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INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions
affecting Transport

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS
AFFECTING TRANSPORT ON ITS NINETY-SEVENTH SESSION
(20 - 23 February 2001)**

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REPORT

ATTENDANCE

1. The Working Party held its ninety-seventh session from 20 to 23 February 2001.
2. The session was attended by representatives of the following countries: Austria; Belarus; Belgium; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Georgia; Germany; Greece; Hungary; Iran; Italy; Kazakhstan; Latvia; Lithuania; Republic of Moldova; Netherlands; Norway; Poland; Romania; Russian Federation; Slovakia; Slovenia; Spain; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom; Yugoslavia; European Community (EC).
3. The United Nations Conference on Trade and Development (UNCTAD) was represented.
4. The following inter-governmental organization was represented: Intergovernmental Organization for International Carriage by Rail (OTIF).
5. The following non-governmental organizations were represented: International Road Transport Union (IRU); International Touring Alliance (AIT); International Automobile Federation (FIA); Transfrigoroute International.

ADOPTION OF THE AGENDA

6. The Working Party adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/193).

ELECTION OF OFFICERS

7. Mr. F. Paroissin (France) was re-elected Chairman of the Working Party for its sessions in 2001.

ACTIVITIES OF UN/ECE BODIES AND OTHER UNITED NATIONS ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

Documentation: UN/ECE Document on international agreements and conventions in the field of transport.

8. The Working Party was informed about the proceedings of the sixty-third session of the Inland Transport Committee (ITC) that took place from 13 to 15 February 2001.

9. The Committee had welcomed the work that had been undertaken by the Working Party under Phase II of the TIR revision process. The Committee had decided to prolong the mandate of the group of experts focusing on the computerization of the TIR procedure in the framework of the TIR revision process for the year 2001. The Committee had endorsed the views expressed by the Working Party that the guarantee coverage for sensitive goods on the territory of the European Community had to be re-established as soon as possible.

10. Concerning the International Convention on the Harmonization of Frontier Controls of Goods, 1982, the Committee had endorsed the view of the Administrative Committee that work on a new Annex 8 to the Convention and its technical annexes on border crossing procedures for international road transport should be completed as soon as possible.

11. Concerning the Draft Convention on International Customs Transit Procedures for the Carriage of Goods by Rail, the Committee had taken note of the two draft conventions finalized by the Working Party. The Working Party has been requested to re-consider the draft convention based on the SMGS consignment note and to present its final draft text to the next session of the Committee.

ACTIVITIES OF OTHER ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

12. The Working Party was informed of recent activities of the European Commission's Directorate General Taxation and Customs Union (DG TAXUD). It noted that the legislative reform process concerning the Community and Common Transit had been finalized in December 2000. The text of the reform can be found in the Official Journal for the European Communities, L 9 of 12 January 2001, Decision 1/2000 concerning Common Transit and L 330 of 27 December 2000, Commission Regulation 2787/2000 concerning Community Transit.

13. A smaller part of the reformed transit procedures had entered into force as of 1 January 2001, whereas the bulk of the reformed procedures will come into force on 1 July 2001. A seminar for all countries in the Common Transit area is planned to be held in April 2001 in Gdansk (Poland) to discuss the uniformity in the application of the reform of the Common Transit system. To this end, a Handbook is also being developed.

14. Other pending subjects of the reform of the Community and Common Transit Systems are related to the use of supplementary data, such as the HS code and the value of goods as well as the reform of rail transit.

15. The New Computerised Transit System (NCTS) is now in the initial implementation phase with seven countries. The next phase of the NCTS development will be initiated this year with the inclusion of more countries.

STATUS OF INTERNATIONAL AGREEMENTS AND CONVENTIONS IN THE FIELD OF BORDER CROSSING FACILITATION

Documentation: UN/ECE document on international agreements and conventions in the field of transport.

16. The Working Party was informed that a status report on international agreements and conventions in the field of border crossing facilitation which are administered by the Working Party is contained in the document on international agreements and conventions in the field of transport prepared by the secretariat. This document covers 55 UN/ECE agreements and conventions in the field of transport administered by the UN/ECE.

