



# Economic and Social Council

Distr.: General  
2 August 2012

Original: English

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## Economic Commission for Europe

### Administrative Committee for the TIR Convention, 1975

#### Fifty-fourth session

Geneva, 11 October 2012

Item 3 (a) (ii) of the provisional agenda

**Activities and administration of the TIR Executive Board –**

**Activities of the TIR Executive Board:**

**Survey on Customs claims**

### Survey on Customs claims and the TIR guarantee level

#### Note by the secretariat

#### I. Background and mandate

1. The TIRExB, at its forty-sixth session (April 2011), approved the final version of the survey on the TIR guarantee level and on the functioning of the TIR guarantee system and requested the secretariat to proceed with its distribution to Contracting Parties (ECE/TRANS/WP.30/AC.2/2011/8, para. 23). The secretariat prepared an on-line version of the survey and, in June 2011, sent out letters inviting countries to reply to the questionnaire via Internet. The deadline for replies was set at 30 September 2011. At its forty-ninth session, the Board welcomed Informal document No. 2 (2012), presenting the results of the survey on Customs claims and the guarantee level, together with some preliminary considerations and suggestions by the secretariat. The Board requested the secretariat to include in its further assessment of the results, at least, the following aspects:

(a) the status of the guarantee level in the light of the evolution of currency exchange rates, inflation and, possibly, other economic factors;

(b) the fact that 60 per cent (%) of the claims raised in the European Union are withdrawn by Customs (in consultation with the European Commission);

(c) the inclusion in future surveys of additional questions about pending claims with the aim to identify their origin (ECE/TRANS/WP.30/AC.2/2012/6, paras. 14 and 15).

2. Finally, further to the invitation by the Board, the secretariat met with the International Road Transport Union (IRU) in order to identify and, possibly, avoid for the future any methodological differences between the figures from the TIRExB survey and IRU statistics and to share historical data on claims statistics which IR has at its disposal. Preliminary results from the meeting are presented in this document.

3. At its fiftieth session, the Board requested the secretariat to prepare a consolidated version of the results of the survey, not mentioning individual countries, and circulate it by e-mail among Board members for approval, prior to submitting the document to AC.2. Consequently, the secretariat prepared this document and the TIRExB requested its submission to AC.2 (Informal document TIRExB/REP/2012/50draft, para. 13).

## II. Replies

4. The following 42 countries have replied to the questionnaire: Armenia; Austria; Azerbaijan; Belarus; Belgium; Bosnia and Herzegovina; Bulgaria; Croatia; Cyprus; Czech Republic; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Kazakhstan; Kyrgyzstan; Lithuania; Latvia; Montenegro; Morocco; Netherlands; Norway; Poland; Portugal; Republic of Moldova; Romania; Russian Federation; Serbia; Slovakia; Slovenia; Spain; Sweden; Switzerland; the former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom of Great Britain and Northern Ireland; Uzbekistan.

Of these 42 countries, 18 did not have any claims to report.

## III. Results of the survey

5. The results are analysed separately for the European Union (EU) and non-EU countries to provide a better overview of the situation in various Contracting Parties. All amounts provided in national currencies have been converted into euros (€) using the exchange rate<sup>1</sup> as of 28 September 2011 (end of the reporting period).

### A. Customs claims against national guaranteeing associations

#### 1. EU countries

Table 1

#### General situation

(number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	62	10	50	2
2008	102	16	77	9
2009	105	10	56	39
2010	80	34	27	19
<b>Total</b>	<b>349</b>	<b>70</b>	<b>210</b>	<b>69</b>

<sup>1</sup> [www.ecb.europa.eu/stats/eurofxref/eurofxref-hist-90d.xml](http://www.ecb.europa.eu/stats/eurofxref/eurofxref-hist-90d.xml) and [www.exchange-rates.org/HistoricalRates/E/EUR/9-28-2011](http://www.exchange-rates.org/HistoricalRates/E/EUR/9-28-2011)

Table 2  
**General situation**  
(amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	972 961	88 334	871 149	13 478
2008	1 352 796	256 679	977 616	118 502
2009	2 267 627	168 681	767 982	1 330 963
2010	1 377 990	421 669	567 997	388 324
<b>Total</b>	<b>5 971 374</b>	<b>935 363</b>	<b>3 184 744</b>	<b>1 851 268</b>

*Average claims*

An average submitted claim amounts to € 17,110. Average paid, withdrawn and pending claims are equal to, respectively, € 13,362; € 15,165 and € 26,809.

