



**Economic and Social
Council**

Distr.
RESTRICTED

Informal document No. 4 (2005)
1 February 2005

ENGLISH ONLY

ECONOMIC COMMISSION FOR EUROPE
INLAND TRANSPORT COMMITTEE
Administrative Committee for the TIR Convention, 1975
(Thirty-eighth session, 3 and 4 February 2005,
agenda item 4 (a) (i))

**ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD
(TIRExB)**

Activities of the TIRExB

Report by the Chairman of the TIRExB

Report of the TIRExB at its twenty-fourth session

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its twenty-fourth session on 7 and 8 October 2004 in Geneva.
2. The following members of the TIRExB were present: Mr. M. Amelio (Italy); Mr. S. Bagirov (Azerbaijan); Mr. G.-H. Bauer (Switzerland); Mr. R. Boxström (Finland); Mr. O. Fedorov (Ukraine); Mrs. Y. Kasikçi (Turkey); Mr. J. Marques (European Community); Mrs. H. Metaxa-Mariatou (Greece); Mrs. N. Rybkina (Russian Federation).
3. In accordance with Annex 8, Article 11, paragraph 5 of the Convention, the International Road Transport Union (IRU) attended the session as observer, except for the discussion reflected in para. 25 below, and was represented by Mr. J. Acri, Head, TIR System.

ADOPTION OF THE AGENDA

4. The TIRExB adopted the agenda of the session as prepared by the TIR secretariat (TIRExB/AGE/2004/24) with the inclusion of the following subjects under agenda item 10 "Other matters":

- Budget of the TIRExB and the TIR secretariat;
- Pre-shipment inspection of cargo in the Russian Federation;
- Payment of DSA (daily subsistence allowance) to TIRExB members;
- Training manual prepared by the EU Customs and Fiscal Assistance Office to the FYR of Macedonia.

ADOPTION OF THE REPORT OF THE TWENTY-THIRD SESSION OF THE TIRExB

Documentation: TIRExB/REP/2004/23draft.

5. The TIRExB adopted the report of its twenty-third session (TIRExB/REP/2004/23draft), subject to the following modifications:

Paragraph 9

After the first sentence, add a new one to read as follows:

"However, a majority of the members expressed their preference not to touch the provisions of the Convention within this context."

Paragraph 15

In the second sentence, replace the words "old decision" with the word "opinion".

Paragraph 18

Add a new sentence to read as follows:

"Finally, the TIRExB decided to revert to this matter at one of the future sessions."

Paragraph 19

Modify the last sentence to read as follows:

"The Board decided to evaluate all possible trends in the transport field and to come back to this issue, should there be a need from the industry."

6. The revised text of the report of the twenty-second session of the Board is contained in document TIRExB/REP/2004/23.

BY-ELECTIONS IN CASE OF RESIGNATION OF A TIRExB MEMBER

Documentation: Informal document No. 16 (2004).

7. The TIRExB discussed at length the proposal to amend its existing Rules of Procedure on representation, as contained in Informal document No. 16 (2004), submitted by the secretariat. Although the TIRExB basically agreed with the proposed procedure, it felt that the following issues needed to be taken into account:

- In the view of the TIRExB it is preferable that any information with regard to the fact that a TIRExB member no longer holds office be transmitted to the TIRExB by the same body/authority which originally submitted the nomination of the person concerned as candidate for election to the TIR Administrative Committee;
- From the moment the TIRExB has appointed a replacement member, this person shall become a full-functioning TIRExB member without any restriction. The purpose of the endorsement by AC.2 is to bring the appointment in line with the provisions of Annex 8, Article 9, paragraph 2 of the Convention. In case the AC.2 would decide not to endorse the appointment this will not influence any action undertaken by the TIRExB in the interval between appointment and non-endorsement;
- In case the AC.2 does not endorse the appointment of a replacement member, it shall elect a new TIRExB member.

8. In view of the opinion received from the UN Office of Legal Affairs with regard to the possible repercussions of the amended Rules of Procedure to be adopted, the TIRExB decided that the proposal needed further discussion and, therefore, decided to revert to the issue at its forthcoming session.

