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Working Party on Customs Questions
Affecting Transport

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Item 8 (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

1. At its one-hundred-and-eighteenth 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 one-hundred-and-nineteenth session, the Working Party considered document ECE/TRANS/WP.30/2008/8 in combination with Informal document No. 11 (200) 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 on the issue on the basis of a revised document to be submitted by the secretariat (ECE/TRANS/WP.30/238, para. 22).

3. In line with this request, the secretariat has revised document ECE/TRANS/WP.30/2008/8. It now includes, 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.

II. eTIR DECLARATION MECHANISM ^{1/}

4. 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.”

5. The declaration mechanism does not foresee that the holder sends his electronic declaration to each and every Customs authorities en route. Instead, the Customs office of departure registers the declaration information and other TIR transport information (e.g. the information on seals) in the eTIR system which forwards all the information to all the Customs authorities declared by the holder as part of its 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 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 carried out by the eTIR international system tomorrow.

^{1/} In line with the request by the 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.

6. The fact that the holder is obliged to provide Customs with advance cargo information does not relieve him from his responsibility to produce his declaration, together with the goods and vehicle, to Customs for acceptance in accordance with Article 21 of the TIR Convention.

A. The eTIR declaration at the first Customs office of departure

7. Figure 1 describes all steps related to the declaration submission process at the first Customs office of departure. Steps are numbered and described in the text following the figure.

