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Issues that need consideration and require decisions

**by the Committee: Strengthening border crossing facilitation
(Harmonization Convention, eTIR project and other customs
transit facilitation measures)**

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

Note by the secretariat

I. Background and mandate

1. At its previous session, the Committee noted and supported activities of the Working Party on Customs Questions affecting Transport (WP.30) with a view to strengthening the TIR Convention, in particular by means of its computerization in the framework of the eTIR project. The Committee advocated the continuation of the eTIR project and decided to prolong the mandate of the Informal Ad hoc Expert Group on Conceptual and Technical aspects of Computerization of the TIR procedure (WP.30/GE.1) to the year 2011 and to conduct a cost-benefit analysis of eTIR (ECE/TRANS/221, paras. 64 and 65).

2. The present document has been prepared in accordance with the programme of work of the Inland Transport Committee (ITC) (ECE/TRANS/208, para. 106; ECE/TRANS/2010/8 and Corr.1, programme activity 02.10: Customs questions affecting transport). It reports on the progress made in 2011 by the Contracting Parties, WP.30 and secretariat in the area of border crossing facilitation, including:

- Amendments to the International Convention on the Harmonization of Frontier Controls of Goods, 1982 (Harmonization Convention), as well as monitoring and capacity-building initiatives to assist in the proper application of this Convention at the national level.

- Main results of a strategic review of the TIR system which was commissioned by United Nations Economic Commission for Europe (UNECE) with a view to assessing the relevance of TIR, in comparison with alternative solutions, and better understanding of what the current market demand is, from the perspectives of a wide range of clients (shippers, logistics and transport operators and Customs administrations).
- Preparation of a new annex to the TIR Convention on the conditions and requirements for authorizing an international organization to organize the functioning of the TIR guarantee system and further consideration of audit provisions aimed at ensuring good governance and transparency in the TIR system.
- Progress made in developing the technical aspects of the eTIR project and in conducting its cost/benefit analysis, in line with the request of ITC at its previous session.

II. Harmonization Convention and the UNECE – OSCE Handbook on Best Practices at Border Crossings

3. The Secretary-General of the United Nations, acting in his capacity as depositary, had issued Depositary Notification C.N.534.2011.TREATIES-1 of 1 September 2011, communicating the entry into force on 30 November 2011 of a new Annex 9 on rail border crossing to the International Convention on the Harmonization of Frontier Controls of Goods, 1982 (Harmonization Convention). The new annex (ECE/TRANS/WP.30/AC.3/2010/1) introduces the following key principles to facilitate border crossing procedures for international rail freight:

- simplified procedures for crossing of borders by officials and other persons engaged in international rail transport, including granting them visas;
- minimum infrastructure and staff requirements for border (interchange) stations in order to rationalize and expedite the necessary formalities at those stations, including information technology and communications systems to enable the exchange of advance cargo information;
- cooperation and coordination of actions between adjacent countries at border (interchange) stations; reciprocal recognition of all forms of control of rolling stock, containers, piggyback semi-trailers and goods;
- carrying out selective Customs controls on the basis of risk assessment and management;
- simplified controls at border (interchange) stations and moving, as far as possible, of certain forms of controls to the stations of departure and destination;
- setting up time limits for border clearance and monitoring actual delays of the trains or wagons at border (interchange) stations;
- reducing paper documents and simplifying documentation procedures by using electronic systems for the exchange of information;
- use of the CIM/SMGS railway consignment note, also as a Customs document.

4. WP.30 finalized its considerations of the outcome of a survey concerning the implementation of Annex 8 on road border crossing at the national level (ECE/TRANS/WP.30/2011/1). The survey demonstrated that the responding Contracting Parties were well aware of their obligations under Annex 8 to the Harmonization Convention and had started its implementation. Faster progress was observed in meeting

the requirements concerning the transfer of controls from the borders to inland offices, treatment of urgent consignments and infrastructure requirements for border crossing points. On the other hand, slow progress had been revealed in the areas of visa procedures and the International Vehicle Weight Certificate (IVWC). Contracting Parties and UNECE were invited to further promote IVWC, for example, by disseminating experiences of countries that already accept such certificates and have authorized weighing stations.

