


Economic Commission for Europe
Administrative Committee for the TIR Convention, 1975

Seventy-fifth session

Geneva, 9 June 2021

**Report of the Administrative Committee for the TIR
 Convention on its seventy-fifth session**
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I. Attendance

1. The Administrative Committee (AC.2) for the TIR Convention, 1975 held its seventy-fifth session on 9 June 2021, virtually and in-person, in Geneva. The session was attended by representatives of the following countries: Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Greece, Hungary, Iran (Islamic Republic of), Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Romania, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine and Uzbekistan. Representatives of the European Union were present. The following non-governmental organization was represented: International Road Transport Union (IRU). The Committee noted that the required quorum for the purpose of taking decisions – at least one-third of States which are contracting parties (according to Annex 8, Article 6 of the Convention – was attained.

II. Adoption of the agenda (agenda item 1)

2. The Committee adopted the agenda of the session (ECE/TRANS/WP.30/AC.2/152) and noted the availability of additional information.

III. Recommendation No. 6: Audit of the accounts of the TIR Executive Board and the TIR secretariat (agenda item 2)

Memorandum of Understanding between the Economic Commission for Europe and the International Road Transport Union

3. The Committee recalled that, at its seventy-fourth session (February 2021), with regard to recommendation No. 6 of the Office of Internal Oversight services (OIOS) on “the apparent conflict of interest arising from the arrangement between ECE and IRU on the eTIR project” the Committee considered document ECE/TRANS/WP.30/AC.2/2021/7 by the Ethics Office. The Committee took note of the actions by the secretariat to implement the advice by the Ethics Office, such as (a) assign AC.2 with the function to independently oversee funds allocated to ECE for the purpose of eTIR; and (b) review, revisit and update the existing Memorandum of Understanding (MoU) between ECE and IRU once Annex 11 enters into effect. In addition, ECE should comprehensively review its contractual and administrative arrangements currently in effect as well as any individual transaction with IRU.

4. In its advice, the Ethics office highlighted the importance of establishing independent oversight over funds allocated to ECE for the purpose of eTIR through the relevant governing bodies, such as AC.2, if not yet done so. The secretariat proposed that AC.2 should perform this independent oversight. Any new extrabudgetary projects on eTIR or on any other activity of the TIR secretariat, except for projects agreed through the United Nations system, should be first discussed and endorsed by AC.2 before being submitted to the ECE Executive Committee (EXCOM) for final approval. In addition, the secretariat should, on an annual basis, report to AC.2 about the spending of those funds and the development of the projects. Since OIOS needs concrete evidence of existence of the oversight body (e.g. terms of reference and membership) in order to consider this recommendation implemented and closed, the Committee should decide on accepting this role, based on the provisions of Annex 8 of the TIR Convention which deals, inter alia, with composition, functions and rules of procedure of the Administrative Committee and consider the recommendation implemented and closed.

5. Furthermore, the Ethics office recommended that the existing MoU between ECE and IRU be revisited, revised and updated, once Annex 11 enters into effect. This new MoU would be based on the principles advised by Ethics office meaning:

- Secretariat will no longer report to IRU but only to AC.2;

- Preparation of annual workplans for approval by AC.2;
- Funding of the P3 post based on the same remaining funds but for longer period (see ECE/TRANS/WP.30/AC.2/151, paras. 55–58).

6. The Committee considered document ECE/TRANS/WP.30/AC.2/2021/8, containing the new MoU between ECE and IRU. In this context, the Committee also considered Informal document WP.30/AC.2 (2021) No. 8 (available in English, French and Russian) with comments by the Ethics Office on the new MoU. In a nutshell, the Ethics Office considered the draft as meeting all recommendations of its prior advice, thus doing away with the risk of a conflict of interest.

7. The Committee also took note that the Ethics Office recommended “that ECE take this opportunity to undertake a comprehensive review of its contractual or other administrative arrangements currently in effect as well as individual transactions with IRU and to carefully consider IRU’s possible other commercial activities which may reflect on the reputation of ECE. The Ethics Office noted from document ECE/TRANS/WP.30/AC.2/2021/8, dated 31 March 2021, that the ECE Executive Office has decided to invite OIOS to perform this comprehensive review.”

