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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

Ninth session

Bratislava (Slovakia), 7-8 March 2006,
agenda item 3 (c)

ACTIVITIES OF THE INFORMAL AD HOC EXPERT GROUP

Future Projects for the Reference Model of the TIR Procedure

Note by the secretariat

A. BACKGROUND

1. At its eighth session, the experts from Customs authorities extensively discussed document TRANS/WP.30/GE.1/2005/2, prepared by the secretariat with the assistance of the European Commission and taking into account the guidelines provided by the Working Party in document ECE/TRANS/WP.30/2005/Informal document No. 9. They updated the document and requested the secretariat to prepare and distribute a revised version, which should be submitted to WP.30 for consideration (TRANS/WP.30/GE.1/2005/2/Rev.1). The experts from the IRU informed the Expert

Group that they, as well as the experts from national associations, were not in the position to provide comments during the session because the document had only been distributed a week before the meeting. They informed the Expert Group that they would provide consolidated written comments for discussion by WP.30 at its next session. Furthermore, they informed the Expert Group that they would submit for the next session of WP.30 a document on their vision of a computerized TIR system (See TRANS/WP.30/GE.1/2005/5, paras. 12-13). The aforementioned documents have been presented to the WP.30 as documents ECE/TRANS/WP.30/2006/Informal documents No. 2 (2006) and No. 3 (2006), respectively. In addition, the IRU has submitted document ECE/TRANS/WP.30/GE.1/2006/4 for this session of the Expert Group, containing comment on document ECE/TRANS/WP.30/GE.1/2005/2/Rev. 1.

2. At its one-hundred-and-twelfth session, the Working Party, based on a presentation by the secretariat, considered document TRANS/WP.30/GE.1/2005/2/Rev.1, prepared by the secretariat in consultation with the European Commission, containing a description of the main principles of the future eTIR system. The Working Party also considered Informal documents No. 2 and 3 (2006), prepared by the IRU, containing comments to the above-mentioned document as well as proposals for the computerization of the TIR system through public/private partnership based on the synergies at national and international levels between the existing systems used in the private and public sectors. The Working Party considered that the proposals seemed to include many of the same elements, but also included distinctive differences. Some delegations were of the view that the developments of the eTIR system should be continued in line with its decision taken at the one-hundred-and-eleventh session (TRANS/WP.30/222, para. 35). The Russian delegation felt that various components of the TIR computerization could be developed in parallel, in view of different timeframes for their implementation as well as different goals and data contents, with their subsequent integration into one system.

3. The Working Party, after an in-depth discussion, decided that any issues of a political, strategic or financial nature needed to be addressed to or referred back to the Working Party. Furthermore, it requested the Expert Group to continue its discussion on the future technical developments on the basis of the secretariat's proposal, requesting, at the same time, the IRU to provide the Expert Group with more technical details of its proposal, thus enabling it to make progress in its technical analysis of the eTIR system and undertake a technical evaluation of the IRU proposal and on that basis to report back to the Working Party at its forthcoming session (ECE/TRANS/224/draft).

4. Within the context of discussing document ECE/TRANS/WP.30/GE.1/2006/4, submitted by the IRU, the Expert Group may wish to take into account that document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 was drafted in accordance with instructions received from

the Customs delegates in the Expert Group. The aim of this document is to provide the Expert Group with further background information and clarifications in relation to the various issues raised by the IRU. For the sake of clarity, this document follows the structure and indicates the page-numbers of document ECE/TRANS/WP.30/GE.1/2006/4, transmitted by the IRU.

B. EXECUTIVE SUMMARY

Page 3, first paragraph:

IRU: "If the proposed "high functional specifications of the eTIR system" contained in the annex to document 2 were to be followed, considerable amendments to the existing TIR Convention would be needed, mainly regarding the guarantee system, the obligations of TIR Carnet Holders, the declarations and other exchange of information between customs, holders and Guaranteeing Associations. This does not correspond to the mandate given by the WP.30, the key words of which being "limited amendments to the TIR Convention" and "compatibility with existing systems"."

