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### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

148th session

Geneva, 6–9 February 2018

### Report of the Working Party on Customs Questions affecting Transport on its 148th session

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## **I. Attendance**

1. The Working Party (WP.30) held its 148th session from 6–9 February 2018 in Geneva. The session was attended by representatives of the following countries: Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iran (Islamic Republic of), Ireland, Italy, Kuwait, Latvia, Lithuania, Netherlands, Poland, Republic of Moldova, Romania, Russian Federation, Serbia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine and Uzbekistan. Representatives of the European Union were also present. The following non-governmental organizations were represented: Alliance Internationale de Tourisme / Federation Internationale de l'Automobile (AIT/FIA), the International Road Transport Union (IRU).

## **II. Adoption of the agenda (agenda item 1)**

*Documentation:* ECE/TRANS/WP.30/295 and Corr.1

2. WP.30 adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/295 and Corr.1).

## **III. Opening statement**

3. In his opening statement, Mr. Li Yuwei, Director of the UNECE Sustainable Transport Division, informed the Working Party that he had assumed his post as of 5 February 2018. Although new to UNECE, he was certainly familiar with the topics of the Working Party such as, but not limited to, the TIR Convention. In fact, he had worked together with some of the colleagues as far back as 18 years ago. He looked forward to becoming more familiar with all the topics of the Working Party. From his briefing, two issues clearly dominate the Working Party's agenda for now: finalizing a last set of amendment proposals and the ongoing efforts towards computerizing the TIR procedure, specifically the finalization and adoption of the legal framework as contained in draft Annex 11. He extended a warm welcome to the delegation of Kuwait which was participating for the first time as a Contracting Party to WP.30. He expressed the hope that its presence and the possibility to exchange views with delegations from other Contracting Parties would contribute to increasing the implementation of the TIR system on the territory of Kuwait and the region. He referred to the ongoing efforts to finalize and adopt a new Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail and urged the Working Party, by recalling a personal experience with travelling in Asia, to agree on the draft expediently. He welcomed the tabling of a final text proposal to the Working Party. At the same time, he cautioned against speed or pressure when considering the further pursue of this matter. Finally, he welcomed the ongoing efforts to expand the number of Contracting Parties to the TIR Convention, which, with the recent accession of the State of Palestine and Qatar now stood at 73. Various delegations congratulated Mr. Li on his appointment and wished him success in his work.

## **IV. Election of officers (agenda item 2)**

4. In accordance with the Commission's rules and procedures and established practice, the Working Party elected Mr. R. Kristiansson (Sweden) as Chair and Mr. A. Fedorov (Ukraine) as Vice-Chair for its sessions in 2018.

## **V. Activities of United Nations Economic Commission for Europe (UNECE) bodies and other United Nations organizations of interest to the Working Party (agenda item 3)**

5. The Working Party was informed about activities of the Inland Transport Committee (ITC), its Bureau, subsidiary bodies and other United Nations organizations. In particular, the Working Party took note of the eightieth session of ITC (20–23 February 2018, Geneva) and of the invitations to the Chair and Vice-Chair. The Working Party took note that this year's policy segment would be on the role of intermodality as one of the cornerstones of sustainable mobility and transport at both the international and city levels. At the meeting for government delegates only (with the participation of the Chairs of the Committee's subsidiary bodies), the Committee will be invited (a) to consider the ITC strategy up to 2030 and express its views on priority areas, and (b) to provide guidance to the secretariat on further developing the ITC strategy in an action plan and a road map for implementation. Both would be for adoption at the Committee's eighty-first annual session in 2019.

## **VI. Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) (agenda item 4)**

### **A. Status of the Convention**

6. The Working Party was informed that, on 3 November 2017, the Secretary-General of the United Nations, acting in his capacity as depositary, issued the following depositary notifications: (a) C.N.698.2017.TREATIES-XI.A.16, informing of the submission of various proposals to amend the body of the TIR Convention, 1975. In accordance with the provisions of Article 59 (3) of the Convention, the amendments shall enter into force on 3 February 2019, unless an objection has been communicated to the Secretary-General not later than by 3 November 2018; (b) C.N.699.2017.TREATIES-XI.A.16, informing of the submission of a proposal to amend Article 2 of the TIR Convention, 1975. In accordance with the provisions of Article 59 (3) of the Convention, the amendment shall enter into force on 3 February 2019, unless an objection has been communicated to the Secretary-General not later than by 3 November 2018; (c) C.N.700.2017.TREATIES-XI.A.16, informing of the submission of various proposals to amend Annexes 6, 8 and 9 of the TIR Convention, 1975. In accordance with the provisions of article 60 (1) of the Convention, the Administrative Committee decided, at its sixty-sixth session (12 October 2017) that the amendments should enter into force on 1 July 2018, unless, no later than 30 March 2018, five States which are Contracting Party would have notified the Secretary-General of their objection. The Working Party took note that the Secretary-General of the United Nations, acting in his capacity as depositary, has issued, on 2 January 2018, depositary notification C.N.801.2017.TREATIES-XI.A.16), informing that on 29 December 2017 the State of Palestine has deposited its instruments of accession to the TIR Convention, 1975. In accordance with its Article 53, paragraph 2, the Convention would enter into force for the State of Palestine on 29 June 2018. Further, the Working Party took note that the Secretary-General of the United Nations, acting in his capacity as depositary, has issued, on 26 January 2018, depositary notification C.N.52.2018.TREATIES-XI.A.16, informing that on 26 January 2018 Qatar has deposited its instruments of accession to the TIR Convention, 1975. In accordance with its Article 53, paragraph 2, the Convention would enter into force

