



**ADMINISTRATIVE COMMITTEE
FOR THE TIR CONVENTION, 1975**

TIR Executive Board (TIRExB)

(~~Twentieth~~Eighteenth session, ~~16-~~19 and 20 ~~November~~June 2003,
agenda item 47)

Example Procedure For Effective Communication

Note by the TIR Secretary

A. BACKGROUND

At its fifteenth session, the TIRExB requested the TIR Secretary to prepare, in cooperation with the IRU, a document on the procedural aspects of effective communication between Customs authorities and national guaranteeing associations (TIRExB/REP/2002/15, para. 16).

At its seventeenth session, the TIRExB discussed at length Informal document No. 7 (2003), prepared by the secretariat, in cooperation with the IRU. The TIRExB was of the view, that the approach was too unilateral, dealing only with recommended elements to be supplied by Customs to associations. It also pointed out that the choice of words in the table (recommended, optional, mandatory) was at times ambiguous and in need of further clarification. In addition, the TIRExB would like, where appropriate, legal references included into the table. Finally, the TIRExB submitted a number of specific remarks with regard to the contents of the table itself and requested the secretariat to draft, in cooperation with the IRU, a new document taking duly account of the observations by the TIRExB.

The TIRExB, at its eighteenth session, endorsed the general approach by the secretariat, as contained in Informal document No. 14 92003), but still had a number of observations, which needed to be addressed, before the Board would be in a position to adopt the document. In particular, the Board requested the secretariat to draft, for its next session, a new version of the document, in which it should review the introductory text of the Annex, provide more information on the pre-notification phase (as this concept, not being a legal obligation from the TIR Convention, was not applied by all Contracting Parties) and check the various recommended elements for their

~~availability, because the Board had doubts whether all elements were available at the moment(s) indicated in the tables for effective communication (TIRExB/REP/2003/18, para. 18). Taking account of the introductory remarks of point B of informal document No. 7 (2003), underlying document contains as Annex a revised proposal for a table, enumerating a recommended minimum list of information, that could be included into the various communications by Customs authorities to national guaranteeing associations in the course of a claim submission procedure. In addition, a new table is introduced, containing information to be included into communications sent by national guaranteeing associations in reaction to communications received from Customs authorities. The existing text is amended with references to the associations and with a phrase stressing the noncommittal status of the table. All changes to the previous Annex are made by means of track changes.~~

The table identifies three stages where competent authorities should address the national guaranteeing association in the course of a claim submission procedure: the pre-notification (not being a legal requirement, but a recommended practice, as mentioned in paragraph 5.4. of Table 1 of the examples of best practices), the notification (Article 11, paragraph 1) and the claim for payment (Article 11, paragraph 2).

The TIRExB may wish to consider including the Annex as paragraph 5.6 into the text of the examples of best practices.

Annex**5.6. RECOMMENDATIONS FOR IMPROVEMENT OF COMMUNICATION BETWEEN NATIONAL COMPETENT AUTHORITIES AND NATIONAL GUARANTEEING ASSOCIATIONS**

1. It is the competence of Contracting Parties to establish, in line with the provisions of national legislation and established procedures, the content of the ~~various~~ communications (~~pre-notification, notification, claim for payment~~), which are addressed to the national guaranteeing association in the course of a claim procedure. However, in order to avoid any misunderstanding on nature, amount and justification of any alleged irregularity, the competent authorities and national guaranteeing associations of Contracting Parties are invited to review and update their various communications to the extent that they refer at least to the stages recognized by the TIR Convention and its best practices and contain, ~~in~~ as far as possible, the following minimum information (see table below).

2. The stages recognized by the TIR Convention and its best practices are:

(a) Pre-notification: In line with the comment “Notification to (a) guaranteeing association(s)”, Customs authorities should notify their respective national guaranteeing association(s) as soon as possible of cases covered by Article 11, paragraph 1, that is when a TIR operation has not been discharged. This information, sent out by various Contracting Parties at an early stage in the inquiry procedure, possibly at the same time as a notification is sent to the TIR Carnet holder, has become known as the “pre-notification:

(b) Notification: Within a period of one year from the date of acceptance of the TIR Carnet, the competent authorities of the Contracting Party, in which the TIR Carnet has not been discharged, have to notify the association in writing of the non-discharge (Article 11, paragraph 1 of the Convention);

(c) Claim for payment: Competent authorities dispose of a period between three months and two years after the date on which the association has been informed that the TIR operation has not been discharged (or that the certificate of termination of the TIR operation has been obtained in an improper or fraudulent manner), within which to submit a claim for payment to the association (Article 11, paragraph 2 of the Convention).

2. It should be noted that Contracting Parties are under no legal obligation to comply with the recommendations set out in ~~this~~ paragraph 5.6. Only the provisions of the TIR Convention and national legislation decide on the legality of any communication between the competent authorities of Contracting Parties and the national guaranteeing associations.

