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**Working Party on Customs Questions
affecting Transport**

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS
AFFECTING TRANSPORT ON ITS EIGHTY-EIGHTH SESSION
(23 to 27 June 1997)**

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REPORT

ATTENDANCE

1. The Working Party held its eighty-eighth session from 23 to 27 June 1997.
2. The session was attended by representatives of the following countries: Austria; Belarus; Belgium; Bulgaria; Croatia; Cyprus; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Italy; Kazakstan; Latvia; Luxembourg Netherlands; Norway; Poland; Republic of Moldova; Romania; Russian Federation; Slovakia; Slovenia; Spain; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom; United States of America; Uzbekistan. Representatives of the European Community (EC) were also present. Egypt, the Islamic Republic of Iran and Uruguay participated under paragraph 11 of the Commission's terms of reference.
3. The United Nations Conference on Trade and Development (UNCTAD) was represented.
4. The following intergovernmental organization was represented: World Customs Organization (WCO).
5. The following non-governmental organizations were represented: International Road Transport Union (IRU); International Touring Alliance (AIT)/International Automobile Federation (FIA); International Chamber of Commerce (ICC); International Federation of Freight Forwarders Associations (FIATA); Gulf Automobile Federation (GAF).

ADOPTION OF THE AGENDA

6. The Working Party adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/175) with the addition of the following items:

- | | |
|--------------------|--|
| Agenda item 3 (c): | European Conference of Ministers of Transport (ECMT). |
| Agenda item 3 (d): | United Nations Conference on Trade and Development (UNCTAD). |

The following issue is to be considered under agenda item 4 (c)(ix) "Other matters": Validity of the new certificate of approval of a road vehicle.

ACTIVITIES OF ECE BODIES OF INTEREST TO THE WORKING PARTY

Economic Commission for Europe

Documentation: E/ECE/1347 and Corr.1; E/ECE/1354.

7. The Working Party was informed about the results of the fifty-second session of the Economic Commission for Europe (21-25 April 1997) and noted that a Plan of Action had been adopted which enacted a reform of the ECE and its secretariat. This Plan of Action will streamline the intergovernmental machinery of the ECE and will modify its way of operation. In accordance with this plan, the Working Party would need to review in detail its future programme of work at its next session in October, prioritizing its activities and taking into account a reduction of available secretariat resources.

ACTIVITIES OF OTHER ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

(a) World Customs Organization (WCO)

8. The Working Party was informed about the results of the 159/160th sessions of the Permanent Technical Committee of the WCO (24-28 March 1997) and of progress made in the revision of the Kyoto Convention. The revised Convention would consist of one general annex containing core aspects of all Customs procedures which would become obligatory and a number of specific annexes covering individual Customs procedures, such as transit.

9. In mid-June 1997, the Istanbul Convention on Temporary Admission of 1990 was ratified by the European Community and its 15 member States.

(b) European Community (EC)

10. The Working Party was informed that on 20 April 1997 the European Commission had issued an Action Plan for transit in Europe which intends to re-establish security in the Community and Common Transit Systems and provides a basis and a permanent point of reference for a number of concrete proposals reforming Customs transit procedures in Europe. The European Commission (EC) has also organized a conference for transit operators and Customs authorities on the architecture, requirements and progress made in the implementation of the New Computerized Transit System (NCTS) to be utilized in the EC, EFTA and Visegrad countries.

(c) European Conference of Ministers of Transport (ECMT)

Documentation: Informal document transmitted by the ECMT.

11. The Working Party was informed that the Council of the European Ministers of Transport had adopted at its session in Berlin (21 and 22 April 1997), a Resolution on "Crime in Transport" addressing a number of activities to be undertaken by Ministries of Transport, Customs authorities, shippers, hauliers and insurance companies to safeguard the TIR and the Common and Community Transit Systems.

(d) United Nations Conference on Trade and Development (UNCTAD)

Documentation: TD/BCOM.3/EM.1/2.

12. The Working Party noted that UNCTAD had convened an expert group meeting on the use of information technologies to make transit arrangements more effective (Geneva, 5-7 May 1997). The meeting recommended to utilize information systems, such as those developed for UNCTAD's Customs reform (ASYCUDA) and cargo tracking (ACIS) programmes, with a view to providing increased control and reliability of Customs transit procedures.

CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS (TIR CONVENTION, 1975)

(a) Status of the Convention

13. The Working Party was informed that, with the accession of Tajikistan and Turkmenistan on 11 March 1997 and on 18 March 1997 respectively, the Convention has at present 61 Contracting Parties, including the European Community (EC).

(b) Revision of the Convention

(i) Proposals for amendments of the Convention

Documentation: Informal documents prepared by the Russian Federation, IRU, the International Chamber of Commerce (ICC) and the ECE secretariat; TRANS/WP.30/R.190; TRANS/WP.30/R.189; TRANS/WP.30/R.188; TRANS/WP.30/R.187; TRANS/WP.30/R.185; TRANS/WP.30/R.184; TRANS/WP.30/R.183; TRANS/WP.30/R.180; TRANS/WP.30/R.179; TRANS/WP.30/R.178; TRANS/WP.30/R.175; TRANS/WP.30/R.172; TRANS/WP.30/R.171; TRANS/WP.30/R.170; TRANS/WP.30/R.165; TRANS/WP.30/R.163 and Corr.1; TRANS/WP.30/R.162.

14. The Working Party continued its examination of the amendment proposals as circulated in document TRANS/WP.30/R.189 prepared by the secretariat. The Working Party recalled that at its eighty-fourth, eighty-fifth (special), eighty-sixth and eighty-seventh sessions, it had considered most of these amendment proposals in detail taking into consideration the various comments and suggestions made by Contracting Parties, national associations and the IRU (TRANS/WP.30/174, paras. 19-21; TRANS/WP.30/172, paras. 10-12; TRANS/WP.30/170, paras. 6-12; TRANS/WP.30/168, paras. 57-63). The TIR Administrative Committee, at its twenty-first and twenty-second sessions, had considered the remaining amendment proposals (TRANS/WP.30/AC.2/45, paras. 12-18; TRANS/WP.30/AC.2/43, paras. 10-13).

15. The Working Party also took note of a secretariat document prescribing possible modalities for the collection of a levy on TIR Carnets (TRANS/WP.30/R.190). This document together with an earlier submitted document on the functions of the TIR Executive Board (TRANS/WP.30/R.179) provides detailed information on the legal basis, the functions and the administrative procedures required to establish a TIR Executive Board.

16. Taking account of the above, the Working Party considered once more all amendment proposals to the TIR Convention as contained in document TRANS/WP.30/R.189 and decided on the following modifications to be made to the legal text contained in this document:

Annex 8, new Article 9

Replace the paragraph numbers (a) and (b) by: 1. and 2.

Annex 8, new Article 10, paragraph (a)

Maintain paragraph (a) as it stands (delete the square brackets).

Annex 8, new Article 10, paragraph (b)

Maintain paragraph (b) as it stands (delete the square brackets).

Annex 8, new Article 10, paragraph (g)

Replace paragraph (g) to read as follows:

"(g) maintain a central record for the dissemination to Contracting Parties of information to be provided by the international organization as referred to in article 6, on all rules and procedures prescribed for the issue of TIR Carnets by associations, as far as they relate to the minimum conditions and requirements laid down in annex 9;"

Annex 8, new Article 10, paragraph (h)

Replace paragraph (h) to read as follows:

"(h) monitor the price of TIR Carnets."

Annex 8, new Article 10, paragraph (i)

Delete paragraph (i).

Annex 8, new Article 11

Replace the paragraph numbers (a) to (e) by: 1. to 5.

Annex 8, new Article 11, paragraph 3

Replace paragraph 3 to read as follows:

"3. The Board shall elect a Chairman and shall adopt any additional rules of procedure."

Annex 8, new Article 11, paragraph 4

Modify the first sentence of paragraph 4 to read as follows:

"4. The Board shall report on its activities, including the submission of audited accounts, to the Administrative Committee at least once a year or at the request of the Administrative Committee. ..."

Annex 8, new Article 12

Replace the text of article 12 by the following:

"Article 12

The TIR Secretary shall be a member of the secretariat of the United Nations Economic Commission for Europe and shall execute the decisions of the TIR Executive Board within the Terms of Reference of the Board. The TIR Secretary will be assisted by a TIR secretariat, the size of which shall be determined by the Administrative Committee."

