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Item 3 (a) (i) of the provisional agenda

Activities and administration of the TIR Executive Board:

Activities of the TIR Executive Board:

Report by the Chair of the TIR Executive Board

Report of the seventy-sixth session of the TIR Executive Board (TIRExB)

I. Attendance

1. The TIR Executive Board (TIRExB) held its seventy-sixth session on 5 February 2018 in Geneva.
2. The following members of TIRExB were present: Mr. S. Amelyanovich (Russian Federation), Mr. G. Andrieu (France), Mr. M. Ayati (Iran (Islamic Republic of)), Ms. D. Dirlik Songür (Turkey), Mr. S. Fedorov (Belarus), Ms. B. Gajda (Poland), Ms. L. Jelínková (European Commission), Mr. S. Somka (Ukraine) and Ms. E. Takova (Bulgaria).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. Y. Guenkov.

II. Adoption of the agenda (agenda item 1)

Documentation: Informal documents TIRExB/AGE/2018/76/Rev.1

4. TIRExB adopted the agenda (Informal document TIRExB/AGE/2018/76/Rev.1) with the addition of Informal document No. 9 (2018) under agenda item 6 (a) (“Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations”).

GE.18-12595(E)



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Election of a Chairperson

5. The Board re-elected Ms. D. Dirlik Songür (Turkey) to chair the Board's meetings in 2018 in accordance with its Rules of Procedure.

III. Adoption of the report of the seventy-fifth session of TIRExB (agenda item 2)

Documentation: Informal document TIRExB/REP/2017/75draft with comments

6. TIRExB adopted the draft report of its seventy-fifth session (Informal document TIRExB/REP/2017/75draft with comments), subject to the following amendments:

Page 4, paragraph 25

After the second sentence, *insert*

He further mentioned that all the above information should be confirmed and documented accordingly as soon as the TIR Carnets were returned and additional information were made available by the stakeholders to complete the document.

Pages 4-5, paragraph 25, last sentence

For (b) the Iranian national association had requested permission to act as subcontractor *read* (b) the Iranian national association had requested and received permission for the Iranian partner operator to act as subcontractor for that pilot project

Page 5, paragraph 28, first sentence

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

Proposals to introduce more flexibility in the guarantee system

Documentation: Informal documents Nos. 13 and 29 (2017)

7. TIRExB reiterated its decision to commence consideration of the matter only subsequent to the deliberations of the Administrative Committee for the TIR Convention, 1975 (AC.2) (TIRExB/REP/2017/75final, para. 7).

8. Further, TIRExB recalled that 20 Contracting Parties had raised the TIR guarantee limit to EUR 100,000 in the agreements between the customs authorities and the national association (see TIRExB/REP/2017/75final, para. 8, Informal document No. 29 (2017)). At its current session, the secretariat informed that the insurance certificates for 2018 indicated an increase of the insurance level to EUR 100,000 for seven additional Contracting Parties. TIRExB noted, however, that the increase in the insurance certificate only pertained to the insurance coverage and did not indicate an increase of the maximum guarantee level by the Contracting Parties.

V. Computerization of the TIR procedure (agenda item 4)

Documentation: Informal documents Nos. 15 (2017), 3 and 5 (2018)

A. eTIR project and eTIR pilot projects

9. The Board noted that, further to the signature of the Memorandum of Understanding (MoU) between the United Nations Economic Commission for Europe (UNECE) and IRU on 6 October 2017¹, UNECE and IRU were preparing standard conditions for any new computerization project to be launched under the framework of this MoU. Furthermore, the Board noted that the recruitment process for the Information System Officer (P3) was ongoing and that the selected candidate was expected to start in spring 2018. The Board also noted that eTIR transports were still carried out between Iran (Islamic Republic of) and Turkey and that data on TIR transports continued to be exchanged between Turkey and Georgia.

10. Furthermore, the Board took note that the secretariat would meet experts from the European Commission on 20 February 2018 to undertake a comparison between the European Union New Computerized Transit System (NCTS) and eTIR messages and that the secretariat would present the eTIR project to the Electronic Customs Coordination Group on 14 March 2018.

