

**MARITIME TRANSPORT**

**MARKET ACCESS/ TECHNICAL CONDITIONS/ SOCIAL CONDITIONS/ INTERNATIONAL RELATIONS**

- **How are competition rules applied to the liner shipping sector? Is there legislation governing the choice of operator and compensations for public maritime service? Do aid schemes (including tax advantages) exist for maritime companies or sailors? Do aid schemes exist for ship construction?**

Law on the Protection of Competition No. 4054 (Official Gazette: 13 December 1994, no 22140) constitutes the legal framework against anti-competitive practices and it is applicable to all sectors of the economy in Turkey. Basic articles can be given as follows:

- Article 4 prohibits agreements and concerted practices between undertakings, and decisions and practices of associations of undertakings which restrict, distort or prevent competition.
- Article 5 provides exemption for agreements, concerted practices and decisions in case certain conditions are met. Exemption can be granted either by a decision (individual exemption) or by a communiqué (block exemption).
- Article 6 prohibits abuse of dominant position.
- Article 7 prohibits mergers and acquisitions that create or strengthen a dominant position and decrease competition significantly.
- Finally, Article 8 provides for negative clearance certificate if agreements, decisions, practices or mergers and acquisitions do not violate articles 4, 6, and 7 of the Law.

At present, no block exemption communiqué exists regarding liner shipping conferences and consortia. However, the Turkish Competition Board (the Board), the decision making body of the Turkish Competition Authority (TCA), adopts the principle of not taking an action against the restrictive conducts which are exempted by the EC's Block Exemption Regulation No. 4056/86 (Reg. No. 4056/86). In 2003 and 2005, in two cases, the Board decided not to prosecute the liner conferences in question for price fixing activities because these activities were exempted by Reg. No. 4056/86. In 2003, a Working Group was formed within the TCA in order to prepare a draft block exemption communiqué on liner conferences parallel with Reg. No 4056/86. The TCA is currently waiting for the EC's new policy on liner conferences in order to determine its own policy on liner conferences in parallel with the EC's new policy.

Regarding consortium agreements, TCA has not handled any case so far. No application has been filed. However, even if there is no block exemption for liner conferences and consortium agreements at the moment, it is still possible to examine both the liner conferences and consortium agreements under Article 5 of the Law (individual exemption).

There are no maritime services given by the government. So, there are no state-appointed operators. Also, selection of 'providers to the public' is also subject to the procurement legislation. It states that all parties with determined qualifications can participate in tenders and the tender shall be awarded on the basis of most economically advantageous offer.

Any sector specific state aid to the shipyards is not provided. In terms of state aids, shipbuilding industry can benefit from the measures stated under the general investment encouragement programmes that are provided by the Undersecretariat of Treasury.

Also the exemption from customs duties and related taxes for imported equipment for shipbuilding or repair yards under the terms of Law on the Development of Maritime Commercial Fleet and Support of Ship Building Facilities No:2581 (Official Gazette: 21 January 1982, no 17581) is applicable as stated below:

'Ships, which are either purchased from abroad as constructed or readymade and ships (including floating docks) built, modified or repaired in Turkey as well as machinery, equipment and fixtures used in the equipping and navigation of such ships as well as machinery, equipment and fixtures used in construction, modification, expansion and repairs of ship production facilities shall be exempted from customs duties and other taxes and levies (including stamp tax), provided that competent authorities agree thereto.'

- **What are the rules governing access to the freedom to provide international maritime transport services and access to freedom to provide national maritime transport services (maritime cabotage)?**

Law on Cabotage No. 815 (Official Gazette: 29 April 1926, no 359), regulates accession to the freedom to provide international maritime transport services and accession to freedom to provide national maritime transport services (maritime cabotage). According to the provisions of the Law on Cabotage, passengers and goods may be carried by foreign ships between Turkish ports and foreign ports. Maritime transport among Turkish ports has been assigned to Turkish ships. If shipowner is a Turkish citizen or majority of shares of ship belong to Turkish citizens or majority of partners of company are Turkish citizens and ship is registered in National Ship Registry or Turkish International Ship Registry, the ship is accepted as Turkish ship. Towage, pilotage and other services related to port in Turkey may be done only by Turkish ships. Some professions related to sea may only be pursued by Turkish citizens. Seafarers of Turkish ships shall be Turkish citizens. Cabinet may permit foreign ships to provide rescue services and foreigners to be employed on board Turkish rescue boats temporarily.

- **What are the conditions for the registration of vessels (requirements on ownership for first and where relevant second registers, management, crew nationality)?**

Turkey has two types of ship registries, namely Turkish International Ship Registry and National Ship Registry. Turkish International Ship Registry is regulated by the Law on Turkish International Ship Registry No. 4490 (Official Gazette: 21 December 1999, no 23913). According to the provisions of this law, ships which belong to;

- Turkish citizens,
- Foreigners who reside in Turkey,
- Companies established in Turkey,

may be registered in Turkish International Ship Registry. In that case, master shall be Turkish citizen. If shipowner is Turkish citizen, 51% of crew members shall be Turkish citizen.

Ships registered in Turkish International Ship Registry can benefit cabotage rights, provided that;

- Shipowner is a Turkish citizen,
- Majority of shares belong to Turkish citizens,
- Majority of partners are Turkish citizens.

National Ship Registry is regulated by the Commercial Code No. 6762 (Official Gazette: 09 July 1956 no 9353). According to the provisions of the Law, ships having following conditions may be registered;

- Shipowner is Turkish citizen,
- Majority of shares belong to Turkish citizens,
- Majority of partners are Turkish citizens.

In that case, seafarers of ships registered in National Ship Registry shall be Turkish citizen. Ships registered in National Ship Registry may benefit cabotage rights.

- **To which extent are technical and social standards based on measures agreed to in the IMO and/or ILO?**

Turkey is member of IMO and ILO. The rules and recommendations on social and technical standards of both international organizations have been implemented in Turkey. In addition, Turkey is a State Party to below international conventions and protocols, which have been regulated in the platforms of IMO and ILO.

IMO Maritime Conventions to which Turkey is a State Party:

**Ratification or Accession of Conventions (Turkey)  
(Source IMO)**

| Convention        | Deposit Date | Date of Country Entry into force | Type         |
|-------------------|--------------|----------------------------------|--------------|
| AFS 2001          | -            |                                  |              |
| BUNKERS 2001      | -            |                                  |              |
| CLC 69            | -            |                                  |              |
| CLC PROT 76       | -            |                                  |              |
| CLC PROT 92       | 17/08/2002   | 17/08/2002                       | ACCESSION    |
| COLREG 72         | 16/05/1980   | 16/05/1980                       | ACCESSION    |
| CSC 72            | -            |                                  |              |
| CSC AMEND-93      | -            |                                  |              |
| FAL 65            | -            |                                  |              |
| FUND 71           | -            |                                  |              |
| FUND PROT 1976    | -            |                                  |              |
| FUND PROT 1992    | 17/08/2001   | 17/08/2002                       | ACCESSION    |
| FUND PROT 2000    | -            |                                  |              |
| FUND PROT 2003    | -            |                                  |              |
| HNS 96            | -            |                                  |              |
| IMO AMEND-91      | -            |                                  |              |
| IMO AMEND-93      | 04/05/2001   | 07/11/2002                       | ACCEPTANCE   |
| IMO CONVENTION    | 25/03/1958   |                                  |              |
| IMO CONVENTION    | -            |                                  |              |
| IMSAT AMEND-94    | 31/03/2000   |                                  | ACCEPTANCE   |
| IMSAT AMEND-98    | 27/02/2001   | 31/07/2001                       | ACCEPTANCE   |
| INMARSAT C 76     | 16/11/1989   | 16/11/1989                       | RATIFICATION |
| INMARSAT OA 76    | 16/11/1989   | 16/11/1989                       | SIGNATURE    |
| INTERVENTION 69   | -            |                                  |              |
| INTERVENTION PROT | -            |                                  |              |

|                   |            |            |              |
|-------------------|------------|------------|--------------|
| LC 72             | -          |            |              |
| LC AMEND-78       | -          |            |              |
| LC PROT 96        | -          |            |              |
| LL 66             | 05/08/1968 | 05/11/1968 | ACCESSION    |
| LL PROT 88        | -          |            |              |
| LLMC 76           | 06/03/1998 | 01/07/1998 | ACCESSION    |
| LLMC PROT 96      | -          |            |              |
| MARPOL ANNEX I/II | 10/10/1990 | 10/01/1991 | ACCESSION    |
| MARPOL ANNEX III  | -          |            |              |
| MARPOL ANNEX IV   | -          |            |              |
| MARPOL ANNEX V    | 10/10/1990 | 10/01/1991 | ACCEPTANCE   |
| MARPOL ANNEX VI   | -          |            |              |
| NUCLEAR 71        | -          |            |              |
| OPRC 90           | 01/07/2004 | 01/10/2004 | ACCESSION    |
| OPRC/HNS 2000     | -          |            |              |
| PAL 74            | -          |            |              |
| PAL PROT 1976     | -          |            |              |
| PAL PROT 1990     | -          |            |              |
| PAL PROT 2002     | -          |            |              |
| SALVAGE 89        | -          |            |              |
| SAR 79            | 21/11/1985 | 21/12/1985 | RATIFICATION |
| SFV PROT 93       | -          |            |              |
| SOLAS 74          | 31/07/1980 | 31/10/1980 | ACCESSION    |
| SOLAS AGR 96      | -          |            |              |
| SOLAS PROT 78     | -          |            |              |
| SOLAS PROT 88     | -          |            |              |
| SPACE STP 73      | -          |            |              |
| STCW 78           | 28/07/1992 | 28/10/1992 | ACCESSION    |
| STCW-F 95         | -          |            |              |
| STP 71            | -          |            |              |
| SUA 88            | 06/03/1998 | 04/06/1998 | RATIFICATION |
| SUA PROT 88       | 06/03/1998 | 04/06/1998 | RATIFICATION |
| TONNAGE 69        | 16/05/1980 | 18/07/1982 | ACCESSION    |

#### ILO Conventions to which Turkey is a State Party:

- C 55 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936
  - C 68 Food and Catering (Ships' Crews) Convention, 1946
  - C 73 Medical Examination (Seafarers Convention, 1946
  - C 53 Officers' Competency Certificates Convention, 1936
  - C 92 Accommodation of Crews Convention (Revised), 1949
  - C133 Accommodation of Crews (Supplementary Provisions) Convention, 1970
  - C108 Seafarers' Identity Documents Convention, 1958
  - C134 Prevention of Accidents (Seafarers) Convention, 1970.
- **Is there national legislation, in particular in the fiscal field, designed to promote registration of vessels into the national registry?**