17. Permanently updated information on the status and scope of these conventions and agreements is available on the relevant UN/ECE web site (www.unece.org/trans/new_tir/conventions/list.htm).

INTERNATIONAL CONVENTION ON THE HARMONIZATION OF FRONTIER CONTROLS OF GOODS, 1982 (“Harmonization Convention”)

Documentation: ECE/TRANS/55.

Preparation of a new annex on efficient border crossing procedures

Documentation: ECE/TRANS/136; TRANS/WP.30/AC.3/8; TRANS/WP.30/192; TRANS/WP.30/2000/16; TRANS/WP.30/2000/11.

18. The Working Party took note of the results of the fourth session of the Administrative Committee for the “Harmonization Convention” (18 and 20 October 2000). The Administrative Committee had agreed with the general conclusions of the Working Party and its group of experts concerning a new Annex 8 to the Convention on efficient border crossing procedures and had decided to consider and possibly adopt the draft Annex, including its technical appendices, at its forthcoming session, scheduled to be held in October 2001 (TRANS/WP.30/AC.3/8, paras. 12-22; TRANS/WP.30/192, paras. 10-13).

19. The Working Party was informed of progress made by the secretariat in the preparation of the technical appendices to Articles 4 and 5 of the new Annex 8 on the international vehicle inspection and the international vehicle weight certificates respectively.

20. The Working Party reviewed once more the provisions of the draft Annex and took note of the concerns expressed by the representatives of Switzerland and the United Kingdom with regard to the provisions of Articles 5 and 2 respectively, the present wording of which was not in line with national legislation. The representative of the United Kingdom proposed the following alternative wording for Article 2:

“Article 2

Facilitation of visa procedures for professional drivers

1. The Contracting Parties shall encourage their respective authorities to facilitate the granting of visas for professional drivers engaged in international road transport in accordance with national best practice for all visa applicants and national immigration rules.

2. The Contracting Parties shall endeavour to exchange information on best practices with regard to the facilitation of visa procedures for professional drivers.”

21. Several representatives felt that the original wording of Article 2 should be maintained as it had been the result of lengthy negotiations and had already been accepted in a Memorandum of Understanding signed in April 1999 by the Ministers of Transport of the SECI participating States (Southeast European Cooperative Initiative).

22. The Working Party reiterated that the objective in preparing the new Annex 8 to the Convention had been to address all elements important for efficient border crossing procedures by international road transport covering the goods, particularly perishable foodstuffs, the road vehicle, the driver as well as border crossing infrastructures and procedures (TRANS/WP.30/190, para. 10).

23. In compliance with the request of the Inland Transport Committee (ECE/TRANS/136), the Working Party requested the secretariat to complete its work on the technical appendices to Articles 4 and 5 as soon as possible and to transmit all provisions of the draft Annex 8 to the autumn session of the Working Party for consideration and possible adoption.

DRAFT UN/ECE CONVENTIONS ON INTERNATIONAL CUSTOMS TRANSIT PROCEDURES FOR THE CARRIAGE OF GOODS BY RAIL

Documentation: ECE/TRANS/136; TRANS/2001/10; TRANS/WP.30/2000/17; TRANS/WP.30/164; TRANS/WP.30/R.141.

24. The Working Party recalled that, at its ninety-sixth session, it had terminated its activities towards the preparation of harmonized pan-European Customs transit procedures for international rail transport. It had decided to transmit the two draft conventions it had prepared for this purpose, via diplomatic channels, to the Contracting Parties to the COTIF Convention and to the SMGS Agreement respectively with a view to soliciting their views on the approach taken and on the Customs transit procedures proposed therein (TRANS/WP.30/192, paras. 14-21).

25. Since the consolidated text of the two draft conventions (TRANS/2001/10) has only recently become available in the three working languages of the ECE, the secretariat was requested to transmit this document, following the present session, to the relevant Contracting Parties. On the basis of the comments received and in accordance with the decision of the Inland Transport Committee (ECE/TRANS/136), it was agreed not to continue with any further work on the draft Convention based on the COTIF consignment note. The secretariat was requested to convene an ad hoc informal expert group meeting of interested countries and international organizations to review once more the provisions of the draft convention based on the SMGS consignment note and to prepare a revised draft for consideration of the Working Party at its forthcoming October session.