5. With regard to future monitoring activities of the implementation of Annex 8, the Working Party agreed that surveys of both the public and private sector could yield a more objective and versatile picture. The Working Party was of the view that the surveying by governmental agencies should be done by regular use of a standard questionnaire (ECE/TRANS/WP.30/2011/1) in which the respondents should report on progress made and not repeat information already provided. In addition, all Contracting Parties were invited to transmit, on a periodic basis, country reports outlining major achievements and setbacks in border crossing facilitation. Surveying the private sector could be done by means of already available private monitoring tools (e.g. the Border Waiting Time Observatory of the International Road Transport Union – IRU's BWTO) or by taking advantage of other surveys or studies conducted in the area of border crossing procedures by various organizations. Road transport companies and their associations were encouraged to feed these projects with the required data.

6. The Harmonization Convention is a framework convention that lays down a number of key principles, which are sine-qua-non for border crossing facilitation, and provides for a high degree of flexibility in their implementation at the national level, due to the fact that there may be no 'one fits all' solution for the 55 Contracting Parties. Under this situation, examples of best practice have been found to be indispensable for the proper implementation of the Harmonization Convention. With this in mind, UNECE and OSCE have prepared an extensive joint publication called '**Handbook on Best Practices at Border Crossings: A Transport and Trade Facilitation Perspective**' which will be sent to print at the beginning of 2012. The main purpose of the Handbook is to assist countries in developing more efficient border and customs policies by promoting existing best practices in this field. This publication should become a reference document not only for national policy makers and senior customs and border officials, but also for representatives of transport agencies, the business community and civil society. It should contribute to further dialogue on these issues and should be used as a reference when drafting border management policies aimed at facilitating legal trans-border commercial movement while paying due attention to the necessary security aspects. It will provide concrete examples from across the ECE region and beyond on how border crossing points can be made increasingly efficient and secure, thereby allowing smooth trade and transport operations while at the same time reducing the possibilities for corruption, illicit trafficking and transnational crime and terrorism. It pays particular attention to road border crossing points but also touches upon border crossing points along railways and at sea ports. A chapter in the Handbook will describe different techniques to measure performance of various border control agencies and may become a useful tool to promote border crossing facilitation by means of better monitoring of the actual situation at borders.

III. TIR study

7. Given major political, economic, structural and technological changes that had taken place over the last two decades, in 2008 UNECE commissioned a strategic review of the TIR system with a view to assessing the relevance of TIR, in comparison with alternative solutions, and better understanding of what the current market demand is, from the perspectives of a wide range of clients, such as shippers, logistics and transport operators

and Customs administrations. This review, also known as the TIR study, was undertaken in 2008-2010 by a consulting company which had been selected on the basis of a standard bidding procedure at the United Nations.

8. The key objectives of the TIR study were as follows:

- To perform a critical and comparative analysis of the current TIR system;
- To forecast the most probable development in the field of Customs transit procedures;
- To assess the relevance of the current TIR system and indicate the needed reforms and the directions of the future work.

9. From a methodological point of view, the study was based on an extensive literature review of the nature and practice of various transit regimes, a comprehensive survey designed jointly by the consultants and UNECE (a total of 260 replies from 47 countries, covering 6 geographical regions and 5 professional groups) and a series of in-depth interviews with about ten experts.

A. General assessment of the TIR system and SWOT analysis

10. The survey demonstrated that the TIR regime, as the only global transit system, is perceived positively. However, the European Union (EU) Community and Common Transit System on the basis of NCTS (New Computerized Transit System) is considered preferable by those who regularly use it. No other transit regimes were identified as being strong enough to be mentioned. For the future, the respondents indicated three dominant suggestions for TIR: paperless environment; seamless electronic documents and multimodal application.

