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**ECONOMIC COMMISSION FOR EUROPE**

Administrative Committee for the TIR Convention, 1975

(Thirty-first session, 25 and 26 October 2001,  
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**

**Reports of the TIRExB at its eighth, ninth and tenth sessions**

**REPORT OF THE EIGHTH SESSION  
OF THE TIR EXECUTIVE BOARD (TIRExB)**  
(23 and 24 January 2001)

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its eighth session on 23 and 24 January 2001 in Nuremberg (Germany).
2. The following members of the TIRExB were present: Mr. G.-H. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mrs. Y. Kasikçi (Turkey); Mr. Z. Lovric (Croatia); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia), Mr. O. Fedorov (Ukraine) was 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 as observer in accordance with Annex 8, article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department.
5. Other organizations did not attend the session.

**ADOPTION OF THE AGENDA**

6. The TIRExB adopted the agenda of the session as prepared by the TIR Secretary (TIRExB/AGE/2001/8) with the addition of the following items:

Agenda item 12:                      Liability of the holder of a TIR Carnet in case of smuggling;

Validity of a comment adopted by the TIR Administrative Committee.

## **ELECTION OF A CHAIRMAN**

7. In accordance with Annex 8, Article 11, paragraph 3 of the Convention, Mr. Rainer Ehmcke (Germany) was re-elected as Chairman.

## **ADOPTION OF THE REPORT OF THE SEVENTH SESSION OF THE TIRExB**

Documentation: TIRExB/REP/2000/7 and Rev.1.

8. The TIRExB adopted the report of its seventh session as prepared by the TIR Secretary (TIRExB/REP/2000/7/Rev.1), subject to the following modification:

### Paragraph 18

Modify the second sentence to read as follows:

"However, the TIRExB suggested that such a recommendation, if adopted by the Administrative Committee, should become applicable only after a certain transition period and should contain some precautions to avoid unjustified sanctions by competent authorities and delays at border crossings in case that ID-numbers are missing or applied improperly."

9. The revised report of the seventh session of the TIRExB is contained in document TIRExB/REP/2000/7/Rev.2.

## **TRANSMISSION OF LEGALLY REQUIRED DOCUMENTATION TO THE TIRExB**

Documentation: Informal Document No. 1 (2001).

10. The TIRExB was informed by the TIR Secretary about the up-to-date situation with regard to the transmission of the legally required documentation (Informal Document No.1 (2001)). In particular, the number of persons authorized to use TIR Carnets as reported to the Board exceeded 31,000. The TIRExB also noted with interest that the number of TIR Carnets distributed by the IRU had reached 2,780,000 in the year 2000.

11. The TIRExB felt that the TIR databank maintained by the TIR secretariat should be continuously updated, especially in the light of its possible use as foreseen by paragraph 3 of the Recommendation on introduction of an identification number of the TIR Carnet holder in the TIR Carnet adopted by the TIR Administrative Committee on 20 October 2000. In this context, the Board stressed the importance of the full implementation by all Contracting Parties of the

provisions of Annex 9, Part II, paragraphs 3 and 4 of the TIR Convention providing for the timely transmission to the TIRExB of updated information on TIR Carnet users.

12. The TIRExB also pointed out that all deposited insurance certificates stating the names of national guaranteeing associations - beneficiaries of the global insurance contract - had expired on 31 December 2000 and would need to be extended. The Board was of the view that the expiration of these certificates should not be regarded as a termination of the global contract and invited the IRU to provide further explanations with regard to the legal value of the insurance certificates.

### **MODEL OF AN AUTHORIZATION AGREEMENT**

Documentation: TRANS/WP.30/AC.2/2001/2.

13. The TIRExB emphasized that an example of an authorization agreement between competent authorities and national guaranteeing associations would contribute to harmonization of the application of the TIR Convention at the national level and would be of particular importance for those countries that had only recently acceded to the Convention. Such an example should contain only basic provisions which are legally required by the Convention and, therefore, must be reflected in any legal instrument to be established in line with Annex 9, Part I, paragraph 1 (e) of the Convention.

14. From that angle the TIRExB continued consideration of an example of an authorization agreement on the basis of document TRANS/WP.30/AC.2/2001/2 prepared by the TIR Secretary and submitted to the thirtieth session of the TIR Administrative Committee (22 and 23 February 2001). The Board identified a number of issues which would need to be elaborated further and requested the TIR Secretary to modify the document accordingly, taking account of the comments made by TIRExB members.

15. The TIRExB decided to persist in the finalization of a model authorization agreement at its next sessions. The Board also felt that this document, once agreed upon by the TIRExB and approved by the TIR Administrative Committee, should be made available to all parties concerned. Meanwhile the Board requested its Chairman to inform the TIR Administrative Committee about its deliberations in this respect.

## **INSERTION OF AN IDENTIFICATION (ID) NUMBER OF THE HOLDER OF A TIR CARNET IN THE TIR CARNET AND USE OF THE TIR DATABANK**

Documentation: TRANS/WP.30/AC.2/59, annex 2, TRANS/WP.30/AC.2/2000/8, Informal Document No. 2 (2001).

