



**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)**

**Fifty-third session**

Geneva,

Agenda item VII(a)

**Monitoring the functioning of the TIR guarantee system**

**Note by the secretariat**

**A. Background**

1. TIRExB may wish to recall that, within its mandate to supervise the application of the Convention, including the operation of the guarantee system, it successfully conducted surveys of national Customs administrations on Customs claims in 2002, 2006 and 2011. TIRExB, at its fifty-second session, decided that a new survey on Customs claims be carried out, to cover the period 2009-2012 (TIRExB/REP/2013/52). The Board also agreed to include in future surveys two questions about pending claims, with the aim to clarify their origin.

2. In order to streamline the activities of TIRExB and to facilitate the preparation of the 2013 survey, the secretariat prepared this Informal document, containing an updated version of the 2011 survey, for consideration by the Board. In particular, TIRExB may wish to establish if the questions in the survey are still relevant or need amendment. Finally, TIRExB may wish to provide guidance to the secretariat how to conduct the survey so as to avoid discrepancies with IRU statistics, as well as to decide on its tentative timeframe.

**B. Survey content**

**Customs claims statistics**

3. With regard to the possible content of a survey on settlement of Customs claims, the TIRExB may wish to be reminded that, when drafting this questionnaire, a lengthy procedure for the raising and settlement of Customs claims was taken into consideration. According to the time-scale stipulated in the amended Article 11 (ECE/TRANS/17/Amend.30):

- a notification to the guaranteeing association can be made up to one year following the date of acceptance of the TIR Carnet;
- a request for payment can be made up to two years from the date of notification;
- the association has three months to pay the claim. However, if the claim becomes the subject of court proceedings, it may well take one year or longer for the competent court to pronounce its judgement.

4. As a consequence, a typical Customs claim is settled between 1-3 years from the date of infringement. Given such a delay, the common statistics providing for absolute figures of various claim groups at specific moments in time are not very informative, as they do not reflect progress made in the settlement of particular claims and their subsequent migration from one group to another. For this reason, the previous surveys were based on another approach: to fix a group of claims at the moment they appear (for example, claims submitted during one calendar year) and then to see how these claims evolve over time.

#### **TIR guarantee level**

5. Further to the 2011 survey, Contracting Parties to the TIR Convention could be invited to provide the following information:

- TIR guarantee limit established in the country;
- percentage of TIR operations for which the amount of Customs duties and taxes due exceed the established guarantee level;
- application of additional control measures in case of such TIR operations (which measures apply and how: systematically or selectively);
- existing problems in this field and proposals, if any.

### **C. Survey procedure**

6. Once the TIRExB has approved the content of the survey, it should establish a procedure for data collection. In particular, the following issues would need to be addressed:

- form in which the questionnaire will be distributed to Contracting Parties and reported back to the TIRExB. It is proposed to use, to the extent possible, an interactive on-line questionnaire providing for fast collection and processing of data;
- follow-up actions by the TIRExB. The Board may wish to decide which activities should be undertaken, depending on the reported data.

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**TIR CONVENTION, 1975**

**QUESTIONNAIRE ON CUSTOMS CLAIMS AND ON THE TIR GUARANTEE LEVEL<sup>1</sup>**

**Country:** \_\_\_\_\_

**Competent authority:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**A. Customs claims statistics**

**I. *Customs claims raised against the national guaranteeing association(s)***

**1. Currency in which the total amount of claims (see the table below) is indicated:**

**US dollars (preferable)**

**Other (please specify) \_\_\_\_\_**

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<sup>1</sup> On request, this questionnaire can be sent by e-mail as a MS Word file

2. Please provide the following aggregate data on Customs claims:

Claims for payment sent to the national guaranteeing association(s) <sup>2</sup> in your country (in line with Article 11.3)		Claims contained in columns (a) and (b) and <u>paid</u> by the national association(s) <sup>3</sup> (as of today)				Claims contained in columns (a) and (b) and <u>not paid</u> by the association(s) (as of today)				
		Fully Paid <u>within 3 months</u> from the date of sending of the claim (in line with Article 11.4)		Fully Paid <u>after 3 months</u> from the date of submission of a claim		Claims withdrawn by Customs <sup>4</sup>		Pending claims (including partly paid claims)		
Year <sup>5</sup>	Number (a) <sup>7</sup>	Total amount <sup>6</sup> (b)	Number (c)	Total amount (d)	Number (e)	Total amount (f)	Number (g)	Total amount (h)	Number (i)	Total amount (j)
2009										
2010										
2011										
2012										
<b>Total</b>										

