



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

**TIR Executive Board (TIRExB)**

**REPORT OF THE THIRTEENTH SESSION  
OF THE TIR EXECUTIVE BOARD (TIRExB)**  
(10-12 April 2002)

**ATTENDANCE**

1. The TIR Executive Board (TIRExB) held its thirteenth session from 10 to 12 April 2002 in Trieste, Italy.
2. The following members of the TIRExB were present: Mr. M. Amelio (Italy); Mr. G.-H. Bauer (Switzerland); Mr. R. Ehmcke (Germany); Mrs. Y. Kasikçi (Turkey); Mr. D. Kulevski (The Former Yugoslav Republic of Macedonia); Mr. J. Marques (European Community); Mrs. H. Metaxa-Mariatou (Greece); Mr. M. Olszewski (Poland); Mrs. N. Rybkina (Russian Federation).
3. The TIR Secretary attended the session in accordance with Annex 8, Article 9, paragraph 1 of the Convention.
4. The International Road Transport Union 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, TIR Policy and Customs Border Crossing Facilitation.
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/2002/13) with the inclusion of the following agenda item:

Agenda item 14: Implementation of the TIR Convention in Yugoslavia.

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

Documentation: TIRExB/REP/2002/12 and Rev.1.

7. The TIRExB adopted the report of its twelfth session as prepared by the TIR Secretary (TIRExB/REP/2002/12), subject to the following modifications:

After paragraph 19 add a new paragraph to read as follows:

"19 bis. The TIRExB also agreed that in practice a TIR transport may start at the Customs office of departure of a Contracting Party and be suspended immediately at the same office by tearing off both vouchers No. 1 and No. 2. Although in this situation there will be neither guarantee nor TIR operation in this Contracting Party, the TIR transport may be easily resumed at the Customs office of entry (en route) into the next Contracting Party in accordance with the provisions of Article 26 of the Convention."

Delete paragraph 23.

Delete the word "numerous" in paragraph 24.

Modify paragraph 33 to read as follows:

"33. Mr. R. Ehmcke (Germany) informed the TIRExB about a litigation between the German Customs administration and a national guaranteeing association with regard to which the Federal Civil Court of Justice put a prejudicial request before the European Court of Justice. The legal proceedings had been started in consultation with the guaranteeing association, since both parties were equally interested in obtaining a court decision on the relevant legal questions. The case dated back to the early 1990's when the Customs revealed a case of smuggling of cigarettes under cover of a TIR Carnet. Legal actions were taken against the holder at the national level. As a result, he was recognized as a Customs debtor but failed to pay the sums due. The association refused to meet the claim and contested the circumstances of the case already established in the course of legal proceedings against the holder. Following that, a civil law claim was lodged against the association. The German Customs administration is of the view that the case can not be reopened at that level and that the association should meet the claim according to its deed of guarantee."

8. The revised text of the report of the twelfth session of the Board is contained in document TIRExB/REP/2002/12/Rev.1.

### **FRAUDULENT ACCEPTANCE OF A TIR CARNET AT THE CUSTOMS OFFICE OF DEPARTURE**

Documentation: Informal document No. 8 (2002).

9. The TIRExB considered the validity of the TIR guarantee in the following practical situation (Informal document No. 8 (2002)). The acceptance of a valid TIR Carnet at the Customs office of departure in country A was falsified by using fake Customs stamps. In the next country B the Customs office of entry (en route) accepted the TIR Carnet and detached voucher No.1 (page 3). At the Customs office of destination in country B no termination of the TIR operation took place.

10. Some members of the Board were of the view that no guarantee coverage existed in this case as there was no start of a TIR transport in country A and, thus, in legal terms neither the TIR transport nor its national parts – TIR operations in countries A and B – had been carried out. In view of the complexity of the case, the TIR secretariat was requested to prepare a new document on the issue, taking account of the new definitions adopted under Phase II of the TIR revision process.

### **LISTS OF SO-CALLED "INVALIDATED" TIR CARNETS**

Documentation: Informal document No. 16 (2002).

11. The TIRExB took note that the IRU was regularly distributing among Customs authorities of Contracting Parties listings of so-called "invalidated" TIR Carnets with the request not to accept such TIR Carnets, but to retain and return them to the IRU. Usually such listings included lost and stolen TIR Carnets. However, recently another type of invalid TIR Carnets had come into being: unused TIR Carnets issued in advance to a person who was afterwards withdrawn from the TIR system (Informal document No. 16 (2002)). The IRU informed the TIRExB that this type of invalid TIR Carnets had always been reported, under the usual formats (CuteWise and faxes). The accompanying faxes attached to the Informal document had been sent by mistake and it would not be repeated.

