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Administrative Committee for the TIR Convention, 1975

Forty-fifth session
Geneva, 31 January 2008
Item 4 (a) (i) of the provisional agenda

ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD (TIREXB)

Activities of the TIRExB

Report by the Chairperson of the TIR Executive Board

MANDATE

This document is submitted pursuant to Annex 8, Article 11, para. 4 of the TIR Convention which stipulates that the TIR Executive Board (TIRExB) “shall report on its activities to the Administrative Committee at least once a year or at the request of the Administrative Committee”. As also foreseen in the TIR Convention, the TIRExB will be represented in the Administrative Committee by its Chairperson.

I. ATTENDANCE

1. The TIR Executive Board (TIRExB) held its thirty-third session on 11 June 2007 in Geneva.
2. The following members of the TIRExB were present: Mr. S. Baghirov (Azerbaijan), Mrs. A. Dubielak (Poland), Mr. H. Köseoğlu (Turkey), Mr. H. Lindström (Finland),

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Mr. V. Luhovets (Ukraine), Mr. V. Milošević (Serbia), Mrs. J. Popiolek (European Commission), Mrs. N. Rybkina (Russian Federation), Mr. R. Šmidl (Czech Republic).

3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. J. Acri, Head, TIR System.

II. ADOPTION OF THE AGENDA

4. The TIRExB adopted the agenda of the session as prepared by the secretariat (Informal document TIRExB/AGE/2007/33) with the inclusion of the following issue under agenda item 8 "Other matters": Application of the TIR procedure in the Russian Federation (Informal document No. 10 (2007)).

III. ADOPTION OF THE REPORT OF THE THIRTY-SECOND SESSION OF THE TIRExB

Documentation: Informal document TIRExB/REP/2007/32draft

5. The TIRExB adopted the report of its thirty-second session (Informal document TIRExB/REP/2007/32draft), subject to the following modifications:

Paragraph 5 bis

After paragraph 5, insert a new paragraph to read as follows:

"5 bis. The TIRExB thanked Mr. P. Hansen for many years of fruitful cooperation and welcomed Mr. R. Nowak."

Paragraph 11

Modify the paragraph to read as follows:

"11. With regard to monitoring of the price of TIR Carnets at national level (item 9 of the programme), the IRU pointed out that the "ex-national association" price of TIR Carnets was a result of many factors and that the IRU did not and would not collect this information. The IRU also questioned under which legal basis the UN or the UNECE or the TIRExB would be entitled to collect and keep record of prices at national level and act as economical and or competition control bodies. The Board was of the view that the mandate is contained in the TIR Convention, but decided to study this issue further."

Paragraph 14

Modify the first sentence to read as follows:

"The TIRExB took note that in several countries authorized TIR Carnet holders conclude agreements with subcontractors in line with national law."

Paragraph 17

Modify the last sentence to read as follows:

"Finally, the TIRExB adopted the example of best practice on the application of Articles 39 and 40, as contained in Annex 2 to the present report, and decided to submit it to the TIR Administrative Committee for consideration."

Paragraph 20

Modify the last sentence to read as follows:

"All these manipulations led to significant Customs undervaluation and to evasion of Customs payments."

Paragraph 21

Modify the second sentence to read as follows:

"It was highlighted that in the underlying situation the consignor was an offshore company and that the TIR Carnet was opened not in the country of exportation, but in a transit country."

Paragraph 22

In the fourth sentence, after "stapling" add "and the stamping".

Paragraph 26

Modify the paragraph to read as follows:

"26. In a reaction, the Turkish member of the Board confirmed that the number of East-West permits had indeed increased from 4,000 to 5,500 per year, but that this number was still largely insufficient to meet the requests from Turkish operators for at least 25,000 East-West transports per year. He stressed that the reasons given by the Italian Customs Administration were not essential even though it was recommended that the right prescribing the route should be used only when it was essential. In addition, he wanted more clarification about ad-hoc authorizations. He maintained the view that the Italian Customs in prescribing the East-West route, despite the absence of sufficient permits, inappropriately applied the provisions of Article 20 of the TIR Convention. The TIRExB took note of the letter by the Italian Customs and the comments by the Turkish member of the Board, and invited the Turkish authorities to further elaborate the issue in a letter to the TIR secretariat, which it would retransmit to the Italian competent authorities for further clarification."

Paragraph 29

In the last sentence, replace "computerization" with "the current status of computerization".

6. The revised text of the report of the thirty-second session of the Board is contained in Informal document TIRExB/REP/2007/32.

IV. POSSIBILITY OF UNDERTAKING A TIR TRANSPORT WHEN A TRACTOR UNIT DOES NOT BELONG TO THE TIR CARNET HOLDER

Documentation: Informal document No. 7 (2007)

7. The TIRExB considered Informal document No. 7 (2007) by the secretariat, containing a draft questionnaire on the possibility of using subcontractors at the national level. The TIRExB generally endorsed the draft, but requested some changes to be made. In particular, the questions should distinguish more clearly between the treatment of domestic and foreign operators. TIRExB members and the IRU were encouraged to submit any additional comments in writing to the TIR secretariat before 15 July 2007. The secretariat will prepare a revised final draft for approval by the Board at its forthcoming session.

