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

Activities and administration of the TIR Executive Board:

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Report by the Chair of the TIR Executive Board

Report of the eightieth session of the TIR Executive Board (TIRExB)

I. Attendance

1. The TIR Executive Board (TIRExB) held its eightieth session on 4 February 2019 in Geneva.
2. The following members of TIRExB were present: Mr. G. Andrieu (France), Mr. S. Amelyanovich (Russian Federation), Mr. M. Ayati (Iran (Islamic Republic of)), Ms. D. Dirlik Songür (Turkey), Ms. B. Gajda (Poland) and Mr. S. Somka (Ukraine). Mr. S. Fedorov (Belarus), Ms. L. Jelínková (European Commission) and Ms. E. Takova (Bulgaria) were excused.
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. Y. Guenkov.

II. Opening statement by Mr. Li, Director Sustainable Transport Division

4. In his opening statement, Mr. Li thanked TIRExB for the progress it had made in the course of its term of office. He also thanked the Board for its efforts to support the adaptation of the TIR procedure to modern business requirements, particularly to promote the intermodal use of the TIR procedure. He pointed out the importance of continuing working on intermodal transport as many of the countries that recently acceded to the TIR Convention were coastal and would be dependent on such type of transport. Further, referring to the discussions to be held at the Working Party on Customs Questions affecting Transport (WP.30) and the Administrative Committee (AC.2) that same week, he requested the support of the Board members for the adoption of draft Annex 11 at those meetings and also requested the Board to continue facilitating the computerization of the TIR system.
5. The Chair recalled that the Board had recommended the next composition to continue working on intermodal transport and the computerization of the TIR system and added that the Board also supported the activities at other governing bodies to this end. TIRExB thanked the secretariat for its support to the Board during its term of office.

III. Adoption of the agenda (agenda item 1)

Documentation: Informal document TIRExB/AGE/2019/80

6. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2019/80.

IV. Adoption of the report of the seventy-ninth session of TIRExB (agenda item 2)

Documentation: Informal document TIRExB/REP/2018/79draft

7. TIRExB adopted the draft report of its seventy-ninth session as in Informal document TIRExB/REP/2018/79draft.

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

Consideration of amendment proposals

Proposals to introduce more flexibility in the guarantee system

8. TIRExB reiterated its decision to commence considerations of the matter only subsequent to the deliberations of AC.2 (ECE/TRANS/WP.30/AC.2/2018/4, para. 7).

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

A. eTIR project and eTIR pilot projects

9. The Board took note that all the parties in the Ukraine- Georgia- Azerbaijan- Kazakhstan intermodal eTIR pilot project signed the Main Principles document prepared by UNECE and IRU. The Board also took note that, despite not involved in a pilot project yet, Pakistan and Tajikistan also had signed the Main Principles. Mr. Ayati (Iran (Islamic Republic of)) informed the Board that the Iranian authorities had signed the Main Principles for an eTIR pilot project with Azerbaijan. He added that the preparatory work on a new Memorandum of Understanding for expanding the scope of eTIR pilot project between Iran (Islamic Republic of) and Turkey continued.

10. The secretariat informed the Board that the eTIR international system, in particular all customs-to-customs (C2C) messages, would be finalized by the end of 2019 and then the countries would be welcome to take part in projects which would use the eTIR international system for C2C information exchange.

B. International TIR Data Bank

11. The Board took note that the secretariat continued efforts to eliminate discrepancies with data imported from existing data bases of contracting parties for the customs offices module. The Board also noted that, further to the decision at the seventy-eighth session of the Board, the secretariat initiated to host the ITDB at a United Nations enterprise data center (ECE/TRANS/WP.30/AC.2/2019/2, para. 22).

