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Report of the Working Party on Customs Questions affecting Transport on its 128th session

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Attendance.....	1	3
II. Adoption of the agenda (agenda item 1)	2	3
III. Opening statement.....	3	3
IV. Activities of United Nations Economic Commission for Europe bodies and other United Nations organizations of interest to the Working Party (agenda item 2).....	4–5	3
V. Activities of other organizations and countries of interest to the Working Party (agenda item 3).....	6–11	4
VI. International Convention on the Harmonization of Frontier Controls of Goods, 1982 (“Harmonization Convention”) (agenda item 4).....	12–15	5
A. Status of the Convention	12	5
B. Annex 8 on road transport	13–14	5
C. Harmonization Convention and hinterland connections of seaports.....	15	6
VII. International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail, of 10 January 1952 (agenda item 5)	16	6
VIII. Rail transit (agenda item 6)	17	6
IX. Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956) (agenda item 7).....	18–19	7
A. Status of the Conventions	18	7
B. Application of the Conventions	19	7

X.	Other United Nations Economic Commission for Europe legal instruments for border crossing facilitation (agenda item 8).....	20	7
XI.	Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) (agenda item 9)	21–40	7
	A. Status of the Convention.....	21	7
	B. Revision of the Convention	22–28	7
	1. Preparation of Phase III of the TIR revision process.....	22–25	7
	2. Amendment proposals for the Convention.....	26–28	8
	C. Application of the Convention.....	29–40	9
	1. TIR-related electronic data interchange systems.....	29–31	9
	2. Settlement of claims for payments	32	10
	3. TIR Handbook.....	33	10
	4. Application of the TIR Convention in a Customs union with a single Customs territory.....	34–37	10
	5. Increase in the number of loading and unloading places.....	38	11
	6. TIR Carnets invalidated by the guarantee chain.....	39	11
	7. Other matters	40	11
XII.	Prevention of the abuse of Customs transit systems by smugglers (agenda item 10).....	41	11
XIII.	Other business (agenda item 11)	42–43	11
	A. Dates of the next session.....	42	11
	B. Restriction on the distribution of documents	43	11
XIV.	Adoption of the report (agenda item 12).....	44	12

I. Attendance

1. The Working Party (WP.30) held its 128th session from 7–10 June 2011 in Geneva. The session was attended by representatives of the following countries: Albania, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Norway, Poland, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, The former Yugoslav Republic of Macedonia, Turkey and Ukraine. Representatives of the European Union (EU) were also present. The following intergovernmental organizations (IGO's) were represented: Customs Commission of the Customs Union of Belarus, Kazakhstan and the Russian Federation; Economic Cooperation Organization (ECO); United Nations Conference on Trade and Development (UNCTAD), World Customs Organization (WCO). The following non-governmental organizations (NGO's) were represented: the International Road Transport Union (IRU), the International Touring Alliance and the International Automobile Federation (AIT/FIA).

II. Adoption of the agenda (agenda item 1)

Documentation: ECE/TRANS/WP.30/255

2. WP.30 adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/255).

III. Opening statement

3. In her opening statement, Ms. Eva Molnar, Director, United Nations Economic Commission for Europe (UNECE) Transport Division, underlined the importance of UNECE as a forum for open dialogue between Governments with a view to finding mutually acceptable solutions. Delegates should enjoy freedom of expression, act only with the interests of their Governments in mind and be free from any external influence. The role of observers, both IGO's and NGO's, as well as the secretariat is to assist the Governments in the negotiation process. She also informed WP.30 of the following UNECE activities:

- Finalization of the TIR study (Informal document No. 5 (2011)) which had undergone a peer review process with the participation of various international organizations. On the basis of the study and the comments received, the secretariat will prepare an UNECE publication by the end of November 2011;
- Ongoing cooperation between UNECE and the Organization for Security and Cooperation in Europe (OSCE) on border crossing facilitation issues, in particular the preparation of a final draft of the OSCE-UNECE Handbook on best practices at border crossings and providing training at the OSCE Border Management Staff College in Dushanbe.

