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**ADMINISTRATIVE COMMITTEE  
FOR THE TIR CONVENTION, 1975**

**TIR Executive Board (TIRExB)**

**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 big 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).

### **Model of an authorization agreement**

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 (23-24 January 2001) (Informal Document No. 7 (2001)). The TIRExB introduced some other modifications to the above document and finally approved it. The adopted texts of the example authorization and example agreement are given in the annex to the present report.

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 with 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 97<sup>th</sup> 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 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 to obtain 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 of 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 99<sup>th</sup> session of WP.30 and the 31<sup>st</sup> 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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Annex

**EXAMPLES OF AN AUTHORIZATION AND  
AN AGREEMENT BETWEEN COMPETENT AUTHORITIES AND ASSOCIATIONS**

**Notes:**

1. The first example covers the act of authorization as a unilateral act by the Governments which can be revoked at any time by the competent authorities in case of serious or repeated non-compliance of the provisions of Annex 9, Part I of the Convention by the national association(s).

2. The second example covers an agreement or any other legal instrument to be established between the competent authorities and the national association(s) on the basis of national law which contains an undertaking by the national association(s) as stipulated in the Annex 9, Part I, paragraph 1 (e) as well as provisions on the time to give notice in case of termination of such agreement or any other legal instrument. If parties so wish, the agreement can be extended with additional provisions.

**EXAMPLE**  
**AUTHORIZATION OF ASSOCIATIONS**  
**TO ISSUE TIR CARNETS AND TO ACT AS GUARANTOR**

1. In accordance with Article 6, paragraph 1 of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) done at Geneva on 14 November 1975 as later amended (hereafter referred to as TIR Convention), the .... (name of competent authorities) .... of .... (name of country/Customs or Economic Union) .... hereby authorize the .... (name of association) .... to issue TIR Carnets covered by the TIR Convention and to act as guarantor in .... (name of country/Customs or Economic Union) .... as long as the minimum conditions and requirements as stipulated in Annex 9, Part I of the TIR Convention are fully complied with.

2. In particular, the .... (name of association) .... has:

- (a) proven existence for at least one year as an established association representing the interests of the transport sector \*;
- (b) provided proof of sound financial standing and organizational capabilities enabling it to fulfill its obligations under the TIR Convention;
- (c) proven knowledge of its staff in the proper application of the TIR Convention;
- (d) not committed serious or repeated offences against Customs or tax legislation;
- (e) established a written agreement/legal instrument with the .... (name of competent authorities) .... of .... (name of country/Customs or Economic Union) .... and an undertaking herein in conformity with the provisions of Annex 9, Part I, paragraph 1 (f) of the TIR Convention (enclosed);
- (f) accepted the following additional conditions and requirements (if any):

....

3. In the event of any serious or repeated non-compliance with the minimum conditions and requirements stated in Annex 9, Part I of the TIR Convention, this authorization shall be revoked by the .... (name of competent authorities) .... of .... (name of country/Customs or Economic Union).

4. Authorization under the terms set out above shall be without prejudice to the responsibilities and liabilities of the .... (name of association) .... under the TIR Convention. This means that revocation of the authorization to issue TIR Carnets and to act as guarantor shall not affect the liabilities incurred by the .... (name of association) .... in .... (name of country/Customs or

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\* See Explanatory Note 9.I.1 (a) to Annex 9, Part I, paragraph 1 (a) of the TIR Convention

Economic Union) .... in connection with operations under cover of TIR Carnets accepted by the.... (name of competent authorities) .... before the date of revocation of this authorization and issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

5. This authorization comes into force at the date when the written agreement/legal instrument referred to in para. 2 (e) above comes into effect.

## EXAMPLE AGREEMENT<sup>1</sup>

In accordance with Annex 9, Part I, paragraph 1 (e) the .... (name of competent authorities) .... of .... (name of country/Customs or Economic Union) .... and the .... (name of association) .... hereby agree as follows:

### A. UNDERTAKING

1. By accepting this agreement in the appropriate form, in accordance with national legislation and administrative practice, the .... (name of association) .... undertakes, in accordance with Annex 9, Part I of the TIR Convention, to:

- (i) comply with the obligations laid down in Article 8 of the TIR Convention, particularly those contained in Section B below;
- (ii) accept the maximum sum per TIR Carnet determined by .... (name of country/Customs or Economic Union) .... which may be claimed from .... (name of association) .... in accordance with Article 8, paragraph 3 of the TIR Convention, as indicated in detail in Section C below;
- (iii) verify continuously and, in particular, before requesting authorization for access of persons to the TIR procedure, the fulfillment of the minimum conditions and requirements by such persons as laid down in Part II of Annex 9 of the TIR Convention;
- (iv) provide its guarantee for all liabilities incurred in .... (name of country/Customs or Economic Union) .... in which it is established in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated;
- (v) cover its liabilities to the satisfaction of the competent authorities of .... (name of country/Customs or Economic Union) .... in which it is established with an insurance company, pool of insurers or financial institution. The insurance or financial guarantee contract(s) shall cover the totality of its liabilities in connection with operations under cover of TIR Carnets issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated;
- (vi) allow the competent authorities to verify all records and accounts kept relating to the administration of the TIR procedure;