<sup>2</sup> In case of several guaranteeing associations established in one country, the cumulative figures should be given

<sup>3</sup> Including claims t paid directly by the IRU , if any, but excluding claims paid by the person(s) directly liable (Article 11.2)

<sup>4</sup> Reasons for withdrawal of claims could be as follows: inquiries have established that the relevant TIR operation has been discharged, the Customs debt has been paid by the person directly liable, the stipulated one year deadline fo notification of guaranteeing association of the non -discharge (Article 11.1 (b)) has not been met, etc.

<sup>5</sup> Year applies only to columns (a) and (b). Other columns (from (c) to (j)) describe further developments concerning the claims included into (a) and (b), irrespective of the time when these developments have occurred

<sup>6</sup> According to Article 8, paragraphs 1-3 of the TIR Convention

<sup>7</sup> (a) = (c) + (e) + (g) + (i)

3. Main reasons why the abovementioned claims in columns (i) and (j) are pending:

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4. How many pending claims (columns (i) and (j)), if any, have become the subject of legal proceedings against the guaranteeing association(s)?

2009	_____
2010	_____
2011	_____
2012	_____

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5. 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: <sup>8</sup>

<i>Claim sent to the guaranteeing association in...</i>	<i>Pending claims at the end of...</i>			
	<i>2012</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>
<b>2012</b>				
<b>2011</b>				
<b>2010</b>				
<b>2009</b>				
<b>2008</b>				
<b>2007</b>				
<b>2006</b>				
<b>2005</b>				
<b>2004</b>				
<b>2003</b>				
<b>2002</b>				
<b>2001</b>				
<b>2000</b>				
<b>1995-1999</b>				
<b>1990-1994</b>				
<b>1985-1989</b>				
<b>1980-1984</b>				
<b>1979 and before</b>				

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<sup>8</sup> This new question was proposed in TIRExB Informal document No. 2 (2012) Rev.1. TIRExB agreed to include it in future surveys, with the aim to clarify the origin of pending claims (TIRExB/REP/2012/50final, para. 13). Nevertheless, TIRExB members are requested to consider if it is possible for customs administrations to provide such detailed information and, if necessary, might request to simplify the table accordingly.

6. 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:<sup>9</sup>

<i>Claim sent to the guaranteeing association in...</i>	<i>Pending claims at the end of...</i>			
	<i>2012</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>
2012				
2011				
2010				
2009				
2008				
2007				
2006				
2005				
2004				
2003				
2002				
2001				
2000				
1995-1999				
1990-1994				
1985-1989				
1980-1984				
1979 and before				

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<sup>9</sup> This new question was proposed in TIRExB Informal document No. 2 (2012) Rev.1. TIRExB agreed to include it in future surveys, with the aim to clarify the origin of pending claims (TIRExB/REP/2012/50final, para. 13). Nevertheless, TIRExB members are requested to consider if it is possible for customs administrations to provide such detailed information and, if necessary, might request to simplify the table accordingly.

*II. Customs claims raised against the persons directly liable*

7. Please provide the following data on Customs requests for payment to persons directly liable:

	Request for payment sent to person(s) directly liable (in line with Article11.2)		Request contained in columns (a) and (b) and <u>paid</u> by the person(s) directly liable (as of today)		Requests contained in columns (a) and (b) and <u>not paid</u> by the person(s) directly liable (as of today)			
	Number (a) <sup>12</sup>	Total amount (b)	Number (c)	Total amount (d)	Requests withdrawn by Customs <sup>10</sup>		Pending Requests (including partly paid requests)	
Year <sup>11</sup>	Number (a) <sup>12</sup>	Total amount (b)	Number (c)	Total amount (d)	Number (e)	Total amount (f)	Number (g)	Total amount (h)
2009								
2010								
2011								
2012								
<b>Total</b>								

<sup>10</sup> Reasons for withdrawal of claims could be as follows: inquiries have established that the relevant TIR operation has been discharged, a relevant court decision, Paid by the guarantee chain etc.