for Qatar on 25 July 2018. Finally, the Working Party welcomed the news that, on 28 November 2017, the TIR system had become active for the United Arab Emirates. With this latest addition, the number of TIR operational countries was brought to 59. The competent authorities authorized the Automobile & Touring Club of the United Arab Emirates (ATCUAE) to act as TIR issuing and guaranteeing association for the United Arab Emirates. Detailed information on this issue, as well as on depositary notifications is available on the TIR website.

7. Under this agenda item, IRU informed the Working Party that Chinese customs intended to open the first border crossing points for TIR transport before June 2018. The delegation of the Russian Federation confirmed its readiness to conduct consultations with the Chinese authorities on the approval of border crossings points to accomplish TIR operations, in line with the provisions of Article 45 of the Convention. In addition, though not common practice, it requested the secretariat to address an invitation letter to the Chinese customs authorities, facilitating their presence at future sessions of the Working Party and the TIR Administrative Committee (AC.2).

## **B. Revision of the Convention**

### **1. Amendment proposals to the Convention**

8. The Working Party continued its discussions on proposals to amend Article 20, as contained in document ECE/TRANS/WP.30/2017/21. The delegation of the European Union confirmed its wish to maintain the proposal to replace, in Article 20, the word “country” by “Contracting Party”, and invited other delegations to support this proposal, as it would not have any negative repercussions on the application of the provision in customs unions that were not Contracting Party to the TIR Convention in their own right. The delegation of Ukraine, while expressing support for the position of the European Union, offered to prepare a comparison between the TIR Convention and other relevant international legal instruments such as, in particular, the Revised Kyoto Convention or the World Trade Organization Transit Facilitation Agreement (WTO-TFA). The delegation of the Russian Federation advised the Working Party to apply caution to the various proposals, which it regarded a complex matter. In addition, it stated that the application of Article 48 did not fully offer a solution for the situation of the Eurasian Economic Union. In conclusion, the Working Party gladly accepted the offer of the delegation of Ukraine to prepare a comparative document for consideration, if possible, at its next session. In addition, delegations were invited to carefully study the various amendment proposals contained in the Annex to document ECE/TRANS/WP.30/2017/21, and to provide the secretariat with feedback, comments or further considerations no later than 1 April 2018.

9. The Working Party continued its previous discussions, on considerations by the Government of the Russian Federation in developing a proposal to replace the word “limit” in Explanatory Note 0.8.3 by “determine”, based on document ECE/TRANS/WP.30/2018/1 that summarized the discussions on the issue so far. The Working Party recalled that the word “limit” in Explanatory Note 0.8.3. had been there from the beginning and that the drafters, on purpose, must have decided not to repeat the word “determine” from the text of Article 8, paragraph 3. In this context, the Working Party recalled the statement by the delegation of Azerbaijan at its 147th session that “the competence of Contracting Parties to determine the maximum amount per TIR Carnet was delineated by the text of Explanatory Note 0.8.3 which recommends Contracting Parties to limit the maximum amount per TIR Carnet which may be claimed from the guaranteeing association to a sum equal to \$ 50,000 / 60,000 euros” (ECE/TRANS/WP.30/294, para. 14). The delegation of the Russian Federation confirmed that, in its view, aligning the texts of Article 8, paragraph 3 and of Explanatory Note 0.8.3 was warranted to remove any ambiguity that could rise from the use

of two different terms. The delegation of Uzbekistan expressed the view that it did not fully agree with the statement that the guarantee sum depends on the exchange rate. In its view, the amount largely depends on the sum of customs fees payable in case of a claim. While addressing this issue, it seems appropriate to establish a more flexible mechanism. The delegation of the European Union stated that, in its view, the difference in wording introduced, on the one hand, a harmonized approach, whereas, on the other hand, it provided Contracting Parties flexibility in the application of the recommended maximum amount. The proposed amendment would take away the flexibility Contracting Parties have and the European Union did not support such modification. The delegation of Belarus proposed to assess whether it would not be possible to convert E.N. 0.8.3 into a comment of similar wording. The delegation of Ireland reiterated that, in its view, the wording “determine” in Article 8, paragraph 3 imposed a finite amount, whereas the words “limit to a sum equal to” provided the desired flexibility. Unable to reach consensus, the Working Party agreed to revert to the issue at the next session. Delegations were invited to (a) assess if for Explanatory Note 0.8.3 a better term than “determine” could be found, (b) assess if a conversion from Explanatory Note to comment would provide Contracting Parties sufficient flexibility and (c) provide their comments to the secretariat no later than 1 April 2018.