11. The study confirmed that the TIR regime is functioning reasonably well. Nevertheless, it clearly shows some signs of its age and of the political preferences at the time it was conceived, when many countries organized services and functions of general economic interest around singular institutions. This was supposed to guarantee the best defense of public interest, but in many cases could lead to loss of transparency and accountability, and ultimately to abuse of dominant position.

12. Some of the main weaknesses of the TIR regime, which were identified in the course of the study, are listed below:

- The TIR procedure is currently paper-based and, thus, more time- and resource-consuming and vulnerable to fraud;
- Monopoly of road hauliers' associations in each country, leading to prices for the Carnet that are considered as expensive in some countries/cases;
- Lack of financial transparency in the guarantee system and TIR Carnets' prices;
- The fixed guarantee of USD 50,000 and even Euros 60,000 is too low for some shipments in certain countries, while being too high for some other shipments and countries;
- TIR guarantee system, managed by IRU, is generally considered as good, but dependence on a monopoly supplier increases the risk of inefficiency (in the provision of the guarantees) and of abusive prices of TIR Carnets.

13. Furthermore, the review revealed a number of threats to the TIR system, like development of various Customs transit systems based on regional agreements (e.g., in Central Asia and Middle East); the NCTS expansion to further regions and Customs

demand for electronic advance cargo information (before the arrival of goods at the border) which the paper-based TIR Carnet can not comply with. On the other hand, there are also opportunities for TIR: if China, Pakistan and some Middle East countries accede to the TIR Convention, the landlocked countries of Central Asia (already TIR members) will become part of an important transit area with a strong economic growth.

B. Recommendations

14. The study elaborated two sets of recommendations which can be introduced either in the short term, within the current paper-based system, or in the long term, when a computerized environment (e-transit) is established. Key recommendations are outlined below.

1. Evolution of the paper-based TIR regime towards greater efficiency and accountability

- Open the market for competitive provision of printing and distribution TIR Carnets; issuance and guarantee. Printing and distribution must be supplied by a single provider and must be tendered jointly for a multi-year period, allowing consortia to present their offers. The printer has to show its familiarity (certification) with tight security procedures.
- The international guarantee system should be open to multiple providers (previously authorized) and then competing in the market. For each transit operation, the guarantee provider would have to be an international institution, active in all the countries involved in this operation, and with assets in each country that directly respond to payments requests from Customs authorities.

2. Recommendations concerning a future global eTransit system:

- There should be standard formats and protocols for all electronic data transactions between the operators and the Customs authorities, valid for all countries.
- The transport operators should not be required to use third parties for those transactions with the Customs authorities, which means that all authorized TIR Carnet holders should be allowed to process them directly.
- There must be a clear link between the validation of the TIR Carnet in one country and the responsibility for activation of the guarantees in case of a Customs claim in another country. Since this involves two different countries, a “bridging” element is needed, that is why the guarantor must be an accredited international institution legally represented in all the countries of each TIR transport. Two solutions may be considered: the current TIR solution, where the bridge is formed by the TIR guarantee chain that links two national hauliers’ association through IRU or another solution, based on international companies (banks or insurance companies), established in each country involved in a particular transit operation.
- Both guarantee solutions have their own pros and cons which should be further considered. For example, the current TIR solution has a benefit of being well tested, but inconvenience of depending on a single provider. The other solution has a benefit of introducing competitive pressure on prices and on service levels, but an inconvenience of possible increase in overall costs caused by a lower scale of operations by each agent.

15. The above considerations were the sole responsibility of the consulting company and do not necessarily reflect the views of the UNECE secretariat. In March 2011, the TIR

study was presented to a peer review panel with the participation of various international organizations (European Commission, World Bank, World Customs Organization, IRU). On the basis of the study and the comments received, the secretariat is preparing a UNECE publication which is expected to be published in the first half of 2012.

