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**ADMINISTRATIVE COMMITTEE  
FOR THE TIR CONVENTION, 1975**

**TIR Executive Board (TIRExB)**

**REPORT OF THE TWELFTH SESSION  
OF THE TIR EXECUTIVE BOARD (TIRExB)**  
(10 and 11 January 2002)

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its twelfth session on 10 and 11 January 2002 in Geneva.
2. The following members of the TIRExB were present: Mr. M. Amelio (Italy); Mr. G.-H. Bauer (Switzerland); Mr. R. Ehmcke (Germany); Mrs. Y. Kasikçi (Turkey); Mr. D. Kulevski (The Former Yugoslav Republic of Macedonia); Mr. J. Marques (European Community); Mrs. H. Metaxa-Mariatou (Greece); Mr. M. Olszewski (Poland); Mrs. N. Rybkina (Russian Federation).
3. The TIR Secretary attended the session in accordance with Annex 8, Article 9, paragraph 1 of the Convention.
4. The International Road Transport Union attended the session as observer in accordance with Annex 8, Article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head, TIR Policy and Customs Border Crossing Facilitation.
5. Other organizations did not attend the session.

## **ADOPTION OF THE AGENDA**

6. The TIRExB adopted the agenda of the session as prepared by the TIR Secretary (TIRExB/AGE/2002/12 and Add.1).

## **ELECTION OF A CHAIRMAN**

7. In accordance with Annex 8, Article 11, paragraph 3 of the Convention, Mr. Michal Olszewski (Poland) was re-elected Chairman.

## **ADOPTION OF THE REPORT OF THE ELEVENTH SESSION OF THE TIRExB**

Documentation: TIRExB/REP/2001/11.

8. The TIRExB adopted the report of its eleventh session as prepared by the TIR Secretary (TIRExB/REP/2001/11), subject to the following modifications:

### Paragraph 33

Modify the first two sentences to read as follows:

"The TIRExB reiterated that the present situation had led to unequal Customs treatment of goods in different countries and jeopardized the functioning of the TIR system on a global scale. It was noted, however, that additional control measures are taken for sensitive goods in the EU in the framework of the Community and Common Transit System."

9. The revised text of the report of the eleventh session of the Board is contained in document TIRExB/REP/2001/11/Rev.1.

## **PRIORITY ITEMS FOR CONSIDERATION AND RESOLUTION BY THE TIRExB IN 2002**

Documentation: TIRExB/REP/2001/9.

10. Having reviewed its programme of work for the year 2001 (TIRExB/REP/2001/9, para. 9), the TIRExB agreed on the following priority areas for consideration and resolution in 2002:

- National control measures;
- Monitoring of the price of TIR Carnets;
- Re-establishment of full guarantee coverage of TIR Carnets;
- Functioning of the TIR international guarantee system;

- Full application of the EDI control system for TIR Carnets;
- Support for training activities on the application of the TIR procedure, mainly in new Contracting Parties to the Convention;
- Possibility of granting specially "authorized consignees" permission to terminate TIR operations at their premises;
- Computerization of the TIR procedure;
- Preparation of an example of a TIR Carnet duly filled-in;
- Prevention of the abuse of the TIR system by smugglers.

11. The Board also took note that the following two functions of the TIRExB listed in Article 10 of Annex 8 to the Convention had so far remained untouched:

- facilitation of the settlement of disputes between Contracting Parties, associations, insurance companies and international organizations;
- maintenance of a central record for the dissemination to Contracting Parties of information to be provided by the IRU, 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.

#### **EXAMPLE AUTHORIZATION AND EXAMPLE AGREEMENT**

Documentation: TRANS/WP.30/AC.2/2001/7-TRANS/WP.30/2001/14; TIRExB/AGE/2001/11; Informal document No. 2 (2002).

12. The TIRExB took note that the TIR secretariat continued to receive new and/or updated agreements, which had been concluded between Customs authorities and national guaranteeing associations in line with Annex 9, Part 1, Article 1 (e). The TIR secretariat responds to each information received and, when necessary, gives comments in case such agreements contain provisions which could have a negative influence on the position of Customs authorities.

13. With regard to the remarks made by Mr. Parts (Estonia) on the legal correctness of certain provisions of the example authorization and example agreement, the TIRExB reaffirmed its position on the matter, as expressed in the reply by its Chairman (Informal document No. 2 (2002)). The Board reiterated the fact that these two documents, prepared by the TIRExB and endorsed in principle by the Administrative Committee at its thirty-first session (25 and 26 October 2001), should only serve as examples giving the minimum conditions and requirements which have to be included in the authorization and agreement in line with the provisions of Annex 9, Part 1, Article 1 (e). Parties are free to diverge from it, as long as these minimum conditions and requirements are met.

