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## Economic Commission for Europe

### Administrative Committee for the TIR Convention, 1975

#### Sixty-third session

Geneva, 10–11 February 2016

Item 7 (c) of the provisional agenda

#### Revision of the Convention:

**Amendment to the Convention with regard to  
the maximum level of guarantee per TIR Carnet**

## Amendment to the Convention with regard to the maximum level of guarantee per TIR Carnet

### Note by the secretariat

#### I. Background and mandate

1. At its sixtieth session (February 2015), the Committee was informed about the proposal of the Working Party on Customs Questions Affecting Transport (WP.30) which invited the Committee to mandate the TIR Executive Board (TIRExB) to consider the proposal to amend Annex 9, Part I, paragraph 3(ii) as well as Annex 8, Article 1 bis. The Committee was of the view that these amendment proposals were closely related to questions currently under discussion by the TIRExB and that its expert opinion would substantively assist Contracting Parties in their deliberations. Thus, the Committee decided to mandate the TIRExB to consider these proposals (ECE/TRANS/WP.30/AC.2/123, para. 24).

#### II. Considerations by the TIR Executive Board

2. Pursuant to this request, TIRExB commenced its considerations of these proposals in the context of its ongoing discussions at its sixty-third session (April 2015). Discussions continued during the sixty-fourth session (June 2015) and were finalized during the sixty-fifth session (October 2015).

3. The results of the assessment by TIRExB are contained in Informal document No. 11/Rev.1 (2015) final, which is attached as an Annex to this document. Particular reference is made to Part VI of the said document, in which TIRExB listed benefits and drawbacks of the various scenarios it has studied in the course of its assessment, the scenarios being: (1) Each country determines the maximum guarantee amount; (2) The

introduction of various guarantee levels; (3) Full guarantee coverage in all Contracting Parties; (3bis) Each country is free to set its own maximum guarantee amount or could decide not to set a maximum at all; (4) General increase in the recommended maximum guarantee amount; (5) use of additional guarantee/voucher.

4. At its sixty-fifth session (October 2015), TIRExB finalized its assessment of the above-mentioned scenarios to bring more flexibility to the TIR guarantee system, on the basis of the various proposals, submitted by the Russian Federation and others, which AC.2 had transferred to TIRExB. Although, in a nutshell, each scenario was found to have its own benefits as well as drawbacks, TIRExB, after in-depth analysis and discussions, came to the assessment that none of them seemed so beneficial to the TIR system that it would be possible for TIRExB to recommend Contracting Parties to amend the TIR Convention accordingly.

### **III. Considerations by the Committee**

5. The Committee is invited to consider and, possibly, endorse, the findings of TIRExB.

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**Annex**

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**TIRExB** Informal document No. 11/Rev.1 (2015) final

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**TIR EXECUTIVE BOARD (TIRExB)**  
**COMMISSION DE CONTROLE TIR (TIRExB)**  
**ИСПОЛНИТЕЛЬНЫЙ СОВЕТ МДП (ИСМДП)**

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**Administrative Committee for the TIR Convention, 1975****TIR Executive Board (TIRExB)**

**Sixty-fifth session**  
Geneva, 5 October 2015  
Agenda item III

**Application of specific provisions of the TIR Convention****Consideration of amendment proposals**

Note by the secretariat

**I. Mandate**

1. At its sixtieth session (February 2015), AC.2 had been of the view that the proposals by the Russian Federation to amend Annex 9, Part I, paragraph 3 (ii) as well as Article 8, paragraph 1 were closely related to issues on the introduction of various guarantee levels (20,000, 60,000, 100,000, 200,000 euros and, possibly, full guarantee coverage) or the use of additional guarantees, currently under discussion by TIRExB and, therefore, mandated the Board to consider them. Pursuant to this request, TIRExB commenced its considerations of these proposals in the context of its on-going discussions at its sixty-third session on 8 and 9 April 2015.

2. After this first round of discussions, TIRExB requested the secretariat to extensively reflect the findings of the Board in its report, which would then serve as a basis for an informal document for preliminary discussions at the June 2015 session of AC.2. The Board also requested the secretariat to include in the draft informal document the pros and cons for each of the envisaged options: (1) each country determines independently the recommended maximum guarantee amount; (2) the introduction of various guarantee levels (at 20,000 euros, 60,000 euros, 100,000 euros and 200,000 euros); (3) unlimited guarantee coverage; (4) general increase of the maximum guarantee amount. In line with this request, the present document provides an overview of the discussions of the Board on these issues, together with the preliminary findings on each identified option.

