



TIR EXECUTIVE BOARD (TIRExB)
COMMISSION DE CONTROLE TIR (TIRExB)
ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)

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Administrative Committee for the TIR Convention, 1975

TIR Executive Board (TIRExB)

Fifty-fifth session

Geneva, 30 September – 1 October 2013

Report of the fifty-fifth session of the TIR Executive Board (TIRExB)

I. Attendance

1. The TIR Executive Board (TIRExB) held its fifty-fifth session on 30 September–1 October 2013 in Geneva.
2. The following members of TIRExB were present: Mr. M. Ciampi (Italy), Mrs. D. Dirlik (Turkey), Mrs. A. Dubielak (Poland), Mrs. L. Jelinkova (European Commission), Mr. H. Lindström (Finland), Mr. I. Makhovikov (Belarus), Mr. V. Milošević (Serbia) and Mr. K. Syaskov (Russian Federation).
3. Mr. S. Somka (Ukraine) was excused.
4. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. M. Azymbakiev and Mr. M. Retelski. [Representatives of the Permanent Mission of the Russian Federation also attended part of the session.]

II. Introductory statement on behalf of UNECE

5. On behalf of the United Nations Economic Commission for Europe (UNECE), Mrs. E. Molnar, Director of the Transport Division, welcomed the Board back to Geneva, so shortly after the fifty-fourth session (27 August 2013), which had been solely dedicated to the Russian crisis. And although, since then, the joint efforts of various stakeholders (such as, in particular, TIRExB, UNECE, IRU and the European Union) had led to some positive developments, including the fact that the Federal Customs Service (FCS) of the Russian Federation had originally only implemented the announced measure in Siberia and the Far-Eastern part of the Russian Federation, there was no time for complacency, considering that since then the measure had already been extended twice, to other regions. Thus, the threat of the full implementation of the measure remained unchanged.
6. In the meantime FCS had also informed the Association of International Road Carriers (ASMAP) of its intention to terminate the guarantee agreement between FCS and ASMAP as of 1 December 2013. Although it is the sovereign right of Contracting Parties to do so in accordance with the provisions of the TIR Convention and national law, the consequences would impact national and international transport alike.

7. In the view of Mrs. Molnar, the whole situation as well as the latest developments had clearly demonstrated a lack of transparency by the main parties involved in the crisis: FCS, ASMAP and IRU. She called on all parties to report, at all times, relevant information on the state of the international guarantee system to TIRExB and the TIR Administrative Committee (AC.2). This would mean for IRU and national associations the submission of audited annual reports of their activities related to the functioning of the (inter)national guarantee system and for Customs authorities the due reporting of all outstanding claims, including the submission of any agreement concluded with the international guarantee chain on the settlement of claims. Contracting Parties should inform TIRExB, AC.2 and the general public well in advance of the introduction of any measure impacting the functioning of the TIR system and at such a time that their involvement would still be of any relevance. Finally, she supported the view that the prices of TIR Carnets belong in the public domain, confident that this opinion would be shared by the Contracting Parties.

III. Adoption of the agenda (Agenda item I)

Documentation: Informal document TIRExB/AGE/2013/55

8. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2013/55, but decided to postpone discussions on Agenda item VIII (Adaptation of the TIR procedure to modern, business and logistics and transport requirements) until the next session. At the request of Mrs. Jelinkova (European Commission), IRU was asked to report under Agenda item XVIII (Other matters) on developments further to anonymous e-mails containing erroneous information and documents targeting the structure of IRU and its management, as reported to the Working Party on Customs Questions affecting Transport (WP.30) at its 135th session (June 2013) (ECE/TRANS/WP.30/268, paragraph 10).

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

Documentation: Informal document TIRExB/REP/2013/53draft with comments, Informal document TIRExB/REP/54draft

9. The Board adopted the draft report of its fifty-third session (Informal document TIRExB/REP/2013/53draft with comments), subject to the following amendments:

Page 3, paragraph 13, last sentence

Replace last sentence by Some participants expressed concerns on the influence of the introduction of the concept of authorized consignor before AC.2 would decide if the introduction of those concepts would require amendments to the TIR Convention. Pending any such decision by AC.2, the treatment of TIR Carnets by others than the customs authorities of one country could pose a problem for customs authorities in other countries.

