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ENGLISH ONLY

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

TIR Executive Board (TIRExB)

**REPORT OF THE THIRTY-FIFTH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)**
(28 January 2008)

I. ATTENDANCE

1. The TIR Executive Board (TIRExB) held its thirty-fifth session on 28 January 2008 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), 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. Aciri, Head, TIR System.

II. ADOPTION OF THE AGENDA

4. The TIRExB adopted the agenda of the session as prepared by the secretariat (TIRExB/AGE/2007/35).

III. ELECTION OF A CHAIRMAN

5. The Board recalled that, according to its Rules of Procedure, "a Chairman shall be elected at the first meeting each year, who shall hold office until his/her successor is elected. He/she shall be eligible for re-election". In accordance with the above provision, Mrs. Natalya Rybkina (Russian Federation) was re-elected Chairperson for 2008.

IV. ADOPTION OF THE REPORT OF THE THIRTY-THIRD SESSION OF THE TIRExB

Documentation: TIRExB/REP/2007/34draft

6. The TIRExB adopted the report of its thirty-fourth session (TIRExB/REP/2007/34draft), subject to the following modifications:

Paragraph 6

Modify the third sentence to read as follows:

"The Board requested the secretariat to finalize the questionnaire, announce it at the forthcoming meeting of the Administrative Committee and then officially send it out to Customs and national associations, together with e-mail copies to Focal Points."

Paragraph 7 bis

After paragraph 7, insert a new paragraph to read as follows:

"7 bis. Concerning the use of the TIR Carnet in the event of accident or incident, one TIRExB member pointed out that sometimes transport operators misuse their right to take preventive measures in case of emergency without notifying the competent authorities (para. 17 of the best practices)."

Paragraph 9

Modify the first sentence to read as follows:

"The Board requested the secretariat to officially draw the attention of the Customs authorities concerned to the above facts."

Paragraph 10

Modify the paragraph to read as follows:

"10. The TIRExB was informed of new cases when a Customs stamp had been wrongly placed in box 16, instead of box 17, on the vouchers of a TIR Carnet. The Board recalled its previous discussion on the subject (TIRExB/REP/2007/32, para.19) and underlined the importance of the proper filling-in of box 17, as it certifies the acceptance of a TIR Carnet and the start of a TIR transport. The TIRExB was of the view that this problem should be listed as a typical mistake in the filling-in of a TIR Carnet and be specifically addressed in the example of best practices (see para. 7 above). Another solution could be found in modifying the layout of the TIR Carnet, so that boxes 16 and 17 would be clearly separated."

Paragraph 12

Modify the paragraph to read as follows:

"12. The Board was of the view that, before considering the issue in substance, other legal opinions should be sought. To this end, the TIRExB requested the secretariat to contact the UN Legal Office in New York. One Board member informed about the possibility of undertaking a similar legal study. Meanwhile, the TIRExB decided to focus its activities on the monitoring of the absolute price of TIR Carnets at national level. To this end, the Board invited the IRU to collect the necessary data from the national associations or, at least, to support a survey of the national associations to be conducted by the secretariat. Otherwise, the TIRExB would have to report to the TIR Administrative Committee on the fulfilment of its task to monitor the prices of TIR Carnets."

Paragraph 14

Modify the paragraph to read as follows:

"14. The Board also had an initial discussion on the TIR guarantee level (part II of the survey). In particular, Mrs. N. Rybkina (Russian Federation) recalled the issue, raised by the IRU, of the termination of the TIR procedure when the duties and taxes exceeded US\$ 50'000 (TIRExB/REP/2007/33, paras. 15 and 16). In all underlying cases, to avoid Customs escorts imposed in the framework of the TIR procedure, the holders of TIR Carnets had opted for the national transit procedure where no guarantee limit existed. According to Mrs. N. Rybkina, at some border crossings up to 50 % of TIR transports exceed the current guarantee limit. The TIRExB believed that, under such circumstances, the TIR system might become uncompetitive."

Paragraph 18

Modify the last sentence to read as follows:

"The Board requested the secretariat to analyze the relevant provisions of the TIR Convention and draft an example of such procedures."

Paragraph 22

At the end of the last sentence, add ", if necessary."

Paragraph 28

In the first sentence, after "informed" add "by the IRU".

Paragraph 30

Modify the paragraph to read as follows:

"30. The Board welcomed the above information and invited the IRU to produce a list of all goods that would remain not covered by the TIR guarantee on the EU territory as of 1 January 2008. In this context, Mrs. J. Popiolek (European Commission) stated that the EU had always considered illegal any exclusions from the TIR guarantee on its territory, apart from alcohol and tobacco products."

