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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Administrative Committee for the TIR Convention, 1975
(Twenty-fourth session, 26-27 February 1998,
agenda item 4 (c))

CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)

Revision of the Convention
Implementation of phase I of the TIR revision process

Establishment of the TIR Executive Board (TIRExB)

Report prepared by the special meeting

MANDATE AND BACKGROUND

1. At its 89. session (20-24 October 1997), the ECE Working Party on Customs Questions affecting Transport underlined the urgency of implementing the amendment proposals adopted under phase I of the TIR revision process (TRANS/WP.30/AC.2/47, annex 2) as soon as possible. Following an exchange of views on the legal possibilities to apply provisionally and in line with article 25 of the "Vienna Convention on the Law of Treaties" some or all of the adopted amendment proposals, the Working Party noted with regret that this legal procedure was not applicable in all Contracting Parties and thus could not be utilized.

PLEASE NOTE: The distribution of documents of the Inland Transport Committee and its subsidiary bodies is no longer "restricted." Accordingly, the secretariat has adopted a new numbering system whereby all documents other than Reports and Agendas will be numbered as follows: TRANS/WP.30/year/serial number. Reports and Agendas will retain their previous numbering system (e.g., TRANS/WP.30/176).

2. The Working Party felt, however, that all efforts had to be made by Contracting Parties, the ECE secretariat and the IRU to ensure that the TIR Executive Board (TIRExB) and the TIR secretariat could become operational immediately following the coming into force of the amendment proposals. For that purpose certain administrative functions to be carried out by the TIRExB would need to be initiated during the course of 1998 and should be identified at a special meeting (TRANS/WP.30/178, paras. 13-21).

3. The Working Party also recalled that the TIR Administrative Committee, at its 23rd session, had decided to consider in more detail at its next session (26 and 27 February 1998), the Terms of Reference and the budget of the TIRExB (TRANS/WP.30/AC.2/47, para. 21).

4. In accordance with the request of the Contracting Parties to the Convention represented at the 89th session of the ECE Working Party, the ECE secretariat convened, on 25 and 26 November 1997, a special meeting on the implementation of phase I of the TIR revision process considering all operational and administrative questions related to the establishment of the TIR Executive Board (TIRExB) and the TIR secretariat (TRANS/WP.30/178, para. 21).

ATTENDANCE

5. The special meeting was attended by representatives of the following Contracting Parties to the Convention: Bulgaria; Denmark; Germany; Hungary; Italy; Poland; Russian Federation; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; United Kingdom; European Community.

6. Following the approval of the Contracting Parties present, representatives of the International Road Transport Union (IRU) and of the following national guaranteeing associations participated at parts of the meeting: Austria (OAMTC); Bulgaria (AEBTRI); Italy (UNIONCAMERE); Poland (ZMPD); Russian Federation (ASMAP).

ELECTION OF OFFICERS

7. The meeting elected Mrs. Y. Kasikçi (Turkey) and Mr. J. Byrgesen (Denmark) as Chairperson and Vice-Chairperson respectively.

DRAFT TERMS OF REFERENCE OF THE TIR EXECUTIVE BOARD (TIRExB)

8. The meeting prepared draft Terms of Reference of the TIRExB as contained in annex 1 to this document for consideration and approval by the Administrative Committee in accordance with annex 8, new article 9, paragraph 2 of the Convention (TRANS/WP.30/AC.2/47, annex 2).

DRAFT RULES OF PROCEDURE OF THE TIR EXECUTIVE BOARD (TIRExB)

9. Conscious of the provisions of annex 8, article 11, paragraph 3 of the Convention, the meeting prepared draft rules of procedure of the TIRExB as contained in annex 2 to this document. While the Convention leaves it to the TIRExB to adopt its own rules of procedure as long as they are not provided for in the Convention, the meeting was of the view that the Administrative Committee should nevertheless provide the TIRExB with a set of basic rules to facilitate its proceedings as of its establishment. These rules could then be adopted by the TIRExB at its first session.

ELEMENTS FOR AN INDICATIVE COST PLAN AND BUDGET FOR THE TIR EXECUTIVE BOARD AND THE TIR SECRETARIAT

10. Taking account of annex 8, new article 13, paragraph 1 of the Convention, the meeting had a short exchange of views on some of the cost elements linked to the operation of the TIRExB and the TIR secretariat in Geneva as already outlined earlier by the ECE secretariat in document TRANS/WP.30/179, para. 33. The ECE secretariat was requested to prepare, on the basis of the proposed functions of the TIR secretariat (see paragraph 8 of the Terms of Reference), a first indicative cost plan for consideration by the TIR Administrative Committee, if possible already at its forthcoming session (26-27 February 1998).

