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Item 4 (a) (i) of the provisional agenda

Activities and administration of the TIR Executive Board:

Activities of the TIR Executive Board—

Report by the Chair of the TIR Executive Board

Report of the fiftieth session of the TIR Executive Board

Summary

The present document is submitted pursuant to Annex 8, Article 11, paragraph 4 of the TIR Convention, 1975, which stipulates that the TIR Executive Board (TIRExB) “shall report on its activities to the Administrative Committee at least once a year or at the request of the Administrative Committee”.

I. Attendance

1. The TIR Executive Board (TIRExB) held its fiftieth session on 14 and 15 May in Vouliagmeni (Athens).
2. The following members of TIRExB were present: Mrs. A. Dubielak (Poland), Mr. H. Köseoğlu (Turkey), Mr. H. Lindström (Finland), Mrs. M. Manta (European Commission), Mr. I. Makhovikov (Belarus), Mrs. H. Metaxa Mariatou (Greece) and Mr. V. Milošević (Serbia).
3. Mr. V. Bondar (Ukraine) and Mrs. L. Korshunova (Russian Federation) were excused.
4. The International Road Transport Union (IRU) attended the session as an observer and was represented by Mr. M. Azymbakiev.

II. Opening statement on behalf of the Greek Customs administration

5. Mrs. Sofia Papayanni, Director of the 19th Division of the Greek Customs administration, delivered an opening statement to welcome TIRExB to Greece. With reference to the importance of the TIR system for Greece, both for transit and import/export, she confirmed the commitment of the Greek Customs administration to the activities of TIRExB in order to ensure the uninterrupted functioning of the TIR system. In particular, she mentioned the activities of TIRExB in the field of computerization, which will further improve the security of the TIR system and which will significantly release the administrative burden for Customs authorities as well as the transport industry.

III. Adoption of the agenda

Documentation: Informal document TIRExB/AGE/2012/50draft

6. TIRExB adopted the agenda of the session, as prepared by the secretariat, without further amendments.

IV. Adoption of the report of the forty-ninth session of TIR Executive Board

Documentation: Informal document TIRExB/REP/2012/49draft

7. TIRExB adopted the report of its forty-ninth session (Informal document TIRExB/REP/2012/49draft) without changes.

V. Current status of the eTIR Project

Documentation: Informal document (GE.1) No. 6a (2012); Informal document (GE.1) No. 6b (2012); Informal document (GE.1) No. 6c (2012); Informal document (GE.1) No. 6d (2012); Informal document (GE.1) No. 6e (2012); Informal document No. 10 (2012)

8. The secretariat informed the Board of the results of the twentieth session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of the TIR Procedure

(GE.1), which met in Prague on 19 and 20 April 2012. Recalling support for GE.1 as one of the Board's mandated activities under its 2011–2012 term of office, the Board noted with satisfaction that two TIRExB members had actively participated in the session. The Board welcomed a proposal from GE.1 to include international declaration mechanisms in the eTIR Reference Model, in order to provide traders with additional and internationally harmonized methods to submit declarations to Customs by electronic means and took note of the ongoing discussions on the dematerialization of documents currently attached to the TIR Carnet. The secretariat informed the Board that, in line with this request by the Board, a letter had been sent to Director Generals of Customs, outlining the relevance of the eTIR Project for the future of the TIR system and clarifying the importance for each administration to become actively involved in the activities of GE.1 by means of, inter alia, nominating eTIR Focal Points. The Board expressed its satisfaction that, in the meantime, various new countries had nominated eTIR Focal Points.

9. The Board discussed the draft Cost-Benefit Analysis (CBA) of the eTIR Project, as contained in Informal documents (GE.1) Nos. 6a–6e (2012), replacing Informal document No. 9 (2012), on the basis of comments already provided by the GE.1 at its twentieth session. The Board supported the comments by GE.1. In addition, it stressed that the draft Executive Summary should be much more concise and dedicated to an audience of non-technical decision makers. The Board was also of the opinion that, in view of past experiences by national Customs administrations, the assessment of the costs to upgrade national Information Technology (IT) systems was, most likely, too low. In addition, the CBA should be amended with clear references to the background of the various assumptions and the sources of the data used in the various scenarios.

