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Strategic questions of a modal and thematic nature

Strengthening border crossing facilitation (Harmonization Convention, TIR Convention, eTIR project and other Customs transit facilitation measures)

Note by the secretariat

Summary

This document contains a summary of the activities of the Working Party on Customs Questions affecting Transport (WP.30), of its subsidiary expert groups and of the secretariat towards enhancing border crossing facilitation and relevant legal instruments under the auspices of WP.30 (Harmonization Convention, TIR Convention, etc.). This includes the computerization of the TIR system in the framework of the eTIR project.

The Committee may wish to **take note** and **endorse** these activities. The Committee is also **invited to support** the continuation of the eTIR project, and to this end to **prolong** the mandate of the Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (WP.30/GE.1) to the year 2018.

The Committee is **invited to urge** contracting parties to make the necessary provisions to ensure that their national customs administration Information and Communication Technologies (ICT) systems be upgraded to allow for the functioning of the fully computerized TIR procedure.

The Committee may wish to **consider** and, possibly, **endorse** the text of the new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.

The Committee may wish to **adopt** the amended version of the Terms of Reference of WP.30.

I. Background and mandate

1. At its previous session, the Committee noted and supported the activities of the Working Party on Customs Questions affecting Transport (WP.30) with a view, in particular, to strengthen the TIR Convention, 1975 and support the eTIR Project (ECE/TRANS/270, paras. 87-89).

2. This document has been prepared in accordance with the 2016-2020 Programme of Work of the Inland Transport Committee (ITC) (ECE/TRANS/254, para. 156 and ECE/TRANS/2016/31, programme activity 02.10: Customs questions affecting transport). It reports on the progress made in 2017 by the Contracting Parties, WP.30 and the secretariat in the area of border crossing facilitation, including among others:

- Developments in the International Convention on the Harmonization of Frontier Controls of Goods, 1982 (Harmonization Convention), as well as monitoring and capacity-building initiatives to assist in the proper application of this convention at the national level;
- Activities and developments of the TIR Convention and the functioning of the TIR system, including the ongoing allegations of financial mismanagement by the International Road Transport Union (IRU);
- Progress made in the eTIR project, the status of the efforts towards the development of draft Annex 11 to the convention to legally frame the operationalization of the computerized TIR procedure and the successful conclusion of the UNECE-IRU Pilot project between Iran (Islamic Republic of) and Turkey;
- The signature, on 26 September 2017, of a five-year Memorandum of Understanding (MoU) on cooperation between UNECE and IRU in the field of computerization of the TIR procedure. The MoU is supported by a Contribution Agreement (CA) aimed at funding the UNECE activities related to eTIR, such as the continuous improvement and the maintenance of the eTIR international system;
- Developments in drafting a new convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail;
- Ongoing issues in the application of the 1954 Customs Conventions on the Temporary Importation of Private Road Vehicles in Egypt and Jordan;
- Ways to increase the influence of the Working Party in addressing current challenges and opportunities in a global context.

II. Harmonization Convention

3. The Committee may wish to note that in 2017 no new accessions to the International Convention on the Harmonization of Frontier Controls of Goods, 1982 ("Harmonization Convention") took place. Thus, since the entry into force of the convention for Turkmenistan, on 27 February 2017, the number of Contracting Parties to the Harmonization Convention stands at fifty-eight.

A. Biennial survey on the implementation of Annex 8 on road border crossings

4. The Committee may wish to recall that, in accordance with Annex 8, Article 7 of the Harmonization Convention, the secretariat is required to carry out a survey every second year, on the implementation of Annex 8 on road border crossings at the national level. The Committee may wish to note that the latest survey was launched by the secretariat in November 2016 and that Contracting Parties had been invited, after reminders had been sent, to respond by 20 March 2017. The Working Party had discussed the main findings of the survey at its 146th session (June 2017), establishing that the results show that Contracting Parties were successfully implementing several provisions of Annex 8. However, there was still a need for further action on topics, such as but not limited to: (a) the use of the International Vehicle Weight Certificate (IVWC), (b) the facilitation of visa procedures, (c) the transfer of control procedures from the border crossing points to places of departure or destination, (d) the accession to the Agreement Concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections (1997), and (e) the acceptance of the International Technical Inspection Certificate. In reply to a question from the European Union to repeat the survey with longer intervals and to review the questions, the secretariat replied that it was legally obliged to repeat the survey every two years and that the exact questions were repeated to ensure an efficient comparison of the answers with previous surveys. The secretariat proposed that the issue be further discussed at a forthcoming session of AC.3 (possibly to be held in 2018) (see ECE/TRANS/WP.30/292, para. 42).

