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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-first session of the TIR Executive Board (TIRExB)

I. Attendance

1. The TIR Executive Board (TIRExB) held its fifty-first session on 8 October 2012 in Geneva.
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 observer and was represented by Mr. M. Azymbakiev.
5. With regard to the repeated absences of Mr. V. Bondar (Ukraine) and Mrs. L. Korshunova (Russian Federation), without providing any information, TIRExB requested the secretariat to send a letter to the respective Customs administrations, expressing the Board's dissatisfaction with this situation, which seriously impacts its credibility and functioning.

II. Opening statement

6. On behalf of the United Nations Economic Commission for Europe (UNECE), Mrs. Eva Molnar, Director, Transport Division welcomed the Board to Geneva and took the opportunity to introduce Mr. Miodrag Pesut as new Section Chief of the Transport Facilitation and Economics Section. She informed the Board that Mr. Artur Bouten of the

TIR secretariat had been temporarily assigned to other functions in the UNECE Transport Division and that, for the coming months, he would deal, in particular, with the organization of the seventy-fifth session of the Inland Transport Committee (ITC) (26–28 February 2013, Geneva). She also informed the Board that, in order to fulfil the administrative requirements that all United Nations staff are appointed through a panel-based selection process, UNECE is obliged to re-advertise the posts of all extra-budgetary professional staff members, including the TIR secretariat. This lengthy and burdensome administrative procedure will be launched as soon as possible and should be finalized before the end of 2014.

7. Mrs. Molnar informed the Board that the draft marketing study on TIR was nearing its completion. The final draft would be circulated among the Board for comments and suggestions. In particular, TIRExB members were invited to submit case studies on issues of relevance for inclusion in the study.

8. Finally, Mrs. Molnar invited TIRExB members to participate in the seventy-fifth jubilee session of ITC or, at least, ensure that their government was represented at the appropriate level.

III. Adoption of the agenda

9. TIRExB adopted the agenda of the session, together with its addendum 1, as prepared by the secretariat, with the following amendments:

Under agenda item 12, “Other matters”:

The use of authorized consignors and consignees in the context of the TIR Convention (Informal document No. 29 (2012)).

Documentation

Informal document TIRExB/AGE/2012/51, TIRExB/AGE/2012/51/Add.1

IV. Adoption of the report of the fiftieth session of TIRExB

10. TIRExB adopted the report of its fiftieth session (Informal document TIRExB/REP/2012/50draft with comments), subject to the following amendments:

Page 7, paragraph 38, line 5

Delete TIRExB invited IRU to submit information supporting this statement to the Board for consideration

Renumber line 6–11 to become *new* paragraph 39 and renumber all remaining paragraphs accordingly

Documentation

Informal document TIRExB/REP/2012/50draft with comments

V. Current status of the eTIR Project

11. The Board took note that the twenty-first session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (further referred to as “Expert Group” or “GE.1”) (25 and 26 September 2012, Bratislava), at the kind invitation of the Slovak Customs. The Board was informed about the three main

issues discussed at the meeting. The first issue concerned a proposal to complement the existing national declaration mechanism, as contained in the eTIR Reference Model, with an international component, in order to provide the transport industry with a variety of options to submit electronic information to Customs. TIRExB took note that the Expert Group had agreed to include in the eTIR Reference Model various alternative international declaration mechanisms. A first option will be provided by the eTIR international system (web services only), another one would be provided by the private sector, with systems such as IRU's TIR-EPD, and a last option could be provided by the Customs authorities of the country of residence of the transport operator, thus taking advantage of national authentication mechanisms. The second issue concerned the Cost Benefit Analysis (CBA) of the eTIR Project, mandated and financed by the TIR Executive Board. The Expert Group provided its comments on the final draft (which is available as Informal document GE.1 No. 12 (2012)). The Expert Group agreed with the methodology applied by the consultants, but, at the same time, felt that some costs, for example training costs, and indirect benefits, like the improved facilitation for trade and increased safety, were missing from the calculations. TIRExB took note that the Expert Group had requested the secretariat to prepare a new document, containing a summary of the consultants' findings, in combination with an assessment by the secretariat of the limitations of the CBA as well as recommendations by the Expert Group. The last issue discussed by GE.1 dealt with the dematerialization of attached documents. At the request of the Expert Group, the secretariat had submitted a request to the Data Model Project Team of the World Customs Organization (WCO) to amend the "attached documents" class of the WCO Data Model, so that it no longer just allows the attachment of image files but also handles various options which were considered by the Expert Group. As a result, a new class was added to the WCO Data Model which will also be used in eTIR messages to handle electronically attached documents. As a follow-up action, the Expert Group has now asked the secretariat to amend the eTIR Reference Model in accordance with these changes. TIRExB requested the secretariat to keep it informed of any new development in the eTIR Project.

