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Report by the Chair of TIR Executive Board

Review of the TIRExB programme of work for 2009-2010

This document contains an overview of the main accomplishments of TIRExB during its 2009-2010 terms of office, together with a list of recommendations for future compositions of TIRExB.

Annex

A. ACTIVITIES OF THE TIRExB IN 2009-2010

Outputs expected in 2009 and 2010	Main accomplishments
<i>Ongoing activities</i>	
(1) To study specific measures (both legal and practical) to combat fraud resulting from the misuse of the TIR procedure	
<ul style="list-style-type: none"> • Identification of possible weaknesses in the legal basis of the TIR Convention which could make it prone to fraud. 	<ul style="list-style-type: none"> • The Board extensively discussed requests by various Customs authorities whether the construction of specific types of vehicles meets the requirements of the TIR Convention, in particular the provisions of Annex 2, Article 1 (c) and (d). In general, the TIRExB reiterated that it is not part of its mandate, nor do its members dispose of the required expertise, to provide guidance on matters of a technical nature, such as the approval of specific types of vehicles. Any competence in this field lies with the national competent authorities. At the same time, within the framework of its general mandate to supervise the application of the Convention, the TIRExB decided to consult with an expert in the field to seek his guidance (the expert attended part of the forty-second session). The TIRExB agreed that, in cases where it would not be possible for external experts to cover their travel expenses, their participation would be covered by the TIRExB budget. For this purpose, the secretariat was mandated to provide the needed funds in the future cost plan and budget proposals. • The Board also discussed problems related to the approval of specific types of vehicles with sliding sheets and a sliding roof

Outputs expected in 2009 and 2010	Main accomplishments
	<p>in one country which had already received prior approval from the competent authorities in another country.</p> <ul style="list-style-type: none"> • The Board was kept informed of the latest trends in vehicle construction and took note of recent experiences with regard to infringements against the technical provisions of the TIR Convention. The TIRExB concluded that still too often competent authorities fail to recognize the most obvious and apparent technical defects or seem to disagree on the compliance of certain vehicle constructions with the provisions of the TIR Convention. The TIRExB established that the non-compliance of vehicles seems to evolve around three major issues: <ul style="list-style-type: none"> a) Non-observance of technical provisions of the TIR Convention, due to negligence or insufficient understanding from both operators and Customs; b) Use of vehicles whose construction, by nature, cannot easily be modified to meet the requirements of the TIR Convention (particular types of vehicles and containers with sliding sheets, the so-called “curtain-siders”); c) Use of vehicles, which, as a consequence of market developments, incorporate design or construction techniques not (yet) adequately addressed by the technical provisions of the TIR Convention. • In view of the TIRExB this clearly showed the continued and continuous need for technical training at national level. To underline this, the TIRExB requested the secretariat to initiate

Outputs expected in 2009 and 2010	Main accomplishments
	<p>the organization of a technical seminar, specifically dedicated to officials dealing with the approval or inspection of vehicles (to be amended).</p> <ul style="list-style-type: none"> The Board continued to monitor the use the Fraud Report Form by Contracting Parties as a mechanism to disseminate fraud related information, with the aim to prevent potential fraud patterns from materializing.
<p>(2) To facilitate the exchange of information between competent authorities of Contracting Parties, national guaranteeing associations, the International Road Transport Union (IRU) and other governmental and non-governmental organizations. To co-ordinate and foster the exchange of intelligence and other information among competent authorities of Contracting Parties</p>	
<ul style="list-style-type: none"> Elaborate adequate instruments and 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. 	<ul style="list-style-type: none"> The TIRExB discussed at length the issue of invalidation of TIR Carnets issued to authorized TIR Carnet holders, because recently national associations have resorted to actually suspending the authorization of TIR Carnet holders and, consequently, invalidate TIR Carnets to avoid them from being used after the date of suspension. In general the TIRExB stressed the importance of good communications between national associations and TIR Carnet holders with the aim to avoid the unauthorized use of TIR Carnets. The Board considered it also important that national associations establish close contacts with competent authorities, by means of informing competent authorities of any activity in the field of invalidation of TIR Carnets. At the same time, the TIRExB was of the opinion that it was unacceptable that national associations introduce measures which materially have the same impact as decisions taken by national competent authorities, however without providing operators any form of