LOST AND STOLEN TIR CARNETS

9. The TIRExB continued its deliberations on the issue of lost and stolen TIR Carnets and the listings of the so-called "invalidated TIR Carnets" distributed by the IRU. The Board agreed that such TIR Carnets could involve a high risk of Customs fraud and, therefore, should be checked and detained by the Customs authorities. At the same time, members of the TIRExB

raised a number of points, both of legal and practical nature, which should be resolved with a view to making these activities more efficient:

- the legal/guarantee status of such TIR Carnets is not defined. As a result, when such a TIR Carnet is found, the Customs authorities have no clear legal grounds for follow-up actions. It concerns, in particular, TIR Carnets, which have been listed as "invalidated" by the issuing association due to, alleged infringements of internal rules committed by the holder;
- in some cases, a TIR Carnet, which first was listed as "invalidated" by the issuing association, has subsequently been withdrawn from the list. That may happen in the course of a TIR transport under cover of this TIR Carnet and create confusion among the Customs authorities. To facilitate the work of Customs in this regard, it was proposed to complement lists of so-called "invalidated" TIR Carnets with the following data elements: date of invalidation, reason for invalidation, date of revalidation (if any and reason for that).

10. The IRU explained that, according to the rules in place, once invalidated, a TIR Carnet cannot be "revalidated".

11. The IRU offered to prepare, in cooperation with the secretariat, a document on the relevant issues for consideration at the next session of the Board. The IRU would also inform the TIRExB of all rules and procedures prescribed for the issue of TIR Carnets by associations.

12. The TIRExB was informed that one Contracting Party had discovered some cases where a TIR Carnet, bearing no validity date in box 1 of the cover page, had been presented at the Customs office of departure. In this regard, the IRU pointed out that such occurrences were a serious breach of not only the provisions of the TIR Convention, but also of the IRU's internal rules and regulations. The IRU urged the Customs authorities to detain such TIR Carnets and inform the IRU without delay. The Board generally agreed that TIR Carnets with no validity date should not be accepted by the Customs authorities.

PREVENTION OF CUSTOMS FRAUD WITHIN THE TIR SYSTEM

Survey on TIR fraud patterns

Documentation: Informal document No. 18 (2004).

13. The TIRExB discussed at length the answers to the questionnaire on fraud patterns within the TIR system, focusing, in particular, on the main priority areas and follow-up activities. The Board was of the view that the extensive reactions from a considerable number of Contracting Parties (31) were of great value and deserved further analysis. To this end, the Board requested

the secretariat to extend its preliminary analysis, contained in Informal document No. 18 (2004) and to provide the Board with consolidated observations regarding the answers to all questions. These consolidated answers could be shared with Contracting Parties, OLAF and WCO. The accompanying letter to the consolidated answers should invite Contracting Parties to continue informing the TIRExB of detected fraud patterns in the TIR system and should indicate, to the extent possible, which further actions the Board envisaged as follow-up to the analysis. The Board further requested the secretariat to undertake an in-depth analysis of questions 3, 4, 6, 7, 9 and 10 and to report to the Board at its forthcoming session.

Application of Annex 9, Part II of the TIR Convention (controlled access to the TIR procedure for natural and legal persons)

Documentation: Informal document No. 19 (2004).

14. The TIRExB was informed of preliminary results of the survey on the application of Annex 9, Part II of the TIR Convention, as contained in Informal document No. 19 (2004). In particular, the Board noted that the implementation of controlled access to the TIR procedure seemed to vary a lot from one Contracting Party to another. The TIRExB felt that, in order to provide for a harmonized national application of Annex 9, Part II, concerted efforts by the Customs authorities and national association would be indispensable. The Board decided to revert to this issue at its next session on the basis of a new document, to be prepared by the secretariat, and also invited its members to submit written comments on Informal document No. 19 (2004).

Issues pending results of the surveys on TIR fraud patterns and on the application of Annex 9, Part II of the TIR Convention

15. The TIRExB recalled that, pending the results of the above surveys, it had identified a number of issues, which could be relevant for the prevention of fraud within the TIR system:

- Multi-user transport operations under the TIR regime and so-called subcontractors (Informal document No. 12 (2004) and TIRExB/REP/2004/22, para. 26);
- Harmonized application of Article 38 of the TIR Convention (Informal document No. 12 (2004) and TIRExB/REP/2004/22, para. 25);
- Proposals by the IRU on preventing and combating Customs fraud within the TIR system (Informal document No. 19 (2003) and TIRExB/REP/2004/22, para. 28);
- Information, to be provided by the IRU, on all rules and procedures prescribed for the issue of TIR Carnets by associations (TIRExB/REP/2004/22, para. 46, see also para.10 above).

