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**Economic Commission for Europe****Inland Transport Committee****Working Party on Customs Questions affecting Transport****143rd session**

Geneva, 31 May–3 June 2016

Item 3 (b) (ii) of the provisional agenda

**Customs Convention on the International Transport of Goods under  
Cover of TIR Carnets (TIR Convention, 1975):****Revision of the Convention:****Preparation of Phase III of the TIR revision process****Comments to the report of the first session of the Group of  
Experts on the Legal Aspects of Computerization of the TIR  
Procedure (GE.2)****Transmitted by the governments of Hungary, Iran (Islamic Republic of),  
Turkey and the International Road Transport Union****I. Background and mandate**

1. At its 142nd session, the Working Party was informed about the results of the Group of Experts on the Legal Aspects of Computerization of the TIR Procedure (GE.2). The Contracting Parties were invited to submit their comments, if any, before 10 March 2016 in writing to the secretariat. In line with this decision, the secretariat has consolidated the comments received in the present document, for the consideration of the Working Party.

**II. Comments received****A. Hungary**

2. In the course of discussions during the first session, under the item on the legal status of the eTIR Reference Model (henceforth eTIR RM), there was a proposal to include, in the legal framework (Protocol) the main tasks concerning the handling of eTIR procedures such as those of the customs office of departure and customs office of destination. Further to this proposal, it would also be useful if some details about fallback

procedures were determined as well in this document. Article 3 of the draft Protocol stipulates that the Parties shall apply the eTIR procedure in conformity with the specifications as contained in the eTIR RM, which does include a fallback procedure. This is correct; however these specifications are rather technical and do not contain procedural details that could be useful for departure/destination and transit countries as guidelines.

3. More specifically, when fallback procedures are triggered and an accompanying document should be used, questions are raised, for instance:

(a) What does the accompanying document look like and what kind of data does it contain? (There is a title concerning printing guidelines under Annex VIII of the eTIR RM, but a description is missing);

(b) Do departure/destination/transit countries have to stamp this document in such cases?

(c) What should be the main data that have to be written manually by customs officers in the accompanying document? (e.g. date, control result, maybe a short text that an accompanying document is handled under fallback procedure, etc);

(d) Considering that eTIR will be a paperless environment, if a Contracting Party starts an eTIR procedure but a technical problem in the destination country and the destination country cannot discharge the TIR operation electronically what should the customs office of destination do exactly? In the eTIR RM it can be found that customs authorities send the termination message at a later stage but the questions are: when and based on what (if no paper is presented at the destination office)?

## **B. Iran (Islamic Republic of)**

4. With reference to the item on the compatibility of eTIR with national legal requirements, the delegation of Iran (Islamic Republic of) considers that the introduction of eTIR will not only require legislation but also clarification on several questions raised by delegations during the first session. Thus, in order to facilitate decision-making, Iran (Islamic Republic of) would support carrying out a substantive survey on each aspect relevant for introducing and regulating eTIR.

5. Regarding data confidentiality, Iran (Islamic Republic of) supports the objective that all actors involved in paper procedures should have the same access to electronic procedures and related information. Furthermore, the duration of storage of information should be included in the framework of the TIR Convention.

6. With regard to the issue of electronic signatures, Iran (Islamic Republic of) is of the view that the question requires further considerations and clarifications before concluding on the relevant legal provision.

## **C. Turkey**

7. With reference to the report of the first session of GE.2, the Turkish Customs Administration considers that the following proposals should be broadly discussed in the forthcoming sessions:

(a) The Turkish Customs Administration considers that an Additional Protocol to the TIR Convention would be the best option for providing a legal framework for countries which are ready to use the eTIR system, and other countries that wish to join later;

(b) Concerning the legal status of the eTIR RM and its amendment procedure, the requirement for approval of technical amendments by each Contracting Party could hinder the functioning of the eTIR international system. As a result, the following options are proposed to be discussed in depth and in detail:

- The eTIR RM has been prepared in line with the principles of the TIR Convention. In this context, it is envisaged that the eTIR RM shall be regulated in a way that it will not constitute a part of the TIR Convention, but at the same time it will not run contrary to the basis and principles of the Convention. Bearing in mind the fact that the eTIR RM has been developed by the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1), it may be preferable that GE.1 discusses the amendment proposals to the eTIR RM.
- The Turkish Customs Administrations considers that the eTIR RM might be separated into two parts: as core components and subsidiary components. The core components (the transactions related to departure, destination, customs offices of entry and exit, national guaranteeing associations, etc.) concern the first and second chapters of the eTIR RM; the subsidiary components (technical issues related to messaging in the implementation process etc) concern the third chapter of the eTIR RM. Thus, it is believed that the core components may be discussed for a longer period of time to reach a consensus among the Contracting Parties, while the subsidiary components should be amended more easily (e.g. simplified procedure).