Annex 8, new Article 13

Add a new article 13 to read as follows:

"Article 13

1. The operation of the TIR Executive Board and the TIR secretariat shall be financed, until such time as alternative sources of funding are obtained, through a levy on each TIR Carnet distributed by the international organization as referred to in article 6.
2. The amount of the levy and the procedure for its collection shall be determined by the Administrative Committee following consultations with the international organization as referred to in article 6. Any proposed changes to the levy shall be authorized by the Administrative Committee."

Annex 6, Explanatory Note 8.13.1-1

Add an explanatory note to annex 8, article 13, paragraph 1 to read as follows:

"8.13.1-1 Financial arrangements

Following an initial period of two years, the Contracting Parties to the Convention envisage the operation of the TIR Executive Board and the TIR secretariat to be financed through the regular budget of the United Nations. This does not preclude a prolongation of the initial financing arrangements should financing from the United Nations or alternative sources not be forthcoming."

Annex 6, Explanatory Note 8.13.1-2

Add a second explanatory note to annex 8, article 13, paragraph 1 to read as follows:

"8.13.1-2 Operation of the TIR Executive Board

The work of the members of the TIR Executive Board will be financed by their respective Governments."

Annex 9, Part II, paragraph 1 (e) (iii)

Modify paragraph 1 (e)(iii) to read as follows:

" (iii) will, as far as national legislation permits, allow associations to verify information on the above minimum conditions and requirements."

(ii) Revision procedure (phase I of the revision process)

17. Having agreed by consensus on the amendment proposals pertaining to the first phase of the TIR revision process, the Working Party expressed its appreciation to all delegations from Customs authorities, Ministries of Transport, the IRU, its national member associations and the insurance industry for their constructive work and their sense of compromise. The Working Party was aware that not all problems could be addressed during this first phase of the revision process, but stressed that a first step has been taken to stabilize the TIR procedure and to establish a machinery which provided for an effective cooperation between Customs authorities and the users of the TIR procedure. The Working Party expressed the hope that these new mechanisms of the TIR Convention would be implemented as soon as possible by all parties concerned in a spirit of mutual confidence and goodwill.

18. The Working Party decided to transmit all adopted amendment proposals to the TIR Administrative Committee for consideration and formal adoption at its twenty-third session (26 and 27 June 1997). The amendment proposals adopted by the Working Party were contained in document TRANS/WP.30/R.189 and in conference room documents TRANS/WP.30/CRP.44/Add.1 and 2.

(iii) Elements for revision in phase II of the revision process

19. The Working Party considered whether and which additional elements should be included, as part of phase II, into a revised Convention on a priority basis. The Working Party noted that in addition to provisions to improve the TIR guarantee system and the existing TIR Carnet, the following elements might be considered:

- Multi-user TIR Carnet and TIR Carnet for sensitive goods
- Simplified Customs procedures
- Alternative proof for the proper discharge of TIR Carnets
- Harmonized national procedures in the application of the TIR Convention (responsibilities of all parties involved in the TIR procedure, administrative and legal steps to lodge payments claims, etc.)
- Definition of the status and functions of international organizations
- Reduction in the delay for the notification of non-discharged TIR Carnets
- EDI TIR Carnet control system
- Electronic messages allowing for computerization of the TIR procedure
- Different types and levels of guarantee.

20. The representative of the European Community emphasized the need to ensure that operators received similar facilities under the Community/Common Transit and the TIR regimes and that the future versions of all the regimes should be harmonized as far as possible.

- Revised TIR guarantee system

Documentation: TRANS/WP.30/R.195 and Corr.1; TRANS/WP.30/R.186; TRANS/WP.30/R.182; TRANS/WP.30/R.181; TRANS/W.30/R.178; TRANS/WP.30/R.162.

21. As recommended by the Working Party, the secretariat had convened an expert group on a revised guarantee system for the TIR procedure. The meeting which was held on 8 and 9 April 1997 in Geneva was attended by experts from 14 ECE member States and from the European Commission as well as, on the second day, by experts from the IRU, national associations and the insurers of the TIR guarantee system.

