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Working Party on Customs Questions Affecting Transport

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Item 9 (b) (ii) of the provisional agenda

**CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS
UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)**

Revision of the Convention

Preparation of Phase III of the TIR revision process

Note by the secretariat

I. BACKGROUND AND MANDATE

1. At its 118th session, following discussions on WP.30 Informal document No. 3 (2008) by the government of Turkey, the Working Party requested, inter alia, the secretariat to submit a document clarifying the method of submission of the declaration to Customs as contained in Chapter 2 of the eTIR Reference Model for consideration at its forthcoming session (ECE/TRANS/WP.30/236, para. 21).

2. At its 119th session, the Working Party considered document ECE/TRANS/WP.30/2008/8 in combination with Informal document No. 11 (2008) submitted by the Government of Turkey. The Working Party welcomed document ECE/TRANS/WP.30/2008/8 but felt that further clarifications were required. In particular, issues raised by Turkey in its Informal document and by the Russian delegation and IRU at the session should be included. Thus, the Working Party requested GE.1 to continue its discussions of the issue on the basis of a revised document to be submitted by the secretariat (ECE/TRANS/WP.30/238, para. 22).

^{*/} The UNECE Transport Division has submitted the present document after the official documentation deadline.

3. In line with this request, the secretariat revised document ECE/TRANS/WP.30/2008/8 and included, at various points in the document, observations on the following aspects:

- (a) The legal basis for Customs to receive advance declaration data through the eTIR international system;
- (b) Liability of the holder for data sent through the eTIR international system;
- (c) The choice of languages in the national declaration submission systems;
- (d) Considerations on the requirement for the holder to submit pre-declaration data to Customs in case the Customs office of departure and the first Customs office of entry en route are located at close distance.

4. At its 120th session, the Working Party welcomed the presentation of document ECE/TRANS/WP.30/2008/8/Rev.1 and took note that the GE.1 would consider this document at its forthcoming session as requested by the Working Party at its 119th session. Further clarifying the method of submission of the Customs declaration as described in Chapter 2 of the eTIR Reference Model, the document still raised questions by some delegations which felt that some of their concerns were not fully addressed in the revised document. Those delegations were kindly invited to reconsider their questions taking into account the full text of Chapter 2 of the Reference Model (ECE/TRANS/WP.30/2007/16-ECE/TRANS/WP.30/AC.2/2007/15) as endorsed by the Working Party at its 117th session and keeping in mind that document ECE/TRANS/WP.30/2008/8/Rev.1 only aims at clarifying the method of submission of the Customs declaration, being one of the many business requirements presented in Chapter 2. Delegations still having concerns were invited to submit written contributions to the secretariat and/or take part in the forthcoming session of the GE.1 which could further refine the document for further consideration by the Working Party at its spring session. (ECE/TRANS/WP.30/240, para. 25).

5. At its fifteenth session, at the request of the Working Party, the Expert Group discussed document ECE/TRANS/WP.30/2008/8/Rev.1 containing a revised description of the declaration mechanism as foreseen in the eTIR project and as described in Chapter 2 of the Reference Model. The Expert Group, after providing ideas to the secretariat on how to further clarify the declaration mechanism, confirmed that the scope of the document should not go beyond its intended purpose. It also stressed that it should be read in conjunction with the complete description of the business requirements as contained in Chapter 2 and that further clarification of the overall functioning of the eTIR system will be provided in Chapter 3 of the Reference Model. Furthermore, it felt that questions of a legal nature, i.e. falling outside its mandate, would have to be considered directly by WP.30 once the description of the declaration mechanism would be clarified from a technical and conceptual perspective. (see ECE/TRANS/WP.30/GE.1/2008/5, paras. 5-6).

6. Taking into account the comments of the Working Party as well as those from the Expert Group, the secretariat prepared this second revision. The principal aim of this revision is to clarify the difference between the information sent electronically prior to the presentation of the goods and the vehicle at Customs offices (advance cargo information) and the actual lodging of the declaration.