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

(a) Status of the Convention

Documentation: TRANS/WP.30/AC.2/61, annex 1.

26. The Working Party was informed that the number of Contracting Parties to the TIR Convention, 1975 is at present 64, a number that has not changed since its last session.

27. The secretariat informed the Working Party that, as of 20 November 2000, TIR operations can be established with Kyrgyzstan. The Association of International Autotransportation of the Kyrgyz Republic has been designated as issuing and guaranteeing association for TIR Carnets in Kyrgyzstan.

28. The secretariat also informed the Working Party, that as of 19 March 2001, TIR operations can be established with Armenia. The Association of International Road Transport Carriers of Armenia has been designated as issuing and guaranteeing association for TIR Carnets in Armenia.

29. With the addition of Armenia and Kyrgyzstan, TIR operations can be established in 49 countries according to information provided by the IRU.

30. A complete list of Contracting Parties to the Convention, as well as a list of countries in which TIR operations can be established is annexed to the report of the thirtieth session of the TIR Administrative Committee (TRANS/WP.30/AC.2/61, annex 1).

31. Permanently updated information on the scope of the TIR Convention is available on the TIR web site (www.unece.org/trans/new_tir/welctir.htm).

(b) Revision of the Convention

(i) Adoption of amendment proposals and examples of best practices under Phase II of the TIR revision process

Documentation: TRANS/WP.30/AC.2/59; TRANS/WP.30/192; TRANS/WP.30/2000/18 and Corr.1.

32. The Working Party recalled that, at its ninety-sixth session, it had finalized work on Phase II of the TIR revision process by agreeing on a complex package of amendment proposals to the Convention and by adopting examples of best practices. The TIR Administrative Committee, at its twenty-ninth session (19 and 20 October 2000) had adopted these amendment proposals, together with comments thereto, as well as examples of best practices (TRANS/WP.30/AC.2/59, annexes 3, 5 and 7).

33. Following verification of all amendment proposals by the secretariat, as had been requested by the Administrative Committee, the Legal Office of the United Nations in New York, on 12 February 2001, has issued Depositary Notification C.N.36.2001.TREATIES-1 which has been transmitted to all Contracting Parties to the Convention. The depositary notification covers the amendment proposals adopted under Phase II of the TIR revision process, i.e. amendments to the body of the Conventions, as well as to Annexes 1 and 6.

34. In this context, the Working Party recalled that the main objective of Phase II of the TIR revision process had been to facilitate the application of the Convention at the national level. For this purpose, the roles and responsibilities of the various parties involved in the TIR procedure have been clearly defined and specified. Furthermore, guidance has been provided on the required national administrative procedures providing for an efficient functioning of the TIR procedures and, if required, for a speedy recovery of Customs duties and taxes at risk from the person directly liable (for example, holder of a TIR Carnet) or, if this turned out not to be possible, from national guaranteeing associations.

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

Documentation: Informal document No. 10 (2001); Informal documents Nos. 3-8 (2001); Informal document Nos. 1,7 and 8 (2000); Informal document No. 5 (1997).

35. The Working Party considered briefly the results of the first session of the ad hoc expert group on the computerization of the TIR procedure (Geneva, 19 February 2001) which had provided an overview of possible technological approaches and applications in the computerization of Customs procedures and in particular Customs transit systems.

36. The Working Party stressed that the basic philosophy and structure of the TIR procedure, consisting of a series of national transit operations linked by an international Customs document - the TIR Carnet, would need to be preserved and that the provisions of the Convention, particularly those prepared under Phases I and II of the TIR revision process, had to be safeguarded and possibly even further strengthened. In view of the increasing number of countries that have already or are in the process of computerizing their national Customs transit procedures, the TIR Convention would have to adapt to these new circumstances without necessarily losing the possibility to be applied also in a traditional paper-based environment. Furthermore, it was recognized that modern EDI technologies allowed also integration of already existing and/or yet to be created national and international databases providing on-line information on TIR Carnets issued and/or terminated, authorized TIR Carnet users, authorized Customs posts, etc. into national transit control and discharge procedures. Such an integrated approach should allow for faster, more reliable and rationalized administrative Customs procedures avoiding repetitive data entry, reduce possibilities for fraud, improve risk management both for Customs authorities, national associations and the international guarantee providers and should give transport operators access to reliable and on-line information on the status of the Customs transit procedure. The Working Party reiterated that computerization of the TIR procedure was inevitable and necessary, as Customs authorities and traders used increasingly modern electronic data processing techniques (TRANS/WP.30/192, para. 26).

