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**ADMINISTRATIVE COMMITTEE  
FOR THE TIR CONVENTION, 1975**

**TIR Executive Board (TIRExB)**

(Twenty-third session, 14 June 2004,  
agenda item 3)

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

**Submitted by the secretariat**

**A. INTRODUCTION**

1. At its twentieth session, the TIRExB was of the view that the lack of participation of a TIRExB member could jeopardize the well-functioning of the Board as it should consist of an odd number of members for purposes of voting and taking decisions. The Board felt that, in order to avoid such situations happening in the future, the Rules of Procedure of the TIRExB should be modified. In particular, the following issues needed to be addressed:

- an earlier termination of the term of office of a TIRExB member in case he/she is repeatedly absent at TIRExB sessions for no specific reason;
- a practical procedure for by-elections of another candidate to replace the resigned member;
- the term of office for the newly elected substitute (TIRExB/REP/2003/20, para. 27).

2. At its twenty-first session, the TIRExB held a short exchange of views regarding proposals by some Board members on how to modify the Rules of Procedure of the TIRExB with a view to replacing a Board member who is not in a position to continue his or her activities within the term of office. On the basis of these discussions, the TIR secretariat was requested to produce a document for the next session of the TIRExB and consult, in case of need, the UN Legal Office in New York. (TIRExB/REP/2004/21, para. 35).

3. At its twenty-second session, the TIRExB discussed informal document No. 2 (2004), submitted by the secretariat, in which it had drafted some 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 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.

4. Underlying documents reflects the opinion of the secretariat, based on the instructions received from the Board.

## **B. LEGAL SITUATION**

4. Annex 8, Article 9 stipulates inter alia:

1. The TIRExB (...) shall be composed of nine members, each from different Contracting Parties to the Convention.
2. The members of the TIRExB shall be elected by the Administrative Committee by a majority of those present and voting.

The term of office of each member of the TIRExB shall be two years.

5. These provisions are equally contained in the Rules of Procedure of the TIRExB. In addition, the Rules of Procedure contain the provision that in case one of the members of the TIRExB resigns before the completion of his/her mandated term of office, a replacement member shall be elected by the TIR Administrative Committee as soon as possible. This additional Rule of Procedure was adopted by the TIRExB at its first session (TIRExB/REP/1999/2) and endorsed by the Administrative Committee at its twenty seventh session (TRANS/WP.30/AC.2/55, para. 16).

## **C. PROPOSED SCENARIO<sup>1</sup>**

6. The objective is to elect TIRExB members and replacement members, possibly in one, single election procedure. To achieve this, the secretariat shall circulate a list of, for example, at least eleven candidates. Each Contracting Party receives eleven votes. The first nine candidates, receiving the highest number of votes, but at least a majority of those present and voting, shall become regular members of the TIRExB. The two other candidates shall become replacement members, under the condition that they also have received the majority of votes of those present and voting. Only the order in which the replacement members shall be called upon to take up their function as regular TIRExB member shall be disclosed (in order not to deviate from the

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<sup>1</sup> The secretariat has considered the alternative scenario of electing regular members and replacement members by means of two separate election procedures, but has not put forward a proposal to that extent, because it feels such an approach would complicate the election procedure without any avail.

Committee's decision not to disclose the number of votes obtained by nominated candidates (see TRANS/WP.30/AC.2/53, para. 34).

7. In case an insufficient number of candidates has received a majority of votes of those present and voting, extra voting rounds may be organized until the required number of members and replacement members has been obtained.

#### **D. PROPOSAL**

8. To amend Annex 8, Article 9, para. 2 of the TIR Convention with the following Explanatory Note stipulating:

“Explanatory Note to Annex 8, Article 9, para. 2

8.9.2 1. When electing the members of the TIR Executive Board, the Administrative Committee shall, at the same time, elect two replacement members<sup>2</sup>.

2. In case a vacancy arises, the replacement member shall only hold office for the expired portion of the term of office of his/her predecessor.”

9. Purpose of this Explanatory Note is to introduce the notion of replacement member, which, so far, is only mentioned in the Rules of Procedure of the TIRExB.

10. To replace the existing rule of Procedure of the TIRExB on representation by the following<sup>\*/</sup>:

“Representation

The TIRExB shall be composed of nine members, each of different Contracting Parties to the Convention. The TIR Secretary will attend the sessions of the Board (Annex 8, Article 9, paragraph 1).

The members of the TIRExB shall be elected by the Administrative Committee by a majority of those present and voting (Annex 8, Article 9, paragraph 2).

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<sup>2</sup> In the view of the secretariat, it seems formally more correct to link the proposed Explanatory Note 8.9.2, point 1 to Annex 8, Article 9, para. 2 dealing with the election procedure rather than to Annex 8, Article 9, para. 1 because the election of replacement members does not affect the composition of the TIRExB itself.

<sup>\*/</sup> Proposed new text in bold italics

***When electing the members of the TIRExB, the Administrative Committee shall, at the same time, elect two replacement members, establishing the order in which they shall be called upon in case a vacancy arises.***

The term of office of each member of the TIRExB shall be two years. The members of the TIRExB may be re-elected (Annex 8, Article 9, paragraph 2).

***In case a member of the TIRExB resigns before the completion of his/her mandated term office or in case the TIRExB is informed by his/her respective Government or organization being Contracting Party to the Convention that he/she no longer holds office, the highest ranking replacement member shall become member of the Board.***

***In case a member does not participate regularly in sessions of the Board, the TIRExB, shall request clarification from his/her respective Government or organization being Contracting Party to the Convention. In case the Board does not receive any reaction to this request or in case it considers the reason(s) provided not valid, the TIRExB shall remove the respective member from the Board. Consequently, the highest ranking replacement member shall become member of the Board.***

***The replacement of a member shall be endorsed by the Administrative Committee as soon as possible.***

***In case a vacancy arises, the replacement member shall only hold office for the unexpired portion of the term of office of his/her predecessor.”***

## **E. FINAL CONSIDERATIONS**

11. The TIRExB may wish to review and/or amend the proposal, submitted by the secretariat. After finalization of its discussion, the TIRExB may adopt the new Rule of Procedure. The adopted Rule of Procedure could then be sent to the Administrative Committee for endorsement, together with the proposal to introduce a new Explanatory Note to the text of Annex 8, Article 9, paragraph 2.

12. As a next step, the Administrative Committee should decide that the election procedure, adopted at its twenty-ninth session (TRANS/WP.30/AC.2/59, paras 24-27) shall apply mutatis mutandis to replacement members, with the possible addition that, as far as replacement members are concerned, the order of votes they have obtained shall be disclosed.

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