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Working Party on Customs Questions affecting Transport

Report of the Working Party on Customs Questions affecting Transport on its 125th session (Geneva, 25–28 May 2010)

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I. Attendance

1. The Working Party (WP.30) held its 125th session from 25 to 28 May 2010 in Geneva. The session was attended by representatives of the following countries: Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Netherlands, Norway, Poland, Romania, Russian Federation, Serbia, Slovenia, Sweden, Tajikistan, Turkey and Ukraine. Representatives of the European Union (EU) were also present. The following intergovernmental organizations were represented: Intergovernmental Organization for International Carriage by Rail (OTIF) and the Organization for Cooperation between Railways (OSJD). The following non-governmental organizations were represented: the International Road Transport Union (IRU) and the International Touring Alliance and the International Automobile Federation (AIT/FIA).

II. Adoption of the agenda (agenda item 1)

2. WP.30 adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/249).

III. Activities of United Nations Economic Commission for Europe bodies and other United Nations organizations of interest to the Working Party (agenda item 2)

3. WP.30 was informed of the results of the seventy-second session of the Inland Transport Committee (ITC) related to matters of interest to WP.30. In particular, ITC had welcomed the finalization of amendment proposals for the introduction of a new Annex 9 to the Harmonization Convention and had highlighted the importance of this Annex for further facilitation of international transport by rail. The Committee had also been informed of the progress made in the computerization of the TIR procedure (eTIR) and had decided to prolong the mandate of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) to the year 2010.

IV. Activities of other organizations and countries of interest to the Working Party (agenda item 3)

4. WP.30 took note of the recent activities by the World Customs Organization (WCO) concerning the Framework of Standards to Secure and Facilitate Global Trade (SAFE) (Informal document No. 4 (2010)).

5. Having recalled its discussions at the previous session (ECE/TRANS/WP.30/248, paras. 8 and 9), WP.30 was informed of the ongoing activities by the secretariat to provide translation of the study on the implications of SAFE for the TIR Convention (ECE/TRANS/WP.30/2010/1) whose length exceeded the limits established by the applicable UN rules. Pending the availability of this document in all working languages, the Working Party briefly discussed the conclusions of the study (ECE/TRANS/WP.30/2010/1, paras. 94–97). WP.30 agreed that the incorporation of the “Advance electronic information” and “Risk management” elements should be achieved in the framework of the

eTIR project. With regard to outbound security inspections, the Working Party challenged the conclusion that this element should be integrated into the TIR Convention, as this would create a new legal obligation for the Contracting Parties to act upon request of other countries. The Working Party also felt that the introduction of Customs-to-TIR Carnet holders partnership on the basis of the Authorized Economic Operator (AEO) concept is premature for the time being. Finally, WP.30 decided to revert to the issue at its next session, upon the understanding that all language versions of the underlying document would be available.

V. International Convention on the Harmonization of Frontier Controls of Goods, 1982 (“Harmonization Convention”) (agenda item 4)

A. Status of the Convention

6. The Working Party 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 delegation of Iran (Islamic Republic of) pointed out that the accession was made with reservation, pursuant to Article 21.1 of the Convention, that the Islamic Republic of Iran does not consider itself bound by the provisions of Article 20, paragraphs 2 to 7, concerning the settlement of disputes”.

B. Annex 8 on road transport

8. WP.30 took note of the preliminary results of the survey concerning the implementation of Annex 8 at the national level (Informal document No. 3 (2010)) and noted that the secretariat would pursue its efforts to obtain missing replies. IRU welcomed the survey and offered that the findings could be complemented by data from the private sector. The delegation of Iran (Islamic Republic of) requested the secretariat to forward the above questionnaire to the competent Iranian authorities for reply.

9. The Iranian delegation also informed the Working Party 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.

C. Preparation of a new Annex on rail border crossing

10. The Working Party noted that the secretariat had convened the ninth session of the Administrative Committee of the Harmonization Convention (AC.3) on 27 May 2010, in conjunction with the present meeting of WP.30, in order to consider and, possibly, approve the final text of a new Annex 9 to the Harmonization Convention.

VI. International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail, of 10 January 1952 (agenda item 5)

11. WP.30 recalled the deliberations at its 117th, 118th and 119th sessions, when it discussed consolidated proposals by OSJD and OTIF for a new International Convention to Facilitate the Crossing of Frontiers in International Railway Passenger Transport, as well as the relationship between these new proposals and the existing International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail of 1952. Furthermore, the Working Party recalled the absence of specific amendment provisions in the 1952 Convention and the proposal by the secretariat that the introduction of a standard amendment clause could be done by means of an additional protocol, which must be signed by all Parties to the Convention (ECE/TRANS/WP.30/248, para. 15).

