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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****Third session**

Geneva, 12 and 13 December 2016

Item 8 of the provisional agenda

Format and administrative structure of the eTIR legal framework**Format and administrative structure of the eTIR legal framework****Note by the secretariat****I. Mandate**

1. At its previous session, the Group of Experts on Legal Aspects of Computerization of the TIR Procedure (GE.2), considered a proposal by the delegation of Switzerland, offering a number of considerations regarding the merits of an optional Annex to the TIR Convention, as opposed to the originally considered option of an additional Protocol. Further to constructive discussions on the advantages and disadvantages of each of the proposed legal formats, GE.2 consolidated its findings in a table, attached as Annex to the report of the second session (ECE/TRANS/WP.30/GE.2/4). Against this background, GE.2 requested the secretariat to draft legal text for the eTIR framework in both formats (as a Protocol and as an Annex) for consideration at the next session. In line with this request, the secretariat prepared the present document, providing a draft Protocol (Annex I) and a draft optional Annex (Annex II).

II. Background

2. GE.2 may wish to recall that an eTIR legal framework that would allow Contracting Parties to apply eTIR when ready, while maintaining the possibility to use the paper-based system, has been deemed the preferable way forward. In this respect, a Protocol to the TIR Convention or an optional Annex to the TIR Convention are the two options under discussion, as they both have the potential to satisfy the requirement of a gradual and voluntary implementation.

3. A Protocol would be a new legal instrument that would require signature, ratification and entry into force through the United Nations depositary procedures, implying potentially lengthy national parliamentary procedures. Furthermore, whereas a Protocol would be built on and linked with the TIR Convention, since it will be a new legal instrument, a foreseeable drawback would be the elaboration of an appropriate administrative structure, taking also into account the existing TIR governing bodies. At the same time, an optional Annex to the TIR Convention, 1975, would have identifiable benefits, these being that, as part of the Convention, the Annex will not have to address the questions relating to a separate administrative structure or a lengthy ratification process. On the other hand, introducing a new and optional Annex to the TIR Convention will require amendments to the main body of the TIR Convention, which is subject to the procedure of Article 59.

III. Considerations by the secretariat

4. Annex I to the present document provides an elaborated example of a Protocol, which is largely based on previous drafts (e.g. ECE/TRANS/WP.30/2014/13), modified in line with on-going discussions in GE.2. Annex II provides an elaborated example of an optional Annex, largely based on the proposal tabled by the Swiss Confederation at the second session of GE.2 (ECE/TRANS/WP.30/GE.2/2016/5), but – similarly – adjusted to the discussions that have taken place thus far. At the same time, certain draft provisions in both annexes remain tentative, pending the conclusion of on-going discussions under the relevant dedicated agenda items.

IV. Considerations by the Group of Experts

5. GE.2 is invited to consider the draft Protocol and optional Annex as contained in the Annexes and provide further guidance on the direction in which the legal framework of eTIR should be developed.

Annex I

Example of a Protocol

The Parties to this Protocol,

Being Contracting Parties to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, done in Geneva on 14 November 1975,

Desiring to further facilitate the international inland transport of goods,

Have agreed as follows:

Chapter I General

Application

Article 1

1. The provisions herein shall apply in the relations between Contracting Parties to the TIR Convention, 1975, that have ratified this Protocol.
2. The provisions herein shall apply without prejudice to applicable provisions as stipulated in the TIR Convention, 1975.
3. For the purposes of this Protocol, TIR transports shall be carried out in accordance with the eTIR procedure, as defined in this Protocol.

