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Fourth session

Geneva, 16 and 17 May 2017

Report of the Group of Experts on Legal Aspects of Computerization of the TIR Procedure on its fourth session

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I. Attendance

1. The Group of Experts (GE.2) held its fourth session on 16 and 17 May 2017 in Geneva. The session was attended by representatives of the following countries: Finland, Hungary, Iran (Islamic Republic of), Italy, Netherlands, Poland, Sweden, Switzerland, and Turkey. Representatives of Cameroon attended the session as observers under paragraph 11 of the Terms of Reference of the Economic Commission for Europe (ECE). Representatives of the European Commission (EC) were also present. The following non-governmental organization was represented: International Road Transport Union (IRU).

II. Adoption of the agenda (agenda item 1)

Documentation: ECE/TRANS/WP.30/GE.2/7

2. GE.2 adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/GE.2/7) and noted the additional issues to be discussed under item 8 (Other business), namely Informal document WP.30/GE.2 (2017) No. 2 on the Usage of the eTIR functional and technical specifications, Informal document GE.1 No. 4 (2016) that had not been discussed at the previous session, and the question on the status of the work and possible extension of the mandate of GE.2 after 2017.

III. Election of officers (agenda item 2)

3. The Group of Experts elected Mr. M. Ciampi (Italy) as Chair for its sessions in 2017.

IV. Compatibility of the eTIR legal framework with national legal requirements: Survey on electronic authentication methods (agenda item 3)

Documentation: Informal Document (2017) No. 1

4. GE.2 welcomed Informal document WP.30/GE.2 (2017) No. 1 that provided an updated analysis of survey results on electronic authentication mechanisms. GE.2 noted that only two additional replies had been received after the extension of the deadline, hence thirty-five received in total, and that those replies had not affected the conclusions derived from the survey as presented at the previous session. Furthermore, the secretariat informed the Group of Experts that the analysis of the survey results, in terms of different regions and transit systems, had revealed that there was a requirement for authentication in all countries, but a variety of methods of authentication were in use, with differing specificities of electronic signatures and legal status thereof. However, GE.2 did note, with concern, that a limited number of respondents had indicated that the only applicable authentication method in their countries is PKI electronic signature, issued by a domestic certification authority and, exclusively, to the residents of those countries. This appeared to imply that those countries would likely not be able to apply Annex 11 in its current form unless national legal reforms would be introduced. A number of delegations were of the view that the replies of those countries should be examined more closely at the next session, in order to assess the situation and discuss possible ways forward. To this end, the secretariat was requested to prepare a new document, focused on the above-described parameters, for consideration at the next session. At the same time, GE.2 agreed that the survey, as such, could be considered completed.

V. Identification of the holder and verification of the integrity of electronic data interchange messages (agenda item 4)

Documentation: ECE/TRANS/WP.30/GE.2/2017/2, ECE/TRANS/WP.30/GE.2/2017/3

5. GE.2 took note of document ECE/TRANS/WP.30/GE.2/2017/2, submitted by the Russian Federation and referring to threats to information security. GE.2 was of the view that this document could only be discussed in the presence of and following clarifications by the submitting delegation, and as such decided to revert to this issue at its next session. GE.2 was also informed that document ECE/TRANS/WP.30/GE.2/2017/3 had not been issued.

VI. Financing of the eTIR international system (agenda item 5)

6. GE.2 was informed that document ECE/TRANS/WP.30/GE.2/2016/7 on possible financing mechanisms had been transmitted for the consideration of the Working Party on Customs Questions Affecting Transport (WP.30) and that the issue had been brought, also, to the attention of the Inland Transport Committee (ITC) that met from 21 to 24 February 2017. GE.2 noted that ITC had taken note of the concerns raised but had not indicated any specific way forward. Against this background, GE.2 resumed its discussions on financing and based its considerations on three main pillars:

(a) Investments required by Contracting Parties for adjusting their national systems: on this point GE.2 unequivocally agreed that the financial responsibility for adjusting national customs systems remains with Contracting Parties. Bearing in mind that this responsibility was also generically reflected in Article 3 of the draft Annex 11, GE.2 decided that this element was outside the scope of its considerations on financing.

