



**Economic and Social  
Council**

Distr.  
GENERAL

ECE/TRANS/WP.30/2007/8  
28 March 2007

Original: ENGLISH

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**ECONOMIC COMMISSION FOR EUROPE**

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions Affecting Transport

One-hundred-and-sixteenth session  
Geneva, 13-15 June 2007  
Item 8 (b) (ii) of the provisional agenda

CUSTOMS CONVENTIONS 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 its tenth session (Geneva, 25-26 September 2006), the Informal ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure, *inter alia*, felt that some of the issues raised in the course of the discussions on the future projects for the Reference Model of the TIR Procedure, due to their strategical or legal nature, went beyond the Expert Group's technical and conceptual competence and could, thus, not be addressed adequately. The Expert Group identified the following issues:

Issues of a strategical nature:

- possibility to increase the maximum number of TIR operations and places of loading and unloading per TIR transport;
- possibility to provide the guarantor with detailed data contained in the declaration;
- methods of submission of the declaration to Customs.

Issues of a legal nature:

- distinction between termination and discharge in an electronic environment;
- legal status of eTIR data as compared to data contained in the paper TIR Carnet during the transitional period where both systems will run in parallel;
- legal status of a paper accompanying document as fall-back in the eTIR system;
- establishment of transitory legal provisions.

2. The Expert Group decided to revert these issues back to WP.30 for either discussion or further reference to the future Legal Expert Group. The Expert Group requested the secretariat to submit a document to that extent to WP.30 for consideration (ECE/TRANS/WP.30/GE.1/2006/10, paras. 10-11).

3. The aim of this document is to meet this request. At the same time, the Working Party may wish to use this opportunity to revisit and, possibly, review the existing mandate of the Legal Expert Group, formulated in 2001.

## **II. EXISTING MANDATE OF THE LEGAL EXPERT GROUP**

4. At its ninety-ninth session (23-26 October 2001), the Working Party on Customs Questions affecting Transport (WP.30), mandated, inter alia, the establishment of an informal ad hoc Expert Group which should:

study in detail the impact of the various approaches identified by the ad hoc Expert Group [on Computerization] on the existing legal provisions of the TIR Convention as well as on the repercussions it might have on international private law, national administrative procedures and to analyze the role of the various actors (Customs authorities, national associations, international organization, insurers and TIRExB) in the TIR Convention, once the paper based system would be complemented and/or replaced by electronic data interchange (EDI) (TRANS/WP.30/198, para. 67).

## **III. CONSIDERATIONS BY THE WORKING PARTY**

5. In 2001, when the Working Party determined the mandate of the Legal Expert Group, there was not yet a decision with regard to the approach to be taken (international exchange of EDI messages versus complementing the TIR Carnet with a barcode or replacing it by a portable data file). The situation has changed since then, because in 2004 the Working Party, at its one-hundred-and-fifth session, “agreed that the approach of the computerization process should, until

further notice, be focused on the establishment of an international, centralized database whose aim it should be to facilitate the secure exchange of data between national Customs systems. At a later stage, the sharing and exchange of data with other bodies concerned (such as the TIRExB, international organizations, national associations and the international guarantee), should not be excluded.” At that meeting, the Working Party also confirmed that the objective of the computerization of the TIR procedure encompasses the computerization of the whole TIR Carnet life cycle from distribution issuance and via the TIR transport to return and repository and that it should, ultimately, be aimed at replacing the current paper TIR Carnet (See TRANS/WP.30/212, para. 26).

6. In addition, at the one-hundred-and-thirteenth session of the Working Party, Contracting Parties agreed that the management of data on guarantees, once the guarantor had issued a guarantee to an operator should lie with Customs (See ECE/TRANS/WP.30/216, para. 41).

7. At its forty-second session, the AC.2 endorsed the following guidelines for the computerization of the TIR system:

- Maintenance of the basic philosophy and structure of the TIR procedure, safeguarding and, possibly, strengthening the provisions of the TIR Convention, particularly those prepared under Phases I and II of the TIR revision process (TRANS/WP.30/194, para. 36);
- Computerization of the whole TIR Carnet life cycle from distribution, issuance and via the TIR transport to return and repository, aimed at, ultimately, replacing the current paper TIR Carnet (TRANS/WP.30/212, para. 26);
- Establishment of an international, centralized database, the aim of which should be to facilitate the secure exchange of data between national Customs systems (TRANS/WP.30/212, para. 26);
- Management by Customs of data on guarantees, once the guarantor has issued a guarantee to an operator (ECE/TRANS/WP.30/226, para. 41);
- Development of the eTIR system, which connects existing and future Customs IT systems, realized with an appropriate level of connectivity with the existing TIR related IT systems (ECE/TRANS/WP.30/AC.2/85, para. 38).

#### **IV. PROPOSAL**

8. Taking account of the above, the Working Party may wish to review the mandate of the Legal Expert Group, to read as follows:

- (a) Whilst maintaining the basic philosophy and structure of the TIR procedure, safeguarding and, possibly, strengthening the provisions of the TIR Convention, particularly those prepared under Phases I and II of the TIR revision process, the Legal Expert Group is mandated to study in detail the impact of the establishment of an international centralized

database, facilitating the secure exchange of data between national Customs systems and the Customs management of guarantees, including their connectivity with the existing TIR related IT systems, and to analyze the roles of the various actors (AC.2, competent authorities, TIR Carnet holder, national associations and the international organization(s)) in the TIR Convention, once the paper based system will be replaced by electronic data interchange;

- (b) The Legal Expert Group shall draw up a working document, containing concrete proposals for further action, to be discussed and approved by the Working Party.

9. In order to streamline its discussions, the Working Party may wish to decide that the Legal Expert Group will base its work on the information contained in the eTIR Reference Model (latest version), its preparatory documents and on the existing text of the TIR Convention, 1975.

## **V. FINAL CONSIDERATIONS**

10. The Working Party may wish to review and, possibly, re-assess the mandate for the Legal Expert Group.

11. Taking account of the (revised) mandate of the Legal Expert Group, the Working Party may wish to decide how to further pursue the issues transmitted to it by the Expert Group. Possible solution might be to request the secretariat to prepare a document for the forthcoming session of the Working Party, outlining the strategical issues and to transmit the issues of a legal nature to the Legal Expert Group for further consideration in the course of its work.

12. A first meeting of the Legal Expert Group could be convened in conjunction with the one-hundred-and-seventeenth session of the Working Party (24-28 September 2007).

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