Table 3  
**Paid claims**  
(number)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2007	7	3	10
2008	10	6	16
2009	3	7	10
2010	4	30	34
<b>Total</b>	<b>24</b>	<b>46</b>	<b>70</b>

Table 4  
**Paid claims**  
(amount in €)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2007	83 252	5 082	88 334
2008	195 450	61 228	256 679
2009	48 067	120 614	168 681
2010	76 270	345 399	421 669
<b>Total</b>	<b>403 040</b>	<b>532 323</b>	<b>935 363</b>

*Withdrawn claims*

On average, 60% of claims have been withdrawn by Customs.

*Comments by countries why pending claims have not been paid*

- the guaranteeing association has indicated that the recovery procedure in a foreign country has to be directed against the person directly liable. If that remains without success, the national association will pay;
- withdrawal is intended;
- the national guaranteeing association has submitted a lawsuit to the court against a Customs decision and asked to suspend the enforcement proceeding. The court approved the suspension but it has not made a decision on the lawsuit yet;

- ongoing court proceedings;
- according to the guaranteeing association, the TIR operations have been properly terminated.

*Claims that are subject to legal proceedings*

Nine claims in total (3 in 2008, 5 in 2009 and 1 in 2010).

## 2. Non-EU countries

Table 5

### General situation

(number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	96	67	15	14
2008	128	99	24	5
2009	107	64	19	24
2010	122	64	20	38
<b>Total</b>	<b>453</b>	<b>294</b>	<b>78</b>	<b>81</b>

Table 6

### General situation

(amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	1 708 381	1 419 442	7 284	281 256
2008	1 415 381	1 166 131	163 952	85 296
2009	2 544 974	1 503 278	494 124	547 570
2010	2 881 401	1 799 189	126 615	955 597
<b>Total</b>	<b>8 550 138</b>	<b>5 888 041</b>	<b>791 974</b>	<b>1 869 719</b>

*Average claims*

An average submitted claim amounts to € 18,874. Average paid, withdrawn and pending claims are equal to, respectively, € 20,027; € 10,154 and € 23,083.

Table 7

### Paid claims

(number)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2007	11	56	67
2008	16	83	99
2009	4	60	64
2010	14	50	64
<b>Total</b>	<b>45</b>	<b>249</b>	<b>294</b>

Table 8  
**Paid claims**  
(amount in €)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2007	138 722	1 280 721	1 419 442
2008	271 476	894 655	1 166 131
2009	42 610	1 460 668	1 503 278
2010	417 262	1 381 927	1 799 189
<b>Total</b>	<b>870 070</b>	<b>5 017 971</b>	<b>5 888 041</b>

*Withdrawn claims*

On average, 17% of claims have been withdrawn by Customs.

*Comments by countries why pending claims have not been paid*

- Columns b, d, f, h and j of question 6 have not been answered for the following reasons: the General Customs Directorate sends the national association a pre-notification of non-discharge without calculating the amount of import duties and taxes. When the national associations informs Customs that, indeed, the TIR Carnet has not been terminated, Customs request payment of the import duties and taxes directly from the consignee of the goods established through the competent regional Customs directorates;
- Objections of the guaranteeing association for all pending claims. Judicial proceedings (This extends the whole process.);
- guarantee system does not consider requirements of Customs authorities justified.

*Claims that are subject to legal proceedings*

Eighty in total (14 in 2007, 5 in 2008, 24 in 2009 and 37 in 2010).