Page 5, paragraph 20, last sentence

Before last sentence insert Some members were of the view that there was no need to limit the dissemination of data on TIR Carnet prices, due to the fact that the prices were already available to the public, whereas others raised some concerns.

10. In order to carefully study comments made by Mr. Syaskov (Russian Federation) to the draft report of the fifty-fourth session (Informal document TIRExB/REP/2013/54draft), TIRExB decided to postpone its adoption until the next session. TIRExB requested the

secretariat to circulate the draft with comments by Mr. Syaskov among members of the Board, asking for their comments/considerations not later than by 1 November 2013, after which the secretariat was asked to prepare a consolidated draft for discussion at the fifty-sixth session of the Board.

V. 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

i. Follow-up to the fifty-fourth session

11. TIRExB decided not to revisit the documents discussed at the fifty-fourth session, but to focus on developments since 27 August 2013. Mr. Syaskov (Russian Federation) informed the Board that the working group (established by FCS and ASMAP to analyse all pending claims) had met several times, that the measure (to request an additional guarantee for TIR transports) had been extended to include the Ural region as of 24 September 2013 and, finally, that FCS, on 28 August 2013, had informed ASMAP of its decision to terminate the guarantee agreement per 1 December 2013.

12. In their interventions, TIRExB members came back to the fact that, despite various requests, there still was little known about the measure, which was already partly under application. Mr. Syaskov (Russian Federation) referred to the website of FCS, where since 29 July 2013 information had been provided. In reply, various TIRExB members expressed the view that the information on the website was insufficient to disseminate among Contracting Parties or, in particular, to allow traders to make themselves familiar with the on-going changes nor were there any clarifications given on the procedures to follow, documents to be furnished, costs or the treatment of TIR Carnets at the internal borders of the Customs Union.

13. With regard to the working group established by FCS and ASMAP to clarify the debt situation and to review pending claims from 1994 until now, IRU reported that the latest figures submitted by FCS amounted to a total of 4 billion RUB, listing them as customs debts rather than claims due by ASMAP. According to IRU, for the majority of the listed cases either (a) no notification had been received by ASMAP, (b) a court decision had ruled in favour of ASMAP or (c) ASMAP had paid the guarantee amount due under the TIR Convention. In his reply, Mr. Syaskov (Russian Federation) confirmed that the working group had managed to clarify positions, however without making much progress towards finding a common position. He also clarified that the list enumerated all claims which are still considered as constituting a customs debt and which, for that reason, could not be written-off by FCS.

14. In conclusion of this agenda item, TIRExB confirmed its position as contained in paras. 13-14 of the conclusions of its 54th session, stipulating:

“13. In summary, the Board:

- was of the view that the FCS decision would be in breach of the TIR Convention;
- urged FCS to properly apply the TIR Convention and to abandon the introduction of the announced measure;

- called upon the parties concerned to accelerate the negotiations and find solutions which would remove the concerns raised by FCS;

- declared its readiness to further assist the Russian Federation in finding ways and means to ensure smooth functioning of the TIR procedure in Russia, in line with modern Customs and business requirements.

14. The member of TIRExB from the Russian Federation expressed his reservations with regard to some of the above conclusions.”

15. TIRExB, as well as individual TIRExB members on behalf of their governments, offered their readiness to assist FCS in finding a satisfactory and durable solution for the issues at stake.

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

Documentation: Informal document No.20 (2013)

16. TIRExB extensively discussed this issue on the basis of Informal document No. 20 (2013), in which the secretariat reproduced the news-item on the website of FCS, elaborating the reasons for the termination of the agreement with ASMAP. Despite various requests from the side of TIRExB with regard to the situation after 1 December 2013, Mr. Syaskov (Russian Federation) informed that he was not in a position to reply at this point in time and he referred to the presence of Mrs. Golondeeva, Deputy Head of FCS, during the forthcoming meeting of AC.2.