16. The Board was of the view that the issue of harmonized application of Article 38 should be considered on a priority basis, in particular, a possible definition of "serious offence of the Customs laws or regulations". The TIRExB decided to include this item into the agenda of its next session.

APPLICATION OF THE TIR PROCEDURE IN UKRAINE

17. The TIRExB recalled its previous discussions regarding the application of the TIR Convention in Ukraine, in particular, the suspension of a TIR transport in case the amount of Customs duties and taxes due for TIR goods in transit exceeds the TIR guarantee (TIRExB/REP/2004/22, paras. 55 and 56). The Board continued its considerations on the basis of oral explanations given by Mr. O. Fedorov (Ukraine). According to him, following the entry into force on 1 January 2004 of the new Customs Code (see TIRExB/REP/2004/21, para. 28), the Ukrainian Customs Administration had adopted a number of new regulations, which might have impact on the TIR procedure, whose provisions would be brought to the attention of the TIRExB.

18. Some TIRExB members reiterated their position that, according to Article 26.2 of the Convention, it should be up to the holder of the TIR Carnet to take a decision with respect to possible suspension of the TIR procedure, while the Ukrainian Customs authorities made such suspension compulsory. In this context, the IRU also pointed out that it had received a considerable number of complaints from national associations with regard to the application of the TIR procedure in Ukraine in situations where the Customs duties and taxes at stake were more than US\$ 50,000.

19. The TIRExB felt that, in the absence of written information from Ukraine on the new national control measures and their possible repercussions for the TIR procedure, it was not possible for the Board to take a clear-cut position concerning the compliance of these measures with the provisions of the TIR Convention. The TIRExB also noted that, very often, it is rather difficult to understand the substance of national regulations due to a very formal language used and numerous references to other national legal documents. For that reason, the TIRExB invited the Customs Administration of Ukraine to transmit not only the text of the new regulations, as far as they relate to the TIR Convention, but also a summary outlining the impact of these measures on the TIR procedure.

APPLICATION OF THE TIR CONVENTION IN SERBIA AND MONTENEGRO

20. The TIRExB recalled that, at its twenty-first session, it took note that the secretariat and the IRU had received from the Serbian Customs a list of Customs offices authorized for TIR operations in Serbia and Montenegro (Informal document No. 29 (2003)), which was identical to the one provided in 2001 when the Federal Republic of Yugoslavia re-entered the TIR system (TIRExB/REP/2004/21, para.35). However, it turned out that all Customs offices authorized to

deal with TIR operations in this country were, in fact, located in Serbia. In Montenegro there were no such Customs offices. As a result, transport operators were forced to use a national transit procedure to cross the territory of Montenegro and to cover additional transit fees (up to EURO 400, according to the IRU). While fully respecting the right of each country to approve Customs offices for TIR operations, the TIRExB noted with concern that in the underlying situation the TIR Convention was de-facto not applicable in a vast part of the Contracting Party. The Board was of the opinion that this situation should be clarified with the competent federal authorities of Serbia and Montenegro and requested the UNECE secretariat to intervene in this issue.

TRAINING OF CUSTOMS PERSONNEL

Documentation: Informal document No. 20 (2004).

21. The TIRExB welcomed Informal document No. 20 (2004) by the secretariat, containing an example test with a number of questions concerning the key provisions of the TIR Convention, together with the answer key and explanations of correct answers. The Board delivered some remarks with regard to the content of the test and requested the secretariat to modify the document accordingly. The TIRExB also felt that the example test should be translated into various languages and complemented with a score for each correct reply. Following that, the test should be sent to Contracting Parties which would decide in which way it should be used for training of Customs staff.

ISSUES RAISED BY THE AD HOC EXPERT GROUP ON THE TIR REVISION PROCESS

22. The TIRExB took note that the UNECE Working Party on Customs Questions affecting Transport (WP.30), at its one-hundred-and-seventh session, decided to convene an ad hoc Expert Group with a view to dealing with all amendment proposals that had been transmitted by Contracting Parties as well as, possibly, other proposals for amendments of the Convention, in particular in relation to the guarantee system. At its first session (30 and 31 August 2004, Geneva) the ad hoc Expert Group reviewed all amendment proposals and divided them into two groups: amendments of strategic nature, which touch upon the fundamental principles of the TIR Convention, and amendments of technical nature.

