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Activities and administration of the TIR Executive Board –

Activities of the TIR Executive Board:

Report by the Chair of the TIR Executive Board

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

I. Attendance

1. The TIR Executive Board (TIRExB) held its fifty-second session on 4 February 2013 in Geneva.
2. The following members of TIRExB were present: Ms. A. Dubielak (Poland), Mr. H. Köseoğlu (Turkey), Mr. H. Lindström (Finland), Mr. I. Makhovikov (Belarus), Ms. M. Manta (European Commission), Ms. H. Metaxa Mariatou (Greece) and Mr. V. Milošević (Serbia).
3. Mr. V. Bondar (Ukraine) and Ms. L. Korshunova (Russian Federation) were excused. TIRExB reacted to the reason for the absence of Mr. Bondar that was, as announced by official letter, due to his recent election to be a member of parliament, by expressing its congratulations.
4. The International Road Transport Union (IRU) attended the session as observer and was represented by Mr. M. Azymbakiev.

II. Opening statement

5. On behalf of the United Nations Economic Commission for Europe (UNECE), Ms. E. Molnar, Director Transport Division welcomed the Board to Geneva. She informed the Board about various issues related to the staff of the TIR secretariat, in particular that Mr. A. Sceia would temporarily be acting as de-facto secretary of the TIRExB in addition to his former responsibilities. Ms. Molnar also regretted that, in view of the UN-wide budget cuts, it was not realistic at this time to expect that UNECE would be in a position to include the TIR secretariat posts in the regular UNECE budget. Finally, Ms. Molnar invited TIRExB

members to participate in the seventy-fifth jubilee session of the Inland Transport Committee (ITC) or ensure that their government is duly represented.

III. Adoption of the agenda

6. TIRExB adopted the agenda of the session as contained in Informal document TIRExB/AGE/2012/52.

Documentation

Informal document TIRExB/AGE/2012/52

IV. Adoption of the report of the fifty-first session of TIRExB

7. TIRExB adopted the report of its fifty-first session (Informal document TIRExB/REP/2012/51draft with comments), including the amendments proposed by various TIRExB members.

Documentation

Informal document TIRExB/REP/2012/51draft with comments

V. Current status of the eTIR Project

8. The Board took note that the twenty-second session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (further referred to as “Expert Group”) will be organized in the spring of 2013. The Board welcomed the final Cost Benefit Analysis (CBA) of the eTIR Project (Informal document GE.1 No. 12 (2012)/Rev.1), mandated and financed by the TIR Executive Board, and expressed satisfaction with the secretariat’s summary contained in draft Informal document GE.1 No. 2 (2013). It also agreed with, and respectively supported, the limitations listed in the document. Furthermore, the Board recommended the Working Party on Customs Questions affecting Transport (WP.30) to urgently start the work on the legal issues related to the Computerization of the TIR procedure and offered its support for this challenging task.

9. The Board took note that the eTIR pilot project between Italy and Turkey was temporarily put on hold in order to allow both countries to fully take into account the implications on the use of the TIR procedure of the recent accession of Turkey to the Common Transit Convention.

10. Finally, the Board was informed that, further to the approval by United Nations Department of Economic and Social Affairs of the final project document, UNECE has received the totality of the funds for the United Nations Development Account (UNDA) project: “Strengthening the capacities of developing countries and countries with economies in transition to facilitate legitimate border crossing, regional cooperation and integration”. The funds will soon be divided among the Regional Commissions. Furthermore, the terms of reference for the “gap” analyses that will serve as background material at the first Expert group meeting are being prepared.

Documentation

Informal document GE.1 No. 12 (2012)/Rev.1, Informal document GE.1 No. 2 (2013)

VI. Monitoring the functioning of the TIR guarantee system

11. The Board took note of the presentation by the secretariat on the comparison of TIRExB¹ and IRU statistics on the annual number of claims launched in each country and thanked the IRU for its cooperation on this issue. The Board noted numerous and, sometimes, large differences between the figures reported by countries and IRU statistics and decided that Customs TIR focal points of the countries where those discrepancies were observed should be informed of the differences. The Board recommended that the next survey should be further clarified and cover the period 2009–2012. Furthermore, it stressed that such comparison should be undertaken with the results of future surveys and that, ultimately, TIRExB and IRU statistics on the claims raised during a given year should be very close if not identical.

