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## **Economic Commission for Europe**

### **Administrative Committee for the TIR Convention, 1975**

#### **Sixty-fourth session**

Geneva, 12–13 October 2016

Item 3 (a) (i) 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**

#### **Note by the secretariat**

## **I. Background and mandate**

1. The TIRExB, at its sixty-fourth session, approved the final version of the survey on the TIR guarantee level and on the functioning of the TIR guarantee system for the period 2011–2014 and requested the secretariat to proceed with its distribution to Contracting Parties (TIRExB/REP/2016/64, para. 27). On 29 July 2015, the secretariat sent the questionnaire to TIR focal points with a deadline for reply before 30 November 2015.<sup>2, 3, 4</sup>

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<sup>1</sup> Due to inputs/replies received in September 2016, the secretariat has re-issued this document as Informal document WP.30/AC.2 (2016) No. 9. For this reason, the Committee is invited to take note of the present document in lieu of document ECE/TRANS/WP.30/AC.2/2016/14. The secretariat will issue the present document as ECE/TRANS/WP.30/AC.2/2016/14/Rev.1 for the next session.

<sup>2</sup> At its 65th session, the Board regretted that only 29 countries had responded to the online questionnaire and requested the secretariat to send a reminder to those countries that have not yet replied, requesting answers before the end of February 2016 (TIRExB/REP/2016/66, para. 26). A reminder was sent by the secretariat on 12 February 2016.

<sup>3</sup> At its 67th session, the Board regretted that only 36 countries had responded to the survey. The Board requested the secretariat to send an official letter to the Director Generals of those customs administrations that have not yet replied. A reminder was sent by the secretariat on 13 May 2016, urging countries to respond to the survey before 22 May 2016.

<sup>4</sup> At its 68th session, the Board noted that 42 countries had responded to the survey but regretted that, despite numerous reminders, important countries such as Romania and Ukraine still had not. The Board decided to transmit the summary results of the survey to AC.2, including data that will arrive before 31 July 2016, i.e. so that the document could be submitted as official document for the consideration of AC.2 at its October 2016 session, without any reference to specific countries. Furthermore, if so deemed necessary, the Board agreed to revert to the data, in case the secretariat would issue a second revision of the document.

## II. Replies

2 To date, the following 46 countries have replied to the questionnaire: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Ireland, Israel, Italy, Kazakhstan, Latvia, Lithuania, Luxembourg, Mongolia, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Out of the 46, 21 countries did not have claims to report.

## III. Results of the survey

3. All amounts provided in national currencies have been converted into €, using the exchange rates of 1 February 2016.<sup>5</sup> The following chapters present the aggregated results of the survey.

### A. Customs claims against national guaranteeing associations

#### General situation (number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	217	72	70	70
2012	152	65	51	38
2013	106	67	28	9
2014	248	85	25	136
<b>Total</b>	<b>723</b>	<b>289</b>	<b>174</b>	<b>253</b>

#### General situation (amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	5,374,295	1,789,692	1,231,617	2,455,705
2012	2,183,337	994,517	337,420	868,253
2013	2,271,507	1,863,981	167,386	208,572
2014	7,384,591	1,859,505	73,212	5,333,700
<b>Total</b>	<b>17,213,729</b>	<b>6,507,694</b>	<b>1,809,635</b>	<b>8,866,229</b>

#### Average claims

An average submitted claim amounts to € **23,809**. Average paid, withdrawn and pending claims are equal to, respectively, € **22,518**; € **10,400** and € **35,044**.

#### Paid claims (number)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2011	18	54	72
2012	43	22	65
2013	36	31	67
2014	51	34	85
<b>Total</b>	<b>148</b>	<b>141</b>	<b>289</b>

<sup>5</sup> Sources: United Nations Operational Rates of Exchange

**Paid claims (amount in €)**

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2011	416,494	1,373,198	1,789,692
2012	519,329	475,187	994,517
2013	932,508	931,473	1,863,981
2014	1,409,426	450,080	1,859,505
<b>Total</b>	<b>3,277,757</b>	<b>3,229,938</b>	<b>6,507,694</b>

*Withdrawn claims*

On average, 24 % of claims have been withdrawn by customs.

