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### Inland Transport Committee

### Working Party on Customs Questions affecting Transport

146th session

Geneva, 13-16 June 2017

## Report of the Working Party on Customs Questions affecting Transport on its 146th session


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## **I. Attendance**

1. The Working Party (WP.30) held its 146th session from 13 to 16 June 2017 in Geneva. The session was attended by representatives of the following countries: Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Ireland, Italy, Kazakhstan, Latvia, Lithuania, Netherlands, Poland, Republic of Moldova, Russian Federation, Serbia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey and Ukraine. Representatives of the European Union (EU) were also present. The following intergovernmental organizations were represented: Eurasian Economic Commission (EEC), Organization for Cooperation between Railways (OSJD), Intergovernmental Organization for International Carriage by Rail (OTIF). The following non-governmental organizations were represented: Alliance International de Tourisme / Fédération Internationale de l'Automobile (AIT/FIA), Bureau International des Containers et du Transport Intermodal (BIC) and the International Road Transport Union (IRU).

## **II. Adoption of the agenda (agenda item 1)**

2. WP.30 adopted the provisional agenda, prepared by the secretariat (ECE/TRANS/WP.30/291), with the slight amendment to discuss agenda item 3 (c) (v) (Other matters) after agenda item 3 (a) and to add information on the International TIR Database (ITDB) to agenda item 3 (b) (ii) (Preparation of Phase III of the TIR revision process).

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

3. The Working Party was informed about activities of the Inland Transport Committee (ITC), its Bureau, subsidiary bodies and other United Nations organizations on matters of interest to the Working Party.

4. In this context, the Working Party took note of Decision No. 6 of ITC, in which it “welcomed the discussion on increasing the Committee’s role at the meeting of the Chairs of its working bodies on a rapidly changing global environment; considered ways to increase the influence of the Committee and its working bodies in addressing current challenges and opportunities in a global context, in accordance with the resolution of Ministers of the seventy-ninth Committee session of 21 February 2017, by inclusion in the terms of reference of the Working Parties of issues in implementing transport-oriented sustainable development goals. In this regard, the Working Parties should consider preparing contributions to the draft strategy of the Inland Transport Committee that will be considered by the Committee at its session in 2018, and, if necessary, also road maps for the implementation of the sustainable development goals. To this end, it decided to share the Executive Summary of the Strategy Paper (ECE/TRANS/2017/R.1) with all the Working Parties, and invited them to submit their comments and recommendations. When preparing a strategy paper or road maps, Working Parties should also bear in mind the limited availability of resources and recognize that new activities should be matched by a reduction or discontinuation of one or more activities, unless extrabudgetary funding is made available” (see Informal document ITC (2017) No. 11). With regard to the status of the resolution, the delegation of Iran (Islamic Republic of) pointed out that, since the

resolution was based on a number of other resolutions, to which not all countries were signatory parties, this resolution only applies to signatory countries.

5. In reply, the Working Party recognized the relevance of its work for various Sustainable Development Goals (SDG), in particular: Goal 9 - Industry, innovation and infrastructure - (accession to the TIR and Harmonization Conventions, implementation of the TIR, eTIR and Harmonization procedures); goal 12 - Responsible consumption and production - (strengthening the supply chain through increased border crossing facilitation); and Goal 17 - Partnership for the goals - (application of the international TIR guarantee system). When it comes to the 2030 Agenda, the Working Party fully supported the vision of the UNECE Sustainable Transport Division to strive for a globally harmonized regulatory system for inland transport that is the foundation for sustainable transport and mobility. The Working Party further reconfirmed its statement at the 143rd session, supporting any capacity-building activities of the UNECE secretariat related to the legal instruments under the purview of WP.30 outside the ECE region, as long as sufficient focus on capacity-building within the region remains ensured (see ECE/TRANS/WP.30/286, para. 14). Finally, WP.30 supported the digitalization of inland transport by stating that it is essential to arrive at eTIR in the shortest possible time. To that end, and in view of the progress made in drafting the legal framework of eTIR, the Working Party urged Contracting Parties to make the necessary financial reservations in their national IT budgets to accommodate eTIR within their national customs systems at the first opportunity. In that context, the Working Party confirmed the recommendation by GE.1 and GE.2 that the maintenance costs could conceivably be covered through an amount per transport. However, the source of funding for the initial costs required to develop and deploy the system remained unidentified, though essential to start eTIR. The Working Party requested the secretariat to transmit its findings to ITC for consideration at its 2018 session. Furthermore, the Working Party requested the secretariat to prepare a document outlining the principles and scopes of the SDG's and outlining proposals on how to include issues of implementing transport-oriented sustainable development goals in its Term of Reference, for discussion at the next session.

6. Under this agenda item, the secretariat also informed the Working Party about the adoption of the Ministerial Resolution on "Embracing the new era for sustainable inland transport and mobility" at the seventieth anniversary session of ITC. One of the aims of the resolution was to reaffirm the relevance of the work of the Committee for the advancement of the sustainable development agenda and to encourage further outputs within existing mandates. Importantly, the resolution recommended to the Economic Commission for Europe to seek a mandate from the Economic and Social Council (ECOSOC), to allow ITC to report directly to ECOSOC on substantive matters of global interest, such as, but not limited to, international legal instruments, including the TIR Convention. The Working Party noted that the Economic Commission for Europe, at its April 2017 session, had endorsed this recommendation and had transmitted the request for the consideration of ECOSOC.

