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Report of the Administrative Committee for the TIR Convention 1975 on its fiftieth session

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I. Attendance

1. The Committee held its fiftieth session on 30 September 2010 in Geneva.
2. The session was attended by representatives of the following countries: Armenia; Austria; Azerbaijan; Belarus; Belgium; Bosnia and Herzegovina; Bulgaria; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Greece; Iran (Islamic Republic of); Italy; Kazakhstan; Kyrgyzstan; Latvia; Republic of Moldova; Netherlands; Norway; Poland; Russian Federation; Serbia; Slovakia; Slovenia; Spain; Sweden; Switzerland; Tajikistan; The former Yugoslav Republic of Macedonia; Turkey; Ukraine. Representatives of the European Union (EU) were also present.
3. The following non-governmental organization was represented as observer: International Road Transport Union (IRU).
4. The Administrative Committee noted that the required quorum for the purposes of taking decisions — of at least one-third of the States which are Contracting Parties (according to Annex 8 Article 6 of the Convention) — was attained.

II. Adoption of the agenda (agenda item 1)

Documentation: ECE/TRANS/WP.30/AC.2/100

5. The Administrative Committee adopted the agenda as contained in document ECE/TRANS/WP.30/AC.2/102.

III. Status of the TIR Convention, 1975 (agenda item 2)

6. The Committee noted that there had been no changes in the status of the Convention and in the number of Contracting Parties. The Committee was also informed of the activities of IRU towards the accession of China and Pakistan to the TIR Convention.

IV. Activities and administration of the TIR Executive Board (TIRExB) (agenda item 3)

A. Activities of the TIRExB

1. Report by the Chair of the TIRExB

7. The Committee endorsed documents ECE/TRANS/WP.30/AC.2/2010/8 and ECE/TRANS/WP.30/AC.2/2010/9, containing the reports of the TIRExB at its forty-first (October 2009) and forty-second session (February 2010).

8. The Chair of the TIRExB informed the Committee extensively of the activities of the Board at its forty-third (May 2010) and forty-fourth sessions (September 2010). In particular, he referred to the following issues:

- (a) The TIRExB had finalized a recommendation on the filling-in of boxes 14, 15 and 17 of the TIR Carnet under application of Rules 7, 10b and 12 of the "Rules regarding the use of the TIR Carnet" and would transmit the recommendation to AC.2 for endorsement;

(b) The TIRExB had made progress in its efforts to establish a procedure prior to the suspension of the guarantee in the territory of a Contracting Party but was of the opinion that more information was needed from the side of the guarantee chain on the functioning of the guarantee system at the national and international level and, in particular, the exceptional circumstances which could lead to the suspension of the guarantee in a particular country. To the satisfaction of the TIRExB, the IRU had confirmed its willingness to continue to actively collaborate with the TIRExB on this issue as well as on any other matter of concern to the TIRExB;

(c) On issues of a technical nature related to the approval of vehicles, the TIRExB had established that the recently surfaced problems seemed to evolve around three major themes:

- (i) non-observance of technical provisions of the TIR Convention, due to negligence or insufficient understanding from both operators and Customs;
- (ii) use of vehicles, whose construction, by nature, cannot be modified to meet the requirements of the TIR Convention (I refer to the so-called “curtain-siders”);
- (iii) use of vehicles, which, as a consequence of market developments, contain design or construction techniques which are not or not yet adequately addressed by the technical provisions of the TIR Convention.

The TIRExB was of the view that more technical training of Customs officers was required and informed of preparations on the organization of a seminar which should, *inter alia*, focus on issues of a technical nature.

(d) On the topic of invalidation by the national association of TIR Carnets issued to excluded TIR Carnet holders, the TIRExB expressed its support for the efforts by the private sector to improve the exchange of information with Customs, but, at the same time, repeated that, in the absence of an internationally recognized mechanism, the guarantee chain will have to accept that all TIR Carnets, presented for acceptance at the Customs office of departure before the final date of validity, are valid in accordance with the provisions of Article 9 of the Convention as long as the Customs office of departure does not dispose of any data to the contrary. Within the context of this discussion, various members of the Board also expressed their reservation with regard to the fact that data from the TIR-EPD seem to be used by the guarantee chain as part of its risk management assessment.

(e) The TIRExB had held a first and preliminary review of the e-learning course on TIR, developed by the World Customs Organization (WCO) in collaboration with the IRU. The TIRExB noted with satisfaction the acceptance by the IRU to correct any mistake in the course and improve its quality so that it would better suit the requirements of Customs.

