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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 121st SESSION
(2-6 February 2009)**

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I. ATTENDANCE

1. The Working Party on Customs Questions affecting Transport (WP.30) held its 121st session from 2 to 6 February 2009 in Geneva. The session was attended by representatives of the following countries: Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Mongolia, Netherlands, Norway, Poland, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine. Representatives of the European Community (EC) were also present. The United Nations Conference on Trade and Development (UNCTAD) was represented. The following intergovernmental organizations were represented: Intergovernmental Organization for International Carriage by Rail (OTIF), the Organization for Cooperation between Railways (OSJD) and the Economic Cooperation Organization. The following non-governmental organizations were represented: the International Organization for Standardization (ISO); the International Road Transport Union (IRU) and the International Touring Alliance (AIT/FIA).

II. OPENING STATEMENT

2. In her opening statement, Ms. Eva Molnar, Director of the Transport Division of UNECE, briefed the Working Party on various activities of UNECE:

- (a) To increase the visibility of the UNECE work in the area of transport, an electronic publication, "UNECE Transport Review", was launched in November 2008. The first issue was devoted to road safety. The second issue, to be published in the coming months, will be entitled "Transport without borders" and will cover, in particular, border crossing facilitation. Delegations were invited to provide their contributions on national case studies.
- (b) On the occasion of the seventy-first session of the Inland Transport Committee (24-26 February 2009), a Joint Conference of the Inland Transport and Trade Committees "Impact of Globalization on Transport, Logistics and Trade: The UNECE Work" will take place. This event will address various issues of trade and transport facilitation, including border crossing performance measurement, national competitiveness through transport and logistics, security, etc. Delegations were encouraged to participate both in the ITC session and the Conference.
- (c) UNECE had commissioned an analytical study to evaluate the strengths, weaknesses, challenges and opportunities for the TIR system. The outcome of the study will be presented to a peer review panel with the participation of various international organizations and experts (WP.30 Chairperson, European Union, World Bank, World Customs Organization (WCO), IRU, etc.).
- (d) The OSCE-UNECE Handbook on best practices for border crossings is expected to be ready by May 2009, including a chapter on how to measure border crossing performance. This chapter will be based on the methodology which has been successfully used within the Trade and Transport Facilitation in Southeast Europe Program (TTFSE).

3. The Working Party was also informed of a number of important transport facilitation events scheduled for the first half of 2009, in particular, a joint International Transport Forum (ITF)-UNECE-World Bank (WB) Conference on border crossing problems (Paris, 5-6 March) and transport facilitation events organized in conjunction with the ITF Ministerial Meeting (Leipzig, 26-29 May).

III. ADOPTION OF THE AGENDA (Agenda item 1)

Documentation: ECE/TRANS/WP.30/241

4. The Working Party adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/241), with the addition of the following issues:

New agenda item 8 bis: Some other UNECE legal instruments for border crossing facilitation.

IV. ELECTION OF OFFICERS (Agenda item 2)

5. The Working Party re-elected Mr. Guus Jacobs (the Netherlands) as Chairperson for its sessions in 2009.

V. ACTIVITIES OF UNECE BODIES AND OTHER UNITED NATIONS ORGANIZATIONS OF INTEREST TO THE WORKING PARTY (Agenda item 3)

6. The Working Party welcomed a presentation of the ASYCUDA program by UNCTAD. The ASYCUDA (Automated SYstem for CUstoms Data) was first created 25 years ago and is now used by the Customs administrations of 90 countries worldwide. The latest version of the programme, so-called ASYCUDA World, benefits from a Customs transit module covering two major Customs transit regimes: T1 and TIR. The software provides for the capture of data from the respective transit documents (SAD and TIR Carnet) which may be accompanied by various additional information such as pictures of the Customs seals, driver's identity, scanned image of the cargo, etc., and also provides for automatic extraction and transmission of SafeTIR data. For the moment, the ASYCUDA World fully covers a national transit operation from an office of departure (entry) to office of exit (destination). The program can also be used for international transit operations, provided that legal issues have been settled between the countries involved.