II. eTIR DECLARATION MECHANISM ^{1/}

7. The text of Chapter 2.1.2.4.2. of document ECE/TRANS/WP.30/2007/16-ECE/TRANS/WP.30/AC.2/2007/15, which describes the eTIR system, stipulates “that the holder submits the declaration by electronic means to the Customs office of departure, making reference to a guarantee issued by a guarantee chain, using authentication mechanisms. The declaration shall be submitted prior to the presentation of the goods at the Customs office of departure. Customs authorities shall, if satisfied, validate and accept the declaration and transmit it to the eTIR international system. The eTIR international system forwards this information to the following Customs authorities involved in the transport.” ^{2/}

8. The declaration mechanism envisages that the holder sends his advance cargo information ^{3/} only to the Customs office of departure of the TIR transport. The Customs office of departure uses this information when the holder lodges his Customs declaration. The holder actually lodges the Customs declaration by presenting Customs with the reference to the guarantee which he has obtained from the guarantee chain and which he has included in the advance cargo information. The Customs office of departure after having accepted the Customs declaration, registers the information contained in the declaration together with other TIR transport information (e.g. the information on seals) as advance cargo information in the eTIR international system. The eTIR international system forwards the advance cargo information to all Customs authorities declared by the holder as part of his itinerary. This mechanism is devised to facilitate the submission procedure by the holder, without further complicating the procedure for Customs authorities that would in any case have to exchange information concerning TIR transports. This mechanism is similar to the current paper based procedure, where the TIR Carnet becomes a Customs document from the moment the first Customs office of departure stamps each and every page of the TIR carnet. The difference lies in the transportation of the information, which is performed by the truck driver today and will be performed by the eTIR international system tomorrow.

9. The fact that the holder is obliged to provide Customs with advance cargo information does not relieve him from his responsibility to lodge his declaration by presenting himself, together with the goods vehicle and the reference to the guarantee, in accordance with Article 21 of the TIR Convention. It is then the responsibility of Customs to accept the declaration.

^{1/} In line with the request by WP.30, the sole purpose of this document is to provide clarification on the declaration submission procedure at the Customs office(s) of departure or entry en route. For a complete description of all aspects of the eTIR Project, please refer to document ECE/TRANS/WP.30/2007/16-ECE/TRANS/WP.30/AC.2/2007/15. In order to provide the requested clarification the wording of the present document may deviate from the one of the eTIR Reference Model. Therefore, this document should not be considered from a legal perspective and its wording should neither be compared to the text of the TIR Convention nor to the text of the TIR Reference model.

^{2/} The eTIR system maintains the principle that a TIR transport consists of a set of TIR operations. See Annex 1 of the eTIR Reference Model, Requirement 10.

^{3/} The holder, at any time, can verify the integrity of the advance cargo information by means of a ‘key’ which has been generated on the basis of these data.

8. The ITDB provides information on the holder to the eTIR international system;
9. The eTIR international system provides the information on holder and guarantee to Customs;
10. Customs confirm the reception and the validity of the advance cargo information to the holder and provide him with a unique reference;
11. Customs store the advance cargo information in their internal system, possibly together with the results of their risk assessment;
12. The holder presents the vehicle, the goods and the reference to the guarantee (or the reference provided by Customs) to the Customs office of departure to lodge the declaration;
13. The Customs office of departure retrieves from the national Customs system the data contained in the advance cargo information message to become the Customs declaration, allowing the holder to verify the integrity of the data by comparing the “key” of the declaration with the one originally generated. Then, Customs check the vehicle and goods against the Customs declaration in accordance with the appropriate risk assessment information;
14. The Customs office of departure inspects and seals the vehicle;
15. The results of the checks and the seals numbers are stored in the Customs system;
16. The Customs office of departure (national system) informs the eTIR international system that it accepts the guarantee;
17. The eTIR international system queries the ITDB on the status ^{5/} of the holder to whom the guarantee has been issued;
18. The ITDB returns the status of the holder to the eTIR international system;
19. The eTIR international system confirms the acceptance of the guarantee to the national Customs system;
20. After having accepted the declaration, the national system forwards the relevant TIR transport data (Customs declaration and the seals numbers) to the eTIR international system by means of the “Record Consignment” message; ^{6/}
21. The eTIR international system confirms the reception of the information;
22. The eTIR international system provides all Customs administrations involved in the TIR transport with the TIR transport information. This information, exchanged in a Customs secure environment, will serve as the advance cargo information for the subsequent Customs authorities;
23. The Customs officer sees the results on his/her screen and prints the accompanying document;

^{5/} The status of the holder refers to his status as contained in the ITDB, i.e. authorized, withdrawn, excluded (art. 38), end of activity.

