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## Economic Commission for Europe

### Administrative Committee for the TIR Convention, 1975

#### Sixty-fifth session

Geneva, 15 and 16 February 2017

Item 4 (a) (i) of the provisional agenda

**Activities and administration of the TIR Executive Board:**

**Activities of the TIR Executive Board:**

**Report by the Chair of the TIR Executive Board**

### **Report of the sixty-ninth session of the TIR Executive Board (TIRExB)\***

#### **I. Attendance**

1. The TIR Executive Board (TIRExB) held its sixty-ninth session on 10 October 2016 in Geneva.
2. The following members of TIRExB were present: Mr. S. Amelyanovich (Russian Federation), Mr. G. Andrieu (France), Mr. M. Ciampi (Italy), Mrs. D. Dirlik (Turkey), Mr. S. Fedorov (Belarus), Mrs. B. Gajda (Poland), Mrs. L. Jelínková (European Commission), Mr. V. Milošević (Serbia) and Mr. S. Somka (Ukraine).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. Y. Guenkov.

#### **II. Adoption of the agenda**

*Documentation:* Informal document TIRExB/AGE/2016/69

4. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2016/69, with the additions that TIRExB decided, under item XIV (Other matters) to discuss Informal document No. 25 (2016) by the European Commission, containing an example of best practice with regard to the use of authorized consignees in

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\* The present document is submitted pursuant to Annex 8, Article 11, paragraph 4 of the TIR Convention, 1975, 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”.

the European Union. TIRExB further decided to discuss, under the same agenda item, the recent allegations against IRU and its management.

5. With reference to the restricted status of the draft agenda, TIRExB recalled its previous decisions, taken at its first, second, seventh and thirteenth session, that, unless decided otherwise, only approved reports of sessions of the TIRExB were subject to general distribution (see TRANS/WP.30/AC.2/2002/6, para. 38).

### **III. Adoption of the report of the sixty-eighth session of TIRExB**

*Documentation:* Informal document TIRExB/REP/2016/68 draft with comments

6. The Board adopted the draft report of its sixty-eighth session (Informal document TIRExB/REP/2016/68draft with comments), subject to some minor amendments:

### **IV. Application of specific provisions of the TIR Convention**

#### **Consideration of amendment proposals**

#### **A. Proposals to introduce more flexibility in the guarantee system**

*Documentation:* Informal document No. 7 (2016), Informal document No. 18 (2016)

7. TIRExB welcomed Mr. Andreas Schiller from AXA Winterthur and Mr. Daniel Sculati from IRU in their capacity as insurance experts, who had been invited for the sake of clarifying how insurers calculate credit risks and determine the required premium to cover them.

8. Mr. A. Schiller explained, in a nutshell, that credit risk is defined as a calculation of exposure (= nominal guarantee value of any TIR Carnet) multiplied by the loss given default (ultimate loss after all recoveries by the policy holder) multiplied by the probability of default (probability of insolvency of the principal debtor), leading to the expected loss (or, in a simplified way: severity x frequency = loss). In addition, international insurers need to dispose of sufficient capital to cover a so-called 200 year event, in compliance with the EU directive 2009/138/EC of 25 November 2009<sup>1</sup>, meaning that insurers must be capitalized to withstand 99.5 percent of events which could arise over any coming year, which is a significant burden on their balance sheet.

9. In reply to a question from Mr. S. Amelyanovich (Russian Federation) what would constitute a 200-year event, Mr. A. Schiller explained that the concept covers the risk of an event occurring once every 200 years (based on credit risk model output), rather than referring to any specific (catastrophic) event having taken place in the last two centuries. In reply to another question, why, according to the model used, the increase of the guarantee amount from 60,000 to 100,000 euros had not led to an increase in the premium, Mr. A. Schiller and Mr. D. Sculati explained that this was caused by the fact that more exact calculations had not led to a change in any of the parameters, thus not triggering an increase in the premiums. In reply to a question from Mr. S. Fedorov (Belarus) why it was not possible to calculate unlimited guarantee coverage, Mr. A. Schiller explained that, under the presented credit risk model current, it is not possible for an insurance company to conclude a contract with an unlimited exposure, as this would appear as such as an