11. Finally, the Board recalled that GE.2 had submitted the draft legal framework for the computerization of the TIR Convention (“draft Annex 11”) to the Working Party on Customs Questions affecting Transport (WP.30), which was expected to start substantial discussions on the current draft at its 148th session. TIRExB took note of the comments the secretariat received from Belarus on draft Annex 11 (Informal document No. 5 (2018)), which would be discussed at the WP.30 session. Further, TIRExB took note of Mr. S. Fedorov’s (Belarus) comment that the eTIR legal framework should also provide adequate protection of data integrity.

12. Moreover, TIRExB took note that the management of UNECE had confirmed its willingness to host the eTIR international system subject to the right to outsource the hosting, the availability of the required funds and an exclusion of liability of UNECE.

B. International TIR Data Bank

13. The secretariat informed TIRExB about the progress of the new International TIR Data Bank (ITDB) module on customs offices. The module was expected to be released in March 2018. The secretariat also informed about the organization of a seminar on the ITDB that would take place during the next WP.30 session in June 2018.

14. TIRExB took note that UNECE had sent a letter to the European Commission, requesting guidance on the application of the European Union General Data Protection Regulation (2016/679) (the “GDPR”) (entry into force on 25 May 2018), since it might impact the transmission of data, such as the name or contact details of TIR Carnet holders, by European Union member States to the ITDB.

¹ Available at:
www.unece.org/fileadmin/DAM/MoU___Cooperation_Agreement_IRU_UNECE_eTIR_6_oct_2017_with_dates_no_signatures.pdf

C. Mandatory submission of data using the International TIR Data Bank

15. TIRExB recalled that, at its previous session, it generally agreed that (a) the use of the ITDB should be mandatory, (b) legal amendments would best achieve that purpose, and (c) more attention should be paid to awareness raising about the ITDB, before it was set as mandatory in the TIR Convention (see TIRExB/REP/2017/75final, paras. 16 and 20).

16. At its current session, TIRExB confirmed its conclusion that the ITDB needed further awareness raising (Informal document No. 3 (2018)). Considering the time required for adoption of legal amendments to the TIR Convention, TIRExB continued its considerations on proposals for legal amendments. Ms. L. Jelínková (European Commission) and Mr. S. Somka (Ukraine) expressed their readiness to already approve the draft proposals (Informal document No. 15 (2017)) taking account of the discussions at the previous session (see TIRExB/REP/2017/75final, paras. 16–20). Ms. B. Gajda (Poland) pointed out that comments were made at the previous session on the drafts. Consequently, TIRExB decided to consider whether the deadline for submission of exclusions pursuant to Article 38, paragraph 2 and of authorization and withdrawal thereof pursuant to Annex 9, Part II, paragraph 4 of the TIR Convention should be shortened for mandatory data transmission via the ITDB.

17. Ms. L. Jelínková (European Commission) suggested referring to “without delay” to reflect the requirement of immediate action and added that a reference to “within 24 hours” would also be acceptable for her. Mr. S. Fedorov (Belarus) responded that a fixed date would avoid any discussions and suggested “no later than the next working day”. In support of Ms. L. Jelínková’s proposals, Mr. S. Somka (Ukraine) said that customs offices worked 24/7, so that a deadline of 24 hours should be sufficient, considering that it was a mere technical process, and that his national legislation referred as usual practice to “hours”. Ms. B. Gajda (Poland) expressed her support for referring to (a) “without delay” since the term was used in the European Union and (b) if a concrete date had to be specified, “no later than the next working day”, since not all offices, in particular at headquarters, were open 24/7. Supporting Ms. B. Gajda’s view, Mr. G. Andrieu (France) highlighted the importance that data was transmitted as soon as possible. Ms. E. Takova (Bulgaria) also preferred “without delay”, since processes were centralized in Bulgaria.

