



Economic and Social Council

Distr.: General
2 December 2020

Original: English

Economic Commission for Europe

Administrative Committee for the TIR Convention, 1975

Seventy-fourth session

Geneva, 9–11 February 2021

Item 8 of the provisional agenda

Audit of the accounts of the TIR Executive Board and the TIR secretariat

Recommendation No. 6 by the Office of Internal Oversight Services

Note by the secretariat

I. Mandate

1. The audit of the management of the TIR Trust Fund conducted by the United Nations Office of Internal Oversight Services (OIOS) recommends that the United Nations Economic Commission for Europe (ECE) should seek the advice of the Ethics Office on the apparent conflict of interest arising from its arrangement with the external partner on the eTIR project, including the receipt of funds from the external partner to whom ECE has become accountable under the contribution agreement despite having the responsibility to assist the Executive Board in overseeing the external partner's operations and assessing its compliance with the TIR Convention. (see Recommendation No. 6 in ECE/TRANS/WP.30/AC.2/2019/25).

2. In Annex, the secretariat transmits the advice by the Ethics Office, issued on 13 November 2020.



Annex

Reply to the request for advice (UNECE/2019/TRANS/152/KA/AB) following OIOS Audit 2019/010¹

1. I am referring to your message to my office, dated 20 December 2019 (UNECE/2019/TRANS/152/KA/AB), regarding a recommendation by the United Nations Office of Internal Oversight Services (OIOS) as part of OIOS Report 2019/010 (AG/2018/720/02), as well as the exchanges via email and teleconference between the UN Ethics Office and the Sustainable Transport Division of the UN Economic Commission for Europe (UNECE) between then and 23 September 2020.

2. We particularly note the relevant OIOS recommendations, published on 13 March 2019, including Recommendation 6 which states that “*ECE should seek the advice of the Ethics Office on the apparent conflict of interest arising from its arrangement with the external partner on the eTIR project, including the receipt of funds from the external partner to whom ECE has become accountable under the Contribution Agreement despite having the responsibility to assist the Executive Board in overseeing the external partner’s operations and assessing its compliance with the TIR Convention.*”

I. Summary of Facts

3. Based on the information provided, it is our understanding that in 1975, UNECE adopted the Transport International Routier (TIR) Convention – a multilateral treaty to simplify and harmonize the administrative formalities of international road transport. The governing body (the Administrative Committee, hereinafter “AC.2”) of the Convention selected and authorized the International Road Transport Union (IRU), an international organization to take on the responsibility for organizing and functioning of the international guarantee system and to print and distribute TIR Carnets.

4. Authorized by the AC.2, the work of the IRU is supervised by the TIR Executive Board (TIRExB). The decisions of TIRExB are executed by the TIR Secretary and assisted by the TIR Secretariat. The TIR Secretariat is comprised of staff members of the UNECE Secretariat. The operations of TIRExB and the TIR Secretariat are financed through the distribution of TIR Carnets.

5. According to the information provided by UNECE to our office on 29 April 2020, the secretariat does not supervise or authorize IRU regarding the TIR convention but rather services the relevant intergovernmental bodies of Contracting Parties who supervise the TIR system and authorizing IRU to operate (AC.2, TIREXB). UNECE intergovernmental bodies of Member States and their subsidiary and supporting arrangements/set-ups (Inland Transport Committee and Working Parties) perform the custodian function of conventions/agreements.

6. In 2003, the Contracting Parties to the TIR Convention launched the “eTIR project” to digitalize the TIR procedure. Following the initiative of the European Union, a financing mechanism was proposed to provide funds to the UNECE secretariat to support the upgrading of TIR system from paper based to eTIR through a voluntary contribution by the IRU, as implemented through a memorandum between UNECE and the IRU and the secretariat’s project approved by UNECE member States (EXCOM).

7. According to information provided by UNECE to the Ethics Office on 4 May 2020, a study conducted by the TIR secretariat showed a steady decline of the sales of TIR Carnets between 2006 (\$3,599,850) and 2018 (\$1,020,650), (ECE/TRANS/WP.30/2020/3),

¹ Reproduced as received.

following which the stakeholders agreed to pursue further digitalization and timely application of an eTIR international system.

8. In 2015, UNECE signed an MOU with the IRU regarding financing a pilot project within the framework of the eTIR project. In October 2017, UNECE and IRU signed an MOU and a Contribution Agreement aimed at further strengthening the cooperation between UNECE and IRU towards the computerization of the TIR procedure, whereby the IRU provided UNECE with a voluntary contribution of \$1.7 million over five (5) years to finance the pilot project under the eTIR project, involving two countries, the Islamic Republic of Iran and Turkey (CE/TRANS/WP.30/AC.2/2019/26).

II. Ethics considerations

9. According to Recommendation 6 of OIOS Audit Report 2019/010, OIOS has identified an apparent conflict of interest arising from UNECE's arrangement with the IRU on the eTIR project, including the receipt of funds from IRU to whom UNECE has become accountable under the Contribution Agreement despite having the responsibility to assist the Executive Board in overseeing the IRU's operations and assessing its compliance with the TIR Convention. The Ethics Office was subsequently requested to provide advice on identifying and potentially mitigating a possible situation of conflict of interest.

10. The Ethics Office would like to emphasize that its review is guided by the best interest of the United Nations. As a matter of institutional integrity, the principles of independence, impartiality and the need for proactive resolution of any possible conflict of interest shall be reflected in the Organization's structures and embraced in all its business operations and activities, including its contractual relations with external entities.

