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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 forty-seventh session of the TIR Executive Board

Summary

The present document is submitted pursuant to Annex 8, Article 11, paragraph 4 of the TIR Convention, 1975, which stipulates that the TIR Executive Board (TIRExB) “shall report on its activities to the Administrative Committee at least once a year or at the request of the Administrative Committee”.

I. Attendance

1. The TIR Executive Board (TIRExB) held its forty-seventh session on 6 June 2011 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), Mrs. H. Metaxa Mariatou (Greece) and Mr. V. Milošević (Serbia).
3. Mr. V. Luhovets (Ukraine) and Mr. I. Makhovikov (Belarus) were excused. TIRExB decided to have a separate discussion on the absence of Mr. I. Makhovikov (Belarus) under agenda item XI (Other matters).
4. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. M. Azymbakiev.

II. Adoption of the agenda

5. TIRExB adopted the agenda of the session, as prepared by the secretariat, without further amendments.

Documentation

Informal document TIRExB/AGE/2011/47draft

III. Adoption of the report of the forty-sixth session of TIRExB

6. TIRExB adopted the report of its forty-sixth session (Informal document TIRExB/REP/2011/46draft with comments), subject to the following change:

Page 8, paragraph 32, first line

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Documentation

Informal document TIRExB/REP/2011/46draft with comments

IV. Current status of the eTIR Project

7. The Board took note of recent developments regarding the eTIR project. It welcomed the participation of the secretariat in the Data Model workshop and IT conference organized by the World Customs Organisation (WCO) in Seattle (United States of America) from 9 to 13 May 2011. It noted the interest expressed by South and Central American Customs officials in the TIR Convention and, more specifically, in the eTIR project, and expressed its support for the organization of a workshop or seminar in the region sometime in the future. The TIRExB also welcomed the information gathered by the secretariat at the conference on the use of cloud computing in a Customs environment and noted that this new development in IT, though very promising, required further study, in particular from a legal perspective, before it could, potentially, be of use to Customs.

8. The TIRExB thanked the Serbian Customs administration for inviting the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of the TIR Procedure (GE.1) to hold its nineteenth session in Belgrade on 13-14 September 2011. In view of the Board's increased involvement in the eTIR project, the Board encouraged its members, where possible, to either take part in the GE.1 session themselves or, alternatively, ensure that colleagues with a Customs/IT background would attend the session. TIRExB expressed particular interest for two issues to be discussed at that session, i.e. the dematerialization of attached documents and the relationship between national single windows and the eTIR project.

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

9. TIRExB considered Informal document No. 11 (2011), submitted by the secretariat and containing a succinct summary of the Board's main findings on the issue so far. The Board generally supported the document and was of the opinion that Part III (a) and (b) of the document provided a useful basis for the development of an information exchange mechanism between various parties concerned and TIRExB prior to the suspension of the guarantee on the territory of a Contracting Party. However, some TIRExB members questioned the usefulness of such mechanism unless it would obtain sufficient formal support from all Contracting Parties. In addition, various TIRExB members commented that, so far, no attention had been paid to the instrument of Article 38 of the Convention, which provides competent authorities with an important tool to improve the sustainability of the guarantee system in their country. With regard to the questions, raised in Part IV of the document, TIRExB members agreed that the longer the period between notification of termination of the agreement under Annex 9, Part I, Article 1, paragraph (f) (v) and actual termination, the higher the risk exposure for the national association. There was general agreement, that a three month period, as exists already now in a number of countries, seems to be a reasonable period.

10. In conclusion, the TIRExB requested the secretariat to prepare, for discussion at its next session, a draft comment for inclusion in Annex 9, Part I of the Convention, taking account of the Board's above instructions for improvement of the procedure prior to suspension of the guarantee in the territory of a Contracting Party. In addition, TIRExB asked the secretariat to prepare, for consideration at one of its future sessions, a document outlining measures to be taken by national competent authorities to monitor the financial status of national associations.

