could positively contribute to increasing the overall value of the course for the purpose of Customs training.

26. TIRExB expressed the view that it is not yet in a position to recommend the course, in particular because the Russian version of the course still contains many mistakes and uses terminology which is not in line with the text of the Convention. IRU expressed its willingness to review the Russian version of the course and, in general, its intention to continue improving the text of the course for the future.

27. TIRExB invited its members to submit, in writing, to the secretariat any comments or suggestions to Informal document No. 6 (2012), not later than by 15 April 2012. On the basis of contributions from the Board, the secretariat was requested to submit an Informal document for consideration by the Board at its next session.

XIII. Issues raised by the Greek national association

28. The secretariat informed the Board that with regard to the issue at stake, a letter had been sent to OFAE requesting more specific information on the individual cases, including specifications of the vehicles which were said to have been refused to load goods in Ukraine (photos, certificates of approval etc.). At the same time, a letter had been sent to the Ukrainian Customs authorities seeking information from their side. So far, no reaction from either side had been received. TIRExB decided to revert to this issue, once more information would have been made available by either side.

XIV. Election of a TIRExB replacement member

Documentation: Informal document No. 7 (2012)

29. TIRExB considered Informal document No. 7 (2012), containing, inter alia, proposals for a new Explanatory Note to Annex 8, Article 9, paragraph 2 as well as proposals to amend the Board's Rules of Procedure with regard to the issue of representation. The Board requested the secretariat to submit the proposals to the TIR Administrative Committee (AC.2) for consideration. With regard to the issue raised by the Office of Legal Affairs (OLA) in its memo of 11 October 2004 (Annex 1, paragraph 5 of the said document), the TIRExB was of the view that, although it is correct that TIRExB members are elected in their personal capacity, the fact cannot be denied that they are nominated and their work financed by their respective governments. Thus, TIRExB did not

share OLA's assessment that "a TIRExB member, once elected by the TIR Administrative Committee, could not be removed by his or her government or organization".

30. The Board requested the secretariat, to prepare, for consideration at its next session an Informal document, outlining the professional requirements of prospective TIRExB members.

XV. Issuance of two original Certificates of Approval in some Contracting Parties

31. Mrs. Korshunova (Russian Federation) and Mr. Makhovikov (Belarus) informed the Board that, in accordance with the Customs Union Commission Decision No. 260 of 20 May 2010, TIR Certificates of Approval have temporarily been issued by the competent authorities in two originals. The purpose of this new procedure was to avoid problems in case of loss of the Certificate of Approval. According to the above decision, one original of Certificate should be retained at the premises of the transport company / owner of the vehicle, whereas the other was to be kept on the vehicle itself, as prescribed by Annex 4 of the TIR Convention. The procedure was discontinued by Decision No. 676 of 22 June 2011. However, between May 2010 and June 2011, certificates have been legally issued in two originals, some of which are still in circulation. Since then, national competent authorities have requested transport companies to return the second original, but this can only be done on a voluntarily basis, as there is no legal basis to request the obligatory return of one original. Authorities of other Contracting Parties, when encountering the presence of two original Certificates of Approval on the road vehicle, are requested to confiscate one copy and return it to the issuing authority.

32. TIRExB thanked Mrs. Korshunova (Russian Federation) and Mr. Makhovikov (Belarus) for their explanation of the situation and expressed its satisfaction with Decision 676 of 22 June 2011, revoking the issuance of Certificates of Approval in two originals. TIRExB pointed out that the temporary practice to issue two originals constituted a violation of the provisions of Annex 4 of the Convention, which only contains references to the Certificate of Approval in a singular form. TIRExB requested the competent authorities to continue to closely monitor the situation, in particular because it might not be excluded that the presence of two Certificates of Approval might lead to abuse, in cases where defects have been noted by Customs authorities on one original, but fail to be recognized by others, which are presented with the other, clean, original.

XVI. Letter by national association of Former Yugoslav Republic of Macedonia

Documentation: Informal document No. 8 (2012)

33. The Board requested the secretariat to address a letter of reply to the association of Macedonian Enterprises for Road International Transport (AMERIT), informing that TIRExB regrets the inconvenience caused in 2011 by strikes of Greek Customs services, but that it is not competent to deal with the issue, as it falls outside the scope of application of the TIR Convention.

XVII. Activities of the secretariat

34. The secretariat informed the Board that the ITDBonline+ website had been launched successfully. Contracting Parties that already provided a list of Customs officers authorized

to access the ITDBonline+, will receive the necessary documentation to access the application at the February 2012 AC.2 session.

35. The Board was informed by the secretariat that the Kyrgyz Customs authorities had expressed interest to host, in 2012, a regional TIR seminar. In addition, the secretariat was interested to organize one or two national TIR seminars, at the request of national competent authorities.

XVIII. Other matters

(A) Issue raised by IRU on the application of the TIR procedure in Albania

36. With regard to this issue, TIRExB was informed that IRU had transmitted to the TIR secretariat various complaints that transport operators, wishing to enter Albania to import goods under cover of a TIR Carnet, were forced either to produce additional information with regard to the imported goods (such as CMR), or to end the TIR transport and change to a national transit procedure (T1), requiring the purchase of an additional guarantee through a broker, located at the border for an amount of at least EUR 20.