22. The expert group reviewed possible ways and means to arrive at an international guarantee system which was inherently stable and well functioning based on various suggestions made earlier. It proposed a number of concrete measures to improve the performance of the TIR guarantee system realizing that a replacement of the present centralized system by a decentralized system, possibly along the lines of the Community and Common Transit regimes applicable in the European Union and some other countries, seemed to be neither possible nor necessary for the moment (TRANS/WP.30/R.195 and Corr.1).

23. The Working Party decided to consider these proposals further, possibly by convening another informal expert group meeting on this subject. This group might also wish to consider the practical implications of the proposed provisions of new Annex 9, Part I (f)(v) of the Convention as well as the proposal of the Russian Federation to define in detail the relationship between national associations and the international organization for the settlement of payment claims (TRANS/WP.30/R.186).

- Revised TIR Carnet

Documentation: TRANS/WP.30/R.176.

24. Due to lack of time, the Working Party decided to postpone to its next session the examination of a first draft of a revised TIR Carnet that had been prepared by the ECE secretariat in cooperation with the IRU already in October 1996 (TRANS/WP.30/R.176). It was suggested that this draft should be accompanied by explanations providing the reasoning for the modifications proposed.

25. The IRU offered to prepare a new version of the first draft of a revised TIR Carnet for consideration by the Working Party at its next session.

(c) Application of the Convention

(i) Status of resolution No. 49

Documentation: TRANS/WP.30/162, annex 2.

26. The Working Party noted that resolution No. 49: "Short-term measures to ensure the security and the efficient functioning of the TIR transit system" adopted by the Working Party at its eighty-first session (TRANS/WP.30/162, annex 2) has been officially accepted so far by the following Contracting Parties to the Convention: Austria; Belarus; Belgium; Bulgaria; Croatia; Czech Republic; Denmark (to be confirmed); Estonia; Finland; France; Germany; Greece; Hungary; Iran (Islamic Republic of); Ireland; Italy; Jordan; Lithuania; Luxembourg; Netherlands; Norway; Poland; Romania; Russian Federation; Slovakia; Slovenia; Spain; Sweden; Switzerland; Turkey; United Kingdom; European Community.

27. Other Contracting Parties to the Convention that have not yet informed the Executive Secretary of the ECE of their acceptance of resolution No. 49 were requested to do so as soon as possible.

(ii) EDI control system for TIR Carnets: Implementation of the Recommendation adopted on 20 October 1995

Documentation: Informal documents prepared by the IRU; TRANS/WP.30/R.193; TRANS/WP.30/AC.2/37.

28. The Working Party was informed about the implementation of the recommendation adopted by the TIR Administrative Committee on 20 October 1995 relating to the introduction of an EDI control system for TIR Carnets (TRANS/WP.30/AC.2/37, annex 4). The Working Party took note of the results of the third session of the group of experts on the implementation of the EDI control system for TIR Carnets (27 February 1997) which, unfortunately, had been attended by only very few delegates (TRANS/WP.30/R.193).

29. The IRU made a presentation on the current status of the SAFETIR system and informed the Working Party that at present 29 countries provided data on discharged TIR Carnets. IRU, following necessary checking and reconciliation procedures, transmitted the data on these Carnets to the associations that had issued them.

30. The Working Party was also informed of a new interface to be developed by the IRU within the next months allowing direct access by Customs authorities to the IRU data bank on terminated and invalid (i.e. stolen) TIR Carnets. Access was envisaged to be available via the Internet, direct IRU computer link or E-mail. The Working Party decided to consider at its next session the options offered taking into account possible data security problems.

31. The Working Party also took note of a request made by the IRU to add the page number of the vouchers in the TIR Carnet to the existing seven data elements prescribed in the Recommendation of the TIR Administrative Committee. The IRU was of the view that such additional information would considerably reduce the error rate in the transmission of data, particularly in case of partial discharge of goods during a TIR procedure.

(iii) Settlement of claims for payments

Documentation: Informal document transmitted by the IRU; TRANS/WP.30/R.192.