12. The Board welcomed the nomination of eTIR focal points by 10 additional Contracting Parties and recommended that countries which have not yet nominated a focal point, to do so as soon as possible in order to ensure the largest possible participation in the computerization of the TIR procedure.

13. The Board also welcomed the progress made in the eTIR pilot project between Italy and Turkey and took note of the ongoing activities, i.e. the mapping of eTIR messages to the data available in the Italian and Turkish Customs systems. A next meeting will be organized in December 2012, in order to compare the mapping results and to identify the information that can be exchanged between both countries without having to amend their Customs systems.

14. Finally, the Board was informed that a project team composed of members of all five Regional Commissions had been selected for 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". The final version of the project documents will be submitted for final approval to United Nations Department of Economic and Social Affairs.

Documentation

Informal document GE.1 No. 12 (2012)

VI. Monitoring the functioning of the TIR guarantee system

15. The Board took note of oral information from the secretariat on its ongoing efforts, in liaison with IRU, to further improve the synchronicity between data on claims available in the various databases. It also took note that the secretariat, in order to further investigate the evolution of the real value of the recommended guarantee amount in all Contracting Parties of the Convention, would need currency details as well as GDP data from all countries, as of 1975.

16. TIRExB also extensively discussed Informal document No. 22 (2012), prepared by the secretariat which contains background information on the application of Article 4 of the Convention, together with a succinct summary of the various discussions that have taken place in the past on its implementation. In the view of one member of the Board, the current wording of Article 4 could, in principle, allow competent authorities to request additional guarantees on top of the guarantee provided by the TIR Carnet if the TIR guarantee is insufficient to cover the amount of customs duties and taxes. He believed that, in case the Customs duties and taxes at stake exceed the TIR guarantee level, providing additional guarantees could be an option for the TIR Carnet holder in order to avoid expensive Customs escorts whose costs can be higher than the price of the additional guarantee. In his opinion, from a legal point of view, in accordance with the provisions of Article 4 “goods carried under the TIR procedure shall not be subjected to the payment or deposit of import or export duties and taxes”. So, as for security, the legal provisions of Article 4 only mention “deposit”. Other types of securities (e.g. guarantee by third persons or the pawning of goods) are not mentioned in the TIR Convention. In accordance with the comments to Article 4 “the basic principle of Customs transit is relief from the payment of import or export duties and taxes for goods in transit, provided that any security required has been furnished. The wording “any security required” means that the amount of security should be sufficient, i.e. not less than the amount of Customs duties and taxes. Also, the comments to Article 4 specify that “as the goods carried under the TIR procedure are at any moment covered by the guarantee, as referred to in Article 3 (b), in the course of a TIR transport neither payment of import or export duties and taxes nor security in any other form shall be required”. Article 3 (b) specifies only that “transport operations must be guaranteed by associations approved...”. So, the mentioned legal provisions imply that the TIR guarantee covers the amount of Customs duties and taxes. The prohibition to use securities (other than deposit) in the form of additional guarantees when the TIR guarantee does not completely cover the amount of Customs duties and taxes (except for Explanatory Note 0.8.3 and Article 23 on escorts) is not mentioned in the legal text of the TIR Convention. Taking this into account, the TIR Convention does not forbid the use of additional guarantees on top of the insufficient TIR guarantee as an alternative to escort.

