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Report of the Secretary-General

Part III: Administrative and statutory matters

(e) Implementation of an ethics function

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II. Purpose of this report to the Executive Council

1. The White Paper implementation plan requested the Secretary-General to “draft an implementation plan for an ethics function at UNWTO” (see CE/93/8, action 46). This paper intends to fulfill this requirement by outsourcing this function to the United Nations Office for Project Services (UNOPS). This would reconcile the establishment of an ethics function at the UNWTO in line with UN standards, while making this deployment in a cost-efficient manner.

III. Ethics in the UN context

2. The UN Charter enshrines the requirement that its staff and their conditions of service should secure the highest levels of competence, efficiency and integrity (reference UN Charter, Article 101). This requirement is transposed in these same terms in the UN Staff Regulations, which also clarify as follows: “the concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status” (reference Regulation 1.2(b)).



3. On this subject, the International Civil Service Commission established in 1954 its first Standards of Conduct in the International Civil Service. These standards were updated in 2001 following a long consultation period, and published as Annex II of the ICSC report for 2001 (UN General Assembly document A/56/30) and adopted in resolution 56/244.
4. The ICSC in its document “A Framework for Human Resources Management” provides the rationale for ethics/standards of conduct for the international civil service and the definition and principles these standards should comply with.
5. In 2006, the UN General Assembly in its resolution 60/248 established an Ethics Office for the UN Secretariat with the mission to “promote an ethical organizational culture based on our shared values of integrity, accountability, transparency and respect.”
6. The Joint Inspection Unit in its report JIU/REP/2006/2 (Oversight Lacunae in the United Nations System) recommends UN bodies establish an ethics function within their Organizations (recommendation 15). The JIU addresses more specifically the ethics function in report JIU/REP/2010/3 (Ethics in the United Nations System) providing specific recommendations and benchmarks to the function. This report also criticizes the UNWTO for not having established such function: “the budget data in table II demonstrate the low level of commitment to the ethics function in many of the Agencies, with zero funding in 2010-2011 in ICAO, IMO, WIPO and UNWTO.” This report also advises small organizations like the UNWTO to share an ethics officer among them or to outsource the function to another UN Organization.

IV. Rationale for establishing an ethics function at the UNWTO

7. The statutes of the WTO approved in 1970 included in its Article 24.3 a provision similar to that of the UN Charter, as follows “the paramount consideration in the recruitment of staff and in the determination of conditions of service shall be the necessity of securing the highest standards of efficiency, technical competence and integrity.” This provision is also translated to Regulation 15(a) of the Staff Regulations. Staff Regulation 4 when referring to the conduct of officials also stipulates that “Officials shall conduct themselves at all times in a manner befitting their status as international civil servants.” Staff Rule 14(1) in turn indicates that an official on appointment has to take an oath of office and to accept the conditions subscribed in the Staff Regulations and Staff Rules and in the Standards of Conduct for the International Civil Service.
8. Following accession to the UN system in 2003, applicability of ICSC’s standards of conduct to UNWTO staff was reinforced by inserting a clause referring to these standards in the Organization’s contracts. A subsequent office circular in 2009 further clarified this applicability to staff.
9. Ethics and integrity of staff were high in the agenda of UNWTO’s internal reform process, as already outlined in the document on Management Strategy at the General Assembly in Astana (document A/18/14) and then subsequently included in the different working versions of the White Paper, from which it emerged as an action point as mentioned earlier in this document.
10. In parallel, the UNWTO has increased the terms of the accountability required from its officials. In its the review of the Detailed Financial Provisions, approved at the Executive Council in Madrid 2012, a new addition was Detailed Financial Rule 1.07 which states: “Officials involved in any action that is contrary to the Financial Regulations and Rules, policies or administrative instructions of the Organization may be held personally responsible for the consequences of such action.”

11. From another angle, the UNWTO has also been very committed to the issue of ethics, having developed and fostered a global code for ethics on tourism for a decade, a pioneering effort to which the Organization remains fully committed.