12. The Board felt that Customs authorities should take appropriate measures to detect and retain such TIR Carnets because they are indeed subject to misuse. It was stressed, however, that, given a delay in forwarding these "black" lists to local Customs offices and the impossibility to check each and every paper TIR Carnet under a mass system such as TIR, it is not acceptable to declare these TIR Carnets as bearing no valid guarantee. In this context the TIRExB recalled the earlier conclusions on the issue drawn by the Working Party on Customs Questions affecting

Transport (WP.30) (TRANS/WP.30/159, paras. 50-54 and TRANS/WP.30/162, paras. 54-55) and pointed out that a TIR Carnet, once accepted by the Customs office of departure before its date of expiry, would remain valid until the end of a TIR transport. The Board also noted that the ultimate solution of the problem of "invalidated" TIR Carnets could be found only in the framework of the computerized TIR system (Phase III of the TIR revision process).

## **MONITORING OF THE FUNCTIONING OF THE TIR GUARANTEE SYSTEM**

### **Customs claim statistics**

13. The TIRExB recalled that, at its two previous sessions, the IRU had been requested to submit statistical data on the number and total amount of claims lodged by the Customs administrations in all Contracting Parties (country by country) indicating also the payments effected by the TIR guarantee chain (TIRExB/REP/2001/11, para. 41 and TIRExB/REP/2002/12, para. 37).

14. The IRU informed the TIRExB that the requested data could not be submitted by the IRU for statutory and legal reasons and that only consolidated data on Customs claims could be provided.

15. The TIRExB expressed its deep regret over this situation that may be perceived as a lack of co-operation from the IRU. This lack of co-operation unfortunately requires that the Board change its methods to ensure the fulfilment of one of its tasks according to the provisions of the TIR Convention – the supervision of the functioning of the TIR guarantee system. The Board felt that its supervisory body, the TIR Administrative Committee, should be informed about this situation. Furthermore, the TIRExB decided to gather the necessary data directly from the Customs authorities of Contracting Parties and requested the TIR Secretary to prepare and distribute, as soon as possible, a questionnaire on Customs claims covering the period from 1999 to 2001. Some guidance was given with regard to the content of such a survey.

### **Settlement of Customs claims in the Russian Federation**

Documentation: Informal document No. 9 (2002).

16. At the request of Mrs. N. Rybkina (Russian Federation), the TIRExB held a first round of discussions on problems concerning the settlement of Customs claims in the Russian Federation and resulting from different views of the State Customs Committee (SCC) and the IRU on the validity of payment requests (Informal document No. 9 (2002)).

17. The TIRExB stressed that, in principle, the TIR Convention is designed in such a way that all Customs claims should be settled at the national level. Furthermore, the Board felt that many specific issues brought to its attention (for example, application of Article 8.7 of the Convention

and internal Customs instructions) related to the Russian national legislation. Thus, the TIRExB wondered why the above Customs claims which should be dealt with by the SCC and ASMAP had become a subject for bilateral negotiations between the SCC and IRU.

18. In response to this inquiry, Mrs. N. Rybkina (Russian Federation) informed the TIRExB that, according to her information, ASMAP had not been allowed to accept Customs claims without the consent of the IRU. The Board felt that the IRU should not prevent national associations from payment of Customs claims considered as justified by the associations. In this context, the IRU pointed out that national associations may effect payments from their own resources, but in order to get reimbursement from the international guarantee chain these payments should be made with the consent of the IRU.

19. The TIRExB was of the view that the SCC under the current circumstances should bring a lawsuit against ASMAP before a competent national court. The observer of the IRU was of the view that many of the claims referred to in the document were out of the scope of the TIR Convention and the related guarantees provided by ASMAP. Remedies should be found outside the TIR Convention, i.e. the payments should be requested from the real debtors and liable persons all located in Russia in this particular context. The Board also felt that the old agreement signed as early as in 1992 between the SCC and ASMAP might need to be modified, possibly in line with the example authorization and example agreement elaborated by the TIRExB in 2001 and included into the new edition of the TIR Handbook (2002). Another suggestion by the Board was to exclude transport operators who had committed serious Customs infringements from the TIR procedure or to withdraw their authorization to utilize TIR Carnets in case of domestic transport operators. It was also highlighted that, in line with the relevant provisions of the Convention, the TIRExB should be informed without delay on both the exclusion and withdrawal of authorization.

