



Economic and Social Council

Distr.: General
10 January 2018

Original: English

Economic Commission for Europe

Administrative Committee for the TIR Convention, 1975

Sixty-ninth session

Geneva, 7 February 2019

Item 4 (a) (iv) of the provisional agenda

Activities and administration of the TIR Executive Board:

Activities of the TIR Executive Board

Survey on customs claims

Note by the secretariat*

I. Background and mandate

1. The TIR Executive Board (TIRExB), at its seventy-second 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 2013–2016 and requested the secretariat to proceed with its distribution to contracting parties (TIRExB/REP/2016/64, para. 27). On 28 July 2017, the secretariat sent the questionnaire to TIR focal points with a deadline for reply before 30 November 2017.¹

II. Replies

2. To date, the following 50 countries have replied to the questionnaire: Armenia, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iran (Islamic Republic of), Ireland, Israel, Italy, Kazakhstan, Kuwait, Kyrgyzstan,

* This document was submitted late due to delayed inputs from other sources.

¹ At its seventy-fifth session, the Board noted that the deadline for replying to the survey (30 November 2017) had passed and regretted that only 36 contracting parties had replied to the survey. The Board requested the secretariat to send reminders to TIR focal points of contracting parties that had not yet responded, urging them to respond to the survey before 15 January 2018. (TIRExB/REP/2017/75, para. 58). At its seventy-seventh session, the Board noted that Contracting Parties using a significant number of TIR Carnets had not responded to the survey and requested the secretariat to send official letters to the heads of the customs administrations of those contracting parties, requesting their assistance to ensure that their administrations would reply to the questionnaire before 1 September 2018. The secretariat sent the reminder letters on 13 July 2018.

Latvia, Lithuania, Luxembourg, Malta, Mongolia, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland and Uzbekistan. Out of the 50, 23 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 December 2017.² The following chapters present the aggregated results of the survey.

A. Customs claims against national guaranteeing associations

Table 1
General situation
(number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2013	83	49	28	6
2014	162	72	22	72
2015	59	15	12	32
2016	68	51	3	15
Total	372	187	65	125

Table 2
General situation
(amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2013	1 000 417	710 425	150 610	146 424
2014	6 166 769	2 859 842	369 562	3 199 435
2015	1 499 340	268 057	124 453	1 107 284
2016	1 735 985	1 161 022	14 847	561 755
Total	10 402 511	4 999 347	659 473	5 014 899

Average claims

An average submitted claim amounts to € 27,964. Average paid, withdrawn and pending claims are equal to, respectively, € 26,734; € 10,146 and € 40,119.

Table 3
Paid claims
(number)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2013	29	20	49
2014	57	15	72

² Sources: United Nations Operational Rates of Exchange

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2015	11	4	15
2016	48	3	51
Total	145	42	187

Table 4
Paid claims
(amount in €)

<i>Year</i>	<i>Within 3 months</i>	<i>After 3 months</i>	<i>Total</i>
2013	539 833	170 592	710 425
2014	1 420 008	1 439 835	2 859 842
2015	199 914	68 144	268 057
2016	1 049 188	111 834	1 161 022
Total	3 208 942	1 790 405	4 999 347

Withdrawn claims

On average, 17 per cent of claims have been withdrawn by customs.

Comments by countries why pending claims have not been paid

- They concern trucks loaded on board "Norman Atlantic" on which a fire occurred on 28/12/2014.
- 3 claims from 2013 will be paid. the rest concern cases where national proceedings are still ongoing in Iran.
- The agreement has not been activated.
- Decision of the judge.
- ARTRI paid 266,490 lei, equivalent to € 60,000. Customs duties exceed € 60,000 for this TIR operation. The amount of customs duties not recovered is 1,717,319 lei, approximately € 400.000.
- On the 1st of July 2017 a Protocol was signed between the Ministry of Customs and Trade of the Republic of Turkey and the national guaranteeing association the Union of Chambers and Commodity Exchanges of Turkey (TOBB). Within the frame of the mentioned Protocol existing problems were solved regarding the customs claims.

Claims that are subject to legal proceedings

Table 5
Claims that are subject to legal proceedings

<i>Year</i>	<i>Legal proceedings</i>
2013	6
2014	9
2015	0
2016	0
Total	15

B. Customs claims against the persons directly liable

Table 6
General situation
 (number of claims)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2013	128	91	24	5
2014	154	53	25	66
2015	76	32	6	31
2016	39	21	6	9
Total	397	197	61	111

Table 7
General situation
 (amount of claims in €)

<i>Year</i>	<i>Claims lodged</i>	<i>Paid</i>	<i>Withdrawn</i>	<i>Pending</i>
2013	563 300	1 057 860	181 476	150 494
2014	807 385	3 166 957	433 477	3 169 677
2015	402 303	1 105 154	61 051	1 168 066
2016	885 946	264 277	483 045	220 019
Total	2 658 934	5 594 248	1 159 049	4 708 255

C. TIR guarantee level

Current level of guarantee

US\$ 50,000 (approx. € 42,200): 3 countries

€ 60,000: 14 countries

€ 100,000: 28 countries

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

60 per cent (1 country), 25 per cent (1 country), 12 per cent (1 country), 10 per cent (1 country), 5–10 per cent (1 country), 4 per cent (1 country), 3 per cent (1 country), 2.42 per cent (1 country), 2 per cent (1 country), 1 per cent (1 country), <1 per cent (1 country), 0.5 per cent (1 country), 0.2 per cent (1 country), 0.1 per cent (1 country), 0 per cent (14 countries), not available (19 countries)

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

16.4 per cent (1 country), 5–10 per cent (1 country), 0 per cent (21 countries), not available (24 countries)

Application of additional control measures if the guarantee level is exceeded

Yes: 7 countries / No: 38 countries.

