



**Economic and Social  
Council**

Distr.  
GENERAL

TRANS/WP.30/AC.2/2004/16  
5 August 2004

Original: ENGLISH

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**ECONOMIC COMMISSION FOR EUROPE**

Administrative Committee for the TIR Convention, 1975  
(Thirty-seventh session, 14-15 October 2004,  
agenda item 3 (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-second session**

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its twenty-second session on 24 and 25 May 2004 in Rome (Italy).
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. 51 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/2004/22) with the inclusion of the following subjects under agenda item 10 "Miscellaneous":

- Lost and stolen TIR Carnets;
- Application of Customs escorts in Ukraine;
- Issuance of TIR Carnets for tractor units;
- Restriction on the distribution of documents;
- Changes in the TIRExB website layout;
- Possibility of using the TIR procedure in case a part of the journey is made by air.

## **ADOPTION OF THE REPORT OF THE TWENTY-FIRST SESSION OF THE TIRExB**

Documentation: TIRExB/REP/2004/21draft; Informal document No. 3 (2004).

5. Having taken into consideration comments transmitted by TIRExB members and the IRU (Informal document No. 3 (2004)), the TIRExB adopted the report of its twenty-first session (TIRExB/REP/2004/21draft), subject to the following modifications:

### Paragraph 19

Modify the last but one sentence to read as follows:

"The TIRExB took note that the European Court of Justice had recently taken a decision concerning the role of the national guaranteeing association in the European Union in the claim procedure."

### Paragraphs 31-33

Modify paragraphs 31-33 to read as follows:

"31. The IRU informed the TIRExB of the status of the arbitration procedure between the IRU and the old pool of insurers which had unilaterally terminated the insurance coverage of TIR Carnets at the end of 1994, due to a significant number of Customs claims. In November 1997, the Court of Arbitration declared this cancellation of the insurance contract abusive and illegal. In November 2003, the court pronounced the final ruling according to which all Customs claims were sorted out into several groups. The insurance pool was obliged to pay claims of certain groups, while some other groups would not be paid by the insurer.

32. On the basis of the Court of Arbitration decision, the IRU hoped to meet with the insurers in the course of February 2004 in order to implement at national level the handling of claims. The first information to the authorities about the consequences of the decision by the Arbitration Court would also be given in February 2004.

33. It was pointed out that the competence of the Court of Arbitration was to decide on the responsibilities of the IRU and the old pool of insurers regarding the execution of the insurance contract terminated in 1994. The Court decisions neither concerned the guarantee contracts concluded between the guaranteeing associations and Customs authorities at national level nor determined the validity of Customs claims. Thus, national court proceedings might be expected if there would be no consensus concerning the justification of some claims.

33 bis. The TIRExB took note of the above information and requested the IRU to provide more details on the matter."

#### Paragraph 36

Modify the title before paragraph 36 to read as follows:

"NOMINATION OF THE TIR SECRETARY"

#### Paragraph 37

Modify the paragraph to read as follows:

"37. Due to lack of time, the TIRExB decided to postpone its considerations on the subject to the next session of the Board."

6. The revised text of the report of the twenty-first session of the Board is contained in document TIRExB/REP/2004/21.

### **CURRENT PROBLEMS IN THE TIR SYSTEM**

#### **Security in the supply chain**

Documentation: Informal document No. 4 (2004).

7. The TIRExB welcomed Informal document No. 4 (2004) made available during the meeting, prepared by the secretariat, even if no time was given for proper evaluation due to the last minute availability of the document, containing a first overview of the newly emerged issue of security in the supply chain and its possible impact on the TIR procedure. This document will

serve as a basis for further discussions and considerations by the Board. The Board took note that, following the events of 11 September 2001, both Governments and international organizations had been confronted with a new challenge: how to effectively combat terrorism and prevent further terrorist attacks, in particular, in the field of transport. Some countries, in order to respond to the perceived increased security threat and to protect their national interests, had introduced unilateral measures. Such actions could lead to the proliferation of unilateral and non-harmonized initiatives to introduce new controls at borders to the detriment of the goods flow in the international supply chain. That is why security in the supply chain was the object of intense examination of many national and intergovernmental bodies. In particular, the World Customs Organization was carrying out important work in this field. However, so far, no organizations had presented an integrated solution to supply chain security.

