



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/178
16 December 1997

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

**Working Party on Customs Questions
affecting Transport**

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS
AFFECTING TRANSPORT ON ITS EIGHTY-NINTH SESSION
(20 to 24 October 1997)**

CONTENTS

	<u>Paragraphs</u>
Attendance	1 - 5
Adoption of the agenda	6
Activities of ECE bodies of interest to the Working Party	7 - 9
(a) Restructuring of the Economic Commission for Europe	7
(b) Status of United Nations Customs Conventions	8
(c) Centre for Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT)	9
Activities of other organizations of interest to the Working Party	10 and 11
(a) World Customs Organization (WCO)	10
(b) European Commission (EC)	11

CONTENTS (cont'd)

	<u>Paragraphs</u>
Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975)	12 - 81
(a) Status of the Convention	12
(b) Revision of the Convention	13 - 38
(i) Revision procedure (phase I of the revision process)	13 - 19
(ii) Terms of Reference of the TIR Executive Board	20 and 21
(iii) Proposals for amendments to the Convention (phase II of the revision process)	22 - 38
(c) Application of the Convention	39 - 81
(i) Status of resolution No. 49	39 and 40
(ii) EDI control system for TIR Carnets: Implementation of the Recommendation adopted on 20 October 1995	41 - 46
(iii) Settlement of claims for payment	47 - 52
(iv) Interpretation of article 3 of the Convention	53 and 54
(v) Improved procedures in the use of TIR Carnets by transport operators	55 - 58
(vi) Application of electronic sealing and tracking devices	59 - 62
(vii) Order No.513 of the Russian State Customs Committee	63 - 74
(viii) Requirement of an additional guarantee in Lithuania	75 - 78
(ix) Extension of the deadline for the use of the old model certificate of approval of a road vehicle	79
(x) Re-introduction of the guarantee for sensitive goods in the European Union	80 and 81

CONTENTS (cont'd)

	<u>Paragraphs</u>
Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)	83 - 90
(a) Status of resolution No. 48	83 and 84
(b) Initiation of the amendment procedure for article 13, new paragraph 4 of the 1954 Convention	85
(c) Difficulties in the application of the 1954 Convention in Egypt	86 - 88
(d) Difficulties in the application of the 1954 Convention in Australia	89 and 90
Customs Convention Concerning Spare Parts Used for Repairing EUROPE Wagons	91 - 93
Revision of the Convention	91 - 93
Prevention of the abuse of Customs transit systems by smugglers	94
Programme of work for 1998 to 2002	95 - 100
Schedule of proposed meetings of the Working Party and the TIR Administrative Committee	101
Other business	102 - 104
(a) Dates of next sessions	102 and 103
(b) Restriction on the distribution of documents	104
Adoption of the report	105

* * *

Annex 1: TIR Convention, 1975: Comment adopted by the Working Party

Annex 2: Draft programme of work for 1998 to 2002

REPORT

ATTENDANCE

1. The Working Party held its eighty-ninth session from 20 to 24 October 1997.
2. The session was attended by representatives of the following countries: Austria; Belarus; Belgium; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Italy; Latvia; Lithuania; Netherlands; Poland; Republic of Moldova; Romania; Russian Federation; Slovakia; Slovenia; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom. Representatives of the European Community (EC) were also present.
3. The United Nations Conference on Trade and Development (UNCTAD) was represented.
4. The following intergovernmental organizations were represented: International Road Traffic Organization (IRTO); Committee of the Organization for Cooperation between Railways (OSZhD); 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 Federation of Freight Forwarders Associations (FIATA); International Union of Railways (UIC); Gulf Automobile Federation (GAF).

ADOPTION OF THE AGENDA

6. The Working Party adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/177) with the addition of the following items:

Agenda item 2:

Restructuring of the Economic Commission for Europe;
Status of United Nations Customs Conventions.

Agenda item 4 (c)(ix):

Order No.513 of the Russian State Customs Committee;
Requirement of an additional guarantee in Lithuania;
Reintroduction of the international guarantee for sensitive goods in the European Union.

ACTIVITIES OF ECE BODIES OF INTEREST TO THE WORKING PARTY

(a) Restructuring of the Economic Commission for Europe

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

7. The Working Party recalled that the Commission, in April 1997, had adopted a Plan of Action streamlining its intergovernmental machinery and modifying its way of operation. In accordance with this plan, the Working Party decided to modify its programme of work and recommended to continue to function as a standing body having a permanent status (see also paras. 95 - 100).

(b) Status of United Nations Customs Conventions

Documentation: Informal document No.2 prepared by the secretariat.

8. The Working Party was informed of notifications received from China and the United Kingdom with regard to China's sovereignty over Hong Kong as of 1 July 1997 and its consequences for a number of United Nations Customs Conventions, such as the Customs Conventions on the Temporary Importation of Private and Commercial Road Vehicles of 1954 and 1956 or the Customs Convention on Containers of 1972.

(c) Centre for Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT)

Documentation: TRADE/CEFACT/1997/12; TRADE/CEFACT/GE.1/1997/11; TRADE/CEFACT/GE.1/1997/9.

9. The Working Party was informed about the results of the second session of the United Nations Centre for Facilitation of Procedures and Practices for Administration, Commerce and Transport (CEFACT), previously called the ECE Working Party on Facilitation of International Trade Procedures (WP.4).

ACTIVITIES OF OTHER ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

(a) World Customs Organization (WCO)

10. The Working Party was informed about the results of the eleventh session of the Working Group on the Kyoto Convention (30 June-11 July 1997) and of progress made in the revision of the Kyoto Convention. It noted that 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.

