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Economic Commission for Europe**Administrative Committee for the TIR Convention, 1975****Fiftieth session**

Geneva, 30 September 2010

Item 3 (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 forty-first session of the TIR Executive Board***Summary*

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”.

I. Attendance

1. The TIR Executive Board (TIRExB) held its forty-first session on 14 and 15 October 2009 in Minsk (Belarus), at the kind invitation of the State Customs Committee of the Republic of Belarus.
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. I. Makhovikov (Belarus), Mrs. H. Metaxa Mariatou (Greece), Mr. V. Milošević (Serbia) and Mrs. J. Popiolek (European Commission).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. J. Acri.

II. Adoption of the agenda

4. The TIRExB adopted the agenda of the session as prepared by the secretariat (Informal document TIRExB/AGE/2009/41), with the inclusion of the following issues:

Under agenda item 13 “Other matters”

- (a) Possible consequences of the recently rejected amendment proposal;
- (b) Subcontractors;
- (c) Survey on the price of TIR Carnets.

III. Adoption of the report of the forty-first session of the TIR Executive Board

5. The TIRExB adopted the report of its fortieth session (Informal document TIRExB/REP/2008/40draft), subject to the following modification:

Paragraph 16

For the existing paragraph read

The TIRExB took note that, on 17 April 2009, the IRU had informed the UNECE secretariat of the increase in the TIR Carnet distribution prices per 1 April 2009. In response to a request for clarification from several TIRExB members on the introduction of the so-called “4 volets TIR Carnet pilot”, the representative of the IRU informed that, based on a similar experience in the nineties, the IRU had decided to introduce the “4 volets TIR Carnet pilot” at a lower price than the regular 4 volets TIR Carnet with the aim to promote the use of the TIR system for transports between EU countries and immediate neighbouring countries, in particular to avoid the use of national or regional export/import procedures at the borders, while the TIR procedure applies from departure to destination with limited interference at borders. Various TIRExB members expressed the view that, although not being against the introduction of such a pilot, the principle of equal treatment seemed to be under threat, because some operators, due to their geographical location and the type of their transports, now found themselves in a more favourable position than other operators. The representative of the IRU stressed that the principle of equal treatment was not touched by this pilot, which applies to all associations concerned with direct bilateral transports with the EU where a regional transit system could be used instead of the TIR procedure. He stressed, furthermore, that the introduction of this pilot will be subject to a review in due course, in which all experiences, both positive and negative, will be assessed.

Paragraph 19

For the existing paragraph read

The Board could generally agree to the proposed text, but, at the same time, felt that certain aspects of Annex 10 did not seem adequately reflected. In particular, the draft did not contain any reference to the legal obligations stemming from Annex 10 nor did it address the issue of fall-back, in case the automated system was not functioning. Furthermore, the draft assumed the existence of a local server, which is not the case in all countries. The Board noted that the recommended practice only focused on one transmission option and that other alternatives mentioned in Annex 10 were not addressed. However, it was generally agreed that direct transmission was to be recommended.

Paragraph 23, last line

At the end of the last line *add*, not only on guarantee but also on insurance

Paragraph 30, last line

After the last line *add* The IRU contributed actively to both events.

Paragraph 31, first line

For observer from *read* representative of

6. The revised text of the report of the fortieth session of the Board is contained in Informal document TIRExB/REP/2009/40final.

Documentation

Informal document TIRExB/REP/2009/40draft

IV. Best practices with regard to the use of the TIR Carnet

7. The TIRExB continued its discussions on the issue of the refusal for a TIR transport to enter a country on the basis of Informal document No. 9/Rev.1 (2009), prepared by the secretariat and containing, on the one hand, proposals for an Explanatory Note encouraging Customs authorities to indicate the reason(s) for refusal in the TIR Carnet and, on the other hand, an example of best practices, clarifying how Customs authorities should process a TIR Carnet in the case of refusal.