8. In this context, the question was raised as to how the international supply chain process could impact the TIR procedure. It was pointed out that the present TIR environment does not include the full supply chain. Therefore, a considerable number of actions and significant information relevant to the supply chain, either occurring prior to and/or following the TIR procedure, were neither included nor documented in the TIR procedure. This relates, for instance, to information concerning the consignee and consignor, prior and subsequent transport modes and intermediate transport related operations, even if those data are available through the commercial and connected documents (Article 19 of the TIR Convention). At present, the TIR procedure, basically, only relates to the goods and the transport operator carrying the goods at the time of control.

9. At the same time, the TIR Convention, at present, does not provide control authorities with the possibility to carry out full risk management procedures in the framework of security of the whole supply chain, in particular, due to the lack of advanced cargo information. In the context of supply chain security, risk management is a key element. Therefore, information on the entire supply and logistics chain, which is available in advance of the transport arriving for control, is essential to improve further risk management. If such information is not provided, the efficiency of the TIR procedure could be endangered in view of the increased focus on supply chain security at national and international level.

10. The TIRExB had a provisional exchange of views as to how the TIR procedure could assist in securing the supply chain. In particular, the Board felt that the following elements could contribute to that objective:

- providing advanced cargo information for risk assessment purposes;
- computerization of the TIR procedure (so-called e-TIR project);
- introduction of high-security Customs seals in the framework of the TIR procedure;

- stringent control measures at the Customs office of departure, in particular, Customs officials being present at the loading of road vehicles or containers;
- strict implementation of the provisions of the TIR Convention related to approval of road vehicles for transport of goods under Customs seal and controlled access to the TIR procedure.

It was also mentioned that the TIR Convention already contains some provisions satisfying basic conditions for security related issues such as controlled access, unique Holder number, secure vehicles, security features of the TIR Carnets, SafeTIR and CUTE-Wise. Contributions by IRU on this subject would also be welcome for the next session to allow continuation of discussions.

11. The Board stressed that it would be of the utmost importance not to compromise facilitation of international transport when taking measures to increase security in the supply chain. The Board also took note that some of the above issues, for example, secure Customs seals, were under consideration by the UNECE Working Party on Customs Questions affecting Transport (WP.30) and requested the secretariat to prepare a new document on the subject for one of its future sessions on the basis of WP.30 considerations.

### **Training of Customs personnel**

Documentation: Informal document No. 5 (2004).

12. The TIRExB welcomed Informal document No. 5 (2004) prepared by the secretariat, containing an analysis of training activities conducted by the TIRExB in 1999-2004 as well as proposals on how to make such activities more efficient in the future. The TIRExB recalled that, according to Annex 8, Article 10 of the TIR Convention, it "shall **support** the training of personnel of Customs authorities and other interested parties concerned with the TIR procedure". Thus, the Board was of the view that its function is to stimulate the identification of training needs and to support the efforts of others to train/educate their staff dealing with the TIR procedure. It is not the TIRExB's role to take over the responsibility of the competent national authorities to train their officials in TIR nor to finance this training.

13. However, the TIRExB noted with concern that in some Contracting Parties national training activities leave much to be desired. This conclusion could be deduced from the fact that the TIR secretariat receives, from time to time, simple questions related to the very basics of the TIR procedure as well as complaints about evident mistakes committed by Customs officials "in the field" who are directly involved in the application of the TIR procedure, in particular, fill-in and stamp the TIR Carnets, affix Customs seals, etc.