VI. ACTIVITIES OF OTHER ORGANIZATIONS AND COUNTRIES OF INTEREST TO THE WORKING PARTY (Agenda item 4)

Documentation: ECE/TRANS/WP.30/2009/1; Informal document No. 2 (2009)

7. The Working Party was informed of the recent activities of WCO concerning the Customs Convention on Containers, 1972. The UNECE secretariat participated in the eleventh session of the Administrative Committee of the Customs Convention on Containers, 1972 (Brussels, 5-6 November 2008). An issue with possible relevance for the TIR Convention concerned a proposal to include a reference to ISO Standard 1496 (on container strength and testing) into Annex 4 of the Container Convention, containing regulations on technical conditions applicable to containers. After extensive discussion, the participants to the meeting agreed that further analysis would be required in order to establish the applicability of ISO Standard 1496 within the framework of the Container Convention as well as the costs associated with accessing the standard, and requested that WCO continue to liaise with UNECE, and other parties concerned,

on the issue. The Working Party also took note that Saudi Arabia had acceded to the Container Convention on 23 December 2008 (Depositary Notification C.N.1041.2008.TREATIES-2). The Convention will enter into force for Saudi Arabia on 23 June 2009 in accordance with its Article 19 (2).

8. ISO informed the Working Party of its current work (Informal document No. 2 (2009)), in particular with regard to electronic identification of freight containers, mechanical seals, security in the supply chain, documents and identification of persons, anti-counterfeiting tools as well as a new area of activity, "Fraud countermeasures and controls".

9. The Working Party considered document ECE/TRANS/WP.30/2009/1 by the United States Chamber of Commerce which evaluated various international agreements to implement the WCO Framework of Standards to Secure and Facilitate Global Trade (SAFE) concluding that the TIR Convention seems to be the best legal instrument for that purpose. The Working Party was not in a position to agree to this conclusion and supported the view expressed by the WCO secretariat (Informal document No. 3 (2009)) that the TIR Convention, being a Customs transit agreement with 68 Contracting Parties, did not match the multimodal, global reach of SAFE which had been accepted by 155 countries, and that the use of one Convention to implement an entirely separate legal instrument was likely to lead to legal difficulties.

10. The Working Party recalled the extensive WCO Columbus Programme assisting WCO member countries to gradually introduce the SAFE Framework of Standards at the national level, in particular the concept of Authorized Economic Operator (AEO). In this context, the representatives of EU and Norway informed the Working Party of the ongoing implementation of their AEO programmes. EC considered that national AEO programmes needed first be established before an international agreement could implement SAFE.

11. The Working Party noted that the AEO concept had been introduced as a security tool to prescreen exporters and importers in the liberalized economy. However, it had failed to recognize the strict regulations already applicable in the transport sector, such as admission to profession, licensing of international transport, etc. The TIR Convention contains other elements, such as authorized access to the TIR system. Therefore, the Working Party considered that, if a transport operator meets the above criteria, this should be taken into account when granting the AEO status. It was also pointed out that access to the TIR system at present in any country was automatically recognized in all Contracting Parties to the Convention, while mutual recognition of AEO would first require the conclusion of numerous bilateral agreements.

12. The Working Party also noted that elements of SAFE which require data exchange between various players, for example advanced cargo information and risk assessment, could be easily addressed within the eTIR project. However, apart from those "technical" elements, the implementation of some other SAFE provisions would require more political and strategic discussions.

13. Bearing in mind the need to strike a delicate balance between security and facilitation, the Working Party decided to further explore the implications of the SAFE Framework of Standards for the UNECE legal instruments in the area of border crossing facilitation, with a view to identifying which SAFE elements could be incorporated in those agreements, where appropriate.

