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Geneva, 8 October 2014

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 fifty-seventh session of the TIR Executive Board (TIRExB)

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 fifty-seventh session on 3 February 2014 in Geneva.
2. The following members of TIRExB were present: Mr. M. Ciampi (Italy), Mrs. D. Dirlik (Turkey), Mrs. L. Jelinkova (European Commission), Mr. H. Lindström (Finland), Mr. I. Makhovikov (Belarus), Mr. V. Milošević (Serbia) and Mr. S. Somka (Ukraine).
3. Further to her resignation as member of TIRExB (See agenda item 2), Mrs. Dubielak did not attend the session. Mr. K. Syaskov (Russian Federation) was excused.
4. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. M. Retelski.



II. Opening statement

5. In her opening statement, Mrs. Eva Molnar, Director, United Nations Economic Commission for Europe (UNECE), Transport Division, touched upon the ongoing crisis of the TIR system in the Russian Federation. Although there did not seem to have been much development in the situation since the previous meeting of TIRExB, it had clearly transpired that all economic sectors involved in the importation of goods into the territory of the Russian Federation were increasingly suffering from the measures introduced by the Federal Customs Service (FCS). Despite the negative impact of the crisis on the functioning of the TIR system as a whole, she remained confident that appropriate measures would be taken to ensure that the TIR Convention would come out of the crisis stronger than ever before. She further pointed TIRExB to important issues on its agenda: the introduction of the concept of authorized consignor and the determination of the requirements for an international organization in accordance with the new provisions of Annex 9, Part III of the Convention. Finally, she reported on recent meetings conducted by the secretariat with the European Commission and the IRU in order to further the implementation of the eTIR Project, rendering her positive that tangible progress could be made in the coming months towards the practical application of eTIR.

III. Adoption of the agenda (Agenda item I)

Documentation: Informal document TIRExB/AGE/2014/57

6. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2014/57 without further additions.

IV. Election of a Chair

7. The Board recalled that, in accordance with its Rules of Procedure “a Chair shall be elected at the first meeting each year, who shall hold office until his/her successor is elected. He/she shall be eligible for re-election”. Considering that Mrs. Dubielak (Poland), further to the resignation as member of TIRExB was not available for re-election (Informal document No. 1 (2014)), the Board elected Mr. H. Lindström (Finland) to chair its meetings in 2014.

V. Adoption of the report of the fifty-fourth and fifty-fifth session of TIRExB (Agenda item II)

Documentation: Informal document TIRExB/REP/2013/56 draft with comments

8. The Board adopted the draft report of its fifty-sixth session (Informal document TIRExB/REP/2013/56draft with comments), subject to the following amendments:

Page 7, paragraph 35, line 2

After TIR delete is or

Page 8, paragraph 36, line 10

Replace substantial changes to by amending

Page 8, paragraph 36, line 11

Replace they by some members

VI. Settlement of disputes between Contracting Parties, associations, insurance companies and international organizations (agenda item III)

A. The decision of the Russian Federal Customs Service affecting the functioning of the TIR system

1. Follow-up to the fifty-fifth session

9. TIRExB welcomed Informal document No. 2 (2014), prepared by the secretariat in close cooperation with IRU, elaborating on the continuing crisis in the Russian Federation, including a first legal assessment. TIRExB reiterated its regret that, despite various requests from all TIR governing bodies, including but not limited to TIRExB, to FCS to provide full and detailed explanations of the measures in force, so little practical information on the evolution of the situation and its impact on international trade and transport seemed to be available. In the view of the Board, with the passing of time since the first introduction of the measure to request an additional guarantee for TIR Carnet holders on 14 September 2013, the situation could no longer be characterized as 'Russian crisis', as it affected the functioning of the TIR system in all Contracting Parties. Furthermore, TIRExB established that the use of the term 'additional guarantee' did not seem to give an adequate description of the situation, in view of reports that Russian customs offices at the borders with some European Union (EU) member states, except at borders with Finland, as well as at customs offices with other countries, refused to accept TIR Carnets and obliged transporters to obtain a national transit customs document and a national guarantee for the remaining part of the journey in the territory of the Russian Federation. Various TIRExB members expressed their concern over this selective application of the provisions by the Russian customs authorities. IRU informed that, upon request, TIR Carnet holders, having opened a TIR Carnet in a third country but refused by Russian customs to enter Russian territory with that TIR Carnet, would be reimbursed. Mrs. Jelinkova (European Commission) informed the Board that the Commission is conducting a full legal analysis of the situation, including the relevance of other legal instruments, such as the Vienna Convention and the GATT.

10. Various TIRExB members reported on the recent activities undertaken by their government or organization to convince FCS to abolish the measures and to return to the situation from before 14 September 2013. They also referred to the growing pressure on competent authorities to take some kind of measures to counter the selective application of the provisions of the TIR Convention by the Russian authorities. Although such measures were seriously contemplated, governments were reluctant to bring any further damage to the TIR system, considering that around eighty per cent of transports to the Russian Federation still took place under cover of a TIR Carnet.