Outputs expected in 2009 and 2010	Main accomplishments
	<p>legal security, including the right to oppose such measure. In addition, such measures did not seem to be taken on the basis of internal reasons only (regarding the association), but also as a consequence of infringements against Customs or other regulations, of which the association acted as the sole judge. In the view of the TIRExB, the national associations, in doing so, assume the role attributed by the Convention to the Customs authorities. Finally, the TIRExB reiterated that, as long as there was no internationally recognized mechanism in place, it was unacceptable to assume that any invalidation of TIR Carnets declared by the guarantee chain would immediately lead to the invalidation of the guarantee. The TIRExB recalled that the issue will be solved with the establishment of the eTIR international system, which, inter alia, provides for the centralized management by Customs of data on guarantees. (See also point 4). In conclusion of this topic, TIRExB established that there seems to be a divergence between the legal provisions of Articles 3, 6 and 9 which clearly stipulate that TIR Carnets issued by national associations bear a valid guarantee provided they are accepted by Customs before or on the final date of validity set by the association and the practice, where Customs agree to take account of information distributed by IRU through the CuteWise system in as far as such information has been duly transmitted to the Customs authorities and been properly registered at the appropriate level.</p> <ul style="list-style-type: none"> • The Board took note of problems raised by the Greek national association (OFAE). • The Board welcomed the distribution of an update of the so-

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	called International Directory on TIR Focal Points (2009).
(3) To supervise the national Customs control measures introduced in the framework of the TIR Convention	
<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • The TIRExB was informed of problems experienced by TIR operators in the territory of the Russian Federation. Despite the increase in the level of TIR guarantee the competent authorities seem to systematically require operators to change to the national transit system in case the Customs duties and taxes of their transports exceed 60,000 euros. Continuation of the transports under cover of a TIR Carnet is only authorized in case the transporters use escorts, at considerable expense, and pay additional guarantees. Due to the limited capacities at border Customs offices, transport operators experience long border delays while waiting for escorts to be organized and are, de facto, forced to change from TIR to the national transit procedure and to cover the costs of required national guarantees. The TIRExB felt that these measures were against the spirit and text of the TIR Convention, in particular Article 23 and the comment thereto on the application of risk assessment, and mandated the secretariat to convey this opinion to the competent Russian authorities, inviting them to ensure full application of the provisions of the TIR Convention in their territory at all times (to be amended). • The TIRExB reviewed EU Regulation 1192/2008 of 17 November 2008, submitted by the European Commission in accordance with Article 42bis of the Convention and concluded that there was no indication that said regulation was not in conformity with the provisions of the TIR

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	<p>Convention.</p> <ul style="list-style-type: none"> • The TIRExB was informed of Decree 1223/99 of the government of the Russian Federation of 5 November 1999, on measures to prevent penetration of the Russian territory by foreign terrorist organizations in the North Caucasus region, which seemed to have gotten new importance. The secretariat was requested to monitor the situation. • The TIRExB discussed the entry into force of the new Customs Code of the Customs Union between Belarus, Kazakhstan and the Russian Federation (to be amended). • The Board took note that the TIR Secretary had addressed a letter to the Customs authorities of the Russian Federation inquiring about reported incidents in the North-Western region of the country, where TIR Carnet holders were forced to pay for Customs clearance. • The Board took note that the TIR Secretary, in cooperation with the IRU, had sent a letter to the Customs authorities of Turkmenistan in response to reports that, contrary to the provisions of Article 7 of the Convention, TIR Carnet forms had been subjected to the requirement to present a certificate of compliance issued by the governmental authorities responsible for standardization.
<p>(4) To supervise the functioning of the TIR international guarantee system</p>	
<ul style="list-style-type: none"> • Monitor constantly the settlement of Customs claims, on the basis of information provided by national Customs authorities and the IRU. 	<ul style="list-style-type: none"> • The TIRExB took note of the global situation with regard to Customs claims, as reported by the IRU.