## **B. Customs claims against the persons directly liable**

### **1. EU countries**

Table 9  
**General situation**  
(number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	155	34	75	47
2008	127	44	65	18
2009	138	48	74	16
2010	123	44	42	37
<b>Total</b>	<b>543</b>	<b>170</b>	<b>256</b>	<b>118</b>

Table 10  
**General situation**  
(amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	3 165 788	154 879	1 269 287	1 741 622
2008	1 666 579	348 993	992 452	325 135
2009	2 162 833	192 854	1 178 999	790 980
2010	2 877 384	176 923	918 523	1 781 937
<b>Total</b>	<b>9 872 584</b>	<b>873 649</b>	<b>4 359 261</b>	<b>4 639 674</b>

## 2. Non-EU countries

Table 11  
**General situation**  
(number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	148	121	21	6
2008	126	99	22	5
2009	214	119	56	39
2010	171	123	13	35
<b>Total</b>	<b>659</b>	<b>462</b>	<b>112</b>	<b>85</b>

Table 12  
**General situation**  
(amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2007	1 149 204	759 950	320 699	68 530
2008	1 163 471	333 643	352 193	477 634
2009	5 257 985	957 818	3 113 963	1 186 203
2010	1 544 757	311 511	447 003	786 243
<b>Total</b>	<b>9 115 417</b>	<b>2 362 922</b>	<b>4 233 858</b>	<b>2 518 609</b>

## C. TIR guarantee level

### 1. EU countries

*Current level of guarantee:*

€ 60,000.

*Percentage of TIR operations where the amount of Customs duties and taxes exceeds the established guarantee level:*

Seven member States indicated the percentages as follows: 30%, 6.9%, 1.64%, 1.26%, 0.23%, 0.01% and 0.002%.

*Percentage of claims where the amount of Customs duties and taxes exceeds the established guarantee level:*

Three member States indicated the percentages as follows: 12.5%, 9.61 % and 9%.

*Application of additional control measures if the guarantee level is exceeded:*

No: 20 countries / Yes: 3 countries.

*Where applicable, which type of additional control measures do you apply?*

Escorts: 2 countries. Prescription of an itinerary and short deadline for presenting the goods at the Customs office of destination/exit: 1 country.

*Where applicable, how do you apply the control measures?*

Systematically: 2 countries / Selectively: 1 country.

*Problems and suggestions reported to the TIRExB:*

- we seize this opportunity to inform you that not even one transport operator is using the TIR system due to the fact that all the companies perform transport operations within the EU. In case they need to travel to third countries, they are using the Common Transit System, in which case they use a bank guarantee;
- level of guarantee amount is not unified for all Contracting Parties. A list of the guarantee amounts applicable in all Contracting Parties should be available for consultation of Customs offices and transporters;
- whereas the guarantee level seems to be adequate in cases of regularly filled-in TIR Carnets, in most cases of smuggled goods it is far too low because smuggling is worthwhile only in cases of high amount of duties;
- TIR Carnets are not issued by the national association. Thus, there are no claims for recovery against them. Foreign guarantors supply TIR Carnets for TIR exports. All enquiries regarding non-discharge of import or export Carnets have been satisfactorily resolved before reaching recovery stage;
- in general no problems were reported with regard to the current guarantee level of € 60,000 valid in EU. In 2010 there were no cases of claims where the total amount of Customs debt exceeded this guarantee level.

## **2. Non-EU countries**

*Current level of guarantee:*

US\$ 50,000 (€ 36,681): 10 countries

€ 60,000: 4 countries.

SwF 100,000 (€ 81,967): 1 country

US\$ 8,000 (€ 58,282) for members of national Association US\$ 55,000 (€ 40,441) for non-members. High value goods= US\$ 55,000 (€ 40,441): 1 country.<sup>2</sup>

<sup>2</sup> It seems that the reported figures refer actually to the guarantee deposits by TIR Carnet holders required by the guaranteeing association.

*Percentage of TIR operations where the amount of Customs duties and taxes exceeds the established guarantee level:*

The following replies were given: 0% (6 countries), between 0 and 2% (4 countries) between 3 and 4% (3 countries), no such operations (1 countries) and no data (2 countries).

*Percentage of claims where the amount of Customs duties and taxes exceeds the established guarantee level:*

The following replies were given: 0% (2 countries), 4.81% (1 country) between 9 and 10% (2 countries), no claims (10 countries) and no data (3 countries).

