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Economic Commission for Europe**Administrative Committee for the TIR Convention, 1975****Fifty-second session**

Geneva, 6 October 2011

Item 3 (a) (i) of the provisional agenda

**Activities and administration of the TIR Executive Board – Activities
of the TIR Executive Board: Report by the Chair of the TIR Executive Board****Report of the forty-fourth session of the TIR Executive Board***Summary*

The present document is submitted pursuant to Annex 8, Article 11, paragraph 4 of the TIR Convention, 1975, which stipulates that the TIR Executive Board (TIRExB) “shall report on its activities to the Administrative Committee at least once a year or at the request of the Administrative Committee”.

I. Attendance

1. The TIR Executive Board (TIRExB) held its forty-fourth session on 27 September 2010 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), Mr. V. Milošević (Serbia) and Mrs. J. Popiolek (European Commission).
3. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. Muratbek Azymbakiev.

II. Adoption of the agenda

4. The TIRExB adopted the agenda of the session as prepared by the secretariat (Informal document TIRExB/AGE/2010/44) with the addition of the following issue under agenda item 13 “Other matters”: “Problems between the Greek authorities and the Greek national association”.

III. Adoption of the report of the forty-third session of the TIRExB

Documentation: Informal document TIRExB/REP/2010/43draft

5. The TIRExB adopted the report of its forty-third session (Informal document TIRExB/REP/2010/43draft), subject to the following modification:

Page 4, paragraph 16, subparagraph b), first line

Delete easily

Page 5, paragraph 17, line four

Delete, in general,

IV. Best practices with regard to the use of the TIR carnet

Documentation: Informal document No. 12 (2010)

6. At its forty-third session, the TIRExB had confirmed that Rule 12 of the “Rules regarding the use of the TIR Carnet” is clear and unambiguous and, thus, should be applied without exception. Further to this, the TIRExB had discussed what to do in practice in case these instructions are not followed. After some preliminary discussions, the TIRExB invited its members to submit comments or proposals how to address this situation for discussion at the next session (TIRExB/REP/2010/43, paras 6–8).

7. The Board discussed Informal document No. 12 (2010), prepared by the secretariat and based on contributions from individual TIRExB members. The document made clear that some members supported a more formalistic approach, based on the application of the “Rules regarding the use of the TIR Carnet”, whereas others preferred a more practical approach on the basis of experiences reported by Customs officials. The TIRExB established that one of the main reasons for this divergence in opinion could lie in the fact that, although various rules regarding the use of the TIR Carnet refer to “all” vouchers to be filled in, signed or stamped, the TIR Convention, at no place, stipulates the number of vouchers in a TIR Carnet. It has been IRU which, based on the needs of the transport industry, has, over time, started to print and distribute 4, 6, 14 and 20 voucher TIR Carnets.

8. Although the TIRExB was conscious of the fact that there might not be many such cases in practice, it felt it was a serious matter and that there was a need to come with clear instructions for Customs as well as for transport operators how to proceed in case a TIR Carnet was used containing more vouchers than required for the actual TIR transport. Such instructions should address, in particular, the treatment of empty pages, if any, in the TIR Carnet. The instructions should be based on the legal provisions of the TIR Convention, but should, at the same time, be practical and clear.

9. The TIRExB took note that IRU was not in a position to provide its findings on the issue nor on the possibility to introduce an 8- or 10-voucher TIR Carnet.

10. In conclusion of the issue, the TIRExB decided to draft a recommendation for inclusion into Chapter 7 of the TIR Handbook to read as follows:

“Filling in of the TIR Carnet¹”

¹ In case of consecutive use of two TIR Carnets, please refer to paragraph 25 of this Chapter.

(a) TIR Carnet holders (or their representatives) are recommended to carefully select the type of TIR Carnet (4, 6, 14 or 20 pages), which best corresponds with the requirements of the specific TIR transport for which the TIR Carnet will be opened;

(b) TIR Carnet holders (or their representatives) are recommended to fill in as many vouchers as possible, if not all, of the TIR Carnet and date and sign boxes 14 and 15, in accordance with Rule 12 of the “Rules regarding the use of the TIR Carnet”;

(c) At the last Customs office of departure, Customs should sign and date stamp box 17 on all vouchers which have previously been filled in by the holder (or his representative), in accordance with Rule 7 of the “Rules regarding the use of the TIR Carnet”;

(d) Any remaining voucher in the TIR Carnet which has not previously been filled in by the holder (or his representative), should be cancelled by Customs, at the risk of the TIR Carnet holder for not having a sufficient number of filled in, signed and date-stamped vouchers available in the TIR Carnet to complete the specific TIR transport for which it had been opened.”