9. Finally, the Committee was informed that the forty-fifth session of the Board, being the last one in its current composition, would take place on 31 January 2011.

2. International TIR Data Bank

10. The Committee was informed of the status of transmission of documents and data to the International TIR Data Bank (ITDB) (Informal document No. 5/Rev.1 (2010)). The Committee also took note of progress made in the implementation of the "ITDBonline+ project". The TIR secretariat had developed a prototype of the website and, in September 2010, had successfully tested it in Rome with the kind assistance of the Italian Customs Administration and the national association. The finalization of the ITDBonline+ website was expected in the coming months. The Committee noted that this tool would

considerably speed up the exchange of information between Customs, national associations and ITDB on authorization of TIR Carnet holders.

3. Online United Nations Economic Commission for Europe register of Customs Sealing Devices and Customs Stamps

11. The Committee was reminded that, upon request of the TIR Customs Focal Points, Customs officials could receive access to the online UNECE Register of Customs Sealing Devices and Customs Stamps.

4. National and regional TIR workshops and seminars

12. The Committee was informed of the activities of the secretariat on the organization of a regional TIR seminar in Bosnia and Herzegovina and of the plans to participate in some training events in member States of the Economic Cooperation Organization. IRU appreciated the work of UNECE in this respect and also informed the Committee about numerous seminars on TIR-EPD in CIS countries.

B. Administration of the TIRExB and the TIR secretariat

1. Status report on the accounts for 2009 and 2010

13. The Administrative Committee approved the report on the complete and final accounts for 2009 (ECE/TRANS/WP.30/AC.2/2010/10). The Committee also took note of interim financial statements for the period January to July 2010 as contained in document ECE/TRANS/WP.30/AC.2/2010/11.

2. Procedure for the financing of the operation of the TIRExB and TIR secretariat

14. Having recalled the Procedure for the collection and transfer of the amount per TIR Carnet to finance the operation of TIRExB and the TIR secretariat (ECE/TRANS/WP.30/AC.2/89, para. 38 and annex 2), the Administrative Committee approved the budget and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2011 as well as the net amount to be transferred by IRU to the TIR Trust Fund, as contained in document ECE/TRANS/WP.30/AC.2/2010/12. The Committee was also informed of the letter of the IRU's Secretary-General dated 14 September 2010 (Informal document No. 10 (2010)) containing two observations on the budget and cost plan for the year 2011 and stipulating that IRU expects to distribute 2,8 million TIR Carnets in 2011 and that, according to IRU internal calculations, an amount per TIR Carnet of US\$ 0.3425 will be required to generate the income necessary to cover the additional funds of US\$ 959,000 needed for the operation of TIRExB and TIR secretariat in 2011. The Committee approved the amount of US\$ 0.3425 per TIR Carnet, calculated by the secretariat on the basis of the forecast provided by IRU. This amount will be expressed in Swiss francs following the transfer of the above net amount to a UNECE named bank according to the prevailing US dollar-Swiss franc exchange rate on the day of the transfer.

15. The Committee noted that the approved budget proposal and cost plan for the year 2011 do not differ from the approved budget and cost plan of the TIRExB and the TIR secretariat for the year 2010 (ECE/TRANS/WP.30/AC.2/2009/9). In this context, one delegation requested the secretariat to clarify in writing why left-over and the net amount to be transferred by IRU in 2010 were different from the ones in 2009. The Committee took note of this request but accepted oral explanations by the secretariat.

16. The representative of the UNECE Executive Office informed the Committee that the TIR Trust Fund is managed in full compliance with the applicable United Nations rules and regulations, as certified by the UNOG Financial Services.

3. Audit by the United Nations Office of Internal Oversight Services

17. The Committee noted that the recommendation by the Office of Internal Oversight Services (OIOS) concerning the introduction of a new part III to Annex 9 of the Convention on the conditions and requirements for the authorization of an international organization had not been closed, as this issue was still under discussion by the Working Party on Customs Questions affecting Transport (WP.30).

C. Election of members of the TIRExB

18. The Administrative Committee confirmed that the criteria for nomination of candidates to the TIRExB would be based on the comment adopted on 26 June 1998 to the Rules of Procedure of the TIRExB on “representation” (TRANS/WP.30/AC.2/51, annex and Corr.1). Subparagraph 1 (c) and paragraph 2 do not apply as their provisions relate only to the initial election of Board members and are thus no longer appropriate. The Committee also confirmed the procedure for the election of members of the TIRExB adopted on 26 February 2000 by the Committee (TRANS/WP.30/AC.2/53, paras. 31 and 34).