The Article 12 of the Law on Turkish International Ship Registry stated below is the relevant provision:

#### ***“Financial Provisions***

##### ***Article 12 – (Amended: 2/12/2004 – 5266/article 3)***

*In accordance with this law, the earnings to be acquired from the operation and transfer of the vessels and yachts registered in the Turkish International Ship Registry shall be exempted from the income and institutional taxation and funds.*

*Purchase, sales, mortgaging, registration, credit and freight contracts related to the vessels and yachts to be registered in the Turkish International Ship Registry shall not be subject to stamp tax, fees, taxation for banking and insurance transactions and funds.*

*Following fees shall be separately collected from the owners of the ships and yachts registered in the Turkish International Ship Registry formed in accordance with this law.*

*a) Registry fee: In addition to the amount of Turkish Liras equal to 10.000 USD, an amount of Turkish Liras equal to 1 USD for each ton shall be collected. The Council of Ministers shall be authorized to increase this amount up to ten times. The standard registry fee for the yachts registered in the Turkish International Ship Registry shall be the amount of Turkish Liras equal to 5.000 USD.*

*b) Annual tonnage fee: An amount of Turkish Liras equal to 1 USD shall be collected for each net ton for each calendar year in which the vessels and yachts are registered in the Turkish International Ship Registry. This fee shall be collected in two instalments one in January and one in July. Until the payment of the due instalment of annual tonnage, abandonment of the registry and registration in the name of the new owner shall not be made. The fee instalments undue during the transfer shall be paid duly by the new owner. The Council of Ministers shall be authorized to increase this amount up to ten times (..).*

*c) In case that the vessels and yachts registered in the Turkish International Ship Registry are registered directly or as dual class to Turkish Lloyd, a discount of 50% shall be made for the amounts identified in paragraph (a) and (b) of this article.*

*d) In case that the ownership of vessels and yachts registered in the Turkish International Ship Registry are to be chartered in accordance with the financial charter contract, the charterer who will register the vessel and yacht in his/her name shall not pay any registration fee (..).*

*The wages of the personnel working in the vessels and yachts registered in the Turkish International Vessel Registry shall be exempt from income tax and funds (..)"*

- **To which extent are safety regulations and standards based on measures agreed to in the IMO, ILO or other international organisations? Are there any derogations permitted or authorised to vessels under your national flag?**

As stated above, Turkey is member of IMO and ILO. The safety rules and recommendations of both international organizations have been implemented in Turkey. In addition, Turkey is a State Party to large majority of international conventions and protocols, which have been regulated in the platforms of IMO and ILO as stated above.

There is no derogation permitted or authorized to vessels under Turkish Flag.

- **Is there legislation on the operation of ports and freedom to provide port and auxiliary services to port operations? What are the main provisions of this legislation? How and by whom is it enforced?**

In principle, the port services shall be subject to competition rules. The Law on Ports regulates port services, mainly safety issues. In addition, all ports have special technical

secondary legislation in order to regulate specific issues on port services and safety. This legislation is enforced by the Undersecretariat for Maritime Affairs as Turkish maritime administration. The main provisions are below:

## **LAW ON PORTS**

**Law No. 618**

**Date of Approval: 14/4/1925**

**Article 1:** The Government is responsible for the administration, cleaning, deepening and widening of ports, for the placing of buoys and their maintenance in good shape, and all the other activities related to ports.

**Article 2:** All ships entering and abandoning Turkish ports are to comply with the provisions of statutes to be prepared and published by the Government concerning the act of approaching their anchorage area to piers, the loading and unloading of commercial property, the locations and period within which they can load and unload flammable material and the period of time they can remain in ports and the safety and security precautions they have to take, depending on the requirements of every port and technical necessities that may arise.

**Article 3:** Damage caused by ships to piers and port establishments belonging to the Government, shall be compensated by ship owners and firms and agencies to which they are a member, as a requirement herein.

(...)

**Article 7:** The owners, masters and agencies of sunk ships hindering the safety of navigation and voyage in ports, are responsible for the removal of the ships and their property completely in a short time period to be determined by the harbour master. The mentioned period of time shall be notified to those responsible either by announcements in newspapers or, via the notary to which they are registered.(...)

**Article 8:** The Government is authorized for the establishment of a joint- stock company for every port which possesses stocks for the arrangement of loading, and unloading, water and coal distribution activities by utilization a portion of its capital from its budget.

Ship owners performing the above-mentioned activities, shall enjoy the right of being primarily considered for stocks in the amounting to the value of their ships. However, if they fail to exercise this right within 6 months of the establishment of the above-mentioned companies, this right ceases to exist. Companies shall be under the obligation of giving priority to workers of the said ships. The value of the said ships is determined by a delegation of five people composed of one member of the chamber of maritime commerce, the commerce officer, harbour master and ship owners.

**Article 9:** Ship owners carrying humans, animals, sand, timber etc. from one coast to another within the borders of the municipality or ship owners transferring passengers or passenger cargo to ships, can work freely.

**Article 10:** The transportation tariffs of maritime vehicles within municipality borders shall be arranged and determined once in every 6 months by a commission composed of the Maritime Commerce Director or the harbour master, one member from the chamber of commerce and municipality, and if there exists, a member of the maritime chamber of

commerce and a member of the company assembly administration and of the commerce director of the region. The mentioned arrangement shall be confirmed by the Ministry of Commerce.

(....)

- **Is there legislation preventing access to the freedom of providing international maritime transport services? What are the main provisions of this legislation, how and by whom is it enforced?**

There is no legislation preventing access to the freedom of providing international maritime transport services. Law on Cabotage No. 815 (Official Gazette: 29 April 1926 no 359) has regulated that the passengers and goods may be carried by foreign ships between Turkish ports and foreign ports.

- **Are there cargo sharing agreements with third countries? What are the main provisions of these agreements?**

There is no cargo sharing agreement with third countries.

- **To which extent does your Country applies or intend to apply the IMO/FAL Convention of 1965 on which is based Directive 2002/6?**

Turkey has not ratified IMO/FAL Convention of 1965. But technical studies on ratification of IMO/FAL Convention and transposition of Directive 2002/6 into national legislation are underway.

## **MARITIME SAFETY**

**Flag state / classification societies - Port State - Traffic monitoring – General / equipment - Passenger ships - Fishing ships - Oil tankers - Bulk carriers - Crew**

- **regarding Flag State performance, please fill and hand out the flag state performance self assessment form attached to IMO Resolution A.912(22) (see attached)**

Flag State performance form is at annex. (Flag State Assessment Form has not been sent to IMO.)

- **data of statistical nature (number and tonnage of conventional ships in the last 5 years, list of all ports (commercial, fishing and marinas) and number of individual vessels having entered their ports in the last 5 years;**

### **The Turkish Fleet**

|      | <b>Number</b> | <b>DWT (1000 tons)</b> |
|------|---------------|------------------------|
| 2000 | 1270          | 9489                   |
| 2001 | 1261          | 9307                   |
| 2002 | 1185          | 8665                   |
| 2003 | 1152          | 7626                   |
| 2004 | 1209          | 7054                   |
| 2005 | 1379          | 7603                   |

(The list of Turkish commercial ports and marinas are given in Annex-II)

The list of fishing ports by sea coasts is below :

| <b>Mediterranean</b> |        |
|----------------------|--------|
| Province             | Number |
| Adana                | 2      |
| Antalya              | 4      |
| Hatay                | 2      |
| Isparta              | 2      |
| Mersin               | 6      |

| <b>Aegean Sea</b> |        |
|-------------------|--------|
| Province          | Number |
| Aydın             | 4      |
| Balıkesir         | 2      |
| Çanakkale         | 16     |
| Edirne            | 4      |
| İzmir             | 27     |
| Muğla             | 13     |

| <b>Black Sea</b> |        |
|------------------|--------|
| Province         | Number |
| Artvin           | 2      |
| Bartın           | 3      |
| Düzce            | 1      |
| Giresun          | 23     |
| İstanbul         | 14     |
| Kastamonu        | 8      |
| Kırklareli       | 2      |
| Kocaeli          | 1      |
| Ordu             | 8      |
| Rize             | 30     |
| Samsun           | 4      |
| Sinop            | 5      |
| Trabzon          | 24     |
| Zonguldak        | 5      |



| <b>Marmara Sea</b> |        |
|--------------------|--------|
| Province           | Number |
| Balıkesir          | 14     |
| Bursa              | 7      |
| Çanakkale          | 8      |
| İstanbul           | 27     |
| Kocaeli            | 2      |
| Tekirdağ           | 7      |
| Yalova             | 6      |

- **A detailed look at legal framework and capacity to implement the following directives: 94/57/EC (intention as to future recognition of new classification societies), 95/21/EC (in which ports are PSC inspections performed and results for the last 3 years, inspectors training needs?), 2002/59/EC (VTMIS - in particular, what progress has there been in setting up relevant infrastructure), 2001/25 (STCW) and 2000/59/EC. What was their follow-up to the recommendations of the 2004 REMPEC study?**

In accordance with 94/57/EC, By-Law on Selection and Authorization of Classification Societies Acting on behalf of the Flag State for Turkish Flagged Ships was published on the Official Gazette: 01 October 2003, no 25246. And within the frame of this By-Law, Authority Assignment Protocol was signed with the classification societies that comply with the requirements of the By-Law.

The classification societies who signed the Authority Assignment Protocol with Undersecretariat for Maritime Affairs (UMA) are those following:

- Turkish Lloyd
- Bureau Veritas
- Germanischer Lloyd
- American Bureau of Shipping
- Nippon Kaiji Kyokai
- Lloyd's Register
- Registro Italiano Navale
- Det Norske Veritas

These classification societies issue the certificates that are set out in the table of Authority Assignment Protocol's annex, to the Turkish flagged vessels with limited or full authorization on behalf of our Administration.