(b) Financing for the maintenance of the eTIR international system: GE.2 agreed that the optimal financing mechanism for the maintenance of the eTIR international system would be by an amount per transport. However, the Group was of the view that Contracting Parties should decide if this would be an amount on every transport performed either by means of paper Carnet or electronically, or exclusively on transports performed under the provisions of Annex 11. Against this background, GE.2 decided to recommend this financing mechanism, in principle, to Contracting Parties and seek, at the same time, a clear decision on the modalities.

(c) Financing for the initial development and deployment costs of the eTIR international system: GE.2 was of the view that these costs would, on the one hand, be a one-time investment but, on the other hand, it would also most likely be a significant investment in terms of the amount needed. GE.2 noted the concerns raised by the guarantee chain on this issue, but also acknowledged that a decision on this matter would be imperative for leading the computerization process into fruition. In lack of any concrete proposals for further discussion, GE.2 decided to bring the matter to the urgent attention of the Working Party at its next session in June 2017, with the request for proposals and recommendations by Contracting Parties for viable financing options.

7. As a general conclusion, GE.2 emphasized, once more, the importance of moving forward with eTIR and recalled the Joint Statement on the Computerization of the TIR procedure, adopted by the TIR Administrative Committee in 2015.

VII. Format, administrative structure and substantive content of the eTIR legal framework (agenda item 6)

Documentation: ECE/TRANS/WP.30/GE.2/2017/1

8. GE.2 was informed that its recommendation to focus on the elaboration of an optional Annex to the TIR Convention (as per the proposal tabled by the delegation of Switzerland) was endorsed by WP.30 at its February 2017 session. The Group of Experts continued its consideration of the draft optional Annex as contained in document ECE/TRANS/WP.30/GE.2/2017/1 as follows.

A. Amendments to the main body of the Convention

9. GE.2 discussed Article 1, new paragraph (s) to the TIR Convention, that introduced a definition of the eTIR procedure. The Group of Experts was of the view that the definition should clearly indicate that the electronic exchange of data is the functional equivalent of the TIR Carnet, therefore dispensing with the need for the paper TIR Carnet, without affecting any other procedural or legal requirements (providing for a mutatis mutandis application of the eTIR procedure with regard to the provisions referring to the TIR Carnet). Against this background, GE.2 agreed on the definition, as contained in Annex I of the present report.

10. GE.2 considered and agreed on the proposed amendments to Article 58 ("Reservations"), introducing the possibility to TIR Contracting Parties to "opt-out" from applying Annex 11. The text of Article 58 with the proposed amendments is contained in Annex I of the present report.

11. The new article 60**bis** elaborating the special amendment procedure for Annex 11, was discussed in depth. The secretariat clarified that Explanatory Notes are part of Annex 6 of the TIR Convention and thus subject to the amendment procedure stipulated in article 60. Therefore, Explanatory Notes to the articles of Annex 11 should be subject to a separate decision-making process under new article 60**bis**. Further to this, GE.2 was of the view that the text of the proposed new article 60**bis** should be simplified and, at the same time, ensure that the decision-making process for amending the optional Annex would be clear. It meaning that although discussions would be inclusive, only those Contracting Parties applying Annex 11 would have decision-making powers, in line with established international law principles. Furthermore, GE.2 considered Article 59 and was of the view that its wording should be streamlined to contain the appropriate references to the new Article 60**bis**. Against this background, the Group of Experts re-drafted Article 60**bis** and provisionally agreed on inserting an amendment to Article 59, as contained in Annex I of the present report.

12. GE.2 considered and agreed on Article 58 quater, that establishes a technical implementation body to manage the conceptual, functional and technical documentation.

