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Working Party on Customs Questions Affecting Transport

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS AFFECTING
TRANSPORT ON ITS ONE-HUNDRED-AND-FOURTEENTH SESSION
(26-29 September 2006)**

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I. ATTENDANCE

1. The Working Party held its one-hundred-and-fourteenth session from 26 to 29 September 2006 in Geneva.
2. The session was attended by representatives of the following countries: Austria; Azerbaijan; Belarus; Belgium; Bulgaria; Croatia; Czech Republic; Denmark, Estonia; Finland; France; Germany; Greece; Hungary; Kyrgyzstan; Latvia; Lithuania; Netherlands; Norway; Poland; Republic of Moldova; Romania; Russian Federation; Serbia; Slovenia; Spain; Sweden; Turkey; Ukraine. Representatives of Indonesia and Jordan participated under Article 11 of the Terms of Reference of the Economic Commission for Europe. Representatives of the European Community (EC) were also present.
3. The following non-governmental organizations were represented: The International Road Transport Union (IRU) and the International Touring Alliance (AIT & FIA).

II. ADOPTION OF THE AGENDA

4. The Working Party adopted the provisional agenda prepared by the secretariat (ECE/TRANS/WP.30/227).

III. ACTIVITIES OF UNECE BODIES AND OTHER UNITED NATIONS ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

5. The Working Party took note of information provided by the secretariat that the UN/CEFACT program under the UNECE Trade Division together with the World Customs Organization (WCO) are committed to work towards an integrated solution for Cross Border Data Exchange based on the WCO and UNeDocs Data Models.
6. The Working Party expressed its support for this development and pointed to the benefits and integration possibilities in connection with the application of the "Harmonization" Convention. The Working Party requested the secretariat to follow this development with a view to ensure that the issues relating to the "Harmonization" Convention are included in the developments.

IV. ACTIVITIES OF OTHER ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

7. The Working Party was informed by the representative of the European Commission of issues relevant to the activities of the Working Party. The Working Party took note of the following issues:
 - among its latest developments and planned activities, the European Community is currently using the NCTS system as a pilot system in the TIR procedure. Not all Member States participate in this pilot system, nevertheless three new countries will join the pilot project till the end of this year;

- secondly, the European Commission, together with the Polish Customs Administration, is organizing on 16 and 17 October 2006, the NCTS/TIR workshop in Poland in order to see the practical use of NCTS for TIR procedure and discuss current problems or outstanding questions or doubts. The TIR secretariat and the IRU are kindly invited to this workshop. The NCTS/TIR workshop is also connected to the current discussion as regards the future mandatory use of NCTS for TIR operation within the European Union. The proper draft of the Commission's decision has been presented to the Member States and the discussion is ongoing;
- the European Community is considering the implementation of new safety and security measures and the status of an authorized economic operator. The discussion has not yet been finalized, but it is expected that, as from 1 July 2009, new provisions concerning the pre-arrival and pre-departure declarations, export control system and import control system will enter into force. The authorized economic operator (AEO) status will be introduced earlier, on 1st January 2008. The purpose of these amendments is to strengthen the security of goods entering or leaving the Community, to better control export and import procedures and to produce faster and better-targeted customs control.

8. The Working Party took note of the forthcoming meeting of the Administrative Committee for the Customs Container Convention, which will take place on 7 and 8 November 2006 as well as the Administrative Committee of the Istanbul Convention, which will take place on 9 and 10 November 2006 both at the WCO headquarters in Brussels. The Working Party encouraged Contracting Parties to the respective Conventions to participate in the meetings with a view that the necessary quorum can be established.

V. INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER CONTROLS OF GOODS, 1982 ("HARMONIZATION CONVENTION")

(a) Status of the Convention

9. The Working Party was informed that the Convention has 48 Contracting Parties. A complete list of Contracting Parties to the Convention is available at the following website: http://www.unece.org/trans/conventn/agreem_cp.html - 48. Information about the status of the Convention can be obtained from the following website (subscription required): <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty17.asp>.

