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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975

(Thirtieth session, 22 and 23 February 2001,
agenda item 4 (a) (i))

ACTIVITIES AND ADMINISTRATION OF THE TIR EXECUTIVE BOARD (TIRExB)

Activities of the TIRExB

Report by the Chairman of the TIRExB

Report of the TIRExB on its seventh session

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**REPORT OF THE SEVENTH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)**
(12 and 13 October 2000)

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its seventh session at Geneva on 12 and 13 October 2000.
2. All nine members of the TIRExB were present: Mr. G.-H. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mr. O. Fedorov (Ukraine); Mrs. Y. Kasikçi (Turkey); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia).
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. Other organizations did not attend the session.

ADOPTION OF THE AGENDA

6. The TIRExB adopted the agenda of its present session as prepared by the TIR Secretary (TIRExB/AGE/2000/7) with the addition of the following items:

Agenda item 13: Transport of semi-trailers and containers over the Baltic Sea;

 Customs escorts required systematically in certain countries;

 Problems related to illegal immigrants;

 Restriction on the distribution of documents of the TIRExB.

ADOPTION OF THE REPORT OF THE SIXTH SESSION OF THE TIRExB

Documentation: TIRExB/REP/2000/6 and Rev.1.

7. The TIRExB adopted the report of its sixth session as prepared by the TIR Secretary (TIRExB/REP/2000/6/Rev.1), subject to the following modifications:

Paragraph 18

Replace the words "relevant numbers of TIR Carnets" by "relevant alpha-numerical numbers of TIR Carnets (ten symbols)".

Paragraph 30

Replace the words "the representative of the Russian Federation" by "Mr. O. Beginin".

Paragraph 31

Modify the beginning of the first sentence to read as follows:

"Upon having been informed about the views of the Russian Federation and Turkey on this issue, the TIRExB felt that".

8. The revised report of the sixth session of the TIRExB is contained in document TIRExB/REP/2000/6/Rev.2.

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

(a) Current situation

Documentation: TRANS/WP.30/AC.2/2000/9.

9. Having taken into account the current situation with regard to the transmission of legally required documentation (TRANS/WP.30/AC.2/2000/9), the TIRExB noted with satisfaction that a vast majority of Contracting Parties had fulfilled the respective requirements of the TIR Convention and had regularly been transmitting to the Board updated information on persons authorized to use the TIR procedure.

10. However, there are still a few countries remaining that failed to comply with the legal provisions of the Convention with regard to the transmission of documentation. The TIRExB expressed concern that other and possibly more serious problems might be experienced in these Contracting Parties.

11. It was also mentioned that it would be of interest to the TIRExB to study a correlation between the annual number of TIR Carnets issued and the number of authorized persons country by country. Such analyses might be an indicator of underlying problems in the application of the TIR regime in respective Contracting Parties.

(b) Compliance with the provisions of the Convention

Documentation: Informal document No. 8 (2000).

12. The TIRExB was informed that out of 48 Contracting Parties to the TIR Convention with which a TIR transport can be established 41 had so far deposited with the Board their written agreements with respective national guaranteeing associations in line with Annex 9, Part I, paragraph 1 (e). Only 26 of these agreements have been amended in accordance with the revised Convention (as of 17 February 1999). Furthermore, some of the 26 agreements do not contain provisions relating to the undertaking between associations and competent authorities even though they have been concluded after the entry into force of the amendments under Phase I of the TIR revision process. A number of other inconsistencies were revealed by the TIR Secretary as well (Informal document No. 8).

13. Having welcomed the analyses undertaken by the TIR Secretary, the TIRExB expressed its concern about the quality of the above agreements and stressed that it could lead to serious negative consequences, like outstanding Customs debts or trials and arbitration cases both on the national and international level. In particular, the Board referred to several undertakings accepted by Customs authorities which are contained in some agreements concluded in Contracting Parties which have just recently acceded to the TIR system and may not yet have sufficient experience in the implementation of the provisions of the TIR Convention.

14. At the same time, the TIRExB did not entirely agree with the TIR Secretary on some issues described as discrepancies in Informal document No. 8, having indicated that they would need to be considered in detail at future sessions of the Board. The TIRExB was also of the view that some of the "inconsistencies" pointed out by the TIR Secretary might be attributed to inadequate translation of the documentation into the three languages, as required by the Convention. In this context, the TIR Secretary was requested to contact, if necessary, competent authorities and national guaranteeing associations to obtain further explanations. The TIRExB

also felt that the analyses of the legal documentation should be complemented by an analysis of possible consequences of the implementation of its provisions.

(c) **Model of an authorization agreement**

Documentation: Informal document No. 1/ Rev.1 (2000).