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

4. The Working Party noted that the Inland Transport Committee (ITC), at its seventy-third session (1-3 March 2011), took note of and supported the recent activities of the

secretariat and Contracting Parties on strengthening the TIR Convention and ensuring transparency in managing the TIR system, namely consideration of a new Annex 9, Part III to the TIR Convention on the conditions and requirements for the authorization of an international organization, including audit provisions, as well as UNECE efforts to ensure the continuation of the TIR system as of 1 January 2011 by signing a new UNECE – IRU agreement in accordance with the provisions of the TIR Convention, applicable United Nations regulations and mandates by the TIR Administrative Committee. ITC also supported the continuation of the eTIR project and decided to prolong the mandate of the Informal Ad hoc Expert Group on Conceptual and Technical aspects of Computerization of the TIR procedure (WP.30/GE.1) to the year 2011 and conduct a cost-benefit analysis of eTIR (ECE/TRANS/221, paras. 64-66).

5. WP.30 was also informed that, at its sixty-fourth session (29–31 March 2011), the Economic Commission for Europe requested its Executive Committee to ensure the unimpeded functioning of the TIR Convention and to ensure that the full budget of the mandated agency is externally audited in accordance with generally accepted international standards. The Commission also recalled the ECE reform adopted in December 2005 and underlined the importance of its first five-year review that would take place in 2011–2012. As part of the review process, the ECE Sectoral Committees and their subsidiary bodies were requested to review their terms of reference and programmes of work which should now be prepared in line with a new template. The Working Party noted that the secretariat would prepare the necessary documents for consideration at the next session.

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

Documentation: ECE/TRANS/WP.30/2010/8

6. The WCO secretariat briefed the Working Party of activities undertaken jointly with the UNECE secretariat in relation to proposals submitted by the Bureau International des Conteneurs et du Transport Intermodal (B.I.C.) to introduce a reference to ISO standard 1496 in the text of both the Container Convention, 1972 and the TIR Convention, 1975, which share a common Annex regarding the approval of containers. The purpose of the proposal is that containers meeting ISO standard 1496 would also automatically comply with the requirements of the two aforementioned Conventions. B.I.C. will now be invited to submit a document to justify in detail why containers, which meet the structural safety requirements, as referred to in ISO standard 1496, also meet the Customs sealing requirements as referred to in the Container Convention, 1972 and TIR Convention, 1975. Apart from this, other issues, such as the costs and limited accessibility of the ISO standards, will still have to be clarified before the Administrative Committees of the two conventions can be asked to discuss the proposal. WCO and UNECE secretariats will keep WP.30 informed of further progress in this area.

7. The Working Party was informed that a new 2011 edition of the WCO Framework of Standards to Secure and Facilitate Global Trade (SAFE) would soon be approved by the WCO Council and published. This edition incorporates the United States of America security filing data elements ('10 + 2'), reconsiders the time limits for the submission of advance cargo data and provides further guidance on mutual recognition of authorized economic operators (AEO).

8. WP.30 noted that WCO was reviewing comments submitted by the TIR Executive Board concerning the WCO-IRU e-learning module on the TIR procedure. Many comments had been already taken on-board, some others were still under consideration.

9. The WCO secretariat provided its detailed position on the proposals to incorporate the key elements of SAFE in the TIR Convention (ECE/TRANS/WP.30/2010/8). WCO agreed with the earlier considerations of WP.30 that the inclusion of the “Advance electronic information” and “Risk management” elements could be achieved within the eTIR project (ECE/TRANS/WP.30/250, para. 5). With regard to the AEO concept, WCO was of the view that it should be gradually introduced in the framework of national and/or regional legislation rather than through amendments to the TIR Convention, as the Convention was not designed to implement the provisions of SAFE, being a separate legal instrument with different objectives. The Working Party concurred with the WCO views and was of the view that it had finalized its considerations on the issue.

10. WP.30 recalled that, at its previous session, it had been informed of problems that were encountered by some transport operators when electronically submitting entry summary declarations at the Bulgarian border (ECE/TRANS/WP.30/254, para. 10). The Working Party welcomed the information that the Bulgarian Customs Administration, in close cooperation with IRU and Turkey, had undertaken considerable efforts and successfully solved the underlying problems. In particular, detailed guidelines for the submission of electronic declarations had been published at the Bulgarian Customs website and a helpdesk had been established.

