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Administrative Committee for the International Convention on the Harmonization of Frontier Controls of Goods, 1982

Report of the Administrative Committee on its ninth session (Geneva, 27 May 2010)

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I. Attendance

1. The Committee held its ninth session on 27 May 2010 in Geneva.
2. The session was attended by representatives of the following countries: Austria, Belarus, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Kyrgyzstan, Latvia, Republic of Moldova, Netherlands, Norway, Poland, Romania, Serbia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, Uzbekistan. Representatives of the European Union (EU) were also present. Representatives of the following countries attended the session as observers: Azerbaijan, Iran (Islamic Republic of). The following intergovernmental organizations were represented: Intergovernmental Organization for International Carriage by Rail (OTIF) and the Organization for Cooperation between Railways (OSJD).
3. The Committee noted that the required quorum for the purposes of taking decisions - of at least one third of the States which are Contracting Parties (according to Annex 7, Article 6 of the Convention) - was attained.

II. Adoption of the agenda (agenda item 1)

4. The Committee adopted the agenda as contained in document ECE/TRANS/WP.30/AC.3/17 and Corr.1.

III. Election of officers (agenda item 2)

5. In accordance with Annex 7, Article 5 of the Convention, the Committee elected Ms. H. Metaxa-Mariatou (Greece) as Chair and Mr. I. Makhovikov (Belarus) as Vice-Chair.

IV. Status of the Convention (agenda item 3)

6. The Committee noted with satisfaction that, since its previous session in October 2005, seven new countries had acceded to the Convention: Jordan, Lao People's Democratic Republic, Republic of Moldova, Mongolia, Montenegro, Tunisia and Turkey. The Committee also welcomed the accession of Iran (Islamic Republic of) effected on 18 May 2010 (Depositary Notification C.N.266.2010.TREATIES-1). In accordance with its Article 17 (2), the Convention will enter into force for the Islamic Republic of Iran on 18 August 2010.
7. The Committee took note that in May 2008, a new Annex 8 to the Convention had come into force in accordance with Article 22 of the Convention (Depositary Notification C.N. 127.2008.TREATIES-1). Annex 8 aims to facilitate border crossing procedures for international road transport and covers, inter alia, facilitation of visa procedures for professional drivers, standardized weighing operations and vehicle weight certificate, minimum infrastructure requirements for efficient border crossing points and provisions to monitor the border crossing performance.

8. Detailed information on the status of the Convention as well as on various Depository Notifications is available on the UNECE website.¹

V. Proposals for amendments of the Convention (agenda item 4)

9. The Committee was informed that, following extensive deliberations in 2005–2010, the United Nations Economic Commission for Europe (UNECE) Working Party on Customs Questions affecting Transport (WP.30) had finalized a draft new Annex 9 on facilitation of border crossing in international rail transport and had decided to transmit it to the Committee for consideration and possible adoption (ECE/TRANS/WP.30/AC.3/2010/1). The Committee also took note that the European Union had completed its internal approval procedures for the formal acceptance of the new Annex.

10. The Committee was informed that, on 26 May 2010, the secretariat had received a communication from the Swiss Customs Administration expressing concerns that the competent Swiss authorities would not be in a position to observe certain provisions of the new Annex, should it come into force (Informal document No.1 (2010)). For this reason, Switzerland could not agree to the amendment proposal as it stands for the time being.

11. In particular, the Swiss Customs Administration pointed out the potential difficulties in the implementation of the following requirements:

(a) "The Contracting Parties ... shall carry out customs controls relying on the principle of selection on the basis of risk evaluation and management. As a general rule, if required information on the goods has been provided and if the goods are contained in a properly closed and sealed rolling stock unit, container, piggyback semi-trailer or wagon, physical examination shall not be carried out" (Article 6, item (2)). While supporting the application of risk assessment, the Swiss authorities felt that this wording would prevent Customs from conducting random checks, should they be deemed necessary;

(b) The wording "... Contracting Parties shall endeavour to reduce paper documents ..." (Article 8, item (2)) was considered to be unclear and, thus, difficult to implement;

(c) According to the Swiss Customs, the use of the CIM/SMGS railway consignment note as a Customs document (Article 9) is not feasible because the CIM consignment note would not be accepted as a Customs document as of 2013, when the New Computerized Transit System (NCTS) becomes obligatory for cross-border rail cargo traffic between the EU and Switzerland; and

(d) "Sufficient qualified staff of the railway, customs, border and other agencies must be on hand at border (interchange) stations to cope with the freight volumes involved" (Article 4, item (6)). According to the Swiss authorities, following their recent reorganization, the Swiss Customs has no capacity to ensure the proper application of this provision.