18. The Board also considered the idea of integrating the ITDB in the authorization and withdrawal process of TIR Carnet holders, e.g. making it impossible to authorize or withdraw an authorization prior to the transmission of the relevant data to the ITDB. In that respect, Mr. G. Andrieu (France) suggested that the ITDB could be used to generate TIR Carnet holder identification number.

19. The secretariat explained that the ITDB currently permitted to enter information on exclusions or authorizations also for a future date. Mr. S. Amelyanovich (Russian Federation) observed that it would be very helpful in fighting contraband to have information on exclusions of TIR Carnet holders pursuant to Article 38 available for all Contracting Parties. In support, Mr. S. Somka (Ukraine) added that the information would be helpful for the risk analysis. Mr. Y. Guenkov (IRU) expressed concerns about the practice in the ITDB to share the exclusion of a TIR Carnet holder with all Contracting Parties, as going beyond Article 38, paragraph 2, which provided only for the notification of the exclusion to the Contracting Party on whose territory the person concerned was established or resident. He added that such application of the ITDB negatively affected the position of other Contracting Parties towards that TIR Carnet holder and might also raise concerns with regard to the GDPR, a matter on which IRU might make a written submission to TIRExB. In response, the secretariat clarified that the information had already been reflected in the old ITDB in accordance with paragraph 8, subparagraph (a) of the Terms of Reference of TIRExB. TIRExB noted that the current practice of sharing fraud

reports also circulated information on irregularities among Contracting Parties, but without providing information on the TIR Carnet holder.

20. It was further clarified that the proposed draft legal amendment to the Explanatory Note of Article 38, paragraph 2 did not change the responsibility of Contracting Parties, but concerned the mandatory transmission of data to TIRExB. In response to a proposal by Mr. S. Amelyanovich (Russian Federation) to recommend to AC.2 to make the connection between the ITDB and eTIR, it was clarified that the current proposals concerned data submission to TIRExB via the ITDB and not draft Annex 11. It was further clarified that the specifications for eTIR contained a reference to such data exchange.

21. In conclusion, TIRExB requested the secretariat to revise informal document No. 15 (2017) pursuant to the comments made with the different drafting proposals for time limits on the data submission to TIRExB via the ITDB in square brackets and clearly distinguishing between authorization, withdrawal and exclusion (see paras. 15–20 above, TIRExB/REP/2017/75final, paras. 16–20).

VI. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations (agenda item 5)

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

Documentation: Informal documents Nos. 10, 18–20, 22–24, 26–28, 30, 31 (2017), 6, 7 and 9 (2018)

1. Guarantee coverage in Romania

22. TIRExB took note that the Romanian customs authorities had authorized the National Union of Road Hauliers from Romania (UNTRR) to act as TIR guaranteeing association in Romania, in accordance with the provisions of Article 6, paragraph 2 and Annex 9, Part I of the TIR Convention (Informal document No. 9 (2018)).

23. Mr. Y. Guenkov (IRU) further informed that the Romanian Association for Road Transport (ARTRI) had obligations towards the Romanian authorities and remained responsible for all TIR Carnets issued by ARTRI up to and including 31 January 2018. In addition, he assured that the international guarantee chain would take the responsibility for all claims.

24. Moreover, Mr. Y. Guenkov clarified that the reference to “if ARTRI cooperates” in Informal document No. 9 (2018) was merely expressing a reservation by IRU that ARTRI might not wish to exchange any correspondence with IRU.

25. In response to questions raised, Mr. Y. Guenkov (IRU) confirmed that ARTRI would remain responsible for a claim regarding a TIR Carnet issued by ARTRI before 31 January 2018, but with the claim submitted after 31 January 2018, e.g. 10 February 2018. Further, Ms. L. Jélinková (European Commission) asked why the claims should be addressed to ARTRI if UNTRR had a valid certificate and agreement as of 8 January 2018 (Informal document No. 7 (2018)). Mr. Y. Guenkov replied that the reason for two insurance certificates was most probably that UNTRR had previously been only authorized for issuing national TIR Carnets. In addition, Mr. S. Somka (Ukraine) expressed doubts, shared by Mr. S. Fedorov (Belarus), on whether ARTRI could cover claims arising after 31

January 2018 on TIR Carnets issued before 1 February 2018, if the insurance coverage by AXA only covered the time until 31 January 2018 for ARTRI.