11. The Board touched upon various scenarios which could happen, in case, by 1 July 2014, there would be no authorized national association and the TIR system would no longer function on the territory of the Russian Federation, but felt that it was too premature (with five months left until that deadline) to make a realistic judgement at this stage.

12. In conclusion, considering the absence of any serious development in the crisis, TIRExB was of the view that, at this point in time, a further statement did not seem the most appropriate way to proceed with the issue. At the same time, the Board felt that, due to the continued absence of information on the nature of the measure or the intentions of FCS, it seemed relevant to formulate a set of questions, which would be addressed to the representatives of FCS attending the meetings of WP.30 and AC.2. In case representatives would be unable to answer all (aspects of the) questions during the session, they should be

forwarded by mail to FCS for reply in writing, preferably before the next session of TIRExB (8–9 April 2014). The list of questions is attached as Annex to the report.

13. IRU informed the Board that, unless the situation would evolve positively, it might be forced by its member associations to stop distributing TIR Carnets to the Association of International Road Transport Carriers (ASMAP) and to no longer accept guarantee coverage for the territory of the Russian Federation, as of 1 July 2014.

14. TIRExB reiterated its availability to assist all parties concerned in exploring and finding possible solutions for the crisis.

VII. Application of specific provisions of the TIR Convention (agenda item V)

A. Use of additional guarantees

15. Due to lack of time, TIRExB decided to revert to this issue at its next session.

B. Format of the certificate of approval

Documentation: Informal document No. 29 (2013)/Rev.1

16. TIRExB welcomed Informal document No. 29/Rev. 1 (2013), prepared by the secretariat at the request of the Board and containing a revised proposal to amend the first comment to Annex 4 on the approval certificate so that it would not only allow for the use of A3 format, but also A4, under the condition that the pages would be secured by means of stamps on every page or secure bindings. The Board requested the secretariat to transmit the proposal to AC.2 for further consideration.

C. Application of Annexes 2 and 7

17. The Board took note that, further to a request at its fifty-sixth session (TIRExB/REP/2013/56, para. 28), the secretariat had posted the templates of approval reports for different types of vehicles in both Word and PDF formats at the training section of the TIRExB website¹.

VIII. Computerization of the TIR procedure (agenda item VI)

A. Current status of the eTIR Project

18. TIRExB was informed that the report of the twenty-third session of the Informal Ad hoc Expert Group on Technical and Conceptual Aspects of Computerization of the TIR Procedure (GE.1) (20–21 November 2013) was now available as document ECE/TRANS/WP.30/2014/4. TIRExB took note that the secretariat, at the request of GE.1, had prepared WP.30 Informal Document (2014) No. 3, which highlights, inter alia, the challenges of, on the one hand, fully standardizing the TIR declaration messages while, on the other hand, taking full account of the nationally diverging requirements for safety and

¹ www.unece.org/tir/training/english/tir-secure-vehicles-containers.html

security data as well as for information contained in other transport or commercial documents. Bearing in mind that the future eTIR system should, at least, provide the same level of facilitation as the current, paper-based TIR system, TIRExB took note that the eTIR declaration mechanisms as envisaged by the eTIR Reference Model could not function without the existence of a standard electronic eTIR declaration message. TIRExB also took note that the secretariat had met with representatives of IRU to discuss potential divergences between the eTIR Project and the computerization efforts undertaken by IRU. TIRExB noted that, as the eTIR Project is limited to the customs aspects of the computerization of the TIR procedure, the IRU developments are fully compatible and even constitute a prerequisite for the complete computerization of the TIR procedure.

B. United Nations Development Account

19. The Board further took note of the progress made 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” and, in particular, that the consultant, hired to undertake a gap-analysis for Georgia, had sent out questionnaires to neighbouring countries. Upon the completion of the gap analyses by all regional commissions, the first interregional Expert Group meeting would be organized to select pilot countries and further define what would be possible to achieve in each pilot country with the available funds.

C. Central database for certificates of approval

20. TIRExB welcomed the secretariat’s initiative to delay launching the survey, soliciting information on the issuance of certificates of approval at the national level, until finalization of a version in Russian, in order to ensure the participation of Russian speaking countries. At the request of TIRExB, the survey will be addressed to TIR focal points. In reply to a general question from the Board on the policy of addressing countries with requests for information, including but not limited to surveys, the secretariat replied that it strictly follows the dissemination instructions given by TIRExB.

IX. Adaptation of the TIR procedure to modern business, logistics and transport requirements (agenda item VII)

A. Implementation of the intermodal aspects of the TIR procedure

21. Due to lack of time, TIRExB decided to revert to this issue at its next session.

B. Authorized consignor and consignee

Documentation: Informal document No. 27 (2013), Informal document No. 28 (2013)

22. Due to lack of time, TIRExB decided to revert to this issue at its next session and requested the secretariat to ensure that the Board would have sufficient time to discuss the issue extensively.

X. Promotion of the geographical expansion of the TIR system (agenda item VIII)

A. Islamabad-Teheran-Istanbul (ITI) Corridor project

23. The Board was informed that, on 23 and 24 September 2013, a third technical meeting of the Corridor project had taken place in Ankara, with the participation of various interested countries, as well as the secretariat of the Economic Customs Organization (ECO), IRU and the Union of Chambers and Commodity Exchanges of Turkey (TOBB). A test run of the first trucks pilot is expected to be launched in March 2014.