17. Other members, however, were of the view that the text of Article 4 clearly stipulates that no additional guarantee shall be required for goods transported under the TIR procedure, even if the Custom duties and taxes at stake exceed the maximum guarantee amount of US\$ 50,000 or € 60,000 Euros. In their view, any differing opinion would run counter to the principles of the TIR Convention, which aims at providing trade and transport maximum facilitation against minimum interference by Customs at border-crossings. With reference to the increased security of the TIR system, as once more confirmed by the recent TIRExB survey on Customs claims, they challenged the purpose of requiring an additional guarantee or prescribing a Customs escort as an appropriate tool to maintain the well-functioning of the TIR system. Various member of the Board reported that in their countries, further to the principle that the TIR system is based on a flat rate guarantee, Customs duties and taxes are not calculated upon entry and that, thus, any potential excess of guarantee did not pose a real problem. In their view, Customs authorities have sufficient tools at their disposal (in particular, the selection of authorized TIR Carnet

holders and other risk analysis tools) to ensure the due conduct of TIR transports in their territory. The Board took note of various reported incidents, where TIR Carnet holders had requested Customs to open more than one TIR Carnet per TIR vehicle or container in order to achieve a higher guarantee than prescribed by the TIR Convention.

18. From its side, IRU agreed with the assessment of the TIRExB survey that the TIR system is secure and reliable and stressed that, in its view, all efforts should be undertaken to maintain the right balance between trade facilitation and Customs requirements. In the view of IRU, more attention should be paid to the fact that the TIR system is not an open system, but limited to duly authorized TIR Carnet holders only.

19. In order to pursue the matter, TIRExB requested the secretariat to draft, on the basis of the text of the current comment to Article 4, a proposal for the introduction of a new Explanatory Note, which would unambiguously stipulate that no additional guarantee is required as long as goods are transported under the TIR procedure.

Documentation

Informal document No. 22 (2012)

VII. Implementation of the intermodal aspects of the TIR procedure

20. TIRExB considered Informal document No. 23 (2012), containing an updated version of a short survey among concerned stakeholders in the transport industry (logistic companies, intermodal transporters, railways, airline industry and port and inland waterways authorities) in order to determine if there is a specific demand from the transport industry for a single intermodal Customs document and accompanying guarantee. TIRExB expressed its appreciation for the close collaboration between the secretariat and IRU in drafting this updated version and agreed with its contents. However, as the aim of the survey is to gauge the interest of the transport industry, TIRExB reconfirmed that the survey should not be addressed to Customs authorities.

21. TIRExB requested the secretariat to finalize the survey, prepare a web-based version and proceed, in liaison with IRU, with its dissemination. IRU reconfirmed its interest in the issue and its availability to closely work together with the secretariat in order to obtain a maximum of responses to the survey.

Documentation

Informal document No. 23 (2012).

VIII. Issue raised by national associations on the application of the TIR procedure in the territory of various Contracting Parties

22. With regard to the ongoing problems in the Russian Federation, as reported by operators from various countries, on the application and practical organization of Customs escorts, neither the secretariat nor IRU were able to report any new or positive development. However, the secretariat informed TIRExB that a high-level delegation of the Eurasian Economic Commission (EEC) would visit the UNECE Transport Division and take part in the 132nd session of the Working Party for Customs Questions affecting Transport (WP.30), hoping that their involvement could provide impetus to find a way forward to get out of this deadlock situation.

23. TIRExB took note of a letter by the Bulgarian Customs authorities in reply to some reported incidents in Bulgaria on the application of Customs escorts. In the letter, the Bulgarian Customs authorities informed of new guidelines which they had issued in order to ensure that Customs escorts would only be required in exceptional cases, on the basis of risk analysis and taking account of the specific circumstances of the transport at hand, in full application of the provisions of Article 23 of the Convention. Mr. Köseoglu (Turkey) expressed his satisfaction with this reply, confident that guidelines would be implemented correctly.