## **II. Background and summary of prior discussions by the Board**

### **A. 2005–2006**

3. In 2005, TIRExB held a first exchange of views on the issue whether or not the TIR guarantee level per TIR Carnet established in 1975 corresponds to the current needs of customs authorities with regard to the protection of the state revenues. Although several members of the Board at the time were of the view that the guarantee amount of 50,000 US dollars is insufficient, it was also pointed out that the TIR guarantee per TIR Carnet should not be regarded as a full guarantee. In the event of an infringement, customs claim the total amount of customs duties and taxes from the TIR Carnet holder or any other identified directly liable person. In addition, the TIRExB was informed that some Contracting Parties were of the view that the present guarantee level is too high for typical products from their countries and leads to unjustified costs for transport operators using TIR Carnets. If the guarantee level was raised, that would inevitably lead to even more expensive TIR Carnets.

4. The Board decided to continue its discussions on this issue in subsequent sessions and, in particular, to consider the following options:

- possible introduction of a lower guarantee level for certain countries (regions);
- possible general increase in the TIR guarantee level;
- possible introduction of a guarantee arrangement similar to the voucher system of the EU, where vouchers can be staggered on top of each other (see ECE/TRANS/WP.30/AC.2/2006/5, paras. 28–32).

5. Among other considerations, TIRExB, also noted in 2006 that in the vast majority of TIR operations, an amount of 15,000 – 20,000 US dollars would be sufficient to guarantee the duties and taxes at stake. As far as the possible introduction of a lower guarantee level for certain countries (regions) is concerned, the Board was of the view that such a regional approach would be contrary to the global nature of the TIR Convention, would ruin the equilibrium and the mutual recognition of the risks and would induce inappropriate management costs, as well as potential discrimination.

6. As a general conclusion at that time (2006), the Board was of the view that the TIR guarantee level was enough and that the Convention provides for adequate additional measures to protect customs revenue even in situations where the amount of duties and taxes due exceeds the guarantee limit. However, it was also recognized that such additional national control measures, in particular customs escorts, had always been subjected to criticism by the transport industry and other Contracting Parties, and that raising the guarantee level would spare the need of these measures (see ECE/TRANS/WP.30/AC.2/2006/16, paras. 23–25).

### **B. 2013 to present**

7. In December 2013, the Board re-introduced the issue of more flexible guarantees by way of discussing the use of additional guarantees. The majority of TIRExB members were of the firm opinion that Article 4 is clear in prohibiting any form of additional guarantee/deposit/security (or, whatever other term used), as this would be contrary to the philosophy of the TIR Convention as global facilitation tool, which provides a selected group of transport companies (TIR Carnet holders, duly authorized by national customs authorities), with a single, internationally valid, customs declaration as well as a single, internationally valid, guarantee. Consequently, the Board found that the most appropriate way out to solve the ongoing issue of insufficient guarantee coverage seemed to be by

raising the maximum sum per TIR Carnet in accordance with Article 8, paragraph 3 (see ECE/TRANS/WP.30/AC.2/2014/7, para 21).

8. In subsequent sessions, TIRExB took note of new products that IRU was considering to launch in the near future, such as: TIR Carnets with lower or higher guarantee levels, extending the TIR+ voucher system to more countries, the introduction of a special TIR Carnet for high value goods and TIR Carnets for multi-discharge. Various TIRExB members reiterated the view that, although sympathetic, in principle, to the fact that IRU is working on extending its range of products, such products cannot be marketed as ‘TIR’ (meaning: related to the TIR procedure), if their aim is to provide solutions for situations which are not entirely in line with the provisions of the TIR Convention, such as, in particular, the case of additional guarantees (see ECE/TRANS/WP.30/AC.2/2015/1, paras 9–11).

9. As discussions progressed in 2014, various TIRExB members pointed at the difference between flexible guarantees (i.e. the introduction of various guarantee levels) and additional guarantees (i.e. obligation of TIR operators to furnish national customs authorities with a guarantee that supplements the international guarantee stipulated by the TIR Convention). TIRExB also considered that the current guarantee system seems sufficiently flexible, as it allows each Contracting Party to decide on the recommended limit of the guarantee. However, some TIRExB members expressed the fear that higher guarantee limits could lead to higher prices for TIR Carnets and, consequently, increased costs of TIR transports.

10. On a general note, TIRExB agreed that, despite the fact that the average claim rate suggests that the current guarantee level is sufficient for the majority of TIR transports, a more flexible approach seems warranted. This flexibility could be achieved by means of: different levels of guarantee, the use of more than one TIR Carnet per TIR transport (voucher system) or the introduction of a transaction based, comprehensive guarantee. In this context, TIRExB requested the IRU to undertake a thorough study and to provide additional information on potential costs and implications, particularly for scenarios of various guarantee limits (20,000, 60,000, 100,000 and 200,000 euros) (see ECE/TRANS/WP.30/AC.2/2015/2, paras 12–13).