In accordance with 95/21/EC, By-Law on Port State Control was published (Official Gazette: 26 March 2006, no 26120). Turkey is a State Party to the Mediterranean MoU and the Black Sea MoU. Port State Control is carried out in 23 major ports as follows:

- İstanbul (MedMoU)
- Tekirdağ (MedMoU)
- Ambarlı (MedMoU)
- Tuzla (MedMoU)

- İzmit (MedMoU)
- Gemlik (MedMoU)
- Bandırma (MedMoU)
- Çanakkale (MedMoU)
- Aliğa (MedMoU)
- İzmir (MedMoU)
- Bodrum (MedMoU)
- Marmaris (MedMoU)
- Antalya (MedMoU)
- Mersin (MedMoU)
- İskenderun (MedMoU)
- Botaş (MedMoU)
- Rize (BSMoU)
- Trabzon (BSMoU)
- Giresun (BSMoU)
- Samsun (BSMoU)
- Bartın (BSMoU)
- Zonguldak (BSMoU)
- Kdz.Ereğlisi (BSMoU)

#### NUMBER OF PORT STATE CONTROL INSPECTIONS CARRIED OUT BY TURKEY BETWEEN 2002-2005

| MOU           | 2002 | 2003 | 2004 | 2005 |
|---------------|------|------|------|------|
| BLACK SEA     | 135  | 151  | 171  | 271  |
| MEDITERRANEAN | 334  | 596  | 917  | 1866 |

The Surveyors employed by UMA attend to the training programme which is composed of two weeks practical and one week theoretical course. Upon the completion of the training programme, they are subject to an examination. The surveyors, who get at least 70 over 100 points, are authorized as Port State Control Officers (PSCOs).

Moreover, with the participation of PSCOs several training seminars were held within the framework of the Twinning Project that was conducted together with the Spanish Maritime Administration.

Furthermore, By-Law on Selection and Authorization of Classification Societies Acting on behalf of the Flag State for Turkish Flagged Ships necessitates holding training seminars at least three times a year by classification societies that were authorized by UMA. For this reason, the training seminars for our PSCOs have been held by classification societies.

The PSCOs are sent to foreign ports within the framework of Port State Control Exchange Programme which is arranged by the secretariats of MedMoU and BSMoU to which Turkey is a State Party. Therefore, the information exchange among other Port State Control Officers is done.

REMPEC Recommendations are implemented in Turkey.

## MARITIME SECURITY

- **Being a party to the SOLAS Convention / Chapter XI/2 and the ISPS Code, what is the situation in Turkey concerning maritime security?**

**Solas Chapter XI/2 and the ISPS Code (the so called special measures to enhance maritime security) are in force for international voyages since 1<sup>st</sup> July 2004. How are the requirements set by those documents applied legally and in practice in your country?**

At the Diplomatic Conference in December 2002, the International Maritime Organization (IMO) adopted a new international maritime security regime in the form of amendments to the Safety of Life at Sea (SOLAS) Convention 1974 and a new International Ship and Port Facility Security (ISPS) Code. The Contracting Governments of the SOLAS amendments and new ISPS Code would, under the tacit amendment procedure, come into force on 1 July 2004. The new ISPS Code comprises two parts, Part A states mandatory requirements and Part B provides guidance on the wider application of the security regime.

During the setting up of this new international maritime security regime by the Maritime Security Working Groups, Turkey participated in all meetings and supported all protective security measures against acts of terrorism in the development of this security regime.

After the Diplomatic Conference in which ISPS Code was adopted, Turkey made intensive efforts for effective implementation of the ISPS Code. The main steps of implementation of the ISPS Code are outlined below:

### **A) Designated Authority**

Undersecretariat for Maritime Affairs is the Designated Authority of the Government of Turkey for maritime security regime according to SOLAS XI-2 and ISPS Code. Appliance Regulations for the ISPS Code and authorisation protocols RSOs, supervision and inspection of implementation procedures have been prepared by Undersecretariat for Maritime Affairs. Also, a National Maritime Security Committee has been established. This Committee is formed by representatives of relevant national organizations. The Committee conducts former meetings and gives advices about security related subjects of the Code.

### **B) Recognized Security Organisations (RSOs)**

The Government of Turkey has authorised 13 RSOs for ships and 14 RSOs for port facilities to carry out certain assessment, approval, verification and certification activities according to SOLAS XI-2 and ISPS Code. Also, a National Legislation has been issued for the authorization of RSOs to act on behalf of the Turkish Government.

### **C) The Current Status of Ships and Port Facilities**

The Government of Turkey is implementing ISPS Code to all ships under Turkish Flag subject to ISPS Code Part A Regulation 3 and Turkish port facilities serving such ships.

Therefore, 583 vessels under Turkish flag have been covered by ISPS Code. All these vessels have Ship Security Plans and International Ship Security Certificates. 175 port facilities are implementing ISPS Code. Having inspected such kind of Port Facilities, Port Facility Security

Plans were approved and International Port Facility Security Certificates were issued by UMA. There is no difficulty in implementation of ISPS Code's requirements for these ships and port facilities.

#### **D) Contact Points**

UMA provides information about the ISPS Code implementation to Turkish Coastal Radio, such as security levels of Turkish port facilities. Turkish Coastal Radio broadcasts this information to ships navigating through Turkish territorial waters or having intention to enter Turkish territorial waters.

Main Search and Rescue Coordination Centre is designated to receive ship security alerts according to MSC/Circ.967 adopted in MSC 77.

National ISPS Code Contact Points have been displayed in IMO's official web site, Maritime Security ISPS Code Database.

#### **E) Security Training for Relevant Personnel**

Training is mandatory in Turkey for SSO, CSO and PFSO taking into account the guidance given in Part B of the ISPS Code.

The Government of Turkey has authorized 10 organizations to train Ship Security Officers (SSO), Company Security Officers (CSO) and Port Facility Security Officers (PFSO).

- **At the time of this review, how many ships and port facilities are subject to these measures?**

At this stage, 583 ships flying Turkish Flag and 175 port facilities are subject to ISPS Code.

- **What is the administrative capacity to enforce legislation concerning maritime security both in your capacities of Port State and of Flag State?**

The General Directorate for Maritime Transportation carries out the duties to implement requirements of ISPS Code. In addition some duties are carried out by Provinces Organisation of Undersecretariat for Maritime Affairs. The Administration has delegated authority to 13 Recognized Security Organisation (RSOs) for ships and to 14 RSOs for port facilities

- **In particular, what is your organisation and staffing in terms of inspections in both capacities?**

The organisation for inspection of ISPS Code requirements consists of approximately 230 ship inspection officers.

- **What is your national interpretation of the definition of "port facility" as contained in SOLAS Chapter XI/2, regulation 1.1.9? Do you understand only individual terminals or do you consider the whole port area?**

As contained in SOLAS Chapter XI/2, "port facility" is considered as the whole port area within which the Port Operator gives services.

- **If your interpretation is the most restrictive one, do you already envisage extending the security measures to the whole port area?**

Port facility is considered as all port area, in which port services are given.

- **Did you already, or do you envisage to, extend the security measures created by Solas Chapter XI/2 and the ISPS Code to part or the totality of your national traffic?**

The provisions of Solas Chapter XI/2 and the ISPS Code shall be implemented in the scope area of Solas Chapter XI/2 and the ISPS Code. But this doesn't mean relevant countries can not take security measures other than scope area. Turkey has already taken necessary security measures in the sea or coastal area other than scope area of Solas Chapter XI/2 and the ISPS Code.

Turkey also conducts maritime surveillance operations at sea areas around Turkey such as BLACKSEA HARMONY since March 2004.

- **As the *acquis communautaire* in this field is mainly composed of Regulation (EC) n° 725/2004 of the European Parliament and of the Council of 31 Mars 2004 on enhancing ship and port facility security and of Directive 2005/65/CE of the European Parliament and of the Council of 26 October 2005 on enhancing port security, what steps have you already taken or envisaged in order to align with this part of the *acquis*?**

Decree on Implementation of ISPS Code covers large majority of relevant EU Acquis. Technical studies for the preparation of By-Law on implementation of ISPS Code are underway. This By-Law will include all principles and procedures of EU Acquis and Turkish legislation will be aligned with Regulation (EC) n° 725/2004 of the European Parliament and of the Council of 31 mars 2004 on enhancing ship and port facility security and of Directive 2005/65/CE of the European Parliament and of the Council of 26 October 2005 on enhancing port security by this By-Law. The main provisions of the Decree and By-Law are stated below:

#### Degree on implementation of ISPS Code

- ISPS Code permanent monitoring committee has been established in order to monitor implementation of ISPS Code.
- Under normal conditions and unless expressly stated otherwise by Designated Authority, all ships and port facilities shall be security level 1. Designated Authority may determine and inform higher security levels.
- UMA may delegate duties indicated in Decree to Recognized Security Organisations. Criteria for RSOs has been determined by Decree.
- Port facility security assessments shall be carried out by RSOs, authorised by Administration. It shall be approved by the UMA.
- Port facility security plans shall be prepared for each port facility depending on port facility security assessment. It shall be approved by the UMA.
- Other issues regulated by Decree are;
  - Checking and conformity measures,

- Security declaration,
- Implementation of Section B of ISPS Code,
- Notification,
- Security agreements,
- Alternative measures,
- Training.

#### Draft By-Law on implementation of ISPS Code

- Technical studies cover below issues;
  - Duties of the Administration,
  - ISPS Code permanent monitoring committee and its duties,
  - Authorizing commission and its duties,
  - Ships in the scope of the ISPS Code and their duties,
  - Ports in the scope of the ISPS Code and their duties,
  - Recognized organizations, their duties, authorization and repealing of authorization,
  - Training and certification,
  - Inspection,
  - Procedures on Security levels,
  - Checking and conformity checking,
  - Security declaration,
  - Implementation of Section B of ISPS Code,
  - Notification,
  - Security agreements,
  - Alternative measures.

#### SATELLITE NAVIGATION/GALILEO

#### INLAND WATERWAYS

- **Please provide a brief description of any transport that may take place on your lakes or, if relevant, rivers.**

Navigable inland waterways are very limited. Small volume of inland waterways transport is carried out only on the Van Lake and in lakes of some dams. There is no serious transport in Turkish rivers due to unsuitable physical conditions of rivers. Consequently, Turkish fleet engaged in maritime transport in Turkish inland waterways is very limited.

- **Are there Turkish flagged coaster ships that are or may also be used to navigate on the Danube?**

Turkish flagged ships are engaged in inland maritime transport in other rivers such as Danube and Volga. Turkish river fleet is expected to be developed. Participation process of Turkey to Danube Commission is going on.

