

TIR EXECUTIVE BOARD (TIRExB)

COMMISSION DE CONTROLE TIR (TIRExB)

ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (TIRExB)



Restricted

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RUSSIAN ONLY

**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

**REPORT OF THE THIRD SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)
(22-23 September 1999)**

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its third session at Moscow from 22 to 23 September 1999.
2. The following seven members of the TIRExB were present: Mr. G. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia). Mrs. Kasikçi (Turkey) and Mr. O. Fedorov (Ukraine) were excused.
3. The TIR Secretary attended the session in accordance with annex 8, article 9, paragraph 1 of the Convention.
4. The International Road Transport Union attended the session in accordance with annex 8, article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department, Mr. A. Shmelev, IRU delegate in the Russian Federation and his assistant Ms. J. Adamova.
5. The Association of International Road Carriers (ASMAP) attended the session upon invitation of the Chairman and was represented by Mr. A. Lokhov, Head of the Customs Affairs Department.

^{*/} The present document contains the report of the third session of the TIRExB adopted by at its fourth session on 21 October 1999. Thus this document replaces the earlier version contained in TIRExB/REP/1999/3.

ADOPTION OF THE AGENDA

6. The TIRExB adopted the agenda of its present session as prepared by the TIR Secretary (TIRExB/AGE/1999/3) with the addition of the following items:

Agenda item 11: (a) Transportation of humanitarian aid under cover of TIR Carnets;
(b) Transit of goods in Former Yugoslavia;
(c) Certificate of approval for road vehicles.

ADOPTION OF THE REPORT OF THE SECOND SESSION OF THE TIRExB

Documentation: TIRExB/1999/7 and TIRExB/1999/7/Rev.1.

7. The TIRExB adopted the report of its second session as prepared by the TIR Secretary (TIRExB/1999/7) with the following remarks:

Paragraph 15: Delete the words “the IRU’s request” and replace by “some guaranteeing association’s request”.

Paragraph 8: Include a new sentence to read as follows:

“Before utilising the new term “multi-user TIR operation” it will need to be precisely defined”.

Paragraph 18: Include a new sentence to read as follows:

“The observer of the IRU mentioned that the MoU should leave out the question related to the settlement of claims. He would deem it necessary to resume the experts meeting between representatives of the Russian SCC, the ASMAP, the IRU and the new pool of insurers”.

8. The adopted report of the second session of the TIRExB is contained in document TIRExB/1999/7/Rev.1.

MONITORING OF THE PRICE OF TIR CARNETS

Documentation: Informal document No. 6.

9. Following the discussion on its first and second sessions (TIRExB/1999/2, para. 29; TIRExB/1999/7, para. 23), the TIRExB considered in detail information on the price of TIR Carnets furnished by the IRU in June 1999 (Informal document No.6).

10. The representative of the IRU informed the TIRExB that it is very difficult to give an overview of all components of the price of TIR Carnets and explained that the price of TIR Carnets consists in principle of the insurance premium and various other components. The price of the TIR Carnet is approved yearly by the competent bodies of the IRU. The accounts of the IRU are in full line with the Swiss fiscal law.

11. He further pointed out that the price of TIR Carnets differed in various countries. This could be explained by the fact that national associations issued TIR Carnets at currency rates calculated on the basis of the price at which IRU distributed them to the associations. The difference in prices for TIR Carnets between the countries was therefore not a result of IRU's pricing policy, but due to for example membership fees policy, different levels of insurance, etc. calculated by the associations themselves. As a result the TIR Carnet issuing price provided in Informal document No 6 is not identical to the price asked by the national associations from the transport operators.

12. The TIRExB invited the IRU to keep it informed about any changes in the prices of TIR Carnets and requested the TIR Secretariat to continue its monitoring activities in this regard.

SETTLEMENT OF CUSTOMS CLAIMS AND POSSIBILITIES FOR IMPROVED GUARANTEE COVERAGE ON THE BASIS OF THE PRESENT COST STRUCTURE OF TIR CARNETS

Documentation: TIRExB/1999/7, TRANS/WP.30/R.195 and Corr.1.

13. With regard to the payment claims being considered in the arbitration process between the IRU and the old pool of insurers, the IRU informed the TIRExB that 5.800 claim cases had been presented, whereas 1.600 cases out of these 5.800 cases have already been withdrawn due to time expiry, payment effected by the consignee of the goods or the holder of the TIR Carnet or withdrawal of the relevant payment request by the administration itself.

