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ECONOMIC COMMISSION FOR EUROPE

Administrative Committee for the TIR Convention, 1975
(Fortieth session, 2 February 2006,
agenda item 4 (b) (iii))

ACTIVITIES AND ADMINISTRATION OF THE TIRExB

FINANCIAL ADMINISTRATION OF THE TIRExB AND THE TIR SECRETARIAT

AUDIT OF THE UN BOARD OF AUDITORS

Note by the secretariat

A. INTRODUCTION AND BACKGROUND

1. At its thirty-ninth session, the Administrative Committee was informed that in January 2005 the UN Board of Auditors^{1/} had carried out an audit of the UNECE. This audit included the agreement between UNECE and the IRU concerning the annual transfer of funds for financing the operation of the TIR Executive Board (TIRExB) and the TIR secretariat. In May 2005, the Auditors issued a Management Letter, containing a number of recommendations related to this agreement, including some recommendations aimed at providing closer monitoring and full accountability in the implementation of the TIR Convention. The full list of recommendations is contained in the agenda for this session of the Administrative Committee (ECE/TRANS/WP.30/AC.2/80 and Corr.1). Additionally, at the request of the Chairperson of the Administrative Committee, the full text of the Management Letter has been sent to all Contracting Parties.

^{1/} Established by the General Assembly in December 1946 (Resolution 74 (I)) to carry out external audit of the accounts of the United Nations organization and its funds and programmes and to report findings and recommendations to the General Assembly.

2. Within the context of the issue it should be noted that UNECE on 14 June 2005 provided the UN Board of Auditors with comments related to the recommendations (See [annex 1](#)). For its part, the IRU has informed the UNECE on 21 December 2005 that the Management Letter contains factual errors and misleading statements which need to be addressed (See [annex 2](#)).

B. LATEST DEVELOPMENTS

3. The UNECE secretariat started to implement these recommendations in close consultation with the Auditors and following negotiations with the IRU. As a first step, the draft UNECE-IRU Agreement (already adopted by the Administrative Committee in February 2005) was supplemented with Guidelines and Terms of Reference of an external audit of the accounts kept by the IRU for the collection of the sums and the transfer of the amount required for the financing of the operation of the TIRExB and the TIR secretariat. The Guidelines and Terms of Reference have been agreed with the IRU and, subsequently, on 9 December 2005 the IRU has transferred the funds foreseen in the UNECE-IRU Agreement for 2006. In addition, UNECE has started implementing recommendations 2, 3 and 7.

4. In his letter of 26 November 2005, the Director of the UN Board of Auditors considers the Guidelines and Terms of Reference as a step toward the implementation of recommendation 5 of the Management Letter from 5 May 2005.

5. The UN Board of Auditors will issue a new Management Letter in spring 2006, after which they intend to report to the UN General Assembly on this matter in October 2006. In addition, the UNECE has proposed the UN Office of Internal Oversight Services (OIOS), an internal office that assists the Secretary-General of the UN in fulfilling his internal oversight responsibilities, to include in its 2006 work plan the review of the UNECE-IRU agreement, including a review of all available data on TIR Carnet distribution and monitoring.

C. FURTHER CONSIDERATIONS

6. When analyzing the UN Board of Auditors' Management Letter and its recommendations, it seems that the funding mechanism of the TIRExB and the TIR secretariat through a levy on each TIR Carnet distributed (Annex 8, Article 13, of the Convention) and the collection and transfer by the IRU of the funds required for the operation of the TIRExB and the TIR secretariat, as described in the UNECE-IRU agreement, is a major source of the Board of Auditors' concern. The IRU has informed the UNECE that the consultation of specialized lawyers in various countries has demonstrated "the impossibility, by law, for the IRU and national associations to collect 'the levy' mentioned in Article 13 of Annex 8 to the TIR Convention and in the IRU-UNECE agreement. Indeed, the funding of the TIRExB and the TIR secretariat through the collection, by the IRU, of a levy (tax) on each TIR Carnet distributed is the main source of the

problem". The UNECE secretariat has requested the advice of the United Nations Office of Legal Affairs on this matter.

7. Although it is difficult to anticipate the outcome of the further internal audit and the new Management Letter by the UN Board of Auditors, it may be appropriate to already now start considering whether or not it is necessary to improve the mechanism of funding the TIRExB and the TIR secretariat.