<sup>11</sup> Year applies only to columns (a) and (b). Other columns (from (c) to (j)) describe further developments concerning the claims included into (a) and (b), irrespective of the time when these developments have occurred

<sup>12</sup> (a) = (c) + (e) + (g)



**EXAMPLE OF FILLING-IN THE TABLE IN PARAGRAPH 2**

The example given below describes a rather complicated imaginary situation in a Contracting Party. Its objective is to facilitate your filling-in the questionnaire.

**Situation**

In 2009, in a given Contracting Party, 50 claims (column (a)) were made against the national guaranteeing association with a total amount of USD 300,000 (column (b)). 10 claims (column (c)) out of 50 with a total amount of USD 70,000 (column (d)) were paid by the association within 3 months from the date when the relevant claim was lodged. The association also accepted 15 other claims (column (e)) with a total amount of USD 100,000 (column (f)) but effected payments after the stipulated deadline of 3 months.

The remaining 25 claims with a total amount of USD 130,000 were opposed by the association because, in their view, in 15 cases the TIR operations in question had been properly terminated and in 10 cases the Customs authorities had not taken measures against the person(s) directly liable in line with new Article 11.2 of the TIR Convention. Relevant documents were forwarded to Customs. Following that, the Customs authorities performed further investigations and/or actions and were able to discharge 10 TIR operations and obtained payments from the TIR Carnet holder in 5 cases. As a result, Customs has withdrawn 15 claims (column (g)) with a total amount of USD 80,000 (column (h)).

With regard to the 10 debatable claims left, the Customs authorities have started legal proceedings before competent national courts. The courts have ruled in favour of Customs in 3 cases and in favour of the association in 2 cases. 5 controversial claims (column (i)) with a total amount of USD 25,000 (column (j)) are still under consideration. On the basis of relevant court decisions, the association has met 3 claims (to be added to (e)) with a total amount of USD 15,000 (to be added to (f)), and the Customs authorities have withdrawn 2 claims (to be added to (g)) with a total amount of USD 10,000 (to be added to (h)).

**Table**

Claims for payment sent to the national guaranteeing association(s) in your country (in line with Article 11.3)			Claims contained in columns (a) and (b) and fully <u>paid</u> by the national association(s) (as of today)				Claims contained in columns (a) and (b) and <u>not paid</u> by the association(s) (as of today)			
			Fully Paid <u>within</u> 3 months from the date of submission of a claim (in line with Article 11.4)		Fully Paid <u>after</u> 3 months from the date of submission of a claim		Claims withdrawn by Customs		Pending claims (and partly paid claims)	
Year	Number (a)	Total amount (b)	Number (c)	Total amount (d)	Number (e)	Total amount (f)	Number (g)	Total amount (h)	Number (i)	Total amount (j)
2009	50	300,000	10	70,000	15+3=18	100,000+15,000=115,000	15+2=17	80,000+10,000=90,000	5	25,000

**B. TIR guarantee level**

8. What is the current TIR guarantee level in your country?

- US dollars 50'000
- EURO 60'000
- Other (please specify) \_\_\_\_\_

9. In 2012, what was the percentage of TIR operations where the amount of Customs duties and taxes exceeded the established guarantee level?

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10. Among the requests of payments sent in 2012 (either against the person(s) directly liable or against the national guaranteeing association), what was the percentage of claims where the amount of Customs duties and taxes due exceeded the TIR guarantee level in your country?

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11. Do you apply additional control measures in case of TIR operations where the amount of Customs duties and taxes at stake exceed the TIR guarantee level in your country-1?

- Yes (go to questions 12 and 13)
- No (go to question 14)

12. If you have replied 'yes' to question 11, please indicate which additional control measures you apply:

- Escorts
- Imposing an extra national guarantee
- Other (please specify) \_\_\_\_\_

13. If you have replied 'yes' to question 11, please specify how you apply the underlying measures:

Systematically (always)

Selectively (if there are also other risk indicators)

14. Which problems relating to the present TIR guarantee level, if any, would you like to report to the TIR Executive Board?  
In your view, how could these problems be solved?

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15. Which problems relating to the collecting of the Customs duties and Taxes relating to the irregular TIR Transport 1, if any, would you like to report to the TIR Executive Board? In your view, how could these problems be solved?

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