17. According to IRU, ASMAP had been authorized in 1974 by means of Resolution No. 4321/74 of the Council of Ministers and this authorization had, as yet, not been revoked. In addition, it was doubtful if FCS had any competence in this regard. Furthermore, according to IRU, the letter by the FCS of 28 August 2013 had been received by ASMAP only on 3 September 2013, thus making it impossible to terminate the agreement by 1 December 2013 in accordance with its provisions. IRU further informed the Board that ASMAP had submitted proposals for improvement of the agreement to FCS, to which FCS had, as yet, not replied or expressed its position.

18. The secretariat pointed at the serious consequences, if, as of 1 December 2013, there would be no valid agreement between FCS and a national guaranteeing association. In the view of the secretariat, the absence of guarantee coverage on the territory of the Russian Federation would seriously question the functioning of the TIR system on the territory of the Eurasian Customs Union. One TIRExB member questioned this approach, arguing that as long as the Eurasian Customs Union did not become Contracting Party to the TIR Convention, the absence of guarantee coverage in one member state should not affect the functioning of the TIR system in other member states. The secretariat was requested to address this issue in the context of the discussion of the use of the TIR Carnet within the single territory of a customs union.

19. The Board requested the secretariat to prepare, for discussion at its next meeting, a document providing background-information on the agreements concluded between customs authorities and national associations, in accordance with the provisions of Annex 9, Part I, Article 3 (v), with particular attention to those countries where customs authorities had concluded agreements with more than one national association.

iii. *Procedures to follow in communicating measures that affect the functioning of the TIR system*

Documentation: Informal document No. 23 (2013)

20. TIRExB considered Informal document No. 23 (2013) and was of the opinion that, as the issue was not directly linked to the Russian situation, further elaboration was

required. In particular, TIRExB felt that the wording of the proposed example could be improved as it was, at times, not in line with the mandate of TIRExB, that the Board's assessment should cover a variety of possible scenarios and that, finally, more attention should be paid to the communication between TIRExB and other stakeholders.

21. TIRExB requested the secretariat to prepare a revised version of Informal document No. 23 (2013), taking account of the above comments, for discussion at its next session.

iv. *Implications of the Federal Customs Service decisions*

Documentation: Informal document No. 24 (2013)

22. TIRExB took note of Informal document No. 24 (2013) by ASMAP, in which it provided a comparison of expenditures between a transport taking place with a TIR Carnet and with the use of a national transit procedure. According to ASMAP, a national transit transport would be around five times more expensive than a transport with a TIR Carnet.

23. Mr. Syaskov (Russian Federation), challenged the correctness of the comparison, arguing that it is not possible to provide – even – an approximation of the cost, due to the many variables constituting the final price of any transport.

24. In the view of the secretariat, it was not so much the potential price difference but rather the fact that transport operators were forced to abandon the legally permitted TIR procedure and resort to a national transit procedure which had upset the international transport community.

25. In the context of this discussion, IRU reported on the exclusion of 111 authorized TIR Carnet holders from 19 countries to perform TIR transports on the territory of the Russian Federation. According to IRU, in a majority of cases, the exclusion was based on (minor) deviations from the prescribed route. Mr. Syaskov (Russian Federation) informed that all decisions were based on non-compliance with the provisions of the TIR Convention, including, but not limited to, the right of customs to prescribe an obligatory route.

v. *Transparency in the TIR system*

26. With regard to this issue, Mrs. Molnar referred to her opening statement (paragraph 7). Mrs. Jelinkova (European Commission), recalling previous discussions on draft proposals to introduce – in new Annex 9, Part III – strict and detailed audit requirements for the authorized international organization, informed the Board that the European Commission looked forward to relaunching this debate in WP.30 and AC.2.

