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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 to the Convention****Draft Protocol to the TIR Convention\*****Note by the secretariat****Background and mandate**

1. At its sixty-ninth session (February 2019), the Committee agreed, *inter alia*, that, before organizing the extraordinary session of the Administrative Committee for the TIR Convention, 1975 (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 (ECE/TRANS/WP.30/AC.2/141, paragraph 53).
2. A first meeting of the Friends of the Chair was conducted in Moscow on 16 and 17 April 2019. The report of the session is contained in Informal document WP.30/AC.2 (2019). No. 9.
3. As part of the outcome of the session, all experts present (*viz* without the experts from the Russian Federation) agreed that, while progress had been made on the first day of the meeting, it remained unclear whether all issues raised by the Federal Customs Service (FSC) of the Russian Federation, 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 (see Informal document WP.30/AC.2 (2019). No 9, paragraph 23).

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\* This document was submitted late due to delayed inputs from other sources.



4. Further to this request, the secretariat presents, in Annex, the draft text of the eTIR Protocol, for consideration of the Committee.

## **Annex**

*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**

#### **Article 1 Application**

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 of 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.

#### **Article 2 Definitions**

1. The term “Parties” shall mean the Contracting Parties to the TIR Convention, 1975, that have ratified this Protocol.
2. The term “eTIR procedure” shall mean the TIR procedure implemented by means of electronic exchange of data, which provides the functional equivalent to the TIR Carnet.
3. 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.
4. The term “advance TIR data” shall mean the data provided to the competent authorities of the Parties in the prescribed form and manner of the intention of the holder, or his or her representative, to place goods under the eTIR procedure or pursue a TIR transport.
5. The term “declaration” shall mean the act whereby the holder, or his representative, indicates in the prescribed form and manner the intent to place goods under the eTIR procedure.
6. The term “accompanying document” shall mean the paper document printed in line with the guidelines contained in the eTIR technical specifications and issued for the fallback procedure as set out in Article 10 of this Protocol. The accompanying document shall also be used to record incidents en route pursuant to Article 25 of the TIR Convention.
7. The term “eTIR specifications” shall mean the conceptual, functional and technical specifications of the eTIR procedure adopted and amended in accordance with the provisions of Article 5 of this Protocol.

## **Chapter II Implementation of the eTIR procedure**

### **Article 3**

1. The Parties shall connect their customs systems to the eTIR international system in line with the eTIR specifications.
2. Each Party to this Protocol is free to establish by which date it connects its customs systems to the eTIR international system. However, Parties are recommended to have their national customs system updated and its connection with the eTIR international system ensured as soon as the Protocol enters into force for that Party.
3. The date of connection shall be communicated to all other Parties at least six months prior to the effective date of connection.

## **Chapter III Conceptual, functional and technical specifications of the eTIR procedure**

### **Article 4**

#### **Composition, functions and rules of procedure of the Technical Implementation Body**

1. The Parties shall be members of the Technical Implementation Body. Its sessions shall be convened at regular intervals, as required for the maintenance of the eTIR specifications. The Administrative Committee of the TIR Convention, 1975, shall be regularly informed of the activities and considerations of the Technical Implementation Body.
2. Contracting Parties to the TIR Convention, 1975, which have not acceded to this Protocol and representatives of international organizations may attend sessions of the Technical Implementation Body as observers.
3. The Technical Implementation Body shall monitor the technical and functional aspects of implementing the eTIR procedure, as well as coordinate and foster the exchange of information on matters falling within its competence.
4. The Technical Implementation Body shall, at its first session, adopt its rules of procedure.

### **Article 5**

#### **Adoption and amendment procedures for the eTIR specifications**

The Technical Implementation Body shall:

- (a) adopt the technical specifications of the eTIR procedure, and amendments thereto, to ensure their alignment with the functional specifications of the eTIR procedure. At the time of adoption, it shall decide on the appropriate transitional period for their implementation.
- (b) prepare the functional specifications of the eTIR procedure, and amendments thereto, to ensure their alignment with the conceptual specifications of the eTIR procedure. They shall be transmitted to the Administrative Committee of the TIR Convention, 1975, for adoption by a majority of the Parties present and voting there as well as implemented and, when required, developed into technical specifications at a date to be determined at the time of adoption.
- (c) consider amendments to the conceptual specifications of the eTIR procedure if so requested by the Parties at a session of the Administrative Committee of the TIR

Convention, 1975. The conceptual specifications of the eTIR procedure, and amendments thereto, shall be adopted, at a session of the Administrative Committee of the TIR Convention, 1975, by a majority of the Parties present and voting there, as well as implemented and, when required, developed into functional specifications at a date to be determined at the time of adoption.

## **Chapter IV**

### **Data requirements**

#### **Article 6**

##### **Submission of advance TIR data**

1. Advance TIR data shall be submitted in electronic form.
2. The Parties shall accept the submission of advance TIR data via the eTIR international system.
3. The Parties are recommended to recognize, in as far as possible, the submission of advance TIR data by the methods indicated in the functional and technical specifications.
4. The competent authorities of the Parties shall publish the list of other electronic means by which advance TIR data can be submitted.

#### **Article 7**

##### **Additional data requirements**

Competent authorities of the Parties should, to the extent possible, limit data requirements to those contained in the functional and technical specifications. However, if additional data requirements are imposed by legislation, the competent authorities of the Parties shall endeavour to facilitate the submission of such data so as not to impede TIR transports carried out in accordance with this Protocol.