14. The Board was of the opinion that the following measures, to be taken by the Board, could improve the situation:

- drawing the attention of Directors-Generals of Customs and TIR Customs Focal Points to the permanent need of organizing/conducting TIR training for national staff and indicate common mistakes made by Customs;
- promotion of already existing documentation which could facilitate national TIR training, for instance, the TIR Handbook, including the example of a TIR Carnet duly filled-in and the relevant examples of best practice;
- elaboration of new practical material to support training, such as a step-by-step instruction on how to fill-in the TIR Carnet.

15. Regarding training material, the TIRExB felt that Customs administrations, which have gained extensive experience in the application of the TIR Convention, could share their internal technical instructions (checklists) regarding the practical application of the TIR Convention. In this context, members of TIRExB were invited to provide their national checklists. Once obtained, these instructions would be used for the preparation of examples of best practices, to be translated into various languages and distributed among Contracting Parties with training needs. It was also mentioned that publishing not only examples of best practices, but also typical mistakes, could be useful for training purposes.

16. The TIRExB stressed that training of Customs officials is a crucial issue for new Contracting Parties to the TIR Convention. Therefore, it is essential that such training be conducted by well-qualified Customs experts, for instance, from the TIRExB or TIR secretariat, possibly in cooperation with experts from the transport industry. At the same time, the Board pointed out that training of Customs officials should also be a priority in "old" Contracting Parties which may lose their experience in the application of the TIR Convention.

17. The TIRExB also took note of a draft test containing a number of questions concerning the key provisions of the TIR Convention (annex to Informal document No.5 (2004)). The Board felt that this instrument could be useful to evaluate knowledge of all Customs officials involved in the TIR system – from the TIR Focal Points to local staff. Members of the TIRExB were invited to study the test and send their comments as well as new questions. It was pointed out that the test should be complemented with an answer key and explanations of correct answers. The Board was also of the view that some questions from the test could be used to develop a section "Frequently asked questions" (FAQ) on the TIR website.

18. The Board also considered the idea to establish an on-line training module for Customs officials. In this context, the IRU informed the Board of its experience in training of all actors involved since 1995 as well as of a distance learning package development by the IRU. According to the IRU, computerized training could be one of the solutions provided that the training targets are clearly defined. However, special attention must be paid to the update of such tool. IRU also drew the attention of the Board to the necessity to avoid duplication of the work in

those fields. Therefore, the Board was of the view that, as a first step, less time-consuming activities should be undertaken, as indicated above. In the future, other options, such as on-line training, and their consequences for the TIRExB budget could be explored.

## **PREVENTION OF CUSTOMS FRAUD WITHIN THE TIR SYSTEM**

### **Cooperation with national institutions and international organizations in the field**

Documentation: Informal document No.6 (2004).

19. The TIRExB was informed that the TIR secretariat took part in a session of the WCO Enforcement Committee in March 2004 and delivered a presentation on security within the TIR procedure. Two specific issues were proposed to WCO for further cooperation:

- informal exchange of information and intelligence between all relevant bodies, such as OLAF, WCO, IRU, UNECE, etc.;
- adoption of a resolution with a view to better identifying fraud in the various transit systems.

The Board took note that WCO was considering the above issues and decided to revert to this item as soon as a reply from WCO would be received.

20. The TIRExB recalled that, at its twentieth session, the Board decided to address a letter to Director-Generals of Customs, aimed at obtaining more detailed information on TIR fraud patterns discovered and/or analyzed by national enforcement agencies, and requested the TIR secretariat to prepare such a survey (TIRExB/REP/2004/20, para. 12). In line with this request and following consultations with TIRExB members, the secretariat had prepared, and in April 2004 transmitted, a questionnaire to Director-Generals of Customs (Informal document No.6 (2004)). A deadline for replies was set on 1 June 2004.

