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Geneva, 8 October 2014 2014

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 fifty-eighth session of the TIR Executive Board (TIRExB)

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 fifty-eighth session on 8–9 April 2014 in Geneva.
2. The following members of TIRExB were present: Mr. M. Ciampi (Italy), Mrs. D. Dirlik (Turkey), Mrs. L. Jelinkova (European Commission), Mr. H. Lindström (Finland), Mr. I. Makhovikov (Belarus), 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. M. Retelski.

II. Opening statement

4. In her opening statement, Mrs. Eva Molnar, Director, United Nations Economic Commission for Europe (UNECE), Transport Division, reverted to the continued lack of proper implementation of the TIR Convention in the territory of the Russian Federation.

GE.14-09911 (E)



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Although the actual situation was hard to judge due to the lack of proper information, the prospective date of termination of the guaranteeing agreement between the Federal Customs Service (FCS) of the Russian Federation and the Association of International Road Transport Carriers (ASMAP), set at 1 July 2014, was approaching fast. However, although this situation has serious impacts on the continuity and stability of the TIR system in the European region, the TIR Convention and the TIR procedure continue to demonstrate their excellence as customs and transport facilitation tools elsewhere and as such deserve to be kept in tune with on-going developments. This particularly holds true for the computerization of the TIR procedure, which is long overdue.

5. Mrs. Molnar informed the Board that, in an effort to address both the situation in the Russian Federation and to safeguard the future of the TIR Convention, part of the extraordinary, fifty-eighth session of the TIR Administrative Committee (AC.2) on 12 June 2014 would, therefore, be dealing with these issues. Because of their relevance, also Director-Generals of Customs, Ministers of Transport would be invited to attend the session (see also paragraph 23).

6. Mrs. Molnar further referred to the Millennium Development Goals (MDG) which should be accomplished by 2015. After their re-assessment under the post-2015 agenda of the Secretary-General of the United Nations, a new set of Sustainable Development Goals (SDG) will be developed. The purpose of the SDG's is to target all countries, regardless of their level of development. In the context of the on-going discussions on the establishment of SDG's, UNECE and the Inland Transport Committee (ITC) continue to strive for the recognition of sustainable transport as one of the future goals, constituting a crucial factor not only as a goal in itself, but particularly because of the access transport offers to various other SDG's (such as, but not limited to, employment, medical care and education) as well as offering countries the opportunity to improve their overall economic performances. By the end of May 2014, the input for the national strategies in this area should be defined.

III. Adoption of the agenda

Documentation: Informal document TIRExB/AGE/2014/58

7. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2014/58 with the following amendments:

Under Agenda item 11 "Other matters" (at the request of IRU):

- Problems faced by Jordanian transport operators when conducting TIR transports on the territory of Turkey;
- On-going problems in the application of the TIR Convention between Tajikistan and Uzbekistan;
- Proposal by the national association of Ukraine to print the slogan "Stop corruption" on each TIR Carnet.

Under Agenda item 11 "Other matters" (at the request of the secretariat):

- Activities with regard to the possible accession of the People's Republic of China to the TIR Convention;
- Problems between the competent authorities and the national association in the Republic of Moldova.

IV. Adoption of the report of the fifty-seventh session of TIRExB

Documentation: Informal document TIRExB/REP/2014/57 draft with comments

8. The Board adopted the draft report of its fifty-seventh session (Informal document TIRExB/REP/2014/57draft with comments), subject to the following amendments:

Page 2, paragraph 9, starting at the penultimate line

Replace the European Union (EU) except at borders with Finland by some European Union (EU) member states, except at borders with Finland, as well as at customs offices with other countries

Page 3, paragraph 9 (continued), last line

After reimbursed add Mrs. Jelinkova (European Commission) informed the Board that the Commission is conducting a full legal analysis of the situation, including the relevance of other legal instruments, such as the Vienna Convention and the GATT.

