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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

1. At the last session of the Informal ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (Bratislava, 7 and 8 March 2006), the IRU and its member associations gave, for the first time, a detailed PowerPoint presentation of their views on how to computerize the TIR procedure through a public-private partnership.

2. The Customs administrations present at the meeting were of the view that the main differences between the proposal presented by the IRU and the proposals contained in

* The UNECE Transport Division has submitted the present document after the official documentation deadline.

documents TRANS/WP.30/GE.1/2005/2/Rev.1 and ECE/TRANS/WP.30/GE.1/2006/3 (hereafter referred to as “proposal by the secretariat”, although it should be clarified that this proposal has been elaborated by the secretariat at the request of the Working Party and with the assistance of the European Commission), were related to the establishment of an international, centralized database and the organization of the guarantee management system. In general, the representatives of Customs authorities present did not see major differences between the two approaches. As a consequence, the Experts from Customs administrations agreed that the work of the Expert Group should continue on the basis of the proposal by the secretariat and requested the secretariat to submit a document to this extent to the forthcoming session of the WP.30 for endorsement, combining document TRANS/WP.30/GE.1/2005/2/Rev.1 with document ECE/TRANS/WP.30/GE.1/2006/3 (the combined document carries the reference ECE/TRANS/WP.30/2006/8). With regard to the outstanding issues raised by the IRU in the course of the discussion (ensuring continued service of the eTIR international system, ensuring an efficient and cost-effective procedure for the submission of the declaration by the holder, clarification of the use of the term “digital signature” in contrast to other verification methods), the Expert Group requested the secretariat to take them into account and address them, where appropriate, in its future considerations (see ECE/TRANS/WP.30/GE.1/2006/5, paras. 8-11).

3. The IRU submitted document ECE/TRANS/WP.30/2006/9 for consideration by the Working Party because it firmly believes that the Expert Group has drawn the wrong conclusion. The IRU document intends to clarify the major differences between the two approaches, with the aim to facilitate the debate by the Working Party on the subject.

4. This note contains the secretariat’s considerations with regard to the differences between the two approaches.

II. DIFFERENCES ACCORDING TO THE IRU

5. In the eye of the secretariat, the differences mentioned in the IRU’s document can be summarized as follows:

- (a) Secure and direct data exchange between Contracting Parties by creation of a Customs BUS;
- (b) Ability for Customs to check the validity of a guarantee against the guarantor’s database directly;
- (c) Provision of data without the need for a disclaimer;
- (d) Possibility to submit the electronic declaration to the Customs office of departure through a central point;
- (e) Tangibility (in means of time and resources).

III. COMMENTS BY THE SECRETARIAT

6. In the view of the secretariat, both approaches require interoperability between existing IT systems used to manage the actual TIR system. To this end, both approaches propose to develop a new element (or “actor”). Based upon the instruction by the Working Party to establish an international, centralized database whose aim it is to facilitate the secure exchange of data between national Customs systems, this element is called “eTIR international system” in the proposal by the secretariat. In its recently launched proposal, the IRU introduces the term

“Customs BUS” to describe a shared data transmission channel. Whereas the IRU repeatedly describes the eTIR international system as requiring management by an undefined supranational body, it remains completely silent on the management of the Customs Bus. It should, however, be clear that the Customs Bus, being a web service application, cannot function without some kind of application management. All in all, both approaches appear to be alike.

7. In the view of the secretariat and as pointed out by the Experts from Customs, there is, indeed, a fundamental difference between the two approaches with regard to the management of the guarantee. According to IRU’s approach, it will be the task of the first Customs office of departure to check the validity of a guarantee against the guarantor’s database. This is in contrast to the proposal by the secretariat, where it would be the task/obligation of the guarantor to update the Customs database every time it issues a new guarantee or changes the status of a guarantee in the interval between issuance and acceptance by Customs. Although, from a technical point of view, both solutions may seem to offer equivalent facilities, the difference becomes apparent after acceptance of the guarantee by the first Customs office of departure. In the proposal by the secretariat, the guarantee data contained in the eTIR international system will serve as reference for consecutive Customs offices to obtain information on the status of guarantees, thus ensuring that possible changes in status by the guarantor have been acknowledged by Customs. In the IRU’s proposal, consecutive offices will query the guarantor’s database directly, which may lead to situations where the guarantor may have changed the status of the guarantee after the acceptance of the guarantee by the first Customs office of departure without there being any information that Customs has been made aware or has acknowledged such change. It is the understanding of the secretariat, that in the view of Customs this difference is crucial for the well-functioning of an electronic TIR system.

