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ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD (TIRExB)

Activities of the TIRExB

Report by the Chairperson of the TIRExB at its thirtieth session

I. ATTENDANCE

1. The TIR Executive Board (TIRExB) held its thirtieth session on 29 and 30 November 2006 in Geneva.
2. The following members of the TIRExB were present: Mr. R. Boxström (Finland); Mr. G. Grigorov (Bulgaria); Mr. A. Habekh (Jordan); Mr. J. Marques (European Community); Mrs. H. Metaxa-Mariatou (Greece); Mrs. N. Rybkina (Russian Federation); Mrs. N. Rynkevich (Belarus); Mr. R. Šmidl (Czech Republic). Mr. R. Şen (Turkey) was not present.
3. In accordance with Annex 8, Article 11, paragraph 5 of the Convention, the International Road Transport Union (IRU) attended the session as observer and was represented by Mr. J. Acri, Head, TIR System, and, on an exceptional basis, by Mr. P. Hook, TIR Advisor.
4. The TIRExB noted with concern that no information was provided about the reasons for the absence of Mr. R. Şen (Turkey). The Board requested the TIR secretariat to contact the Turkish competent authorities on this issue.

II. ADOPTION OF THE AGENDA

5. The TIRExB adopted the agenda of the session as prepared by the TIR secretariat (TIRExB/AGE/2006/30) with the inclusion of the following issue under agenda item 17 "Other matters":

- use of two TIR Carnets for one road vehicle.

III. ADOPTION OF THE REPORT OF THE TWENTY-NINTH SESSION OF THE TIREXB

Documentation: TIRExB/REP/2006/29draft

6. The TIRExB adopted the report of its twenty-ninth session (TIRExB/REP/2006/29).

IV. LOST AND INVALIDATED TIR CARNETS

Documentation: Informal document No. 15 (2006)

7. The TIRExB expressed its concern over the recent increase in the number of TIR Carnets which were lost before issuance and which were subsequently invalidated by the IRU, as reported in the Cute-Wise system. In this context, the Board welcomed Informal document No. 15 (2006) by the IRU, providing background information on the issue. According to the IRU, the increase in the number of invalidated TIR Carnets was due to two cases of loss that had happened in Italy:

- 450 TIR Carnets had been lost between the national association's central and remote offices;
- 573 TIR Carnets had not been issued by the national association within the prescribed deadlines and had been sent back to the IRU, but lost during the shipment. Later, 500 TIR Carnets were found and safely sent to the IRU. Following that, their numbers were withdrawn from the list of invalidated TIR Carnets.

8. The TIRExB wondered if the latter information was in line with the earlier explanation by the IRU that, once invalidated, a TIR Carnet cannot be "revalidated" (TIRExB/REP/2004/24, para. 10). The IRU pointed out that this explanation only referred to TIR Carnets invalidated after their issuance by a national association. TIR Carnets which are lost before issuance and invalidated, if recovered afterwards, do not represent a risk for the guarantee chain. Such TIR Carnets change their status to "archived" and no longer appear on the list of invalidated TIR Carnets. The TIRExB was of the opinion that such TIR Carnets may be subject to fraud and that rapid changes in the list may create difficulties for the Customs authorities and that more transparency should be provided with regard to the establishment of the list and subsequent changes therein. The Board also noted that the most recent listing contained not only the TIR Carnets lost in Italy, but also a large number of TIR Carnets distributed to two other countries. To address various issues raised by the TIRExB, the IRU offered to prepare a new document and a presentation for the consideration at the next session. The members of the Board were invited to transmit to the IRU in writing additional questions, if any.

9. The TIRExB also wondered which precautions, including cargo insurance, are taken when shipping TIR Carnets. The IRU explained that TIR Carnets are transported in anonymous packages either by an express carrier or by the national association concerned, and no third parties should be involved in the delivery. Transport insurance covers the value of TIR Carnets (price), but not the TIR guarantees.