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	<ul style="list-style-type: none"><li data-bbox="1115 272 1989 427">• The Board welcomed the information from the IRU that, as of 1 July 2009, it had obtained consent from the insurers to reintroduce in the EU full TIR coverage for all goods, with the exception of tobacco, alcohol (and some derived products).<li data-bbox="1115 456 1989 651">• Various TIRExB members informed that they expected problems as a result of the fact that the proposal to change the maximum guarantee amount from 50,000 US\$ to 60,000 euros had not been accepted and stressed the importance that the issue be satisfactorily resolved.<li data-bbox="1115 679 1989 1439">• The TIRExB discussed at length the issue of invalidation of TIR Carnets issued to authorized TIR Carnet holders, because recently national associations have resorted to actually suspending the authorization of TIR Carnet holders and, consequently, invalidate TIR Carnets to avoid them from being used after the date of suspension. In general the TIRExB stressed the importance of good communications between national associations and TIR Carnet holders with the aim to avoid the unauthorized use of TIR Carnets. The Board considered it also important that national associations establish close contacts with competent authorities, by means of informing competent authorities of any activity in the field of invalidation of TIR Carnets. At the same time, the TIRExB was of the opinion that it was unacceptable that national associations introduce measures which materially have the same impact as decisions taken by national competent authorities, however without providing operators any form of legal security, including the right to oppose such measure. In addition, such measures did not seem to be taken on the basis

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	<p>of internal reasons only (regarding the association), but also as a consequence of infringements against Customs or other regulations, of which the association acted as the sole judge. In the view of the TIRExB, the national associations, in doing so, assume the role attributed by the Convention to the Customs authorities. Finally, the TIRExB reiterated that, as long as there was no internationally recognized mechanism in place, it was unacceptable to assume that any invalidation of TIR Carnets declared by the guarantee chain would immediately lead to the invalidation of the guarantee. The TIRExB recalled that the issue will be solved with the establishment of the eTIR international system, which, inter alia, provides for the centralized management by Customs of data on guarantees. (See also point 2).</p>
<p>(5) To contribute to the computerization of the TIR procedure</p>	
<ul style="list-style-type: none"> • Encourage IT experts to participate, as national representatives, in the activities undertaken by Ad hoc Expert Group on Technical and Conceptual Aspects of the Computerization of the TIR procedure. • With the consent of the TIR Administrative Committee, offer good offices to the ad-hoc expert groups on general Customs policy issues. • Promote the ITDB as one of future e-TIR components. • Monitor and further enhance on-line use of the ITDB, taking into account the need to ensure an adequate level of protection against unauthorized access. 	<ul style="list-style-type: none"> • The Board, as a recurring agenda item, was kept informed of the results of the Informal Ad hoc Expert Group on Technical and Conceptual Aspects of Computerization of the TIR Procedure (GE.1). • The Board was kept informed of further developments in the eTIR project (to be amended). • At the proposal of the Board, the secretariat explored options how to organize the activities of the GE.1 at long distance by means of email exchange, which would mean that also representatives from Contracting Parties who were not able to attend the GE.1 sessions could participate in its work. These efforts resulted in the establishment of the network of eTIR

