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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****Fifth session**

Geneva, 30 and 31 October 2017

Item 2 of the provisional agenda

**Compatibility of the eTIR legal framework****with national legal requirements:****survey on electronic authentication methods****Survey on electronic authentication methods****Note by the secretariat****I. Introduction**

1. At its second session, the Group of Experts on Legal Aspects of Computerization of the TIR Procedure (GE.2) decided to conduct a survey with the objective of collecting information on (a) the various methods of authentication used at customs offices of departure, (b) the various specificities (implementation and processing) of the use of electronic signatures in particular, (c) on the legal status/validity of electronic communications (including electronic signatures) in domestic jurisdictions, such as, but not limited to, their admissibility as evidence in national court proceedings. Further to this, GE.2 had requested the secretariat to prepare the draft survey, circulate it to all participants of GE.2 electronically for comments and inputs. In line with this request, the secretariat prepared and launched the survey electronically in September 2016, following electronic consultations and approval of GE.2, and had compiled the preliminary results of the survey for discussion at the third session.

2. At its third session, GE.2 welcomed the preliminary results of the survey and requested the secretariat to revise the document to indicate more details about the various replies. GE.2 also was of the view that the results would be more representative if more Contracting Parties, particularly outside of the European Union (EU) and the New Computerized Transit System (NCTS), would reply. Against this background, the

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Secretariat requested the Contracting Parties, who had not yet done so, to reply to the survey by end of April 2017. Only two additional replies were received in that period. Subsequently, the secretariat prepared Informal document WP.30/GE.2 (2017) No. 1 which contained an updated analysis of the survey results and the statistics about the answers as an annex.

3. At its fourth session, GE.2 welcomed Informal document WP.30/GE.2 (2017) No. 1, and 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 GE.2 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 Public Key Infrastructure (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.

4. The present document contains the replies of the thirty-five countries that participated in the survey. Replies to dichotomous (yes/no) and multiple choice questions are shown in the table below, whereas comments are separately classified underneath according to the relevant question and sub-question. It is worth emphasizing that in the previous documents the replies had been processed for analytical purposes due to misunderstandings on some questions, limitations on selecting more than one answer etc.

## II. Replies to the survey

<i>Country</i>	<i>Q/1/i</i>	<i>Q/1/ii</i>	<i>Q/1/iii</i>	<i>Q/2/i</i>	<i>Q/2/ii</i>	<i>Q/3/i</i>	<i>Q/3/ii</i>	<i>Q/4</i>	<i>Q/5/i</i>	<i>Q/5/ii</i>	<i>Q/6</i>	<i>Q/7</i>	<i>Q/8/i</i>	<i>Q/8/ii</i>
Armenia	a	a	a	a	d	a	c	c	b	b	a	a		
Austria	a	a	b	a	a	b			c			a	b	
Azerbaijan	a	a	a	a	d	a	c	a	c		c	a	a	
Belarus	a	a	a	b	d	a	c	a	c	d	c	a	a	b
Belgium	b	b	a	b	e	a	b	a	a	a	a	a	a	
Bosnia and Herzegovina	b	b	a			b								
Bulgaria	a	b	a	a	d	a	c	b	b	c	c	b	b	
Croatia	a	a	b	a	d	a	a	a	c	d	a	a	b	
Cyprus	a	c	a	a	a	a	c	a	b	d	a	c	a	a
Czech Republic	a	a	b	a	d	a	c	a	b	d	a	a	a	b