20. The TIRExB decided to continue its deliberations on the issue, possibly in the light of the results of the survey mentioned in para. 15 above. Meanwhile, the TIR Secretary was requested to contact the competent authorities of the Russian Federation with a view to informing them about the results of the discussions held by the Board.

**Impact of the amendments to the TIR Convention (Phase II of the TIR revision process) entering into force on 12 May 2002 on the TIR guarantee system**

Documentation: Informal document No. 17 (2002).

21. On the basis of Informal document No. 17 (2002) the TIRExB held a first exchange of views regarding the implementation of Article 6, new paragraph 2 bis and new Explanatory Note 0.6.2 bis of the TIR Convention and decided to continue its considerations at the next session.

## **USE OF THE INTERNATIONAL TIR DATABANK (ITDB)**

22. The TIRExB was informed by the TIR secretariat of the latest developments in the ITDB programme. It took note of various advantages of the 2001 edition in comparison to the previous version, especially the additional security features and the import/export facilities that would allow a secured and easy data exchange between national associations, Customs authorities and the TIR secretariat.

## **APPLICATION OF THE TIR CONVENTION IN CASE THE FIRST PART OF A TRANSPORT OPERATION IS NOT MADE BY ROAD**

Documentation: Informal document No. 10 (2002); Informal document No. 21 (2001).

23. On the basis of Informal Document No. 10 (2001) prepared by the TIR Secretary, the TIRExB adopted and decided to transmit to the TIR Administrative Committee the following comment to Articles 2 and 26 of the Convention:

"Use of the TIR procedure in case a part of the journey is not made by road

According to Article 2 of the Convention, as long as some portion of the journey between the beginning and the end of a TIR transport is made by road, other modes of transport (railways, inland waterways, etc.) can be used. During a non-road leg, the holder of a TIR Carnet may either:

- ask the Customs authorities to suspend the TIR transport in accordance with the provisions of Article 26, paragraph 2 of the Convention. In order to resume the suspended TIR transport, Customs treatment and Customs control should be available at the end of the non-road leg. If the whole part of the journey in the country of departure is not made by road, the TIR operation may start and be immediately certified as terminated at the Customs office of departure by tearing off both vouchers No. 1 and No. 2 of the TIR Carnet. Under these circumstances, no TIR guarantee is provided for the remainder of the journey inside this country. However, the TIR transport could be easily resumed at the Customs office situated at the end of the non-road leg in another Contracting Party in accordance with the provisions of Article 26 of the Convention; or
- use the TIR procedure. However, in this case the holder should take into account that a TIR operation in a given country may apply only in case the national Customs authorities are in a position to ensure the proper treatment of the TIR Carnet at the following points (as applicable): entry (en route), exit (en route) and destination."

24. The Board also felt that in situations covered by Article 26 of the Convention, it would be advisable to make proper inscriptions on counterfoil No. 2 of the TIR Carnet at the Customs office

where a TIR transport is suspended and on the following counterfoil No. 1 at the Customs office where a TIR transport is resumed. This procedure could facilitate Customs control over the whole TIR transport as well as a posteriori checking of the TIR Carnet by the national association and the IRU. To this end, a separate comment to Article 26 could be prepared.

## **NATIONAL CONTROL MEASURES**

### **Customs escorts**

Documentation: Informal document No. 11 (2002).

25. The TIRExB was informed of results of a survey on Customs escorts undertaken by the TIR Secretary on request of the Board (Informal document No. 11 (2002)). In particular, the TIRExB noted that, although many countries (50 %) outside the EU applied, in principal, Customs escorts for TIR operations, most of them did so not on a large scale but rather rarely. In general, such escorts, as long as applied properly, did not obstruct trade disproportionately. However, some key countries had not replied to the questionnaire or reported not all requested data. The TIR secretariat would send a reminder to those countries. Therefore, it was not clear whether transport operators had experienced problems in these countries in terms of expenses and delays resulted from the implementation of escorts.

26. It was also stressed that the above conclusions were based on official replies received from the competent authorities. In order to obtain a versatile picture, a survey of transport industry was deemed to be required. In this context the IRU informed the TIRExB of its activities with regard to preparing and conducting such a survey in the near future. A sample of the IRU questionnaire was distributed during the meeting.

27. The Board decided to revert to this issue once results of the second survey had been obtained and analyzed.

### **Recent instructions by the State Customs Committee (SCC) of the Russian Federation**

Documentation: Informal document No. 12 (2002).

28. In line with the mandate provided in Article 42 bis of the Convention, the TIRExB considered Order No. 1132 of 28.11.2001 of the State Customs Committee (SCC) of the Russian Federation which had entered into force on 11 February 2002 introducing a number of procedures for Customs clearance of so-called sensitive goods (mainly electronics and domestic appliances) imported into the Russian Federation by road (Informal document No.12 (2002)).