8. The Committee, after considerations and taking note that the delegation of Turkey supported the wording as proposed by the secretariat, decided to accept the alternative wording for Article 1.2, second paragraph, as proposed by IRU. At the proposal of the European Union, the Committee decided to slightly rephrase Article 4.3 (d) of the MoU to read: “At the end of this MoU and following consideration by AC.2, any unspent funds shall be returned to IRU, unless the Parties decide differently.” At the request of the European Union, the secretariat explained that it has been the firm intention of both parties to conclude the MoU for a period of three years, thus ending on 31 December 2024, as stipulated by Article 11.1 of the MoU.

9. The Committee accepted its role as oversight body, based on the provisions of Annex 8 of the TIR Convention which deals, inter alia, with composition, functions and rules of procedure of the Administrative Committee.

10. With the exception of the delegation of the Russian Federation, the Committee supported the draft MoU and requested the secretariat to transmit it to EXCOM for information. With this decision, the Committee considered OIOS recommendation No. 6 as approved and implemented.

11. The delegation of the Russian Federation explained that it felt that the draft MoU was addressing the issue of accountability expressed by the Ethics Office report but it was not covering entirely the conflict of interest issue that might be raised from the financing of eTIR by IRU. They considered important to provide some substantial and editorial changes in the draft MoU. These were:

(a) Include as Annex I of the report of the Committee the response / comments received by the Ethics Office on the draft MoU;

(b) As the IRU systems do not interconnect with all national customs systems, the word “some” should be added to Article 2 (b) to read “interconnecting its systems with some national customs systems”;

(c) The reference to “...which are an integral part of the system...” in Article 2 (c) should be deleted;

(d) In Article 2 (d), the words “guide and assist” should be deleted and replaced by a softer wording, like “recommend” as it is not the task of IRU to guide and assist technical teams of national custom systems;

(e) Article 3 should be deleted;

(f) In Article 4.3 (c), more specific goals and indicators for the workplan should be provided;

(g) In Article 9.2, it should be specified who the appropriate program managers are;

(h) In Article 11, members of AC.2 should be given a possibility to amend the MoU or to initiate its termination.

12. Various delegations questioned the fact that the Russian Federation had not shared its comments any time sooner, prior or at the meeting, instead of only during the reading of the report, thus depriving the Committee from the opportunity to discuss the comments by the Russian delegation. Therefore, the Committee did not agree to include any amendments to the draft MoU based on these comments and approved the draft MoU.

IV. Other business (agenda item 3)

A. Other matters

13. Under this agenda item, the Committee was informed about changes in the status of the TIR Convention, 1975 and the number of contracting parties. In particular, the Committee took note that, since the accession of Egypt on 16 December 2020, the Convention has seventy-seven contracting parties, whereas, since the activation of the system for Qatar on 1 June 2021, TIR operations can be established with sixty-five countries.