15. Having considered the model of an authorization agreement between the competent authorities and the national guaranteeing association as prepared by the TIR Secretary (Informal document No. 1/ Rev.1), the TIRExB pointed out that this document basically contained provisions on two separate issues:

- authorization of an association to issue TIR Carnets and to act as guarantor;
- the model agreement itself, including undertakings of the associations.

16. The TIRExB decided to separate the above components and requested the TIR Secretary to prepare a revised document for consideration at the next session of the Board with a view to submitting it to the spring session of the TIR Administrative Committee in February 2001. The Board also felt that the word "model" could be misleading as far as it relates to the agreement itself.

INSERTION OF AN IDENTIFICATION NUMBER OF THE HOLDER OF A TIR CARNET

Documentation: TRANS/WP.30/AC.2/2000/8.

17. The TIRExB was informed that, following a request at its sixth session (23-25 May 2000), the TIR Secretary has prepared a draft recommendation on inclusion of an individual and unique identification (ID) number of the holder of a TIR Carnet in all Model Authorization Forms (MAFs) and TIR Carnets issued (TRANS/WP.30/AC.2/2000/8). This recommendation has been submitted to the twenty-ninth session of the TIR Administrative Committee (19-20 October 2000).

18. The Board generally advocated the draft recommendation as a useful tool to identify unambiguously TIR Carnet holders and to facilitate search procedures both at the national and international levels. However, the TIRExB suggested that such a recommendation, if adopted by the Administrative Committee, should become applicable only after a certain transition period and should contain some precautions to avoid unjustified sanctions by competent authorities and delays at border crossings in case that ID-numbers are missing or applied improperly. The TIR Secretary was therefore requested to modify the draft accordingly.

19. With regard to paragraph 3 of the draft recommendation providing for future access to the TIR databank maintained by the TIR secretariat, it was pointed out that, apart from a protection mechanism for such access and before its implementation, a set of rules would also need to be established on the proper use of data on TIR Carnet holders from the databank.

WRITTEN CONSULTATION PROCEDURE AMONG TIRExB MEMBERS

Documentation: TIRExB/CONS/2000/1, Consultation documents No. 1 to 6,
Informal document No. 9 (2000).

20. Having discussed the procedure and results of a written consultation mechanism among members of the TIRExB as described in document TIRExB/CONS/2000/1 and Informal document No. 9, the Board felt that this newly proposed procedure would be a useful tool which would allow TIRExB members:

- to be informed on newly emerging issues and problems arising in the application of the TIR regime;
- to prepare consideration of the issues at sessions of the Board;
- to facilitate an exchange of views between sessions of the Board.

21. The TIRExB felt that the proposed written consultation mechanism should be regarded as an auxiliary informal tool which would not need to be described in the Rules of Procedure of the TIRExB whose topic and results should be included into the provisional agenda of the next session of the Board with a view to making final decisions on the issues addressed.

22. The Board also suggested that the proposed procedure be slightly modified as follows:

- no deadline should be given for replies by TIRExB members;
- the TIR Secretary should summarize and distribute among TIRExB members the replies and views received him.

VALIDITY OF TIR CARNETS WITH A FALSIFIED EXPIRY DATE

Documentation: TIRExB/AGE/2000/7.

23. The TIRExB considered the following actual situation: The holder of a TIR Carnet, after it had been expired, falsified the date of validity. The Customs office of departure failed to notice that and accepted the TIR Carnet. Later on, an infringement in the TIR procedure was committed in another country and the national guaranteeing association of that country declined to accept the claim raised by the Customs authorities, stating that the TIR Carnet was not valid from the

very beginning of the TIR operation.

24. Without taking a decision on this specific case, the TIRExB noted with concern that at present more and more Customs claims were being rejected by national guaranteeing associations, the IRU and international insurers because of minor mistakes in the filling-in of TIR Carnets or due to other reasons which are of minor importance to TIR operations and not related to offences committed within the TIR procedure.

25. The Board recalled that the main objective of the TIR Convention was to facilitate international transport of goods by simplification of administrative formalities at frontiers. Given the mass utilization of the TIR system and in line with the spirit of the Convention, Customs authorities simply could not afford thorough checking of all TIR Carnets since this would cause enormous border delays of road vehicles and containers. The TIRExB stressed that the above trend of the international guarantee chain undermined trust of Customs administrations in the TIR guarantee and jeopardized the implementation of the TIR Convention as Customs authorities would, in the end, have no other option than to check each and all TIR Carnets from cover to cover.

PREVENTION OF THE ABUSE OF THE TIR REGIME BY SMUGGLERS

Documentation: TIRExB/AGE/2000/7.

26. The TIRExB was informed that some smugglers had applied a special technique involving the use of a false TIR Carnet to smuggle goods into one of Contracting Parties.

