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Administrative Committee for the TIR Convention, 1975
(Thirty-fifth session, 25-26 September 2003,
agenda item 3 (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 at its sixteenth session

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**REPORT OF THE SIXTEENTH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)
(3 February 2003)**

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its sixteenth session on 3 February 2003 in Geneva.
2. The following members of the TIRExB were present: Mr. M. Amelio (Italy); Mr. G.-H. Bauer (Switzerland); Mr. R. Ehmcke (Germany); Mrs. Y. Kasikçi (Turkey); Mr. D. Kulevski (The Former Yugoslav Republic of Macedonia); Mr. J. Marques (European Community); Mrs. H. Metaxa-Mariatou (Greece); Mrs. N. Rybkina (Russian Federation). Mr. M. Olszewski (Poland) was excused.
3. 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, TIR Policy and Customs Border Crossing Facilitation.

OPENING STATEMENT

4. When opening the meeting, Mr. J. Capel Ferrer, Director, UNECE Transport Division, addressed the TIR crisis which had broken out at the end of 2002. He pointed out that the TIR procedure was under a major threat, due to the misuse of its facilities by organized crime, particularly in some countries in transition. He also informed that Mr. M. Magold, TIR Secretary had been relieved of his duties by the UNECE Executive Secretary for reasons which were partly of an internal nature and partly as a consequence of the recent events. According to Mr. Capel Ferrer, Mr. Magold had accepted that decision. The Board decided not to further pursue the issue for the moment, but to await first the information to be supplied by the Executive Secretary at the forthcoming WP.30 meeting, before deciding on any possible reaction to the Executive Secretary's decision."

ADOPTION OF THE AGENDA

5. The TIRExB adopted the agenda of the session as prepared by the TIR Secretary (TIRExB/AGE/2003/16).

ELECTION OF A CHAIRMAN

6. In accordance with Annex 8, Article 11, paragraph 3 of the Convention, Mr. Mario

Amelio (Italy) was elected Chairman.

ADOPTION OF THE REPORT OF THE FIFTEENTH SESSION OF THE TIRExB

Documentation: TIRExB/REP/2002/15draft.

7. The TIRExB adopted the report of its fifteenth session as prepared by the TIR Secretary (TIRExB/REP/2002/15draft), subject to the following modifications:

Paragraph 9

Modify the last sentence to read as follows:

"The IRU recalled its earlier reservations (see, for example, TIRExB/REP/2002/14/Rev.1, para.12) concerning the concept of authorised consignee in the TIR Convention and informed the TIRExB that this issue had been studied in detail by the IRU's Commission on Customs Matters which was of the view that it would be too premature to introduce such a facilitation within the TIR system."

Paragraph 9

After the first sentence, add a new one to read as follows:

"The IRU was of the view that the said document had effectively appeared to modify the principle established over the past 50 years, particularly in respect of the application of Article 11, paragraphs 1 to 3 of the TIR Convention."

Paragraph 23

Modify the paragraph to read as follows:

"23. The TIRExB was informed that the Customs authorities of Belarus had lodged with the national guaranteeing association BAIRC 440 claims for payment with a total amount of more than US\$ 3,000,000. Most claims stemmed from infringements committed by Lithuanian transport operators. The Customs authorities, on the basis of decisions by the Byelorussian Arbitration Court which had ruled in favour of the Customs, had already withdrawn a part of the above sum from the BAIRC banking account. However, it was alleged that until BAIRC had so far obtained no reimbursement from the TIR guarantee chain had taken place. The association was concerned that it might go bankrupt and, as a result, the application of the TIR Convention in Belarus would be disrupted. The IRU informed the Board that, once possibilities of appeal against court decisions in Belarus had been exhausted, the international TIR guarantee chain would reimburse those sums."

Paragraph 25

Modify the paragraph to read as follows:

"25. Notwithstanding the factors mentioned in para. 24 above, the TIRExB stressed that the task of the TIR guarantee chain is to settle Customs claims which cannot be collected from the persons directly liable. The IRU reiterated that it is the duty of the Competent Authorities, in line with Article 8 § 7 of the TIR Convention, to do its utmost to notify and to collect those sums directly from the liable persons. In case of failure by those person to settle the taxes and duties, Customs authorities should be prepared to use the provisions of Article 38 in order to exclude the TIR holder(s) from the TIR system where appropriate and in accordance with national legislation. In this context, the IRU informed the Board that, as soon as possibilities of appeal against court decisions in Belarus had been exhausted, the international TIR guarantee chain would reimburse to BAIRC. The TIRExB continued its deliberations on the issue under agenda item "National control measures introduced in the Republic of Belarus against Lithuanian transport operators" (see paras. 29-34 below)."