## **Chapter V**

### **Authentication of the holder and mutual recognition of authentication mechanisms**

#### **Article 8**

##### **Authentication of the holder**

1. The holder, or his or her representative, submitting advance TIR data directly to the competent authorities of the Parties shall be authenticated in accordance with applicable national legislation.
2. The Parties shall recognize authentications performed by the eTIR international system.
3. The Parties are recommended to recognize, in as far as possible, the authentications performed by the methods indicated in the functional and technical specifications.
4. The competent authorities of the Parties shall publish a list of authentication mechanisms other than that specified in paragraphs 2 and 3 of the present Article that may be used for authentication.

## **Article 9**

### **Mutual recognition of the authentication of the holder**

The authentication of the holder performed by the competent authorities of the Parties which accept the declaration shall be recognized by the competent authorities of all subsequent Parties throughout the TIR transport.

## **Chapter VI**

### **Fallback procedure**

#### **Article 10**

1. Where the eTIR procedure cannot be started for technical reasons at the customs office of departure, the holder may revert to the TIR procedure.
2. Where an eTIR procedure has started but its continuation is impeded for technical reasons, the competent authorities of the Parties shall accept the accompanying document and process it in line with the procedure described in the functional and technical specifications, subject to the availability of additional information from alternative electronic systems as described in the functional and technical specifications.

## **Chapter VII**

### **Administration of the eTIR international system**

#### **Article 11**

1. The eTIR international system shall be hosted and administered under the auspices of the United Nations Economic Commission for Europe (ECE).
2. ECE shall assist the Parties in connecting their customs systems to the eTIR international system, including by means of conformance tests to ensure their proper functioning prior to the operational connection.
3. The necessary resources shall be made available to ECE to fulfil the obligations set forth in paragraphs 1 and 2 of this Article. Unless the eTIR international system is financed by resources from the United Nations regular budget, the required resources shall be subject to the financial rules and regulations for extrabudgetary funds and projects of the United Nations.
4. The financing mechanism for the operation of the eTIR international system at ECE shall be decided on and adopted by the Parties at a session of the Administrative Committee of the TIR Convention, 1975, by a majority of the Parties present and voting there.

#### **Article 12**

1. ECE shall make the appropriate arrangements for the storage and archiving of the data in the eTIR international system for a minimum period of 10 years.
2. All data stored in the eTIR international system may be used by ECE on behalf of the competent bodies of the Parties for the purpose of extracting aggregated statistics.
3. The competent authorities of the Parties 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 national guaranteeing association, may request ECE 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.

4. In cases other than those specified in this Article, the dissemination or disclosure of information stored in the eTIR international system to non-authorized persons or entities shall be prohibited.

## **Chapter VII**

### **Miscellaneous provisions**

#### **Article 13**

##### **Publication of the customs offices capable of handling eTIR**

The competent authorities of the Parties shall ensure that the list of customs offices of departure, customs offices en route and customs offices of destination approved for accomplishing TIR operations under the eTIR procedure, is at all times accurate and updated in the electronic database for approved customs offices, developed and maintained by the TIR Executive Board.

#### **Article 14**

##### **Legal requirements for data submission under Annex 10 of the TIR Convention**

The legal requirements for data submission, as set out in Annex 10, paragraph 1, 3 and 4 of the TIR Convention, 1975, are deemed to be fulfilled by implementing the eTIR procedure.

## **Chapter VIII**

### **Final Clauses**

#### **Article 15**

##### **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 United Nations Headquarters in New York from (date) (month) (year) to (date) (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. Regional economic integration organizations may, on their own or together with some or all of their member States, also become Parties in accordance with the provisions of paragraphs 1 and 2 of this Article.
5. For matters within their competence, regional economic integration organizations shall exercise the rights and fulfil the obligations which this Protocol attributes to States Parties to this Protocol. In such cases, the member States of the organization shall not be entitled to exercise such rights individually.
6. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.
7. 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 21 hereafter, shall be deemed to apply to this Protocol as modified by the amendment.

## **Article 16**

### **Entry into force**

1. This Protocol shall enter into force on the ninetieth day after two of the Parties referred to in Article 15, paragraph 1, of this Protocol, have deposited their instruments of ratification or accession.
2. For any Party to the TIR Convention, 1975, ratifying or acceding to this Protocol after two States have deposited their instruments of ratification or accession, this Protocol shall enter into force on the ninetieth day after the said Party has deposited its instrument of ratification or accession.

## **Article 17**

### **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 18**

### **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 19**

### **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.
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 20**

### **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 19 paragraph 2 of this Protocol. Other Parties shall not be bound by Article 19 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.
3. Apart from the reservations provided for in paragraph 1 of this Article, no other reservation to this Protocol shall be permitted.

## **Article 21**

### **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 submitted to the Administrative Committee for the TIR Convention, 1975 for consideration and adoption by the Parties.
3. Any proposed amendment adopted either by consensus or by a two-thirds majority of Parties, present and voting, shall be communicated by the Secretary-General of the United Nations to the Parties for their acceptance.
4. Any proposed amendment circulated in accordance with the preceding paragraph shall be deemed to be accepted if no Party to this Protocol expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.
5. 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 22**

### **Depositary**

The Secretary-General shall be the depositary of this Protocol.

## **Article 23**

### **Authentic text**

*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.

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