



**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975
TIR Executive Board (TIRExB)**

**REPORT OF THE SIXTH SESSION
OF THE TIR EXECUTIVE BOARD (TIRExB)**
(23-25 May 2000)

ATTENDANCE

1. The TIR Executive Board (TIRExB) held its sixth session at Kiev from 23 to 25 May 2000.
2. The following eight members of the TIRExB were present: Mr. G.-H. Bauer (Switzerland); Mr. O. Beginin (Russian Federation); Mr. R. Ehmcke (Germany); Mr. O. Fedorov (Ukraine); Mrs. Y. Kasikçi (Turkey); Mr. J. Marques (European Community); Mr. M. Olszewski (Poland); Mr. I. Parts (Estonia). Mr. Z. Lovric (Croatia) 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 its present session as prepared by the TIR Secretary (TIRExB/AGE/2000/6) with the addition of the following items:

Agenda item 3 bis: Implementation of the SAFETIR system;

Agenda item 8: Customs escorts required systematically in certain countries;

Transport of semi-trailers and containers over the Baltic Sea;

Problems related to illegal immigrants;

Agenda item 14: Training on the application of the TIR Convention in Middle East.

ADOPTION OF THE REPORT OF THE FIFTH SESSION OF THE TIRExB

Documentation: TIRExB/REP/2000/5.

7. The TIRExB adopted the report of its fifth session as prepared by the TIR Secretary (TIRExB/REP/2000/5).

TRANSMISSION OF LEGALLY REQUIRED DOCUMENTATION TO THE TIRExB AND ITS COMPLIANCE WITH THE PROVISIONS OF THE CONVENTION

(a) Current situation

Documentation: Informal document No. 3 (2000).

8. Having taken into account the current situation with regard to the transmission of legally required documentation (Informal document No. 3), the TIRExB noted that still there were many Contracting Parties which did not seem to have the legal bases for authorization of national guaranteeing associations and transport operators to issue and utilize TIR Carnets, respectively.

9. The Board was of the view that further actions of the TIRExB and the TIR Administrative Committee would need to gain more information from Contracting Parties that failed to comply with the obligations laid down in Annex 9 of the TIR Convention. As a first step, the TIRExB requested its Chairman to send, as soon as possible, reminder letters to those countries. In the future such letters may be complemented by ones to be signed by the Chairman of the Administrative Committee, provided that the Committee approves this idea at its next session in October, 2000.

10. The Board also felt that it would be useful to complement the information on the transmission of legally required documentation with the data on the annual number of TIR Carnets

issued by national associations. The TIR Secretary was requested, in cooperation with the IRU, to prepare relevant figures.

(b) Compliance with the provisions of the Convention

Documentation: Informal document No. 4 (2000).

11. The TIRExB took note of Informal document No. 4 prepared by the secretariat and pointing out some inconsistencies in a part of the legally required documentation received so far from Contracting Parties.

12. The Board was of the opinion that such studies are very important and the TIR secretariat should continue the exercise in order to review all the documents. It was also mentioned that it would be necessary to distinguish between real inconsistencies and shortcomings of inadequate translation of the documentation into the working languages of the Convention. In this context the TIR Secretary was requested, in case discrepancies were found, to contact competent authorities and national associations with a view to finding out whether the inconsistencies revealed were substantial ones and some recommendations are needed to improve the content of the documentation.

(c) Model of an authorization agreement

Documentation: Informal document No. 1 (2000).

13. The TIRExB reiterated that a model of an authorization agreement between the competent authorities and the national guaranteeing association in line with the provisions of the Convention could be a useful tool to be recommended to some Contracting Parties, in particular to those which just recently acceded the TIR Convention. It was pointed out that such a model should include the rights and obligations of national guaranteeing associations in accordance with Article 6 and Annex 9 of the Convention and should provide for a reference on the legal act between the guaranteeing association and the national Customs authorities.

14. Given the importance and complexity of the model, the Board decided to postpone, until its next session, consideration in detail of a first draft prepared by the TIR secretariat (Informal document No. 1) and requested the TIR Secretary to ensure its translation into all working languages of the Convention.

(d) Implementation of the SAFETIR system

15. The representative of the IRU informed the TIRExB that for the time being about 80 % of all final terminations of TIR operations are reported to the SAFETIR system implemented in accordance with the Recommendation of 20 October 1995 of the TIR Administrative Committee and Article 42 bis of the Convention. He also was of the opinion that provisions regarding an EDI control system for TIR Carnets should be considered as a constitutive part of the Convention and

thus should be duly reflected in a guarantee agreement between the competent authorities of a Contracting Party and the national guaranteeing association. The Board did not share that view.