(b) European Commission (EC)

11. The Working Party was informed that the European Commission's Directorate General for Customs and Indirect Taxation (DG XXI) was conducting a major reform to safeguard the Community/Common Transit Systems, including a number of legal and operational measures. The reform will be the subject of discussions with national Customs authorities and transport operators at a contact group meeting in Brussels (20 November 1997) and at a seminar in Prague (27 and 28 November 1997). It also noted that it was envisaged to establish a network of national transit coordinators as well as a risk analysis unit within the European Commission covering all Customs regimes. It would be important to ensure as far as possible harmonization of the TIR and European Community transit regimes and the TIR implication would therefore be addressed within the above-mentioned reform.

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

(a) Status of the Convention

Documentation: TRANS/WP.30/AC.2/47.

12. The Working Party noted that the Convention has at present 61 Contracting Parties. Within the next few weeks, the TIR procedure would become operational in Azerbaijan as the international insurers had recently authorized the IRU to extend its guarantee to the national association that had been approved by the competent Customs authorities in Azerbaijan. A complete list of Contracting Parties as well as of countries in which the TIR procedure is operational is provided in annex 1 to the report of the twenty-third session of the TIR Administrative Committee (TRANS/WP.30/AC.2/47).

(b) Revision of the Convention

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

Documentation: TRANS/WP.30/AC.2/47.

13. The Working Party recalled that, on the basis of the amendment proposals finalized at its eighty-eighth session, the TIR Administrative Committee, at its twenty-third session (26 and 27 June 1997) had adopted a comprehensive package of amendment proposals to the Convention and had thus concluded its consideration of phase I of the revision process of the Convention (TRANS/WP.30/AC.2/47, annex 2).

14. These amendment proposals had been transmitted by the ECE secretariat to the Legal Office of the United Nations in New York which is in the process of issuing the required depositary notification C.N.433.TREATIES-1 for transmission to Ministries of Foreign Affairs of all Contracting Parties to the Convention.

15. The Administrative Committee had decided that the amendment procedure in line with article 59 of the Convention should apply. In accordance with this decision all amendment proposals could, if no objections were raised, come into force 15 months following the date of communication of the proposed amendments by the Secretary-General of the United Nations through the above-mentioned depositary notification.

16. The Administrative Committee, when adopting the amendment proposals, had been of the view that, given the urgency of the implementation of the adopted amendment proposals, it might be necessary to allow for all or parts of the amendment proposals to come into force at an earlier stage than foreseen in article 59 of the Convention. In accordance with an opinion expressed by the Legal Office of the United Nations in New York, pursuant to article 25 of the 1969 Vienna Convention on the Law of Treaties, which is generally considered as codifying international law in this regard, a treaty or a part of a treaty may be applied provisionally pending its entry into force if the treaty so provides, or the negotiating States have in some other manner so agreed. A decision to this effect by the Administrative Committee, in parallel or following the adoption of the amendment proposals, would give immediate binding force among the Contracting Parties to the provisions relating to, for example, the establishment and financing of the TIR Executive Board.

17. In order to prepare a decision of the TIR Administrative Committee on this matter at its forthcoming session (26 and 27 February 1998), the secretariat, on 21 July 1997, had addressed a letter to delegations attending the sessions of the Working Party inviting them to consult at the national level on the feasibility of such an approach.

18. The Working Party also underlined the urgency of implementing the adopted amendment proposals as soon as possible. Following an exchange of views on the legal possibilities to apply provisionally and in line with article 25 of the Vienna Convention some or all of the adopted amendment proposals, the Working Party noted with regret that this legal procedure was not applicable in all Contracting Parties and thus could not be utilized.

19. The Working Party felt, however, that all efforts had to be made by Contracting Parties, the ECE secretariat and the IRU to ensure that the TIR Executive Board and the TIR secretariat could become operational immediately following the coming into force of the amendment proposals. For that purpose certain administrative functions to be carried out by the TIR Executive Board would need to be initiated during the course of 1998 and should be identified at a special meeting (see para. 21 below).

(ii) Terms of Reference of the TIR Executive Board

Documentation: TRANS/WP.30/AC.2/47; TRANS/WP.30/R.190; TRANS/WP.30/R.179.

20. At its twenty-third session, the TIR Administrative Committee had decided to consider in more detail at its next session, scheduled to be held on 26 and 27 February 1998, the Terms of Reference and the budget of the TIR Executive Board (TRANS/WP.30/AC.2/47, para. 21).

21. In order to prepare this session of the TIR Administrative Committee, the Working Party was of the view that a special meeting would need to be convened to address these issues, taking account of documents TRANS/WP.30/R.179 and TRANS/WP.30/R.190 submitted earlier. The representatives of Contracting Parties to the Convention therefore requested the ECE secretariat to convene, on 25 and 26 November 1997, a special meeting (with full interpretation) on the implementation of phase I of the TIR revision process considering all operational and administrative questions related to establishment of the TIR Executive Board and the TIR secretariat. The Working Party noted that the special meeting should be organized by the Secretary-General of the United Nations, in accordance with the secretariat services to be provided for the TIR Administrative Committee (Annex 8 of the Convention). Invitations will only be issued to delegations that have informed the secretariat of their interest in participating at the special meeting.

(iii) Proposals for amendments to the Convention
(phase II of the revision process)

- Revised TIR guarantee system

Documentation: TRANS/WP.30/R.195 and Corr.1, TRANS/WP.30/R.186.

22. The Working Party recalled that, at its eighty-eighth session, the Working Party had noted the results of a meeting of experts on a revised guarantee system for the TIR procedure which had been convened by the secretariat on 8 and 9 April 1997 in Geneva. The expert group had reviewed possible ways and means to arrive at an international guarantee system which was inherently stable and well functioning. It had proposed a number of concrete measures to improve the performance of the TIR guarantee system realizing that a replacement of the present system by a fully 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.

