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## **Economic Commission for Europe**

### **Administrative Committee for the TIR Convention, 1975**

#### **Seventieth session**

Geneva, 13 June 2019

Item 3 (a) of the provisional agenda

#### **Revision of the Convention:**

**Phase III of the TIR revision process –**

**Computerization of the TIR procedure –**

**Annex 11 of the Convention**

### **Report of the First Friends of the Chair meeting**

#### **Note by the Secretariat**

#### **I. Attendance**

1. The Administrative Committee for the TIR Convention, 1975 (AC.2) held a Friends of the Chair meeting on Phase III of the TIR revision process – Computerization of the TIR procedure on 16–17 April 2019 in Moscow.

2. The session was attended by experts from the following countries: Austria (TIR Executive Board (TIRExB) member), Denmark (Chair of AC.2), Sweden (Chair of the Working Party on Customs Questions affecting Transport (WP.30)), Russian Federation (Federal Customs Service (FCS), Ministry of Foreign Affairs, Ministry of Transport, Ministry of Digital Development, Communications and Mass Media, Association of International Road Carriers) and Turkey (Chair of TIRExB). Experts from the European Commission (member of TIRExB, Head of Delegation) also attended the meeting.

#### **II. Mandate**

*Documentation:* ECE/TRANS/WP.30/AC.2/141, ECE/TRANS/WP.30/2019/3-ECE/TRANS/WP.30/AC.2/2019/7, ECE/TRANS/WP.30/AC.2/2019/8, ECE/TRANS/WP.30/AC.2/2019/9

3. During the sixty-ninth session (Geneva, 7 February 2019) of the Administrative Committee for the TIR Convention, 1975, the Committee agreed that, before organizing the extraordinary session of AC.2 in June 2019, the experts from the Russian Federation and the secretariat should hold (Friends of the Chair) consultations to mainly provide clarifications and explanations on the concerns of the Russian Federation. If, after those consultations, the delegation of the Russian Federation would still believe that the text of Annex 11 should be amended to reflect their concerns, they agreed to provide by 10 April 2019, in Russian and English, concrete amendment proposals to Annex 11 with appropriate explanations. If, however following consultations, the Russian Federation would agree to adopt Annex 11 as it currently stands in document ECE/TRANS/WP.30/2019/3-ECE/TRANS/WP.30/AC.2/2019/7,

as amended by the Working Party at its 151st session, and without any further changes, then the secretariat would be requested to submit the final text to the European Union and other contracting parties for finalization of their internal procedures and organize an extraordinary meeting of AC.2 in June 2019, for possible adoption of Annex 11.

4. Following a request from the Federal Customs Service of the Russian Federation the meeting was held on 16–17 April 2019 in Moscow. FCS as it was requested by AC.2 decision provided in Russian and English their amendment proposals (ECE/TRANS/WP.30/AC.2/2019/9). The secretariat in consultation with experts interested in participating to the friends of the chair meeting prepared alternative compromised text in English and Russian which communicated to FCS well before the meeting for their consideration.

5. The meeting was chaired by the Chair of the Administrative Committee Mrs. V. Raun Bog (Denmark).

### III. Conclusions and Recommendations

6. The meeting started on 16 April 2019 at the premises of FCS, from 12:00 to 17:30. At the outset, FCS presented its main areas of concern with regard to the introduction of Annex 11, i.e. authentication, fall-back procedure, data sets, application of eTIR within customs unions and definitions. After a first inconclusive round of discussions on some of these issues, the experts decided to go through the amendment proposals one by one. The outcome of the deliberations on each of the amendment proposals are summarized below.

7. Amendment proposal No. 1. The experts agreed on the following compromised text because it further improves the definition of the eTIR procedure:

“(s) The term “eTIR procedure” shall mean the TIR procedure, implemented by means of the electronic exchange of data providing, the functional equivalent to the TIR Carnet. The specifics of the eTIR procedure are defined in Annex 11, while other provisions of the TIR Convention apply.”

8. Amendment proposal No. 2. The experts agreed on the following compromised text because they were of the view that an amendment to Article 3, para. (b) could further clarify that a guarantee is also required for TIR transports carried out under the eTIR procedure:

“(b) the transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6. They must be performed under cover of a TIR Carnet, which shall conform to the model reproduced in Annex 1 to this Convention or be carried out by the eTIR procedure.”

9. Amendment proposal No. 3. The experts agreed on the following compromised text:

“(xi) confirm, upon request of the competent authorities the validity of the guarantee of a certain TIR transport carried out under eTIR procedure in the case of a fallback procedure described in Article 10 of Annex 11 (for contracting parties bound by Annex 11).”

10. Amendment proposal No. 4. The experts did not agree on the text. However, there was a clear understanding of the wish of FCS to include a provision which states that, in the absence of borders within a customs territory, all countries forming a single customs territory need to be bound by Annex 11 before it can be used by any of them. A compromise wording would have to be found.