IMPLEMENTATION OF ARTICLE 38 OF THE TIR CONVENTION

16. The Board took note that the reason for the exclusion of a person from the TIR regime in accordance with Article 38.1, e.g. guiltiness of a serious offence against the Customs laws or regulations applicable to the international transport of goods, could have quite different interpretations in various Contracting Parties. Therefore, the TIRExB was of the view that such an exclusion in one Contracting Party should not be automatically extended to other Contracting Parties, in particular to the country where this person is resident or established.

17. Nevertheless, during the authorization procedure in line with Annex 9, part II of the Convention the competent authorities of the Contracting Party where the person concerned is resident or established should take into due account any information on serious or repeated offences against Customs or tax legislation to be provided by another Contracting Party in accordance with Article 38.2. The authorization for the person to utilize TIR Carnets could be revoked temporarily or permanently, if the competent authorities of the first country consider evidences to be sufficient in terms of their national law.

18. It was stressed that the notification of an exclusion in accordance with Article 38.2 should contain not only the name of the excluded person but also detailed reasons for that, including relevant alpha-numerical numbers of TIR Carnets (ten symbols), in order to allow for efficient consideration of the case by the Contracting Party where the person concerned is resident or established. While a possible withdrawal of the authorization is under consideration by the competent authorities, the excluded person should be given a possibility of presenting explanations, documents and witnesses for the defense.

19. Taking account of the above considerations, the TIRExB felt that full implementation of the amended Article 38, paragraphs 1 and 2 would need some comments by the TIR Administrative Committee on such notions as "a person guilty", "a serious offence against the Customs laws or regulations applicable to the international transport of goods" as well as on a procedure of co-operation between the Customs authorities while implementing Article 38 of the Convention. The TIR Secretary was requested to prepare relevant proposals for the next sessions of the TIRExB and Administrative Committee.

20. The TIRExB was also of the opinion that, before such comments were adopted, it would be premature to disseminate any data on excluded persons ("black lists") which are also reported to the Board in accordance with Article 38.2 of the Convention. Distribution of this information should be restricted to the organizations which are already referred to in the amended Article 38 of the Convention.

21. The Board also noted that at present the competent authorities of a Contracting Party could use the provisions of both Article 38, paragraph 1 and Annex 9, Part II, paragraph 1 d) to exclude

from the TIR regime a national transport operator guilty of a serious offence against the Customs laws committed on the territory of that country. The TIRExB felt that the provisions of Annex 9, Part II, paragraph 1 d) would be preferable for that purpose while the first option might lead to the situation where a transport operator excluded from the TIR procedure in its own country may still carry out TIR operations elsewhere as its authorization to utilize TIR Carnets has not been revoked. The TIR Secretary was requested to prepare necessary recommendations for Contracting Parties.

USE OF THE TIR DATABANK

22. The TIRExB was informed that at present the TIR databank maintained by the TIR secretariat contains information on more than 28.000 persons authorized to utilize the TIR procedure. The Board was of the view that this data may be of some help to Contracting Parties and thus should be made available to the competent authorities in the foreseeable future, possibly via the Internet.

23. It was pointed out that, in order to distinguish clearly between TIR Carnet holders, it is a matter of priority to indicate an individual and unique identification (ID) number in all Model Authorization Forms (MAFs) and TIR Carnets issued. The respective procedure and format should be approved by the TIR Administrative Committee.

24. The Board felt that this objective should be achieved as soon as possible through amendments to the Convention to be adopted by the Administrative Committee. Before they come into force, a separate recommendation of the Committee may be applied. The TIR Secretary was requested to prepare necessary proposals for the next session of the TIR Administrative Committee.

25. The representative of the IRU welcomed in principle this idea but indicated that national issuing associations and TIR Carnet holders would need some time to make necessary arrangements, before such a decision came into force.

SETTLEMENT OF CUSTOMS CLAIMS

26. At its fourth session (21 October 1999), the TIRExB noted that the "old" insurance contract signed between the insurance companies on the one hand and the IRU on the other hand prevented national guaranteeing associations from direct claiming of compensation from the international insurers. Under the new insurance contract in which the associations are regarded as beneficiaries, they have such a direct right to claim compensation from the insurers.

27. In this context the representative of the IRU pointed out that, in principle, both the old and new insurance contracts have been designed to deal with Customs claims in a centralized way, that is through the IRU. With regard to the right of an association to claim compensation directly from the insurers, such procedure has to be dealt with according to the national legislation.

28. Some TIRExB members argued that the present centralized guarantee system, even modified, has basically the same inherent drawbacks as the old one and it may need to be improved

in order to provide for more stability and for faster payment of Customs claims. The Board recalled that, at its third session (22 and 23 September 1999), it already expressed its concerns about relying on a single insurance contract and asked the TIR Secretariat to analyze various forms of guarantee, like drawing up a reserve fund or any other form of guarantee beside insurance (TIRExB/REP/1999/3/Rev.1, para. 15).

