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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS AFFECTING
TRANSPORT ON ITS 123rd SESSION
(29 September-2 October 2009)**

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I. ATTENDANCE

1. The Working Party held its 123rd session from 29 September to 2 October 2009 in Geneva. The session was attended by representatives of the following countries: Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Netherlands, Norway, Poland, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Turkey and Ukraine. Representatives of the European Community (EC) were also present. The following intergovernmental organizations were represented: Intergovernmental Organization for International Carriage by Rail (OTIF), the Organization for Cooperation between Railways (OSJD) and the World Customs Organization (WCO). The following non-governmental organizations were represented: the International Road Transport Union (IRU), the International Touring Alliance and the International Automobile Federation (AIT/FIA) and the International Bureau of Containers (BIC).

II. OPENING STATEMENT

2. In his opening statement, Mr. Michalis Adamantiadis, Chief, Transport Facilitation and Economics Section, UNECE Transport Division, stressed that transport facilitation remains one of the top priorities of UNECE and mentioned a number of recent and future activities in this area. In particular, he thanked Customs, IRU, national associations and transport operators for their active participation in the TIR questionnaire which was conducted as part of a strategic review of the TIR system. He also informed the Working Party of a new user-friendly layout of the Transport Division website which was launched mid-September 2009.

III. ADOPTION OF THE AGENDA (Agenda item 1)

3. The Working Party adopted the provisional agenda, as prepared by the secretariat (ECE/TRANS/WP.30/245), with the addition of the following issues under agenda item 9 (c) (v):

- TIR Carnets invalidated by the TIR guarantee chain;
- Application of the TIR procedure in the Russian Federation.

IV. ACTIVITIES OF UNECE BODIES AND OTHER UNITED NATIONS ORGANIZATIONS OF INTEREST TO THE WORKING PARTY (Agenda item 2)

4. At the request of the Inland Transport Committee (ITC), the Working Party took note of documents ECE/TRANS/2009/6, ECE/TRANS/2009/7 and ECE/TRANS/2009/8 concerning gender issues in transport. The Working Party highlighted the importance of gender mainstreaming and welcomed numerous international and national initiatives aimed at promoting gender equality and integrating gender considerations in transport. In terms of its own activities, the Working Party felt that Customs issues as such do not contain a gender component. The secretariat was requested to convey this view to ITC.

5. The Working Party considered ITC Informal Document No. 12 (2009) regarding the role which ITC working parties could play in addressing transport and trade facilitation issues from the perspective of global supply chains. According to the document, the transportation market has been radically restructured over the last decades, due to numerous institutional and

technological changes. These changes have brought about the following facilitation needs: to transmit all information dealing with transport operations and processes electronically and in real time (e-governance in transport) and to facilitate an integrated multimodal transport network. To better meet these challenges, the working parties were requested to identify areas of multi-modal and intra-sectoral cooperation and submit their views to ITC.

6. The Working Party noted that the development and realization of the eTIR project and, possibly, of a multimodal 'eTransit' system at a later stage, could contribute to e-governance in transport. It also recognized the need to get better acquainted with the activities of other UNECE working parties, with a view to identifying possible synergies, and requested the secretariat to prepare background information and proposals in this respect. The Working Party also stressed the importance of liaising with other international organizations that are active in the field of transport and trade facilitation, such as WCO, World Trade Organization (WTO), World Bank, in particular, in order to provide a harmonized approach to the issue of security in the global supply chain.

V. ACTIVITIES OF OTHER ORGANIZATIONS AND COUNTRIES OF INTEREST TO THE WORKING PARTY (Agenda item 3)

7. The representative of the European Community informed the meeting of the publication of Council Decision 2009/477/EC of 28 May 2009, containing in consolidated form the text of the TIR Convention, 1975, as amended since that date, in all EU languages in the EU Official Journal of 26 June 2009, L 165.

8. The Working Party was informed that the Organization for Security and Cooperation in Europe (OSCE) had decided to devote its 2010 Economic and Environmental Forum to "Promoting good governance at border crossings, improving the security of land transportation and facilitating international transport by road and rail in the OSCE region". In particular, the Forum will focus on best practices and good governance at border crossings and in customs procedures, as part of border management, including the aspects of rule of law, transparency, integrity, coordination and harmonization. The UNECE secretariat will closely liaise with OSCE on these issues.

