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Administrative Committee for the TIR Convention, 1975
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**ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD
(TIRExB) ***

Activities of the TIRExB

Application of Annex 9, Part II of the TIR Convention
(controlled access to the TIR procedure for natural and legal persons)

Results of the survey of Contracting Parties **

Note by the secretariat

A. BACKGROUND

1. In September 2003, the TIRExB adopted its programme of work for 2003 and 2004 which was subsequently endorsed by the TIR Administrative Committee (TRANS/WP.30/AC.2/71, para.26). On a priority basis, the TIRExB decided to study

* The UNECE Transport Division has submitted the present document after the official documentation deadline due to planning oversight.

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specific measures (both legal and practical) to combat fraud resulting from the misuse of the TIR procedure. In particular, the Board identified the implementation of controlled access to the TIR procedure (Annex 9, part II of the Convention) as one of the most important tools to prevent fraud, and conducted a survey of the Contracting Parties in this area. A deadline for replies was set on 15 June 2004.

B. REVIEW OF THE REPLIES

2. The secretariat has processed replies from 33 Contracting Parties: Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Croatia, Cyprus, Estonia, France, Finland, Germany, Greece, Hungary, Italy, Jordan, Kazakhstan, Kuwait, Latvia, Lithuania, Macedonia, Netherlands, Norway, Poland, Romania, Russian Federation, Slovak Republic, Slovenia, Sweden, Syria, Switzerland, Turkey, United Kingdom, Uzbekistan. A summary of the replies is provided below.

Question 1. How many persons (TIR Carnet holders) are authorized to utilize TIR Carnets in your country at the moment?

The situation varies greatly from one country to another, both in terms of the total number of authorized persons and the split between legal and natural persons. While in some countries there are no or just few authorized natural persons (Armenia, Bulgaria, Estonia, France, Kazakhstan, Lithuania, FYR Macedonia, Romania, Sweden, Switzerland, Turkey, United Kingdom, Uzbekistan), in some other countries a lot of natural persons have been granted access to the TIR procedure (e.g., Croatia – 1,161 (71% of the total number), Greece – 2,864 (85%), Poland – 2,816 (58%), Slovakia – 1,536 (76%), Slovenia – 406 (71%)). Countries with the largest numbers of authorized persons are given in the table below.

<i>Country</i>	<i>Legal persons</i>	<i>Natural persons</i>	<i>Total</i>
Poland	2,017	2,816	4,833
Romania	4,236	-	4,236
Bulgaria	3,412	-	3,412
Greece	505	2,864	3,369
Slovak Republic	478	1,536	2,014
Croatia	484	1,161	1,645
Belarus	837	663	1,500
Lithuania	1,139	-	1,139
Turkey	1,010	-	1,010
Russian Federation	809	92	901

Table 1. Ten countries with the largest numbers of authorized persons

Question 2. How many TIR Carnets have been issued in your country in 2003 by the national association(s)?

Table 2 shows ten countries leading in the issuance of TIR Carnets. For comparison, the data reported by countries (column 2) are complemented with the IRU's data on the number of TIR carnets distributed by IRU to the respective national association(s) in 2003 (column 3). Differences between columns 2 and 3 do not exceed 10%. It is also worth noting that seven countries from Table 2 appear in Table 1 as well.

<i>Country</i>	<i>Number of TIR Carnets issued in 2003 (replies to the survey)</i>	<i>Number of TIR Carnets distributed by IRU to the respective national association(s) (IRU's data)</i>
1	2	3
Turkey	467,765	419,000
Romania	465,898	472,900
Lithuania	333,303	327,200
Russian Federation	309,066	313,550
Bulgaria	287,188	303,000
Poland	236,705	244,000
Belarus	236,271	237,600
Latvia	147,530	154,500
Estonia	98,003	91,000
Hungary	65,675	67,650

Table 2. Ten countries with the largest numbers of TIR Carnets issued in 2003

Question 3. How many TIR operations have been undertaken in your country in 2003?

The following tables contain data from countries with significant numbers of TIR operations undertaken in 2003 (total, importation, exportation and transit).