12. The Board welcomed the increase of the number of customs authorities using ITDB to forty-six since its last session.

VII. Adaptation of the TIR procedure to modern business, logistics and transport requirements (agenda item 5)

Implementation of the intermodal aspects of the TIR procedure

Documentation: Informal documents Nos. 16 and 26 (2018)

13. The Board recalled that, at its previous session, it took note of a new intermodal transport pilot, conducted between the United Arab Emirates and the Czech Republic, as presented by IRU in Informal document No. 26 (2018). The Board also recalled that it took note of the preliminary considerations of the secretariat for a study on the intermodal use of TIR procedure.

14. The secretariat informed the Board that it had held comprehensive discussions with IRU experts to identify their possible contributions to the study and a timeline had been set to complete the study in time for the October 2019 session of the Board. The secretariat believed that the study would avail more strategic approach to the subject. The Board underlined that the intermodal use would be one of most outstanding features of the TIR system in the forthcoming years and highly recommended the next composition of the Board to continue working on this topic.

VIII. Settlement of disputes between contracting parties, associations, insurance companies and international organizations (agenda item 6)

Draft new Explanatory Note to Article 6, paragraph 2 of the TIR Convention

Documentation: Informal document No. 1 (2019)

15. With regard to the mandate by AC.2 to assess whether and to which extent it would be possible to include provisions on the relation between the international organization and its national associations in the text of the TIR Convention (see ECE/TRANS/WP.30/AC.2/137, paras. 16 and 39), the Board took note of Informal document No. 1 (2019), summarizing the discussions and possible areas of action put forth by the Board so far. In addition to possible areas of action raised at previous meetings of the Board, Mr. Ayati (Iran (Islamic Republic of)) considered the issue to be closely linked with Annex 9 of the Convention and was of the view that an amendment to the Convention without taking into account Annex 9 would be immature and incomplete.

16. Mr. Guenkov (IRU) informed the Board about the legal framework of the relationship between IRU and its member associations, and emphasized the private nature of this relationship. He stated that the relationship between IRU and the national associations was governed by the IRU Constitution and the Swiss Civil Code, in terms of membership, and the written agreements, in terms of Explanatory Note 0.6.2 bis- 1. These written agreements were the Deeds of Engagement which were signed between IRU and the associations. He stated that whereas some aspects of the TIR Convention related to public law, others related to private law. He added that the relationship between IRU and the national associations as well as all other contractual relationships entered into by IRU and its members, ensuring a safe implementation and functioning of the guarantee chain, pertained to private law. He emphasized that neither IRU nor the national associations could be obliged to work together due to the principle of contractual freedom. He pointed out that the mere affiliation of a national association to IRU did not suffice to authorize such association to issue TIR Carnets and belong to the international guarantee chain. Thus it was the sum of private and public relationships and decisions that enabled the functioning of the international guarantee chain. He further stated that not respecting the aforementioned legal framework and roles would be both an infringement of public and private law and could also lead to disruption of the delicate balance between the roles of the public and private actors in the TIR system.

17. Several members reiterated their support to developing an early warning mechanism and drafting a best practice or guiding principles for addressing similar situations as previously concluded by the Board (ECE/TRANS/WP.30/AC.2/2019/2, para. 29). Ms. Gajda (Poland) stated that the contractual nature of the relationship between the international organization and the associations should be taken into account and, considering that customs authorities do not have the whole picture of this relationship, the authorities should get involved only when instances that might have an impact on the functioning of the guarantee chain emerged. Mr. Somka (Ukraine) mentioned that the role of the international organization in the organization and functioning of the guarantee system and the rights, such as nominating a national association, deriving from this role had to be respected for the proper functioning of the guarantee chain. He believed that it would not give good results to interfere in this area and that similar cases, which rarely happened, could be solved by cooperation between stakeholders. With regard to the amendments to the Convention, either in Article 6 or Annex 9, he was of the view that they should be raised at WP.30 or AC.2 by contracting parties willing to do so.