- **Please outline any legislation that covers this area. Are there any rules concerning environmental aspects of transport on lakes? Which institution is in charge of registration and control of boats?**

The Turkish legislation on this area are as follows;

- By-Law on vessels navigating in inland waterways (Official Gazette: 09 May 1975, no 15231),

- By-Law on Van Lake (Official Gazette: 31 January 1977 no 15836),

By-Law on vessels navigating in inland waterways (Official Gazette: 09 May 1975, no 15231)

- All vessels operated in inland waterways other than Van Lake must comply with provisions of the By-Law
- All vessels shall have inspection certificate which is given by the municipality to which the vessel is bound
- Inspection of vessels and technical specifications have been regulated in the By-Law
- All vessels shall be registered in the Registry of Lake and River Vessels which has been organised by the Regional Directorate of Istanbul.
- To conduct a vessel, a competency certificate shall be taken from the Regional Directorate of Istanbul.
- Examinations and other procedures for personnel have been regulated by the By-Law.

By-Law on Lake of Van (Official Gazette: 31 January 1977 no 15836)

Aim of the By-Law is to ensure safety of life and properties and to regulate maritime traffic in Van Lake. All vessels must comply with the provisions of By-Law. Measurement of tonnage, marking of loadliness, determination of number of passenger and inspection of vessels are carried out by the Regional Directorate of Istanbul.

Detailed rules on registration of seafarers, duties of municipalities, technical conditions of vessels, competencies of seafarers and safe manning are regulated in the By-Law.

Provisions of Technical Regulation shall be applicable for other issues which have not been regulated in the By-Law.

- **Are there any requirements regarding access to the profession of carrier of passengers and/or goods by waterway? Are there any rules concerning crew working time and manning in the inland waterway sector? What are the competent authorities responsible for enforcing the relevant legislation and requirements?**

General legislation concerning execution of professions is valid for the requirements regarding access to the profession unless otherwise explicitly stated in the special legislation which is mentioned above. The organization of crew working time and manning in the inland waterway sector shall be subject to seafarers and safe manning legislation. The municipalities are the competent authorities in inland waterways in order to implement relevant legislation.

**26 SEPTEMBER 2006 – LAND TRANSPORT/RAIL; INTERMODALITY-COMBINED  
TRANSPORT**

**LAND TRANSPORT / RAIL – MARKET AND INFRASTRUCTURE ACCESS/STANDARDISATION OF  
ACCOUNTS AND STATISTICS/ TECHNICAL AND SAFETY  
CONDITIONS/ EUROPEAN RAILWAY AGENCY/  
RAILWAY SAFETY/INTEROPERABILITY**

- **Are infrastructure management and provision of transport services institutionally separated? or how is ensured that the execution of the essential functions for non-discriminatory access to the network (e.g. charging, capacity allocation) is independent of the companies/bodies that provide rail transport activities<sup>1</sup>?**

Infrastructure management and provision of transport services are not institutionally separated. Turkish State Railways (TCDD) has a monopoly on management of the infrastructure and on provisions of rail transport services.

Technical studies are carried out within the twinning component of the “*Turkish Rail Sector Re-Structuring and Strengthening*” Project, to establish the legislative and institutional framework in accordance with the EU *acquis*. One expected result of the Project is the separation of the tasks of infrastructure capacity allocation and charging from the bodies or firms that provide rail transport services.

- **Does the cost accounting system of the infrastructure manager calculate its costs (as required under directive 2001/14) has a performance scheme put in place<sup>2</sup>?**

The accounting system of TCDD is not well effective to calculate its costs relating to infrastructure. However, as the rail sector is not open to other railway undertakings, an independent infrastructure manager has not been set up, and a charging system and a performance scheme has not been drawn up yet.

- **What provisions will the state take to ensure the infrastructure manager’s financial viability<sup>3</sup> and to ensure that its financing is consistent with its tasks, size and financing requirements<sup>4</sup>?**

Technical studies are carried out within the Twinning Project to ensure the long term financial viability of the infrastructure manager(s).

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<sup>1</sup> See directive 91/440 last amended by directive 2004/51/EC, article 6.3

<sup>2</sup> See directive 2001/14, article 6.2

<sup>3</sup> See directive 2001/14/EC, article 6

<sup>4</sup> See directive 91/440 last amended by directive 2004/51/EC, article 7



- **Has an independent regulatory body been established (staff, budget and expertise)? Are the conditions to obtain a license made available on the web and are the procedures transparent for applicants<sup>5</sup>?**

There is no independent regulatory body for the time being.

Technical studies are elaborated within the ongoing Twinning Project to open the railway market and to establish the legislative framework in accordance with the EU *acquis*, including conditions and procedures for access to the railway network.

- **Has a network statement been drawn up and published<sup>6</sup>?**

A network statement has not been drawn up yet. Technical studies on legislative framework which might also cover this issue, under the Twinning Project are underway.

## **SOCIAL AND TECHNICAL RULES AND STANDARDS**

- **Is there national legislation concerning rail transport of dangerous goods? What is the administrative capacity to enforce the rail transport of dangerous goods? Do you have specialised staff to this task?**

Internal Operational Instruction on Carriage of Dangerous Goods by Rail, issued by TCDD, No 505 dated 28.04.2005, in compliance with RID.

Technical studies on elaboration of legislation are going on regarding rail transport of dangerous goods.

TCDD as a carrier has staff specialised only for carriage of dangerous goods, but doesn't have any specialised staff for regulatory and supervisory activities.

## **INTERNATIONAL ORGANISATION AND CONVENTIONS**

- **To which multilateral agreements regarding international railway organisations (O.T.I.F. and O.S.Zh.D.) is your country a party?**

OTIF (Intergovernmental Organisation for International Carriage by Rail)

COTIF (Convention for International Carriage by Rail),

CIV (International Convention concerning the Carriage of Passenger and Luggage by Rail),

CIM (International Convention concerning the Carriage of Goods by Rail)

RIV (International Wagon Union),

RIC (International Carriage and Luggage-Van Union),

UIC (International Union of Railways),

    DGMO (Middle-East Railways Groups),

    SERG (South-East Europe Railway Group)

EUROFIMA (European Company of the Financing of Railroad Rolling Stock)

CMO (Middle-East Railways Tariffs),

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<sup>5</sup> See directive 2001/14/EC, articles 30 and 31

<sup>6</sup> See directive 2001/14/EC, article 3

TEA (Tariff Europe-Asia)  
CIT (International Rail Transport Committee)  
ICF (Intercontainer-Interfrigo)

- **Do you have national translation of RID of O.T.I.F. available?**

TCDD has an unofficial translation of RID from French to Turkish and it is also applicable for international transport of dangerous goods by rail.

## **RAILWAY SAFETY**

- **Who sets and enforces the safety standards? Are the rules and standards made public? Who delivers the safety certificates? Does an independent national railway safety authority exist?**

TCDD sets and enforces the safety rules and standards in relation to the construction, maintenance and management of the rail infrastructure, and provision of rail transport services. The railway safety rules and standards have not been made public yet.

There is no independent railway safety authority and body issuing safety certificates for the time being.

Technical studies are going on within the Twinning Project.

## **INTEROPERABILITY**

- **Is there a national implementation plan for the Technical Specification for Interoperability?**

A national implementation plan for the Technical Specifications for Interoperability (TSIs) has not been drawn up yet.

Technical studies regarding TSIs are carried out within the Project.

## **COMBINED TRANSPORT**

- **What is the general situation of combined transport (inter-modal transport) with regard to market structure, development, role of different modes of transport, technologies, operators?**

Ro-Ro transport has been intensively used between Istanbul/Izmir and Trieste in the Mediterranean Sea since 1992. There are also Ro-Ro lines in the Black Sea between Turkey and Russian Federation/ Georgia/Ukraine. Turkey has the world's fourth biggest Ro-Ro fleet which is also the second one in Europe.

A Ro-La service is going to be started between Turkey-Bulgaria-Serbia-Croatia-Slovenia-Austria on 21<sup>st</sup> September 2006.

Total container handled in all Turkish ports is 3.301.140 TEU in 2005.

- **What is the current legal situation with regard to combined transport? Are there any deviations allowed from allowable weights and dimensions of road vehicles for the first and/or last leg of combined transport?**

Harmonisation with the relevant acquis and strengthening of the institutional capacity of Ministry of Transport in the field of combined transport are among the priorities of the National Plan. Currently, the preparation of legislation on combined transport is underway.

No deviation is allowed from allowable weights and dimensions of road vehicles for the first and/or last leg of combined transport.

- **Are there specific (national/regional) policy objectives for these fields? Who is responsible for these issues (which Ministry/department)? Are there specific promotion efforts on inter-modality (by authorities/associations/industry)?**

A Rail Transport Action Plan for the period of 2003-2008 was adopted by the Ministry of Transport.

Task 8 of the Action Plan is about “Combined Transport”. In conjunction with the Action Plan, Ro-La transport, which initially will start in 2006 between Istanbul and Wien in partnership with private sector, is encouraged by Turkish State Railways (TCDD) in order to increase rail share of freight transport and hence to increase combined transport.

Apart from that, TCDD plans to construct 6 logistic villages, namely Halkali (Istanbul), Kosekoy (Izmit), Gelemen (Samsun), Eskisehir, Bogazkopru (Kayseri) and Balikesir. Construction of Samsun Logistic Village, started this year (2006), is going on. All villages are planned to be completed by 2008.

Goods transported by the rail leg of combined transport are expected to increase considerably after these villages are in operation.

Depending on the volume of commodity, TCDD concludes a contract with the forwarders and applies tariff reductions for combined transport.

The Undersecretariat of Maritime Affairs assigns importance to Short Sea Shipping (SSS) policies. Focal contact points of Turkey try to improve SSS in whole logistic sectors. At the same time, Short Sea Promotion Centre is being developed, and membership of European Short Sea Network is underway.

- **Are there any bottlenecks that hinder the development of integrated and quality logistics (infrastructure, organisational, legal etc.)?**

Only 5% of the cargo handled at TCDD Ports is carried by rail. All of these ports except Haydarpaşa (total 6) are in the privatisation agenda. After the privatisation, port operators can pursue more effective ways of contacting customers; therefore, percentage of cargo going to or collected from the ports will increase.

Istanbul Strait is a physical bottleneck preventing continuous combined transport. However, Marmaray Project which aims to connect two continents with a high capacity railway line is under construction. After the Project is completed, high-speed passenger trains and freight wagons complying with international safety standards could pass Istanbul Strait.

There are some restrictions in relation to axle loads and loading gauge in rail transport.

- **Are there (national) statistics available on inter-modal transport?**

There are some statistical data available on Ro-Ro transport (in number of vehicles), rail-ferry transport and rail container transport.

But, the more systematic and reliable collection of statistics according to the legs of inter-modal transport will be ensured with the implementation of a computer-based automation system which is expected to be realized soon.