### III. Overview of the TIRExB claims surveys

11. The issue of the guarantee level was, eventually, included in the TIR claims survey over the years 2004–2006 and resulted in the following observations by the Board:

- since 2002, an average submitted claim has raised by 60 per cent from US\$ 21,900 to 34,730;
- an average claim in the EU corresponds to 21 per cent of the EU guarantee level, while an average non-EU claim is equal to 77 per cent of the non-EU guarantee level;
- more than a half of non-EU countries apply additional control measures in case the guarantee level is exceeded. Some of these measures do not seem to comply with the provisions of the TIR Convention (see ECE/TRANS/WP.30/AC.2/2008/4, paras 15–18).

12. More information on the guarantee level stems from TIRExB Informal document No. 2 (2012)/Rev.1 on the results of the 2007–2010 claims survey, which contains, inter alia, the following table, providing examples of the evolution of the value of 50'000 USD 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:

1. 50,000 USD<sub>1975</sub> are converted to national currencies (NC) using the 1975 NC/USD exchange rate<sup>1</sup>.
2. National inflation rates<sup>2</sup> are applied to calculate the real value in NC.
3. The real value in NC is then divided by the exchange rates of the given year to calculate the equivalent dollar value.

	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
<i>United States</i>	<i>50 000</i>	<i>76 540</i>	<i>99 948</i>	<i>121 367</i>	<i>141 547</i>	<i>159 954</i>	<i>181 404</i>	<i>199 281</i>

13. In addition, the survey revealed that, for the period of 2007–2010, an average submitted claim amounted to € 17,110. (EU), € 18,874 (Non-EU) and that the average claim amount had dropped by more than 30 per cent, compared to the figures from the 2007 survey.

14. The latest survey covers the period 2009–2012 (see TIRExB Informal document No. 21 (2014)/Rev.1). The results show that, in most cases, the guarantee level seems to be satisfactory. Only four countries indicated that the guarantee limit represents or could, in the future, represent a problem and propose to either remove the limit or find ways to increase the level. At its sixtieth session (September 2014), the Board regretted that important users of the TIR system had failed to submit their data, thus making it hard, if not impossible, for the Board to judge the outcome of the survey or to compare data with previous surveys. However, assuming that claims in countries, which had not replied to the survey, were similar to those in responding countries, the average claim amount had

<sup>1</sup> National Currency per U.S. Dollar, end of period (source : IMF)

<sup>2</sup> Consumer Prices, All items (source : IMF)

increased by more than 30 per cent to € 23,677, as compared to the previous survey but was still below the € 26,142 of the 2007 survey.

#### **IV. Considerations by the Board in light of the amendment proposal by the Russian Federation**

15. As discussions on this issue were ongoing in TIRExB, AC.2 mandated the Board to review and provide expert input to the discussions on the proposals to amend Annex 9, Part I, paragraph 3(ii) and Article 8, paragraph 1, submitted by the Russian Federation. More specifically, the proposals are as follows:

Annex 9, Part I, paragraph 3 (ii)

*For* determined by the Contracting Party which may be claimed from the national association *substitute* which may be claimed from the national association if a maximum amount is determined by the Contracting Party

16. As explanation for this proposal, the Russian Federation states that, recently, there have been many cases where the amount of the customs duties and taxes at stake of the goods transported under cover of a TIR Carnet exceeded the amount that could maximally be claimed from the guaranteeing association. This leads to additional customs procedures for national customs authorities, including the prescription of the use of a customs escort. In addition, in case heavy duty goods get lost, customs face significant difficulties in collecting the full amount of the customs duties and taxes due, which is detrimental to the budget of the Russian Federation. The proposition of the Russian Federation is to allow Contracting Parties to either fix themselves the maximum amount of customs duties and taxes which should be covered by their national guaranteeing association, or if no maximum is determined, to assume full coverage by default. This, in the view of the Russian Federation, would speed up the average processing time for customs treatment of TIR Carnets at Russian borders and lead to the full recovery of customs duties and taxes for the Russian state budget (See ECE/TRANS/WP.30/2014/17, point 1).