11. The representative of ECO delivered a presentation that outlined his Organization's activities in the area of border crossing facilitation, in particular the findings of the ECO-IRU transit caravan, which WP.30 was informed about at the previous session (ECE/TRANS/WP.30/254, para. 12), and the introduction, in cooperation with IRU, of a new regular mechanism of monitoring physical and non-physical barriers for transit transport. The presentation highlighted the key role of the TIR Convention and Harmonization Convention in the facilitation of road transport in the ECO region as well as the need for training and capacity building activities in the ECO member States.

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

A. Status of the Convention

12. The Working Party recalled that new Annex 9 on rail border crossing will enter into force on 30 November 2011 unless objections are transmitted by Contracting Parties to the United Nations Secretary-General before 31 August 2011 (Depositary Notification C.N.552.2010.TREATIES-2 of 31 August 2010).

B. Annex 8 on road transport

Documentation: ECE/TRANS/WP.30/2011/1, ECE/TRANS/WP.30/2011/3

13. WP.30 considered document ECE/TRANS/WP.30/2011/3 in which the secretariat proposed various options on how to monitor the implementation of Annex 8 at the national level. The Working Party agreed that surveys of both the public and private sector could yield a more objective and versatile picture. Regarding governmental agencies, WP.30 was of the view that their surveying should be done by regular use of a standard questionnaire (ECE/TRANS/WP.30/2011/1) in which the respondents should report on progress made and not repeat information already provided. In addition, all Contracting Parties were invited to transmit, on a periodic basis, country reports outlining major achievements and

setbacks in border crossing facilitation. Surveying the private sector could be done by means of already available private monitoring tools (e.g. the Border Waiting Time Observatory of the International Road Transport Union – IRU's BWTO) or by taking advantage of other surveys or studies conducted in the area of border crossing procedures by various organizations. Road transport companies and their associations were encouraged to feed these projects with the required data.

14. The Working Party noted that the slow progress in implementing the International Vehicle Weight Certificate (IVWC) does not allow the transport industry to fully benefit from this important facilitation tool. Contracting Parties and UNECE were invited to further promote IVWC, for example, by disseminating experiences of countries that already accept such Certificates and have authorized weighing stations.

C. Harmonization Convention and hinterland connections of seaports

15. Having recalled its considerations at the previous session, (ECE/TRANS/WP.30/254, para. 16), the Working Party noted that the secretariat would soon transmit to various competent international organizations a letter soliciting their views on the possible preparation of a new annex to the Harmonization Convention on border crossing procedures at seaports.

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

16. The secretariat briefed WP.30 on progress made towards the formal acceptance of a Protocol to the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail, 1952, which would introduce amendment clauses to the said Convention. The Working Party recalled that, at its previous session, it had agreed on a text, which could count on the consent of the Contracting Parties to the 1952 Rail Convention participating in its work (some European Union countries, Norway and Switzerland). The secretariat informed WP.30 that the text of the protocol had now been transmitted to the Ministers of Foreign Affairs of all ten Contracting Parties to the 1952 Convention asking for their tentative approval of the text by 31 July 2011 (Informal document No.6 (2011)). Having received a sufficient number of positive replies, the Secretary-General of the United Nations would then be requested to issue a Depositary Notification, formally announcing the adoption of the Protocol and asking Contracting Parties for their acceptance. The text of the Protocol in English, French and Russian, as agreed upon by WP.30, can be found in document ECE/TRANS/WP.30/2010/10 and ECE/TRANS/WP.30/254, para.17.

VIII. Rail transit (agenda item 6)

17. The Working Party noted that there had been no new developments concerning the Convention on International Customs Transit Procedures for the Carriage of Goods by Rail under Cover of Agreement on International Goods Transport by Rail (SMGS) Consignment Note.

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

A. Status of the Conventions

18. The Working Party took note that the status of the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles had remained unchanged.