The delegations were invited to volunteer for such a study and to provide their contributions to the secretariat prior to the next session of WP.30.

14. The Working Party was informed of the implementation of new EU regulations providing for the submission of the TIR Carnet data electronically as of 1 January 2009. Some delegations and IRU pointed out difficulties experienced by transport operators in some EU Member States where there were no adequate facilities to transmit the required data and/or transport operators had to use the services of Customs brokers at additional costs. On the other hand, the Working Party noted positive examples of some other Member States, such as Poland, where transport operators were provided with a number of options, including the free TIR-Electronic Pre-Declaration (TIR-EPD) mechanism developed by IRU. EC regretted the late official publication of the underlying regulations, noted the various existing options for lodging the electronic data and pointed out that all parties concerned needed some time to adjust to the new situation.

15. The Working Party took note of a presentation of activities of the Economic Cooperation Organization (ECO) in the area of trade and transport facilitation. ECO has 10 Member Countries, out of which seven are landlocked. To address their specific needs, ECO States have concluded an extensive Transit Transport Facilitation Agreement which promotes, inter alia, the use of UNECE legal instruments, including the TIR Convention. The Working Party was also informed about the cooperation between the secretariats of UNECE and ECO.

VII. INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER CONTROLS OF GOODS, 1982 (“HARMONIZATION CONVENTION”) **(Agenda item 5)**

Documentation: ECE/TRANS/WP.30/2009/2; ECE/TRANS/WP.30/2009/2/Rev.1

A. Status of the Convention (Agenda item 5 (a))

16. The Working Party recalled that the Convention had entered into force for Lao People's Democratic Republic on 29 December 2008 (Depositary Notification C.N.718.2008.TREATIES-2). The Working Party also welcomed the accessions of Jordan effected on 13 November 2008 (Depositary Notification C.N.856.2008.TREATIES-3) and of the Republic of Moldova effected on 3 December 2008 (Depositary Notification C.N.978.2008.TREATIES-4). In accordance with its Article 17 (2), the Convention will enter into force for these two countries on 13 February 2009 and on 3 March 2009, respectively.

B. New Annex 8 on road transport (Agenda item 5 (b))

17. The Working Party was informed by some delegations of their efforts to incorporate Annex 8 into their national legislation. At the same time, the Working Party was of the view that the implementation of the new Annex should be speeded up and requested the secretariat to conduct a survey of Contracting Parties to the Harmonization Convention in this respect. Such a survey should address, inter alia, specific questions regarding the use of the International Vehicle Weight Certificate (IVWC), in particular on the authorization procedures and publication of a list of agreed weighing stations, as well as the issue of road infrastructure. The results of the survey would be reported both to WP.30 and to the Administrative Committee of the Convention (AC.3) which possibly could be convened in 2009 or in 2010 at the latest. The Working Party also felt that the need for a separate agreement on the transport of live stock should be explored.

C. Preparation of a new Annex on rail border crossing (Agenda item 5 (c))

18. The Working Party endorsed the draft of a new Annex 9 agreed upon by OSJD, OTIF and EC, as contained in document ECE/TRANS/WP.30/2009/2, subject to the following modifications: (i) at the end of Article 3.7, insert "unless Contracting Parties put in place alternative arrangements to fulfil these functions"; (ii) in Article 7.3, first line, for "customs agencies" read "customs authorities". The secretariat was requested to issue, as soon as possible, document ECE/TRANS/WP.30/2009/2/Rev.1 with the final text of the Annex and transmit it to AC.3 for consideration. To allow AC.3 to formally approve the amendment proposal, the Working Party invited all Contracting Parties to finalize their internal consultations procedures without delay and to inform the secretariat of any possible inconsistencies between the three language versions.