12. WP.30 discussed document ECE/TRANS/WP.30/2010/9, prepared by the secretariat, containing proposals for an additional protocol to the 1952 Convention which would introduce provisions to amend the said Convention. The Working Party agreed to the proposed text with the exception of the so-called "opt-out" clause, allowing any Party opposing an amendment, to not be bound by it upon its entry into force, as this could create different legal regimes under a single treaty. WP.30 requested the secretariat to submit the text of the draft protocol as an official document in the three official United Nations Economic Commission for Europe (UNECE) languages for discussion and, possibly, endorsement at its next session. Some delegations expressed their reservations with regard to the time-consuming procedure required to bring the 1952 Convention in line with modern-day railway requirements and stressed the need to include, in the future, Russian as one of the Convention's authentic languages.

VII. Rail transit (agenda item 6)

13. With regret, WP.30 noted that, apart from Ukraine, no other countries had acceded to the Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of Agreement on International Goods Transport by Rail (SMGS) Consignment Note.

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

A. Status of the Conventions

14. The Working Party took note that no new countries had acceded to the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles.

B. Application of the Conventions

15. WP.30 noted with satisfaction information provide by AIT/FIA that the comments and best practices to assist in the proper application of the 1954 Convention, approved by WP.30 in 2009 (ECE/TRANS/WP.30/2009/3), had received positive feedback from both

Contracting Parties and national associations. AIT/FIA intends to prepare similar comments and best practices for the application of the 1956 Convention.

IX. Other United Nations Economic Commission for Europe legal instruments for border crossing facilitation (agenda item 8)

16. The Working Party recalled that, at its previous session, delegations had been invited to study document ECE/TRANS/WP.30/2010/2, containing an overview of some UNECE conventions on border crossing facilitation, with a view to identifying which agreements would require specific attention from WP.30 in the future. In this context, the delegation of Turkey invited WP.30 to consider in more detail the European Convention on Customs Treatment of Pallets used in International Transport, 1960 and the Customs Convention on Containers, 1972.

X. Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) (agenda item 9)

A. Status of the Convention

17. The Working Party noted that, since its previous session, there had been no changes in the status of the TIR Convention.

B. Revision of the Convention

1. Preparation of Phase III of the TIR revision process

Use of new technologies

18. Following a presentation by the secretariat on the latest developments in the eTIR Project, WP.30 endorsed the report of the seventeenth session of GE.1 (ECE/TRANS/WP.30/GE.1/2010/4). The Working Party supported GE.1's concerns with regard to the questionnaire on the financial implications of the national implementation of eTIR and agreed that, in the light of the ongoing developments of Customs information and communication technology (ICT) systems at the national level and the limited number of responses received so far, the questionnaire had lost its relevance and, thus, should not be pursued. At the same time, WP.30 stressed the importance for GE.1 to assess, possibly by means of a feasibility study, the development costs of the eTIR international system, to identify possible funding options as well as the need to work on the required amendments to introduce electronic data exchange in the TIR Convention.

19. The Working Party welcomed the initiative of GE.1 to conduct part of its meeting by means of a number of presentations, aimed at assessing the latest ICT developments in relation to the TIR procedure and took note that these presentations confirmed the need to pursue all aspects of the eTIR Project, in particular the development of an uniform declaration mechanism with regard to data content as well as applied technology. Furthermore, WP.30 welcomed the finalization of Chapter 3 of the eTIR Reference Model as well as the preliminary work on Chapter 4. Finally, it recognized the establishment of a network of eTIR focal points and the creation of an eTIR web site as valuable opportunities

to ensure a broader participation of Contracting Parties in the eTIR project. WP.30 stressed the importance for every Contracting Party to nominate a focal point for the eTIR project and to inform the secretariat accordingly. The Working Party welcomed the proposal to publish, on the eTIR website, the list of countries having already nominated an eTIR focal point.

2. Amendment proposals for the Convention

20. The Working Party considered updated amendment proposals for the introduction of a new Annex 9, Part III of the Convention on the authorization of an international organization (ECE/TRANS/WP.30/2010/4/Rev.1). Following the request of WP.30 at its previous session, the secretariat clarified which persons other than the Office of Internal Oversight Services (OIOS) and the Board of Auditors (BOA) can be authorized by the United Nations to audit an international organization, as mentioned in para. 3 (p) of the Annex. According to information provided by OIOS, the Secretary-General of the United Nations, the General Assembly or the UNECE Executive Secretary can nominate, in case of need, a special rapporteur to investigate an issue of possible concern and to report back to the nominating body. For example, this is a common practice for human rights issues. In addition, this phrase is needed to avoid amending United Nations legal instruments in case of changes in the United Nations Rules and Regulations concerning audit.

21. The Working Party felt that subparagraph 1 (c) of the Annex should become a new item of paragraph 3. The secretariat was requested to update the document accordingly and to correct references where required.

22. One delegation and IRU were of the view that the new audit provisions should also address the issue of confidentiality. The Working Party noted that, most likely, this matter is duly reflected in the International Standards on Auditing, as referred to in para. 3 (q) of the new Annex, but requested the secretariat to study this issue in detail.

