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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975
(Thirty-eighth session, 3 and 4 February 2005,
agenda item 6)

**AUTHORIZATION FOR THE CONCLUSION OF AN AGREEMENT BETWEEN
THE UNECE AND THE IRU***

Prolongation of the UNECE-IRU Agreement

Note by the UNECE secretariat

In accordance with the decision of the Administrative Committee (TRANS/WP.30/AC.2/75, para. 41), the UNECE secretariat was mandated to start negotiations with the IRU for the elaboration of a new draft Agreement prolonging the present Agreement, subject to certain conditions as stipulated by the TIR Administrative Committee.

The Administrative Committee may wish to approve the draft text for the revised prolonged Agreement between the UNECE and the IRU as set out below, which has been approved by both the UNECE and the IRU and which has been verified by the United Nations Office of Legal Affairs.

* * *

* The present documentation has been submitted after the official documentation deadline by the Transport Division due to late finalization.

DRAFT
AGREEMENT

between the

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (UNECE)
and the
INTERNATIONAL ROAD TRANSPORT UNION (IRU)

(1) Whereas the amendments to the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets of 1975 (hereinafter: “the TIR Convention”), adopted by the Administrative Committee for the TIR Convention of 1975 (hereinafter: “the TIR Administrative Committee”) at its twenty-third session (Geneva, 26 and 27 June 1997) which entered into force on 17 February 1999, provide for the establishment of a TIR Executive Board (hereinafter: “the TIRExB”) and a TIR secretariat;

(2) Whereas the Working Party on Customs Questions affecting Transport (WP.30) (hereinafter: “the Working Party”) and the TIR Administrative Committee have considered and decided on a number of issues relating to the present Agreement*;

(3) Whereas the establishment of the TIRExB and the TIR secretariat is aimed at strengthening further cooperation among national Customs authorities in the application of the TIR Convention and between Customs authorities, national associations and the international organization referred to in Article 6 of the TIR Convention (hereinafter: international organization);

(4) Whereas the TIR Convention stipulates that the TIRExB, as a subsidiary body of the TIR Administrative Committee, shall inter alia supervise the application of the [TIR](#) Convention, including the operation of the guarantee system and supervise the centralized printing and distribution of TIR Carnets, which may be performed by an agreed international organization;

(5) Whereas the TIR Convention provides for the financing of the TIRExB and the TIR secretariat - until such time as alternative sources of funding are obtained through a levy on TIR Carnets distributed by the international organization; the amount of the levy and the

* TRANS/WP.30/AC.2/53, paras. 19 and 20; TRANS/WP.30/AC.2/57, para. 30; TRANS/WP.30/AC.2/59, paras. 34, 40, 42 and 46; TRANS/WP.30/AC.2/67, paras. 42 and 47; [TRANS/WP.30/AC.2/71, para. 53; TRANS/WP.30/AC.2/75, para. 40; TRANS/WP.30/AC.2/77, para. xx; TRANS/WP.30/204, paras. 10 and 12; TRANS/WP.30/206, para. 39.](#)

procedure for its collection shall be determined by the TIR Administrative Committee (Annex 8, article 13);

(6) Whereas the amount of the levy on each TIR Carnet should be based on the necessary budget for the functioning of the TIRExB and the TIR Secretariat and on the basis of the number of TIR Carnets issued;

(7) Whereas consultation with the international organization is regarded as essential to estimate the number of TIR Carnets to be issued during the relevant budget period;

(8) Whereas the total amount of the sums levied on the TIR Carnets issued, financing the operation of the TIRExB and the TIR secretariat, to be transferred each year by the IRU to the TIR Trust Fund established by the UNECE for this purpose shall be approved by the TIR Administrative Committee;

(9) Whereas the annual cost plan for the TIRExB and the TIR secretariat, shall be approved each year by the TIR Administrative Committee;

~~(10) Whereas it is foreseen that the TIR Administrative Committee will consider the roles and responsibilities of the competent bodies of the TIR Convention and of the IRU, which may necessitate amending this Agreement;~~

(10) Whereas the TIR Administrative Committee, at its thirty-fourth session (Geneva, 6 and 7 February 2003) upon the recommendation of the Working Party, decided to give the UNECE secretariat a mandate to revise the existing agreement between the UNECE and the IRU on the understanding that this mandate would be based on the provisions of the TIR Convention and that it would respect the competences of the Contracting Parties to the TIR Convention and that the revised agreement shall be signed provisionally by the UNECE and the IRU until its formal adoption by the TIR Administrative Committee. (TRANS/WP.30/AC.2/69, para. 42)*;

(11) Whereas in accordance with Article 6.2bis of the TIR Convention, the TIR Administrative Committee has authorized the IRU as the international organization (i) to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this responsibility and (ii) to centrally print and distribute TIR Carnets in accordance with Annex 8, Article 10(b) of the TIR Convention; Whereas in accordance with Article 6.2 bis of the Convention, the TIR Administrative Committee has authorized the IRU as the international organization to take on responsibility for the effective organization and functioning of an international guarantee system provided that it accepts this

* TRANS/WP.30/AC.2/67, para. 42.