16. The Board took note that the TIR Administrative Committee, upon having been informed about the relevant considerations at the previous session of the TIRExB, had adopted on 20 October 2000, with few modifications, a draft recommendation on the introduction of an identification number of the TIR Carnet holder in the TIR Carnet. The Recommendation, whose final text is contained in document TRANS/WP.30/AC.2/59, annex 2, will come into force on 1 April 2001.

17. In paragraph 3 of the above Recommendation, the TIR Secretary has been requested to elaborate adequate procedures and establish a mechanism for protected access to the TIR databank by competent authorities of Contracting Parties for approval by the Administrative Committee, following consideration by the TIRExB, at its autumn session in the year 2001 at the latest. In line with this request, the Board took note of Informal Document No.2 (2001) prepared by the TIR Secretary which contained a first outline of possible technical solutions and described briefly the data flow and required soft- and hardware components of the project.

18. The TIRExB was of the opinion that technical solutions should be inseparable from adequate administrative procedures in this field and requested the TIR Secretary to make proposals on the possible step-by-step use of the TIR databank, including a set of rules regarding the type of information to be released (white lists, etc.), authorized access, use of this information, timeliness of data, etc.

## **WRITTEN CONSULTATION PROCEDURE AMONG TIRExB MEMBERS: PENDING ISSUES**

19. Not discussed due to lack of time.

## **APPROVED CUSTOMS OFFICES FOR TIR OPERATIONS**

20. Not discussed due to lack of time.

## **POSSIBILITY OF GRANTING SPECIALLY AUTHORIZED CONSIGNEES AND CONSIGNORS PERMISSION TO TERMINATE AND TO OPEN TIR OPERATIONS AT THEIR PREMISES**

Documentation: TIRExB/AGE/2001/8.

21. The TIRExB took note that such a possibility was provided in some national and international Customs transit procedures, for instance, in the Community Transit regime, but not in the TIR Convention. Such a possibility allowed for simplified administrative procedures and would be to the benefit of the transport industry.

22. However, it was pointed out that this issue was closely linked to the different responsibilities and obligations under the TIR Convention of all actors involved in TIR operations. A further analysis would be needed to consider all pros and cons of the issue. Therefore, the TIR Secretary was requested to prepare, in consultation with the IRU, a relevant document for consideration by the TIRExB at one of its next sessions.

## **RE-INTRODUCTION OF INSURANCE COVERAGE FOR SENSITIVE GOODS ON THE TERRITORY OF THE EU**

Documentation: Informal Document No.4 (2001).

23. The TIRExB was informed about a joint meeting of the Customs and guaranteeing associations of the Common Transit countries and the IRU on 28 November 2000 in Brussels where the IRU presented measures which would allow the re-introduction of the guarantee coverage for transport of sensitive goods under the cover of TIR Carnets within the European Community (Informal Document No. 4). The proposals included, inter alia, additional procedures to be executed by Customs authorities. It was also proposed that these measures should be extended to all Contracting Parties to the TIR Convention.

24. Welcoming in principle the efforts undertaken by the European Community and the IRU in order to re-establish guarantee coverage for sensitive goods within the TIR procedure, the TIRExB noticed that the proposed measures could affect countries outside the EU and thus would need to be discussed by the Working Party on Customs Questions affecting Transport (WP.30) and/or the TIR Administrative Committee. Moreover, the concern was expressed that these measures might not be in line with the provisions of the Convention and could become a dangerous precedent for the smooth functioning of the TIR regime.

## **ACTIVITIES OF THE TIR SECRETARIAT**

Documentation: TRANS/WP.30/AC.2/2001/4.

25. The TIRExB took note of the results of a Regional TIR Seminar that was held in Amman (Jordan) on 31 October and 1 November 2000 (TRANS/WP.30/AC.2/2001/4).

### **PRIORITY ITEMS FOR CONSIDERATION AND RESOLUTION BY THE TIRExB IN 2001**

Documentation: TIRExB/REP/2000/5.

26. Having reviewed the programme of work for 2000 (TIRExB/REP/2000/5, para. 9), the TIRExB decided to keep it for the year 2001 with the inclusion of the following new item: "Preparation of an example of a TIR Carnet duly filled-in".

### **LIABILITY OF THE HOLDER OF A TIR CARNET IN CASE OF SMUGGLING**

27. Not discussed due to lack of time.

### **VALIDITY OF A COMMENT ADOPTED BY THE TIR ADMINISTRATIVE COMMITTEE**

28. Mr. I. Parts pointed out that a comment to Article 3 of the TIR Convention adopted by the TIR Administrative Committee on 20 October 2000 (TRANS/WP.30/AC.2/59, annex 6) might be considered as being in contradiction to some other provisions of the Convention and thus would need to be revised. Mr. Parts was invited to transmit his views to the forthcoming session of the TIR Administrative Committee (22-23 February 2001) for consideration.

### **OTHER MATTERS**

29. The TIRExB expressed its appreciation to the Ministry of Finance of Germany and to the Oberfinanzdirektion Nürnberg for excellent organization of the session and the hospitality extended to all participants.

**DATE AND PLACE OF NEXT SESSION**

30. The TIRExB decided to hold the ninth session of the Board in Geneva on 23 February 2001, immediately after a new composition of the TIRExB would be elected at the thirtieth session of the TIR Administrative Committee (22 February 2001).