37. At the request of the secretariat, Mrs. Dubielak (Poland) had looked into this issue as she was familiar with Customs procedures in Albania. She informed the Board that she had received confirmation that in case the Albanian Customs authorities at entry find that the description in the TIR Carnet is insufficient to identify the goods, additional documentation is required. If such documentation cannot be produced, the authorities end the TIR transport and prescribe the use of a national transit procedure (T1) against an additional fee. According to information received, this procedure does necessarily serve Customs purposes, but seems rather aimed at providing Customs brokers at the borders with additional income.

38. TIRExB requested the secretariat to address a letter to the Albanian Customs authorities, asking for official clarification of the issue.

(B) Issue raised by the Romanian national association on the use of TIR Carnets in Turkey

39. With regard to complaints by the National Union of Road Hauliers from Romania (UNTRR), that Romanian TIR Carnet holders, who had been contracted by a Dutch TIR Carnet holder, had been refused entry to Turkey when using TIR Carnets issued in their own name, preliminary information was provided by Mr. Köseoglu (Turkey) and IRU. Considering that written correspondence was available on the issue, TIRExB requested the Turkish authorities and IRU to submit copies to TIRExB, for consideration at its next session.

(C) Issue raised by the Polish national association on the application of the TIR procedure in the territory of the new Customs Union

40. With regard to this issue, TIRExB requested that the letter sent by the Association of International Road Transport Carriers in Poland (ZMPD) be submitted as Informal document for consideration by the Board at its next session.

XIX. Restriction in the distribution of documents

41. TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal document No. 1 (2012)/Rev.1, Informal document No. 2 (2012) and Informal document No. 6 (2012).

XX. Date and place of next session

42. At the kind invitation of the Greek Customs administration, TIRExB decided to conduct its 50th session on 14–15 May 2012, in Athens.

Annex

Example of best practice¹

“Procedure prior to suspension of the guarantee in the territory of a Contracting Party

1. In accordance with the provisions of Article 6 of the Convention, each Contracting Party may authorize national associations to issue TIR Carnets and act as guarantors, as long as the minimum conditions and requirements, as laid down in Annex 9, Part I, are complied with. Pursuant to Annex 9, Part I, Article 1 (e), the establishment of a written agreement or any other legal instrument between the association and the competent authorities of the Contracting Party in which it is established constitutes one of these minimum conditions and requirements. The guarantee coverage in this country can only be suspended by either party to the above written agreement by means of termination of the agreement or through revocation of the authorization.
2. In case the national association wishes or finds itself compelled (e.g. due to the large number of claims or undischarged TIR operations) to suspend its guarantee in that given country, it can do so by means of a written notification to the competent authorities informing of its intention to terminate the written agreement, in accordance with Annex 9, Part I, Article 1 (f) (v).
3. Competent authorities can either terminate the agreement, in accordance with Annex 9, Part I, Article 1 (f) (v) or revoke the authorization, in accordance with Annex 9, Part I, Article 1 (b), in case they decide that the national association can no longer fulfil its obligations under the Convention.
4. The time to give notice for the termination of the agreement shall be longer than the time to give notice for the termination of the insurance or financial guarantee contract as referred to Annex 9, Part I, Article 1 (f) (v). However, in order to limit the financial exposure of the national association (and the international organization, referred to in Article 6 of the Convention), the time to give notice for the termination of the written agreement should be short, and should preferably, in accordance with national law, not exceed a period of three months;
5. The time to give notice for the revocation of the authorization is determined by provisions of national law.
6. Prior to entering into the formalities leading up to the termination of the agreement or the revocation of the authorization, it is recommended to apply the following procedure:
 - Whenever in a Contracting Party the number of undischarged TIR operations has increased to a level where, according to the national association, there is a potential threat that the association would be no longer in a position, if so required, to provide its guarantees, the association (possibly upon initiative or with the support of the international organization) shall immediately send an official letter to the national competent authorities, highlighting the data of all relevant cases and substantiating how they might jeopardize its obligation to provide guarantee. Further to the regular enquiry procedures conducted by **them**, national competent authorities have to

¹ Changes with regard to Informal document No. 1 (2012)/Rev. 1 are in **bold**, deletions in ~~strikethrough~~.

- meticulously follow each individual case reported by the national association. In parallel, the national association shall inform AC.2 and TIRExB;
- TIRExB shall study each and every potential emerging crisis situation without delay (possibly by means of questionnaires, information from national associations, national competent authorities, the international guarantee chain or others) and report its findings to AC.2; in parallel, AC.2 shall monitor the information submitted to it by the national association.
 - If despite examinations by Customs authorities and TIRExB, the national association still feels compelled to initiate the termination of the agreement, it shall inform the international organization of this intention, in order to allow the latter to take appropriate actions to maintain, in accordance with Article 6.2**bis**, the effective organization and functioning of the guarantee system at the national and international level. ~~Alternatively, competent authorities may initiate the revocation of the authorization.~~ Pending termination of the agreement or revocation of the authorization, the international organization, in close cooperation with the Customs authorities concerned, shall undertake all efforts to find a new national guaranteeing association which meets all established criteria, in order to ensure uninterrupted guarantee coverage in that Contracting Party. AC.2 shall closely monitor the situation and take all measures to **ensure continuation** ~~avoid revocation~~ of the authorization granted to the international organization to take on responsibility for the effective organization and functioning of an international guarantee system, pursuant to Article 6.2 **bis** of the Convention;
 - The above procedure is without prejudice to the right of Contracting Parties to apply, at any time, the provision of Article 38 or Article 6, paragraph 4 as well as Annex 9, Part II, Article 1 (d), with the aim to maintain the sustainability of the TIR procedure on their territory.”
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