B. Application of the Conventions

19. WP.30 noted that the International Touring Alliance and the International Automobile Federation (AIT/FIA) had finalized the preparation of comments and best practices for the application of the 1956 Convention which would be transmitted to the next session of WP.30 for adoption. The Working Party was also informed about difficulties in the application of the 1954 and 1956 Conventions in Middle East, due to instability in this region.

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

Documentation: ECE/TRANS/WP.30/2010/2

20. The Working Party invited delegations to raise any questions pertaining to the application of other UNECE Conventions on border crossing facilitation.

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

A. Status of the Convention

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

B. Revision of the Convention

1. Preparation of Phase III of the TIR revision process

Use of new technologies

Documentation: ECE/TRANS/WP.30/GE.1/2011/6, ECE/TRANS/WP.30/2011/4, ECE/TRANS/WP.30/2011/5

22. The Working Party was informed of the latest developments concerning the eTIR project, in particular the outcome of the eighteenth session of the Informal Ad hoc Expert Group on Conceptual and Technical aspects of Computerization of the TIR Procedure

(GE.1) that took place in Geneva on 9 and 10 March 2011. It noted that GE.1 had finalized Chapter 3 of the eTIR Reference model and that assistance from countries would be required to finalize Chapter 4. WP.30 endorsed the report of the session as contained in document ECE/TRANS/WP.30/GE.1/2011/6. It also welcomed the invitation by the Serbian Customs Administration to host the nineteenth session of GE.1 in Belgrade on 13 and 14 September 2011 and urged all Contracting Parties to take part in the eTIR project, either by attending the GE.1 meetings and/or through the network of eTIR focal points.

23. Due to the absence of the Russian and French translation, WP.30 decided to postpone to its next session the endorsement of version 3.0 of the eTIR Reference Model (ECE/TRANS/WP.30/2011/4). The Working Party considered the proposal to amend the Reference Model, as contained in document ECE/TRANS/WP.30/2011/5, and noted that the eTIR focal points did not share a common view on its technical viability. Consequently, WP.30 requested GE.1 to study the proposal further and resubmit it after finalization of its considerations. The Working Party recalled that all documentation on eTIR is reflected in the eTIR Reference Model being a comprehensive document of more than 500 pages. Because of its volume, a first-time reader may not easily grasp the substance and main objectives of eTIR. To facilitate this task, the secretariat was requested to prepare, for information purposes, a short document outlining the essence and goals of the eTIR project.

24. The Working Party also noted that Turkey, Serbia and UNCTAD had substantially contributed to the cost estimation of the future eTIR international system and that the UNECE secretariat had contacted other organizations dealing with related Information Technologies (IT) systems, such as EU, WCO and IRU, in order to obtain additional information. WP.30 encouraged all delegations to contribute to these activities either by providing expertise or financial support. The representative of Kyrgyzstan made a reservation about the introduction of eTIR in view of the possible financial implications this project might have for the Customs authorities and transport industry of his country.

25. The Working Party welcomed presentations by Turkey, in particular the one on the so-called TR-eTIR pilot project. This project aims at enhancing trade and transport facilitation by providing for exchange of Business-to-Customs (B2C) and Customs-to-Customs (C2C) TIR-related information. The pilot project takes advantage of the concepts and standard messages from the eTIR Reference Model. To enable the eTIR services, the pilot project will use a platform hosted by a private cloud, thus removing concerns related to data protection. Turkey indicated that it was looking for one or two countries, possibly neighbours, that would be interested in joining the pilot project.

2. Amendment proposals for the Convention

(a) Introduction of a new Annex 9, part III

Documentation: ECE/TRANS/WP.30/2010/4/Rev.2, ECE/TRANS/WP.30/2011/6

26. The Working Party was informed that, responding to its request of the previous session (ECE/TRANS/WP.30/254, para. 33), the following countries had provided their contributions regarding items (o), (p) and (q) of the proposed new Annex 9, Part III (ECE/TRANS/WP.30/2010/4/Rev.2) which introduces audit requirements for an authorized international organization: Bosnia and Herzegovina, Iran (Islamic Republic of), Kazakhstan, Russian Federation, Turkey and Ukraine. These contributions, as well as some further considerations, had been included by the secretariat in document ECE/TRANS/WP.30/2011/6.

