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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

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

###### 148th session

Geneva, 6-9 February 2018

Item 4 (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

## Self-Evaluation by the Group of Experts on the Legal Aspects of Computerization of the TIR Procedure

### Note by the secretariat

#### I. Background and mandate

1. The Group of Experts on the Legal Aspects of Computerization of the TIR Procedure (“GE.2” or “Group of Experts”), concluded its two-year mandate with its fifth session. Against this background, the secretariat has prepared the present document, containing a consolidated summary of the outputs of GE.2 and demonstrating that GE.2 has met all the requirements of its Terms of Reference (ToR). The ToR of GE.2 are provided as Annex to the present document, for ease of reference.

#### II. Summary of activities

2. GE.2 was established in May 2015, in line with the policies of the United Nations and the United Nations Economic Commission for Europe (UNECE) and subject to the general supervision of the Working Party on Customs Questions Affecting Transport (WP.30) and the Inland Transport Committee (ITC). Its mandate was to develop a concrete proposal for the eTIR legal framework, initially in the form of an additional Protocol to the TIR Convention, within a time-frame of two years (i.e. by the end of 2017).

GE.17-20969(E)



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3. On the basis of a proposal by the delegation of Switzerland at its first session (November 2015), GE.2 considered the merits of introducing the eTIR legal framework in the form of an optional Annex to the TIR Convention. In keeping with paragraphs 6(c) and 7 of its ToR, GE.2 brought its recommendation in favour of an optional Annex, to the attention and for the endorsement of WP.30 (see ECE/TRANS/WP.30/292, para. 22).

4. In line with paragraph 6 of its ToR, GE.2 based its considerations for the eTIR legal framework on the principles of the eTIR project as agreed upon by WP.30 and the TIR Administrative Committee, and on the eTIR conceptual, functional and technical specifications (formerly the “eTIR Reference Model”). GE.2 also regularly reported on its progress to WP.30. As stipulated in paragraph 5 of its ToR, GE.2 carried out its work based on existing resources.

5. Furthermore, GE.2 reported on its initial considerations to the twenty-fifth session of the Informal ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR procedure (GE.1) (September 2016), with a view towards creating synergies between the work of the two bodies. Finally, GE.2 held its fourth session back-to-back with the twenty-sixth session of GE.1 (May 2017), with a number of delegations attending both sessions in order to maintain consistency in the outputs of the two Groups. At its fourth session, GE.2 provided detailed drafting guidelines for further improving the text of Annex 11 and requested delegations participating in GE.2 to hold informal consultations with the secretariat to finalize the draft Annex and other amendments to the TIR Convention, in order to transmit a complete draft for the consideration of WP.30 at its October 2017 session (ECE/TRANS/WP.30/2017/24).

6. At its fifth session (October 2017), GE.2 finalized its consideration of the draft eTIR legal framework based on the deliberations of WP.30 at its 147th session (October 2017). Subject to the modifications agreed to at the session, GE.2 decided to submit draft Annex 11 and the related revisions to the main body of the TIR Convention to WP.30 for further consideration (ECE/TRANS/WP.30/GE.2/10).

7. The concrete results of the work of GE.2 are summarized below, with reference to the objectives of its Programme of Work (see ECE/TRANS/WP.30/2015/1) and specific items of its ToR:

<i>Objectives</i>	<i>Activities</i>	<i>Outputs</i>
(a) Preparatory work for the development of the eTIR legal framework	(i) Identification and analysis of the provisions which may be affected by the introduction of eTIR (ToR, para. 3(a));	GE.2 identified the necessity to amend four articles of the TIR Convention and to introduce two new articles. The central element of these amendments, in the view of GE.2, is the introduction of a definition of the eTIR procedure in Article 1 of the TIR Convention. On the basis of the mutatis mutandis application, other amendments to the Convention remain limited in number and primarily relate to the functions of the TIR governing bodies. GE.2 noted that only the reconciliation procedure in Annex 10, paragraph 2 seemed to be affected by the introduction of the eTIR legal framework. No other articles would appear, at this stage, to be affected by the introduction of eTIR.
	(ii) Examination of issues on the administration of the eTIR international system including, but not limited to, legal aspects of financing (ToR, para. 3(b));	GE.2 drafted two extensive articles on the hosting and administration of the eTIR international system, stipulating the responsibilities of UNECE with regard to hosting the system and providing technical assistance to Contracting Parties. Furthermore, the provisions cover issues of data management by UNECE. GE.2 also thoroughly discussed the question of financing (see ECE/TRANS/WP.30/GE.2/2016/7 and

