

ECONOMIC COMMISSION FOR EUROPE

Informal document AC.11 No. 5 (2009)

INLAND TRANSPORT COMMITTEE

12 January 2009

Multidisciplinary Group of Experts on Inland
Transport Security

ENGLISH ONLY

Fifth session

Geneva, 15-16 January 2009

Item 5 of the provisional agenda

REPORTS SUBMITTED BY CHAIRMEN OF UNECE SUBSIDIARY BODIES

Security-related issues and activities of the Working Party on Customs Questions affecting Transport (WP.30)

Note by Mr. G. Jacobs (Netherlands), WP.30 Chairman

I. MANDATE AND BACKGROUND

1. The present document has been prepared in line with the request by the Inland Transport Committee (ECE/TRANS/200, para.36) to look into security-related issues with regard to the field of competence of WP.30.

II. REVIEW OF EXISTING SECURITY FEATURES

A. 2002 review

2. In 2002, at the request of the ITC Bureau, the UNECE secretariat undertook a first review of the security aspects of transport in the UNECE region, including the existing UN legal instruments (TRANS/2002/15). According to the review, the main purpose of the conventions administered by UNECE in the field of border crossing facilitation is to facilitate international transport and trade (goods and transport vehicles) while safeguarding at the same time fiscal, economic and public health interests of the Contracting Parties to the Conventions. These Conventions comprise the TIR Convention, the Conventions on Temporary Importation of Road Vehicles, Conventions on Containers and Pallets and the "Harmonization" Convention.

3. The issue of security is not dealt with directly in any of these Conventions. However, in the framework of the TIR Convention, restricted access for operators to use the facilitation measures provided by the Convention was introduced in 1999. The purpose of this restricted access to the TIR regime was mainly to try to prevent customs fraud as well as to reduce the risk on the non-payment of the customs duties. The trend in the framework of the "Harmonization" Convention has so far been towards greater flexibility of the rules and, for example, the road transport industry has argued in favour of issuing annual multiple-entry visas to drivers without unnecessary formalities or

restrictions, which may raise, among others, security problems. Nevertheless, the mentioned facilitation measures do not preclude application of restrictions and controls imposed under national regulations on grounds of public security and safety (Article 47 of the TIR Convention and Articles 11 and 12 of the “Harmonization” Convention). Furthermore, the purpose of the instruments is to relieve Customs authorities from routine procedures and allow for more target-oriented controls based on risk assessment and intelligence.

4. Document TRANS/2002/15 pointed two issues which might benefit from additional security considerations:

- introduction of modern communications means between Customs authorities;
- consideration of establishing a new Annex to the “Harmonization” Convention on security for international goods transport by road, rail and inland waterways.

B. TIR Convention, 1975

5. The following elements have been identified within the TIR Convention:

- access to the TIR system is granted only to transport operators who have been authorized by Customs authorities on the basis of strict criteria laid down in Annex 9, part II. The main objectives of these criteria are:
 - sound financial standing;
 - absence of serious re repeated offences against Customs or tax legislation;
 - proven experience or capability to engage in international transport and ~~knowledge~~ in the application of the TIR Convention;
 - a written declaration of commitment that the operator will comply with all Customs formalities and will pay the sums due if requested to do so by the competent authorities;
- The authorization can be withdrawn if these criteria are no longer fulfilled;
- vehicles performing TIR transports need to be equipped with Customs secure loading units and need to fulfill specific sealing requirements (Annex 2);
- mutual recognition of Customs controls, aimed at reducing check procedures en route to a minimum. In particular, goods should be thoroughly checked at departure and put under Customs seal;
- use of a unique and secure document, the TIR Carnet, which serves as Customs declaration and guarantee up to \$50 thousand^{1/} per TIR Carnet (Annex 1);
- the TIR Carnet contains a number of visible and invisible elements as a tool to reduce the risk of falsified TIR Carnets;

^{1/} An amendment proposal is being considered with a view to changing this amount to Euro 60 thousand.