5. According to the IRU, the high functional specifications of the eTIR system, as described in document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, will require considerable amendments to the existing TIR Convention, which would not correspond to the mandate given by the WP.30. The issue of repercussions of the computerization process on existing legal provisions and administrative procedures was discussed by the Ad hoc Expert Group on Computerization, at its second session (21-22 June 2001). Within the context of aspects which were the object of consideration "the Expert Group considered that, although from a legal point of view possible changes to the text [of the TIR Convention] might be minor, a more profound study of the subject would be necessary, once the outlines of the strategical and technical steps to be taken to computerize the TIR procedure would have been more clearly defined."(TRANS/WP.30/2001/13). Thus, it seems that the word 'minor' should not be read and used in isolation as an absolute term, but should be judged in proportion to the finalized eTIR system. In any case, it does not justify maintaining a status-quo of the present situation.

Page 3, second paragraph:

IRU: "The eTIR system described in the annex to document 2 is totally dependent on the so-called eTIR international system, a centralized Guarantee database, also used for exchange of TIR transport information, if correctly understood related to the ITDB. Reliable reactions from this database are sine qua non conditions for the functioning of about 3 million international road transport operations per year, including the accomplishment of procedures needed for customs purposes. Such reliable reactions are in no way secured, and nothing is said about liability for errors, mistakes or malfunctioning of the eTIR international system. Can the UNECE accept such liabilities? Dramatic legal constraints of this nature and their financial implications have to be clearly identified and defined."

6. According to the IRU, the eTIR system, as described in document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, is totally dependent on the so-called eTIR international

system. In fact, the eTIR international system is only one of the four actors¹ of the eTIR system. But, in accordance with the instructions by the WP.30 at its one-hundred-and-sixth session, the main focus of the note by the secretariat is on the establishment of an international, centralized database, leaving other aspects (which may be performed by other actors) aside. The IRU can only assume that the eTIR international system will be developed and maintained by the UNECE, because this point, so far, has not been addressed at all.

Page 3, third paragraph:

IRU: "The building-up of the eTIR international system will demand considerable financial resources. Nothing is said about the financing in document 2. Is it realistic that the UNECE could find financial means for this investment as well as for the running of the operation of the system? The enormous financial consequences for national customs authorities as well as the road transport industry are untold."

7. Even before the issue of costs and ways of financing has been discussed (either by the Expert Group or by the WP.30), IRU already argues that it will demand considerable financial resources. Contracting Parties are aware of the financial implications of the development of the eTIR system and will address the issue once more clarity about the description of the eTIR system has been obtained.

Page 3, fifth paragraph:

IRU: Essential points expressed by the majority of Director Generals of Customs in answering the questionnaire were neglected by and even contradicted in document 2."

8. IRU argues that document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 neglects or contradicts essential points of view expressed by the majority of Director General of Customs. Exactly the fact that differences have been noted between the outcome of the questionnaire and the opinion expressed by participants in the Expert Group (in particular with regard to the issue of advance cargo information), has led to the Expert Group's mandate to the secretariat to draft document ECE/TRANS/WP.30/2006/1, to seek guidance from the Working Party.

Page 3, sixth paragraph:

IRU "The submission of the declaration by the holder foreseen directly to the customs office of departure or through the eTIR international system raises practical and/or legal concerns, particularly where foreign holders start a return load operation from a country where they are not established."

9. The IRU finds that the submission of the declaration to the Customs office of departure or through the eTIR international system raises practical and/or legal concerns. In fact, document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 only deals with the issue of submission of the declaration to

¹ The four actors are: guarantor, operator, Customs and eTIR international system.

the Customs office of departure, without specifying whether this is done directly or via any other means. This could, possibly, be facilitated by the eTIR international system as is suggested by the IRU, but submission via existing national systems or private channels (e.g. national associations) is also possible. Whatever the final choice, every option involves practical and/or legal aspects to be addressed.

