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Administrative Committee for the TIR Convention, 1975

(Twenty-ninth session, 19 and 20 October 2000,
agenda item 3 (a) (i))

ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD (TIRExB)

Activities of the TIRExB

Reports of the TIRExB on its fourth and fifth sessions

Note: As requested by the Administrative Committee at its twenty-seventh session (21-22 October 1999), the secretariat reproduces below, for information of the Administrative Committee, the reports of the fourth and fifth sessions of the TIRExB held on 21 October 1999 and 24 February 2000, respectively (TRANS/WP.30/AC.2/55, paras. 14 and 15). The report of the sixth session of the TIRExB (23-25 May 2000) will be made available to the Administrative Committee at its next session.

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A. REPORT OF THE FIRST SESSION OF THE TIRExB (Geneva, 21 October 1999)

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its fourth session in Geneva on 21 October 1999.
2. The following eight members of the TIRExB were present: Mr. G. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia); Mrs. Kasikçi (Turkey). Mr. O. Fedorov (Ukraine) was excused.
3. The TIR Secretary attended the session in accordance with annex 8, article 9, paragraph 1 of the Convention.
4. The International Road Transport Union (IRU) attended the session in accordance with annex 8, article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department and Mr. Jean Acri, Deputy Head of the TIR Department. Maitre Tinayre, representing the IRU and the guaranteeing associations in the arbitration procedure relating to the settlement of Customs claims against the insurance pool that denounced its insurance contract end of 1994, attended the meeting on the invitation of the TIRExB.

ADOPTION OF THE AGENDA

5. The TIRExB adopted the agenda of its present session as prepared by the TIR Secretary (TIRExB/AGE/1999/4).

ADOPTION OF THE REPORT OF THE THIRD SESSION OF THE TIRExB

Documentation: TIRExB/REP/1999/3.

6. The TIRExB adopted the report of its third session as prepared by the TIR Secretary (TIRExB/REP/1999/3) with the following modifications:

Paragraph 17: To be deleted.

Paragraph 10: Modify to read as follows:

“The representative of the IRU informed the TIRExB that it is very difficult to give an overview of all components of the price of TIR Carnets and explained that the price of TIR Carnets consists in

principle of the insurance premium and various other components. The price of the TIR Carnet is approved yearly by the competent bodies of the IRU. The accounts of the IRU are in full line with the Swiss fiscal law.”

Paragraph 11: Modify to read as follows:

“He further pointed out that the price of TIR Carnets differed in various countries. This could be explained by the fact that national associations issued TIR Carnets at currency rates calculated on the basis of the price at which IRU distributed them to the associations. The difference in prices for TIR Carnets between the countries was therefore not a result of IRU’s pricing policy, but due for example to membership fees policy, different levels of insurance, etc. calculated by the associations themselves. As a result the TIR Carnet issuing price provided in Informal document No 6 is not identical to the price asked by the national associations from the transport operators.”

Paragraph 14: Modify to read as follows:

“In order to receive more detailed explanations concerning the state of the arbitration process, IRU proposed to invite the lawyer of IRU involved in the arbitration procedure to an informal meeting of the TIRExB. The TIRExB accepted this proposal and suggested this meeting to be held in Geneva on 21 October 1999. IRU expressed the point of view that the question of the old pool was not a matter of the competence of the TIRExB since all the problems relating to this question occurred long before the establishment of the TIRExB. IRU expressed its wish that the proceedings of this meeting of the TIRExB should be kept confidential. The TIRExB agreed to this request.”

Paragraph 19: New Paragraph 18; Modify to read as follows:

“The representative of the IRU expressed its shock about the draft prepared by the TIR Secretary and the Chairman of the TIRExB mainly since it would lead to an official recognition that the TIR Convention may be applied “à la carte”. In his view everything could be solved by eventually defining the term “TIR Holder” in the Convention who should be the only responsible person for the whole TIR operation. The responsibility of the holder cannot be passed on to someone else.”

7. The adopted report of the third session of the TIRExB is contained in document TIRExB/REP/1999/3/Rev.1.

SETTLEMENT OF CUSTOMS CLAIMS

8. The TIRExB took note of a report concerning the status of the arbitration procedure relating to the settlement of Customs claims against the insurance pool that denounced its insurance contract with the IRU at the end of 1994, given by the representative of the IRU, Maitre Tinayre.

9. The TIRExB welcomed the considerable efforts made by the IRU and its representative in the arbitration procedure leading to a rapid resolution of the still more than 5000 outstanding cases which, at the instigation of the “old” insurance pool had to be treated individually, on a case by case basis.

10. Following the presentation by Maitre Tinayre, which was welcomed by the TIRExB in an effort to provide transparency in the settlement of Customs claims against the “old” insurance pool, the TIRExB had the impression that the settlement of these “old” Customs claims still seemed to require considerable time which could well be beyond the time frame that Customs authorities were willing and able to provide for the suspension of relevant payment claims against national associations.