17. The proposal by the Russian Federation is complemented by a further amendment proposal in the main text of the Convention, to the same effect:

Article 8, paragraph 1, line 2

*After* amount *insert* and, if no such an amount has been set, the full amount

18. Both proposals aim at the possible introduction of full guarantee coverage for the liability of national guaranteeing associations in the TIR Convention, whereas, at present, their liability is limited to a single, flat rate guarantee amount at a level determined at the national level. In order to address any such major change in the application of the TIR Convention, TIRExB considered the proposals, bearing in mind the following aspects:

(a) The impact of full guarantee coverage on the role and functioning of the TIR Convention as a whole, particularly bearing in mind that the scope of the TIR Convention is to provide countries from all over the world, independent of their level of economic development, a fully functional yet cost-effective global transit system;

(b) Financial implications of the introduction of full guarantee coverage. In this context, it would be necessary for IRU to extend its ongoing assessment on the costs of TIR Carnets with various guarantee limits;

(c) The impact of the introduction of various guarantee limits on the border crossing facilitation aspect of the TIR Convention. The availability of various guarantee limits would have as direct consequence that customs offices of entry en route would

become responsible to assess if the guarantee limit of the TIR Carnet is sufficient. This would require additional documentary checks (to determine the customs value) and, possibly, also physical checks (to determine the HS code);

(d) The developments of Information and Communications Technology (ICT) and the computerization of the TIR procedure provide a unique opportunity to introduce a new paradigm in the provisions of the TIR Convention: unlimited guarantees, the price of which would depend on the actual duties and taxes of the goods transported. While guarantees would have no limit in the agreements between national guaranteeing associations and customs administrations, it would be up to the national guaranteeing associations and the international organization to set the price for the guarantee which would be purchased and used by the transport operator. This would allow for maximum flexibility, as transport companies would pay exactly the amount required to guarantee the payment of the duties and taxes of the goods they are actually transporting. Furthermore, this would completely remove the need for customs authorities to verify that the guarantee provided by the transport company is sufficient to cover the duties and taxes in case of infringement.

## V. 2015 discussions

19. As a starting point, TIRExB, at its sixty-third session (April 2015) reviewed the preliminary results of a – still ongoing – analysis by IRU on the level of the guarantee. TIRExB noted that there seems to be a strong interest in having more flexibility in the guarantee level. The analysis of 595 claims, addressed at TIR Carnet holders for TIR Carnets issued between 2008 and 2014, showed that in more than 50 per cent of cases the duties and taxes did not exceed 10,000 euros, whereas a guarantee of more than 60,000 euros was needed in 14 per cent of cases. The analysis of TIR-EPD data sent to the customs authorities of Belarus (being one of the main users of the TIR-EPD system) in the first two months of 2015 showed similar, i.e that the average amount of customs duties and taxes per TIR Carnet were approximately 30,000 euros, whereas only in 10 per cent of the cases the guarantee limit of 60,000 euros was exceeded. In the course of this part of the discussion, the Board was of the general view that:

(a) It would be necessary for the IRU to provide, as soon as possible, approximate estimates of the prices of TIR Carnets in case various guarantee levels were introduced, as well as a breakdown of the components of the current price of TIR Carnets. While the complexity of the endeavour was explained on the part of the IRU and duly noted by the Board, the IRU committed to delivering the required information in a timely manner.

(b) The TIR+ solution, offered by IRU to meet growing demands from certain countries for higher guarantees, is not regulated by the provisions of the TIR Convention. The Board recalled that Contracting Parties have the right to raise the maximum guarantee amount, in case they are of the view that the currently recommended maximum amount of 50,000 US dollars is not enough.

20. The Board also addressed the necessity for higher guarantee levels and noted information that in Belarus, the Russian Federation, Ukraine as well as in several other countries, transports under cover of a TIR Carnet are only allowed when the calculation by customs inspectors at the borders confirms that the amount of customs duties and taxes at stake does not exceed 60,000 euros. For transports with higher duties and taxes at stake, transporters must resort to guarantees under the provisions of national law. Such procedures are intended to protect the state budget. With this in mind, the Board acknowledged the overall importance of safeguarding state revenues and agreed that the introduction of full guarantee coverage would provide the TIR system with maximum facility for the customs

administrations. However, in its view, this development might lead to a substantial increase in the price of TIR Carnets and potentially jeopardize the facilitation value of the system and, therefore, requires careful assessment.

21. The Board also noted that it would be important not to lose sight of the central role of the TIR Carnet holder in the discussions. The holder is and remains the main debtor under the provisions of the TIR Convention and all efforts should be aimed at ensuring that he fully honours his responsibilities. The introduction of full guarantee coverage would, most likely, change the relationship between national associations and their authorized holders and could, potentially, lead to the formulation of stricter selection criteria. In this context, the Board agreed that the discussions of TIRExB should not be limited to the issue of guarantee, as the topic cannot be judged in isolation, but should be conducted against the bigger picture of issues such as the security of TIR transports and the criteria for access to the TIR procedure.