Page 3, paragraph 11, line 1

Replace discussed in detail by touched upon

Page 3, paragraph 11, line 1

Replace of what by which

Page 3, paragraph 11, line 2

After association add and the TIR system would no longer function

Page 3, paragraph 12, last line

Insert new paragraph 13 to read Mr. Retelski (IRU) informed the Board that, unless the situation would evolve positively, IRU might be forced by its member associations to stop distributing TIR Carnets to the Association of International Road Transport Carriers (ASMAR) and to no longer accept guarantee coverage for the territory of the Russian Federation, as of 1 July 2014.

Page 3, new paragraph 13

After new paragraph 13 renumber all remaining paragraphs of the report

Page 4, existing paragraph 17, line 10

After documents add Bearing in mind that the future eTIR system should, at least, provide the same level of facilitation as the current, paper-based TIR system,

Page 4, existing paragraph 17, line 13

After message delete Bearing in mind that the future eTIR system should, at least, provide the same level of facilitation as the current paper-based system, the TIRExB supported the view that GE.1 should pursue its efforts to establish such standard eTIR declaration mechanism.

Page 5, existing paragraph 22

For the existing text read The Board was informed that on 23 and 24 September 2013 a third technical meeting of the Corridor project had taken place in Ankara, with the participation of various interested countries, as well as the secretariat of the Economic Customs Organization (ECO) and the Union of Chambers and Commodity Exchanges of Turkey (TOBB). A test run of the first trucks is expected to be launched in March 2014.

Page 6, existing paragraph 28, first line

Before further delete Following TIRExB,

V. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations

A. The decision of the Russian Federal Customs Service affecting the functioning of the TIR system

1. Follow-up to the fifty-seventh session

Documentation: Informal document No. 15 (2014), Informal document No. 14 (2014), Informal document No. 12 (2014),

9. TIRExB regretted that, as yet, the Federal Customs Service (FCS) of the Russian Federation had not replied in writing to a set of questions, formulated by TIRExB at its fifty-seventh session and which had been partly addressed at the fifty-seventh session of AC.2 (see ECE/TRANS/WP.30/AC.2/117, paras. 43-57). TIRExB took note that, as requested, the UNECE secretariat had forwarded the questions by mail to FCS for their full and in-depth reply.

10. TIRExB further took note, with regret, of Informal document 14 (2014), in which Mr. Amelyanovich (Russian Federation) declined the invitation by the Chair of TIRExB (expressed orally at the fifty-seventh session of AC.2 – see ECE/TRANS/WP.30/AC.2/117, paragraph 57 – as well as in writing) to attend the fifty-eighth session of the Board as observer, because, in the words of the informal translation of the letter, such status would not allow to fully reflect the Russian position in the sessions and final reports of TIRExB.

11. TIRExB requested the secretariat to resend the list of questions to the Head of FCS for timely reply before the next session of AC.2 (12 June 2014). The letter should also clarify the roles and responsibilities entrusted to the TIR Contracting Parties to TIRExB, refer to various statements by all TIR intergovernmental bodies and ITC with regard to the application of the TIR system on the territory of the Russian Federation, address the invitation to Mr. Almelyanovich (Russian Federation) to attend the 58th session of TIRExB as observer and reiterate the availability of the Board to assist FCS in exploring and finding possible solutions for the crisis.

12. With regard to the current situation in the Russian Federation, TIRExB took note of Informal document No. 15 (2014) transmitted by IRU and providing an update of known developments since the Board's previous meeting, as well as information on a recently conducted audit of ASMAP, access by IRU of documents related to reportedly outstanding claims in the Russian Federation and on various studies assessing the economic impact of the restrictions imposed by FCS on the use of the TIR system in the Russian Federation. TIRExB further noted that FCS had announced a further extension of the restrictions and would no longer accept TIR Carnets at the Finnish-Russian customs office of Torfyanovka (Vyborg region) as of 21 April 2014. According to Mr. Somka (Ukraine), the concerned decree No. 58 (2014) had been formulated as an 'experiment', meaning that it could be implemented without the involvement of the Ministry of Justice.