23. The Working Party considered the report of the expert group (TRANS/WP.30/R.195 and Corr.1) as well as a concrete 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).

24. The Working Party recognized that the role and the responsibilities of the international organization as mentioned in article 6, paragraph 2 of the Convention might need to be further defined along the lines suggested by the Russian Federation. Furthermore, the relationship between the international organization and its national guaranteeing associations might need to be clarified, in particular as regards the settlement of payment claims from Customs authorities.

25. The Working Party also felt that the practical implications of the proposed provisions of new Annex 9, Part I (f)(v) of the Convention on the newly required insurance or financial guarantee contracts would need to be studied in detail by Customs and insurance experts well before their coming into force.

26. The Working Party therefore requested the secretariat to convene during the first semester of 1998 an expert group meeting to address these issues, to which a range of insurers could be invited.

- Revised TIR Carnet

Documentation: TRANS/WP.30/R.176; Informal document No.5 prepared by the secretariat and the IRU.

27. Following preliminary discussions at earlier sessions (TRANS/WP.30/176, paras. 24 and 25; TRANS/WP.30/172, paras. 13 and 14; TRANS/WP.30/166, paras. 65-67), the Working Party considered a first draft of a revised TIR Carnet that had been prepared by the IRU and the secretariat (TRANS/WP.30/R.176). Another further refined draft was presented during the session in informal document No.5.

28. In general, the Working Party expressed the view that any revised TIR Carnet should, as far as possible, be in line with the UN Lay-out key for trade documents and should be of format A 4. Such an approach would be facilitated by removing the explanatory text from the vouchers of the TIR Carnet to a separate sheet (as has been done in the case of the Single Administrative Document (SAD)). Furthermore, provisions had to be made to allow for the use of the paper-based TIR Carnet in an electronic data interchange environment, thus facilitating its filling-in and processing.

29. Specifically, while several delegations were of the view that the Harmonized Coding System (HS) should be prescribed for the description of the goods in the manifest of the TIR Carnet, other representatives felt that such information was difficult to be obtained by transport operators and could not easily be verified, neither by Customs authorities nor by transport operators in the framework of the TIR transit procedure. The possible inclusion of information on successive transport operators (sub-contractors) was welcomed as well as information on consignors/consignees or importers/exporters. It was, however, recognized that the legal status of such persons/operators still needed to be determined in the Convention.

30. The Working Party decided to revert to these issues at one of its next sessions on the basis of a new draft to be prepared.

- Discharge procedure and alternative forms of evidence

Documentation: TRANS/WP.30/1997/1.

31. The Working Party recalled the detailed considerations at its eighty-eighth session on the administrative and legal procedures required to ensure a valid discharge of TIR Carnets by Customs authorities. It had noted that neither the term "discharge" nor the procedure to obtain such discharge nor the administrative arrangements to verify whether a discharge had been carried out properly were defined in all respects in the Convention (TRANS/WP.30/176, paras. 32-37).

32. Taking account of these considerations, the IRU and the secretariat have jointly prepared a document proposing a number of general principles, interpretations and amendment proposals to the Convention with a view to clarifying the concept and the term "discharge" in the framework of the Convention and recommending alternative forms of evidence as proof for proper discharge (TRANS/WP.30/1997/1). The objective of these proposals was to arrive at a harmonized interpretation of the Convention with a view to minimizing the number of litigations and contested payment claims.

33. The Working Party was of the view that the analysis set out in the document could, in principle, be supported, but felt that the consequences arising from the unconditional discharge at the Customs office of destination or exit (en route) for the liability of the TIR Carnet holder and the guarantee organizations would need to be further examined and did not seem to be as straightforward as set out in paragraph 9 of the ECE/IRU document.

34. In this context, the Working Party also noted that article 11, paragraph 1, last sentence of the Convention referred to the term "certificate of discharge" in the English version, while in the French and Russian versions of the Convention only the word "discharge" was used.

- Other elements for revision under phase II

Documentation: TRANS/WP.30/1997/3; TRANS/WP.30/1997/2.

35. Taking account of documents prepared by Hungary (TRANS/WP.30/1997/3) and the IRU (TRANS/WP.30/1997/2) and recalling the considerations on this issue at its eighty-eighth session, the Working Party felt that the following elements should be considered as part of phase II of the revision process:

- Stable and well-functioning international guarantee system;
- Status and functions of the international organization;
- Harmonized discharge procedures and alternative forms of evidence;
- Revised TIR Carnet (covering successive transport operations);
- Legal basis for an international EDI control system for TIR Carnets;
- Provisions for new emerging technologies;
- Definition of responsibilities for all parties in the TIR procedure;
- Harmonized inquiry procedures;
- Harmonization of the transit facilities under the Community/Common; transit and the TIR transit regimes.

36. The Working Party recognized that most, if not all of these elements were interrelated and, therefore, required thorough analysis and the preparation of a consolidated document addressing all of these issues comprehensively, before the TIR Administrative Committee could adopt a second package of amendment proposals to the Convention.

37. The Working Party urged all delegations to transmit to the ECE secretariat, as soon as possible, but in any case before 1 December 1997, written contributions and proposals pertaining to the above elements identified as part of phase II of the revision process.