22. The Board also remarked on the fact that several major users of the TIR system had not responded to the 2013 TIRExB claims survey, which included a part on the guarantee level, thus limiting the capacity of the Board to substantively and objectively assess the results that would be relevant to the current discussion. However, the Board agreed that all available results should be used in as far as they can yield representative conclusions (See Part V). In this respect, the Board called upon all Contracting Parties to respond to the forthcoming one, to be launched in the course of 2015, covering the years 2011–2014. Having taken stock of the above considerations, the Board summarized its preliminary findings, as reflected in table, presented as Part VI of this document (see ECE/TRANS/WP.30/AC.2/2015/19, paras. 13–23)

23. At its sixty-fourth session, TIRExB took note of the preliminary analysis by IRU of introducing various guarantee levels. The possible impact thereof on the TIR insurance premiums (paid by IRU to AXA Assurances SA to provide guarantee coverage) could range from –10/–5 per cent for 20,000 euros TIR Carnets, 0/+5 percent for 60,000 euros TIR Carnets, +20/+25 per cent for 100,000 euros TIR Carnets to a potential increase of +35/+40 percent for 200,000 euros TIR Carnets, depending on the number of TIR Carnets used per guarantee level and the number of vouchers per TIR Carnet (4, 6, 14 or 20), amounting up to twenty different scenarios. In the view of IRU, such complexity would increase the workload for IRU and its member associations and, thus, would undoubtedly increase the operational costs, perhaps even up to +15 per cent for the TIR Carnet distribution price, invoiced by IRU. In addition, introducing a flexible guarantee system would require a number of legal and financial adjustments, such as, but not limited to, amendments of the national guaranteeing agreements, as well as creating many practical problems for TIR Carnet holders and customs authorities in determining which TIR Carnet to use for a particular TIR transport. In conclusion, based on the described assessment, it appeared, in the view of IRU, that introducing flexible guarantee levels leads to an increased level of complexity of the system, with little or no real advantages for the public and the private sector. Based on the experiences with its TIR+ voucher pilot, IRU stated that a general global increase of the guarantee level to, for example, 100,000 euros seemed to provide an appropriate solution to safeguard the TIR system in the nearest future.

24. TIRExB extensively reviewed the assessment by the secretariat in Informal document No. 11 (2015) and, in particular, the various scenarios as identified by the Board at its previous session. In summary, TIRExB had the following comments regarding the individual scenarios”:

Scenario 1:

- Refine the wording of the scenario to better reflect the Russian proposal;

- Add as pro that having unlimited guarantee coverage would lead to an important decrease in transport costs, due to the speedier crossing of borders, despite the fact that the price of TIR Carnets would rise;
- Add as con that a combination of unlimited guarantee for some countries, combined with varying or fixed guarantee levels in other countries would be extremely difficult to administer.

Scenario 3:

- Reflect that the term ‘unlimited’ seems inaccurate, considering that the guarantee is a financial instrument, linked to coverage by insurance. Calculating the premium for such unlimited insurance coverage is impossible;
- Add as pro that the introduction of full guarantee coverage would not change the principles of the TIR Convention, considering that the TIR Convention not only deals with financial issues but also with issues of customs security;
- Add as a con that this scenario would become too expensive for small and medium companies to continue conducting TIR transports;
- Add as con the general problem of calculation and verification in case the real amount of customs taxes and duties would form the basis for deciding the level of the guarantee in the TIR Convention;
- Add as con that other elements of the Convention, such as the use of approved vehicles, application of customs seals, selection of operators, would lose their relevance in case the guarantee coverage would be unlimited;
- Add as con that such expensive transit system would be incompatible with the general concept of the TIR system as global transit system;
- Add as a con that the introduction of unlimited guarantee coverage, in combination with a considerable increase in the price of TIR Carnets, could make the TIR system lose its competitiveness with other transit systems;
- Add as con that introducing the general requirement of unlimited guarantee for all TIR transports would only serve those two percent of cases where the amount of customs duties and taxes amounts to more than 60,000 euros, whereas it would create a heavy burden for all other transports, both for customs and for the transport sector.

Scenario 5:

- This scenario should be reworded in order to reflect that, according to Article 4, the TIR Convention only allows for a single, internationally valid guarantee;
- Add as a pro that additional guarantees should be considered as an alternative form of escort.