V. HARMONIZED APPLICATION OF ANNEX 9, PART II OF THE TIR CONVENTION (CONTROLLED ACCESS TO THE TIR PROCEDURE)

Documentation: Informal document No. 1 (2006)/Rev.1

10. The TIRExB considered Informal document No. 1 (2006)/Rev.1, containing an updated example of best practice for the harmonized application of Annex 9, part II of the Convention. The Board generally agreed to the example, but made a few additional changes to the document. A modified example of best practice is contained in ECE/TRANS/WP.30/AC.2/2007/10. The TIRExB invited its members to transmit written comments on the issue, if any.

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

Documentation: Informal document No. 12 (2006)

11. On the basis of Informal document No. 12 (2006), the TIRExB considered several alternatives how the concept of subcontractor could be introduced into the text of the TIR Convention. The Board came to the conclusion that none of the proposed options would reply to three basic questions that had to be addressed in order to allow for the smooth use of subcontractors in the framework of the TIR procedure:

- Does the subcontractor have to be authorized to use the TIR procedure, in line with Annex 9, part II of the Convention or not?
- Will the subcontractor be considered as one of the persons directly liable, as referred to in Article 8.7, thus necessitating the Customs authorities, in case of an infringement, to claim payment from the subcontractor before making a claim against the national guaranteeing association?
- In practice, how do the Customs authorities distinguish between the subcontractor and a third party to whom the holder must not transfer the TIR Carnet?

12. The TIRExB felt that the views of the transport industry on the matter should also be taken into account. In this respect, the IRU informed the Board of various opinions which exist among the national guaranteeing associations. While some associations believe that the use of subcontractors is an established practice and, therefore, should be reflected in the Convention, some others are of the view that there is no automatic right for subcontracting: subcontractors should be authorized according to Annex 9, part II of the Convention or, at least, should be checked by the associations. With a view to making progress on the issue, the TIRExB invited the secretariat, in cooperation with the IRU, the Board's Chairperson and the European

Commission, to analyze the situation and to draft a new document for consideration at one of the future sessions of the Board.

VII. TRACTOR UNITS IN THE FRAMEWORK OF THE TIR CONVENTION

Documentation: Informal document No. 14 (2006)

13. The TIRExB welcomed Informal document No. 14 (2006) by the secretariat, analyzing two different approaches with regard to how the provisions of the TIR Convention concern tractor units towing semi-trailers with TIR goods, in particular, whether or not the tractor unit should be reflected on the TIR Carnet. The TIRExB noted that the tractor unit also falls under the definition of a road vehicle (Article 1 (g)), whose registration plate numbers are indicated in box 8 of the cover page of the TIR Carnet. The Board agreed that the attention should be paid to Article 15, paragraph 1 of the TIR Convention stipulating that neither special Customs documents nor a guarantee shall be required in respect of the temporary importation of a road vehicle, combination of vehicles or container carrying goods under cover of the TIR procedure.

14. The Board noted that, in accordance with national legislation of some Contracting Parties to the Convention, if the tractor unit registered abroad is not indicated on the TIR Carnet, this document cannot be used for temporary admission of the tractor unit, and the holder has to present another Customs document for temporary importation of the tractor (e.g., Carnet de Passage). This requirement could lead to delays in the course of a TIR transport. The TIRExB felt that Article 15.1 gives a unique opportunity to avoid those complications by simply inserting the tractor unit registration numbers on the cover page and vouchers of the TIR Carnet. On the other hand, under this approach any change of the tractor unit should be properly reflected in the TIR Carnet. That could lead to inconveniences for transport operators in case of numerous replacements of the tractor unit, especially if such changes should be made in the presence or, at least, with the consent of the Customs authorities. The Board was of the view that a procedure for tractor unit changes should be as simple as possible, while taking into account the interests of the Customs authorities and transport industry, and requested the secretariat to draft a comment on this issue for consideration at future sessions.

VIII. DRAFT SURVEY ON THE TIR GUARANTEE LEVEL AND ON THE FUNCTIONING OF THE TIR GUARANTEE SYSTEM

Documentation: Informal document No. 10 (2006)/Rev.1

15. The TIRExB considered Informal document No. 10 (2006)/Rev.1 by the secretariat, containing a draft survey of the Contracting Parties on the TIR guarantee level and on the functioning of the TIR guarantee system. The Board approved the document, subject to the following remarks:

- the survey should cover the years from 2004 to 2006;
- a 3-month deadline should be given to reply to the questionnaire;

- question 6 from Part B of the survey should refer to the year 2006 and it should be complemented with a similar question on the percentage of non-discharged TIR operations;
- the questionnaire should also address the payment requests made against persons directly liable.