3. In general, Customs authorities and national guaranteeing associations of Contracting Parties are recommended:

- to limit any communication to one single TIR Carnet only;
- to make use at all times, but in particular before starting a claim procedure, to the extent possible, of any information available in an authorized international control system, such as the SafeTIR system operated by the IRU.

**Recommended elements for effective communication by
competent authorities to national guaranteeing associations**

	Data	Pre-notification of non-discharge to the guaranteeing association (Best practice)	Notification of non-discharge to the guaranteeing association (Article 11.1)	Claim for payment to guaranteeing association (Article 11.2)
1	Clear and legible date and reference	√ +	√ +	√ +
2	Name, address and unique ID number (as far as available in the TIR Carnet) of the TIR Carnet holder	√ +	√ +	T
3	TIR Carnet Number (2 letters and 8 digits)	√ +	√ +	√ +
4	Date when the TIR Carnet was accepted by Customs	√ +	√ +	√ +
5	Main points of infringement and legal references (justification)	√ +	√ +	√ +
6	Return /reply address and recommended deadline for reaction (if appropriate)	√ +	√ +	√ +
7	Copy of voucher No. 1	√ +	√ +	√ +
8	List of possible/recommended documents to be provided, including documentation with regard to other person(s) directly liable	√* +	√ +	-
9	Reaction to documents submitted i.e. acceptance, closure or refusal, if any ²	-	√ +	-
10	Reference to and/or copy of the notification to the TIR Carnet holder (Expl. Notes 08.7 and 0.11-1)	√* +	√ +	√ +
11	Reference to and/or copy of the request for payment from the person(s) directly liable (Article 8.7)	-	√* +	√ +
12	Reference to and/or copy of the pre-notification to the guaranteeing association	-	√T	-
13	Reference to and/or copy of the notification to the guaranteeing association	-	-	√ +
14	Reference to existing guarantee agreement or any other type of legal instrument	-	-	√ +
15	Reference to indicative amount of the potential claim	-	√* +	-
16	Detailed calculation of Customs duties and taxes, including determination of the Customs value of the goods, tariff rates applied and applicable default interest rates	-	-	√ +
17	Time limits for payment (Article 11.3)	-	-	√ +
18	Payment particulars	-	-	√ +
19	Information on possible appeal procedures	-	√* +	√ +

¹ √ = Recommended element, in as far as available:

* Mrs. Rybkina proposes to review these elements, because information may not always be available at that specific stage of the claims procedure:

² acceptance = confirmation that authorities have accepted the information provided by the association at an earlier stage; closure = information that authorities have decided not to pursue the alleged irregularity and have closed the file; refusal = information that the information provided by the association at an earlier stage has not been accepted by the authorities, including the reasons for refusal:

**Recommended elements for effective communication by
national guaranteeing associations to competent authorities**

	Data	Reaction to Pre-notification of non- discharge to the guaranteeing association (<i>Best practice</i>)	Reaction to Notification of non- discharge to the guaranteeing association (<i>Article 11.1</i>)	Reaction to Claim for payment to guaranteeing association (<i>Article 11.2</i>)
1	Clear and legible date and reference	√ ³	√	√
2	Name, address and unique ID number (as far as available in the TIR Carnet) of the TIR Carnet holder	√	√	√
3	TIR Carnet Number (2 letters and 8 digits)	√	√	√
4	Return address	√	√	√
5	Documents indicating the regular termination of the concerned TIR operation, such as: <ul style="list-style-type: none"> • any official certificate or confirmation of the termination of a TIR operation covered by the same transport made out by another Contracting Party following the respective TIR operation or confirmation of the transfer of the goods in question to another Customs procedure or another system of Customs control, e.g clearance for home use; • the duly stamped corresponding counterfoils No. 1 or No. 2 in the TIR Carnet by such a Contracting Party or a copy thereof provided by the international organization; • records about the termination of the TIR operation, as found in the so-called "IRU SafeTIR system"; • any additional document, issued by the Customs office of destination or exit (<u>en route</u>) to the person presenting the TIR Carnet (e.g. receipt on request to be completed in advance by the person concerned); • any document allowing the identification of the person(s) directly liable. 	-	√	-
6	Reference to the pre-notification to the guaranteeing association	√	-	-
7	Reference to the notification to the guaranteeing association	-	√	-
8	Reaction to notification (acceptance or refusal)	-	√	-
9	Reference to the claim for payment to the association	-	-	√
10	Reaction to claim for payment (acceptance or refusal)	-	√	-
11	Reference to specific provisions in the existing guarantee agreement or any other type of legal instrument	-	-	√

³ ~~√~~ = recommended element.