*Application of additional control measures if the guarantee level is exceeded:*

Yes: 9 countries / No: 7 countries and no data available: 1 country.

*Where applicable, which type of additional control measures do you apply?*

Escorts: 7 countries.

Additional guarantee if escort is rejected by the transport operator: 1 country.

- Immediate oral or written communication between Customs office of departure and Customs office of destination about directing certain goods, and there is a possibility of determining the Customs escort if that is necessary;
- additional measures of Customs surveillance;
- additional guarantee;
- bank guarantee.

No data: 7 countries.

*Where applicable, how do you apply the control measures?*

Always: 2 countries.

Frequently: 3 countries.

From time to time: 4 countries.

Rarely: 2 countries.

No data: 7 countries.

- with regard to questions 11 and 12 it should be noted that, because no such statistics do exist or are envisaged to be introduced, it is not possible to indicate the number of TIR operations in 2010 where the amount of import duties and taxes exceeds the amount of the guarantee; this also applies to the number of claims.

*Problems and suggestions reported to the TIRExB*

- The current level does no longer correspond to the modern economic realities, as the number of cases where the amount of duties of taxes exceeds the established limit is increasing, and, if violations result in a customs debt, this will cause financial loss to the State budget;
- Lack of provisions governing the suspension of the TIR guarantee and insurance coverage of TIR Carnets on the territory of a specific country.

The problem could be solved through creating and fixing in the TIR Convention a mechanism for monitoring and updating the maximum limit of the guarantee for TIR Carnets within the framework of the TIR system, as well as a procedure for the suspension



of the TIR guarantee and insurance coverage of TIR Carnets on the territory of a specific country.

- TIR guarantee level is not sufficient. Suggestion: the TIR guarantee should be increased;
- In terms of the proper functioning of the TIR guarantee system, a currency basket system like Special Drawing Rights (SDR) may be introduced to solve the problems relating to the present TIR guarantee level;
- At the moment of the admission of the goods into the Customs territory of Ukraine, the calculation of the exact amount of the Customs debt is not always possible due to insufficient data on the goods specified in the TIR Carnet and shipping documents. In addition, the final calculation of the amount of duties and taxes in case of violation of the TIR procedure only takes place in case such violation has formally been established – as a result, the budget runs the risk of not receiving the sum which exceeds the level of guarantee.

To envisage the introduction of the code of goods in the TIR Carnet (according to the Harmonized Commodity Description and Coding System).

- TIR guarantee level is not sufficient. Suggestion: increase level of TIR guarantee to € 100,000.

## IV. Brief analysis of the results

### A. Customs claims statistics and comparison with the results of the 2007 survey

6. By comparing the number of TIR Carnets issued in 2007–2010 (11,382,750) and the total number of claims against guarantee associations (802) for the same period, the claim rate may be calculated as 0.007% (one claim per 14,193 TIR Carnets issued).

7. The table below provides a summary comparison between the results of the 2011 and 2007 surveys. Considering that the 2007 survey was covering a period of three years and the 2011 survey covers a period of four years, the table presents annual averages instead of totals. On the one hand, figures show that the number of claims as well as the average claim amount continue to fall. The first claims survey in 2002 showed that, over the period 1999–2001, 0.043% of TIR Carnets led to a claim. This rate dropped to 0.026% in the period 2004–2006, according to the 2007 survey, and reached 0.007% in the 2007–2010 period according to the current survey; in other words more than six times lower than the rate reported in the first survey. Furthermore, the average claim amount dropped by more than 30%, compared to the figures from the 2007 survey. On the other hand, the annual average number and amount of paid claims has increased significantly when compared to the figures from 2007 but remains less than half of the figures reported for the period 1999–2001 (237).