37. With a view to making progress in the computerization of the TIR procedure under Phase III of the TIR revision process, the Working Party requested the secretariat to prepare a summary of the presentations made and the discussions held at the ad hoc expert group meeting and in the Working Party during its present session. On the basis of this report, the secretariat should prepare and convene, possibly in June 2001, a second session of the ad hoc expert group with a view to arriving, following identification of objectives, at a consensus on the objectives to be achieved and on the Customs requirements to be taken into account in the computerization of the TIR procedure.

38. With regard to the other elements forming part of Phase III of the TIR revision process, the Working Party recalled that, at its ninety-sixth session, it had to include a study of the following elements:

- (a) Revision of the TIR Carnet, including the insertion of additional data elements (ID number, HS code, value of goods, etc.) (TRANS/WP.30/188, para. 31);
- (b) Increase in the number of places for loading and unloading under Customs seal (TRANS/WP.30/186, paras. 42 and 43);
- (c) Possibilities for the reduction of the legally required delays for notification of non-discharge of TIR Carnets (TRANS/WP.30/188, para. 38).

39. With regard to (a), the Working Party requested the secretariat to prepare a document on the Customs needs with regard to the HS code and the value of the goods, to be inserted into the TIR Carnet, as well as on the possibilities of how and by whom these needs, if justified, could be met. The study should also take account of the interests and possibilities of the transport industry and make use of the considerations of a special working group which has been convened by the European Commission on this subject. In this context, the Working Party decided to reconsider Informal document No. 5 (1997) at its next session.

40. With regard to (b), the Working Party requested the secretariat, in cooperation with the IRU, to prepare a document on the economic needs to extend the number of places for loading and unloading, as well as of the Customs requirements in this respect, and to propose solutions of a legal and administrative nature within the framework of the Convention.

41. With regard to (c), the Working Party was of the view that Customs authorities could not accept any reduction in the legally prescribed delays for notification of non-discharge as provided in the Convention. It declared, however, its readiness to consider possible further measures going beyond the existing EDI control system of TIR Carnets (SAFETIR) and those already contained in the amendment proposals and best practices adopted under Phase II of the TIR revision process, including pre-notifications of non-discharge to the guarantor. The IRU was invited to provide further substantive arguments justifying further measures by Customs authorities in this respect.

42. The Working Party agreed that the activities to be undertaken during Phase III of the TIR revision process should be separated into short-term priorities (revision of the TIR Carnet, increase in the number of loading and unloading places, etc.) and into long-term priorities (use of new technologies).

43. The Working Party took note of Informal Document No. 10 (2001), transmitted by the European Community containing amendment proposals to the Convention which would provide for a definition and voting rights of regional economic integration organizations in the framework of the Convention. The Working Party decided to consider this matter at its next session on the basis of an official document.

(c) **Extension of the scope of the Convention**

Documentation: TRANS/WP.30/192; TRANS/WP.30/190; TRANS/WP.30/188.

44. The Working Party recalled that, at its previous sessions, it had briefly discussed the proposal of the secretariat to consider an extension of the scope of the TIR Convention to rail transport, with a view to establishing a single pan-European Customs transit system providing facilities for all land transport modes on an equal basis. This proposal had been put forward against the background of the little progress that had been made since 1995 in the establishment of a UN/ECE Convention on International Customs Transit Procedures for the Carriage of Goods by Rail. The Working Party had been of the view that work towards a single pan-European rail transit system was worth being studied, in particular, in view of the current privatization of railways. The secretariat had been mandated to explore the possibilities further, together with private sector interests (TRANS/WP.30/192, paras. 41 and 42; TRANS/WP.30/190, paras. 31 and 32; TRANS/WP.30/188, para. 18).