29. According to the SCC, the double objective of the above Order was to tighten Customs control over sensitive goods and, at the same time, to facilitate their clearance by means of a preliminary cargo declaration which the consignee (importer) could lodge at the Customs office of destination. A preliminary cargo declaration should be submitted to Customs following the payment of all Customs duties and taxes due and before the goods entered the Russian territory. Irrespective whether a preliminary cargo declaration was available or not, sensitive goods could only be produced and finally cleared at a limited number of approved Customs offices of destination and licensed Customs warehouses.

30. Mrs. N. Rybkina (Russian Federation) informed the TIRExB that such a preliminary cargo declaration was optional and had been introduced at the request of business representatives (consignees) in the Russian Federation. This new measure would provide both the transport operators and consignees with certain advantages. For example, it would make the application of special control measures, such as physical inspection of sensitive goods at the border as well as Customs escorts (applied in the case of transport of sensitive goods) superfluous.

31. Some TIRExB members were of the view that Order No. 1132 of the SCC did not directly affect the TIR procedure as it was aimed at the Customs clearance for importation at the request of trade. However, other members expressed their doubts whether or not the above Order by the SCC was in line with the spirit and the provisions of the TIR Convention, in particular, Article 4. They argued that the prescribed procedure would link the TIR transit regime with following Customs procedures and, thus, should be abolished. They also pointed out that the requirements for Customs escorts and/or physical inspection for a large number of so-called sensitive goods (in this case household appliances and electronic goods) were not in line with the requirement of Articles 5 and 23 of the Convention stipulating that Customs escorts, physical inspections, etc. should only be applied in exceptional circumstances.

32. The TIRExB felt that the practical implementation of the Order and its repercussions on Customs transit operations were not clear. Therefore, the TIRExB decided to continue the discussion on the issue at its next session.

### **CONCEPT OF AUTHORIZED CONSIGNEE IN THE TIR CONVENTION**

Documentation: Informal document No. 13 (2002).

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

### **PREPARATION OF AN EXAMPLE OF A TIR CARNET DULY FILLED-IN**

Documentation: Informal document No. 14 (2002); Informal document No. 25 (2001);  
Informal document No. 14 (2001).

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



## **MONITORING OF THE PRICE OF TIR CARNETS**

Documentation: Informal document No. 15 (2002).

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

## **PREVENTION OF THE ABUSE OF THE TIR SYSTEM**

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

## **INFORMATION BY THE TIR SECRETARY**

Documentation: Informal document No. 18 (2002).

37. The TIRExB took note of the current situation with regard to the transmission of legally required documentation (Informal document No. 18 (2002)).

## **OTHER ISSUES**

### **Restriction on the distribution of documents**

38. The TIRExB noted with concern that, apparently, the content of some TIRExB documents marked "Restricted" had been made available to persons outside the Board. The TIRExB recalled its discussions held at the first, second and seventh sessions (TIRExB/1999/7/Rev.1, para. 9 and TIRExB/REP/2000/7/Rev.2, para. 37) and reiterated its earlier view that, unless decided otherwise, only approved reports of sessions of the TIREXB were subject to general distribution.

### **Implementation of the TIR Convention in Yugoslavia**

39. The TIRExB took note that some transport operators encountered problems when transiting the Federal Republic of Yugoslavia with goods under cover of a TIR Carnet in cases where the value of the goods exceeded a certain amount (either 100,000 or 150,000 Euros). Due to lack of time, the issue was not discussed.\*

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\* Following the session, the TIR secretariat has contacted the competent authorities of Yugoslavia with a view to verifying the above information. In reply to this inquiry the Federal Customs Administration of Yugoslavia has informed the TIR secretariat that possible incidents must have been a consequence of the fact that, due to the recent introduction of the TIR system in Yugoslavia, not all Customs officials were fully familiar with the application of the provisions of the TIR Convention at the national level. As a result of renewed instructions, given by the Head office, no more similar incidents should occur.

40. The TIRExB expressed its appreciation to the Customs authorities of Italy and in particular to the Customs authorities in Trieste and Gorizia for the excellent organization of the session and the hospitality extended to all participants.

**DATE AND PLACE OF NEXT SESSION**

41. The TIRExB decided to hold its fourteenth session on 17 and 18 June 2002 in Geneva in conjunction with the one-hundred-and-first session of the Working Party on Customs Questions affecting Transport (WP.30).

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