Documentation

Informal document No. 11 (2011) (restricted)

VI. Monitoring the functioning of the TIR guarantee system

11. TIRExB was informed by the secretariat that the preparation of a survey on Customs claims, covering the years 2007–2010, was in its final phase. Official letters to Director-Generals of Customs would be sent out before the end of June 2011, with e-mail copies to TIR Customs Focal Points. The provisional deadline for replies was set at **30 September 2011**.

VII. Issues raised by the Bulgarian national association

12. The Board considered Informal document No. 14 (2011), transmitted by the Government of Turkey and containing an extensive analysis of the issues raised by the Association of the Bulgarian Enterprises for International Road Transport and the Roads (AEBTRI), including copies of all relevant underlying communications (Informal document No. 12 (2011)).

13. In a nutshell, the issues raised by AEBTRI refer to the following:

(a) The reception by AEBTRI of notifications that Turkish authorities have decided to exclude several Bulgarian holders after the decision had entered into force and the absence of any information on possible appeal procedures, as recommended by the example of best practice on the application of Article 38 of the Convention;

(b) The fact that in one situation a Bulgarian company had been excluded from the TIR procedure, although no infringement under the TIR procedure had been committed;

(c) The fact that a company had been excluded, although the infringement had been committed by one of its drivers, without the knowledge of the company;

(d) The situation where vehicles from company B were detained in Turkey, although the company was not excluded, because the vehicles used had been officially hired from company A, which had been excluded.

14. In reply, the Turkish authorities stressed the importance they attach to the application of Article 38 of the Convention as well as its corresponding example of best practices. As a consequence, Turkish authorities inform any haulier by the fastest means possible (email or fax, when available) of the decision to apply Article 38, in addition to sending an official communication by registered mail. The official letter contains information on the entry into force of the exclusion, its duration, as well as details on the possibility to appeal against this decision. In addition, Turkish authorities inform the national association (Union of Chambers and Commodity Exchanges of Turkey (TOBB)) within one week, as stipulated by Article 38, paragraph 2 of the Convention. Any complaint by AEBTRI about the late reception of information or the absence of data on appeal, refers to communications between TOBB and AEBTRI and bears no relevance for the application of the TIR Convention or the corresponding example of best practice.

15. With regard to the second issue raised by AEBTRI, Turkish authorities referred to the text of Article 38, which stipulates that the right of exclusion can be applied in case of a serious offence against Customs laws or regulations in general and that the mechanism is not limited to the TIR Convention.

16. Concerning the third issue, Turkish authorities had established that the volume of fraud was such, that this could not have taken place without the knowledge or participation of the company which had employed the driver. However, this decision was later overturned in court, which ruled that the exclusion would be suspended until a final decision was taken, for the reason that it might lead to irreparable losses for the company.

17. In reply to the last issue, Turkish authorities were of the opinion that company A, in renting out its vehicles to company B was, in fact, bypassing the sanction imposed on it by the exclusion and, thus, had taken the decision to refuse vehicles from company B to enter Turkey. This opinion had been confirmed by the legal service of Turkish Customs.

18. TIRExB expressed its satisfaction with the extensive reply by the Turkish authorities and thanked Mr. Köseoğlu (Turkey) for his involvement. As a next step, TIRExB requested the secretariat to convey the information to AEBTRI. In addition, considering that the Turkish authorities in their reply had raised some issues with regard to the application of

the example of best practices on Article 38, TIRExB requested the secretariat to submit an informal document for discussion at the Board's next session.

Documentation

Informal document No. 12 (2011), Informal document No. 14 (2011)

VIII. Review of the examples of best practices on inquiry procedures

19. TIRExB considered Informal document No. 13 (2011), in which the secretariat had reproduced the existing text of Chapter 5.4 of the TIR Handbook, containing the examples of best practices from the Russian Federation and the European Union (EU) on inquiry procedures. Mrs. Korshunova (Russian Federation) informed TIRExB that, since the introduction of an electronic inquiry procedure fifteen years ago, the Russian procedure had remained unaltered and that, thus, the Russian example of best practices was still accurate. However, TIRExB members from EU member states and the European Commission, in a first reaction, informed that since the adoption of the current example, the inquiry procedure in the EU had significantly changed, mainly due to the introduction of the New Computerised Transit System (NCTS) and that, thus, the example needed to be updated accordingly.