Page 3, seventh paragraph:

IRU: "Document 2 implies the existence of digital signature for all 40,000 approved TIR operators as a pre-requisite while there is no international consensus on the (legal and technical) definition and the practical implementation of the digital signature."

10. It is correct that document ECE/TRANS/WP.30/GE.1/2005/2/Rev. 1 refers to the electronic signature as means to validate various steps in the eTIR system, whereas it is clear that, today, this issue faces legal and technical problems. This, however, should not be an impediment to include, at various stages in the system, (a) proof of the identity of the holder and (b) proof that the data in a given message, since its inception, has not changed (by any unauthorized means).

Page 3, paragraph 8:

IRU: "Document 2 seems to foresee an unlimited access to information from the eTIR international system for all authorities. This principle is incompatible with the indispensable and non-negotiable confidentiality of data of commercial, economic or strategic sensitivity."

11. According to the IRU, document ECE/TRAN/WP.30/GE.1/2005/2/Rev.1 seems to foresee an unlimited access to information from the eTIR international system for all authorities. In fact, this aspect is not described as such in the document. In any way, it should be evident that the eTIR system will only make available data on a specific TIR transport to dedicated groups and that not every person authorized to access the eTIR system will have access to all data.

Page 4, paragraph 1:

IRU: "If the content of document 2 is to be accepted as the basis for the computerization of the TIR procedure, the IRU and its member associations are convinced that no computerization will be achieved for many years, thereby building obstacles to the facilitation of international trade and transport."

12. In view of the above considerations, which run counter to the assertions by the IRU, the Expert Group may wish to question the validity of the IRU's conclusion.

C. PART 2: GENERAL CONSIDERATIONS

Page 4, Background:

13. The secretariat agrees that various documents have been submitted too shortly before meetings,

thus making in-depth preparation and consultation impossible. Although largely due to reasons beyond its influence, the secretariat recognizes its defect in this respect and will do its utmost to avoid similar situations from happening in the future.

Page 4-5, Expert Group Mandate:

14. As will be elaborated in a separate document, to be submitted to the forthcoming session of the WP.30, the issue of mandate is not as strict or straightforward as the IRU appears it to be. The fact that the IRU chooses to mention some guidelines, while leaving out others (such as the agreement by the Working Party that the computerization process should, until further notice, be focused on the establishment of an international, centralized database, whose aim should be to facilitate the secure exchange of data between national Customs systems) clearly demonstrates the complexity of this issue.

Page 5, Document 23:

15. The IRU stresses the fact that a number of documents, including the questionnaire, were only available in English. This goes without saying, considering that, within the context of the work on computerization, the Working Party opted for the establishment of 'informal ad hoc Expert Groups', pointing out that delegated experts should have a good working knowledge of English. This was done to simplify the work by the Expert Group and to facilitate the organization of its meetings. At this moment in time, only documents submitted to the WP.30 are subject to the requirement of translation into the three working languages of the UNECE. Requiring this for all documents would seriously delay the future work of the Expert Group. Nevertheless, in view of the fact that more delegations seem to be of the view that translation and interpretation in other languages is required, WP.30 will have to address this issue.

16. It is correct that document ExG/COMP/2004/23 contains a proposal for an introduction to Chapter 2 of the Reference Model, pending approval by the Expert Group. It is also correct that the said document never obtained approval by the Expert Group. It is however not correct that the IRU uses a specific statement (which was made with regard to the content of the document itself) to justify that the Expert Group did not approve the document. In fact, the report of the session does not contain any information with regard to the issue of approval of the document (See TRANS/WP.30/2005/14, paras 15-17).