Paragraph 31

Modify the last sentence to read as follows:

"In this context, the Board welcomed information that the IRU would introduce, as of 30 November 2007, these and some further changes into the CUTE-Wise program, thus making it more user-friendly for the authorized Customs users."

7. The revised text of the report of the thirty-fourth session of the Board is contained in document TIRExB/REP/2007/34.

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

8. The TIRExB took note of the final wording of the questionnaire regarding the use of so-called subcontractors at national level, requested the secretariat to ensure its translation into Russian and proceed with its distribution, as decided at the previous session of the Board (TIRExB/REP/2007/34, para. 6).

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

Documentation: Informal document No. 5 (2007)/Rev.3

9. The TIRExB considered a revised example of best practices (Informal document No.5 (2007)/Rev.3) and introduced a number of changes into the document. In particular, with regard to the simultaneous use of vouchers No.1 and No.2 by one Customs office (para. 28 of the document), the Board requested the secretariat, in cooperation with the IRU, to redraft the paragraph.

10. The TIRExB also identified two issues that had not yet been covered by the underlying example of best practice:

- use of the TIR Carnet in the course of multimodal transport operations;
- use of the TIR Carnet in case a Customs office of entry (en route) refuses the TIR transport to enter its country if the goods are prohibited for importation and, therefore, should be returned to the previous country.

Bearing in mind the urgent need for the example of best practice, the Board decided to submit the document to the October 2008 session of the TIR Administrative Committee for consideration and to address the above issues at a later stage.

VII. MONITORING THE PRICE OF TIR CARNETS

Documentation: Informal document No. 1 (2008)

11. The TIRExB was informed that, in line with its request at the previous session, the secretariat had contacted the UN Office of Legal Affairs in New York and received a reply (Informal document No. 1 (2008)) which could be summarized as follows:

- the UN Secretary-General, when performing his depository functions, refrains from providing interpretations concerning substantive provisions of legal instruments deposited with him;
- it is up to the Contracting Parties to a treaty to interpret its provisions.

12. The Board also noted that the legal services of the European Commission had finalized a study on the issue. According to its preliminary results, there are no legal impediments to the TIRExB's monitoring of the price of TIR Carnets at national level. The full results of the study would be presented at the next session of the TIRExB.

13. The Board decided to proceed with the collection of data on the price of TIR Carnets at national level and requested the secretariat to prepare a draft survey of the national TIR associations for consideration at the next session. In this context, the IRU stated that it would officially communicate to the TIRExB the price of TIR Carnets at international level and would not oppose that its member associations reply to the survey envisaged by the TIRExB, as the national prices of TIR Carnets were in the public domain.

14. In reply to a question by the IRU on the purpose of the data collection, the TIRExB pointed out that this function was entrusted to it by the TIR Convention and that it would at a later stage decide how to use the collected data. The secretariat stated that the data would be treated confidentially and could be used, for example, to assess the competitiveness of the TIR procedure in some regions, in connection with various regional Customs transit initiatives.

VIII. SURVEY ON CUSTOMS CLAIMS AND ON THE TIR GUARANTEE LEVEL

Documentation: Informal document No. 11 (2007)/Rev.1

15. The TIRExB considered updated results of the survey (Informal document No.11 (2007)/Rev.1). In particular, the statistics of Customs claims made against the TIR guarantee chain in 2004-2006 were compared to the results of the 2002 TIRExB survey, covering the period from 1999 to 2001:

	2007 survey	2002 survey
Claims in total (number)	2'570	3'463
Claims in total (amount in million \$US)	89'257	75'853
Claims paid (number)	155	710
Claims paid (amount in million \$US)	3'146	11'048
Pending claims (number)	2'012	2'317
Pending claims (amount in million \$US)	79'280	57'040
Claim rate	1 per 3'900 TIR Carnets	1 per 2'300 TIR Carnets

16. The TIRExB noted that the 2007 survey had identified the Russian Federation as having the highest figures in Customs claims. In this regard, Mrs. N. Rybkina (Russian Federation) pointed out that these figures referred to the TIR operations carried out before 2004 and that, since then, the situation in her country had greatly improved and remained sustainable up to now.

17. With regard to the TIR guarantee level, the Board took note of the following observations:

- since 2002, an average submitted claim has raised by 60% from US\$ 21'900 to 34'730;
- an average claim in the EU corresponds to 21% of the EU guarantee level, while an average non-EU claim is equal to 77% of the non-EU guarantee level;
- more than a half of non-EU countries apply additional control measures in case the guarantee level is exceeded. Some of these measures do not seem to comply with the provisions of the TIR Convention.

