



**Economic and Social
Council**

Distr.
GENERAL

TRANS/WP.30/214
9 July 2004

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on Customs Questions affecting Transport

**REPORT OF THE WORKING PARTY ON CUSTOMS QUESTIONS
AFFECTING TRANSPORT ON ITS ONE-HUNDRED-AND-SEVENTH SESSION
(15-18 June 2004)**

CONTENTS

	<u>Paragraphs</u>
– Attendance	1-4
– Adoption of the agenda	5
– Activities of UNECE bodies and other United Nations organizations of interest to the Working Party	6-8
– Activities of other organizations of interest to the Working Party	9-12
– International Convention on the Harmonization of Frontier Controls of Goods, 1982 (“Harmonization Convention”)	13-18
– Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)	19-28
– Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention, 1975)	29-62
– Prevention of the abuse of Customs transit systems by smugglers	63
– Other business	64-66
– Adoption of the report	67

REPORT

ATTENDANCE

1. The Working Party held its one-hundred-and-seventh session from 15 to 18 June 2004 in Geneva.
2. The session was attended by representatives of the following countries: Austria; Azerbaijan; Belarus; Belgium; Bosnia and Herzegovina; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Italy; Latvia; Lithuania; Netherlands; Norway; Poland; Republic of Moldova; Romania; Russian Federation; Serbia and Montenegro; Slovakia; Spain; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Turkey; Ukraine; United Kingdom; United States of America. Representatives of the European Community (EC) were also present. Representatives of Iran (Islamic Republic of), Japan, Jordan and the Republic of Yemen participated in the session under paragraph 11 of the Commission's Terms of Reference.
3. The United Nations Conference on Trade and Development (UNCTAD) was represented. The following intergovernmental organization was represented: The World Customs Organization (WCO).
4. The following non-governmental organizations were represented: Liaison Committee of Coachwork and Trailer Builders (CLCCR); International Touring Alliance (AIT & FIA); International Organization for Standardization (ISO); International Road Transport Union (IRU) and Transfrigoroute Internationale.

ADOPTION OF THE AGENDA

Documentation: TRANS/WP.30/213 and Corr.1.

Mandate and background: TRANS/WP.30/213, point 1.

5. The Working Party adopted the provisional agenda prepared by the secretariat (TRANS/WP.30/213 and Corr.1).

ACTIVITIES OF UNECE BODIES AND OTHER UNITED NATIONS ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

Documentation: Depositary Notifications C.N. 372.2004.TREATIES-1 and C.N.373.TREATIES-1.

Mandate and background: TRANS/WP.30/213, point 2.

6. The Working Party took note of the request by the Inland Transport Committee to consider the strategic objectives adopted by the Committee (TRANS/2004/18 and 19). The Working Party decided to consider this issue at its one-hundred-and-eighth session in connection with the adoption of its Programme of Work for 2005 to 2008.

7. The Working Party took note that Albania has acceded to the International Convention to Facilitate the Crossing of Frontiers for Goods Carried by Rail, 1952 as well as the International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage Carried by Rail, 1952. The accessions entered into force on 22 April 2004 (Depositary Notifications C.N. 372.2004.TREATIES-1 and C.N.373.TREATIES-1).

8. The Working Party was informed by Mr. Gordon Cragge, Chairman of the International Trade Procedures Working Group (ITPWG-TBG15), under the UNCEFACT initiative of the UNECE Trade Division, about the activities of the Working Group. The purpose of the ITPWG is to identify, simplify, harmonize and align public and private sector practices, procedures and information flows relating to international trade transactions both in goods and related services. The ITPWG is, at present, considering a variety of issues, including a new UNECE Recommendation No. 33 on Single Window, development of an electronic standard for the UNECE Recommendation No. 1 on the document Lay-out Key (eUNLK), a guide to Trade Facilitation Implementation and an international supply chain model on security measures, etc. It was also mentioned that a number of other working groups exist under the UNCEFACT management structure, such as, for instance, TBG3 for Transport, TBG4 for Customs, etc. Mr. Cragge ended his intervention by stressing the importance for business of linking trade and transport and expressed the wish to enhance the cooperation between the ITPWG and the Working Party.

ACTIVITIES OF OTHER ORGANIZATIONS OF INTEREST TO THE WORKING PARTY

Documentation: TRANS/WP.30/2004/19; Informal document No. 4 (2004).