~~responsibility and, in accordance with Annex 8, Article 10 (b) of the Convention to centrally print and distribute TIR Carnets;~~

(12) Whereas the TIR Administrative Committee at its thirty-seventh session (Geneva, 14 and 15 October 2004) mandated the UNECE secretariat to start discussions with the IRU for the elaboration of a new draft Agreement prolonging the present Agreement, subject to certain conditions as stipulated in the decision of the TIR Administrative Committee (TRANS/WP.30/AC.2/75, para. 41).

Now therefore, the UNECE secretariat, mandated by and acting on behalf of the ~~Contracting Parties~~ TIR Administrative Committee to the TIR Convention, and the IRU have **agreed** that:

1. In accordance with Article 6.2**bis** of the TIR Convention the TIR Administrative Committee has authorized the IRU as the international organization to take on responsibility for the effective organization and functioning of an international guarantee system (TRANS/WP.30/AC.2/~~677~~, para. ~~42xx~~) and, in accordance with Annex 8, Article 10 (b) of the TIR Convention, to centrally print and distribute TIR Carnets (TRANS/WP.30/AC.2/~~677~~, para. ~~38xx~~). The IRU hereby accepts these responsibilities.

2. Without prejudice to the provisions of the TIR Convention, in particular to Article 6.2**bis** and whilst fully respecting the competencies of the Contracting Parties, the IRU, taking into account and in the light of the above preambles, accepts to perform the following functions:

- Provide ~~the competent body(ies) of the Contracting Parties~~ of the TIR Convention via the national associations affiliated to the IRU with certified copies of the global guarantee contract and proof of guarantee coverage;
- Provide the competent body(ies) of the TIR Convention with information on the rules and procedures set out for the issue of TIR Carnets by national associations;
- Provide the competent body(ies) of the TIR Convention, on a yearly basis, with global data of claims lodged, paid and pending;
- Provide the competent body(ies) of the TIR Convention with timely and well founded information on trends in the number of non-terminated TIR operations, claims lodged or pending that might give rise to concerns with regard to the proper functioning of the TIR system or that could lead to difficulties for the continued operation of its guarantee system;
- Provide the competent body(ies) of the TIR Convention with statistical data on the number of TIR Carnets distributed to each Contracting Party;
- Provide, at the request of the TIRExB, full and complete information on the functioning of the TIR system, provided such request does not infringe legislation concerning confidentiality, data protection, etc.; in cases such information cannot be given, IRU will specify the legal provisions or other reasons prohibiting the exchange of information;

- Provide the TIRExB with details of the issuing price by the IRU of each type of TIR Carnet;
- Take all reasonable steps to reduce the risk of counterfeiting TIR Carnets;
- Take the appropriate corrective action in cases where faults or deficiencies with the international Customs document, the TIR Carnet, have been detected;
- Fully participate in cases where the TIRExB is called upon to facilitate the settlement of disputes;
- Ensure that any problem involving fraudulent activities or other difficulties, with regard to the application of the TIR Convention, is immediately brought to the attention of the TIRExB;
- On the basis of the Recommendation adopted by the TIR Administrative Committee on 20 October 1995 on the Introduction of a control system for TIR Carnets, manage the IRU SafeTIR system with national ~~IRU~~-guaranteeing ~~A~~associations affiliated to the IRU and the Customs Administrations and to inform the Contracting Parties and the competent ~~B~~body(ies) of the TIR Convention of significant problems encountered in the system;
- Provide the competent body(ies) of the TIR Convention with statistics and data on the performances of Contracting Parties with regard to the IRU SafeTIR system;
- Seek continuously to enhance the IRU SafeTIR system in order to improve its efficiency as a risk management and anti-fraud tool;
- Be available for meetings with the TIRExB, the TIR Secretary, the TIR secretariat and other key organizations, active in the field of TIR;
- Offer its good offices and experiences to support the training of interested parties, i.e.e.g. national associations.

3. The IRU will transfer annually, thean amount determined by the TIR Administrative Committee, collected through a levy on each TIR Carnet issued, required to finance the operation of the TIRExB and the TIR secretariat for the years 20046 to 200510 in accordance with Annex 8, Article 13 of the TIR Convention. Any balance left after the completion of the

current year of the project, will be used towards financing of the TIRExB and the TIR secretariat in the following years.