## **IV. Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975) (agenda item 3)**

### **A. Status of the Convention**

7. The Working Party was informed that no changes in the status of the Convention or the number of Contracting Parties had taken place. The TIR Convention has seventy

Contracting Parties. The secretariat informed the Working Party that on 15 June 2017, the Government of India deposited its instruments of accession to the TIR Convention, 1975. In accordance with its Article 53, paragraph 2, the Convention will enter into force for India on 15 December 2017 (see C.N.317.2017.TREATIES-XIA.16 of 15 June 2017). With the accession of India, the TIR Convention will have seventy-one Contracting Parties. More detailed information on this issue as well as on depositary notifications is available on the TIR website.<sup>1</sup>

8. In reply to a question from the delegation of the Russian Federation, IRU informed that, as yet, the authorities of China had not yet authorized a national association, in accordance with the provisions of Article 6 of the Convention, but that the process was expected to be finalized by the end of 2017 or early 2018.

## **B. Revision of the Convention**

### **1. Amendment proposals to the Convention**

9. The Working Party welcomed document ECE/TRANS/WP.30/2017/7 by IRU, which contained the results of a survey among Contracting Parties on the national levels of customs duties and taxes of tobacco and alcohol products. The Working Party took note that 23 countries had replied to the survey, 19 of which were EU Member States. The delegate of Greece pointed out that the reply from the former Yugoslav Republic of Macedonia was mistakenly referred to as from Macedonia. IRU informed the Working Party that it was still engaged in discussions with national and international insurers on the possible reintroduction of guarantee coverage for, first and foremost, alcohol products but that, as yet, no agreement could be reached on an aggregate limit to be covered by insurers. In the absence of more replies and, in particular, on rates for transports of complete loads and not only consignments, it could not provide any indication as to what would constitute realistic figures. The delegation of Iran (Islamic Republic of) reported that in its national transit system a full load of cigarettes would amount to customs duties and taxes of 150,000-200,000 euros. The delegation of the EU expressed the hope that more countries from outside the EU would reply. In its view, IRU should well be able to convert the amounts of duties and taxes per consignment to rates for full loads. Finally, it recommended IRU to have a look at the public consultation on the structure of excise duties applied to alcohol and alcoholic beverages, recently launched by the Directorate General Taxation and Customs Union (DG TAXUD)<sup>2</sup>. In conclusion, the Working Party agreed that IRU could continue its survey, focusing on countries that had not yet replied and report back at a future session.

10. The Working Party considered document ECE/TRANS/WP.30/2017/8 by the secretariat, which contained various proposals to amend Article 20 to accommodate the use of the TIR system in a customs union, together with Informal document WP. 30 (2017) No. 7 by the Government of the Russian Federation, which contained a proposal to amend Articles 1 (b) and 20 of the Convention. A number of delegations were of the view that Article 48 would appear to provide sufficient scope for customs unions to operate in line with the requirements of their common customs code and that there was no need to amend the Convention to accommodate the needs of a customs union not being a Contracting Party. As such, amending Article 20 or other articles could be avoided. On the other hand,

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<sup>1</sup> [www.unece.org/tir/tir-depositary\\_notification.html](http://www.unece.org/tir/tir-depositary_notification.html)

<sup>2</sup> Available at < [https://ec.europa.eu/taxation\\_customs/consultations-get-involved/customs-consultations/public-consultation-structures-excise-duties-applied-alcohol-and-alcoholic-beverages\\_en](https://ec.europa.eu/taxation_customs/consultations-get-involved/customs-consultations/public-consultation-structures-excise-duties-applied-alcohol-and-alcoholic-beverages_en) >.

some delegations were in favour of proceeding with amending Article 20 together with Article 1, paragraph b, to clarify the understanding of a TIR operation in the context of a customs union. On the proposal transmitted by the Russian Federation and the clarification requested with reference to the last phrase, namely that time limits and prescribed routes ought to be adhered to, the delegation of the Russian Federation indicated that this was for the purpose of ensuring that customs authorities maintain the right to uphold the prescribed requirements. Furthermore, IRU, supporting – in principle – the proposal submitted by the delegation of Belarus, was also of the view that Article 1, paragraph b did not require amendment and provided an alternative formulation for Article 20, as follows:

“For journeys in the territory of their country or in several countries in the case of customs unions, if so required by the legislation of a Contracting Party, customs authorities may fix a time limit and require the road vehicle, the combination of vehicles or the container to follow a prescribed route from a customs office of departure or entry (en route) to a customs office of destination or exit (en route)”.

11. Further to substantive discussions, the Working Party did not come to a common understanding on which proposals could be further considered and which ones could be set aside. In conclusion, WP.30 was of the view that, as a first step, the issues to be addressed with this amendment proposal, as well as the understanding of Article 20 should be clarified, in order to determine the objective of the amendment and, as a last step, the appropriate wording could then be found. To this end, WP.30 requested the secretariat to prepare a new document for consideration at the next session.