Mandate and background: TRANS/WP.30/213, point 3.

9. The Working Party was informed by the representative of the European Commission of issues relevant to the activities of the Working Party relating to the enlargement of the European Union with 10 new countries as of 1 May 2004. It was noted that the enlargement had been successful. In the context of the TIR Convention, it was noted that a guaranteeing association had been established in Malta and thus, TIR operations could be established in all European Union countries. No major problems had been reported, but the enlargement had drawn attention to a few issues that are relevant to the activities of the Working Party:

- UNECE Convention on Customs Transit for the Carriage of Goods by Rail: As the Community already has a procedure in place for rail transit, the Community will not accede to the Convention. It is the view of the Commission that it will not be possible for the new EU countries – even those that are Contracting Parties to the SMGS Agreement – to accede to the Convention.
- Sensitive Goods: The new member States are obliged to apply the Community exclusion of certain goods, specifically mentioned in TRANS/WP.30/190, annex 1, for which the guarantee coverage had originally been denounced by four guaranteeing associations within the European Union. The IRU informed the Working Party that it intended to reduce the number of goods contained in the list and to present a revised list in August 2004.
- Article 38 exclusions: Exclusions of TIR Carnet holders made by one European Community country also apply in all other Community countries. The enlargement has highlighted the need for all European Community countries to be kept aware of those holders that have been excluded. Therefore, a common list of excluded holders has been established.
- List of Customs offices responsible for the TIR procedure: The enlargement has resulted in the closure of a number of Customs offices. Information concerning which Customs offices are responsible for customs transit, including the TIR procedure, is available on the following web site: http://www.europa.eu.int/comm/taxation_customs/dds/en/csrdhome.htm.

10. The Working Party took note of information provided by the World Customs Organization (WCO) concerning the activities of this organization, in particular in relation to the WCO supply chain security initiative, where the Task Force, established in 2002, had ended its initial mandate in spring 2004. The work of the Task Force has resulted in various initiatives, such as, for instance, the development of guidelines on sealing to the revised Kyoto Convention, development of advanced cargo information (ACI) guidelines, which expand the concepts of authorized trader and risk assessment and a review of the 1972 Customs Convention on Containers. The WCO Council is expected to adopt a resolution in June 2004 on the follow-up to this work. The WCO also informed about the status of the revised Kyoto Convention. At present, the Convention has 32 Contracting Parties. 40 Contracting Parties are required for the entry into force of the Convention. Finally, the Working Party was informed that the WCO will shortly publish a note with the title "A secure and efficient transit system". It is WCO's intention that this note provides a comprehensive overview of transit systems and the successful establishment of such systems, in particular in relation to landlocked countries. The WCO provided the Working Party with an advance copy in English of the note. In the context of the particular problems of landlocked countries, the UNECE secretariat informed the Working Party that, as a follow-up to the International Ministerial Conference on Transit Transport Cooperation in 2003, the UN Secretary-General is inviting landlocked countries to accede to the UN transit Conventions in connection with the 2004 UN Treaty event, which will take place in September 2004. In this connection, the UN special office for Landlocked Countries (OHRLLS), the UN Office of Legal Affairs and the UNECE Transport Division is organizing a Seminar in July 2004 in New York for landlocked countries with a view to acquainting these countries with the UN transit Conventions.

11. The Working Party took note of document TRANS/WP.30/2004/19, transmitted by the European Conference of Ministers of Transport (ECMT), containing the main findings of a survey on obstacles of border crossings for international goods transport. In this context, the Working Party also took note of ECMT document CEMT/CM(2004)23, which was made available in the meeting room and which contained a detailed overview of the findings of the survey. The IRU drew attention to the elements in the document, such as dedicated lanes for transit at border crossings, facilitation to obtain visas for professional drivers, recognition of certificates, all being important topics for the activities of the Working Party. The Working Party invited delegations to study the findings of the survey in further detail and to contact the ECMT or UNECE secretariats in case they might have any major questions or comments on the survey.

12. The Working Party was informed by the International Organization for Standardization (ISO) of the ISO activities in relation to mechanical and electronic seals. In this context, the representative of ISO agreed to provide the Working Party with an informal document providing an overview of the work undertaken concerning electronic seals (Informal document No. 4 (2004)).