ADMINISTRATIVE ARRANGEMENTS FOR THE COLLECTION OF A LEVY ON TIR CARNETS

11. Taking account of annex 8, new article 13, paragraph 2 of the Convention, the meeting felt that the proposals made by the ECE secretariat in document TRANS/WP.30/R.190 - TRANS/WP.30/AC.2/R.30, paras. 8 to 18 seemed to be acceptable and constituted a good basis for consideration by the Administrative Committee at its forthcoming session (26-27 February 1998).

ADOPTION OF THE REPORT

12. The meeting adopted the present report for transmission to the forthcoming session of the Administrative Committee (26-27 February 1998).

Annex 1

TERMS OF REFERENCE OF THE TIR EXECUTIVE BOARD */

established by the Administrative Committee for the TIR Convention, 1975

in accordance with annex 8, article 9, paragraph 2
of the TIR Convention, 1975

1. The TIR Executive Board (TIRExB), acting within the legal and administrative framework established by the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) (hereafter: "the Convention") shall fulfil the tasks entrusted to it by the Convention and the TIR Administrative Committee. It shall supervise and provide support in the application of the Convention at the national and international levels and shall meet its obligations in accordance with the provisions and the spirit of the Convention (article 58 ter and annex 8, new article 1 bis, paragraph 3 of the Convention).

2. In particular, the TIRExB in accordance with annex 8, article 10 of the Convention shall:

(a) supervise the application of the Convention, including the operation of the guarantee system, and fulfil the functions entrusted to it by the Administrative Committee, specifically those provided for in article 38, paragraph 2; article 42 bis, annex 8; annex 9, Part I, paragraphs 1 (e); annex 9, Part I, paragraph 1 (f)(v) and annex 9, Part II, paragraphs 4 and 5 of the Convention;

(b) supervise the centralized printing and distribution to the associations of TIR Carnets which may be performed by an agreed international organization as referred to in article 6 of the Convention;

(c) coordinate and foster the exchange of intelligence and other information among competent authorities of Contracting Parties;

(d) coordinate and foster the exchange of information between competent authorities of Contracting Parties, associations and international organizations;

(e) facilitate the settlement of disputes between Contracting Parties, associations, insurance companies and international organizations without prejudice to article 57 of the Convention on the settlement of disputes;

(f) support the training of personnel of Customs authorities and other interested parties concerned with the TIR procedure;

*/ Text in square brackets has not yet been finalized.

(g) maintain a central record for the dissemination to Contracting Parties of information to be provided by the international organizations as referred to in article 6 of the Convention, on all rules and procedures prescribed for the issue of TIR Carnets by associations, as far as they relate to the minimum conditions and requirements laid down in annex 9 of the Convention;

(h) monitor the price of TIR Carnets.

3. The TIRExB shall report on its activities, including the submission of audited accounts, to the TIR Administrative Committee at least once a year or at the request of the Administrative Committee. The Board will be represented in the Administrative Committee by its Chairman (annex 8, article 11, paragraph 4 of the Convention).

4. The TIRExB shall consider any information and queries transmitted to it by the Administrative Committee, Contracting Parties, the TIR Secretary, national associations and international organizations referred to in article 6 of the Convention. These international organizations shall have the right to attend the sessions of the TIRExB as observers unless its Chairman decides otherwise. If necessary, any other organization may attend the sessions of the Board as observer at the invitation of the Chairman (annex 8, article 11, paragraph 5 of the Convention).

5. The TIRExB shall take measures to ensure that the necessary liaison is maintained with competent organs of the United Nations, particularly its Regional Commissions, and with specialized governmental and non-governmental organizations.

6. The TIRExB shall elect a Chairman and shall adopt any additional rules of procedures which are not provided for in the Convention (annex 8, article 11, paragraph 3 of the Convention).

7. The operation of the TIRExB and the TIR secretariat shall be financed, until such time as alternative sources of funding are obtained, through a levy on each TIR Carnet distributed by the international organization as referred to in article 6 of the Convention (annex 8, article 13, paragraph 2 of the Convention).