VI. Budget proposal and cost plan of the TIRExB and the TIR secretariat for the year 2014 (Agenda item IV)

Documentation: ECE/TRANS/WP.30/AC.2/2013/9, ECE/TRANS/WP.30/AC.2/2013/10, ECE/TRANS/WP.30/AC.2/2013/11

27. The Board took note of the final accounts for the year 2012, as well as of the report covering the period from 1 January 2013 until 31 July 2013, contained in documents ECE/TRANS/WP.30/AC.2/2013/9 and ECE/TRANS/WP.30/AC.2/2013/10, respectively.

28. The Board endorsed the budget proposal and cost plan of TIRExB and the TIR secretariat for the year 2014, as well as the net amount to be transferred by IRU by 15 November 2013, contained in document ECE/TRANS/WP.30/AC.2/2013/11.

VII. National/regional customs control measures (Agenda item V)

a. Use of the TIR procedure in customs and economic unions with a single customs territory or within the territory of a single country

Documentation : ECE/TRANS/WP.30/266, paras. 31–36, ECE/TRANS/WP.30/2013/9

29. TIRExB decided, in view of the pending considerations by WP.30, not to discuss this issue but to revert to it at a later stage, if required.

b. Additional documents / information requirements

Documentation: Informal document No. 12 (2013)

30. Mr. Ciampi (Italy) informed the Board that he had received a communication by the Uzbek customs authorities, informing of new requirements for all transports transiting the territory of Uzbekistan as of 1 April 2013, including, inter alia, the obligation to provide customs with value and HS code of the imported goods. He had sent a letter to the Italian national association, requesting feed-back on any problem in this regard by Italian operators which, so far, had remained without response. Various other members of the Board confirmed also having received the letter and having taken a similar approach towards national associations, but that, so far, no feed-back had been received.

31. According to Mr. Syaskov (Russian Federation), the new requirements are in line with modern international customs standards and, actually, stem from similar provisions in the customs Code of the Russian Federation. However, most likely due to poor translation, it now seems that such data also need be included in the TIR Carnet, whereas, in fact, it is sufficient if they appear in any other document, accompanying the goods (such as CMR or invoice).

32. Taking note of the above, TIRExB stated that, in accordance with the Recommendation adopted by AC.2 on 31 January 2008, TIR Carnet holders are recommended “to indicate the HS code of the goods under box 10 of the goods manifest on the voucher not for Customs use (yellow page) of the TIR Carnet” whereas the absence of the HS code in the TIR Carnet “shall not lead to delays during a TIR transport and shall not be an obstacle to the acceptance of TIR Carnets. The absence of the HS code shall not be considered as an infringement of the Convention and shall not lead to any liabilities of the TIR Carnet holder.” With regard to the indication of the value of the goods, TIRExB referred to a comment to Annex 1 of the Convention stipulating that “the fact that there is no declaration of the value of goods on the TIR Carnet gives no ground for detention of the goods by Customs administrations.”

VIII. Application of specific provisions of the TIR Convention (Agenda item VI)

a. Use of additional guarantees

Documentation: Informal document No. 1 (2013), Informal document No. 14 (2013)

33. Mr. Azymbakiev (IRU) informed the Board that, at the request of the Belarus customs authorities, IRU was looking into options how to replace, within the context of the Convention, the obligatory use of escorts by offering TIR operators an additional guarantee. Upon request, Mr. Makhovikov (Belarus) clarified that the request is a consequence of the fact that, complimentary to the provisions of Article 4, it should be possible for operators to provide some kind of guarantee in case the Customs duties and taxes at stake exceed the maximum amount of the TIR Carnet (= 60,000 €), as alternative to having to resort to

customs escort. With regard to the specific request, it is still under consideration by both IRU and the Belarus customs authorities. Mr Syaskov (Russian Federation) confirmed that similar discussions were being conducted by the Russian Federation, but that no firm decision had yet been taken.