Paragraph 51

Modify the last sentence to read as follows:

"Both the TIR secretariat and the IRU reiterated the importance they attached to the work of the Taskforce as well as to the SafeTIR system itself which is the only tool available for the associations and the IRU to continuously verify if the TIR holders are fulfilling the minimum conditions and requirements by such persons as laid down in Annex 9, Part II of the TIR Convention and thus to increase the trust in the system."

8. The revised text of the report of the fifteenth session of the Board is contained in document TIRExB/REP/2002/15.

FUNCTIONS AND ROLES OF THE TIRExB, THE TIR SECRETARIAT AND THE IRU

9. The TIRExB was informed of the results of the group of "friends of the Chairman" convened by the Chairman of the UNECE Working Party on Customs Questions affecting Transport (WP.30) on 23 February 2003 in Geneva. The Group decided to recommend the TIR Administrative Committee the following three-step approach:

- in the short term, the Committee may give a mandate to the UNECE to revise the current agreement with the IRU immediately after the forthcoming meeting of the Committee in

February 2003 on the understanding that this mandate will be based on the provisions of the TIR Convention and that it shall respect the competences of the Contracting Parties. The revised agreement will be signed provisionally until its formal adoption at the September 2003 session of the TIR Administrative Committee;

- in the medium term, it was proposed to produce a document that would clarify the roles and responsibilities of the TIRExB and the international organization for adoption by the TIR Administrative Committee at its 2004 spring session;

- in the long term, the TIR Convention should be reviewed in order to strengthen the provisions concerning liability and the right of appeal.

10. The TIRExB also took note that the Chairman of WP.30 would submit these conclusions to the forthcoming sessions of WP.30 and the TIR Administrative Committee for consideration and possible adoption.

PRIORITY ITEMS FOR CONSIDERATION AND RESOLUTION BY THE TIRExB IN 2003

11. Taking into account the forthcoming elections of new TIRExB members by the TIR Administrative Committee (6 February 2003), the Board agreed that it would be more appropriate if the new composition of the TIRExB would decide on a programme of work for the year 2003.

PREPARATION OF AN EXAMPLE OF A TIR CARNET DULY FILLED-IN

Documentation: Informal document No. 1 (2003).

12. The TIRExB recalled its earlier discussions on a number of issues which should first be resolved before an example of a TIR Carnet duly filled-in could be prepared and, in particular, its request to draft a new Explanatory Note concerning the double role of Customs offices of departure (or destination) in certain cases (TIRExB/REP/2002/15, paras. 10-12). In this context, the TIRExB considered relevant proposals by the TIR Secretary as contained in Informal document No.1 (2003) and made some modifications to their content. The TIR Secretary was requested to prepare a new draft and to submit it to the next session of the Board for approval.

13. The TIRExB also took note of a first example of a TIR Carnet duly filled-in (Informal document No.1 (2003)) covering a TIR transport along the following route: Turkey (2 Customs offices of departure) - (ferryboat) - Italy - Switzerland (first office of destination) - Germany (second office of destination). The proposed itinerary included such features as the maximum permissible number of Customs offices of departure and destination as well as the suspension of a TIR transport.

TIRExB members were invited to scrutinize the example and to complement it with particulars such as names of the Customs offices involved, description of the goods, identification of Customs seals and stamps, etc.

INCREASE IN THE NUMBER OF LOADING AND UNLOADING PLACES

Documentation: Informal document No. 2 (2003).

14. The TIRExB recalled that, at its previous session, it found two options how to increase, in the short term, the number of Customs offices of departure and destination in the TIR procedure on the basis of the current text of the TIR Convention. The TIR Secretary was requested to draft a comment addressing all peculiarities of the two options such as the conditions for application, the existence of the TIR guarantee, the filling-in of TIR Carnets, etc. (TIRExB/REP/2002/15, paras. 18-20).

15. On the basis of Informal document No.2 (2003) by the TIR Secretary, the TIRExB approved in principle and decided to transmit to WP.30 for adoption the following comment to Article 18 of the TIR Convention:

"Possibilities of increasing the total number of loading and unloading points to more than four in exceptional cases

According to Article 18 and No.5 of the Rules regarding the use of the TIR Carnet (Annex 1), one TIR transport may not involve more than four points of loading and unloading. In order to increase the total number of loading and unloading points in the course of one transport operation, a road vehicle or a combination of vehicles may perform several TIR transports consecutively or at a time, each under cover of a separate TIR Carnet. To this end, the following options may be used:

- (i) *Consecutive use of two TIR Carnets for one transport operation in accordance with the comment to Article 28 "Possibility of using two TIR Carnets for a single transport operation". The first TIR Carnet may include up to 4 Customs offices of departure and destination. After its completion and termination at the fourth Customs office, a new TIR Carnet may be opened and used for the remainder of the transport operation. A proper inscription shall be made in both TIR Carnets to reflect this fact. Thus, the last Customs office of destination covered by the first TIR Carnet becomes the office of departure for the second TIR Carnet which may include up to three Customs offices of destination. In the first TIR Carnet, all goods bound for Customs offices of destination of the second TIR Carnet should be indicated as intended for the last Customs office of destination. Such a procedure may cover up to seven Customs offices of departure and destination. To fulfil the conditions laid down in Article 2 of the Convention, it is essential that both TIR transports be carried*

out across at least one border. Since two TIR Carnets are used one after another, only one TIR guarantee exists at a time;

- (ii) *Simultaneous use of several road vehicles (e.g., a combination of vehicles) or several containers. In line with Article 17, paragraph 1 of the TIR Convention, for each road vehicle or container a separate TIR Carnet may be issued. Each TIR Carnet may cover up to four points of loading and unloading. The Customs office(s) of departure should indicate all reference numbers of these TIR Carnets in box "For official use" on all vouchers of each TIR Carnet accepted.*

Whatever alternative is used, consignments to be unloaded at different unloading points should be separated from each other, as stipulated in Explanatory Note 0.18-2, paragraph 1."

16. Some members of the TIRExB expressed their concerns that using two TIR Carnets for one transport operation could increase transport costs, but the observer of the IRU pointed out that none of its members would reject this opportunity

EXAMPLE PROCEDURE FOR EFFECTIVE COMMUNICATION BETWEEN CUSTOMS AUTHORITIES AND THE NATIONAL GUARANTEEING ASSOCIATION

17. It was recalled that the TIRExB, at its previous session, took note of Informal document No.19 (2002) and Rev.1 and pointed out that some of the descriptions and interpretations of the legal basis in this document could lead to misinterpretations and did not fit the context of the document. As a consequence, the TIR Secretary was requested to prepare, in cooperation with the IRU, a new document on the subject, limited, as it was envisaged originally, to the procedural aspects of effective communication between Customs authorities and national guaranteeing associations (TIRExB/REP/2002/15, para. 16).

18. The TIRExB was informed that, at the request of the IRU and with a view to eliminating the problems described above, on 11 November 2002 the UNECE secretariat and the TIR Secretary had withdrawn Informal Document No.19 (2002) and Rev.1 and its Annexes. Thus, they could not be used or referred to by any Contracting Party, any institution or any persons under any circumstances.

19. It was pointed out that the TIRExB had not decided to withdraw Informal Documents No.19 (2002) and Rev.1. The Board also addressed the issue whether this document had played a role in the TIR crisis in the Russian Federation in December 2002. The TIRExB noted that the crisis had been developing for some time, and that it could not be attributed to a single action or omission of an organization or person.

20. Although the TIR crisis was resolved at the last minute by an agreement between the IRU and the Russian side, the TIRExB agreed that there might be a danger that a new crisis could emerge

and that all necessary measures should be taken in order to avoid that such a situation would happen in the future. The Board should play an important role in this respect. It was also underlined that a new environment of transparency and mutual trust should be established between all key players in the TIR system. However, the Board was not in a position to come to a conclusion whether the reasons for the December TIR crisis should be analysed by the TIRExB. Some TIRExB members felt that the crisis and its resolution through an agreement were bilateral issues between the two parties concerned. Thus, the TIRExB should respect the confidentiality of the signed agreement. Other members of the Board argued that the consequences of the crisis could have gone beyond one Contracting Party and might have caused serious problems of the TIR system as a whole. Therefore, it was essential that the TIRExB should study all underlying reasons for the crisis in order to prevent similar developments in the future. It was also questioned whether the TIRExB should only take into consideration the legal provisions of the TIR Convention or a broader political view was required.

OTHER MATTERS

21. The TIRExB took note of its final accounts for the year 2002 established by the competent Finance Services of the United Nations (Informal document No. 4 (2003) for the TIR Administrative Committee).

22. The TIRExB requested the UNECE secretariat to take necessary steps to provide for full simultaneous interpretation from/into English, French and Russian at TIRExB session held in Geneva.

23. The IRU invited TIRExB members, at one of the future sessions, to pay a visit to the IRU's premises in order to get acquainted with activities of the IRU with regard to the daily management of the TIR system.

DATE AND PLACE OF NEXT SESSION

24. The TIRExB decided to hold its seventeenth session on 9 and 10 April 2003 in Geneva.