10. The Board welcomed the developments of the eTIR Pilot Project between Italy and Turkey. The Board discussed Informal document No. 10 (2012), containing a request from the project team to allow, for the sake of the pilot project, authorized IT systems to automatically verify the status of TIR Carnet holders against the International TIR Database (ITDB). Bearing in mind the relevance of the pilot project for all TIR Contracting Parties, the Board mandated the secretariat to develop the required web services to allow the use of the data contained in the ITDB as an important step towards demonstrating the role of the ITDB in the future eTIR system. The Board requested the secretariat to keep it informed of any further developments in the pilot project.

11. Finally, the Board took note of the developments in the United Nations Development Account (UNDA) project: “Strengthening the capacities of developing countries and countries with economies in transition to facilitate legitimate border crossing, regional cooperation and integration”. It requested the secretariat to inform the Board of the future developments at its next session.

VI. Procedure prior to suspension of the guarantee on the territory of a Contracting Party

Documentation: Informal document TIRExB/REP/2012/49final, Annex

12. TIRExB confirmed its approval of the text of the draft example, as contained in the Annex to the report of its previous session (Informal document TIRExB/REP/2012/49final) and requested the secretariat to transmit the example to the TIR Administrative Committee (AC.2) for consideration and endorsement.

VII. Monitoring the functioning of the TIR guarantee system

Documentation: Informal document No. 2 (2012)/Rev.1 (restricted)

13. The Board took note of Informal document No. 2 (2012)/Rev.1, prepared by the secretariat and thanked IRU for having cooperated on clarifying various discrepancies between the data gathered by the TIRExB survey and the IRU statistics. The Board mandated the secretariat to further collaborate with IRU and compare the results of the TIRExB survey with the IRU statistics country by country in order to identify the origin of any divergences. Moreover, the Board took note of the evolution of the real value of the recommended guarantee amount of US\$ 50,000 since 1975 for a number of countries and requested the secretariat to continue its investigation by means of including in its overview, as far as possible, additional countries as well as the evolution of the € 60,000 guarantee amount. Furthermore, the Board took note that the figure of 60 per cent of the claims raised in the European Union being withdrawn by Customs was mainly due to one single country and welcomed the initiative of the European Commission to address this issue. The Board agreed to include in future surveys two questions about pending claims, with the aim to clarify their origin. It agreed that the questionnaire should be conducted at least every two years, at the beginning of each new term of office of TIRExB. Finally, the Board requested the secretariat to prepare a consolidated version of the results of the survey, not mentioning individual countries, and circulate it by e-mail among Board members for approval, prior to submitting the document to AC.2.

14. With regard to the fact that a large percentage of claims are not paid within the three months deadline, as prescribed by Article 11, paragraph 3, the Board was of the opinion that changing the deadline would not contribute to resolving the underlying issue. The Board requested the secretariat to further investigate the replies per country, with the aim to undertake a targeted promotion of the various existing examples of best practices dealing with claims, where possible.

15. The Board conducted a first round of discussions on the issue of conformity of the use of additional guarantees with the provision of Article 4 of the TIR Convention. Some TIRExB members were of the view that the provision of Article 4 was clear in stipulating that “goods carried under the TIR procedure shall not be subjected to the payment or deposit of import or export duties and taxes at Customs offices en route”. In their view, the scope of Article 4 was not only to avoid any payment or deposit of import or export duties and taxes, but also to exclude the requirement of any guarantee in addition to the guarantee provided by the TIR Carnet. Other Board members argued that, due to the absence in Article 4 of a specific reference to additional guarantees, a different legal interpretation could be maintained. At the same time, the Board noted that in individual cases, the costs of an additional guarantee could be lower than the costs of, for example, an obligatory escort. The Board also noted the possible correlation between the reduction, over time, of the real value of the recommended guarantee amount and the requirement of additional guarantees and escorts. The Board decided to pursue its discussions at the next session and requested the secretariat to prepare a document on the application of Article 4 of the Convention, for consideration at its next session.

VIII. Issues raised by the Turkish Customs authorities

Documentation: Informal document No. 3 (2012)/Rev.1

16. The Board discussed Informal document No. 3 (2012)/Rev.1, prepared by the secretariat and containing additional proposals by IRU to the already provisionally approved revision of the existing example of best practice on the application of Article 38

(Chapter 5.8 of the TIR Handbook). The Board decided to follow IRU's proposals to amend the text as follows: In paragraph 11, line 3, the reference should be to paragraphs 9 and 10 and not, as mistakenly written, 8 and 9; in paragraph 13 the word 'sanctions' should be replaced by 'restrictions or sanctions'.

