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**Economic Commission for Europe****Administrative Committee for the TIR Convention, 1975****Sixty-seventh session**

Geneva, 8 February 2018

Item 4 (a) (i) of the provisional agenda

**Activities and administration of the TIR Executive Board:****Activities of the TIR Executive Board:****Report by the Chair of the TIR Executive Board****Report of the seventy-fourth session of the TIR Executive Board (TIRExB)\*****I. Attendance**

1. The TIR Executive Board (TIRExB) held its seventy-fourth session on 9 October 2017 in Geneva.
2. The following members of TIRExB were present: Mr. S. Amelyanovich (Russian Federation), Mr. G. Andrieu (France), Mr. M. Ayati (Iran (Islamic Republic of)), Ms. D. Dirlik Songür (Turkey), Mr. S. Fedorov (Belarus), Ms. B. Gajda (Poland), Ms. L. Jelínková (European Commission), Mr. S. Somka (Ukraine) and Ms. E. Takova (Bulgaria).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. Y. Guenkov.

**II. Adoption of the agenda (agenda item 1)***Documentation:* Informal document TIRExB/AGE/2017/74

4. TIRExB adopted the agenda of the session contained in Informal document TIRExB/AGE/2017/74 with the addition of (a) Informal documents Nos. 20, 22-24 and 26-28 under agenda item 7 (a) ("Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations"); and (b) the issue of claims for payment exceeding the maximum amount of TIR guarantee per TIR Carnet transmitted by IRU (Informal document No. 21); and the update on the implementation of a

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\* The document was submitted late due to the date of the adoption of the report (6 December 2017).

second printing company for TIR Carnets, submitted by the IRU (Informal document No. 25) under agenda item 13 (“Other matters”).

### **III. Adoption of the report of the seventy-fourth session of TIRExB (agenda item 2)**

*Documentation:* Informal document TIRExB/REP/2017/74

5. The Board adopted the draft report of its seventy-fourth session (Informal document TIRExB/REP/2017/74draft).

### **IV. Application of specific provisions of the TIR Convention (agenda item 3)**

#### **Consideration of amendment proposals**

#### **A. Proposals to introduce more flexibility in the guarantee system**

*Documentation:* ECE/TRANS/WP/WP.30/AC.2/2016/7 and Informal document No. 13 (2017)

6. TIRExB recalled that the previous composition of the Board had exhausted its assessment of increasing further flexibility in the guarantee system towards the end of its mandate and had transmitted its considerations to the TIR Administrative Committee (AC.2) for further discussion (see TIRExB/REP/2017/73/final, para. 8). The Board noted that the secretariat had distributed documents related to previous considerations on the matter to its members pursuant to its request (TIRExB/REP/2017/73final, para. 8) and had also prepared a summary of those discussion (Informal document No. 13 (2017)). The Board reiterated its decision to commence consideration of the matter only subsequent to the deliberations of AC.2 (see TIRExB/REP/2017/73final, para. 8).

7. In addition, Ms. L. Jelínková (European Commission) said that it would be useful to know how many Contracting Parties had already raised the TIR guarantee limit to EUR 100,000 and asked the secretariat to provide such information for the next session. In response, the secretariat preliminary informed that to-date it had been notified by five Contracting Parties about agreements with its respective national associations to harmonize the TIR guarantee level (Italy, Poland, Romania, Slovenia and Turkey), but that the actual number was probably higher. The secretariat further informed that a more concrete number could be provided in January 2018, when the insurance certificates would be received for 2018. Mr. Y. Guenkov (IRU) added that the Czech Republic had also raised the TIR guarantee level and that IRU would provide further information on the number of Contracting Parties having raised the TIR guarantee level to the secretariat to be reported to the Board at its next session.

#### **B. Proposals to amend Article 18 with a new Explanatory Note**

*Documentation:* Informal document No. 14 (2017)

8. The Board continued its considerations on a draft Explanatory Note to Article 18 of the TIR Convention, on the basis of a revised proposal as contained in Informal document No. 14 (2017). The Committee had mandated TIRExB to draft an Explanatory Note to

accompany and clarify the application of the original proposal to increase the number of places of loading and unloading from four to eight, while introducing the possibility for Contracting Parties to implement a lower number of customs offices of departure or destination on their territory. The Board was of the general view that the revised proposal, with some additional editorial amendments proposed during the session, responded to the request by the Committee.

9. Some members of the Board expressed the view that (a) the second sentence of paragraph 1 should be deleted, as the reference to three offices of departure or destination appeared arbitrary considering that it referred to the applicable number under the current wording of Article 18; and (b) the text of the draft Explanatory Note would be better suited as part of Article 18, to avoid any contradiction between the provision and its Explanatory Note.

10. The majority of Board members considered, however, that there was no contradiction between the Article and the draft Explanatory Note. Therefore, the second sentence of paragraph 1 should stay, in particular since it provided useful explanation on the newly introduced possibility to increase the number of customs offices of departure or destination and avoided any misunderstanding. After discussion, and to reach a compromise, the Board agreed to place the second sentence of paragraph 1 of the draft Explanatory Note into square brackets, for further consideration by the Committee.