12. The Working Party took note that the TIR Administrative Committee (AC.2), at its sixty-fifth session (February 2017), had taken note of an oral proposal by the delegation of the Russian Federation to replace the word “limit” in Explanatory Note 0.8.3 by “establish”. For the purpose of time efficiency, the Committee had agreed to ask WP.30 to consider the proposal and requested the secretariat to include it in the agenda of the 146th session of the Working Party in June 2017 (see ECE/TRANS/WP.30/AC.2/133, para. 37). Further to this request, the Working Party considered document ECE/TRANS/WP.30/2017/9 by the Government of the Russian Federation.

13. After an intervention by the delegation of Azerbaijan, the delegation of the Russian Federation clarified that, indeed, its proposal, in English, should rather refer to “determine” than to “establish”, as mentioned in the document, in order to align the text of the Explanatory Note with the wording of Article 8, paragraph 3. Various delegations requested the delegation of the Russian Federation to further elaborate on the objective of the proposed amendment. In the absence thereof, so they argued, the current text of Explanatory Note 0.8.3 seemed to be fully satisfactory and had not led to any difficulty in its application. The delegation of Ireland informed the Working Party that it was conducting internal consultations to understand the rationale behind the proposed amendment. The secretariat informed the Working Party that a first and preliminary assessment had led it to believe that it could not be excluded that the proposed amendment, although seemingly mainly of an editorial nature, could have major impact on the application of the TIR system. According to its assessment, it seemed that, whereas the term “limit to” in E.N. 0.8.3. referred to and emphasized the setting of a maximum amount as a limitation of the sum which may be claimed from the national association regardless of the amount of duties and taxes at stake, the term “establish/determine” alluded to a link between the maximum amount to be claimed from the national association and the maximum amount of the duties and taxes at stake for a TIR transport. In that light, the change from “limit to” to “establish/determine” might be interpreted as a change in policy in the TIR guarantee system.

14. Unable to find consensus on the proposal, the Working Party agreed to revert to the issue at its next session. In the meantime, the delegation of the Russian Federation was

invited to provide further explanations on the reasons for and, particularly, the purpose of its proposal.

15. The Working Party recalled that, at its previous session, it had agreed to study a proposal by IRU, supported by the delegation of Kazakhstan, to expedite the implementation of computerization of the TIR procedure, by means of introducing a single and generic provision in the body of the TIR Convention, as per the example of e-ATA. To that end, the Working Party considered document ECE/TRANS/WP.30/2017/10, submitted by IRU and containing a proposal to introduce a single generic article that would allow the exchange and processing of electronic messages, such as the example of the eATA Carnet in the Istanbul Convention on Temporary Admission, 1990. Taking into account the numerous functions of the TIR Carnet and the complexity of the TIR system, several delegations were, in the first instance, of the view that this approach would not provide an appropriate level of detail for the legal framework referring – specifically – to the need for a comprehensive and robust legal framework to support the envisaged eTIR international system as elaborated in the conceptual, functional and technical documentation developed by GE.1 (formerly eTIR Reference Model). The delegation of IRU clarified that the proposal was tabled as an “interim legal framework” that would, eventually, be replaced by the new Annex 11; in the view of the delegation of IRU, this would allow a faster implementation of eTIR. In reply, a number of delegations expressed reservations as to the value added of this approach considering that the capacity for exchange of electronic messages already exists in most - if not all - Contracting Parties and the issues to be regulated in the eTIR legal framework are much broader than merely being able to exchange messages. At the same time, the Working Party agreed that it would be counterproductive to engage in parallel tracks for amending the Convention and considered that the most appropriate way forward would be to sustain efforts towards finalizing the considerations on the optional Annex. Against this background, the Working Party decided not to revert to this proposal in future and agreed to dedicate sufficient time to discussing the draft legal framework developed by GE.2 at its next session.

16. Under this agenda item, the Working Party was briefed about the latest development in the International TIR Database (ITDB) and the launch of the new ITDB. In particular, the secretariat reported on: (a) a meeting with the services of the European Commission to discuss the development of the ITDB database on customs offices on 30 May 2017, and (b) a presentation on the new ITDB at the session of the EU Customs Expert Group on 31 May 2017 in Brussels.

## **2. Preparation of Phase III of the TIR revision process**

17. The Working Party took note that the UNECE-IRU eTIR pilot project between Iran (Islamic Republic of) and Turkey had been successfully concluded on 20 February 2017 and that the final report of the project was available as Informal document GE.1 No. 2 (2017). WP.30 further noted that UNECE and IRU currently sought to continue their collaboration in the field of computerization on the basis of a new Memorandum of Understanding (MoU), which would provide, inter alia, funding for UNECE Information and Communication Technology (ICT) related activities for projects to be launched in the framework of this MoU. The aim of the collaboration would be focused on devising and launching new projects to further explore all aspects related to the computerization of the TIR procedure and find synergies between existing projects.