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<sup>1</sup> //eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:335:0001:0155:en:PDF

unlimited risk on the company's balance sheet. Even though various members argued that unlimited coverage for customs (meaning up to the maximum of potentially due customs duties and taxes in any TIR Contracting Party) would not necessarily have to equal unlimited coverage for insurance purposes, Mr. A. Schiller stated that such contract would never be signed by AXA; the presented credit risk model and AXA's underwriting guidelines require a set limit, even though such limit could be very high. Mr. D. Sculati added that, for the sake of any calculation, even with a very high guarantee amount, specific data (on various levels of duties and taxes) are required in order to define the feasibility of any such insurance scheme. Mr. A. Schiller further clarified that it is not just a matter of price calculation, but also of risk-appetite (The level of risk that an organization is prepared to accept in pursuit of its objectives, and before action is deemed necessary to reduce the risk. It represents a balance between the potential benefits of innovation and the threats that change inevitably brings for the insurance company involved. Some members of the Board did not agree with the assessment on the side of the insurers, pointing at the Admission Temporaire (ATA) and Carnet de Passage en Douane (CPD) systems. In reply to a question from Mr. S. Amelyanovich on the level of the premium IRU pays AXA, both Mr. A. Schiller and Mr. D. Sculati pointed at the contractual confidentiality of any such information.

10. TIRExB thanked Mr. A. Schiller and Mr. D. Sculati for their ability to provide TIRExB with extensive clarifications on how insurers calculate credit risks and determine the required premium to cover them.

11. In conclusion of its thorough assessment, the Board considered that, for now, insufficient unequivocal justification can be found for any of the studied scenarios, including the Russian proposal not to set a maximum guarantee amount (as already submitted to the Administrative Committee for the TIR Convention, 1975 (AC.2) for further considerations) and decided to report to AC.2 that its assessment is inconclusive to the extent that it is not possible for TIRExB to judge the quality and the consequences of any change in the current practice, other than raising, for now, the recommended maximum guarantee amount from 60,000 euros to 100,000 euros. Any further raise could be studied at a later stage, once the consequences of the increased recommended amount become known. The Chair of the Board was requested to inform AC.2 of these findings.

12. Finally, TIRExB requested the secretariat to make a preliminary assessment of the ATA and CPD insurance systems, for discussion at its next session.

## **B. Proposals to introduce authorized consignor**

13. The secretariat introduced Informal document No. 19 (2016), constituting a maximum effort to introduce further facilitations in the TIR Convention within the scope of Article 49. In a first reaction, some members explained that in their country the facilitations of authorized consignor and consignee were not necessarily limited to authorized TIR Carnet holder only and, therefore, requested the reference to be deleted or, alternatively, to be replaced by a more neutral term, such as "duly authorized person". Other members were of the opinion that the text of the proposed Explanatory Note insufficiently addressed the liability of the TIR Carnet holder and was contrary to the provisions of Articles 19 and 21. They further stated that a facilitation granted by one country to an authorized TIR Carnet holder, created additional risks during the rest of the TIR transport. Therefore, they could not support the proposals. Mr. S. Somka (Ukraine) reconfirmed that, in his view, facilitations granted to duly authorized persons should not be limited to customs office of departure or destination and, therefore, pleaded to reinsert a reference to customs offices en route. In addition, as it is only seldom that a TIR Carnet holders act as authorized consignor

or consignee, he thought it more appropriate, in this context, to introduce the term “authorized carrier.

14. The Chair, once more explained, that the provision of Article 11 remains fully intact and that the requirements of Articles 19 and 21 are replaced by a set of customs controls, thus leaving their scope unaffected.

15. Various members expressed the opinion that the proposed text for a second comment to Explanatory Note 0.49 too deeply interfered with issues of national practice, where competent authorities, already now, usually consult with all stakeholders in the application of legislation or where such issues would be addressed in the agreement between customs and the national association.

16. In conclusion, TIRExB, (1) acknowledging that various Contracting Parties already now apply this facilitation, which is in line with modern logistics practices, (2) taking into account that there is no obligation for any Contracting Party to apply the facilitation for its own territory, (3) establishing that no amendments to other provisions of the Convention were required, (4) agreeing to replace “TIR Carnet holder” by “duly authorized person”, (5) deleting the second comment to Explanatory Note 0.49, (6) decided that the proposal could be transferred to AC.2 for further consideration. Mr. S. Amelyanovich (Russian Federation) reiterated not being in a position to support the proposals.