The TIR secretariat was requested to modify Informal document No. 10 (2006)/Rev.1 accordingly, to translate it into all official languages and to prepare an electronic version of the questionnaire.

IX. SUSPENSION OF THE TIR GUARANTEE COVERAGE IN BULGARIA

16. The TIRExB recalled that, in June 2006, the IRU announced the suspension of the TIR guarantee coverage in Bulgaria. This decision was taken by the insurers of the TIR system following the lodging of a number of Customs claims against the Bulgarian guaranteeing association. In July 2006, the Bulgarian authorities decided to withdraw the claims. As a result, the suspension of the guarantee did not come into effect. Nevertheless, the Board felt that its task was to analyze general background for this kind of issue in principle, in order to avoid similar situations happening in the future.

17. The TIRExB recalled two of its functions according to the TIR Convention: to supervise the application of the Convention, including the operation of the guarantee system, and to facilitate the settlement of disputes between Contracting Parties, associations, insurance companies and international organizations. Therefore, the Board was of the view that it should play an active mediating role in the resolution of conflicts between the guarantee chain and Customs authorities and should become a tool to prevent possible crises in the future. However, in order to do so, it is essential that the TIRExB be duly informed of emerging problems. Thus, the Board called upon the IRU and all Contracting Parties to report to the TIRExB, as early as possible, any difficulties in the settlement of claims for payment as well as any dramatic increase in the number of TIR infringements that could eventually develop into claims.

18. The Board also touched upon the issue who is entitled to decide on the suspension of the TIR application in a particular country and whether or not the guarantee chain may select, at its own discretion, Contracting Parties where the guarantee coverage exists. The TIRExB noted that the TIR Convention contains no clear-cut provisions in this respect, although it has always been the intention of the TIR guarantee chain to provide a global coverage. It was also pointed out that the Customs authorities have relations only with the national guaranteeing association, neither with the IRU nor with the insurers, and that national guarantee agreements contain no reservation clause allowing for the suspension of the guarantee coverage by a third party. The Board felt that, with a view to finding replies to those questions in the mid-term, experts' opinions might be sought.

19. Finally, the TIRExB decided to revert to the above matters at the future sessions and invited the secretariat, together with the IRU, to explore which issues could be brought for the consideration and resolution by the Board.

X. APPLICATION OF ARTICLES 39 AND 40

Documentation: Informal document No. 3 (2006)/Rev.2

20. On the basis of modified proposals by the TIR secretariat (Informal document No. 3 (2006)/Rev.2), the TIRExB continued its deliberations with regard to an example of best practice in case of discrepancies between the particulars on the goods manifest of the TIR Carnet and the actual content of the load compartment. The Board was not in a position to agree to the document, as several members felt that the proposed example of best practice was not balanced, because it focused on only those situations where the holder of the TIR Carnet should not be liable for the above discrepancies. Therefore, the TIRExB felt that the best practice should be complemented with a few situations where the holder should be considered liable and invited its members to transmit to the TIR secretariat, before 31 December 2006, relevant practical examples together with other comments, if any. The Board decided to revert to this issue at the next session.

21. Some members of the TIRExB as well as the IRU deplored that, in spite of lengthy considerations, the Board was not yet in a position to adopt the underlying example of best practice which would be of great assistance to the Customs authorities and transport industry.

XI. REGISTER ON CUSTOMS STAMPS AND CUSTOMS SEALING DEVICES

22. The TIRExB recalled its earlier opinion that the Register on Customs stamps and Customs sealing devices is a valuable tool for Customs authorities which should be maintained in an electronic form, be regularly updated and accessible on-line for Customs officials (TIRExB/REP/2005/29, para.24). In this context, the TIRExB welcomed a presentation by the secretariat, proposing the relevant technical and administrative solutions. The purpose of the presentation was to demonstrate the Internet/Web approach that could be used in the context of supporting the publication of the UNECE Register of Customs sealing devices and Customs stamps on-line. The benefits of an Internet structure were highlighted and an overview of open issues was presented to the TIRExB. The presentation concluded with the advantages for the TIR Focal Points to access a Web-based register.