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

Documentation: ECE/TRANS/55 (<http://border.unece.org> - Legal Instruments); TRANS/WP.30/196; TRANS/WP.30/AC.3/10; TRANS/WP.30/AC.3/8; TRANS/WP.30/AC.3/2004/3; TRANS/WP.30/AC.3/2004/1; TRANS/WP.30/AC.3/2003/1; TRANS/WP.30/2004/22; TRANS/WP.30/2003/20; TRANS/WP.30/2002/19; TRANS/WP.30/2001/16; TRANS/WP.30/2000/16; TRANS/WP.30/2000/11, Informal documents No. 19 and 21 (2002).

Mandate and background: TRANS/WP.30/213, point 4.

(a) Status of the Convention

13. The Working Party was informed that the Convention has 44 Contracting Parties. Information about the status of the Convention can be obtained from the following website: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty17.asp>.

(b) Preparation of a new Annex on efficient border crossing procedures

14. The Working Party was informed by the UNECE secretariat that it had been made aware of a number of inconsistencies and minor errors in the text of the new draft Annex 8, which had been adopted by the Working Party at its one-hundred-and-sixth session. As a result, the secretariat had found it necessary to contact, in particular, the International Organization for Legal Metrology to verify some details concerning the International Vehicle Weight Certificate. The answer to the questions raised have not yet been received and, as a result, it has not been possible to finalize the revised document TRANS/WP.30/AC.3/2004/2 before this session. The document will, as planned, be submitted for the seventh session of the Administrative Committee for the Harmonization Convention to be convened in October 2004.

15. The Working Party was informed by the representative of the European Commission that it was expected that the Community would have a common position for the October session.

16. The Working Party took note of information presented by the representative of the International Association of Road Hauliers of Moldova (AITA) on the difficulties for Moldovan drivers to obtain visas and for the problems in connection with vehicle weighing. As a result, the AITA recommended a fast adoption of the new draft Annex 8 to the Convention. The IRU and Transfrigoroute International also called for the swift adoption of the new draft Annex 8.

(c) **Preparation of a new Annex on security related issues**

17. The Working Party considered document TRANS/WP.30/2004/22, prepared by the secretariat. The Working Party welcomed the overview provided in the document of the various international organizations involved in the question of transport and security. The Working Party felt that, on the one hand, it has an important task to enhance security but also considered, on the other hand, that any security related controls should be carefully balanced against facilitation requirements.

18. The Working Party felt that it might be premature to adopt any provisions in the framework of the Convention at the present time, while several other organizations were still in the process of developing initiatives in this field. At the same time, it was also mentioned that all efforts should be taken to avoid duplication of work in this field. Therefore, the Working Party requested the secretariat to work closely with the WCO and requested the secretariat to prepare a document for one of its future sessions, containing a comparative analysis of the measures taken in the field of security controls at borders and, on that basis, to prepare a first new draft Annex to the Harmonization Convention concerning controls at borders linked to security.

CUSTOMS CONVENTIONS ON THE TEMPORARY IMPORTATION OF PRIVATE ROAD VEHICLES (1954) AND COMMERCIAL ROAD VEHICLES (1956)

Documentation: ECE/TRANS/107/Rev.1; ECE/TRANS/108; (<http://border.unece.org> - Legal Instruments); TRANS/WP.30/2004/21.

Mandate and background: TRANS/WP.30/213, point 5.

(a) **Status of the Conventions**

19. The Working Party was informed that the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles as of 1 June 2003 have 77 and 39 Contracting Parties, respectively. The Working Party will be informed of the situation concerning the scope and the number of Contracting Parties to the Customs Conventions on the Temporary Importation of Private (1954) and Commercial (1956) Road Vehicles. Information about the status of the Convention can be obtained from the following websites:

<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty8.asp>,
<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXI/subchapA/treaty10.asp>.

(b) **Application of the Conventions**

20. The Working Party considered document TRANS/WP.30/2004/21, transmitted by the AIT/FIA containing a number of questions in relation to outstanding Customs claims. The Working Party felt that, since it did not have all the relevant information at its disposal concerning the concrete cases in question, the replies to the questions posed could only be of a general nature.

21. In relation to the question relating to Articles 13/14 of the Private/Commercial Vehicle Conventions respectively, concerning the use of the words “as the Customs authorities may require”, the Working Party requested the secretariat to seek the view of the United Nations Office of Legal Affairs.