## **V. Budget proposal and cost plan of TIRExB and TIR secretariat for the year 2017**

*Documentation:* ECE/TRANS/WP.30/AC.2/2016/15, ECE/TRANS/WP.30/AC.2/2016/17, ECE/TRANS/WP.30/AC.2/2016/23

17. The Board took note of its final accounts for the year 2015 (ECE/TRANS/WP.30/AC.2/2016/23), together with a report covering the period from 1 January 2016-30 June 2016.

18. The Board considered the budget proposal and cost plan of TIRExB and TIR secretariat for the year 2017, as well as the net amount to be transferred by IRU (see ECE/TRANS/WP.30/AC.2/2016/17. In reply to a question from Mr. S. Amelyanovich (Russian Federation), the secretariat explained that the 13 percent programme support are charged by the competent United Nations financial services to administer the TIR Trust Fund. Mr. S. Amelyanovich expressed the view that more financial information would be required, such as related to the allegations of financial mismanagement by IRU or how the 2015 deficit of IRU be compensated. The Chair invited him to revert to these questions at the session of AC.2. The Board endorsed the budget proposal and cost plan of TIRExB and TIR secretariat for the year 2017, as well as the net amount to be transferred by IRU.

## **VI. Computerization of the TIR procedure**

### **A. Current status of the eTIR Project**

19. TIRExB took note of the oral report of the twenty-fifth session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) on 19-20 September 2016 in Geneva. It noted that GE.1 had reviewed and welcomed the results from both eTIR pilot projects, acknowledging their contributions towards a fully fledged eTIR system. GE.1 had also assessed the first findings of the Group of Experts on Legal Aspects of Computerization of the TIR Procedure (GE.2) and

acknowledged the need of close collaboration between both groups, in particular when dealing with issues such as electronic signatures. Furthermore, GE.1 had considered a number of pending amendments to the eTIR Reference Model v.4.1a.

20. TIRExB took note of the information provided about the UNECE-IRU eTIR pilot project between Iran (Islamic Republic of) and Turkey. It welcomed the successful results of the first step of the project, in which 31 eTIR transports had been successfully conducted, and requested to be informed about the second step. The second step had started on 20 August 2016 and broadened the scope of the project by including additional customs offices, transport companies and offering the possibility of multiple places of loading and unloading, including amendment of the declaration. TIRExB noted that the pilot project allowed, inter alia, a first important step toward a fully fledged eTIR international system and, specifically, the development and deployment at UNECE of a first lightweight version of the eTIR international system.

21. TIRExB also welcomed the information provided about the eTIR pilot project between Georgia and Turkey. It recalled that, at this stage, the project does not involve the private sector and focuses on testing the customs-to-customs part of the eTIR Reference Model. At the same time, TIRExB noted that the project allows for the exchange of data on all TIR transports between both countries. TIRExB noted that preliminary tests had been carried out but the actual exchange of data had not yet started. The Board recalled the signature by both countries of a protocol related to this project, demonstrating the political willingness to complete this project.

## **B. Activities of the Group of Experts on Legal Aspects of Computerization of the TIR procedure**

22. TIRExB recalled that GE.2, at its second session (April 2016) had, inter alia, decided to conduct a survey on electronic methods of authentication, including electronic signatures, which was launched in September 2016, with a deadline for replies set for 1 November 2016. The preliminary results of the survey will be considered by GE.2 at its third session, on 12-13 December 2016.

## **C. ITDB / Central database on certificates of approval / Central database on customs offices**

*Documentation:* Informal document No. 20 (2016)

23. TIRExB was informed about the progress in implementing ITDB online+ and other Information Technology (IT) projects managed by the TIR secretariat. It noted that all IT tools provided by the TIR secretariat were functioning well and that the first prototype of the new application was released to a group of focal points in September 2016 for testing. TIRExB thanked customs authorities and national associations who had volunteered to test the new application and looked forward to the introduction of the new ITDB for all Contracting Parties, which was expected to take place in the beginning of 2017. TIRExB further took note that the secretariat was developing, as part of the new ITDB, a database for TIR approved customs offices, which should be launched by mid-2017.