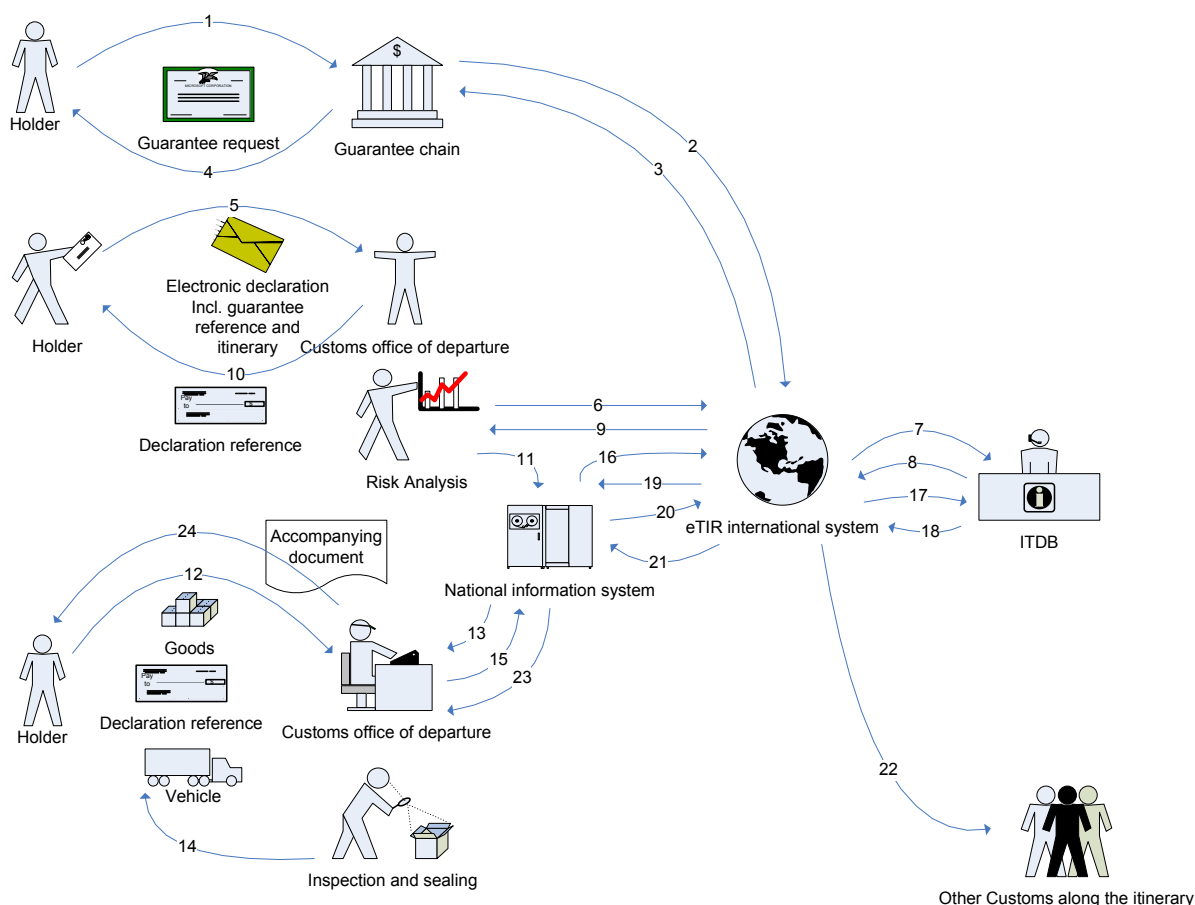


Figure 1 – Declaration at the first Customs office of departure

1. The holder requests a guarantee from the guarantee chain;
2. The guarantee chain accepts the request and registers the guarantee with the eTIR international system;
3. The eTIR international system acknowledges registration of the guarantee;
4. The guarantee chain provides the holder with a unique reference to the guarantee;
5. The holder sends the advance electronic declaration to the Customs office of departure or to a central Customs system in the country of departure, in accordance with national requirements (outside scope of the eTIR project);

6. As part of their risk analysis, Customs authorities check the validity of the guarantee in the eTIR international system;
7. The eTIR international system queries the ITDB to check that the holder is authorized;
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 declaration to the holder and provide him with a unique reference to the declaration;
11. Customs store the advance declaration in their internal system, possibly together with their risk assessment;
12. The holder presents the vehicle, the goods and the reference to the advance declaration to the Customs office of departure;
13. The Customs office of departure retrieves the declaration from the Customs system and checks vehicle, goods and 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 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. 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;^{2/}
21. The eTIR international system confirms the reception of the information;

^{2/} 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 directly linked to the declaration procedure, it is not further described in this document.

22. The eTIR international system provides all Customs administrations involved in the TIR transport with the TIR transport information, including the content of the holder's declaration;
23. The Customs officer sees the results on his/her screen and prints the accompanying document;
24. The Customs officer hands out the paper accompanying document to the holder.

B. The eTIR declaration at the Customs office of entry

8. 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.