- Procedure for phase II of the revision process

38. Drawing from the good experiences made in phase I of the revision process and with a view to finalizing phase II, if possible, by early 1999, the Working Party recommended to convene in early April 1998, following a first preliminary round of discussions at its forthcoming spring session, an informal group of experts (for interested countries and organizations only) to prepare a first consolidated package of amendment proposals. These proposals should then be considered during, at least, two sessions of a formal ad hoc group of experts (with full simultaneous interpretation) which would then transmit the results of its work to a session of the TIR Administrative Committee to be held in early 1999 (a schedule for the planned sessions of the Working Party, the informal group of experts and the proposed ad hoc group of experts is given in paragraph 101 below).

(c) Application of the Convention

(i) Status of resolution No. 49

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

39. 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 on 3 March 1995 has been officially accepted by the following Contracting Parties to the Convention: Austria; Belarus; Belgium; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Iran (Islamic Republic of); Ireland; Italy; Jordan; Latvia; Lithuania; Luxembourg; Netherlands; Norway; Poland; Portugal; Romania; Russian Federation; Slovakia; Slovenia; Spain; Sweden; Switzerland; Turkey; United Kingdom; European Community.

40. The Working Party noted that the large majority of TIR transit operations now took place in countries having accepted resolution No. 49.

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

Documentation: TRANS/WP.30/AC.2/37, annex 4.

41. The Working Party was informed about progress made in the implementation of the recommendation adopted by the TIR Administrative Committee on 20 October 1995 on the introduction of an EDI control system for TIR Carnets (TRANS/WP.30/AC.2/37, annex 4).

42. The representatives of the IRU informed the Working Party that 38 countries were at present connected to the IRU SAFETIR system, 33 of which provided data on a regular basis. 62 per cent of all TIR Carnets issued were covered by the system and the average delay in the transmission of data following the discharge of TIR Carnets was around 15 days with a tendency to decrease further. As of March 1998, information in the SAFETIR system will also cover the date of issuance of the TIR Carnet by the national association as well as the identification number of the Carnet holder.

43. The Working Party noted that, within the next few weeks, the IRU would make available on-line information on discharged TIR Carnets as well as on stolen or otherwise "invalid" TIR Carnets to interested Customs authorities by means of either (a) telephone lines using a PC and a modem; (b) the Internet or by (c) e-mail systems.

44. The Working Party welcomed these newly-offered possibilities which were foreseen in the recommendation of 20 October 1995. They would facilitate inquiry procedures by Customs authorities to obtain precise information about the place and the time of discharge of TIR Carnets.

45. The Working Party was of the view that, at present, given the precautionary measures taken by the IRU, no security problems seemed to arise in connection with the discharge information stored in the SAFETIR system.

46. Recognizing the need to add to the already existing seven data elements prescribed in the recommendation of 20 October 1995, information on the page number of the voucher in the TIR Carnet, mainly to reduce the amount of erroneous information and the ensuing reconciliation work, the Working Party recommended to the TIR Administrative Committee to add this type of information as a further obligatory data element to be provided by Customs authorities. The secretariat was requested to transmit this recommendation to the forthcoming session of the TIR Administrative Committee (26 and 27 February 1998) together with the suggestion to formulate an agreed procedure for the reconciliation of incompatible data. The IRU was invited to make appropriate proposals for transmission to the TIR Administrative Committee.

(iii) Settlement of claims for payments

47. The Working Party was informed by the representatives of the IRU that the arbitration procedures, initiated by the IRU, to obtain payments for Customs claims presented to the previous insurers of the international guarantee chain who had denounced their contract with the IRU at the end of 1994, have been closed and a verdict of the competent court was expected in the next few months. To compensate legitimate payment claims made by Customs authorities against the previous insurers, the IRU had already paid out, from its own resources, SFR 6.8 mio.

48. As regards payment claims against the new insurers, around SFR 2 Mio. had been paid out so far, out of which around SFR 500,000 to the Russian Federation.

49. The Working Party noted that several representatives of Customs authorities had expressed their satisfaction about the present situation with regard to the payment of Customs claims.

50. The representatives of the European Community reported that, in cooperation with the IRU, five member States were conducting an audit of outstanding notifications of non-discharge (article 11, paragraph 1). The work with two member States was almost complete and, subject to confirmation, early indications suggest that few, if any, actual claims exist. The work continues.

51. Following a discussion on the interpretation of article 8 of the Convention, particularly paragraphs 1 and 7, and with a view to being informed about common administrative practices in the lodging of Customs claims, the Working Party appreciated the offers of Turkey and the IRU to present short documents on these issues for consideration by the Working Party at its next session. It was not envisaged to modify the present text of article 8 for the moment as it seemed to be straightforward and in line with general Customs procedures.

52. In this context, the Working Party welcomed the offer of the Russian Federation to present a document for consideration at the next session of the Working Party and to make a presentation, explaining the administrative procedures for the control of TIR transit operations in the Russian Federation and in the Customs Union between Belarus the Russian Federation.

(iv) Interpretation of article 3 of the Convention

Documentation: TRANS/WP.30/R.191.

53. The Working Party recalled that, at its eighty-fourth and eighty-seventh sessions, it had considered briefly whether, in accordance with article 3 of the Convention, it was acceptable to apply the TIR procedure for the transport of buses and trucks whether unloaded or loaded being driven on their own wheels, implying that these vehicles themselves were regarded as the "goods" transported under the TIR procedure. The Working Party had been of the opinion that, while the Convention applied in principle to the transport of goods by road vehicles (article 2), no difficulties would arise, from a Customs security point of view, for the coverage of such vehicles under the TIR procedure as long as they were clearly described in the goods manifest of the TIR Carnet (TRANS/WP.30/174, paras. 33-35; TRANS/WP.30/168, paras. 54-56).