*Claims that are subject to legal proceedings*

<i>Year</i>	<i>Legal proceedings</i>
2011	33
2012	8
2013	2
2014	1
<b>Total</b>	<b>44</b>

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

**General situation (number of claims)**

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	228	87	55	86
2012	250	109	49	92
2013	203	128	47	29
2014	386	200	39	147
<b>Total</b>	<b>1,067</b>	<b>524</b>	<b>190</b>	<b>354</b>

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

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	5,490,644	314,036	901,583	4,320,781
2012	2,437,208	520,122	581,773	1,313,559
2013	1,720,294	363,614	904,746	454,414
2014	8,451,434	316,853	367,720	7,675,650
<b>Total</b>	<b>18,099,580</b>	<b>1,514,625</b>	<b>2,755,823</b>	<b>13,764,405</b>

**C. TIR guarantee level**

*Current level of guarantee*

US\$ 50,000 (approx. € 45,750): 7 countries

€ 60,000: 36 countries

Switzerland: 100,000 CHF (approx. € 94,000)

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

70% (Iran (Islamic Republic of)), 25% (Austria), 15% (The former Yugoslav Republic of Macedonia), 14% (Sweden), 10% (Bulgaria), 7.1% (Bosnia and Herzegovina), 6% (Czech Republic), 5% (Hungary), 2% (France), 1.1% (Belarus), 1% (Germany and Lithuania), 0.6% (Spain), 0.25% (Poland), 0.2% (Turkey), 0,1% (Romania), 0% (15 countries), Not available (12 countries)

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

100% (Iran (Islamic Republic of)), 50% (Romania), 29% (Greece), 19.2% (Belarus), 11% (Germany), 5% (Bulgaria), 1% (Lithuania), 0% (27 countries), Not available (10 countries)

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

Yes: 9 countries / No: 33 countries.

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

Escorts: 5 countries / additional guarantees: 3 countries.

Other:

Iran (Islamic Republic of): we plan also to impose extra national guarantee.

Turkey: Vehicle Tracking System is mostly preferred for these TIR operations.

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

Systematically: 5 countries. Selectively: 4 countries.

#### Problems and suggestions related to the guarantee level

Currently we have no problems related to the TIR guarantee.

The absence of the value of the goods on the TIR Carnet requires a separate calculation of the amount of duties and taxes at stake and makes it difficult to establish statistics on the level of the guarantee. This deficiency is particularly compelling in France where, when TIR Carnets are opened for exportation, the people performing the export formalities are not the same as those for TIR; similarly, it can be difficult to assess the amount of duties and taxes at stake when the export formalities and those for TIR are not done by the same customs office or a Member State of the European Union.

The present TIR guarantee level is 60.000 Euro. We are of the view that the increase in the guarantee level per TIR Carnet is a positive development for customs administrations. We support the efforts to raise the maximum guarantee coverage to 100,000 euros per TIR Carnet.

By increasing the guarantee level

We do not have problems relating to the present TIR guarantee level.

Since there was no customs claims, we do not have any problems regarding the TIR guarantee level to report to TIRExB.

No particular problems to report. However, some customs offices that encountered the situations of TIR operations where the potential customs debt exceeded the guarantee level, suggested that raising the current guarantee level could be considered. On the other hand,

the overall statistics concerning my country do not give justification for such a proposal (such situations are rare, in terms of statistics, and do not result in claims).

Some of TIR transports carried recently include goods valued over 200,000 USD which cannot be fully covered by the present level of guarantee. We believe a flexible guarantee level (up to 250,000 USD) could be a solution.

Currently, the existing level of the guarantee level does not provide complete cover (without limit) of the due customs payments.

TIR guarantee level should be increased.

Problems and suggestions related to the collecting of the customs duties and taxes relating to irregular TIR operations

Currently we have no problems related with collecting customs duties and taxes.

As per the Explanatory Note to Article 11, paragraph 2 of the TIR Convention, the customs administration has to send the claim for payment to the TIR Carnet holder or the person of persons liable at least. When a claim for payment is sent to a foreign TIR Carnet holder, the notice is mostly returned because the holder is not resident at that address anymore. (If the address indicated in the TIR Carnet is not readable, we use ITDB+ to find the address of the holder.) We think that if the notice is returned, the customs administration should make a claim against the guaranteeing association immediately and the mentioned Explanatory Note should be more clear in this manner.