(b) Preparation of a new Annex on rail border crossing

10. The Working Party decided to consider the issue in-depth at its forthcoming session in January 2007 based on the considerations of the UNECE Working Party on Rail Transport (SC.2). The Working Party invited interested countries to transmit their views on the draft text contained in document ECE/TRANS/WP.30/2006/13, transmitted by the Organization for the Collaboration of Railways (OSZhD), to the secretariat in due time before its January session in order that such views can also be taken into consideration. The outcome of the considerations in January 2007 will be transmitted to the OSZhD for consideration at the International Conference on rail facilitation which is scheduled for spring 2007.

(c) Survey on the implementation of the Convention

11. The Working Party took note of document ECE/TRANS/WP.30/2006/12, prepared by the secretariat, containing information on the outcome of survey by the UNECE secretariat of the implementation of the “Harmonization” Convention. The Working Party took note that 80 per cent of the respondents to the survey had indicated that modern concepts used in integrated border management procedures should be explained and defined in the Convention. The Working Party supported that work is initiated on these issues and requested the secretariat to prepare proposals to this extent for one of its future sessions, also taking into account feed-back received from Contracting Parties in connection with future seminars and workshops on the “Harmonization” Convention.

12. The Working Party took note that the UNECE secretariat, in close cooperation with the Organization for Security and Co-operation in Europe (OSCE) will organize two capacity building workshops on the “Harmonization” Convention. The first workshop will take place on 17-18 October 2006 in Moscow and is organized in cooperation with Eurasian Economic Community (EurAsEC) for countries in the region. A second workshop will, pending official confirmation, be held in Belgrade, Serbia in November 2006. Information on the workshops can be obtained from the following website: <http://www.unece.org/trans/bcf/welcome.html>.

VI. INTERNATIONAL CONVENTION TO FACILITATE THE CROSSING OF FRONTIERS FOR PASSENGERS AND BAGGAGE CARRIED BY RAIL, OF 10 JANUARY 1952

13. The Working Party decided to consider the issue in-depth at its forthcoming session in January 2007 based on the considerations of the UNECE Working Party on Rail Transport (SC.2). The Working Party invited interested countries to transmit their views on the draft text contained in document ECE/TRANS/WP.30/2006/14, transmitted by the Organization for the Collaboration of Railways (OSZhd), to the secretariat in due time before its January session in order that such views can also be taken into consideration. The outcome of the considerations in January 2007 will be transmitted to the OSZhd for consideration at the International Conference on rail facilitation which is scheduled for spring 2007.

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

(a) Status of the Conventions

14. The Working Party took note that the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles have, respectively, 78 and 40 Contracting Parties. Complete lists of Contracting Parties to the two Conventions are available at the following website:

http://www.unece.org/trans/conventn/agreem_cp.html#39 and

http://www.unece.org/trans/conventn/agreem_cp.html#43. Information about the status of the Convention can be obtained from the following websites:

<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty8.asp>,

<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty10.asp>.

(b) Application of the Conventions

15. The Working Party considered document ECE/TRANS/WP.30/2006/15, prepared by the secretariat in cooperation with the AIT/FIA, containing a proposal for a comment to Article 13.3, and Article 14.3 respectively of the two Conventions as well as consideration concerning the issues of force majeure and certificate of location mentioned in the two Conventions.

16. The Working Party decided to adopt the proposed comment to Articles 13.3 and 14.3 respectively with a slight modification as contained in annex to this report.

17. With regard to the issue of force majeure the Working Party requested the secretariat, in cooperation with the AIT/FIA, to elaborate a best practice describing situations, which could fall within the definition of force majeure. With regard to the practice of some countries to require additional attestations with the Certificate of Location, the Working Party requested the secretariat, in cooperation with the AIT/FIA, to prepare a proposal for a comment for its next session stressing that such additional measures are unnecessary.

VIII. RAIL TRANSIT

18. The Working Party took note that the translation of the text of the Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of SMGS Consignment Notes in all languages had been finalized and that the Convention will be sent to the United Nations Treaty Section in the coming weeks for final verification before opening the Convention for signature before the end of 2006.

IX. CONVENTION CONCERNING CUSTOMS FACILITIES FOR TOURING, 1954

19. The Working Party decided, for the time being, not to consider and amend the Convention any further, unless a specific request is presented to the Working Party by a Contracting Party.

