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Strategic questions of a modal and thematic nature

Strengthening border crossing facilitation (Harmonization Convention, TIR Convention, eTIR Project and other Customs transit facilitation measures)

Note by the secretariat

Summary

This document contains a summary of the activities of the Working Party on Customs Questions affecting Transport (WP.30), of its subsidiary expert groups and of the secretariat towards enhancing border crossing facilitation and relevant legal instruments under the auspices of WP.30 (Harmonization Convention, TIR Convention, etc.). This includes the computerization of the TIR system in the framework of the eTIR project.

The Committee may wish to **take note** and **endorse** these activities. The Committee is also **invited to prolong** the mandate of the Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (WP.30/GE.1) to the year 2019.

The Committee may wish to **encourage** countries to express an interest or engage in eTIR pilot projects, thus paving the way for a smooth transition to the full implementation of eTIR.

The Committee is **invited to recommend** contracting parties to the TIR Convention to **expediently adopt** Annex 11 to the TIR Convention, introducing eTIR in the legal text of the Convention.

The Committee is **invited to urge** contracting parties and relevant stakeholders to secure the funds which will be required to operationalize eTIR.

The Committee may wish to **consider** and, possibly, **endorse** the text of the new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.

I. Background and mandate

1. This document has been prepared in accordance with the 2016-2020 Programme of Work of the Inland Transport Committee (ITC) (ECE/TRANS/254, para. 156 and ECE/TRANS/2016/31, programme activity 02.10: Customs questions affecting transport). It reports on the progress made in 2018 by the contracting parties, WP.30 and the secretariat in the area of border crossing facilitation, including among others:

- Developments in the International Convention on the Harmonization of Frontier Controls of Goods, 1982 (Harmonization Convention), as well as monitoring and capacity-building initiatives to assist in the proper application of this convention at the national level;
- Activities and developments of the TIR Convention and the functioning of the TIR system;
- Progress made in the eTIR project, the status of the efforts towards the development of draft Annex 11 to the convention to legally frame the operationalization of the computerized TIR procedure and the status of the five-year Memorandum of Understanding (MoU) on cooperation between ECE and IRU in the field of computerization of the TIR procedure and its ensuing pilot projects;
- Developments in drafting a new convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail;
- Ongoing issues in the application of the 1954 Customs Conventions on the Temporary Importation of Private Road Vehicles in Egypt and Jordan.

II. Harmonization Convention

2. The Committee may wish to note that in 2018 no new accessions to the International Convention on the Harmonization of Frontier Controls of Goods, 1982 ("Harmonization Convention") took place. Thus, since the entry into force of the convention for Turkmenistan, on 27 February 2017, the number of contracting parties to the Harmonization Convention stands at fifty-eight.

A. Biennial survey on the implementation of Annex 8 on road border crossings

3. At its 150th session (October 2018), the Working Party agreed to launch its biennial survey among contracting parties on progress made in the implementation of Annex 8 of the Harmonization Convention, mandating the secretariat to seek replies from countries no later than by 15 January 2019 (see ECE/TRANS/WP.30/300, paras. 31 and 32).

B. Issues in the application of the Convention

4. At its 148th session (February 2018), the Working Party decided that a next session of the Administrative Committee of the Harmonization Convention (AC.3) should be convened in conjunction with its 2019 June session and mandated the secretariat to make the necessary arrangements, including the preparation of pre-, in- and post-session documents. Contracting parties were invited to provide input to the secretariat about issues they would

want to be addressed at that session (see ECE/TRANS/WP.30/296, para. 38). This decision was endorsed by ITC at its eightieth session (see ECE/TRANS/274, para. 92).

III. The TIR Convention

5. In 2018, Qatar, Saudi Arabia and Argentina, deposited their instruments of accession to the TIR Convention, 1975. With these latest accessions, the TIR Convention has seventy-five contracting parties. In addition, in the course of 2018, the TIR system became operational in China, India and Pakistan and is now active in sixty-two countries.