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

Escorts: 3 countries / additional guarantees: 2 countries.

Other:

- Vehicle Tracking System.
- Additional risk analysis is provided.
- We prescribe short time limit for presentation of goods to the customs office of destination.

Where applicable, how do you apply the control measures?

Systematically: 6 countries. Selectively: 1 countries.

Problems and suggestions related to the guarantee level

- L'absence de valeur des marchandises sur le carnet TIR oblige à un contrôle hors système du montant des droits et taxes en jeu par carnet. Cela complique l'établissement de statistiques sur les montants de garantie pour le régime TIR. Par ailleurs, pour les services il est difficile d'évaluer le montant des droits et taxes en jeu sur un carnet dans le cas où les formalités d'exportation et les formalités TIR ne sont pas réalisées auprès d'un même bureau de douane.

(Informal translation by the secretariat: the absence of the value of the goods on the TIR Carnet requires a verification of the duties and taxes at stake per TIR Carnet outside the system. This complicates the establishment of statistics on the guarantee amounts for the TIR system. On the other hand, it is difficult for the authorities to evaluate the amount of duties and taxes at stake per TIR Carnet in case the export formalities and TIR procedure do not take place at the same customs office).

- Most of the goods transported to our territory enjoy high tariff rates which the current TIR guarantee levels cannot cover. The final part of Article 11, paragraph 3 of the TIR convention which deals with referring cases to court is not clear. In accordance with our roles all such cases should be referred to court, and the court has not yet decided about the cases. Solutions: First, we suggest the guarantee level be of flexible rates. Second, with regard to the cases referred to the court which according to our law is of penal nature we suggest payment of the claims is not subject to the court decision.
- Raise the TIR guarantee level to € 100,000.
- Availability of a guarantee limit on a TIR carnet / Cancellation of a guarantee limit
- After the TIR guarantee level was increased to € 100,000, there is currently no issue regarding the TIR guarantee level.

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

- The payment of the claims deferred under the pretext of Article 11, paragraph 3, final part of the TIR Convention. The ambiguity in should be removed.
- In case of fraud or irregularities, there are problems in collecting the entire amount of customs duties and taxes when this amount exceeds € 60,000 or € 100,000 which could be recovered from the national association. In these cases, the International Road Transport Union (IRU) should assume the payment of the amounts remaining uncovered from the holder or other debtors.

D. Preliminary considerations by the secretariat

1. Customs claims statistics and comparison with the results of previous surveys

4. The table below provides a summary comparison between the results of the 2017, 2015, 2013, 2011 and 2007 surveys. Unfortunately, in view of the absence of replies from important TIR users to the 2017 and 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 2017 survey are similar to the annual averages calculated on the basis of the 2013 survey.

Table 8

	<i>2017 survey</i>	<i>2015 survey</i>	<i>2013 survey</i>	<i>2011 survey</i>	<i>2007 survey</i>
Average number of lodged claims per year	93 ³	181	115 ³	201	866
Average amount of lodged claims per year (€)	2 600 628 ³	4 303 432	2 728 720 ³	3 630 378	22 625 657
Average number of claims paid per year	47 ³	72	51 ³	91	58
Average amount of claims paid per year (€)	1 249 837 ³	1 626 924	1 109 450 ³	1 705 851	853 984
Average value of lodged claim (€)	27 964	23 809	23 677	17 992	26 142
Claim rate (No. of issued carnets per claim)	20 401 ³	15 350	24 480 ³	14 193	3 900

2. TIR guarantee level

5. In most cases, the guarantee level seems to be satisfactory. Indeed, in the majority of countries the maximum guarantee amount is now € 100,000.

3. Other issues for consideration

6. The ratio of claims withdrawn fell from 24 per cent in the previous survey to 17 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.

7. The ratio of payments made after the 3-month deadline stipulated by the TIR Convention fell from 49 per cent in the previous survey to 22 per cent. This numbers might still increase over time as some pending claims will eventually result in payment.

4. Comparison with the IRU statistics

8. The table below shows the differences in the total annual number of claims lodged according to the 2017 TIRExB survey and the IRU statistics (taking into account only the figures concerning countries that have replied to the 2017 TIRExB survey). The number of claims as accounted in the IRU statistics and the data collected with the survey are again significantly different.

³ Considering that important users of the TIR system did not reply to the 2017 and 2013 survey, those numbers should not be compared with the results of other surveys.

Table 9

2013		2014		2015		2016	
<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>	<i>TIRExB</i>	<i>IRU</i>
83	98	162	227	59	113	68	121

9. According to the IRU statistics, claims from the countries that did not reply to the 2017 survey represent the following share of the total number of claims, i.e. 6 per cent in 2013, 10 per cent in 2014, 20 per cent in 2015 and 8 per cent in 2016.

E. Considerations by TIRExB

10. TIRExB considered the revised results of the survey on the TIR guarantee level and on the functioning of the TIR guarantee system for the period 2013–2016 and noted that only one significant user of the TIR procedure had not yet replied to the survey. TIRExB requested the secretariat to transmit the results of the survey to AC.2 for consideration.

11. TIRExB noted that the average claim was slightly on the rise (€ 27,964). Furthermore, it regretted that significant differences could again be observed between the results of the survey and the IRU statistics and requested the secretariat, possibly with the assistance of IRU, to find the causes of those differences and inform countries about those differences when launching the next survey. Finally, TIRExB noted that the ratio of claims withdrawn had fallen from 24 per cent in the previous survey to 17 per cent of the claims lodged and that the ratio of payments made after the 3-month deadline stipulated by the TIR Convention had fallen from 49 per cent in the previous survey, to 22 per cent.