54. Taking account of a draft on this matter prepared by the ECE secretariat (TRANS/WP.30/R.191), the Working Party approved in principle the comment contained in annex 1 to this report. Since the representatives of Turkey reserved their position on the acceptance of this comment, the Working Party decided to revert once more to this matter at its forthcoming February session before transmitting it to the TIR Administrative Committee for endorsement.

(v) Improved procedures in the use of TIR Carnets by transport operators

Documentation: TRANS/WP.30/R.196.

55. With a view to reducing the possibilities for fraudulent discharge of TIR Carnets at Customs offices of destination, the secretariat, on the suggestion of road transport operators, had prepared a short note describing possible procedures to reduce the possibilities of using fraudulent Customs stamps or documents (TRANS/WP.30/R.196).

56. The Working Party had a first exchange of views on the feasibility of recommending or prescribing in the Convention that the holder of the TIR Carnet or his agent (driver) should deal directly with Customs agents in the discharge of TIR Carnets. It felt that, in principle, the procedure described in document TRANS/WP.30/R.196 was in line with the provisions and the spirit of the Convention. Since the TIR Carnet was a Customs document providing also proof of a financial guarantee by the transport operator (the holder), the transport operator had the right to insist on dealing directly with Customs agents in the discharge of TIR Carnets.

57. The Working Party felt, however, that the insertion of several yellow vouchers No 1/No 2 (not for Customs use), that could be handed over to the importer or consignee to carry out the necessary import or other Customs procedures, did not seem to be a practical solution as it could create confusion about the use of such vouchers. Rather than modifying the TIR Carnet, it was necessary to apply the provisions of the Convention correctly, in particular article 28.

58. In this context, the Working Party was of the view that the wording of article 28 and or of explanatory note 0.28 should be reviewed to ensure that discharge of TIR Carnets could take place without delay and that persons acting under other Customs regimes (importation, warehousing, etc.) did not get involved in the discharge of TIR Carnets.

(vi) Application of electronic sealing and tracking devices

Documentation: Informal document No.7 transmitted by Ananda Management SA.

59. Following a presentation of an electronic system for the automatic detection, identification and tracing of trucks consisting of (a) an electronic detection network made up of antennas built into the roads, (b) electronic vehicle tags (seals) and (c) a central data processing centre, the Working Party considered whether such systems improving Customs control and security could be prescribed, against a modest service charge, by Customs authorities for transport under the TIR regime.

60. The Working Party felt that such electronic tracking and sealing systems that could also be used to prevent falsification of the accompanying paper documents, might contribute to a reduction in Customs fraud during transit operations, particularly in the case of sensitive goods, even though the majority of fraudulent activities occurred at present in the country of destination.

61. While the provisions of the Convention did not provide for the mandatory use of such control devices, the imposition of a service charge for the use of such devices did not seem to be in line with the present provisions of the Convention, particularly article 46, paragraph 1.

62. Given the possible positive effects on Customs security stemming from a systematic prescription of such electronic sealing and tracking devices, the Working Party decided, however, to continue its considerations on the use of such systems in the framework of the revision of the Convention.

(vii) Order No.513 of the Russian State Customs Committee

Documentation: Informal document No.1, transmitted by the Russian Federation.

63. The Working Party was informed by the representatives of the Russian Federation that the Russian State Customs Committee envisaged to exclude, as of 1 January 1998, a number of sensitive goods from transport under the TIR procedure unless carriers provided, through their national associations, a special direct and supplementary guarantee in the order of US\$ 50,000 per TIR Carnet (Order No.513, dated 22 August 1997). The Working Party noted that this Order had been drafted to ensure payment of Customs claims lodged against foreign transport operators. While the number of such claims had doubled over the last 15 months on the territory of the Russian Federation, the present international guarantee system was apparently not able to provide for adequate compensation to cover the ensuing losses to the State budget.

64. The representatives of the Russian Federation stressed that their country wished to remain a Contracting Party to the Convention, but felt that the envisaged Order, following the exclusion of a number of sensitive goods on the territory of the European Community as of 1 April 1996, was required until concrete measures had been taken by the IRU, the international insurers and all Contracting Parties to the Convention to re-establish the proper functioning of the international guarantee system.

65. The representatives of the IRU acknowledged that the number of notifications concerning non-discharged TIR Carnets as well as payment claims presented by the State Customs Committee of the Russian Federation, via the Russian guarantee association ASMAP, had increased considerably over the last few years. Unfortunately, the procedures followed by the competent authorities in the Russian Federation to substantiate such claims were sometimes difficult to understand and the accompanying information was often not comprehensive enough to allow for instantaneous compensation by the international insurers. Recently, however, considerable progress had been made on this issue through numerous bilateral contacts between representatives of the State Customs Committee, the international insurers and the IRU.

66. In this context, the representatives of the IRU stressed that the provision of a direct and supplementary guarantee by its national associations as envisaged in Order No.513 was incompatible with the provisions of the TIR Convention and against the contractual arrangements governing the relationships within the international guarantee chain and could therefore not be accepted.

67. The representatives of the European Community clarified that the exclusion of certain sensitive goods from transport under the TIR procedure on the territory of the European Community as of 1 April 1996 had been due to the unilateral denunciation of the guarantee contracts by some national guaranteeing associations established in the European Community. This measure, which affected national and foreign transport operators alike, had been condemned by all countries of the European Community and by the Working Party as not being in line with the provisions and the spirit of the TIR Convention (TRANS/WP.30/168, paras. 13-19; TRANS/WP.30/174, paras. 26 and 27).

68. The Working Party expressed its appreciation to the Russian Federation for the transmission of the text of Order No.513. This was in line with the wish of the Working Party to be informed well in advance and to the extent possible, of any national measures planned to be introduced to safeguard the functioning of the TIR procedure (TRANS/WP.30/174, para. 40).