B. New Annex 10 to the Harmonization Convention on seaports

5. In 2017, the Working Party continued its efforts to develop a new annex to the Harmonization Convention on border crossing procedures at seaports. Whereas various delegations continued to advocate the relevance of the new draft proposals, particularly for hinterland connections within the supply chain, other delegations stated that they questioned the added value of draft Annex 10, and particularly, in view of the existing International Maritime Organization (IMO) Convention on Facilitation of International Maritime Traffic (FAL) — and warned that its coming into existence could lead to legal confusion or, even contradiction (see ECE/TRANS/WP.30/290, paras. 32-33). At the 146th session of the Working Party (June 2017), the delegations of Belgium, Germany and the Netherlands — which dispose of the biggest seaports in the EU — stated that having consulted with competent ministries in the field, serious doubts remained with regard to the utility and added value of developing a draft Annex to the Harmonization Convention on ports. The delegation of Italy supported this position. The delegation of the Russian Federation stated that, in its view, the draft seemed mainly of a declaratory nature and lacked legal force. It also doubted the added value of the draft Annex 10 as compared to the IMO FAL Convention. It further questioned the involvement of UNECE in this field, as the issues at stake seemed to fall under the competence of the IMO. In conclusion, the Working Party established that, while fully respecting the clear request from ITC and with due respect to all the efforts undertaken so far in preparing a suitable draft, the declaratory and repetitive nature of the text led to the conclusion that there was insufficient support among the participants of WP.30 to continue this exercise. Thus, the Working Party requested the secretariat to remove this item from its agenda and report accordingly to ITC at its 2018 session. Finally, the Working Party requested the secretariat to convene, at the first opportunity, a session of the Administrative Committee of the Harmonization Convention (AC.3) to confirm its decision (see ECE/TRANS/WP.30/292, paras. 39-41).

III. The TIR Convention

6. On 15 June 2017, the Secretary-General of the United Nations, acting in his capacity as depositary, issued depositary notification C.N.317.2017.TREATIES-XI.A.16, informing that on 15 June 2017 the Government of India had deposited its instruments of accession to the TIR Convention, 1975. In accordance with its Article 53, paragraph 2, the date of entry into force for the convention for India is 15 December 2017. With the accession of India, the TIR Convention has seventy-one Contracting Parties.

7. In 2017, WP.30 and the TIR Administrative Committee (AC.2) sustained their efforts towards considering and finalizing a comprehensive set of amendment proposals to the TIR Convention. At its sixty-sixth session (October 2017), AC.2 adopted the set, which includes, inter alia:

- The increase of the recommended maximum amount to be claimed from the guaranteeing association from 50,000 \$ to 100,000 euros;
- The introduction reinforced possibilities for AC.2 to examine the audited financial statements submitted annually by the international organization authorized to manage the international guarantee system and to print and distribute TIR Carnets, including the right to request additional examinations;
- Amended requirements for the international organization with regard to record keeping and engaging an independent external audit;
- The insertion of the term “customs” before “frontier” in Article 2 of the convention, clarifying that for the TIR Convention to become applicable at least one customs border need to be crossed. At the request of the delegation of Kazakhstan, this proposal has been submitted separate to the depositary in order not to jeopardize the acceptance of the comprehensive set of other adopted amendments.

A. International TIR Data Bank and electronic tools of the TIR secretariat

8. In 2015, the secretariat began a project to develop a new International TIR Data Bank (ITDB), envisaged to consolidate all electronic applications currently managed by the TIR secretariat. In 2016, the first phase of the project was initiated, aimed at replacing the current applications (ITDBonline+, ITDB Web Services and UNECE Register on Customs Seals and Stamps). In 2017, the new ITDB and the new ITDB web service were launched. Within months, the new ITDB had tripled the number of users in comparison to the previous version. The ITDB currently contains data of around 34,000 authorized TIR Carnet holders. As a next step, the Customs Office repository module is currently under development, with its release expected at the beginning of 2018.