23. The TIRExB in principle supported the proposals by the secretariat and reiterated the importance of the Register for daily work of the Customs authorities. The Board also considered that the Register contains confidential information and stressed the need to ensure an adequate level of protection of a Web-based register from unauthorized access. It was decided to submit the proposals to the TIR Administrative Committee for consideration and possible adoption. The TIRExB also felt that the TIR Administrative Committee should encourage Contracting Parties to transmit to the secretariat full and timely information on the Customs stamps and Customs sealing devices, possibly on the basis of a standard layout. The secretariat was requested to draft a document covering the relevant issues and to submit it to the TIR Administrative Committee.

XII. FILLING-IN OF BOX 8 OF THE TIR CARNET

Documentation: Informal document No. 13 (2006)

24. The TIRExB considered Informal document No. 13 (2006), prepared by the Customs Administration of Finland, pointing out various practices with regard to the filling-in of box 8 "Documents attached to the manifest" on the TIR Carnet. The Board felt that the filling-in of box 8 is closely linked to the filling-in of other boxes of vouchers of the TIR Carnet. Therefore, this issue should be addressed in the context of preparing a general step-by-step instruction on filling-in of the TIR Carnet. In this context, the TIRExB took note that not all Contracting Parties seemed to have such an instruction at national level and, once prepared, it could become a useful tool for the Customs authorities and TIR Carnet holders. Meanwhile, the Board decided to invite delegations participating in WP.30 and/or AC.2 meetings to share with the secretariat their national regulations on the filling-in of the TIR Carnet, if available.

XIII. APPROVAL OF ROAD VEHICLES

25. The TIRExB recalled that, at its previous session, it decided on a number of follow-up activities with a view to ensuring the strict compliance of road vehicles with the technical prescriptions of the TIR Convention (TIRExB/REP/2005/29, paras.13 and 14), such as the elaboration and distribution of check-lists for various types of constructions of road vehicles, the translation and distribution of the CAFAO's training manual as well as the organization of a training seminar. Against this background, the TIR secretariat informed the Board of the following developments:

- the CAFAO's training manual had been issued and distributed as official WP.30 document ECE/TRANS/WP.30/2006/16 in all official languages;
- the CAFAO drafted and shared with the secretariat a number of check-lists for various types of constructions of road vehicles, which were on trial in the Serbian Customs authorities;
- the secretariat was planning to organize a half-day seminar for approval authorities in conjunction with a WP.30 session. In addition, at the invitation of the UNECE secretariat, the World Forum for Harmonization of Vehicle Regulations (WP.29) had decided to hold in June 2007 a half-day presentation on the issue.

The Board took note of the above information.

XIV. APPLICATION OF THE TIR CONVENTION IN SOME CONTRACTING PARTIES

A. Italy

26. The TIRExB recalled that it had been informed of problems which Turkish transport operators experienced in Italy and had requested the secretariat to send an inquiry to the Italian Customs Administration with a view to clarifying the situation (TIRExB/REP/2005/29, paras. 28

and 29). The Board took note that the secretariat had sent a letter to the Italian Customs which was not yet replied to.

B. Ukraine

27. The TIRExB recalled its earlier considerations regarding obligatory suspension of a TIR transport in Ukraine in cases where the amount of Customs duties and taxes at stake exceeded the TIR guarantee level (TIRExB/REP/2004/22, paras. 55-56, TIRExB/REP/2004/24, paras. 17-19, TIRExB/REP/2005/26, paras. 38-39 and TIRExB/REP/2005/29, para. 30). The Board took note that, following interventions by the TIRExB and the TIR secretariat, the State Customs Service of Ukraine had reconsidered and abolished the underlying national control measures. The TIRExB welcomed this information.