In case the TIR holder does not pay the amount of claims, the association should directly pay. It is not fair that, every time, the association, through the instructions of IRU, complains and does not pay in time.

We do not have problems relating to the collecting of the customs duties and taxes relating to the irregular TIR operations.

Since there was no customs claims, we do not have any problems in collecting customs duties to report to TIRExB.

We believe the process is somewhat very prolonged.

There are problems with the recovery of the amounts of customs payments and fines from non-resident carriers of the Republic of Belarus in connection with failure to pay their debt on a voluntary basis.

## **IV. Preliminary considerations by the secretariat**

### **A. Customs claims statistics and comparison with the results of previous surveys**

5. The table below provides a summary comparison between the results of the 2015, 2013, 2011 and 2007 surveys. Unfortunately, in view of the absence of replies from important TIR users to the 2013 survey, the comparison of those results can be misleading. The table shows that the annual average value of a claim lodged, the total amount paid and the claim rate of the 2015 survey are very similar to the annual averages calculated on the basis of the 2011 survey.

	2015 survey	2013 survey	2011 survey	2007 survey
Average number of lodged claims per year	181	115 <sup>6</sup>	201	866
Average amount of lodged claims per year (€)	4,303,432	2,728,720 <sup>5</sup>	3,630,378	22,625,657
Average number of claims paid per year	72	51 <sup>5</sup>	91	58
Average amount of claims paid per year (€)	1,626,924	1,109,450 <sup>5</sup>	1,705,851	853,984
Average value of lodged claim (€)	23,809	23,677	17,992	26,142
Claim rate (# of issued carnets per claim)	15,350	24,480 <sup>5</sup>	14,193	3,900

## B. TIR guarantee level

6. In most cases the guarantee level seems to be satisfactory. Only 5 countries indicate that the guarantee limit could be increased. It should be recalled that, in line with the provisions of the TIR Convention, the guarantee limit defined in the agreement between the competent authorities and the guaranteeing association can go beyond the recommended amount indicated in the Explanatory Note to Article 8.3. Indeed, in many countries the amount is now 60,000 € and reaches even 100,000 CHF in Switzerland.

## C. Comparison with the IRU claim statistics

7. The table below shows the differences in the total annual number of claims lodged according to the 2015 TIRExB survey and the IRU statistics (taking into account only the figures concerning countries that have replied to the 2015 TIRExB survey). Possibly thanks to having informed TIR focal points of the divergence between the previous survey results and the IRU statistics and the changes in the methodology and tool used by IRU for their statistics, the differences in the totals have reduced significantly. According to the IRU statistics, claims from the countries that did not reply to the 2015 survey only represent a minimal share of the total number of claims, i.e. 0% in 2011, 2% in 2012, 2% in 2013 and 0% in 2014.

2011		2012		2013		2014	
<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>
217	217	152	161	106	102	248	251

## D. Other issues for consideration

8. The ratio of claims withdrawn fell from 35% in the previous survey to 24% of the claims lodged. Considering that these claims have passed through the stages of pre-notification and notification, TIRExB may wish to continue its efforts to bring this figure further down by contacting countries with high withdrawal rates.

<sup>6</sup> Considering that important users of the TIR system did not reply to the 2013 survey, those numbers should not be compared to the results of other surveys.

9. 49% of payments are made after the 3-month deadline stipulated by the TIR Convention. This numbers might actually increase in the course of time as some pending claims will eventually obtain payment one day.

## **V. Considerations by TIRExB**

10. With regard to the results of the survey, TIRExB noted that the rate of withdrawn claims had decreased but that still 48 per cent of payments are made after the three month deadline stipulated by the TIR Convention. It also noted that the IRU statistics and the data obtained through the survey still show differences and requested the secretariat to continue referring to those differences when launching the next survey. Finally, TIRExB noted that there seem to be differences in the way countries report data on claims addressed at person(s) directly liable and decided that, for the next survey, instructions should be clarified.

11. TIRExB decided to transmit the summary results of the survey to AC.2, including data that will arrive before 31 July 2016, i.e. so that the document could be submitted as official document for the consideration of AC.2 at its October 2016 session, without any reference to specific countries. Furthermore, if so deemed necessary, TIRExB agreed to revert to the data, in case the secretariat would issue a second revision of the document.

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

12. AC.2 may wish to discuss the results of the survey and the above considerations by the secretariat and TIRExB.

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