18. Moreover, WP.30 took note of progress achieved in the eTIR pilot between Georgia and Turkey, in particular the imminent migration of the Central Exchange Platform from the test to production environment.

19. WP.30 took note of a first exploratory meeting for a possible project involving Azerbaijan, Georgia, Kazakhstan and Ukraine, which had taken place in Batumi (Georgia)

on 11 and 12 May 2017. Participants expressed great appreciation for to the pilot projects already undertaken and were interested in launching an intermodal eTIR corridor between their countries. WP.30 further noted that UNECE and IRU had jointly presented the results of the UNECE-IRU eTIR pilot project at the World Customs Organization (WCO) IT Conference in Tbilisi on 7 to 9 June 2017.

20. WP.30 took note of the outcome of the twenty-sixth session of the Informal Ad hoc Expert Group on Conceptual and Technical Aspects of Computerization of the TIR Procedure (GE.1) (Geneva, 18 and 19 May 2017).

21. The Working Party took note, inter alia, of (a) the subdivision of the eTIR Reference Model into four documents, i.e. eTIR introduction, eTIR concepts, eTIR functional specifications and eTIR technical specifications; (b) the recommendation to leave, for the time being, the responsibility of the submission of any additional information to the transport operator; (c) the fact that GE.1 was of the view that all the outcome of its work (eTIR specifications and Extensible Markup Language (XML) schemas) should be in the public domain and this should be clarified by means of a usage note to be attached to all the documentation and artefacts, whenever necessary, and requested the secretariat to prepare a draft of such usage note, as well as a disclaimer, for consideration at the October 2017 session of WP.30 and (d) the request for a new message to be sent by customs in case of refusal to start a TIR operation. Finally, WP.30 took note that the report of the twenty-sixth session of GE.1 would be submitted to the October 2017 session of WP.30 and that the twenty-seventh session was tentatively scheduled to take place in Geneva on 4 and 5 December 2017.

22. Under this agenda item, the Working Party also took note of and endorsed the report of GE.2 at its third session (ECE/TRANS/WP.30/GE.2/6). In this regard, the delegation of the Russian Federation expressed the view that the electronic documents which are foreseen in the eTIR Reference Model should contain the following criteria for authentication: authorship, time of creation and invariability from the moment of creation. This would ensure building a trusted environment, in keeping with the principle of digital sovereignty, without changing the current practices in using electronic documents. Against this background the use of trusted third parties, as outlined in the ESCAP Framework agreement on facilitation of cross-border paperless trade, could be envisaged. As such, the delegation of the Russian Federation was of the view that the conclusions of GE.2 with regard to authentication mechanisms in the eTIR system were lacking practical examples of successful application and as such could not be supported. Furthermore, WP.30 was orally briefed by the Chair of GE.2 about the outcome of its fourth session, which took place on 16 and 17 May 2017, in Geneva. Non-exhaustively, the main findings included (a) the decision to establish a Technical Implementation Body (TIB) that would be tasked, under the Convention, with the maintenance and updating of the functional and technical documentation of the eTIR international system; (b) the elaboration of a clause to allow Contracting Parties to opt out of the implementation of Annex 11 (c) the introduction of a definition of the eTIR procedure to be included in Article 1 of the TIR Convention; (d) the inclusion of a definition of the accompanying document and fall-back procedure in the legal framework; and (e) the decision to make the use of the ITDB mandatory for Contracting Parties applying the optional Annex.

23. In addition, at its last session, GE.2 had provided detailed drafting guidelines for further improving the text of Annex 11 and requested delegations to hold virtual consultations with the secretariat to finalize the draft Annex and other amendments to the TIR Convention, in order to transmit a complete draft for the consideration of WP.30 at its October 2017 session. Against this background, WP.30 noted the view of GE.2 that an extension of its mandate to 2018 would not be necessary; that one more session of GE.2 was scheduled for 30 and 31 October 2017; and that any further work on the draft thereafter



could take place within the forum of WP.30 with the participation of all Contracting Parties.

24. The Working Party recalled that GE.2 had submitted document ECE/TRANS/WP.30/GE.2/2016/7, containing proposals for various financing mechanisms for eTIR and noted the urgent call of GE.2 for a decision on the way to ensure the necessary funds for the initial development and deployment costs of the eTIR international system, as well as for the maintenance costs. WP.30 was informed that GE.2 had confirmed the recommendation by GE.1 that the maintenance costs could conceivably be covered through an amount per transport. However, the source of funding for the initial costs required to develop and deploy the system remained unidentified. Against this background, the delegation of IRU reiterated its position that large investments in the computerization of the TIR procedure have already taken place and that, as such, the private sector cannot be called upon to cover these costs. At the same time, the delegation of IRU was of the view that the costs contained in the Cost-Benefit-Analysis (CBA) (see ECE/TRANS/WP.30/2013/11) were underestimated, drawing from its own experience in developing systems that communicate with national customs systems. The secretariat clarified that the functionalities envisaged in the eTIR international system are not comparable with the functionalities of the IRU tools referred to and that the development and maintenance costs calculated in the CBA might not be fully accurate but should, however, remain in the same range. In this context, several delegations underscored the importance of resolving the financing question as soon as possible and, once more, recalled the joint statement on the computerization of the TIR procedure, adopted by the Administrative Committee in June 2015. The delegation of the European Union wondered, bearing in mind the official position of IRU regarding the financing of eTIR, whether it could not consider a voluntary contribution, since the transport sector would be the main beneficiary of the computerized TIR procedure. In that regard, the secretariat called on all delegations to consult with their competent services on the possibility of financing the eTIR international system.