IV. Preparation of a new annex to the TIR Convention on the conditions and requirements for the authorization of an international organization

16. In 2005 and 2006, the Board of External Auditors (BOA) and the UN Office of Internal Oversight (OIOS), respectively, audited the UNECE–IRU agreement and TIR Trust Fund and recommended that (1) the TIR Convention be amended to introduce the conditions and requirements of the authorized international organization (presently IRU) as a new Annex 9, part III to the TIR Convention and (2) IRU be subject to external audit. Such audit requirements have been introduced and audits take place, but for the time being they focus only on the amount per TIR Carnet (around 0.40 United States cents, as indicated above) transferred by IRU to UNECE. Given the fact that the average price per TIR Carnet is about 50.00 United States dollars, this means that less than 1 per cent of the TIR revenues are now subject to audit whose results are reported to the TIR Contracting Parties.

17. In line with the BOA and OIOS recommendations, WP.30 has drafted a new Annex 9, part III to the TIR Convention on the conditions and requirements for the authorization of an international organization to take on the responsibility for the effective organization and functioning of an international guarantee system and to print and distribute TIR Carnets. At the specific request of Contracting Parties, the UNECE secretariat, in consultation with OIOS, has also included in the draft specific audit requirements. However, so far no consensus has been reached on these audit clauses (see below). To make progress, the Working Party took a decision to approve the amendment proposals on a new Annex 9, part III without audit clauses, to submit these proposals to the TIR Administrative Committee for consideration and, at the same time, to continue its attempts to seek consensus on the outstanding audit provisions.

18. In the course of WP.30 considerations, several delegations saw no need in the introduction of audit provisions. They stated that they fully trust IRU, as this organization has a long standing reputation in the TIR system, provides transparency and is regularly audited by the world's leading auditing companies according to Swiss law. Some other delegations pointed out that the audit provisions under discussion are not linked to the issue of trust to IRU, but aim at ensuring transparency and good governance and establishing a solid legal basis that would allow the Contracting Parties to verify, in case of need, how an authorized international organization, not necessarily IRU, uses the privileges and financial tools granted by the authorization.

19. At the October 2011 session, the UNECE secretariat reminded WP.30 that the introduction of audit clauses would be in line with the request by the Economic Commission for Europe at its sixty-fourth session in March 2011 (see ECE/TRANS/WP.30/256, para. 5). The secretariat stated that it would accept any decision taken by Contracting Parties with regard to the inclusion or deletion of audit clauses (o), (p) and (q), but pointed out that good governance and transparency in the TIR system would be impossible to ensure without the proper monitoring tools provided for in the underlying audit provisions. Without security provided by audit clauses, the UNECE secretariat cannot accept any responsibility for the risk, at some point in time, of any irregularity in the

implementation of the authorization. This responsibility will remain with Contracting Parties.

V. Progress made in the framework of the eTIR project

20. In order to overcome the limitations of the paper-based TIR system, the Contracting Parties to the TIR Convention launched in 2003 the so-called “eTIR Project” with the aim to replace the use of the paper TIR Carnet by an exchange of electronic messages between the actors involved in the TIR regime. A computerized TIR system will offer significant additional benefits. First, it will bring additional security and risk management opportunities, thus reducing the risk of fraud. Second, advanced international cooperation will allow all actors to significantly reduce their administrative burden and to maximize the benefits of integrated supply chain management. Finally, the provision of advance cargo information and the exchange of information in real time will speed up the TIR procedure.

21. Since the launch of the eTIR project, various initiatives have been initiated by Customs administrations and the private sector to overcome some of the limitation of the paper-based TIR system. In most TIR Contracting Parties, the management of TIR operation is now ensured by IT Customs systems that in some countries allow, or even require, transport operators to provide TIR related data in advance and in electronic format. The private sector, in particular the IRU, in its efforts to better manage the risks of providing guarantees covering international transit, also computerized the management of most if its TIR related activities.