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**REPORT OF THE NINTH SESSION  
OF THE TIR EXECUTIVE BOARD (TIRExB)**  
(23 February 2001)

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its ninth session on 23 February 2001 at Geneva.
2. The following nine members of the TIRExB were present as elected or re-elected by the TIR Administrative Committee on 22 February 2001: 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); Mr. M. Olszewski (Poland); Mrs. N. Rybkina (Russian Federation).
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 (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 of the TIR Department.
5. Other organizations did not attend the session.

**ADOPTION OF THE AGENDA**

6. The TIRExB adopted the agenda of the session as prepared by the TIR Secretary (TIRExB/AGE/2001/9).

**ELECTION OF A CHAIRMAN**

7. In accordance with Annex 8, Article 11, paragraph 3 of the Convention, Mr. Michal Olszewski (Poland) was elected Chairman.

## **ADOPTION OF THE REPORT OF THE EIGHTH SESSION OF THE TIRExB**

Documentation: TIRExB/REP/2001/8.

8. The TIRExB adopted the report of its eighth session as prepared by the TIR Secretary (TIRExB/REP/2001/8).

## **PRIORITY ITEMS FOR CONSIDERATION AND RESOLUTION BY THE TIRExB IN 2001**

Documentation: TIRExB/AGE/2001/9.

9. Having reviewed the programme of work (TIRExB/REP/2001/9), the TIRExB agreed on the following priority items for consideration and resolution in 2001:

- National control measures;
- Monitoring of the price of TIR Carnets;
- Re-establishment of full guarantee coverage of TIR Carnets;
- Functioning of the TIR international guarantee system;
- Approved Customs offices for TIR operations;
- Full application of the EDI control system for TIR Carnets;
- Preparation of a Handbook on best practices in Contracting Parties;
- Support for training activities on the application of the TIR procedure, mainly in new Contracting Parties to the Convention;
- Possibility of granting specially authorized consignees and consignors permission to terminate and to open TIR operations at their premises;
- Computerization of the TIR procedure;
- Preparation of an example of a TIR Carnet duly filled-in.

10. The TIRExB also felt that all pending issues would need to be resolved before the Board proceeded to new ones with the exception of urgent requests by Contracting Parties which should be treated as soon as possible.

## **ADMINISTRATION OF THE TIRExB**

11. The TIRExB recalled its Rules of Procedure and, in particular, the provisions concerning working languages. The TIR Secretary offered to explore possibilities for the UN/ECE to provide full simultaneous interpretation from/into English, French and Russian at sessions held in Geneva. For sessions held outside Geneva, members of the Board who could not communicate in English were invited to bring along their personal interpreters whose travel expenses could be met by the TIRExB budget. To this end, the TIRExB authorized the TIR Secretary to modify, if necessary, individual budget line allocations within the existing overall recourses allocated in the approved budget of the TIRExB and the TIR secretariat.

12. With regard to documentation, the Board was of the view that, in general, basic documents of the TIRExB could be prepared in English only. TIRExB documents to be submitted to the TIR Administrative Committee and/or to the UN/ECE Working Party on Customs Questions affecting Transport (WP.30) should be prepared in the three working languages.

## **OTHER MATTERS**

13. The TIRExB expressed its appreciation to Mr. R. Ehmcke (Germany), outgoing Chairman of the TIRExB, as well as to Mr. O. Beginin (Russian Federation), Mr. O. Fedorov (Ukraine), Mr. Z. Lovric (Croatia) and Mr. I. Parts (Estonia) for the substantial contributions they had made to work of the TIRExB during their terms of office.

## **DATE AND PLACE OF NEXT SESSION**

14. The TIRExB welcomed and endorsed the proposal by Mrs. Y. Kasikçi (Turkey) to hold the tenth session of the Board in Turkey in the week from 14 to 18 May 2001. The eleventh session of the Board was tentatively scheduled to take place on 18 and 19 October 2001 in Geneva.

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**REPORT OF THE TENTH SESSION  
OF THE TIR EXECUTIVE BOARD (TIRExB)**  
(14-17 May 2001 and 18 June 2001)

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its tenth session from 14 to 17 May 2001 in Antalya (Turkey) and on 18 June 2001 in Geneva (informal consultation).
2. The following members of the TIRExB were present: 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); Mr. M. Olszewski (Poland); Mrs. N. Rybkina (Russian Federation). Mr. M. Amelio (Italy) was 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 as observer in accordance with Annex 8, Article 11, paragraph 5 of the Convention and was represented by Mr. J. Groenendijk, Head of the TIR Department.
5. Other organizations did not attend the session.

**ADOPTION OF THE AGENDA**

6. The TIRExB adopted the agenda of the session as prepared by the TIR Secretary (TIRExB/AGE/2001/10) with the addition of the following items:

Agenda item 10: Approval of final accounts for the year 2000;

Agenda item 12: Validity of certificates of approval issued for road vehicles without load compartments;

Preparation of an example of a TIR Carnet duly filled-in;

Questionnaire on computerization of the TIR procedure;

Legal proceedings in Germany between the Customs administration and the national guaranteeing association (request for a decision of the European Court of Justice).

## **ADOPTION OF THE REPORT OF THE NINTH SESSION OF THE TIRExB**

Documentation: TIRExB/REP/2001/9.