Definitions

Article 2

1. The term "eTIR procedure" shall mean the customs transit procedure carried out by a holder under cover of an electronic TIR guarantee and implemented by means of electronic data exchanged in accordance with the provisions of this Protocol.¹
2. 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 related to the international transit of goods, vehicles and/or containers according to the provisions of the TIR Convention, 1975.
3. The term "advance cargo information" shall mean the information provided to the competent Customs authorities within the prescribed deadlines and in the prescribed form

¹ Or similar definition as agreed by Contracting Parties. It is assumed that an authorized TIR Carnet holder is automatically also authorized, under the same conditions (Annex 9, Part II), to use the eTIR procedure as long as the requirements for carrying out an eTIR procedure (as specified in the eTIR Reference Model) are met (e.g. ability to provide the required declaration data electronically).

and manner of the intention of the holder to place goods under the eTIR procedure or pursue a TIR transport.²

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

Chapter II

Conceptual, functional and technical specifications of the eTIR procedure

Article 3

The conceptual, functional and technical specifications of the eTIR procedure are laid down in the eTIR Reference Model. The Parties to this Protocol shall apply the eTIR procedure in conformity with the specifications contained therein.

Article 4⁴

1. Proposals for amendments to the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined] in accordance with the present Article.

2. Amendments to the eTIR Reference Model shall be consistent with the legal provisions of the TIR Convention, 1975 and this Protocol.

3. Proposals for amendments to the conceptual and functional specifications as contained in Chapters 1 and 2 of the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined], and transmitted to the parties to this Protocol for adoption. Such amendments, upon adoption, shall be communicated by the Secretary-General of the United Nations to the Parties to this Protocol for their acceptance.

4. Amendments to the conceptual and functional specifications adopted in accordance with paragraph 3 shall enter into force at a date to be determined by the Parties to this Protocol at the time of adoption unless by a prior date determined by the Parties to this Protocol at the same time, one-fifth or five of the States which are Parties to this Protocol notify the Secretary-General of the United Nations of their objection to the amendment.

5. Proposals for amendments to the technical specifications as contained in Chapters 3 and 4 of the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined] and adopted by consensus.

6. Amendments to the technical specifications adopted in accordance with paragraph 5 of the present Article shall enter into force upon their adoption and be [promptly] or [immediately] notified to all the Parties to this Protocol.”

² As defined in the eTIR Reference Model

³ As defined in the eTIR Reference Model

⁴ Procedure and provisions under discussion under agenda item 7, see ECE/TRANS/WP.30/GE.2/2016/8

Article 5⁵

The Parties to this Protocol shall be members of [name of technical body]. The [name of technical body] will be comprised of competent experts representing their national administration and will consider amendment proposals in accordance with the procedure for amending the eTIR Reference Model as stipulated in Article 4. The [name of technical body] shall elect a chair from among its members [each year] or [at each session] and convene its sessions upon the request of [number of Contracting Parties] and no less frequently than once annually. The Secretary-General of the United Nations shall provide secretariat services to [name of technical body].

Chapter III Administration of the eTIR international system

Article 6

1. The eTIR international system shall be hosted by UNECE. Under the responsibility of the Parties to this Protocol, the UNECE secretariat shall ensure that the eTIR international system is appropriately maintained and staffed.
2. UNECE shall also provide a helpdesk to assist countries in connecting their IT systems to the eTIR international system.
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 international system at the UNECE shall be decided and approved by the Parties to this Protocol.⁶

Article 7

1. Data pertaining to TIR transports carried out under the eTIR procedure for which a certificate of termination has been obtained without irregularities shall be stored in the eTIR international system for a period of 3 years.
2. Data pertaining to 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, shall be stored in the eTIR international system for a period of 5 years after the settlement of the claim has been notified to UNECE.

Article 8

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

⁵ Procedure and provisions under discussion under agenda item 7, see ECE/TRANS/WP.30/GE.2/2016/8

⁶ This provision may not be necessary in the case of an Optional Annex

2. The actors 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.

3. In cases other than those specified in paragraphs 1 and 2 of this Article, the dissemination or disclosure of information stored in the eTIR international system shall be prohibited.⁷

Chapter IV

Authentication mechanisms

Article 9

The Parties to this Protocol shall recognize the authentication of the holder performed by the competent authorities of the country to which the advance cargo information is submitted.⁸

Article 10⁹

The advance cargo information shall be provided to the competent customs authorities by means of:

- (a) The eTIR international system; or
- (b) The customs system of the country of residence of the holder; or
- (c) Third party service providers recognized by the Contracting Parties;

in accordance with the eTIR Reference Model.