11. With regard to UNECE's engagement with the IRU, the Ethics Office notes that UNECE is required to carry out its mandate as stipulated in the TIR Convention, while ensuring that its structures and decision-making processes are free from any perceived or actual conflict of interest, in particular due to a possible financial dependence from and reporting requirement to the IRU.

12. From an ethics perspective, the situation may give rise to a functional conflict (or a conflict of positions) whereby UNECE, in assisting the TIR Executive Board with supervising the distribution of TIR carnets and overseeing the operation of the international guarantee and insurance system, would at the same time be obligated to report to the IRU in accordance with the provisions of the Contribution Agreement. This situation may potentially create a confusion about the role of UNECE vis-à-vis the IRU and the implementation of the TIR Convention.

13. Based on the aforementioned agreements, the IRU, while serving as the authorized implementing agent for the TIR Convention (i.e. organizer and distributor of TIR Carnets), concurrently holds the position of a donor to UNECE for the e-TIR project. Although a not-for-profit organization, the Ethics Office notes that the IRU generates a yearly income from the distribution of TIR Carnets. It is noted that while playing a strategic role in the effective functioning of the printing and distribution of TIR Carnets, the IRU may also have a strong commercial interest to remain at the heart of transport-related developments and may be influenced by road transport operators.

14. Therefore, from an ethics perspective, this situation carries a high risk of a functional conflict or conflict of positions, and a conflict of interest, whereby IRU, an implementer/distributor concurrently acts as a donor to UNECE and the TIR secretariat. This situation may affect the ability of the other parties, including UNECE and the supervising body to exercise their mandates impartially and objectively. It could therefore call into question the credibility of the operations of the TIR Convention's bodies, especially where/when the questions of establishing responsibility and accountability and evaluating TIR's efficiency are involved.

III. Possible mitigating measures

15. As a measure to mitigate these functional conflicts and conflict of interest risks, it is advisable that the financing structure regarding the eTIR project be adjusted and the direct financing of UNECE through voluntary contributions by IRU be discontinued. It is of particular importance that UNECE and IRU remain appropriately distanced and refrain from establishing a direct relation between their supervising and implementing roles on the one side and their recipient and reporting roles on the other. It is important that the appearance of any undue relationship between funding and favorable positioning of an outside entity is carefully avoided.

16. It would be advisable that any funds provided to UNECE for the eTIR project be authorized directly by the governing bodies of the TIR Convention (such as AC.2, TIREXB) or be provided to the governing bodies for subsequent allocation to UNECE / TIR secretariat.

In return, UNECE should report on the use of these funds directly to the governing bodies of the TIR Convention, and not to IRU.

17. The Ethics Office has taken note of ECE/TRANS/WP.30/AC.2/147, dated 17 February 2020, which includes the adoption of a new Annex 11 to the TIR Convention which stipulates in Article 11 as follows:

“Hosting of the eTIR international system:

The eTIR international system shall be hosted and administered under the auspices of the United Nations Economic Commission for Europe (ECE).

ECE shall assist countries in connecting their customs systems to the eTIR international system, including by means of conformance tests to ensure their proper functioning prior to the operational connection.

The necessary resources shall be made available to ECE to fulfil the obligations set forth in paragraphs 1 and 2 of this Article. Unless the eTIR international system is financed by resources from the United Nations regular budget, the required resources shall be subject to the financial rules and regulations for extrabudgetary funds and projects of the United Nations. The financing mechanism for the operation of the eTIR international system at ECE shall be decided on and approved by the Administrative Committee.

Explanatory Note to Article 11, paragraph 3:

11.11.3 If necessary, Contracting Parties may decide to finance the operational costs of the eTIR international system through an amount per TIR transport. In such cases, Contracting Parties shall decide on the appropriate time to introduce alternative financing mechanisms and on their modalities. The required budget shall be prepared by ECE, reviewed by the Technical Implementation Body and approved by the Administrative Committee.”

18. It is the understanding of the Ethics Office that the above cited document is scheduled for formal adoption within the first quarter of 2021. We further understand that Annex 11 reflects the continued willingness of Member States to expand the role of the eTIR system and enhance regional cooperation, which also coincides with additional and increased funding to UNECE from Member States, the UN Development Account and UN System organizations to advance the implementation of eTIR as a tool in the fight against the current COVID-19 pandemic. In this regard and as a further mitigating measure, the Ethics Office would like to highlight again the importance of establishing an independent oversight over funds allocated to UNECE for the purpose of eTIR through the relevant governing bodies such as the AC2, if not yet done so.

19. It is the Ethics Office’s further understanding that the above Article 11 of Annex 11 to the TIR convention also aims at reorganizing the financing of the eTIR project and may mitigate the above-mentioned functional conflict and conflict of interest risks.

20. In view of the expected changes to the financing of the eTIR system, the Ethics Office recommends that the existing MOU between UNECE and IRU dated October 2017 be revisited, revised and updated, once Annex 11 enters into effect, to ensure a full alignment

of the MOU with the updated financing structure as proposed in the regulatory framework of Annex 11 and the legislative decision of the Contracting Parties.

21. Pending the entry into force of Annex 11 and given the identified conflict of functions and of interest, in the interim, the Ethics Office further recommends undertaking action to ensure that any potential conflict of interest and reputational risks stemming from the engagement with the IRU are mitigated. UNECE may therefore wish to take this opportunity to undertake a comprehensive review of its contractual or other administrative arrangements currently in effect as well as individual transactions with the IRU and may wish to carefully consider IRU's possible other commercial activities which may reflect on the reputation of UNECE.

22. Should you have any question or require clarification, the Ethics Office continues to remain ready to assist.