11. Amendment proposal No. 5. The experts agreed on the following compromised text:

“(b) The term “advance TIR data” shall mean the data provided electronically to the competent authorities in the prescribed form and manner of the intention of the holder to place goods under the eTIR procedure.”

12. Amendment proposal No. 6. The experts agreed on the following compromised text:

“(c) The term “declaration” shall mean the act whereby the holder, or his or her representative, indicates in the prescribed form and manner the intent to place goods

under the TIR procedure. From the moment of acceptance of the declaration by the competent authorities and its transfer to the international eTIR system, it will constitute the legal equivalent of an accepted TIR Carnet.”

13. Amendment proposal No. 7. The experts did not agree on a compromise text but could agree on the principles behind the proposals of FCS. There was common understanding that the term “electronic document” refers to the electronic messages as being described in the eTIR Reference Model and not to documents such as a pdf or word file. There was also agreement that point (g) should be added to Annex 11. However, points (f) and (h) should be part of an Explanatory Note to point (g). Also, it became clear during the discussions that the term “legal significance” (which is a legal term in Russian law and, therefore, of great importance for FCS) has no legal equivalent in the English language and that the term “authentication” should be used instead. If requested or needed, definitions of “electronic document” and of “electronic signature” should be incorporated by using the United Nations Commission on International Trade Law (UNCITRAL) ones.

14. Amendment proposal No. 8. The experts agreed on the following compromised text:

“4. The Technical Implementation Body shall, at its first session, adopt its rules of procedure and submit them to the Administrative Committee for endorsement by the contracting parties bound by Annex 11.”

15. Amendment proposal No. 9. The experts did not have time to discuss this amendment proposal.

16. Amendment proposal No. 10. No final agreement was reached on this amendment proposal. FCS proposed that the title of Article 7 should be amended as follows: “Article 7: authentication of the holder in the eTIR international system”. Also, it proposed to introduce a new article after Article 7 with the title “Legal significance”, where the two new paragraphs as proposed by FCS should be introduced. No final agreement was reached.

17. Amendment proposal No. 11. The experts agreed on the following title and text for Article 8 of Annex 11:

“Authentication of the holder in the eTIR international system

Authentication of the holder in the eTIR international system performed by the competent authorities of a contracting party bound by Annex 11 which accepts the declaration shall be recognized by the competent authorities of all subsequent contracting parties bound by Annex 11 throughout the TIR transport.”

18. Amendment proposal No. 12. The experts did not have time to discuss this amendment proposal.

19. Amendment proposal No. 13. The experts agreed on the following compromised text:

“2. Where an eTIR procedure has started but its continuation is impeded for technical reasons, the competent authorities shall accept the accompanying document and process it in line with the procedure described in the eTIR specifications, subject to the availability of information from alternative electronic systems as described in the eTIR specifications.

3. The competent authorities of contracting parties may request national guaranteeing association to provide documentary evidence of the eTIR procedure for conducted transports.

4. The procedure for providing such documentary evidence shall be established in the agreement between the competent customs authorities and the national guaranteeing association as stipulated by Annex 9, part 1, paragraph 1(d) of this Convention.”

20. Amendment proposal No. 14. The experts agreed with the proposal introduced by FCS.

21. Amendment proposal No. 15. The experts did not have time to discuss this amendment proposal.

22. Considering the positive outcome of the first day of the meeting and taking into account that the experts from the Russian Federation were not be available on 17 April 2019, it was agreed that a second meeting of the “Friends of the Chair” should take place before the June 2019 session of AC.2, with the aim to finalizing discussions and agreeing on a compromise text for all amendment proposals from FCS. This second meeting should take place at the Palais de Nations in Geneva around the middle of May, pending availability of experts as well as of a room and interpretation.

23. The meeting continued on 17 April 2019, despite the absence of experts from the Russian Federation. During the discussions, the experts further analysed the proposals prepared by FCS, trying to identify wordings that would further facilitate discussions towards a compromise text. At the same time, all experts present agreed that, while progress had been made on the first day of the meeting, it remained unclear whether all issues raised by FCS, in particular those touching concepts which are at the base of the eTIR project, could be addressed and how long it would take to find proposals which would satisfy all TIR contracting parties. Consequently, considering the importance of the speedy implementation of eTIR for the future of the TIR Convention, the Chair of AC.2 proposed that, as an alternative to Annex 11, an eTIR protocol based on the text of Annex 11 should be tabled at the June session of AC.2. As a separate international legal instrument, a protocol would allow all interested contracting parties to rapidly implement eTIR with a common legal basis. All experts agreed with this proposal and requested the secretariat to prepare a formal document for the June session of AC.2.

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