Table 13

#### Comparison of the 2007 and 2011 surveys

	<i>2011 survey</i>	<i>2007 survey</i>
Average number of lodged claims per year	201	866
Average amount of lodged claims per year (€)	3 630 378	22 625 657
Average number of claims paid per year	91	58

	2011 survey	2007 survey
Average amount of claims paid per year (€)	1 705 851	853 984
Average value of lodged claim (€)	17 992	26 142
Claim rate (1 per # issued carnets)	14 193	3 900

## B. Comparison with the IRU claim statistics

8. The first four columns of the table below present the figures as they have been reported by IRU to WP.30 at the beginning of each calendar year. Considering that the number of claims pending at the end of any year should be equal to the number of pending claims from the year before plus the number of new claims minus the number of cases closed either through payment or withdrawal of claims, the following two columns in the table calculate the number of pending claims and the number of new claims. The column (e) presents the number of claims reported through the survey.

Table 14

### Comparison of IRU statistics with the results of the TIRExB survey

	IRU Statistics				Recalculated pending TIRExB survey	
	New claims	Paid claims	Closed without payment	Pending claims	claims	new claims
T	(a)	(b)	(c)	(d)	$(d)_{t-1} + (a)_t - (b)_t - (c)_t$	(e)
2010	240	101	339	6 586	6 578	202
2009	178	126	59	6 778	6 871	212
2008	168	89	240	6 878	6 856	230
2007	NA	93	208	7 017	6 837	158
2006				7 138		

9. Considering that not all TIR Contracting Parties replied to the survey, the number of new claims reported by IRU (a) should be close to but greater than the number obtained in the survey (e). This is not the case for all years and could be due to the fact that Customs and the IRU do not apply the same date to register claims.

10. More surprising is that the numbers reported by IRU from one year to the next do not seem to add up, possibly due to revisions in the numbers of pending claims from previous years. In this respect, it seems appropriate to also request from IRU statistics on periods of more than one year. Furthermore, the survey shows that 150 claims raised during the period 2007–2010 are still pending. Despite the gradual reduction in the number of pending claims reported by IRU in recent years, still 6,436 of those claims seem to date back from before 2007. In order to have a better understanding of the origin of those pending claims, the secretariat advises that a next survey should request more detailed information on pending claims and, in particular, request information over longer periods of time. TIRExB may wish to consider this issue further while keeping in mind the discussions that took place in WP.30 (TRANS/WP.30/212, paras. 35–38; TRANS/WP.30/214, paras. 48–51) as well as the document transmitted by the IRU on the settlement of claims for payments covered by the old insurance pool (TRANS/WP.30/2004/17).

11. On 7 May 2012, at the request of the Board, the secretariat met with IRU to discuss discrepancies between the results of the TIRExB survey and the figures provided by IRU to

WP.30 as well as some inconsistencies between the figures reported by IRU in different years. The following issues have been identified as potential reasons for the discrepancies:

(a) Not all 57 Contracting Parties responded to the TIRExB survey. Out of the 42 that responded, only 24 Contracting Parties reported having claim cases. By comparison, IRU registered claims in 31 countries in 2007, and 29 in 2010;

(b) Most likely, Customs authorities register claims according to the date of issuance of the claim, whereas IRU uses the date of receipt of the claim by the national guaranteeing association;

(c) In some cases, more than one Customs claim is notified to the national guaranteeing association for the same TIR Carnet (first Customs claim, second Customs claim correcting the first Customs claim, etc.). This can lead to confusion over the dates of Customs claims;

(d) Some Contracting Parties might have included, by mistake, claims addressed persons directly liable in the claims sent to national guaranteeing associations;

(e) Miscommunication between local and central Customs administrations might have occurred, for example concerning dates and/or numbers of Customs claims;

(f) Some discrepancies can be due to the current software used by IRU for claims handling which provides only limited facilities for statistical reporting.<sup>3</sup>

12. Furthermore, the reason for the inconsistency between figures reported by IRU in 2008 and 2009 might be due to the fact that numerous claims were reimbursed by IRU in Turkey and taken out from IRU's global statistics database of pending claims. However, for all those TIR Carnets (more than 60 cases), additional claims were then received during the same period because of a new tax introduced in that country. Consequently, IRU did not report any of these cases as closed with or without payment to WP.30 at that moment, as new proceedings had started in courts. Although this is a very specific situation, IRU will do its utmost so that such discrepancies will not reoccur.

13. Finally, IRU is ready to provide WP.30 with data covering extended periods of time (rather than just for a single year) to make its statistics more relevant and avoid inconsistencies.