4. The amount due under this Agreement mentioned under (3.) will be transferred in its entirety, by 15 November each year to the UN Geneva General Fund. Particulars concerning the levy per TIR Carnet and the transfer of the amount due for the year 2004~~6~~ are contained in Annex 1 to this Agreement, and the cost plan for the year 2004~~6~~ is contained in Annex 2. Particulars concerning the administration of the fund are contained in Annex 3 to this Agreement. Annex 1 and Annex 2 will be adjusted on an annual basis through an exchange of letters between the UNECE and the IRU, in accordance with the relevant decisions of the TIR Administrative Committee.

5. This Agreement supersedes the Agreement signed between the United Nations Economic Commission for Europe (UNECE) and the International Road Transport Union (IRU) on ~~3 and 10 November~~18 September 2000~~3~~ which was concluded for a period of ~~five~~two (~~5~~2) years, i.e. 200~~4~~ to 2005, in accordance with the mandate given by the TIR Administrative Committee at its ~~twenty-eighth~~thirty-third session (TRANS/WP.30/AC.2/~~5767~~, paragraph ~~45 and 46~~30). This Agreement ~~elaborates~~reflects the ~~temporary~~ authorization of IRU to take on responsibility for the effective organization and functioning of an international TIR guarantee system as of 1 January 200~~3~~6 until and including the year 200~~5~~10 in accordance with Article 6.2~~bis~~ of the TIR Convention, given by the TIR Administrative Committee at its thirty-~~third~~eight session (Geneva, ~~24~~3 and ~~25~~4 ~~October~~February 200~~2~~5).

6. This Agreement shall, ~~provisionally until its formal adoption by the TIR Administrative Committee in September 2003~~, enter into force ~~at the day of signature by both parties on 1 January 2006~~ and shall, unless renewed by written agreement of the parties, remain in force until 31 December 200~~5~~10 in accordance with the mandate given by the TIR Administrative Committee at its thirty-~~four~~eight session (TRANS/WP.30/AC.2/~~6977~~, para. ~~42xx~~). Annex 1, Annex 2 and Annex 3 form an integral part of this Agreement.

7. The parties shall amend or renew the Agreement in accordance with the relevant decisions of the TIR Administrative Committee at any of its meetings, but in any case not later than at its first meeting in the year 200~~5~~10. If Phase III of the TIR revision process is concluded during the 5-year period starting 1 January 2006 or before with an outcome that has a material impact on the implementation of the Agreement, the Agreement shall be amended accordingly. The Annexes to the Agreement shall also be amended in case the financing of the TIRExB and the TIR secretariat are taken over in full or partly by the Regular Budget of the United Nations (Annex 8, art. 13) or alternative sources.

8.1. In the event that one of the parties has any reason for considering that the circumstances for the continuation of the Agreement have changed in comparison to those that appertained at the time of conclusion of this Agreement, the parties shall seek to find a mutually acceptable adaptation of the Agreement. Where it proves to be not possible to reach mutual agreement to adapt this Agreement, either party may unilaterally terminate it, provided it gives the other party not less than six (6) months written notice.

8.2. On the date of effective termination of this Agreement under the conditions provided under ~~point~~ (8.1.) above, or upon expiration of the Agreement, the funds transferred by the IRU in accordance with (3.), including accumulated reserves, will continue to be held by the UNECE. Upon request by the UNECE, the IRU agrees to transfer any additional funds deemed necessary by the UNECE to fully cover all expenditures relating to the continuation of the operation of the TIR secretariat until the effective date of termination of the Agreement.

9.1. Any dispute between the parties concerning the interpretation or application of this agreement shall, so far as possible be settled by negotiation between them.

9.2. Any such dispute between the parties, unless settled by amicably under the preceding paragraph within sixty (60) days after receipt by either Party of the other Party's request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The arbitral tribunal shall have no authority to award punitive damages or to award interest. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

10. The IRU understands and agrees that, for the purposes of this Agreement, UNECE is acting pursuant to a mandate provided by, and on behalf of, the TIR Administrative Committee. Except for the receipt of the amounts transferred by the IRU under this Agreement, UNECE shall have no obligation or liability towards the IRU arising from this Agreement.

11. Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any privileges or immunities of the United Nations.

12. This Agreement may be amended only by written agreement of both parties. Each Party shall give full consideration to any proposal for amendment made by the other Party.

Geneva,

20035

Geneva,

20035

Paul Laeremans

President

For the

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* * *

Annexes are not included in this document.