7. The TIRExB adopted the report of its ninth session as prepared by the TIR Secretary (TIRExB/REP/2001/9).

## **TRANSMISSION OF LEGALLY REQUIRED DOCUMENTATION TO THE TIRExB**

### **Current situation**

Documentation: Informal Document No. 5 (2001).

8. On the basis of Informal Document No. 5 (2001), the TIRExB noted with satisfaction that the transmission of the legally required documentation had greatly improved since 1999 and is now becoming a routine procedure for more and more Customs administrations.

9. The Board was informed about specific problems experienced in some countries which have not yet complied with the relevant provisions of the Convention. The TIRExB felt that the TIR secretariat should continue its efforts to obtain the full documentation from those countries.

10. Following the request of the Board at its eighth session (TIRExB/REP/2001/8, para.12), the IRU provided explanations on the legal value of the insurance certificates stating the names of national guaranteeing associations - beneficiaries of the global insurance contract. According to the IRU, the objective of such certificates is to inform annually competent authorities of Contracting Parties of the fact that their respective national guaranteeing associations have covered their liabilities by means of the global insurance contract. The TIRExB felt that the renewed certificates should also be regularly deposited with the Board.

### **Compliance with the provisions of the Convention**

Documentation: Informal Document No. 6 (2001).

11. The TIRExB welcomed the analysis of some agreements concluded recently in new Contracting Parties to the TIR Convention, undertaken by the TIR Secretary upon request of the Board (Informal Document No. 6 (2001)). The Board expressed its concern over the fact that various competent authorities had signed agreements with the national associations, without always realizing the consequences of certain provisions for Customs authorities. This had led to a situation where sometimes agreements contained provisions which unnecessarily limited the position of Customs authorities or which even were in contradiction to the Convention. In addition, it had become apparent that in some agreements the instruction from the TIR Contact Group to explicitly include the detailed provisions of Annex 9, Part I, paragraph 1 (f) had not been followed (TRANS/WP.30/1999/3, paras. 11 and 12). In contrast to what had been the opinion so far, the analysis of the various agreements had shown that there was not a large difference between agreements from different countries, in spite of the differences in national legislation. This analysis demonstrated once more the need of establishing an example agreement, containing the minimum conditions and requirements stipulated in the Convention.

12. The TIRExB requested the TIR Secretary to contact the competent authorities of the Contracting Parties, the agreements of which had been analyzed in Informal Document No. 6 (2001), and convey them the Secretary's observations together with the text of the adopted example agreement (see below).

### **Example agreements**

Documentation: Informal Document No. 7 (2001).

13. The TIRExB confirmed its previous decisions (TIRExB/REP/2000/7/Rev.2, paras. 15 and 16) to replace the word "model" by the word "example" (in order to underline that its content is not obligatory, but that its aim is to serve as a guideline) and to split up the example into two parts:

- one part (example authorization) is dedicated to the authorization, granted unilaterally by the competent authorities to the association to act as such;
- another part (example agreement) covers the written agreement or any other legal instrument, as referred to in Annex 9, Part I, paragraph 1 (e) of the Convention, between the competent authorities and the association and contains, inter alia, the minimum conditions and requirements of Annex 9, Part I, paragraph 1 (f).

14. The TIRExB took note of the latest changes to the model, made by the TIR Secretary on the basis of the considerations by the Board at its eighth session (23 and 24 January 2001) (Informal Document No. 7 (2001)). The TIRExB introduced some other modifications to the above document and finally approved it.

15. The TIRExB requested the TIR Secretary to distribute the two examples to all countries interested, in particular to those Contracting Parties whose current agreements had been found to contain omissions or inconsistencies. The examples should also be sent to the Administrative Committee for endorsement.

16. In line with Annex 8, Article 10 (a) and (e) of the TIR Convention and with a view to further harmonizing the application of the TIR Convention at the international and national levels, the TIRExB mandated the TIR Secretary to draw up, in co-operation with the IRU, an example of a procedure for effective communication between the Customs authorities and the national guaranteeing association as well as for settling efficiently disputes arising from improper or fraudulent use of TIR Carnets as referred to in Annex 9, Part I, paragraphs 1 (f) (vii) of the Convention.

#### **INSERTION OF AN IDENTIFICATION (ID) NUMBER OF THE HOLDER OF A TIR CARNET IN THE TIR CARNET AND USE OF THE TIR DATABANK**

Documentation: Informal Document No. 8 (2001)/Rev.1, TRANS/WP.30/AC.2/59 (annex 2).

17. The TIRExB considered the application of the Recommendation on introduction of an ID number of the TIR Carnet holder in the TIR Carnet adopted on 20 October 2000 by the TIR Administrative Committee (TRANS/WP.30/AC.2/59, annex 2) which had come into force on 1 April 2001. The Board reiterated the importance of the Recommendation and noted that so far no problems had been reported with regard to its implementation, also thanks to explanatory notes put on the TIR web site by the TIR Secretary in March 2001 (see document TRANS/WP.30/2001/9).

18. In line with a request in paragraph 3 of the Recommendation to elaborate adequate procedures and establish a mechanism for protected access to the TIR databank by competent authorities of Contracting Parties for approval by the Administrative Committee, the TIRExB discussed relevant proposals by the TIR Secretary (Informal Document No. 8 (2001)/Rev.1)).