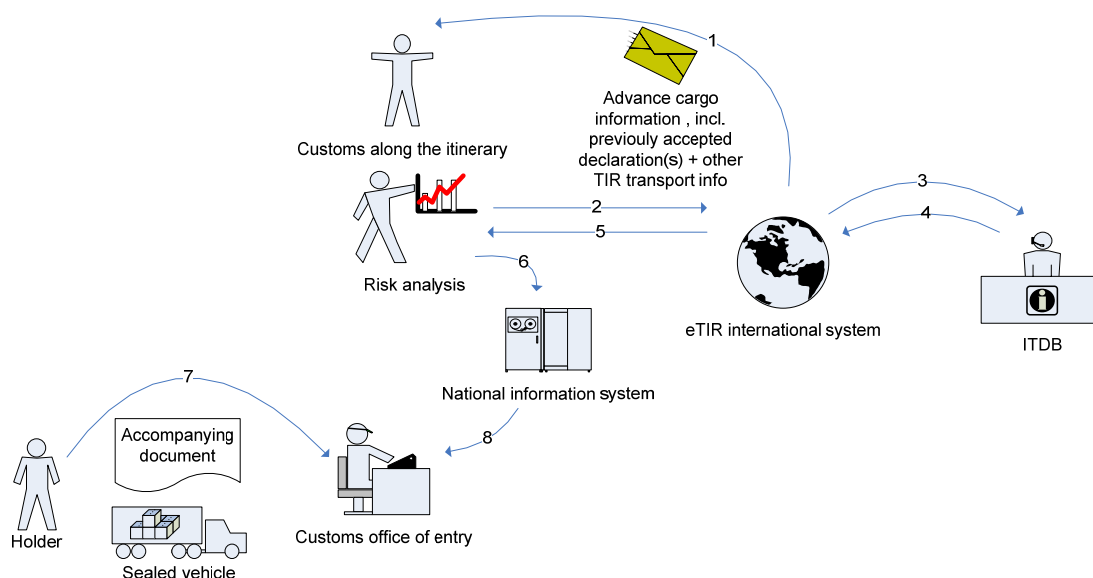
^{6/} Customs perform other activities in line with national or international requirements, such as sending a “Start TIR operation” message (which triggers a checking of the guarantee before the TIR operation can be started). However, as this is not part of the declaration submission mechanism but rather follows the acceptance of the declaration by Customs, it is not further described in this document.

24. The Customs officer hands out the paper accompanying document to the holder.

B. The eTIR declaration at the Customs office of entry

11. Figure 2 describes all steps related to the declaration submission process at the Customs office of entry. Steps are numbered and described in the text following the figure.

Figure 2 - Declaration at the Customs office of entry



1. Customs authorities along the itinerary receive the advance cargo information from the eTIR international system, indicating that a holder is performing a TIR transport which will enter their territory (see step 22 of the Customs office of departure; such information might be just a message, inviting Customs to query the eTIR international system or the TIR transport information);
2. As part of their risk analysis, Customs authorities check the validity of the guarantee with the eTIR international system;
3. The eTIR international system queries the ITDB to check that the holder is authorized;
4. The ITDB provides information on the holder to the eTIR international system;
5. The eTIR international system provides the information on holder and guarantee to Customs;
6. Customs store the advance cargo information in their national system, possibly together with the results of their risk assessment;
7. The holder presents the sealed vehicle (containing the goods) together with the accompanying document and the guarantee reference at the Customs office of entry en route;
8. The Customs office of entry en route retrieves from the national Customs system the data contained in the advance cargo information message to become the Customs declaration,