B. National and regional TIR workshops and seminars

9. Since the Committee’s previous session in February 2017, the TIR secretariat had participated in: (a) Administrative Committee of the Customs Convention on Containers (Brussels, 27-28 February 2017); (b) High-Level Meeting for the Euro-Asia Region on Improving Cooperation on Transit, Trade Facilitation and the 2030 Agenda for Sustainable Development (Hanoi, 7-9 March 2017); (c) Seminar on the automation of transit procedures and electronic exchange of data in the context of trade facilitation (Istanbul, 19-20 April 2017); (d) Workshop on the regional computerized TIR corridor (Batumi, 11-12 May 2017); (e) International Transport Forum (Leipzig, 31 May-2 June 2017); (f) Meeting with the European Commission for the customs offices database (Brussels, 30 May 2017); (g)

Meeting of the Customs Expert Group (CEG/TIR/01) (Brussels, 31 May 2017); (h) European Grails Conference (GR8Conf) (Copenhagen, 1-2 June 2017); (i) World Customs Organization IT Conference 2017 (Tbilisi, 7-9 June 2017); (j) Regional Awareness Raising Workshop on the main United Nations Road Transport Legal Instruments (Brussels, 4 July 2017); (k) WCO Global Conference on Transit (Brussels, 10-11 July 2017); (l) Meeting with OTIF on the intermodal aspects of the TIR Convention (Bern, 25 September 2017); (m) fifth meeting of the Inter-Agency Coordination Group on the follow-up and implementation of the Vienna Programme of Action for the Landlocked Developing Countries (LLDCs) for the Decade 2014-2024 (New York, 3-5 October 2017); (n) eighth WCO Trade Facilitation Agreement Working Group (Brussels, 16-18 October 2017).

IV. Developments in the implementation of the TIR Convention

10. The year 2017 continued to be dominated by allegations against IRU and its management. IRU strongly and categorically rejected all of these allegations and the Presidential Executive of IRU instructed an independent external audit, conducted by Ernst and Young, in order to help clear these allegations. At the request of Contracting Parties, the Executive Summary of the “Review of governance and compliance areas and fact finding investigation” of IRU was made available to Governments through their respective permanent missions in Geneva. Later in the year, access to the full report was granted, following certain procedural instructions, at the premises of IRU in Brussels, Geneva, Istanbul and Moscow. At the moment of submission of this document it seemed that, so far, none of the Contracting Parties had consulted the full report.

11. At their October 2017 sessions, the governing bodies of the TIR Convention were informed that IRU had initiated the process of exclusion and termination of its contractual relationships with one of the two national associations of Romania, the Asociația Română Pentru Transporturi Rutiere Internaționale (ARTRI), due to the behaviour of ARTRI towards IRU. The TIR governing bodies urged all parties concerned to undertake every effort to ensure the uninterrupted and effective management of the international guarantee system, while providing national associations with full access to all internal appeal procedures, trusting that a satisfactory solution could be found, thus preventing a possible breakdown in the international guarantee chain.

12. On 9 November 2017, IRU informed the UNECE secretariat that, further to an appeal hearing on 8 November 2017, the General Assembly of IRU had decided to exclude ARTRI from its membership.

V. The eTIR projects

A. eTIR pilot projects and new steps towards the full computerization of the TIR procedure

13. The UNECE-IRU eTIR pilot project between Iran (Islamic Republic of) and Turkey was successfully concluded in February 2017 and led to the signature, on 26 September 2017, of a five-year Memorandum of Understanding (MoU) on cooperation between UNECE and the International Road Transport Union (IRU) in the field of computerization of the TIR procedure. The MoU is supported by a Contribution Agreement (CA) towards enhancement of the full computerization of the TIR procedure signed on the same date and for the same duration. The CA is aimed at funding the UNECE activities related to eTIR, such as the continuous improvement and the maintenance of the eTIR international system. Furthermore, at the 147th session of WP.30, IRU confirmed its readiness to amend the CA

if more funds would be required to ensure the rapid development and deployment of new functions of the eTIR international system requested by Contracting Parties participating in eTIR projects. Against this background, and recalling the Joint Statement on the Computerization of the TIR procedure, adopted in June 2015 by the TIR Administrative Committee, the Committee is invited to urge Contracting Parties to make the necessary provisions to ensure that the customs administration ICT systems be upgraded to allow for the functioning of a fully computerized TIR procedure.