27. Following an exchange of views on the above document, WP.30 noted that some contributors proposed alternative texts for (o), (p) and (q), while some others suggested that these items be deleted. The Working Party first felt that, under these circumstances, it does

not seem feasible to reach a compromise wording, for example, by means of a drafting group. However, various delegations declared that they are committed to seeking a consensus and ready to adjust their positions, taking into account document ECE/TRANS/WP.30/2011/6 and new arguments raised during the discussion. The Working Party welcomed these statements and requested the secretariat to prepare, for consideration at its next session, a consolidated document with various alternatives for (o), (p) and (q). The secretariat would also include in this document suggestions for further improvement of a few other paragraphs of the proposed new Annex 9, Part III.

(b) Amendment proposals to Annex 3

Documentation: ECE/TRANS/WP.30/2010/12, ECE/TRANS/WP.30/2011/7

28. The Working Party considered document ECE/TRANS/WP.30/2011/7 containing various comments on proposals by the European Union to amend the TIR Convention, 1975 with a code system to report defects in load compartments of vehicles used for the TIR procedure (ECE/TRANS/WP.30/2010/12). WP.30 was of the view that, despite the limited amount of comments to some specific codes, it was evident that there was general support for the proposals as such and that efforts should be continued to finalize the code list and submit the proposals to the TIR Administrative Committee (AC.2) for final consideration. Within the context of its discussions, the Working Party took note that technical experts seem to fully embrace the idea of introducing a code system to report defects. In fact, a similar reporting system seems to be used by vehicle car insurance companies as well as by the car rental industry. As a next step, WP.30 requested the secretariat to, first, consult with the European Commission to address the comments submitted to the draft list and, as a second step, to seek the advice of technical experts for the purpose of preparing a final code list. The secretariat was requested to submit the results of this review in the form of an example of best practice for consideration to AC.2, together with proposals how to amend the legal text of the Convention.

C. Application of the Convention

1. TIR-related electronic data interchange systems

29. The Working Party was informed by IRU about the functioning of the IRU SafeTIR system. From 1 January to 30 April 2011, IRU had received 979,384 SafeTIR messages with an average transmission delay of 7.9 days. Seventy-one per cent of messages had been transmitted in real-time (within 24 hours). The Customs administrations of Belarus, Bosnia and Herzegovina, Bulgaria, Czech Republic, Estonia, France, Montenegro, Republic of Moldova, Serbia and Ukraine transmitted data in real-time. WP.30 noted that, due to technical problems, the Russian Federation had not been included in the list, but, in the meantime, efforts had been undertaken to resume real-time transmission. In the same period, IRU had issued 3,253 reconciliation requests and had received replies to 1,435 (44 per cent) of them with an average delay of 19 days.

30. The Working Party took note of a presentation by IRU which outlined the progress in the implementation of TIR Electronic Pre-Declaration (TIR-EPD) and Real Time SafeTIR (RTS) since the previous session. In particular, TIR-EPD is now operational in four new countries (Belgium, France, Germany and the Republic of Moldova) and two new countries (Republic of Moldova and Turkey) have started the implementation of RTS.

31. WP.30 also noted a presentation by the Serbian Customs of the SEED (Systematic Electronic Exchange of Data) project which aims at connecting electronically Customs administrations in the Balkan region to further improve legitimate trade and prevent fraud. SEED makes full use of the GE.1 work, as contained in the eTIR Reference Model,

regarding the exchange of TIR related data and could become the regional interface to the eTIR international system.

2. Settlement of claims for payments

32. The Working Party was informed by IRU of the current situation on the settlement of claims for payments made by Customs authorities against national guaranteeing associations. From 1 January to 30 April 2011, IRU received 1,064 pre-notifications and 337 notifications (from all Contracting Parties) as well as 53 payment requests. The number of pending payment requests as of 30 April 2011 amounted to 6,214. In the same period, 49 payment requests had been paid and 369 had been closed without payment. WP.30 also noted that, in June 2011, the TIR Executive Board (TIRExB) would transmit to Customs administrations an online questionnaire on Customs claims, covering the years 2007–2010. Its content is similar to the surveys conducted by TIRExB in 2002 and 2007.

