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Item 8 of the provisional agenda

Other business:

Audit of the accounts of the

TIR Executive Board and the TIR secretariat

Recommendation no. 2 on the Terms of Reference for TIR focal points

Note by the secretariat

I. Background and mandate

1. At its seventy-second session (February 2020), the Committee considered Recommendation No. 2 from the audit report of the United Nations Office of Internal Oversight Services (please refer to ECE/TRANS/WP.30/AC.2/2019/25) on the establishment of Terms of Reference (ToR) for TIR focal points, based on document ECE/TRANS/WP.30/AC.2/2020/9. The Committee requested the secretariat to review the ToR further to comments by delegations and to seek the view of national focal points from both customs and associations. Based on their feedback and the follow-up considerations by the Committee, at the current session, it could then be envisaged to submit the updated ToR to heads of customs for their approval (see ECE/TRANS/WP.30/AC.2/147, paras. 42 and 43).

2. Further to delays in launching the survey, due to the COVID-pandemic, the results of the survey are presented in this informal document, for consideration and, possibly, approval by the Committee.

II. Results of the survey

3. The survey was sent to focal points from customs and national associations on 25 June 2020 with a deadline for replies set at 1 August 2020. A reminder was sent on 22 July 2020 with 15 August 2020 as new deadline. By 18 August 2020, 31 focal points from customs and 33 from associations had replied to the survey.

III. Questions, replies and comments by TIR focal points from customs

(a) Act as main point of contact within customs for all matters related to the application of the TIR Convention.

Yes: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (31)

No: 0

Conclusion: all TIR customs focal points agree to act as main point of contact within customs for all matters related to the application of the TIR Convention.

(b) Provide, at the request of WP.30 or AC.2, information on issues in the application of the TIR Convention in their country.

Yes: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (31)

No: 0

Comments: Greece: I also deal with the survey on Annex 8 of the Harmonization Convention, customs claims or any other survey. Romania: I consult competent departments for non-legal issues.

Conclusion: all TIR customs focal points agree to provide, at the request of WP.30 or AC.2, information on issues in the application of the TIR Convention in their country.

(c) Assist TIR customs focal points from other countries in TIR issues concerning their country.

Yes: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (31)

No: 0

Comment: Romania: I consult competent departments for non-legal issues.

Conclusion: all TIR customs focal points agree to assist TIR customs focal points from other countries in TIR issues concerning their country.

(d) Ensure that all national data contained in the ITDB are kept up-to-date.

Yes: Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (30)

No: Belarus. (1)

Comments: Romania: Date regarding authorized TIR Carnet holders are inserted by officers in charge. In case of discrepancies, it is my task to correct. I manage the data on Article 38 exclusions. Switzerland: together with other colleagues.

Conclusion: Apart from Belarus (which is not actively using ITDB) all customs TIR focal points agree to assist (with their colleagues) to keep data in ITDB up-to-date.

(e) Manage the accounts of ITDB users for customs administrations in their country, with the assistance of the TIR secretariat.

Yes: Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (29)

No: Austria, Latvia. (2)

Comments: Latvia: the IT department deals with ITDB. Switzerland: together with other colleagues. Romania: I receive requests to register, modify and revoke ITDB users, in collaboration with the secretariat.

Conclusion: 21 out of 23 respondents agree with this task. Most likely, the two focal points not agreeing do so because, in their country, they do not manage or are not responsible for ITDB.

(f) Disseminate nationally, among customs administrations, communications from the TIR secretariat and, vice versa, relay any issue or request raised by customs administrations to the TIR secretariat.

Yes: Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (30)

No: Austria. (1)

Comments: Latvia: focal points should be used for informal information exchanges. Official information should use the official communication channels.

Conclusion: Although most customs focal point agree with this task, it seems appropriate to stress the they should only be used to transmit information informally or not officially. Any official information should be addressed using the official communication channels.

(g) Participate in TIR-related surveys, conducted by AC.2, TIRExB, WP.30 or the secretariat or facilitate their dissemination at national level, including liaising with colleagues from other ministries, if necessary.

Yes: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey. (31)

No: 0

Conclusion: all TIR customs focal points agree to participate in TIR-related surveys.