22. In relation to the question of duly authenticated accidents, where a vehicle is taken into the custody of the police, the Working Party was of the view that Customs authorities, in general, should not have the right to claim as, Articles 13/14. 1. (b) respectively, of the two Conventions stipulate that re-exportation shall not be required when the vehicle is abandoned to the Exchequer. The Working Party was of the view that, since it is not defined in the Conventions which authorities fall under the term “Exchequer”, the custody of the vehicle by both police and Customs could be considered under this term.

23. In relation to the question relating to Article 13.2/14.2 respectively, concerning how a termination “of seizure” is defined, several Contracting Parties expressed the view that this would require a court decision.

24. In relation to the question relating to Article 13.3/14.3 respectively, concerning the use of the term “as far as possible”, the Working Party requested the secretariat to seek clarification from the Office of Legal Affairs of the United Nations.

25. With regard to the question relating to Article 28 concerning situations involving fraud or criminal activity by the driver and subsequent seizure or confiscation of the vehicle, the Working Party was of the view that, in such situations, Article 13, paragraph 2 would apply and that the requirement for re-exportation would be suspended for the duration of the seizure.

26. In relation to the question relating to Article 31 concerning the payment of penalties, the Working Party was of the view that, since Articles 18 and 27, paragraph 4 only refer to the payment of duties and taxes as well as interest, the guaranteeing association could not be held liable for penalties.

27. In relation to the question as to whether a claim, after a certain period, could be considered null and void according to international law, the Working Party requested the secretariat to seek the advice of the Office of Legal Affairs of the United Nations.

28. In relation to the question concerning force majeure, the Working Party requested the secretariat to seek the advice of the Office of Legal Affairs of the United Nations.

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

Documentation: ECE/TRANS/17 and Amends.1-23; 2002 TIR Handbook (<http://tir.unece.org>); TRANS/WP.30/212.

Mandate and background: TRANS/WP.30/213, point 6.

(a) Status of the Convention

29. The Working Party took note of information provided by the IRU that an association had been authorized in Malta to act as guarantor as from 1 May 2004, where thereafter the TIR procedure is applicable in 55 of the 65 Contracting Parties.

30. A complete list of Contracting Parties to the Convention, as well as a list of countries in which TIR operations can be undertaken, dated February 2004, is annexed to the report of the thirty-sixth session of the TIR Administrative Committee (TRANS/WP.30/AC.2/73, annex 1). Permanently updated information on the scope of the TIR Convention is available on the UNECE TIR web site: (<http://tir.unece.org>).

(b) Revision of the Convention

(i) Implementation of Phases I and II of the TIR revision process and examples of best practices

31. The Working Party was informed by the secretariat that, concerning the amendment to Article 26, paragraph 1 of the Convention adopted by the TIR Administrative Committee on 26 October 2003, contained in Depositary Notification C.N.623.2003.TREATIES-1, the deadline for objections will expire on 19 June 2004. If no objections have been raised by that date, the amendment will come into force on 19 September 2004.

32. The Working Party recalled its previous request to Contracting Parties that, with a view to providing the necessary transparency concerning the state of implementation of the Convention and the amendments thereto, in particular for national guaranteeing associations, Contracting Parties were strongly urged to inform the secretariat, in writing, about the status of implementation at national level (TRANS/WP.30/210, para. 21). The Contracting Parties should include, if possible, information concerning the number of the publication in which the implementation had been published (name and number of the Official Journal or internal instruction). This issue had also been stressed as being of importance in connection with the discussion on TIR in the Bureau of the Inland Transport Committee.

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

Documentation: TRANS/WP.30/2004/212; TRANS/WP.30/210; TRANS/WP.30/208; TRANS/WP.30/206; TRANS/WP.30/204; TRANS/WP.30/202; TRANS/WP.30/200; TRANS/WP.30/198; TRANS/WP.30/196; TRANS/WP.30/194; TRANS/WP.30/192.

33. The Working Party recalled that, at its ninety-sixth session, it had decided to start work on Phase III of the TIR revision process, which would include a study of the following elements (TRANS/WP.30/192, para. 33):

- Revision of the TIR Carnet, including the insertion of additional data elements (ID number, HS code, value of goods, etc.);
- Increase in the number of places for loading and unloading under Customs seal;
- Use of new technologies in TIR operations also with a view to reducing the delay in notification of non-discharge.