B. Text of Annex 11

13. GE.2 agreed with the proposed Article 1 of draft Annex 11 ("Scope of application"). Concerning Article 2 ("Definitions"); the Group of Experts discussed the necessity for the second phrase of paragraph 1, with a view to simplifying the text. The main point of discussion was centred on the references to the actors involved in the eTIR procedure; the second sentence referred solely to the customs-to-customs exchange of data, whereas some participants were of the view that the international organization and - possibly - all actors in

the guarantee chain should be mentioned. The secretariat clarified that the phrase was derived from defining the scope of the eTIR project and was contained as such in the conceptual, functional and technical documentation. Further to substantive discussions, GE.2 was of the view that the second phrase of paragraph 1 could be deleted, but pending final considerations decided to keep it in brackets (see Annex II of the present report).

14. GE.2 agreed with the proposed Article 2, paragraph 2 on the definition of “Advance Cargo Information” (ACI), with the deletion of the phrase “within the prescribed deadlines”, as the Group considered that the reference was not clear enough and could lead to misunderstandings. The proposed Article 2, paragraph 3, was agreed on without amendment.

15. On Article 3 (Implementation of the TIR procedure), GE.2 agreed that the responsibility of Contracting Parties to connect their national systems to the eTIR international system should be generically stipulated in the legal framework. With reference to the possibility of elaborating timeframes for implementation in Article 3, GE.2 considered that such timeframes should, in the first instance, be defined in a separate plan or road map. At the same time, GE.2 underscored that those countries that wish to implement Annex 11 should ensure that their systems are ready by the time they join Annex 11. On the other hand, the Group of Experts pointed to the necessity to, perhaps, clarify the time frame for entry into force of Annex 11 for those Contracting Parties that would initially opt out, but subsequently lift their reservation. To this end, the secretariat was requested to elaborate the appropriate reference or article for the next draft.

16. Article 4 (Composition, functions and rules of procedure of the technical implementation body), was accepted by GE.2 with amendments on the participation of observers and other editorial improvements/clarifications (see Annex II of the present report). GE.2 further agreed with the proposed formulation of Article 5 (Submission of ACI) and its Explanatory Note, with minor editorial amendments (see Annex II of the present report).

17. GE.2 considered that Article 6 and its Explanatory Note (Authentication of the holder at departure) was, in principle, acceptable. However, a number of delegations pointed to an apparent gap at the end of its paragraph 1 namely that the manner of authentication was not clear. Discussions ensued on whether it should be specified that the authentication would fall under national competence and applicable legislation, however the formulations proposed in session appeared to need further refinement. For this reason, GE.2 requested that the secretariat consider the issue and prepare a proposal for further comments and discussion, to be included in the next draft. Article 7 (Authentication of the holder en route and at destination) was accepted without modification.

18. GE.2 considered Article 8 (Additional data requirements) and noted that the provision was referring to data that is requested or required, but not necessarily included in the standard information relating to TIR transports in particular. Such data would include, but not be limited to, safety and security data which, in the view of several delegations, should not be part of the eTIR data requirements. GE.2 noted that this issue would also be discussed at lengths at the twenty-sixth session of the Informal Ad Hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR procedure (GE.1) and decided to maintain, for the time-being, the provision as proposed, pending any further considerations by GE.1.

19. On Article 9 (Fallback procedure), GE.2 was informed that GE.1 would discuss the fallback procedure and develop a template for the accompanying document. The secretariat also clarified that the fallback procedure as such could be described in the conceptual, functional and technical documentation and thus, the proposed limited reference would, in principle, be sufficient for the legal framework. On the other hand, GE.2 was of the view

that it would also be necessary to add an article or a reference to the accompanying document as such, possibly in the form of a definition, and instructed the secretariat to prepare a proposal to this effect to be included in the next draft.

20. GE.2 agreed in principle with the proposed Article 10 (Hosting of the eTIR international system), with an addition to paragraph 2 thereof, specifically including a responsibility for the United Nations Economic Commission for Europe (UNECE) to verify the technical functioning of the connection of national customs systems to the eTIR international system. Furthermore, GE.2 agreed to keep paragraph 3 in brackets until such time as the issue of financing is decided upon by Contracting Parties (see paras. 6 and 7 above).