45. In view of possible progress in the development of other rail related Customs transit instruments, the Working Party felt that, at this stage, it was premature to consider in detail a possible extension of the TIR Convention to cover rail transit. However, taking into consideration the ultimate objective of a unification of rail transit procedures on a Pan-European level and the risk that this might not be achieved through other Customs transit instruments, the Working Party felt that the secretariat should continue with exploratory discussions with Customs authorities and relevant industry groups, in order to verify the exact interest for such a project. The secretariat was requested to report on progress made in this report at one of the next sessions of the Working Party.

(d) Application of the Convention

46. The Working Party took note that permanently updated information on the application of the Convention is available on the relevant TIR web site (www.unece.org/trans/new_tir/welctir.htm).

(i) Settlement of claims for payments

Documentation: TRANS/WP.30/190; TRANS/WP.30/188; TRANS/WP.30/184; TRANS/WP.30/182.

47. The Working Party reiterated once more its concern and frustration about the slow progress made in the settlement of “old” Customs claims under the previous international insurance system which had denounced its contract with the IRU at the end of 1994. It urged all Parties involved to resolve the still numerous pending cases as quickly as possible (TRANS/WP.30/192, para. 44; TRANS/WP.30/190, para. 37; TRANS/WP.30/188, paras. 46-47; TRANS/WP.30/184, paras. 51-52; TRANS/WP.30/182, paras. 37-38).

48. The IRU informed the Working Party that approximately 3,000 cases are still pending before the Court of Arbitration.

49. The representative of the European Commission expressed serious concern that present cases pending before the European Court of Justice raised by the European Community against member States for payment of duties due in connection with claims pending with the Court of Arbitration, could release a serious backlash against the TIR system if the European Court of Justice ruled in favour of the European Community.

50. The Russian delegation informed the Working Party that around 500,000 TIR operations are carried out in the Russian Federation each year and that, at present, less than 1% of these operations were not terminated properly. Nonetheless, in 1999 and 2000, the amount of the claims (notifications and payment requests) issued by the Customs authorities to the guaranteeing chain represents about US\$40 mio. These payment requests are still unpaid.

(ii) **Re-introduction of the guarantee for sensitive and other excluded goods**

Documentation: Informal Document No. 9 (2001).

51. The Working Party was informed about a meeting between the IRU and the Customs authorities and guaranteeing associations of the countries applying the Common Transit system (Brussels, 28 November 2000), during which IRU presented a comprehensive package of measures, which would allow the re-introduction of the guarantee coverage for the transport of sensitive goods under the cover of TIR Carnets within the European Community (Informal Document No. 9 (2001)). The proposals included, *inter alia*, such requirements as the allocation of TIR Carnets with certain numbers for sensitive goods, the selection of associations and transport operators authorized to issue and, respectively, use such TIR Carnets, as well as additional control measures to be applied by Customs authorities. It was also proposed that these measures should be extended to all Contracting Parties to the TIR Convention including an extended list of sensitive goods.

52. The IRU pointed out that the above measures would not modify the provisions of the TIR Convention, resolution No. 49 and the Recommendation of 25 October 1995 and, if approved by the Working Party, could come into force by the end of 2001. The Working Party also took note that the European Community had agreed in principle to the proposals by the IRU and was about to amend its administrative arrangements regarding the TIR procedure in this respect.

53. The Working Party generally welcomed the efforts undertaken by the European Community and the IRU to re-establish guarantee coverage for sensitive goods on the territory of the European Community. However, some delegations were of the view that the proposed measures did not seem to be in line with the provisions and the spirit of the Convention and could set a precedent for the interpretation of the provisions of the Convention in a unilateral way without proper consultation and approval by the appropriate inter-governmental bodies responsible for the administration of the Convention. In particular, it was pointed out that:

- the Convention foresees no distinction between different kinds of goods, except for tobacco/alcohol products. Furthermore, sensitive goods vary from one Contracting Party to another, and a single “global” list of such goods is unlikely to be appropriate;
- the selection of associations and transport operators authorized to deal with sensitive goods did not seem to be in line with Annex 9, Part I and Part II of the Convention;
- adoption of the proposed measures could mean that the TIR guarantee chain, which should function within the legal and administrative framework of the TIR regime, might impose additional procedures not provided for in the Convention nor approved by its competent bodies, both at the national and international levels.