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<sup>1</sup> Or any other legal instrument in accordance with Annex 9, Part I, paragraph 1 (e)

- (vii) accept a procedure for settling efficiently disputes arising from the improper or fraudulent use of TIR Carnets<sup>2</sup>;
- (viii) agree that any serious or repeated non-compliance with the present minimum conditions and requirements shall lead to the authorization to issue TIR Carnets being revoked;
- (ix) comply strictly with the decisions of the competent authorities of .... (name of country/Customs or Economic Union) .... in which it is established concerning the exclusion of persons in line with Article 38 and Annex 9, Part II of the TIR Convention;
- (x) agree to implement faithfully all decisions adopted by the Administrative Committee and the TIR Executive Board (TIRExB) in as much as the competent authorities of .... (name of country/Customs or Economic Union) .... in which the association is established have accepted them.

**B. LIABILITY** (see Section A, paragraph 1 (i))

2. The .... (name of association) .... shall undertake to pay import and export duties and taxes, together with any default interest, due under the Customs laws and regulations of .... (name of country/Customs or Economic Union) ... if an irregularity has been noted in connection with a TIR operation. It shall be liable, jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums.

3. The liability of the association follows from the provisions of the TIR Convention. In particular, the liability of the association shall commence at the times specified in Article 8, paragraph 4 of the TIR Convention (1975).

**C. MAXIMUM GUARANTEE PER TIR CARNET** (see Section A, paragraph 1 (ii))

4. The maximum amount that may be claimed by the competent authorities of .... (name of country/Customs or Economic Union) ..... from .... (name of association) .... shall be limited to a sum equal to \$US 50,000.- (fifty-thousand) per TIR Carnet<sup>3</sup>.

5. In the case of transport of alcohol and tobacco, details of which are given in Annex 6, Explanatory Note 0.8.3 of the TIR Convention and which exceeds the threshold levels mentioned therein, the maximum amount that may be claimed by the competent authorities of .... (name of country/Customs or Economic Union) ..... from .... (name of association) .... shall be limited to a sum equal to \$US 200,000.- (two-hundred-thousand) per "Alcohol/Tobacco" TIR Carnet.

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<sup>2</sup> May be annexed to the agreement

<sup>3</sup> In accordance with Explanatory Note 0.8.3.

6. The value of the above amounts in national currency shall be determined .... (daily/monthly/annually) .... on the basis of .... (conversion rate) .... .

#### **D. ENTRY INTO FORCE**

7. This agreement shall enter into force on .... (date) .... (month) .... (year) ..... on condition that documentary evidence for coverage of all liabilities incurred in .... (name of country/Customs or Economic Union) ..... by .... (name of association) .... as referred to in Part A. (v) above is produced. In case documentary evidence is not provided by this date, the agreement shall enter into force on the date at which such documentary evidence is provided.

[8. For associations affiliated to the International Road Transport Union (IRU) and in accordance with the relevant comment adopted by the TIR Administrative Committee in 1998 (TRANS/WP.30/AC.2/49; Annex II as amended by TRANS/WP.30/AC.2/51, paras.17 and 19) documentary evidence may be produced, by a true and certified copy of the full and integral text of the global insurance contract concluded between the international global insurers and each of the member associations of the IRU as beneficiaries. It is exceptionally admissible, for a temporary period, that the global insurance contract is concluded and signed by representatives of the IRU, acting on its own behalf, on behalf of its member associations and third parties, and by representatives of the international insurers only. Under these circumstances, a certificate of insurance shall be made out by the international insurers, stating the name(s) of the insurance company(ies) and the name of the .... (name of association) .... as beneficiary. Any modification in the global insurance contract must be brought immediately to the attention of the competent authorities of .... (name of country/Customs or Economic Union) .... .]<sup>4</sup>

#### **E. TERMINATION**

9. The present agreement can be terminated unilaterally at any time if the association or the competent authorities so wish. The time to give notice for the termination of this agreement shall be .... (days/month(s) less than the time to give notice for the termination of the insurance or financial guarantee contract as referred to in Part A. (v) above) ..... [For associations affiliated to the International Road Transport Union (IRU) and in accordance with the relevant comment adopted by the TIR Administrative Committee in 1998 (TRANS/WP.30/AC.2/49; Annex II as amended by TRANS/WP.30/AC.2/51, paras. 17 and 19) the time to give notice for the termination of the global insurance contract concluded between the international global insurers and each of the member associations of the IRU as beneficiaries shall be six months.]<sup>4</sup>

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<sup>4</sup> The provisions in square brackets [...] refer to the specific situation of the international insurance system administered by the IRU.

10. The termination of the agreement shall be without prejudice to the responsibilities and liabilities of the ..... (name of association) ..... under the TIR Convention. This means that termination of the agreement shall not affect the liabilities incurred by the .... (name of association) .... in .... (name of country/Customs or Economic Union) .... in connection with operations under cover of TIR Carnets accepted by the.... (name of competent authorities) .... before the date of termination of this agreement and issued by itself and by foreign associations affiliated to the same international organization as that to which it is itself affiliated.

11. Date and signature of competent authorities and association.

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