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<ul style="list-style-type: none"> • Monitor the progress of the computerization of the TIR procedure. 	<p>focal points and the creation of an eTIR website.</p> <ul style="list-style-type: none"> • ITDB was promoted at various international and national meetings, such as seminars, workshops, etc. • The Board monitored the development of the ITDB Online+ project, including the preparation of the necessary underlying documentation. The Board noted that the secretariat, with the kind cooperation of the Italian Customs authorities and the Italian Union of Chambers of Commerce (UNIONCAMERE), had conducted a successful pilot and that, as a next step, the ITDB Online + would undergo a security audit by an external company before officially being launched in the first months of 2011. • The Board monitored the use of the online register on Customs sealing devices and Customs stamps and noted with satisfaction that the secretariat continued to receive requests from TIR Customs focal points to provide all their Customs offices with access to the register.
<p>(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.</p>	
<ul style="list-style-type: none"> • 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, where possible with particular focus on technical issues such as the approval of vehicles. • Update and distribute the TIR Handbook in the official United Nations languages. 	<ul style="list-style-type: none"> • A number of regional and national workshops and seminars on the application of the TIR Convention have been conducted (or attended), some of which in co-operation with the IRU: Tehran, Islamic Republic of Iran (April 2009), Tunis, Tunisia (June 2009), Dusjanbe, Tajikistan (October 2009), Cairo, Egypt (October 2009), Baku, Azerbaijan (December 2009) (to be amended).

Outputs expected in 2009 and 2010	Main accomplishments
<ul style="list-style-type: none"> • Prepare and distribute, also via Internet, training material on the application of the TIR Convention. 	<ul style="list-style-type: none"> • The TIRExB adopted a recommendation on the filling in of boxes 14, 15 and 17 of the TIR Carnet. • The TIRExB prepared the following examples of best practice: <ul style="list-style-type: none"> - Application of Annex 10 of the TIR Convention; - Refusal for a TIR transport to enter a country. • In the course of 2010, the TIR secretariat distributed the ninth, revised, edition of the TIR Handbook in all six official United Nations languages. • At the invitation of WCO, the TIRExB finalized the review of an e-learning course on TIR, developed by the WCO in cooperation with the IRU (and transmitted its consolidated findings to the WCO for the sake of future amendment of the course).
<p>(7) To facilitate the settlement of disputes between Contracting Parties, associations, insurance companies and international organisations without prejudice to Article 57</p>	
<ul style="list-style-type: none"> • Analyse and monitor disputes referred to the Board and make recommendations (if necessary) to facilitate their settlement. • Clarify procedures prior to a suspension of the guarantee on the territory of a Contracting Party. 	<ul style="list-style-type: none"> • The TIRExB continued its discussions on the procedures to be followed in case of the suspension of the guarantee on the territory of a Contracting Party. The TIRExB regretted not having made more progress towards the goal of establishing a well-defined procedure, but would like to point at the complexity of the issue, in particular the analysis of the functioning of the guarantee system, as well as the need of active cooperation from IRU (see also point 14).

Outputs expected in 2009 and 2010	Main accomplishments
(8) To monitor the application of the Electronic Data Interchange control system for TIR Carnets.	
<ul style="list-style-type: none"> • Continue activities, in co-operation with the IRU, towards the full implementation of an international Electronic Data Interchange (EDI) control system for TIR Carnets, as foreseen by Annex 10 to the TIR Convention. • Monitor performance and give feedback to the Contracting Parties. • Study how the EDI control system for TIR Carnets is being used by the national issuing associations for the purpose of fraud prevention. 	<ul style="list-style-type: none"> • The TIRExB finalized its study on the implementation of the EDI control system for TIR Carnets, aimed at establishing an example of best practice on the efficient organization of data transmission between Customs and the IRU SafeTIR database, based on the experience of one or more Contracting Parties where transmission seems to be working well.
(9) To supervise the centralised printing and distribution of the TIR Carnets, including the monitoring of the price of TIR Carnets	
<ul style="list-style-type: none"> • Monitor the annual numbers of TIR Carnets distributed to various Contracting Parties, broken down by type (i.e., 4-, 6-, 14- or 20-voucher TIR Carnets). • Monitor the price of TIR Carnets at international level (i.e., ex-IRU price) on the basis of information to be reported by IRU annually or when modified. • Study all the relevant issues concerning the price of TIR Carnets at the “ex-national association” level. • Approve any proposed modifications to the TIR Carnet in advance of its introduction and distribution. 	<ul style="list-style-type: none"> • During a technical visit, the TIRExB established that the printing of TIR Carnets is a technically complex and sophisticated process, with only minimal human involvement and witnessed with satisfaction that the production takes place under tight security measures. • The TIRExB conducted a survey on the price of TIR Carnets at the “ex-national-association” level. The TIRExB noted with satisfaction the high level of response, thus contributing to increasing the transparency of the TIR system. The TIRExB decided to pursue its function of monitoring all aspects of the price of TIR Carnets by repeating this exercise one every three years. The TIRExB transmitted the consolidated results of the survey and its decision for the future to the Administrative Committee, which took due note thereof.