54. The Working Party was of the opinion that a further analysis on the repercussions of such measures for the Contracting Parties outside the European Community would need to be made. It invited the IRU to submit a detailed document on this subject to the TIR Executive Board (TIRExB) for consideration.

55. In this context, the IRU informed that it did not plan to reintroduce guarantee coverage for the transport of small quantities of tobacco and alcohol under cover of normal TIR Carnets. Nor did the IRU plan to reintroduce the Tobacco/Alcohol TIR Carnet.

(iii) Procedures to be applied in case of suspension of a TIR operation

Documentation: TRANS/WP.30/2001/1; TRANS/WP.30/190; TRANS/WP.30/2000/15; TRANS/WP.30/188; TRANS/WP.30/2000/7; TRANS/WP.30/186.

56. The Working Party recalled that the Hungarian Customs authorities, in accordance with the provisions of Article 26 of the Convention, did not accept TIR Carnets following the suspension of the TIR procedure in transit through the Federal Republic of Yugoslavia in case Customs seals had been removed by the authorities in this country (TRANS/WP.30/190, para. 52; TRANS/WP.30/2000/7; TRANS/WP.30/188, para. 58; TRANS/WP.30/186, para. 70).

57. As there were different views on the interpretation of this article, the European Community had prepared document TRANS/WP.30/2000/15 containing proposals for amendment and interpretation of Article 26.

58. The Working Party approved, in principle, the proposals contained in document TRANS/WP.30/2000/15. However, it noted that some of the issues, such as, for instance the definition of a country with which a TIR operation could be established, might need to be elaborated further. Furthermore, it was felt that a comment to the Convention might be sufficient to clarify the issue. The secretariat was requested to prepare a document containing the amendment proposals, as well as related comments for transmission to the Administrative Committee at its autumn session.

(iv) **Transport of containers, semi-trailers or trailers without tractor units**

Documentation: TRANS/WP.30/2001/2; TRANS/WP.30/192.

59. On the basis of document TRANS/WP.30/2001/2 prepared by the secretariat and summarizing the underlying problems and the views expressed by different countries, the Working Party continued its discussion on the validity of a single TIR Carnet for transport of containers, semi-trailers and trailers without tractor units.

60. The Working Party noted that the issue at stake was closely related to the question whether a TIR operation could be carried out by persons other than the TIR Carnet holder, such as sub-contractors, under the assumption that the holder bore the whole responsibility for the due termination of a TIR transport. Some representatives pointed out that such a possibility not only fully complied with the provisions of the Convention, but also constituted an important part of modern transport practices. However, other delegates felt that the transfer of a TIR Carnet from the holder to sub-contractors would not be in line with the provisions of the Convention and thus should not be allowed.

61. Given the different opinions on the subject, the Working Party was of the view that the requirement to provide for authorization of all transporters in line with Annex 9, Part II of the Convention, irrespective of whether they were TIR Carnet holders or sub-contractors, as proposed by the secretariat, would by itself not resolve this problem. Due to the lack of consensus, the Working Party requested the secretariat to analyse the possibilities to prepare a new legal interpretation considering all views expressed.

(v) **Escort of road vehicles**

Documentation: TRANS/WP.30/2001/3; TRANS/WP.30/192; TRANS/WP.30/2000/20.

62. At its ninety-sixth session, the Working Party had considered briefly a comment to Article 23 of the Convention proposed by the IRU (TRANS/WP.30/2000/20) concerning requirements for escort services. The Working Party had noted, that the application of Article 23 of the Convention on the requirements for escort services depended on the risk assessment made by the Customs offices of departure or entry en route and depended on a large number of factors which were stipulated in internal administrative instructions. Several representatives had felt that Customs authorities could be recommended, on request and as a service to the transport operator, to insert the requirement and the reasons for escort services into the counterfoils of the TIR Carnet. The secretariat was requested to prepare a draft comment to this effect (TRANS/WP.30/2001/3).