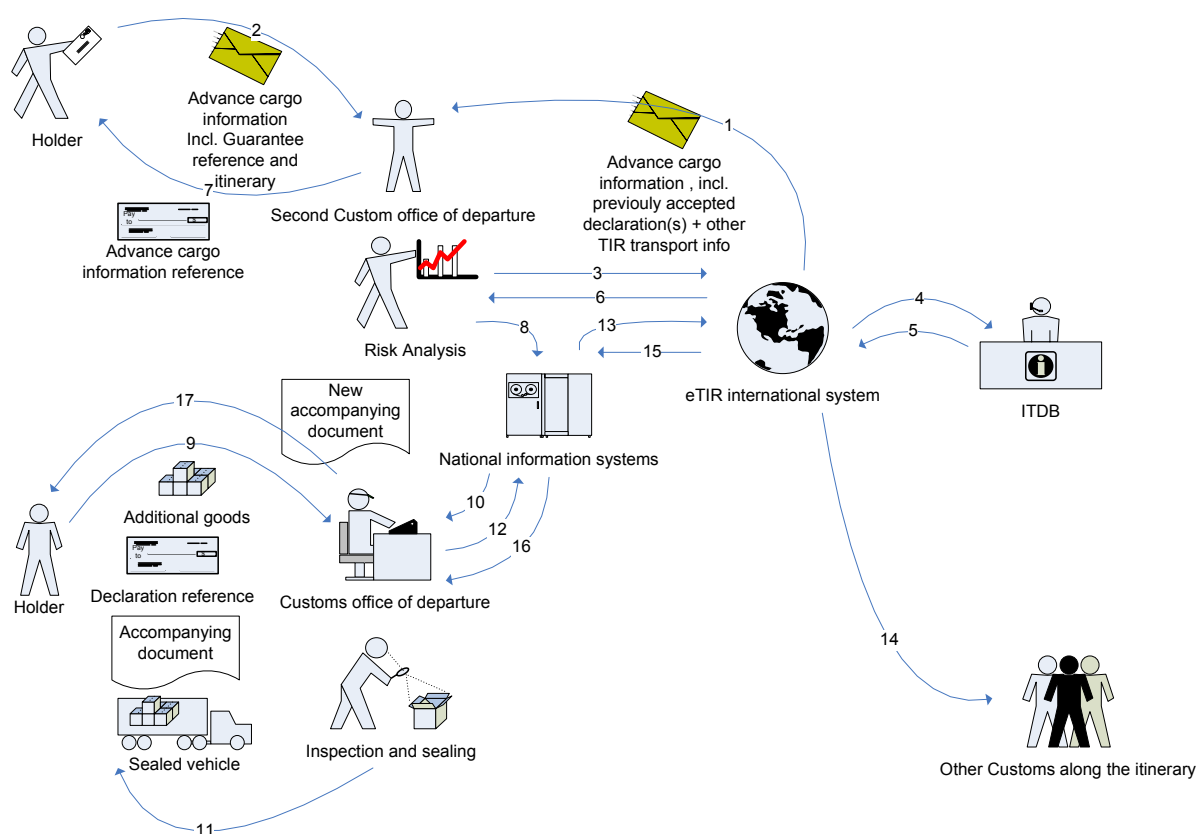
allowing the holder to verify the integrity of the data by comparing the “key” of the declaration with the one originally generated.^{7/}

12. In case the geographical distance between the Customs office of departure and the Customs office of entry en route is too close to meet deadlines^{8/} for the submission of advance cargo information, Customs authorities at the Customs office of entry en route should accept the advance cargo information forwarded through the eTIR international system. In a computerized environment, even short time lags are sufficient to perform automatic risk assessment and should allow for adequate channelling of the holder upon his arrival at the border. This does not release the holder from his obligation to submit advance cargo information to any Customs authorities when specific national legislation requires him to do so.

C. The eTIR declaration at the following Customs offices of departure

13. Figure 3 describes all steps related to of the declaration submission process at a Customs office of departure, other than the first Customs office of departure, in case of multiple loading places. Steps are numbered and described in the text following the figure.

Figure 3 – Declaration at the following Customs offices of departure



^{7/} After accepting the declaration, Customs perform other activities in line with national or international requirements, such as sending a “Start TIR operation” message (which triggers a checking of the guarantee before the TIR operation can be started). However, as this is not part of the declaration submission mechanism but rather follows the acceptance of the declaration by Customs, it is not further described in this document.

^{8/} Specific deadlines regarding the arrival of advance information will be defined in the legal provisions allowing for the implementation of the eTIR system.