13. Despite the on-going deterioration as regards the use of the TIR system in the Russian Federation, Mr. Retelski (IRU), with reference to the positive commitment and continued efforts of various Russian stakeholders to the TIR Convention, reconfirmed IRU's hope that the TIR system would soon be re-established on the territory of the Russian Federation. As a consequence, the General Assembly of IRU, which had met early April

2014, considered it premature (or, even, counterproductive) to discuss any withdrawal from guarantee coverage for the territory of the Russian Federation but reserved the right to do so at any point in the future, when considered appropriate.

14. TIRExB took note of Informal document No. 12 (2014), transmitted by Mr. Somka (Ukraine) and containing a legal analysis discussing the de facto and de jure possibility of ASMAP to issue TIR Carnets and to act as guarantor under the provisions of Annex 9, Part I, in light of the situation as it stands in the Russian Federation. According to Mr. Somka the main findings of the analysis were that ASMAP ought to fulfil its obligations in accordance with the Convention and in accordance with the terms of its guarantee agreement with FCS. Even though ASMAP continues to be authorized and its agreement with FCS is still valid, the restrictions placed by FCS negatively impact ASMAP to perform its duties under its agreement with FCS and, by extension, also under the provisions of the Convention. This impossibility of performance, according to this analysis, should objectively result in the termination of the agreement and the withdrawal of authorization to issue TIR Carnets and to act as guarantor by the competent authorities of the Russian Federation, in accordance with Annex 9, Part I, Article 5. As a consequence, according to Mr. Somka, the absence of such decisions warrants other Contracting Parties to refuse accepting TIR Carnets issued by ASMAP.

15. The Board thanked Mr. Somka (Ukraine) for his contribution to the overall legal assessment of the situation in the Russian Federation. At the same time, the Board acknowledged that the assessment did not address all provisions which might be at stake to provide a full legal analysis. In particular, reference was made to the provision of Article 45, which recommends Contracting Parties to make the largest number of Customs offices, both inland and at the frontier, available for dealing with TIR operations. In this context, TIRExB noted that, as a rule, Contracting Parties only publish a list of customs offices at the time that the TIR system becomes operational for their country. TIRExB recalled its previous discussions on the establishment of an electronic database on customs offices and its decision to start working on this project, in line with TIRExB's Terms of Reference, item 8, sub-item (a). In general terms, as long as the authorization and agreement are intact, customs authorities of other Contracting Parties should respect their international commitments under the Convention and accept the TIR Carnets issued by ASMAP, despite the fact that it is objectively unable to fully carry out its functions in the current circumstances. Mr. Somka emphasized that, in his view, the failure to comply with the basic requirements of the TIR Convention, making it impossible for the national association to act as guarantor despite the existence of a formal agreement, warrants other Contracting Parties to no longer accept guarantees provided by that same association.

VI. Application of specific provisions of the TIR Convention

A. Use of additional guarantees

Documentation: Informal document No. 8 (2014)

16. TIRExB took note of Informal document No. 8 (2014) as well as a presentation by Mr. Retelski (IRU) about new products that IRU has recently introduced or considers to launch in the near future, such as: TIR Carnets with different guarantee levels or for specific products, extending the TIR+ voucher system to more countries and the use of specific carnets for internal transports. He also informed the Board that, as of 1 May 2014, IRU would lower the price of 4-voucher TIR Carnets from 37 CHF to 25 CHF for all countries. A new list of all TIR Carnet distribution prices would be transmitted to TIRExB shortly.