21. The secretariat informed the Board that, so far, it had only received a few reactions to the questionnaire, but that, in view of the extensiveness of some of them, it had already become clear that the questionnaire would deliver interesting material for further study. Considering the fact, that, in some Contracting Parties answering, the questionnaire requested a combined input from various Customs and enforcement services, Contracting Parties should consider the deadline of 1 June as indicative. The secretariat intends to take note of as many reactions as possible, but it would appreciate if Contracting Parties which cannot meet the deadline could inform the secretariat of later submission, so that it can take note.

**Thefts and robberies of trucks and goods under cover of a TIR Carnet**

Documentation: Informal document No.7 (2004).

22. The TIRExB considered Informal document No.7 (2004) by the IRU, concerning thefts/robberies of trucks and goods under cover of a TIR Carnet. According to the document, in 1995-2003 around 800 cases of thefts/robberies were registered. A peak of these infringements occurred at the end of 1990's, but in 2002-2003 the situation had stabilized. The IRU pointed out an interesting trend in thefts/robberies: they happen more often in countries where strict controls are carried out with regard to road vehicles. Possibly, the reason is that in these countries it is more difficult to commit Customs fraud by using false or incorrect documents, etc. Thus, the only way left is to organize such evident crimes as thefts and robberies.

23. The Board had an exchange of views with regard to a possible common pattern of thefts and robberies and came to the conclusion that there was none, as individual cases had been quite different. For instance, some cases of thefts and robberies reported had been committed through negligence of the holder and persons acting on his behalf or even with their direct complicity (e.g. simulation of being a crime victim). On the other hand, in many cases transport operators had lost not only the goods, but also their trucks and, therefore, had become real victims.

24. The TIRExB felt that the competent bodies for this issue are police and transport ministries, rather than Customs authorities. Thus, Customs could only draw the attention of these authorities to the problem and propose some recommendations. At the same time, the road transport industry (IRU and national associations) could play an important role in preventing thefts and robberies, for example, by raising awareness among transport operators, recommending them safe itineraries and parking places, rest hours, giving emergency phone numbers, etc. (see Informal document No.7 (2004)). In this context, the Board welcomed such efforts made by the IRU, in cooperation with the Customs and police authorities of one of the most affected countries, in order to stabilize the situation. Finally, the Board decided to revert to the issue at one of its future sessions, if required.

**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. 8 (2004); Informal document No. 12 (2004).

25. The TIRExB recalled its earlier deliberations on the draft survey on the application of Annex 9, Part II of the TIR Convention at the national level (TIRExB/REP/2004/21, para.21). In line with remarks by the TIRExB, the secretariat had modified the questionnaire and distributed it throughout Customs administrations and national guaranteeing associations of the Contracting



Parties. A deadline for replies was set for 15 June 2004. The final version of the survey was reproduced in Informal document No.8 (2004).

26. The Board also considered Informal document No. 12 (2004), containing excerpts from old documents issued in 1999-2000 with a number of proposals regarding a standard application of Article 38 and Annex 9, Part II of the TIR Convention. In particular, the TIRExB identified two issues which may be relevant to the present discussion:

- Multi-user transport operations under the TIR regime (so-called subcontractors);
- Harmonized application of Article 38 of the TIR Convention.

27. Following a short exchange of views, the TIRExB decided to await the results of the survey on the application of Annex 9, Part II of the TIR Convention (see para.25 above) and then to revert this matter.

### **Proposals by the IRU on preventing and combating Customs fraud within the TIR system**

Documentation: Informal document No. 19 (2003).

28. The Board decided to reconsider Informal document No. 19 (2003) as soon as the results of the surveys on TIR fraud patterns and on the application of Annex 9, Part II of the TIR Convention (see, respectively, paras. 20 and 25 above) would be obtained.

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

### **Current Customs claim statistics**

29. The TIRExB was informed by the IRU of the current status of notifications and claims:

- 2,425 notifications and pre-notifications had been received in the period from 1 January 2004 to 29 April 2004;
- on 29 April 2004, 8,347 pending payment requests existed related both to the old and the new pool of insurers;
- in the period from 1 January 2004 to 29 April 2004, 59 claims were settled through payment of the amounts demanded whilst 111 claims were settled administratively or by a court decision without payment.