(h) Report on fraud-related incidents in the application of the TIR Convention in their country, preferably by means of Fraud Report Forms (FRF).

Yes: Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovenia, Sweden, Switzerland, Turkey. (28)

No: Belarus, Belgium, Slovakia. (3)

Comments: Belarus: FRF are not used, but official letters are sent instead. Belgium: as focal point, I am not informed about TIR related fraud cases. This is the competence of another department. However, when I receive fraud-related information I pass it on to the competent department. Switzerland: this is the responsibility of a colleague.

Conclusion: Although this is the original function of customs TIR focal points, as formulated in Resolution 49 of 1994, not all customs focal points seem to agree with this task. Most likely this is because customs focal points are not directly involved in fraud issues.

(i) In the absence of a dedicated eTIR focal point, act as eTIR focal point to facilitate the distribution and collection of eTIR related information.

Yes: Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Slovakia, Slovenia, Sweden, Switzerland. (25)

No: Austria, Belgium, Netherlands, Romania, Serbia, Turkey. (6)

Comment: Belgium: Belgium disposes of a separate eTIR focal point. Netherlands: Netherlands disposes of a dedicated eTIR focal point. Romania: Romania has a dedicated eTIR focal points

Conclusion: Most customs focal points agree with this task unless, in their country, dedicated eTIR focal points have been appointed.

(j) Maintain regular contact with the national representative(s) in WP.30 and its expert groups and AC.2 on TIR-related matters

Yes: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, Slovenia, Netherlands, North Macedonia, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Sweden, Switzerland, Turkey. (30)

No: Portugal. (1)

Comment: Portugal: As European Union member state Portugal aligns its policy on TIR-related matters with the European Commission. Romania: for Romania, the TIR focal point is national representative in WP.30 and AC.2.

Conclusion: all customs focal points other than Portugal agree with this task, although this might be due to a misunderstanding of the activity.

General conclusion: as reference, it seems that all activities enumerated in the terms of reference for customs TIR focal points are acceptable. On the basis of the comments provided, the secretariat proposed minor adjustments, as indicated in *underlined italics* in Annex I.

IV. Questions, replies and comments by TIR focal points from associations

(a) Act as main point of contact within the association for all matters related to the application of the TIR Convention.

Yes: Armenia, Austria, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (33)

No: 0

Comments: Germany: within the limits set by legal working hours and subject to other tasks assigned by employer. Sweden: together with colleagues.

Conclusion: all association focal points agree with this task, within the limitations of their regular tasks as employee of the association.

(b) Provide, at the request of WP.30, AC.2 and TIRExB, information on issues in the application of the TIR Convention in their country.

Yes: Armenia, Austria, Azerbaijan, Belarus, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (31)

No: Belgium, Latvia. (2)

Comments: Latvia: this is the task of customs authorities. Russian Federation: in as far as within the competence of the national association. Sweden: together with colleagues. United Kingdom: only in relation to the association's administration of TIR Carnet holders.

Conclusion: all association focal points seem to agree with this task, although it should be stressed that this does only apply to issues within the competence of national associations.

(c) Assist national TIR customs focal points in TIR issues concerning their country.

Yes: Armenia, Austria, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (33)

No: 0

Comments: Sweden: together with colleagues. Turkmenistan: in case customs contact the national association, United Kingdom: only upon request.

Conclusion: all association focal points agree with this task, although it should be stressed that the initiative should lie with customs.

(d) Assist that all association-related data contained in ITDB is kept up-to-date.

Yes: Armenia, Austria, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon,

Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Ukraine, United Arab Emirates, United Kingdom. (31)

No: Germany, Turkmenistan. (2)

Comments: Germany: this is obligation by virtue of Annex 9, Part II. Romania: our customs authorities deal with ITDB. Sweden: together with colleagues. Turkmenistan: for any official data, the state customs committee should be contacted.

Conclusion: most association focal points agree with this task. However, as the German association points out, this task should be considered as a legal obligation from the Convention.

(e) Disseminate nationally, to relevant private sector parties, communications from the TIR secretariat and, vice versa, relay any issue or question raised by the private sector.