14. The TIRExB also recalled that, at its tenth session (14-17 May 2001), it had requested the TIR Secretary to prepare, in co-operation with the IRU, an example of a procedure for effective communication between the Customs authorities and the national guaranteeing association aiming at efficient settlement of disputes arising from improper or fraudulent use of TIR Carnets (TIRExB/REP/2001/10/Rev.2, para. 6).

15. Taking into consideration the amendments to the Convention and examples of best practices adopted under Phase II of the TIR revision process, the TIRExB agreed on the following basic approach for the preparation of the above example:

- first, identify the various stages in the communication scheme which are to be described. These steps should at least include pre-notification (newly adopted comment to Article 8), notification (Article 11, para. 1) and submission of the claim (Article 11, para. 2);
- as a next step, a minimum list of information for each of the communications should be drawn up.

The IRU offered to provide a number of examples from its files to enable an analysis of the minimum information required. A first draft document should be ready by June 2002, for discussion by the TIRExB.

## **ACCESS TO THE INTERNATIONAL TIR DATABANK (ITDB)**

Documentation: Informal document No. 3 (2002).

16. Taking note of the current use of the ITDB, the TIRExB stressed that for its smooth functioning it was essential that personal identification (ID) numbers of TIR Carnet holders should be individual and unique. This means that (Informal document No. 3 (2002)):

- every new legal entity which is authorized to use the TIR system has to obtain a new ID number;
- ID numbers of TIR Carnet holders which have been permanently withdrawn from the system or which have decided to end their activity should not be reattributed to new companies;
- the TIRExB should be informed within one week, in case of substantive changes in the identification data of a TIR Carnet holder (data contained in the MAF form, i.e. name of person/enterprise, business address, contact point and access numbers), in order to record the changes in the International TIR Data Bank (ITDB) (Annex 9, Part II of the TIR Convention).

## **APPLICATION OF THE TIR CONVENTION IN CASE THE FIRST PART OF A TRANSPORT OPERATION IS NOT MADE BY ROAD**

Documentation: Informal document No. 4 (2002); Informal document No. 21 (2001).

17. On the basis of Informal document No. 4 (2002) prepared by the TIR Secretary upon request of the TIRExB, the Board discussed the applicability of the TIR procedure to an example transport operation which was carried out between one Customs office of departure and one Customs office of destination, involving three Contracting Parties (departure, transit and destination) and containing one non-road leg (railways, inland waterways, etc.). The objective of this exercise was to determine which practical Customs arrangements had to be made to ensure the duly treatment of a TIR Carnet and application of Customs control provided that the holder would intend to use the TIR Carnet to the full extent.

18. The TIRExB came to the following general conclusion: a TIR operation in a given country may apply only in case the national Customs authorities are in a position to ensure proper control both at the Customs office of departure or entry (en route) and at the Customs office of exit (en route) or destination. As a consequence, a TIR transport should not begin or should be suspended if, during a non-road leg, the goods enter or leave the territory of this country without Customs involvement. Furthermore, in order to resume the suspended TIR transport after a non-road leg, Customs treatment and Customs control should be available at the end of the non-road leg.

19. The Board noted that the draft comment to the Convention proposed by the TIR Secretary in Informal document No. 21 (2001) was in line with the above conclusion. The TIR Secretary was requested to review this draft comment and submit it to the next session of the TIRExB for possible approval.

20. The TIRExB also agreed that in practice a TIR transport may start at the Customs office of departure of a Contracting Party and be suspended immediately at the same office by tearing off both vouchers No. 1 and No. 2. Although in this situation there will be neither guarantee nor TIR operation in this Contracting Party, the TIR transport may be easily resumed at the Customs office of entry (en route) into the next Contracting Party in accordance with the provisions of Article 26 of the Convention.

## NATIONAL CONTROL MEASURES

### Customs escorts

Documentation: Informal document No. 5 (2002).

21. The TIRExB took note of a survey on Customs escorts undertaken by the TIR Secretary in co-operation with the IRU upon request of the Board (Informal document No. 5 (2002)). Results of the survey will be presented at the next session of the TIRExB.