17. Various TIRExB members welcomed the efforts undertaken by the IRU to provide new products for operators. Other TIRExB members, however, questioned the introduction of a special carnet for internal transports, the so-called “iCarnet”. Mr. Retelski (IRU) explained that such iTIR Carnet could be used for the transport of imported goods which are still under customs supervision between two customs offices in a single country. And, although subject to the provisions of national law, the provisions of the TIR Convention would apply *mutatis mutandis* (meaning: in as far as applicable). In this regard, considering that there is no connection with the TIR Convention, various TIRExB members raised doubts whether the layout of the document as well as the use of the *mutatis mutandis* clause were appropriate. In addition, the Board questioned if the insurance risks related to the various proposed products, which apparently were all covered by the same international insurer (AXA), all fell under the same insurance policy (meaning that the risks related to any of them would impact the functioning of the international TIR guarantee chain) or if separate policies had been concluded. Mr. Retelski confirmed that separate insurance coverage had been concluded for the iCarnet and agreed to further address this issue at a future occasion.

18. Various TIRExB members also pointed to the fact that the requirement of additional guarantees was not in line with the scope and provisions of the TIR Convention, in particular Article 4, and that the most appropriate way out to solve the on-going issue of insufficient guarantee coverage seemed to be by raising the maximum sum per TIR Carnet in accordance with Article 8, paragraph 3. While recalling that the TIR Convention allows for the use of escorts for transports under exceptional circumstances, reference was made to the recently concluded draft Trade Facilitation Agreement by the World Trade Organization (WTO), which stipulates that “Members may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs law and regulations cannot be ensured through the use of guarantees” (Article 11, paragraph 11, subparagraph 5).

19. TIRExB decided to revert to this issue at its next session.

VII. Computerization of the TIR procedure

A. Current status of the eTIR Project

20. TIRExB was informed that, at its one-hundred-and-thirty-sixth session (4–7 February 2014), the Working Party on Customs Questions affecting Transport (WP.30) had taken note of a request for guidance from the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) on the strategy it should follow regarding the concepts for submitting eTIR declarations along the itinerary of a TIR transport. This request had been triggered by the establishment by GE.1 that national requirements regarding safety and security purposes, which usually accompany the customs declaration, differ from country to country. Due to the absence of official documentation, the Working Party had decided to revert to this issue at its June 2014 session. TIRExB took note that the next session of GE.1 was planned for September 2014.

21. TIRExB noted that, with the assistance of the UNECE secretariat and the European Commission, Turkey and Italy had reached agreement on the Terms of Reference for the eTIR Pilot Project, paving the way for concrete steps towards its implementation.

22. The secretariat briefly introduced a proposal for a joint UNECE – IRU eTIR Pilot Project, whose scope is to demonstrate a fully computerized TIR solution by using mainly the existing (national and private sector) systems in place while maintaining, as final goal, the establishment of the fully fledged eTIR vision as contained in the eTIR Reference

Model. TIRExB expressed its general support for the initiative to accelerate the computerization process and two TIRExB members expressed a potential interest from their administrations to participate in the pilot project. At the same time, TIRExB questioned the obligatory use for TIR Carnet holders of the IRU's TIR-EPD system to submit their declarations to customs and encouraged UNECE and IRU to see if other options could also be included in the pilot project.

23. In the context of the discussions on the need to accelerate the computerization process of the TIR procedure, the secretariat informed the Board that letters would be sent to Directors-General of customs and Ministers of Transport of all TIR Contracting Parties, inviting them to attend the fifty-eighth session of AC.2 on 12 June 2014 to, inter alia, share their views and express their support for eTIR.

B. United Nations Development Account

24. The Board further took note of the progress made in the United Nations Development Account (UNDA) 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 consultant, hired to undertake a gap-analysis for Georgia, had submitted a first draft. Upon the completion of the gap analyses by all regional commissions, the first interregional Expert Group meeting would be organized to select pilot countries and further define what would be possible to achieve in each pilot country with the available funds. The Board also noted that, at its seventy-sixth session, the Inland Transport Committee (ITC) had welcomed the progress made in the project.

