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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

##### 153rd session

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Item 2 (a) of the provisional agenda

**Activities of United Nations Economic Commission for Europe bodies and other United Nations organizations of interest to the Working Party**

### **The Inland Transport Committee recommendations for enhancing national road safety systems**

#### Note by the secretariat

## I. Background and mandate

1. At its 152nd session (June 2019), the Working Party took note that, on 24 April 2019, the Chair of ITC and the Director of the Sustainable Transport Division, in a joint letter, had invited the Chairs of Working Parties and Administrative Committees under the purview of ITC to take follow-up actions on aligning their work with the ITC strategy, in particular its road safety related aspects. To that end, the ITC secretariat prepared draft ITC recommendations for enhancing national road safety systems for comments by Working Parties and Administrative Committees (Informal document WP.30 (2019) No. 4 – restricted). The Working Party took note of the recommendations. While fully supporting the scope of the recommendations in recognizing that road safety in its aspects affects the activities of the legal instruments under the purview of the Working Party, in particular when it comes to safe vehicles or drivers' behaviour, it did not see any avenue for direct intervention in the field of customs other than, possibly, in the area of enforcement. To factually establish this, the Working Party requested the secretariat to send a short survey to TIR customs focal points, with copy to WP.30 delegates, soliciting their national experience with customs-related activities mentioned in paragraph 32 of the draft recommendations and to prepare a document for its consideration at the next session (ECE/TRANS/WP.30/304, para. 6).

2. In line with this request, the secretariat prepared a short survey which was sent to TIR customs focal points, with a copy to WP.30 delegates on 18 June 2019, with 15 July 2019 set as deadline for reply. A reminder was sent on 8 July 2019.

## II. The survey

3. The contents of the short survey was as follows:

“Dear TIR customs focal points / delegates in ECE Working Party on Customs Questions affecting Transport (WP.30)

At its 152nd session, at the request of the Inland Transport Committee (ITC), WP.30 discussed the “Draft Recommendations for Enhancing National Road Safety” to improve global road safety.

The recommendations contain a number of actions for implementation by various stakeholders to improve road safety.

The involvement of customs is mentioned in the part on “certification and inspection by qualified inspectors” of safe vehicles. The draft recommendations enumerate 8 specific areas of potential involvement of customs:

- (a) Authorize inspection centres, which may include privately operated workshops, for technical inspections;
- (b) Carry out road side technical checks including load securing;
- (c) Establish and interlink databases for vehicle registration, periodic technical inspection and technical roadside inspections;
- (d) Undertake import/export control on new and used vehicles (to verify that vehicles meet technical standards);
- (e) Apply effective penalties for use of vehicles with expired (technical safety) certificates;
- (f) Apply effective penalties to inspection centres and use anti-corruption mechanism;
- (g) Assess effectiveness of vehicle enforcement activities by use of appropriate indicators;
- (h) Ensure sufficient budget for inspection, supervision and audit.

When it comes to each specific area, do you see existing/potential involvement of customs? If yes, please specify what activity.

<i>Area</i>	<i>No</i>	<i>Yes, please specify</i>
(a)		
(b), etc		

Any further comments:....”

### III. Results of the survey

4. 27 countries replied to the survey: Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

#### A. Answers to the various areas

##### (a) Authorize inspection centres, which may include privately operated workshops, for technical inspections

No: 25 (Austria, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom).

The United Kingdom specifies that the Driver and Vehicle Licensing Agency (DVLA) approves testing centres that check whether the load compartments meet the technical specifications of the TIR Convention.

