



Economic Commission for Europe

Administrative Committee for the TIR Convention, 1975

Fifty-eighth session

Geneva, 12 June 2014

**Report of the Administrative Committee for the
 TIR Convention 1975 on its fifty-eighth session**
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I. Attendance

1. The Committee (AC.2) held its fifty-eighth session on 12 June 2014 in Geneva.
2. The session was attended by representatives of the following countries: Afghanistan; Armenia; Austria; Azerbaijan; Belarus; Belgium; Bosnia and Herzegovina; Bulgaria; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Iran (Islamic Republic of); Ireland; Italy; Kyrgyzstan; Latvia; Lithuania; Luxembourg; Malta; Morocco; Netherlands; Poland; Portugal; Republic of Moldova; Romania; Russian Federation; Serbia; Slovakia; Slovenia; Spain; Sweden; Switzerland; the former Yugoslav Republic of Macedonia; Turkey; Turkmenistan; Ukraine; United Kingdom of Great Britain and Northern Ireland; Uzbekistan. Representatives of the European Union (EU) were also present.
3. The following intergovernmental organization was present as an observer: Economic Cooperation Organization (ECO)
4. The following non-governmental organization was represented as an observer: International Road Transport Union (IRU).
5. The Committee noted that the required quorum for the purposes of taking decisions — of at least one-third of the States which are Contracting Parties (according to Annex 8 Article 6 of the Convention) — was attained.
6. In his welcoming address, the acting Executive Secretary of the United Nations Economic Commission for Europe (UNECE), Mr. Michael Møller, invited the TIR Contracting Parties to make every effort to ensure the full and unconditional reinstatement of the TIR system on the territory of the Russian Federation, in accordance with the Convention and in keeping with the responsibility to uphold the rule of law at the international level. He also stressed the importance of enhancing cooperation and efforts towards the computerization of the TIR procedure by working towards an appropriate legal framework and administrative structures and ensuring the necessary funds for a smooth and efficient transition to an electronic environment. Mr. Møller underlined that an electronic TIR procedure will benefit operators, traders, businesses, customs authorities and Governments, and will be a public good to the benefit of all.
7. Ms. Eva Molnar, Director, Transport Division, then welcomed all delegations to this extraordinary session of the Committee, which, in the morning, would deal with the election of two replacement members for the TIR Executive Board (TIRExB), whereas the afternoon session had been organized as a high-level segment dedicated to two issues of a strategic nature which could decide on the future of the TIR system: (a) how to improve the implementation and transparency of the TIR Convention, in particular by means of computerizing the TIR system and (b) the application of the TIR Convention on the territory of the Russian Federation. She trusted the fact that strong representation of the Russian Federation at the session symbolized its readiness to resolve outstanding issues by means of multilateral diplomatic consultations with other TIR Contracting Parties.

II. Adoption of the agenda (agenda item 1)

8. The Committee adopted the agenda as contained in document ECE/TRANS/WP.30/AC.2/118. At the request of the delegation of the Russian Federation, the Committee decided to consider, under agenda item 3 (b), the outcome of a meeting of an informal group of countries interested in discussing in detail the various aspects of an increased number of members and a wider geographical representation of the TIRExB

membership, as presented in document ECE/TRANS/WP.30/AC.2/2013/2, submitted by Iran (Islamic Republic of).

III Election of replacement members of the TIR Executive Board (agenda item 2)

9. The Committee recalled that, at its fifty-seventh session (February 2014), it had been informed about the resignation of Mrs. A. Dubielak (Poland) and Mr. K. Syaskov (Russian Federation) from the Board and the nomination by the Russian Federation of Mr. Amelyanovich (Russian Federation) as a replacement member. In this context, the Committee further recalled its earlier statement that TIRExB members are elected in a personal capacity and, thus, cannot be automatically replaced by a representative of the same country. In case of by-election, the Committee was of the opinion that other countries should also be given the opportunity to nominate their candidates.

10. In order to give Contracting Parties sufficient time to nominate candidates and/or to coordinate the election process at the national level, the Committee had mandated the secretariat to undertake the necessary steps to organize the by-election of two replacement members, including a deadline for the nomination of candidates and the publication of a list of all nominated candidates well in advance of the election.