20. TIRExB requested Mrs. A. Dubielak (Poland), Mr. H. Lindström (Finland), Mrs. M. Manta (European Commission) and Mrs. H. Metaxa Mariatou (Greece) to prepare an updated version of the example of best practices on inquiry procedures for discussion at its next session.

Documentation

Informal document No. 13 (2011)

IX. Preparation of an example of best practices on the application of Article 11 of the Convention

21. The Board had first considerations on this issue, on the basis of the existing recommendations for improvement of communication between national competent authorities and national guaranteeing associations, as contained in Chapter 5.7 of the TIR Handbook. In a first reaction, various TIRExB members expressed the opinion that the recommendations provided a good basis, but that their practical use was rather limited, due to the fact that the recovery of claims from national associations pursuant to Article 11 of the Convention was mainly governed by provisions of national law. In addition, useful elements, such as a specimen notification letter, were still missing.

22. The Board requested its members to check the text of Chapter 5.7 and report to the secretariat, preferably not later than by **15 September 2011**, which elements would benefit from improvement and/or submit suggestions for new elements to be included in the text. IRU was encouraged to also contribute to the issue by submitting its considerations on the use of Chapter 5.7. or its suggestions for improvement. Based on the inputs received, the secretariat was requested to draft an informal document for consideration by the Board, at its next session.

X. Implementation of the multimodal aspects of the TIR procedure

23. The Board had a first exchange of views on how to approach this part of its programme of work. Although the TIR Convention provides for the multimodal use of the TIR Carnet, there is little or no information available how this should be done in practice. Thus, TIRExB decided that the ultimate aim of its work should be to draft one or more examples of a multimodal TIR transport for inclusion in the TIR Handbook.

24. TIRExB agreed that as a first step, it would review those parts of the TIR Handbook which already now refer to multimodal aspects of the TIR procedure and identify the definition of the term “multimodal” within the context of the UNECE Conventions. As a next step, the issue of liability in the various modes of transport would need to be addressed. IRU was invited to share the experiences of the private sector (or the absences thereof) with the Board.

25. In a first reaction, IRU informed TIRExB that the private sector was very interested in this important issue and that, thus, IRU was available to share its experiences with the Board.

26. TIRExB requested the secretariat to prepare a document for discussion at its next session, addressing the above mentioned issues of terminology and available information from the TIR Handbook. IRU offered to contribute to the document by providing information on the private sector’s experiences with multimodal transports as well as its views on liability in the various modes of transport.

XI. Activities of the secretariat

27. The Board was informed of the secretariat’s ongoing work to keep the list of authorized TIR Carnet holders in the International TIR Database (ITDB) up to date. It noted with regret that, despite ongoing reminders, some countries still fail to transmit data to the TIR secretariat, as required by the provisions of Annex 9, Part II of the Convention.

28. The Board took note that the secretariat had finalized the development of the ITDBOnline+ website and that an independent external company had conducted a successful audit thereof. Only minor modifications have been recommended. Some countries will be asked to test the ITDBonline+ before its launch in October. Full information with regard to access to the website would be provided to the TIR Administrative Committee at its October 2011 session.

29. Some TIRExB members raised the issue of organizing in the near future a seminar on the technical requirements of TIR approved vehicles, possibly similar to the one conducted in autumn 2007. Purpose of the seminar would be to provide training and capacity-building for Customs officers, in particular from countries that have only recently joined the TIR system.

30. The TIR secretariat informed TIRExB that, in general, June sessions of the Working Party on Customs Questions affecting Transport (WP.30) seem to be the best occasion and that it would look into the possibilities of organizing such seminar in the near future. However, it pointed at the fact that a technical seminar can only be successful if Customs officials from approving or inspecting bodies would take part therein. This might constitute a problem for many countries which do not have the financial resources to send more than one delegate to attend the session of WP.30. At the previous technical seminar, UNECE, exceptionally, had funds available to support the participation of delegations from some countries in transition, but these funds no longer exist. In order to address the participation

of countries in transition, TIRExB requested the secretariat to contact the European Commission to see if some kind of assistance (for example within the context of various twinning programs in the field of Customs) was possible. The Board decided to revert to this issue at its next session.