19. The Board recalled that, in principle, according to the Terms of Reference of the TIRExB, the international TIR databank (ITDB) maintained by the TIR secretariat should be accessible to all Contracting Parties. Given the entry into force of the above Recommendation aiming at facilitation of inquiry procedures at the national and international levels, the TIRExB felt that the ITDB should become operational as soon as possible with a view to providing competent authorities with an additional source of information in case of need.

20. The Board was of the opinion that a step-by-step approach should be followed in this matter and differentiated between on-line and off-line application of the TIR databank as well as between different components of ITDB data to be released. As a first step, the TIR Secretary was requested to provide without delay off-line access to contact information (name of person(s)/enterprise, address, phone and fax numbers, name of contact point, etc.) for Customs TIR focal points only, upon verification of their identity. The TIRExB stressed that consultations with the ITDB should not become a routine procedure and may be undertaken only in the framework of inquiry proceedings at the national level.

21. The TIRExB also underlined that Customs authorities should use ITDB data only as a secondary tool to complement other evidence to be established according to national law and should remain fully responsible under the relevant national and/or international legislation for any action or omission resulting from use of the ITDB.

22. The TIRExB was also of the opinion that a standard enquiry form should be developed (both on paper and in an electronic format) to facilitate search procedures in the ITDB and that each record in the ITDB should contain the date of its latest update. The Board adopted with a few other modifications the proposals by the TIR Secretary. He was requested to modify the proposals accordingly and submit them to the forthcoming session of the TIR Administrative Committee (October 2001) for consideration and approval.

#### **WRITTEN CONSULTATION PROCEDURE AMONG TIRExB MEMBERS: PENDING ISSUES**

23. The TIRExB recalled the written consultation mechanism proposed by the TIR Secretary in 2000 (TIRExB/REP/2000/7/Rev.2, paras. 20-22) and felt that it would be advisable to take advantage of this auxiliary informal tool facilitating an exchange of views between sessions of the Board. The TIRExB also suggested that modern communication technologies (Internet and e-mail) should be used to speed up this process.



**Application of the TIR Convention in case the first part of a transport operation is not made by road**

24. Taking into account its earlier deliberations (TIRExB/REP/1999/3, para. 26), 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.

25. The Board noted that, in principle, the guarantee coverage should be valid in all cases where the TIR Carnet has been accepted and not discharged by Customs authorities (i.e., if an odd voucher has been detached last from the TIR Carnet). However, the TIRExB pointed out a number of ambiguous practical situations allowing different use of vouchers No.1 and No. 2 and requested the TIR Secretary to prepare a relevant comment covering all aspects of the issue.

**Validity of a Customs claim in case smuggled goods are detained and confiscated by Customs authorities**

26. The TIRExB recalled that, in line with Article 8, paragraph 5 of the Convention, the liability of the guaranteeing association should cover all goods contained in the sealed load compartment or in the sealed container, irrespective whether they are indicated in the goods manifest or not. On the other hand, in case smuggled goods are detained and confiscated by the Customs authorities, the existence of a Customs debt (comprising both duties and taxes) and, consequently, validity of the respective claim is governed by the provisions of national law of the country where the irregularity has been revealed. The Board took note that, while in some countries (e.g. Poland) a Customs debt does not exist in the above situation, in EU countries this is true only if smuggled goods have been seized at the border upon their unlawful introduction. Furthermore, in Germany for certain types of excise goods, even if Customs duties are not payable, the relevant taxes may be still due.

**Order No. 147 as of 24.02.00 of the State Customs Committee of the Russian Federation**

27. The TIRExB gave some consideration to the above Order which prescribes that a transport operator should present to the Customs office of entry of the Russian Federation the TIR Carnet, the CMR consignment note and its two copies as well as an invoice or other commercial document containing comprehensive information about the goods transported, including their commercial value and HS-code (at least 4 digits).

28. The Board took note that the said data could be useful for the Customs authorities to make proper risk assessment and that the IRU had recommended its members to submit such information to the Customs. Nevertheless, it was pointed out that these data elements are not obligatory under the TIR Convention.

29. In exceptional cases, in order to avoid misuse of the TIR regime, Customs authorities could only implement additional forms of Customs controls already provided for in the Convention, namely physical examination of the goods or Customs escorts.

30. The TIRExB also felt that Article 47 of the Convention allowing for application of additional restrictions and controls is designated for governmental bodies other than Customs and should not be used to justify supplementary Customs requirements. The TIR Secretary was requested to prepare a draft comment on the issue for consideration.

### **APPROVED CUSTOMS OFFICES FOR TIR OPERATIONS**

Documentation: Informal Document No. 3 (2001)/Rev.1.

31. The TIRExB considered Informal Document No. 3 (2001)/Rev.1 containing results of the survey of Contracting Parties concerning lists of approved Customs offices for TIR operations and proposals by the TIR Secretary with regard to the establishment of the international databank.

32. The Board generally advocated this idea and felt that such a databank could be of use to the transport industry. Some suggestions were given concerning possible data components of the databank. At the same time, it was noted that transmission of any information on approved Customs offices is not foreseen by the Convention and thus would be optional for Contracting Parties. For this reason, it would be quite difficult to achieve strict conformity with any proposed data format.