1. The eTIR international system sends the advance cargo information to the Customs authorities along the itinerary (see step 22 at the first Customs office of departure);
2. After having generated the “key” to ensure the integrity of the advance cargo information, the holder sends the advance cargo information, regarding the totality of the goods, to the Customs office of departure or to a central Customs system in the country of departure, using a national declaration mechanism (outside scope of the eTIR project);
3. As part of their risk analysis, Customs authorities check the validity of the guarantee with the eTIR international system;
4. The eTIR international system queries the ITDB to check that the holder is authorized;
5. The ITDB provides information on the holder to the eTIR international system;
6. The eTIR international system provides the information on holder and guarantee to Customs;
7. Customs confirm the reception and the validity^{9/} of the advance cargo information regarding the additional goods to be loaded to the holder and provide him with a unique reference;
8. Customs store the advance cargo information in their internal system, possibly together with the results of their risk assessment;
9. The holder presents the sealed vehicle (containing goods loaded at previous loading points), together with the accompanying document. Moreover, he presents the additional goods to be loaded, together with the reference to the guarantee (or the reference provided by Customs) to the Customs office of departure to lodge the declaration;
10. The Customs office of departure retrieves from the national Customs system the data contained in the advance cargo information message to become the Customs declaration, allowing the holder to verify the integrity of the data by comparing the “key” of the declaration with the one originally generated. Then, Customs check the vehicle and goods against the Customs declaration in accordance with the appropriate risk assessment information;
11. Customs retrieves the advance cargo information from the Customs system, possibly together with the results of their risk assessment;
12. Customs remove the seals, inspect the goods and the vehicle according to the results of the risk analysis and, after the additional good are loaded, seal the vehicle;
13. The results of the checks and the seals numbers are stored in the Customs system;
14. After having accepted the declaration, the national system forwards the relevant TIR transport data (Customs declaration and the seals numbers) to the eTIR international system by means of the “Update Consignment” message;^{10/}
15. The eTIR international system confirms the reception of the information;

^{9/} As part of the verification procedure, Customs also verify that the information provided at the first loading point (received through the eTIR international system) is contained in the new advance cargo information message.

^{10/} Customs perform other activities in line with national or international requirements, such as sending a “Start TIR operation” message (which triggers a checking of the guarantee before the TIR operation can be started). However, as this is not part of the declaration submission mechanism but rather follows the acceptance of the declaration by Customs, it is not further described in this document.

16. The eTIR international system provides all Customs administrations involved in the TIR transport with the TIR transport information. This information, exchanged in a Customs secure environment, will serve as the advance cargo information for the subsequent Customs authorities;
17. The Customs officer sees the results on his/her screen and prints the accompanying document;
18. The Customs officer hands out the paper accompanying document to the holder.

14. In case the geographical distance between the first and the second Customs office of departure is too close to meet deadlines^{11/} for the submission of advance cargo information, Customs authorities at the second Customs office of departure should accept the advance cargo information forwarded through the eTIR international system. In a computerized environment, even short time lags are sufficient to perform automatic risk assessment and should allow for adequate channelling of the holder upon his arrival at the border. This does not release the holder from his obligation to submit advance cargo information to any Customs authorities when specific national legislation requires him to so.

III. REMARKS BY THE SECRETARIAT

15. In addition to the procedural aspects explained above, the Working Party may also wish to consider the following remarks related to the eTIR declaration mechanism.

A. Submission of the declaration in foreign countries

16. A major issue with regard to the declaration submission procedure as contained in the eTIR Project seems to be the requirement for the holder to send advance cargo information to Customs administrations in other countries than the holder's country of residence. The responsibility to provide an adequate submission procedure lies at the national level and is a matter between the holder and the Customs authorities, falling outside the scope of the eTIR Project. The eTIR project only provides for a standard set of elements to be contained in the advance cargo information message, since these elements are also part of the TIR transport information to be exchanged internationally through the eTIR international system.