Chapter V

Fallback procedure

[Under discussion – no proposal available]

⁷ The eTIR international system is designed, in the eTIR Reference Model, to ensure secure exchange of the information necessary for carrying out TIR transports electronically. The eTIR reference Model also includes an elaborate fall back procedure. Seeing as these elements fall under the technical aspect of the eTIR international system, reference to security and fall back procedures in the Protocol are not considered a necessity. Furthermore, the purpose of the eTIR international system (including the security element), are mentioned in the definition of the eTIR international system in Article 2, para. 2 of the draft Protocol.

⁸ Tentative, provision still under discussion

⁹ Tentative wording, draft provision under discussion see ECE/TRANS/WP.30/GE.2/2016/3 and Rev.1

Chapter VI

Miscellaneous provisions

Article 11

1. Each Party shall publish the list of approved customs offices where TIR transports under the eTIR procedure can start, terminate or pass through.¹⁰
2. Each Party shall regularly update the list of customs offices, pursuant to paragraph 1 of this Article, in the electronic database for approved customs offices, developed and maintained by the TIR Executive Board.

Chapter VII

Final Clauses

Article 12

Signature, ratification and accession

1. This Protocol shall be open for signature by States that are Contracting Parties to the TIR Convention, 1975.
2. This Protocol shall be open for signature at Geneva from xx to xx (month) (year) inclusive and after this date, at United Nations Headquarters in New York until xx (month) (year) inclusive.
3. This Protocol shall be subject to ratification by signatories and open for accession by non-signatories, which are Parties to the TIR Convention.
4. Customs or Economic Unions may, together with their member States or at any time after all their member States have become Parties to this Protocol, also become Parties to this Protocol, in accordance with paragraphs 1, 2 and 3 of this Article. However, these Unions shall not have the right to vote.¹¹
5. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.
6. Any instrument of ratification or accession, deposited after the entry into force of an amendment to this Protocol adopted in accordance with the provisions of Article 16 hereafter, shall be deemed to apply to the Protocol as modified by the amendment.

Article 13

Entry into force

1. This Protocol shall enter into force on the ninetieth day after two of the Parties referred to in Article 10, paragraph 1, of this Protocol, have deposited their instruments of ratification or accession.
2. For any Contracting Party to the TIR Convention, 1975, ratifying or acceding to this Protocol after five States have deposited their instruments of ratification or accession, this

¹⁰ Tentative wording, draft provision under discussion see ECE/TRANS/WP.30/GE.2/2016/3 and Rev.1

¹¹ Consistent with Article 52 para.3 of the TIR Convention, 1975.

Protocol shall enter into force on the ninetieth day after the said Party has deposited its instrument of ratification or accession.

Article 14

Denunciation

1. Any Party may denounce this Protocol by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect fifteen months after the date of receipt by the Secretary General of the notification of denunciation.
3. Any Party which denounces the TIR Convention shall on the same date of effect of the denunciation, cease to be Party to this Protocol.

Article 15

Termination

If, after the entry into force of this Protocol, the number of Parties is reduced, as a result of denunciations, to less than two, this Protocol shall cease to be in force from the date on which the last of such denunciations takes effect. It shall also cease to be in force from the date on which the TIR Convention ceases to be in force.

Article 16

Settlement of disputes

1. Any dispute between two or more Parties concerning the interpretation or application of this Protocol shall, so far as possible, be settled by negotiation between them or other means of settlement.¹²
2. Any dispute between two or more Parties concerning the interpretation or application of this Protocol which cannot be settled by the means indicated in paragraph 1 of this Article, shall be settled in accordance with Article 57, paragraphs 2 to 6 of the TIR Convention, 1975.