11. The TIRExB approved the text of the draft recommendation and decided to transmit it to the TIR Administrative Committee (AC.2) for endorsement.

V. Current status of the eTIR project

12. The Board took note of the latest developments related to the eTIR project, in particular the successful establishment of the network of eTIR focal points, the active participation of the Dutch Customs authorities in the preparation of Chapter 4 of the eTIR Reference Model and the kind offer from the Turkish Customs authorities to share with the TIR secretariat their expertise in the evaluation of the costs involved in setting up and maintaining the eTIR international system. Furthermore, the Board took note of the active participation of the secretariat in the WCO² Data Model Project Team and of the amendments that will be included in version 3.1 of the WCO data model to accommodate the eTIR requirements with regard to data on seals.

13. In reply to questions from the Board, the secretariat confirmed that the eTIR Project is not directly aimed at national Customs systems. Instead, its scope is to facilitate the secure exchange of data between national Customs systems through the establishment of a central platform, the eTIR international system. Nor does it interfere with the development of Information Technologies (IT) tools by the private sector, such as Real Time SafeTIR and TIR Electronic Pre-Declaration (EPD), although these initiatives constitute valuable contributions to the computerization of the TIR system as a whole.

VI. Procedure prior to suspension of the guarantee on the territory of a Contracting party

14. The Board regretted not being able to continue its discussions due to the absence of a written contribution from the IRU, outlining the functioning of the guarantee system at national and international level, the applicable deadlines and their interaction as well as the suspension of the guarantee under exceptional circumstances (including ‘force majeure’), as the Board had repeatedly requested IRU (TIRExB/REP/2010/43final, paragraph 14).

² World Customs Organization

According to IRU, this was due to the fact that it had not fully understood the request. Thus, it had preferred to limit itself to giving an oral introduction instead.

15. In general, IRU stated that its prior written information on the functioning of the guarantee system from 1997 (TRANS/WP.30/R.195) and 2004 (TRANS/WP.30/216, paragraph 53) still remained accurate, as no significant changes had been introduced into the guarantee system since then.

16. The Board repeated its commitment to cooperate with IRU, but, at the same time, called upon IRU to be more active in future, not only during meetings but also in submitting substantial written contributions, thus allowing the TIRExB to fulfil its mandate to supervise the application of the Convention, including the operation of the guarantee system, as stipulated in Annex 8, Article 10 (a) of the Convention.

17. Further to the request by IRU to provide more details on the information which the Board expected from IRU, the Board agreed to specify its outstanding questions, as follows:

(a) Functioning of the guarantee system at national and international level: although much is known about the functioning at the international level (relationship between IRU and Zürich), this does not apply to the relationship between IRU and the national associations or between the national associations and their national insurer. The same holds true for the position of the transport operators. Even though their liability seems to be covered both nationally (through the national insurer) and internationally (through Zürich), under no circumstance do they seem to be considered as beneficiary to an insurance contract.

(b) Suspension under exceptional circumstances: the TIRExB is not so much interested in the application of Swiss law by the international insurer, but in the repercussions thereof for the interaction between national associations and competent national authorities in the implementation of a suspension at national level, in particular taking into account the provisions of Annex 9, Part I, Article 1 (f) (v) of the written agreement between Customs authorities and the national association. Moreover, the TIRExB would like to be better informed about proceedings between the international insurer, IRU and the national associations in the period prior to any decision to suspend the guarantee in a given country.

(c) Considerations from the IRU with regard to the specific questions raised in Part (IV) of Informal document No. 1 (2010).

18. The TIRExB recalled that it first started discussing the underlying issue in 2008 during its previous term of office. The TIRExB regretted not having made more progress towards the goal of establishing a well-defined procedure, but, at the same time, pointed at the complexity of the issue, in particular the analysis of the functioning of the guarantee system as well as the need for active cooperation from IRU. The TIRExB looked forward to receiving a written contribution from IRU for its next session, providing extensive replies to the above raised issues together, possibly, with further relevant information.

VII. Approval of a specific construction of road vehicles

19. The secretariat informed the Board that, as requested, it had sent letters to the Estonian and German Customs authorities conveying the Board's considerations on the construction of vehicles, whose floors are equipped with troughs to facilitate and secure the transport of sheet metal coils. Both authorities had informed the secretariat that they were in the process of assessing how to best follow-up on these considerations, indicating that they might wish to revert to the TIRExB at a later stage for further consultation.