Documentation

Informal document No. 24 (2012)

IX. Issues raised by the Greek national association on the functioning of the TIR system in Greece

24. The Board discussed Informal document No. 27 (2012), transmitted by the Hellenic Federation of International Road Transports (OFAE), reporting of various issues of concern to OFAE on implementing the authorization to issue TIR Carnets and act as guarantor, as granted to it by the Greek competent authorities under application of Annex 9, Part I of the Convention. Particular issues of concern refer to:

- (a) the fact that the price of TIR Carnets is fixed by the Minister of Finance;
- (b) the requirement to maintain a guarantee of € 600,000; and
- (c) the obligation for OFAE to pay 20 per cent of its annual revenue from issuing TIR Carnets towards a reserve fund.

25. As stated before, TIRExB was of the opinion that it was not in a position to comment on the above issues, as they are either considered as being outside the scope of the Convention or as falling under the provisions of Annex 9, Part 1, paragraph 7. In other words, all issues raised are of national competence and, thus, should be approached by following the procedures available at the national Greek level.

26. In order to wrap up this issue, TIRExB requested the secretariat to send a letter of reply to OFAE, informing that the raised concerns have been discussed, but that there is general consensus among TIRExB that, further to the provisions of Annex 9, Part I of the Convention, national competent authorities can impose additional conditions and requirements to the national association in order to be granted the authorization to issue TIR Carnets and to act as guarantor. In case OFAE remains of the firm opinion that the imposed conditions are disproportionate to the scope of the authorization, it should follow national procedures to seek renegotiation of or withdrawal from the authorization. In particular, though it is correct that, in accordance with Annex 8, Article 10 (h), it is the task of TIRExB to monitor the price of TIR Carnets, this does not mean that TIRExB is competent to judge the price of TIR Carnets in a given country. The same applies to the requirement of the deposition of guarantees for national associations to cover their liabilities to the satisfaction of the national competent authorities. TIRExB's mandate does not allow it to go beyond establishing the fact that also other countries impose such guarantees.

Documentation

Informal document No. 27 (2012)

X. Issues related to the application of Annex 2 of the Convention

27. TIRExB took note, with satisfaction, of a letter by the Turkish Customs authorities, clarifying that, further to concerns voiced by the government of Denmark on the use of stretchable TIR wire on TIR vehicles approved and registered in Turkey, clear instructions have been issued to Customs offices to attach more attention to this aspect of compliance with the provisions of Annex 2 of the Convention.

28. Mr. Lindström (Finland), reported that, in recent times, he had received various reports of incidents where the Finnish Customs authorities considered vehicles not to be compliant with the provisions of the TIR Convention, which had been previously approved in Germany.

29. TIRExB welcomed the initiative of the Finnish competent authorities to organize, in 2013, a technical seminar, with contributions from technical experts, dedicated to the application of the technical provisions of Annex 2 and 7, possibly in combination with the latest proposals to amend the provisions for vehicles and containers with sliding sheets.

Documentation

Informal document No. 25 (2012).

XI. Self-evaluation

30. TIRExB took note of Informal document No. 26 (2012), prepared by the secretariat and containing a draft assessment of the Board's achievements in relation to its mandates and requested the secretariat to further update it with the Board's latest findings. Also, TIRExB members were invited submit comments or suggestions for further improvement of the document to the secretariat, not later than by 15 December 2012. TIRExB members were equally encouraged to fill-in a short self-evaluation survey and send it, at the earliest opportunity to the secretariat, so that its results, together with recommendations by Board members for future TIRExBs, could be included in the final version of the self-evaluation document.

Documentation

Informal document No. 26 (2012)

XII. Activities of the secretariat

31. TIRExB took note of a presentation by the secretariat on the latest achievements in the ITDBonline+ project and the UNECE Register of Customs Sealing Devices and Customs Stamps. In particular, TIRExB noted the increased relevance of the ITDBonline+ website as an important contribution to the enhanced security and computerization of the TIR system.