14. In order to receive more detailed explanations concerning the state of the arbitration process, IRU proposed to invite the lawyer of IRU involved in the arbitration procedure to an informal meeting of the TIRExB. The TIRExB accepted this proposal and suggested this meeting to be held in Geneva on October 21, 1999. IRU expressed the point of view that the question of the old pool was not a matter of the competence of the TIRExB since all the problems relating to this question occurred long before the establishment of the TIRExB. IRU expressed its wish that the proceedings of this meeting of the TIRExB should be kept confidential. The TIRExB agreed to this request.

15. With regard to the arbitration process between IRU and the old pool of insurers, the TIRExB expressed its concerns about relying on a single insurance contract. It was agreed that the risk for the payment of deferred Customs duties and taxes could not be shifted to the public domain and that other sources of guarantee than the present single insurance system might need to be conceived. Various forms of guarantee, like drawing up a reserve fund or any other form of guarantee beside insurance facilities might be considered in this regard and analysed in respect to their availability and reliability within the framework of the guarantee chain as stipulated in the Convention. The TIRExB asked the TIR Secretariat to analyse these issues further and to prepare a document on these basic questions at one of the next sessions of the TIRExB.

MULTI-USER TRANSPORT OPERATIONS UNDER THE TIR REGIME

Documentation: TIRExB/1999/7, Draft of a Memorandum of Understanding (MoU) concerning “multi-user” TIR operations.

16. While considering a first draft of a possible Memorandum of Understanding (MoU), prepared by the TIR Secretary together with the Chairman of the TIRExB, following the request of the TIRExB at its second session (25 June 1999), concerns were expressed whether the form of such a MoU would be a proper instrument to solve the matter in question. It was agreed that recommendations to this respect should be in the form of a recommendation or resolution as such an instrument has already been used at several occasions to ensure the proper application of the TIR Convention.

17. The TIR Secretary pointed out that a recommendation could be drafted and possibly adopted by the TIR Administrative Committee which, once adopted, provided transparency about the allowance of multi-user transport operations. Such a recommendation could leave it up to the Contracting Parties to impose conditions and requirements as long as they were in line with the provisions and the spirit of the Convention.

18. The representative of the IRU expressed its shock about the draft prepared by the TIR Secretary and the Chairman of the TIRExB mainly since it would lead to an official recognition that the TIR Convention may be applied “à la carte”. In his view everything could be solved by eventually defining the term “TIR Holder” in the Convention who should be the only responsible person for the whole TIR operation. The responsibility of the holder cannot be passed on to someone else.

19. It was also pointed out that there could be a legal problem since the term “subsequent transport operator” has not yet been defined clearly.

20. The TIRExB requested the TIR Secretariat to prepare, on behalf of the TIRExB a draft recommendation on the validity of multi-user TIR operations that should be transmitted to the UN/ECE Working Party on Customs Questions affecting Transport Activities (WP.30) as well as to the TIR Administrative Committee at its next sessions in October 1999 with a view to its adoption.

APPLICATION OF THE TIR REGIME ON THE EXTERNAL BORDER OF THE EUROPEAN COMMUNITY

21. The TIR Secretary informed the members of the TIRExB on the results of two technical visits undertaken in June and July 1999 to the external border of the European Community.

22. The TIRExB was informed that (most likely as of 1 February 2000) the German Customs administration will no longer allow for the opening of TIR transit operations at border Customs offices. Appropriate inland Customs offices will be ready for opening transit operations adequately. It was noted that any details (a list and map of all inland Customs offices, where transit operations can be opened together with the directive of the administration) concerning this matter will be provided in due time by the German Customs authorities to the TIR Secretariat for information to all concerned Parties.

FULL APPLICATION OF THE EDI CONTROL SYSTEM FOR TIR CARNETS AND POSSIBLE RECONCILIATION PROCEDURES

Documentation: Informal document No.5, TRANS/WP.30/1999/11.

23. The IRU informed the TIRExB about the present state of implementing the SAFETIR system.

24. The TIRExB agreed that the following proposals, made by the IRU, could complement the requirements contained in the Recommendation adopted on 20 October 1995 by the TIR Administrative Committee:

- introduction of an ideal procedure for requests for Reconciliation within each Contracting Party;
- harmonization in "reporting" of the termination of so-called partial and final TIR operations;
- harmonization of the recording of the names and codes of Customs offices in the country of destination.