6. In 2018, WP.30 and the TIR Administrative Committee (AC.2) continued their efforts towards considering and finalizing a set of amendment proposals to the TIR Convention. Over the year 2018, AC.2 accepted a set of amendment proposals (pending formal adoption, which includes:

- To amend Article 6, paragraph 1, Explanatory Note 0.6.2 and Annex 9, Part I, paragraph I, adjusting the existing wording to become “customs authorities or other competent authorities”.
- To amend Article 18, increasing the total number of customs offices of departure and destination from four to eight, with the accompanying new Explanatory Note 0.18.3, obliging contracting parties to make any limitation in the application of the said article publicly available as well as to the TIR Executive Board (TIRExB).

7. On 1 July 2018 various amendment proposals to Annexes 6, 8 and 9 entered into force, which include:

- To increase the maximum guarantee amount per TIR Carnet from \$50,000 to €100,000;
- To provide the TIR Administrative Committee (AC.2) when examining the annual audited financial statements and audit report(s) of the authorized international organization with the possibility to request additional information, clarifications or documents from the said organization or its independent external auditor and, ultimately, decide to engage an independent external auditor (Annex 8, Article 1 bis; new paragraphs 4, 5 and 6 and new Explanatory Note 8.1 bis.6);
- To amend the minimal conditions and requirements of the international organization to become authorized (Annex 9, Part III) with new subparagraphs (o), (p) and (q) of Article 2, requiring that it maintain separate records and accounts pertaining to the organization and functioning of the international guarantee system, provide access thereto to competent United Nations services or any other duly authorized entity and engage an independent external auditor to conduct annual audits of those records and accounts.

8. On 3 November 2018 the deadline for objection to various amendment proposals expired. This means that the following amendments will enter into force for all contracting parties on 3 February 2019:

- To Article 1 (q), adjusting the existing wording to become “customs authorities or other competent authorities”;
- To Articles 3 (b) and 6, paragraph 2, replacing the term “approved” by “authorized”;
- To Article 11, paragraph 3, shortening the minimum delay between the notification by customs of the non-discharge of a TIR operation to the national association and the request for payment from three months to one month;

- To Article 38, paragraph 1, to include a reference to repeated offences and to add a phrase stipulating that the criteria for considering an offence against the customs laws or regulations serious are set by national law.

9. By the same time, Kazakhstan notified the Secretary-General of its objection to a proposal to amend Article 2, clarifying that the term “frontier” in the said Article should be read and understood as referring to a “customs frontier”. Consequently, in accordance with the provisions of Article 59 (4) of the convention, the amendment is deemed not to have been accepted and shall have no effect. More detailed information on these issues as well as on depositary notifications is available on the TIR website.¹

A. International TIR Data Bank and electronic tools of the TIR secretariat

10. In 2015, the secretariat began a project to develop a new International TIR Data Bank (ITDB), envisaged to consolidate all electronic applications currently managed by the TIR secretariat. In 2016, the first phase of the project was initiated, aimed at replacing the current applications (ITDBonline+, ITDB Web Services and UNECE Register on Customs Seals and Stamps). In 2017, the new ITDB and the new ITDB web service were launched. Within months, the new ITDB had tripled the number of users in comparison to the previous version. The ITDB currently contains data of around 34,000 authorized TIR Carnet holders. A new module with a repository of customs offices was launched in May 2018 for use by customs officials. Public access to the ITDB customs office module is under consideration of TIRExB

11. In line with a request of TIRExB to raise awareness about the use of ITDB, ECE, in cooperation with TIRExB, conducted a seminar on the ITDB (Geneva, 14 June 2108). The seminar was well attended by competent authorities and representatives of the private sector. The meeting participants stressed the need for further awareness-raising activities and proposed the introduction of new functionalities in the ITDB.

12. TIRExB drafted a set of proposals to amend the TIR Convention, introducing mandatory data submission through the ITDB. The proposals aim at eliminating paper work in notifying TIRExB by making data submission via the ITDB mandatory. The TIR Administrative Committee started considerations of these proposals at its sixty-eighth session in October 2018.