11. The Committee had agreed that the term of office on any by-elected member would expire simultaneously with the term of office of the other TIRExB members (i.e. at the beginning of 2015) (see ECE/TRANS/WP.30/AC.2/117, paras. 31–35).

12. As mandated by the Committee, the secretariat addressed (by e-mail) the heads of national customs administrations of all sixty-eight Contracting Parties (with a copy to permanent missions), soliciting candidates for the post of two replacement members of TIRExB. The deadline for the nomination of candidates was set at 15 April 2014.

13. The procedures for the nomination and election are presented in Informal document No. 7 (2014).

14. In accordance with the approved election procedure and on the basis of the list of nominated candidates, which was circulated by the secretariat to all Contracting Parties on 16 April 2014 (Informal document No. 8 (2014)), the Committee proceeded with the election of two replacement members of the TIRExB.

15. By way of introduction, the two candidates were given the floor to inform the Committee about their professional capabilities, qualifying them as candidates for nomination by the Committee. Both stressed their full understanding that, if elected, they would participate in the work of TIRExB in their personal capacity, representing the interests of all Contracting Parties and not the interests of their national government or organization.

16. At the request of the delegations of the EU and Ukraine, and supported by a great majority of other delegations, the Committee decided not to follow the procedure established at its twenty-fifth session (TRANS/WP.30/AC.2/53, para. 31), but opted for a secret ballot in accordance with Rule 42 of the Rules of Procedure of the Economic Commission for Europe (ECE) as stipulated by the provision of Annex 8, Article 8 of the Convention. Further to a request for clarification from the Russian delegation, the secretariat explained that, at the request of a Contracting Party, the standing procedure of election by acclamation is replaced by secret ballot in case of expressed reasonable doubt that election by acclamation will not yield the expected outcome. In such situation, the provisions of the Rules of Procedure prevail over any decision taken by the Committee at any of its earlier sessions.

17. As a result of the election, it transpired that only Mrs. Gajda (Poland) had obtained the required majority of those Contracting States present and voting, as required by the provisions of Annex 8, Article 9, para. 2. The Committee congratulated Mrs. Gajda on her election as member of TIRExB on the understanding that her term of office would expire at the end of the mandate of the current composition of TIRExB. In view of the forthcoming elections of TIRExB, to be conducted at its February 2015 session, the Committee, with a reservation by Kyrgyzstan, decided not to organize another round of by-elections at its October 2014 session.

IV. Revision of the Convention (agenda item 3)

A. Amendment proposals to the Convention prepared by the TIR Executive Board

18. The Committee considered document ECE/TRANS/WP.30/AC.2/2014/5 by the secretariat, transmitting proposals by TIRExB: (a) to amend Article 42 bis with an Explanatory Note to clarify the meaning of the term “immediately” in the text of the Article, together with guidelines for communicating and introducing new control measures; (b) to amend the text of Annex 9, Part I, paragraph 3 (vi) by replacing the existing wording on the deadline of 1 March by an improved text and (c) to amend the first comment to Annex 4 on the approval certificate so that it would not only allow for the use of A3 format, but also A4, under the condition that the pages would be secured by means of stamps on every page or secure bindings. The Committee adopted the proposal to amend the text of Annex 9, Part I, paragraph 3 (vi) and decided, in view of the fact that the text of the proposal was available in the three languages of the Convention, to include this proposal in the package of amendment proposals adopted at its February 2014 session (see ECE/TRANS/WP.30/AC.2/117, paras. 29, 38, 41 and Annex I), meaning that, in accordance with the provisions of Article 60, paragraph 1, it will enter into force on 1 January 2015, unless at least five objections are raised before 1 October 2014. The Committee decided to continue discussing the other proposals in document ECE/TRANS/WP.30/AC.2/2014/5 and, to that end, requested the secretariat to prepare a document for consideration at its next session.