Page 5, Questionnaire:

17. The criticism of the IRU on the outcome of the questionnaire seems to oversee that the Expert Group, at its seventh session, dedicated considerable time to the drafting of Chapter 1.1.7. (as well as Chapter 1.1.8) of the Reference Model, using the results of the questionnaire. The Expert Group reached agreement on these Chapters, realizing that it might have to revert to the issues when additional replies by countries had been received which would require reconsidering the initial assessment and decided to present them to WP.30 for validation (ExG/COMP/2005/9, paras. 11-12). At its eighth

session, the Expert Group agreed that the conclusions drawn at the seventh session remained valid (TRANS/WP.30.GE1/2005/5, paragraph 6).

Page 5-6, Document 2:

18. The general criticism of the IRU with regard to document ECE/TRANS/WP.30/GE.1/2005/Rev. 1 (in particular the elimination of the paper TIR Carnet) seems unjustified, particularly in view of the IRU own proposals, which stipulate that both the declaration and the guarantee part of the paper TIR Carnet will tomorrow be replaced by electronic data-sets. The IRU, constantly reminding all parties of problems regarding (new) Contracting Parties not willing or able to join the eTIR system, does not seem to address these issues when presenting their own proposals.

19. According to the IRU, it is not the eTIR system but the Expert Group which misses business objectives. This statement lacks clarity and might need further explanations by the IRU as to what is referred to, in particular in view of the fact that the term “business objectives” is not used in UMM, the modelling methodology adopted by the Expert Group. At the other hand, it should be pointed out that Chapter 1 of the Reference Model contains an extensive part on the Expert Group’s vision. The IRU does not provide any arguments substantiating its conclusion that document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 “omits the central components without which the TIR procedure could not work and to which any system should adapt to, namely, the spirit of the TIR Convention, the strong relationship between associations and holders, between Customs authorities and associations, between associations and the international organization etc.”.

20. The IRU claims that the quotation from the external evaluation report² is not correctly used in document TRAN/WP.30/GE.1/2005/2/Rev.1, as its wording would not allow for a fully computerized system as described therein. It is interesting to note that the IRU, on the one hand, uses the quotation in document ECE/TRANS/WP.30/GE.1/2006/4 to justify that the expansion of the TIR Convention should be regarded as the primary objective and that the computerization of some procedures is an explicit recommendation by the Member States, whereas, on the other hand, the same quotation is used in ECE/TRANS/WP.30/2006/ Informal document No. 3 to justify the IRU’s opinion that the continued success of the TIR system depends “in addition to its further geographical expansion, on the gradual (step-by-step) substitution of the paper based system with a computerized system”.

² The state of the UNECE, External Evaluation Report, June 30, 2005 (Pekka Haavisto, Karl Th. Paschke, Johannah Bernstein and Tapio Wallenius, page 41: “...Member States maintain that the TIR Convention must be further expanded to include territories outside the UNECE region. The TIR Convention also needs to have at least some of its procedures computerized.”

Page 6, point 2:

21. The question how national Customs authorities manage an international system needs to be addressed by the TIR Administrative Committee and cannot be answered by the secretariat. With regard to the IRU's assumption that the e-TIR international system would be hosted and managed by the UN, see paragraph 6 above.

Page 7, point 3:

22. As is stated in Section 2.4.2. of document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, the declaration is dealt with at the national level between the operator and the Customs authorities. However, document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 mentions a number of data elements which Contracting Parties are advised to include into their request for the submission of a declaration. Therefore, it is unclear how the IRU reaches the conclusion that the declaration mechanism is ambiguous.

Page 8, point 4:

23. The list of major prerequisites, as stipulated by the IRU, reflects the opinion of the IRU and does not necessarily correspond to document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1. Latter document deals with the fully implemented eTIR system and does not cover the description of the prerequisites which will be addressed in the course of the various steps.

Page 8, point 5:

24. According to the IRU, it is not allowed to present any proposal, without there being a prior discussion, adoption or decision of its principles (as they are formulated by the IRU). This issue is closely linked to the issue of the mandate of the eTIR project, which will be addressed separately (see paragraph 14 above).