3. TIR Handbook

Documentation: 2010 TIR Handbook¹

33. The Working Party was informed that the 2010 version of the TIR Handbook was available in all six United Nations languages, both electronically and in hard copies. WP.30 also took note that TIRExB decided to review some best practices included in the Handbook, in particular the recommended inquiry procedure.

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

34. WP.30 was informed that UNECE had received a communication from the Executive Secretary of the Customs Commission of the Customs Union who pointed out that, so far, there exist different opinions among member States on the issue whether or not the TIR procedure can apply to domestic transports of goods under Customs control between two Customs offices of member States of the Customs Union without crossing the territory of third countries and under the condition that the Customs union is a single Customs territory without Customs controls effected at the internal borders. He invited official international TIR bodies to provide guidance on this issue.

35. The delegation of Kazakhstan introduced a legal study (Informal document No. 4 (2011)) which concluded that the TIR procedure can apply to such transports. However, the delegations of the Russian Federation and Belarus challenged this conclusion by referring to the provisions of Article 2 of the TIR Convention and to the experience of the European Union where the TIR procedure cannot apply to such transports, as there are no internal Customs borders. Kazakhstan also pointed out the high costs that transport operators have to pay for alternative national guarantees under the Customs Union transit procedure. In reply, the Russian Federation informed WP.30 about the regulations governing the Customs transit procedure which include several alternative forms of guarantee. Transport operators, who have a license of authorized Customs carrier, do not need to produce any guarantee.

36. The Working Party was of the opinion that this is an internal dispute of the Customs Union and called upon its member States to find a solution and inform WP.30 accordingly.

37. The Working Party also noted that, as of 1 July 2011, there will be no Customs controls at internal borders of the Customs Union and, as a result, only one pair of vouchers

¹ <<http://tir.unece.org>>.

in the TIR Carnet will be required for a TIR operation on the territory of the Customs Union.

5. Increase in the number of loading and unloading places

Documentation: ECE/TRANS/WP.30/2010/11, Informal document No. 5 (2010)

38. Following the invitation of WP.30 at its previous session, the delegation of Turkey introduced statistical data to justify its proposal to increase the total number of Customs offices of departure and destination from four to eight and to amend the related provisions of the TIR Convention. According to the data presented, in 2010, the five biggest Turkish operators encountered about 30,000 partial terminations of TIR transports. In some situation, the TIR procedure had to be terminated because of an insufficient number of Customs offices of departure and destination, and where the underlying transport operation had to be continued under cover of another transit regime. In 2011, the number of partial terminations has reached 12,500. Some delegations stated that they would need to study these statistics further, prior to taking any decision on the proposal by Turkey. The Working Party also noted that, for its next session, IRU would prepare a blueprint to address technical issues of increasing the total number of offices to eight.

6. TIR Carnets invalidated by the guarantee chain

Documentation: ECE/TRANS/WP.30/2010/5

39. The Working Party recalled that, at its previous session, it took note of the latest considerations by TIRExB with regard to the invalidation by the guarantee chain of TIR Carnets issued to authorized TIR Carnet holders (ECE/TRANS/WP.30/254, para. 44). WP.30 noted that TIRExB had finalized its discussions on the issue.

7. Other matters

40. The representative of the Greek guaranteeing association informed the Working Party about problems encountered by Greek TIR operators in Ukraine and The former Yugoslav Republic of Macedonia, respectively, refusals to accept approval certificates for vehicles with sliding sheets and the application of Customs escorts. The Greek association was invited to submit the detailed information on these problems to TIRExB for consideration.

XII. Prevention of the abuse of Customs transit systems by smugglers (agenda item 10)

41. No information was reported to the Working Party under this agenda item.

XIII. Other business (agenda item 11)

A. Dates of the next sessions

42. The Working Party decided to hold its 129th session in the week of 3–7 October 2011.

B. Restriction on the distribution of documents

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

XIV. Adoption of the report (agenda item 12)

44. The Working Party adopted the report on its 128th session on the basis of a draft prepared by the secretariat.