63. In order to address these issues, the Working Party adopted the following modification to the existing comment to Article 23 of the Convention:

Comment to Article 23 : Escort of road vehicles

Add at the end of the comment, the following sentence:

"...In such cases and in particular if no other written proof is provided to the carrier, Customs authorities are recommended, at the request of the carrier, to insert into counterfoil No. 1 of the TIR Carnet under item 5 "Miscellaneous" the word "Escort", followed by a short indication of the reasons which had led to the requirement for such escorts." {TRANS/WP.30/194, para. 61 }

64. The Working Party also stressed that Customs agents and other private forwarding service providers at border crossings sometimes induced carriers using their services to terminate their TIR transport and to use instead, for the remainder of the journey, for example, the Common or Community Transit System. Such practice should be discouraged as they were not in line with the provisions and the spirit of the TIR Convention nor of any international Customs transit system as they put an unnecessary burden on both carriers and Customs personnel at border crossings. Relevant information to this effect might be distributed to carriers, Customs agents and Customs authorities by national associations, the IRU and Customs authorities respectively.

(vi) **Transport of illegal immigrants**

Documentation: TRANS/WP.30/2001/4; TRANS/WP.30/192; TRANS/WP.30/2000/20.

65. The Working Party took note of document TRANS/WP.30/2001/4 which had been prepared by the secretariat, in co-operation with the IRU. For this document, a different approach had been chosen as compared to an earlier document submitted by the IRU (TRANS/WP.30/2000/20). Instead of proposing a comment to Articles 21 and 36 of the Convention, it was proposed to link the issue to the more general Article 5 of the Convention. At the same time, the issue was no longer related to illegal immigrants only, but to any type of irregularity.

66. The Working Party noted that the document had only been made available shortly before the meeting. Therefore only preliminary remarks could be expressed. The European Community pointed out that, because in the draft comment the request was linked to Article 5 of the Convention, only Customs offices en route were addressed. Within the territory of the European Community however, offices en route no longer existed. Thus, the draft comment still did not give transport operators the possibility to request an examination at national border points inside of the European Community territory. Illegal immigrants were, however, stowed away in the load compartment of sealed vehicles at such border points, i.e. Bari, Calais and Dover. Thus, such a comment should include all Customs offices.

67. The Working Party decided to revert to the issue at its next session. To this end, it requested the secretariat to prepare an amended working document.

(vii) **Measures to reduce the number of lost, stolen and falsified TIR Carnets**

Documentation: Informal document No. 1 (2001); TRANS/WP.30/192.

68. At its ninety-sixth session, the Working Party, with a view to identifying the scope of the problem related to lost, stolen and falsified TIR Carnets, had requested the secretariat, in cooperation with the IRU, to prepare facts and figures on this phenomenon for consideration by the Working Party at its next session (TRANS/WP.30/192, para. 68).

69. The Working Party considered Informal document No. 1 (2001) on the issue submitted by the IRU, as well as a presentation made by the IRU on the subject.

70. The IRU informed the Working Party that in the year 2000, 0.15 % of all TIR Carnets issued were so-called vital invalidated TIR carnets, i.e. Carnets that had been either lost, stolen, destroyed, retained or in other ways were out of the control of the guaranteeing chain (i.e. national authorities and the IRU).

71. The Working Party welcomed IRU's efforts to inform Customs authorities about such Carnets and encouraged use of the IRU software CUTEWISE by Customs authorities to inquire about the status of such Carnets.

72. The Working Party was also informed about the security features included in the TIR Carnet, such as fluorescent ink and watermarks. The Working Party agreed to consider how such security features might need to be made more known within Customs authorities.

73. The Working Party also took note of IRU's offer to assist Customs authorities to establish a link with CUTEWISE.

(viii) **Application of Article 38 of the Convention**

Documentation: TRANS/WP.30/AC.2/2000/14 and Corr.1.

