

**Best Practice: 5.7 RECOMMENDATIONS FOR IMPROVEMENT OF
COMMUNICATION BETWEEN NATIONAL COMPETENT AUTHORITIES
AND NATIONAL GUARANTEEING ASSOCIATIONS (extract of the TIR
handbook)**

1. It is the competence of Contracting Parties to establish, in line with the provisions of national legislation and established procedures, the content of the communications, which are addressed to the national guaranteeing association in the course of a claim procedure. However, in order to avoid any misunderstanding on nature, amount and justification of any alleged irregularity, the competent authorities and national guaranteeing associations of Contracting Parties are invited to review and update their various communications to the extent that they refer at least to the stages recognized by the TIR Convention and/or described in its best practices and contain, as far as possible, the following minimum information (see tables below).

2. The stages recognized by the TIR Convention are:

- (a) Notification: Within a period of one year from the date of acceptance of the TIR Carnet, the competent authorities of the Contracting Party, in which the TIR Carnet has not been discharged, have to notify the association in writing of the non-discharge (Article 11, paragraph 1 (b) of the Convention);
- (b) Claim for payment: Competent authorities dispose of a period between three months and two years after the date on which the association has been informed that the TIR operation has not been discharged (or that the certificate of termination of the TIR operation has been obtained in an improper or fraudulent manner), within which to submit a claim for payment to the association (Article 11, paragraph 3 of the Convention).

3. Preceding these legal obligations, various Contracting Parties have introduced as a best practice pre-notifications. Although not a legal requirement, they have become a standing procedure in various Contracting Parties to inform the guaranteeing association at the earliest possible stage of the fact that Voucher No. 2 has not been returned to the Customs office of departure or entry en route, inviting it to furnish proof that the TIR operation has been terminated. This communication, which has become known as “pre-notification” is sent without prejudice to the notification to be made in accordance with Article 11, paragraph 1 of the Convention. However, as not all Contracting Parties apply this concept in the same way and/or at the same time, the degree of compliance with the recommended elements may vary considerably from country to country. Contracting Parties and national associations are recommended to bear this in mind when applying the best practices of Chapter 5.7.

4. It should be noted that Contracting Parties are under no legal obligation to comply with the recommendations set out in Chapter 5.7. Only the provisions of the TIR Convention and national legislation decide on the legality of any communication

between the competent authorities of Contracting Parties and the national guaranteeing associations.

5. In general, Customs authorities and national guaranteeing associations of Contracting Parties are recommended:

- to limit any communication to one single TIR Carnet only;
- to make use at all times, but in particular before making enquiries, to the extent possible, of any information available in an authorized international control system, such as the SafeTIR system operated by the IRU, in accordance with Annex 10 of the Convention.

Table I

Recommended elements for effective communication by competent authorities to national guaranteeing associations

	Data to be included, in as far as available at moment of issuance of communication	Pre-notification of non- discharge to the guaranteeing association (<i>Best practice</i>)	Notification of non- discharge to the guaranteeing association (<i>Article 11.1(b)</i>)	Claim for payment to guaranteeing association (<i>Article 11.3</i>)
1	Clear and legible date and reference	√ ^{1/}	√	√
2	Name, address and unique ID number (as far as available in the TIR Carnet) of the TIR Carnet holder	√	√	√
3	TIR Carnet Number (2 letters and 8 digits)	√	√	√
4	Date when the TIR Carnet was accepted by Customs	√	√	√
5	Main points of infringement and legal references (justification)	√	√	√
6	Return /reply address and recommended deadline for reaction (if appropriate)	√	√	√
7	Copy of voucher No. 1	√	√	√
8	List of possible/recommended documents to be provided by national associations, as mentioned under point 5 of Table II, including, if possible, documentation with regard to other person(s) directly liable	√	√	-
9	Reaction to documents submitted i.e. acceptance, closure or refusal, if any ^{2/}	-	√	-
10	Reference to and/or copy of the notification to the TIR Carnet holder (Expl. Notes 0.11.1 and 0.11-2)	-	√	√
11	Reference to and/or copy of the request for payment from the person(s) directly liable (Article 11.2) if available	-	√	√
12	Reference to and/or copy of the pre-notification to the guaranteeing association if available	-	√	-
13	Reference to and/or copy of the notification to the guaranteeing association	-	-	√
14	Reference to existing guarantee agreement or any other type of legal instrument	-	-	√
15	Reference to indicative amount of the potential claim	-	√	-
16	Detailed calculation of Customs duties and taxes, including determination of the Customs value of the goods, tariff rates applied and applicable default interest rates	-	-	√
17	Time limits for payment (Article 11.4)	-	-	√
18	Payment particulars	-	-	√
19	Information on possible appeal procedures	-	-	√

^{1/} √ = Recommended element;

^{2/} acceptance = confirmation that authorities have accepted the information provided by the association at an earlier stage; closure = information that authorities have decided not to pursue the alleged irregularity and have closed the file; refusal = information that the information provided by the association at an earlier stage has not been accepted by the authorities, including the reasons for refusal.