V. Terms of reference and implementation modalities

12. Considering both the growing relevance of an ethics function at the UNWTO and the resource constraints to staffing the function through an internal position, the Organization, after the 19th General Assembly in Korea, commissioned UNOPS to carry out a report on the review and roadmap for implementation of an ethics function at the UNWTO. The study prepared by UNOPS, enclosed as an annex to this document, describes the components of an ethics function meeting UN standards for an overall implementation cost in the range of 30,000 euros per annum, while some additional costs of variable character may need to be added to that figure for the setup of an internal Financial Disclosure programme for Senior Staff. Specific cases warranting an investigation might also increase the final cost of the function.

13. The study calls for a decision on the part of the legislative body of the Organization to establish the ethics function in the Organization which would include at least the following functions:

- Development and dissemination of ethics standards;
- Development and implementation of mandatory ethics training;
- Provision of confidential ethics advice and guidance to all staff of the Organization whatever their contractual status;
- Administering the Organization's policy for the protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations (whistleblower protection policy);
- Administering the Organization's financial disclosure programme.

14. In addition, the following functions would be added to the portfolio of ethics to ensure appropriate coverage of the possible cases the Organization might face:

- Receiving complaints of unethical conduct, including harassment, and advising on whether there appears to be a *prima facie* case thereof, and suggesting to management the best approach for handling the case;
- Using the ethics hotline to receive not just ethical issues in a narrow sense, but to receive all reports or complaints of misconduct, with appropriate referral;
- Assisting on mediating between staff if requested by the Secretary-General; and/or
- Assisting in the identification of suitable investigators where cases necessitate an investigation.

15. The study proposes that the ethics officer report directly to the Executive Head of the UNWTO, providing an annual report about its activities. This report could go to an Executive Council session of the year following the year the report refers to, with the comments and clarifications deemed relevant by the Secretary-General.

VI. Outsourcing of the ethics function to UNOPS

16. In relation to the implementation of the function, two main considerations are made:

17. The first concerns the credibility -internal and external- of the resource discharging the ethics function. While it might be possible to recruit a resource for this function at an annual cost of 30,000 euros, not just any resource would command the necessary internal credibility among staff for the function to be useful. In addition, the resource would need to be familiar with and well reputed at the United Nations system of Specialized Agencies. Finally, the resource and its opinions would also have to be credible to UNWTO's Members.

18. The second consideration relates to cost: the resource dedicated to ethics - regardless of the actual time spent in fulfilling the duties in an Organization of some 100 staff- cannot be expected to discharge other line functions within the Secretariat to complete a full-time position. Further, the resource has to receive the seniority level appropriate to a function reporting directly to the Executive Head. Having these considerations in mind and with due regard for the Organization's financial constraints, it would not be feasible to dedicate a staff position to this function in an organization like the UNWTO.

19. When both considerations are put together, the option of outsourcing the function to another UN body appears to be both rational and economical. This said, it has to be recognized that the UNWTO had no funds allocated to this function in the past and is now facing the practical difficulty of implementing a mandate for which no financial provision exists and with an already tight budget in a budget reduction environment.

20. In view of these considerations relating to credibility and cost, the UNWTO is currently discussing with UNOPS an agreement for the provision of ethics advisory services to the UNWTO. The agreement would be established for a period of one year, renewable. If this overall framework were endorsed at the 94th Executive Council session, the Agreement could be finalized so that the function could become operational as from 1 January 2013.

VII. Actions to be taken by the Executive Council

21. In view of the above, the Secretary-General proposes the following decisions be adopted by the Executive Council, insofar as they are considered appropriate:

- (a) To recognize the applicability of ethical standards at the UNWTO against the benchmark applied by the United Nations; both in view of the commitment of the Organization to it, and of the applicable articles in UNWTO's Statutes, and Staff and Financial regulations;
- (b) To welcome the feasibility study for establishing an ethics function at the UNWTO, prepared by UNOPS in 2011, endorsing in particular the need to create an ethics function at the Organization encompassing the nine sub-functions listed in paragraphs 13 and 14;
- (c) To request the Secretary-General to make the necessary agreements with UNOPS for the provision of these functions, while keeping costs to some 30,000 euros per annum, with a preferred starting date for the Agreement of 1 January 2013;

- (d) To incorporate this function in the planning of subsequent programmes of work and budget of the Organization, unless mandated otherwise; and
- (e) To request the Secretary-General to report annually to the Executive Council on the implementation of the ethics function in the previous year, including the ethics officer's own report. The Executive Council would also be available to consider any other report that may be submitted by the ethics officer.