32. The secretariat informed the Board of the successful regional TIRExB seminar, which had been organized in Kyrgyzstan in July 2012. In particular, TIRExB was pleased to hear that both Mrs. Dubielak (Poland) and Mr. Azymbakiev (IRU) had attended the seminar and it encouraged its members to consider taking part in other TIRExB activities in the future.

33. The secretariat informed the Board that, further to the introduction of the new provisions of Annex 9, Part I, paragraph 3, subparagraph (vi), only a small number of associations had provided the Board with data on the price of TIR Carnets they issue.

TIRExB requested the secretariat to address a letter to the competent authorities of all Contracting Parties, with a copy to national associations, in the beginning of 2013, ensuring that this obligation from the Convention is complied with as of 2013.

XIII. Budget proposal and cost plan of the TIRExB and the TIR secretariat for the year 2013

34. The Board took note of the final accounts for the year 2011, together with a report covering the period from 1 January 2012 until 31 July 2012, contained in documents ECE/TRANS/WP.30/AC.2/2012/8 and ECE/TRANS/WP.30/AC.2/2012/9, respectively.

35. TIRExB endorsed the budget proposal and cost plan of TIRExB and the TIR secretariat for the year 2013, as well as the net amount to be transferred by IRU, contained in document ECE/TRANS/WP.30/AC.2/2012/10.

Documentation

ECE/TRANS/WP.30/AC.2/2012/8, ECE/TRANS/WP.30/AC.2/2012/9,
ECE/TRANS/WP.30/AC.2/2012/10

XIV. Other matters

36. TIRExB considered Informal document No. 28 (2012), submitted by the Association of International Road Transport Carriers in Poland (ZMPD) reporting on problems faced by Polish operators in the territory of Turkey in relation to the return of TIR Carnets upon the termination of TIR transports. In a first reaction, Mr. Köseoglu (Turkey) informed TIRExB that he had received replies similar to those given to ZMPD from the concerned authorities, thus making it clear that further investigation was required. TIRExB thanked Mr. Köseoglu for his commitment to further investigate the cases and noted, as a first assessment, that the reported cases seem to have various similarities, such as the Customs offices concerned, the fact that, mostly, a Customs broker is involved in the process and that the problems mainly seem to evolve around the termination of transports of live animals.

37. TIRExB took note of Informal document No. 29 (2012), submitted by the government of Poland and containing a copy of a letter by the European Commission, in which it expresses its support of the proposal to request TIRExB to look, once more, into the possibilities of introducing the concepts of authorized consignor and consignee within the context of the TIR Convention. TIRExB members also expressed their support. TIRExB was of the view that future discussions should first focus on the relevance of introducing these concepts and then, as a second step, assess which amendments would be required to fully accommodate them within the scope of the TIR Convention. In parallel to this discussion, TIRExB members also proposed that the ongoing trend in certain countries to start the TIR procedure at the Customs office of exit rather than at an internal Customs office of departure should be further studied. IRU expressed its interest to contribute to the issue. As a first step, TIRExB invited IRU to submit, for information, its considerations on the introduction of authorized consignor within the current text of the TIR Convention, as referred to in Informal document No. 29 (2012), page 2, paragraph 6.

38. TIRExB requested the secretariat to submit, for discussion at a future session, first considerations about possibly establishing a central database on Customs offices and Certificates of Approval with the TIR secretariat, as further contribution to the eTIR Project.

Documentation

Informal document No. 28 (2012), Informal document No. 29 (2012)

XV. Restriction in the distribution of documents

39. TIRExB decided not to restrict the distribution of any document, issued for the present session.

XVI. Date and place of next session

40. TIRExB decided to conduct its fifty-second session (4 February 2013, Geneva) in conjunction with the 133rd session of Working Party on Customs Questions affecting Transport (WP.30) and the fifty-fifth session of AC.2.
