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Fifty-ninth session

Geneva, 9 October 2014

Report of the Administrative Committee for the TIR Convention 1975 on its fifty-ninth session

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I. Attendance

1. The Committee (AC.2) held its fifty-ninth session on 8 October 2014 in Geneva.
2. The session was attended by representatives of the following countries: Austria; Azerbaijan; Belarus; Belgium; Bulgaria; Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Greece; Hungary; Iran (Islamic Republic of); Italy; Kazakhstan; Kyrgyzstan; Latvia; Lithuania; Netherlands; Poland; Republic of Moldova; Russian Federation; Serbia; Slovakia; Spain, Sweden; Switzerland; the former Yugoslav Republic of Macedonia, Tunisia, Turkey and Ukraine. Representatives of the European Union (EU) were also present.
3. The following intergovernmental organizations were represented: Organization of the Black Sea Economic Cooperation (BSEC); Economic Cooperation Organization (ECO); Eurasian Economic Commission. The following non-governmental organization was represented as an observer: International Road Transport Union (IRU).
4. 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.
5. Ms. Eva Molnar, Director, United Nations Economic Commission for Europe (UNECE) Transport Division, in her opening statement referred to the ongoing situation concerning the application of the TIR system in the Russian Federation. To progress, she called on all Contracting Parties to seek consensus on those issues where agreement seems possible. In that context, she particularly referred to amendment proposals to the Convention, submitted by the delegation of the Russian Federation. Another step forward is the “Joint Statement on the Computerization of the TIR Procedure” which the Committee would be asked to endorse at the current session as well as the various pilots, contributing to the computerization of the TIR procedure.

II. Adoption of the agenda (agenda item 1)

Documentation: ECE/TRANS/WP.30/AC.2/120

6. The Committee adopted, after a long discussion, the agenda in document ECE/TRANS/WP.30/AC.2/120, subject to the following changes:

Replace the wording of agenda item 8 (a) by

(a) Situation concerning the application of the TIR Convention in certain Contracting Parties:

- (i) Ukraine;
- (ii) Russian Federation.

(a-bis) Possible new developments in other Contracting Parties.

7. The Committee also decided to add a new agenda item 7 (f), “Proposals transmitted by the Government of the Russian Federation”.
8. For the good conduct of the meeting, the Committee agreed that new agenda item 7 (f) would be discussed immediately after agenda item 7 (a) in order to have sufficient time to discuss the amendment proposals by the Government of the Russian Federation

(See ECE/TRANS/WP.30/AC.2/2014/4 for details). Finally, the Committee agreed to discuss agenda items 8 (a) and (b) immediately following agenda item 4.

III Election of officers (agenda item 2)

9. The Committee recalled that at its fifty-seventh session (Geneva, February 2014), a Vice-Chair had not been elected due to the absence of candidates; the Committee established that Contracting Parties had not made nominations in spite of the encouragement. Thus, the Committee decided that the sessions of 2014 would be without a Vice-Chair. The secretariat informed the Committee of its intention to send a circular letter to Directors General of customs of all UNECE member States and TIR Contracting Parties on the nominations for Chair and Vice-Chair of the TIR Administrative Committee and the Working Party on Customs Questions affecting Transport (WP.30), as well as for membership of the TIR Executive Board (TIRExB).

IV. Status of the TIR Convention, 1975 (agenda item 3)

10. The Committee was informed that further to the issuance of depositary notification CN.426.2014.TREATIES-XI.A.16 of 24 June 2014, on the submission of proposals to amend Annex 1, Annex 6, as well as Annex 9, Part I, paragraph 3 (vi) to the TIR Convention, 1975, no State being Contracting Party to the TIR Convention had informed the Secretary-General of the United Nations of its objection. Thus, the proposed amendments will enter into force on 1 January 2015. The corresponding depositary notification C.N.661.2014.TREATIES-XI.A.16 (7 October 2014) will shortly be made available on the TIR website.¹

V. Activities and administration of the TIR Executive Board (agenda item 4)

A. Activities of the TIR Executive Board

1. Report by the Chair of TIR Executive Board

Documentation: ECE/TRANS/WP.30/AC.2/2014/7, ECE/TRANS/WP.30/AC.2/2014/8, ECE/TRANS/WP.30/AC.2/2014/9

11. The Committee endorsed the report of TIRExB at its fifty-sixth (October 2013), fifty-seventh (February 2014) and fifty-eighth (April 2014) sessions (ECE/TRANS/WP.30/AC.2/2014/7, ECE/TRANS/WP.30/AC.2/2014/8 and Corr.1, and ECE/TRANS/WP.30/AC.2/2014/9). Information on the major considerations and decisions taken at the fifty-ninth (July 2014) and sixtieth (September 2014) sessions was provided by the Chair of TIRExB.