### Recent instructions by the State Customs Committee (SCC) of the Russian Federation

Documentation: Informal document No. 6 (2002).

22. On the basis of official information submitted by Mrs. N. Rybkina (Russian Federation) (Informal document No. 6 (2002)), the TIRExB continued its deliberation on the restrictive measures introduced by the SCC with regard to the transit of some sensitive goods through the territory of the Russian Federation to some destinations abroad.

23. In accordance with a SCC circular, a decision regarding the transit of electronics goods, furniture and home appliances by road has to be made with the consent of the SCC as laid down below. The Customs office of entry (en route) transmits to the SCC all necessary information on the transport operation in question. On the day of its receipt, the SCC considers this information and takes one of the following decisions: allow the transit operation, make additional inquiries or to forbid the transit operation. Particular attention is given to the reliability of data on the consignee of the goods. Additional inquiries are made by means of a request transmitted to the Customs authorities of the country of destination (mainly CIS countries whose Customs administrations have agreements on mutual cooperation with the SCC) to make sure that the consignee does exist and does have a contract for the delivery of the goods. Following a reply to this request, a final decision is taken. While awaiting such a decision, the goods and road vehicles concerned are put into a Customs control zone.

24. It was pointed out that these measures were introduced by the SCC due to lack of trust in the TIR international guarantee system which had left many claims by the Russian Customs outstanding and in view of "false transit operations" when the goods cleared for transit at the point of entry did not leave the territory of the Russian Federation.

25. The TIRExB expressed its understanding for national control measures taken by the SCC in accordance with Article 42 bis of the Convention with a view to ensuring the safeguard of the TIR procedure in the Russian Federation in general and the proper use of TIR Carnets in particular. The TIRExB however was of the view that the special measures taken by the SCC in this regard relating

to Customs transit of some selected cargoes to a few destination outside the territory of the Russian Federation were not in line with the provisions and the spirit of the TIR Convention as

- a TIR transport performed by an authorized TIR Carnet holder under cover of a valid TIR Carnet containing correct information on the goods should not be interrupted by Customs authorities simply due to the fact that the goods carried are considered "sensitive" and/or that a general doubt about the proper termination of a TIR operation exists, for example, due to lack of adequate information about the consignee(s) of the goods;
- inquiries about consignees resident outside the territory of the Russian Federation are difficult to be undertaken and, even in case mutual assistance procedures exist, are usually very time consuming and not always reliable. Such inquiries may not justify delays of TIR trucks at the border.

26. The TIRExB requested the TIR Secretary to inform the SCC about the point of view of the Board on this matter and to put relevant information on the TIR Web page.

### **CONCEPT OF AUTHORIZED CONSIGNEE IN THE TIR CONVENTION**

Documentation: Informal document No. 1 (2002).

27. The TIRExB welcomed Informal document No. 1 (2002) prepared by the TIR Secretary, which outlined that the use of some types of simplifications at the premises of the consignee was permissible under the current text of the TIR Convention, but that the introduction of an explanatory note (or comment) into the TIR Convention would be advisable in order to ensure a minimum level of harmonized approach by all Contracting Parties.

28. The Board, aware that the use of facilities at the premises of the consignee often meets today's transport requirements and convinced that the framework of the TIR Convention was flexible enough to accept such facilities, requested the TIR Secretary to prepare for the next session a new document, which, on the assumption of acceptance of the principle, would analyze in detail the consequences on the provisions of the TIR Convention, in particular with regard to the process of termination and discharge. On the basis of the outcome of this document, the TIRExB would have to decide what kind of measures would be required to ensure a harmonized approach in all Contracting Parties. As a next step, the UNECE Working Party on Customs Questions affecting Transport (WP.30) could provide further guidance on this matter.

## **PREPARATION OF AN EXAMPLE OF A TIR CARNET DULY FILLED-IN**

Documentation: Informal document No. 14 (2001); Informal document No. 25 (2001).

29. The TIRExB stressed once again the importance of preparing an example of a TIR Carnet duly filled-in and was of the view that such an example should be prepared on the basis of the new TIR Carnet form to be modified in accordance with the amendments to the TIR Convention, scheduled to come into force on 12 May 2002 (Phase II of the TIR revision).

30. The Board agreed that the forthcoming entry into force of Phase II of the TIR revision should not change in substance the filling-in of the TIR Carnet. However, the Board noted that the current procedure of filling-in two boxes in the TIR Carnet might not be in line with their new names modified according to the newly adopted definitions of "termination of a TIR operation" and "discharge of a TIR operation" (Informal document No. 14 (2001)). The TIR Secretary was requested to prepare proposals on how to resolve this situation.