D. POSSIBLE STEP FORWARD

8. In view of the potentially contentious nature of the levy, in combination with the fact that, in spite of UNECE's continued attempts, funding through the Regular Budget of the UN has, so far, not materialized, Contracting Parties may wish to consider alternative approaches to finance the TIRExB and the TIR secretariat. A possible step forward may be found in revising at least Annex 8, Article 13 by linking the funding of the TIRExB and the TIR secretariat to the authorization, granted to an international organization to print and distribute TIR Carnets and to take on responsibility for the effective organization and functioning of an international guarantee system, provided that it accepts this responsibility, in accordance with Article 6.2**bis** of the Convention.

9. In this scenario, in accordance with Article 6.2**bis** of the Convention, and in the framework of the customary practice of granting a five year authorization to the international organization(s) to print, distribute and organize the functioning of the international guarantee system, the Administrative Committee, on a yearly basis, based on a proposal prepared by the TIR Secretary and endorsed by the TIRExB, would determine the budget to cover the operation of the TIRExB and the TIR secretariat for the forthcoming year. Following the confirmation by the international organization(s) of its commitment to transfer the requested funds, the Administrative Committee would confirm the authorization granted to the international organization(s) for that forthcoming year.

10. In case the Administrative Committee endorses an approach to this extent, it may wish to request the secretariat to prepare relevant amendment proposals to the Convention. Such proposals could be discussed and, possibly adopted, at an extraordinary meeting of the Administrative Committee, that could be convened in May-June 2006 in conjunction with the one-hundred-and-thirteenth session of the Working Party .30, leading to their entry into force before the end of the year, thus ensuring the implementation of the new arrangements for the budget of the TIRExB and TIR secretariat as of 2007.

E. FURTHER DEVELOPMENTS

11. The above approach only has an impact on some of the aspects raised by the UN Board of Auditors in its recommendations. However, the secretariat considers that it would clarify, in the short term, one of the major concerns highlighted in the Management Letter, and may pave the way for more balanced and reflective considerations of long term solutions, which, as a result of the internal audit and the new Management Letter, may be required to ensure full transparency and sustainability in the TIR Convention.

Annex 1

Comments by the UNECE related to the recommendations (14 June 2005)



THE EXECUTIVE SECRETARY OF ECE

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**Management Letter on the Audit of the Agreement
Between the Secretariat of the United Nations Economic Commission for Europe
and the International Road Transport Union
dated 5 May 2005**

Comments of UNECE

I. Comments on the Recommendations

Chapter III, Recommendations

UNECE comment:

The recommendations listed in Chapter III of the document differ quite considerably from those reflected in the relevant paragraphs of Chapter IV, not only in their numbering but also in their wording, with the only exception of Recommendation 8. For example, recommendation 1 in Chapter III appears as Recommendation 2 in Chapter IV. Similarly, recommendation 2 in Chapter III becomes 4 in Chapter IV, and so on. More importantly, the wording of recommendations in Chapter III also differs, sometimes substantially, from that of recommendations in Chapter IV. For example, recommendation 6 in Chapter III requests ECE to “formalize an agreement with IRU”, while corresponding recommendation 5 in Chapter IV requests ECE to “revise its agreement with IRU”. Similarly, recommendation 7 in Chapter III requests ECE to “further revise its agreement”, while corresponding recommendation 6 in Chapter IV requests to “formalize an agreement”. Furthermore, recommendations are often repetitive and overlap with each other. As mentioned in our earlier comments, there are substantial differences between revising the present agreement and formalizing an agreement. In view of the above inconsistencies, the UNECE finds it difficult to know what are exactly the recommendations of the auditors that it must follow. Consequently, it is also difficult to provide comments to the recommendations. The UNECE has considered it more appropriate to comment on the recommendations contained in Chapter IV of the document.

Recommendations contained in Chapter IV

Recommendation 1: We recommend that the United Nations Secretariat review, in light of an appropriate internal audit, the long-term perspectives for the ECE-IRU agreement.

UNECE comment:

Prior to signing the UNECE-IRU agreement, the UNECE took care to have its draft text cleared by the UN Office of Legal Affairs in New York. The UNECE is also ready to go through an internal audit on the agreement. However, the UNECE fails to understand how an internal audit could review the long-term perspectives of the agreement, which lie within the competence of the Contracting Parties to the TIR Convention.

Recommendation 2: We recommend that the ECE continue to review its budget forecasting for the TIRExB and the TIR secretariat in order to more precisely reflect the resource requirement of the ECE.

UNECE comment: The UNECE has no particular comment to this recommendation.

Recommendation 3: We recommend that ECE consider invoicing the Trust fund for premises and staff training, as budgeted.