Page 8, point 6:

25. With regard to the apparent contradiction (in some respects) between document ECE/TRANS/WP.30/2005/Informal document No. 9 and the document ECE/TRANS/WP.30/GE.1/2005/2/Rev. 1, the IRU fails to recognize that the first document was the object of discussions in WP.30, further consultations with the European Commission and discussions in the Expert Group, resulting in the preparation of the latter document. Leaving aside the fact the document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 contains more details than document

ECE/TRANS/WP.30/2005/Informal document No. 9, its general approach is the same.

Page 8, point 7:

26. With regard to the unlimited access as stipulated by the IRU, reference is made to paragraph 11 above. For unclear reasons, the IRU identifies TIR-related data, available to Customs authorities within the eTIR system, with “all details of foreign trade”, linking them to breaches in fair competition and leading to restrictions on traffic rights.

Page 9, point 8:

27. With regard to differences between the outcome of the questionnaire and document ECE/TRANS/WP.30/2005/2/Rev.1, see paragraph 8.

Page 9, point 9:

28. The IRU criticizes that document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 does not provide contextual information, as required by the UMM. This leads the IRU to the statement “that it has now been proposed to abandon this transparency”. There is no information available, supporting this statement by the IRU.

Page 9, point 10:

29. The IRU argues that acceptance of the ideas in document ECE/TRAN/WP.30/2005/2/Rev.1 would place the IRU and its guaranteeing associations in a completely dependent position. According to the IRU “such a system is not only not in line with the existing principles, but is in contradiction with the basic ethical principles which forbid the one who claims from also being the one who handles and detains all information and evidence, leaving the one who is requested to pay with no individual means and possibilities of handling this information and evidence autonomously”. The secretariat does not know which principles the IRU is referring to, nor is it familiar with the existence of the ethical principle as formulated by the IRU. If it refers to the principle of avoiding conflict of interest, then this applies to all parties alike, including the IRU and the guaranteeing associations.

D. PART 3: SPECIFIC REMARKS TO DOCUMENT 2

30. Section A2

The secretariat fails to understand the importance of the remark by the IRU, stipulating that the European Commission and the secretariat decided to produce two documents instead of one. This seems to be of no concern to anyone except the drafters of such documents and was only done to meet the request by the Expert Group at its seventh session (ExG/COMP/2005/9, paragraph 16) while, at the same time, seeking guidance from the WP.30 in order to speed up the decision making process.

31. Section A3

It is not up to the secretariat to judge the considerations by the WP.30, which, apparently, found the guidelines contained in document ECE/TRANS/WP.30/2005/Informal document No. 9 clear enough to instruct the Expert Group to follow them for its future discussions.

32. Section B5

In paragraph 6 of document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, the secretariat clearly indicates that “it is not the aim of this document to describe the transition period and all steps necessary to achieve the full implementation of the project”. Therefore, the IRU remarks do not seem to bear any relevance.

33. Section B6

In view of what is stated by the secretariat in paragraph 6 of document ECE/TRANS/WP.30/GE.1/2005/Rev.1, it is clear that the secretariat shares the IRU’s opinion that the principles of the eTIR system need to be defined and agreed. That is exactly what is reflected in documents ECE/TRANS/WP.30/GE.1/2005/2 and revision 1 thereto.

34. Section C7

The IRU stipulates that the secretariat, by making shortcuts, wrongly promotes the eTIR system when it refers to the external evaluation report, thus misleading decision makers. However, the IRU considers it appropriate to use the same quotation as a means to justify that “the external evaluation report pleads in favour of a realistic and step by step approach of computerization by focusing on some elements and procedures” whereas the report does not refer to such approach at all (see also paragraph 20 above).

35. Section C8

The secretariat fails to see the intention of the IRU’s comment.

36. Section 1.2

Within the framework of UMM, there is no impediment to consider a computer system, in this case the eTIR international system, as an actor. This requires, however, that the roles and responsibilities of this actor are clearly defined. This is done at the conceptual and technical level in Section 1. of document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1.