17. TIRExB requested the secretariat to transmit the revised example of best practice to AC.2 for consideration and endorsement.

IX. Review of the examples of best practices on the application of Article 11 of the Convention

Documentation: Informal document No. 4 (2012)/Rev.1

18. The Board considered Informal document No. 4 (2012)/Rev.1 containing an updated draft of a specimen pre-notification letter, for inclusion in Chapter 5.7. of the TIR Handbook. The Board decided to follow all proposals by various TIRExB members and requested the secretariat to submit the specimen pre-notification letter to AC.2 for consideration and endorsement.

X. Implementation of the intermodal aspects of the TIR procedure

Documentation: Informal document No. 5 (2012)/Rev.1

19. TIRExB discussed at length Informal document No. 5 (2012)/Rev.1, containing a revised draft of a short survey among concerned stakeholders in the transport industry (logistic companies and intermodal transporters) in order to determine if there is a specific demand from the transport industry for a single intermodal Customs document and accompanying guarantee. In view of the fact that the focus of the survey is to trigger information from the transport industry, TIRExB decided not to include national competent authorities in the list of addressees. In addition, TIRExB felt that some of the questions or answers could be considered as biased and, thus, required their reformulation. TIRExB also requested the secretariat to closely liaise with IRU when preparing the final text of the survey and when deciding on its dissemination, in order to ensure maximum response from the concerned branched of the transport industry. TIRExB agreed that the final purpose would be the publication of a web-based survey at the TIRExB website.

XI. World Customs Organization e-learning course

20. The secretariat informed the Board that, further to a request from TIRExB, the Director of the Transport Division of UNECE had sent a letter to the Secretary-General of the World Customs Organization (WCO), conveying the Board's overall satisfaction with the efforts undertaken by WCO and IRU to accommodate 88 of the 113 comments made by TIRExB on the WCO e-learning course on TIR, inviting WCO to consult with TIRExB at any time in the future, with the aim of increasing the overall quality of the course for the purpose of Customs training.

21. Mr. Makhovikov (Belarus) informed the Board that Belarusian Customs authorities had sent a letter to the national association offering their willingness to discuss how to improve the Russian text of the WCO e-learning course on TIR, possibly in cooperation with IRU. IRU confirmed that such invitation had reached its address and that it was

willing and available to collaborate with Belarusian Customs to improve the Russian text of the course.

22. In the absence of additional comments or suggestions on the WCO e-learning course, TIRExB decided to consider this activity closed and requested the secretariat to no longer put the item on the agenda.

XII. Issues raised by the Greek national association

Documentation: Informal document No. 13 (2012)

23. The Board discussed Informal document No. 13 (2012), transmitted by the government of Ukraine and informing that Ukraine, as Contracting Party to the TIR Convention, strictly adheres to its provisions, including the technical specifications of Annex 3. Thus, in the absence of any concrete cases on which to judge the justification of complaints raised by the Greek national association (OFAE), Ukrainian Customs authorities were not in a position to further comment on the issue.

24. Mrs. Metaxa Mariatou (Greece) informed that, according to OFAE, it had not received the letter from TIRExB of November 2011, requesting the submission of concrete cases for transmittal to the Ukrainian Customs authorities. In the meantime, OFAE had been informed by its transporters that the situation seemed to have improved. In case this would not be fully accurate, OFAE had agreed to submit concrete cases to TIRExB. In the absence of any such additional information, TIRExB requested the secretariat to take this item out of the agenda.

XIII. Election of a TIR Executive Board replacement member

Documentation: Informal document No. 14 (2012)

25. TIRExB considered Informal document No. 14 (2012), prepared by the secretariat and containing further proposals to amend the existing Rules of Procedure of TIRExB, in order to address, for the future, the professional requirements for the nomination of TIRExB members. Although TIRExB agreed that any such rule would only be provisional, considering that, ultimately, Contracting Parties are free to nominate any person of their choice as candidate for TIRExB, the Board was of the opinion that including a reference to the professional requirements of prospective TIRExB members would give a positive sign to Contracting Parties on how best to proceed when nominating a candidate. Thus, TIRExB requested the secretariat to add these proposals to the already adopted draft Explanatory Note to Annex 8, Article 9, paragraph 2 and amendments to the Rules of Procedure, as contained in Informal document No. 7 (2012), and transmit the complete package to AC.2 for approval or information.