B. National and regional TIR workshops and seminars

13. Since the Committee’s previous session in February 2018, the TIR secretariat had participated in: (a) eTIR-NCTS working meeting (Brussels, 20 February 2018); (b) Fourth World Customs Organization (WCO) Global Authorized Economic Operator Conference (Kampala, 14–16 March 2018); (c) Electronic Customs Coordination Group (ECCG) (European Commission) (Brussels, 15 March 2018); (d) Inauguration workshop for the accession of Qatar to the TIR Convention (Doha, 10 April 2018); (e) Ukrainian e-TIR field visit (Istanbul and Izmir, 9–10 May 2018); (f) WCO Regional Transit Workshop (Asuncion, 21–23 May 2018); (g) Organization for Security and Cooperation in Europe (OSCE) Training for Border Guards and Customs Officers Serving at the Border Crossing Points on the International Railway and International Road Crossings (Ashgabat, 28 May–2 June 2018); (h) 2018 WCO IT Conference and Exhibition (Lima, 6–8 June 2018); (i) WCO Regional Workshop on Simplification and Acceleration of Customs Procedures (Baku, 20–21 June 2018); (j) eTIR-NCTS working meeting (Brussels, 18 July 2018); (k) International trade and transport facilitation through digitalization of TIR procedures (Baku, 4–6 September 2018);

¹ www.unece.org/tir/tir-depositary_notification.html

Electronic Customs Coordination Group (ECCG) (European Commission) (Brussels, 23 November 2018).

IV. Developments in the implementation of the TIR Convention

14. At their February 2018 sessions, the governing bodies of the TIR Convention took note that, on 8 January 2018, the Romanian customs authorities had authorized the National Union of Road Hauliers from Romania (UNTRR) to act as TIR guaranteeing association in Romania, in accordance with the provisions of Article 6, paragraph 2 and Annex 9, Part I. This development would ensure the uninterrupted effective management of the international TIR guarantee system in Romania. This as consequence of the fact that, on 14 November 2017, IRU had informed the ECE secretariat that, at a meeting of the IRU Presidential Executive meeting on 8 November 2017, the Presidential Executive had decided to exclude *Asociația Română Pentru Transporturi Rutiere Internationale (ARTRI)* from its membership. ARTRI had filed an appeal with the IRU General Assembly, which would rule on this appeal at its meeting on 4 May 2018. In June 2018, IRU informed the Working Party that, on 4 May 2018, the IRU General Assembly had decided to uphold the decision of the IRU Presidential Executive of 8 November 2017 to exclude *Asociația Română Pentru Transporturi Rutiere Internationale (ARTRI)* from its membership. Consequently, ARTRI was no longer an IRU member and had no contractual affiliation via the Deeds of Engagement, which terminated on 31 January 2018.

V. eTIR

A. eTIR pilot projects and new steps towards the full computerization of the TIR procedure

15. In 2018, ECE and IRU continued to work closely with customs administrations towards launching new eTIR pilot project in the framework of the five-year Memorandum of Understanding (MoU) in the field of computerization of the TIR procedure and its accompanying Contribution Agreement (CA) towards enhancement of the full computerization of the TIR procedure, which both were signed on 6 October 2017. The customs administrations of Azerbaijan, Georgia, Kazakhstan and Ukraine have confirmed their willingness to take part in an eTIR intermodal project between their countries and have accepted the standard conditions for computerization projects to be launched in the framework of the MoU. The customs administrations of Azerbaijan, India and Iran (Islamic Republic of) met in Teheran on 2 and 3 July 2018 and expressed their willingness to work on an eTIR project along the International North-South Transport Corridor (INSTC), whereas Azerbaijan and Iran (Islamic Republic of) expressed an interest to start working on the required developments for these projects in their national ICT customs systems as well as to start eTIR transports between both countries. eTIR transports continued to be carried out between Iran (Islamic Republic of) and Turkey, and efforts have been undertaken to extend the scope of the project to include more transport companies and more customs offices. Due to the fact that the adoption of Annex 11 may take some time, the Turkish customs administration has sent a proposal to the Iranian customs administration to conclude a bilateral agreement, based on the provisions of draft Annex 11, which would allow expansion of the scope of the project. The eTIR pilot project between Georgia and Turkey has been successfully implemented and efforts are being made to integrate this project into the overall efforts to fully computerize the TIR procedure. Countries are invited to express an interest or engage in eTIR pilot projects, thus paving the way for a smooth transition to the full implementation of eTIR.

