



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

TIR Executive Board (TIRExB)

Fortieth session, 15-16 June 2009

**REPORT OF THE FORTIETH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)**
(15-16 June 2009)

I. ATTENDANCE

1. The TIRExB (TIRExB) held its fortieth session on 15 and 16 June 2009 in Geneva.
2. The following members of the TIRExB were present: Mr. S. Baghirov (Azerbaijan), Mrs. A. Dubielak (Poland), Mr. H. Köseoğlu (Turkey), Mr. H. Lindström (Finland), Mr. V. Luhovets (Ukraine), Mr. I. Makhovikov (Belarus), Mrs. H. Metaxa Mariatou (Greece) and Mrs. J. Popielek (European Commission). Mr. V. Milošević (Serbia) was excused.
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. J. Acri.

II. ADOPTION OF THE AGENDA

4. The TIRExB adopted the agenda of the session as prepared by the secretariat (Informal document TIRExB/AGE/2009/40), with the inclusion of the following issues:

Under agenda item 13 “Other matters”

- new practice of escorts in a Contracting Party despite an increase in the level of guarantee;
- TIRExB budget issues.

III. ADOPTION OF THE REPORT OF THE THIRTY-NINTH SESSION OF THE TIRExB

Documentation: Informal document TIRExB/REP/2009/39draft

5. The TIRExB adopted the report of its thirty-ninth session (Informal document TIRExB/REP/2008/39draft), subject to the following modification:

Paragraph 24

For the existing paragraph read The observer of the IRU noted that, although it might be true that the use of the TIR Carnet had not changed, this was not the case for transport operators. In many EU countries, operators can only submit their electronic TIR Carnet data if they either are a resident of that country or master, at least, the country's national language. If not, operators could only submit their electronic TIR Carnet data by making use of the paid services of third parties, at the border, thus aggravating waiting times and their financial consequences. The observer of the IRU also regretted the lack of support to the implementation in all EU member states of the IRU TIR-EPD which allowed TIR holders to lodge thousands of electronic declarations to the current six participating countries, while overcoming national restrictions imposed by most of the national EU systems.

Paragraph 25

For the existing text read In reaction some TIRExB members clarified that, although there might be problems for TIR Carnet holders, due to the absence of a harmonized approach in all EU countries, there are, at the same time, considerable advantages for the industry, such as the speedy availability of termination and discharge date and the possibility to check the status of each operation through its Movement Reference Number (MRN) in all EU countries, which does not seem to be the case for SafeTIR-data.

6. The revised text of the report of the thirty-ninth session of the Board is contained in Informal document TIRExB/REP/2009/39final.

IV. PROGRAMME OF WORK FOR 2009 AND 2010

Documentation: Informal document No. 8 (2009)

7. The TIRExB adopted its programme of work of the 2009-2010, as contained in Informal document No. 8 (2009), subject to the following amendments:

Under activity item 5 add Monitor the progress of the computerization of the TIR procedure

Under activity item 10 “Output expected in 2009 -2010” replace no specific output envisaged by Information to be provided by the IRU in case of changes

8. The Board requested the secretariat to submit the TIRExB programme of work for 2009 and 2010 to the TIR Administrative Committee for approval at its 2009 autumn session.

V. BEST PRACTICES WITH REGARD TO THE USE OF THE TIR CARNET

Documentation: Informal document No. 9 (2009)

9. The TIRExB continued its discussions on the issue of the refusal for a TIR transport to enter a country on the basis of Informal document No. 9 (2009), prepared by the secretariat and containing, on the one hand, proposals for an Explanatory Note encouraging Customs authorities to indicate the reason(s) for refusal in the TIR Carnet and, on the other hand, an example of best practices, clarifying how Customs authorities should process a TIR Carnet in the case of refusal.