Yes: 2 (Azerbaijan (Currently, certification of road vehicles for their conformity to transport goods under customs seals is one of the pillars of the TIR system and in the legislation of some countries, as well as customs or economic unions, it is one of the requirements also for placing goods under a customs transit procedure, other than TIR. For example, according to Article 143 of the Customs Code of the Eurasian Economic Union “Goods shall be placed under the customs procedure for their transportation (shipment) within the customs territory of the Union under the following conditions... (4) conformity of a vehicle for international transportation with the requirements specified in Article 364 of this Code, provided that the goods are transported in cargo holds (compartments) of a vehicle with the customs seals and stamps attached to them.”<sup>1</sup> Given the importance of certification (that is carried out mainly by customs) for international transport there might occur a need for privately operated workshops, as this area requires technical knowledge. Such approach could also decrease the workload of the customs authorities related to certification), Greece (there are inspection centres, both public and private, authorized by the competent regional services of the Ministry of Infrastructure and Transport)).

**(b) Carry out road side technical checks including load securing**

No: 24 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Turkey, Ukraine, United Kingdom).

Poland specifies that the answer could be yes if related to checks of the tachographs.

Sweden specifies that the answer could be yes in the sense that, sometimes, Swedish customs is involved in joint controls with other agencies that conduct technical vehicle inspections. However, Swedish customs never performs such inspections on its own nor can it issue fines in that context.

Yes: 3 (Estonia, Greece (specifying that the competent authorities, including customs, carry out checks. Specifically, customs authorities check whether the vehicle disposes of a certificate of technical safety), Switzerland (specifying that the Federal Roads Office and customs carry out joint inspections of vehicles)).

Estonia elaborates that pursuant to paragraph 49 of the Road Transport Act, the Tax and Customs Board is an authority to exercise state supervision over compliance with requirements provided for paragraph 29 subsection 1 clauses 1–4 and 7 of this Act by means of the listed documents, concerning compliance with the road transport requirements regarding the cargo safety requirements and carrying dangerous goods. The Tax and Customs Board officers may, for the purpose of exercising the state supervision, interrupt carriage and check the compliance with the cargo safety requirements and carrying dangerous goods, if necessary, to punish the person for the misdemeanour. The authority has also the right to make a precept for the purpose of prevention of infringement of the requirements for the purpose of bringing activities into compliance with the requirements or performance of the obligations and termination of obstruction of state supervision, thereby granting a reasonable term for complying with the precept. The authority may impose a penalty payment of 6,400 euros payable by a natural person and the maximum penalty payment payable by a legal person is 32,000 euros. The Police and Border Guard Board exercises state supervision over the traffic and inspection of roadworthiness according to the paragraphs 193, 200 of the Traffic Act.

<sup>1</sup> See: [www.eurasiancommission.org/en/act/tam\\_sotr/dep\\_tamoj\\_zak/Pages/Customs-Code-of-the-EAEU.aspx](http://www.eurasiancommission.org/en/act/tam_sotr/dep_tamoj_zak/Pages/Customs-Code-of-the-EAEU.aspx)

(c) **Establish and interlink databases for vehicle registration, periodic technical inspection and technical roadside inspections**

No: 25 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom).

Azerbaijan comments that it would be useful to have a national database of approved vehicles or, ideally, even an international one. Such initiative could start with TIR approved vehicles and then be extended to all types of vehicles.

Yes: 2 (Estonia, Greece (Databases for vehicle registration and periodic technical inspections already exist and can be interlinked. A database for technical roadside inspection is about to be established.)).

Estonia elaborates that there is a traffic registry in Estonia and the Road Administration (registrar) is responsible for the related registry entries. Accounts are kept in the vehicle database for motor vehicles and trailers registered in Estonia, including off-road vehicles, the owners and responsible users as well as for the compliance with the roadworthiness requirements, restrictions on the use and disposal of vehicles and registry pledges as established by paragraph 158 of the same Act. Other authorities have access to this information in accordance with their authority.

(d) **Undertake import/export control on new and used vehicles (to verify that vehicles meet technical standards)**

No: 20 (Austria, Azerbaijan, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Ireland, Latvia, Netherland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Turkey, United Kingdom).