12. The secretariat introduced informal document No. 1 (2013), which contains, as requested, proposals for a new Explanatory note to Article 4 that unambiguously stipulate that no additional guarantee is required as long as goods are transported under the TIR procedure (TIRExB/REP/2012/51, para. 18). The Board agreed the use of “additional guarantees” should be clarified but could not decide whereas introducing an Explanatory note would be preferable to amending Article 4.

13. Recalling document ECE/TRANS/WP.30/AC.2/2012/7, which contains the results and the analysis of the survey on Customs claims and the TIR guarantee level, some members stated that the evolution of the real value of the recommended maximum guarantee level since the 1970s has undermined the concept of a flat rate guarantee. In their view, when a TIR transport is considered risky on the basis of a proper risk assessment, which can take into account that the TIR guarantee is insufficient to cover the amount of duties and taxes at stake, Customs Authorities should have an alternative to the use of Customs escorts as foreseen in Article 23. Furthermore, the use of additional guarantees could be a cheaper and faster than the organization of Customs escorts and, therefore, could be preferred by the transport industry. Other members stressed that TIR Carnet holders are reliable trade partners and, therefore, as a rule, Customs duties and taxes should not be calculated when starting a TIR operation. When a claim is raised, the TIR Carnet holder remains the primary debtor (or one of debtors) for the totality of the Customs duties and taxes at stake. Therefore, even if a claim exceeds the maximum guarantee level, it should be considered that it will be paid by the TIR Carnet holder. Consequently, if Article 4 is not clear enough, it should be amended accordingly, taking into account the above mentioned principle.

14. The Board recommended the future TIRExB to continue the discussion aimed at clarifying the provisions of Article 4 while taking into consideration AC.2’s discussion on the guarantee level.

Documentation

Informal document No. 1 (2013)

VII. Implementation of the intermodal aspects of the TIR procedure

15. TIRExB noted with satisfaction that the secretariat contacted numerous organizations in the fields of transport (all modes) and logistics, requesting their assistance

¹ The statistics collected by means of the TIRExB survey on Customs claims and the guarantee level.

to disseminate the survey and encourage companies to fill it in. It also welcomed the preliminary results (until 1 February 2013) presented by the secretariat, while recalling that the deadline to reply to the survey was 1 March 2013.

16. The Board recommended the future TIRExB to consider the implementation of the intermodal aspects of the TIR procedure, including the analysis of the final results of the survey, alongside with the issue of subcontractors.

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

17. TIRExB noted that, at its October 2012 session, the Working Party on Customs Questions affecting Transport (WP.30) had been informed about additional guarantees required by the Customs authorities of Ukraine for TIR transports of beer and wine on the basis of Article 316 of the new Customs Code of Ukraine and had invited TIRExB to study if this Article complies with the provisions of the TIR Convention.

18. Following the WP.30 session, the secretariat transmitted a letter to the Customs Administration of Ukraine to draw their attention to Article 316 of the domestic Customs Code that excludes from the application of the TIR procedure on the territory of Ukraine all alcohol and tobacco products, while the TIR Convention limits such restrictions to five goods only (Explanatory Note 0.8.3). Article 316 also prescribes the use of national guarantees in case the Customs duties and taxes at stake exceed the TIR guarantee limit. The secretariat pointed out that the provisions of this Article do not seem to be in line with the TIR Convention and invited the Customs Administration of Ukraine to initiate amendments to this Article to bring it into compliance with the TIR Convention, because any treaty has priority above the national legislation.

19. In reply, the Customs Administration of Ukraine made a reference to Article 47 of the TIR Convention which, in their view, could justify the content and application of Article 316 of the Customs Code of Ukraine. At the same time, the Customs Administration informed TIRExB about their intention to initiate a procedure to amend the Customs Code, including Article 316.

20. TIRExB was of the view that Article 47, as clarified in the comment thereof, applies only to regulations other than Customs and, therefore, cannot be invoked to justify the requirements of Article 316 of the Customs Code of Ukraine. The Board agreed that the provisions of this Article do not seem to comply with the TIR Convention and called upon the Customs Administration of Ukraine to amend this Article as soon as possible.