8. Although there was continued support from the TIRExB for the example of best practice, the Board felt that the document would benefit from further improvement. In particular, the Board was of the opinion that the document should only focus on those situations where a decision by Customs authorities to refuse access was not based on the provisions from the TIR Convention. Furthermore, the Board was of the view that the example should be limited to those situations where no alternatives, such as the use of a national transit regime, were available to continue the transport operation.

9. The TIRExB requested the secretariat to revise Informal document No. 9/Rev.1 (2009) in line with these instructions for discussion and, possibly, adoption by the Board at its next session.

Documentation

Informal document No. 9/Rev.1 (2009)

V. Current status of the eTIR project

10. The secretariat informed the TIRExB of the latest developments in the eTIR Project. The TIRExB took note that the Informal Ad hoc Expert Group on Technical and Conceptual Aspects of Computerization (GE.1) had decided, due to the highly technical nature of the issues at stake, to continue, for the time being, its deliberations at long distance. Once such discussions would have led to a full-fledged draft text of Chapter 3 of the eTIR Reference Model, dedicated to the in-depth analysis of the computerized TIR system, a next meeting of GE.1 would be convened, probably in the beginning of 2010.

VI. Monitoring the application of the Electronic Data Interchange control system for TIR Carnets

11. The Board welcomed Informal document No. 11/Rev.1 prepared by the secretariat, containing in the Annex a draft recommended practice on the application of the Electronic

Data Interchange (EDI) control system for TIR Carnets, referred to in Annex 10 of the Convention.

12. The Board adopted the proposed text of the recommended practice, subject to the following changes: (a) review of the term “server” in order to introduce a distinction between hardware – where data is stored – and software – which processes data – and (b) redrafting of paragraph 5 to become a new Part H, called “Further information”. The final text is attached as an Annex to this report. TIRExB members as well as the IRU were asked to provide their final comments, if any, not later than by 7 December 2009, after which date the secretariat would transmit the draft recommended practice to the TIR Administrative Committee (AC.2) for endorsement.¹

13. The Board thanked the IRU for the good cooperation in establishing the recommended practice.

Documentation

Informal document No. 11/Rev.1 (2009)

VII. Procedure prior to suspension of the guarantee on the territory of a Contracting Party

14. The Board considered Informal document No. 15 (2009) in which the secretariat had regrouped the contributions submitted by various members of the Board according to the following aspects:

(a) Establishment of an information exchange mechanism between parties concerned and the TIRExB, highlighting the functions and responsibilities of the TIRExB in the process;

(b) Procedure and deadlines for the suspension of the guarantee under normal circumstances;

(c) Suspension of the guarantee under exceptional circumstances, including the event of force majeure.

15. The Board continued its work by revisiting the contributions according to their regrouped order. However, despite some valuable comments from members of the Board as well as from the IRU, the Board was of the opinion that further discussion needed an even more structured approach. To achieve this, the Board requested the secretariat to review the contributions, provide comments and present them in a better (chrono)logical order, together with a proper introduction for discussion at the Board’s next session. At the same time, TIRExB members were requested to provide the secretariat with their comments, not later than by 7 December 2009 for inclusion into the document.

16 With regard to the suspension under exceptional circumstances, the Board remained interested to obtain from the IRU the observations from the private sector, with particular focus on the application of provisions of national private law, not only on guarantee but also on insurance.

¹ For the final text, as transmitted to the AC.2 for endorsement, please refer to document ECE/TRANS/WP.30/AC.2/2010/6.

Documentation

Informal document No. 15 (2009) (restricted)

VIII. Approval of a specific construction of road vehicles**A. Request from the Belarusian Customs authorities**

17. Taking into account the TIRExB's considerations that the provisions of the TIR Convention do not provide for the approval of vehicles, in which the construction includes an open platform for the transport of heavy or bulky goods as well as a closed compartment that can be sealed, Mr. Makhovikov (Belarus) thanked the Board for the in-depth study of the question and informed that the Belarusian Customs authorities accept the considerations by the TIRExB with regard to the use in practice and that, at present, there does not seem required to submit a request to the Working Party on Customs Questions affecting Transport (WP.30) for further discussion, despite an invitation of the Board to that extent.