### C. TIR guarantee level

14. The results of the survey should be considered in the light of the ongoing WP.30 discussions concerning a possible increase of the TIR guarantee in non-EU countries from € 50,000 to € 60,000. The arguments and suggestions by some non-EU countries reproduced in Section C.2 above are self-explanatory.

15. The table below provides examples of the evolution of the value of US\$ 50,000 from 1975 to 2009 in various countries (the countries in the table are active TIR Contracting Parties which have complete time series in the IMF statistics database over the whole period – data for the United States are provided as reference). The values are calculated as follows:

- US\$<sub>1975</sub> 50,000 are converted to national currencies (NC) using the 1975 NC/USD exchange rate;<sup>4</sup>

<sup>3</sup> The IRU is currently developing new software which will allow greater extraction facilities for statistical data. The software is expected to be deployed by the end of the year.

<sup>4</sup> National Currency per U.S. Dollar, end of period (source : IMF)

- National inflation rates<sup>5</sup> are applied to calculate the real value in NC;
- The real value in NC is then divided by the exchange rates of the given year to calculate the equivalent dollar value.

Table 15

**Evolution of the real value of US\$<sub>1975</sub> 50,000 in selected countries**

	1975	1980	1985	1990	1995	2000	2005	2009
Belgium	50 000	85 326	75 044	135 400	160 930	118 555	166 895	220 602
Denmark	50 000	84 241	82 709	155 775	178 788	138 596	193 746	256 336
Finland	50 000	83 484	89 211	169 352	157 210	115 769	155 852	206 202
France	50 000	81 816	77 354	132 713	155 066	114 460	159 474	206 810
Greece	50,000	81 446	65 592	136 824	174 127	143 003	213 901	292 375
Hungary	50 000	92 065	86 664	133 450	181 219	179 043	317 502	446 845
Ireland	50 000	90 583	105 846	177 730	182 025	151 875	228 912	302 874
Israel	50 000	51 505	58 326	124 189	148 241	156 454	149 107	201 672
Italy	50 000	78 371	82 645	161 719	147 354	126 542	180 829	239 086
Jordan	50 000	92 732	101 088	86 885	100 336	114 959	129 526	165 324
Malta	50 000	81 891	79 485	120 326	121 202	109 905	149 656	201 738
Netherlands	50 000	84 703	79 821	135 771	163 585	123 181	176 653	229 920
Norway	50 000	80 636	84 879	147 467	155 038	124 056	176 833	226 338
Portugal	50 000	68 865	65 867	132 893	167 544	132 286	196 052	257 287
Spain	50 000	88 440	80 944	176 151	180 846	139 730	207 577	279 581
Switzerland	50 000	83 383	87 324	158 438	208 383	152 029	197 470	261 343
Turkey	50 000	60 730	47 931	80 175	71 641	100 245	171 423	218 119
United Kingdom	50 000	115 278	98 776	175 819	167 050	183 684	239 007	250 154
United states	50 000	76 540	99 948	121 367	141 547	159 954	181 404	199 281

**D. Other issues for consideration**

16. The ratio of claims withdrawn in the EU reaches on average 60% of the claims raised. When looking into detail at individual country reply, it appears that in one country 85 to 100% of the claims raised are withdrawn. Since the number of claims raised in that country is significant compared to the total number of claims raised in the European Union, that massive withdrawal of claims significantly affects the European average. Considering that these claims have passed through the stages of pre-notification and notification, TIRExB may wish to consult with the concerned Customs authorities in order to better understand the reasons behind this method to handle claims or to facilitate improving this situation.

17. In the EU 66% of the cases and outside the EU 85% of the cases, payment is made after the 3-month deadline stipulated by the TIR Convention. These numbers will actually increase in the course of time as some pending claims will eventually obtain payment one day. This seems to indicate that the exception has become the rule and, therefore, TIRExB may wish to consider if the TIR Convention should be amended to better take into account

<sup>5</sup> Consumer Prices, All items (source : IMF)

that more time is required to ensure that payment is made or if something should be done to ensure that, at least, the majority of payments is made before the 3-month deadline.