Yes: 7 (Bosnia and Herzegovina (before customs clearance), Greece (The regional services of the Ministry of Infrastructure and Transport are responsible for the registration of used vehicles and require a technical inspection certificate demonstrating no serious or major deficiencies), Lithuania (customs is involved in controlling the importation of vehicles to establish whether they can be operated (in order to avoid the importation of decommissioned or inoperable vehicles from third countries), Montenegro (customs verify documents to import new and used vehicles to see if they meet technical standards), Poland (for imported or transiting used vehicles, to see if they should be treated as car wrecks, in which case special regulations would apply), Switzerland, Ukraine).

Switzerland specifies that Swiss legislation provides customs the authority to conduct various types of controls of vehicles or driver) upon entry or exit of the Swiss territory, such as the condition of drivers, weights and dimensions, licence to transport dangerous goods, general technical condition of vehicles and driving and resting time. Further information is contained in the decree on road traffic control (OCCR)<sup>2</sup>, Article 4 and the new decree of the federal road office on the decree on road traffic control (OCCR-OFROU)<sup>3</sup>.

Ukraine specifies that the "State Fiscal Service of Ukraine reviewed the survey of the Inland Transport Committee of the Economic Commission for Europe and its subsidiary bodies on the role of customs authorities in matters related to road safety.

We provide information on task No.4 on the implementation by customs authorities of import and export controls of new and used vehicles (to verify their compliance with technical standards).

We inform that in accordance with Article 6 of the Law of Ukraine of 5 April 2001, No. 2344-III "On Automobile Transport" (as amended), at checkpoints across the state border of Ukraine, the central executive body which ensures the formation and implementation of tax and customs policy in the field of international road transport carries out:

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<sup>2</sup> OCCR stands for Ordonnance sur le contrôle de la circulation routière.

<sup>3</sup> OFROU stands for Office federal des routes.

- control over the availability of permits for transportation
- overall and weight control of vehicles
- control over the observance by carriers of the rules for the transport of dangerous goods
- control over payments of toll roads in Ukraine (accrual) by non-resident transport operators
- control over the payment of fines by transport operators or compliance with the instructions of the control bodies
- tracking of vehicles engaged in the international transport of passengers and cargo.

All vehicles of Ukrainian and foreign transport operators that transport passengers and goods through the territory of Ukraine are subject to state control.

The central executive body responsible for the formation and implementation of tax and customs policy at the checkpoints across the state border of Ukraine provides documentary control over the compliance by transport operators with Ukrainian legislation with regard to international road transport at the checkpoints across the state borders of Ukraine.

In accordance with Article 2 of the Act of 6 July 6, 2005 № 2739-IV "On certain issues related to the importation into the customs territory of Ukraine and the first state registration of vehicles" (as amended), customs clearance for the purpose of free circulation and the first state registration of vehicles with the commodity codes 8701 20, 8702, 8704, 8705 according to the Ukrainian classification of goods of foreign economic activity, both manufactured and imported in Ukraine, new and used, and new vehicles with code 8703, both manufactured and imported in Ukraine, are subject to environmental regulations.

In connection with the above, according to the Customs Code of Ukraine of 13 March 2012 No. 4495-VI (as amended), the competence of the customs authorities includes documentary audit. Verification of compliance with technical standards of new and used vehicles does not fall within the competence of the customs authorities of Ukraine.

According to Article 23 of the Law of July 02, 2015 No. 580-VIII "On the National Police of Ukraine" (as amended), the police:

- monitors the legality of the operation of vehicles on the road network and issues permits for the movement of certain categories of vehicles in accordance with the law
- identifies vehicles of personal use temporarily imported into the customs territory of Ukraine by citizens for more than 30 days and not registered in the terms established by legislation
- takes measures to identify unlawful driving, for which restrictions are imposed by the Customs Code of Ukraine, namely that:
  - the terms of their temporary importation and / or placement in the customs regime of transit were violated
  - vehicles are used for entrepreneurial activity and / or income generation in Ukraine
  - vehicles are transferred to the possession, use or disposal to persons who did not bring them into the customs territory of Ukraine or did not place them under the customs transit procedure, and also takes measures to identify illegally disassembled vehicles.