C. Central database for certificates of approval

25. The secretariat informed the Board that, so far, it had received 30 English and 2 Russian replies to the survey on the issuance of certificates of approval at the national level, which the secretariat had launched in February 2014 at the request of the Board. The secretariat would prepare an assessment of the results for consideration by the Board at its next session.

VIII. Adaptation of the TIR procedure to modern business, logistics and transport requirements

A. Implementation of the intermodal aspects of the TIR procedure

26. Due to lack of time, TIRExB decided to revert to this issue at its next session.

B. Authorized consignor and consignee

Documentation: Informal document No. 9 (2014)

27. The Board took note of Informal Document No. 9 (2014), prepared by the secretariat and containing an analysis of the substantive practical and legal considerations to be taken into account for the introduction of the concept of authorized consignor into the TIR Convention. In the view of the Board, the document seemed more focused on potential drawbacks rather than on elaborating the positive facilitation aspects of the proposed

concept. The Board stressed that, nowadays, the use of electronic tools greatly facilitates the supervision by customs of authorized consignors.

28. The Board, after extensive discussions, concluded that it wished to move forward with the introduction of the authorized consignor by eventually making a complete and concrete proposal to AC.2 and that it would strive doing so by means of a new Explanatory Note to Article 49 of the TIR Convention, which should provide a general legal basis for the introduction of further simplifications. The choice for Article 49 would also underline the Board's overall opinion that the concept of authorized consignor should be treated as a national facilitation which did not impede the application of the TIR Convention. To this end, the Board requested the secretariat to prepare – using available existing examples as basis, as well as the Power Point presentation made by Mr. Lindström (Finland) at the Board's fifty-sixth session (see Informal document No. 27 (2013)) – a document describing the possible modalities of implementing the concept (possibly by means of an example of best practice) including proposals for an Explanatory Note to Article 49. Mr. Retelski (IRU) informed the Board that the Polish national customs authorities, in close collaboration with the Polish national association, ZMPD (Association of International Hauliers in Poland), had granted more than 100 Polish TIR Carnet holders the opportunity to fulfil the tasks of the customs office of departure, i.e. checking the vehicle and the goods, affixing seals and filling in boxes 16 to 23 of the TIR Carnet, including putting customs stamps, before reporting to the customs office of exit and that appropriate measures had been taken to amend the national guarantee agreement as well as the TIR Electronic Pre-Declaration (EPD) tool accordingly. TIRExB agreed to further assess the Polish situation.

IX. Functioning of the TIR international guarantee system

A. Survey on customs claims

29. TIRExB took note of the fact that the secretariat had been unable to issue a document with the results of the survey, due to the absence of data from various key countries, in particular, but not limited to, the Russian Federation. TIRExB requested the secretariat to send another reminder to the countries concerned, including a specific reference to the fact that TIRExB can only fulfil the functions entrusted to it by the Contracting Parties to the TIR Convention in accordance with the provisions of Annex 8, Article 10 of the Convention, if Contracting Parties provide complete and timely replies to TIRExB surveys.

B. Termination of the agreement between customs and the guaranteeing association in Portugal

Documentation: Informal document No. 10 (2013), Informal document No. 10 (2013) / Add. 1

30. TIRExB considered Informal document No. 10 (2013) and its Add. 1, providing extensive information, including exchanges of letters between various parties, on the intention of the Portuguese national association, ANTRAM (Associação Nacional de Transportadores Públicos Rodaviários de Mercadoras), to terminate the guaranteeing agreement with the Portuguese customs administration, due to the fact that it was no longer a member of IRU, nor did it issue TIR Carnets anymore.