11. The TIRExB recalled that one of the main objectives of the TIR Convention had been to provide for the settlement of legitimate Customs claims at the national level on the basis of national legislation (see 1999 TIR Handbook, pages 9 and 10). The present arbitration procedure, which had been provided for in the “old” insurance contract, seemed to indicate however that the international guarantee system based on an insurance contract between the insurance companies on the one hand and the IRU and its associations on the other - the IRU and its associations being beneficiaries - was based, in the final analysis, on the provisions of this insurance contract made out under French and Swiss law respectively. As a consequence, Customs authorities claiming payment from the national associations are not parties to this insurance contract and thus had no direct say in any negotiations relating to the application of such contract in the framework of the arbitration procedure.

12. Finally, the TIRExB agreed to consider the information provided by Maitre Tinayre as confidential.

OTHER MATTERS

13. No other matters were considered.

DATE AND PLACE OF NEXT SESSION

14. The TIRExB decided to hold its next session on 24 February 2000 in Geneva in the same week when the forthcoming ninety-fourth session of WP.30 and the twenty-eighth session of the TIR Administrative Committee were held (21-25 February 2000).

B. REPORT OF THE FIFTH SESSION OF THE TIRExB (Geneva, 24 February 2000)**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its fifth session at Geneva on 24 February 2000.
2. The following eight members of the TIRExB were present: Mr. G.-H. Bauer (Switzerland); Mr. R. Ehmcke (Germany); Mr. O. Fedorov (Ukraine); Mrs. Kasikçi (Turkey); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia). Mr. O. Beginin (Russian Federation) was excused.
3. The TIR Secretary attended the session in accordance with annex 8, article 9, paragraph 1 of the Convention.
4. The International Road Transport Union (IRU) attended the session as observer in accordance with annex 8, article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department.
5. In accordance with annex 8, article 11, paragraph 5 of the Convention and the Rules of Procedure of the TIRExB Mrs. N. Rybkina, Deputy Head of Department of the State Customs Committee of the Russian Federation participated as observer at the session relating to agenda item 8 “National control measures”.

ADOPTION OF THE AGENDA

6. The TIRExB adopted the agenda of its present session as prepared by the TIR Secretary (TIRExB/AGE/2000/5) with the addition of the following items:

Agenda item 11:

- (a) Coverage of travel expenses of TIRExB members;
- (b) Training on the application of the TIR Convention in Central Asia, Trans-Caucasus and Middle East;
- (c) Communication to some countries of Eastern Europe regarding service fees for Customs escorts.

ELECTION OF A CHAIRMAN

7. In accordance with annex 8, article 11, paragraph 3 of the Convention, Mr. Rainer Ehmcke (Germany) was re-elected as Chairman for the year 2000.

ADOPTION OF THE REPORT OF THE FOURTH SESSION OF THE TIRExB

Documentation: TIRExB/REP/1999/4.

8. The TIRExB adopted the report of its fourth session as prepared by the TIR Secretary TIRExB/REP/1999/4.

PRIORITY ITEMS FOR CONSIDERATION AND RESOLUTION BY THE TIRExB IN 2000

9. Taking into account consideration of the programme of work at its first session in March 1999 (TIRExB/1999/2/Rev.1) and the activities and decisions taken by WP.30 and the TIR Administrative Committee, the TIRExB agreed on the following priority items for consideration and resolution in 2000:

- National control measures;
- Monitoring of the price of TIR Carnets;
- Re-establishment of full guarantee coverage of TIR Carnets;
- Approved Customs offices for TIR operations;
- Full application of the EDI control system for TIR Carnets;
- Preparation of a Handbook on best practices in Contracting Parties;
- Support for training activities on the application of the TIR procedure, mainly in new Contracting Parties to the Convention;
- Possibility of granting specially authorized consignees and consignors permission to terminate and to open TIR operations at their premises;
- Computerization of the TIR procedure.

TRANSMISSION OF LEGALLY REQUIRED DOCUMENTATION TO THE TIRExB AND ITS COMPLIANCE WITH THE PROVISIONS OF THE CONVENTION

Documentation: Informal document No. 1 (2000), Informal document No. 2 (2000).

10. The TIRExB took note of the current situation with regard to the transmission of legally required documentation (Informal document No. 2).

11. The Board was also informed by the TIR Secretary that not all documentation received from some countries seemed to be in full compliance with the provisions of the revised Convention and that the TIR Secretary would need guidance from the TIRExB on how to deal with this matter.

12. The TIRExB felt that it should not act as depositary only and requested the TIR Secretary to review the legally required documentation and report to the Board on possible inconsistencies, if any. Furthermore, the TIRExB was of the view that a model of an authorization agreement between the competent authorities and the national guaranteeing association in line with the provisions of the Convention could be a useful tool to be recommended to some Contracting Parties. In this context the Board took note of a first draft prepared by the TIR secretariat (Informal document No. 1) and decided to study it in more detail at its next session.

SETTLEMENT OF CUSTOMS CLAIMS

Not discussed due to lack of time.