24. TIRExB considered Informal document No. 20 (2016) and confirmed the existing legal practice, where exclusions in accordance with Article 38 of the Convention should be applied for foreign transport operators, whereas withdrawals should be used to temporarily or permanently stop the activities of national TIR Carnet holders, in accordance with Article 6, paragraph 4 and Annex 9, Part II, paragraph 1 (d).

## **VII. Adaptation of the TIR procedure to modern business, logistics and transport requirements**

### **Implementation of the intermodal aspects of the TIR procedure**

*Documentation:* Informal document No. 11 (2016)

25. Not discussed due to a lack of time.

## **VIII. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations**

26. No new information was provided under this agenda item.

## **IX. Problems reported by transport companies from the Republic of Moldova in Ukraine**

27. Mr. S. Somka (Ukraine) informed the Board that the Parliamentary Committee for Tax and Customs Policy of Ukraine had approved a draft new law, lifting restrictions for the transport of alcohol and tobacco products on the territory of Ukraine under cover of TIR Carnets. It was hoped that the adoption of the law could still be included in the list of decisions of the Parliament for October 2016. Mr. S. Somka promised to keep the Board informed about any further development in this field.

## **X. Functioning of the TIR international guarantee system**

### **Survey on customs claims**

*Documentation:* Informal document No.12 (2016)/Rev.2

28. The Board took note of revised results of the survey on customs claims and on the guarantee level for the period 2011-2014, as contained in Informal document No. 12 (2016)/Rev.2. It welcomed the fact that 46 countries had finally responded to the survey and noted that, overall, the results are very comparable to those gathered by the 2011 survey for the period 2007-2010. However, the Board noted that the ratio of claims withdrawn by customs had fallen to 24 per cent and that more than fifty percent of claims are paid by the guaranteeing association within the three month deadline stipulated the TIR Convention. Finally, the Board noted that if, overall, the claims survey is now aligned with the IRU statistics, differences can still be seen on a country level. Therefore, the Board instructed the secretariat to continue indicating the differences between the IRU statistics and the results of the survey in the communications with national customs administrations when launching the next survey. Finally, the Board requested the secretariat and IRU to look into the possible reasons for the increase in the number and amounts of claims from 2013 to 2014 in some Contracting Parties.

## **XI. Price of TIR Carnets**

*Documentation:* Informal document No. 22 (2016)

29. The Board took note of Informal documents No. 22 (2016) containing the data received from national issuing associations on the prices of TIR Carnets. The Board noted that most issuing associations had only sent the price information when reminded by the end of the summer rather than sending them before 1 March, as required by the TIR Convention. The Board requested the secretariat to raise the issue at AC.2 and mandated the secretariat to issue, for its next session, a revision of the document including an analysis of the prices.

## **XII. Example agreement**

30. Not discussed due to a lack of time.

## **XIII. Self-evaluation**

31. Pending extensive discussions at its next session, TIRExB requested the secretariat to send a personal evaluation form to the members for their assessment. In addition, members were requested to provide suggestions, if any, to the secretariat, how to shorten the document, not later than by 15 November 2016. The Board further agreed that it seemed to make most sense to try to finalize the self-evaluation by the end of 2016, so that it could be considered as an Informal document by AC.2 at its February 2017 meeting rather than submitting it as an official document for consideration by AC.2 at its October 2017 session.

## **XIV. Activities of the secretariat**

### **A. General activities of the secretariat**

32. The Board was informed about further activities of the TIR secretariat that have been carried out in accordance with its mandate, in particular:

- follow-up actions to previous decisions by TIRExB;
- maintenance of the ITDB and of the UNECE Register of Customs Sealing Devices and Customs Stamps;
- IT-projects managed by the secretariat;
- the organization of TIR related events.