- **Which are the relevant taxes for road vehicles used for freight transport (with regard to Art. 6 of Directive 92/106)?**

There are no such relevant taxes.

**MARKET ACCESS FOR GOODS/ MARKET ACCESS FOR PASSENGERS**

**Conditions of access to market and profession (operator licensing, Regulations 881/92, 3118/93, 12/98; Directives 96/26, 98/76)**

- **What are the rules governing access to the profession for operators engaged in national and/or international transport of passengers and goods? How and by whom is this legislation enforced?**

By-Law on Road Transport (Official Gazette: 25 February 2004, no 25384) and By-Law on Training for Professional Competence in Road Transport Operations (Official Gazette: 03 September 2004, no 25572) lay down the rules on access to the profession and access to the market for operators engaged in national and/or international transport of passengers and goods. Through these new regulations 3 qualitative criteria, namely,

- financial standing,
- professional competence,
- good repute

are required for access to the profession and access to the market.

The main requirements for financial standing and good repute are clearly defined in the By-Law on Road Transport while the professional competence is regulated in the By-Law on Training for Professional Competence in Road Transport Operations.

Financial standing: one condition for obtaining a license is a minimum number of trucks or tonnage, respectively number of busses and seats. The operators must have the necessary capacity or tonnage conditions and financial standing-values indicated in the relevant article of the By-Law. Depending on the type of license, a certain amount of capital is also required.

Operators applying for obtaining international freight transport license must have a commercial vehicle fleet consisting of minimum 10 units specific for goods transport corresponding to a total of 300 tons loading limit registered and recorded in their own names, and a capital of 50.000 €.

Professional competence: By-Law on Training for Professional Competence in Road Transport Operations lays down in detail the rules and procedures for;

- training and examination of professional competence,
- qualifications of the institutions in charge of the training,
- authorizations to be issued to the training institutions and
- the issuing of Certificates for Professional Competence.

The applicants prove such competence by passing a written examination that contains variety of questions about the subjects indicated in the abovementioned Legislation. 10 institutions have been authorized by the MoT to provide professional competence education. The examinations are carried out by the MoT or by the Ministry of Education Examination Centre, authorized by the MoT.

Good repute: the applicants should not be convicted of any freedom-limiting penalty for crimes such as smuggling, fraud, false bankruptcy, falsification, narcotics and gun smuggling, human trafficking or trade, theft, corruption. Not to often violate the rules on weights and dimensions, driving and resting times, working and wage conditions during their operation.

All the official documents justifying the abovementioned conditions are required when applying for an operating license.

MoT and Ministry of Interior (Road Traffic Police, Gendarmerie) are main authorities for the enforcement and implementation of these rules laid down in the By-Law on Road Transport and in the By-Law on Training for Professional Competence in Road Transport Operations.

The Ministry of Transport performs the inspection, control and monitoring of the road transport market through its own personnel as well as, based on the authority given in article 35 of the Road Transport Law, through the personnel of governor's office, safety forces (police, municipal police, gendarmerie) and other authorised public institutions and organizations. These organizations shall cooperate with the MoT and comply with the instructions of the MoT.

- **What are the rules governing market access for national and international road goods transport for resident operators? How and by whom is this legislation enforced? Under which conditions are non-resident hauliers allowed to perform domestic transport operations?**

By-Law on Road Transport is the main legislation governing market access for national and international road goods transport for resident operators. The MoT is responsible for regulating the conditions of access to the market and issuing of license and permits.

A license is required to get access to the market.

Apart from the 3 qualitative criteria mentioned in the answers to the first question, the carriers that perform either national or international transport have to fulfill the following additional conditions:

- Real persons shall be nationals of the Republic of Turkey,
- Legal persons shall be established in compliance with the laws of Republic of Turkey and to be registered at the Turkish Trade Registrations Office,
- Applicants must be registered at the relevant chambers of trade and industry, or Chambers of tradesmen and craftsmen,
- Applicants must be in possession of a medium or top level Manager- Professional Competence Certificate or employ the person(s) having such certificate (except for transport for own account), depending on the kind of license,
- For the establishment, ability to comply with its obligations and good management of the enterprise, they must have the necessary capacity or tonnage conditions and financial standing values in accordance with the types of licenses.

All the official documents justifying the abovementioned conditions are required when applying for an operating license.

MoT and Ministry of Interior (Road Traffic Police and Gendarmerie) are main authorities for the enforcement and implementation of these rules laid down in the By-Law on Road Transport and in the By-Law on Training for Professional Competence in Road Transport Operations.

The Ministry of Transport performs the inspection, control and monitoring of the road transport market through its own personnel as well as, based on the authority given in article 35 of the Road Transport Law, through the personnel of governor's office, safety forces (police, municipal police, gendarmerie) and other authorised public institutions and organizations. These organizations shall cooperate with the MoT and comply with the instructions of the MoT.

#### **For the non-resident hauliers:**

Real and legal persons who are not nationals of Turkey and who want to perform transport activities in Turkey can also obtain an operating license if they comply with the provisions of the "Direct Foreign Investments Law" which is under competence of the Undersecretariat of Foreign Trade as well as the conditions specified in the By-Law on Road Transport for resident hauliers.

- **Please describe the current administrative arrangements for operator licensing, both national and international. Which conditions do applicants have to fulfil in order to be licensed? Describe any quantitative or other restrictions limiting the number of national or international operators? Are there any restrictions on the number of vehicles that an operator may use?**

The companies should apply to the MoT with the necessary documents certifying compliance with the conditions mentioned in the previous questions. After examination of the relevant documents by MoT, licenses are issued to the companies which fulfil all the conditions.

The applicants have to fulfil the conditions mentioned in the first two questions in order to be licensed.

The operators must have the necessary capacity or tonnage conditions and financial standing values indicated in the relevant article of the By-Law. For example;

- The operators applying for an international freight transport license must have commercial vehicle fleet consisting of minimum 10 units specific for goods transport corresponding to a total of 300 tons loading limit registered and recorded in their own names and a capital of 50.000 €.
- The applicants for international passenger transport license must have a total of 150 seats capacity in minimum 25 seats capacity buses, including the driver, registered in their own name and a capital of 50.000 €.

- For domestic freight transport license; the real persons must have vehicle fleet having a minimum loading capacity of 25 tons registered in their name, and the corporate bodies must have commercial vehicle fleet having a minimum loading limit of 75 tons, registered in the name of the corporate bodies , and a capital of 5.000 €.
- For the transport on-own account, the applicants must have minimum one commercial vehicle for transport of goods, registered in their own name.

The amount required for capital varies from type of licence/size of fleet.

In general, no quantitative or other restrictions limiting the number of national or international operators are applied; however, the Ministry of Transport may limit and restrict the issuance of licences or their number and the number of transport lines. This can be done in case of an excessive increase in the number of transport operators and in the capacity of passenger or goods transport, or to prevent unfair competition, waste of capacity and resources or for public interest and safety reasons.

There are no restrictions on the maximum number of vehicles that an operator may use. For each type of Operator License a minimum capacity is required, which is also corresponding to a certain number of vehicles. Upon fulfilling the said requirement, any vehicle can be registered in the License.

- **How in particular are the criteria for admission to the occupation checked? What differences apply in administering national and international candidates?**

In general, the criteria for admission to the occupation are checked in 5 year periods when the licenses have to be renewed. Moreover, MoT experts will be assigned to carry out specific task of controlling transport undertakings in regular terms, and in case of suspicion, these controls can also be performed. A computer-based automation system has been established through which the violation of rules can be monitored as well.

The operators are also obliged to inform the MoT within 60 days of any changes that may occur in time, in the minimum required conditions.

There are no differences applied in administering national and international candidates.

- **What exemptions are currently applied or intended to be applied for operator licensing and for the requirement for a professional competence certificate criterion for admission to the occupation?**

By-Law on Road Transport specifies the international transport not requiring an authorization or permits.

- Postal transport performed within the frame of public services,
- Broken-down or damaged vehicles;
- Emergency relief (fire brigade services, ambulance transport, transport of medicine, instruments and medical equipment etc..)
- Funeral transport.



There are three main types of Certificate of Professional Competence(CPC) specified in By-Law on Training for Professional Competence in Road Transport Operations; CPC for Medium Level Manager (MLM), CPC for Top Level Manager and CPC for Professional Drivers. By-Law on Training for Professional Competence (Articles 8 and 9) also specifies some categories that are exempted from professional competence training and/or examination: University graduates specialized in transport and some high level officers from the Ministry of Transport dealing with road transport issues could be exempted from CPC for MLM or CPC for Top Level Manager. More specifically;

1) Those who have been graduated from the transport, logistics, transport economy, transport of goods and road traffic departments of the universities of 4 years bachelor's education, or those who have been graduated from different departments, but who have obtained post-graduate degree, specialisation and degree of PhD in areas of transport, logistics, transport economy, transport of goods and road traffic.

2) Those who have served as chief of section or deputy general director at least for three years in the Directorate General for Land Transport or Regional Directorates of MoT and those who have served as head of department or police chief for at least three years in the traffic departments of the General Directorate of Security.

3) Those who can document with a MLM type license for professional competence that they have been performing their activities in the profession for at least five years.

If collegiate school graduates pass the Professional Competence Examination, they can be exempted from professional competence training and they can obtain a MLM type license for professional competence in accordance with the type of the examination that they have passed.

The Ministry, if necessary, notifies the name list of the relevant departments of the universities/collegiate schools which provide the trainings mentioned in sub clause (1) of clause (a).

- **Under what circumstances are licenses suspended or withdrawn?**

- In case one of the three qualitative criteria, namely, financial standing, professional competence, good reputation is no longer met by the transport operators

- In case an application is not made for renewal within thirty days following the date of expiry of the validity period of the license or in case the conditions of renewal of license are not complied with.

- In case of falsification on any kind of documents.

- In case of the death of real person owning a license and in case the legal heirs of the owner of license do not fulfil the necessary administrative transactions.

- **What arrangements are in place to ensure mutual recognition of proof of good repute/ financial standing/ professional competence is provided.**

Turkey has made necessary technical and legal arrangements in terms of harmonization of these three criteria (good repute/ financial standing/ professional competence) with the EU legislations. Therefore, there would not be any difficulty in ensuring the mutual recognition of proof of good repute/ financial standing/ professional competence documents before or as Turkey becomes an EU member.

- **What rules exist to govern the establishment of a foreign operator? How does it work in practice? How are controls made on applicants and how are the applications processed and/or approved?**

The rules governing the establishment of a foreign operator are enforced by the Undersecretariat of Treasury.