8. Lastly, the Turkish Customs Administration considers that GE.1 should convey amendment proposals related to the eTIR RM to WP.30 through general reporting, so that all the Contracting Parties, whether they are a Contracting Party to the Protocol or not, can be informed about the latest developments. However, when amendment proposals are put to the vote, only Contracting Parties to the additional Protocol should vote on the proposals.

#### **D. International Road Transport Union**

9. A possible solution to overcome the problem of the electronic signature could be initially to have TIR Carnet holders send the electronic data to a trusted third party who would then send it to the countries where the transport operation would be performed. A practical example could be:

(a) TIR Carnet holders send the data to the IRU via TIR- Electronic Pre-Declaration System (EPD);

(b) The IRU would then transmit it to the relevant countries where eTIR would be performed.

10. If successful, such a procedure could be adopted as a final solution. IRU is the international organization responsible for the effective organization and functioning of the international guarantee system. Thus, the data sent by IRU in this framework could be easily recognized as a valid international declaration mechanism in those countries where such an alternative can be legally and technically implemented (i.e. electronic documents have legal validity and technical systems allow the implementation of such a system). However, if three different alternatives for submitting advance cargo information to customs are established in the legal document, as proposed, the procedure will not be uniform and this might complicate the implementation of eTIR at the international level.

11. Concerning the administration and financing of the eTIR international system, the eTIR international system has not been designed as yet. Therefore, at this stage, it is not possible to define how its financing and administration should be carried out. Furthermore, it is important to bear in mind that eTIR may not have the expected results if the system is

financed through an amount per eTIR transport or by means of the paper-based system financing the initial costs of the eTIR international system, as proposed; this would mean that these costs will be passed on to TIR Carnet holders. In addition, TIR and eTIR Contracting Parties may not be the same and, therefore, may not have the same interests. Hence, rather than creating a new system, which would be time and resource consuming, technical small changes to the existing systems could be put in place to adjust their functionality and process to eTIR (e.g. existing TIR-EPD and Real-Time SafeTIR (RTS) interconnections with the New Computerized Transit System (NCTS) or other national customs Information Technology systems). This pragmatic step by step approach could initially be implemented in those countries where computerized systems already exist to exchange data electronically with customs. If successful, it could be adopted as a final solution. In addition, as such system will not require a considerable amount to be implemented; its setting up may be financed by the Contracting Parties who intend to use eTIR. Finally, to the extent that GE.2 is responsible for establishing the eTIR legal framework and the financing mechanism will be the basis of the eTIR system, GE.2 should also be responsible for identifying the financing system and not only be responsible for ensuring that the legal framework provides for its effective monitoring and regulation.

12. With regard to data confidentiality considerations, the main change in eTIR is the replacement of paper by electronic messages. Therefore, the storage of information, confidentiality issues, as well as the disclosure of information for the guarantee chain and competent authorities should be done in the same manner as is the case in the paper-based system. For this purposes, the rules governing eTIR data confidentiality could be based on Annex 9, Part III, paragraph 4 of the TIR Convention and adapted accordingly.

13. The integrity of electronic data interchange messages is related also to the issue of electronic signatures; as previously suggested, a possible solution to maintain all those requirements and at the same time overcome the problem related to the issuance of electronic signature at national level could be:

(a) To have the electronic data sent by holders to a trusted third party. This third party would send it to the countries where the transport operation would be performed;

(b) The messages would be encrypted so that their integrity would be protected; and

(c) The authentication of the Holder could be made at the time when they log into the system (e.g. by using TIR-EPD).

14. As concerns the legal status of the eTIR RM and its amendment procedure, reference is made to the decision of WP.30 at its 140 session, to support document ECE/TRANS/WP.30/2011/4/Rev.1, containing version 4.1 of the eTIR RM, as a basis for the future work of GE.2 and for pilot projects. WP.30 also took note of the latest developments of the various eTIR pilot projects and recalled that the eTIR RM was not “carved in stone”. In fact some Contracting Parties indicated they were still analysing the technical details of the document. At its 141st session, WP.30 also decided to prolong the mandate of GE.1 to 2016, in particular to review the technical results of the various pilot projects and, possibly, to assess the first findings of GE.2 (ECE/TRANS/WP.30/282).