12. The delegation of the Russian Federation emphasized the need to properly utilize the Russian expertise in the TIRExB by engaging a Russian expert as a fully-fledged member of the Board as a necessary condition for ensuring the efficient functioning of the TIR system in the Eurasian region. Participation as observer, thus, would not fully reflect the

¹ www.unece.org/tir/tir-depositary_notification.html

Russian position in TIRExB sessions and its final reports. For this reason, Mr. Amelyanovich could not accept the invitation to attend the fifty-eighth session of TIRExB.

13. At its fifty-ninth session (30 June–1 July 2014), TIRExB, inter alia, discussed the ongoing situation in the Russian Federation. During that session only, TIRExB received the information that the agreement between the Federal Customs Service (FCS) and the Association of International Road Carriers (ASMAP) had been prolonged until 30 November 2014. The situation prompted TIRExB to issue a statement, which was posted on the TIR websites and which, in summary, stated that TIRExB welcomed the decision to prolong the agreement, while time regretting that the Russian Federation continued to implement measures that contradict the provisions of the TIR Convention. At the session, TIRExB also decided that, given the continued discussions on issues such as the level of the recommended guarantee amount and the use of additional guarantees, it seemed warranted to re-assess the possibility of a more flexible application of the TIR guarantee. TIRExB mandated the secretariat to start work on developing an electronic database on certificates of approval, preparing legal amendments to introduce such database, and ensuring an appropriate level of data protection. Finally, TIRExB was briefed on the collaboration between the TIR secretariat and IRU to facilitate the use of the TIR Carnet for intermodal transports.

14. At its sixtieth session (23–24 September 2014, Antalya, Turkey), at the kind invitation of the Turkish Ministry of Customs and Trade, TIRExB, further to the unchanged situation in the Russian Federation, held, inter alia, a first round of discussions on a more flexible application of the TIR guarantee system. TIRExB adopted a text of a new Explanatory Note to Annex 3, introducing an electronic database for Certificates of Approval. TIRExB requested the secretariat to develop a procedure on transmitting customs' data (contents, format, etc.), as well as a procedure on use of the database by competent authorities. The text of the new Explanatory Note and the procedures would be submitted to the Committee for consideration at its next session.

15. TIRExB continued its discussion on the concept of authorized consignor. The text of an example of best practice on the use of the concept of authorized consignee in the EU was approved in principle and would be submitted to the Committee for endorsement at one of its future sessions. TIRExB also examined the final results of the survey on customs claims over the years 2009-2012. The assessment by TIRExB of the survey would be submitted to the Committee for its consideration. The Committee took note that, so far, major TIR countries such as the Russian Federation and Ukraine had failed to submit their data, making it hard, if not impossible, to judge the outcome of the survey or to compare data with previous surveys. As supervision of the operation of the guarantee system is one of the principle tasks of TIRExB, the Committee supported the request of TIRExB to Contracting Parties to reply to its duly justified requests for data and any other information, and allow TIRExB to fulfil its functions as entrusted by the Convention.

2. Monitoring the prices of TIR Carnets

Documentation: ECE/TRANS/WP.30/AC.2/2014/10

16. The Committee welcomed document ECE/TRANS/WP.30/AC.2/2014/10, transmitted by TIRExB on the pricing of each type of TIR Carnet issued by national associations. In the spirit of transparency, the Committee supported the publication of this information on the TIR website. Furthermore, the Committee was of the view that the function of TIRExB to monitor the price of TIR Carnets should go beyond the dissemination of these data. However, the Committee was not in a position to agree on the need for publication, at this point in time, nor on any specific methodology allowing TIRExB to analyse the price information of TIR Carnets in detail. Consequently, the Committee requested Contracting Parties to send suggestions to the secretariat not later than by 15 November 2014. The

secretariat was requested to prepare a document for consideration at its next session based on the suggestions received.

3. International TIR Data Bank and electronic tools of the TIR secretariat

17. The Committee was informed about the status of transmitting data to the International TIR Data Bank (ITDB), as well as about the progress in implementing ITDB online+ and other Information Technology (IT) projects managed by the TIR secretariat. The Committee took note that all IT tools provided by the TIR secretariat were functioning well.