Annex: Feasibility Study on Ethics

UNOPS

**Establishment of the Ethics Function in the World Tourism Organization
(UNWTO)**

A feasibility study

by

David Mitchels Ethics Officer, UNOPS, 21 December 2011

Terms of Reference

1. By Collaborator Contract C/5565, reference 40793/PERS/2011, I was asked to provide the following services in connection with the project "Establishment of the Ethics Function":
 - (a) Discuss matters related to the project with the UNWTO relevant staff;
 - (b) Diagnose the UNWTO status with regards to ethics, and advise on the ethics function and activities; and
 - (c) Deliver a road map for the implementation of the project, with emphasis on activities that can be implemented first.

Visit to UNWTO HQ

2. I attended UNWTO HQ in Madrid on 21 and 22 November 2011. I was there able to discuss the issues with the following UNWTO staff (in order of discussions): Ms Isabel Garaña, Mr Luigi Cabrini, Mr Favilla Marcio, Ms Alicia Gomez, Mr Munir Rayes, Mr Taleb Rifai, Mr Frederic Pierret, Mr Zoltan Somogyi, Mr Harsh Varma, Ms Marina Diotavelli, Ms Jose Garcia- Blanch, Ms Carmen Molina, Mr Javier Torres, Ms Emi MacColl, Mr Carlos Vogeler, and Mr Philippe Lemaistre.
3. The message from all was loud and clear - an ethics function was necessary in UNWTO, and indeed would be welcomed by the staff. The main concern expressed was cost.
4. At this juncture, I would like to record my thanks to the Secretary-General for initiating this process, and giving a very clear tone from the top on the importance of an ethics function. I would also like to thank Mr Garcia-Blanch and Ms Gomez for the excellent organisation of my visit, and their support throughout. And, of course, my thanks to all colleagues who welcomed me and gave me their time.

Background

5. UNWTO is a specialised agency of the United Nations, having joined in 2003. It is in the process of harmonising its rules and procedures to conform with those in the UN system generally. It is the smallest agency of the UN system in terms of staff numbers.
6. UNWTO, amongst other specialised agencies, was criticised by the Joint Inspection Unit of the United Nations (JIU) for having a zero budget for an ethics function (see JIU/REP/2010/3, "Ethics in the UN system", available at <http://www.unjiu.org/en/reports.htm>). UNWTO has had a Code of Ethics for tourism for more than ten years, i.e., before it joined the UN system, but it has never installed a personnel integrity management programme.

7. Whilst the JIU criticised UNWTO for not having an ethics function, it also recognised the problem of establishing a full office in smaller agencies. It suggested that smaller agencies could band together, or alternatively one agency could provide ethics services for another.

8. UNWTO has difficulty banding together with other agencies, since it is the only UN agency headquartered in Madrid. It therefore looked at the other option suggested by the JIU - having another UN organisation provide those ethics services - and sought the advice of the United Nations Office for Project Services (UNOPS), since UNOPS was and is a UN organisation established only to provide services to others.

9. The JIU, in its report "Ethics in the UN system" (JIU/REP/2010/3) considered what were the essential areas that an Ethics Office in the UN system should cover. It decided that the terms of reference, and operation, of the UN Ethics Office in the Secretariat in New York was the benchmark for other agencies, and from that benchmark produced its "suggested standards".

10. I cut and paste paragraph 20 of "Ethics in the UN system":

Quote:

The JIU suggested standards for the establishment of the ethics function, relating to the mandate and terms of reference, are set out in box 1 below.

Box 1

Establishment of the ethics function JIU suggested standards:

- (a) Ethics function established by a decision of the legislative body.
- (b) Terms of reference of ethics function to include:
 - (i) Development and dissemination of ethics standards;
 - (ii) Development and implementation of mandatory ethics training;
 - (iii) Provision of confidential ethics advice and guidance to all staff of the organization whatever their contractual status;
 - (iv) Administering the organization's policy for the protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations (whistleblower protection policy);
 - (v) Administering the organization's financial disclosure programme.