33. The Board provisionally adopted the proposals by the TIR Secretary and decided to transmit them to the TIR Administrative Committee for consideration.

**POSSIBILITY OF GRANTING SPECIALLY AUTHORIZED CONSIGNORS AND  
CONSIGNEES PERMISSION TO OPEN AND TO TERMINATE TIR OPERATIONS AT  
THEIR PREMISES**

Documentation: Informal Document No. 9 (2001).

34. Taking note of Informal Document No. 9 (2001) prepared by the TIR Secretary, the TIRExB held an exchange of views on the subject. The Board agreed in principle that the Convention should provide for the establishment of certain simplifications which are in line with current trade practices and the existence of the 24-hour economy, as long as these additional facilities are not in contradiction with the text and the spirit of the Convention.

35. On the other hand, some members of the TIRExB felt that, given various national regulations and practical situations throughout Contracting Parties to the TIR Convention, this issue should be treated with great care as it is directly linked to the question of responsibilities of different actors involved in the TIR regime and thus could have implications on the current guarantee system. It was also recalled that in the early 1980's the UN/ECE Working Party on Customs Questions affecting Transport (WP.30) already considered the facility in question and, at that time, had rejected it.

36. Some members informed the Board that the notion of authorized consignee within the TIR procedure had already been introduced in their countries by virtue of Article 49 of the Convention. However, other members argued that Article 49 was not meant to include simplifications such as authorized consignor or authorized consignee, because their introduction touched the essence of the TIR Convention, as Customs controls were being replaced by controls by third parties and as it influenced the existing liability system.

37. The Board felt that this item should be included in Phase III of the TIR revision process, in particular in relation to the introduction of the computerized TIR system and the analysis of the functioning of the guarantee system. As a first step, the TIRExB decided to analyze the situation in various Contracting Parties which already today accept authorized consignees for TIR operations. To this end, the Board invited members from these countries as well as the IRU to furnish the TIRExB with information on the issue. The Board also agreed that only after it had finalized its discussions, the subject would be brought to the attention of WP.30.

## **RE-INTRODUCTION OF INSURANCE COVERAGE FOR SO-CALLED "SENSITIVE" GOODS ON THE TERRITORY OF THE EU**

Documentation: Informal Document No. 11 (2001); Report of the Customs Legislation Committee of 28 November 2000 (European Commission).

38. The TIRExB recalled its preliminary discussions on this subject at its eighth session (Informal Document No. 4 (2001); TIRExB/REP/2001/8, para. 24) as well as the views expressed by WP.30, at its ninety-seventh session, which had invited the IRU to submit a detailed document on this subject to the TIRExB (TRANS/WP.30/194, paras. 51-55).

39. Against this background the TIRExB welcomed the preparation and presentation by the observer of the IRU of Informal Document No. 11 (2001) which took account of some of the concerns expressed by the Working Party and the TIR secretariat (WP.30 Informal document No. 9 (2001)) and provided further clarification on the conditions and requirements which the IRU felt would need to be fulfilled before the relevant national associations could re-establish their guarantee coverage for the so-called sensitive goods on the territory of the European Community.

40. The IRU was of the view that the above conditions and requirements should become mandatory for EU countries and should also apply, on a voluntary basis, in countries outside the European Community. For that purpose, the IRU had prepared a combined list of EU and non-EU sensitive goods. The IRU felt that the proposed measures were in line with the provisions of the Convention as well as the relevant resolutions and recommendations adopted within the TIR regime, did not require any changes to the format or legal status of the TIR Carnet itself and did not prejudice the TIR guarantee coverage or the rights of Customs authorities to make claims.

41. The TIRExB did not share the underlying idea of the proposals by the IRU to distinguish between different types of goods within the TIR regime and to give the so-called sensitive goods special treatment at the international level. To substantiate its point of view, the Board put forward the following arguments:

- the Convention did not foresee differentiation between categories of goods, other than for tobacco and alcohol, as stipulated in Annex 1 to the Convention. Therefore, full guarantee coverage had to be provided by national associations not only for every duly opened TIR Carnets utilized by national and foreign TIR Carnet holders, but also for all categories and types of goods (except tobacco/alcohol) carried in the Customs sealed load compartments and containers. This also implied that a selection of TIR Carnet holders or associations according to the categories of goods to be transported under the TIR Convention was not acceptable;
- there is no evidence for the usefulness of any single list of "sensitive" goods covering all 49 States applying at present the TIR procedure. In addition, it is doubtful that such a list could be compiled on solid grounds. It was also mentioned that the European Commission is not ready for the moment to consider "sensitive" goods other than their own;
- Customs authorities in each of the Contracting Parties are aware of the (often changing) specific sensitivity of certain goods transported under the TIR procedure on their territory and do undertake necessary, target oriented administrative controls in line with the provisions of the Convention, including escort requirements.