10. The Working Party considered document ECE/TRANS/WP.30/2018/8, which provides a succinct summary of the discussions so far on proposals to introduce a new Article 11, paragraph 4 bis, as well as further clarifications by the delegation of the Russian Federation. The delegation of the Russian Federation confirmed that the main aim of the proposal was to give competent authorities and the national association the possibility to conclude an agreement and provide for a longer deadline during which competent authorities could address courts with claims against the national association, than stipulated by national law. In case such possibility would become a provision of international law, it would supersede any provision to that extent in national law. The Working Party recalled that, at a previous session, the delegation of the European Union had suggested to the Russian delegation that a conversion of Explanatory Note 0.11.4 into new Article 11, paragraph 4 bis might perhaps solve the issue. The delegation of Azerbaijan had proposed, in case a new Article 11, paragraph 4 bis would be adopted on the basis of a conversion of Explanatory Note 0.11.4, to delete the first phrase.

11. The Working Party continued its discussions. In reply to the three questions by the secretariat in the said document, the Working Party confirmed that the final phrase of Explanatory Note 0.11.4 should remain with Article 11, paragraph 4. The delegation of the Russian Federation stated that a conversion of Explanatory Note 0.11.4 to become new Article 11, paragraph 4 bis would solve its problems with regard to the limited timeframe, according to national law, to bring claims to the court, subject to some changes as contained in its proposal. The Working Party noted that the issue of the consequences of the proposed changes for the national agreements between customs authorities and national associations warranted further assessment. The Working Party mandated the secretariat to prepare, for consideration at its next session, a short document, outlining the rationale behind the Russian proposal and the proposed text of Article 11, paragraph 4, its amended Explanatory Note 0.11.4 and new Article 11, paragraph 4 bis.

## **2. Preparation of Phase III of the TIR revision process**

12. The Working Party noted that following the signing of the Memorandum of Understanding (MoU) between UNECE and IRU on 6 October 2017, standard conditions for new TIR computerization projects were being prepared. The main objective is to move towards full computerization of the TIR procedure. It also noted that Contracting Parties were invited to express their willingness to join a TIR computerization project.

Furthermore, the Working Party noted that recruitment of the information system officer (P3) was ongoing and that the selected candidate was expected to start in the spring of 2018.

13. The Working Party noted the continuation of eTIR transports between Iran (Islamic Republic of) and Turkey, and the continuing exchange of TIR transport data between Georgia and Turkey.

14. The Working Party took note that the twenty-seventh session of Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) took place in Geneva on 4 and 5 December 2017. It further noted that GE.1 had discussed a number of amendments to the eTIR specifications resulting from the pilot projects and from the outcome of the work of the Group of Experts on the Legal Aspects of Computerization of the TIR Procedure (GE.2). GE.1 made progress on a number of issues, inter alia, the design of an accompanying document, the clarification of the sequence of eTIR messages, the introduction of new guarantee status codes and the introduction of a refusal to start message. The draft report of the twenty-seventh session had been uploaded on the UNECE website and would be submitted as an official document for adoption at the 149th session of the Working Party. Subject to confirmation of the extension of the GE.1 mandate by ITC, the twenty-eighth session was scheduled for 28 and 29 June 2018.

15. The Working Party also took note that the secretariat would meet experts from the European Commission on 20 February 2018 to compare the New Computerized Transit System (NCTS) and eTIR messages, and that the secretariat would present the eTIR project to the Electronic Customs Coordination Group of the European Union on 14 March 2018.

16. The Working Party was orally briefed by the Chair of GE.2 about the outcome of its fifth session (30 and 31 October 2017, Geneva). The Chair highlighted that GE.2 had concluded its two-year mandate by drafting proposals for the eTIR legal framework and had approved its self-evaluation containing a consolidated summary of its outputs. In addition, the Chair briefly presented the main amendments to the draft eTIR legal framework stemming from that session. The Working Party endorsed the report of GE.2 at its fifth and final session (ECE/TRANS/WP.30/GE.2/10 and Corr.1) and the self-evaluation of GE.2 (ECE/TRANS/WP.30/2018/2), which demonstrated that GE.2 met all the requirements of its Terms of Reference.

17. The Working Party was briefed about the latest developments in the International TIR Databank (ITDB). It further took note that, at the occasion of its 149th session, the secretariat would organize a seminar dedicated to the use of the ITDB.

### **3. Financial aspects of computerization of the TIR procedure**

18. The Working Party recalled the information provided at its previous session on a MoU<sup>1</sup> and Contribution Agreement (CA) signed between UNECE and IRU. It requested the secretariat to provide additional information on the matter and on the functioning of the system at its next session. The Working Party also noted that as the CA is aimed at stating matters mainly related to United Nations financial rules and conditions, the document was restricted to the signatory parties. The Working Party further noted that Contracting Parties that are interested in joining future TIR computerization projects would have to make the required amendments to their customs Information and Communication Technology (ICT) systems and, where necessary, finance those amendments but that no costs would be charged for using the UNECE and IRU ICT systems. The secretariat clarified that the funds

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<sup>1</sup> [www.unece.org/fileadmin/DAM/MoU\\_\\_Cooperation\\_Agreement\\_IRU\\_UNECE\\_eTIR\\_6\\_oct\\_2017\\_with\\_dates\\_no\\_signatures.pdf](http://www.unece.org/fileadmin/DAM/MoU__Cooperation_Agreement_IRU_UNECE_eTIR_6_oct_2017_with_dates_no_signatures.pdf)

made available by means of the CA were mainly for developing new functionalities, upon request by Contracting Parties, following an agile methodology. IRU confirmed its readiness to amend the CA if more funds would be required to ensure the rapid development and deployment of new functionalities requested by Contracting Parties participating in the projects (see ECE/TRANS/WP.30/295, paras. 22–25). The Working Party decided that it was of the greatest importance to continue discussing the financial aspects of eTIR but agreed that this could be done within the framework of discussions on Annex 11. On that assumption, the Working Party agreed that the issue would remain a separate agenda item in future agendas.