<i>Country</i>	<i>Total number of TIR operations in 2003</i>
Poland	1,578,088
Germany	1,429,950
Romania	822,443
Turkey	724,076
Bulgaria	712,348
Russian Federation	700,813
Lithuania	597,856
Belarus	528,067
Estonia	423,753
Italy	418,823

Table 3 (a)

<i>Country</i>	<i>Number of TIR operations in 2003 (importation)</i>
Germany	720,950
Romania	390,125
Turkey	295,064
Estonia	214,462
Bulgaria	209,303
Italy	164,592
Lithuania	157,629
Poland	112,493
Belarus	98,681
Greece	97,741

Table 3 (b)

<i>Country</i>	<i>Number of TIR operations in 2003 (exportation)</i>
Germany	487,900
Austria	343,189
Turkey	340,824
Romania	235,552
Poland	207,068
Finland	187,233
Lithuania	181,893
Bulgaria	174,427
Estonia	159,672
Belarus	118,104

Table 3 (c)

<i>Country</i>	<i>Number of transit TIR operations in 2003</i>
Poland	1,258,257
Bulgaria	326,618
Belarus	311,282
Lithuania	258,334
Slovenia	240,176
Greece	234,094
Germany	221,100
Romania	196,766
Slovak Republic	172,868
Croatia	169,122

Table 3 (d)

Question 4. Please provide a breakdown indicating the average number of road vehicles used by one TIR holder in your country.

Generally, most transport operators are of small size (1-2 vehicles) or middle size (3-10 vehicles). As can be expected, countries with a lot of natural persons (see Question 1 above) have a bigger share of transport companies which are in possession of 1 or 2 vehicles only. It is remarkable that one Contracting Party (Turkey) has only big transport operators with more than 10 vehicles (actually, that is the requirement for access to the TIR procedure – see Question 17). On the other hand, few countries (Belarus, Germany, Kuwait, Lithuania) authorize persons who do not have vehicles at all.

Question 5. Which documents (information) are accepted to prove experience or capability to engage in regular international transport?

License for carrying out international transport: 28 countries.
CPC (Certificate of Professional Competence): 15 countries.
Other: 17 countries.

Among "Others", copies of used CMR consignment notes were often mentioned.

Question 6. When deciding on sound financial standing, which of the following is taken into consideration in your country?

Real estate: 18 countries.
Movables (vehicles, etc.): 20 countries.
Financial assets (money, stocks, etc.): 21 countries.
Other: 15 countries.

Among "Others", the following was mentioned: bank guarantee, insurance certificates, audited accounts, bank statements.

Question 7. Has a monetary threshold been determined in your country in order to decide on sound financial standing?

Yes: 16 countries.
No: 13 countries.

Countries, which replied positively to this question, indicated amounts from € 9,000 to 51,000 per company or from \$ 2,000 to 10,800 per vehicle.

Question 8. Which bodies actually verify information on sound financial standing in your country, being a prerequisite for access to the TIR procedure?

Customs authorities: 13 countries.

Tax authorities: 5 countries.

License authorities: 3 countries.

Audit companies: 2 countries.

National guaranteeing association: 28 countries.

Other: 7 countries.

Basically, all "Other" replies could be classified under the above points. It is worth noting that many Customs authorities rely on checks performed by the national association, rather than verify themselves sound financial standing.

Question 9. Following authorization, is the holder's financial standing subsequently checked to ensure it remains sound?

Yes, regularly: 10 countries.

Only if information is available on his insolvency or financial difficulties: 15 countries.

No: 5 countries.

Other: 3 countries.

Thus, about 50% of the respondents check the holder's financial standing only if information is available to the contrary. Among those who do it regularly the most common reply was "annually", although intervals may vary from 2 weeks (Sweden) to 5 years (Slovakia).

Question 10. How does a person prove his knowledge in the application of the TIR Convention?

No evidences are required: 6 countries.

By passing a special test (examination) organized by Customs: 3 countries.

By passing a special test (examination) organized by the association: 8 countries.

Other: 17 countries.

Since proven knowledge in the application of the TIR Convention is a sine qua non for the authorization, it seems appropriate to draw the attention of the first group of countries to this fact. Under "Other" option various training courses and certificates (like CPC) were mentioned, in particular, organized by the Ministry of Transport.

Question 11. Which offences against Customs or tax legislation are considered serious in your country?