14. The eTIR pilot project between Georgia and Turkey is still in progress, and efforts will be made to integrate this project into the overall efforts to fully computerize the TIR procedure.

B. Developments in the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure

15. The twenty-sixth and twenty-seventh sessions of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (WP.30/GE.1) were held on 18-19 May 2017 and 4-5 December 2017 in Geneva. At the sessions, WP.30/GE.1 considered version 4.2a of the eTIR conceptual, functional and technical documentation and amendment proposals resulting from the eTIR pilot projects and the work of the Group of Experts on the Legal aspects of Computerization of the TIR Procedure (WP.30/GE.2).

16. At its 147th session, WP.30 requested the secretariat to seek extension from the Committee for the mandate of WP.30/GE.1 for 2018.

C. Developments in the Group of Experts on the Legal Aspects of Computerization of the TIR Procedure

17. WP.30/GE.2 held its fourth and fifth sessions on 16-17 May and 30-31 October 2017 in Geneva. Pursuant to its mandate, GE.2 developed a draft legal framework for the implementation of the computerized TIR procedure (eTIR). The draft legal framework consists mainly of a new Annex 11 to the Convention, which is currently under discussion by WP.30.

18. The form of a new Annex allows contracting parties to move forward with the computerization, while those not yet ready, may opt-out and join eTIR at a later stage. In addition, four amendments to existing articles in the main body of the TIR Convention and two new articles are also proposed.

19. With the deliverance of new Annex 11, WP.30/GE.2 fulfilled its mandate. Therefore, WP.30, at its 147th session, agreed that it was not necessary to request extension of the mandate.

VI. International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952

20. In 2017, further to the road map established by the Working Party on Rail Transport (SC.2) at its seventieth session (November 2016), the Working Party continued its deliberations of the draft text of a new convention on the Facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.

At various sessions, the delegation of the European Union stated that it was not likely for it or its member States to accede to the draft convention, as the draft did not seem to bring any advantages for the European Union policies on railways and customs, and could even be in conflict with the European Union *acquis* on border management. In addition Bulgaria (from a customs perspective), the Czech Republic and Latvia, which were EU member States and OSJD members, stated that, although they supported the concept of facilitation of passenger rail transport, they felt that the current text did not provide any benefit or added value for them. On the other hand, OSJD continued to advocate the need for the development of a new convention, mainly because the existing 1952 convention was outdated and did not fulfil modern railway requirements. The representative of OSJD noted the recent decrease of railway traffic of passengers and luggage from East to West, and stressed that one of the reasons for this process is administrative barriers when crossing borders. The draft convention aims to improve the situation. He further mentioned that, while this project is actuality for European States, at the same time it serves the specific interest of countries like China, Kazakhstan, Mongolia and other countries of Central Asia. The delegation of the Russian Federation supported the position of OSJD, stressing its relevance for the Eurasian continent as a whole. In its view, the draft convention would serve as a base document for concluding multilateral and bilateral agreements.

21. At its October session, the Working Party was of the opinion that the draft convention would benefit from further elaboration, taking into account a number of legal issues raised by the secretariat with regard to the legal significance of some of its provisions. To make further progress, the drafters of the convention were requested to transmit a fully-fledged text of the convention to the secretariat before 25 November 2017, so that it could be included the agenda of the 148th session. The Working Party asked the secretariat to report its findings to the Working Party on Rail Transport (SC.2) at its next session (Geneva, 27-29 November 2017). The final text of the draft convention is contained in document ECE/TRANS/WP.30/2018/6. Subject to the adoption of the text by the Working Party, ITC is invited to consider and, possibly, endorse the text of the new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail, and request the secretariat to transmit it to the Secretary-General of the United Nations in his capacity of depositary.

VII. Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)

22. The Committee may wish to note that, in 2017, no changes had occurred in the status of the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles and that the conventions, currently had, 80 and 26 contracting parties, respectively.