30. In this context, the IRU also informed the TIRExB that, in the period from 1 January 2004 to 29 April 2004, 3,173 requests for reconciliation had been transmitted, out of which 1,555 had been replied to. The reply rate was 49 % and the average delay for reply was 19 days. These figures indicated an improvement compared to 2003 (39% and 28 days, respectively). However, according to the IRU, only 1% of terminations of TIR transports were reported to the SafeTIR system within 24 hours.

### **Old insurance pool**

Documentation: Informal document No. 13 (2004).

31. Following a request by the TIRExB at its twenty-first session (TIRExB/REP/2004/21, para. 33), the IRU provided the Board with details of the final decision of the Arbitration Court of 16 December 2003. By this decision, the Arbitration Court had finalized the procedure of examining all individual files. The result of the decision was the classification, in 3 categories, of the files which were still open:

- (i) Cases for which the insurers' guarantee was confirmed, in circumstances where oppositions are rejected by a final Court Decision that confirms the legitimacy of the claims.
- (ii) Time-barred cases for which the delays foreseen by the TIR Convention (Art. 11) for the notification and presentation of the payment claims to the national guaranteeing associations were not respected, and for which no guarantee neither by the associations nor, a fortiori, by the insurers could be called upon.
- (iii) Cases for which the insurers were relieved of every obligation and for which the IRU (and its member associations) had to assume the administration and the financial consequences of the cases, if the legitimacy of the payment claims was established and confirmed by local competent Courts.

32. The IRU also provided the following statistics with regard to Customs claims related to the old insurance pool:

- Number of open cases under the coverage of the old insurance pool: 6,205;
- Number of cases closed (through payment or closed without payment) between 05.12.1994 and 25.04.2004: 3,993;
- Number of cases for which the insurers' guarantee was confirmed in circumstances where the oppositions are rejected by a final Court Decision that confirms the legitimacy of the claims: 1,500;
- Time-barred cases where no guarantee can be called upon: 228;
- Number of cases for which the insurers are relieved of all obligations: 484.

33. The IRU pointed out that the above statistics showed that, thanks to the efforts of the IRU and its member associations, 3,993 cases had been settled during the lengthy arbitration period, covering all countries in which claims were presented - an achievement that, according to the IRU, should not be underestimated. The IRU was of the opinion that all cases, which could be settled during the 10 years, have been settled and terminated. For the files still open, the IRU pointed out that the legitimacy of these files has been disputed from the very beginning by the guaranteeing associations, the IRU and the insurers in accordance with the usual procedures. The lack of proof of legitimacy in calling on the guarantee which existed earlier still remains today.

34. According to the IRU, for the files still open or unsettled, the legitimacy has to be established either:

- by an administrative decision closing all cases where, according to the TIR Convention and its constant application for the last 50 years and the precedent by the Highest Courts of several countries, no amounts are due to be paid by the guarantee chain, or
- by bringing the cases before the competent Courts in full equality and independency to confirm the validity of the claims to the guaranteeing Associations acting as surety or by deciding to reject them on the basis of legal arguments presented by the guarantee chain,
- by resolving the situation by global treatment through appropriate agreements.

35. The TIRExB took note of the above information. It was pointed out that Customs claims related to the old insurance pool were still under consideration, and that the TIR guarantee system should be functioning in such a way that similar situations would never happen in the future. The Board was also informed that the European Commission had started a court trial against two EU Member States which had suspended legal proceedings against their national guaranteeing associations, while awaiting the outcome of the arbitration procedure. First results of the trial were expected at the end of 2004.

#### **Functioning of the guarantee system**

Documentation: TRANS/WP.30/2004/1; TRANS/BUR.2003/4; TRANS/BUR.2003/11.