B. Report of the first meeting of an informal group of countries interested in discussing in detail the various aspects of an increased number of members and a wider geographical representation of the TIRExB membership

19. The Committee took note of an oral report by Mr M. Berdyev (Russian Federation), Chair of the informal group in which representatives from Azerbaijan, Iran (Islamic Republic of), Kazakhstan, Lithuania, Russian Federation, Serbia, Ukraine, Turkmenistan as well as the Chair of the Committee had participated. The Committee requested the informal group to keep it informed about further progress made in its activities and to receiving a written document containing the final results of the discussions. The Committee encouraged all Contracting Parties interested in the activities of the informal group to participate or contribute to its work and requested the secretariat to facilitate the organization of the next session of the informal group in conjunction with the October 2014 session of the Working Party. A full statement on the results of the informal group is attached as an annex to the report, for information of the Committee.

C. Phase III of the TIR revision process – Computerization of the TIR procedure

20. The Administrative Committee considered the draft joint statement on the computerization of the TIR procedure, contained in document ECE/TRANS/WP.30/AC.2/2014/6, which was prepared by the secretariat for endorsement by Contracting Parties. Several delegations commented on the lack of time to sufficiently study and comment on the document, but were prepared to accept the statement in principle. More specifically, the European Union delegation stated that, although not opposed to the draft statement, the EU will not be able to commit additional resources to the implementation of eTIR in the foreseeable future due to prioritization of the new Union Customs Code. The EU delegation also added that it is in favour of computerization nonetheless, and encouraged the inter-connectivity of the future eTIR with the EU systems, i.e. the New Computerized Transit System (NCTS) and NCTS-TIR.

21. The delegation of Iran (Islamic Republic of) reiterated its position in favour of eTIR being an option parallel to the paper-based system and stressed its preference for an integrated approach, taking into account all technical, legal, administrative and financial aspects. The Iranian delegation also highlighted the importance of existing electronic tools such as IRU's TIR Electronic Pre-Declaration (EPD) and Real Time SafeTIR (RTS) and planned pilot projects, for demonstrating the feasibility of eTIR and its benefits. In its view it was also premature to mention the eTIR Reference Model in the draft statement when referring to international standards for computerization of the management of TIR operations at the national level as long as it has not been finalized and fully endorsed by the Committee. In reply, the secretariat urged the Committee to consider that the eTIR Reference Model constitutes the outcome of all the joint activities of GE.1 in the course of more than ten years, reminding the Committee that large parts, including Chapter 2 containing the high level business requirements, had already been endorsed by it (see ECE/TRANS/WP.30/AC.2/91, para. 19).

22. The delegation of Turkey expressed full support for the eTIR project, as well as its readiness to adopt the statement and eventually allocate resources to assist with implementing computerization as well as taking part in pilots.

23. Switzerland expressed reservations as to the details of implementing eTIR and the steps required to move forward, but was prepared to support the statement in principle.

24. The delegation of the Russian Federation supported computerization, but drew attention to the need to support Contracting Parties that do not have the resources or technical capacity to implement computerization, advocating the adoption of the statement.

25. Due to the lack of consensus regarding certain parts of the statement, the Committee was not in a position to adopt the text as proposed, even with amendments submitted by the EU (see Informal document WP.30/AC.2 (2014) No. 10), Iran (Islamic Republic of) and the Russian Federation. Due to a lack of time, the secretariat was requested to take these proposals into account when preparing a new draft for endorsement at the next session in October. In conclusion of its discussions on this issue, the Committee reiterated its support towards computerization in principle, taking into account the foreseen benefits of additional ease, safety and security.