Outputs expected in 2009 and 2010	Main accomplishments
	<ul style="list-style-type: none"> The Board was informed of the increase in the TIR Carnet distribution price per 1 April 2009, as well as the introduction of the so-called “4 volets TIR Carnet pilot”, at a lower price than the regular 4 volets TIR Carnet, with the aim to promote the use of the TIR system for transports between EU countries and its neighbouring countries. Various TIRExB members were of the view that the principle of equal treatment might be under threat, because some operators, due to their geographical location and type of their transport, now found themselves in a more favourable position than other operators. The IRU informed that the pilot will be subject to a review in due course, in which all experiences, both positive and negative, will be assessed.
<p>(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</p>	
<p>Information to be provided by the IRU in case of changes.</p>	<ul style="list-style-type: none"> IRU provided information on the applicable procedures and deadlines, in case national associations had taken the decision not to issue TIR Carnets to an authorized TIR Carnet holder (Annex 9, Part II, paragraph 6).
<p>(11) To provide support on the application of specific provisions of the TIR Convention</p>	
<ul style="list-style-type: none"> On request, draft recommendations and/or examples of best practice on the application of specific provisions of the TIR Convention.. 	<ul style="list-style-type: none"> The TIRExB adopted a new comment to Annex 1 on the use of the TIR Carnet in case goods carried under the TIR procedure are refused to enter the territory of a country. The comment was submitted to [and adopted by] the TIR Administrative Committee. The Board extensively discussed the filling-in and signing of

Outputs expected in 2009 and 2010	Main accomplishments
	<p>boxes 14-15 of all vouchers by the holder as well as box 17 by Customs.</p> <ul style="list-style-type: none"> • The Board was informed of the fact that Customs authorities in some countries create problems in case they come across differences between the description of the marks, number, kind of packages or description of the goods in the CMR consignment note and the TIR Carnet. Due to the limited information provided, the TIRExB was unable to identify the real reasons behind this problem and, thus, decided to revert to the issue once more information would be available. At the same time it requested the secretariat to transmit to the Customs authorities concerned particulars with regard the use of the term “package” within the context of the TIR Convention. • The Board took note that, as a follow-up to discussions held by the TIRExB during its 2007-2008 term of office, the secretariat had submitted to the AC.2 proposals for a new comment, recommending that once the authorities of the Customs office of departure would have duly accepted a TIR Carnet, presented by a subcontractor, such decision should be respected by all other authorities involved in the TIR transport.
<i>Activities of a limited duration</i>	
(12) Preparation of best practices on the application of Annex 10 of the TIR Convention	
<ul style="list-style-type: none"> • Draft an example of best practice on the application of Annex 10 and submit to the TIR Administrative Committee for adoption. 	<ul style="list-style-type: none"> • The Board finalized an example of best practice on the application of Annex 10 of the Convention and submitted it to the TIR Administrative Committee for consideration and