21. Further to substantive discussions and proposed amendments to draft Article 11 (Data management by UNECE), GE.2 decided that the minimum period for the storage of data in the eTIR international system would be 10 years, and included this reference in its paragraph 1. Against this background, paragraphs 2 and 3 appeared redundant and possibly, a complicating factor, considering that the eTIR international system was not envisaged to include issues of claims management. For this reason GE.2 agreed to delete paragraphs 2 and 3 (see Annex II of the present report).

22. GE.2 decided that, for the optimal implementation of the eTIR procedure, the use of the International TIR Data Base should be made mandatory. For this reason, the Group of Experts decided to delete paragraph 1 of draft Article 12 (Publication of list of customs offices), and appropriately adjust paragraph 2 (see Annex II of the present report). In the context of its discussions on Article 12, GE.2 also noted that a similar amendment to Article 45 may be warranted, although this would not fall within the scope of the work of GE.2 per se. At the same time, GE.2 had commented that there would be merit in specifying, in article 45, an obligation to notify, in a timely manner, the removal (or intention thereof) of customs offices from the list.

23. In conclusion, GE.2 requested the secretariat to include, as Annex to the report that would be circulated for comments prior to its finalization, the draft legal framework as amended in session, in order to provide the opportunity for participating delegations to provide further comments and inputs. The secretariat proposed, and GE.2 agreed, that delegations would have a period of two to three weeks following the circulation of the draft report, to provide input and comments. After the finalization of the report, the secretariat was requested to prepare a new draft Annex 11 and related amendment proposals to the main body of the TIR Convention, which would then be submitted for the consideration of WP.30 at its October 2017 session. The secretariat informed GE.2 that the document that would be prepared for WP.30, would also be circulated to GE.2 participants well in advance of the deadline for the submission of documents for that session (October 2017) and that the exact timeline for comments would be communicated via e-mail. This would allow GE.2 delegations to review the new proposals that the secretariat had been mandated to work on (including those discussed under agenda item 8 (b), see paras 27 and 28).

VIII. Provisions of the TIR Convention that may be affected by the introduction of eTIR (agenda item 7)

24. GE.2 had agreed at previous sessions that the question of provisions of the TIR Convention, 1975 that may be affected by the introduction of the eTIR legal framework, should be closely monitored and assessed as the work progressed. Against this background, no specific issues were raised for discussion under agenda item 7. GE.2 discussed the necessary amendments to the main body of the TIR Convention under agenda item 6.

IX. Other business (agenda item 8)

25. GE.2 considered the following additional issues.

A. Usage of the eTIR functional and technical specifications

26. GE.2 took note of Informal document WP.30/GE.2 (2017) No. 2, on the need to clarify the envisaged availability of the eTIR conceptual, functional and technical specifications (formerly the eTIR Reference Model) and the eTIR XML schemas (XSD). GE.2 was of the general view that all eTIR materials should be in the public domain. GE.2 also noted that the issue would be further discussed in the course of the twenty-sixth session of GE.1 on 18 and 19 May 2017.

B. Amendments to the eTIR conceptual, functional and technical documentation that may be of relevance for GE.2

27. GE.2 considered the proposed amendments to the eTIR conceptual, functional and technical documentation, as proposed by the European Commission and reflected in Informal document GE.1 No. 4 (2016) that had not been discussed at the previous session due to a lack of time. GE.2 noted that it had already taken account of the necessity to include provisions on the fallback procedure and accompanying document. However, GE.2 agreed that relevant provision should also be made to take account of the certified report for incidents en route. To this effect, GE.2 requested the secretariat to re-formulate existing provisions accordingly and to include them in the next draft.

28. Furthermore, GE.2 discussed whether the requirements of Annex 10 could be considered fulfilled by applying the new optional Annex 11. GE.2 also considered whether an article to this effect should be included in Annex 11. As a general view, GE.2 agreed that this would merit further consideration and requested the secretariat to look into possible ways to incorporate such consideration into the legal framework for the next draft.