32. Following a detailed discussion at the eighty-fourth session of the Working Party (TRANS/WP.30/168, paras. 46-49) on the national administrative procedures required to ensure a valid discharge of TIR Carnets by Customs authorities, the Russian Federation transmitted a document on their interpretation of discharge requirements (TRANS/WP.30/R.192). An informal document contesting the views of the Russian Federation was transmitted by the IRU.

33. In the view of the Russian Federation, the duly stamped counterfoil of voucher No. 2 in the TIR Carnet should be regarded as proof of Customs discharge and in case false Customs stamps were apposed to this counterfoil, the discharge was obtained in an improper or fraudulent manner.

34. The Working Party upheld its position taken earlier on this matter (TRANS/WP.30/168, para. 47) and stressed that the certificate of discharge could only be provided through an official Customs act using, as provided for in Annex 1 to the Convention, the return slip in voucher No.2 of the TIR Carnet for transmission to and verification by the Customs office of departure or entry following presentation of the goods at the Customs office of destination or exit. The counterfoils, remaining in the TIR Carnet, were not intended and should not be regarded to provide proof of discharge and, as stipulated in a comment to article 10 of the Convention (TRANS/WP.30/159, para.38), could only provide exceptionally for alternative evidence that a proper discharge procedure has taken place.

35. In line with this reasoning, false stamps could not be regarded as proof of an official Customs act confirming the presentation of the goods at the Customs office of destination or exit. In case false Customs stamps were used, a discharge had not taken place. Thus, it would not be appropriate to consider such a procedure as a discharge which had been obtained in an improper or fraudulent manner.

36. The Working Party invited the Russian Federation to review its position on this matter in light of the above considerations, with a view to arriving at a harmonized application of the TIR procedure in line with the provisions and the spirit of the Convention.

37. The Working Party also decided to reconsider, at its forthcoming session, the wording of a comment to the model of the TIR Carnet (Annex 1 to the Convention) pertaining to the discharge of TIR Carnets. This comment would need to be reformulated in light of the context in which it had been adopted in the year 1985 (TRANS/GE.30/45, paras. 33 and 34).

(iv) Application of the TIR procedure in the Russian Federation and in the Customs Union between Belarus, Kazakstan, Kyrgyzstan and the Russian Federation

Documentation: TRANS/WP.30/R.194.

38. The Working Party took note of a document transmitted by Hungary requesting to take a position regarding the implementation of the TIR Convention on the territory of the Russian Federation, particularly with respect to the Customs Union between the Russian Federation and Kazakstan (TRANS/WP.30/R.194).

39. The representative of the Russian Federation pointed out that while a Customs Union has been established between Belarus, the Russian Federation and Kazakstan, Customs procedures have been abolished at the Belarus-Russian border only. Customs procedures still existed at the Kazak-Russian border.

40. The representatives of the United Kingdom and of a number of other countries voiced concern about the application of the TIR Convention in the Russian Federation which often seemed not to be in line with the provisions of the Convention. This related in particular to the latest directive no longer allowing transport operators to use TIR Carnets issued to other persons on the territory of the Russian Federation.

41. The representative of the European Community described approaches made at international level to solve earlier problems in cooperation with the Russian Federation and expressed grave concern at the latest difficulties currently affecting the United Kingdom and several other Community member States.

42. The representative of the Russian Federation stated that he understood the concern of a number of country representatives on the practice of implementing the TIR Convention in the Russian Federation and said that such practice could be explained by the large number of violations of the TIR procedures and the unsatisfied claims of the Russian Customs authorities.

43. The representative of the Russian Federation felt that the directive referred to in paragraph 40 above, applicable to all transport operators, was in line with the provisions of the TIR Convention and would be withdrawn as soon as the level of fraud in relation with the TIR procedure had been brought under control.

44. In this context, the representative of the IRU drew attention to the provisions of article 8, paragraph 7 of the Convention which should be complied with by all Contracting Parties.

(v) Validity of the new certificate of approval of a road vehicle

45. The Working Party, on being informed of legal difficulties in one country relating to the implementation of the provisions on the new certificate of approval of a road vehicle, requested the secretariat to inform all Contracting Parties of these specific legal problems, by mid-July at the latest, based on concrete information obtained from this country and from the international insurers.