It is correct that, according to the outcome of the questionnaire, a majority of countries seem to be in favour of a direct exchange of information. However, in view of the current construction of the TIR Convention, where direct communication between Contracting Parties is not required, and considering that forced direct exchange of information might be an impediment to certain countries to either continue their participation in the TIR Convention or to becoming a new Contracting Party, further study and political support is required before a final decision on this issue be taken.

37. Section 1.3

As is stipulated in Section 2.4.2. of document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, the declaration is dealt with at the national level between the operator and the Customs authorities. Nevertheless, the necessity of standardization with regard to the submission of the declaration is addressed. There is no indication that the availability in all TIR languages of the declaration will be any different in the future than it is now, apart from the fact that the more general use of codes will render the language issue largely obsolete.

38. Section 2.1

The management of the guarantee by Customs was first introduced by the European Commission in their presentation at the Expert Group's seventh session and then included in document ECE/TRANS/WP.30/2005/Informal document 9. At the one-hundred-and-eleventh session of WP.30, "the representative of the European Commission expressed the view that the document described a future computerized TIR system that as closely as possible reflected the present paper based TIR system and that the system was compatible with the NCTS system". It was the WP.30 which was of the view that the Expert Group should follow the guidelines contained in document ECE/TRANS/WP.30/2005/Informal document 9 for its future discussions (TRANS/WP.30/222, paragraph 33). Document ECE/TRANS/WP.30/GE.1/2005/2/Rev. 1 takes account of the discussion in the WP.30.

The management of claims is outside the scope of the eTIR project. Nothing is said about its relation to the guarantee management.

The question of the management of the eTIR system remains, as yet, unanswered. Within the context of this discussion, it may, however, be appropriate to refer to the second meeting of the ad hoc Expert Group on Computerization of the TIR Procedure (21-22 June 2001), where the Expert Group noted that the link between national Customs procedures could be possible via international EDI systems, such as the NCTS, whereby participating countries utilize data provided electronically through a server, hosted by a governmental body such as the TIRExB, to administer, control and discharge the TIR procedure at the national level (TRANS/WP.30/2001/13, paragraph 17).

39. Section 2.3.2.1.1

See paragraph 10 above.

40. Section 2.4.1

Considering that the organization and functioning of the guarantee system are outside the scope of the eTIR project (See Chapter 1.1.6. of the Reference Model), it is clear that this section needs to be developed in close consultation with and the approval of the international organization and the national associations. However, the given description is in line with requirements set out in the NCTS.

The secretariat fails to see that there is a contradiction between the fact that something should be regarded as a prerequisite, but could, nevertheless, fall outside the scope of the eTIR project.

41. Section 2.4.2

The information sent by the operator in advance to all following Customs offices of entry is optional in the sense that it is independent from the information sent or made available by the eTIR international system to the those offices.

42. Section 2.4.2.1

The data elements will be compared to those contained in Chapter 1 of the Reference Model. The final list of data will have to be aligned with the United Nations Trade Data Elements Directory (UNTDDED).

The fact that changes in itinerary or consignee are not covered in the high level requirements of the eTIR system, contained in document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1, does not justify the IRU's interpretation that any modifications would be forbidden.

Section 2.4.2.1.10 of document ECE/TRANS/WP.30/GE.1/2005/2/Rev.1 clearly states that the issue of subcontractors is still under discussion. Therefore, the IRU comment does not bear any relevance.

43. Section 2.6.1.1

100% real time update of ITDB remains, of course, the aim. However, considering its experiences with their own control system, the IRU should, more than anyone else, be aware of the time required to achieve this aim.

44. Section 3.4

Comment by the IRU is unclear, because this issue is not different from the current situation.

E. FURTHER CONSIDERATIONS

45. The Expert Group may wish to instruct the secretariat how to proceed with its work on the future projects for the Reference Model of the TIR procedure and provide guidance to the WP.30.

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