Article 17

Reservations

1. Any Party may, at the time of signing, ratifying, or acceding to this Protocol, declare by a notification addressed to the Secretary-General of the United Nations that it does not consider itself bound by Article 14 paragraph 2 of this Protocol. Other Parties shall not be bound by Article 14 paragraph 2 of this Protocol in respect of any Party which has entered such a reservation.
2. The declaration referred to in paragraph 1 of this article may be withdrawn at any time by a notification addressed to the Secretary-General of the United Nations.

¹² In accordance with Article 33 paragraph 1 of the United Nations Charter, the means of dispute settlement are negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

3. Apart from the reservations provided for in paragraph 1 of this Article, no other reservation to this Protocol shall be permitted.

Article 18

Procedure for amending this Protocol

1. Once this Protocol is in force, it may be amended according to the procedure defined in this Article.
2. Any Party may propose one or more amendments to this Protocol. The text of any proposed amendment shall be transmitted to the Secretary-General of the United Nations who shall circulate it to all Parties to this Protocol.
3. Any proposed amendment circulated in accordance with the preceding paragraph shall be deemed to be accepted if no Party expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.
4. The Secretary-General shall notify as soon as possible all Parties whether an objection to the proposed amendment has been expressed, and if no such objection has been expressed, the amendment shall enter into force for all Parties three months after the expiration of the period of six months referred to in the preceding paragraph.

Article 19

Notifications

In addition to the notifications provided for in Article 17, the Secretary-General of the United Nations shall notify the States referred to in Article 12, paragraph 1, above, of:

- (a) Ratifications and accessions under Article 12;
- (b) The dates of entry into force of this Protocol in accordance with Article 13;
- (c) Denunciations under Article 14;
- (d) The termination of this Protocol in accordance with article 15;
- (e) Declarations and notifications received in accordance with Article 17, paragraphs 1 and 2.

Article 20

Authentic text

The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies thereof to all the States referred to Article 10, paragraphs 1 and 3 of this Protocol.

Done at Geneva, this [Date], in a single copy in the English, French and Russian languages, each text being equally authentic.

In Witness Whereof, the undersigned, being duly authorized thereto, have signed this Protocol.

Annex II

Example of an Optional Annex

A. Amendments to the main body of the Convention

Article 1 (a)

*New text in bold italics, deletions in strikethrough

The term "TIR transport" shall mean the transport of goods from a customs office of departure to a customs office of destination under the procedure, called the TIR procedure, laid down in this Convention; ***and performed either by means of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention, or by means of the eTIR procedure as defined in and in accordance with the provisions of Annex 11 to this Convention.***

Article 1(o)

*New text in bold italics, deletions in strikethrough

The term "holder" of a TIR Carnet shall mean the person to whom a TIR Carnet has been issued in accordance with the relevant provisions of the Convention and on whose behalf a customs declaration has been made, ***either*** in the form of a TIR Carnet ***or by electronic means using the eTIR procedure***, indicating a wish to place goods under the TIR procedure at the customs office of departure. He shall be responsible for presentation of the road vehicle, the combination of vehicles or the container together with the load and the TIR Carnet relating thereto at the customs office of departure, the customs office en route and the customs office of destination and for due observance of the other relevant provisions of the Convention;

New Article 60bis

Annex 11

1. Annex 11 shall be applicable for Contracting Parties to the TIR Convention that make a declaration to this effect and notified to all States referred to in Article 52 in accordance with Article 63. Annex 11 shall be implemented by each Contracting Party three months following the notification of its declaration of acceptance. All Contracting Parties may, at any time, declare or withdraw their acceptance of Annex 11.

2. Any Contracting Party to the TIR Convention may propose one or more amendments to Annex 11. Any proposed amendment to Annex 11 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 that apply Annex 11 for their acceptance.