14. The Committee was informed that, since its previous session (February 2021), the Secretary-General of the United Nations, acting in his capacity as depositary, issued the following depositary notifications: (i) C.N.81.2021.TREATIES-XI.A.16, of 3 March 2021, informing that, by 25 February 2021, none of the contracting parties to the TIR Convention, 1975 had communicated an objection to the proposals to amend various provisions of the body of the TIR Convention and introducing new Annex 11 on eTIR. Therefore, in accordance with Article 59, paragraph 3 of the Convention, the said amendments entered into force on 25 May 2021 for all contracting parties, except for those States which would notify, under Article 60 bis, paragraph 1, between 25 February 2021 and 25 May 2021, the depositary of their non-acceptance of Annex 11; (ii) C.N.85.2021.XI.A.16, of 9 March 2021, communicating that, by 1 March 2021, none of the Parties to the TIR Convention had communicated to the Secretary-General an objection to an amendment to Annex 6 of the Convention, introducing new Explanatory Note 0.49 of the TIR Convention, which grants operators greater facilities, such as, but not limited to, the possibility to become authorized consignor. Consequently, in accordance with the provisions of article 60 (1) of the Convention, the amendment entered into force with respect to all parties to the Convention on 1 June 2021; (iii) C.N.99.2021.TREATIES-XI.A.16 of 25 March 2021, informing of the submission of a proposal to amend Article 18 and Annexes 1 and 6 of the TIR Convention, 1975. In accordance with the provisions of Article 59 (3) of the Convention, the amendments shall enter into force on 25 June 2022, unless an objection has been communicated to the Secretary-General not later than by 25 March 2022; (iv) C.N.102.2021.TREATIES-XI.A.16 of 24 March 2021, informing that, on 22 March, Switzerland had notified, in accordance with paragraph 1 of Article 60 bis of the TIR Convention, that it does not accept Annex 11 at this time; (v) C.N.157.2021.TREATIES-XI.A.16, of 3 June 2021, communicating that, within the period of three months after the expiry, on 25 February 2021, of a period of twelve months to communicate any objection to new Annex 11 to the TIR Convention, 1975, one contracting party (Switzerland) notified the Secretary-General of its non-acceptance of Annex 11; (vi) C.N.158.2021.TREATIES-XI.16, of 3 June 2021, communicating that certain errors in the English, French and Russian texts of Annex 11 as contained in Annex I to the report of the Administrative Committee for the TIR Convention, 1975, at its seventy-second session held in Geneva on 5 and 6 February 2020 (see ECE/TRANS/WP.30/AC.2/147) and circulated in depositary notification C.N.71.2020.TREATIES-XI.A.16 of 25 February 2020 (reissued on 26 February 2020) had been brought to his attention. Objections to these corrections should be communicated to the Secretary-General no later than by 1 September 2021.

15. Furthermore, the Committee recalled that the Secretary-General of the United Nations, acting in his capacity as depositary, had issued depositary notification C.N.513.2020.TREATIES-XI.A.16, of 4 November 2020, informing of the submission of various proposals to amend the body and annexes of the TIR Convention, 1975, including those that make the electronic submission of data to ITDB obligatory. In accordance with the

provisions of Article 59 (3) of the Convention, the amendments shall enter into force on 4 February 2022, unless an objection has been communicated to the Secretary-General not later than by 4 November 2021. More detailed information on this issue as well as on depositary notifications is available on the TIR website.¹

B. Date of next session

16. The Committee decided to hold its seventy-sixth session on 14 October 2021, subject to potential adjustments due to the ongoing COVID pandemic and the United Nations liquidity crisis.

17. Against this background, the delegation of the European Union noted that the reduced time allotted to the meetings of AC.2 had led to the situation where the Committee was no longer in a position to carefully consider agenda items, leading to the situation where various agenda items could not be discussed due to a lack of time. It called upon the competent services at UNOG to ensure that more time was allotted to future sessions of the Committee in order to allow for a reasonable conduct of business.

C. Tribute to Mr. Roland Kristiansson

18. The Committee paid tribute to Mr. Roland Kristiansson from Swedish customs, thanking him for his valuable contributions over the last decade to the work of the Committee as well as the Working Party and, in particular, for having chaired WP.30 from 2017 until 2020, wishing him the best in the pursuit of his personal life.

V. Adoption of the report (agenda item 4)

19. In accordance with Annex 8, Article 7 of the convention, the Committee adopted the report of its seventy-fifth session on the basis of a draft prepared by the secretariat. During the adoption of the report, French and Russian delegations deplored that the draft report was not available in all three official languages and underscored the importance of ensuring that the final report be made available in all three working languages well in advance of its next session.

20. Further to the adoption of the report, the secretariat will circulate it among registered participants, seeking their approval or pertinent comments before finalizing the report.

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

Annex I

Reply of the ethics office¹

We recall that in November 2020, in its advice, the Ethics Office recommended the following, as possible mitigating measures, among others:

(a) the financing structure regarding the eTIR project be adjusted and the direct financing of UNECE through voluntary contributions by IRU be discontinued; and

(b) 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.