B. Developments in the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure

16. The twenty-eighth and twenty-ninth sessions of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (WP.30/GE.1) were held on 28-29 June 2018 (Geneva) and 14-15 November 2018 (Rotterdam, the Netherlands) respectively. At the sessions, WP.30/GE.1 considered or adopted significant amendments to the eTIR conceptual, functional and technical specifications, building on the outcome of the eTIR pilot projects and the work of WP.30 and WP.30/GE.2 on new Annex 11 to the TIR Convention.

17. At its 150th session, WP.30 requested the secretariat to seek extension from the Committee for the mandate of WP.30/GE.1 for 2019 (see ECE/TRANS/WP.30/300, para. 16).

C. Annex 11 of the TIR Convention

18. The Working Party extensively discussed the proposals for new Annex 11 at its meetings in 2018. At its February 2018 session, the Working Party took note that the Office of Legal Affairs-Treaty Section (OLA-TS) had informed the secretariat that it would not be possible to introduce the opt-out clause for Annex 11 by means of a reservation, as proposed in new Article 58, paragraph 1 *bis*, considering that the Vienna Convention on the Law of Treaties (1969) only allows reservations to legal instruments at the moment of accession and not later on. Taking this into account, the secretariat informed the Working Party that it would submit a new proposal, stipulating that Annex 11 would come into force by a certain deadline for all contracting parties, except for those that would notify the depositary, in writing, before that same or another deadline of their non-acceptance of the Annex. In this context, the delegation of the European Union proposed to review the decision-making mechanism as contained in Article 4 of draft Annex 11, possibly in combination with the introduction of a transitional period for contracting parties that (a) would accept Annex 11, but (b) not apply eTIR in the first phase. In its view, it seemed not correct to exclude this group of countries from the decision-making procedure as proposed in said Article 4. In reply, the secretariat proposed to consider introducing a clear differentiation between the moment a Contracting Party would accept Annex 11 and the moment that it would start implementing the Annex.

19. The delegation of the Russian Federation questioned the authentication methods of Annex 11, as they did not comply with requirements of its national legislation. The delegation of Italy stressed that the main issue on which the Working Party was invited to express itself was the financing of the operational costs of the eTIR international system and, in particular, whether such costs should be covered through an amount per TIR transport or rather per eTIR transport. The delegation of Turkey, referring to the longstanding commitment of all contracting parties to the TIR Convention to move to full computerization of the TIR procedure, was of the view that all contracting parties should support the operational costs of the eTIR international system and that, consequently, the amount should be charged on all TIR and eTIR transports. The delegations of Belarus and the Russian Federation wondered whether the issuance of electronic guarantees would alter the roles of either the international organization or the national associations. The secretariat recalled that eTIR had been developed with the clear instruction from contracting parties to leave the principles and philosophy of the TIR Convention untouched. The delegation of the European Union stated that more clarity was required with regard to the financing mechanism before the European Union and its member States could accept Annex 11 (see ECE/TRANS/WP.30/296, paras 19-27).

20. At its June 2018 session, the Working Party continued its discussions of new Annex 11 on the basis of document ECE/TRANS/WP.30/2018/16. In particular, the Working Party took note of newly formulated article 60 *bis*, which, at the proposal of OLA-TS, now stipulates that Annex 11 will enter into force for all contracting parties except those that notify the depositary in writing of their non-acceptance of the annex. Further, the Working Party took note that, as proposed by the delegation of the European Union, the text of article 3 of Annex 11 had been amended to introduce a distinction between contracting parties having accepted Annex 11 and those connecting their national customs systems to the eTIR international system. In addition, the secretariat provided pertinent answers to a set of questions posed by the delegation of the Russian Federation (see ECE/TRANS/WP.30/298, paras 16-21).