19. Therefore, the Administrative Committee authorized the UNECE secretariat to issue in October – November 2010 a document recalling the approved election procedures and soliciting candidates willing to stand for election as members of the TIRExB for the term 2011-2013. The deadline by which nominations would need to be received by the UNECE secretariat was set at 10 December 2010. No further candidates may be nominated following expiry of this deadline. On the next working day, 13 December 2010, the UNECE secretariat will circulate a list of candidates who have been nominated by their respective Governments or organizations being Contracting Parties to the Convention. The election will take place at the fifty-first session of the Committee on 3 February 2011.

V. Authorization for printing and distribution of TIR Carnets and the organization and functioning of the guarantee system (agenda item 4)

20. The Committee recalled that, at its previous session, it authorized IRU to centrally print and distribute TIR Carnets and to organize the effective functioning of the guarantee system for the period 2011-2013 (ECE/TRANS/WP.30/AC.2/101, para. 19).

VI. Authorization for the conclusion of an agreement between United Nations Economic Commission for Europe and International Road Transport Union (agenda item 5)

21. The Committee considered Informal document No. 7 (2010) by IRU, proposing two novelties to be introduced in a new UNECE-IRU agreement:

(a) Establishment of a Steering Committee for the TIR Trust Fund consisting of the following three parties: the Chair of the TIR Administrative Committee on behalf of the Contracting Parties, a representative of the IRU and a representative from the UNECE secretariat.

(b) Referring to the IRU not only as an “observer” but also as the “implementing partner” of the TIR system, in order to better reflect the IRU’s role and responsibilities in the framework of public-private partnership.

According to IRU, neither of these two proposals would require any change to the TIR Convention.

22. The secretariat informed the Committee that, with the assistance of other competent United Nations services, it carefully considered the proposed modifications and had come to the conclusion that their acceptance would go beyond the UNECE mandate and would require a decision by the Contracting Parties. With regard to the newly proposed term "implementing partner", UNECE felt that its introduction should be done through an amendment to the Convention. Concerning a Steering Committee, UNECE pointed out that its creation would completely modify the intergovernmental supervisory structure established by the Contracting Parties at the end of 1990's under which the TIR Administrative Committee plays the leading role. In view of the above, the secretariat proposed that a new agreement should not differ from the 2008–2010 UNECE–IRU agreement, except for minor editorial changes, as contained in document ECE/TRANS/WP.30/AC.2/2007/14/Rev.1.

23. A few delegations pointed out that IRU may not be considered as a donor for the TIR Trust Fund, as it only collects and transfers the amount per TIR Carnet paid by TIR Carnet holders. In this context, the Committee recalled that, according to Explanatory Note 8.13.1-1, the Contracting Parties envisaged that the operation of the TIRExB and the TIR secretariat to be eventually financed through the Regular Budget of the United Nations. The Committee regretted that, so far, the efforts to obtain such financing had not materialized and invited Contracting Parties, together with the UNECE secretariat, to undertake the necessary steps at all levels with a view to including the operation of the TIRExB and the TIR secretariat into the regular UN budget as of the next UN budget cycle.

24. A number of delegations expressed their support to the changes proposed by IRU. Some other delegations pointed out that these proposals touched upon fundamental issues and, thus, would require thorough consideration.

25. The Committee recalled that, according to Explanatory Note 0.6.2 bis-2, the authorization mentioned under para. 20 shall be reflected in an agreement between UNECE and IRU. By signing the agreement, the International Organization confirms that it accepts the responsibilities imposed by the authorization. At the request of the Committee, the secretariat explained that the authorization granted to IRU for the period 2011-2013 would not be valid in the absence of such an agreement.

26. The secretariat informed the Committee that no time had left to reach a consensus before the agreement should be signed and pointed out the severe legal and practical consequences that the lack of agreement would entail. The Chair, pursuant to Article 5 of Annex 8 to the Convention, called for voting on two options of the text of a draft Agreement: document ECE/TRANS/WP.30/AC.2/2007/14/Rev.1 or Informal document No. 7 (2010). With the split of votes 26 to 3, the Committee, in accordance with Explanatory Note 0.6.2 bis-2, approved the text of the draft agreement in document ECE/TRANS/WP.30/AC.2/2007/14/Rev.1 for signature between UNECE and IRU and decided to continue its considerations of the proposals of IRU in Informal document No.7 (2010) at its next session, upon the understanding that the signed agreement could be amended at any time, in accordance with its paragraph 6.1.