The Ethics Office understands that Annex 11 to the TIR Convention entered into effect in February 2021. The Annex provides, in para 3, that "... [T]he 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." [*emphasis added*]

In view of the changes to the financing of the eTIR system, the Ethics Office further recommended 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 set forth in the regulatory framework of Annex 11 and the legislative decision of the contracting parties. In this regard, the Ethics Office noted from the Note of the secretariat to the Administrative Committee for the TIR Convention, 1975, (document ECE/TRANS/WP.30/AC.2/2021/8, dated 31 March 2021) that the new MOU will be based on the principles that "*The secretariat will no longer report to IRU but only to AC.2;*" (Part I, "Mandate and Background"). The Ethics Office further noted that Article 4 ("Financing") of the new MOU specifies that "*4.1 With a view to achieving the purposes of the MOU, the Parties agree that IRU will make available to AC.2 for further transfer to ECE the amount of USD 202,000, inclusive of the 13% programme support cost element, which will be paid on 30 November 2021, provided that the present MOU is duly approved by the Executive Commission (EXCOM) and endorsed by AC.2 before such date.*" As such, if approved, it appears that funds provided to UNECE would be authorized by the AC.2 and not by IRU. The Ethics Office additionally noted Article 5 ("Exchange of information") which states that "*The Parties recognize that effective cooperation in the transport sector depends on open, comprehensive and regular exchange of information. To the extent possible and in accordance with their respective policies concerning disclosure of information, the Parties intend to exchange information posted on their respective websites of conferences, seminars and workshops being organized or sponsored.*" As such, it appears that UNECE would be under no obligation to report to IRU, which helps reduce the risk of a conflict of interest.

The Ethics Office also recommended that UNECE take this opportunity to undertake a comprehensive review of its contractual or other administrative arrangements currently in effect as well as individual transactions with IRU and to carefully consider IRU's possible other commercial activities which may reflect on the reputation of UNECE. The Ethics Office noted from document ECE/TRANS/WP.30/AC.2/2021/8 dated 31 March 2021 that the UNECE Executive Office has decided to invite OIOS to perform this comprehensive review.

¹ The text is reproduced as received from the Ethics Office.

Finally, the Ethics Office noted that its comments are provided from an ethics perspective, based on the values, principles and best interest of the Organization, and they do not preclude policy, financial, legal or other considerations which your office may deem necessary.

Annex II

List of decisions taken at the seventy-fifth session of the Administrative Committee

<i>Reference in final report (para.)</i>	<i>Short description of decision</i>	<i>Actor</i>	<i>Deadline</i>
8–11	<p>8. The Committee decided to accept the alternative wording for Article 1.2, second paragraph, as proposed by IRU. At the proposal of the European Union, the Committee decided to slightly rephrase Article 4.3 (d) of the MoU to read: “At the end of this MoU and following consideration by AC.2, any unspent funds shall be returned to IRU, unless the Parties decide differently.” At the request of the European Union, the secretariat explained that it has been the firm intention of both parties to conclude the MoU for a period of three years, thus ending on 31 December 2024, as stipulated by Article 11.1 of the MoU.</p> <p>9. The Committee accepted its role as oversight body, based on the provisions of Annex 8 of the TIR Convention which deals, inter alia, with composition, functions and rules of procedure of the Administrative Committee.</p> <p>10. With the exception of the delegation of the Russian Federation, the Committee supported the draft MoU and requested the secretariat to transmit it to EXCOM for information. With this decision, the Committee considered OIOS recommendation No. 6 as approved and implemented.</p> <p>11. (a) Include as Annex of the report of the Committee the response / comments received by the Ethics Office on the draft MoU;</p>	Committee	
16	<p>16. The Committee decided to hold its seventy-sixth session on 14 October 2021, subject to potential adjustments due to the ongoing COVID pandemic and the United Nations liquidity crisis.</p>	Committee	
	Organization of 76th session (14 October 2021)	Secretariat	Deadlines: Agenda: 22 July 2021 Documents: 5 August 2021