V. BEST PRACTICES WITH REGARD TO THE USE OF THE TIR CARNET

Documentation: Informal document No. 5 (2007)/Rev.1

8. The TIRExB discussed in-depth comments and proposals made by some members and the IRU concerning the example of best practices on the use of the TIR Carnet (Informal document No.5 (2007)/Rev.1). On that basis, the secretariat was requested to revise the draft for consideration at the next session.

VI. MONITORING THE PRICE OF TIR CARNETS

Documentation: Informal document No. 8 (2007)

9. The TIRExB took note of Informal document No. 8 (2007) by the secretariat, containing an analysis of various legal provisions with regard to monitoring the price of TIR Carnets as well as an overview how this task had been fulfilled in 1999-2006. The TIRExB noted that, in the past, the Board had limited its monitoring function to the absolute price of TIR Carnets at the ex-IRU level and decided not to address issues such as the internal structure and/or ex-national association price(s).

10. Against this background, the TIRExB re-considered how the terms "monitor" and "price of TIR Carnets" should be interpreted. On the basis of evidence in Informal document No. 8 (2007), the Board agreed it should play an active role and that its monitoring should cover not only the absolute price at the ex-IRU level, but also the ex-national association price(s) as well as their components. Because the IRU was not in a position to collect and provide such information, the Board was of the view that a survey of the national associations should be undertaken. Members of the TIRExB were invited to submit written proposals on the content of such a survey. On that basis, the secretariat was requested to prepare a draft questionnaire for consideration at the next session.

11. The IRU pointed out that both IRU and its member associations are not for profit organizations, but have responsibilities concerning the efficient organization and functioning of the TIR guarantee system. The IRU wondered which goals the TIRExB would pursue by monitoring the price structure at the ex-IRU level and the ex-national association price(s). According to the IRU, this could mean that the TIRExB performs an economic supervisory function at the international level, contrary to Article 6.2 bis of the Convention which gives an international organization the full freedom with regard to the organization of an international

guarantee system. The IRU also stated that disclosing the TIR Carnet price components would constitute a breach of Swiss law that protects commercially sensitive information. Any organization or person who has disclosed or used such information can be taken to court.

12. The TIRExB invited the IRU to submit to the next session a document elaborating on the above issues. In response to the IRU's remarks, the Board stressed that the detailed information on the price of TIR Carnets is requested not for competition law reasons, but to ensure the full transparency within the TIR system. The TIRExB failed to see why the IRU, being a not for profit organization which acts in the framework of public-private partnership, is not willing to provide such information.

VII. APPROVAL OF ROAD VEHICLES

Documentation: Informal document No. 9 (2007)

13. The TIRExB discussed Informal document No. 9 (2007), containing approval reports for various types of road vehicles which had been transmitted by the EU Customs and Fiscal Assistance Mission to Serbia (CAFAO). The Board noted that the use of these approval reports by the Serbian Customs authorities had brought very positive results. The Board expressed its appreciation to CAFAO for the valuable contribution and requested the secretariat to translate the approval reports and distribute them to the Contracting Parties. Under this agenda item, the TIRExB was also informed about the programme and organizational modalities for the Seminar on approval of TIR vehicles scheduled for 24 September 2007 in Geneva.

VIII. APPLICABILITY OF THE TIR PROCEDURE TO POSTAL ITEMS

14. The TIRExB was informed of rare occasions when TIR Carnets had been used to cover postal items transported by road in the framework of the Universal Postal Convention (1994). Some Board's members were of the view that the application of the TIR procedure to such deliveries was superfluous, as the Universal Postal Convention contains specific provisions with regard to Customs clearance, including standard Customs documents. The TIRExB invited its Chairperson, in cooperation with the secretariat, to further study this issue and to prepare a document for consideration at the next session.

IX. APPLICATION OF THE TIR PROCEDURE IN THE RUSSIAN FEDERATION

Documentation: Informal document No. 10 (2007)

15. The IRU informed the TIRExB of problems transport operators had experienced at some Russian Customs offices of entry (Informal document No. 10 (2007)). According to the IRU, these offices systematically refused to accept TIR Carnets when the duties and taxes for the transported goods exceeded \$ 50 thousand. Instead, transport operators were requested to use the national transit procedure. In response, Mrs. N. Rybkina (Russian Federation) pointed out that these problems were a result of the insufficient TIR guarantee level. In cases where the duties and taxes due exceed \$ 50 thousand, the Russian Customs authorities require escorts at the expense of transport operators. To avoid these fees, the TIR Carnet holders may terminate the TIR procedure and start a cheaper national transit procedure. It is up to the holder to take a decision in this respect.

16. The TIRExB invited the IRU to communicate to Mrs. N. Rybkina (Russian Federation) the relevant TIR Carnet numbers, in order to be able to verify whether the TIR procedure was indeed terminated at the TIR Carnet holder's request.

X. RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS

17. The TIRExB decided that the distribution of the following document, issued in connection with its present session, should be restricted: Informal document No. 7 (2007).

XI. DATE AND PLACE OF NEXT SESSIONS

18. The TIRExB decided to hold its thirty-fourth session on 12 and 13 November 2007 in Warsaw, at the invitation of the Ministry of Finance of Poland.