27. Some delegations expressed deep concerns because they believed that the rules of procedure were not adhered to. The vast majority of the delegations present were of the opinion that this was not the case.

28. IRU regretted the above decision by AC.2 and stated that IRU would analyze its consequences in detail and inform UNECE as soon as possible. IRU also pointed out that it will continue to fulfil all functions imposed upon it by the authorization granted by AC.2 in February 2010, as has been done over past 60 years.

VII. Revision of the Convention (agenda item 6)

A. Amendment(s) to the Convention with regard to the maximum level of guarantee per TIR Carnet

29. The Committee was informed that, as of 1 July 2010, the guarantee sum per TIR Carnet in Kazakhstan and Ukraine had been fixed at EUR 60'000. IRU pointed out that such an increase may be granted by the guarantee chain on a country-by-country basis upon condition of the successful application of the IT tools developed by IRU, with the agreement of the financial partners of IRU.

30. The delegations of the Republic of Belarus, Russian Federation and Ukraine were of the view that the rejected amendment proposal to increase the recommended maximum guarantee level per TIR Carnet to EUR 60,000 remains topical, as it aims at a harmonized implementation of the Convention in all Contracting Parties.

31. Upon invitation of the Committee, delegations of some countries which had raised objection to the underlying amendment explained the reasons behind their decision, including the financial implications that the proposed increase might lead to and non-compliance with internal procedures and regulations. Some other countries were not in a position to clarify their objections at this point in time. Finally, the Committee decided to revert to this issue at one of its future sessions.

B. Other proposals for amendments to the Convention

32. The Committee welcomed document ECE/TRANS/WP.30/AC.2/2010/3/Rev.1 by the secretariat, which contained not only the updated amendment proposals but also a summary to clarify the background and motivation of the proposed amendments. As some delegations needed more time to study these amendments, the Committee decided to postpone its considerations for the next session.

33. The Committee discussed document ECE/TRANS/WP.30/2010/3/Rev.1–ECE/TRANS/WP.30/AC.2/2010/4/Rev.1, containing the amendment proposals to Annex 9, Part I and the rationale behind the proposed amendments. The delegation of Belarus generally supported the proposals, but pointed at two amendment which were still under discussion at the national level. Following a short exchange of views on these items, the Committee decided to revert to this document at the next session.

C. Phase III of the TIR revision process – computerization of the TIR procedure

34. The Committee took note of the WP.30 considerations on this issue (ECE/TRANS/WP.30/252, paras. 23–29) and that two presentations by the secretariat and IRU would be posted on the UNECE website.

VIII. Application of the Convention (agenda item 7)

A. Recommendation on the introduction of the HS code in the TIR Carnet

35. The Committee took note of the preliminary results of the survey concerning the implementation of the Recommendation on the introduction of the Harmonized System

(HS) code in the TIR Carnet, as contained in Informal document No. 8 (2010). It urged those countries and associations that had not yet replied to do so and suggested that the secretariat send a reminder. The Committee looked forward to discussing the final results of the survey at its next session.

B. Comments endorsed by the Working Party on Customs Questions affecting Transport and TIR Executive Board

36. The Committee took note of Informal document No. 6 (2010), containing a comment to Annex 1 to the Convention together with the text of an example of best practice on the use of the TIR Carnet in case of refusal of a TIR transport to enter the territory of a country. Given the availability of this document in English only, the Committee decided to revert to this issue at the next session on the basis of an official document to be prepared by the secretariat.

IX. Best practices (agenda item 8)

37. The Committee took note of document ECE/TRANS/WP.30/AC.2/2010/13 and Informal document No. 9 on the use of so-called subcontractors and decided to consider them in detail at the next session.

X. Other business (agenda item 9)

A. Date of next session

38. The Committee decided to hold its fifty-first session on 3 February 2011, in conjunction with the 127th session of WP.30.

B. Restriction on the distribution of documents

39. The Committee decided that there should be no restrictions with regard to the distribution documents issued in connection with the present session.

XI. Adoption of the report (agenda item 10)

40. In accordance with Annex 8, Article 7 of the TIR Convention, 1975, the Committee adopted the report on its fiftieth session. During the adoption of the report, the French and Russian speaking delegations deplored that the report was not available in all three official languages.