15. Against this background, it might not be advisable, at this stage, to consider giving a legal status to the eTIR RM but, rather, to try and find an intermediary solution (e.g. drafting a simpler technical document setting the technical basis for eTIR). In this sense, it should be taken into account that the eTIR RM is a document which comprises more than 700 pages, deals with complex technical aspects, its comprehension by those who are not familiar with technical terms might be difficult, its full implementation might not be possible by all those Contracting Parties who wish to accede to eTIR, some technical

adjustments may be needed in order to comply with national legislation and some new aspects might have been developed/changed since its drafting.

16. On the other hand, some practical and important findings may be extracted from the eTIR Pilot Project held between Iran (Islamic Republic of) and Turkey and, therefore, useful for setting the eTIR legal framework. The first pilot has been successfully carried out and others may be performed within the time frame of the work of GE.2. The drafting of this new technical document could be made by a group of technical experts composed by representatives of those Contracting Parties that wish to implement eTIR and of those who have been involved in the pilot project(s). Therefore, this other document could be based on the findings of the eTIR RM, on the findings of the pilots and on the requirements of the national legislation of eTIR Contracting Parties. If amendments were needed after its implementation, they could be drafted by the same group that drafted the technical document and submitted for approval of eTIR Contracting Parties. Notwithstanding the above, if a legal status is given to the eTIR RM, as proposed, the role played by the associations and TIR Carnet holders should be mentioned in the eTIR RM (which does not occur nowadays) as they are important Parties to eTIR and Associations participate actively in the exchange of messages.

17. On the basis of the discussion on the format of the legal framework and the related administrative structure, a Protocol should be the document to establish eTIR legal framework because:

- (a) it would be a separate document;
- (b) it would only be acceded to by those Contracting Parties interested in using eTIR;
- (c) it would not be mandatory for all TIR Contracting Parties; this is a very important aspect since some Contracting Parties may not have the means or interest in implementing it;
- (d) it could make reference to all those procedures in the TIR Convention which may be applicable *mutatis mutandis*; and
- (e) it could have an Annex to deal with technical specifications.

18. Furthermore, it should be kept in mind that its wording should be simple and straightforward and deal only with those aspects which differ or are not regulated by the TIR Convention. Concerning the decision-making powers of the TIR Administrative Committee over the Protocol, the Contracting Parties to the Protocol could create a separate decision-making forum. Within this framework, only Contracting Parties to the Protocol would be able to make amendments to it. The wording of the E-CMR Protocol could be used as an example for the creation of this separate decision-making forum.

19. On the other hand, creating an Annex 11 would not be advisable as the implementation of eTIR may be difficult or hindered for the following reasons:

- (a) The opt-out clause and other necessary amendments to the TIR Convention need to be approved by all Contracting Parties to the TIR Convention. Such Contracting Parties may not be the same ones as those wishing to accede to eTIR and, therefore, they may not have the same interests. If there is an objection by TIR Contracting Parties to the eTIR legal framework, the latter will not be put in place;
- (b) If the eTIR RM becomes an integral part of Annex 11 (as Appendix 1) all those Contracting Parties that wish to accede to eTIR will have to comply with its terms, which may not be possible for the reasons previously mentioned;

(c) Although this new Annex 11 would not need a separate financial mechanism, it would still require an increase in the volumes of TIR Carnets distributed. Transport operators would still have to bear the costs for the implementation of eTIR which would make it less attractive; and

(d) Any Contracting Party interested in making a reservation in relation to the application of eTIR would have to do so in line with the requirements of the proposed revised text of article 58. If a Contracting Party cannot fulfil all such requirements, it will not be able to accede to eTIR.

### **III. Considerations by the Working Party**

20. The Working Party is invited to take note of the various positions and suggestions of the delegations participating in the work of GE.2, as well as to note that these comments were thoroughly discussed at the second session of GE.2, held on 4 and 5 April 2016 in Geneva. The Working Party may wish to provide further inputs or guidance to GE.2 and to encourage all TIR Contracting Parties and other interested stakeholders to participate in the forthcoming sessions of GE.2.

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