XIV. Issue raised by International Road Transport Union on the application of the TIR procedure in Albania

Documentation: Informal document No. 18 (2012)

26. The Board discussed Informal document No. 18 (2012), transmitted by the government of Albania and containing the information that, since September 2009, Albanian Customs apply an electronic TIR system. Only in cases of non-compliance with the electronic standards, a national transit procedure is initiated.

27. Mrs. Dubielak (Poland) explained that the information should be read and understood to mean that Albanian Customs insert the data from the paper TIR Carnet in the national electronic ASYCUDA-TIR application.

28. IRU informed the Board that it continues to receive complaints from its transporters that Albanian Customs do not accept the TIR Carnet and prescribe the use of a national transit procedure (against an additional fee) in case of importation of goods into the territory of Albania.

29. In order to proceed with the matter, TIRExB requested IRU to submit some recorded cases to the Board for consideration. Having formulated its opinion, TIRExB could then, as a next step, send a letter to the Albanian government via diplomatic channels (i.e. the Albanian mission in Geneva) reporting on the identified cases and commenting on the application of the TIR Convention in the Republic of Albania.

XV. Issue raised by the Romanian national association on the use of the TIR Carnet in Turkey

Documentation: Informal document No. 15 (2012)

30. The Board considered Informal document No. 15 (2012), prepared by the secretariat and containing various letters from the Union of Chambers and Commodity Exchanges of Turkey (TOBB) and IRU about the validity of TIR Carnets (i.e. the availability of guarantee coverage) in a series of cases where the TIR Carnet holder was using rented vehicles, belonging to another, sometimes even foreign company. According to IRU “the TIR Carnet holder, having received and signed the TIR Carnet, is always liable towards the competent Customs authorities even if he has entered into a rental agreement for the load compartment and irrespective of his nationality.”

31. TIRExB could agree to the statement that the legal relationship between the holder of the TIR Carnet and the vehicles used (ownership or possession) or the nationality of those vehicles, are of no relevance for determining the validity of the TIR Carnet. However, on a more general note, the Board questioned the practice that competent authorities seem to turn to IRU to obtain information about the availability of a valid guarantee rather than applying the provisions of Articles 6 and 9 of the Convention. In accordance with these provisions, a TIR Carnet issued by an authorized national association, affiliated to the same international organization, and issued to an authorized TIR Carnet holder bears a valid guarantee, as long as the TIR Carnet is accepted by the competent authorities of a Customs office of departure within the deadline of validity, fixed by the issuing national association.

XVI. Issues raised by various national associations on the application of the TIR procedure in the territory of some Contracting Parties

Documentation: Informal document No. 16 (2012); Informal document No. 20 (2012)

32. TIRExB discussed Informal document No. 16 (2012), submitted by the Association of International Road Transport Carriers of Poland (ZMPD) and Informal document No. 20 (2012), transmitted by the government of Turkey. According to the various information (supported by reports from Bulgarian and German transporters), problems continue to exist in the Russian Federation on the application and practical organization of Customs escorts. Due to the inability of Customs to organize such escorts themselves, transporters are forced to ‘voluntarily’ terminate the TIR transport and start a national transit procedure (with its

corresponding guarantee system) and, in some cases, have to accept an escort with long delays and, often, elevated costs, organized by a private company.

33. In view of the fact that there seems to be a deadlock situation, considering that already some years ago, TIRExB had approached the Customs authorities of the Russian Federation on this issue, but without any success, TIRExB invited IRU to consider if it could not assist individual transport operators in starting legal proceedings in the Russian Federation, challenging that the imposition of private services by Customs constitutes a violation of national anti-trust legislation.

34. Mrs. Manta (European Commission) offered to contact the Bulgarian Customs authorities to seek clarification on the alleged incidents in Bulgaria, mentioned in Informal document No. 20 (2012). TIRExB accepted this kind offer and requested Mrs. Manta to keep the Board informed of her findings.