3. Any proposed amendment to Annex 11, considered in accordance with paragraph 2 of this Article, shall come into force on a date to be determined by the Administrative Committee at the time of its adoption, unless by a prior date determined by the Administrative Committee at the same time, one-fifth or five of the States which accepted

Annex 11, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendment.¹³

Amended Article 63

*New text in bold italics, deletions in strikethrough

Notifications

In addition to the notifications and communications provided for in Articles 61 and 62, the Secretary-General of the United Nations shall notify all the States referred to in Article 52 of the following:

- (a) signatures, ratifications, acceptances, approvals and accessions under Article 52;
- (b) the dates of entry into force of this Convention in accordance with Article 53;
- (c) denunciations under Article 54;
- (d) the termination of this Convention under Article 55;
- (e) reservations under Article 5;
- (f) *declarations under article 60 bis.*

Annex 8, Article 1 bis, paragraph 1

*New text in bold italics, deletions in strikethrough

1. The Committee shall consider any proposed amendment to the Convention in accordance with Article 59, paragraphs 1 and 2 *and Article 60 bis.*

Annex 8, Article 5

*New text in bold italics, deletions in strikethrough

Proposals shall be put to the vote. Each State which is a Contracting Party represented at the session shall have one vote. Proposals other than amendments to this Convention shall be adopted by the Committee by a majority of those present and voting. Amendments to this Convention and the decisions referred to in Articles 59 ~~and 60~~ *and 60 bis* of this Convention shall be adopted by a two-thirds majority of those present and voting.¹⁴

B. Text of Annex 11

Article 1

The provisions herein shall apply in the relations between Contracting Parties to the TIR Convention, 1975, that have accepted this Annex.

¹³ Proposed amendment procedure is one of two options; provisions under discussion see ECE/TRANS/WP.30/GE.2/2016/8.

¹⁴ This is also clearly specified in new article 60bis. Adjustment only recommended for reasons of consistency.

Article 2

1. The term “eTIR procedure” shall mean the customs transit procedure carried out by a holder under cover of an electronic TIR guarantee and implemented by means of electronic data exchanged in accordance with the provisions of this Annex.¹⁵
2. 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 related to the international transit of goods, vehicles and/or containers according to the provisions of the TIR Convention, 1975.
3. 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.¹⁶
4. The term “declaration” shall mean the act whereby the holder, or his representative, indicates in the prescribed form and manner a wish to place goods under the eTIR procedure.¹⁷

Article 3

The conceptual, functional and technical specifications of the eTIR procedure are laid down in the eTIR Reference Model. The Parties that have accepted this Annex shall apply the eTIR procedure in conformity with the specifications contained therein.

Article 4¹⁸

1. Proposals for amendments to the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined] in accordance with the present article.
2. Amendments to the eTIR Reference Model shall be consistent with the legal provisions of the TIR Convention and its Annexes.¹⁹
3. Proposals for amendments to the conceptual and functional specifications as contained in Chapters 1 and 2 of the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined], and transmitted to the parties that have accepted this Annex for adoption. Such amendments, upon adoption, shall be communicated by the Secretary-General of the United Nations to the Parties that have accepted this Annex, for their acceptance.
4. Amendments to the conceptual and functional specifications adopted in accordance with paragraph 3 shall enter into force at a date to be determined by the Parties to this that have accepted this Annex at the time of adoption unless by a prior date determined by the Parties that have accepted this Annex at the same time, one-fifth or five of the States which

¹⁵ Or similar definition as agreed by Contracting Parties. It is assumed that an authorized TIR Carnet holder is automatically also authorized, under the same conditions (Annex 9, Part II), to use the eTIR procedure as long as the requirements for carrying out an eTIR procedure (as specified in the eTIR Reference Model) are met (e.g. ability to provide the required declaration data electronically).

¹⁶ As defined in the eTIR Reference Model

¹⁷ As defined in the eTIR Reference Model

¹⁸ Procedure and provisions under discussion under agenda item 7, see ECE/TRANS/WP.30/GE.2/2016/8

¹⁹ This specification may not be necessary considering that Annexes are an integral part of the Convention.

are that have accepted this Annex notify the Secretary-General of the United Nations of their objection to the amendment.