UNECE comment:

The cost of maintenance of office space occupied by ECE extra-budgetary staff and activities, including the TIR Secretariat, are reimbursed to UNOG from the UNECE's total programme support income. Concerning staff training, UNECE will appropriately charge the TIR trust fund account for the costs of training of the TIR secretariat staff upon receipt of the billing from UNOG Division of Administration for the extra-budgetary component of ECE staff training.



THE EXECUTIVE SECRETARY OF ECE

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Recommendation 4: We recommend that the United Nations include in the internal audit recommended above a review of all available data on TIR *carnet* distribution and monitoring.

UNECE comment:

The UNECE can certainly request this data from IRU and make it available to the internal auditors.

Recommendation 5: With a view to provide full accountability, we recommend that ECE revise its agreement with IRU, in order to obtain audited financial information on funds actually levied by IRU and by all its implementing partners (national associations) for the distribution of the TIR *carnets*.

Recommendation 6: We recommend that the United Nations formalize an agreement providing full access to (a) all Convention-related IRU offices, financial and statistical data, and (b) appropriate audited data from all implementing partners involved in financial transactions related to the TIR *carnets* distribution.

UNECE comments:

Recommendations 5 and 6 appear to be both overlapping and inconsistent with each other. While they cover in part similar areas, one recommends ECE to “revise its agreement” and the other to “formalize an agreement”. In view of this inconsistency, a choice has to be made. Recommendation 5 is not an appropriate option because, as explained in earlier comments, revising the present draft agreement, which has already been cleared by the UN Office of Legal Affairs in New York and approved by the Administrative Committee, would jeopardize the continuity, not only of the TIR secretariat and the TIRExB, but also the implementation of the Convention.

With regard to recommendation 6, it is to be noted that the IRU has informed the UNECE that they cannot accept this recommendation (please see attached letter of 7 June 2005). Pursuing recommendation 6 as currently formulated would lead to a situation where there is no agreement. This is potentially extremely dangerous for the smooth functioning of the TIR system and might lead to a major crisis, which could ultimately disrupt international transit transport in the whole ECE region and beyond.

In order to avoid this situation, the UNECE can try and formalize a separate agreement with IRU to obtain on an annual basis an audit statement containing the amounts levied by the IRU on TIR Carnets distributed in accordance with the annual decisions of the TIR Administrative Committee as well as the funds transferred by the IRU to the UNECE Trust Fund for the funding of the operation of the TIRExB and the TIR secretariat. This could be done in a separate agreement or, alternatively, in a side-letter to the existing agreement.

Recommendation 7: We recommend that the Office of Internal Oversight Services launch a thorough internal audit of the implementation and impact of the ECE-IRU agreement, taking into account the above findings and recommendations.

UNECE comment:

This recommendation is not for the UNECE.

Recommendation 8: We recommend that the United Nations review the relevance of continuing their involvement in the financial management of the *carnets* related to the *Transports internationaux routiers* agreement.

UNECE comment:

The UNECE is not involved in the financial management of the TIR Carnet distribution and issuance. The TIR Administrative Committee has authorized the IRU to print and distribute TIR Carnets to its affiliated member associations, who in turn issue TIR Carnets to transport operators. The IRU organizes this process in its own name and on its own responsibility. The IRU offered, and the TIR Administrative Committee accepted, to collect a levy per TIR Carnet for the funding of the TIRExB and the TIR secretariat. The TIR Administrative Committee mandated the UNECE secretariat to enter into an agreement with the IRU concerning the transfer of the funds collected by the IRU. This agreement is, as previously mentioned, cleared by the UN Office of Legal Affairs in New York and approved by the TIR Administrative Committee before it is signed. As a consequence, the UNECE secretariat limits itself to preparing the budget for the operation of the TIRExB and the TIR secretariat as well as to managing the funds transferred by the IRU to the UNECE TIR Trust Fund in accordance with the agreement.



II. Comments on other paragraphs of the report:

Paragraph 7, third sentence but the last states that “The Trust Fund draws its resources from a levy collected by IRU on each TIR Carnet forecasted to be distributed by IRU: since 2001 CHF 0.30 (currently 0.55\$)”.

UNECE comment:

The paragraph puts together two figures that are not comparable. CHF 0.30 is the actual levy applied by IRU in accordance with the audited statement provided, while 0.55\$ is the forecasted levy established by the TIR Administrative Committee for the purpose of meeting the budget of the TIRExB and the TIR Secretariat. This comparison, placed so early in the report and without clarification, leads to confusion.

Paragraph 14, first sentence states that “The operation of the TIR Committee, Executive Board and Secretariat are financed through a levy on each TIR Carnet distributed by IRU”.

UNECE comment:

The statement is not correct. The TIR Committee (which should read “the TIR Administrative Committee”) is not financed through the levy.