36. The TIRExB recalled that one of its functions is to supervise the functioning of the TIR guarantee system. The Board took note that this issue seemed to be of great importance to Contracting Parties to the TIR Convention, as it had recently been raised at different TIR-related fora:

- the Regional TIR training Seminar held in Moscow on 2 and 3 October 2003 was of the view that the functioning of the guarantee system needs further clarification (TRANS/WP.30/2004/1, para. 29). The IRU offered that it would be ready to provide all necessary information concerning the functioning of the guarantee system and it was requested to submit data and figures on the guarantee system, as provided in its

presentation at the Seminar, to the Working Party for further clarification and consideration (TRANS/WP.30/2004/1, para. 25).

- the Bureau of the Inland Transport Committee, having considered document TRANS/BUR.2003/4 transmitted by the IRU, expressed a wish to obtain more explanations concerning risks to which the IRU and insurers are exposed in connection with the management of the guarantee system (TRANS/BUR.2003/11).

37. Against this background, the TIRExB requested the IRU to give a presentation on the structure and mechanism of functioning of the present guarantee system. In particular, the Board felt that the following issues would need to be clarified further: the relationships between key partners of the international TIR guarantee chain (IRU, national and international insurers, associations) and possible differences between the notions of "guarantee" and "surety", to which the IRU had attached importance. In this context, the Board also took note that the European Court of Justice had recently taken two decisions (No.C-266/01 of 15 May 2003 and No.C-78/01 of 23 September 2003) concerning interpretation of the TIR guarantee which might be relevant for further discussions.

#### **BY-ELECTIONS IN CASE OF RESIGNATION OF A TIRExB MEMBER**

Documentation: Informal document No. 2 (2004).

38. The TIRExB discussed Informal document No. 2 (2004), submitted by the secretariat, in which it had drafted proposals to address the issues raised by the TIRExB. The TIRExB, although appreciative of the proposals, felt that a more simple and straightforward approach was required. To that end, it invited the secretariat to draft a new Informal document, to be discussed at its forthcoming session in June 2004, in which election of both regular and replacement members to the TIRExB would take place at the same time, thus avoiding the necessity to hold intermediate elections in case a vacancy would arise.

#### **NOMINATION OF THE TIR SECRETARY**

Documentation: Informal document No.30 (2003).

39. The TIRExB recalled the legal opinion by the United Nations Legal Office in New York on the appointment of the TIR Secretary (Informal document No.30 (2003)) as well as the request of the TIR Administrative Committee, at its September 2003 session, to publish the relevant background correspondence (TRANS/WP.30/AC.2/71, para.16). The Board took note that the UN Legal Office had informed the secretariat that the background correspondence, being an internal UN documentation, should not be published.

40. The Board considered that the procedure used to nominate the new TIR Secretary had caused concern amongst the Contracting Parties and affected negatively the work of the TIRExB. The Board considers that the UNECE should have consulted the TIR Administrative Committee over this matter and requests the UNECE to undertake that, in the future, should a similar situation arise, any decision will be made after consultation with the AC.2. Some members of the Board expressed the view that the new TIR Secretary has to be endorsed by the AC.2.

## **APPLICATION OF CUSTOMS ESCORTS**

Documentation: Informal document No. 9 (2004).

41. The TIRExB recalled that, in 2002, the TIR secretariat had conducted a survey of Customs administrations with regard to the implementation of Customs escorts (Informal document No. 11 (2002)). At its fourteenth session (17 and 18 June 2002), the Board took note that the IRU was undertaking a similar survey of the transport industry and felt that it would be interesting to compare the results of both surveys (TIRExB/REP/2002/14, para. 27). Against this background, the IRU introduced Informal document No.9 (2004), containing the conclusions of the IRU's survey on Customs escorts.

42. 57 transport operators from 9 national associations had replied to the questionnaire. According the replies, a breakdown of the countries where escorts were most frequent was follows: Belarus - 40% of cases, Russian Federation 30%, Romania 7%, Ukraine 7%, Poland 5%. In this context, the Board took note that the number of escorts in Poland would be reduced drastically following the EU enlargement on 1 May 2004.