42. The TIRExB also recalled that, since the exclusion of "sensitive" goods from the TIR regime in the European Community in 1996, numerous administrative and legal measures had been implemented by most Contracting Parties to the Convention, such as those contained in resolution No. 49, the Recommendation on the introduction of the EDI control system for TIR Carnets (IRU-SAFETIR), the amendments adopted under Phase I of the TIR revision process, etc. In particular, controlled access to the TIR procedure is being implemented since 1999 to ensure that only honest and well experienced transport operators are applying the TIR regime. Such measures, coupled with contributory national control measures, such as effective registration and authorization of consignees as well as effective control over Customs warehouses, as has been done in the Ukraine and in the Russian Federation, have considerably reduced the possibilities for misuse of the TIR procedure for all goods. Despite all these measures, the guarantee coverage for "sensitive" goods has not been re-established.

43. Given the fact that, according to IRU figures, on average about 83% of all terminated TIR transport operations are at present reported by Customs authorities via the SAFETIR system to the IRU, none of which had shown any irregularities, the TIRExB felt that national associations, the IRU and the international insurers should, since late 1995, have tools at hand not only to limit the total guarantee sum at risk at any time, but also to apply risk assessment procedures. These procedures should have been used to ensure guarantee coverage of all goods and in all Contracting Parties, including the few consignments comprising so-called sensitive goods (according to IRU estimates 3% of all TIR transports). Since almost all countries indeed report

all terminated TIR transport operations to the SAFETIR system, active means of control do exist which would allow national associations to issue new TIR Carnets to transport operators only in case termination information is available from SAFETIR or if other satisfactory explanations can be provided by TIR transport operators on such non-recorded TIR Carnets.

44. The TIRExB also pointed out that it was not acceptable for any party involved in the operation of the TIR procedure, to assume only part of its responsibilities. This would not only be against the foundation of this unique multilateral convention with carefully balanced obligations and facilities for all parties, private and public, but would also set a dangerous precedent encouraging States, organizations, associations and transport operators involved to select only those parts of the Convention which, in their view, provided the maximum advantage for them. That is why the re-introduction of full guarantee coverage for all categories of goods without any pre-conditions has been repeatedly demanded by Contracting Parties.

45. The TIRExB agreed with the IRU that the coverage, timeliness and analysis of data provided by the IRU SAFETIR system based on the recommendation of the TIR Administrative Committee (20 October 1995), ensuring virtual on-line information of termination of all TIR transport operations, should be further improved and then would also provide a solution for close control of transport operators carrying "sensitive" goods. The TIRExB felt that the effective use of the IRU SAFETIR system, together with information to be provided to and by national associations to their transport operators about the transport of "sensitive" goods on risky transport corridors could further reduce the risk for the transport of such goods. The TIRExB could be instrumental in providing such information. In this context, the TIR Secretary was requested to provide assistance to the IRU, national associations and national Customs authorities in the full application of the EDI control system for TIR Carnets (IRU SAFETIR).

## **LIABILITY OF THE HOLDER OF A TIR CARNET IN CASE OF SMUGGLING**

Documentation: Informal Document No. 10 (2001).

46. On the basis of Informal Document No. 10 (2001) transmitted by Mr. R. Ehmcke (Germany), the TIRExB considered the following practical situation. Goods are hidden in the sealed load compartment of the road vehicle without being declared in the goods manifest of the TIR Carnet which is duly signed by the holder or his representative. When this is detected by Customs authorities applying controls, the driver confesses straight away that he is the one and only person who intended to smuggle the hidden goods into the country of destination, in particular, without any knowledge and involvement of his employer, i.e. the TIR Carnet holder. The question is to what extent the TIR Carnet holder and guaranteeing association are also liable for the payment of duties and taxes, if any, in the above case of smuggling.

47. Upon understanding that the liability of the holder and guaranteeing association may depend on the national legislation, the TIRExB expressed the following point of view:

- in principle, the holder, being a person who bears the primary responsibility for the duly accomplishment of a TIR operation, should be responsible for any actions or omissions of his employees or agents;
- irrespective of the liability of the holder, the guaranteeing association is liable for the payment of a Customs debt, if any, in line with Article 8, paragraphs 1, 5 and 7.

48. The TIRExB also took note that, due to Explanatory Note 0.38.1, in many Contracting Parties in the above situation it would be impossible to exclude the TIR Carnet holder from the TIR regime by virtue of Article 38 of the Convention. Taking into account that discussions with regard to the application of the said Article are under way in WP.30, the TIRExB decided to recommend the Working Party to consider the deletion of Explanatory Note 0.38.1 as interfering with national legislation.

49. The TIRExB decided to continue deliberation on the issue at one of its next sessions.

## **ACTIVITIES OF THE TIR SECRETARIAT**

Documentation: Informal Documents Nos. 12, 15 and 16 (2001).

50. The TIRExB welcomed a short report on activities of the TIR secretariat carried out in accordance with its mandate (Informal Document No. 12 (2001)) and requested the TIR Secretary to submit it to the forthcoming session of the TIR Administrative Committee for information.

51. The Board also took note that the international register on Customs sealing devices used for the TIR procedure maintained by the secretariat exists in a hard copy version only. This limits its use and, as a consequence, its appreciation by Customs administrations, some of which have requested the TIR secretariat to provide them with the register in an electronic format (e.g., by means of a protected web page).

52. The Board felt that, due to its confidential content, the register should not be put on the web and its distribution should be restricted to TIR Customs focal points only. However, in order to facilitate practical application of the register, the TIRExB agreed that the TIR secretariat could transmit to TIR focal points, if they so wished, the same data in an electronic format. Subsequent use of this data at the national level would be under the responsibility of a TIR focal point and could include, for instance, access to the register via the Intranet.