<i>Objectives</i>	<i>Activities</i>	<i>Outputs</i>
		ECE/TRANS/WP.30/GE.2/2017/10) and transmitted its findings and recommendations to WP.30 and ITC. IRU had expressed its readiness to finance the establishment and the maintenance of the eTIR international system at the 147th session of WP.30. The Group of Experts noted that Contracting Parties interested in joining eTIR would have to make the required adjustments to their customs ICT systems and, when required, to finance those adjustments. Pending a final decision on financing by the TIR Contracting Parties, GE.2 only tentatively prepared a provision on financing for inclusion in the eTIR legal framework.
	(iii) Development of legal provisions on the role of the TIR intergovernmental bodies (ToR, para. 3(c));	GE.2 developed two new articles, as well as amendment proposals for existing articles of the TIR Convention, outlining the conditions under which the eTIR legal framework will be administered by Contracting Parties and the role of the Administrative Committee as an inclusive discussion platform. Specifically, these refer to Articles 43, 58 and 59 and new Articles 58quater and 60bis in the main body of the TIR Convention.
	(iv) Identification and analysis of the most efficient and legally acceptable method for incorporating the conceptual, functional and technical specifications into the legal framework, as well as design of an expedient amendment procedure (ToR, para. 3(d));	On the basis of the decision of GE.1 to separate the eTIR Reference Model into three separate documents, GE.2 was also able to design a simplified and expedient amendment procedure, based on the establishment of a new technical body and the classification of amendments to the specifications, depending on their impact (conceptual, functional, technical). GE.2 also developed an article stipulating the responsibility of TIR Contracting Parties to ensure the connection of their national customs systems to the eTIR international system in line with the conceptual, functional and technical specifications.
	(v) Surveys and collection of information (ToR, para. 4).	GE.2 conducted a survey on electronic authentication mechanisms, and collected information from thirty-five Contracting Parties on the legal requirements for authenticating the sender of electronic information as well as on the methods used. The results of the survey were considered by GE.2 in the context of developing the eTIR legal framework. GE.2 also invited experts from various Contracting Parties and from international organizations, to make presentations and provide input to its work. Pursuant to its discussions, GE.2 viewed that it would be useful to discuss the authentication mechanisms to be used in the eTIR system at WP.30 (ECE/TRANS/WP.30/GE.2/10, paras. 4 and 5).
(b) Development of a draft Annex (formerly Protocol)	Preparation of a draft Annex on the basis of the preparatory work, to cover the entire scope of the envisaged eTIR procedure and international system, including for example, formulations on the scope of application, definitions, administration of the system, amendments, etc. (ToR, paras. 1	GE.2 developed a comprehensive proposal for the eTIR legal framework. In the course of its work, the Group of Experts took stock of national legal requirements and current practices in Contracting Parties with regard to electronic authentication mechanisms; financing options for the eTIR international system; required amendments to the main body of the TIR Convention; and provisions to be included in the text of Annex 11. These include, but are not limited to, definitions, scope of application, legal

<i>Objectives</i>	<i>Activities</i>	<i>Outputs</i>
	and 2).	<p>status of the conceptual, functional and technical specifications, amendment procedures, establishment, composition and functions of a technical implementation body, responsibilities of UNECE, data handling and storage, fall-back procedure, submission of advance cargo information and authentication of the holder.</p> <p>GE.2 at its fourth session decided to transmit a set of proposals in the form of a working document to WP.30. This working document (See ECE/TRANS/WP.30/2017/24) contains concrete proposals for the eTIR legal framework, for the consideration of the Working Party at its 147th session in October 2017. Pursuant to the deliberations of WP.30 at its session in October 2017, GE.2 further revised the text of Annex 11 at its fifth session and decided to submit the revised text of Annex 11 and the related revisions to the main body of the TIR Convention to WP.30 for further consideration (see ECE/TRANS/WP.30/GE.2/10, para. 26, ECE/TRANS/WP.30/2018/4).</p>

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

8. WP.30 is invited to take note of the summary of the activities of GE.2 and to endorse the self-evaluation of GE.2, thus confirming that the objectives of the mandate of GE.2 have been met.