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

(a) Status of the Convention

20. The Working Party took note that the Convention has 66 Contracting Parties and that it is operational in 55 of these Contracting Parties.

21. A complete list of Contracting Parties to the Convention, as well as a list of countries in which TIR operations can be undertaken, is annexed to the report of the forty-second session of the TIR Administrative Committee and can also be found on the following website: http://www.unece.org/trans/conventn/agreem_cp.html#48. Regularly updated information on the scope of the TIR Convention is available on the UNECE TIR website: (<http://tir.unece.org>).

22. The Working Party took note of a statement of its Chairman, Mr. Jacobs. The statement is contained in annex to this report.

23. The Working Party also took note of a statement by the IRU which referred to its statement given at the one-hundred-and-twelfth session of the Working Party, in which it had made clear that the private partners in the TIR system had reason to believe that the Public-Private-Partnership had disappeared. This had, according to the IRU, been confirmed following the publication of a number of documents relating amongst others eTIR and the financing of the TIRExB and the TIR secretariat. Informal document No. 16 (2006), explained the IRU's six proposals to restore a true and effective Public-Private Partnership between the UNECE bodies, the TIR Secretariat and the IRU to allow the IRU to continue to assume its responsibilities.

24. The Working Party, furthermore, took note of Informal document No. 17 (2006), prepared by the secretariat, containing UNECE comments on the six requests to restore true and effective Public-Private Partnership between the UNECE bodies, the TIR secretariat and the IRU, presented by the IRU to the UNECE Executive Secretary on 22 September 2006.

25. Several delegations expressed concern over the destabilization of the working relationship in general and called on all parties concerned to ensure the sustainability of the TIR Convention.

26. The Working Party noted that the UNECE secretariat will inform the UN Board of Auditors (BOA) of a number of concerns expressed by the IRU about the BOA report to the UN General Assembly.

(b) Revision of the Convention

(i) Implementation of Phases I and II of the TIR revision process and examples of best practices

27. The Working Party took note that the following amendments to the Convention entered into force on 12 August 2006:

- Introduction of a new Article 42ter and the amendment of Article 60 of the Convention, together with the introduction of a new Annex 10 (Depositary Notification C.N.383.2006.TREATIES-2)
- Addition of new Explanatory Notes to Article 6.2bis and Annex 8, Article 10 (b) of the Convention (Depositary Notification C.N.397.2006.TREATIES-3).

(ii) Preparation of Phase III of the TIR revision process

- Revision of the TIR Carnet

28. The Working Party expressed the view that the draft Recommendation concerning the use of the HS code in the TIR Carnet, which has been submitted for consideration by the TIR Administrative Committee should be adopted as soon as possible. The Working Party was informed by the delegation of Turkey that this country had not yet finalized its internal consultation procedure and that this country would inform the secretariat of its final position once it had been reached. The IRU expressed its concern about the applicability of the

Recommendation, in particular with regard to the possible legal implications and the negative effects that it could have for the transport industry.

– Use of new technologies

29. The Working Party took note of a report of an informal meeting between some Contracting Parties, which took place on 27 and 28 June 2006 in Ankara (Turkey) with a view to discussing the Customs aspects of the TIR computerization. The report is contained in Informal document No. 4 (2006).

30. The Working Party also noted that the tenth session of the Ad hoc Expert Group on Conceptual and Technical aspects of Computerization of the TIR Procedure (ExG) took place on 25 and 26 September 2006. The Working Party noted the statement of the IRU and its member associations explaining why the private sector, for the moment, was unable to actively participate in the work of the Informal Ad hoc Expert Group.

31. The Working Party took note of a number of questions put forward by the IRU in relation to the proposals contained in documents ECE/TRANS/WP.30/2006/8 and ECE/TRANS/WP.30/GE.1/2006/9. The Working Party considered the questions but felt that it would be appropriate to ask those delegations and the secretariat, which have been involved in the preparation of the above mentioned documents, to transmit a written reply for consideration at its next session. However, the Working Party considered that the proposals contained in document ECE/TRANS/WP.30/2006/8 are still subject to further political, strategic and legal considerations by the Contracting Parties to the Convention.