Yes: Armenia, Austria, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (32)

No: Romania. (1)

Comments: Germany: this is formulated too general and should be amended with “that can reasonably be tackled by ECE TIR bodies”. Russian Federation: in as far as relevant for road carriers. Sweden: together with colleagues. United Kingdom: if required to do so.

Conclusion: association focal points generally agree with this task, although the wording should be refined to clarify that it only refers to issues that are of relevance to the transport industry.

(f) Participate in TIR related surveys, conducted by AC.2, TIRExB, WP.30 or the secretariat, in particular, but not limited to, the price of TIR Carnets.

Yes: Armenia, Austria, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (33)

No: 0

Comments: Russian Federation: as far as within the competence of national associations. Sweden: together with colleagues. United Kingdom: if required to do so, although some decisions may have to be taken by the hierarchy within the association.

Conclusion: all association focal points agree with this task.

(g) Report to WP.30 and AC.2 on fraud-related incidents in the application of the TIR Convention, reported or committed by their members.

Yes: Armenia, Austria, Azerbaijan, Belarus, China, Czech Republic, Estonia, Georgia, Greece, Iran (Islamic Republic of), Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Ukraine, United Arab Emirates, United Kingdom. (25)

No: Belgium, France, Germany, India, Italy, Romania, Russian Federation, Turkmenistan. (8)

Comments: France: in principle, associations should inform IRU. Germany: BGL supports the idea of TIR Focal points who were explicitly created for battling fraud. However, the above wording is far too far-reaching to be acceptable - for the following reasons: 1. Liability of TIR Carnet holders, and of TIR guaranteeing associations, is a strict liability without fault. For this reason, requests for payment can, and will, be issued without the need for presentation, to the association, of a legally valid proof of the alleged fraud. As a matter of fact, relevant allegations of fraud have repeatedly been found invalid by courts. An association's relating fraudulent incidents to third parties prior to a valid court decision could actually run the risk of being classified as libel and slander. For the same reason, authorities often hesitate to transmit to associations details of alleged fraud. Anyway, customs authorities, being part of any relevant legal proceedings, stand a far better chance of correctly knowing the details of fraudulent action, and of adequately judging the risk of actions for libel. TIR associations can, and should, transmit information on fraudulent action only within the limits of not exposing themselves to action for libel. 2. As fraud related incidents typically are committed outside the relevant company's country of residence, the TIR Carnet holder's national association is therefore receiving any information on alleged fraud of its members from third parties. This is creating the danger of "Chinese whispers" (errors in transmission), thus escalating the danger of misinformation / libel. A TIR association, within its role of guarantor, will have better information on fraud actually taking place within its regional guarantor's responsibility. To sum up, reports by associations should be limited to information that can be given without risking actions for libel. Also, this task should refer to incidents concerning the national association's/focal point's country of residence, rather than incidents concerning their members, in order to optimize the information's quality and at the same time eliminate the risk of errors in transmission. Iran (Islamic Republic of): this is generally done through customs. Russian Federation: this is the competence of customs authorities. Sweden: together with colleagues. Turkmenistan: perhaps in case this relates to the TIR Carnet, but not to the TIR Convention.

Conclusion: although the large majority of association focal points agree with this task, there are some severe reservations, in particular from Germany, about the role of associations in reporting fraud incidents. (It should be noted that, over the last 20 years, the secretariat has never received any fraud-related information directly from national associations.)

(h) In the absence of a dedicated eTIR focal point, facilitate the distribution and collection of eTIR-related information.

Yes: Armenia, Azerbaijan, Belarus, China, Czech Republic, Estonia, France, Georgia, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Latvia, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (29)

No: Austria, Belgium, Germany, Switzerland. (4)

Comments: Germany: in the very absence of a dedicated eTIR focal point, focal points from associations might find it extremely challenging or, even, impossible to obtain and adequately process and distribute eTIR-related information. Russian Federation: after the entry into force of Annex 11. Sweden: together with colleagues. Switzerland: not for the time being. Turkmenistan: only in as far as within the competence of the national association. Any official request to appoint a dedicated eTIR focal point should be channeled through the Ministry of Foreign Affairs. United Kingdom: as the United Kingdom has not yet embraced eTIR, only assistance with members queries on eTIR and TIR-EPD could be envisaged.