10. First of all, the TIRExB agreed with the secretariat that, due to the absence of a specific legal provision covering the issue of refusal and in view of the nature of the information, being a recommendation, a comment to Annex 1 seemed to be most appropriate form of conveying the intended message. Furthermore, the TIRExB was of the opinion, that the wording of both the comment and the example of best practices should be strengthened and that information on the filling-in of box 5 of the corresponding counterfoils should be included. After extensive discussion, the TIRExB also agreed that, in line with standing procedures, the required information in box “For official use” needed to be indicated in all remaining vouchers of the TIR Carnet. In addition, the TIRExB felt that the example of best practices should contain more specific information on the fact that the same TIR Carnet could be used for the remainder of the TIR transport after refusal (or a second one in case an insufficient number of vouchers would remain in the TIR Carnet to end the TIR transport, in accordance with a comment to Article 28).

11. The TIRExB requested the secretariat to revise Informal document No. 9 (2009) in line with these instructions for discussion and, possibly, adoption by the Board at its next session.

VI. MONITORING THE PRICE OF TIR CARNETS

Documentation: Informal document No. 2/Rev.1 (2009) (restricted)

12. The TIRExB took note of Informal document No. 2/Rev.1(2009), prepared by the secretariat, containing the revised and updated outcome of the survey on the price of TIR Carnets at national level, as conducted by the TIRExB in the last trimester of 2008, as well as a preliminary analysis of its results by the secretariat.

13. The TIRExB noted with satisfaction that a total of 41 national associations, representing 39 Contracting Parties and 90 percent of the number of TIR Carnets distributed by the IRU in 2008, had replied to the questionnaire. A great majority of national associations had no problem sharing, on a confidential basis, information on the price of TIR Carnets with the TIRExB, thus contributing to increasing the transparency of the TIR system. On average, it had become clear that although, for reasons beyond the scope of the survey, some associations charge a notably higher price to non-members than to members, the prices in all countries seem to vary within reasonable margins, without there being a single country charging an excessive price as compared to other countries.

14. The TIRExB expressed its gratitude to all associations which had contributed to the success of the questionnaire. In order to pursue its function of monitoring all aspects of the price of TIR Carnets, the TIRExB decided to repeat the exercise once every three years, counting on the continued support and input from the private side.

15. The TIRExB requested the secretariat to prepare a summary report, respecting the required confidentiality norms, for submission to the TIR Administrative Committee.

VII. INCREASE IN THE PRICE OF TIR CARNETS AND INTRODUCTION OF THE “4 VOLETS TIR CARNET PILOT”

Documentation: Informal document No.10 (2009)

16. The TIRExB took note that, on 17 April 2009, the IRU had informed the UNECE secretariat of the increase in the TIR Carnet distribution prices per 1 April 2009. In response to a request for clarification from several TIRExB members on the introduction of the so-called “4 volets TIR Carnet pilot”, the representative of the IRU informed that, based on a similar experience in the nineties, the IRU had decided to introduce the “4 volets TIR Carnet pilot” at a lower price than the regular 4 volets TIR Carnet with the aim to promote the use of the TIR system for transports between EU countries and immediate neighbouring countries, in particular to avoid the use of national or regional export/import procedures at the borders, while TIR procedures apply from departure to destination with limited interference at borders. Various TIRExB members expressed the view that, although not being against the introduction of such a pilot, the principle of equal treatment seemed to be under threat, because some operators, due to their geographical location and the type of their transports, now found themselves in a more favourable position than other operators. The representative of the IRU stressed that the principle of equal treatment was not touched by this pilot, which applies to all associations concerned with direct bilateral transports with the EU where a regional transit system could be used instead of the TIR procedure. He stressed, furthermore, that the introduction of this pilot will be subject to a review in due course, in which all experiences, both positive and negative, will be assessed.

VIII. CURRENT STATUS OF THE eTIR PROJECT

Documentation: ECE/TRANS/WP.30/GE.1/2009/5

17. The secretariat informed the TIRExB of the latest developments in the eTIR Project. The TIRExB took note of the report of the 16th session of the Informal Ad hoc Expert Group on Technical and Conceptual Aspects of Computerization (GE.1), held on 28 and 29 April 2009 in Geneva, which is contained in document ECE/TRANS/WP.30/GE.1/2009/5.

IX. MONITORING THE APPLICATION OF THE EDI CONTROL SYSTEM FOR TIR CARNETS

Documentation: Informal document No. 11 (2009)

18. The Board welcomed Informal document No. 11 (2009) prepared by the secretariat, with support from the IRU, containing in Annex a draft recommended practice on the application of the EDI control system for TIR Carnets, referred to in Annex 10 of the Convention.