<i>Country</i>	<i>Q/1/i</i>	<i>Q/1/ii</i>	<i>Q/1/iii</i>	<i>Q/2/i</i>	<i>Q/2/ii</i>	<i>Q/3/i</i>	<i>Q/3/ii</i>	<i>Q/4</i>	<i>Q/5/i</i>	<i>Q/5/ii</i>	<i>Q/6</i>	<i>Q/7</i>	<i>Q/8/i</i>	<i>Q/8/ii</i>
Denmark	a	b	a	a	a	a	a	a	c	d	c	a	b	
Finland	a	a	a	a	d	a	a	a	c	d	b	a	a	a
France	a	a	a	a	a	a	c	a	b	c	b	a	a	a
Greece	a	a	a	a	a	a			c	d	a	a	b	
Hungary	a	a	a	a	a	a	b	a	b	d	b	c		
Iran (I.R. of)	a	a	a	a	a	a	b	a	b	b	a		a	a
Ireland	a	a	b	a	d	a	c	a	c	d	a	a	b	
Italy	a	a	a	a	a	a	c	a	b	a	a	a	a	a
Kyrgyzstan	b	a	a	c	a	b		d	c		c	e	b	
Latvia	a	a	a	a	a	a	c	a	c		c	a	a	a
Lithuania	a	a	a	a	a	a	c	a	b	b	b	a	a	a
Montenegro	a	a	a	a	b	a	a	d	c	a	a	b	a	a
Netherlands	a	a	a	a		a								
Norway	a	a	a	c	a	b						a		
Poland	a	a		a	d	a	b	a	b	a	b	a	a	a
Portugal	a	a	a	a	a	b	c	a	c	d	b	a	b	
Romania	a	a	a	a	a	a	c	a	b	c	a	a	a	
Russian Federation	a	a		a	d	a	c	a	b	d	c	b	b	b
Serbia	a	a	a	a	d	a	c	a	c	d	c	a	a	a
Slovenia	a	a		a	d	a	a	a	c	d	a	a	a	a
Sweden	a	a	a	a	e	a	a	c	c	d	b	a	a	a
Switzerland	a	a	a	a	a	a	c	a	c		c	d	b	
The FYR of Macedonia	b	a	a	b	d	a	a	a	c		c	b	b	
Turkey	a	b	a	a	a	a	c	a	c		a	a	a	
United Kingdom	a	a		b	c									

## Question 1:

### Sub-question (i)

- Belgium: Yes, as a rule. However, in special cases, declarations may be submitted differently (on paper or orally). This is the case, for example, in the emergency procedure (during computer system failures), in declarations of regularization (following an infringement) or in the context of specific simplified procedures.

- Bosnia and Herzegovina: Customs declarations can be submitted electronically, however, they are not legally valid because they are not verified with electronic signature. Electronic signature has not been implemented in Bosnia and Herzegovina. For these reasons, the declarant shall submit a written customs declaration which is legally valid.
- Kyrgyzstan: The broker creates electronic prototype of the customs declaration, which is transferred to the Unified Automated Information System of the Customs Service.
- The Former Yugoslav Republic of Macedonia: At the moment there is obligation to submit declaration electronically only for the transit declarations of type T1, T2 and T-.

**Sub-question (ii)**

- Belgium: Yes, when a legal framework permits or imposes it. In particular, information shall be exchanged electronically between Member States of the same customs union in accordance with the procedures laid down.
- Bosnia and Herzegovina: Bosnia and Herzegovina exchanges data contained in customs declarations on international level with Serbia and with Montenegro as part of the Systematic Electronic Exchange of Data (SEED) project. At national level, data is exchanged with Institute of Statistics.
- Bulgaria: At international level in Trans-European Customs System (NCTS, ECS<sup>1</sup>, ICS<sup>2</sup>) at national level in any case.
- Cyprus: We exchange data with traders, clearing agents, other EU customs administration, EU COM, other services i.e. veterinary, health, agriculture, environment etc.
- Denmark: Following procedures can be exchanged within EU: Export data Transit data.
- The Former Yugoslav Republic of Macedonia: For all kind of declarations there is exchange of data at the national level and on the international level there is exchange of information about the common transit operation (type T1, T2 and T-) in the framework of the Common transit convention and about the exit of the other goods from the country with our neighbours countries in the framework of the bilateral and multilateral agreements. In the near future also the data from TIR carnet should be submitted electronically.
- Turkey: NCTS and One Stop Border Post.

**Sub-question (iii)**

- Austria: Already implemented.
- Azerbaijan: An electronic declaration mechanism is already in place and digital data is exchanged when necessary.
- Belarus: We already use it and plan further development.

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<sup>1</sup> Export Control System

<sup>2</sup> Import Control System

- Belgium: This is already the case, but our administration will strengthen and extend the use of computerized data procedures and exchanges. A large proportion of the ongoing computerization of procedures is carried out in a coordinated and harmonized way within the European Union.
- Croatia: NA-Croatia already implemented computerized environment as EU member state.
- Cyprus: Yes. We are planning to implement new customs systems according to the European Union Customs Code for all customs procedures.
- Czech Republic: Customs clearance has been fully electronic already.
- France: "Already done for most customs procedures (dematerialization of express freight for export planned in early 2017 finalizing the dematerialized transmission of all customs declarations). In case of unavailability, the paper procedure remains the backup procedure."
- Hungary: At the moment - based on EU requirements - most of the customs procedures and data exchanges are handled electronically.
- Netherlands: Dutch Customs is already supporting electronic declaration and data exchange. These services are continuously improved.
- Poland: Customs already work in a computerised environment.
- Romania: We have already a computerized environment that allows electronic declaration and data exchange.
- Russian Federation: Implemented since 2004.
- United Kingdom: We already have moved to a computerised environment.