43. According to the IRU, the main reason for the demand for escort was that the taxes and duties due for the transported goods had exceeded the TIR guarantee limit. However, in some cases, not the Customs duties and taxes at stake were taken into consideration, but the commercial value of the goods, which seemed not to be in line with Article 23 of the TIR Convention.

44. In general, the survey had revealed heavy costs borne by transport operators, due to obligatory escorts. The major problems reported were the following:

- the escort's organization by authorized companies, in 40% of cases,
- the obligation to park on paying parking areas, in 50% of cases,
- the obligation for the driver to stay at a set hotel/motel for a charge, in 14% of cases,
- the extremely long waiting times: an average of 107 hours in the Russian Federation, 48 hours in Belarus, 42 hours in Ukraine, 33 hours in Poland, 29 hours in Romania.

45. The TIRExB took note of the above information.

## **REVIEW OF THE TIRExB PROGRAMME OF WORK FOR 2003-2004**

Documentation: TIRExB/REP/2003/19, Annex.

46. The Board reviewed its programme of work for 2003 and 2004 (TIRExB/REP/2003/19, Annex) and identified some activities of limited duration which had already been finalized (e.g., preparation of an example of a TIR Carnet duly filled-in and best practices on effective communication between Customs authorities and national guaranteeing associations) as well as ongoing activities. The TIRExB noted that, basically, only item 10 in the programme remained untouched, namely the maintenance of the central record for 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. In this regard, the IRU explained that such information would be submitted to the Board once the results of the survey on the application of Annex 9, Part II of the TIR Convention (see para.25 above) were obtained.

## **MISCELLANEOUS**

### **Problems at the Turkish-Armenian border**

Documentation: Informal document No. 10 (2004).

47. The TIRExB considered an inquiry by the French Customs Administration about serious problems experienced by a French TIR Carnet holder at the border between Turkey and Armenia (Informal document No.10 (2004)). The Board was informed that, for political reasons, the Turkish-Armenian border had not been delimited and officially established. As a consequence, it is closed for all forms of traffic, including TIR transport. The TIR Secretary was requested to bring this information to the attention of the French Customs Administration.

### **Enlargement of the European Union**

48. The TIRExB took note that, on 1 May 2004, ten countries joined the European Union and its Community Transit System: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. As a consequence, the TIR procedure was no longer applicable for transports between each of these ten countries and the fifteen old EU Member States. At the same time, the TIR regime remained in force for international transports between the EU as a whole and thirty other Contracting Parties to the TIR Convention with which a TIR transport can be established.

49. The TIRExB noted with satisfaction that, despite the considerable EU enlargement and drastic changes in the ten new Member States, only few TIR-related transitional problems had so far been reported. In particular, the following problems were mentioned:

- establishment of a consolidated list of persons excluded from the TIR procedure according to Article 38 of the TIR Convention;
- timely return of vouchers No.2 to Customs offices of entry (en route), most of which were located in the new Member States;
- closure of some border crossings in new Member States;
- establishment of a consolidated list of Customs offices approved for TIR operations;
- implementation of restrictions related to TIR transport of the EU sensitive goods.

#### **TIRExB budget and cost plan for 2005**

Documentation: Informal document No. 11 (2004).

50. The TIRExB recalled that a budget proposal and a cost plan of the TIRExB and the TIR secretariat for the year 2005 should be prepared following the present session, in July 2004, in order to be officially submitted to the forthcoming session of the TIR Administrative Committee in October 2004. The TIRExB felt that the budget of the TIRExB should remain unchanged in 2005, compared to 2004. In this context, the TIRExB also took note of the TIRExB final accounts for 2003 published by the relevant UN services (Informal document No.11 (2004)).