19. The Board could generally agree to the proposed text, but, at the same time, felt that certain aspects of Annex 10 did not seem adequately reflected. In particular, the draft did not contain any reference to the legal obligations stemming from Annex 10 nor did it address the issue of fall-back, in case the automated system was not functioning. Furthermore, the draft assumed the existence of a local server, which is not the case in all countries. The Board noted that the recommended practice only focused on one transmission option and that other alternatives mentioned in Annex 10 were not addressed. However, it was generally agreed that direct transmission was to be recommended-

20. Taking account of these comments, the TIRExB requested to secretariat to revise the document, for discussion at its next session.

X. PROCEDURE PRIOR TO SUSPENSION OF THE GUARANTEE ON THE TERRITORY OF A CONTRACTING PARTY

Documentation: Informal document No. 12 (2009) Informal document No. 3/Rev.1 (2009), Informal document No.3/Rev.1 (2009) Addendum and Informal document No. 14 (2008) (all documents restricted)

21. The Board considered Informal document No. 3/Rev. 1 (2009) and an Addendum thereto, prepared by the secretariat on the basis of contributions submitted by various members of the Board, in which they had outlined their ideas how to encourage countries, national associations and the international organization to improve their information supply to the TIRExB, aimed at ensuring that the TIRExB could fulfil its mandates under Annex 8 of the TIR Convention. The

Board also considered Informal document No. 14 (2008), with particular focus on the issues raised in paragraph 6 of the said document, dealing with the formalities to suspend the guarantee on the territory of a Contracting Party.

22. Having considered the various contributions at length, the TIRExB decided to focus its discussions on the following aspects:

- Establishment of an information exchange mechanism between parties concerned and the TIRExB, highlighting the functions and responsibilities of the TIRExB in the process;
- Procedure and deadlines for the suspension of the guarantee under normal circumstances;
- Suspension of the guarantee under exceptional circumstances, including the event of force majeure.

23. To facilitate discussion at its next session, the TIRExB requested the secretariat to consolidate all previously prepared documents according to the above identified aspects. With regard to the suspension under exceptional circumstances, the observer from the IRU was requested to provide observations from the private side, with particular focus on the application of provisions of national private law, not only on guarantee but also on insurance.

XI. NATIONAL CONTROL MEASURES

Documentation: Informal document No. 13 (2009), Informal document No. 4 (2009)

24. The TIRExB discussed Informal document No. 13 (2009), containing contributions by various TIRExB members and the observer from the IRU on the introduction of Commission Regulation (EC) 1192/2008. The TIRExB concluded its discussions on the issue, deciding that the analysis of Commission Regulation (EC) 1192/2008 had not provided any indication that the said regulation was not in conformity with the provisions of the TIR Convention. At the same time, the Board noted practical difficulties in the implementation of the above regulation in some EU member states.

25. In their reactions, TIRExB members from EU member states and the EU Commission thanked the various contributors for their valuable efforts to highlight flaws in the implementation of the said regulation, confirming that steps had been and still were undertaken at various levels (Commission and individual member states) to ensure a smooth application of the regulation for all TIR operators, regardless their provenance.

26. With reference to this discussion, the TIRExB reminds all Contracting Parties, including those forming a Customs or Economic Union, of their legal obligation to check that any new

provision of law, prior to its formal adoption, does not infringe on the obligation to honour commitments emanating from all international legal instruments to which it has acceded, including the TIR Convention. Furthermore, Contracting Parties should, at all times, honour the provision of Article 42**bis** of the TIR Convention, stipulating that national control measures shall be communicated immediately to the TIR Executive Board which will examine their conformity with the provisions of the Convention and that international control measures shall be adopted by the TIR Administrative Committee.