B. Administration of the TIR Executive Board and the TIR secretariat

1. Status report on the accounts for 2013 and interim financial statements for 2014

Documentation: ECE/TRANS/WP.30/AC.2/2014/11, ECE/TRANS/WP.30/AC.2/2014/12

18. The Committee approved the report on the complete and final accounts for 2013 (ECE/TRANS/WP.30/AC.2/2014/11 and Corr.1) and took note of interim financial statements for 2014 (ECE/TRANS/WP.30/AC.2/2014/12).

2. Procedure for financing the operation of the TIR Executive Board and TIR secretariat in 2015

Documentation: ECE/TRANS/WP.30/AC.2/2014/13

19. The Committee was informed that IRU had transferred the excess of SwF 195,339 (rounded) (ECE/TRANS/WP.30/AC.2/117, para. 27) to the UNECE named bank account before 15 March 2014. This amount will be taken into account for the 2015 budget year.

20. The Committee considered the budget proposal and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2015 (ECE/TRANS/WP.30/AC.2/2014/13). The proposed cost plan for 2015 (estimated at 1,852,160 United States dollars inclusive of programme support cost) reflects an increase of US\$ 45,200 compared to the approved budget and cost plan for 2014.

21. Recalling the procedure for the collection and transfer of the amount per TIR Carnet to finance the operation of TIRExB and the TIR secretariat (ECE/TRANS/WP.30/AC.2/89, para. 38 and annex 2), the Committee approved the budget and cost plan for the operation of the TIRExB and the TIR secretariat for the year 2015 as well as the net amount to be transferred by IRU to the TIR Trust Fund, as contained in document ECE/TRANS/WP.30/AC.2/2014/13.

22. The Committee noted that IRU expects to distribute 1.9 million TIR Carnets in 2015 (Informal document No. 11 (2014)). On the basis of this forecast and calculations by the secretariat, the Committee approved the amount of US\$ 0,60 per TIR Carnet that will be required to generate the income necessary to cover the additional funds of US\$ 1,132,822 needed for the operation of TIRExB and TIR secretariat in 2015. This amount will be expressed in Swiss francs following the transfer of the above net amount to a UNECE named bank according to the prevailing US dollar-Swiss franc exchange rate on the day of the transfer.

23. The Committee considered Informal document No. 12 (2014) by the secretariat which requests, exceptionally, to allow for the transfer by IRU of additional funds to the TIR Trust Fund to cover the costs of hiring an IT expert as well as purchasing infrastructure under the joint UNECE/IRU eTIR Pilot Project for the year 2015. The Committee provisionally approved this request, subject to the confirmation of the exact amount, on the

understanding that these financial activities would be administered by UNECE in accordance with the applicable United Nations financial regulations, rules and directives.

C. Election of members of the TIR Executive Board

24. The Committee noted that, in accordance with Annex 8, Article 9, paragraph 2 of the Convention, the term of office of each member of TIRExB shall be two years. Since the present members of TIRExB had been elected at its session in February 2013, the Committee must, at its next session in February 2015, proceed with the election or re-election of the nine members of TIRExB.

25. The Committee decided to follow the established election procedure for the election at the next session in February 2015 on the basis of the following provisions:

(a) the comment adopted on 26 June 1998 to the Rules of Procedure of the TIRExB on “representation”, with the exception of paragraph (c) as its provisions relate only to the initial election of Board members and are thus no longer appropriate (TRANS/WP.30/AC.2/51, annex and Corr.1);

(b) the procedure for the election of members of the TIRExB adopted on 26 February 2000 by the Committee (TRANS/WP.30/AC.2/53, paras. 31 and 34). However, the Committee decided, for the future, to continue applying Rule 42 of the Rules of Procedure of ECE, which stipulate that “all elections shall be decided by secret ballot, unless, in the absence of any objection, the Commission decides to proceed without taking a ballot on an agreed candidate or slate” rather than reverting to the possibility to elect by acclamation, in case the number of nominated candidates equals the number of available posts.

26. The Committee authorized the UNECE secretariat to issue, in November 2014, a document recalling the approved election procedures and soliciting candidates willing to stand for election as members of the TIRExB for the term 2015–2016. The deadline for nominations received by the UNECE secretariat was set at 15 December 2014. No further candidates may be nominated following expiry of this deadline. On the next working day, 16 December 2014, the UNECE secretariat will circulate a list of candidates who have been nominated by their respective Governments or organizations, being Contracting Parties to the Convention.