21. At its October 2018 session, the Working Party considered the amendment proposals to the body of the Convention as well as the provisions of draft Annex 11 one by one, in order to firmly establish the position of delegations. As outcome, the secretariat was requested to prepare a new document for consideration of the Working Party at its February 2019 session. The Working Party agreed that this new document could tentatively also be tabled for AC.2 on the assumption that, in case the Working Party would manage to finalize discussions at its 151st session, the document could immediately be transferred to AC.2 for consideration at its sixty-ninth session (see ECE/TRANS/WP.30/300, paras. 20-21). In addition, the secretariat provided pertinent answers to a new set of questions posed by the delegation of the Russian Federation (see ECE/TRANS/WP.30/300, para. 22).

VI. International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail, of 10 January 1952

22. In 2018, the Working Party continued its deliberations of the draft text of a new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail. At the October 2018 session of the Working Party, the delegation of the European Union stated that it had taken seriously the repeated requests to agree on the text and that it was now in a position to take a decision at that meeting. However, it would not be in favour of the text would a clause about the participation of Regional Economic Integration Organizations (REIO) as contracting party to the new convention not be inserted. The delegation of the Russian Federation could agree to such request, on the condition that a similar wording to that of Article 52 of the TIR Convention be used. The delegation of the Russian Federation further informed the Working Party that it could also accept various Turkish proposals to amend articles 1 (m), 4 and 25, paragraph 1 of the text. However, in the opinion of the delegation of the Russian Federation, the proposals to amend article 27, as proposed by Turkey, would significantly complicate the legal structure and the framework function of the new Convention. The delegation of the Russian Federation proposed, as a compromise, to amend article 27, paragraph 1, introducing consensus as a principle to adopt amendments rather than the figured two-third majority. The delegations of Armenia and Mongolia stated their full support for the draft convention. The delegation of Iran (Islamic Republic of), while supporting the draft convention, called for flexibility on all sides to enable broader partnership and cooperation for its successful implementation. In conclusion, the Working Party requested the secretariat to prepare an update of the draft, for discussion at its forthcoming session. Considering the progress achieved and in line with the request by the Committee to finalize considerations in 2018, the document is also tabled for adoption by the Committee at its 2019 session as contained in document ECE/TRANS/2019/18 (see also ECE/TRANS/WP.30/300, paras. 35-37).

VII. Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)

23. The Committee may wish to note that, in 2018, no changes have occurred in the status of the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles and that the conventions, currently had, 80 and 26 contracting parties, respectively.

24. In 2018, the Working Party continued dealing with ongoing issues in the application of the 1954 convention in Egypt and Jordan, particularly because customs authorities did not seem to respect the deadlines and procedures laid down in the convention. Various attempts to contact, through diplomatic channels, the Egypt and Jordan authorities remained in vain until June 2018, when the customs authorities of Egypt provided its appreciation of the situation at hand in a letter in Arabic. At its October 2018 session, the Working Party reverted to the issue, based on document ECE/TRANS/WP.30/2018/27, containing an official translation of the letter of reply from Egypt customs. In the letter, Egypt customs basically reject all complaints and explain that all actions undertaken are in line with or as stipulated by the convention and national law. As a matter of fact, Egypt customs claimed that ongoing indolence from the Automobile and Touring Club of Egypt has seriously jeopardized customs authorities collecting due payments, leading to legal proceedings by customs against the association for an amount of 114,574,460 Egyptian pounds (around €5,5 million). The Working Party took note of this information and decided to wait for feedback from the Federation International d'Automobile (FIA) on how to further proceed with the matter (see ECE/TRANS/WP.30/300, para. 39).

VIII. Considerations by the Committee

25. The Committee may wish to take note of and support the above activities of contracting parties, WP.30 and the secretariat. It is also invited to support the continuation of the eTIR project, to prolong the mandate of WP.30/GE.1 to the year 2019, to urge contracting parties and relevant stakeholders to secure the funds required to operationalize the eTIR project, urge contracting parties to expediently adopt a new Annex 11 to the TIR Convention, introducing the computerization of the TIR procedure into the legal text of the Convention, to recommend countries to engage in eTIR pilot projects and to adopt the text of the new convention on the facilitation of border-crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail.