- the opportunity to prescribe time-limits, itineraries and/or escorts in case of transport of high-risk goods;
- establishment of a control system for the termination of TIR transports to facilitate trade and insurers to apply risk management tools in the commercial operation of the TIR system (Annex 10);
- the UNECE has established and maintains a database (ITDB) on all transport operators who have been admitted to the TIR system or excluded from the system. The ITDB is accessible on-line for Customs authorities. A mechanism has been introduced (so-called Fraud Report Form) to share information about fraud among Customs authorities, national associations, insurers, IRU etc.;
- at present, joint efforts by Customs and trade are undertaken to fully computerize the TIR system (so-called eTIR project) with the aim to further enhance global facilitation. The main objective of the computerization is the establishment of an international, centralized database in order to facilitate the secure exchange of data between national Customs systems and the management by Customs of data on guarantees. The availability of TIR related data in an electronic format as advance cargo information at a stage prior to the acceptance of the Customs declaration at the Customs office of departure or the arrival of goods at a Customs office en route or at destination, will allow Customs to develop and apply internationally integrated risk management tools. These activities are carried out in the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure.

C. Activities by other international governmental and non-governmental organizations

6. Since 2001, a significant number of initiatives have been launched by various organizations with a view to addressing security challenges. From the prospective of border crossing facilitation, the major development was the adoption in 2005 of the Framework of Standards to Secure and Facilitate Global (SAFE Framework) by the World Customs Organization. The SAFE Framework aims to:

- Establish standards that provide supply chain security and facilitation at a global level to promote certainty and predictability;
- Enable integrated supply chain management for all modes of transport;
- Enhance the role, functions and capabilities of Customs to meet the challenges and opportunities of the 21st Century;
- Strengthen co-operation between Customs administrations to improve their capability to detect high-risk consignments;
- Strengthen Customs/Business co-operation;
- Promote the seamless movement of goods through secure international trade supply chains.

7. The SAFE Framework consists of four core elements. First, it harmonizes the advance electronic cargo information requirements on inbound, outbound and transit shipments. Second, each

country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats. Third, it requires that at the reasonable request of the receiving nation, based upon a comparable risk targeting methodology, the sending nation's Customs administration will perform an outbound inspection of high-risk containers and cargo, preferably using non-intrusive detection equipment such as large-scale X-ray machines and radiation detectors. Fourth, the SAFE Framework defines benefits that Customs will provide to businesses that meet minimal supply chain security standards and best practices.

8. The SAFE Framework, based on the previously described four core elements, rests on the twin pillars of Customs-to-Customs network arrangements and Customs-to-Business partnerships. The two-pillar strategy has many advantages. The pillars involve a set of standards that are consolidated to guarantee ease of understanding and rapid international implementation.

9. As far as NGOs are concerned, the International Organization for Standardization (ISO) works in the security area on the following subjects: identification of containers, container door end security, mechanical seals for containers, electronic seals for containers, supply chain application of radio frequency identification (RFID), security management for the supply chain, current list of management systems standards (MSS), societal security, road-traffic safety management systems. ISO keeps the Working Party regularly informed of developments which relate to the competence of WP.30.

IV. FURTHER CONSIDERATIONS BY THE WORKING PARTY

10. The principle question for the ITC and the WP.30 is at first to decide whether the TIR Convention should be adapted in such a way that it could serve as a security tool within the WCO SAFE Framework. One should not forget that one of the consequences will be that the facilitation of the international transport and trade will be restricted. Facilitation and security can be regarded as contradictory. Furthermore a consequence could be that only so called Authorized Economic Operators are able to fulfill the "security" conditions. This could exclude from the TIR system the small and medium sized operators.

Based on the above considerations and pursuant to the ITC request, the following directions for future security-related activities by WP.30 could be envisaged:

- consider whether the TIR Convention would benefit from the incorporation of the WCO SAFE Standards;
- stay informed of the ISO activities in the area of container security, including seals, and study how the relevant ISO standards can be recommended in the framework of the UNECE legal instruments in the area of border crossing facilitation;
- liaise on security-related issues with WCO, EC, IRU, other international governmental and non-governmental organizations as well as with the Governments;
- consider preparing examples of best practices to address, inter alia, the application of security provisions or drafting and adopting a resolution on security issues within WP.30 terms of reference;

- speed up the eTIR project; this project envisages to incorporate some of the WCO SAFE standards, such as: advance cargo information, risk assessment by Customs, controlled access for holders (in particular to avoid financial risks);
- foster exchange of intelligence between competent authorities with a view to combating smuggling and other abuses of legal instruments for border crossing facilitation.

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