C. Hungary

28. The IRU informed the TIRExB that the problems with Customs agents at some external border crossings of Hungary, which had been reported to the Board at its previous session (TIRExB/REP/2005/29, para.31), were still ongoing and even evolved into the NCTS – TIR pilot. This information was also confirmed by a member of the TIRExB whose administration had recently addressed an inquiry to the Hungarian Customs authorities. The TIRExB expressed its concern over those facts and agreed with a proposal of Mr. J. Marques (European Community) to look into this issue at Community level.

D. Romania

29. The TIRExB was informed of the activities undertaken by the TIR secretariat in line with the request of the Board at its previous session (TIRExB/REP/2005/29, para.32):

- the ITDB was updated to reflect the change of the 3-letter country code for Romania from ROM to ROU;
- the TIR Customs focal points were advised that, during a transition period until 31 March 2007, the indication of both former and new ISO code in the ID number should be accepted by Customs authorities and should neither be an obstacle to the acceptance of TIR Carnets by the Customs authorities nor should it lead to delays during TIR transports;
- relevant information was posted on the UNECE TIR website.

E. Kyrgyzstan

30. The TIRExB recalled that, at the previous session, it was informed of some problems in the relations between the Customs Administration of Kyrgyzstan and the national TIR guaranteeing association (TIRExB/REP/2005/29, para.35). The TIRExB took note that those problems could be attributed to a revision of the guarantee agreement between the two parties and that, in October 2006, a new guarantee agreement was signed in Kyrgyzstan. The Board reminded that a copy of the new agreement should be deposited with the TIRExB and considered the reported conflict to be settled.

XV. ACTIVITIES OF THE TIR SECRETARIAT

A. ITDB

31. The TIRExB took note of the latest status of data transmitted to the ITDB by the Contracting Parties as well as of activities undertaken by the secretariat to obtain the missing data. The Board was also informed of an update of the ITDB 2001 software elaborated by the secretariat and used by many countries for the maintenance of their national databanks on authorized TIR Carnet holders.

B. ITDBonline+ project

32. The TIRExB took note of the latest development of the ITDBonline+ project, in particular that the TIR secretariat was about to finalize the analysis of the ITDBonline+ web services as well as the tests regarding the secure web services interoperability using the two predominant web services technologies on the market.

C. Computerization of the TIR procedure

33. The Board was informed of the results achieved during the latest session of the Expert Group on Computerization, mainly the elaboration of the second chapter of the Reference Model of the Computerization of the TIR procedure, containing the so-called "eBusiness Requirements". It also took note that the private sector did not participate in that meeting and that, therefore, the second chapter will be discussed on 29 January 2007 at the eleventh session of the Expert group. The Expert group will also discuss other issues as contained in its provisional agenda (ECE/TRANS/WP.30/GE.1/2007/1), among which the required amendments to the WCO transit data model and the following chapter of the Reference Model, the Analysis chapter.

D. TIR seminars

34. The TIRExB was informed of the outcome of the national TIR seminar in Mongolia (25 and 26 October 2006, Ulaanbaatar) as well as of the national TIR seminar in Serbia scheduled to take place on 13 December 2006, in conjunction with the UNECE/OSCE seminar on the Harmonization Convention.

XVI. BUDGET PROPOSAL AND COST PLAN OF THE TIREXB AND THE TIR SECRETARIAT FOR THE YEAR 2007

Documentation: ECE/TRANS/WP.30/AC.2/2006/9/Rev.1; ECE/TRANS/WP.30/AC.2/2006/11; Informal documents No. 6 (2006); No. 7 (2006) and No. 15 (2006) for the TIR Administrative Committee

35. On the basis of document ECE/TRANS/WP.30/AC.2/2006/11 and Informal document No. 15 (2006), the TIRExB considered the budget proposal and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2007. The Board noted that the budget proposal and cost plan for 2007 (US\$ 1,188,200) reflected a net increase of US\$95,500 over the approved budget and cost plan for the TIRExB and the TIR secretariat for 2006 (US\$1,092,700). This

increase was mainly due to an increase under the budget line "Project Personnel", to provide for the installation costs (e.g. travel on recruitment, shipment of personal effects, installation grant) of four new project personnel, according to the UN staff regulations, in the event that the current staff separate during 2007. If unused, this amount would be forwarded year-to-year, as in the case for the separation costs. In this regard, the TIRExB requested the secretariat to move this provision in the Fund Statement (ECE/TRANS/WP.30/AC.2/2006/11, annex 2), together with the provision for separation costs, and revise the document accordingly.