Outputs expected in 2009 and 2010	Main accomplishments
	adoption.
(13) Preparation of best practices clarifying how Customs authorities should process a TIR Carnet in case of refusal	
<ul style="list-style-type: none"> Prepare an example of best practices clarifying how Customs authorities should process a TIR Carnet in case of refusal and submit to the TIR Administrative Committee for adoption. 	<ul style="list-style-type: none"> The TIRExB finalized an example of best practices clarifying how Customs authorities should process a TIR Carnet in case of refusal and submitted it to the TIR Administrative Committee for consideration and possible adoption.
(14) Preparation of best practices on the procedure prior to suspension of the guarantee on the territory of a Contracting Party	
<ul style="list-style-type: none"> Prepare an example of best practices on the procedure prior to suspension of the guarantee on the territory of a Contracting Party and submit to the TIR Administrative Committee of adoption. 	<ul style="list-style-type: none"> The Board extensively discussed the issue and made tangible progress. As a first step, the Board decided to focus its discussions on the following aspects: <ul style="list-style-type: none"> a) Establishment of an information exchange mechanism between parties concerned and the TIRExB, highlighting the functions and responsibilities of the TIRExB in the process; b) Procedure and deadlines for the suspension of the guarantee under normal circumstances; c) Suspension of the guarantee under exceptional circumstances, including the event of force majeure. On the basis of information provided by the IRU, the TIRExB studied the functioning of the guarantee system at the national and international level, the applicable deadlines and their interaction as well as the suspension of the guarantee under exceptional circumstances (including force majeure). The TIRExB regretted not having made more

Outputs expected in 2009 and 2010	Main accomplishments
	<p>progress towards the goal of establishing a well-defined procedure, but would like to point at the complexity of the issue, in particular the analysis of the functioning of the guarantee system, as well as the need of active cooperation from IRU.</p>
(15) Self-evaluation	
<ul style="list-style-type: none"> • Prepare a report, providing a quantitative and qualitative assessment of the Board's achievements during its 2009-2010 term of office in relation to its mandates according to the TIR Convention and submit to the TIR Administrative Committee for endorsement. 	<ul style="list-style-type: none"> • Number of meetings: 7 • Number of participants: 62 • Number of meeting days: 11 • Number of Informal documents: 18 (2009), 19 (2010) • Number of comments adopted: 1 • Number of recommendations adopted: 1 • Number of best practices adopted: 2 • Number of surveys conducted: 1 • Number of national control measures analyzed: 3 • Number of seminars organized or attended: 5 (2009); 5 (2010) • Number of authorized TIR Carnet holders registered with the International TIR Data Bank (ITDB): 61,000.

B. Recommendations for future TIRExB's

1. In view of the practical need for guidance on issues regarding the application of the TIR Convention, future TIRExB's are recommended to dedicate a substantial part of their activities to the development of best practices.
2. Future TIRExB's are recommended to make maximum use of the Board's geographical, economic and political diversity when analyzing issues brought to the Board's attention.
3. In order to be in a position to dedicate more time and effort to both the legal analysis and the practical implications of issues and the formulation of corresponding considerations, future TIRExB's are recommended to convene, at least once a year, a three day meeting, or, alternatively, increase the number of meetings per year.
4. Considering that the TIR procedure does not function in isolation but is part of a chain of Customs procedures, it is recommended that future TIRExB's also study possible repercussions on preceding or consecutive Customs procedures before finalizing its discussions, where appropriate.
5. In order to improve the functioning of TIRExB and the impact of its considerations, it is recommended that future TIRExB's ensure full and equal engagement of all individual TIRExB members in its activities and, at the same time, stress the importance of qualitative and constructive contributions by the observer.
6. TIRExB recommends AC.2 to provide a clear mandate to TIRExB, which would allow it to reinforce its role in the computerization process of the TIR procedure and to dedicate more time and resources towards the establishment of the eTIR international system.
7. The TIRExB, during its 2011-2012 mandate, is invited to address the following issues:
 - New survey on Customs claims (2011);
 - New survey on the price of TIR Carnets (2012);
 - Review of the best practices on enquiry procedures (Chapter 5.4 of the TIR Handbook);
 - Analyze problems faced by Customs authorities in recovering claims for payment from national associations.