VI. Authorization for printing and distributing TIR Carnets and the organizing and functioning of the guarantee system (agenda item 5)

VII. Authorization for concluding an agreement between UNECE and IRU (agenda item 6)

VIII. Revision of the Convention (agenda item 7)

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

- B. Amendment to the Convention with regard to the maximum level of guarantee per TIR Carnet**
- C. Amendment proposals to Annex 3**
- D. Phase III of the TIR revision process – computerization of the TIR procedure**
 - 1. Status of the computerization process
 - 2. Draft joint statement on the computerization of the TIR procedure
- E. Report of the second meeting of an informal group of countries discussing in detail the various aspects of an increased number and a wider geographical representation of membership of TIRExB**
- F. Proposals transmitted by the Government of the Russian Federation**

27. Agenda items 5 – 7 were not discussed due to a lack of time.

IX. Application of the Convention (agenda item 8)

- A. Situation concerning the application of the TIR Convention in certain Contracting Parties**
 - 1. **Ukraine**

28. The representative of Ukraine informed the Working Party that Ukrainian competent authorities had completed a national legal assessment and had concluded that currently the Russian national association was no longer able to fulfil the minimum conditions and requirements of article 6 and Annex 9, Part I of the Convention and had de facto ceased to exist. As a consequence, the State Fiscal Service of Ukraine pursuant to the instructions of the Cabinet of Ministers of Ukraine and a decision of the Interdepartmental Commission under the Ministry of Economic Development and Trade of Ukraine, no longer accepted TIR Carnets issued by the Association of International Road Carriers (ASMAP) of the Russian Federation. Ukraine would transmit additional information on this decision and implementing procedure to TIRExB for examination. He further referred to a legal assessment, based, in part, on the replies by FCS to questions raised by TIRExB at its fifty-seventh session (see document ECE/TRANS/WP.30/2014/18)

29. The Russian delegation qualified the decision of Ukraine to ban Russian carriers from use of the TIR procedure on the territory of Ukraine as a breach of the Convention and, as clearly, a one-sided discriminatory measure that is also strikingly at odds with the basic principles of international law and World Trade Organization (WTO) regulations. It further invited Contracting Parties to denounce the mentioned decision. The Working Party could not support this idea on the grounds that Ukraine had not yet officially communicated its decision to the TIRExB and its full contents are unknown.

2. Russian Federation

30. The delegation of the Russian Federation informed the Committee that ASMAP continues to function as approved national association, in full compliance with the provisions of the TIR Convention.

31. Various delegations asked the delegation of the Russian Federation for clarification of the situation concerning the application of the TIR Convention on its territory, in particular, but not limited to, what would happen after the expiration date of the agreement between the Federal Customs Service (FCS) and ASMAP. This date, the 30 November 2014, is of particular concern as the tender procedure to select and approve a new guaranteeing association is still under preparation and the date of its finalization is, as yet, not known. These delegations also referred to the enormous costs incurred by their operators due to the Russian measures as well as the negative impacts on their national economies.

32. The Russian delegation was unable to full present the developments in implementing the Convention at the national level due to a lack of time. Nonetheless, the statement of the Russian delegation emphasized that they had undertaken all the necessary actions at the national and international level in order to ensure an uninterrupted and improved functioning of the Convention on the Russian territory, and that the full restoration of the functioning of Convention was subject to the progress in its modification so as to prevent State losses in cases of non-delivery of goods or other breaches of customs regulation.

33. IRU invited FCS to consider concluding an interim guarantee agreement, responding to the concerns of FCS, notably the provision of a financial guarantee to cover all potential TIR claims, and to restore the function of the TIR Convention on the whole territory of the Russian Federation until the tender procedure would be successfully concluded.

B. Possible new developments in other Contracting Parties

C. Recommendation on the introduction of the Harmonized System code in the TIR Carnet

34. Not discussed due to lack of time.

D. Comments endorsed by the Working Party on Customs Questions affecting Transport and the TIR Executive Board

35. Not discussed due to lack of time.

X. Best practices (agenda item 9)

Use of subcontractors

36. Not discussed due to lack of time.

XI. Other business (agenda item 10)

A. Date of next session

37. The Committee decided to hold its sixtieth session on 5 February 2015.

B. Restriction on the distribution of documents

38. The Committee decided that there should be no restriction on the distribution of documents issued in connection with its current session.

XII. Adoption of the report (agenda item 11)

39. In accordance with Annex 8, Article 7 of the TIR Convention, 1975, the Committee adopted the report on its fifty-ninth session. During the adoption of the report, the French and Russian speaking delegations expressed their satisfaction over the fact that, for once, the report was available in all three official languages.