27. The Board was of the view that the only way to combat such illegal activities was to implement Article 38 of the TIR Convention providing for exclusion transport operators from the TIR regime and to check up the so-called secret features of the TIR Carnet. In this context the observer of the IRU stated that all confidential protective features of TIR Carnets had been brought to the attention of competent authorities of all Contracting Parties utilizing the TIR procedure.

28. The TIRExB felt that concerted actions of the transport industry and Customs administrations were required to prevent the abuse of the TIR regime and invited the IRU and national guaranteeing associations to foster the exchange of relevant information with the competent authorities.

NATIONAL CONTROL MEASURES

Documentation: Informal document No. 11 (2000).

29. The TIRExB took note of national control measures introduced in the Russian Federation and reported to the TIR Secretary following the previous session of the Board (23-25 May 2000) (Informal document No. 11). In particular, Instruction No. 01-99/915 of 7 August 2000 stipulated that, during inquiry proceedings, the Russian Customs authorities should not seize trucks which are carrying out or have terminated TIR operations in order to secure payment of administrative fines related to infringements committed before 1 January 1998.

30. With regard to Customs debts which are time-barred according to the TIR Convention and thus may not be claimed from the TIR guarantee chain, it was noted that these debts still could be claimed from TIR Carnet holders in line with national legislation and thus it is recommended that transport operators keep all related documentation longer than 2 or 3 years, depending on the relevant national deadlines for the expiring of Customs debts.

APPROVED CUSTOMS OFFICES FOR TIR OPERATIONS

Documentation: Informal document No. 10 (2000).

31. The TIRExB recalled that, in line with article 45 of the TIR Convention, each Contracting Party should publish a list of approved Customs offices for accomplishing TIR operations (Customs offices of departure, Customs offices en route, Customs offices of destination). Following the request of the Board at its previous session (TIRExB/REP/2000/Rev.2, para. 35), the TIR Secretary has surveyed Contracting Parties with a view to obtaining information on availability of such lists and their delivery platforms (paper, database, web sites, etc.) (Informal document No. 10).

32. Preliminary results of the survey demonstrated that the situation is quite different in various Contracting Parties, and many of them were looking forward to assistance of the TIRExB and TIR secretariat in maintaining and publishing an international databank on such Customs offices. It was noted, however, that this activity might require additional resources by the TIR secretariat. Therefore, the TIRExB decided to consider this issue once again at its next session, after all replies to the survey had been received and analyzed, and to transmit it to the TIR Administrative Committee for consideration.

POSSIBILITY OF GRANTING SPECIALLY AUTHORIZED CONSIGNEES AND CONSIGNORS PERMISSION TO TERMINATE AND TO OPEN TIR OPERATIONS AT THEIR PREMISES

33. Not discussed due to lack of time

BUDGET PROPOSAL AND COST PLAN FOR THE TIRExB AND THE TIR SECRETARIAT FOR THE YEAR 2001

Documentation: TRANS/WP.30/AC.2/2000/11 and Corr.1; TRANS/WP.30/AC.2/2000/10.

34. Having taken note of the financial report prepared by the TIR Secretary covering the period 1 January 2000 to 31 July 2000 (TRANS/WP.30/AC.2/2000/10), the TIRExB approved the budget proposal and the cost plan for its operation in the year 2001 as prepared by the TIR Secretary (TRANS/WP.30/AC.2/2000/11 and Corr.1). Both documents were transmitted to the TIR Administrative Committee at its October 2000 session.

ACTIVITIES OF THE TIR SECRETARIAT

35. The TIRExB was informed by the TIR Secretary about a regional seminar on the application of the TIR Convention in the Middle East scheduled to take place in Amman, Jordan on 31 October and 1 November 2000.

OTHER MATTERS

(a) Transport of semi-trailers and containers over the Baltic Sea Customs escorts required systematically in certain countries Problems related to illegal immigrants

36. With regard to the above three issues, the TIRExB was informed about document TRANS/WP.30/2000/20 transmitted by the IRU to the UN/ECE Working Party on Customs Questions affecting Transport and containing proposals for comments to Articles 21, 23 and 36 of the TIR Convention.

(b) Restriction on the distribution of documents of the TIRExB

37. The TIRExB noted with concern that some of its documents marked "Restricted" had been made available to persons outside the Board. The TIRExB reiterated the decision taken at its first and second sessions (25-26 March and 25 June 1999, respectively) (TIRExB/1999/7/Rev.1, para. 9) that, unless decided otherwise, only approved reports of sessions of the TIRExB were subject to general distribution.

DATE AND PLACE OF NEXT SESSION

38. The TIRExB welcomed and endorsed the proposal by its Chairman to hold the eighth session of the Board in Nuremberg on 23 and 24 January 2001.