46. Due to lack of time, the Working Party did not consider the following items:

Interpretation of article 3 of the Convention

Improved procedures in the use of TIR Carnets by transport operators

International register on Customs sealing devices

International directory of TIR focal points

CUSTOMS CONVENTIONS ON THE TEMPORARY IMPORTATION OF PRIVATE ROAD VEHICLES
(1954) AND COMMERCIAL ROAD VEHICLES (1956)

(a) Status of resolution No. 48

Documentation: TRANS/WP.30/151, annex 4.

47. The Working Party noted that at the present the following Contracting Parties have informed the secretariat of their acceptance of resolution No. 48: Belgium; Bosnia-Herzegovina; Cyprus; Denmark; France; Germany; Iran (Islamic Republic of); Italy; Norway; Spain; Switzerland; United Kingdom; European Community.

(b) Difficulties in the application of the 1954 Convention in Egypt

Documentation: Informal document transmitted by the AIT/FIA.

48. At its eighty-fourth session, the Working Party had noted with concern a report of the International Touring Alliance (AIT) on very serious difficulties in the application of the 1954 Convention in Egypt. This situation endangered the facilities provided by the Convention in all Contracting Parties world-wide and jeopardized the functioning of its international guarantee system. At the eighty-seventh session of the Working Party, the representatives of Egypt and the AIT/FIA promised to cooperate closely to settle the problems encountered (TRANS/WP.30/174, paras. 55 and 56; TRANS/WP.30/168, paras. 75 and 76).

49. The representatives of Egypt and the AIT/FIA informed the Working Party that considerable progress has been made in resolving these problems and that Egypt has confirmed the full application of the 1954 Convention on its territory. The Working Party welcomed these developments and encouraged all parties concerned to continue their constructive dialogue with a view to re-establishing confidence in the functioning of the Convention.

50. In this context, the Working Party was informed of difficulties in the interpretation of the Convention in Australia and invited the AIT/FIA to submit a document on these difficulties for consideration at the next session of the Working Party.

51. The Working Party also noted that the AIT/FIA had prepared a comprehensive Handbook on CPD Carnets (carnets de passages en douane) which could be procured from the AIT secretariat in Geneva.

52. Due to lack of time, the Working Party did not consider the following items:

CUSTOMS CONVENTION CONCERNING SPARE PARTS USED FOR REPAIRING EUROPEAN WAGONS

Revision of the Convention

PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS

USE OF THE INTERNET FOR DISSEMINATION OF INFORMATION OF RELEVANCE FOR CUSTOMS AUTHORITIES AND THE TRANSPORT INDUSTRY

Documentation: Informal document prepared by the secretariat.

53. The secretariat made a presentation on the possibilities of the INTERNET to disseminate information on the activities of the Working Party to national Customs authorities and the transport industry. The home page of the ECE Transport Division is accessible on the World Wide Web (www.unece.org).

54. Under the heading "UN/ECE Working Parties" all official documentation (agenda, reports, documents) pertaining to the sessions of the Working Party are available in PDF (Acrobat) and WORDPERFECT formats and can be read, printed and down-loaded to a personal computer (PC). These documents are usually available 9 weeks (English) and 5 weeks (French) before the date of the respective meeting. The secretariat is also seeking solutions to make these documents available in Russian as well.

55. The ECE Transport Division home page also provides up-to-date information on the TIR regime as far as it falls within the mandate of the ECE and the TIR Administrative Committee.

56. Under the home page of the United Nations in New York ("Databases") on-line information is available on the status and scope of all United Nations treaties, including those pertaining to Customs and transport matters (www.un.org).

OTHER BUSINESS

(a) Dates of next sessions

57. The Working Party decided to hold its eighty-ninth session from 20 to 24 October 1997. Deadline for the submission of official documents for this session: 23 July 1997.

58. The Working Party noted that the ninetieth session of the Working Party has been tentatively scheduled to be held in the week from 23 to 27 February 1998.

(b) Restriction on the distribution of documents

59. The Working Party decided that no restriction should be placed on the distribution of documents issued in connection with its current session.

ADOPTION OF THE REPORT

60. In accordance with established practice, the Working Party adopted the report on its eighty-eighth session.
