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Working Party on Customs Questions Affecting Transport

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Item 9 (a) of the provisional agenda

Administrative Committee for the TIR Convention, 1975

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Geneva, 28 September 2006
Item 2 of the provisional agenda

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

Status of the Convention

Note by the UNECE secretariat

UNECE COMMENTS ON THE SIX REQUESTS TO RESTORE TRUE AND EFFECTIVE
PUBLIC-PRIVATE PARTNERSHIP BETWEEN THE UNECE BODIES, THE TIR
SECRETARIAT AND THE IRU, PRESENTED BY THE IRU TO THE UNECE EXECUTIVE
SECRETARY ON 22 SEPTEMBER 2006

On 22 September 2006, the President of the IRU sent a letter, attached to which there was an “IRU proposal to restore a true and effective Public-Private Partnership between the UNECE bodies, the TIR Secretariat and the IRU”, in which the IRU asks the UNECE leadership to act without delay on six points. The IRU proposal is reproduced in Informal document No. 16 (2006).

The UNECE comments to each of IRU’s six points are reproduced below under a reference to the ordinal numbers used in the IRU proposal. In some cases, when the IRU requests are interrelated in two points, the UNECE comments are grouped under those two points. When IRU requests are repeated under several points, the UNECE has only commented once.

Ad First and Second
UNECE comments:

The UNECE secretariat has always supported and will continue to support the PPP between Contracting Parties and the IRU. It will undertake all efforts within its competence to contribute and promote the re-establishment of the good relations between the public and private partners.

However, UNECE Member States and Contracting Parties to the TIR Convention have expressed their request for greater transparency in the management of the TIR system. This request need has been made explicit in the Work Plan on UNECE Reform and in meeting of the TIR governing bodies.

The UNECE secretariat, therefore, invites the IRU to adapt to a new situation in which greater transparency and accountability to the governing bodies of the TIR Convention and Member States will be required.

Any PPP can only be based on respect, trust and understanding between all parties involved, with a will to find and accept consensus decisions on an equal footing. Precondition for well-functioning of the PPP is the acceptance and implementation by all parties involved of the legal provisions of the Convention and the conditions set out in the UNECE-IRU agreement.

The UNECE secretariat confirms its full commitment to a well-functioning and well-balanced public-private-partnership (PPP), which is a fundamental element for the sustainability of the TIR Convention, and calls on all partners, including the IRU and its national associations, to commit themselves to the PPP in the framework to the TIR Convention.

However, it is not up to the UNECE secretariat to express confidence or support for the IRU. The UNECE is an intergovernmental organization servicing the UNECE member countries and the Contracting Parties to the TIR Convention. It is up to the Contracting Parties to express confidence or support, if appropriate. In addition, the UNECE has to act in a neutral and objective way.

Ad Third

UNECE comments:

The statements contained in the UN Board of Auditors (BOA) Management Letter of 5 May 2005 that raised IRU concerns are, in the view of the UNECE, not phrased in an accusatory or defamatory manner, but pointing out at areas of potential risks for the UN. The UNECE secretariat can neither speak on behalf of the UN BOA nor dictate their statements, but will bring to the attention of the BOA the concerns expressed in the IRU letter dated 19 September 2006 concerning the representation of the IRU and KPMG information in the BOA report.

The UNECE secretariat brings to the attention of the IRU the following statement contained in the report of the UN Office of Internal Oversight (OIOS) concerning the IRU handling of the funds collected and transferred for the levy on the TIR Carnet: "there is in OIOS' view a reasonable basis to rely on the assurances provided by KPMG on the 29 March 2005 attestation of the total amount collected by the IRU during the period from 1999 to 2004". The UNECE secretariat will bring to the attention of the UN BOA this statement, which should dispel IRU concerns.

Ad Fourth

UNECE comments:

The problems related to the collection and transfer mechanisms presently in place for the financing of the operation of the TIRExB and the TIR secretariat had also been reflected in the above-mentioned BOA Management Letter and in the reports of both BOA and OIOS. The UNECE secretariat is fully committed to find a sustainable solution for the financing of the operation of the TIRExB and the TIR secretariat. For the June 2006 session of the AC.2, the UNECE secretariat prepared a document containing alternative proposals to solve the problem. However, there was no consensus about any of these proposals. Therefore, taking into account the IRU concern about the pre-financing and the fact that many Contracting Parties wish to maintain the levy, the UNECE secretariat has prepared a new proposal, which is being submitted in an Informal document to the September 2006 session of the AC.2. This new solution does away with the pre-financing arrangement while maintaining the levy as a service charge. This proposal can be easily implemented in the short term and provides IRU with a simple solution to comply with auditors' requests. Should the IRU agree to this proposal, in the context of a constructive cooperation, an amendment of the UNECE-IRU Agreement can be negotiated and agreed as also proposed by the IRU.

With regard to the budget for the operation of the TIRExB and the TIR secretariat, as already explained in previous correspondence with the IRU, the additional post allocated to the UNECE Transport Division as a result of the UNECE Reform cannot be seen as a replacement for any of the posts in the TIR secretariat. In addition, the TIR Contracting Parties have not requested the secretariat to make any changes in the number of regular staff of the TIR secretariat. Therefore, the secretariat cannot make changes to the cost plan in this respect.

With regard to the computerization of the TIR procedure, the UNECE secretariat has been mandated by the Contracting Parties to pursue the eTIR solution, which aims at computerizing the whole life cycle of the TIR Carnet, in particular to enable the data interchange between existing Customs

systems as well as to introduce an improved guaranteeing monitoring mechanism for Customs authorities. Contracting Parties have expressed that these functions, important for proper Customs control, should reside within a system that is under the control of the Contracting Parties themselves. For these reasons, the UNECE secretariat cannot agree with the IRU request to remove the costs related to the eTIR project. Furthermore, the eTIR should obviously foresee an open interface with industry and the UNECE secretariat is committed to work with the international organization in this respect. In this context, the UNECE encourages the IRU to further develop the NCTS/TIR project.

The UNECE secretariat takes note of the IRU request for convening a diplomatic review conference for the TIR Convention and the statement made by the IRU at the 22 September meeting that “there is a need for a new Convention”. The UNECE secretariat will transmit these views to the TIR Contracting Parties for consideration.

Ad Sixth

UNECE comment:

With regard to the implementation of the new Annex 10 of the TIR Convention, including the IRU operated SafeTIR system, the UNECE secretariat has offered the IRU to undertake joint efforts to facilitate the smooth entry into force of this Annex. The IRU supported this proposal and proposed to address the issue with the UNECE at a bilateral level (TRANS/WP.30/222/para. 47). This is in spite of previous good experience with a joint taskforce to improve the application of the SafeTIR recommendation (2002-2003). The UNECE secretariat awaits concrete proposals from the IRU to this end.

Regarding point 2 under Sixth, the UNECE secretariat points out that Annex 10 of the TIR Convention prescribes the obligation of Contracting Parties to provide standard information on the termination of TIR Carnets to be included in a control system operated by the international organization (the IRU SafeTIR system) with a view that authorized national associations can fulfil their obligations to verify the persons authorized to the TIR system. Contracting Parties did not adopt Annex 10 with a view that the information received by the international organization from Contracting Parties could be used as alternative proof for the TIR procedure, i.e. that it could substitute the present national procedure. The data held in the SafeTIR database originates from Customs authorities, but are held under the private responsibility and supervision and can therefore not be used as proof for Customs procedures. This is exactly the reason why Contracting Parties have decided to establish eTIR, which will provide for Customs secure and dedicated data exchange between Customs.
