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## **Economic Commission for Europe**

### **Working Party on Customs Questions affecting Transport**

#### **148th session**

Geneva, 6-9 February 2018

Item 4 (c) (vii) of the provisional agenda

#### **Customs Convention on the International Transport of Goods**

**under Cover of TIR Carnets (TIR Convention, 1975):**

**Application of the Convention**

**Other matters**

### **Administrative Committee for the TIR Convention, 1975**

#### **Sixty-seventh session**

Geneva, 8 February 2018

Item 7 (b) of the provisional agenda

**Revision of the Convention–**

**Other business**

**Exclusion of Romanian association ARTRI**

## **Transmitted by the Government of Romania**

In Annex, the secretariat retransmits a letter by the Government of Romania.



**MINISTERUL FINANTELOR PUBLICE**  
**Agenția Națională de Administrare Fiscală**

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**No. 3491/05.02.2018**

**TIR secretariat**  
**Sustainable Transport Division**  
**United Nations Economic Commission for Europe**

Dear Madam,

Dear Sir,

The General Customs Directorate of Romania would like to inform you as follows:

Taking into account that the representatives of the Romanian customs administration will not participate to the sessions of the UN bodies, respectively, the 148<sup>th</sup> session of the Working Party on Customs Questions affecting Transport and the 67<sup>th</sup> session of the Administrative Committee for the TIR Convention, 1975, organized in Geneva during 06-09.02.2018, we are kindly asking your support to transmit the following point of view to the Contracting Parties of the TIR Convention.

**Romania position for the 148<sup>th</sup> session of the Working Party on Customs Questions affecting Transport and the 67<sup>th</sup> session of the Administrative Committee for the TIR Convention, 1975**

I. Regarding item 4 (c) (vii) "IRU external audit report" of the agenda for the 148<sup>th</sup> session of the Working Party on Customs Questions affecting Transport and item 7 "Other business" (a) "IRU external audit report and related matters" of the agenda for the 67<sup>th</sup> session of the Administrative Committee for the TIR Convention, 1975, we communicate our point of view, as follows:

Our administration supports the proposal of the delegation of the European Union put forward on AC.2 meeting in October, regarding the possibility to mandate TIREXB to engage an expert to review the full report on its behalf.

Our administration did not take steps for consulting the IRU audit report.

We have no recent information regarding the steps took in this respect by our national guaranteeing associations. ARTRI mentioned on letter no. 1315/ARTRI/20.07.2017 that they have requested many times in writing for full access to this report and all such requests were denied by the IRU management.

II. Regarding item 4 (c) (vii) "Other matters" of the agenda for the 148<sup>th</sup> session of the Working Party on Customs Questions affecting Transport and item 7 "Other business" (b) "Exclusion of Romanian national association ARTRI" of the agenda for the 67<sup>th</sup> session of the Administrative Committee for the TIR Convention, 1975, we communicate our point of view, as follows:

### **1. Addendum to the agreement between General Customs Directorate of Romania and UNTRR**

Taking into account the recommendations received from the Commission and TIRExB, regarding the correct application of Article 6, paragraph 2 of the TIR Convention, which requires that the national association should act as a guarantor also for "*the TIR Carnets issued by foreign associations affiliated to the same international organization as that to which it is itself affiliated*", and also taking into account the necessity of the well functioning of the TIR Convention in Romania and EU, the written agreement with the national guaranteeing association UNTRR was modified accordingly.

The modified written agreement was signed by the representatives of the customs administration and also by the representatives of UNTRR on 08.01.2018. As a consequence:

In present, UNTRR and ARTRI are both guaranteeing associations authorized by the Romanian Customs Authority to issue TIR Carnets and to act as guarantors in accordance with Article 6 of the TIR Convention and the provisions laid down in Annex 9, Part I of the TIR Convention.

### **2. The relation between IRU and ARTRI**

1. IRU informed our customs administration regarding the termination of the deeds of engagement with ARTRI on 31.01.2018.
2. On 08.11.2017, the IRU Presidential Executive decided to proceed with ARTRI exclusion. The appeal of this decision will be analyzed at the next IRU General Assembly scheduled for May 4, 2018.
3. In January IRU informed us about the restricted validity of the ARTRI insurance and ARTRI presented the insurance guarantee contract with AXA Assurance SA, valid until 31.01.2018.
4. On 11.12.2017, IRU sent to our customs administration a written proposal with an operational action plan regarding TIR activities and measures for the transition period after the termination of the deeds of engagement with ARTRI on 31.01.2018. This action plan was under consideration and our administration sent its point of view to IRU, TIRExB and European Commission.

We would like to inform you that our customs administration did not agree with all IRU proposals, as regards:

- a. the automatic transfer of the ARTRI members to UNTRR – which is not possible because at the national legislation level we have an internal procedure for the transfer of the transporters from one association to another one, which implies the transporter's personal application and a verification procedure regarding fiscal or customs debts.
- b. the transfer of the list of ARTRI members to UNTRR is also not possible because of the Romanian legislation regarding the protection of personal data.
- c. the claims which may occur in relation with all valid TIR Carnets issued by ARTRI will be addressed to ARTRI, not to UNTRR and IRU should assume its obligations as an international organization responsible for the effective organization and functioning of an international guarantee system, as they are laid down in TIR Convention.

5. IRU disposed its own measures regarding the managing of TIR Carnets issued to ARTRI and to ARTRI's transporters, which can not be subject of our point of view.

### **3. Measures regarding ARTRI**

Regarding ARTRI, our customs authority did not take any measures until present, because we consider that ARTRI did not infringe the TIR legislation and we are still hoping that the two parts could find an amiable solution and clarify this situation until 04.05.2018.

### **4. Legal grounds upon which IRU based the decision regarding the exclusion of ARTRI**

Regarding the legal bases for excluding ARTRI from IRU membership, IRU informed the Romanian customs administration with the letter no AD/GE1044018/JDP from 15.11.2017, that: "the dispute between ARTRI and IRU is strictly a private matter which does not fall within the scope of the TIR Convention, Romanian law or Romanian governmental authorities".

### **5. Proposal for the consideration of TIRExB**

As regards the relationship between the international organization and the national associations, our customs administration also noted that the only reference in the TIR Convention is in the Explanatory Note to Article 6, paragraph 2 bis and there are no references regarding the reasons for terminating the written agreements between these two parts. In this respect, our customs administration brought into attention of TIRExB the possibility to analyze the opportunity for these aspects to be clarified and included in a new Explanatory Note to Article 6, of the TIR Convention.

Yours sincerely,

**Marius Claudiu Atomei**

**Director General**