Documentation

Informal document No. 11 (2008)

B. Request from the Estonian Customs authorities

18. The TIRExB extensively discussed the request submitted by the Estonian Customs authorities on whether the construction of a specific type of vehicle, whose floors are equipped with troughs to facilitate and secure the transport of sheet metal coils, meets the requirements of the TIR Convention, specifically the provisions of Annex 2, Article 1 (c) and (d). The TIRExB was of the opinion that, as the issuance of the Approval Certificate is a matter for the competent national authorities, it could occur that one competent authority would approve a certain vehicle construction whereas another one would not, possibly even with reference to the same provisions of the Convention.

19. With regard to this specific situation, various TIRExB members reported that they had consulted national experts, who had provided diverging opinions. Some experts had been of the opinion that the troughs were constructed in such a way that it would not be possible to conceal anything in load compartment which could be overlooked by Customs upon inspection of the vehicle, whereas others were of the view that such construction should not be approved because in case other goods than the intended coils would be transported, it would simply be impossible for Customs to check the spaces in the floor without first removing all the goods. The TIRExB agreed that, in any case, it would be useful if duly authenticated pictures would be attached to the Approval Certificate, in accordance with the provisions of Annex 3, Article 2, which would inform authorities of the presence of empty spaces in the vehicle concerned.

20. In general, the TIRExB reiterated that it is not part of its mandate, nor do its members dispose of the required expertise, to provide concrete guidance on matters of a technical nature, such as the approval of specific types of vehicle construction. Any competence in this field lies with the national authorities, authorized to issue the Approval Certificate in accordance with the provisions of Article 12 of the Convention. At the same time, within the framework of its general mandate to supervise the application of the Convention, the TIRExB can decide, of its own accord or upon request, to seek guidance from experts in the field, in case diverging opinions between different competent authorities could impede the smooth application of the TIR system.

21. Returning to the request at hand, the TIRExB decided to follow the above elaborated approach and requested the secretariat to consult with expert(s) in the field of vehicle construction. Having obtained such advice, the TIRExB would decide on any further step, including, possibly, the transmission of the request to AC.2.

Documentation

Informal document Nos. 4, 14 and 16 (2009)

C. Problems encountered by Finnish authorities

22 Mr. Lindström (Finland) reported on a recent case, where the Finnish competent authorities had refused to approve a specific type of vehicle with sliding sheets and a sliding roof which had already received prior approval from the competent authorities in another country. In the end, after extensive exchanges of information between the Finnish authorities and the vehicle manufacturer, the manufacturer had decided to no longer pursue the approval of the specific type of vehicle under TIR, pending certain improvements, which would ensure the vehicle's security for Customs purposes.

23. The TIRExB thanked Mr. Lindström for the information and reminded of the existence of TIR approval checklists, which could assist competent authorities when approving vehicles (ECE/TRANS/WP.30/2007/21).

IX. Use of the term “package”

24. Taking way of introduction, the secretariat informed the TIRExB that it seems that Customs authorities in some countries create problems in case they come across differences between the description of the marks, number, kind of packages or description of the goods in the CMR consignment note and the TIR Carnet.

25. Due to the limited information provided, the TIRExB was unable to identify the real reasons behind the problem, which seemed, at first hand, related to aspects of commercial liability. The TIRExB decided to revert to this issue, in case more information would be available which would point at a need to clarify the problem within the context of the TIR Convention.

Documentation

Informal document No. 17 (2009)

X. Invalidation of TIR Carnets issued to excluded TIR Carnet holders

26 At the request of the TIRExB, the IRU explained that the issue of invalidation of TIR Carnets issued to authorized TIR Carnet holders is, in itself, not new, but that, only recently, national associations have had to resort to actually suspending the authorization of TIR Carnet holders and consequently invalidate TIR Carnets to avoid them from being used after the date of suspension.