APPLICATION OF THE TIR CONVENTION IN CASE THE FIRST PART OF A TRANSPORT OPERATION IS NOT MADE BY ROAD

Documentation: TIRExB/AGE/1999/3

25. Following a request made by the Latvian Customs authorities the TIRExB considered how to implement the provisions of article 2 of the Convention if the first part of a transport operation is made by railway transport across one border and the final part of the journey is carried out by a road vehicle without crossing any borders. The question was whether there is a guarantee coverage for such a TIR operation if an infringement takes place during the railway leg and, thus, no part of journey is made by a road vehicle.

26. The TIRExB recalled that, in accordance with explanatory note 0.2-2 (Annex 6) of the Convention, the liability of the guaranteeing association should remain in force even in case when, due to unforeseen reasons of a commercial or accidental nature, no part of the journey can be made by road. The TIRExB was of the view that, in principle, the above should be valid if an infringement is committed during a non-road part of the journey but it could be concluded from the TIR Carnet and other documents that the transport operation should have been followed by the road leg.

27. The TIRExB decided to come back to this issue at its next session.

ACTIVITY REPORT OF THE TIRExB

Documentation: TRANS/WP.30/AC.2/1999/3.

28. The TIRExB considered and endorsed a short activity report prepared by the TIR Secretary. This report will be presented and supplemented by an oral report of the Chairman of the TIRExB at the forthcoming session of the TIR Administrative Committee.

BUDGET PROPOSAL AND COST PLAN FOR THE TIRExB AND THE TIR SECRETARIAT FOR THE YEAR 2000

Documentation: TRANS /WP.30/AC.2/1999/6, TRANS/WP.30/AC.2/1999/1,
TRANS/WP.30/AC.2/1999/5.

29. The TIRExB considered and approved the budget proposal and cost plan for its operation in the year 2000 as prepared by the TIR Secretary (TRANS /WP.30/AC.2/1999/5).

30. The representative of the IRU informed the TIRExB that it expects 2.2 million TIR Carnets to be issued in the year 2000.

31. In this context, the TIRExB also took note of a financial report prepared by the TIR Secretary covering the period 1 January 1999 to 31 July 1999. This report will also be transmitted for information to the TIR Administrative Committee at its October 1999 session (TRANS/WP.30/AC.2/1999/6) with a view to ensure full transparency about the functions and the costs of the TIRExB.

OTHER MATTERS

a) Transportation of humanitarian aid under cover of TIR Carnets

32. The TIRExB was informed that some guaranteeing associations refuse to guarantee transportation of humanitarian aid carried out under cover of TIR Carnets. The TIRExB agreed that these operations can be done under cover of TIR Carnets as soon as the TIR Carnet holder is authorised in accordance with Annex 9 of the TIR Convention.

b) Transit of goods throughout the territory of the Federal Republic of Yugoslavia

33. The TIRExB was informed that the Hungarian Customs authorities refuse to accept TIR Carnets used in transit operations through the Federal Republic of Yugoslavia, in case where the Customs authorities had affixed their own seals and sometimes mentioned this in the TIR Carnet despite the fact that their status as a Contracting Party to the TIR Convention has not yet been clarified. In that case the Hungarian Customs authorities refuse to accept the TIR Carnet. Instead, they inspect the goods and require the opening of a T-document.

34. On the basis of the information received by the IRU, the TIRExB felt that in such cases the TIR operation should be allowed to continue even if there are Customs seals of a non-Contracting Party on the load compartment. The goods could be checked, new seals could be affixed, but the transport operation should be allowed to continue with the same TIR Carnet. The TIR Secretariat was requested to contact the Hungarian Customs authorisation in this request to enquire about this matter.

c) Certificate of approval

35. The TIRExB was informed that it is not common practice in the Russian Federation that for vehicles imported from Western European countries together with a certificate of approval, a new certificate of approval is issued in the Russian Federation. The fact that there exist sometimes two certificates of approval for one truck, seems to be a result of misunderstandings on the side of Russian approval authorities. The competent authorities in the Russian Federation had been requested to ensure that such occurrences are stopped.

DATE AND PLACE OF NEXT SESSION

36. The TIRExB decided to hold its next session on 21 October 1999 in Geneva.