XII. APPROVAL OF A SPECIFIC CONSTRUCTION OF ROAD VEHICLES

Documentation: Informal document No. 14 (2009), Informal document No. 5 (2009)

27. Due to lack of time, the TIRExB decided to revert to the issues under this agenda item at its next session.

XIII. ACTIVITIES OF THE TIR SECRETARIAT

A. Maintenance of the ITDB and IT-projects managed by the secretariat

28. The Board was informed of the status of transmission of documents and data to ITDB and of the progress made in the implementation of the "ITDBonline+ project". In March 2009, the secretariat started working on the second part of the ITDBonline+ project, aimed at developing a web site. The TIR secretariat envisaged that a first prototype would be ready by the end of 2009.

29. The secretariat informed the Board of the great appreciation shown by the Contracting Parties for the newly launched on-line UNECE Register of Customs Sealing Devices and Customs Stamps. In fact, over the last few months, national Customs Focal points had already requested the TIR secretariat for more than 430 accesses, in order to allow Customs officials to check Customs sealing devices and Customs stamps at border crossings.

B. TIR training seminars

30. The secretariat informed the Board of its participation in a TIR training seminar, jointly organized by UNECE and the Economic Cooperation Organization (ECO), on 29 April 2009 in Tehran (Iran (Islamic Republic of)) and of a very successful regional TIR seminar which had taken place in Tunis (Tunisia) on 3 and 4 June 2009 at the kind invitation of the Tunisian Customs authorities. The IRU contributed actively to both events.

XIV. OTHER MATTERS

A. Escorts in a Contracting Party despite the increase in guarantee

31. The representative of the IRU informed the Board of recurring reports from TIR Carnet holders that the authorities of a Contracting Party seem to systematically require operators to change to the national transit system in case the Customs duties and taxes of their transports exceed 60,000 euros. Continuation of the transports under cover of a TIR transport is only authorized in case the transporters use escorts, at considerable expense, and pay additional guarantees. In reply to requests for clarification, the authorities, apparently, state that it is a voluntary choice of operators to change from one transit system to another.

32. The TIRExB decided to seek clarification from the authorities of this Contracting Party for further discussion by the Board at its next session.

B. TIRExB budget issues

33. The TIRExB noted that, due to the ongoing economic crisis and budget restrictions, more and more TIRExB members seem to have problems to get their travel to attend TIRExB sessions authorized and financed. To facilitate the participation of all Board members, the TIRExB decided to review the decision taken at its sixth session (TIRExB/REP/2000/6/Rev.2, para. 40) and instructed the TIR Secretary to reimburse, as of the 41th session of the Board and until further notice, Daily Subsistence Allowance (DSA) to all TIRExB members to meet their expenses to take part in all sessions organized by the TIRExB, including those held in Geneva in conjunction with the sessions of the Working Party on Customs Questions affecting Transport (WP.30) or the TIR Administrative Committee, in accordance with UN rules and regulations. Given the limited budget line, travel expenses would not be reimbursed. The Board also agreed that, in case of need, the budget line “mission costs” should be adjusted to accommodate this decision.

34. The TIRExB, recalled its mandate to support the training of personnel of Customs and other interested parties concerned with the TIR procedure in accordance with Annex 8, Article 10 (f) of the Convention. With reference to the considerations on the programme of work for 2009-2010 and the decision to strengthen its training activities on technical issues covered by the TIR Convention, the Board noted that, at times, the participation of external experts might be required to meet the high expectations of such training. Thus, the TIRExB agreed that, in cases where it would not be possible for external experts to cover their travel expenses, their participation could be covered by the TIRExB budget. For this purpose, the secretariat was mandated to provide the needed funds in the cost plan and budget proposal for 2010.

XV. RESTRICTION ON THE DISTRIBUTION OF DOCUMENTS

35. The TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal documents No. 2/Rev.1 and No. 3/Rev.1 (2009) and the Addendum thereto.

XVI. DATE AND PLACE OF NEXT SESSION

36. At the kind invitation of the State Customs Committee of the Republic of Belarus, the TIRExB provisionally decided to hold its forty-first session in Minsk (Belarus) (**confirmed dates: 14 and 15 October 2009**). The TIRExB also decided to organize a short coordination meeting on 29 or 30 September 2009 in the course of the one-hundred-and-twenty-third session of the WP.30, in order to prepare the budget and cost plan for the operation of the TIRExB and the TIR secretariat for 2010 or to discuss other urgent matters. The outcome of that meeting will be reflected in the report of the forty-first session.