25. Due to a lack of time, WP.30 decided to revert to the issue of financing at its next session and requested the secretariat to deliver, at the next session, a presentation recapitulating the principles and functionalities of the eTIR international system, in order to further facilitate discussions. Finally, WP.30 noted that appropriate provision would be made in the agenda for the consideration of the draft Annex 11 and other amendments to the TIR Convention that will be transmitted by GE.2 at the next session.

## **C. Application of the Convention**

### **1. New developments in the application of the Convention**

26. No new developments were raised under this agenda item.

### **2. TIR-related electronic data interchange systems**

27. The Working Party was informed by IRU about the latest statistical data on the performance of Contracting Parties in the control system for TIR Carnets — SafeTIR system (Informal document WP.30 (2017) No. 13).

28. Under this agenda item, the delegation of Turkey provided information about the introduction of the TIRCUS Pre Declaration system, introduced on 25 April 2017 (Informal document WP.30 (2017) No. 8).

### **3. Settlement of claims for payments**

29. The Working Party was informed by IRU about the current situation on the settlement of claims for payments made by customs authorities against national guaranteeing associations (Informal document WP.30 (2017) No. 14).

### **4. Relation between the World Trade Organization Trade Facilitation Agreement, the TIR Convention and other legal instruments**

30. Under this agenda item, the secretariat reported on its collaboration with UNCTAD to promote linkages between transport, customs and trade facilitation within the framework of WTO TFA.

### **5. Other matters**

31. The Working Party took note of document ECE/TRANS/WP.30/2017/11 by IRU, containing answers to various questions posed at the previous session, as well as a procedure on how to get access to the full external audit report.

32. Various delegations expressed the view that the outlined procedure was extremely cumbersome and wondered if, at least, the full report could not be made available at the different offices of IRU, such as in Brussels, Moscow or New York. IRU replied that it would look into the request. At the same time, IRU reiterated that it did not seek to hide any information, but, in fact, was aiming to provide full transparency. However, due to the fact that the report had been conducted following allegations against two individuals belonging to the IRU management, it considered certain procedural precautions warranted, in particular, considering that the report had not revealed any truth in the raised allegations.

33. Further to questions from the floor, IRU informed the Working Party that national associations had full access to the report under the same conditions as governmental delegations, but that, as yet, no association had made use of its right to consult the report. It further stated that, apart from one national association from Romania (ARTRI) and the national association of the Republic of Moldova (AITA), all other associations had accepted the results of the audit. In a reaction, the delegation of Austria stated that, as far as it was informed, its national association had not fully accepted the results of the audit.

34. In reply to a question from the European Union, IRU informed the Working Party that the full external report consisted of 158 pages, whereas around 5000 pages of written material had been consulted. It further informed the Working Party that the IRU audited financial statements are provided to UNECE and that, in addition, the 2016 financial overview is available at its website, as part of the IRU annual report.

35. In response to a proposal by the delegation of the Russian Federation, the Working Party requested the secretariat to address a letter to the management of all national associations asking them (a) if they had been granted access to the external audit report of IRU and (b) what their views were on the external audit report. The secretariat was requested to report the findings to the Working Party at its next session. In this context, the delegation of the Russian Federation reiterated that, in its view, it would be more accurate to ask the national associations for their views on the information that has been circulating since 2016 on possible financial misconduct at IRU.

36. Under this agenda item, the Working Party took note of Informal document WP.30 (2017) No. 12 by the Government of Georgia, transmitting information on customs offices approved for accomplishing TIR operations on the territory of Georgia, in accordance with Article 45 of the Convention.

37. Under this agenda item, the secretariat informed the Working Party about Informal document WP.30 (2017) No. 15 by the Government of the Russian Federation, containing

proposals to amend Article 18. Delegations were requested to submit their comments before 21 July 2017 to the secretariat, which would prepare a document for discussion at the sixty-sixth session of the TIR Administrative Committee.

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

### **A. Status of the Convention**

38. The Working Party was informed that, on 27 February 2017, the Convention had entered into force for Turkmenistan, in accordance with its Article 17, paragraph 2. For details, please refer to depositary notification C.N.887.2016.TREATIES-XI.A.17. The Harmonization Convention currently has 58 Contracting Parties. More detailed information on these issues as well as on various depositary notifications is available on the ECE website.<sup>3</sup>

### **B. Proposal on a new Annex 10 on sea ports**

39. The Working Party took note of a presentation by the delegation of Ukraine on the complex regulatory framework for customs procedures at ports that involved a multitude of actors. The Working Party further took note of document ECE/TRANS/WP.30/2017/12, containing a list of Contracting Parties to the Harmonization Convention and to the International Maritime Organization (IMO) Convention on Facilitation of International Maritime Traffic (FAL). The WP.30 was informed that the secretariat had twice extended an invitation to the IMO secretariat to attend the session, but that so far, the invitation had remained without response.