12. The Committee noted that the Swiss authorities take their obligations stemming from the Harmonization Convention seriously and thanked them for sharing their concerns with the Committee. At the same time, it felt that these doubts could have been raised much earlier during the numerous discussions at WP.30 in which, unfortunately, Switzerland had not participated on a regular basis.

¹ <<http://www.unece.org/trans/conventn/legalinst.html#customs>>.

13. In the absence of Swiss representatives, the Committee considered in detail issues (a) – (d) above and was of view that the concerns of the Swiss Customs Administration were met by the following arguments:

(a) Article 6, item (2) contains the wording "as a general rule" and, therefore, is without prejudice to the right of Customs to conduct random checks;

(b) The wording "the Contracting Parties shall endeavour to reduce paper documents..." in Article 8, item (2) should be regarded as a declaration of intent rather than a strict obligation. The forthcoming use of NCTS for cross-border cargo traffic by rail in Switzerland fully meets this requirement;

(c) The replacement, as of 2013, of the use of the CIM consignment note for Customs purposes with NCTS is in line with Article 8, item (2) and by no means can be regarded as a breach of Article 9. This opinion was shared by all countries using NCTS;

(d) The requirement of Article 4, item (6) should be considered within the overall context of the Annex. It did not specify a minimum number of staff at border stations, but stressed the fact that staff should be qualified. Taking into account the upcoming use of NCTS and in view of the fact that the Swiss authorities already now cope with a huge volume of rail traffic, the Committee expressed its confidence that the Swiss authorities would continue to do so in the future, thus meeting the underlying requirement.

14. The Committee was confident that, with the above considerations, the Swiss authorities would be in a position to agree to the text of Annex 9. Finally, having reiterated the importance of the new Annex for facilitation of border crossing in international rail transport, the Committee adopted the amendment proposal as contained in document ECE/TRANS/WP.30/AC.3/2010/1.

15. The observer of Azerbaijan stated that the incorporation of the new Annex into the legislation of his country would require the completion of national legal procedures.

VI. Application of the Convention (agenda item 5)

A. Annex 8 on facilitation of border crossing procedures for international road transport

16. The Committee was informed of activities conducted by WP.30 and the secretariat to speed up the application of Annex 8 at the national level. In particular, the Committee took note of the outcome of a training seminar which had been jointly organized by UNECE and the Organization of the Black Sea Economic Cooperation (BSEC) in Geneva on 18 June 2009 (ECE/TRANS/WP.30/2009/10). The Committee was also informed of preliminary results of a survey concerning the implementation of Annex 8 at the national level (ECE/TRANS/WP.30/2009/8).

17. The Committee took note of a number of public and private projects aimed at ensuring the proper implementation of Annex 8, such as the OSCE²-UNECE Handbook on best practices at border crossings, including a chapter on border crossing performance measurement, and the Border Waiting Time Observatory (BWTO) established by the International Road Transport Union (IRU).

² The Organization for Security and Co-operation in Europe

18. The delegation of Iran (Islamic Republic of) informed the Committee of various activities conducted at the national level with the aim to facilitate road transport, in particular, the introduction of simplified procedures for issuing visas to transit drivers from the Economic Cooperation Organization (ECO) countries and the organization of truck caravans in the ECO region. The Committee invited the delegation of Iran (Islamic Republic of) to inform WP.30, at one of its future sessions, of the progress in the implementation of these initiatives.

19. The Committee also noted that, according to Article 26 of the Convention – English, French, Russian and Spanish – are the official languages of the Convention. For this reason, the United Nations translation services had prepared the authentic Spanish text of Annex 8 which is contained in document TRANS/WP.30/AC.3/2005/1.

B. Implementation of the Harmonization Convention within the context of other international legal instruments

20. The Committee recalled that, in the light of increasing threats of global terrorism, a number of initiatives had been undertaken by various intergovernmental and non-governmental organizations with the aim to ensure security in the global trade and transport, such as the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade (SAFE). The Committee requested the secretariat to monitor these developments and to assess their implications for the Harmonization Convention.

VII. Other business (agenda item 6)

A. Date of next session

21. The Committee decided not to fix a date for its next session.

B. Restriction on the distribution of documents

22. The Committee decided that there should be no restriction with respect to the distribution of documents issued in connection with its current session.

VIII. Adoption of the report (agenda item 7)

23. In accordance with Annex 7, Article 8 of the Convention, the Committee adopted the report on its ninth session. During the adoption of the report, the French and Russian speaking delegations deplored that the report was not available in all three official languages.