Council Decision (EU) 2020/143 of 28 January 2020 on the position to be taken on behalf of the European Union within the Administrative Committee for the Customs Convention on the international transport of goods under cover of TIR carnets as regards the amendment of the Convention

COUNCIL DECISION (EU) 2020/143

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Customs Convention on the international transport of goods under cover of TIR carnets of 14 November 1975 (the 'TIR Convention') was concluded by the Union by Council Regulation (EEC) No 2112/78[(1)] and entered into force in the Union on 20 June 1983[(2)].

(2) Pursuant to Article 59 of the TIR Convention, the Administrative Committee may adopt amendments to that convention by a two#thirds majority of Contracting Parties present and voting.

(3) During a session in February 2020, the Administrative Committee is to adopt a new Annex 11 and related amendments to the TIR Convention.

(4) It is appropriate to establish the position to be taken on the Union's behalf in the Administrative Committee, as the amendments to the TIR Convention will have legal effect in the Union.

(5) The Union supports the new Annex 11 to the TIR Convention and the necessary amendments to the body of the TIR Convention as they follow the policy set out by Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)] according to which in principle all communications with customs authorities are to be electronic.

(6) A new paragraph (s) of Article 1 of the TIR Convention is to define the 'eTIR procedure' applicable to electronic exchange of data between customs authorities.

(7) A new Article 58 *quater* of the TIR Convention is to establish a technical implementation body which is to adopt the technical specification of the eTIR international system, without prejudice to the existing substantive and institutional framework of the TIR Convention.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2020/143. (See end of Document for details)*

(8) A new Article 60 *bis* is to lay down the special procedure for the entry into force of the new Annex 11 to the TIR Convention and any future amendments to that Annex.

(9) Amendments to Articles 43, 59 and 61 of the TIR Convention are to make adaptations necessary for the introduction of the new Annex 11.

(10) The new Annex 11 to the TIR Convention is to enable the Contracting Parties bound by that Annex to use eTIR operations. It is to enable the Union and its Member States to choose at what point in time to connect their systems to the eTIR international system.

(11) The position of the Union within the Administrative Committee should therefore be based on the draft amendments attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Administrative Committee during its seventy#second or a subsequent session shall be based on the draft amendments attached to this Decision.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Administrative Committee, acting jointly.

Article 3

Minor technical changes to the draft amendments referred to in Article 1 may be agreed by the representatives of the Union in the Administrative Committee.

Article 4

This decision shall enter into force on the date of its adoption.

Done at Brussels, 28 January 2020.

For the Council

The President

A.METELKO-ZGOMBIĆ

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2020/143. (See end of Document for details)*

Draft amendments to the Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention 1975)

A. **Amendments to the TIR Convention**

1. Article 1, new paragraph (s)

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

1bis. Article 3 (b)

(b) the transport operations must be guaranteed by associations authorised 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.

2. Article 43

The Explanatory Notes set out in Annex 6, Annex 7, Part III, and Annex 11, Part II interpret certain provisions of this Convention and its Annexes. They also describe certain recommended practices.

3. New Article 58 quarter

A Technical Implementation Body shall be established. Its composition, functions and rules of procedure are set out in Annex 11.

4. Article 59

1. This Convention, including its Annexes, may be amended upon the proposal of a Contracting Party by the procedure specified in this Article.

2. Except as provided for under Articles 60 bis, any proposed amendment to this Convention shall be considered by the Administrative Committee composed of all the Contracting Parties in accordance with the rules of procedure set out in Annex 8. Any such amendment considered or prepared during the meeting of the Administrative Committee and adopted by it by a two#thirds majority of the members present and voting shall be communicated by the Secretary#General of the United Nations to the Contracting Parties for their acceptance.

3. Except as provided for under Articles 60 and 60 bis, any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all Contracting Parties three months after the expiry of a period of twelve months following the date of communication of the proposed amendment during which period no objection to the proposed amendment has been communicated to the Secretary#General of the United Nations by a State which is a Contracting Party.