8. It is not clear why the IRU is of the opinion that its proposal does not require a disclaimer (apart from the fact that the use of disclaimers in the eTIR international system has not yet been addressed and will require thorough analysis by the future Legal Expert Group). Considering that, in the view of Customs, there is no major difference between the structure and the technical requirements of the eTIR international system and the Customs BUS, it does not make sense to assume that one approach would be less exposed to potential hackers or errors than the other.

9. The IRU, when mentioning the fact that its proposal provides for the electronic delivery of declaration data to the Customs office of departure as one of the differences, seems to oversee the fact that this aspect, although introduced by the secretariat in its original proposal (ExG/COMP/2004/23), was removed from the development of the eTIR international system at the specific request of some Contracting Parties and of the IRU for the reason that this aspect referred to the direct relationship between the operator and the national Customs authorities. On this basis, it seems not appropriate to consider this aspect as constituting a difference between both approaches. However, the Working Party may wish to consider if a declaration mechanism, similar to the NCTS-TIR declaration, as referred to by the IRU in paragraph 8 of document ECE/TRANS/WP.30/2006/9, should be developed.

10. The IRU which promotes its approach as being tangible, realistic and achievable, while at the same time reproaching the proposal of the secretariat for being unjustified, only presented it orally and based on unsubstantiated requirements as well as on elements considered beyond the scope of analysis. The secretariat would like to point out that its proposals have been set out in a number of documents as of 2004, whereas the IRU, so far, has presented its proposals only orally and to a limited audience, viz. the Expert Group meeting in Bratislava. Furthermore, the IRU proposal contains elements, which, so far, have been considered to be outside the development of the eTIR international system. Finally, the IRU approach does not give any justification with regard to timeframe or financing. Thus, it does not offer any objective measuring points, which would allow the Working Party to qualify its approach as being different from the proposal by the secretariat.

IV. FINAL CONSIDERATIONS

11. It is not the aim of this document to react in detail to all statements and assumptions contained in document ECE/TRANS/WP.30/2006/9. The secretariat refers to its documents ECE/TRANS/WP.30/GE.1/2006 Informal document No. 1 and ECE/TRANS/WP.30/GE.1/2006 No.2, prepared for the Expert Group meeting in Bratislava, which provide exhaustive reactions to a large number of critical remarks by the IRU with regard to the eTIR Project. As explained in the introduction to this document, its only aim is to clarify to the Working Party that most of the differences between both approaches, as described by the IRU, seem to the secretariat to be, to a large extent, artificial or based on an incomplete reflection of the state of play of the eTIR Project. However, at the same time, two major differences remain between the two approaches. In the proposal of the secretariat, guarantee data should be stored in an international Customs environment from the moment the guarantee is issued and the operator should submit the declaration directly to the Customs authorities. In the IRU's proposal, guarantee data are managed by the guarantor and the operator submits the declaration to the Customs authorities through a centralized point. If, in the course of a TIR transport, consecutive Customs offices wish to check the status of the guarantee, they can only do so against data available in the guarantor's database.

V. CONCLUSION

12. As outlined above, in the view of the representatives of Customs authorities present at the ninth session of the Expert Group and the secretariat, the proposal by the IRU and its member associations, apart from the organization of the management of the guarantee and the submission of the declaration, does not differ substantially from the proposal which has been elaborated over time by the secretariat, based on instructions by the Working Party, developed with the assistance of the European Commission and supported by the majority of Customs authorities.

13. The Working Party may wish to discuss the computerization of the TIR procedure, taking into account the considerations put forward by the secretariat and by the IRU. The aim of the discussion should be to provide the secretariat with clear guidance on how to pursue the eTIR project. In addition, the Working Party may wish to instruct the secretariat to submit any decision taken in this regard to the TIR Administrative Committee for endorsement at its session in September 2006.