17. Although there is general agreement that the requirement of a national electronic declaration system does not pose a problem in the relationship between holder and Customs authorities of the country in which he is established or resident, there seems, however, to be confusion as to how the holder can establish secure electronic communications with Customs authorities in other countries where the beginning of the TIR transport could take place, without having to call upon the paid services of a Customs broker or any other third party. In order to achieve this, Customs administrations will have to ensure not only that their national declaration submission system is accessible by all holders, but that it is also available in, at least, one of the three official languages of the TIR Convention (English, French or Russian). A generalized use of standard codes will further simplify this issue.

^{11/} Specific deadlines regarding the arrival of advance information will be defined in the legal provisions allowing for the implementation of the eTIR system.

B. Comparison with the current paper environment

18. The declaration mechanism contained in the eTIR Project only differs slightly from the current paper-based procedure. The declaration continues to be formally lodged by the holder at the time he presents himself at the Customs office of departure or entry en route, together with the vehicle and the goods. However, the eTIR system introduces, as new requirement, that Customs should receive advance cargo information prior to the physical presentation of the vehicle and goods at the Customs office of departure or entry en route. In line with the objectives of the eTIR Project, the purpose of this is to allow Customs to perform certain checks (including the validity of the guarantee) and to determine the risk profile of the TIR transport prior to its arrival at the Customs office concerned. In continuation, the eTIR system is designed in such a way that the holder only needs to submit his advance cargo information once, thus avoiding the multiple, unsolicited and, possibly even erroneous, submission to various national Customs systems. The Customs office of departure, by registering all relevant TIR transport information in the eTIR international system, ensures that the data required for lodging the declaration, as well as other TIR transport information (e.g. seals), are provided to all consecutive countries involved in the TIR transport prior to the arrival of the vehicle so that Customs can perform advance risk assessment. As it is the case today, the holder remains responsible for the presentation of the vehicle, load and guarantee reference in accordance with the principles set out in Article 21 of the TIR Convention at each Customs office. The change in the procedure regards only the information required to lodge the declaration, which is currently provided by means of the TIR Carnet and which will be provided electronically in the future by means of the mechanisms described above.

C. Legal implications of the eTIR declaration submission mechanism

19. In the course of the discussions of the WP.30 at its 119th session, issues have been raised of a legal nature, which go beyond the scope of the mandate of the GE.1, but which deserve the Working Party's full attention. In the following paragraphs, the secretariat provides its preliminary assessment of the issues at stake for consideration by WP.30.

1. Legal basis for Customs to receive/send/use advance declaration data through the eTIR international system

20. It goes without saying that the introduction of the eTIR system will require a revision of the legal provisions of the TIR Convention. In the framework of this revision, it will be necessary to include provisions ensuring that the eTIR international system is adequately defined as the cornerstone of the information exchange between Customs authorities and providing a legal basis for a secure electronic exchange of TIR data, which would replace the current exchange of information based on the paper TIR Carnet.

2. Liability of the holder if an error occurs in the course of the transmission of data from Customs to Customs through the eTIR international system

21. First of all, it should be stressed that the holder is and will remain responsible, and thus liable, for the accuracy and the completeness of the information he provides. The eTIR system nevertheless provides the holder with means to ensure the authenticity of the information. The

eTIR system foresees that the holder generates a “key” using his advance cargo information.^{12/} The Customs authorities will also calculate the “key”, from the information they received directly from the holder or through the eTIR international system, and therefore provide the holder with a quick mean to ensuring that the correct information has been considered. With that in mind, it is the responsibility of the holder to ensure there is no divergence between data he submitted, data transmitted via the eTIR international system and data received by Customs authorities in the course of a TIR transport, and request a correction, if need be.

VII. FINAL CONSIDERATIONS

22. The Working Party may wish to confirm that the declaration mechanism as contained in Chapter 2 of the eTIR Reference Model complies with the principles of the eTIR project as set out in Chapter 1.1.2 of the eTIR Reference Model and does not constitute a legal impediment for the implementation of the eTIR system. It may also wish to start working on the revision of the legal provisions of the Convention that would allow for the introduction of the eTIR system.

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^{12/} In more technical terms this key is also known as hash code. A “hash” function takes information as an input and provides the hash code as an output. Whenever the information, e.g. the advance cargo information, is changed the resulting hash code will also change. Therefore, the hash code can ensure that the information provided by the holder is not changed in the course of the TIR transport.