36. The TIRExB was informed of consultations on the issue between the secretariat and IRU (Informal documents No. 6 (2006) and No. 7 (2006) for the TIR Administrative Committee). The IRU confirmed the content of its letters to the UNECE secretariat relating to the budget proposal and cost plan for 2007. In addition, the IRU raised questions and remarks about the overestimation of elements of the cost plan as well as the reserves.

37. The Board also took note of the findings of the audit of the UNECE-IRU agreement conducted by the Office of Internal Oversight Services (OIOS) (ECE/TRANS/WP.30/AC.2/2006/9/Rev.1), in particular of Recommendation 04 stipulating that "the TIR secretariat should prepare its future budgets and cost plans using a results-based budgeting framework, taking into consideration the reasonableness and sufficiency of each expenditure vis-à-vis the expected accomplishments, its fund balance and the required operating reserve and contingent reserve for staff separation costs in case of early termination of the UNECE-IRU Agreement". The TIRExB requested the TIR secretariat to start preparing results-based budgets and cost plans as of 2008. Finally, the Board endorsed the budget proposal and cost plan for 2007 (ECE/TRANS/WP.30/AC.2/2006/11), subject to the modification referred to in para. 1 above, and decided to submit it to the TIR Administrative Committee for adoption.

38. The TIRExB noted that, on 10 November 2006, the IRU had transferred an amount of US\$ 955,000 required for the financing of the operation of the TIRExB and TIR secretariat for the year 2007, as well as had informed the UNECE that the IRU estimated to distribute approximately 3 million TIR Carnets in 2007. Therefore, the IRU had, de facto, fulfilled the requirements of the authorization for printing and distribution of TIR Carnets and the organization and functioning of the guarantee system. On the basis of the amount transferred and the forecast provided, the amount to be collected by the IRU in 2007 could therefore be calculated at US\$ 0.32 per TIR Carnet. This figure should be confirmed by the TIR Administrative Committee at its session in February 2007. The Board took note of this information.

XVII. REVIEW OF THE TIREXB PROGRAMME OF WORK FOR 2005-2006

Documentation: TIRExB/REP/2003/26, annex

39. The Board shortly reviewed its programme of work for 2005 and 2006 (TIRExB/REP/2003/26, annex) and requested the secretariat to prepare a document outlining main accomplishments of the TIRExB against the programme items, with a view to reporting to the TIR Administrative Committee at its February 2007 session. The Board also felt that a new composition of the TIRExB, to be elected at the said session, would have to take into account the

results-based budgeting framework as mentioned in para. 37 above, when preparing a new programme for 2007 and 2008.

XVIII. OTHER MATTERS

40. Mrs. N. Rynkevich (Belarus) informed the TIRExB that the Belarusian Customs authorities had come across TIR transports where two TIR Carnets were opened for one road vehicle carrying high-value goods (several passenger cars). The country of departure was Poland. The IRU complemented that such rare incidents happened also in Customs offices of departure located in Germany.

41. The TIRExB felt that those situations do not seem to be in line with Article 17 of the TIR Convention, which stipulates that a single TIR Carnet shall be made out for one road vehicle, and lead to a number of ambiguities concerning the guarantee coverage of the goods (one or two TIR guarantees) and whether or not the Customs offices en route have to follow the decision taken by the Customs office of departure with regard to the number of TIR Carnets.

42. The Board was of the view that the rationale behind such situations should first be explored. To this end, the TIRExB invited the IRU, Mrs. N. Rynkevich (Belarus) as well as other Board members to transmit to the TIR secretariat all available information on these cases in order to revert to this issue at the next session.

XIX. RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS

43. The TIRExB decided that the distribution of the following document, issued in connection with its present session, should be restricted: Informal document No. 12 (2006).

XX. DATE AND PLACE OF NEXT SESSIONS

44. The TIRExB decided to hold its thirty-first session in Geneva on 25 and 26 January 2006, in conjunction with the 115th session of the Working Party (WP.30) and the 43rd session of the TIR Administrative Committee.

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