In addition, according to Article 35 of the Law of 30 June, 1993 No. 3353-XII "On Road Traffic" (as amended), mandatory technical control of vehicles intended for use on the public road network and registered by territorial bodies of the Ministry of Internal Affairs Of Ukraine, are carried out by subjects of mandatory technical control, who have the right of ownership or use of equipment that make it possible to check the technical condition of vehicles for compliance with road safety and environmental protection requirements."

**(e) Apply effective penalties for use of vehicles with expired (*technical safety*) certificates**

No: 25 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom).

Yes: 2 (Estonia, Greece (the competent authorities (traffic police, port police, regional control units, customs authorities etc.) impose penalties on the owners of vehicles without a valid technical inspection certificate according to national legislation)).

Estonia elaborates that The Tax and Customs Board is the body that carries out extrajudicial proceedings regarding the misdemeanours specified in paragraphs 53–62, 66 and 70–72 of the Road Transport Act. Paragraph 66 of this Act provides the penalty for infringement of a requirement established for the carriage of dangerous goods which is a fine of up to 300 fine units or 1,200 euros and if committed by a legal person, the fine is up to 32,000 euros. Paragraph 70: the penalty for infringement of the requirements by the sender of goods, established for stowing, securing and covering goods, the fine is up to 200 fine units or 800 euros and up to 13,000 euros for the legal person, as well as pursuant to paragraph 72 for the failure to submit accompanying documents of goods or submission of false information on mass dimensions of goods by sender of goods or forwarding agent – also up to 200 fine units or 800 euros and the fine is up to 13,000 euros if committed by a legal person. The Police and Border Guard Board is the body that carries out extrajudicial proceedings if the lorry does not have the required roadworthiness test.

**(f) Apply effective penalties to inspection centres and use anti-corruption mechanism**

No: 26 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom).

Yes: 1 (Greece (the competent supervising authorities impose penalties on inspection centres, which do not meet the legal requirements)).

**(g) Assess effectiveness of vehicle enforcement activities by use of appropriate indicators**

No: 26 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Turkey, Ukraine, United Kingdom).

Yes: 1 (Switzerland (use of data in risk analysis)).

**(h) Ensure sufficient budget for inspection, supervision and audit.**

No: 26 (Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom).

Yes: 1 (Greece (Provision was made in national law to cover the costs of supervising the technical inspection of vehicles)).

**B. Comments****Azerbaijan:**

It should be mentioned that, for the purpose of safety of transporting goods carried under customs control, there also some other parts of the recommendations, where customs could be involved. Part B of Informal document WP.30 (2019) No. 4 – restricted – (Safe User + Legislation), paragraph 16, point 10), which mentions the strict regulation of the loading of vehicles as an important element. While it is clear that this part of the document mainly relates

to other transports than international movements, there is merit in also considering this aspect in the context of international transport as well, not least because the loading and unloading of goods in vehicles is carried out under the supervision of customs authorities and in most cases are subject to weighing on the scales before the start of a transit operation. Certain provisions of international agreements/conventions (Revised Kyoto Convention, TIR Convention etc.) also recommend that customs authorities, when prescribing a time limit and itinerary for a transit operation, take into account the conditions of driving and resting periods of drivers engaged in international transportation regulated by international agreements (such as AETR<sup>4</sup>). In some countries, this requirement is strictly followed, as customs authorities are also responsible for such controls at borders. Nevertheless, in many countries this cannot be provided, also because the lack of competence of customs authorities in this area, as this area is regulated by the ministries of transport or interior. However, this aspect of safety of transportation of goods under customs control is also an important element. Therefore, it is proposed to see in which other part of the recommendations customs could be included as well, as one of the main authorities, helping to ensure road safety in international transport.

**Bulgaria:**

In Bulgaria, customs authorities are not competent in these activities, which are all performed by other competent authorities.