23. In 2017, the Working Party was confronted with ongoing issues in the application of the 1954 convention in Egypt and Jordan, particularly because customs authorities did not seem to respect the deadlines and procedures laid down in the convention. The Working Party was of the view that competent national authorities should strictly respect the deadlines stipulated by the convention, in particular Article 26 which states unequivocally that “customs authorities shall not have the right to require from the guaranteeing association payment of import duties and import taxes on vehicles or component parts temporarily imported when the non-discharge of the temporary importation papers has not been notified to the guaranteeing association within a year of the date of expiry of the validity of those papers. The customs authorities shall provide the guaranteeing associations with details of the amount of import duties and import taxes within one year from the notification of the non-discharge. The guaranteeing association’s liability for

these sums shall cease if such information is not furnished within this one-year period.” The correct application of this and other provisions of the convention should be first item to be examined in lawsuits filed by customs administrations against national associations, thus avoiding that claims end up in courts long after the date of their legal expiration. The Working Party requested the secretariat to bring the raised issues to the attention of the Governments of Egypt and Jordan, together with its preliminary assessment, to seek clarification of the situation at hand, and to solicit their feedback. Despite the reminders that were sent in September 2017, so far no feedback has been received from either country.

VIII. Ways to increase the influence of the Committee and its working bodies in addressing current challenges and opportunities in a global context

24. At its 146th session (June 2017), the Working Party took note of Decision No. 6 of ITC, which “welcomed the discussion on increasing the Committee’s role at the meeting of the Chairs of its working bodies on a rapidly changing global environment; considered ways to increase the influence of the Committee and its working bodies in addressing current challenges and opportunities in a global context, in accordance with the resolution of ministers of the seventy-ninth Committee session of 21 February 2017, by inclusion in the terms of reference of the Working Parties of issues in implementing transport-oriented Sustainable Development Goals. The Working Party recognized the relevance of its work for various Sustainable Development Goals, in particular: Goal 9 - Industry, innovation and infrastructure - accession to the TIR and Harmonization Conventions, implementation of the TIR, eTIR and Harmonization procedures); Goal 12 - Responsible consumption and production - strengthening the supply chain through increased border crossing facilitation; and Goal 17 - Partnership for the goals - application of the international TIR guarantee system. When it comes to the 2030 Agenda, the Working Party fully supported the vision of the UNECE Sustainable Transport Division to strive for a globally harmonized regulatory system for inland transport that is the foundation for sustainable transport and mobility. The Working Party further reconfirmed its statement at the 143rd session, supporting any capacity-building activities of the UNECE secretariat related to the legal instruments under the purview of WP.30 outside the ECE region, as long as sufficient focus on capacity-building within the region remains ensured (see ECE/TRANS/WP.30/286, para. 14). Finally, WP.30 supported the computerization of inland transport by stating that it is essential to arrive at eTIR in the shortest possible time. To that end, and in view of the progress made in drafting the legal framework of eTIR, the Working Party urged Contracting Parties to make the necessary financial reservations in their national IT budgets to accommodate eTIR within their national customs systems at the first opportunity. In that context, the Working Party confirmed the recommendation by GE.1 and GE.2 that the maintenance costs could conceivably be covered through an amount per transport. However, the source of funding for the initial costs required to develop and deploy the system remained unidentified, though essential to start eTIR.

25. At its 147th session (October 2017), the Working Party adopted a proposal to amend its Terms of Reference to contribute to the advancement of the Sustainable Development Agenda and the related Sustainable Development Goals. The updated provision now reads: “(a) Initiate and pursue actions aimed at the harmonization and simplification of regulations, rules and documentation for border crossing procedures for the various modes of inland transport, with particular focus, where possible, on contributing to the advancement of the United Nations 2030 Sustainable Development Agenda (General Assembly Resolution A/RES/70/1) and related Sustainable Development Goals”.

26. The Working Party requested the secretariat to transmit the results of its findings to ITC for consideration and adoption at its February 2018 session.

IX. Considerations by the Committee

27. The Committee may wish to take note of and support the above activities of contracting parties, WP.30 and the secretariat. It is also invited to support the continuation of the eTIR project, to prolong the mandate of WP.30/GE.1 to the year 2018, to urge Contracting Parties to make the necessary provisions to ensure that their national customs administration ICT systems be upgraded to allow for the functioning of the fully computerized TIR procedure, to consider and, possibly, endorse the text of the new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail and to adopt the amended version of the Terms of Reference of WP.30.