18. Contrary to the provisions of Article 4 of the TIR Convention, a number of countries have reported that additional guarantees are required when the TIR Carnet does not cover the totality of Customs duties and taxes. TIRExB may wish to provide its considerations on this practice.

## E. Pending claims

19. The current survey does not allow assigning a date to pending claims. Such information would give a clearer picture of the actual chance for Customs to eventually obtain payment of the claim as well as to allow a better understanding of how pending claim are handled over time. To that end, the TIRExB may want to amend the survey and introduce the following questions on pending claims:

“In the following table please indicate the *number* of claims pending at the end of each year in the column headers that were raised in the year (or time span) indicated in the line header:”

Claim raised in..	Pending claims at the end of...			
	2010	2009	2008	2007
2010				
2009				
2008				
2007				
2006				
2005				
2004				
2003				
2002				
2001				
2000				
1995–1999				
1990–1994				
1985–1989				
1980–1984				
1979 and before				

“In the following table please indicate the *amount* of pending claims due at the end of the year in the column header that were raised in the year (or time span) indicated in the line header:”

Claim raised in..	Pending claims at the end of...			
	2010	2009	2008	2007
2010				
2009				
2008				

Claim raised in..	Pending claims at the end of...			
	2010	2009	2008	2007
2007				
2006				
2005				
2004				
2003				
2002				
2001				
2000				
1995–1999				
1990–1994				
1985–1989				
1980–1984				
1979 and before				

## V. Considerations by TIRExB

20. At its fiftieth session, the Board took note of an earlier version of this document. It appreciated the efforts by the secretariat and the IRU to clarify various discrepancies between the data gathered by the TIRExB survey and the IRU statistics. The Board mandated the secretariat to further collaborate with IRU and compare the results of the TIRExB survey with the IRU statistics country by country in order to identify the origin of any divergences. Moreover, the Board took note of the evolution of the real value of the recommended guarantee amount of US\$ 50,000 since 1975 for a number of countries and requested the secretariat to continue its investigation by means of including in its overview, as far as possible, additional countries as well as the evolution of the € 60,000 guarantee amount. Furthermore, the Board took note that the figure of 60% of the claims raised in the European Union being withdrawn by Customs was mainly due to one single country and welcomed the initiative of the European Commission to address this issue. The Board agreed to include in future surveys two questions about pending claims, with the aim to clarify their origin. It agreed that the questionnaire should be conducted at least every two years, at the beginning of each new term of office of TIRExB.

21. A large percentage of claims are not paid within the three months deadline, as prescribed by Article 11, paragraph 3, and the Board was of the opinion that changing the deadline would not contribute to resolving the underlying issue. The Board requested the secretariat to further investigate the replies per country, with the aim to undertake a targeted promotion of the various existing examples of best practices dealing with claims, where possible.

22. The Board conducted a first round of discussions on the issue of conformity of the use of additional guarantees with the provision of Article 4 of the TIR Convention. Some TIRExB members were of the view that the provision of Article 4 was clear in stipulating that “goods carried under the TIR procedure shall not be subjected to the payment or deposit of import or export duties and taxes at Customs offices *en route*”. In their view, the scope of Article 4 was not only to avoid any payment or deposit of import or export duties and taxes but also to exclude the requirement of any guarantee in addition to the guarantee provided by the TIR Carnet. Other board members argued that, due to the absence in Article 4 of a specific reference to additional guarantees, a different legal interpretation

could be maintained. At the same time, the Board noted that in individual cases the costs of an additional guarantee could be lower than the costs of, for example, an obligatory escort. The Board also noted the possible correlation between the reduction, over time, of the real value of the recommended guarantee amount and the requirement of additional guarantees and escorts. The Board decided to pursue its discussions at the next session and requested the secretariat to prepare a document on the application of Article 4 of the Convention, for consideration at its next session (see Informal document TIRExB/REP/2012/50draft, paras. 13–15).

## **VI. Considerations by AC.2**

23. AC.2 may wish to take note of the result of the survey and support the various decisions of the TIRExB to follow up on the results of the survey.

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