25. In conclusion, the Board requested the secretariat to:

- (a) Amend the text of Informal document No. 11 (2015) with the findings of the Board at this session, in particular with regard to the various pros and cons of each option;
- (b) Refine the description of option (1) and change the wording of option (5);
- (c) To include references to the TIRExB surveys on customs claims, including the fact that major countries, among which those that advocate that changes in the guarantee level are required, had not contributed to the last survey;

(d) To reflect that rather than imposing unlimited guarantee, solutions need be found which ensure the collection of all customs duties and taxes (Informal document TIRExB/REP/2015/64, paras. 6–11).

26. At its sixty-fifth session (October 2015), the Board continued its assessment of the various scenarios, identified at its previous sessions as possibilities to introduce more flexibility in the TIR Convention on the basis of Informal document No. 11/Rev.1 (2015) by the secretariat.

27. In her introductory statement, the Chair carefully formulated that, so far, the assessment of the Board seemed inconclusive to warrant a change from the current guarantee system. On that note, she hoped that the Board could finalize its assessment at the current session, so that it could be officially transmitted to the TIR Administrative Committee, for consideration at its next session.

28. In general, the Board could agree to this approach, but requested the secretariat to:

(a) replace paragraph 20 of the document by a succinct summary, reflecting the gist of the discussions rather than elaborating the interventions of individual TIRExB members;

(b) amend the text with the findings of the Board at the present session;

(c) update and regroup the consolidated table of pros and cons in accordance with the comments of the Board at the current session;

(d) circulate a final draft of the revised document among TIRExB members for their approval prior to transmitting it to AC.2 for further consideration.

29. With regard to the various scenarios, the Board requested the following changes:

Scenario 1:

- Scenario 1a should be reformulated as separate scenario<sup>3</sup>, in order to better reflect the Russian proposal;
- Indicate that full guarantee coverage would deviate from other legal instruments dealing with transit, such as the Revised Kyoto Convention or the Trade Facilitation Agreement;
- Mention that the Russian proposal requires amendments to the Convention;
- Add a new con to (reformulated) scenario 1, stating that the introduction of full guarantee coverage by some Contracting Parties would undermine the competitiveness of the TIR system.

Scenario 2:

- Add as a pro the possibility to introduce not four but just two different guarantee levels. This would provide flexibility to the system without necessarily leading to an increase in costs;
- Add as new con that the introduction of, for example, four different guarantee levels, in combination with four different types of TIR Carnet would greatly complicate the administration of the TIR system for IRU, with the risk that the distribution price would increase;

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<sup>3</sup> The secretariat proposes to reformulate the Russian proposal as a new sub-scenario under option 3 rather than as a new scenario, in order to maintain the order of scenarios as established by TIRExB at its sixty-third session (ECE/TRANS/WP.30/AC.2/2015/19, para. 23).

- Add as a new con that the manageability of a differentiated system of guarantee levels is greatly complicated by the absence of computerization.

Scenario 3:

- Reformulate pro number (iii) to read “Guarantee associations could tailor the price of TIR Carnets to the amount of duties and taxes required for the goods to be transported and the itinerary to be followed”;
- Add as a new pro that this scenario could be beneficial to operators with a good reputation, whereas it is a con for newcomers;
- Add a new pro that scenario has little impact on transport operators whereas it offers more security for customs;
- Reformulate pending issue (ii) to read “exact impact on TIR Carnet prices, the guarantee chain and TIR Carnet holders should be assessed”.

Scenario 4:

- Add a new pro that scenario has little impact on transport operators whereas it offers more security for customs;
- Replace in con (ii) “likely” by “possibly”;
- Under con (iii), replace vouchers” by “guarantees”;
- Replace in con (iv) “do not” by “might not”.

Scenario 5:

- Add the term ‘guarantee/’ to the title;
- Replace in con (ii) “insecurity” by “uncertainty”;
- Add a new con, stating that TIR Carnet holders will have to assess, prior to the start of a TIR transport, the requirement of additional guarantee/ vouchers for all countries involved in the transport;
- Add, as a footnote, that the TIR+ system is an IRU project and not part of the Convention.

30. TIRExB concluded its assessment of the various scenarios and decided that a finalized version of Informal document No. 11/Rev.1 (2015) should be submitted to AC.2 for its consideration (Informal document TIRExB/REP/2015/65draft, paras. 7–11).