53. The TIRExB endorsed its final accounts for the year 2000 prepared by the competent Finance Services of the United Nations (Informal Document No. 15 (2001)). The Board also approved the proposal by the TIR Secretary to allot US\$ 10,000 to budget line “Sundry” to cover possible interpretation and translation expenses, in accordance with the request of the TIRExB at its ninth session (23 February 2001) (TIRExB/REP/2001/9, para. 11).

## **INTRODUCTION OF NEW SECURITY MARKS INTO TIR CARNET FORMS**

Documentation: Informal Document No. 17 (2001).

54. The TIRExB was informed that, due to the replacement in September 2001 of the manufacturer of the paper for TIR Carnets, the IRU would have to change some of the security elements in the TIR Carnet forms. On that occasion, the IRU also wished to introduce a slightly modified layout of the TIR Carnet containing additional protective features to impede falsification of TIR Carnet forms (Informal Document No. 17 (2001)).

55. In the draft layout of the TIR Carnet the Board discovered few deviations from the model in Annex 1 to the Convention and corrected the proposal accordingly. In line with Annex 8, Article 10, paragraph (a) of the Convention and the Terms of Reference of the TIRExB, the Board approved the corrected layout of the TIR Carnet as it does not modify the legal provisions of the Convention.

56. The TIRExB shared the point of view of the IRU that, given inevitable changes of security elements to happen in September 2001, the new layout of the TIR Carnet should be introduced at the same time. The introduction of the revised TIR Carnet is foreseen as of 30 September 2001. Following this event, Customs authorities would have to deal for some time with several different layouts of the TIR Carnet. Thus, in order not to create confusion among Customs officials, the Board requested:

- the IRU to furnish Customs authorities of all Contracting Parties utilizing the TIR procedure with a number of sample TIR Carnets well in advance to the introduction of the new layout;
- the TIR secretariat to distribute among Contracting Parties detailed descriptions of the present and new layouts of the TIR Carnet, including protective elements.



## **OTHER MATTERS**

### **Validity of certificates of approval issued for road vehicles without load compartments**

Documentation: Informal Document No. 13 (2001).

57. The TIRExB was informed by the European Commission that the competent authorities of one Contracting Party to the Convention seemed to issue certificates of approval for road vehicles without load compartments, e.g. tractor units and open semi-trailers for transport of containers (Informal Document No. 13 (2001)). The Board felt that such practice was in contradiction to the provisions of the Convention, in particular those of Annex 2. At the same time, it was mentioned that the incorrect certificates, whose examples were contained in the above document, might have been issued for purposes other than approval of road vehicles.

58. In view of the above, the TIRExB requested the TIR Secretary:

- to remind competent authorities of Contracting Parties that already in 1996 WP.30 and the TIR Administrative Committee had expressed the opinion that certificates of approval issued for road vehicles without load compartments are not in line with the provisions of the Convention (TRANS/WP.30/166, paras. 40-42; TRANS/WP.30/168, para. 38; TRANS/WP.30/AC.2/39, para. 17; see also comment "Provision of approval certificate and approval plate", 1999 TIR Handbook, page 43);
- to contact the Customs authorities of the Contracting Party involved with a view to finding out whether such certificates have been issued by mistake or for some other purposes.

### **Preparation of an example of a TIR Carnet duly filled-in**

Documentation: Informal Document No. 14 (2001).

59. Having taken note of Informal Document No. 14 (2001), the TIRExB was of the view that, before preparing such an example, a number of unclear points regarding the filling-in of the TIR Carnet should be clarified. In particular, neither the current text of the Convention nor that amended under Phase II provide clear guidance how to use vouchers Nos. 1 and 2 of the TIR Carnet in case of several Customs offices of departure and/or destination. The Board also requested the TIR Secretary to prepare proposals on a recommended practical procedure of cooperation among Customs authorities in order to obtain shortly a faultless model of the TIR Carnet duly filled-in.

**Questionnaire on computerization of the TIR procedure**

60. The TIRExB was informed about a questionnaire on computerization of the TIR procedure distributed by the TIR secretariat among Customs authorities and some private companies representing the transport sector with the objective of obtaining information on the state of play of computerization of Customs transit procedures at the national level as well as on the technologies used to capture and disseminate data. It was stressed that a consultation with the transport industry seemed to be essential to draw up a versatile picture.

**Legal proceedings in Germany between the Customs administration and the national guaranteeing association (request for a decision of the European Court of Justice)**

61. The issue was not discussed due to lack of time.

**DATE AND PLACE OF NEXT SESSION**

62. The TIRExB expressed its sincere appreciation to the Undersecretariat of Customs (Turkey) for the excellent organization of the session and the hospitality extended to all participants.

63. The TIRExB confirmed its earlier provisional decision to convene the next session of the Board from 18 to 19 October 2001 in Geneva in conjunction with the ninety-ninth session of WP.30 and the thirty-first session of the TIR Administrative Committee. In line with the Terms of Reference of the TIRExB and following requests of some members of the Board, the Chairman of the TIRExB decided to hold the forthcoming October session partly without observers.

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