69. The Working Party also expressed understanding for the specific circumstances prompting the Russian State Customs Committee to consider the implementation of drastic measures to improve the functioning of the international guarantee system. The Working Party questioned, however, the usefulness and the legality of the specific measures envisaged in Order No.513.

70. In particular, the Working Party reiterated its view expressed earlier that the exclusion of certain goods from transport under the TIR procedure was not in line with the provisions and the spirit of the Convention (see para. 17 above). The Working Party was also of the view that the provision of a direct and supplementary guarantee to be provided by foreign national associations to the Russian State Customs Committee ran counter to the provisions of the Convention, particularly article 6, paragraph 2 and was in conflict with one of the fundamental principles of the Convention: the provision of Customs transit facilities on a non-discriminatory and reciprocal basis.

71. The Working Party noted that the provision of such a direct and supplementary guarantee by national associations might compel the international insurers to denounce guarantee coverage for TIR Carnets issued by such associations, since all underlying conditions governing the insurance contracts were based on the provisions of the Convention. As a consequence, national guaranteeing associations might be compelled to withdraw guarantee coverage for such TIR Carnets and Customs authorities of other Contracting Parties would no longer be able to accept such TIR Carnets.

72. The Working Party also noted that, similarly, as all contractual private law relations among the parties of the international guarantee chain (transport operators, national associations, IRU and the insurers) take account of the provisions of the TIR Convention and were applied in an equal and non-discriminatory manner, a decision to reduce unilaterally the liabilities of one national association (here ASMAP) to TIR Carnets issued by itself, might also render its contractual relations with the international organization and the international insurers void. As a consequence, such an association might no longer be permitted to issue TIR Carnets.

73. With a view to rapidly finding solutions to the problems addressed in the above Order, the Working Party:

(a) requested the IRU and the international insurers to spare no efforts and to deploy all required material and personnel resources to cooperate with the State Customs Committee of the Russian Federation in resolving all outstanding Customs claims in accordance with the provisions of the Convention and to report on results achieved at the February 1998 session of the Working Party;

(b) stressed its commitment to fully implement all provisions adopted in phase I of the TIR revision process, relating in particular to the effective functioning of the TIR Executive Board and its supervisory role in relation to the operation of the guarantee system, to the introduction of an internationally controlled identification system for approved transport operators and to the effective implementation of the EDI control system for TIR Carnets;

(c) invited the State Customs Committee of the Russian Federation to (i) continue its constructive cooperation with other Contracting Parties to the Convention as well as with the IRU and the international insurers in resolving the above matters and (ii) to reconsider the provisions as well as the implementation of Order No.513 with a view to avoiding possible disruptions of the TIR Customs transit system to and from the Russian Federation.

74. The Working Party invited the Customs authorities of all Contracting Parties to the Convention to provide to the State Customs Committee of the Russian Federation with all necessary assistance and, upon request, all pertinent information in order to reduce the amount of Customs fraud committed in the framework of the TIR procedure.

(viii) Requirement of an additional guarantee in Lithuania

75. The Working Party noted that, as of 16 June 1997, the Government of Lithuania had applied a new Customs regulation (resolution No.532), stipulating that, if the sum of Customs duties and taxes of goods transported under cover of a TIR Carnet exceeded the maximum guarantee provided per TIR Carnet, an additional guarantee had to be furnished to cover the excess amount.

76. The Working Party stressed that the provision of such supplementary guarantees was not in line with the provisions and the spirit of the Convention, particularly its article 4. The Working Party referred in this context to earlier adopted comments on duties and taxes at risk relating to articles 8 and 23 (1995 TIR Handbook, pages 43 and 54) specifying the use of escort services at the carrier's expense as well as to a comment to article 17 (1995 TIR Handbook, page 50), allowing, under certain conditions, the use of more than one TIR Carnet.

77. The Working Party also noted that the request for additional guarantees by Customs authorities entailed the risk that the international insurers, in case of fraudulent activities, might no longer provide guarantee coverage for such TIR Carnets on the territory of that country.

78. The secretariat was requested to inform the Government of Lithuania of this opinion of the Working Party.

(ix) Extension of the deadline for the use of the old certificate of approval of a road vehicle

79. On being informed by the secretariat of a request by Albania for the extension of the deadline for the use of the old certificate of approval of a road vehicle until 1 January 1998, noting that the secretariat had provided new model certificates to the competent authorities in Albania, realizing that only very few vehicles and operators were involved and that, for any extension of the deadline more than 10,000 Customs posts needed to be informed and recognizing the non-existence of a guarantee declaration by the

international insurers covering transport under the old certificates, the Working Party felt that it was not in a position to recommend an extension of the deadline as requested by Albania.

(x) Re-introduction of the guarantee for sensitive goods in the European Union

80. The Working Party was informed that as of 1 August 1997, the European Community had decided to re-introduce the use of the comprehensive guarantee of the following three categories of goods under the Community/Common Transit Systems:

Cheese and curd	(HS code: 04.06)
Wheat and meslin	(HS code: 10.01)
Rye	(HS code: 10.02)

81. The Working Party recalled that the national guaranteeing associations operating under the TIR regime, in denouncing their guarantee contracts for a number of sensitive goods on the territory of the European Community as of 1 April 1996, had argued that this denunciation was prompted by the increase in the guarantee to 100 per cent for such goods transported under the Community/Common Transit Systems. The Working Party expected therefore that these associations and the international insurers would now re-introduce their guarantee coverage, at least for the above three categories of goods for which the guarantee requirements under the Community/Common Transit Systems had been relaxed. The IRU was requested to inform the concerned national associations and the international insurers of this view expressed by the Working Party and to report back on the results.