SOME PRACTICAL PROBLEMS IN THE TIR REGIME AS SHOWN BY DISPUTES BETWEEN COMPETENT AUTHORITIES AND NATIONAL GUARANTEEING ASSOCIATIONS

(a) Application of the Convention in the Russian Federation: letters to national guaranteeing associations

Documentation: Informal document No. 5 (2000).

29. The TIRExB took note that the State Customs Committee of the Russian Federation had informed some national guaranteeing associations of an agreement with the Turkish international transporters association which provided for the compensation of Customs duties and taxes caused by irregularities committed by Turkish transport operators on the Russian territory. Similar agreements have been proposed to national guaranteeing associations of some other countries as well (Informal document No.5).

30. The Board was also informed by Mr. O. Beginin that these proposals had been made in the view of a disabled TIR guarantee system which failed to extinguish Customs debts of TIR Carnet holders. The observer of the IRU did not share that opinion and stated that the problem was stemming from the fact that more than 90 % of the Russian Customs claims were unjustified.

31. Upon having been informed about the views of the Russian Federation and Turkey on this issue, the TIRExB felt that the above agreements are beyond the legal framework of the Convention and the present guarantee system. Such attempts of bypassing normal procedures foreseen in the Convention could jeopardize its harmonized application and could eventually lead to decay of the TIR regime.

(b) Other problems

32. The TIRExB took note of other practical problems in the TIR regime, such as application of the TIR Convention in case the first part of a transport operation is not made by road, validity of TIR Carnets with a falsified expiry date and validity of a Customs claim in case smuggled goods are detained and confiscated by Customs authorities. The Chairman proposed to consider these issues later, on the basis of written comments of TIRExB members to a relevant questionnaire to be prepared by the TIR Secretary.

NATIONAL CONTROL MEASURES

Documentation: Informal document No. 6 (2000).

33. The TIRExB took note of national control measures introduced in some countries and reported to the TIR Secretary after the previous session of the Board (24 February 2000) (Informal document No.6).

APPROVED CUSTOMS OFFICES FOR TIR OPERATIONS

34. The Board recalled that, at its first session (26 March 1999), it decided to study possible ways and means for the establishment and maintenance of an international data bank on approved Customs offices for accomplishing TIR operations (Customs offices of departure, Customs offices en route, Customs offices of destination) that would be available on-line by all interested parties.

35. The TIRExB also took note that, in line with article 45 of the Convention, publication of a list of the above Customs offices is an obligation of each Contracting Party. In this regard the TIR Secretary was requested to survey all Contracting Parties with a view to providing at the next session of the Board information on availability of such lists and their delivery platforms (paper, database, website, etc.).

COMPUTERIZATION OF THE TIR PROCEDURE

Not discussed due to lack of time.

PREVENTION OF THE ABUSE OF THE TIR REGIME BY SMUGGLERS

36. The Board was informed about a procedure being used by some smugglers to smuggle goods into the Russian Federation through Finland, which involves falsification of TIR Carnets. The TIRExB was not in a position to take a decision on this matter because of time constraints.

ACTIVITIES OF THE TIR SECRETARIAT

Documentation: Informal document No. 7 (2000).

37. The TIRExB was informed by the TIR Secretary on the activities of the TIR Secretariat carried out in accordance with its mandate, in particular, about comments on the application of the TIR Convention provided upon request to some persons concerned (Informal document No.7).

COVERAGE OF TRAVEL EXPENSES OF TIRExB MEMBERS

38. The TIRExB was of the view that the TIR Secretary should be provided with guidance on the modalities providing for the reimbursement of mission costs to TIRExB members. In accordance with the budgets and cost plans for the operation of the TIRExB and the TIR secretariat

for 1999 and 2000 as adopted by the TIR Administrative Committee, mission costs for members of the TIRExB had so far only been reimbursed if so requested by TIRExB members and only in case the meetings were not held in Geneva in conjunction with sessions of the WP.30 and TIR Administrative Committee.

39. The Board felt that the relevant budget line should be maintained to ensure the operation of the Board also in cases where concerned Governments were not willing to provide the required resources for the participation of TIRExB members at its sessions. The majority of the TIRExB was also of the view that there should be an equal treatment of all TIRExB members.

40. By a majority decision the Board instructed the TIR Secretary to reimburse Daily Subsistence Allowances (DSA) in accordance with UN rules and regulations to all TIRExB members only in cases when the sessions of the TIRExB were not held in Geneva in conjunction with sessions of the WP.30 and/or TIR Administrative Committee. Travel expenses should not be reimbursed given the limited budget line.

OTHER MATTERS

41. The Board was informed on plans of the TIR Secretary to organize a seminar on training on the application of the TIR Convention in Middle East.

42. The TIRExB expressed its great appreciation to the Central Customs Administration of Ukraine for hospitality and excellent organization of the present session.

DATE AND PLACE OF NEXT SESSION

43. The TIRExB decided to hold its seventh session at Geneva on 12 and 13 October 2000.