#### **4. Draft Annex 11 to the TIR Convention**

19. The Working Party recalled that, at its previous session, it had considered document ECE/TRANS/WP.30/2017/24, containing extensive proposals by GE.2 for a new draft Annex 11 to the Convention, which establishes the eTIR legal framework.

20. In the context of its discussions, the Working Party took note that GE.2, at its fifth session, had, inter alia, considered the detailed outcome of a survey on electronic authentication mechanisms in TIR Contracting Parties that had been conducted in 2016-2017 (see the summary in ECE/TRANS/WP.30/2018/3). The secretariat informed the Working Party that the results of the survey had revealed that regulations in some Contracting Parties had raised concern in terms of the access of foreign operators to the eTIR procedure in those countries. The delegation of the Russian Federation confirmed the survey findings, reiterating that all electronic declarations submitted to Russian customs authorities needed a Public Key Infrastructure (PKI) electronic signature that was issued by a domestic certification authority, and that these electronic signatures were not provided to foreign operators. He reminded the Working Party of the request to GE.2 to further analyse the concept of trusted third parties (TTPs) in the eTIR international system to verify the validity of a signature issued by a foreign certification authority. The Working Party agreed to further consider the application of TTPs at the next session of GE.1. The secretariat invited the delegation of the Russian Federation to participate in these discussions, particularly, with its experience in the regional framework agreement for paperless trade, adopted in the framework of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), envisaging reliance on TTP. The representative of IRU proposed that either a TTP recognized by all Contracting Parties be appointed (in this case: UNECE) or that Annex 11 stipulate that national representatives could sign on behalf of authorized TIR Carnet holders according to national requirements.

21. The delegation of Ukraine raised the question whether GE.1 or GE.2 had taken into consideration the fact that other documents are attached to the paper TIR Carnet and could also be attached in the case of electronic advance cargo information. The secretariat clarified that the issue had been considered by GE.1 and that various options to attached documents to the advance cargo information had been included, inter alia, scanned copies, XML files and links to electronic documents repositories. The secretariat further clarified that it had contributed to the inclusion of such information in the World Customs Organization (WCO) Data Model, which is used as a standard for all eTIR messages.

22. Concluding its discussions on the results of the survey, the Working Party decided to continue its considerations when discussing Articles 6 and 7 of draft Annex 11.

23. The Working Party took note that the Office of Legal Affairs (OLA) – Treaty Section had informed the secretariat that it would not be possible to introduce the opt-out clause for Annex 11 by means of a reservation, as proposed in new Article 58, paragraph 1 *bis*, considering that the Vienna Convention on the Law of Treaties (1969) only allows reservations to legal instruments at the moment of accession and not later on. Taking this into account, the secretariat informed the Working Party that it would submit a new



proposal, stipulating that Annex 11 would come into force by a certain deadline for all Contracting Parties, except for those that would notify the depositary, in writing, before that same or another deadline of their non-acceptance of the Annex. Most likely, the proposal would take the shape of amendments to the new Article 60 *bis* on the introduction and amendment procedure for Annex 11. These proposals would not materially impact the application of the provisions of Annex 11.

24. In this context, the delegation of the European Union proposed to review the decision-making mechanism as contained in Article 4 of draft Annex 11, possibly in combination with the introduction of a transitional period for Contracting Parties that (a) would accept Annex 11, but (b) not apply eTIR in the first phase. In its view, it seemed not correct to exclude this group of countries from the decision-making procedure as proposed in said Article 4. In reply, the secretariat proposed to consider introducing a clear differentiation between the moment a Contracting Party would accept Annex 11 and the moment that it would start implementing the Annex.

25. The delegation of the Russian Federation questioned the authentication methods proposed in document ECE/TRANS/WP.30/2018/4, as they did not comply with requirements of its national legislation. Instead, it proposed that TTP's could be used to allow the usage of national electronic signatures across borders and indicated that such technologies were envisaged to be implemented by the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific which was adopted at the seventy-second session of UNESCAP as resolution E/ESCAP/RES/72/4. The secretariat recalled that TTPs had been presented during meetings of GE.1 and GE.2 and that GE.1 considered, at that time, that the technology had not yet proven it could function. The secretariat further mentioned that GE.1 was aware of the concerns raised by some delegations on the mutual recognition of authentication methods, and continues to look into alternatives. In this context, experts in the field of blockchain technology would be invited to the twenty-eighth session of GE.1 to consider the possible application of these technologies to eTIR. The delegation of the Russian Federation was also invited to send its experts on TTPs to the next meeting of GE.1 to explain and present actual examples of the application of TTPs in an international context.