8. The TIR secretariat, under the direction of the TIR Secretary, shall undertake the following tasks:

- (a) Establishment and maintenance of an international Governmental TIR data bank accessible to all Contracting Parties on:
 - approved and excluded transport operators (annex 9, Part II, paragraphs 4 and 5 of the Convention)
 - stolen and falsified TIR Carnets
 - approved Customs sealing devices
 - [- approved Customs stamps]**
 - [- falsified and stolen Customs stamps]**
 - approved Customs offices for accomplishing TIR operations (article 45 of the Convention)
 - contact points (Customs, enforcement agencies, national associations, etc.);
- (b) Preparation and servicing of the sessions of the TIREXB;
- (c) Exchange of information between competent authorities of Contracting Parties, national associations, insurance companies and international organizations concerned;
- (d) Provide administrative support in the arbitration and the settlement of disputes between Contracting Parties, national guaranteeing associations, insurance companies and the IRU;
- (e) Depositary of the
 - contracts between Customs authorities and associations (annex 9, Part I, paragraph 1 (e) of the Convention),
 - insurance contracts between national associations, and national and international insurers (annex 9, Part I, paragraph 1 (f)(v))
- (f) Provision of information, interpretation and support for training on the application of the TIR procedure.

9. Unless it decides otherwise, the TIRExB shall normally meet at the seat of the European Office of the United Nations where the TIR secretariat is located.

10. The first session of the TIRExB shall be convened by the TIR Secretary immediately following its establishment by the Administrative Committee. Further sessions of the Board shall be convened by the TIR Secretary at the request of the Administrative Committee or by at least three members of the Board (annex 8, article 11, paragraph 1 of the Convention).

11. Any of these Terms of Reference may be amended or suspended by the Administrative Committee (annex 8, article 9, paragraph 2 of the Convention).

Annex 2

RULES OF PROCEDURE OF THE TIR EXECUTIVE BOARD (TIRExB)

Sessions

A session of the TIRExB shall be convened by the TIR Secretary at the request of:

- (a) the TIR Administrative Committee; or
- (b) at least three members of the TIRExB

(annex 8, article 11, paragraph 1 of the Convention).

A session of the TIRExB shall be held:

- (a) On dates fixed by the TIRExB, after consultation with the TIR Secretary, at previous sessions;
- (b) Within thirty days of a request to that effect by the Administrative Committee, unless it has fixed a specific date;
- (c) At the request of at least three members of the TIRExB, after consultation with the TIR Secretary.

Agenda

The provisional agenda for each session shall be drawn up by the TIR Secretary in consultation with the Chairman of the TIRExB.

The provisional agenda for any session shall include:

- (a) Items arising from previous sessions of the TIRExB;
- (b) Items proposed by the Administrative Committee;
- (c) Items proposed by any Contracting Party;
- (d) Items proposed by any member of the TIRExB;
- (e) Items proposed by the TIR Secretary;
- (f) Items proposed by national associations and international organizations referred to in article 6 of the Convention;
- (g) Any other item which the Chairman sees fit to include.

The first item on the provisional agenda for each session shall be the adoption of the agenda.

The TIRExB may amend the agenda at any time.

Representation

The TIRExB shall be composed of nine members, each from different Contracting Parties to the Convention. The TIR Secretary will attend the sessions of the Board (annex 8, article 9, paragraph 1 of the Convention).

The members of the TIRExB shall be elected by the Administrative Committee by a majority of those present and voting (annex 9, article 9, paragraph 2 of the Convention). */

The term of office of each member of the TIRExB shall be two years. The members of the TIRExB may be re-elected (annex 9, article 9, paragraph 2 of the Convention).

Officers

The TIRExB shall, at its first meeting each year, elect from among its members a Chairman, who shall hold office until its successor is elected. He/she shall be eligible for re-election. The TIRExB may, however, decide to elect its Chairman for its next session at its last meeting (annex 8, article 11, paragraph 3 of the Convention).

If the Chairman is absent from a session, or any part thereof, the TIRExB shall designate one of its members present to preside over this session, or any part thereof. This designated member of the TIRExB shall have the same powers and duties as the Chairman.

Conduct of business

A quorum of five members of the TIRExB is required for the purposes of taking decisions.

Voting

Each member of the TIRExB shall have one vote.

The TIRExB shall strive to take decisions by consensus. If no consensus can be reached, decisions shall be put to vote and shall be taken by a majority of those present and voting (annex 8, article 11, paragraph 2).