VIII. INTERNATIONAL CONVENTION TO FACILITATE THE CROSSING OF FRONTIERS FOR PASSENGERS AND BAGGAGE CARRIED BY RAIL, OF 10 JANUARY 1952 (Agenda item 6)

19. The Working Party recalled that the secretariat would invite the Inland Transport Committee at its February 2009 meeting to seek confirmation from the existing Contracting Parties to the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail that they would positively consider proposals to provide for an opportunity to amend the existing Convention, once more countries have acceded to it.

IX. RAIL TRANSIT. THE CONVENTION ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL UNDER COVER OF SMGS CONSIGNMENT NOTES (Agenda item 7)

20. The Working Party took note that no new countries had acceded to the Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of SMGS Consignment Note (Depositary Notification CN.1193.2007.TREATIES-3). The Working Party also noted that a number of SMGS countries already accept the SMGS Consignment Note in lieu of transit Customs declaration on the basis of national law.

X. CUSTOMS CONVENTIONS ON THE TEMPORARY IMPORTATION OF PRIVATE ROAD VEHICLES (1954) AND COMMERCIAL ROAD VEHICLES (1956) (Agenda item 8)

Documentation: Informal document No. 1 (2009)

A. Status of the Conventions (Agenda item 8 (a))

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

B. Application of the Conventions (Agenda item 8(b))

22. The Working Party took note of Informal document No. 1 (2009) submitted by AIT/FIA in cooperation with the secretariat, containing proposals for comments and best practices to assist

in the proper application of the 1954 Convention. Having generally supported the purpose of this document, WP.30 decided to revert to this issue at its next session and requested the secretariat to re-issue Informal document No. 1 (2009) as an official document in all working languages.

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

23. The Working Party took note that, on 14 October 2008, Albania had acceded to the European Convention of Customs Treatment of Pallets used in International Transport, of 9 December 1960. The Convention had entered into force for Albania on 12 January 2009 in accordance with its Article 7 (2) (Depositary Notification C.N.760.2008.TREATIES-1). The Working Party also noted that, according to the Convention on Customs Treatment of Pool Containers Used in International Transport, 21 January 1994, the Administrative Committee for this Convention (AC.4) should be convened every five years. The Contracting Parties to the Container Pool Convention were requested to inform the secretariat of their interest in holding an AC.4 session in 2009-2010.

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

Documentation: ECE/TRANS/WP.30/GE.1/2008/5; ECE/TRANS/WP.30/2008/8/Rev.2; ECE/TRANS/WP.30/2009/4; ECE/TRANS/WP.30/2009/5; ECE/TRANS/WP.30/2009/6

A. Status of the Convention (Agenda item 9 (a))

24. The Working Party recalled that the amendments to paragraphs 1 and 2 of Article 13 of Annex 8, together with the introduction of new Explanatory Notes 8.13.1-3 and 8.13-2 to Annex 6 of the Convention, had entered into force on 1 January 2009. These amendments would shortly be published as document ECE/TRANS/17/Amend.28. The Working Party also noted that, at its October 2008 session, the TIR Administrative Committee had adopted an amendment proposal to introduce a new Explanatory Note 0.3 (a) (iii) to Annex 6 of the Convention. On 2 February 2009, this amendment proposal was communicated to the Contracting Parties by means of Depositary Notification C.N.48.2009.TREATIES-1. It will enter into force on 1 October 2009, unless at least five objections are received before 1 July 2009.

B. Revision of the Convention (Agenda item 9 (b))

1. Implementation of amendments to the TIR Convention and examples of best practices (Agenda item 9 (b) (i))

25. As no new information was reported by Contracting Parties, the Working Party decided not to include this issue in the agenda as a recurrent item, but requested the secretariat to brief the Working Party when new information from countries would be available.

2. Preparation of Phase III of the TIR revision process (Agenda item 9 (b) (ii))

Use of new technologies

26. The Working Party endorsed document ECE/TRANS/WP.30/GE.1/2008/5 containing the summary report of the fifteenth session of the Informal Ad hoc Expert Group on Conceptual and

Technical Aspects of Computerization of the TIR Procedure (GE.1) held in Geneva on 16 and 17 October 2008.