5. Proposals for amendments to the technical specifications as contained in Chapters 3 and 4 of the eTIR Reference Model shall be considered by the appropriate expert body [name to be determined] and adopted by consensus.

6. Amendments to the technical specifications adopted in accordance with paragraph 5 of the present Article shall enter into force upon their adoption and be [promptly] or [immediately] notified to all the Parties that have accepted this Annex.

Article 5²⁰

The Parties that have accepted this Annex shall be members of [name of technical body]. The [name of technical body] will be comprised of competent experts representing their national administration and will consider amendment proposals in accordance with the procedure for amending the eTIR Reference Model as stipulated in Article 4. The [name of technical body] shall elect a chair from among its members [each year] or [at each session] and convene its sessions upon the request of [number of Contracting Parties] and no less frequently than once annually. The Secretary-General of the United Nations shall provide secretariat services to [name of technical body].”

Article 6

1. The eTIR international system shall be hosted by UNECE. Under the responsibility of the Contracting Parties to the TIR Convention, the UNECE secretariat shall ensure that the eTIR international system is appropriately maintained and staffed.

2. UNECE shall also provide a helpdesk to assist countries in connecting their IT systems to the eTIR international system.

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 international system at the UNECE shall be decided and approved by the Parties to the TIR Convention.²¹

Article 7

1. Data pertaining to TIR transports carried out under the eTIR procedure for which a certificate of termination has been obtained without irregularities shall be stored in the eTIR international system for a period of 3 years.

2. Data pertaining to 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, shall be stored in the eTIR international system for a period of 5 years after the settlement of the claim has been notified to UNECE.

²⁰ Procedure and provisions under discussion under agenda item 7, see ECE/TRANS/WP.30/GE.2/2016/8

²¹ This provision may not be necessary in the case of an optional Annex

Article 8

1. 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.
2. The actors 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.
3. In cases other than those specified in paragraphs 1 and 2 of this Article, the dissemination or disclosure of information stored in the eTIR international system shall be prohibited.²²

Article 9

The Parties that have accepted this Annex shall recognize the authentication of the holder performed by the competent authorities of the country to which the advance cargo information is submitted.²³

Article 10²⁴

The advance cargo information shall be provided to the competent Customs authorities by means of:

- (a) The eTIR international system; or
- (b) The customs system of the country of residence of the Holder; or
- (c) Third party service providers recognized by the Contracting Parties;

in accordance with the eTIR Reference Model.

Fallback procedure

[Under discussion – no proposal available]

²² The eTIR international system is designed, in the eTIR Reference Model, to ensure secure exchange of the information necessary for carrying out TIR transports electronically. The eTIR Reference Model also includes an elaborate fall back procedure. Seeing as these elements fall under the technical aspect of the eTIR international system, reference to security and fallback procedures in the Protocol are not considered a necessity. Furthermore, the purpose of the eTIR international system (including the security element), are mentioned in the definition of the eTIR international system in Article 2, para. 2 of the draft Protocol.

²³ Tentative, provision still under discussion

²⁴ Tentative wording, draft provision under discussion; see ECE/TRANS/WP.30/GE.2/2016/3 and Rev.1

Article 11

1. Each Party shall publish the list of approved customs offices where TIR transports under the eTIR procedure can start, terminate or pass through.²⁵
 2. Each Party shall regularly update the list of customs offices, pursuant to paragraph 1 of this Article, in the electronic database for approved customs offices, developed and maintained by the TIR Executive Board.
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²⁵ In this case the wording of Article 48 has been selected. Alternatively we can also use the wording “[...] offices [...] that are capable of processing eTIR operations”. However in such a case, an eTIR operation may have to be defined in Article 2, unless assumed *mutatis mutandis* interpreted under the provisions of the TIR Convention, 1975.