C. Conclusion of the mandate of GE.2 and next steps

29. The secretariat informed GE.2 that the two-year mandate of the Group of Experts was coming to an end and invited views on whether an extension would be warranted. GE.2 was of the view that the draft legal framework for eTIR, after its next revision (see para. 23 above), would represent a concrete proposal to be considered by the Working Party at its October 2017 session. Therefore, pending a final decision by the Working Party, GE.2 was of the view that, after its last session, scheduled for the end of October 2017, an extension of mandate to the year 2018 would most likely not be necessary, and that further discussions and refinements of the draft legal framework could take place at the sessions of the Working Party.

X. Dates of the next session (agenda item 9)

30. The Group of Experts decided to hold its fifth session on 30 and 31 October 2017.

Annex I

Amendments to the main body of the Convention¹

Article 1 new paragraph (s): Definition of the eTIR procedure²

(s) The term “eTIR procedure” means the TIR procedure, ~~implemented which is carried out under cover of an electronic TIR guarantee and implemented by means of electronic exchange of data, which provides the functional equivalent to the TIR Carnet. exchanged~~ **The eTIR procedure is carried out** in accordance with the provisions of Annex 11.

Article 58: Reservations³

1. Any State may, at the time of signing, ratifying or acceding to this Convention, declare that it does not consider itself bound by Article 57, paragraphs 2 to 6, of this Convention. Other Contracting Parties shall not be bound by these paragraphs in respect of any Contracting Party which has entered such a reservation.

Ibis. Any Contracting Party may, at any time after the entry into force of Annex 11, declare that it does not consider itself bound by Annex 11. Other Contracting Parties shall not be bound by Annex 11 in respect of any Contracting Party which has entered such a reservation.

2. Any Contracting Party having entered a reservation as provided for in paragraphs 1 **and *Ibis*** of this Article may at any time withdraw such reservation by notifying the Secretary-General of the United Nations.

3. Apart from the reservations provided for in paragraphs 1 **and *Ibis*** of this Article, no reservation to this Convention shall be permitted.

Article 59: Procedure for amending this Convention⁴

1. This Convention, including its Annexes, may be amended upon the proposal of a Contracting Party by the procedure specified in this Article.

2. ***Except as provided for under Article 60bis***, any proposed amendment to this Convention shall be considered by the Administrative Committee composed of all the Contracting Parties in accordance with the rules of procedure set out in Annex 8. Any such amendment considered or prepared during the meeting of the Administrative Committee and adopted by it by a two-thirds majority of the members present and voting shall be communicated by the Secretary-General of the United Nations to the Contracting Parties for their acceptance.

3. Except as provided for under Articles 60 **and 60bis**, any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all Contracting Parties three months after the expiry of a period of twelve months following the date of communication of the proposed amendment during which period no

¹ Deletions are marked in ~~strike through~~ and new text in ***bold italics***.

² See paragraph 9 of the present report.

³ See paragraph 10 of the present report.

⁴ See paragraph 11 of the present report .

objection to the proposed amendment has been communicated to the Secretary-General of the United Nations by a State which is a Contracting Party.

4. If an objection to the proposed amendment has been communicated in accordance with paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

New Article 60bis: Special procedure for amending Annex 11⁵

1. Any Contracting Party to this Convention may propose one or more amendments to Annex 11. Any proposed amendment to Annex 11 shall be considered by the Administrative Committee. Such amendments shall be adopted by a majority of the Contracting Parties to Annex 11 present and voting.

2. Amendments to Annex 11 considered and adopted in accordance with paragraph 2⁶ of this Article shall be communicated by the Secretary-General of the United Nations to the Contracting Parties to Annex 11 for their acceptance. The date of entry into force of such amendments shall be determined at the time of their adoption, unless by a prior date determined at the same time, one-fifth or five of the States which are Contracting Parties to Annex 11, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendments. Determination of the dates referred to in this paragraph shall be by a two-thirds majority of the Contracting Parties to Annex 11 present and voting.