- **Revision of the TIR Carnet**

34. The Working Party held an in-depth discussion about the possible changes to the data to be given in the TIR Carnet. It was noted that the WCO was in the process of considering a data set for transit. The Working Party requested the secretariat to be involved in this process with a view to considering to align the TIR data requirements with the future WCO requirements. Furthermore, the Working Party decided that the time was ripe for incorporation of the provisions of the recommendation for the use of the ID-number of the authorized holder in the body of the Convention and requested the secretariat to prepare a proposal to this end for its forthcoming session. The Working Party also felt that it would be useful to recommend to include the HS-code in the goods description. The secretariat was requested to prepare a proposal for a Recommendation for inclusion of the HS-code in the goods description in the TIR Carnet for the next session of the Working Party.

- Increase in the number of places for loading and unloading

35. The Working Party took note of information provided by the IRU that, to date, less than 10 TIR Carnets have been used in connection with transports with more than 4 loading and unloading places. However, the IRU informed that it had recently received new information on the need to use TIR Carnets for such transport. The IRU agreed to continue to monitor the developments in this area and to report to the Working Party at its session in February 2005. One delegation stated, that using two TIR Carnets for making possible such an increase should not be the permanent solution.

36. The Working Party noted that, in relation to the consecutive use of two TIR Carnets, one guarantee of US\$ 50,000 will be in force as from the time the first TIR Carnet is taken into charge by the first Customs office of departure. At the point of time of the end of the first part of the TIR transport, a second TIR Carnet will be taken into charge and a second guarantee of US\$ 50,000 will be in force. For both guarantees, potential claims are limited to those countries where TIR operations have been started.

- Use of new technologies

37. The Working Party took note of the progress of the Informal ad hoc Expert Group on Conceptual and Technical Aspects of the Computerization of the TIR Procedure (hereafter called: "the Expert Group") at its fourth session, which had taken place on 1 and 2 March 2004 in Geneva, and endorsed its summary report (ExG/COMP/2004/10).

38. The Working Party noted, with concern, the limited participation of experts from Customs authorities in the work of the Expert Group and considered that the lack of support from Contracting Parties would put the outcome of the work of the Expert Group, in particular, and the continuity of the eTIR Project, in general, at risk. Therefore, the Working Party called upon Contracting Parties to reconsider the importance attached so far to the computerization of the TIR Procedure and to start sending representatives to future sessions of the Expert Group. In particular, the Working Party urged those countries which account for high volumes of TIR operations and/or which have considerable experience in the field of computerization of the TIR procedure at the national level, to become active in the work of the eTIR Project.

(iii) **Draft amendments on the inclusion and attribution of voting rights to Regional Economic Integration Organizations (REIO)**

39. The Working Party was informed by the representative of the European Community that bilateral negotiations with the United States and Turkey are ongoing concerning the inclusion and attribution of voting rights to Regional Economic Integration Organizations (REIO). The representative of the United States confirmed there was just one issue of disagreement to be resolved. Turkey confirmed that its position was unchanged and that bilateral discussions have taken place at various levels. Turkey was still awaiting for Commission's response following the latest bilateral meetings. The Working Party will be informed of the results of the negotiations at one of its future sessions.

(iv) **Amendment proposals**

Documentation: TRANS/WP.30/2004/14; TRANS/WP.30/2004/11; TRANS/WP.30/2003/22; TRANS/WP.30/2003/11; TRANS/WP.30/2003/10; TRANS/WP.30/2002/30; TRANS/WP.30/R.179; Informal document No. 2 (2004).

40. The Working Party took note of document TRANS/WP.30/2004/14, transmitted by the European Community and Informal document No. 2 (2004) transmitted by the Russian Federation.

41. The Working Party considered in detail the question of amending Article 6.2 bis of the Convention, as proposed by the European Community and the Russian Federation, by adding a new Explanatory Note. The Working Party decided to consider the question again at its one-hundred-and-eighth session in October 2004 based on the following three proposals that were considered during the present session and it requested the secretariat to prepare an official document for the forthcoming session containing these proposals:

(a) "The acceptance by an international organization of the responsibility for the effective organization and functioning of an international guarantee system shall be fixed in an agreement signed between the UNECE and the international organization. The agreement shall stipulate that the international organization shall strictly observe the provisions of the TIR Convention, shall respect the competences of the Contracting Parties to the Convention and shall comply with the decisions of the TIR Administrative Committee and requests by the TIR Executive Board."