APPLICATION OF THE TIR CONVENTION IN CASE THE FIRST PART OF A TRANSPORT OPERATION IS NOT MADE BY ROAD

Not discussed due to lack of time.

NATIONAL CONTROL MEASURES

13. The TIRExB was informed of new national control measures that had entered into force recently in Albania, Germany, The former Yugoslav Republic of Macedonia, Russian Federation and Ukraine.

Albania

14. Due to the Kosovo crisis and as a temporary measure, the Albanian Ministry of Finance has instructed the Albanian Customs Administration to charge international transport operators, transiting Albania, a service fee of 50,000 Leks (US \$ 380) and 100,000 Leks (US \$ 760) for “ordinary” and “sensitive” goods, respectively. As one of the reasons for introduction of the above national control measures, the current insufficient level of the TIR guarantee in Albania (US \$ 25,000 instead of US \$ 50,000) was mentioned.

15. The TIRExB was of the view that an insufficient guarantee could by no means justify the collection of service charges, in line with Article 46, paragraph 1 of the Convention which stipulates that “no charge shall be made for Customs attendance in connection with the Customs operations mentioned in this Convention”. The Board invited the Albanian Customs Administration in cooperation with the national guaranteeing association ANALTIR to renew their guarantee contract as soon as possible.

16. The TIRExB also recalled that the Convention does not exclude the possibility of charging service fees in certain cases, but in accordance with Explanatory Note 0.1 (b) “these sums shall be limited in amount to the approximate cost of the services rendered and shall not represent an indirect protection to domestic products or a tax on imports or exports for fiscal purposes”.

17. Therefore, the Board felt that the above measure was inappropriate in the framework of the TIR regime and requested the TIR Secretary to inform the Albanian competent authorities about this opinion.

The former Yugoslav Republic of Macedonia

18. The TIRExB was informed that, because of the enormous flow of vehicles heading to Kosovo, the Customs Administration of The former Yugoslav Republic of Macedonia had introduced a set of control measures in order to speed up border crossings and to combat fraudulent activity. These measures include obligatory Customs escorts with a service fee of less than DEM 50 per vehicle and the collection of a special fee of DEM 190 for the stay at a guarded parking area in the vicinity of the border crossing point Blace/General Jankovic.

19. The Board noted that, following the introduction of the above measures, the average 5-day delay of vehicles at the border had been reduced to 1 or 2 days. As a consequence, TIR transit procedures to, from and through The former Yugoslav Republic of Macedonia should be able to be carried out in line with the provisions of the Convention.

Russian Federation

20. The TIRExB was informed that the State Customs Committee of the Russian Federation (SCC) had allowed multi-user TIR operations under cover of a single TIR Carnet opened in the country of departure provided the latter is the place of loading of goods.

21. The TIRExB also took note that SCC's Order No. 531 as of 12 August 1999 introducing certain restrictions on the importation of meat and edible offal of poultry had been suspended until further notice.

Germany

22. The TIRExB was informed that, as of 1 February 2000, new regulations had come into force in Germany allowing no longer the start of Community and common transit procedures and transit operations under cover of TIR Carnets at its external borders for the exportation of goods. This has led to considerably reduced delays at border crossing procedures during transit operations. The Board noted that information on this issue had been disseminated well in advance among all parties concerned and that only Customs agents at the border seemed to be negatively affected by these regulations.

Ukraine

23. The TIRExB took note that the Ukrainian Customs authorities had determined a list of approved Customs offices of destination within the TIR procedure. The text of the relevant regulation has been transmitted to the TIR secretariat for further use and possible distribution.

APPROVED CUSTOMS OFFICES FOR TIR OPERATIONS

Not discussed due to lack of time.

ADMINISTRATION OF THE TIRExB

Documentation: Informal document No. 1 (2000) for the TIR Administrative Committee.

24. The TIRExB took note that the TIR Administrative Committee had approved the final accounts of the Board for 1999 in principle and had authorized the TIRExB to decide, upon the proposal of the TIR Secretary, on modifications to the detailed budget line allocations within the approved budget of the TIRExB and the TIR secretariat should this become necessary for the efficient

operation of the TIRExB and the TIR secretariat. Such modifications would need to be endorsed by the Administrative Committee during approval of the final accounts.

25. In line with the above decision, the TIRExB decided to endorse the proposal of the TIR Secretary as contained in TIR Administrative Committee Informal document No. 1 (2000) allocating the not yet allocated funds for the year 2000 in the order of US\$ 37,615 to budget line 1104 (Consultancy) and to budget line 1300 (Administrative Support Personnel) of the TIR Trust Fund on a one-third/two-third basis respectively. This decision was made in view of possible increased demands for such services during 2000.

OTHER MATTERS

Not discussed due to lack of time.

DATE AND PLACE OF NEXT SESSION

26. The TIRExB welcomed and endorsed the proposal of Mr. O. Fedorov (Ukraine) to host the sixth session of the TIRExB in Kiev from 23 to 25 May 2000 (to be confirmed).