B. China's intention to accede to the TIR Convention

24. IRU reported that, after having received a letter from the competent authorities confirming China's intention to accede to the TIR Convention in August 2013, it was now awaiting further instructions with regard to the organization of an expert meeting dealing with technical issues.

XI. Functioning of the TIR international guarantee system (agenda item IX)

A. Survey on customs claims

25. The Board was informed that, so far, around twenty countries had replied to the secretariat survey on customs claims over the period 2009-2012, which had been sent out in December 2013. TIRExB agreed to extend the deadline for reply to the end of February 2014 and requested the secretariat to send out a reminder to all missing countries.

B. Termination of the agreement between customs and the guaranteeing association in Portugal

26. Due to lack of time, TIRExB decided to revert to this issue at its next session.

C. Decision of the Russian Federal Customs Service to terminate the agreement with ASMAP

Documentation: Informal document No. 30 (2013)

27. Due to lack of time, TIRExB decided to revert to this issue at its next session.

XII. Activities of the secretariat (agenda item XI)

28. Not discussed due to lack of time.

XIII. Other matters (agenda item XII)

Documentation Informal document No. 31 (2013), Informal document No. 4 (2014), Informal document No. 5 (2014).

29. Following TIRExB, further to a short introduction of Informal document No. 4 (2014) by the secretariat, TIRExB decided to revert to his issue in detail at its next session.

30. TIRExB welcomed Informal document No. 5 (2014) submitted by IRU and containing statistical data on the number of TIR Carnets distributed to each Contracting Party broken down by type, in accordance with the provisions of Annex 9, Part III, Article 2 (e). The Board requested the secretariat to issue it also as a general Informal document for discussion at the forthcoming session of AC.2².

XIV. Restriction in the distribution of documents (agenda item XIII)

31. TIRExB decided to keep Informal documents No. 31 (2013), No. 1 (2014) and No. 4 (2014), prepared for discussion during the session, restricted.

XV. Date and place of next session (agenda item XIV)

32. TIRExB decided to conduct its fifty-eighth session on 8 and 9 April 2014 in Geneva.

² www.unece.org/fileadmin/DAM/trans/bcf/ac2/documents/id14-05e.pdf

Annex

At its fifty-seventh session (Geneva, 3 February 2014), the TIR Executive Board (TIRExB) discussed, inter alia, the ongoing crisis in the Russian Federation, which, since the first announcement in July 2013, continues to disrupt the proper functioning of the TIR system in the Russian territory and negatively impacts international trade and transport to, through and from the Russian Federation.

Since August 2013 TIRExB, as well as AC.2, have consistently established that the measure by the Federal Customs Service (FCS) does not comply with the various provisions of the TIR Convention, in particular its Articles 3, 4, 6, 42 bis and 49 and, consequently, results in a breach of the TIR Convention. In addition, FCS was requested to abandon the measure. In August and December 2013, TIRExB issued statements on this, which have been forwarded to the competent Russian authorities.

Despite these and similar actions by various stakeholders, including the European Union and the International Road Transport Union, FCS persists in requiring an additional guarantee for transports under cover of a valid TIR Carnet. In addition, an increased number of Russian customs offices of entry refuse that TIR Carnet holders continue TIR transports on the territory of the Russian Federation.

In order to restore the proper functioning of the TIR Convention in the Russian Federation, TIRExB would like to raise the following questions, to which FCS is invited to reply:

1. Could you clarify if the required guarantee for transports on the territory of the Russian Federation functions in addition to the existing TIR guarantee or does it replace the TIR guarantee?
2. In case the required guarantee is considered to be used in addition to a TIR Carnet, how do you divide the liability between the various guarantors in case of an infringement?
3. Does the Russian Federation maintain its intention to continue being a Contracting Party to the TIR Convention, 1975, and to adhere, without exception, to all obligations stemming from such status, including the application of all its provisions?
4. Does the Russian Federation maintain its intention to have uninterrupted coverage of the TIR guarantee on its territory, by means of ensuring that, at any time, there is, at least, one authorized TIR national association, in accordance with the provisions of Article 6?
5. Is it correct that efforts are under way to find an authorized association to fulfill the obligations under the TIR Convention by means of a public tender? If yes, then at which stage is the process and is it foreseen that the process be terminated before 1 July 2014?
6. What is the reason why only a limited number of customs offices still accept TIR Carnets as valid customs and guarantee documents, whereas the large majority no longer do so? Is there an intention to re-establish the functioning of the TIR Convention on the complete territory of the Russian Federation before 1 July 2014?
7. What was decided at the governmental meeting that took place on 26 November 2013? Were all decisions taken at that meeting implemented?
8. What are FCS plans for international transit after 1 July 2014?
9. Considering that the Russian Federation stated its willingness to stay within the TIR system but seems unsatisfied about certain provisions of the Convention, when will you submit proposals for amendments?