(b) "By accepting its responsibility for the effective organization and functioning of an international guarantee system, the international organization agrees to respect the competences of the Contracting Parties to the Convention and to comply with the decisions of the Administrative Committee."

(c) “The authorization shall stipulate that the International Organization shall respect the competences of the Contracting Parties to the Convention and that it shall comply with the decisions of the TIR Administrative Committee. By accepting the authorization, the International Organization assumes its responsibilities as set out in the Convention.”

42. The Working Party, after an in-depth discussion, mandated the secretariat to convene an ad hoc expert group with a view to dealing with the other amendment proposals that had been transmitted by Contracting Parties as well as, possibly, other proposals for amendments of the Convention, in particular in relation to the guarantee system. The Working Party was of the view that the ad hoc expert group should be established with an open-ended mandate and be open to participation by all Contracting Parties and relevant organizations. As a first priority, it should consider the amendment proposals before it with a view to separating these into (a) questions of a more technical nature, which the Working Party or the TIRExB could deal with and (b) questions of a more strategic nature, which the ad hoc expert group should consider how best to deal with. In this context, it was proposed that it could be considered to launch a strategic review of the future of the Convention through a meeting of the TIR Contact Group, as it had been done in connection with Phase I of the TIR revision process. Contracting Parties were invited to inform the secretariat whether they were interested in hosting such a TIR Contact Group meeting. The topics to be dealt with by the TIR Contact Group could be decided by the ad hoc expert group. The Working Party decided to convene the ad hoc expert group on 30 and 31 August 2004 in Geneva as proposed by the secretariat.

43. The Turkish delegation requested that it be considered at a future session, if the Working Party is working in the most efficient way and if the present number of days available for sessions is necessary, bearing in mind the apparent increasing trend to transfer more and more of the substantive work of the Working Party to specially established sub-groups.

(c) **Application of the Convention**

(i) **Functions and roles of the TIRExB, the TIR secretariat and the IRU**

Documentation: TRANS/WP.30/2004/16; Informal document No. 3 (2004).

44. The Working Party considered document TRANS/WP.30/2004/16, prepared by the secretariat, which contains the elements to be included into point 1.9 of the introduction of the TIR Handbook concerning the roles and responsibilities of the national guaranteeing associations, the international organization, the TIRExB and the TIR secretariat. The Working Party, in general, agreed with the proposals. However, a number of amendments of both a linguistic nature and more substantial nature were proposed. Therefore, the Working Party decided to consider the question

once more at its forthcoming session and requested the secretariat to prepare a revised document to this purpose.

45. The Working Party also considered informal document No. 3 (2004), prepared by the secretariat, containing proposals for the inclusion of new elements to the Terms of Reference and the Rules of Procedure of the TIR Executive Board based on the proposals included in document TRANS/WP.30/AC.2/2003/11 prepared by the Chairman of the Working Party. When considering the elements to be included in the introduction to the TIR Handbook, the secretariat had discovered a number of points concerning the TIRExB, which it believed did not fit into the TIR Handbook. Instead, it seemed relevant to include these elements into the Terms of Reference and the Rules of Procedure of the TIRExB. The Working Party agreed with the proposals and requested the secretariat to prepare these proposals for adoption by the TIR Administrative Committee and the TIRExB, respectively, according to the provisions governing the TIRExB.

(ii) Control system for TIR Carnets - IRU SafeTIR

46. The Working Party was informed by the IRU that the project to include all data, which are relevant to Customs authorities and which already exist in the IRU TIR Carnet databases, in the IRU managed SAFETIR/Cutewise application, is on track and that it is expected that the new functionalities will be operational before the end of 2004, including, if possible, a link to data concerning signatures and stamps of TIR Carnet issuing associations used on TIR Carnets.

47. The Working Party took note of information provided by the IRU on the functioning of the IRU SAFETIR system. IRU receives SAFETIR messages for 88 per cent of all terminated TIR operations with an average delay of 11 days. Concerning reconciliation requests to Customs authorities to verify the termination of TIR Carnets, IRU received replies to 68 per cent of their requests with an average delay of 25 days. The Working Party encouraged all Contracting Parties to actively work on improving their transmission of the data according to the Recommendation of 20 October 1995 with a view to improving the risk management of the TIR system.