3. Explanatory Notes referring to provisions contained in Annex 11 shall also be subject to the amendment procedure specified in this Article.

New Article 58 quater: establishment of subsidiary bodies related to Annex 11⁷

A technical implementation body (TIB) composed of all Contracting Parties that have not entered a reservation as provided for in Article 58 paragraph 1bis⁸ shall be established. Its composition, functions and rules of procedure are set out in Annex 11.

⁵ See paragraph 11 of the present report – the text was almost completely re-drafted compared to the formulation contained in ECE/TRANS/WP.30/GE.2/2017/1 and therefore use of ~~strike through~~ and ***bold italics*** to mark changes was considered impractical.

⁶ Comment by IRU, received post-session in line with para. 23 of the present report: correct numbering reference.

⁷ See paragraph 12 of the present report.

⁸ Comment from the delegation of Poland, received post-session in line with para. 23 of the present report: terminology should be aligned with that used in art. 60bis, para. 2.

Annex II

Text of Annex 11

Annex 11 Implementation of the eTIR procedure⁹

Article 1 Scope of application

The provisions herein govern the implementation of the eTIR procedure as defined in Article 1, paragraph (s) of the Convention and shall apply in the relations between Contracting Parties to the TIR Convention, 1975, that have not entered a reservation as provided for in Article 58, paragraph 1**bis** of the Convention.

Article 2 Definitions

1. The term “eTIR international system” shall mean the Information and Communication Technology (ICT) system devised to enable the exchange of electronic information between the actors involved in the eTIR procedure. [It allows the management by customs of data on guarantees and the secure exchange of data between national customs systems **and the international organization**¹⁰ related to the international transit of goods, vehicles and/or containers according to the provisions of the TIR Convention, 1975.]¹¹

2. The term "advance cargo information" shall mean the information provided to the competent customs authorities ~~within the prescribed deadlines and~~ in the prescribed form and manner of the intention of the holder to place goods under the eTIR procedure or pursue a TIR transport.¹²

3. The term “declaration” shall mean the act whereby the holder, or his or her representative, indicates in the prescribed form and manner a wish to place goods under the eTIR procedure.¹³

Note: In line with paragraph 19 of the present report, the secretariat will elaborate a proposal for a definition of an accompanying document either in article 2 or other appropriate place in the legal framework.

Article 3 Implementation of the eTIR procedure¹⁴

The Contracting Parties¹⁵ shall connect their national IT systems to the eTIR international system in line with the conceptual, functional and technical documentation

⁹ Deletions are marked in ~~strike through~~ and new text in **bold italics**.

¹⁰ Comment from the delegation of Poland, received post-session in line with para. 23 of the present report: The formulation is unclear as it may imply communication only between customs and the international organisation, not among customs systems themselves. So if not deleted, this sentence should be amended.

¹¹ See paragraph 13 of the present report.

¹² See paragraph 14 of the present report.

¹³ Ibid.

¹⁴ See paragraph 15 of the present report.

managed and maintained by the technical implementation body as established under Article 58^{quater}.

Note: *In line with paragraph 15 of the present report, the secretariat will elaborate a proposal for a reference to the time-frame for the entry into force of Annex 11 for those Contracting Parties that initially opt-out but subsequently lift their reservation.*

Article 4¹⁶

Composition, functions and rules of procedure of the technical implementation body

1. ~~The **Contracting Parties to Annex 11 shall be members of the** technical implementation body shall be composed of experts representing the national administrations of the Contracting Parties that have not entered a reservation as provided for in Article 58, paragraph 1~~bis~~. Its sessions shall be convened at regular intervals, as required for the maintenance of the eTIR conceptual, functional and technical documentation. The Committee shall be regularly informed of the activities and considerations of the technical implementation body.~~

Ibis. *The technical implementation body may decide that Contracting Parties which have entered a reservation provided for in Article 58, paragraph 1bis or representatives of international organizations may, attend sessions of the technical implementation body as observers¹⁷.*

2. The technical implementation body shall monitor the¹⁸ functional and technical aspects of implementing the eTIR procedure, as well as coordinate and foster the exchange of information between competent authorities of¹⁹ Contracting Parties on matters falling within its competence.