40. While thanking the delegation of Ukraine for the interesting and informative presentation, the delegations of Belgium, Germany and the Netherlands — which dispose of the biggest seaports in the EU — stated that having consulted with competent ministries in the field, serious doubts remained with regard to the utility and added value of developing a draft Annex to the Harmonization Convention on ports. The delegation of Italy supported this position, based on the lack of feedback from its national competent services. The delegation of the Russian Federation stated that, in its view, the draft seemed mainly of a declaratory nature and lacked legal force. It also doubted the added value of the draft Annex 10 as compared to the IMO FAL Convention, considering that apart from Bosnia Herzegovina, Morocco and South Africa, all States which are Contracting Parties to the Harmonization Convention were also Contracting Party to the IMO FAL Convention. Therefore, it did not see any benefit in further developing the draft. It further questioned the involvement of UNECE in this field, as the issues at stake seemed to fall under the competence of the IMO. Further to these interventions, the delegation of the EU maintained its position of not accepting the draft in its current form as not bringing any added value for the EU.

41. The Working Party established that, while fully respecting the clear request from ITC and with due respect to all the efforts undertaken so far in preparing a suitable draft, the declaratory and repetitive nature of the text led to the conclusion that there was insufficient support among the participants of WP.30 to continue this exercise. Thus, the Working Party requested the secretariat to remove this item from its agenda and report

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<sup>3</sup> [www.unece.org/trans/bcf/welcome.html](http://www.unece.org/trans/bcf/welcome.html)

accordingly to ITC at its 2018 session. Finally, the Working Party requested the secretariat to convene, at the first opportunity, a session of the Administrative Committee of the Harmonization Convention (AC.3) to confirm its decision.

### **C. Survey on the application of Annex 8**

42. The Working Party considered document ECE/TRANS/WP.30/2017/13, containing the results of the biennial survey on the application of Annex 8 of the Convention. The Working Party established that the results show that Contracting Parties are successfully implementing several provisions of Annex 8. However, there is also a need for further action on topics, such as but not limited to: (a) the use of the International Vehicle Weight Certificate (IVWC); (b) the facilitation of visa procedures; (c) the transfer of control procedures from the border crossing points to places of departure or destination; (d) the accession to the Agreement Concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections (1997); and (e) the acceptance of the International Technical Inspection Certificate. In reply to a question from the EU to repeat the survey with longer intervals and to review the questions, the secretariat replied that it was legally obliged to repeat the survey every two years and that the exact questions are repeated to ensure an efficient comparison of the answers with previous surveys. The secretariat proposed that the issue be further discussed at a forthcoming session of AC.3.

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

43. The Working Party recalled that, at its previous session, in reply to a proposal from the delegations of the Russian Federation and Ukraine, it had agreed that it would continue its discussions at the current session on the basis of an amended draft, including the changes proposed in Informal document WP.30 (2017) No. 5, as contained in document ECE/TRANS/WP.30/2017/14. The Working Party took note that an invitation to SC.2 participants to engage in the discussions had been extended. The Working Party was also informed that the secretariat had reported the findings of the Working Party to ITC, which had taken note of the tentative road map for the finalization of the draft Convention (see Informal document ITC (2017), No. 11, para. 36).

44. Further to these discussions, the secretariat prepared document ECE/TRANS/WP.30/2017/15 with an overview of the discussions on the new draft. The secretariat further transmitted document ECE/TRANS/WP.30/2017/16 by the Eurasian Economic Commission, with comments to the draft as contained in Informal document WP.30 (2017) No. 5. Finally, the Working Party took note of Informal document WP.30 (2017) No. 9, by OSJD, containing the aide-memoire of the consultative meeting of the informal group of experts, together with various annexes and Informal document WP.30 (2017) No. 11 by the secretariat, containing a comparative table of proposals for the final clauses of the draft Convention with comments from the United Nations Office of Legal Affairs, Treaty Section (OLA-TS).

45. The delegation of the EU confirmed that it is not likely for it or its member States to accede to the draft Convention, as the draft did not seem to bring any advantages for the EU policies for railways and customs and could even be conflicting with the EU acquis on border management. In addition Bulgaria (from a customs perspective), Czech Republic and Latvia, which were EU member States and OSJD members, stated that, although they

supported the concept of facilitation of passenger rail transport, they felt that the current text did not provide any benefit or added value for them.

46. The delegate of OSJD informed the Working Party about the decision of the forty-fifth session of the Meeting of OSJD Ministers (5-8 June 2017, Sochi, Russian Federation), to confirm the reasonability for interested member States of OSJD to continue working on the development of the new Convention, which would fulfil the current requirements and fully represent a stand-alone international treaty.

47. The delegation of the Russian Federation praised the draft Convention for its framework structure and declaratory nature, thus providing room for further development in the future. With reference to ITC Resolution No. 264 (see document ECE/TRANS/2017/17/Rev.1), which “invites interested countries to take action and finalize the draft Convention as well as to inform the UNECE secretariat of their willingness to sign this Convention when finalized”, it urged the Working Party to move the issue forward. The delegations of Belarus and Ukraine expressed their support for continuing to work on the draft Convention, which they considered beneficial.