26. In response to a question by Mr. S. Amelyanovich (Russian Federation), the secretariat stated that there was no written formal procedure on how Contracting Parties were notified on the change of a TIR Carnet issuing national association and made reference to the IRU Circular letter distributed via email to TIR Focal Points and included in the Informal document WP.30/AC.2 (2018) No. 2.

27. Mr. Y. Guenkov (IRU) clarified that the appeal by ARTRI concerned only its IRU membership and would be decided at the next IRU General Assembly meeting (4 May 2018). The terminated deed of engagement to issue TIR Carnets remained unaffected thereof. TIRExB noted the developments, and expressed once more its regret about the deterioration of situation, i.e. the relations of IRU and its member.

28. In view of the questions raised on the details of the guarantee coverage and the transition between ARTRI and UNTRR, TIRExB requested IRU to provide further information, including example cases with dates on the guarantee coverage for better comprehension of the situation. TIRExB also called on IRU to provide further information to WP.30 and AC.2 (February 2018 sessions) to clarify the situation for all Contracting Parties.

2. Proposal by the Romanian customs authorities

29. TIRExB considered a letter by the Romanian customs authorities, in which the Romanian customs authorities shared the findings of TIRExB that the TIR Convention was silent on the agreement between the international organization and its national association except for the reference in the Explanatory Note 0.6.2 bis-1. TIRExB noted that the Romanian customs authorities proposed to clarify the reasons for termination of those agreements in a new Explanatory Note to Article 6, paragraph 2.

30. TIRExB decided to (a) remind AC.2 of its findings that the TIR Convention was silent on the agreement between the international organization and its national associations except for the reference in the Explanatory Note 0.6.2 bis-1, (b) inform AC.2 of the proposal by the Romanian customs authorities, and (c) urge Contracting Parties at the upcoming AC.2 session to pay more attention to the grey area noted on the matter in the TIR Convention and to provide guidance to TIRExB.

3. Request by ARTRI

31. In addition, TIRExB finalized its response to a request by ARTRI for further reaction on the case. TIRExB decided to respond to ARTRI by (a) acknowledging receipt of the letters dated 5 December 2017 and 23 January 2018, (b) stating that TIRExB considered the matter in reference to the letter sent to ARTRI on 16 October 2017 as well as the letter to Romanian customs on 11 December 2017, (c) informing that TIRExB would bring the matter to the attention of AC.2, and (d) expressing its regrets about the deterioration of the situation.²

² Note by the secretariat: The letter to ARTRI was sent on 7 February 2018.

B. The IRU external audit report

32. TIRExB reaffirmed its decision to retain the agenda item and to monitor any new development at WP.30 (TIRExB/REP/2017/74final, para. 27, ECE/TRANS/WP.30/292, paras. 31–35).

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

Documentation: Informal document No. 8 (2018)

33. TIRExB continued its consideration of an example of an intermodal TIR transport covering three different modes of transport between Slovenia and Iran (Islamic Republic of). The Board noted that Informal document No. 8 (2018) submitted by IRU contained responses to the questions raised at its previous session (see TIRExB/REP/2017/75final, paras. 24 and 26).

34. The Chair noted that (a) it would be good to have the exact benefits of the example outlined, (b) the authorization and issues in relation to guarantee coverage for rail merit further consideration, since the automated system in Turkey only allowed one type of guarantee, and (c) that the reasons for not continuing the transport with a CIM³ consignment note in Iran (Islamic Republic of) were unclear.