26. The delegation of Italy stressed that the main issue on which the Working Party was invited to express itself was the financing of the operational costs of the eTIR international system and, in particular, whether such costs should be covered through an amount per TIR transport or rather per eTIR transport. The delegation of Turkey, referring to the longstanding commitment of all Contracting Parties to the TIR Convention to move to full computerization of the TIR procedure, was of the view that all Contracting Parties should support the operational costs of the eTIR international system and that, consequently, the amount should be charged on all TIR and eTIR transports. The delegations of Belarus and the Russian Federation wondered whether the issuance of electronic guarantees would alter the roles of either the international organization or the national associations. The secretariat recalled that eTIR had been developed with the clear instruction from Contracting Parties to leave the principles and philosophy of the TIR Convention untouched. The delegation of Turkey confirmed that during the pilot project between Iran (Islamic Republic of) and Turkey, the roles of both entities had fully remained intact. The delegation of Italy confirmed from its side that the functioning of the TIR Convention in a computerized environment would not change the role of any of the stakeholders.

27. The delegation of the European Union stated that more clarity was required with regard to the financing mechanism before the European Union and its member States could accept Annex 11. In concluding the discussions at the current session, the Chair invited all delegations to provide comments on or proposals to Annex 11 in general, and its financing mechanism in particular, to the secretariat no later than 1 April 2018. With reference to the

financial rules mentioned in Annex 11, Article 10, paragraph 3, the delegation of the Russian Federation requested the secretariat to provide more information on the applicable United Nations rules and regulations for extrabudgetary projects. The delegation of the European Union requested the secretariat to also provide more information on the timeline to be applied for the financing of the operational costs of the eTIR international system. Finally, the secretariat was requested to prepare an amended version of Annex 11, in particular, but not limited to, taking into account the considerations by OLA.

## **C. Application of the Convention**

### **1. New developments in the application of the Convention**

28. No new developments in the application of the Convention were reported under this agenda item.

### **2. Issues transmitted by the Administrative Committee**

#### **(a) The application of greater facilities in the Convention**

29. The Working Party considered document ECE/TRANS/WP.30/2018/5, containing background information on the issue, as well as a number of examples of best practice of the use of the concept of authorized consignor/consignee in various Contracting Parties. The Working Party noted that TIR Carnet holders in various countries already benefitted from the facilitations of authorized consignor or consignee, while noting, at the same time, that the requirements and conditions differ from country to country. The delegation of the European Union confirmed its provisional agreement with the proposals prepared by TIRExB (see Part III of the document) and conveyed its willingness to continue sharing its experiences with the concepts of authorized consignor/consignee with other Contracting Parties. In its view, although there was broad consensus about the application of greater facilities in the today's world, it seemed that some Contracting Parties did not wish to go along with this development. The delegations of France, Latvia, Poland, Turkey and Ukraine shared their positive experience with the application of either or both concepts on its territory and clarified the strict conditions and requirements that applied for authorized TIR Carnet holders to be granted such facilitations under the application of the provisions of national law. The delegation of the Russian Federation confirmed that it could not support the proposals, considering that the absence of any evidence about the accuracy of the checks applied or the requirement imposed on TIR Carnet holders created risks for recipient countries. In addition, it felt that in order to accept the concepts, a clear description of conditions and requirements for the application of greater facilities in the TIR Convention would be required. It could only see any merit in the application of greater facilities at the end of a TIR transport, as it did not affect the application of the TIR Convention in other countries. The delegation of Belarus argued that any further discussions should focus on drafting a new provision to the Convention, which would address all aspects of the TIR procedure involved in the application of greater facilities. The Working Party concluded that, in the absence of consensus on the proposal, it only seemed feasible to make progress in the field of authorized consignee, while taking note that, in the meantime, the described practices in various Contracting Parties would continue. The Working Party decided to revert to the issue at its next session and invited delegations to provide the secretariat with comments or proposals no later than 1 April 2018.

#### **(b) The use of subcontractors in the Convention**

30. To recommence discussions, the Working Party reviewed document ECE/TRANS/WP.30/AC.2/2012/13 and noted the different points of view on the subject

matter. The representative of Turkey expressed its willingness to further consider the proposals in terms of practical consequences, including the need for a common understanding of the concept of subcontractor, clarification of the requirements to use vehicles, approved in accordance with the provisions of the TIR Convention if the subcontractor is not a TIR Carnet holder, and the requirement of a clear provision that the person directly liable would be the TIR Carnet holder. The representative of the national association of Ukraine informed the Working Party that based on a recent Decree, it had started permitting the use of authorized TIR Carnet holders as subcontractors. The representative of IRU underlined the importance of the issue for intermodal transports and requested the Working Party to work on a formulation that would not leave rail and shipping companies out of scope, due to the increased application of intermodal TIR transports. IRU also informed the Working Party that it had comprehensive information on the use of subcontractors in various Contracting Parties and proposed to submit a document for consideration of the Working Party at its next session. The Working Party welcomed the proposal by IRU and decided to revert to the issue at its next session on the basis of the IRU submission.