27. The secretariat pointed out the divergence between such procedure (which is a consequence of the practical situation that TIR Carnets are not issued one by one to TIR Carnet holders but in sets) and the legal provisions of Article 6, paragraph 3, which stipulate that TIR Carnets may only be issued to authorized TIR Carnet holders.

28. In general, the TIRExB stressed the importance of good communications between national associations and TIR Carnet holders with the aim to avoid the unauthorized use of TIR Carnets. The Board considered it also important that national associations establish close contact with competent authorities, by means of informing competent authorities of any activity in the field of invalidation of TIR Carnets. At the same time, the TIRExB was of the opinion that, as long as there was no internationally recognized mechanism in place, it was unacceptable to assume that any invalidation of TIR Carnets declared by the guarantee chain would immediately lead to the invalidation of the guarantee.

29. The TIRExB recognized that an in-depth study, covering practical issues as well as legal implications, was required. To that extent, it invited the secretariat, in parallel with a similar request from the Working Party on Customs Questions affecting Transport (WP.30) to prepare a document, summarizing all previous discussions by the Board on the issue, together with further preliminary considerations, for discussion at its next session. At the same time, the IRU was invited to submit a document, outlining background and details of its reporting mechanism.

XI. Problems encountered by TIR Carnet holders

A. Problems encountered by foreign TIR Carnet holders in the territory of the Russian Federation and other Contracting Parties

30. The IRU reported on ongoing problems for foreign TIR Carnet holders in the territory of the Russian Federation, where, at times, the decision to prescribe escorts seems to be made on the basis of duties and taxes at stake only, despite the recent adoption by WP.30 and AC.2 of a new comment to Article 23, stipulating that the prescription of escorts should rather be based on risk analysis. In reply, the secretariat informed, that a letter on the issue had been sent to the Russian Customs authorities and that a response was due shortly.

31. The TIRExB was informed by the IRU of Decree 1223/99 of the Government of the Russian Federation, of 5 November 1999, on measures to prevent penetration of the Russian territory by foreign terrorist organizations in the North Caucasus region. This Decree which had been introduced at that time to control transports from Chechnya, seemed to have gained new importance over recent months. According to information received, only transports with vehicles registered in the Commonwealth of Independent States (CIS) countries are allowed to enter Russian territory, thus leading to significant financial losses for operators from other countries. However, according to information provided by TIRExB members, the situation seems to have improved lately. The secretariat was requested to monitor the situation.

XII. Reintroduction of the TIR guarantee in the European Union for goods involving a higher risk of fraud

32. The TIRExB took note of information from the IRU that, as of 1 July 2009, the IRU had obtained consent from the insurers to reintroduce full TIR coverage for all goods, with the exception of tobacco, alcohol (and some derived products). The TIRExB welcomed this positive development.

Documentation

Informal document No. 18 (2009)

XIII. Activities of the TIR secretariat

A. Maintenance of the International TIR Data Base and Information Technology-projects managed by the secretariat

33. The Board was informed by the secretariat that the ITDB contained data on 61,000 transporters out of which 41,000 were presently authorized TIR Carnet holders. Furthermore, it took note that the secretariat is now working on the second part of the implementation of the "ITDBonline+ project", dedicated to the development of the "ITDBonline+ web site". The secretariat, in cooperation with national competent authorities, has planned to organize a pilot in the beginning of 2010 to test the website. Initially, it will be available in English, French and Russian only, but the idea is to add in the future other languages, upon request and in cooperation with Contracting Parties.