(iii) Settlement of claims for payments

Documentation: TRANS/WP.30/2004/17; TRANS/WP.30/212.

48. The Working Party took note of document TRANS/WP.30/2004/17, transmitted by the IRU containing an overview of the decision of the Court of Arbitration and the impact on outstanding claims relating to the period before 1995.

49. Several delegations expressed their disappointment with the fact that, after the ruling of the Court of Arbitration, more than 10 years after the process had started, there still did not seem to be any clarification concerning the payment of the claims. Some delegations also expressed the view that, with the ruling it was no longer possible for Customs authorities to delay the recovery process and that, if payment was not forthcoming, this would lead to action against the national guaranteeing association. These delegations also requested the IRU to explain in further detail the possible ways of resolving the cases, in particular what is understood by “a global treatment through agreement”.

50. The IRU pointed out that a large number of cases had been settled during the 10-year period. In all of the cases still disputed, the guarantee chain has, from the beginning, contested the claims. Furthermore, the IRU stated that the TIR guarantee is not a guarantee under fiscal law but under civil law. Concerning the possible ways of resolving the outstanding claims and, in particular, the global treatment, the IRU explained that this referred to a negotiated settlement between the Contracting Party in question, on one side, and the guarantee chain, on the other side, for settling a number of outstanding claims relating to that Contracting Party under one agreement. The IRU also mentioned that the experiences gained in connection with the treatment of the old insurance claims had led to an improvement of the existing guarantee chain.

51. The Working Party expressed great concern about the situation and urged that a solution be found quickly to the satisfaction of the Contracting Parties. The Working Party underlined that the experiences with this situation should be kept in mind for the future, in particular in relation to a future revision of the Convention where Customs authorities would need to have assurance that a proper functioning guarantee system was in place. In this regard, the Dutch delegation proposed that the TIR guarantee should be considered as a “fiscal guarantee”.

(iv) **Amendment proposals relating to technical provisions**

Documentation: TRANS/WP.30/2004/23; TRANS/WP.30/2004/15; TRANS/WP.30/2004/18; TRANS/WP.30/2004/7; TRANS/WP.30/2004/4; TRANS/WP.30/2003/13; TRANS/WP.30/2002/27; Informal document No. 1 (2004); Informal document No. 4 (2004).

52. The Working Party considered documents TRANS/WP.30/2004/15 and Informal document No. 1 (2004) concerning the use of a cable with fibre-optic cable. The Working Party agreed, in principle, with the proposal contained in Informal document No. 1 (2004), together with some minor modifications, and requested the secretariat to prepare an official document with the modified proposal for its next session in October 2004 and, in parallel, to prepare a document with the proposal for the TIR Administrative Committee for possible adoption in October 2004.

53. The Working Party took note of document TRANS/WP.30/2004/18, submitted by the World Customs Organization, containing new guidelines to the International Convention on the Simplification and Harmonization of Customs procedures (the revised Kyoto Convention), chapter 6 on mechanical seals. The Working Party considered that the document contained issues beyond the scope of the TIR Convention and that care should be taken not to endanger the facilitation elements of the TIR Convention with new and far-reaching requirements. It also felt that the format of the guidelines did not fit the format of the TIR Convention. However, the Working Party also took note that the guidelines, while not legally binding, provided many useful elements for Customs secure loading units. The Working Party requested the secretariat, to study whether a reference to the guidelines could be introduced into the TIR Convention, possibly in the form of a comment to the Convention or its annexes. The secretariat was requested to prepare a document on the issue for one of the future sessions of the Working Party.

54. The Working Party also took note of document TRANS/WP.30/2004/23, submitted by the Government of the United States, containing proposals for new comments to Annexes 2 and 7 of the Convention concerning the specific placement of mechanical seals. Parallel proposals will be considered in the context of the Customs Convention on Containers, 1972, the technical annexes of which are parallel to Annex 7 of the TIR Convention. The representative of the United States pointed out that the proposals could be seen as a short-term solution for improving the sealing security and that a revision of Annexes 2 and 7 in this context should be considered. The Working Party recognized the need to align the developments of the TIR Convention and the Customs Convention on Containers with a view not to have different technical applications for Customs secure Containers. Bearing this in mind, the Working Party requested the UNECE and the WCO secretariats to work closely together concerning this issue. The Working Party considered that the proposed amendments needed further refinement and requested the secretariat to prepare a new document for its forthcoming session.