Unquote

11. It should be noted that these TOR indicate the basic functions of an ethics office in the UN system; no UN organisation now should be without them. But the executive head of any agency may add to those functions as may seem appropriate or specific to the agency, subject of course to none of the additional functions conflicting with the basic functions. As an example, some executive heads have added harassment to the functions of the ethics office, whilst others leave that function in its human resources department. If such was required by the SG, then one or more of the functions listed in Box 2 could also be added to the TORs.

Box 2**Establishment of the ethics function****Possible additional functions:**

- (i) Receiving complaints of unethical conduct, including harassment, and advising on whether there appears to be a *prima facie* case thereof, and suggesting to management the best approach for handling the case;
- (ii) Using the ethics hotline to receive not just ethical issues in a narrow (i.e. Box 1) sense, but to receive all reports or complaints of misconduct, with appropriate referral;
- (iii) Assisting on mediating between staff if requested by the SG; and/or
- (iv) Assisting in the identification of suitable investigators where cases necessitate an investigation.

12. ST/SGB/2007/11 was the Bulletin of the Secretary-General of the United Nations that required the establishment of Ethics Offices in all the Funds and Programmes. That SGB also mandated the establishment of the UN Ethics Committee (UNEC), which is a committee comprised of the ethics officers of the UN, UNDP, UNFPA, UNOPS, UNICEF, UNRWA, UNHCR and WFP. In the last couple of years, another network has been established which provides an even wider opportunity for coherence in the UN system. This is the Ethics Network of the Multi-Lateral Organisations (ENMO), comprising (now but it will increase) twenty-six organisations of the UN, the Funds and Programmes, the UN specialised agencies, and other international multi-lateral organisations such as the International Atomic Energy Authority, the World Bank, the International Monetary Fund, and the development banks. It is well worth making involvement in this network a part of the TORs of the Ethics Office - it will save time, and keep UNWTO up to date on all the latest developments. I attend the meetings of both UNEC and ENMO, and participate in the frequent email exchanges. These networks have institutionalised coherence in the system.

Reporting

13. The JIU has insisted that it is critical for the Ethics Office to operate independently of management, and that the Ethics Officer ("EO") must report directly to the executive head. The JIU also says that the EO's annual report should go to the governing body, without amendment by the executive head.

14. In UNWTO, because no ethics function has been established, neither the General Assembly, nor the Executive Council, have yet asked for direct reporting.

15. Of course, EO would not want to burden the SG with every matter, so will directly approach relevant managers as and when required, and only take a matter to the SG when he cannot otherwise resolve the issue, or he believes this is an issue that carries political or reputational risks to the organisation.

Costs

16. There has to be a budget for the establishment of an ethics office. The main expense of an ethics office is its staffing. I have therefore looked at this question carefully to ensure that I do not propose a roadmap for implementation which would not exceed available funds.

17. The JIU was clear that the ethics function need not be full-time in the smaller agencies. UNOPS, for example, with a fluctuating personnel of around 3,000 to 5,000, is active in the ethics field, but has no full-time dedicated staff in the office. The office is contactable by telephone and email 24/7, but EO works on a when-actually-employed (WAE) part-time basis non-staff basis. Should UNOPS be asked by UNWTO to provide a service, I would suggest, in the interests of economy, that the same approach is used.

Roadmap

18. UNOPS recommends that UNWTO establish a framework, which sets out the functions and responsibilities of the Ethics Office, bringing in the functions set out by the JIU as "suggested standards".

19. An Ethics Office, once established, should have an EO appointed, together with the necessary infrastructure, namely a telephone extension in HQ and an email account, and there should be a hot-line for anonymous or confidential reports. The telephone line could be the same as for EO, but, as well as a named account, it would be better also to have an email account showing the function rather than a name, e.g. EthicsOfficer@UNWTO.org. Whilst some agencies have established other hot-lines (such as for Fraud or Harassment), UNWTO may find it more convenient to keep to one hot-line. EO will know what to do with matters that do not fall with his/her TOR.