31. The secretariat informed TIRExB that, despite no longer being member of IRU since October 2012, the international guarantee chain had issued insurance certificates for ANTRAM for the year 2013 as well as for 2014. In reply to a request for clarification, Mr

Retelski (IRU) informed the Board that, despite the fact that ANTRAM is no longer a member of the IRU, it had been decided not to terminate the so-called “Deed of Engagement”, which contractually ensures that ANTRAM can act as guaranteeing association in Portugal on behalf of the international guarantee chain managed by the IRU. This had been decided on an exceptional basis in order to ensure uninterrupted guarantee coverage for the entire customs territory of the European Union, which would have been at risk, if there would no longer have been guarantee coverage on the territory of Portugal.

32. TIRExB requested the secretariat to address a letter to the Portuguese customs authorities (copy to the European Commission and IRU) clarifying that TIRExB fully supports the assessment by the TIR Secretary in his letter of 20 March 2013 to the same authorities, including the suggestion that the Spanish national association could also provide guarantee coverage for the territory of Portugal (similar to the situation in Belgium and Luxembourg, where the Belgian national association, FEBETRA (Fédération Royale Belge des transporteurs et des prestataires de services logistiques), by means of separate certificates, provides guarantee coverage for the territory of both Belgium and Luxembourg). TIRExB decided not to revert to this issue, unless it would receive further requests for assistance from the Portuguese customs authorities.

C. Decision of the Russian Federal Customs Service to terminate the agreement with ASMAP

Documentation: Informal document No. 30 (2013)

33. Further to the extensive considerations under agenda item V on the situation in the Russian Federation, Mr. Retelski (IRU) informed the Board about the latest developments in the tender procedure, presently conducted by the competent national authorities of the Russian Federation, aimed at approving a new national association under Article 6 of the Convention before or by 1 July 2014. According to information received by IRU, one of the conditions for interested parties is to provide full bank guarantee for all movements falling under the new association’s liability.

D. Implementation of Annex 9, Part III of the Convention

Documentation: Informal document No. 4 (2014).

34. TIRExB took note of Informal document No. 4 (2014), prepared by the secretariat. Further to the entry into force of new Annex 9, Part III of the Convention on 10 October 2013, the authorized international organization is required to submit various types of information to either AC.2 or TIRExB for the sake of further enhancing transparency in the implementation and functioning of the TIR Convention. In the document, the secretariat provided an overview of the various elements, together with details for their submission such as content, deadline and to whom (if given), seeking guidance from the Board on their application.

35. The Board recognized that some elements lacked clarity and could benefit from further specification. To this end, the Board requested the secretariat to prepare for each element a proposal (by means of an Explanatory Note or comment) elaborating its application. At the same time, TIRExB members were requested to provide the secretariat not later than by 1 June 2014 with their comments or suggestions in reply to the questions raised by the secretariat in paras. 16–22 of Informal document No. 4 (2014).

X. Price of TIR Carnets

Documentation: Informal document No. 11 (2014)

36. The Board took note of Informal document No. 11 (2014) by the secretariat, presenting the 2014 prices of each type of TIR Carnet issued by national associations, transmitted in accordance with the provisions of Annex 9, Part I, Article 3 (vi) of the Convention. TIRExB requested the secretariat to send a letter to those associations, which had not provided any data, informing them that absence thereof constitutes a breach of the provisions of the Convention. In addition, TIRExB requested the secretariat to transmit the document with the prices to AC.2 for consideration at its October session and to await AC.2 guidance on whether the TIRExB's monitoring function should go beyond the collection and the dissemination of the prices, before undertaking any economic analysis.

XI. Activities of the secretariat

Documentation: Informal document No.13 (2014)

37. Not discussed due to lack of time.

XII. Other matters

Documentation

38. Not discussed due to lack of time.

XIII. Restriction in the distribution of documents

39. TIRExB decided to keep Informal documents No. 8, 11, 12, 14 and 15 (2014), issued with reference to the current session, restricted.

XIV. Date and place of next session

40. TIRExB decided to conduct its fifty-ninth session on 30 June and 1 July 2014 in Geneva.