Conclusion: basically, most association focal points agree with this task, unless or until a dedicated eTIR focal point has been designated.

(i) Maintain regular contact with the national representative(s) in WP.30 and its expert groups as well as AC.2.

Yes: Armenia, Azerbaijan, Belarus, Belgium, China, Czech Republic, Estonia, France, Georgia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Jordan, Lebanon, Montenegro, North Macedonia, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom. (31)

No: Austria, Latvia. (2)

Comments: Latvia: this is the task of customs authorities. Sweden: together with colleagues. Turkmenistan: at present we do not dispose of a list of national representatives from our country.

Conclusion: the majority of association focal points agree with this task. Actually, many countries maintain some kind of mechanism of regular meetings between various stakeholder, in particular, but not limited to, when preparing for the meetings of WP.30 or AC.2. As for Turkmenistan, there has not been an official delegation attending sessions of WP.30 or AC.2 for a long time.

General conclusion: as reference, it seems that all activities enumerated in the terms of reference for TIR focal points from associations are acceptable. On the basis of the comments provided, the secretariat proposed minor adjustments, as indicated in *underlined italics* in Annex II.

V. Considerations by the Administrative Committee

4. The Committee is invited to take note of the results of the survey and, as a consequence, adopt the Terms of Reference for TIR focal points from customs (Annex I) and from national associations (Annex II). The Committee is further invited to consider whether the Terms of Reference, which should be considered as non-binding and which merely serve as providing guidance for national customs authorities and associations, require prior approval from heads of customs before settling on their final wording.

Annex I

Terms of Refence of the TIR customs focal points

1. Act as main point of contact for all matters related to the application of the TIR Convention such as, but not limited to:
2. Provide, at the request of WP.30 or AC.2, information on issues in the application of the TIR Convention in their country;
3. Assist TIR customs focal points from other countries in TIR issues concerning their country;
4. Ensure, *together with other responsible colleagues*, that all national data contained in the International TIR Data Bank (ITDB) are kept up-to-date;
5. Manage, *together with other responsible colleagues*, the accounts of ITDB users from customs administrations in their country, with the assistance of the TIR secretariat;
6. Disseminate nationally, among customs administrations, communications from the TIR secretariat and, vice versa, rely any issue or question raised by customs administrations to the TIR secretariat;
7. Participate, *within the limits of their competence*, in TIR related surveys, conducted by AC.2, TIRExB, WP.30 or the secretariat or facilitate their dissemination at the national level, including liaising with colleagues from other ministries, if necessary;
8. Report on fraud-related incidents in the application of the TIR Convention in their country, preferably by means of Fraud Report Forms (FRF);
9. In the absence of a dedicated eTIR focal point, act, *within the limits of their competence*, as eTIR focal point to facilitate the distribution and collection of eTIR related information;
10. Maintain regular contact with the national representative(s) in WP.30 and its expert groups as well as AC.2 on TIR related matters.

Annex II

Terms of Reference of TIR associations focal points

1. Act as main point of contact within the association for all matters related to the application of the TIR Convention, such as, but not limited to:
 2. Provide, at the request of WP.30, AC.2 and TIRExB, transport sector related information on issues in the application of the TIR Convention in their country;
 3. Assist national TIR customs focal points in TIR issues of interest to the transport sector concerning their country;
 4. Assist, in accordance with Annex 9, Part II of the TIR Convention, that all association-related national data contained in the International TIR Data Bank (ITDB) is kept up-to-date;
 5. Disseminate nationally, to relevant private sector parties, communications from the TIR secretariat and, vice versa, rely any issue or question-raised by the private sector, which fall within the competence of TIR governing bodies;
 6. Participate, within the limits of their competence, in TIR related surveys, conducted by AC.2, TIRExB, WP.30 or the secretariat, in particular, but not limited to, the price of TIR Carnets;
 7. Report, directly or via IRU and if deemed appropriate, to WP.30 and AC.2 on fraud related incidents in the application of the TIR Convention reported or committed by their members;
 8. In the absence of a dedicated eTIR focal point, facilitate the distribution and collection of eTIR related information;
 9. Maintain, at the initiative of the national customs authorities, regular contact with the national representative(s) in WP.30 and its expert groups as well as AC.2.
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