35. Mr. M. Ayati (Iran (Islamic Republic of)) explained that (a) there had been eleven operations with intermodal TIR transports from Slovenia to different locations in Iran (Islamic Republic of), (b) the IRU TIR Electronic Pre-Declaration (EPD) was used before the containers arrived at the border for risk-analysis, which saved five days, (c) saving time and energy was important in transportation and in some cases the mode of rail was beneficial for transporters, (d) the name of the subcontractor was included in box 11 to notify Iranian officials accordingly, and (e) the CIM consignment note had not been used for the rail leg of the transport in Iran (Islamic Republic of), since it did not provide a guarantee for customs taxes and duties.

36. Mr. S. Fedorov (Belarus) asked: (a) how the subcontractor was exactly included in the TIR Carnet (box 11), (b) whether the TIR Carnet had been used only as a guarantee document and not as transit declaration (box 8), and (c) where the change in transport mode was noted, i.e. whether another transport document had been issued to accompany the container. He added that the main question was whether the example constituted an effective system to be further considered.

37. Mr. Ayati (Iran (Islamic Republic of)) emphasized the importance for TIRExB, WP.30 and AC.2 to consider intermodal transport under the TIR Convention, since such operations would increase with the accession of China and India. In response to Mr. S. Fedorov's (Belarus) questions, Mr. M. Ayati explained that Iran (Islamic Republic of) had used the TIR Carnet for the rail leg in Iran (Islamic Republic of) not only as a guarantee but also as a customs document with the subcontractor specified in box 11 of the TIR Carnet by its code. In reference to adjustments of the TIR Convention for subcontracting, Mr. Y. Guenkov (IRU) observed that the use of subcontractors was a matter of description in the TIR Carnet: It could be referred to as a representative or agent of the TIR Carnet holder. Mr. S. Somka (Ukraine) shared information about a new order adopted by the Minister of

³ CIM stands for "Uniform Rules concerning the Contract of International Carriage of Goods by Rail".

Finance of Ukraine, which allowed the use of subcontractors in Ukraine under the TIR Convention.

38. TIRExB noted that the matter of subcontractors was currently on the agenda of WP.30. In conclusion, TIRExB decided to continue its consideration and, in view of the questions raised, invited IRU to provide additional information on the example together with the benefits experienced.

VIII. Prices of TIR Carnets (agenda item 7)

Documentation: Informal documents Nos. 9 (2017), 1 and 2 (2018)

A. Analysis of the prices of TIR Carnets

39. TIRExB noted that, to-date, nineteen Contracting Parties had responded to the online survey and that six more Contracting Parties had sent prices directly to the secretariat. The Board recalled that the deadline to send price data and respond to the survey was 1 March 2018 and decided to revert to the agenda item at its next session.

B. Distribution prices

40. Pursuant to a request by AC.2 (see ECE/TRAN/WP.30/AC.2/133, paras. 21–22 and Annex III), TIRExB continued its consideration of the concerns of the Russian customs authorities on the accuracy of the current practice where the exemption of import duties and taxes was based on the IRU distribution price rather than on the production price (see Informal document No. 9 (2017), TIRExB/REP/2017/75final, paras. 43–47).

41. TIRExB recalled that, at its previous session, Mr. S. Amelyanovich (Russian Federation) had reiterated three requests by the Russian Federation (see TIRExB/REP/2017/75final, para. 44, Informal document 9 (2017)). TIRExB also recalled that, at its last session, Mr. Y. Guenkov (IRU) had provided copies of the export documents for TIR Carnets forms with the amount corresponding to the invoice value, in response to one of the requests (Informal document No. 1 (2018)). TIRExB further recalled that Mr. Y. Guenkov's statement on the legal opinion of a former head of IRU Legal Services had been included in Informal document No. 2 (2018) for consideration of the Board.

42. The Chair noted that she could not see the relevance of the legal opinion to the matter at hand. Supporting the Chair's observation, Mr. S. Amelyanovich (Russian Federation) explained that the problems identified by the Russian Federation were not caused by a desire to tax TIR Carnets shipped to the Russian Federation, but by the need to have a clear indication of the costs of blank TIR Carnets, due also to the fact that the Russian customs authorities had the task of controlling foreign currency transactions. Thus, in the opinion of the Russian Federation, the price of the TIR Carnet forms as printed material should be indicated when importing TIR Carnets to the Russian Federation. To solve the problems, the Russian Federation had proposed instructing IRU to comply with the three requests made (see Informal document No. 9 (2017)). He added that even the information in Informal document No. 1 (2018) had discrepancies, i.e. showing different prices.