20. Whilst the telephone extensions and email accounts would be established in UNWTO's HQ in Madrid, EO would actually be in Madrid only when specifically authorised, and would access emails by remote desk-top, and receive telephone calls by the IT system forwarding them from the dedicated extension.

21. Once these telephone and email connections are established, the office can start to work. The SG could issue a circular all-staff email setting out the services that would be provided by EO, the TORs, and the timetable for implementation. EO would, of course, provide a draft message for the SG's consideration. At this stage, the office could be up and running with all the advisory functions.

22. The SG would then need to bring in the two remaining functions, which are of course protection against retaliation, and financial disclosure. It would be appropriate for the SG to issue specific directives on these subjects. Again, of course EO would provide drafts for the SG's consideration.

23. The shortest practical time for this process is, I believe, six months, and thus the Ethics Office could be operational by June 2012.

24. Financial disclosure, however, takes more time to bring into operation. The directive would set up the duty to disclose, and list (by function or grade) those who must disclose. An officer would be appointed by the SG to prepare a list of names of staff whose functions are within the categories listed. Those persons would then have to file, and someone would have to review what they had filed.

25. Normally, financial disclosure (FD) is done in years, and the calendar year is the simplest to use. Therefore, in the first three months of any year (the earlier the better in fact), the request to file is sent out. The request has to attach the form which must be used. The staff required to file then have to return the form, fully completed, but a date (usually 31 March). The assets, liabilities and interest declared on the form will be those of the previous calendar year - so, therefore the 2012 round would seek information from the 2011 calendar year. UNOPS can provide this system, and the form, appropriately customised to UNWTO.

26. The forms are then reviewed. This can be done in house, but the Secretariat and some other agencies use an outside reviewer. This is beneficial because the outside reviewer is most unlikely to be a friend or acquaintance of the staff member, and it is more professional. This reviewer, known in FD-

speak as the Third Part Administrator (TPA), should be a person or company specialising in audits, investigations reviews, etc., and having a good knowledge of UN systems and practices. UNOPS has such a reviewer (contracted following a UNICEF competitive process), and UNWTO could "piggy-back" UNOPS' contract and process. Whilst UNWTO could theoretically go it alone, and tender for its own TPA, delays would be caused, and the costs would be much higher (as any new TPA would have to set up the system and the form). The FD programme would then be started in the following year.

Suggested timetable

27. Above, I have set out that the Ethics Office could be up and running in UNWTO by the end of June 2012, with the exception of the first round of financial disclosure, which could begin in January 2013. But to ensure no delays (delays will imply lack of resolve, and will attract criticism, internally and externally), I believe it should be given a little more time. Important decisions and documents should not be rushed.

28. The suggested dates for the process are therefore these:

- (i) UNWTO's Secretary-General (SG) takes the decision as to whether UNWTO should establish an ethics function, and whether UNOPS should provide the service, and what the office's TORs are. Suggested date: by 29 February 2012.
- (ii) Assuming the SG gives the go-ahead, UNOPS and UNWTO negotiate an agreement. Suggested date for completion of the negotiation: by 30 April 2012.
- (iii) The agreement is signed by the SG by 31 May 2012, and reported to the Executive Council at their meeting in June 2012 (or is put to Executive Council as a draft for approval, as necessary, and then signed).
- (iv) UNWTO then sets up the infrastructure (basically, telephone, email amount, hot-line and intranet page). This can be done by 31 July 2012.
- (v) UNOPS then supplies the SG with draft documentation; directives email circulars, intranet text. Appropriate officers of UNWTO examine the drafts, and decide final drafts to be recommended to the SG.
- (vi) SG issues directives which set up the ethics functions. Suggested date; by 30 September 2012.
- (vii) On 1 October 2012, the ethics office goes live, i.e., provides advice and guidance in accordance with its TORs.
- (viii) By 31 October 2012, the officer so designated by the SG provides a list to EO showing the names, occupations and contact details of those staff that are within the provisions of the directive on FD.
- (ix) In December 2012, ET issues a circular email explaining the FD arrangements (basically saying that those who must file will be notified of such by 31 January 2013, and must file by 31 March 2013).