## VI. Consolidated table of pros and cons per scenario

<i>Option</i>	<i>Pros</i>	<i>Cons</i>	<i>Pending Issues</i>
(1) Each country determines the maximum guarantee amount.	<p>(i) Not against the provisions of the TIR Convention.</p> <p>(ii) Is already in practice in various countries (although when established, the amounts of 50,000 US dollars, 60,000 euros and 100,000 Swiss francs were equivalent).</p> <p>(iii) Allows Contracting Parties (CP) to adapt the maximum guarantee amount to their actual needs, taking into account the particulars of the national market (e.g. transports of high value goods).</p> <p>(iv) The necessity to require escorts or additional guarantees/vouchers could be reduced.</p> <p>(v) Offers maximum security for customs authorities that would put the highest possible amount.</p> <p>(vi) This option could be combined with option 4.</p>	<p>(i) The costs of the guarantees are paid uniformly by TIR Carnet holders from all CP but CP with high level of guarantees have less risk of losing duties and taxes.</p> <p>(ii) The use of escorts (or other national measures) might still be required in cases where the guarantee limit is exceeded.</p> <p>(iii) An increase in the maximum level in some countries may result in a general increase in the price of TIR Carnets.</p> <p>(iv) Setting a very high amount could result in higher risks for the guarantee chain, which could not only be reflected in the TIR Carnet price, but also in the bank guarantee required from operators by national associations. This could potentially negatively impact small and medium enterprises.</p> <p>(v) Different levels of guarantee may result in further differentiation of national conditions and requirements for national transport operators to become authorized TIR Carnet holders.</p> <p>(vi) In case many countries set the amount so high (above the highest possible claim amount), this option will equal, de facto, option 3.</p> <p>(vii) Setting a very high maximum guarantee amount would undermine the competitiveness of the TIR system.</p>	<p>The impact of different maximum guarantee levels on the overall guarantee chain and TIR Carnet price should be assessed.</p>
(2) the introduction of various guarantee levels (at 20,000 euros, 60,000 euros, 100,000 euros and 200,000 euros)	<p>(i) Flexibility for operators in order to avoid escorts or the use of additional vouchers.</p> <p>(ii) Reduced costs for operators transporting low-duty goods, assuming that the lower guarantee level will be reflected in the TIR Carnet price.</p>	<p>(i) It requires significant amendments to the TIR Convention.</p> <p>(ii) At present, there is no requirement to provide value or HS code in the TIR Carnet, necessary for the calculation of customs duties and taxes.</p> <p>(iii) TIR Carnet holders will have to calculate the</p>	<p>(i) Incorporation into the legal framework must be assessed.</p> <p>(ii) The financial impact on the</p>

<i>Option</i>	<i>Pros</i>	<i>Cons</i>	<i>Pending Issues</i>
	<p>(iii) The introduction of only two different guarantee levels (e.g. 60,000 and 200,000 euros) would increase the flexibility of the system without necessarily leading to an increase in costs.</p> <p>(iv) Based on the information provided to TIRExB, only a limited number of transports would require a 100,000 or 200,000 euros TIR Carnet.</p> <p>(v) A fully computerized environment (eTIR) would be beneficial for such implementation.</p> <p>(vi) This option would offer state budgets more security in case of many high value goods transports.</p>	<p>duties and taxes in every country of transit to select the proper guarantee level</p> <p>(iv) Additional vouchers or escorts may not be avoided if it is determined at an entry point en route that the selected guarantee level is not sufficient.</p> <p>(v) Verification by customs at every border crossing point of entry that the TIR Carnet holder has selected the appropriate level of guarantee could, possibly, result in border delays in countries that, at present, do not calculate the amount of customs duties and taxes for each transport.</p> <p>(vi) Could complicate the application of the TIR system, considering that countries require different levels of guarantees for differing groups of goods or may move goods from one group to another unexpectedly. This could lead to unreliability and instability of the TIR system.</p> <p>(vii) The introduction of, for example, four different guarantee levels, in combination with four different types of TIR Carnets would greatly complicate the administration of the TIR system for IRU, with the risk that the distributions prices would increase.</p> <p>(viii) The manageability of a differentiated system of guarantee levels is greatly complicated by the absence of computerization.</p>	<p>guarantee chain (i.e. pricing of the different types of TIR Carnets) should be assessed.</p>
<p>(3) Full guarantee coverage in all Contracting Parties (imposed upon all Contracting Parties).</p> <p>(3bis) Russian proposal: Each country is free to set its own maximum guarantee amount or could decide not to set a maximum at all.</p>	<p>(i) Most straightforward solution for customs authorities. to ensure that no infringement will lead to a loss for the state budget</p> <p>(ii) For customs, there would be no reasons to limit the types of goods that can be carried under the TIR procedure.</p> <p>(iii) National guaranteeing associations could tailor the price of TIR Carnets to the amount of duties and taxes required for the goods to be</p>	<p>(i) Requires significant amendments to the TIR Convention.</p> <p>(ii) It could reduce the impact of the requirement for customs to seek out the person(s) directly liable before addressing the guaranteeing association.</p> <p>(iii) TIR Carnet holders might have to be selected on the basis of stricter criteria, imposed by the guaranteeing national associations, or</p>	<p>(i) Incorporation into the legal framework must be assessed.</p> <p>(ii) Exact impact on the TIR Carnet prices, the guarantee chain and TIR Carnet</p>