3. The technical implementation body shall ensure that all the conceptual, functional and technical documentation required for the implementation of the eTIR procedure is kept up-to date and accessible to all Contracting Parties.

4. The technical implementation body shall **propose, discuss and** adopt amendments to the technical specifications of the eTIR procedure and decide on the appropriate transitional periods for their implementation ~~by Contracting Parties.~~

5. The technical implementation body shall **propose, discuss, and propose and adopt** amendments to the functional specifications of the eTIR procedure, which shall be transmitted to the Committee and approved by a majority of **Contracting Parties to Annex 11** ~~that have not entered a reservation as provided for in Article 58, paragraph 1bis and implemented at a date to be determined at the time of approval.~~

6. The technical implementation body may consider amendments to the conceptual specifications of the eTIR procedure if so requested by the Contracting Parties **to Annex 11**

¹⁵ Comment by IRU, received post-session in line with para. 23 of the present report: After “the Contracting Parties” add “to Annex 11” to clarify scope of application.

¹⁶ See paragraph 16 of the present report.

¹⁷ Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to align the wording of this article with the one used in Annex 8 i.e. “Contracting Parties [...] or representatives of international organizations shall have the right to attend sessions of the technical implementation body as observers, unless its Chairman decides otherwise”.

¹⁸ Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to add “conceptual” before “functional and technical”.

¹⁹ Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to add “all” before “Contracting Parties”.

~~that have not entered a reservation as provided for in Article 58, paragraph 1bis.~~ Amendments to the conceptual specifications of the eTIR procedure shall be approved by a majority of Contracting Parties *to Annex 11 in line with Article 60bis of this Convention* ~~that have not entered a reservation as provided for in Article 58, paragraph 1bis~~ and implemented at a date to be determined at the time of approval.

Article 5

Submission of advance cargo information²⁰

1. ~~The~~ Advance cargo information shall be submitted electronically to the competent customs authorities.
2. Contracting Parties shall accept the submission of advance cargo information via the eTIR international system. Contracting Parties shall also publish the list of other electronic means by which advance cargo information can be submitted.

Explanatory Note to Article 5, paragraph 2

11.5.2 Contracting Parties are recommended to allow, in as far as possible, the submission of advance cargo information by the means indicated in the ~~relevant~~ functional and technical documentation.

Article 6

Authentication of the holder at departure²¹

1. The holder²² ~~sending~~ **submitting** the advance cargo information in line with Article 5 shall be authenticated *[in accordance with applicable national legislation]*^{23,24}
2. The competent authorities of each Contracting Party shall recognize authentications performed by the eTIR international system.
3. The competent authorities of each Contracting Party shall publish a list of authentication mechanisms other than that specified in paragraph 2 of the present Article, that may be used.

Explanatory Note to Article 6, paragraph 3

11.6.3 Contracting Parties are recommended to recognize, in as far as possible, the authentications performed by the means indicated in the functional and technical documentation.

²⁰ See paragraph 16 of the present report.

²¹ See paragraph 17 of the present report.

²² Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to add “or his agent” after “the holder”.

²³ Text in brackets provided as example. Wording to be further reviewed.

²⁴ Comment from the delegation of Poland, received post-session in line with para. 23 of the present report: It may be necessary to clarify in the formulation that para.1 would not apply in case of application of para.2, namely that in case of authentication via the eTIR international system, further authentication in accordance with national legislation shall not be required.

Article 7**Authentication of the holder en route and at destination²⁵**

The competent authorities of customs offices en route and of destination²⁶ shall recognize the authentication of the holder performed by the competent authorities of the country²⁷ to which the advance cargo information is submitted.

Article 8²⁸**Additional data requirements**

Contracting Parties should limit data requirements to those contained in the functional and technical documentation. However, if additional data requirements are imposed, the competent authorities shall endeavour to facilitate the submission of such data so as not to impede TIR transports carried out in accordance with the present Annex.