32. Following the preliminary answers given to some of the questions raised by the IRU and its members, confirming, according to the IRU, that the proposed system is based on multiple guarantors and a decentralized guarantee, the IRU concluded that what is described in ECE/TRANS/WP.30/2006/8 and ECE/TRANS/WP.30/GE.1/2006/Informal document No. 4 is the development of a new transit system and not the computerization of the TIR procedure.

– Article 38

33. The Working Party considered document ECE/TRANS/WP.30/2006/17, prepared by the secretariat, containing an example, developed by the TIRExB, of best practice for the communication of exclusions according to Article 38.

34. The Working Party generally endorsed the document and provided some minor amendments to both the text and the appendix. The secretariat was requested to prepare a revised version of the document, taking account of the proposed amendments, to be submitted to the forthcoming session of Working Party for consideration and adoption.

(iii) Amendment proposals for the Convention

35. The Working Party considered various amendment proposals submitted by Contracting Parties to the Convention contained in document ECE/TRANS/WP.30/2006/5, prepared by the secretariat.

36. The Working Party discussed and reached an agreement on the amendment proposals regarding new Article 1(q) and (r) of the Convention. However, due to a lack of time, the Working Party agreed that the discussions concerning the remaining amendment proposals will be continued at its next session. In this context, the secretariat was requested to reserve one full day of the agenda for the discussions with a view that all proposals can be discussed and a consolidated proposal can be forwarded to the TIR Administrative Committee.

37. Delegations that wish to transmit additional amendment proposals to be discussed at the next session of the Working Party were invited to do so as soon as possible and not later than 1 November 2006 with a view that such proposals can be incorporated in a revision of document ECE/TRANS/WP.30/2006/5.

(c) Application of the Convention

(i) Control system for TIR Carnets - IRU SafeTIR

38. The IRU provided information on the functioning of the IRU SafeTIR system. In the period 1 January to 31 August 2006, IRU received SafeTIR messages for 88% of all terminated TIR Carnets with an average delay of 7 days. Only 12.12 per cent of the messages have been transmitted in real-time. Concerning reconciliation requests to Customs authorities to verify the termination of TIR Carnets, IRU has issued in the same period 5,770 reconciliation requests and has received replies to 70% of the requests with an average delay of 28 days. An overview detailing the functioning of the IRU SafeTIR system in each Contracting Party was distributed at the session.

(ii) Settlement of claims for payments

39. The IRU provided the following figures:

- Between 1 January to 31 August 2006, the IRU received 11,590 notifications/pre-notifications sent by Customs authorities to their national Guaranteeing Associations
- The number of pending payment requests per 31 August 2006 were 7,169.
- The number of claims settled in full or in part between 1 January and 31 August 2006 were 113, while the number of claims closed without payment were 317.

(iii) Issues relating to technical provisions

40. The Working Party took note of document ECE/TRANS/WP.30/2006/16, transmitted by the European Union Customs Assistance Program in Serbia and Montenegro (CAFAO), containing a manual for checking of vehicles. The Working Party, welcoming the document and expressing its gratitude to CAFAO, noted that the document will be distributed by the secretariat to all Contracting Parties.

(iv) TIR Handbook

41. The TIR Handbook contains the text of the Convention and its annexes, including the amendments to the Convention and Explanatory Notes, as well as all relevant comments adopted by the Working Party and the Administrative Committee.

42. The 2005 version of the Handbook is available in the Arabic, Chinese, English, French, Russian and Spanish language versions both in hard copy, CD-ROM and in electronic version for download from the UNECE TIR website: <http://tir.unece.org>. Hard copies and CD-ROM's can be obtained from the secretariat.

43. It is the intention to update the present version of the TIR Handbook, including the latest amendments and comments to the Convention, in 2007.

(v) Other matters

44. No issues were raised under this point of the agenda.

XI. PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS

45. No new information was provided by delegations on this subject.

XII. PROGRAMME OF WORK FOR 2007 TO 2011

46. The Working Party invited delegations, as soon as possible and not later than 6 November 2006 to provide the secretariat with their written comments concerning the Work Programme 2007 to 2011 and requested the secretariat to amend the programme appropriately.