9. The Working Party was informed of activities by WCO concerning the Framework of Standards to Secure and Facilitate Global Trade (SAFE), such as a worldwide survey of its implementation, whose results should be available in October 2009, ongoing discussions on the introduction of a new SAFE pillar 3 to be based on the concepts of Single Window and Coordinated Border Management, and the AEO (Authorized Economic Operator) Compendium containing AEO programmes undertaken by WCO members. The Working Party also noted that WCO would continue its constructive engagement with the competent United States authorities on the issue of 100 per cent scanning of containers bound for the United States. Finally, the Working Party took note of the close cooperation between the WCO and UNECE secretariats on various issues, including the WCO Data Model and the strategic review of the TIR system.

10. The Working Party recalled its standing invitation to delegations to contribute to a study on the implications of SAFE for the UNECE legal instruments in the area of border crossing facilitation (ECE/TRANS/WP.30/244, para. 12). In the absence of such contributions, the secretariat was mandated to perform this task and report back to the Working Party.

11. The Working Party noted various practical difficulties experienced by non-EU transport operators at the external borders of some EU member states, following the entry into force on 1 July 2009 of Regulation No. 312/2009 on the EORI (Economic Operators Registration and Identification) number. These problems were attributed to the absence of harmonized application within EC and the lack of instructions to Customs personnel. Some delegations regretted that, in the time of downturn, the implementation of the above Regulation had inadvertently resulted in a new barrier to international transport of goods. The Working Party pointed out that it had neither the authority nor the intention to endorse national regulations prior to their entry into force. However, the Working Party called upon all countries, when adopting new legislation and planning its entry into force, to undertake all necessary measures to ensure its smooth introduction, including the preparation of detailed instructions for Customs authorities, staff training, information campaign and, where appropriate, consultation with the industry.

12. IRU informed the Working Party of the results of the New Eurasian Land Transport Initiative (NELTI) based on pilot commercial deliveries of goods from South-East and Central Asia to Europe. The project had identified a number of non-physical barriers to road transport, such as transport permit quotas, non-harmonized and non-synchronized border controls, lack of monitoring border crossing delays, unofficial payments, visas for professional drivers, etc. According to IRU, 40 per cent travel time is wasted at border crossings.

VI. INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER CONTROLS OF GOODS, 1982 (“HARMONIZATION CONVENTION”) (Agenda item 4)

A. Status of the Convention

13. The Working Party took note that, since its June 2009 session, no new countries had acceded to the Harmonization Convention.

B. Annex 8 on road transport

14. The Working Party was informed of activities by the secretariat with regard to the survey of the implementation of Annex 8 at the national level. The questionnaire was distributed to the Ministries for Foreign Affairs of the Contracting Parties to the Harmonization Convention and a deadline for reply was set at 31 December 2009. In view of extensive and time-consuming national coordination that might be required in order to fill-in the questionnaire, the secretariat would be willing to process replies received after the deadline.

15. The Working Party was informed of the outcome of the joint UNECE and the Organization of the Black Sea Economic Cooperation (BSEC) seminar on the implementation of Annex 8 (Geneva, 18 June 2009) (ECE/TRANS/WP.30/2009/10). In this context, IRU informed the Working Party of the new Border Waiting Time Observatory (BWTO) and made available a brochure highlighting the importance of this modern tool to both the competent authorities and industry.

16. The Working Party took note of a draft chapter on border crossing performance measurement, which would be included into the OSCE-UNECE Handbook on best practices at border crossings, and invited delegations to examine it and submit comments to the secretariat.

C. Preparation of a new Annex on rail border crossing

17. The Working Party considered a revised text of a new Annex 9 to the Harmonization Convention, prepared by the secretariat (ECE/TRANS/WP.30/2009/2/Rev.1). The Working Party generally supported this proposal, subject to minor modifications, and noted that some more changes might be proposed by OSZhD Member States. The Working Party requested the secretariat, in cooperation with OSZhD and OTIF, to finalize the draft and submit it to the next session for adoption.

VII. INTERNATIONAL CONVENTION TO FACILITATE THE CROSSING OF FRONTIERS FOR PASSENGERS AND BAGGAGE CARRIED BY RAIL, OF 10 JANUARY 1952 (Agenda item 5)

18. The Working Party recalled the decision of ITC to conduct a survey of the countries that are Contracting Parties to the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, 1952 (ECE/TRANS/206, para. 60), to find out if they would positively consider proposals to amend this Convention. Given the absence of specific amendment provisions in the 1952 Convention, the Working Party felt that it would be more appropriate to seek confirmation that these countries would agree to the introduction of a standard amendment clause, which, if accepted, would become a tool for any further amendments to the 1952 Convention.

VIII. RAIL TRANSIT. THE CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL UNDER COVER OF SMGS CONSIGNMENT NOTES (Agenda item 6)

19. The Working Party noted that no new countries had expressed interest in acceding to the Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of SMGS Consignment Note.