The most common replies are as follows: smuggling, tampering with Customs seals/fastenings, places for concealment, evasion of Customs payments and outstanding Customs debts, loss of goods/vehicles under Customs control or failure to present them at the Customs office of destination, using or treatment of goods subject to Customs supervision without Customs approval, false Customs declarations, falsification and substitution of documents. It seems that the categories mentioned above may overlap, and one infringement may fall under several categories. Some countries indicated that they do not have specific rules and take a decision on a case-by-case basis.

Question 12. Which types of offences against Customs or tax legislation do you consider repeated?

In general, the same offence committed twice or more times is considered repeated. In some countries, offences may be referred to as repeated only if they are committed within a prescribed time period (one or two years).

Question 13. When deciding on the authorization for a legal entity to use the TIR procedure, are serious or repeated offences against Customs or tax legislation committed by physical persons, who are the owners or managers of that legal entity, taken into consideration in your country?

Yes: 29 countries.

No: 3 countries.

Question 14. Does your country take into due account any information notified by another Contracting Party in accordance with Article 38, paragraph 2 on serious or repeated offences against Customs legislation committed in that country by a person wishing to have access to the TIR procedure in your country?

Yes: 32 countries.

No: none.

Question 15. Following authorization, is the absence of serious or repeated offences against Customs or tax legislation checked?

Yes, regularly: 10 countries.

Only if there is information to the contrary: 20 countries.

No: 2 countries.

Other: none.

A majority of countries check the absence of serious or repeated offences against Customs or tax legislation only if there is information to the contrary.

Question 16. Does your country monitor, on a permanent basis, how domestic TIR Carnets holders observe the provisions of the TIR Convention in other Contracting Parties to the Convention?

Yes: 14 countries.

No: 18 countries.

Most of the countries, which replied positively to this question, indicated that this monitoring is done by means of the SafeTIR system or by checking TIR Carnets upon their return to the issuing association. Exchange of information with Customs officials and/or associations abroad was also mentioned.

Question 17. Which additional and more restrictive conditions and requirements are applied to a person wishing to have access to the TIR procedure in your country?

None: 5 countries.

Minimum number of vehicles at his disposal: 9 countries.

Recommendations or surety by other reliable TIR Carnet holders: 6 countries.

Financial guarantee (bank guarantee, insurance, etc): 26 countries.

Application fee: 4 countries.

Other: 8 countries.

Where applicable, a minimum number of vehicles is 1, except for Kuwait and Turkey (5 and 10, respectively). Additional financial guarantees vary from \$5,000 to \$100,000. They are increased for high-value goods (HVG).

Question 18. In the opinion of your administration, is it necessary to include into the TIR Convention additional and more restrictive conditions and requirements for access to the TIR procedure?

Yes: 4 countries.

No: 29 countries.

Question 19. Is the procedure for access to the TIR regime incorporated into national legislation of your country?

Yes: 22 countries.

No: 11 countries.

The fact that one third of respondents have not incorporated the procedure for access into national legislation does not mean that these countries do not implement Annex 9, Part II of the TIR Convention. Possibly, the provisions of the Convention may directly apply in these Contracting parties. This issue needs to be discussed further.

Question 20. Has your country established an authorization committee comprising representatives of the competent authorities and national association?

Yes: 12 countries.

No: 20 countries.

Irrespective of the existence of such committees, in a vast majority of countries the Customs authorities work in close cooperation with the national association.

Question 21. Which governmental authorities are involved in the authorization procedure in your country?

Customs: 30 countries.

Tax authorities: 4 countries.

Police: 2 countries.

Ministry of Transport: 8 countries.

Ministry for Foreign Affairs: none.
Other: 7 countries.

Under "Other" option, some countries indicated the national association which cannot be considered as a governmental authority.

Question 22. Who takes a final decision regarding access to the TIR procedure?

Customs: 22 countries.
National association: 9 countries.
National authorization committee: 2 countries.
Other: none.

Probably, countries which selected the second option (national association), understood "a final decision regarding access to the TIR procedure" as the right to obtain TIR Carnets from the association, which is not correct. Another explanation could be that some Customs administrations have de-facto delegated their rights to the national association.