Paragraph 14, last sentence, states, “The only reference to the United Nations *Carnet* is that the 1975 Convention was “prepared under the auspices of the United Nations Economic Commission for Europe”.

UNECE comment:

This sentence must contain a mistake. There is no “United Nations *Carnet*”. In addition, the sentence is not related to the rest of the paragraph and does not add value or clarification. On the contrary, it only adds confusion to the paragraph.

Paragraph 19, first sentence, states “The “interim solution” formula applied by IRU indicates that alternatives are being considered by this organisation, such as financing by the Regular Budget.”

UNECE comment:

This “interim solution” was approved by the TIR Administrative Committee, and not by the IRU, due to the fact that the TIR secretariat could not be financed through the regular budget of the UNECE. It is, therefore, not up to the IRU to consider alternatives to this solution. As a matter of fact, this interim solution and its alternative are envisaged in the TIR Convention itself. In the time elapsed since the establishment of the TIRExB and the TIR secretariat, it has not been possible to include the operation of the TIRExB and the TIR secretariat in the regular budget of the UNECE due to budgetary constraints.

Annex 2

**Annex to the letter of 21 December 2005 by the Secretary-General of the IRU to the
UNECE Executive-Secretary a.i.**

**List of factual errors and/or misleading statements in the Management letter issued by the
UN Board of Auditors 5 May 2005, received by the IRU 8 December 2005**

Without commenting the recommendations and other statements in the Management letter the following factual errors and/or statements, which mislead the reader have been found:

Page 2, point 7: In the 5th line it is stated that *IRU has underlined during the audit that this is viewed as an “interim solution”*. This is not a special understanding of the IRU. The correct formulation is: *“According to the Convention Annex 8, art. 13.1 this is an interim solution. According to several reports from meetings of the Administrative Committee this interim solution should only last for a limited number of years and should be substituted by funding through the UN Budget”*.

Page 2, point 7:

- In line 6, it is mentioned that “TF draws its resources from a “levy collected by IRU”. This statement is wrong. The IRU has always made clear that the IRU has never collected a levy because such collection of a “tax” would be illegal.
- In the 7th line the figures “*CHF 0.30 (currently 0,55 \$)*” are mentioned. Neither in 2001 nor currently nor at any time in the period does CHF 0,30 correspond to US\$ 0,55.

Page 3: The Recommendations are numbered 1-8 with references to the relevant points in the Audit Observations. The numbering of the Recommendations does not correspond to the numbering of the Recommendations in the Audit Observations. Examples: Recommendation number 1 on page 3 seems to correspond to Recommendation number 2 in point 25 on page 7 of the Audit observations; Recommendation number 4 in the Audit Observations in point 32 on page 9 seems to correspond to Recommendation number 2 on page 3; and so on. It is difficult to follow the link between the Audit Observations and the 8 Recommendations.

Page 5, point 14: The 2 last sentences are not reflecting the Convention or its Annexes, nor do they correspond to the agreement or any decision by the Administrative Committee. It is difficult to understand the meaning of the last sentence and which conclusions the sentence could lead to.

Page 5, point 16: The agreement between UNECE and the IRU does only refer to claims by Customs Authorities not to “disputes”.

Page 5, point 17: The last sentence “... *our audit did not include in its scope a review of the actual delivery of these functions.*” ... could lead to misleading impression. In fact, the auditors could have found documentation in the UNECE demonstrating that all 16 obligations have been respected by the IRU, and this has been confirmed to the auditors by the UNECE.

Page 6, table 1, point 8. Point 4.1 referred to, does not exist in the Recommendations or the Audit Observations.

Page 7, point 19: The sentence “...*indicates that alternatives are being considered by this organization ...*”(IRU). As stated in several reports by the Administrative Committee, the Contracting Parties look for alternative financing mechanism as a consequence of the contents of Annex 8, Article 13 of the Convention. The IRU has nothing to do with such “considerations”. It seems that one of the most important recommendations of the Auditors (Recommendation 1 in Point 1 on page 7 – Recommendation number 4 on page 3) is based on this fundamental misinterpretation by the Auditors.

Page 8, point 29: When speaking about the significant variances for a single country from year to year it is assumed that the number of TIR Carnets distributed by the IRU to the national associations should correspond to the use of carnets and thereby the development in traffic. However, it has been clearly explained to the Auditors that the number of carnets distributed by the IRU to the national associations in the individual years does not necessarily reflect the traffic as the associations build up stocks of the different types of carnets. The content of point 29 has not been corrected.

Page 13, List of Acronyms: The name of the International Road Transport Union is not reproduced correctly.