**France:**

All these recommendations do not currently affect the French customs administration and concern the administration of the Ministry of Transport, the Interior (National Gendarmerie /Police) and the Ministry of Ecological Transition. France does have customs mechanics responsible for maintaining the fleet of the customs administration to support officers dealing with mobile surveillance. Thus, there are garages for the daily maintenance of the fleet of the customs administration. However, extensive technical controls of these vehicles are delegated to private garages. In addition, customs officers are not in charge of checking the technical standards of vehicles during traffic control. However, it could be noted that co-operation between customs and various administrations exists, which allows for joint controls, each administration having its own area of competence. At the same time, if customs officers notice problems during a road-side check (such as: improperly secured loads on a truck), they are able to contact the competent authorities.

**Greece:**

The above issues fall under the competence of the services of the Ministry of Infrastructure and Transport. Customs authorities are, inter alia, designated as one of the competent authorities to monitor the application of the legislation in force on the circulation of Greek and foreign private and public commercial vehicles and the transports carried out with them as well as to impose administrative fines for infringements.

**Ireland:**

There is no involvement by Irish customs authorities as regards actions for the enhancing of national road safety measures. This responsibility would fall to the Department of Transport.

**Latvia:**

Specific areas (b) and (e) are under responsibility of the State police (inspections are made in cooperation with the Road Safety Directorate). At border crossings, the appropriate controls (periodic technical inspection of vehicles) are done by the State Border Guard. Inspections of used vehicles are done by the Road Safety Directorate (as a pre-condition for vehicle registration).

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<sup>4</sup> European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport

**Republic of Moldova:**

It should also be noted that the enumerated tasks are within the competence of the National Motor Transport Agency of the Republic of Moldova.

**Switzerland:**

The Swiss customs administration fulfils several enforcement tasks in the field of road safety, whereas the Federal Roads Office – acting as leading agency – prepares the necessary instructions. As for all import/export/transit controls, those in the field of road safety take place risk-based and location-dependent. There are no systematic controls when crossing borders.

**Turkey:**

In Turkey, the Ministry of Transport and Infrastructure, police and gendarmerie are the competent authorities in the field of road safety. The technical compliance of vehicles is checked at roadside control stations. Customs is one of the authorities appointed to carry out weight, dimensions and winter tire controls in accordance with national transport laws.

**IV. Aggregate results**

<i>Area</i>	<i>No</i>	<i>Yes</i>
Authorize inspection centres	25	2
Carry out road side checks	24	3
Database for vehicle registration	25	2
Import/Export control of vehicles	20	7
Apply penalties for expired certificates	25	2
Apply penalties of inspection centres	26	1
Vehicle enforcement assessment	26	1
Ensure budget	26	1

**V. Preliminary conclusions by the secretariat**

5. The preliminary conclusions by the secretariat are as follows:

(a) The main impression is that the role/tasks of customs authorities in road safety enforcement is extremely limited, with the exception of the inspection of the technical status of vehicles upon exportation or importation.

(b) Various countries mention the involvement of customs in controls of tachographs, weight and dimensions of vehicles and for compliance with dangerous goods regulations.

(c) Various countries raise the prospect of establishing national or even international databases for approved vehicles, such as, but not limited to, for the certificates of TIR approved vehicles (under discussion of the TIR Executive Board).

(d) The one area where customs mention or see a role to play is when it comes to checking vehicles for technical deficiencies which would prevent their exportation or importation.

(e) One country observes that there is one more area of the recommendations, where customs could play a role: Safe User + Legislation, which mentions the strict regulation of the loading of vehicles as an important element.

(f) A majority of countries states explicitly that customs authorities are not competent when it comes to the enumerated tasks, as they are all performed by other competent authorities, in particular the Ministry of Transport or the police.



## **VI. Considerations by the Working Party**

6. The Working Party is invited to take note of the outcome of the survey, endorse the preliminary conclusions by the secretariat and request the secretariat to transmit the document to ITC for further consideration.
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