20. The secretariat informed the Board of its contacts with the Liaison Committee of the Body and Trailer Building Industry (CLCCR), which had confirmed its readiness to assist the TIRExB when addressing issues of a technical nature, in consulting with technical experts or in the organization of technical seminars.

VIII. Invalidation of TIR carnets issued to excluded TIR carnet holders

Documentation: Informal document No. 14 (2010), Informal document No. 15 (2010)

21. The Board considered Informal document No. 14 (2010), submitted by IRU, providing further clarifications with regard to the invalidation by national associations of TIR Carnets issued to excluded TIR Carnet holders. In addition, the TIRExB took note of Informal document No. 15 (2010) by the secretariat, reproducing document TRANS/WP.30/AC.2/2004/7 in which it clarifies the terminology used in the International TIR Data Bank (ITDB).

22. In response to IRU's contribution, the Board confirmed that national associations have the right not to issue TIR Carnets to TIR Carnet holders on a temporary or permanent basis (see the provisions of Annex 9, Part II, paragraph 6 of the Convention). However, this right should not be confused with the current practice where national associations invalidate TIR Carnets which they themselves have issued to authorized TIR Carnet holders in full compliance with the applicable (internal) rules and regulations. The TIRExB reiterated its willingness to assist national associations in their efforts to limit the risk-exposure of the guarantee system but, at the same time, referred again to its standing opinion that, in the absence of an internationally recognized mechanism, the guarantee chain will have to accept that all TIR Carnets, presented for acceptance at the Customs office of departure before the final date of validity, are valid in accordance with the provisions of Article 9 of the Convention, as long as the Customs office of departure does not dispose of any data to the contrary. The TIRExB recalled that the issue will be solved with the establishment of the eTIR international system, which, inter alia, provides for the centralized management by Customs of data on guarantees.

23. In order to make further progress on the issue, the TIRExB decided to focus its discussion on the following aspects:

(a) Use of terminology: study the material correlation between the temporary/permanent suspension (withdrawal) of the access of TIR Carnet holders to TIR Carnets by associations on the one hand and the temporary/permanent withdrawal of the authorization to access the TIR procedure by the competent authorities on the other hand. The right of associations not to issue TIR Carnets is not contested, but the fact that this right is exercised to invalidate TIR Carnets issued to authorized TIR Carnet holders for reasons which fall within the competence of Customs deserves further analysis.

(b) Further development of the cooperation between national associations and Customs authorities towards the establishment of a recognized international mechanism containing data on TIR Carnets with valid guarantees. Customs authorities are conscious of the fact that the invalidation of TIR Carnets by national associations may constitute an important contribution to the stability of the TIR system, but at the same time the guarantee chain will have to respect that once the Customs office of departure has accepted a TIR Carnet on or before its final date of validity, the TIR Carnet remains valid until the termination of the TIR operation at the Customs office of destination, in accordance with Article 9, paragraph 3 of the Convention.

(c) The discrepancy between the concept that TIR Carnets should be issued to authorized TIR Carnet holders only and the commercial practice where TIR Carnets are issued in batches to TIR Carnet holders, thus creating the possibility that a TIR Carnet holder still has a number of unused TIR Carnets at his disposal at the moment of temporary/permanent suspension by the national association. While fully understanding this commercial practice, it cannot be accepted that Customs should bear the consequence thereof in cases where the information on the invalidation of the TIR Carnets concerned has not timely reached the Customs official(s) in charge.

24. The TIRExB decided to revert to these issues at its next session.

IX. Problems encountered by TIR carnet holders

Problems encountered by foreign TIR Carnet holders in the territory of the Russian Federation

Documentation: Informal document No. 16 (2010)

25. The Board took note of Informal document No. 16 (2010) in which the Russian Customs authorities had informed the TIR Secretary that the circle of people authorized to organize Customs escorts had been enlarged to include also other organizations than Customs and that, thus, the requirement of Customs escort should soon no longer pose a serious inconvenience to the transport industry. According to various members of the Board it was true that recently the number of complaints had gone down, but, in their view, this was more likely due to the fact that Russian Customs lately seemed more involved in issues related to the establishment of the Customs Union with Belarus and Kazakhstan than on imposing escorts.

26. The secretariat informed the Board that regulations with regard to the application of the TIR Convention in the territory of the new Customs Union had not yet been finalized. The recently reported problems with Customs authorities, thus, seemed to be more due to problems in the application of Russian national law than to the establishment of the new Customs Union. In this regard, IRU referred to the requirement to indicate 6 or sometimes 8 digits of the Harmonized System (HS) code in the TIR Carnet, the submission of the TIR Carnet in electronic format or the refusal to open a TIR Carnet between ports of the Russian Federation and other member States of the Customs Union. The secretariat invited IRU to raise these issues at the forthcoming session of the Working Party on Customs Questions affecting Transport (WP.30).