27. The Working Party considered document ECE/TRANS/WP.30/2008/8/Rev.2 containing clarifications on the method of submission of the Customs declaration as described in Chapter II of the eTIR Reference Model, prepared by the secretariat on instructions from GE.1 at its fifteenth session. Subject to the deletion of the last sentences of paragraphs 12 and 14, which should be subject to discussions of legal nature, there was general consensus that the document provided the necessary clarifications. At the request of the Working Party, these clarifications will be added as Annex to the eTIR Reference Model. IRU informed that it did not support the consensus decision of WP.30 and was of the opinion that Chapter II was not in line with the principles of the TIR Convention. Turkey was of the view that eTIR declaration mechanism, as it stands today, was departing from the decision by the Administrative Committee to maintain the basic philosophy and structure of the TIR procedure. The Working Party invited Turkey to submit a paper in this regard.

28. The Working Party was informed that, at the kind invitation of the Serbian Customs authorities, a small drafting group, consisting of experts from the EC, IRU, the Netherlands, Serbia and the UNECE TIR secretariat had met in Belgrade on 28 and 29 January 2009 to work on the outstanding issues of Chapter 3 of the eTIR Reference Model, with particular focus on UML diagrams, message design, fall-back scenarios and the use of code lists for the eTIR Project. Based on the constructive work by the drafting group, the secretariat will now prepare an amended text of draft Chapter 3, which will be considered by GE.1 at its forthcoming session. The Working Party reiterated its standing invitation to all parties concerned to actively participate in the work of GE.1 and to attend its meetings. It also took note that, due to the absence of Russian and French speaking delegates at previous session, the forthcoming meetings of GE.1 would be held in English only, unless a request for interpretation in Russian and French is formulated in due course.

29. The secretariat was mandated to start working on a first draft of proposals for amendments to the legal text of the TIR Convention aimed at the introduction of eTIR.

3. Amendment proposals for the Convention (Agenda item 9 (b) (iii))

30. Having recalled its earlier considerations, the Working Party endorsed and decided to submit to the TIR Administrative Committee the amendment proposals contained in document ECE/TRANS/WP.30/2009/4, with the inclusion of the following modifications:

Page 5, Article 11, paragraph 4

Modify the paragraph to read

4. The guaranteeing association shall pay the amounts claimed within a period of three months from the date when a claim for payment is made against it.

Page 7, new Explanatory Note 0.11-3-2, line 3

For should read shall

31. IRU was of the view that the above wording of Article 11, paragraph 4 provided no clarification with regard to the guaranteeing association's right of appeal. The delegation of Turkey made a reservation concerning the proposed replacement of \$US 50,000 by EUR 60,000 in the comment to Explanatory Note 0.8.3.

32. On the basis of document ECE/TRANS/WP.30/2009/5, the Working Party continued its consideration of the outstanding amendment proposals to Annex 9 (part I and a new part III). The Working Party endorsed in principle the proposals by EC regarding Annex 9, part I, as laid down in document ECE/TRANS/WP.30/2009/5, subject to the deletion of paragraph 3 (vi) and of the comment thereto. The Working Party also had a first exchange of views with respect to the authorization and duties of an international organization, as proposed in a new part III of Annex 9. In particular, the Working Party discussed whether paragraph 1 (c) of part III should be redrafted to incorporate a mandate by AC.2 to UNECE to sign an agreement with an international organization which would include the acceptance of that international organization of its duties as set out in paragraph 2. The Working Party decided to revert to this issue at its next session. Having proposed few other modifications to the text, the Working Party requested the secretariat to revise the document accordingly and to align, where necessary, the content with the already existing provisions of the TIR Convention. With a view to facilitating discussions at its next session, the Working Party invited delegations to submit to the secretariat not later than on 15 March 2009 comments or proposals to document ECE/TRANS/WP.30/2009/5.