## **Question 2:**

### **Sub-question (i)**

- Belarus: In Belarus, term "authenticated information" refers to information that was signed with the electronic digital signature. In such case, in Belarus, when declaring electronically - always has to be authenticated. While submitting preliminary information - no.
- Belgium: All information / data submitted electronically must be authenticated except in the case of a "direct line" link with the customs authorities.
- The Former Yugoslav Republic of Macedonia: At the moment there is obligation for authentications only for electronic transit declarations (type T1, T2 and T-) using the electronic signature.
- United Kingdom: Only if the trader is not an Authorised Consignor.

### **Sub-question (ii)**

- Belarus: With regard to electronic declaration- Public Key Infrastructure (PKI) electronic signature; with regard to preliminary information- unique authentication code.
- Belgium: It is possible to use either "a username and a password" or "an electronic PKI signature".
- Romania: Also PKI.

- Sweden: We use SMS based and PKI electronic signature.
- The Former Yugoslav Republic of Macedonia: No possibility to select more than one answer. For the authentication of the person, we use username and password, and electronic signature.
- Turkey: + Symmetric key authentication + PKI electronic signature.

## **Question 5:**

### **Sub-question (ii)**

- Belarus: This matter is not addressed by normative instruments.
- Croatia: Foreign traders who will submit their e-documents to HR Customs can issue a "light" certificate with Croatian certification authority recognised by Croatian Customs.
- Cyprus: All of the above provided it complies with the electronic IDentification, Authentication and trust Services (eIDAS) EU legislation ( EU Reg. No. 910/2014)
- Denmark: Only possible for Danish citizen and companies.
- Finland: The certificate has to be issued by the domestic authority - perhaps in future also bilateral/ multilateral agreement would be applicable, but at the moment such an agreement does not exist.
- France: The electronic signature generated by a certificate issued by a foreign authority of a third State is also accepted if it is recognized at the level of the Customs Union of which my country is a member (in this case the European Union).
- Greece: We are going to apply the Uniform User Management and Digital Signatures (UUMDS) initiative based on e-IDAS EU Regulation 910/2014 which will allow from 29-9-2018 the cross border identification.
- Hungary: Concerning electronic signature - at EU level - Regulation (EU) 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC has to be applied. Furthermore Hungary has national legislation as well. At EU level -in the above mentioned legislation- a trusted list exists that contains all the authorities that can issue such certification. This 'trusted' certification can be accepted in all the Member States.
- Ireland: We only accept our own digital certificates.
- Portugal: Not applicable.
- Russian Federation: Cross-border exchange of legally binding e-documents in the Eurasian Economic Union is implemented based on usage of service created trusted third party (TTP).
- Serbia: No applicable conditions.
- Slovenia: We accept only certificates issued in our country.
- Sweden: Requirement of this has not been foreseen, so it must be further examined.
- The FYR of Macedonia: Not applicable
- Turkey: The authority has to be on Trusted Services List (TSL).

**Question 6:**

- France: The certificate must be issued by a member state of the union (according to the eIDAS regulation).
- Hungary: In the national legislation specific conditions are listed how a non-resident can obtain electronic signature. He has to have all the necessary document to verify himself (nationality, address, other personal data) and these information are checked by a client-registration authority. If all the conditions and requirements are fulfilled, a non-resident can obtain a certificate.
- Poland: Account and registration of natural person required, - for qualified signature - unique identifier required, which currently cannot be obtained by non-resident; may change with the implementation of new EU regulation - eIDAS.
- Sweden: When using system to system communication and they are authorized by the Swedish Customs to use EDI for their Customs declarations.

**Question 7:**

- Hungary: At the moment trader can use a communication channel in order to send customs declaration electronically into the IT system of Hungarian Customs Administration. Basically traders are authenticated by a user name and a password to be able use this channel. At EU level new developments are planned to be executed in the next few years (based on MASP<sup>3</sup>) in that using electronic signature and single traders' portal are also planned to be developed.

**Question 8:**

- Azerbaijan: We are not authorized to predict government decisions.
- Belarus: Customs bodies do not have the authority to be responsible for the government and are not a regulatory body in the field of electronic documents.
- Hungary: 8/i and 8/ii answer can be 'Yes'. Developing PKI electronic signature for eTIR can be executed, but - above all - EU Member States have to fulfil the requirements that are determined in EU Regulation (910/2014/EU). Planned eTIR legal instruments concerning electronic signature should be harmonised with EU Regulation.
- Romania: Regarding the question 8 the answer is yes, only in accordance with the provision of Romanian law (455/2001).

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<sup>3</sup> Multi-Annual Strategic Plan