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## **Economic Commission for Europe**

Inland Transport Committee

### **Working Party on Customs Questions affecting Transport**

#### **Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure**

**Twenty-sixth session**

Geneva, 18-19 May 2017

Item 5 of the provisional agenda

#### **Findings of the Group of Experts on Legal Aspects of the Computerization of the TIR Procedure**

### **Note by the secretariat**

## **I. Introduction**

1. At its previous session, the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) was briefed on the activities and main findings of the Group of Experts on Legal Aspects of the Computerization of the TIR Procedure (GE.2) at its first and second sessions (see ECE/TRANS/WP.30/2017/3, para. 10). The present document provides an overview of the activities and findings of GE.2 at its third session (12-13 December 2016), in line with the decision of the Working Party on Customs Questions affecting Transport (WP.30) at its 140th session (June 2015) namely that it would be important to maintain synergies and cooperation between the technical and the legal work (see ECE/TRANS/WP.30/280 para. 14). Detailed information on the main considerations of the fourth session of GE.2 (16-17 May 2017), will be provided orally to GE.1.

## **II. Main findings**

2. At its third session, GE.2 considered the following major elements of the legal aspects of computerization of the TIR procedure: electronic authentication mechanisms, mechanisms for submitting Advance Cargo Information, the financing of the eTIR international system, the format and amendment procedure of the eTIR legal framework, and the draft provisions elaborating the eTIR legal framework.

3. GE.2 considered the preliminary results of the survey on electronic authentication mechanisms, which indicated, in the first instance, that all information submitted electronically to the thirty-three respondent countries has to be authenticated, but the means and methods used vary from country to country. As such, it appeared that implementing a single internationally valid/recognized authentication mechanism such as Public Key Infrastructure (PKI) electronic signature in the eTIR system would be technically and legally too complex; this seemed to confirm the GE.1 recommendation of leaving authentication to the competence of national authorities. However, GE.2 also was of the view that any concrete conclusions could only be drawn if a broader geographical representation of Contracting Parties would provide replies to the questionnaire. GE.2 also requested to review the replies in more detail for the next session (see ECE/TRANS/WP.30/GE.2/6 paras. 4-5).

4. Concerning the submission of advance cargo information, GE.2 was of the general view that authentications performed via the secure eTIR international system should be recognized but, on the other hand, the determination of any other mechanism by which advance cargo information can be submitted should be left to the discretion and competence of national authorities. In view of the general agreement on these principles, the secretariat was requested to redraft the relevant provisions accordingly for consideration at the next session (see ECE/TRANS/WP.30/GE.2/6 paras. 16-20).

5. With reference to financing, GE.2 considered various possibilities such as different types of mandatory or voluntary contribution systems and International Financing Institutions. After lengthy discussions on the advantages and disadvantages of the various options, GE.2 was of the view that financing through an amount per transport should not be excluded *a priori* and that further considerations are warranted. At the same time, GE.2 reiterated that computerization is a joint objective and that decisions should be taken as soon as possible to materialize the project and to ensure that all TIR Contracting Parties would, within a reasonable timeframe, make the necessary investments and adjustments to move to a fully computerized TIR procedure (see ECE/TRANS/WP.30/GE.2/6 paras. 6-11). GE.2 transmitted its findings on this issue to WP.30 and to the Inland Transport Committee (ITC).

6. Regarding format, GE.2 came to the decision to focus its work on the format of an optional Annex to the TIR Convention that would provide the possibility for Contracting Parties to enter a reservation excluding its application. Against this background, GE.2 proceeded to consider, in detail, the draft Annex and associated amendments to the main body to the TIR Convention elaborated in Annex II of document ECE/TRANS/WP.30/GE.2/2016/9 and provided detailed instruction to the secretariat on how to further elaborate the provisions. Among others, the main considerations related to assigning the management of the conceptual, functional and technical documentation to a specialized intergovernmental expert body established for this purpose as well as to ensure the appropriate [simplified] amendment procedure that would, nonetheless ensure the necessary interactions between legal and technical issues under the envisaged framework. Furthermore, GE.2 agreed that functional fall-backs should also be included in the legal framework (see ECE/TRANS/WP.30/GE.2/6 paras. 24-29).

### III. Next steps

7. A revised and significantly more detailed draft Annex with associated amendments to the body of the TIR Convention will be considered by GE.2 at its fourth session on 16 and 17 May 2017 (see ECE/TRANS/WP.30/GE.2/2017/1). The new draft Annex also takes stock of the main considerations of GE.1 at its twenty-fifth session and contains:

- (a) Amendments to the main body of the Convention including special amendment procedure for Annex 11;
  - (b) Text of Annex 11:
    - (i) Provisions relating to definitions and scope;
    - (ii) Provisions relating to the legal status and amendment procedure for the eTIR conceptual, functional and technical documentation;
    - (iii) Provisions relating to the responsibilities of UNECE;
    - (iv) Provisions relating to data handling and storage;
    - (v) Provisions relating to authentication and mechanisms for submitting advance cargo information;
    - (vi) Provisions relating to the fall-back procedure;
    - (vii) Miscellaneous provisions.
8. GE.2 will also continue its in-depth considerations on the issue of electronic authentication mechanisms and financing of the eTIR international system.

#### **IV. Considerations by GE.1**

9. GE.1 is invited to take note of the activities and findings of GE.2 at its third session, as well as of the oral information on the main outcomes of its fourth session (16-17 May 2017) and discuss their possible implications on its work.
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