22. The eTIR project certainly leverages these initiatives, however, it should be stressed that, unlike any other, it will provide all TIR Contracting Parties with a unique platform to exchange Customs-to-Customs (C2C) information, as well as provide Customs with the opportunity to manage data on guarantees issued by guarantors to authorized TIR Carnet holders.

23. Up to now, WP.30/GE.1, as mandated by the Committee and WP.30, has been working on the so-called “eTIR Reference Model”. This voluminous document contains all relevant information about the project for both a technical and non-technical audience. In 2011, Chapter 4 of the document saw the inclusion of the technical specifications of the standard Extended Mark-up Language (XML) messages that will be used to exchange TIR information.

24. Recently, the TIR Executive Board (TIRExB) has agreed to contribute to the eTIR project by means of supporting a cost-benefit analysis of the eTIR system. A call for tender was prepared by the secretariat and sent out by United Nations Office in Geneva (UNOG) administration. The selected independent contractor will have to propose alternative technological options and provide concrete figures of the costs related to establishing and maintaining the eTIR central platform as well and the costs and benefits for Customs administration and the private sector. Without pre-empting the results of the cost-benefit analysis it seems evident that the implementation of the eTIR system will not come at zero cost, for neither the Contracting Parties nor for the transport industry. For the transport industry, it should be made clear that the current paper TIR system is not free of charge either. Possibly, a limited fee, representing just a small portion of the current paper related costs, would most likely suffice to secure the financing of establishing and maintaining the eTIR international system. ITC will be informed about the outcome of the cost-benefit analysis in due course. On this basis, the Committee will also be invited to consider various options to finance the development of the eTIR international system.

25. In the meantime, Customs administrations will successfully achieve a gradual interoperability between their national Customs system and the eTIR international system at

minimum costs through an active involvement in the eTIR project. To this end and recalling the current global economic situation, Contracting Parties that cannot afford active participation in meetings of GE.1 can nevertheless at least appoint a dedicated eTIR Focal Point. The network of eTIR focal points is aimed at ensuring an adequate distribution of information on the eTIR Project at the national level as well as at allowing countries which do not directly participate in the meetings GE.1 to provide national inputs to the eTIR Project. In the near future, national eTIR Focal Points will also act as liaisons with the eTIR Project to facilitate the implementation of eTIR at the national level. The Committee may wish to echo repeated requests of WP.30, the TIR Administrative Committee (AC.2) and TIRExB in inviting TIR Contracting Parties to nominate eTIR focal points.

26. Furthermore, it should be noted that the work of GE.1 has already been used in two important projects: (a) the SEED project aims at connecting Information Technology (IT) systems of Customs administrations in the Balkan region, (b) the eTIR pilot project launched by Turkey that is aimed at testing in a real world environment, the eTIR concepts and messages among a limited number of Countries, i.e. Bulgaria, Italy, Romania and Turkey.

27. Finally, under the eighth tranche of the United Nations Development Account Project (2012–2013), a global project closely related to eTIR will be implemented. The objective of the project is to strengthen the capacities of developing countries and countries with economies in transition to facilitate legitimate border crossing, by means of increased exchange of secure electronic information between Customs administrations and an increased use of internationally standard electronic messages. The project is consistent with the scope and priorities of the strategic frameworks for 2012–2013 of the relevant subprogrammes of UNECE, UNESCAP, UNECA, UNESCWA and UNECLAC and is directly linked to the Internationally Agreed Development Goals (IADGs), including the Millennium Development Goals (MDGs) and Development Agenda. The project builds on the experience of the WP.30 and, in particular, eight years of work of GE.1.

VI. Consideration by the Committee

28. The Committee may wish to take note of and support the above activities of the secretariat, Contracting Parties and WP.30. It is also invited to support the continuation of the eTIR project and to prolong the mandate of WP.30/GE.1 to the year 2012.