34. The secretariat pointed at the contradicting approaches which seem to be going on in relation to the application of Article 4. The majority of TIRExB members are of the firm opinion that Article 4 is clear in prohibiting any form of additional guarantee/deposit/security (or, whatever other term used), as this would be contrary to the philosophy of the TIR Convention as global facilitation tool, which provides a selected group of Carnet holders, duly authorized by national customs authorities, with a single internationally valid customs declaration as well as a single internationally valid guarantee. Others continue to advocate schemes which allow for a more flexible use of guarantees and guarantee-levels. Various TIRExB members argued that, rather than introducing various guarantee amounts at the international level, national customs administrations could raise the reference amount in their country. And, in case the possible customs debt would exceed the applicable guarantee amount, national customs administration should apply risk assessment tools before applying a measure, such as customs escort or a prescribed itinerary. Mr. Makhovikov (Belarus) informed the Board that as an expert he could share the opinion of the majority of the Board, however, without prejudice to the application of Article 23, where the instrument of a customs escort could be substituted by requiring an additional guarantee. Mr. Syaskov (Russian Federation) supported this position. In his view, upgrading the text of the comment to Article 4 to becoming an Explanatory Note might seem useful for the transport industry, however it would not make a difference for customs. In the Russian Federation, customs were physically not equipped to organize escorts in situations where the customs duties of the goods exceeded the guarantee amount and, thus, saw no other alternative than to resort to requiring an additional guarantee.

35. TIRExB decided to revert to Informal document No. 14 (2013) at its next session.

b. Format of the certificate of approval

Documentation: Informal document No. 15 (2013)

36. TIRExB took note of Informal document No. 15 (2013), prepared by the secretariat at the request of Mr. Lindstrom (Finland), informing of the detection by the Finnish customs authorities of a Certificate of Approval, consisting of various A4 pages, put together in a binder, rather than the usual A3 format, folded in two, as contained in a comment to Annex 4 of the Convention.

37. The Board requested the secretariat to prepare, for discussions at its next session, a revised version of the said document, assessing possible risks of tampering, together with a proposal for an amended comment to Annex 4.

c. Issues with the renewal of the certificate of approval

Documentation: Informal document No. 16 (2013)

38. The Board considered Informal document No. 16 (2013), in which the secretariat transmitted an issue raised by Danish customs, reporting on the state of vehicles presented for renewal of the Certificate of Approval. According to Danish customs, it often happens that the vehicles are too dirty to allow for an easy and effective inspection. In annex to the said document, the secretariat had prepared a proposal for a new Explanatory Note to Annex 3, paragraph 4, addressing the state of vehicles presented for inspection.

39. The Board generally welcomed the document, even though some members were of the opinion that the issue was obvious and that there was no need to address it in particular, either as Explanatory Note or, alternatively, a comment. At all times, it is up to customs to

refuse to inspect a vehicle whose state makes it unfit for a proper and effective inspection. At the same time, some members felt that the issue not only posed itself at the moment of renewal of the certificate and that, thus, paragraph 4 of Annex 3 might not be the most appropriate place for the insertion of an Explanatory Note or comment.

40. The Board requested the secretariat to prepare a revised version of the document, taking account of the above considerations, for discussion and, possibly, approval by the Board at its next session.

IX. Computerization of the TIR procedure (Agenda item VII)

a. Current status of the eTIR Project

41. The Board was informed that the twenty-third session of the Informal Ad hoc Expert Group on Technical and Conceptual Aspects of Computerization of the TIR Procedure (GE.1) will be held in Brussels on 20 and 21 November 2013, at the kind invitation of the European Commission. The Board also took note that the fourth meeting of the eTIR pilot project between Italy and Turkey was tentatively scheduled to take place in conjunction with either the session of GE.1 or the forthcoming session of TIRExB. Finally, the Board 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". A consultant had been hired to undertake a gap-analysis for Georgia and the first interregional Expert Group meeting was tentatively scheduled to be held in Geneva on 18 December 2013.

b. Central database on approved customs offices

Documentation: Informal document No. 2 (2013), Informal document No. 7 (2013)

42. TIRExB considered Informal documents No. 2 and 7 (2013), containing a proposal by the secretariat to launch (pursuant to TIRExB's Terms of Reference, item 8, sub-item (a)), an electronic database on approved customs offices. The Board thanked Mrs. Jelinkova (European Commission) for her kind offer to organize a presentation of the EU customs office database at the occasion of the twenty-third session of GE.1. TIRExB requested the secretariat to submit the proposal to AC.2 for endorsement, paying particular attention to data protection and including resource requirements, if any.