### **3. TIR-related electronic data interchange systems**

31. The Working Party was informed by IRU about the latest statistical data on the performance of Contracting Parties in the SafeTIR control system for TIR Carnets (Informal document WP.30 (2018) No. 3). In this context, countries were invited to review their current achievements and see if improvements in the transmission of SafeTIR data or replies to reconciliation request could be achieved, where appropriate. The delegation of Uzbekistan reported about problems in replying to reconciliation requests, due to the fact that TIR transports with the destination of Afghanistan were often ended at the Afghan border post without the appropriate messages sent to the SafeTIR control system. IRU explained that the difficulties encountered were due to security restrictions in Afghanistan.

### **4. Settlement of claims for payments**

32. The Working Party was informed by IRU about the current situation on the settlement of claims for payments made by customs authorities against national guaranteeing associations (Informal document WP.30 (2018) No. 4).

### **5. Relation between the World Trade Organization Trade Facilitation Agreement, the TIR Convention and other legal instruments**

33. No new developments were raised under this agenda item.

### **6. IRU external audit report and related matters**

34. Under this agenda item, IRU informed the Working Party, in reply to a question from the delegation of the Russian Federation on the status of the case lodged with the Federal Prosecutor of Geneva, that no new information was available. Further to a request of the delegation of the Russian Federation, the Working Party decided to leave the issue on its agenda and to revert to it in the future when the occasion would arise.

### **7. Other matters**

35. Under this agenda item, the Working Party considered Informal document WP.30 (2018) No. 2 by IRU, and took note that on 8 January 2018, the Romanian customs authorities had authorized the National Union of Road Hauliers from Romania (UNTRR) to act as TIR guaranteeing association in Romania, in accordance with the provisions of Article 6, paragraph 2 and Annex 9, Part I. This development would ensure the uninterrupted effective management of the international TIR guarantee system in Romania.

The Working Party further took note that, on 14 November 2017, IRU had informed the UNECE secretariat that, at a meeting of the IRU Presidential Executive meeting on 8 November 2017, the Presidential Executive had decided to exclude Asociația Română Pentru Transporturi Rutiere Internaționale (ARTRI) from its membership. ARTRI had filed an appeal with the IRU General Assembly, which would rule on this appeal at its meeting on 4 May 2018. The Working Party further took note of Informal documents WP.30 (2018) Nos. 5 and 6, containing letters by the Romanian customs authorities and ARTRI, respectively. In their letter, the Romanian customs authorities reflected on the relation between IRU and ARTRI and the course of actions taken as a consequence of the exclusion of ARTRI by IRU. They proposed that TIRExB should study the possibility of drafting an Explanatory Note to Article 6, paragraph 2 bis to address the termination of the written agreements between the international organization and ARTRI. The delegations of the Russian Federation, Uzbekistan and the European Union supported this proposal. In addition, the delegation of the Russian Federation proposed to conduct an analysis of the text of the Convention to see if amendments are warranted to rule out, for the future, any possibility for IRU to take unilateral actions which would lead to the disruption of the functioning of the Convention on the territory of any Contracting Party.

36. In its letter and oral statement during the session, ARTRI recapitulated the situation of TIR Carnets issued by it until 31 January 2018. In particular, it reported on incidents where ARTRI TIR Carnet holders were blocked at the borders of the Republic of Moldova, the Russian Federation and Turkey. In addition, it challenged if IRU had provided customs authorities with sufficient guidance on how to properly instruct their customs offices to deal with the situation at hand. The delegation of Azerbaijan informed the Working Party that it had not officially received information on how to treat TIR Carnets issued by ARTRI and requested that such information be sent through official channels so that appropriate actions could be taken. Various delegations informed that, despite clear instructions given, there might have been some slight hesitations from some individual customs officers on how to deal with the situation, but that the issue now seemed to have been settled. IRU confirmed that three incidents had been reported, two of which had been resolved and one was currently under investigation. From its side, the delegation of the European Union informed the Working Party that over the past months it had been in close contact with all stakeholders. With reference to Informal document WP.30 No.5 (2018) by the Romanian customs authorities, she mentioned, in particular, that concerns had been raised with regard to authorizing holders for the new association (UNTRR) as well as the transfer of ARTRI members to UNTRR, but that, presently, the issue seemed to be under control. In reply to a question by the delegation of the Russian Federation about the legal grounds for the exclusion of ARTRI, IRU replied that the decision was taken following defamatory allegations by ARTRI against IRU. IRU confirmed that Romanian customs authorities had decided to maintain both the guarantee agreements with ARTRI and UNTRR and that the insurance certificate of ARTRI was valid until 31 January 2018. IRU also confirmed that any claim addressed to either association would be treated with due care and to the satisfaction of the Romanian customs authorities. At the request of ARTRI, the Working Party agreed that its oral statement could be attached as Annex to the final report.

## **VII. International Convention on the Harmonization of Frontier Controls of Goods, 1982 (“Harmonization Convention”) (agenda item 5)**

### **A. Status of the Convention**

37. The Working Party was informed that no changes in the status of the Convention or the number of Contracting Parties had taken place. The Harmonization Convention has fifty-eight Contracting Parties. More detailed information on this issue as well as on depositary notifications is available on the TIR website.<sup>2</sup>

### **B. Issues in the application of the Convention**

38. The Working Party decided that a next session of the Administrative Committee of the Harmonization Convention (AC.3) should be convened in conjunction with its 2019 June session and mandated the secretariat to make the necessary arrangements, including the preparation of pre-, in- and post-session documents. Contracting Parties were invited to provide input to the secretariat about issues they would want to be addressed at that session.