51. The TIRExB also considered the budget line "Mission costs" whose object of expenditure was intended to cover DSA for the nine members of the TIRExB for meetings held outside Geneva and in Geneva when not in conjunction with meetings of WP.30 and AC.2. In order not to exceed this budget line, the Board felt that it should normally hold its sessions in Geneva in conjunction with WP.30/AC.2 meetings. In general, not more than two TIRExB sessions with DSA should be held per year. The Board also mandated the secretariat, in exceptional cases, to transfer funds from other budget lines to the budget line "Mission costs" \*.

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\* The TIR Administrative Committee, at its twenty-eighth session (24 and 25 February 2000), authorized the TIRExB to decide, upon the 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).

52. In this context, the TIR Secretary also informed the Board that, due to the enlargement of the geographic scope of the TIR Convention and training needs in new Contracting Parties, it might be possible that, in the future, the amount allotted to cover travel expenses of the TIR secretariat would not correspond to the activities carried out by the TIR secretariat.

#### **Activities of the TIR secretariat**

53. The Board was informed of a number of TIR-related meetings which were planned for the rest of 2004, in particular, the Regional TIR Seminar in Urumqi (China) on 1 and 2 September 2004 (to be held in cooperation with UNESCAP) and a special meeting on international transit Conventions organized by the UN Legal Office in New-York in July 2004.

54. The TIRExB also took note that, following the Board decision that all TIRExB documents should be unrestricted, except in special cases (TIRExB/REP/2003/18, para.16), the TIR secretariat had modified the layout of the TIR website.

#### **Application of Customs escorts in Ukraine**

Documentation: Informal document No. 14 (2004).

55. The TIRExB was informed that the Ukrainian Customs Administration had issued Order No.73 of 02.02.2004, which touched upon some issues related to transport of goods under cover of TIR Carnets on the Ukrainian territory (Informal document No. 14 (2004)). In particular, in cases where the amount of Customs duties and taxes due for TIR goods in transit exceeds the TIR guarantee (equivalent to US\$ 50,000), the TIR transport is suspended because of the existence of simpler Customs transit procedures, in accordance with Article 26.2 of the TIR Convention. In such cases, the transport operator has the right to choose between other measures to guarantee the presentation of goods at destination. According to the Ukrainian authorities, these measures had been introduced with a view to providing for a stricter compliance with the provision of Article 23.1 of the TIR Convention and minimizing the use of such an exceptional control measure as Customs escorts at the carrier's expense.

56. It was mentioned that, so far, this Order had not led to practical problems, possibly due to the fact that there are only rare cases where Customs duties and taxes due exceed the TIR guarantee. Moreover, it was argued that this Order gives transport operators the opportunity to avoid expensive service fees for obligatory Customs escorts. On the other hand, some TIRExB members pointed out that, according to Article 26.2 of the Convention, it is up to the holder of the TIR Carnet to take a decision with respect to possible suspension of the TIR procedure, while Order No.73 makes such suspension compulsory. Finally, the Board decided to continue discussions on the issue at its future sessions and invited Mr. O. Fedorov (Ukraine) to submit further explanations on the underlying Order.



**Restriction on the distribution of documents**

57. The TIRExB decided that there should be no restrictions with respect to the distribution of documents issued in connection with its present session, except for Informal documents Nos. 6, 7, 9 and 13 (2004).

**Other matters**

58. The TIRExB expressed its deep appreciation to the Italian Customs Administration and to the Italian Union of Chambers of Commerce (UNIONCAMERA) for the excellent organization of the present session and the hospitality extended to all participants.

**DATE AND PLACE OF NEXT SESSIONS**

59. The TIRExB decided to hold its twenty-third session in Geneva on 14 June 2004, in conjunction with the one-hundred-and-seventh session of the UNECE Working Party on Customs Questions affecting Transport (WP.30). The TIRExB also provisionally decided to convene its twenty-fourth session in October 2004, in conjunction with the one-hundred-and-eighth session of WP.30.

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