21. TIRExB also noted that, in October 2012, WP.30 had been informed by Tajikistan about the difficulties that its TIR operators were facing in Uzbekistan. WP.30 recalled that monitoring the application of the TIR procedure at the national level and facilitating settlement of disputes were within the competence of TIRExB. Consequently, the delegation of Tajikistan was requested to provide the secretariat with all the relevant material concerning the reported difficulties, which would then be transmitted to the competent authorities of Uzbekistan for consideration. However, the Board was informed by the secretariat that, so far, no official communication from Tajikistan had been received.

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

22. TIRExB reiterated its appreciation of the initiative of the Finnish competent authorities to organize a technical seminar dedicated to the application of the technical

provisions of Annex 2 and 7 and offered its support to organize the event. Mr. H. Lindström will coordinate with the TIR secretariat an invitation to the relevant international experts and find appropriate dates, most likely in June of 2013.

X. Self-evaluation

23. TIRExB welcomed Informal document No. 26 (2012)/Rev.1 on the revised assessment of the Board's achievements in relation to its mandates, in line with the comments or suggestions for further improvement transmitted to the secretariat up to 15 December 2012, as well as the results of the short self-evaluation survey. Furthermore, on the basis of the recommendations made by the previous Board and the recommendations made by individual TIRExB members in the self-evaluation survey, the Board prepared a list of recommendations for future TIRExBs and proposed specific issues for the 2013–2014 terms of office. The Board requested the secretariat to prepare a version of the self-evaluation as an informal document for the forthcoming AC.2,² including the outcomes of the present session and the list of recommendations to future TIRExBs.

Documentation

Informal document No. 26 (2012)/Rev.1 (restricted)

XI. Central databases on approved Customs offices and Certificates of approval

24. TIRExB took note of Informal document No. 2 (2013) and recommended future TIRExBs to seriously consider establishing these databases and, possibly, start by undertaking a survey to gather information on national practices on the issuance of certificates of approval and on the feasibility of both projects

Documentation

Informal document No. 2 (2013)

XII. Activities of the secretariat

25. The Board was informed that, on 9 January 2013, Ms. E. Molnar, at the request and on behalf of TIRExB, had sent letters to Directors General of Customs Administration asking for their assistance to ensure that national associations comply with their obligations to provide TIRExB with the price of each type of TIR Carnets they issue. The secretariat clarified that some Customs administrations, in particular those which associations that had complied with their obligations in 2012, felt that the letter was not appropriate neither in content nor in timing. Consequently, the Board decided that in the future such reminders would be sent after the official transmission deadline, first to guaranteeing associations, possibly via the IRU, and, only in a second stage and in cases of non-compliance, involve Customs administrations.

26. The Board welcomed the presentation by the secretariat on the current status of the use of the IT tools provided by the TIR secretariat, i.e. the ITDBonline+ and the UNECE Register of Register of Customs Sealing Devices and Customs Stamps websites. The ITDBonline+ not only offers a collaboration platform for Customs authorities and national

² Informal document WP.30/AC.2 (2013) No. 3

associations in the framework of the authorization procedure of TIR Carnet holders but also allows real-time and easy updating of the International TIR Data Bank (ITDB). The Board noted with appreciation that twenty-three Customs authorities and thirteen national associations regularly use the ITDBonline+ website.

27. The Board also took note that the secretariat had contacted Contracting Parties with the aim to improve the data quality in the ITDB and to promote the use of the ITDBonline+. Many Contracting Parties reacted positively and actively updated the data under their responsibility. Finally, the Board welcomed the development of web services that will allow authorized IT systems to directly access information in the ITDB.

XIII. Other matters

28. TIRExB did not discuss any other matters.

XIV. Restriction in the distribution of documents

29. TIRExB decided to keep Informal document No. 26 (2012)/Rev.1 restricted.

XV. Date and place of next session

30. In view of the expiry of the mandate of its present composition, TIRExB decided not to fix a date for its next session and accepted the offer of the secretariat to organize a short TIRExB meeting, immediately following the election of the new TIRExB on 7 February 2013, which would then decide on date and venue of the Board's next session.