## **VIII. International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952 (agenda item 6)**

39. The Working Party expressed gratitude for and satisfaction with the work done by the secretariat and the group of Experts. The Working Party considered documents ECE/TRANS/WP.30/2018/6 containing the final text of the draft Convention, in combination with document ECE/TRANS/WP.30/2018/6/Corr. 2, containing the following two corrections to the text of Article 27, further to a final review by the United Nations Office of Legal Affairs, Treaty Section (OLA-TS): (a) to change the deadline for an amendment to enter into force from thirty days to three months, in order to achieve alignment with the entry into force of the Convention for newly acceding States, as stipulated by Article 22, paragraph 2; (b) to invert, for reasons of logic, the order of paragraphs 3 and 4, which should then be renumbered accordingly. In the context of its discussions, the Working Party took also note of document ECE/TRANS/WP.30/2018/7, containing a set of final clauses, as prepared by the secretariat in close consultation with OLA-TS.

40. Under this agenda item, the secretariat informed the Working Party about the outcome of the discussions by the Working Party on Rail Transport (SC.2) at its seventy-first session (November 2017). In particular, the Working Party took note that SC.2 had asked WP.30 to take further steps towards finalizing the adoption of the draft convention for the purpose of submitting it for approval to ITC (see ECE/TRANS/SC.2/228, paras. 33–39). The delegations of Azerbaijan, Belarus, Iran (Islamic Republic of) and Uzbekistan expressed their interest in the draft Convention and reported on the ongoing inter-agency consultations that were currently taking place. The delegation of Azerbaijan was in favour of keeping the issue on the agenda of the next sessions. The draft Convention was also under consideration of the authorities of Turkey. The delegation of the European Union

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<sup>2</sup> [www.unece.org/tir/tir-depositary\\_notification.html](http://www.unece.org/tir/tir-depositary_notification.html)

informed the Working Party that consultations on a Council decision about the position to be taken on behalf of the European Union were ongoing. In its view, the absence of a clause stipulating the possibility for Regional Economic Integration Organizations (REIO) to accede to the new Convention constituted a problem for the European Union to agree on the text. In conclusion of the agenda item, the Working Party invited the representatives of interested countries to conclude their internal approval procedures and inform the secretariat about any eventual comments no later than 1 April 2018, so that a final text of the draft Convention could be considered as official document at the June 2018 session of the Working Party. The delegations of Belarus and the Russian Federation requested the secretariat to make arrangements so that SC.2 delegations would attend future sessions of the Working Party as well as to extend invitations to interested countries from Asia, including China and Mongolia, to participate in the discussions. The secretariat was also requested to rephrase the title of the concerned agenda item to reflect that the issue refers to the new draft Convention on the Facilitation of Border Crossing Procedures for Passengers, Luggage and Load-Luggage carried in International Traffic by Rail rather than to the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952. Finally, the Working Party requested the Chair to duly report to ITC at its forthcoming session on progress with the road map and the latest state of play of the draft Convention.

## **IX. Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956) (agenda item 7)**

### **A. Status of the Convention**

41. The Working Party was informed that 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.

### **B. Issues in the application of the 1954 Convention in Egypt and Jordan**

42. The Working Party recalled that, at its previous session, it took note of document ECE/TRANS/WP.30/2017/27 about the ongoing issues in Egypt and Jordan in the application of the 1954 Convention, particularly due to the fact that customs authorities did not seem to respect the deadlines and procedures laid down in the Convention and that the secretariat had sent official letters on 27 July 2017 to the Governments of Egypt and Jordan through their permanent missions in Geneva and had sent reminder letters on 27 September 2017. The secretariat informed the Working Party that, since then, contact had been established with the permanent missions of both countries to request their assistance in obtaining feedback from their respective customs authorities, but that, so far, no such feedback had been provided.

43. The representative of FIA/AIT informed the Working Party that over the last months the situation in both countries had remained unchanged and expressed her regret that despite all joint efforts of FIA/AIT, their affiliated associations and, lately, UNECE no feedback or clarifications from either country had been obtained. She reconfirmed the availability of FIA/AIT to facilitate discussions between customs authorities and guaranteeing associations to address, and hopefully resolve, this situation within the legal framework of the Convention. The Working Party requested the secretariat to extend an

official invitation to the permanent missions of Egypt and Jordan to attend further discussions of the matter at its next session.

## **X. Activities of other organizations and countries of interest to the Working Party (agenda item 8)**

### **A. European Union**

44. The Working Party was informed that there were no recent developments in the European Union related to the activities of the Working Party which merited reporting.

### **B. Economic Cooperation Organization, Eurasian Economic Commission, World Customs Organizations**

45. Due to the absence of delegations from ECO, EEC and WCO at the session, no information was provided.

## **XI. Other business (agenda item 9)**

### **A. List of decisions**

46. The Working Party reviewed the list of decisions without further comments and requested the secretariat to continue this practice. The list of decisions is attached as Annex II to the report.