18. Bearing in mind the ongoing discussions in WP.30 concerning a possible increase of the TIR guarantee in non-EU countries from US\$ 50'000 to € 60'000, the TIRExB felt that the outcome of the second part of the survey should orally be presented at the forthcoming WP.30 session in January 2008. With regard to the Customs claims statistics, the Board decided to revert to this issue at the next session and requested the secretariat to further analyze the survey results.

IX. APPROVAL OF A SPECIFIC CONSTRUCTION OF ROAD VEHICLES

19. The TIRExB considered Informal document No. 2 (2008) by the secretariat, analyzing the approval of a particular type of trailers whose construction includes an open platform for the transport of heavy or bulky goods as well as a closed load compartment that could be sealed. According to the analysis, if a road vehicle contains several load compartments, it cannot be partially approved: either it is approved as a whole, and all the load compartments meet the TIR technical prescriptions, or it is not approved because at least one load compartment does not comply with the said prescriptions. As the underlying construction includes an open platform for

the transport of heavy or bulky goods which cannot be approved for the transport of goods under Customs seal, the whole construction cannot be granted such approval.

20. On the other hand, according to Article 29, paragraph 3, the load compartment can be used for the transport of accessories of the heavy or bulky goods carried on the open platform, if they can be easily identified by reference to the description given, or can be provided with Customs seals and/or identifying marks. Thus, Customs seals still can be used as a sort of identifying marks, and even the load compartment can be sealed to make the identification of accessories easier. However, for the liability of the guaranteeing association, it does not make any difference whether the accessories are carried on the open platform, inside the heavy or bulky goods or in the load compartment, because, pursuant to Article 31, the liability of the guaranteeing association covers not only the goods enumerated in the TIR Carnet, but also any other goods which are on the load platform or among the goods enumerated in the TIR Carnet.

21. The Board recalled that this issue had been raised by the Belarusian national association BAMAP and by the Belarusian Customs and requested the secretariat to inform them about the above considerations and ask for their comments. The TIRExB decided to revert to this issue, once a reply from Belarus had been received.

X. CURRENT STATUS OF THE eTIR PROJECT

22. The TIRExB was informed about the outcome of the 13th sessions of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) held on 26 and 27 November 2007. The Board also took note that the 14th session of the GE.1 would take place in Geneva on 10 and 11 April 2008.

XI. ACTIVITIES OF THE TIR SECRETARIAT

Follow-up actions to previous decisions by the TIRExB

23. The TIRExB recalled its discussions on mistakes in the filling-in and treatment of TIR Carnets (TIRExB/REP/2007/34, paras. 9 and 10). In this regard, the Board noted that the secretariat had drawn the attention of the Customs authorities concerned to such facts and that it had published typical mistakes on the TIR website. Contracting Parties were also encouraged to forward to the secretariat copies of any incorrectly filled-in TIR Carnet when found.

Maintenance of the ITDB and the current status of data transmission

24. The TIRExB was informed about the current status of the transmission of data to the ITDB as well as of efforts undertaken by the secretariat to increase the response rate that had reached 93% in the year 2007.

ITDBonline+ project

25. The TIRExB recalled that, at the end of the year 2007, the secretariat had distributed for information to the Board members a document entitled “User requirements and functional specifications of the ITDBonline+ project” which described how ITDBonline+ would be developed and functioning. The TIRExB noted that this document closed the design phase of the project and that the secretariat would now proceed with its implementation.

On-line UNECE Register of Customs Sealing Devices and Customs Stamps

Documentation: ECE/TRANS/WP.30/AC.2/2008/2

26. The TIRExB took note of a presentation by the secretariat of a prototype version of the on-line UNECE Register of Customs Sealing Devices and Customs Stamps. In addition, the Board shortly discussed a document prepared by the secretariat for consideration by the TIR Administrative Committee(ECE/TRANS/WP.30/AC.2/2008/2). This document provided an overview of the available on-line authentication methods in order to help the Contracting Parties to identify the most suitable solution for the UNECE Register of Customs Sealing Devices and Customs Stamps. The TIRExB felt that the level of the authentication security should be chosen on the basis of confidentiality and sensitivity of the data in the Register, leaving it up to the Administrative Committee to take a final decision.

TIR training seminars

27. The TIRExB was informed of the outcome of a Regional TIR Training Seminar held on 21 and 22 November 2007 in Amman (Jordan).

XII. RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS

28. The TIRExB decided that the distribution of the following document, issued in connection with its present session, should be restricted: Informal document No. 11 (2007)/Rev.1, Informal document No. 1 (2008).

XIII. DATE AND PLACE OF NEXT SESSIONS

29. The TIRExB decided to hold its thirty-sixth session on 14 and 15 May 2008 in Kiev, at the invitation of the Ukrainian Customs Administration.