4. If an objection to the proposed amendment has been communicated in accordance with paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

5. New Article 60 bis

Special procedure for the entry into force of Annex 11 and amendments thereto

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2020/143. (See end of Document for details)*

1. Annex 11, considered in accordance with paragraphs 1 and 2 of Article 59 shall come into force with respect to all Contracting Parties three months after the expiry of a period of twelve months following the date of communication by the Secretary# General of the United Nations to the Contracting Parties, except for those Contracting Parties that have notified the Secretary#General in writing, within the aforementioned period of three months of their non#acceptance of Annex 11. Annex 11 shall enter into force for Contracting Parties which withdraw their notification of non#acceptance six months after the date on which withdrawal of such notification has been received by the depositary.

2. Any proposed amendment to Annex 11 shall be considered by the Administrative Committee. Such amendments shall be adopted by a majority of the Contracting Parties bound by Annex 11 present and voting.

3. Amendments to Annex 11 considered and adopted in accordance with paragraph 2 of this Article shall be communicated by the Secretary#General of the United Nations to all Contracting Parties for information or, for those Contracting Parties bound by Annex 11, acceptance.

4. The date of entry into force of such amendments shall be determined at the time of their adoption, by a majority of the Contracting Parties bound by Annex 11 present and voting.

5. Amendments shall enter into force in accordance with paragraph 4 of this Article unless by a prior date determined at the time of adoption, one#fifth or five of the States which are Contracting Parties bound by Annex 11, whichever number is less, notify the Secretary#General of their objection to the amendments.

6. On entry into force, any amendment adopted in accordance with the procedures set out in paragraphs 2 to 5 of this Article shall for all Contracting Parties bound by Annex 11 replace and supersede any previous provisions to which the amendment refers.

6. Article 61

The Secretary#General of the United Nations shall inform all Contracting Parties and all States referred to in Article 52, paragraph 1 of this Convention of any request, communication, or objection under Articles 59, 60 and 60 bis above and of the date on which any amendment enters into force.

7. Annex 9, Part I, paragraph 3, new subparagraph (xi)

(xi) confirm, in case of a fallback procedure described in Article 10, paragraph 2 of Annex 11, for Contracting Parties bound by Annex 11, upon request of the competent authorities, that the guarantee is valid, that a TIR transport is carried out under the eTIR procedure and provide other information relevant to the TIR transport.

B. **Annex 11 – The eTIR procedure**

1. Part I

Article 1

Scope of application

1 The provisions in this Annex govern the implementation of the eTIR procedure as defined in Article 1, paragraph (s) of the Convention and shall apply in the relations between Contracting Parties bound by this Annex, as provided for in Article 60 bis, paragraph 1.

2 The eTIR procedure cannot be used for transports taking place in part in the territory of a Contracting Party, that is not bound by Annex 11 and that is a member State of a customs or economic union with a single customs territory.

Article 2

Definitions

For the purposes of this Annex:

(a) 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.

(b) 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 Annex.

(c) The term ‘advance TIR data’ shall mean the data submitted to the competent authorities of the country of departure, in accordance with the eTIR specifications, of the intention of the holder to place goods under the eTIR procedure.

(d) The term ‘advance amendment data’ shall mean the data submitted to the competent authorities of the country in which an amendment to the declaration data is requested, in accordance with the eTIR specifications, of the intention of the holder to amend the declaration data.

(e) The term ‘declaration data’ shall mean the advance TIR data and the advance amendment data which have been accepted by the competent authorities.

(f) The term ‘declaration’ shall mean the act whereby the holder, or his or her representative, indicates, in accordance with the eTIR specifications, the intent to place goods under the eTIR procedure. From the moment of acceptance of the declaration by the competent authorities, based on the advance TIR data or the advance amendment data, and the transfer of the declaration data to the eTIR international system it shall constitute the legal equivalent of an accepted TIR Carnet.

(g) The term ‘accompanying document’ shall mean the printed document electronically generated by the customs system, after the acceptance of the declaration, in line with the guidelines contained in the eTIR technical specifications. The accompanying document can be used to record incidents en route and replaces the certified report pursuant to Article 25 of this Convention and for the fallback procedure.

(h) The term ‘authentication’ shall mean an electronic process that enables the electronic identification of a natural or legal person, or the origin and integrity of data in electronic form to be confirmed.