The companies, which can be established or participated in by foreign investors are “companies” designated in the Turkish Commercial Code and “unincorporated partnerships” designated in the Turkish Code of Obligations.

It is possible to establish a company through applying to the related Trade Registry Office with the required documents. The company gets its “legal entity” status upon establishment.

#### Documents For The Company Establishment

- Petition and form for company establishment notification, duly filled in and signed by persons authorized to represent the company,
- Notarized signatures of persons authorized to represent the company together with the company trade name,
- Letter of Commitment in accordance with Article 29 of the Trade Registry Regulation,
- Bank receipt of the deposit paid to the Consumers’ Fund account, amounting to one thousandth of the company capital,
- Certified copies of the ID certificates of the real person founders (if they have Turkish citizenship) and their residence certificates,
- In case there are any real persons of foreign citizenship among the founders of the company, the xerox copy of his/her passport to be presented together with the passport itself or its notarized copy,
- In case the foreign shareholder(s) is a legal entity; the original copy of Certificate of Business Activity issued by the competent authorities approved by the related Turkish Consulate or apostilled and its notarized translation,
- In case there are any rights and movable and immovable assets to be put in as capital for a company to be established; expert report of the assessment made to ascertain the value of these and the related court decision for expert assignment.

- **What are the rules governing market access for national and international road passenger transport for resident operators? Are authorisations required for**
  - a) regular services;
  - b) special regular services;
  - c) Occasional services?

Like in goods transport, the 3 qualitative criteria, namely, financial standing, professional competence and good repute are main requirements for obtaining a license in national and international passenger transport.

Regular and occasional services are subject to authorization. National and international passenger transport operations are licensed under different label of authorizations ('B' type for international, 'D' type for national).

There is no authorization requirement for special regular services in the By-Law on Road Transport. Issuing licenses for special regular services and passenger transport up to a distance of 100 kilometres have been delegated to local and provincial authorities for the time being. See also the observations on the scope of the law under the previous question.

Financial standing for regular and occasional passenger transport are dealt separately;

The applicants for international regular passenger transport must have a total capacity of 150 seats in minimum 25 seats capacity equity commercial bus including the driver registered in their own name and a capital of 50.000 €.

The applicants for international occasional passenger transport must have commercial buses with a total capacity of 90 seats registered and recorded in their own names and a capital of 25.000 €.

The applicants for domestic regular passenger transport must have a total of 150 seats capacity consisting of buses with minimum 25 seats capacity recorded and registered in their names and a capital of 30.000 € .

The INTERBUS Agreement for occasional bus services is in force on the territory of Turkey from 1<sup>st</sup> of July 2006.

For regular international bus transport, the operators are also required to provide the regular bus line agreement/contract concluded with a foreign partner company.

- **How do companies obtain this authorisation? What is the normal validity period of these authorisations? Do companies benefit from exclusive rights? How and by whom is this legislation enforced?**

The companies should apply to the MoT with the necessary documents certifying compliance with the conditions mentioned in the previous questions. After examination of the relevant documents by MoT, licenses are issued to the companies which fulfil all the conditions. Licenses are valid for 5 years. Companies do not benefit from exclusive rights.

- **What are the rules regarding competition? How and by whom is this legislation enforced?**

The transport operators are subject to Law on Protection of Competition no 4054. Article 86 of By-Law on Road Transport refers to this law. Moreover, the MoT may intervene to the transport market in order to prevent unfair competition when it is deemed necessary.

In order to prevent unfair competition via destructive discount of charges that have an adverse effect on companies, the MoT allows the operators to apply a maximum discount of 20% on the determined price tariffs.

All rules and procedures are enforced by the Competition Authority and the MoT itself.

## **PRICES AND FISCAL CONDITIONS**

- **Do you have an annual vehicle tax according to Directive 1999/62/EC?**

For the time being, we do not have an annual tax according to Directive 1999/62/EC. However; according to the Law on Motor Vehicle Tax, no 197 lorry, pickup-truck and other similar vehicles, used for freight transport are taxed based on their ages and their maximum total weights.

- **What (if any) road user charges system has been implemented in your country? On which roads are they applied and to which vehicle categories? Any differentiation on number of axles, emission classes etc.? What are the fee levels, how they are calculated and what are the modalities for collecting them? What are the weighted average tolls and how are they calculated in relation to the costs? Do these fees also apply to third country operators? Do national vehicles and foreign vehicles pay the same amount? What is the total amount of road fees collected per year? How reliable is the collection system? What are the collected funds used for?**

Tolls have been implemented on Motorways and Istanbul Strait Bridges. Tolls depend on axle count and axle distance and distance travelled. Inflation rate is the most important criterion for calculation of toll. Non-stop tolling, contactless smart card and cash are the modalities of toll payment.

The tolls for Istanbul strait bridges vary between €2.14 (for car) and €18,69 (for 6-axle-trailer). Three-axle-truck tolls for the some closed type motorway sections;

- Ankara – Abant (154.6 km) : €2,15
- Istanbul-Kaynaslı (203,4 km) : €5,68
- Istanbul-Edirne (211,9 km) : €5,41
- Adana-Gaziantep (183 km) : € 4,43
- Izmir-Aydin (99,6 km) : €2,43

Foreign vehicles and domestic vehicles pay the same amount of toll. Toll revenue accounts for 258 Million Euros in 2005. Technological level of toll system has been increased to provide reliability. Non-stop tolling system and contactless smart card system have been

installed with central management unit. The collected toll income is transferred to the General Budget.

In addition to toll, transit passage fee is collected from foreign vehicles at borders, based on the following formula: “gross weight of truck (tonnes) x kilometres x EURO 0.01”. In some cases exemptions are accorded through bilateral agreements.

- **What is the procedure applied to the selection of contractors for road maintenance and development of road infrastructure?**

The selection rules of the public bidding law are used for selection of road maintenance and operation related contractors. Special rule is used for foreign funded projects. But, most of these projects are road construction works.

- **To what extent are Intelligent Transport Systems (ITS) used in your country, both within the urban conurbations and on inter-urban routes. Is there a central authority that manages the implementation of ITS or is this left to regional or local control or indeed to the discretion of road operators?**

Tolling is the primary ITS (Intelligent Transport Systems) application of General Directorate of Highways on motorways in Turkey. Urban roads in some major cities and some parts of inter-city roads have been installed with ITS focus on traffic management systems and traveller information systems. ITS installations are continuing on motorway-network now. There is no centralized authority for implementation of ITS. Implementation and control are carried out by related establishments that installed the ITS.

- **Are there electronic fee collection (EFC) systems in operation and if so would these be compatible with the technical provisions of Directive 2004/52, in particular regarding dedicated short-range communication (DSRC)?**

Non-stop tolling system is one of the three toll collection systems. DSRC operates at 5.8 Ghz microwave frequency as mentioned in Directive 2004/52.

- **Would your country wish to participate in discussions on the establishment of the European Electronic Toll Service (EETS), which is the basis of Directive 2004/52?**

We may be interested in such an exercise and we would seek detailed information about the referred discussions.

- **Is there co-operation between your country and neighbouring countries with regard to establishing compatible traffic management plans and information exchange on traffic flow and if so how is this communication established?**

There is no co-operation with neighbouring countries with regard to compatible traffic management plan and information exchange on traffic flow.

- **What mechanisms are there for broadcasting traffic information?**

A protocol signed between the General Directorate of Highways and the Turkish Radio Television Institution (TRT) with regard to contribution of radio broadcasting to increase road safety. Variable Message Signs (VMS) are used on very limited road sections. ITS installation activities have been carried out on motorways. Additional VMS devices and internet services will be put into service for dissemination of traffic information to users. Road users can receive information concerning road conditions (such as road winter conditions, road works, lane closures) by dialling toll-free “159 Highways”.

## **SOCIAL CONDITIONS**

### **Social legislation (Regulations 561/2006 and 3821/85 and Directives 2002/15 and 2006/22)**

- **What is the current state of play of implementation of Regulations (EC) 561/2006, (EEC) 3821/85 and Directives 2002/15/EC and 2006/22/EC?**

Turkey has ratified the AETR Agreement (European Agreement on the Work of Crews of Vehicles Engaged in International Road Transport-Official Gazette: 25 July 1999, no 23766) and the ILO Convention no:153 on Hours of Work and Rest Periods in Road Transport (Official Gazette: 22 July 2003, no 25176 ).

Turkish legislation on driving times, breaks and rest periods for drivers has fully been harmonised with provisions of the AETR Agreement and the ILO Convention in question. As for the relevant EU Regulations and Directives, alignment has been secured to some extent thus further adjustments might be needed on some respects.

Several definitions contained in the working time Directive (2002/15/EC) does not exist in the Turkish Legislation. Article 4(b) of the Directive 200/15/EC (working time for different employers are the sum of the working hours) has not yet been transposed.

Legal texts regulating social aspects of Road Transport are indicated below:

- Labour Law No. 4857 (Official Gazette: 10 June 2003, no 25134)
- By-Law on Working Time that Cannot Be Divided into Weekly Working Days (Official Gazette: 06 April 2004, no 25425)

The purpose of this By-Law is to lay down methods and principles to be applied to working time and period of the works that cannot be carried out, due to their nature, by dividing into weekly working hours, such as the transport work which is done on board the vehicles moving on highways, railways, sea, lake and rivers and do not fall into the scope of the Maritime Labour Law no 854.

This Turkish legislation does not apply to self-employed drivers.

- By-Law on Road Traffic (Official Gazette: 02 September 2004, no 25571)

This By-Law applies to the drivers of the vehicles with weight limits exceeding 3,5 tonnes and carrying commercial goods and the commercial passenger vehicles with transport capacity of 9 persons including the driver.

By-Law on Recording Equipment (Tachographs) used in Road Transport (3821/85/EC) has been prepared by the Ministry of Industry and Trade, considering the amendments by Council Regulations (EEC) 3314/90, (EEC) 3572/90, (EEC) 3688/92, (EC) 2479/95, (EC) 1056/97, (EC) 2135/98, (EC) 1360/2002, (EC) 1882/2003 and (EC) 432/2004. Draft version of the By-Law will be sent to the European Commission for comments within the framework of the notification procedure of the technical legislation, when translation into English has been completed.

- **What are the rules applicable to driving time and working time in domestic and international transport (driving and rest times, daily and weekly driving limits, daily and weekly rest periods, working time rules etc.)? How and by whom is this legislation enforced?**

#### BREAKS:

According to the Article 68 of the “Labour Law”, the workers are entitled to a break of;

- a. Fifteen minutes for jobs lasting four hours or shorter,
- b. Half an hour for jobs lasting longer than four hours but shorter than seven and a half hours (included),
- c. One hour for jobs lasting longer than seven and a half hours.