IX. CUSTOMS CONVENTIONS ON THE TEMPORARY IMPORTATION OF PRIVATE ROAD VEHICLES (1954) AND COMMERCIAL ROAD VEHICLES (1956) (Agenda item 7)

A. Status of the Conventions

20. The Working Party noted that the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles had 80 and 41 Contracting Parties, respectively. Complete lists of Contracting Parties to the two Conventions are available on the UNECE Transport Division website.

B. Application of the Conventions

21. The Working Party noted that no further comments had been submitted on document ECE/TRANS/WP.30/2009/3, containing proposals for comments and best practices to assist in the proper application of the 1954 Convention, and invited AIT/FIA to proceed with their publication in the Carnet de Passage Handbook.

X. SOME OTHER UNECE LEGAL INSTRUMENTS FOR BORDER CROSSING FACILITATION (Agenda item 8 bis)

22. The Working Party recalled that the Customs Convention on Containers, 1972, had come into force for Saudi Arabia on 23 June 2009 and for Tunisia on 11 September 2009 in accordance with Article 19 (2) (Depositary Notifications C.N.1041.2008.TREATIES-2 and C.N.157.2009.TREATIES-1, respectively).

XI. CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975) (Agenda item 9)

A. Status of the Convention

23. The Working Party was informed that a new Explanatory Note 0.3 (a) (iii) to Annex 6 of the Convention would come into force on 1 October 2009 (Depositary Notification C.N.387.2009.TREATIES-3). The Working Party also recalled that the amendment proposal to Annex 6, Explanatory Note 0.8.3 concerning the maximum guarantee amount per TIR Carnet (Depositary Notification C.N.198-2009.TREATIES-2) would enter into force on 1 January 2010, unless at least five objections are received before 1 October 2009.

B. Revision of the Convention

1. Preparation of Phase III of the TIR revision process

Use of new technologies

24. The Working Party took note that the report of the sixteenth session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) (Geneva, 28 and 29 April 2009), contained in document ECE/TRANS/WP.30/GE.1/2009/5, was available in all official languages.

25. It also took note that the secretariat was working towards the finalization of Chapter 3 of the eTIR Reference Model on the basis of comments received from the experts of GE.1 and with the highly appreciated assistance of modelling experts from the Dutch Customs. With regard to Chapter 4, which is dedicated to the design of the future system, the Working Party noted that the secretariat was looking into ways to optimally combine the work of GE.1 with some external expert inputs.

26. Furthermore, the Working Party noted that the secretariat had presented the eTIR project to the WCO Information Management Sub Committee (IMSC), which not only had welcomed the presentation but had also underlined the forward-looking nature of the eTIR project. The IMSC had also appreciated the fact that the eTIR project was fully and efficiently using the WCO Data Model, was in line with the principles of the "Customs of the 21st century" and seemed to be perfectly integrated in the concept of the global supply chain.

27. IRU recalled its opinion that the eTIR Project did not take into account all the requirements of the private side. In reply to a statement by the representative of the national association of Norway that the private sector was prepared to launch a computerized TIR system, which would

ensure full management by Customs, within a time period of eighteen months, the Chairperson invited him to submit detailed proposals to that extent for consideration at the next session.

2. Amendment proposals for the Convention

28. The Working Party reviewed the text of the amendment proposals to Annex 9, Part I, contained in Informal document WP.30 No. 6 (2009), with a slightly amended wording for Article 3 (vi) proposed by the secretariat. After extensive discussion, the Working Party decided that the above provision should read: "provide the TIR Executive Board annually, as per 1 March, with the price of each type of TIR Carnets it issues." IRU reiterated its opposition to this proposal. Finally, the Working Party requested the secretariat to submit the amendment proposals in the appropriate format as an official document in all working languages for adoption at its next session.

29. The Working Party recalled its request to the secretariat to consult with the competent United Nations services and prepare proposals for audit requirements, to be included into a new Annex 9, Part III (ECE/TRANS/WP.30/244, para. 34). The Working Party noted with regret that, due to ongoing internal consultations, the secretariat had not managed to finalize such proposals. At the same time, the Working Party recognized that only well-balanced and duly formulated audit requirements would provide the TIR system with the required transparency. Thus, it requested the secretariat to continue its consultations, on the understanding that an official document in all official languages would be available at its next session for consideration.