Central database for certificates of approval

Documentation: Informal document No. 2 (2013), Informal document No. 8 (2013)

43. TIRExB considered Informal documents No. 2 and 8 (2013), containing a proposal by the secretariat to launch (pursuant to TIRExB's Terms of Reference, item 8, sub-item (a)), an electronic database on certificates of approval. As a next step, TIRExB requested the secretariat to finalize and distribute (at the beginning of 2014) a short survey, as contained in annex to Informal document No. 8 (2013), soliciting information on the issuance of certificates of approval at the national level.

X. Adaptation of the TIR procedure to modern business, logistics and transport requirements (Agenda item VIII)

a. Implementation of the intermodal aspects of the TIR procedure

44. Not discussed due to lack of time.

b. Authorized consignor and consignee

45. Not discussed due to lack of time.

XI. Training activities (Agenda item IX)

Application of Annexes 2 and 7

46. Not discussed due to lack of time.

XII. Promotion of the geographical expansion of the TIR system (Agenda item X)

a. Islamabad-Teheran-Istanbul (ITI) project

47. Not discussed due to lack of time.

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

48. Not discussed due to lack of time.

XIII. Functioning of the TIR international guarantee system (Agenda item XI)

a. Survey on customs claims

Documentation: Informal document No. 9 (2013)

49. The Board requested the secretariat to launch, at the earliest opportunity, the survey on customs claims over the period 2009-2012, as contained in Informal document No. 9 (2013).

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

50. Not discussed due to lack of time.

XIV. Combat fraud resulting from the misuse of the TIR procedure (Agenda item XII)

51. No issue related to this agenda-item was raised.

XV. Facilitation of the exchange of information between TIR stakeholders (Agenda item XIII)

52. No issue related to this agenda-item was raised.

XVI. Supervising the centralized printing and distribution of TIR Carnets, including the monitoring of the price of TIR Carnets (Agenda item XIV)

Prices of TIR Carnets

53. IRU informed the Board that, as of 1 September 2013, it had started a pilot with a cheaper, 6-voucher TIR Carnet for transports for specific use from, to and through the territory of the European Union, costing 40 CHF instead of 59 CHF for a regular 6-voucher TIR Carnet.

XVII. Application of the EDI control system for TIR Carnets (Agenda item XV)

54. No issue related to this agenda-item was raised.

XVIII. Central record of information on all rules and procedures prescribed for the issue of TIR Carnets (Agenda item XVI)

55. No issue related to this agenda-item was raised.

XIX. Activities of the secretariat (Agenda item XVII)

56. Not discussed due to lack of time.

XX. Other matters (Agenda item XVIII)

57. Due to lack of time, IRU informed the Board that it would respond in writing on developments further to anonymous e-mails containing erroneous information and documents targeting the structure of IRU and its management, as reported to the Working Party on Customs Questions affecting Transport (WP.30) at its 135th session (June 2013) (ECE/TRANS/WP.30/268, paragraph 10).

XXI. Restriction in the distribution of documents (Agenda item XIX)

58. TIRExB decided to keep Informal documents 10, 13, 15, 16, 18, 19, 20, 21, 22/Rev.1, 24, 25, 26/Rev.1 (2013), prepared for discussion during the session, restricted.

XXII. Date and place of next session (Agenda item XX)

59. TIRExB decided to conduct its fifty-sixth session from 3 to 4 December 2013 in Rome, at the kind invitation of the Italian Customs Agency.