11. Concerning the second paragraph of the draft Explanatory Note, the Board agreed that the use of the International TIR Data Bank (ITDB) for notifying the limitations of the number of customs offices of departure or destination on their territory to Contracting Parties and TIR operators was appropriate. In response to a question on the technical feasibility, the secretariat clarified that such functionality could be easily incorporated in the customs offices database which would be accessible by all TIR stakeholders. In that context, Mr. Y. Guenkov (IRU) informed the Board that the TIR Electronic Pre-Declaration system (TIR-EPD) could also be adapted to provide information to TIR operators on limitations applicable in various Contracting Parties. Furthermore, the Board agreed that such functionality should, in principle, also be compatible with the envisaged eTIR international system.

12. In conclusion, the Board considered that the proposal met the requirements of the mandate provided by the Committee and should be transmitted as soon as possible for further consideration and possible adoption. Against that background, TIRExB requested the secretariat to issue the text of the proposal, as agreed during the session, as Informal document for the sixty-sixth session of the Committee (12 October 2017), for information. At the same time, the Board noted that the proposal would be tabled as a formal document for the sixty-seventh session of the Committee in February 2018.

## **V. Budget proposal and cost plan of TIRExB and the TIR secretariat for the year 2018 (agenda item 4)**

*Documentation:* ECE/TRANS/WP.30/AC.2/2017/13, ECE/TRANS/WP.30/AC.2/2017/20, ECE/TRANS/WP.30/AC.2/2017/21 and ECE/TRANS/WP.30/AC.2/2017/22

13. TIRExB took note of its final accounts for the year 2016 (ECE/TRANS/WP.30/AC.2/2017/20), together with a report covering the period from 1 January 2017 until 30 June 2017 (ECE/TRANS/WP.30/AC.2/2017/21). The Board also considered the budget proposal and cost plan of TIRExB and the TIR secretariat for the year 2018, as well as the net amount to be transferred by IRU (ECE/TRANS/WP.30/AC.2/2017/22).

14. Mr. S. Amelyanovich (Russian Federation) asked whether the Board would be informed about the outcome of the review by the competent financial services of the United Nations to ascertain if the amounts needed to be revised for future budget cycles (see asterisk in Annex 2 of document ECE/TRANS/WP.30/AC.2/2017/22). The secretariat explained that the competent financial services were already looking into the matter and would inform about their findings, which the secretariat would then report to the Board. In response to a further question by Mr. S. Amelyanovich, the secretariat explained that the year-to-year forwarded amounts referred to actual amounts to which the secretariat had no access or authorization, since the use of those amounts was only foreseen for certain situations (closure or termination of the TIR secretariat). The Board endorsed the budget proposal and cost plan of TIRExB and the TIR secretariat for the year 2018 as well as the net amount to be transferred by IRU (ECE/TRANS/WP.30/AC.2/2017/22).

## **VI. Computerization of the TIR procedure (agenda item 5)**

15. Due to a lack of time, TIRExB decided to discuss items a.-c. at its next session.

## **VII. Adaptation of the TIR procedure to modern business, logistics and transport requirements (agenda item 6)**

16. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

## **VIII. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations (agenda item 7)**

### **A. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations**

*Documentation:* Informal document No. 10 (2017), Informal documents Nos. 18-20 (2017), 22-24, 26-28 (2017) and material circulated to Board members by emails of 23 May 2017 and 13 July 2017

#### **1. Draft response to questions by ARTRI in letter of 18 April 2017 and presentation to the Board at its seventy-third session**

17. The Board continued its deliberations on the matters brought to its attention at its seventy-second and seventy-third sessions by the Moldavian Association for International Road Transport (AITA) and the Romanian Association for International Road Transport (ARTRI) and considered a draft response on the basis of Informal document No. 18 (2017), restricting the deliberations to its members. The Board noted that the new President of AITA had requested the Board to disregard the previous submissions by the former management of AITA, so that the draft response would only be addressed to ATRI (see Informal document No. 27 (2017)).

18. Mr. S. Amelyanovich (Russian Federation) stated that the mandate of TIRExB was the functioning of the TIR guarantee system, but that matters of a private contractual nature should not generally be excluded as in the second sentence of paragraph (d) of the draft response. In his view, there should be a statement that TIRExB does not accept any abuse of a customs or financial nature, which might arise in the implementation of the TIR

Convention, even if the guarantee system worked nevertheless well. In response, Mr. S. Somka (Ukraine) expressed his satisfaction with the draft response as being very objective. He added that the Board was responsible for the supervision of the functioning of the guarantee chain, whereas for other matters the Board had neither the expertise nor the competence to intervene.