V. Application of the TIR Convention (agenda item 4)

A. Application of the TIR Convention in the Russian Federation

26. The Administrative Committee was informed that the Federal Customs Service (FCS) of the Russian Federation had provided answers to nine questions posed by the TIRExB at its fifty-seventh session in February 2014 (Informal document WP.30/AC.2 (2014) No. 9). Referring to these answers, several delegations requested additional clarifications from the delegation of the Russian Federation, mainly focusing on the way that the TIR Convention would be implemented on the territory of the Russian Federation after 1 July 2014. This day was set for when the present agreement between the FCS and the national guaranteeing association in the Russian Federation (ASMAP) will be terminated. Additional questions seeking clarifications, among others, were related to: the legal basis for non-acceptance of TIR carnets on the territory of the Russian Federation, increased costs for foreign transport operators entering the Russian Federation with valid TIR Carnets, the likelihood of the proper functioning of the TIR system after the expiration of the agreement between FCS and ASMAP on 1 July 2014, and the justification for, what most delegations considered as continued violation of the proper implementation of the TIR Convention in breach of the Vienna Convention on the Law of Treaties and relevant articles of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). Referring to the territorial limits of the TIR Convention in the Russian Federation, the delegation of Ukraine reported that Russian customs authorities granted forwarders preferences based on the ground of national origin. For example, on the Ukrainian-Russian border, only TIR Carnets from Kazakh forwarders were accepted, whereas forwarders from other Contracting Parties are offered other types of guarantees.

27. Other delegations, reiterating the relevance of the TIR Convention and its benefits for all Contracting Parties, expressed deep concern about the negative consequences of the status quo in the implementation of the Convention in the Russian Federation, on road transport industry, prospective new Contracting Parties and the opportunities to further expand the scope of the Convention.

28. In its reply, the delegation of the Russian Federation stressed that TIR Carnets issued in other Contracting Parties are recognized on selected border crossing points in the Russian Federation and that TIR transports coming through Belarus and Kazakhstan are properly discharged. The Russian Federation is a major player in TIR market and, consequently, it has an important task ensuring that the volume of transport operations under cover of a TIR Carnet is properly managed and serving the Convention's main purpose to facilitate international transport and trade as well as ensuring that Customs revenues are adequately protected. According to the information of FCS, the costs of carriage do not exceed those of transports under cover of a TIR carnet and mechanisms have been put in place to further minimize costs, such as, for example, the possibility under customs legislation, to transfer the costs of insurance to importers. To ensure that the application of the TIR Convention fulfils its purpose and avoids losses to the budget of the Russian Federation, steps are undertaken to launch a tender procedure, which would bring about a new agreement with a qualified national guarantor, satisfying both the national requirements and the obligations under the existing TIR Convention. However, due to delays in launching the open tender, the representative of the Ministry of Transport of the Russian Federation informed the Committee that his Ministry had appealed to the Government to extend the current agreement between FCS and ASMAP until the tender procedure is concluded and a guarantor selected.

29. Furthermore, the delegation of the Russian Federation informed the Committee that it had submitted concrete proposals to the Working Party for Customs Questions affecting

Transport (WP.30) for amendments to the TIR Convention which would, in its view, improve the functioning of the TIR Convention and bring its provisions in line with current requirements (Informal document WP.30 (2014) No. 9). It invited all Contracted Parties to take these proposals into consideration and actively engage in discussing them in a constructive way. The representative of the IRU welcomed and supported these proposals and urged their speedy consideration.

30. IRU also proposed further assistance to the Russian Federation in finalizing the terms of the forthcoming tender and the new guarantee agreement, including improvements to the TIR claims payment procedure, and the creation of a supervisory board to better monitor the application of the TIR procedure in the Russian Federation. Finally, IRU appealed to the Russian side not only to prolong the existing guarantee agreement with ASMAP, but also to reauthorize the TIR procedure on the whole Russian territory. IRU informed the Committee that, if no progress is reached, IRU will have no other choice than to stop issuing TIR Carnets to ASMAP from 1 July 00.00 GMT and to invalidate more than 36,000 Russian TIR Carnets in stock at ASMAP, as well as 34,000 Russian TIR Carnets in circulation, which would prejudice only Russian transport operators.

31. After extensive discussions, the Committee reiterated the conclusion of its previous session that the measures introduced by FCS violate the application of the TIR Convention on the territory of the Russian Federation (see ECE/TRANS/WP.30/AC.2/117, para. 55). The Russian delegation was not in a position to provide firm assurance that the full and proper implementation of the TIR system could be guaranteed after 1 July 2014. The Committee noted the request by the Ministry of Transport of the Russian Federation seeking extension of the current agreement between FCS and ASMAP until the tender procedure is concluded and a new guarantor selected, and, furthermore, the Committee expressed its expectation that the functioning and proper implementation of the TIR Convention could be restored as soon as possible at all border crossing points of the Russian Federation. The Committee welcomed the proposal for amendments to the TIR Convention submitted by the Russian Federation and encouraged all Contracting Parties to actively engage in their consideration at the next session of the Working Party in October 2014.