X. World Customs Organisation e-learning course on TIR

Documentation: Informal document No. 17 (2010)

27. The secretariat introduced Informal document No. 17 (2010), containing consolidated contributions by individual TIRExB members on the e-learning course on TIR which World Customs Organisation (WCO) had developed in cooperation with IRU. The Board welcomed the document but, due to lack of time, was not in a position to review all comments in detail. In order to speed up the review process, the Board agreed to provide the secretariat with concrete proposals how to amend the consolidated document not later than by 15 November 2010. To the extent possible, TIRExB members were invited to rephrase their comments and turn them into clear instructions on how to improve the course for Customs officers, at the same time ensuring that principles and wording of the TIR

Convention are respected. Furthermore, the members of the Board were invited to also provide their views if additional modules should be included.

XI. Self-evaluation

Documentation: Informal document No. 18 (2010)

28. The Board considered Informal document No. 18 (2010) by the secretariat, which contained a first, preliminary draft of the assessment of the Board's achievements during its 2009–2010 term of office in relation to its mandates according to the TIR Convention. Due to lack of time, the Board was not in a position to analyse the document in detail, but it agreed to the approach taken and requested the secretariat to amend and finalize the document for discussion and, possibly, adoption by the Board at its next session. The members of the Board agreed that the document should be complemented with a personal assessment by individual TIRExB members.

XII. Budget proposal and cost plan of the TIRExB and the TIR secretariat for the year 2011

Documentation: ECE/TRANS/WP.30/AC.2/2010/10, ECE/TRANS/WP.30/AC.2/2010/11, ECE/TRANS/WP.30/AC.2/2010/12

29. The Board took note of a letter of the IRU's Secretary-General dated 14 September 2010, stipulating that IRU expects to distribute 2,8 million TIR Carnets in 2011 and that, according to IRU internal calculations, an amount per TIR Carnet of US\$ 0.3425 will be required to generate the income necessary to cover the additional funds of US\$ 959,000 needed for the operation of TIRExB and TIR secretariat in 2011. The TIRExB endorsed the budget and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2011, as contained in document ECE/TRANS/WP.30/AC.2/2010/12.

XIII. Activities of the TIR secretariat

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

30. The Board was informed by the secretariat about the current status of transmission of data to the International TIR Data Bank (ITDB) and progress made in the development of the ITDB Online+. With the kind cooperation of the Italian Customs authorities and the Italian Union of Chambers of Commerce (UNIONCAMERE), the secretariat had conducted a successful pilot. As a next step, the ITDB Online+ will undergo a security audit by an external company before officially being launched in the coming months.

B. TIR training seminars

31. The TIRExB was informed that the secretariat was preparing a regional TIR seminar for the Balkan countries which would include a technical module, particularly aimed at the technical approval and inspection of TIR vehicles.

XIV. Other matters

Problems between the Greek authorities and the Greek national association

32. IRU informed the Board of problems between the Greek authorities and the Greek national association (OFAE), mainly of a financial nature, but also in relation to the implementation of TIR EPD in Greece and the translation of the TIR Handbook in Greek. In reply, Ms. Metaxa Mariatou (Greece) informed the Board that the TIR Convention had been translated in Greek and was published as official European Union (EU) document (OJ L 165/2009). With regard to the issues of a financial nature, she stated that the financial relationship between the Customs authorities and OFAE had been determined many years ago and had, so far, always met with the satisfaction of both parties. Only recently, OFAE had started complaining about constraints in the implementation thereof. The Greek authorities remained committed to look into the problems and seek solutions in collaboration with OFAE. At the same time, she stressed that each Contracting Party is autonomous in negotiating the implementation of Annex 9, part I of the Convention at the national level, in accordance with applicable national law.

33. The TIRExB took note of the information and invited IRU to prepare a document on the issue for consideration at its next session.

XV. Restriction on the distribution of documents

34. The TIRExB decided that the distribution of the following documents, issued for the present session, should be restricted: Informal documents 12A, 17 and 18 (2010).

XVI. Date and place of next session

35. The TIRExB decided to hold its forty-fifth session on Monday 31 January 2011 in Geneva, in conjunction with the 127th session of the Working Party on Customs Questions affecting Transport (WP.30) and the fifty-first session of the TIR Administrative Committee (AC.2).