B. TIR training seminars

34. The secretariat informed the Board that it would participate in a seminar, organized by United States Agency for International Development (USAID) and the Ministry of Transport and Communications of Tajikistan on the role and importance of the United Nations Economic Commission for Europe (UNECE) Conventions for the development of Tajikistan Transport Sector on 21 October 2009. Considerable part of the seminar would be dedicated to the application of the TIR system in Tajikistan and its neighbouring countries. On 25 and 26 October 2009, the secretariat participated in a seminar, jointly organized by the League of Arab States and the IRU, titled "Arab and International Road Transport Agreements and their Role in Developing Arab Foreign Trade".

XIV. Budget proposal and cost plan of the TIR Executive Board and the TIR secretariat for the year 2010

35. The TIRExB endorsed document ECE/TRANS/WP.30/AC.2/2009/9, containing the budget proposal and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2010 without further comments and took note of documents ECE/TRANS/WP.30/AC.2/2009/7 and ECE/TRANS/WP.30/AC.2/2009/8, containing the report of the complete and final accounts for 2008 of the TIRExB and the TIR secretariat and the interim financial statement for 2009, respectively.

Documentation

ECE/TRANS/WP.30/AC.2/2009/9, ECE/TRANS/WP.30/AC.2/2009/8,
ECE/TRANS/WP.30/AC.2/2009/7

XV. Other matters

A. Possible consequences of the recently amendment proposals

36. Various TIRExB members informed that they expected problems as a result of the fact that the proposal to change the maximum guarantee amount from US\$ 50,000 to 60,000 euros had not been accepted. Mr. Makhovikov (Belarus) reported that in his country, where the level had already been raised to 60,000 euros on a pilot basis as of 1 January 2009, there had been three times less escorts in 2009 as compared to previous

years. He stressed the importance for his country, being a major transit country, that the issue be satisfactorily resolved.

37. The IRU referred back to the discussion on the guarantee in WP.30 in 2007 and 2008 and the assessment by the insurers of the consequences of any increase in the guarantee amount. The Board was reminded that the insurers had clearly stated that they were willing to accept an increase in the guarantee level for any country which would have introduced appropriate risk management tools, such as Real Time SafeTIR (transmission in real time of SafeTIR data and on-line facilities to check the validity of guarantees).

B. Subcontractors

38. At the request of various TIRExB members, the secretariat informed that, as a follow-up to the discussions held by the TIRExB on the issue, it would submit a document to the WP.30 or AC.2, containing a proposal for a new comment, recommending that once the authorities of the Customs office of departure would have duly accepted a TIR Carnet, presented by a subcontractor, such decision should be respected by all other authorities involved in the TIR transport.

C. Survey on the price of TIR Carnets

39. Revisiting the survey on the price of TIR Carnets, the TIRExB discussed how to present the summary outcome of the survey to the AC.2 in such a way that, on the one hand, AC.2 would be given full transparency and sufficient quality of information, while at the same time respecting the required confidentiality norms. Considering that information on the price of TIR Carnets is not confidential or restricted but part of the public domain, the TIRExB approved a draft document prepared by the secretariat, subject to an amendment to the text, which would make clear that all mentioned national price ranges should be considered individually and should not be compared with each other, as they have been established on the basis of criteria such as, but not limited to, the general standard of living and the number of TIR Carnets issued by that respective country. The IRU offered to cooperate with the secretariat to find the appropriate wording. With this amendment, the TIRExB requested the secretariat to submit the document to AC.2 for consideration at its forthcoming session.

XVI. Restriction on the distribution of documents

40. The TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal document No. 15 (2009) and the draft AC.2 document on the price of TIR Carnets.

XVII. Words of thanks

41. The TIRExB thanked the management of the State Customs Committee of Belarus for having hosted the meeting and expressed its appreciation over the informal exchange of views which had been organized with representatives from the Belarus State Customs Committee and, the Belarus national association (BAMAP). A special word of thanks went to Mr. Makhovikov (Belarus) for all his efforts to ensure that the meeting took place in a smooth and positive manner.

XVIII. Date and place of next session

42. The TIRExB decided to hold its forty-second session on 1 February 2010, in conjunction with the 124th session of the WP.30.