33. The Board was informed that UNECE and the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island States (UN-OHRLLS) had organized a global seminar on the importance of key Trade and Transport Conventions (New York, 9 May 2016) and a second one on the same topic in Geneva, back to back with the meeting of Trade Ministers of LLDCs at the World Trade Organization (WTO) (24 June 2016). The TIR secretariat also participated in the Grails European Conference (Copenhagen, 1-3 June 2016); the third Global World Customs Organization (WCO)-Authorized Economic Operator (AEO) Conference (Cancun (Mexico), 11-13 May 2016); the WCO IT Conference (Dakar, 1-3 June 2016); the WCO transit workshop (Abidjan, 27 June-1 July); the Informal Group of Experts on the development of a new Convention on facilitation of border crossing procedures for passengers and baggage by rail (Warsaw, 26-27 July 2016); the twenty-fourth OSCE Economic and Environmental Forum (Prague, 15 September 2016); and in the OSCE-WCO Workshop on Enhancing Trade Facilitation through the Improvement of Regional Transit in Central Asia (Astana, 27-29 September 2016).

34. The Board was also informed that the secretariat had contributed substantive content to various publications such as the UNESCAP-UNECE and IRU publication “eTIR: Towards paperless cross-border trade” and to the Asian Journal of transport and infrastructure, promoting, inter-alia, the TIR Convention in South Asia.

35. Finally, the Board noted that the TIR secretariat had submitted an application and related concept note for the organization of a side event to promote border crossing facilitation and the TIR Convention, in the context of the Global Sustainable Transport Conference, convened by the United Nations Secretary-General and planned to be held on 26 and 27 November 2016 in Ashgabat.

## **B. United Nations Development Account**

36. The Board took note of the results of the United Nations Development Accounts project “Strengthening the Capacities of Developing Countries and Countries with Economies in Transition to Facilitate Legitimate Border Crossing, Regional Cooperation and Integration”, in particular that the successful conduct of the closing Seminar for the Promotion of Electronic Exchange of Customs Information and the Adoption of Standard Electronic Messages in Geneva on 20-21 June 2016. Finally, the board took note that the final report of the project was sent to the United Nations Department of Economic and Social Affairs and that an external evaluation of the project had been conducted and will be made available on the UNECE web site.

## **XV. Other matters**

*Documentation:* Informal document No. 16 (2016), Informal document No. 17 (2016), Informal document No. 25 (2016).

37. TIRExB considered Informal document No. 16 (2016), submitted by the Government of Ukraine, enquiring about the use of subcontractors in the territory of a Contracting Party and the liability of the national associations in such situation. In this context, the secretariat recalled document ECE/TRANS/WP.30/AC.2/2012/13, in which the secretariat elaborated all TIRExB considerations on the issue of subcontracting. In short, the acceptance of subcontractors depends on whether or not national legislation allows it. If so, the use of subcontractor does not affect the liability of the TIR Carnet holder in application of the provisions of the TIR Convention. IRU confirmed that subcontracting is widely applied in many TIR Contracting Parties and that the liability remains with the TIR Carnet holder. Nor does it change the liability of the national association vis-à-vis customs, regardless the origin of the TIR Carnet holder concerned. IRU further clarified that the name of the subcontractor is inserted in box 11 of the cover of the TIR Carnet and that a specific entry in TIR-EPD has been created to provide the name of the subcontractor. Mr. S. Amelyanovich (Russian Federation) challenged the aforementioned practice as violating the provisions of Article 11 of the Convention.

38. TIRExB shortly touched upon Informal document No. 17 (2016) and Informal document WP.30 (2016) No 12, introducing an IRU pilot project on the transport of some specific alcohol products but decided to await further considerations by WP.30 at its forthcoming session.

39. TIRExB decided to revert to Informal document No. 25 (2016), introducing an example of best practice for authorized consignees in the EU at its next session.

40. Under this agenda item, the Board shortly reverted to the recent allegations against IRU and its management. Mr. Y. Guenkov (IRU) referred in this regard to a statement that

Mr. Chr. Labrot, President of IRU would deliver to WP.30 on 12 October 2016. He further informed the Board that, to the best of his knowledge, IRU had not yet been contacted by the competent authorities of the Geneva.

## **XVI Restriction in the distribution of documents**

41. TIRExB decided to keep Informal documents No. 12/Rev.2, 16, 17, 19, 21, 22, 24 and 25 (2016), issued in relation to the current session, restricted.

## **XVII. Date and place of next session**

42. The Board decided to conduct its seventieth session on 5 and 6 December in Geneva and requested the secretariat to make the appropriate arrangements.

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