48. In reply to a question from OSJD, the delegation of the EU clarified that its contributions to the work so far had been of a technical nature, with the aim of contributing to improve the quality of the draft. As yet, it did not dispose of a final position nor a mandate to enter into negotiations.

49. At the request of the delegation of the EU, the secretariat explained that as a general rule, the Secretary-General of the United Nations only accepts to serve as the depositary for universal treaties concluded in the framework of the United Nations, and for regional treaties concluded in the framework of regional commissions.<sup>4</sup> In addition, treaties will only be accepted after they have been cleared by OLA-TS. At present, the drafters would still need to address institutional issues (particularly, but not only, on amendments) as well as to reformulate the final clauses, before the opinion of OLA-TS can be sought again.

50. In conclusion, the Working Party decided to continue discussing the draft at its next session. To that end, it requested the secretariat to prepare an official document, merging the draft in document ECE/TRANS/WP.30/2017/14 with the amended draft in Informal document WP.30 (2017) No. 9. It further requested the secretariat to assist the drafters with improving the final clauses, once the institutional issues were addressed. Finally, delegations were invited to provide the secretariat with their comments to the draft or further contributions to the issue, not later than by 21 July 2017.

## **VII. Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956) (agenda item 6)**

51. The Working Party was informed that no changes had 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.

52. The Working Party took note of Informal document WP.30 (2017) No. 10 in which AIT/FIA elaborated on ongoing problems in Egypt and Jordan with the application of the

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<sup>4</sup> See also Treaty Handbook, United Nations Publication Sales No. E.12.V.1 p. 3-4, available at [//treaties.un.org/doc/source/publications/thb/english.pdf](http://treaties.un.org/doc/source/publications/thb/english.pdf).

1954 Convention, particularly, due to the fact that customs authorities do not seem to respect the deadlines and procedures laid down in the Convention.

53. The Working Party considered the situation in the two countries, and was of the view that competent national authorities should strictly respect the deadlines stipulated by the Convention, in particular Article 26, which states unequivocally that “customs authorities shall not have the right to require from the guaranteeing association payment of import duties and import taxes on vehicles or component parts temporarily imported when the non-discharge of the temporary importation papers has not been notified to the guaranteeing association within a year of the date of expiry of the validity of those papers. The customs authorities shall provide the guaranteeing associations with details of the amount of import duties and import taxes within one year from the notification of the non-discharge. The guaranteeing associations' liability for these sums shall cease if such information is not furnished within this one-year period.” The correct application of this and other provisions of the Convention should be first item to be examined in lawsuits filed by customs administrations against national associations, thus avoiding that claims end up in courts long after the date of their legal expiration.

54. The Working Party requested the secretariat to issue the document as official document for consideration at the next session and bring the raised issues to the attention of the Governments of Egypt and Jordan, together with its preliminary assessment, to seek clarification of the situation at hand, and to solicit their feedback.

55. In addition, AIT/FIA sought the advice of WP.30 on the use of the Carnet de Passage en Douane (CPD) in other United Nations official languages, in combination with English or French. In accordance with the amendment to Annex I of the 1954 Convention “Carnets used for CPD operations within a specific region may be printed in other combinations of United Nations official languages on the condition that one of the two languages is English or French” (entry into force 1 April 2015). AIT/FIA had received various requests from its associations to use the CPD in Arabic as one of the two languages in countries outside the Arabic region.

56. After consideration, WP.30 expressed the view that although the legal text is clear in only authorizing the use of other United Nations official languages than English/French for the CPD for temporary importation within a specific region in combination with either English or French, a combined CPD, using either English or French and another United Nations official language could be used beyond a specific region, subject to the acceptance by the customs authorities of transit and destination.

57. Under this agenda item, the secretariat informed the Working Party about the availability of the main text of both Conventions in Arabic.

## **VIII. Activities of other organizations and countries of interest to the Working Party (agenda item 7)**

58. The Working Party took note of activities by various regional economic or customs unions as well as by other organizations, both intergovernmental and non-governmental, and countries as far as they relate to matters of interest to the Working Party.

### **A. European Union**

59. Under this agenda item, the delegation of the EU informed the Working Party about the entry into force of amendments to the Union Customs Code Implementing Regulation

and, in particular, Article 163, which allows for the application of a higher guarantee amount per TIR Carnet in the EU (see OJ L 149 of 13 June 2017).<sup>5</sup>

## **B. Economic Cooperation Organization**

60. Due to the absence of a delegation from the Economic Cooperation Organization at the session, no information was provided under this agenda item.