29. **The important point to note about this timetable is that by the end of 2012, UNWTO would have an ethics function completely in line with the JIU 's "suggested standards".**

Cost

30. For a lump sum, UNOPS could provide:

- (i) First drafts of all directives and advisories, and continuing input during the discussion phase.
- (ii) A remote, part-time Ethics Officer (EO) providing advisory services by telephone, email and Skype.
- (iii) An on-line training course ("Integrity Awareness"), with further training to follow as it became available system wide.
- (iv) A "Whistle-blower protection" process.
- (v) The set-up of a financial disclosure (FD) programme.

31. UNWTO would provide the services of its in-house legal, administrative and IT staff to customise documentation and set up processes and connections.

32. The cost for the basic service provided by lump sum contract would be Forty thousand United States dollars (\$40,000) or Thirty thousand Euros (Eur 30,000), for the year 2012. The project would be reviewed during October 2012, and a decision on what was required for 2013 (and possibly subsequent years), and the appropriate fee for those requirements, agreed in the light of experience. All requested and authorised travel, and additional tasks (e.g. an investigation) would of course be additional to the lump sum.

33. A specific cost is that set out in 30 (v) above, the set-up of the FD programme. For the avoidance of doubt in relation to costing, this would include the contract costs of the TPA in New York. With regard to this aspect, the principal cost of the FD programme, whether for small or large numbers of personnel, is the set-up. Ongoing costs, set *per capita*, are very modest for a small agency, although of course there is a cost for the necessary reporting at the need of each year's exercise, even though the numbers are small. For your information, I have budgeted a figure of USD 5,638.08 for the FD set-up. Costs continue to rise in all areas, but, since this cost is included in the lump sum offer, the cost rise risk would rest with UNOPS.

A connected issue: Oversight

34. Another connected matter discussed during my visit, but outside the TORs for this report, is the Internal Oversight function. I was also given a paper (Executive Council, CE/88/5(a), April, 2010), and a White Paper presented to the General Assembly in Gyeongju in October 2011, which I have now read.

35. The White Paper sets out the need for a general oversight function. The Executive Council paper provides a progress report on the establishment of an Internal Oversight function, and annexes a draft UNWTO Internal Oversight Charter. It would seem, from the papers and what I have been told, that there is no doubt that all agree something like this Charter should be operationalized, but the methodology of operationalization has not been agreed upon. As a result, currently, no funds have been allocated.

36. The Internal Oversight function, according to the draft Charter, comprises internal audit, evaluation, inspection and investigation. Omitted from this draft are the ethics and ombuds functions; sometimes these are also listed as oversight functions, but not always, because there is a difference.

37. The difference is that the oversight functions listed are largely about compliance (i.e. adherence to rules and regulations), and efficiency and impact. Ethics is about values and principles. In my view, it is important, and indeed mandatory, to have all these functions in any UN agency, and UNWTO, if it stays in the UN, can be no exception. Since budget constraints would seem to indicate that UNWTO must phase in all these functions, my suggestion is that the best approach is to instil the values and principles first, and then move on to the compliance and evaluation functions.

38. Thus, my suggestion is that UNWTO proceed to install an ethics office handling those ethics issues that are mandatory in the system, but meanwhile we can discuss how all the oversight functions can be brought in. It will be noted that the JIU, in its general review of UNWTO (JIU/REP/2009/1), at page 23, recommends (Recommendation 22) the "UNWTO General Assembly should in-source the internal audit, inspection, evaluation, investigation and monitoring functions to any other organisation in the United Nations system that has the capacity to respond. Alternatively, the UNWTO General Assembly should provide the necessary resources, there positions, for the above-mentioned functions for the 2010-2011 biennium". As I understand it, the GA has not provided resources for three positions, in 2010/11 or 2012/13, and thus in-sourcing would seem to be the best approach. UNOPS would be prepared to look at whether it could supply these services, if asked, and whilst there must clearly be a cost, it is unlikely it would be as much as the cost of hiring three staff members.