Question 23. Is there a prescribed time-limit for taking a decision on access to the TIR procedure by the competent authorities?

Yes: 19 countries.
No: 14 countries.

Where applicable, a time limit varies from 1 day (Turkey) to 60 days (Slovenia), with an average of 20-30 days.

Question 24. If a person is refused access to the TIR procedure, can he appeal against this decision?

No: 7 countries.
Yes: 24 countries.

Normally, it is possible to challenge such a refusal before the competent national court.

Question 25. In 2003, how many persons have been granted access and how many persons have been refused access to the TIR procedure in your country?

For confidentiality reasons, these data are not included in the present document. Further information may be obtained from the secretariat on request.

Question 26. If a person no longer fulfils criteria for access to the TIR procedure, who can withdraw his authorization?

Customs: 28 countries.

National association: 20 countries.

National authorization committee: 3 countries.

Other: 1 countries.

Again, as only the competent authorities are entitled to withdraw the authorization of a person, a large number of replies "National association" may indicate that those countries mix up the authorization for access to the TIR procedure with the right to obtain TIR Carnets from the association. Another explanation could be that some Customs administrations have de-facto delegated their rights to the national association.

Question 27. In order to exclude from the TIR regime a domestic person guilty of a serious offence against Customs legislation in your country, are the provisions of Article 6, paragraph 4 and Annex 9, Part II, paragraph 1 (d) (withdrawal of authorization) or the provisions of Article 38, paragraph 1 (exclusion) used?

Article 6, paragraph 4 and Annex 9, Part II, paragraph 1 (d): 24 countries.

Article 38, paragraph 1: 17 countries.

Question 28. In 2003, how many domestic persons have been withdrawn from the TIR procedure according to Article 6, paragraph 4 and Annex 9, Part II, paragraph 1 (d)?

For confidentiality reasons, these data are not included in the present document. Further information may be obtained from the secretariat on request.

Question 29. In 2003, how many domestic persons have been excluded from the TIR procedure according to Article 38, paragraph 1?

For confidentiality reasons, these data are not included in the present document. Further information may be obtained from the secretariat on request.

Question 30. Does your country transmit to the TIRExB the required data within one week from the date of authorization or withdrawal of authorization to use TIR Carnets?

Yes: 25 countries.

No: 5 countries.

Question 31. Does your country annually transmit to the TIRExB an updated list as per 31 December of all authorized persons as well as of persons whose authorization has been withdrawn?

Yes: 29 countries.

No: 2 countries.

C. FURTHER OBSERVATIONS BY THE SECRETARIAT

4. Generally, the application of Annex 9, part II of the TIR Convention seems to be at a reasonable level. The Contracting Parties take seriously their obligations according to the relevant provisions of the TIR Convention. A very important contribution is made by the national guaranteeing associations which, through the unified rules established by the IRU, provide for harmonized conditions for admission of their members to the TIR system. In some countries, however, the Customs authorities (probably, due to lack of resources) rely too much on the guaranteeing association when authorizing persons for access to the TIR procedure (see, for example, replies to Questions 8, 10, 22 and 26). Although concerted actions by the Customs and national association are indispensable for the smooth implementation of the access procedure, the Customs authorities represent the Government and should not outsource their official functions to the private sector. It is remarkable that some countries even consider the national association as a governmental authority (see Question 21 above).

5. When a person applies for authorization to the TIR system for the first time, he is checked rather thoroughly by various bodies. However, a posteriori checking of TIR Carnet holders leaves much to be desired, as most countries do not implement regular checks, unless there is information on some problems (infringements, insolvency, etc.). Thus, infringers may have enough time to commit repeated fraud before being expelled from the system.

6. With regard to possible amendments to the TIR Convention containing additional and more restrictive conditions and requirements for access to the TIR procedure (Question 18), the Contracting Parties almost unanimously indicated that there is no such need. Apparently, the present Convention already provides the sufficient legal basis for a strict authorization procedure. Thus, it may be concluded that further improvement and harmonization of the application of Annex 9, Part II at the national level should be conducted not through the legal text, but by means of comments, examples of best practices, etc.

7. The TIR Administrative Committee may wish to consider the above results and conclusions of the survey and provide guidance to the TIRExB with respect to follow-up actions.

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