B. Improving transparency in the functioning of the TIR system

32. The issue was not discussed, due to a lack of time.

VI. Other business (agenda item 5)

A. Date of next session

33. The Committee decided to hold its fifty-ninth session on Wednesday, 8 October 2014, in conjunction with the 138th session of WP.30 (7–10 October 2014) and the tenth session of the Administrative Committee for the Harmonization Convention (AC.3) (9 October 2014).

B. Restriction on the distribution of documents

34. The Committee decided to lift the restriction on document ECE/TRANS/WP.30/AC.2/2014/6.

VII. Adoption of the report (agenda item 6)

35. In accordance with Annex 8, Article 7 of the Convention, the Committee adopted the report of its fifty-seventh session on the basis of a draft prepared by the UNECE secretariat. During the adoption of the report, the French and Russian speaking delegates deplored that the report was not available in all three official languages.

Annex

Statement by the Chair of the informal meeting on possible adjustment of the TIRExB composition on its outcome and proposed decision by AC.2

At its fifty-seventh session held in February 2014, the Administrative Committee for the TIR Convention, 1975, decided to hold a discussion in an informal group to address certain aspects of the composition of TIRExB as specified in the document (ECE/TRANS/WP.30/AC.2/117, para. 28). Such a move was driven by the need to ensure wider participation of countries and regions in the Convention, respect need for the UN overarching principle of equitable geographical representation as well to add up to the credibility and shrewdness of the recommendations by the Board.

Complying with this decision, the secretariat invited Contracting Parties to the TIR Convention to take part in an informal session which took place on Wednesday, 11 June 2014. In my capacity as elected Chair let me first express my deep appreciation for the background paper prepared by the Iranian delegation that served as a good basis for our deliberations. In a nutshell, the initiative calls to extend TIRExB from 9 to 15 members and establish quotas for most active countries in the Convention and different regions.

I would also like to thank national delegations that attended the meeting. Among those present I would like to name Azerbaijan, Iran, Kazakhstan, Lithuania, Russian Federation, Serbia, Ukraine, Turkmenistan and the Chair of the Committee. If the list is not exhaustive I am ready to amend it at the request of other delegations. The valuable substantive contributions we had, enriched the exchange of views and were helpful in identifying the path to solution.

Pursuant to the decision of the AC.2, I would like to report briefly on the conclusions of this informal meeting.

There was a shared understanding that the TIRExB must be adjusted in order to better serve the Contracting Parties and produce judgments that are deeply rooted in the current practice and are taken with a good knowledge of the current advantages and loopholes that exist under the Convention. No objections were raised against a possible reshape of the TIRExB.

It was also established that the Iranian initiative to enlarge the TIRExB composition and make it more representative echoes and in many way mirrors the proposal recently put forward by the Russian delegation with regard to the Board. It insists on bigger numbers and claims that the seats in the Board shall be allocated in accordance with the roles of countries in implementing the Convention with a special focus on those who stand as final destination for goods deliveries.

The discussion showed that there are nuances in the approaches of Contracting Parties to the principles of TIRExB adjustment. For example, my country pushes for making the characteristic of practical participation in the Convention as a major criterion for serving in the Board. It also emerged that there is a readiness of Contracting Parties to continue to explore the issue of TIRExB adjustment and that there is a good space for consensus.

Taking into account the developments we had at the meeting it was proposed by the Chair and accepted by the present delegations that the issue of TIRExB adjustment shall be further explored in an informal setting and that AC.2 shall be requested to convene another similar meeting in the margins of the meeting of WP.30 this fall. Having reported this, I

would like to invite you to support the outcome of our discussion and endorse it in a form of an AC.2 decision.