## **C. Eurasian Economic Union**

61. The Working Party was informed about further progress in relevant activities and projects carried out by the Eurasian Economic Union (EEU). In particular, the Working Party took note that: (a) the EEU Customs Code was expected to enter into force on 1 January 2018; (b) the EEU is actively preparing documents for the development of the EEU Customs Code, which should come into force simultaneously with the Customs Code of EEU; (c), a public discussion of documents relating to the application of the customs procedure for customs transit is in progress on the EEU website, and the EEU expects to receive proposals from all interested parties in order to be able to take into account the current needs of the international freight transport market in different modes of transport; and (d) the Eurasian Economic Commission supports and directly participates in the work on the preparation of a new Convention on the facilitation of border crossing conditions for the international carriage of passengers, luggage and goods.

## **D. World Customs Organization**

62. Due to the absence of a delegation from the World Customs Organization at the session, no information was provided under this agenda item.

## **IX. Work Plan 2018-2019 and Programme of Work and Biennial Evaluation 2016-2017 for the Working Party (agenda item 8)**

63. The Working Party reviewed and adopted the biennial evaluation on the understanding that the secretariat would update the tentative date of Cluster 7 as of 31 December 2017, subject to the addition of two more surveys on the implementation of border crossing legal instruments: (a) a survey on the national levels of customs duties and taxes of tobacco and alcohol products (2016/2017), and (b) a survey on the composition of the price of TIR Carnets (2017).

64. The Working Party reviewed and adopted its programme of work for 2018-2019 and the relevant parameters. At the proposal of the delegation of the Russian Federation, the secretariat was requested to review part C of the document and to delete the last phrase from paragraph 13. The Working Party stressed that the evaluation of its activities did not depend on the number of delegations or participants attending its sessions and certainly not on the number of amendments adopted or new accessions but on the quality of the work performed.

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<sup>5</sup> [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0989&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0989&from=EN)

## **X. Other business (agenda item 9)**

### **A. List of decisions**

65. Under this agenda item, the Working Party recalled that, as requested at the 142nd session, the secretariat had included a list of decisions as Annexes to the final reports of sessions. At its previous session, the Working Party had requested the secretariat to continue this practice, thus keeping track of the status of decisions and include the issue as a separate agenda item for its future sessions. The secretariat agreed to this, adding that the list would also be attached to future draft agendas (ECE/TRANS/WP.30/290, para. 51) (see Annex 1).

66. The Working Party reviewed the list of decisions and agreed that, for the future, there would not be a need for the secretariat to include tentative document references, when including the list of decisions to agendas.

### **B. Dates of the next sessions**

67. The Working Party decided to conduct its 147th session from 10 to 13 October 2017 and the 148th session in the week of 5-9 February 2018 (subject to confirmation).

### **C. Restriction on the distribution of documents**

68. The Working Party decided that there would not be any restrictions on the distribution of documents issued in connection with its current session.

### **D. Tribute to Mr. Mario Caccivio and Mrs. Ewa Suszynska**

69. The Working Party paid tribute to Mr. Mario Caccivio from the Federal Customs Administration of Switzerland and Mrs. Ewa Suszynska of the national transport association of Poland (ZMPD), thanking them for their valuable contributions over the years to the work of the Working Party and wishing them all the best in the pursuit of their professional and personal lives.

## **XI. Adoption of the report (agenda item 10)**

70. In accordance with established practice, the Working Party adopted the report on its 146th session on the basis of a draft prepared by the secretariat. When reading the report, the Working Party was informed that ITC, at its 2017 session, had taken note of the various complaints from the Sustainable Transport Division with regard to the translation of official documents.



## Annex

## List of decisions taken at the 146th session of the Working Party

<i>Reference in final report (para.)</i>	<i>Short description of decision</i>	<i>Actor</i>	<i>Deadline</i>	<i>Action</i>
5	Transmit findings of WP.30 to ITC	secretariat	November 2017	
	Prepare document outlining SDGs and how to include them in ToR	secretariat	1 August 2017	
9	Prolong survey on duties and taxes T/A products	IRU	asap	
	Prepare document for the next session		1 August 2017?	
11	Prepare new document on Article 20, outlining objective of amendment	secretariat	1 August 2017	
14	Revert to issue at next session (agenda)	secretariat	18 July 2017	
	Russian Federation invited to provide clarifications			
21	Prepare document on specifications in common domain	secretariat	1 August 2017	
25	Revert to issue of financing at next session (agenda)	secretariat	18 July 2017	
	Presentation eTIR international system	secretariat	at the session	
	Revert to issue of legal framework (agenda)	secretariat	18 July 2017	
35	Address letter to national associations	secretariat	asap	
	Deadline for replies: 21 July 2017			
37	Comments to proposals to amend Article 18 by the Russian Federation	delegations	21 July 2017	
41	Remove issue of draft Annex 10 from agenda	secretariat	18 July 2017	
	Convene meeting of AC.3	secretariat	p.m.	
50	Merge document ECE/TRANS/WP.30/2017/14 with Annex 6 of Informal document WP.30 (2017) No. 9	secretariat	1 August 2017	
	Request to drafters to review final clauses and address institutional aspects	OSJD	asap	
54	Issue Informal document WP.30 (2017) No. 10 as official document	secretariat	1 August 2017	
	Bring issues to the attention of the Governments of Egypt and Jordan	secretariat	asap	
63-64	Update evaluation 2016-2017 and workplan 2018-2019 according to instructions WP.30	secretariat	November 2017	