19. After discussion, the Board agreed to (a) delete the reference to “and not to matters of a private contractual nature” in paragraph (d) of the draft response; and (b) call upon the national association and the international organization to maintain good relations and to avoid any negative implications on the smooth operation of the guarantee system pursuant to their obligations under Annex 9, Parts I and III, respectively. Subject to those amendments, the Board finalized the draft response and requested the secretariat to transmit it to ARTRI.

20. In response to a question by Mr. S. Fedorov (Belarus), the secretariat confirmed that the certified copy of the global insurance contract was transmitted to the Board as received, which was in French. In addition, the Board noted that the certified copy corresponded to the version that the secretariat had received in 2011, but included in addition annexes with certain redacted figures.

21. Thereafter, Mr. S. Amelyanovich (Russian Federation) noted that the submission of the certified copy of the global insurance contract with redacted figures constituted a failure to comply with Annex 9, Part III, paragraph 2 (a) as already claimed by ARTRI. However, Mr. S. Somka (Ukraine) emphasized that the Board had received a certified copy of the global insurance contract and that the missing parts seemed to be figures related to other matters than linked to the TIR procedure, such as management fees, reimbursement, etc. He added that the reason for redaction might have been confidentiality and recalled a previous session, in which representatives of insurance companies did not provide the concrete premiums to the Board for that reason. Mr. S. Amelyanovich observed that it was not clear which parts of the contract were missing nor what document the copy was certified from, i.e. a redacted or complete original. Mr. S. Fedorov (Belarus) proposed that the Board should simply provide a statement of facts without any commentary, *i.e.* that there had been a request to provide a certified copy of the full global insurance contract in response to a situation where a national association claimed non-receipt of it and that the Board did not receive the full, but a redacted version.

22. After discussion, the Board decided to (a) follow Mr. S. Fedorov’s proposal; (b) to request the certified copy of the full global insurance contract without any redactions from IRU; and (c) inform AC.2 accordingly.

## **2. Further developments in the relation between ARTRI and IRU**

23. In view of the letters received between July and October 2017, in particular the initiation of the process of exclusion and termination by IRU of its contractual relations with ARTRI, the Board regretted the deterioration in the relationship between ARTRI and IRU and urged all relevant parties to sustain efforts for continuing the functioning of the guarantee system. In addition, the Board decided to bring the matter to the attention of the Committee.

24. The Board noted that the Romanian customs authorities had requested its advice on the case, which merited a response. The Board also noted that the Convention explicitly addressed the duties of the national association, the international organization and the Contracting Parties. Moreover, the Board decided to bring to the attention of AC.2 that the only reference to the relationship between the international organization and its national associations was in the Explanatory Note to Article 6, paragraph 2bis, which only stated “the relationship should be defined in written agreements on the functioning of the

international guarantee system". In that regard, Mr. S. Amelyanovich (Russian Federation) proposed that TIRExB should start working on a model agreement between the international organization and AC.2. In response, the Board viewed the proposal as premature, since AC.2 should be first informed about the issue.

25. The Board had extensive discussions on the issue. Different views diverged from, on the one hand, the relationship between IRU and its national associations being of a mere contractual nature, and that any intervention by TIRExB could only be focused on the functioning of the guarantee chain. On the other hand, concerns were raised about the fact that IRU could exclude a national association when the respective customs authorities were of the view that the national association met all its obligations.

26. The Board decided to continue its assessment at its next session and to ask IRU for clarification about the reasons for excluding ARTRI. At the same time, the Board was of the view that the matter should also be brought to the attention of the Committee for further consideration, since each national association was authorized by a Contracting Party and the Contracting Parties, through AC.2, authorized the international organization.

#### **B. The IRU external audit report**

27. With regard to the IRU external audit report, the Board reiterated its decision to discuss it at a future session subsequent to the consideration of the matter by the Working Party on Customs Questions affecting Transport (WP.30) session (see TIRExB/REP/2017/73final, para. 29), which would continue its deliberations on the matter at its October 2017 session (see ECE/TRANS/WP.30/292, paras. 31-35).

### **IX. Prices of TIR Carnets (agenda item 8)**

28. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

### **X. Example agreement (agenda item 9)**

29. Due to a lack of time, TIRExB decided to discuss items a.-b. at its next session.

### **XI. Issues regarding the consecutive use of two TIR Carnets for a single TIR transport (agenda item 10)**

30. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

### **XII. Problems reported by transport companies from the Republic of Moldova in Ukraine (agenda item 11)**

31. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

### **XIII. Activities of the secretariat (agenda item 12)**

32. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

**XIV. Other matters (agenda item 13)**

33. Due to a lack of time, TIRExB decided to discuss the issue at its next session.

**XV. Restriction in the distribution of documents (agenda item 14)**

34. TIRExB decided to keep Informal documents Nos. 13-27 (2017), issued in relation to the current session, restricted. In addition, the Board decided to ask ARTRI whether it would consent that Informal documents Nos. 20 and 22, containing its submissions, could be shared with IRU, as per usual practice.

**XVI. Date and place of next session (agenda item 15)**

35. The Board decided to have its next session on Wednesday and Thursday, 6 and 7 December 2017, in Geneva.

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