C. Application of the Convention

1. Control system for TIR Carnets - IRU SafeTIR

30. The Working Party was informed by IRU of the functioning of the IRU SafeTIR system. From 1 January to 31 August 2009, IRU had received 1,561,257 SafeTIR messages with an average transmission delay of 4 days. Sixty-five per cent of messages were transmitted in real-time (within 24 hours). The Customs administrations of Belarus, Czech Republic, Croatia, Republic of Moldova, Russian Federation, Serbia, Slovakia and Slovenia transmitted data in real-time. In the same period, IRU issued 5,001 reconciliation requests and received replies to 3,088 (62 per cent) of them with an average delay of 31 days.

31. The Working Party noted the difficulties experienced by one national association, due to the fact that the termination of about 900 TIR Carnets issued by that association had not been reported to SafeTIR.

2. Settlement of claims for payments

32. The Working Party was informed by IRU of the present situation with regard to the settlement of claims for payments made by Customs authorities against national guaranteeing associations. From 1 January to 31 August 2009, IRU received 5,192 pre-notifications and 1,177 notifications (from all Contracting Parties) as well as 113 payment requests. The number of pending payment requests as of 31 August 2009 amounted to 6,757. In the same period, 105 payment requests had been paid and 39 had been settled without payment.

3. Review of Annex 10 of the Convention

33. The secretariat informed the Working Party of the progress made by TIRExB in the preparation of a recommended practice on the application of the EDI control system, referred to in Annex 10 of the Convention. The Working Party took note that TIRExB expected to finalize its discussions before the end of the year 2009, after which the recommended practice would be transmitted to the competent TIR bodies for further consideration.

4. TIR Handbook

34. The Working Party noted the activities of the secretariat towards the preparation of the 2009 edition of the TIR Handbook in English, French and Russian.

5. Other matters

35. On the basis of Informal document No. 7 (2009) of the European Community, the Working Party had a first exchange of views on the validity of a TIR Carnet which had been invalidated by the guarantee chain before its expiry date and, in particular, in the course of a TIR transport. The Working Party noted that the TIR Convention does not address the issue of lost, stolen or invalidated TIR Carnets. However, over the years, a practice has been developed whereby Customs would not accept TIR Carnets which the guarantee chain had communicated to Customs as being lost, stolen, invalid or invalidated. The guarantee chain expressed the view that, from the moment the notification is received by Customs, the invalid or invalidated TIR Carnets no longer carry a guarantee. On the other hand, Customs representatives pointed out that, once a TIR Carnet has been accepted by the Customs office of departure, it should remain valid until the very end of the TIR transport.

36. The European Community and some other delegations were of the view that Article 8 of the Convention should be supplemented with a provision confirming the liability of the guaranteeing association for TIR Carnets accepted by the Customs office in case the information on the invalidation had not reached Customs on time. Given the complexity of the issue, the Working Party decided to consider it in detail at the next session on the basis of the following information:

- document and/or presentation by IRU on the current practice of invalidation of TIR Carnets by the guarantee chain;
- past considerations by the TIR Executive Board, to be summarized by the secretariat.

The European Community was invited to submit a proposal in this respect.

37. The Working Party was informed by IRU of practical difficulties experienced by transport operators in the Russian Federation in cases where the Customs duties and taxes at stake exceed the guarantee level, in spite of its recent increase to EUR 60,000. The Working Party noted that the underlying problems were under consideration by TIRExB which was awaiting clarification from the Russian Customs. The Working Party invited the Russian delegation to provide more information on this issue and decided to revert to it at the next session. At the same time, the Working Party stressed the importance of using risk analysis when deciding on additional control measures, such as Customs escorts.

38. The Working Party also noted the concerns expressed by several delegations that the competent authorities of the Russian Federation had considered a draft decree which would close some road border crossings for container traffic, with a view to reducing their overload and shortening border delays.

XII. PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS (Agenda item 10)

39. No information was reported to the Working Party under this agenda item.

XIII. OTHER BUSINESS (Agenda item 11)

A. Dates of the next sessions

40. The Working Party decided to hold its 124th session in the week of 1 - 5 February 2010 and its 125th session in the week 25 – 28 May 2010.

B. Restriction on the distribution of documents

41. The Working Party decided that there were no restrictions with respect to the distribution of documents issued in connection with its current session.

C. Tribute to Mr. Broxtermann

42. The Working Party noted that Mr. Jürgen Broxtermann, a representative of Germany, would soon be retiring. For many years Mr. Broxtermann had constructively participated in the work of WP.30. The Working Party wished him all the best in his future activities.

XIV. ADOPTION OF THE REPORT (Agenda item 12)

43. The Working Party adopted the report on its 123rd session on the basis of a draft prepared by the secretariat.