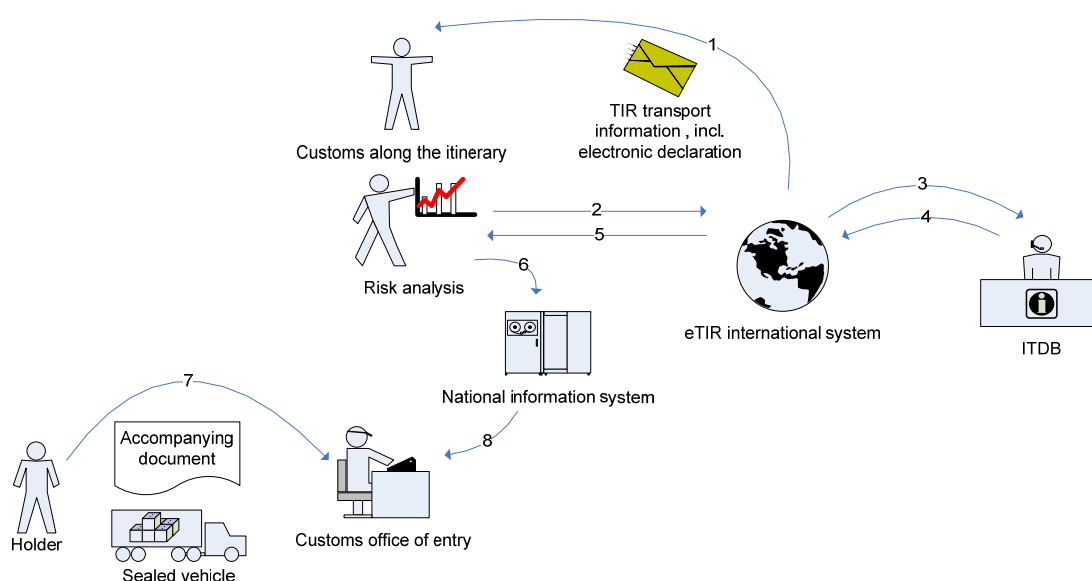


Figure 2 - Declaration at the Customs office of entry

1. Customs authorities along the itinerary receive information from the eTIR international system that a holder has indicated that he 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 downloaded advance declaration in their national system, possibly together with their risk assessment;
7. The holder presents the sealed vehicle (containing the goods) together with the accompanying document at the Customs office of entry en route;
8. The Customs office of entry en route retrieves the declaration from the Customs system, possibly together with the risk assessment.^{3/}
9. 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^{4/} 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 channeling 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

10. 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.

^{3/} 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 directly linked to the declaration procedure, it is not further described in this document.

^{4/} Specific deadlines regarding the arrival of advance information will be defined in the legal provisions allowing for the implementation of the eTIR system.