C. Application of the Convention (Agenda item 9 (c))

1. Control system for TIR Carnets - IRU SafeTIR (Agenda item 9 (c) (i))

33. The Working Party was informed by IRU of the functioning of the IRU SafeTIR system. From 1 January to 31 December 2008, IRU had received 3,220,803 SafeTIR messages with an average transmission delay of 4 days. 53.5 per cent of messages had been transmitted in real-time (within 24 hours). In the same period, IRU had issued 8,581 reconciliation requests and had received replies to 5,670 (66 per cent) of them with an average delay of 56 days. The Working Party also took note of activities undertaken by the Customs administrations of the Republic of Belarus and Ukraine to improve their SafeTIR performance.

2. Settlement of claims for payments (Agenda item 9 (c) (ii))

34. 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 December 2008, IRU received 15,374 notifications and pre-notifications as well as 168 payment requests. The number of pending payment requests as of 31 December 2008 amounted to 6,878. From 1 January to 31 December 2008, 89 payment requests had been paid and 240 had been settled without payment.

3. Review of Annex 10 of the Convention (Agenda item 9 (c) (iii))

35. The Working Party was informed of TIRExB activities aimed at improving the implementation of Annex 10 at the national level. The TIRExB had received an example of best practice from Serbia and was looking for similar examples from other countries, in order to draft a generic best practice to be included in the TIR Handbook.

4. Application of Article 38 (Agenda item 9 (c) (iv))

36. The Working Party considered document ECE/TRANS/WP.30/2009/6 by Turkey, containing two draft Explanatory Notes to Article 38. The delegation of Turkey pointed out that, although the objective of their proposals was to solve problems faced by Turkish operators, TIR Carnet holders of other countries could also benefit from these proposals. IRU expressed its support to these proposals. The Working Party considered that the draft Explanatory Notes contained detailed provision which, if adopted, could interfere with national regulations that vary from one country to another. It was suggested that comments or examples of best practices might be more suitable to address the issues at stake. The Working Party, realizing that the difficulties encountered by Turkish operators might rather be due to the inadequate application of Article 38 in certain countries than the absence of necessary provisions in the TIR Convention, invited the delegation of Turkey to submit relevant information to the TIRExB for further study.

5. TIR Handbook (Agenda item 9 (c) (v))

37. The Working Party noted that the 2009 TIR Handbook would be issued in the second half of the year, in order to incorporate a maximum number of amendments and examples of best practices, some of which were expected to be finalized in the course of 2009 only.

6. Other matters (Agenda item 9 (c) (vi))

38. The Working Party was informed that, as of 1 January 2009, the guarantee sum per TIR Carnet in the Republic of Belarus and Russian Federation had been fixed at EUR 60,000.

XIII. 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.

XIV. PROGRAMME OF WORK FOR 2009 TO 2013 (Agenda item 11)

Documentation: ECE/TRANS/WP.30/2009/7

40. The Working Party adopted its Work Programme for the years 2009 to 2013 (ECE/TRANS/WP.30/2009/7), with the inclusion of the following continuing activity:

Study the UNECE legal instruments in the area of border crossing facilitation with a view to identifying which additional elements for inland transport security could be incorporated in those agreements, where appropriate.

Output expected in 2009: Study the implications of the WCO SAFE Framework of Standards for the UNECE legal instruments in the area of border crossing facilitation.

Priority: 1

XV. OTHER BUSINESS (Agenda item 12)

A. Dates of the next sessions (Agenda item 12 (a))

41. The Working Party decided to hold its 122nd session in the week of 15 to 19 June 2009 and its 123rd session in the week of 28 September - 2 October 2009.

B. Restriction on the distribution of documents (Agenda item 12 (b))

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

XVI. ADOPTION OF THE REPORT (Agenda item 13)

43. The Working Party adopted the report on its 121st session on the basis of a draft prepared by the secretariat.
