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Activities and administration of the TIR Executive Board:

Activities of the TIR Executive Board–

Survey on customs claims

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Note by the secretariat

I. Background and mandate

1. 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.^{1, 2, 3}

¹ At its sixty-fifth session, TIRExB 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.

² At its sixty-seventh session, TIRExB regretted that only 36 countries had responded to the survey. TIRExB 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.

³ At its sixty-eighth session, TIRExB 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. 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.

II. Replies

2 To date, the following 45 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, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom. Out of the 45, 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 2016.⁴ 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	210	70	70	70
2012	147	63	50	38
2013	96	62	27	7
2014	246	84	25	136
Total	699	279	172	251

General situation (amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	5 312 435	1 777 189	1 231 617	2 455 705
2012	2 158 631	975 996	325 292	868 253
2013	2 163 282	1 856 043	124 619	184 944
2014	7 324 055	1 800 846	73 212	5 333 700
Total	16 958 404	6 410 074	1 754 739	8 842 601

Average claims

An average submitted claim amounts to € 24,261. Average paid, withdrawn and pending claims are equal to, respectively, € 22,975; € 10,202 and € 35,229.

⁴ Sources: United Nations Operational Rates of Exchange

Paid claims (number)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2011	16	54	70
2012	42	21	63
2013	36	26	62
2014	51	33	84
Total	145	134	279

Paid claims (amount in €)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2011	403 992	1 373 198	1 777 189
2012	512 937	463 059	975 996
2013	932 508	923 535	1 856 043
2014	1 409 426	391 421	1 800 846
Total	3 258 862	3 151 212	6 410 074

Withdrawn claims

On average, 25 per cent 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
Total	44

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	223	82	55	86
2012	247	106	49	92
2013	200	126	46	28
2014	385	199	39	147
Total	1 055	513	189	353

General situation (amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2011	5 441 288	264 679	901 583	4 320 781
2012	2 431 023	513 937	581 773	1 313 559
2013	1 683 922	329 722	902 266	451 933
2014	8 449 557	314 976	367 720	7 675 650
Total	18 005 790	1 423 314	2 753 343	13 761 924

C. TIR guarantee level*Current level of guarantee*

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

€ 60,000: 35 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 per cent (Iran (Islamic Republic of)), 25 per cent (Austria), 15 per cent (The former Yugoslav Republic of Macedonia), 14 per cent (Sweden), 10 per cent (Bulgaria), 7.1 per cent (Bosnia and Herzegovina), 6 per cent (Czech Republic), 5 per cent (Hungary), 2 per cent (France), 1.1 per cent (Belarus), 1 per cent (Germany and Lithuania), 0.6 per cent (Spain), 0.25 per cent (Poland), 0.2 per cent (Turkey), 0 per cent (15 countries), Not available (12 countries)

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

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

Application of additional control measures if the guarantee level is exceeded

Yes: 9 countries / No: 32 countries.

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

Escorts: 5 countries / additional guarantees: 3 countries.

Other: 2 countries

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.

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

4. First of all, it should be noted that one significant users of the TIR system, Romania, did not yet reply to the survey.

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 and 2015 surveys, the comparison of the results can be misleading. The only figure that could be compared is the average value of a claim lodged, which is only slightly higher than the level of 2013.

	<i>2015 survey</i>	<i>2013 survey</i>	<i>2011 survey</i>	<i>2007 survey</i>
Average number of lodged claims per year	175	115 ⁵	201	866
Average amount of lodged claims per year (€)	4 239 601	2 728 720 ⁴	3 630 378	22 625 657
Average number of claims paid per year	70	51 ⁴	91	58
Average amount of claims paid per year (€)	1 602 51 ⁴	1 109 450 ⁴	1 705 851	853 984
Average value of lodged claim (€)	24 261	23 677	17 992	26 142
Claim rate (# of issued carnets per claim)	17 929	24 480 ⁴	14 193	3 900

B. TIR guarantee level

6. In most cases the guarantee level seems to be satisfactory. Only 4 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). If the aggregate figures do not seem to differ a lot, when analysing data at the country level, despite 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, some differences remain significant. Furthermore, according to the IRU statistics, claims

⁵ Considering that important users of the TIR system did not reply to the 2013 survey, those numbers are not final and should not be compared to the results of previous surveys.

from the countries that did not reply to the survey still represent the following shares of the total number of claims: 4 per cent in 2011, 5 per cent in 2012, 9 per cent in 2013 and 0.4 per cent 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>
210	208	147	156	96	95	246	250

D. Other issues for consideration

8. The ratio of claims withdrawn fell from 35 per cent in the previous survey to 25 per cent 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.

9. 48 per cent 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.