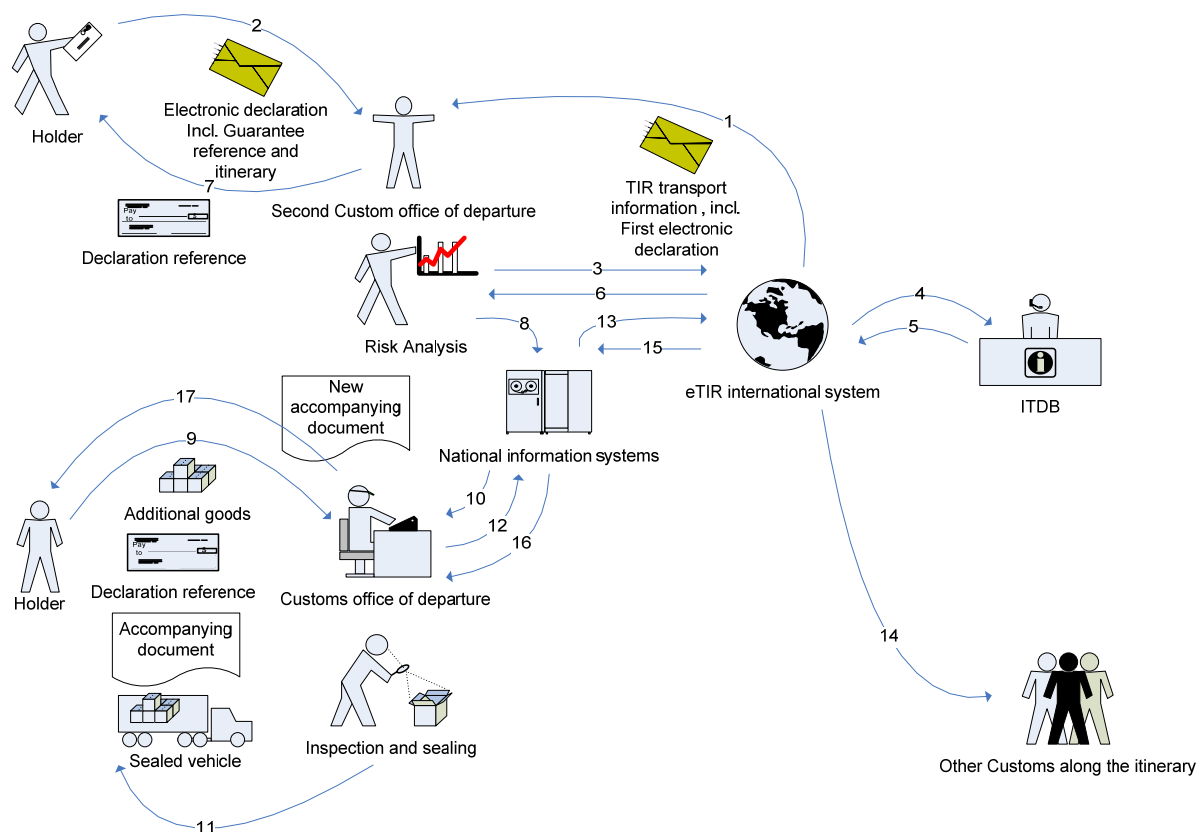


Figure 3 – Declaration at the following Customs offices of departure

1. The eTIR international system sends the TIR transport information to the Customs authorities along the itinerary (see step 22 at the first Customs office of departure);
2. The holder sends the advance electronic declaration regarding the additional goods to be loaded to the Customs offices of departure or to a central Customs system, in accordance with national requirements (outside the 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 of the advance declaration to the holder and provide him with a unique reference to the declaration;
8. Customs store the advance declaration in their internal system, possibly together with 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 advance declaration;
10. Customs retrieves the declaration from the Customs system, possibly together with their risk assessment;
11. 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;
12. The results of the checks and the seals numbers are stored in the Customs system;
13. The national system forwards the new declaration and the new seals data to the eTIR international system by means of the "Update Consignment" message;^{5/}
14. The eTIR international system confirms the reception of the information;
15. The eTIR international system provides all Customs administrations involved in the TIR transport with the TIR transport information, including the content of the holder's declaration;
16. The Customs officer sees the results on his/her screen and prints the accompanying document;
17. The Customs officer hands out the paper accompanying document to the holder.

11. In case the geographical distance between the first and the second Customs office of departure is too close to meet deadlines^{6/} 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 channeling 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

12. In addition to the procedural aspects explained above the, 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

13. A major issue with regard to the declaration procedure as contained in the eTIR Project

^{5/} 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 directly linked to the declaration procedure, it is not further described in this document.

^{6/} Specific deadlines regarding the arrival of advance information will be defined in the legal provisions allowing for the implementation of the eTIR system.

seems to be the requirement for the holder to send an advance electronic declaration to other Customs administrations than his own national administration. 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 prescribes a minimal set of elements which need to be included in the national submission, since these elements are also part of the registration of the TIR transport information in the eTIR international system.

14. 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 communication 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.

B. Comparison with the current paper environment

15. The declaration mechanism contained in the eTIR Project only differs slightly from the current paper-based procedure. The declaration continues to be formally produced 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 the holder submits certain data electronically to Customs prior to the physical presentation of the vehicle, goods and declaration 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 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 declaration 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 declaration information and additional TIR transport information are provided to all consecutive countries involved in one and the same TIR transport prior to the arrival of the vehicle at their Customs office of entry en route, so that Customs can perform advance risk assessment. As it is the case today, the holder remains responsible for the production of the vehicle, load and the Customs declaration in accordance with the principles set out in Article 21 of the TIR Convention at each Customs office.

C. Legal implications of the eTIR declaration submission mechanism

16. In the course of the discussions of the WP.30 at its one-hundred-and-nineteenth 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 the WP.30.

- a) *Legal basis for Customs to receive/send/use advance declaration data through the eTIR international system.*

17. 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.

- b) *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;*

18. 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 advance declaration will be electronically signed and will therefore provide the holder with a “key”⁷ of it electronic declaration. The Customs office of departure will include the “key” in the printed accompanying document, providing the holder with a quick mean to ensuring that the correct information has been considered. At the following Customs offices of entry, the holder will also be in a position to compare the key calculated by Customs authorities with the one he holds and therefore ensure a quick check of the advance information transmitted by the eTIR international system. This that in mind and in case of any divergence between data submitted by the holder and data transmitted via the eTIR international system and received by Customs authorities in the course of a TIR transport, it is the responsibility of the holder to check the accuracy of the information and request a correction, if need be.

VII. FINAL CONSIDERATIONS

19. 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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^{7/} In more technical terms this key is also known as hash code. A “hash” function takes the declaration as an input and provided the hash code as an output. Whenever the declaration is changed the resulting hash code will also change. Therefore, the hash code can ensures that the declaration information has not been changed.