55. The Working Party took note of Informal document No. 4 (2004), submitted by the ISO containing an overview of the work in progress in ISO concerning electronic seals.

56. The Working Party took note of three presentations on sealing technology made by:

- The Joint Research Centre of the European Commission, concerning self-authenticating transponder based seals as well as ultrasonic seals.
- The International Seal Manufacturers Association, concerning security seals and standards for the seal manufacturing industry.
- Leghorn Suppliers, concerning traditional and electronic seals.

The presentations will be made available on the UNECE web site.

(v) **CITES**

Documentation: TRANS/WP.30/2004/20.

57. The Working Party considered document TRANS/WP.30/2004/20, transmitted by the European Community, which contains a revised proposal for adding a new comment to Article 47 of the Convention concerning documentation required under other international Conventions, such as the Washington Convention 1973, CITES and controls in the context of the TIR Convention in this respect. The Working Party considered in detail the transmitted proposal. The majority of the delegations agreed to the following text:

“Documentation required under international Conventions (such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973) should always accompany the goods concerned. In such cases a reference to this documentation on the TIR Carnet could facilitate Customs controls.”

58. However, with regard to the second phrase of the proposal, some questions still seemed to need clarification. The Working Party, therefore, decided to revert to this question at its forthcoming session.

(vi) **TIR Handbook**

Documentation: UNECE document; (<http://tir.unece.org>).

59. The TIR Handbook contains the text of the Convention and its annexes, including the amendments to the Convention, at present including the amendments adopted under Phase II of the TIR revision process, as well as all relevant comments adopted by the Working Party, the Administrative Committee and the TIRExB.

60. The Working Party took note that the updated TIR Handbook in English, French and Russian can be viewed and downloaded from the UNECE TIR web site (<http://tir.unece.org>). Updated hard-copy versions of the TIR Handbook are available in Arabic, Chinese, English, French, Italian and Russian. A limited number of the Handbook may be obtained free of charge from the secretariat.

61. An updated version of the TIR Handbook in German is planned for autumn 2004. The secretariat plans to update the TIR Handbook in the English, French and Russian language versions with the latest amendments to the TIR Convention in 2005.

(vii) **Other matters**

62. The representative of France asked whether it would be possible to further enhance the UNECE Register of Customs Sealing Devices and Customs Stamps and to make it available on the UNECE web site. The secretariat informed that the Register is updated, based on information received by Contracting Parties. The secretariat does not have the resources to actively ensure the constant and real time upkeep of the Register. Concerning the availability, the TIRExB has previously decided not to make it available on the UNECE web site due to the risk of misuse. This decision was endorsed by the TIR Administrative Committee.

PREVENTION OF THE ABUSE OF CUSTOMS TRANSIT SYSTEMS BY SMUGGLERS

Documentation: TRANS/WP.30/127.

Mandate and background: TRANS/WP.30/213, point 7.

63. The Working Party took note of information provided by the secretariat concerning a TIRExB survey on fraud in the TIR system. The TIR secretariat has, to this end, sent out questionnaires to Director Generals or heads of Customs authorities with a copy to TIR Customs Focal points and is awaiting the replies. Based on the replies, the TIRExB will carry out an analysis of the present fraud situation in the TIR system.

OTHER BUSINESS

Mandate and background: TRANS/WP.30/213, point 8.

(a) **Dates of the next sessions**

64. The Working Party decided to convene its one-hundred-and-eighth session in the week from 11 to 15 October 2004 in conjunction with the thirty-seventh session of the TIR Administrative Committee and the seventh session of the Administrative Committee for the “Harmonization” Convention.

65. The one-hundred-and-ninth session of the Working Party is tentatively scheduled to be held during the week of 31 January to 4 February 2005 in conjunction with the thirty-eighth session of the TIR Administrative Committee.

(b) **Restriction on the distribution of documents**

66. The Working Party decided that there were no documents to be restricted.

ADOPTION OF THE REPORT

Mandate and background: TRANS/WP.30/213, point 9.

67. The Working Party decided to adopt the report of its one-hundred-and-seventh session.