These are the minimum break periods and should be used without interruption. Breaks are not regarded as part of the working period.

On the other hand as stated by the “By-Law on Road Traffic”, if, by the end of 4,5 hours driving period, a driver has not used any rest, he is obliged to take a break of 45 minutes. The drivers can also take these breaks in periods of minimum 15 minutes within a continuous 4,5 hours driving period.

During these breaks the drivers cannot be engaged in another work. The waiting period in a vehicle on the move, in a ferryboat or in a train or the period during which the vehicle is not driven, shall not be considered as other work. The breaks which are taken shall not be considered as daily resting period.

#### DAILY DRIVING TIMES:

The drivers are not allowed to drive totally more than 9 hours and continuously more than 4,5 hours within any 24 hours period (By-Law on Road Traffic).

In addition to this rule, in “By-Law on Working Time that Cannot Be Divided into Weekly Working Days” it is indicated that the daily working time of those who drive vehicles with professional license cannot exceed 9 hours.

## WEEKLY DRIVING TIMES:

According to the “By-Law on Working Time that Cannot Be Divided into Weekly Working Days”, reference period is the period necessary to do a particular work, length of which is minimum 2 months and maximum 6 months. It is determined by the employer so as not to exceed maximum 6 months, depending on the nature of the work.

Working time of a certain week in a reference period may be determined more or less than 45 hours. However, the average working time per week in a reference period agreed upon, may not exceed 45 hours.

Total period of work is balanced so as not to exceed the regular working time by employing the workers less hours during the period following the week or weeks when work was intensive.

In line with the “By-Law on Road Traffic”, the total driving hours shall not exceed 90 hours in two weeks period of time.

## DAILY REST PERIODS:

In the By-Laws mentioned above it is stated that, the drivers will rest for 11 hours without any interruption in every 24 hours period. Furthermore according to the “By-Law on Road Traffic”, this period can be used as two or three different periods under the condition that one of the resting periods shall be at least 8 hours without any interruption. In this case the daily resting period is raised to 12 hours. The daily uninterrupted resting period 11 hours can be reduced to 9 hours, but this can not be repeated more than 3 times a week. If the vehicle is used by at least two drivers, in every 30 hours period, each driver will rest at least for 8 hours without interruption.

## WEEKLY REST PERIODS:

Drivers are obliged to take one day off in a week after maximum 6 days vehicle driving period. The off day during the week shall be at least 24 hours.

Concerning the international transport of passengers (except those who carry passengers on regular basis), the drivers can drive for 12 days, and they are obliged to take 2 days off in a week after the driving period. The total driving hours shall not exceed 90 hours in these two weeks period of time.

## ENFORCEMENT:

Mainly two organizations namely the Ministry of Interior and Ministry of Labour and Social Security (MoLSS) are involved. The former is responsible for the checks on the road by traffic police and the latter is for the checks in the premises of undertakings, by the labour inspectors.

Ministry of Interior, Ministry of Public Works and Settlement and Ministry of Transport are the responsible public institutions for the implementation of the provisions of “By-Law on Road Traffic”, while the MoLSS is responsible for the “By-Law on Working Time that cannot be Divided into Weekly Working Days”.



According to the By-Law on Road Traffic,

- a) The operators of vehicles transporting goods and passengers;
  - 1) are obliged to make tachograph available in buses, trucks and towing vehicles and ensure that these tachographs are in function,
  - 2) are obliged to keep the tachograph records of their vehicles for 1 month in the vehicles and for 5 years in their offices. If the operators do not have an office, then they shall keep these records or have them kept for 5 years in the vehicles.
  - 3) are obliged to keep the records regarding types and license plates of their vehicles in the traffic, the identities of the drivers, the start date and place of work and destination,
  - 4) the authorized persons of the establishments performing transport of goods and passengers are obliged to monitor the working hours of the drivers and check whether the drivers obey these rules, and to train the drivers who are accustomed to violate the rules and to take the necessary measures for this matter.
  - 5) for the vehicles which conduct intercity transport of goods and passengers, the driving and resting hours foreseen under this By-Law are taken into account, the destination and route of the drivers are taken into consideration and accordingly these vehicles have second drivers available in the provinces, districts and roadside stations where the vehicle would stop.
- b) The drivers of the vehicles;
  - 1) are obliged to obtain Professional Competence Certificate to drive the vehicles,
  - 2) can not drive the vehicles which do not have a tachograph or in function,
  - 3) are obliged to keep the records of the tachograph in the vehicles for 1 month as from the date of record.

Also checked during the controls carried out by the authorized persons in the premises of undertakings are

- weekly resting hours and the driving hours between these resting hours,
- 2 weeks driving period limitation,
- whether the reduced daily or weekly resting hours are compensated or not,
- whether the certificates of entry are used or not,
- whether the working hours of the driver are organized or not.

The controls which are done according to the submission of the necessary documents requested by the authorized bodies are regarded as the controls carried out in the premises.

- **Is there national legislation concerning the installation of tachographs in trucks and busses? When will the digital tachograph be mandatory? How and by whom is this legislation enforced? What is the minimum number of controls carried out at the roadside and at the premises companies? What are the penalties?**

The national legislation concerning installation of tachographs in trucks and busses:

1. Law on Road Traffic (Official Gazette: 18 October 1983, no 2918)
2. By-Law on Road Traffic (Official Gazette: 18 July 1997, no 23053);
3. By-Law on Manufacturing, Modification and Assembly of Motor Vehicles (AITM). (Official Gazette: 21 October 2004, no 25620)

According to Law on Road Traffic, Article 31/1-b and By-Law on Road Traffic, Article 64/1-b; it is compulsory to have and keep in function tachographs in trucks, wreckers and busses. Tachographs may be mechanical, electronic or electro mechanical.

Furthermore, according to By-Law on Road Traffic Article 99/a;

- The affirmative opinion of the Ministry of Interior is a prerequisite for the qualifications, functions and technical features of the tachographs, and in accordance with the technical specifications to be prepared by the Ministry of Industry and Trade, the mechanical, electronic or electro mechanical tachographs are produced or imported.
- The buses, trucks and wreckers which conduct intercity transport of goods and passengers are obliged to have a tachograph in function and to use it.
- The operator and the driver of every vehicle supplied with tachograph shall have these devices in function as from the first day.
- The buses, trucks and wreckers which conduct transport of goods and passengers within city and within contiguous zone of the municipality, are not obliged to have a tachograph.
- Vehicles manufactured in 1984 or in previous years are not obliged to have or use tachograph.
- Obligation of using tachographs does not apply to official vehicles.

Technical studies on digital tachograph are carried out by the Ministry of Industry and Trade (MIT).

### **Roadside Controls**

Drivers' working and rest times are controlled in two ways. Roadside controls of working and rest times of drivers are carried out by Ministry of Interior personnel (traffic police and gendarmerie) and controls of working and rest times of drivers at the premises of the companies are carried out by Ministry of Labour and Social Safety inspectors.

The terminals have been used for intercity bus as first departure point and last arrival point throughout the country. The tachographs' records of these drivers who entered or went out of the terminals have been controlled in order to fixate their working hours.

Furthermore, the vehicles, used in transport of goods and passengers have been controlled by the traffic police with roadside controls on the intercity roads according to special control programs.

2.344.674 drivers were controlled in 2005 and police fined 13.473 drivers and operators who did not obey the working hours.

2.344.674 drivers were controlled in 2005 and police fined 17.268 drivers and operators who did not obey the obligation of having and using tachograph.

Controls cover at least 1% of the yearly working days. At least 15% of these controls is performed on the roadsides, and 25% of them is carried out at the premises of undertakings by the authorized persons. During the controls; the daily driving hours, breaks, weekly and daily resting hours, irregularity signs in the records, previous records and the proper functioning of the tachographs are checked.

Penalties are laid down in article 104 of the Labour Law No: 4857 and the Article 49 of the Law on Road Traffic.

- **Please describe current and future administrative arrangements for checking and enforcing these rules. How many administrative bodies are involved for checks on the road (is the police required?) and on the premises (Ministry of Labour involvement)? Who takes the lead role in driving times? Who takes the leading role in working time? Which body acts as the lead coordinator and will they obtain all the statistics of checks carried out?**

None of the administrative bodies involved (Ministry of Interior and Ministry of Labour and Social Security –MoLSS) has a leading role. Each Ministry is responsible for its own part.

Roadside controls about these rules are made by Ministry of Interior personnel (traffic police and gendarmerie).

MoLSS is responsible for setting the rules on working time, including rest periods and driving times for drivers.

Mainly two organisational bodies of the MoLSS are involved

- Directorate General for Labour
- Labour Inspection Board

Labour Law and a number of regulations under that law lay down the scope of the responsibilities of the MoLSS.

The Labour Inspection Board of the MoLSS is responsible for enforcement of the rules at the premises of the employer in road transport. The labour inspectors make three kinds of inspections at the workplace; inspection, control and investigation. Labour inspections of MoLSS are made within a certain period of time covering whole legislation.

Labour Inspection Board fulfils its duties through heads of units settled in ten regional provinces. Labour Inspection Board is composed of technical and social labour inspectors. There are 603 labour inspectors in total, of which 326 are social and 277 are technical labour inspectors.

According to the ILO Convention no 81 on Labour Inspection in Industry and Commerce and relevant legislation do necessitate to compile all statistical data.

All data is published in the General Report of Labour Inspection and submitted to the ILO annually.

Aforementioned Ministries exchange statistics of checks.

- **What training has been given to enforcement bodies - enforcement officers/police?**

All of the traffic police officers to be tasked with roadside checks are planned to be trained about tachographs. Since 2000, 2.392 traffic police officers have attended tachograph trainings. Number of traffic police officers attended tachograph trainings between 2000 and 2005 are mentioned below.

| YEAR  | TRAINED PERSONNEL COUNTS |
|-------|--------------------------|
| 2000  | 153                      |
| 2001  | 538                      |
| 2002  | 790                      |
| 2003  | 763                      |
| 2004  | -                        |
| 2005  | 148                      |
| TOTAL | 2.392                    |

**Source: Ministry of Interior.**

Labour Inspectors are recruited by a nationwide competitive exam from amongst graduates of certain branches of universities. They are provided with on the job training for about 3 years. They work as assistant labour inspectors during this training period.