XIII. OTHER BUSINESS

(a) Dates of the next sessions

47. The Working Party decided to convene its one-hundred-and-fifteenth session in the week from 29 January to 2 February 2007 in conjunction with the forty-third session of the TIR Administrative Committee. The deadline for submission of official documentation to be translated for the session is 6 November 2006.

48. The one-hundred-and-sixteenth session of the Working Party is tentatively scheduled to be held during the week of 4 to 8 June 2007, in conjunction with the forty-fourth session of the TIR Administrative Committee.

(b) Restriction on the distribution of documents

49. The Working Party decided that there were no restricted documents in connection with its current session.

XIV. ADOPTION OF THE REPORT

50. The Working Party decided to adopt the report on its one-hundred-and-fourteenth session.

Annex

Statement of the Chairmen at the 114th session of the Working Party (WP.30), September 2006

Ladies and Gentlemen, dear Colleagues,

Before we start the meeting I want to raise a point of serious concern which is not on today's agenda.

In the last weeks there have been intensive contacts between several Contracting Parties, the UNECE secretariat and the IRU. These contacts were established at the request of the IRU.

The IRU argued in these discussions – which were held at the highest political level – that there would be a fundamental lack of trust among the Contracting Parties towards the IRU. This presumption would lead to allegations that the IRU should have kept money for itself which was destined to finance the TIR Executive Board and the TIR Secretariat and that the organization was excluded from meetings dealing with the development of the e-TIR system.

In this context, and to make it clear to all parties, I would like to recall that the report of the Auditors of the United Nations, which will be discussed tomorrow, makes it clear without any doubt, I repeat without any doubt, that no money was withheld and the IRU fulfilled its obligations. There is no room for mistrust whatsoever.

There are differences of opinions how some financial elements should be dealt with in particular in relation to the collection of the funds to finance the TIR Executive Board and TIR Secretariat, however this is a subject of tomorrow's meeting of the Administrative Committee.

I also want to make perfectly clear that, as all parties are fully committed to the TIR Convention, there are no fundamental problems in relation to the Public Private Partnership to implement the Convention and to the role IRU plays as private partner in this relationship. The IRU, as the accepted private partner, has been present at all important meetings and has been strongly involved in every aspect of the Convention as well as the management of the system. In other words IRU has been given the opportunity to participate in all relevant items regarding the development of the Convention and the TIR-system. IRU has played its role in an efficient way, and though differences of opinion might have arisen about present or future aspects of the system, they have not been incited by any lack of trust.

In addition I would like to point out in this respect that if the feelings of IRU would have been justified, and that Contracting Parties would be of the opinion that the IRU is not a reliable partner, the relationship would not have lasted this long. As we do not have the intention of breaking up our longstanding partnership, we are confident that we can solve our differences.

This week we will discuss two items that were explicitly mentioned during the meetings with the IRU. First of all we will discuss the e-TIR during our meeting and secondly the financing of the TIR Executive Board and TIR Secretariat during the Administrative Committee. Both items contain issues on which the Contracting Parties do not share all views of the IRU. These discussions are useful and necessary and should be based on professional knowledge and competence and the willingness to adapt the TIR system to the present needs of the Contracting Parties. These discussions should not be overcast by misinterpretations or misjudging of intentions. Again I state that I am confident that all partners respect each other's role, based on the commitment to the TIR Convention.

The changing world demands also a fresh look at the system. We have – just to name three changes – seen a true information technology revolution, we have witnessed new economic trends and we have seen increasing security demands. All these changes cannot leave the TIR Convention unchanged.

I think the Contracting Parties have expressed in recent years their sincere intention to make the TIR Convention ready for the 21st century. That means that the TIR Convention will have to change. It is up to the IRU if they want to meet our demands and join us in these developments. As stated before we are committed to the TIR Convention, we are committed to the Public Private Partnership but – and now I'm quoting my Minister – we are looking for the best partner to fulfill our needs. This might very well be the IRU, if the IRU wants to play that role, given the changing needs of the Contracting Parties. They are invited to take part in all discussions about this subject.

I hope I have reflected the views of the Contracting Parties and I hope I have reassured the IRU and its insurers of our confidence in private public partnership.