82. Due to lack of time the Working Party had to postpone consideration of the following agenda items to its next session:

TIR Convention, 1975

International register on Customs sealing devices
International directory of TIR focal points

Convention on Customs Treatment of Pool Containers Used in International Transport

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.

83. On 28 April 1994, the Executive Secretary of the UN/ECE had transmitted letters to all Contracting Parties to the 1954 and 1956 Conventions, in accordance with resolution No. 48 on the acceptance of "carnets de passages en douane" and of CPD carnets, adopted by the Working Party on 2 July 1993 (TRANS/WP.30/151, annex 4).

84. As of 20 October 1997 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) Initiation of the amendment procedure for article 13, new paragraph 4 of the 1954 Convention

85. The Working Party once again invited the Government of Italy to formally propose the introduction of the new paragraph 4 to article 13 into the 1954 Convention as had been agreed upon at the eighty-fourth session of the Working Party in June 1996 (TRANS/WP.30/168, para. 72).

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

86. At its eighty-eighth session, the Working Party had been informed by the representatives of Egypt and the AIT/FIA that considerable progress has been made in resolving the administrative and guarantee problems in Egypt which had endangered the functioning of the Convention. The Government of Egypt had also confirmed the full application of the 1954 Convention on its territory (TRANS/WP.30/176, paras. 48 and 49).

87. The representative of the AIT/FIA informed the Working Party on the latest developments in this matter and on the results of recent meetings held in Cairo with the competent authorities in Egypt.

88. The Working Party noted with appreciation the progress achieved in order to apply correctly the 1954 Convention in Egypt, encouraged all parties concerned to continue their constructive dialogue on this matter and decided to continue to monitor the situation.

(d) Difficulties in the application of the 1954 Convention in Australia

Documentation: TRANS/WP.30/1997/4.

89. On the basis of a document transmitted by the AIT/FIA, the Working Party considered difficulties in the interpretation of the term "private use" in the Convention which had arisen recently in Australia. The Working Party noted that the term "private use" as defined in the Convention seemed to leave considerable scope for interpretation, particularly in the case of rally vehicles, vehicles on loan for business or vehicles imported temporarily by foreign workers.

90. The Working Party decided to invite Customs representatives to report on national practices in the application of the Convention at the next session of the Working Party, covering the cases mentioned in the AIT/FIA document and requested the secretariat to consult with the World Customs Organization (WCO) on their views on this matter.

CUSTOMS CONVENTION CONCERNING SPARE PARTS USED FOR REPAIRING
EUROP WAGONS

Revision of the Convention

Documentation: TRANS/WP.30/R.169; TRANS/WP.30/R.129; Informal document No.4 prepared by the WCO and the UIC.

91. At its eighty-seventh session, the Working Party had briefly considered a document transmitted by the UIC containing a first draft of a new Convention which was aimed at extending the facilitation measures of the present convention to the 19 "RIV" member countries (TRANS/WP.30/R.169). The Working Party had also considered to what extent the provisions of the newly proposed convention would already be covered by other existing conventions, such as the Istanbul Convention (TRANS/WP.30/174, paras. 57-59).

92. As requested by the Working Party, consultations had been held between the World Customs Organization (WCO) and the UIC on possibilities of covering the provisions of the newly proposed Convention in the Istanbul Convention. According to the WCO this seemed to be possible in principle.

93. Following a short exchange of views on the specific requirements for the temporary importation of railway spare parts, the Working Party invited the UIC to review these technical details once more with the WCO and to report on the results to the Working Party at one of its next sessions.

PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS

94. The Working Party was informed by the representative of the Czech Republic of a major fraud detected in July 1997 where shoes had been declared, but 7 mio cigarettes had been smuggled in a container under the TIR regime.

PROGRAMME OF WORK FOR 1998 TO 2002

Documentation: TRANS/WP.30/1997/5; Informal documents Nos.8 and 9 prepared by the secretariat and Slovakia.

95. The Working Party was informed that the ECE Inland Transport Committee, at its fifty-ninth session (13 to 17 January 1997), had adopted guidelines for the presentation of the programme of work of the Committee and its subsidiary bodies. The Committee had also asked the Chairpersons of its subsidiary bodies to examine whether those programme activities for which they assumed responsibility complied with these guidelines.

96. The secretariat and the Chairperson of the Working Party, in complying with the request of the Committee, had slightly modified the existing programme of work of the Working Party with a view to making it compatible with the above-mentioned guidelines (TRANS/WP.30/1997/5). The Working Party adopted this programme of work as contained in annex 2 to this report.

97. As regards priorities among the various programme elements retained in its programme of work (annex 2 to this report), the Working Party agreed on the following order of priorities (by programme element number): (i), (ii), (iv), (ix), (viii), (iii), (vi), (vii), (v), (x).

98. With a view to making rapid progress in the revision of the TIR Convention (phase II), the Working Party recommended to establish a special ad hoc group of experts to finalize a comprehensive package of amendment proposals, if possible, by early 1999.

99. The Working Party was of the view that, while in 1998 two regular sessions of the Working Party, in addition to the two proposed sessions of the ad hoc group of experts, should be held, the regular schedule of three meetings per year should be re-established as of 1999 in order to allow for the adequate administration, interpretation and the preparation of amendments to the more than 10 active Customs and transport facilitation conventions for which it was responsible.

100. The Working Party also stressed that, given the technical and legal character of its deliberations and decisions, it was imperative to adopt a comprehensive report, including commentaries (interpretations) to the provisions of legal instruments, at the end of its sessions. These deliberations and commentaries, constituting a consensus among the Contracting Parties to the various international treaties, were used by Governmental authorities, national courts and international organizations as a basis for their decisions and had to be very carefully weighted and finally adopted by the Working Party.