<i>Option</i>	<i>Pros</i>	<i>Cons</i>	<i>Pending Issues</i>
	<p>transported and the itinerary to be followed.</p> <p>(iv) It would reduce or eliminate the need to resort to escorts, additional guarantees/vouchers or reverting to national transit procedures.</p>	<p>required to deposit large amounts, thus potentially further restricting access to the procedure.</p> <p>(iv) The guarantee chain could exclude goods with high duties and taxes from its guarantee coverage if risks are too high, as is currently the case for the transport of tobacco and alcohol.</p> <p>(v) Absence of a guarantee limit might result in higher risks for the guarantee chain, which could not only be reflected in the TIR Carnet price, but also in the bank guarantee required from operators by national guaranteeing associations. This could potentially negatively impact small and medium enterprises.</p> <p>(vi) It could negatively impact the general concept of TIR as a global transit system.</p> <p>(vii) The absence of a guarantee limit might make it more complex for the guarantee chain to find financial backing from an insurance company or a financial institution.</p> <p>(viii) Full guarantee coverage would deviate from other legal instruments dealing with transit, such as the Revised Kyoto Convention or the WTO Trade Facilitation Agreement;</p>	<p>holders should be assessed</p>
<p>(4) General increase of the recommended maximum guarantee amount</p> <p>NOTE: This scenario differs from scenario 1, in that it proposes a general increase of the maximum guarantee amount for all Contracting Parties or, at least, for those countries which apply the recommended amount.</p>	<p>(i) Limited amendment of the TIR Convention (i.e. E.N 0.8.3 on the recommended maximum amount)</p> <p>(ii) Still allows CP to determine different guarantee limits.</p> <p>(iii) If the maximum recommended amount is set at a very high level, it would, de facto, equal option 3.</p> <p>(iv) It would allow CP to reflect the evolution of the real value of the 50,000 USD level of 1975 to today's equivalent.</p> <p>(v) Might have little impact on transport</p>	<p>(i) The criteria for the selection of the increased amount are not straightforward, as evidenced by previous attempts to agree on a higher recommended maximum amount.</p> <p>(ii) Possibly increase in the TIR Carnet prices.</p> <p>(iii) Still does not exclude the use of escorts in some countries or the use of additional guarantees/vouchers.</p> <p>(iv) The available statistics and national experiences, showing that there is only a limited number of transports where the current maximum level of the guarantee is exceeded,</p>	<p>(i) Impact on the TIR Carnet prices should be assessed</p>

<i>Option</i>	<i>Pros</i>	<i>Cons</i>	<i>Pending Issues</i>
(5) Use of additional guarantee/voucher.	<p>operators whereas it offers more security for customs.</p> <p>(i) This option has proved to work in some CP (both with nationally issued guarantees or with the TIR+ system<sup>4</sup>)</p> <p>(ii) It can provide a cheaper alternative to escorts.</p> <p>(iii) It provides more flexibility to ensure that the maximum liability is covered.</p> <p>(iv) No impact on general level of the guarantee, nor will it affect most transports. Tailored to the needs and requirements of national customs authorities.</p>	<p>might not justify a general increase.</p> <p>(i) Requires amendments to the TIR Convention.</p> <p>(ii) It goes against the general principle of Article 4 of the Convention, stipulating a single, internationally valid guarantee per TIR transport.</p> <p>(iii) Applying additional guarantees/vouchers could lead to more uncertainty for transporters and, possibly, additional delays, because only at the point of entry en route will the calculation by customs decide (possibly on the basis of risk assessment) if any additional guarantees/voucher(s) is required.</p> <p>(iv) Should not be used as a substitute for other available methods, such as Global Positioning Systems, in case such methods provide an equivalent level of security for customs and are cheaper for transporters.</p> <p>(v) TIR Carnet holders will have to assess, prior to the start of a TIR transport, the requirement of additional guarantees/vouchers for all countries involved in the transport.</p>	<p>(i) Impact on the TIR Carnet prices should be assessed</p> <p>(ii) The use of national vs international additional guarantees/vouchers should be analysed.</p>

<sup>4</sup> The TIR+ system is an IRU project and not part of the TIR Convention.

## **VI. Further considerations**

31. TIRExB is invited to take stock of the information available so far and to continue discussing the various options and possibly, amend the consolidated table. The Board is also invited to decide on whether the present document may be presented to the next session of AC.2 on 8 October 2015, as its final assessment of the issue.

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