## Annex

### I. Terms of Reference of the Group of Experts on the Legal Aspects of Computerization of the TIR procedure (GE.2)

1. The Group of Experts on the Legal Aspects of Computerization of the TIR Procedure is established in line with the policies of the United Nations and the United Nations Economic Commission for Europe (UNECE) and subject to the general supervision of the WP.30 and the ITC, to provide a specialized and dedicated international platform with the objective of developing the eTIR legal framework.
2. The Group of Experts will, in the process of developing the eTIR legal framework, prepare a draft Protocol<sup>1</sup> to the TIR Convention.
3. The Group of Experts shall prepare the draft Protocol by carrying out the below activities:
  - (a) Undertake a study of the TIR Convention with a view towards concretely identifying and analysing the provisions that may be affected by the introduction of eTIR;
  - (b) Carefully examine the issues pertaining to the administration of the eTIR international system, including, but not limited to, international data protection requirements and confidentiality requirements, as well as legal aspects of financing and draft the relevant legal provisions accordingly;
  - (c) Provide legal provisions on the role and functions of the TIR intergovernmental bodies under the eTIR legal framework;
  - (d) Identify and analyse the most efficient and legally acceptable method for incorporating the functional and technical specifications as contained in the eTIR Reference Model into the legal framework, as well as design an expedient amendment procedure.
4. In the process of its deliberations and work, the Expert Group may:
  - request and collect from competent national authorities all the relevant information to assist the Expert Group in describing and assessing the situation;
  - conduct surveys of prevailing national legislation and/or legal arrangements that may be of relevance to its work;
  - develop and maintain a network of contacts, including key stakeholders such as governments, customs authorities, academia and the transport industry, with a view to exchanging information that may be of use for its work.
5. The Group of Experts shall carry out its work based on existing resources of the secretariat, as well as on, potentially, additional financial and in kind voluntary support provided by the participating countries and other international organizations, bodies and stakeholders.
6. The Group of Experts shall base its considerations on:
  - (a) The principles of eTIR as agreed upon by WP.30 and AC.2;

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<sup>1</sup> For Protocol *read* Optional Annex to the TIR Convention, in line with the decision of WP.30 at its 146<sup>th</sup> session to endorse the decision of GE.2 to develop an Annex (see ECE/TRANS/WP.30/292, para. 22)

(b) The functional and technical specifications of eTIR as contained in the eTIR Reference Model;

(c) The guidance of WP.30.

7. The Group of Experts may, in the course of its work, identify additional elements or areas in the design of the eTIR legal framework that merit attention, and in such case, these additional elements shall be brought to the attention of WP.30.

## **II. Method of Work**

8. The Group of Experts shall be established and function in accordance with the UNECE Guidelines for teams of specialists approved by the Executive Committee of UNECE on 31 March 2010 (ECE/EX/2/Rev.1). At its first meeting, the Group of Experts will adopt a workplan, clearly defining its objectives and activities, including a time schedule for their implementation.

9. The Group of Experts could envisage to meet once in 2015 (second half) and at least twice in 2016 and at least twice in 2017 at the Palais des Nations in Geneva or elsewhere depending on the support provided by the participating countries and other parties, before concluding its activities with the transmission of a set of proposals in the form of a working document to WP.30. This working document shall contain concrete proposals for an appropriate legal framework for eTIR, to be discussed and approved by the Working Party and further transmitted to AC.2 for adoption. The Group of Experts shall also regularly report on its progress to WP.30, in order to ensure that the final product is as much as possible in line with the expectations of the Working Party and meets a high level of consensus and approval.

10. Translation of documents in English, French and Russian shall be provided by UNECE, as supported by the competent UNOG services. Simultaneous interpretation of its sessions in English, French and Russian shall be provided by UNECE, as supported by the competent UNOG services, for the sessions held at the Palais des Nations in Geneva.

11. Participation in the Group of Experts is open to Contracting Parties to the TIR Convention and to UNECE member States, but also to all United Nations member countries and experts that would wish to contribute to the work. Concerned intergovernmental and non-governmental organizations are invited to participate and provide expert advice in compliance with United Nations rules and practices.

## **III. Secretariat**

12. UNECE shall provide secretariat services for the Group of Experts and shall ensure close cooperation with all stakeholders.

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