SCHEDULE OF PROPOSED MEETINGS OF THE WORKING PARTY AND THE TIR ADMINISTRATIVE COMMITTEE

101. The Working Party decided on the following schedule of meetings until early 1999, subject to the approval of the Inland Transport Committee:

25 and 26 November 1997	Special meeting on implementation of TIREXB and the TIR Secretariat (upon invitation only)
24 to 27 February 1998	Working Party WP.30 (90th session)
of which: 24 February 1998	Implementation of new Annex 9, Part I, (f)(v) of the TIR Convention
26 to 27 February 1998	TIR Administrative Committee (24th session)
Early April 1998	Informal group of experts (TIR revision II) (upon invitation only)
24 to 26 June 1998	Ad hoc group of experts (TIR revision II)

19 and 20 October 1998	Ad hoc group of experts (TIR revision II)
21 to 23 October 1998	Working Party WP.30 (91st session)
(25 and 26 February 1999	TIR Administrative Committee (25th session))

OTHER BUSINESS

(a) Dates of next sessions

102. The Working Party decided to hold its ninetieth session from 24 to 27 February 1997. Deadline for the submission of official documents for this session: 10 December 1997.

103. The ninety-first session of the Working Party was planned to be held from 21 to 23 October 1998.

(b) Restriction on the distribution of documents

104. The Working Party decided that there shall be no restrictions with respect to the distribution of documents issued in connection with its current session, except for the two international registers on Customs sealing devices and TIR focal points.

ADOPTION OF THE REPORT

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

Annex 1

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

Comment adopted by the UN/ECE Working Party
on Customs Questions affecting Transport

Replace the existing comment to article 3 (TRANS/GE.30/10, paragraphs 14 -17)
by the following comment:

"Comment

Road vehicles regarded as goods in a transit operation
Occasionally, special road vehicles, such as cranes, sweepers, concrete-
laying machines, etc., but exceptionally also buses and normal trucks with
or without cargo, exported to third countries are driven on their own
wheels to the point of delivery. Vehicles of this kind are regarded as
goods in a transit operation and a TIR Carnet may legitimately be issued
in such cases. The provisions of article 29, particularly paragraph 3
apply. A certificate of approval is required for such vehicles if they
are transporting non-heavy or non-bulky goods.
{TRANS/GE.30/10, paras. 14-17; TRANS/WP.30/30/178, para. 53 and 54;
TRANS/WP.30/AC.2/...,}"

Add the same comment to article 29.

Annex 2

DRAFT PROGRAMME OF WORK FOR 1998 TO 2002 */

PROGRAMME ACTIVITY 02.9: CUSTOMS QUESTIONS AFFECTING TRANSPORT

Harmonization and simplification of requirements for border crossing procedures concerning modes of inland transport Priority: 1

Description:

- (a) Preparation, review of, implementation and, where appropriate, modification of international legal instruments.
- (b) Simplification of administrative formalities, documents and procedures.

Work to be undertaken: The Working Party on Customs Questions affecting Transport will pursue the following activities:

- [(iii)](i) Revision of the TIR Convention, 1975 **with a view to stabilizing the TIR Customs transit procedure.**
(1998)
- (ii) Study of specific legal and administrative measures to combat fiscal fraud in the framework of the TIR Convention.
(Continuing)
- [(i)](iii) Study of the possible extension of the TIR Convention to other regions, particularly relating to legal and administrative aspects.
(Continuing)
- (iv) Periodic review of existing Customs and facilitation conventions in order to keep them in line with modern transport requirements.
(Continuing)
- (v) Study to facilitate formalities for container pools in international transport and follow-up activities within the framework of the new Convention on Customs Treatment of Pool Containers Used in International Transport.
(Continuing)
- (vi) Study to facilitate railway transit traffic on the basis of the CIM and the SMGS Consignment Notes, **including the preparation of a new Customs transit regime allowing the use of the CIM and the SMGS consignment notes.**
[1997] (1999)

*/ Text in bold characters indicates newly proposed text; text in square brackets indicates text proposed for deletion.

- (vii) Analysis of difficulties encountered relating to border crossing formalities with a view to devising administrative procedures eliminating such difficulties, and review of related activities of international organizations concerned.
(Continuing)
- (viii) Study of Customs questions with a view to simplification of Customs formalities and documents in the field of transport, in particular taking account of the possibility of electronic data interchange solutions, **including UN/EDIFACT messages**.
(Continuing)
- (ix) Study of ways and means of preventing abuse of the advantages resulting from the introduction of simplified Customs procedures, including periodic review of implementation of resolution No. 220 (prevention of the abuse of Customs transit systems by drug smugglers).
(Continuing)
- (x) Study of harmonization of conditions for exercising Customs and other controls undertaken at frontiers (health, phytosanitary, veterinary and quality controls, application of standards, public safety controls, etc.), including promotion of the implementation and extension of the scope of the International Convention on the Harmonization of Frontier Controls of Goods of 1982.
(Continuing)
- (xi) Active cooperation and setting-up of mechanisms for the regular exchange of information with other Governmental and non-governmental organizations to combat fiscal fraud and smuggling and to harmonize international Customs transit and other transport facilitation procedures.**
(Continuing)
- [(xi) Consideration of follow-up on the development of the implementation of EDIFACT message development work in the transport sector taking into account in particular TIR simplification possibilities.
(Continuing)]
- [(xii) Preparations towards an ECE workshop on international transport facilitation measures for countries in transition.
(1997)]
-