Article 9²⁹**Fall-back procedure**

1. In the event that an eTIR procedure is impeded for technical reasons, the competent authorities:

(a) may use the electronic fall-back system as defined in the functional and technical documentation;

(b) shall accept the accompanying document, as specified in the functional and technical documentation.

Note: *In line with paragraph 27 of the present report, the secretariat will elaborate a proposal for inclusion, in article 9, of an appropriate reference to the certified report.*

Article 10**Hosting of the eTIR international system³⁰**

1. The United Nations Economic Commission for Europe (UNECE) shall be responsible for managing the eTIR international system.

2. UNECE shall assist countries in connecting their IT systems to the eTIR international system *[and verify their proper functioning³¹]³².*

3. [Pursuant to paragraphs 1 and 2 of this Article, unless the eTIR international system is financed by resources of the United Nations regular budget, the required resources shall be subject to the financial rules and regulations for extra-budgetary funds and projects of the United Nations. The financing mechanism and budget for the operation of the eTIR

²⁵ See paragraph 17 of the present report.

²⁶ Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to add “/exit” after “destination”.

²⁷ Comment by IRU, received post-session in line with para. 23 of the present report: It is proposed to replace “country” with “customs offices of the countries of departure/entry”

²⁸ See paragraph 18 of the present report.

²⁹ See paragraph 19 of the present report.

³⁰ See paragraph 20 of the present report.

³¹ Exact wording to be reviewed, currently provided as example.

³² Comment from the delegation of Poland, received post-session in line with para. 23 of the present report: This should include providing and assisting in international tests which should precede the operational connection.

international system at the UNECE shall be decided and approved by the Contracting Parties to the TIR Convention].³³

Article 11

Data management by UNECE³⁴

1. UNECE shall make the appropriate arrangements for the storage and archiving of the data in the eTIR international system [for a minimum period of 10 years].

~~{2. — Without prejudice to any information sent to the guaranteeing association in line with Article 11 of this Convention, Contracting Parties should notify the UNECE TIR Secretary of TIR transports carried out under the eTIR procedure for which the certificate of termination has been obtained in an improper or fraudulent manner or for which no termination has taken place, resulting in a claim for payment of import or export duties and taxes.}~~

~~{3. — Data pertaining to TIR transports carried out under the eTIR procedure, for which an irregularity has been notified in line with paragraph 2 of the present Article, shall be stored in the eTIR international system for a period of 10 years [period of 5 years after the settlement of the claim has been notified.]}~~

2.4. All data stored in the eTIR international system may be used by UNECE on behalf of the competent bodies of this Convention for the purpose of extracting aggregated statistics.

~~3 5.~~ The competent authorities of Contracting Parties involved in a TIR transport carried out under the eTIR procedure which becomes the subject of administrative or legal proceedings concerning the payment obligation of the person or persons directly liable or of the guarantee chain, may request UNECE to provide information stored in the eTIR international system pertaining to the claim in dispute for verification purposes. This information may be produced as evidence in national administrative or legal proceedings.

~~4 3.~~ In cases other than those specified in this Article, the dissemination or disclosure of information stored in the eTIR international system to non-authorized persons or entities shall be prohibited.

Article 12

Publication of list of customs offices capable of handling eTIR³⁵

~~1. — Each Contracting Party shall publish the list of approved customs offices where TIR operations under the eTIR procedure can start, terminate or pass through.~~

~~2.~~ Each Contracting Party shall ensure that its list of customs offices ~~pursuant to paragraph 1 of this Article,~~ *of departure, customs offices en route and customs offices of destination approved for accomplishing TIR operations under the eTIR procedure*, is at all times accurate and updated in the electronic database for approved customs offices, developed and maintained by the TIR Executive Board.

***Note:** In line with paragraph 28 of the present report, the secretariat will elaborate a proposal for inclusion, in the draft Annex 11, of an appropriate reference to the implementation of Annex 10.*

³³ See paragraph 20 of the present report.

³⁴ See paragraph 21 of the present report.

³⁵ See paragraph 22 of the present report.