XII. Other matters

31. TIRExB took note of information on a visit by the Secretary-General of IRU, Mr. M. Marmy, to Minsk on 31 May 2011, where he had met with senior representatives of the Belarusian Association of International Road Carriers (BAMAP). In the course of the visit, Mr. Marmy had informed the participants of issues related to the functioning of the TIR system in Belarus. A planned meeting with officials from the Belarusian State Customs Committee and other governmental agencies had not taken place, thus there had been no opportunity for the Belarusian government to exchange views with IRU on the issues raised. However, despite the absence of such meeting, Belarusian authorities were informed of IRU's position on the functioning of the TIR system in Belarus. The State Customs Committee, Ministry of Foreign Affairs, Ministry of Transport and BAMAP were now analyzing the issues and, based on the outcome thereof, would undertake concerted actions to ensure the functioning of the TIR system in Belarus. Belarusian authorities would inform TIRExB once more details were known.

32. In reply to questions from the Board, IRU confirmed that such visit had taken place, in which, indeed, IRU had elaborated its position on various issues. With regard to the specific situation in Belarus, IRU was not in a position to comment.

33. In view of the seriousness caused by the above-described situation, TIRExB, at the proposal of the Chair, decided, pursuant to the provisions of Annex 8, Article 11, paragraph 5 of the Convention to conduct part of the session without the attendance of IRU. As a result of this closed session, TIRExB produced a statement contained in Annex to this report.

XIII. Restriction in the distribution of documents

34. TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal document No. 11 (2011).

XIV. Date and place of next session

35. TIRExB decided not to fix the date and place of its next session, but mandated the secretariat to explore possible options and to inform the members of the Board accordingly. In the absence of a formal decision on the date of its next session, TIRExB decided that a short, informal, meeting should be convened by the secretariat in the week of 3–7 October 2011, in conjunction with the 128th session of WP.30 in order to discuss the budget proposal and cost plan of the TIRExB and the TIR secretariat for the year 2012.

Annex

Statement by TIRExB at its 47th session

TIRExB notes with regret the absence of two of its highly respected members. In one case, the information provided justifies the assumption that the absence of the particular TIRExB member is directly related to a recent visit of the management of IRU to senior national officials in the country concerned during which IRU could have put into question the functioning of the TIR system in that country, due to, in part, the views expressed by the respective TIRExB member at various TIR-related meetings in Geneva.

TIRExB would like to remind countries of the fact that it is their voluntary decision to nominate a candidate for membership of TIRExB, based on the nominee's professional expertise as well as his/her personal integrity. When nominating a candidate, countries pledge themselves to support the independent functioning of their candidate, not only financially, but also by providing them unimpeded opportunity to attend TIRExB sessions or be engaged in an other TIRExB activity.

TIRExB has been established as supervisory body to the TIR Convention, 1975 and consists of nine members from different Contracting Parties to the Convention, who have been elected by all Contracting Parties to the Convention. For this important body to perform its functions, in accordance with the provisions of the Convention, in full independence, integrity and freedom of expression, it is imperative that countries ensure that TIRExB members at any time obtain full support and protection from their governments in pursuit of their work.

TIRExB notes with regret that there are repeated signs that the international organization, authorized by Contracting Parties to manage the international guarantee system, is using its dominant position to directly influence the course of the political decision making process, which should remain the sole prerogative of the Contracting Parties to the TIR Convention. In this context, TIRExB recalls that, according to Explanatory Note 0.6.2 bis-2 and the UNECE/IRU agreement, IRU must respect the competencies of the Contracting Parties to the TIR Convention.

TIRExB calls on all Contracting Parties, UNECE, IRU and its member associations to contribute to the re-adjustment of the public-private partnership, which constitutes the TIR system, to its originally intended dimensions of partnership and mutual respect.