Table II

**Recommended elements for effective communication by
national guaranteeing associations to competent authorities**

	Data to be included, in as far as available at moment of issuance of communication	<u>Reaction to</u> Pre-notification of non- discharge to the guaranteeing association (<i>Best practice</i>)	<u>Reaction to</u> Notification of non- discharge to the guaranteeing association (<i>Article</i> <i>11.1(b)</i>)	<u>Reaction to</u> Claim for payment to guaranteeing association (<i>Article</i> <i>11.3</i>)
1	Clear and legible date and reference	√	√	√
2	Name, address and unique ID number (as far as available in the TIR Carnet) of the TIR Carnet holder	√	√	√
3	TIR Carnet Number (2 letters and 8 digits)	√	√	√
4	Return address	√	√	√
5	Documents indicating the regular termination of the concerned TIR operation, such as: <ul style="list-style-type: none">• any official certificate or confirmation of the termination of a TIR operation covered by the same transport made out by another Contracting Party following the respective TIR operation or confirmation of the transfer of the goods in question to another Customs procedure or another system of Customs control, e.g clearance for home use;• the duly stamped corresponding counterfoils No. 1 or No. 2 in the TIR Carnet by that Contracting Party or a copy thereof provided by the international organization;• records about the termination of the TIR operation, as found in the so-called "IRU SafeTIR system", in accordance with Annex 10 of the Convention;• any additional document, issued by the Customs office of destination or exit (<u>en route</u>) to the person presenting the TIR Carnet (e.g. receipt on request to be completed in advance by the person concerned);• any document allowing the identification of possible person(s) directly liable^{3/}.	√	√	√
6	Reference to the pre-notification to the guaranteeing association if available	√	-	-
7	Reference to the notification to the guaranteeing association	-	√	-
8	Reference to the claim for payment to the association	-	-	√
9	Reaction to claim for payment (acceptance or refusal)	-	-	√
10	Reference to specific provisions in the existing guarantee agreement or any other type of legal instrument	-	-	√

^{3/} Submission of documents under point 5 is not limited to any of the three identified stages, but can take place at any time, as soon as available.

Table III*/

Specimen pre-notification letter

Information letter to be sent to the TIR guaranteeing association and the TIR Carnet holder

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(Full name of the Customs office/administration concerned) (Place and date)

Subject: Information concerning TIR Carnet No.....

addressed to.....

(full name, address and ID number of the TIR Carnet holder)

.....

(full name of the guaranteeing association)

Dear Madam/Sir,

A TIR operation carried out under cover of TIR Carnet No.....has been registered by the Customs office of.....(Copy of Voucher No. 1 attached) as entering the territory of.....(name of Contracting Party).

We kindly inform you that our Customs administration has not received confirmation of the proper termination in the territory of (name of Contracting Party) of the TIR operation carried out under cover of TIR Carnet No.....

In addition, we have checked the status of this TIR Carnet in the control system for TIR Carnets and:

- (1) there is no information confirming the termination of this TIR operation in the territory of(name of Contracting Party),
- (2) there is a record concerning this TIR operation. We have already contacted the office of destination in.....(place, name of Contracting Party)

^{*/} {ECE/TRANS/WP.30/AC.2/2012/15 and ECE/TRANS/WP.30/AC.2/111, paragraph 43}

in order to confirm the information available in the control system for TIR Carnets but have not yet received any confirmation.

Therefore, without prejudice to the notification to be made in accordance with Article 11, paragraph 1(b) of the TIR Convention, we invite you to provide us with the appropriate documents demonstrating that this TIR operation has been correctly terminated in the territory of(name of Contracting Party) within 28 days of the date of this letter.

The proof should be furnished in the form of one of the following documents, identifying the goods:

- a document certified by the Customs authorities of the Customs office of destination or exit (en route) of another Contracting Party establishing that the goods have been presented at this Customs office, or
- a Customs document, issued in another Contracting Party confirming that the goods have entered its Customs territory for a Customs approved treatment or use, or
- a document, issued in another Contracting Party, endorsed by the Customs authorities of that Contracting Party and certifying that the goods are considered to be in free circulation in that Contracting Party.
- a copy or photocopy of abovementioned documents, certified as being true copies by the body which endorsed the original documents, by the authorities of the Contracting Party concerned or by the authority of another Contracting Party to the TIR Convention, 1975.

Any of the above documents should be sent to

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(stamp of the Customs office/signature of the person responsible)

Annex: Copy of Voucher No. 1 of the TIR Carnet