18. Mr. Andrieu (France), reiterating the common goal of all stakeholders for the TIR system functioning without interruptions, stated that an early warning mechanism together with a best practice would be the most reasonable option to work on. He added that interfering in the relationship between the international organization and its associations did not fall under the mandate of the Board. The Chair pointed out the importance of a balanced approach to the issue. She stated that there were many aspects of the issue the Board members were not and could not be expected to be familiar with as they related to the contractual relationship between two private entities. Further, she recalled that the Board should focus on its mandate and, thus, interfere in this relationship where it had an impact on the proper functioning of the international guarantee system. She added that the best practice or the guiding principles were not aimed at defining the contractual relationship, but that they would affirm the importance of a good relationship and collaboration between the international organization and its associations at all times and call for informing TIRExB and other TIR bodies well in advance about instances that might affect the guarantee chain.

19. Mr. Ayati (Iran (Islamic Republic of)) stated that, in order to avoid similar cases from happening again, further clarification of the relationship between the international organization and the national associations was needed and that any type of measure should be reflected in the Convention. Mr. Amelyanovich (Russian Federation) pointed out that, although this relationship had a private nature, it had an impact on the public sphere. Referring to the case of Romanian association, he emphasized that one of the contracting parties faced the situation of not being able to use the TIR Convention in its territory due to problems in this relationship. He also recalled that all relevant parties were informed about the exclusion of the Romanian association well before the execution of this decision, but that had not helped the Romanian association to continue playing its role in the TIR system. He, therefore, was of the view that an early warning mechanism was necessary but would not suffice. He added that any measure should be taken through an amendment to the Convention and that the creation of an expert group might be considered to involve all contracting parties in further work on this issue.

20. The Chair reiterated the previous conclusion of the Board that an early warning mechanism and a best practice or guiding principles should be developed in order to address future complications in the relationship between the international organization and the national associations. The Board deemed it not appropriate to consider amendments to Article 6 or Annex 9 at this stage and, in the absence of amendment proposals submitted to this end, preferred not discussing further the binding provisions of the Convention.

IX. Prices of TIR Carnets (agenda item 7)

Analysis of the prices of TIR Carnets

21. The Board took note that the secretariat had published the 2018 prices on the TIR website and launched the survey to collect the 2019 prices, to which the associations had time until 1 March 2019 to reply.

X. Problems reported by transport companies from the Republic of Moldova in Ukraine (agenda item 8)

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

22. Mr. S. Somka (Ukraine) informed the Board that a draft law that would eliminate such problems was still pending adoption by the Parliament. He promised to keep the Board informed about any further development in this field.

XI. Self-evaluation (agenda item 9)

23. The Board endorsed the consolidated replies to the self-evaluation survey, including recommendations for future compositions of the Board, as contained in Informal document WP.30/AC.2 (2019) No. 4 and mandated the Chair to introduce it at the session of AC.2.

XII. Activities of the secretariat (agenda item 10)

General activities of the secretariat

24. The Board took note that the secretariat would submit the data requirements on the customs offices module of the ITDB to the October 2019 session of AC.2 by means of an official document. The Board also took note that the secretariat continued efforts to incorporate the gender dimension in TIR activities and, to that end, had contacted the World Customs Organization to get acquainted with their work on the gender equality in the field of customs.

XIII. Other matters (agenda item 11)

25. Mr. Guenkov (IRU) informed the Board that, as of July 2019, there would be new regulations entering into force in Belarus which cover measures as the payment of a fee for handling electronic information and registration of transport operators to obtain an electronic signature. He raised concern about the possible consequences of these regulations for TIR operations and stated that IRU was in contact with the Belarusian customs authorities to clarify the situation. The Board took note of this information and, while recommending the submission of this issue with further information to WP.30 where Belarus was also represented, expressed its availability to consider the matter in case there were aspects related to its mandate.

XIV. Restriction in the distribution of documents (agenda item 12)

26. TIRExB decided to keep Informal document No. 1 (2019), issued in relation to the current session, restricted.

XV. Date and place of next session (agenda item 13)

27. The Board decided not to fix a date for its eighty-first session, but to leave it up to the new composition of the Board to take a decision on this matter.¹

¹ By email of 19 February 2019, TIRExB decided to conduct its eighty-first session on 5 April 2019, in Geneva.