74. The TIR Administrative Committee, at its twenty-ninth session, had considered the underlying reasons for the exclusion of persons from the TIR procedure in accordance with Article 38, paragraph 1 of the Convention and had noted that they were quite different in the Contracting Parties to the Convention. This was mainly due to different national interpretations of the conditions for such exclusion as stipulated in Article 38; i.e. "guilty of a serious offence". With a view to clarifying, to the extent possible, this notion, the TIR Secretary had prepared comments to Article 38 and Annex 9, Part II of the Convention (TRANS/WP.30/AC.2/14 and Corr. 1). Following a brief discussion on these proposals, the TIR Administrative Committee had invited the Working Party to review the proposals of the TIR Secretary and to report back to the Administrative Committee (TRANS/WP.30/AC.2/59, paras. 17 and 18).

75. The Working Party took note of the proposals on harmonized application of Article 38 of the Convention as contained in document TRANS/WP.30/AC.2/2000/14 and Corr.1. Supporting in principle the approach taken, the Working Party pointed out that this matter was closely linked to differences in national legislations of Contracting Parties and thus would need to be considered in more detail with a view to arriving at common interpretations of legal reasons for and consequences of the exclusion of a person from the TIR procedure in accordance with Article 38, paragraph 1.

76. The Working Party briefly exchanged views on the issue and decided to review the question at its next session.

(ix) International directory of TIR focal points

Documentation: Restricted UN/ECE document.

77. The Working Party took note of the up-dated hard-cover version of the international directory of TIR focal points. The directory contains names and addresses of persons, as well as other useful information on Customs administrations and national associations dealing with the TIR procedure. The distribution of the directory is restricted to Customs authorities, national associations and the TIR Department of the IRU. Copies of the up-dated version were made available in the meeting room.

78. The Working Party welcomed, with satisfaction, that the permanently updated directory may be consulted on the TIR web site (www.unece.org/trans/new_tir/welctir.htm). The required password for access to this web site may be obtained from the secretariat.

(x) TIR Handbook

Documentation: UN/ECE document.

79. The Working Party noted, with satisfaction, that both hard-cover versions and web-based versions are available of the TIR Handbook in Arabic, Chinese, English, French, German, Italian, Russian and Spanish. The TIR Handbook contains the latest amendments to the Convention as well as all relevant comments adopted by the UN/ECE Working Party on Customs Questions affecting Transport (WP.30) and the TIR Administrative Committee.

80. Hard-cover versions can be obtained from the secretariat. The web-based version can be found under www.unece.org/trans/new_tir/welctir.htm.

(xi) Other matters

81. No other matters arose.

PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS

Documentation: Informal document No. 11 (2001); TRANS/WP.30/127.

82. Having discussed at earlier sessions, a number of drug seizures involving TIR vehicles, the Working Party felt that it should be informed of any special devices and facilities used by smugglers abusing the TIR transit system. The Working Party invited all Contracting Parties to the TIR Convention, 1975 and the World Customs Organization (WCO) to transmit all relevant information on such cases so that it could take the necessary steps, falling within its competence and mandate, to prevent such occurrences (TRANS/WP.30/127, paras. 55-57).

83. The Customs authorities of Lithuania had provided the secretariat with information about a recent smuggling case, which is contained in Informal document No. 11 (2001). The Working Party took note of the information and encouraged Customs authorities to share such information, by providing the secretariat with documentation for distribution amongst the Contracting Parties.

OTHER BUSINESS

(a) Dates of the next sessions

84. The Working Party decided to convene its ninety-eighth session during the week of 18 to 22 June 2001.

85. The ninety-ninth session of the Working Party has been tentatively scheduled to be held in conjunction with the thirty-first session of the TIR Administrative Committee and the fifth session of the Administrative Committee for the "Harmonization" Convention, during the week 22 to 26 October 2001.

(b) Restriction on the distribution of documents

86. The Working Party decided that there should be no restrictions on the distribution of documents issued in connection with its current reunion, with the exception of the International Directory of TIR Focal Points and Informal document No.11 (2001) on new smuggling techniques submitted by Lithuania.

ADOPTION OF THE REPORT

87. The Working Party adopted the report of its ninety-seventh session.