XVII. Issue raised by International Road Transport Union on the functioning of the TIR system in Greece

Documentation: Informal document No. 17 (2012) (restricted)

35. TIRExB considered Informal document No. 17 (2012), submitted by IRU and containing various correspondence related to two unsettled claim cases in Greece.

36. Mrs. Metaxa Mariatou (Greece) elaborated on the proceedings of the cases from the side of the Greek Customs authorities, stressing that they had received various complaints from the Greek national association (OFAE) with regard to the claim handling, but that OFAE, at no time, had started legal proceedings against Greek Customs. The blocking of the accounts of OFAE in February 2012 had been a consequence of a new law, introduced by the government of Greece on the request of the International Monetary Fund (IMF). In applying this new law, the competent Customs office had, by mistake, blocked the complete amount of the Customs claim against the persons directly liable rather than the guaranteed amount due by the guaranteeing association, together with the default interest rates. In the meantime, this mistake had been corrected.

37. Without prejudice to the specific cases at stake, TIRExB confirmed that, as a rule, Customs authorities, not having been able to claim payment from the person(s) directly liable and in the absence of satisfactory proof from the national association with regard to the legality of a pending claim, have the right to claim payment from the national association in accordance with the provision of Article 11, paragraph 1. In such case, unless it starts legal proceedings in accordance with the provision of Article 11, paragraph 2, the national association must pay the claim within a period of three months, in accordance with the provision of Article 11, paragraph 3.

38. TIRExB took note of a statement by IRU according to which these claims do not stand on their own, but should be considered against the background of longstanding issues between the Greek national association (OFAE) and the Greek Customs authorities, such as those previously discussed by TIRExB at its forty-sixth session (TIRExB/REP/46final, paras. 18–22).

39. TIRExB was also informed of a meeting, held between representatives of OFAE and the TIR secretariat, to discuss issues of concern to OFAE (in particular, the price of the TIR Carnet and the height of the obligatory deposit). TIRExB took note that OFAE intends to address a request to the Board, soliciting the Board's knowledge of and/or experience with similar practices in other TIR Contracting Parties.

XVIII. Activities of the secretariat

40. The Board was informed by the secretariat that preparations to organize a TIRExB seminar in Kyrgyzstan were ongoing. According to information received by IRU, such a seminar could count on high level participation from the side of the Kyrgyz Customs administration. Tentative dates of the session: 25 and 26 July 2012. TIRExB members were kindly invited to consider participating in this important event.

41. The secretariat informed the Board that, so far, national associations from only six countries had submitted information on the various prices of TIR Carnets, as required by the provision of new Annex 9, Part I, Article 3 (vi). TIRExB requested the secretariat to send a letter to Customs administrations, reminding them of this requirement from the Convention and requesting them to obtain the information from their national associations for transmittal to TIRExB.

XIX. Other matters

Documentation: Informal document No. 20 (2012)

42. TIRExB took note of Informal document No. 20 (2012), transmitted by the government of Denmark and reporting on various incidents with TIR secure vehicles approved and registered in Turkey which were found to be equipped with a stretchable TIR wire which was not compliant with the provision of Annex 2, Article 3, paragraph 9 of the Convention. In a first reaction, Mr. Köseoglu (Turkey) requested the official transmission of the information to the Turkish Customs authorities for further assessment.

43. TIRExB requested the secretariat to send a letter to all Customs authorities, reminding them of the importance that all TIR approved vehicles comply, at all times, with the provisions of Annex 3 of the Convention and asking them to pay particular attention to the composition and construction of the TIR wire as well as how it is used on TIR approved vehicles, considering that already small divergences of any kind may lead to the load compartment no longer being Customs secure.

XX. Technical visit to the premises of the Customs office of Piraeus

44. As part of its fiftieth session, TIRExB visited the Customs office of Piraeus (Greece), where it was informed about progress made in the electronic processing of TIR Carnets in the European Union using the NCTS-TIR application.

XXI. Restriction in the distribution of documents

45. TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal document No. 2 (2012)/Rev.1 and Informal document No. 17 (2012).

XXII. Date and place of next session

46. TIRExB decided, tentatively, to conduct its fifty-first session on Monday, 8 October 2012 in Geneva, in conjunction with the 132nd session of Working Party on Customs Questions affecting Transport (WP.30) and the fifty-fourth session of AC.2.