*/ Refer to the comment on this paragraph following these Rules of Procedure.

Languages

English, French and Russian shall be the working language of the TIRExB.

Speeches made in any of the working languages shall be interpreted into the other working languages.

Reports

The TIR Executive Board shall report on its activities, including the submission of audited accounts, to the Administrative Committee at least once a year or at the request of the Administrative Committee (annex 8, article 11, paragraph 4 of the Convention).

Relations with other organizations

International organizations referred to in article 6 of the Convention shall have the right to attend the sessions of the TIR Executive Board as observers unless its Chairman decides otherwise. If necessary, any other organization may attend the sessions of the Board as observer at the invitation of the Chairman (annex 8, article 11, paragraph 5 of the Convention).

Settlement of disputes

Without prejudice to article 57 and in accordance with annex 8, article 10, paragraph (e) of the Convention, the TIR Executive Board may wish to prepare rules and procedures for the settlement of disputes between Contracting Parties, national associations, insurance companies and international organizations referred to in article 6 of the Convention, in case such settlement has been requested and is accepted by all parties concerned.

TIR Secretary

The TIR Secretary will attend the sessions of the TIRExB. He/she may appoint other members of the TIR secretariat to take his/her place at any session (annex 8, article 9, paragraph 1 of the Convention).

The TIR Secretary shall be responsible for the necessary arrangements being made for meetings.

The TIR Secretary shall be a member of the secretariat of the United Nations Economic Commission for Europe and shall execute the decisions of the TIR Executive Board within the Terms of Reference of the Board. The TIR Secretary will be assisted by a TIR secretariat, the size of which shall be determined by the Administrative Committee (annex 8, article 12 of the Convention).

Amendments and suspensions

Any of these rules of procedure may be amended or suspended by the TIRExB provided that the proposed amendments and suspensions do not attempt to set aside the provisions contained thereon in the Convention or the terms of reference laid down by the Administrative Committee.

Other provisions

In the absence of relevant provisions in the rules of procedure of the TIRExB, the rules of procedure of the United Nations Economic Commission for Europe shall be applicable, except for Rule 36, unless the TIRExB decides otherwise.

Comment by the special meeting on the rules of procedure on "representation"

With a view to facilitating the election of members of the TIRExB by the Administrative Committee, the following criteria may be utilized informally to nominate candidates for election by the Committee:

(a) Board members should be competent and experienced in the application of Customs procedures, particularly the TIR transit procedure, both at national and international levels.

(b) Board members should be nominated by their respective Governments or organizations being Contracting Parties to the Convention. They should represent the interests of the Contracting Parties to the Convention and not the specific interests of any one individual Government or organization.

(c) The composition of the TIRExB should, to the extent possible, reflect the geographical coverage of the TIR procedure and its impact on the Contracting Parties, being important countries of origin, transit or destination for TIR operations. As a very rough indicator that may guide the Administrative Committee for the first election of Board members, it is proposed that Board members are nominated from the following five groups of countries:

European Union	2 members
Nordic countries	1 member
Central European countries	2 members
Eastern European countries	2 members
Southern European countries	2 members

Apart from the European Union with its 15 member States, all of which being Contracting Parties to the Convention, the composition of the other four groups needs to be determined informally. The following composition of countries utilizing at present the TIR procedure may serve as a guide in this respect (Basis: Document TRANS/WP.30/AC.2/47, annex 1, plus Azerbaijan that has joined recently):

Nordic countries

Estonia
Latvia
Lithuania
Norway

Central European countries

Czech Republic
Hungary
Poland
Slovakia
Slovenia
Switzerland

Eastern European countries

Azerbaijan
Belarus
Georgia
Kazakhstan
Republic of Moldova
Russian Federation
Ukraine
Uzbekistan

Southern European countries

Albania
Bulgaria
Croatia
Cyprus
Iran (Islamic Republic of)
Israel
Jordan
Kuwait
Morocco
Romania
The former Yugoslav Republic of Macedonia
Tunisia
Turkey

Representatives of these country groupings may wish to nominate the above proposed number of experts before the opening of the session of the TIR Administrative Committee during which the members of the TIRExB are elected in accordance with annex 8, article 9, paragraph 2 of the Convention. To terminate such a nomination procedure, informal meetings of the above groups could be held in Geneva the day before the opening of the session of the Committee.

(Note: This comment does not constitute a part of the rules of procedure of the TIRExB.