23. The TIRExB welcomed the possibility to consider the second group of amendment proposals and declared its readiness to contribute to the TIR revision. However, as there is no formal link between the TIRExB and the Ad hoc Expert Group, being a subsidiary body of WP.30, the Board felt that the TIR Administrative Committee, as the supervisory body, should be informed of this issue and should mandate the TIRExB to undertake the required activities. The

Chairman of the TIRExB was requested to report on this issue to the TIR Administrative Committee at its October 2004 session.

OTHER MATTERS

Budget of the TIRExB and the TIR secretariat

24. The secretariat provided explanations with regard to interpretation of the figures in document TRANS/WP.30/AC.2/2004/12 concerning the budget of the TIRExB and the TIR secretariat for the year 2004, which had been prepared by the UN Financial Services in accordance with their standard layout. The TIRExB was satisfied with these explanations, but wondered whether it would nevertheless be possible, in the future, to present budget figures in such a way so that the amount of US\$ 305,000,00, which was reserved in order to cover the separation costs of the TIR secretariat in case of an early termination or expiration of the UNECE-IRU Agreement (TRANS/WP.30/AC.2/71, para.40), would be clearly visible. The TIRExB also endorsed the budget proposal and cost plan for 2005, as drafted by the secretariat (TRANS/WP.30/AC.2/2004/13), which was submitted to the TIR Administrative Committee for adoption.

Pre-shipment inspection of cargo in the Russian Federation

25. At the request of the EU representative, the TIRExB was informed that the Government of the Russian Federation was considering to introduce obligatory pre-shipment inspection of certain goods before they are imported into Russia, and that this issue was not in the competence of the Russian Customs Service. The TIRExB felt that, as soon as the above measures would come into force, the Board should monitor whether their implementation had an impact on the application of the TIR procedure.

Payment of DSA (daily subsistence allowance) to TIRExB members

26. The TIRExB considered whether or not the rule to pay DSA to the Board members, if a TIRExB session is not held in Geneva in conjunction with sessions of the TIR Administrative Committee and/or WP.30, should be abolished. The TIRExB felt that it would be more appropriate if a new composition of the Board, to be elected in February 2005, would take a decision on the issue. The TIRExB was of the view that, meanwhile, the established practice should be followed. In this regard, the Board noted that a left-over in the respective budget line for the year 2004 would cover only one day of DSA for the TIRExB members. The Board agreed that the TIR Secretary, if necessary, could use another budget line for that purpose, and recalled that the TIR Administrative Committee, at its twenty-eighth session (24 and 25 February 2000),

authorized the TIRExB to decide, upon proposal of the TIR Secretary, on modifications to the detailed budget line allocations within the approved budget of the TIRExB and the TIR secretariat, should this become necessary for the efficient operation of the TIRExB and the TIR secretariat. Such modifications would need to be endorsed by the Administrative Committee during approval of the final accounts (TRANS/WP.30/AC.2/57, para.18).

Training manual prepared by the EU Customs and Fiscal Assistance Office to the FYR of Macedonia

27. The TIRExB took note that the EU Customs and Fiscal Assistance Office to the FYR of Macedonia had prepared and transmitted to the Board a training manual which addresses the issue of non-compliance of road vehicles with the technical regulations laid down in the TIR Convention. The Board felt that this manual seems to be one of the most comprehensive practical studies in the area and could be used for Customs training purposes. The TIRExB expressed its appreciation to the authors of this publication. At their permission, the Board intended to transmit the manual to the Contracting Parties.

RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS

28. The TIRExB decided that the distribution of the following documents, issued in connection with its present session, should be restricted: Informal documents Nos. 18, 19 and 20, as well as the training manual mentioned under para. 26 above.

DATE AND PLACE OF NEXT SESSIONS

29. The TIRExB decided to hold its twenty-fifth session in Geneva on 27 and 28 January 2005, in conjunction with the 109th session of the UNECE Working Party on Customs Questions affecting Transport (WP.30).