43. In response to a proposal by Mr. Y. Guenkov (IRU) to remove the agenda item, the Chair clarified that the item could not be deleted from the TIRExB agenda by referring simply to a meeting between Swiss, Russian and, eventually also, IRU officials, since AC.2

had transferred the matter to TIRExB. Thus, the Chair added, efforts should be sustained to understand the underlying problem.

44. Mr. S. Amelyanovich (Russian Federation) clarified that the Russian Federation had requested a clear and unambiguous understanding of the concept of the costs of a TIR Carnet form under Article 7 of the TIR Convention, i.e. whether it was the price as printed material, and that an assessment by TIRExB could help.

45. As a preliminary observation, the secretariat stated that Article 7 seemed to allude to the fact that the distribution price should not be taxed, since TIR Carnet forms would most likely not be imported if it was not for the fact that they also represent the guarantee which costs are also included in the distribution price. The Chair noted that, in her view, Article 7 stipulated that no taxes or duties should be imposed on TIR Carnets when imported. Then she posed the question whether, for Article 7, there was a difference between the TIR Carnet having the costs of 1.79 SwF or 25/59 SwF as price provided by IRU to the national associations.

46. Mr. Y. Guenkov (IRU) explained that the indication of the price of the TIR Carnet as printing costs came from requirements in Swiss legislation for export documents for merely statistical purposes, but no one would use the TIR Carnet form if it did not come with the costs of administration and guarantee coverage. Subsequently, Swiss authorities had agreed to modify their export documents to accommodate the Russian concerns. Mr. Y. Guenkov added that no other Contracting Party encountered those difficulties and posed the question what difference the price would make (printed material vs. valid guarantee). Mr. S. Amelyanovich (Russian Federation) stated that, in his view, the TIR Carnet forms were merely paper when imported and only gained their value afterwards when becoming a guarantee upon subscription. Thus, only the value as printed material was relevant for Article 7. In addition, he draw the attention to the difference between invoiced price and custom value and said that other costs, such as insurance, rental of premises, etc., could not be include in the customs value. He pointed to principles for defining the customs value applied upon recommendations of the World Trade Organizations (WTO) and in various Conventions.

47. TIRExB took note that the Russian Federation would like to see the content of Article 7 to be clarified. The Chair asked whether IRU could try to better understand the need of the Russian Federation and whether the request by the Russian Federation could be formulated in a different way. In conclusion, TIRExB decided to consider the matter further at its next session.

IX. Example agreement (agenda item 8)

Documentation: Informal document No. 4 (2018)

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

X. Claims exceeding maximum amount of TIR guarantee per TIR Carnet (agenda item 9)

Documentation: Informal document No. 21 (2017)

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

XI. Problems reported by transport companies from the Republic of Moldova in Ukraine (agenda item 10)

Documentation: Informal documents Nos. 37 (2014) and 8 (2015)

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

XII. Problems of Kyrgyz TIR transporters at the Kazakh border reported by the State Customs Service of the Kyrgyz Republic (agenda item 11)

Documentation: Informal documents Nos. 32 and 33 (2017)

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

XIII. Problems with acceptance of TIR Carnets in the Russian Federation (agenda item 12)

Documentation: Informal document No. 35 (2017)

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

XIV. Activities of the secretariat (agenda item 13)

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

XV. Other matters (agenda item 14)

54. Due to a lack of time, TIRExB did not discuss any other matter.

XVI. Restriction in the distribution of documents (agenda item 15)

55. TIRExB decided that documents issued for the current session should remain restricted.

XVII. Date and place of next session (agenda item 16)

56. The Board decided to have its next session on Monday, 11 June 2018, in Geneva.