23. IRU reiterated its opposition to the audit provisions and recalled its concerns raised at the previous session, such as unclear background, lack of justification, possible breach of the Swiss law, number of audits and the confidentiality of audit reports. The Working Party took note of this statement and invited IRU to elaborate on its concerns in a document to be considered at the next session. WP.30 also noted that new Annex 9, Part III was prepared in line with recommendations of OIOS and BOA and aimed at raising transparency in the functioning of the TIR Convention. In this regard, some delegations considered the opposition by IRU as an indication of its unwillingness to provide the necessary transparency on the functioning of the TIR guarantee system.

24. The delegations of Kyrgyzstan and Tajikistan expressed their concerns about the late availability of document ECE/TRANS/WP.30/2010/4/Rev.1 in Russian which had been posted on the UNECE website after the deadline established by the UNECE Rules of Procedure, as this had prevented them from full-fledged consideration of the amendment proposals. To give these delegations ample opportunity to study the document, WP.30 decided to continue its discussion at the next session. In the interim, the secretariat was requested to issue a corrigendum to the document, as indicated in para. 20 above, and ensure its earliest translation into all working languages.

C. Application of the Convention

1. Control system for TIR Carnets – IRU SafeTIR

25. The Working Party was informed by IRU of the functioning of the IRU SafeTIR system. From 1 January to 30 April 2010, IRU had received 799,414 SafeTIR messages with an average transmission delay of three days. Sixty-nine per cent of messages had been

transmitted in real-time (within 24 hours). The Customs administrations of Belarus, Croatia, Czech Republic, Estonia, Lebanon, Montenegro, Poland, Russian Federation, Serbia and Ukraine transmitted data in real-time. In the same period, IRU had issued 1,450 reconciliation requests and had received replies to 607 (42 per cent) of them with an average delay of 17 days.

26. The representatives of Ukraine and Belarus briefed WP.30 on the progress made in the application of SafeTIR in their countries. They also recalled that IRU had identified the real-time transmission of data as a prerequisite to increase the TIR guarantee level to €60,000. In this context, the representative of Ukraine informed of the ongoing negotiations with IRU. The representative of Belarus pointed out the recent fluctuations in the Euro exchange rate and invited the Working Party to reconsider the idea of using a basket of currencies for the purposes of establishing the TIR guarantee level.

2. Settlement of claims for payments

27. The Working Party was informed by IRU of the present situation with regard to the settlement of claims for payments made by Customs authorities against national guaranteeing associations. From 1 January to 30 April 2010, IRU received 1,098 pre-notifications and 553 notifications (from all Contracting Parties) as well as 118 payment requests. The number of pending payment requests as of 30 April 2010 amounted to 6,856. In the same period, 26 payment requests had been paid and 20 had been settled without payment.

28. Upon invitation of the Chair, IRU stated it would be prepared to provide statistical data on the number and amount (in Swiss Francs) of the claims which had been paid per year over the last decade. WP.30 looked forward to receiving this information.

3. Review of Annex 10 of the Convention

29. The Working Party took note that the TIR Administrative Committee, at its forty-ninth session, had adopted an example of best practice concerning the implementation of Annex 10 at the national level, as prepared by the TIR Executive Board (TIRExB) (ECE/TRANS/WP.30/AC.2/101, para. 29). The secretariat informed that the example would soon be posted on the TIR website in the three official UNECE languages.

4. TIR Handbook

30. The Working Party was informed that hard copies of the 2010 version of the TIR Handbook in English, French and Russian had been printed and were available from the secretariat. The Arabic, Chinese and Spanish language versions of the 2010 Handbook were being prepared.

5. Application of the TIR Convention in a Customs union with a single Customs territory

31. In reply to a request by WP.30 at its previous session, the representative of Belarus informed of the ongoing negotiations to establish a mechanism for the smooth functioning of the TIR procedure in the Customs union between Belarus, Kazakhstan and the Russian Federation. To this end, a draft trilateral agreement had been prepared which included inter alia the principles highlighted in document ECE/TRANS/WP.30/2010/6. The Working Party took note of this information and invited the three countries in question to provide the TIR secretariat and the TIRExB with a copy of the underlying agreement when it is signed.

6. Other matters

32. The delegation of Turkey, supported by IRU, recalled the previous WP.30 discussions with respect to the possible increase in the number of loading and unloading places for a TIR transport and suggested that this issue be re-examined, taking into account new transport patterns that had appeared as a result of the global downturn. The Turkish delegation was invited to submit a document on the issue for consideration at the next session of WP.30.

XI. Prevention of the abuse of Customs Transit Systems by smugglers (agenda item 10)

33. The Working Party took note of the latest fraud reports, available at the password-protected TIR Focal Points website. The Working Party recalled the importance of the fraud reports and encouraged Contracting Parties to continue to submit reports and to assess the relevance of the provided data for national risk management purposes.

XII. Other business (agenda item 11)**A. Dates of the next session**

34. The Working Party decided to hold its 126th session in the week of 27 September – 1 October 2010.

B. Restriction on the distribution of documents

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

XIII. Adoption of the report (agenda item 12)

36. The Working Party adopted the report on its 125th session on the basis of a draft prepared by the secretariat.