31. The TIRExB also took note that neither the current text of the Convention nor that amended under Phase II provided clear guidance with regard to the use of additional vouchers No. 1 and No. 2 in case of several Customs offices of departure or destination. Analyses undertaken in 2000 by the European Commission (TAXUD) revealed at least three options for such a procedure (Informal document No. 14 (2001)). The Board decided to revert to this issue at the next session and requested its members to consult with their respective Customs administrations which option should be pursued.

32. On the basis of Informal document No. 25 (2001), the TIRExB held a preliminary exchange of views on a recommended practical procedure of cooperation among Customs authorities in order to obtain within a short time a faultless model of a TIR Carnet duly filled-in. The Board decided to take a final decision on the issue at the next session.

## **LEGAL PROCEEDINGS IN GERMANY BETWEEN THE CUSTOMS ADMINISTRATION AND THE NATIONAL GUARANTEEING ASSOCIATION (REQUEST FOR A DECISION OF THE EUROPEAN COURT OF JUSTICE)**

33. Mr. R. Ehmcke (Germany) informed the TIRExB about a litigation between the German Customs administration and a national guaranteeing association with regard to which the Federal Civil Court of Justice put a prejudicial request before the European Court of Justice. The legal proceedings had been started in consultation with the guaranteeing association, since both parties were equally interested in obtaining a court decision on the relevant legal questions. The case dated back to the early 1990's when the Customs revealed a case of smuggling of cigarettes under cover of a TIR Carnet. Legal actions were taken against the holder at the national level. As a result, he was recognized as a Customs debtor but failed to pay the sums due. The association refused to meet



the claim and contested the circumstances of the case already established in the course of legal proceedings against the holder. Following that, a civil law claim was lodged against the association. The German Customs administration is of the view that the case can not be reopened at that level and that the association should meet the claim according to its deed of guarantee.

## **MONITORING OF THE PRICE OF TIR CARNETS**

Documentation: Informal document No. 7 (2002)

34. The TIRExB took note of the issuing price of TIR Carnets for 2002 (Informal document No. 7 (2002)). The IRU stressed that this price had not changed since 1995, despite a considerable increase in the number and total amount of Customs claims lodged with the international guarantee system over the last years. The price is annually approved by the IRU General Assembly upon proposal of the Presidential Executive.

35. Some TIRExB members were of the view that the information on the absolute price of TIR Carnets provided by the IRU did not enable the Board to properly perform its monitoring function. Thus, the information should be complemented by data on the price structure and its components for the sake of transparency. Other members of the Board argued that price components were a commercial matter of the IRU and its member associations and that monitoring of the price structure could go beyond the mandate of the TIRExB according to the Convention. It was also mentioned that the TIRExB might wish to look into retail prices of TIR Carnets at the national level which could greatly vary from one country to another.

36. The Board decided to continue its deliberations on the issue at the next session. It also requested the TIR Secretary, in cooperation with the IRU, to prepare a document explaining the correlation between the levy on TIR Carnets charged for the operation of the TIRExB and the TIR secretariat and the actual as well as expected numbers of TIR Carnets issued in 1999-2001.

## **MONITORING OF THE FUNCTIONING OF THE TIR GUARANTEE SYSTEM**

37. Due to the absence of detailed written information on the subject, the TIRExB postponed its consideration until the next session and again requested the IRU to submit statistical data on the number and total amount of claims lodged by the Customs administrations in all Contracting Parties (country by country) indicating also the payments effected by the TIR guarantee chain.

## **FRAUDULENT ACCEPTANCE OF A TIR CARNET AT THE CUSTOMS OFFICE OF DEPARTURE**

38. The issue was not discussed due to lack of time.

### **INCREASE IN THE NUMBER OF LOADING AND UNLOADING PLACES**

39. The issue was not discussed due to lack of time.

### **OTHER MATTERS**

40. The TIRExB was informed of TIR related meetings preliminary planned for the year 2002.

### **DATE AND PLACE OF NEXT SESSIONS**

41. The TIRExB confirmed its earlier decision to hold its thirteenth session from 10 to 12 April 2002 in Trieste (Italy), upon invitation of the Italian Customs administration. The fourteenth session of the Board was tentatively scheduled to take place on 13 and 14 June 2002 in Geneva.

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