### **B. Dates of the next sessions**

47. The Working Party decided to conduct its 149th session from Tuesday 12 until Thursday 14 June 2018 and the 150th session in the week of 15–19 October 2018, subject to confirmation.

### **C. Restriction on the distribution of documents**

48. The Working Party decided that there would not be any restrictions on the distribution of documents issued in connection with its current session.

## **XII. Adoption of the report (agenda item 10)**

49. In accordance with established practice, the Working Party adopted the report on its 148th session on the basis of a draft prepared by the secretariat.

## Annex I

[English only]

### Statement by Mr. Cristian Șerban, Deputy General, Asociația Română Pentru Transporturi Rutiere Internationale (ARTRI)

#### AGENDA ITEM 4. C) VII "OTHER MATTERS"

Thank you, Mr Chairman.

I would like to make a brief statement, due to the importance of the situation for the application of the TIR Convention and the law in general.

1. I will start by thanking the Secretariat for issuing the Corrigendum to the Annotated provisional agenda for this WP.30 session. Indeed, further to a meeting of the IRU Presidential Executive on 8 November 2017, it was the IRU Presidential Executive that had decided to exclude ARTRI from its membership. ARTRI filed an appeal with the IRU General Assembly, which will rule on this appeal at its next session, in May. Until then, ARTRI remains *de facto* a member of the IRU.

2. As an unfortunate result of the IRU representatives' decision to also unilaterally terminate the deeds of engagement between IRU and ARTRI, IRU communicated to the TIR Contracting Parties – through the unsigned circular letter TIR/GE5761/JGE dated 24<sup>th</sup> of January 2018, that:

- "As of 1<sup>st</sup> February 2018, ARTRI will be no longer authorised (by the IRU) to issue TIR Carnets";

- "All unissued TIR Carnets will be invalidated by the IRU at that time";

- "All TIR Carnets issued by ARTRI to its Holders up to 31<sup>st</sup> January 2018 will remain valid and may be presented for acceptance at any customs office of departure on or before the final date of the carnet's validity".

4. Moreover, on 1<sup>st</sup> February, a list of 739 unissued TIR Carnets, currently in ARTRI's stock were invalidated by IRU, regardless of the fact that ARTRI previously paid for them, as well as for their full insurance for 2018. Consequently, I underline that none of these invalidated TIR Carnet is in circulation.

5. During the last few days, we received numerous reports from our TIR Holders, being blocked in various border customs offices from Moldova, Turkey and Russian Federation. The reason: **their valid TIR Carnets, issued by ARTRI before 1<sup>st</sup> February 2018, are not accepted anymore – simply because they were issued by ARTRI.**

6. It might have been a misunderstanding, or maybe a lack of clarity in IRU's communication with the Customs Authorities. Nevertheless, **we make an appeal to all the Contracting Parties present in this room, to transmit as soon as possible proper instructions to their customs offices, in order to unblock the situation.**

6. We also hope that the IRU will issue as soon as possible an official communication to the Contracting Parties with the necessary clarifications in this respect, in order to ensure the uninterrupted application of the TIR System for the Romanian TIR Holders.

7. From our side, rest assured that we will continue all our legal steps to obtain full clarification on the mismanagement of TIR Holders funds and we will keep you informed accordingly.

Thank you for your attention and support and I will of course provide a copy of my statement for the report to the Secretariat.

Cristian Șerban

Deputy Secretary General, ARTRI





## Annex II

## List of decisions taken at the 148th session of the Working Party

<i>Reference in final report (para.)</i>	<i>Short description of decision</i>	<i>Actor</i>	<i>Deadline</i>
7	Invitation letter to Chinese customs	secretariat	asap
8	Prepare comparative document TIR/RKC and WTO/TFA on the application of customs procedures in customs unions	Delegation of Ukraine	1 April 2018
8	Provide feedback to secretariat on proposals to amend Art. 20	Delegations	1 April 2018
9	Assess E.N. 0.8.3. to improve wording or conversion to comment	Delegations	1 April 2018
11	Prepare document on new Article 11, 4 <u>bis</u>	secretariat	1 April 2018
18	Provide information on MoU and CA	secretariat	1 April 2018
27	Submit comments to Annex 11	Delegations	1 April 2018
27	Prepare updated version of Annex 11	secretariat	1 April 2018
27	Prepare document on UN Financial Rules	secretariat	1 April 2018
27	Prepare timeline for financing operational costs	secretariat	1 April 2018
29	Provide comments/proposals authorized consignor	Delegations	1 April 2018
30	Prepare document on subcontractors in various countries	IRU	1 April 2018
35	Request TIRExB to study E.N. to Article 6, 2 <u>bis</u> (via AC.2)	secretariat	asap
38	Convene 11th session of AC.3 in conjunction with the 152nd session of WP.30 (June 2019)	secretariat	March 2019
39	Submit comments to new draft Rail Convention	Delegations	1 April 2018
39	Rephrase title and substance of agenda item	secretariat	12 March 2018
39	Report findings on draft Rail Convention to ITC	Chair	21 February 2018
43	Invite missions Egypt and Jordan to 149th session of WP.30	secretariat	asap