- **How do you plan to strengthen the administrative capacity to enforce legislation concerning social rules?**

Within the framework of the Pre-Accession Assistance Programme there is a EU funded project called “Assistance to the Turkish Road Transport Sector” and implemented by the coordination of the Ministry of Transport.

Besides the Ministry of Transport a number of other ministries and authorities having different responsibilities in the road transport sector have been involved in the project; namely:

- Ministry of Agriculture and Rural Affairs
- Ministry of National Education
- Ministry of Finance

- Ministry of Environment and Forest
- Ministry of Industry and Trade
- Ministry of Interior, the Road Traffic Police
- Ministry of Labour and Social Security
- Ministry of Public Works and Settlements
- Under-secretariat of Customs
- State Institute of Statistics
- Competition Authority
- Under-secretariat of Treasury

The MoLSS is one of the beneficiary institutions. The project's purpose is to develop and establish the legislative and institutional framework of the Turkish road transport sector in accordance with the EU Acquis.

Training Needs Assessment for the Turkish Road Transport Sector was also prepared as a part of the project. Trainings will be provided on the following issues:

- Improvement of Skills (Time Management, Communication Skills, Presentation Skills, etc.)
- English Language
- Training of the Trainers
- Information and knowledge on technical/administrative/legislative matters shall mainly be conducted to most of the staff by trainers which will have expertise through Train the Trainer programs.
- Co-operation/Co-ordination: This has been considered under a separate heading as a specific matter since staff from different authorities will follow the program together for strengthening the co-operation and co-ordination among the authorities.

Furthermore, it is planned that 100 assistant labour inspectors will be recruited for the MoLSS.

### **Digital tachographs**

- **What are the timeframe and the organisational plans for the issuing of cards and have tachonet tests started?**

Technical studies on issuing of cards will be carried out by authorities concerned after entry into force of the relevant legislation.

- **What plans does Turkey have for enforcement (data download management, powers of controlling officers, necessary equipment)?**

Technical studies on enforcement will be carried out by the relevant authorities after entry into force of the relevant legislation.

- **What is the current (legal and practical) situation concerning workshops dealing with analogue tachographs and will new legislation be passed for the approval of workshops for digital tachographs?**

The workshops dealing with analogue tachographs are currently covered by the Communiqué no. 86/1-1 published by the MIT laying down the criteria the tachographs and manufacturers should meet. Turkish Standards Institute (TSE) is authorized to check the devices for conformity and the manufacturers are certified by the MIT.

Technical studies on the approval of workshops for digital tachographs will be carried out by the Ministry of Industry and Trade after publishing of relevant legislation.

- **What is the situation concerning data protection and will changes be required for the implementation of Regulations (EC) n° 2135/98 and 1360/2002,**

Technical studies on this issue will be carried out by the relevant authorities after entry into force of relevant legislation.

- **Have you developed training programmes for enforcement officers, and how will they be equipped?**

Technical studies on this issue will be carried out by the relevant authorities after entry into force of relevant legislation.

#### TECHNICAL CONDITIONS

- **What are the national limits of maximum weights and dimensions for road vehicles (including maximum axle weights)? What would be the timeframe to make the entire road network accessible to vehicles in compliance with Directive 96/53/EC?**

By-Law on Road Traffic (Official Gazette: 18 July 1997, no 23053), Article 128 defines the maximum permissible dimensions and weights as follows:

Dimensions;

|   |              |
|---|--------------|
| a) Maximum width                                      | 2.55 meters  |
| Only refrigerated structures of Refrigerated vehicles | 2.60 meters  |
| b) Maximum height                                     | 4.00 meters  |
| c) Maximum lengths (amendment date 11.04.2003-25076)  |              |
| - Motor vehicles except busses                        | 12.00 meters |
| - Trailers  | 12.00 meters |
| - Two axle busses                                     | 13.50 meters |
| - More than two axle busses                           | 15.00 meters |
| - Semi-trailer vehicles                               | 16.50 meters |
| - Articulated busses                                  | 18.75 meters |
| - Busses with trailer                                 | 18.75 meters |
| - Vehicle combinations with trailer                   | 18.75 meters |

Weights:

d) Maximum weights

1) Axle and axle group weights (Amendment date: 11.04.2003-25076)

Maximum axle weight of

|                            |             |
|----------------------------|-------------|
| - Non-driving single axles | 10 tonnes   |
| - Driving single axles     | 11.5 tonnes |

Maximum two axles group weight;

If axle group weight;

|   |             |
|---|-------------|
| Distance between axles is less than 1 meter ( $a < 1\text{ m}$ )                          | 11.5 tonnes |
| Distance between axles is between 1-1.3 meters ( $1\text{ m} \leq a < 1.3\text{ m}$ )     | 16 tonnes   |
| Distance between axles is between 1.3-1.8 meters ( $1.3\text{ m} \leq a < 1.8\text{ m}$ ) | 18 tonnes   |

If distance between axles is between 1.3-1.8 meters ( $1.3\text{ m} \leq a < 1.8\text{ m}$ )

(With conditions mentioned on Motor Vehicles and Trailers Type Approval By-Law or By-Law about manufacturing, changing and assembling of vehicles) 19 tonnes

For trailers and semi-trailers maximum axle group weight;

|   |           |
|---|-----------|
| Distance between axles is less than 1 meter ( $a < 1\text{ m}$ )                          | 11 tonnes |
| Distance between axles is between 1-1.3 meters ( $1\text{ m} \leq a < 1.3\text{ m}$ )     | 16 tonnes |
| Distance between axles is between 1.3-1.8 meters ( $1.3\text{ m} \leq a < 1.8\text{ m}$ ) | 18 tonnes |
| Distance between axles is 1.8 meters or more ( $1.8\text{ m} \leq a$ )                    | 20 tonnes |

Maximum three axles group weight;

|   |           |
|---|-----------|
| Distance between axles is less than 1 meter ( $a < 1\text{ m}$ )                          | 21 tonnes |
| Distance between axles is between 1.3-1.4 meters ( $1.3\text{ m} < a \leq 1.4\text{ m}$ ) | 24 tonnes |

2) (Amended:02.11.2000-24218) Total weights

|  |                 |
|--|-----------------|
| Two-axle motor vehicles and trailers                                 | 18 tonnes       |
| Three-axle motor vehicles (*With conditions in Type Approval By-Law) | 25 (26*) tonnes |
| Three-axle semi-trailers and articulated buses                       | 28 tonnes       |
| Four-axle motor vehicles   | 32 tonnes       |
| Four-axle vehicles trailer and semi-trailer                          | 36 tonnes       |

For vehicles with four-axle semi-trailer, semi-trailer axle

group weight 20 tonnes 38 tonnes

For vehicle combinations with semi-trailer or trailer which has five or more axles 40 tonnes

Semi-trailer vehicles carrying container 44 tonnes

- **What is the legislation concerning the installation of speed limiting devices on these vehicles? How and by whom is this legislation enforced? What is the minimum number of controls carried out at the roadside and at the premises companies? What are the penalties?**

### **Speed Limitation Devices**

By-Law on Speed Limitation Devices or Similar Speed Limitation on Board Systems of Certain Categories of Motor Vehicles (Official Gazette: 05 June 2002, no 24776) which is in line with the 92/24/EC Directive renders type approval of motor vehicles mandatory, enforced by the Ministry of Industry and Trade.

By-Law on Road Traffic was amended (Official Gazette 11 April 2003; no 25076) by the Ministry of Interior and installation and use of speed limitation devices for motor vehicles mentioned below has become mandatory:

- for category N3 trucks and tractors,
- category M3 busses having a maximum mass exceeding 10 tonnes.

However, for vehicles mentioned below; installing speed limitation devices is not mandatory.

- Motor vehicles which are used by police and gendarmerie, responsible for maintaining public order, army forces, civil defence, fire and other emergency services,
- Category M3 vehicles which cannot exceed 100 km/h speed and category N3 vehicles which cannot exceed 85 km/h speed according to their structure,
- Motor vehicles used for scientific experiments,
- Motor vehicles used only for public services in urban areas.

Installation and use of speed limitation devices for motor vehicle categories described in the abovementioned By-Law would be mandatory with the enforcement of the Draft Law amending the Law on Road Traffic which is on the agenda of the Turkish Grand National Assembly. Upon coming into force, the issues of which model vehicles will be equipped with speed limitation devices and the date of the implementation will be determined by the Ministry of Interior. The Draft Law also covers specific provisions for controls and penalties.

- **What is the national legislation on vehicle registration documents? What data do these documents contain?**

### **Vehicle Registration Documents**

According to the Article 22 of Law on Road Traffic, registrations of motor vehicles are made by General Directorate of Turkish National Police on behalf of the Ministry of Interior.

Exceptions;

- Registration of military vehicles is made by Turkish Armed Forces,



- Registration of vehicles operated by rail system is made by the owner institution of these vehicles,
- Registration of construction vehicles which are belongings of public bodies is made by their own institution,
- Registration of construction vehicles belongings of natural and legal persons is made by Chambers of Agriculture, Industry and Commerce.

Technical studies on draft By-Law about changing motor vehicle registration documents in line with the relevant EU directive are going on.

### Current Registration Document Model

| T.C. MOTORLU ARAÇ TESCİL BELGESİ |                |
|----------------------------------|----------------|
| VERİLDİĞİ İL / İLÇE              |                |
| TESCİL SIRA NO                   | TESCİL TARİHİ  |
| PLAKA NO                         | MARKASI        |
| MODELI                           |                |
| CİNSİ                            | ARAZI          |
| TİPİ                             |                |
| RENGİ                            |                |
| MOTOR NO                         |                |
| ŞAŞİ NO                          |                |
| NET AĞIRLIĞI                     | MOTOR GÜCÜ     |
| İSTİAP HADDİ                     | SİLİNDİR HACMİ |
| AZAMI YÜKLÜ AĞIRLIĞI             | İMALATI        |
| RÖMÖRK İSTİAP HADDİ              | RÖMÖRK         |
| KATAR AĞIRLIĞI                   | TAKSİMİTRE     |
|                                  | TAKOĞRAF       |

| ARAÇ SAHİBİ                              |                      |
|--|----------------------|
| ADI ve SOYADI :                          |                      |
| BABA ADI : DOĞUM YER/YILI :              |                      |
| NÜF.KAY.OLDUĞU İL / İLÇE :               |                      |
| İKAMETGAH ADRESİ :                       |                      |
| ARAÇ ÜZERİNDE HAK VE MENFAATI BULUNANLAR | NOTER                |
| DIĞER BİLGELER                           | Satış Tarihi : ..... |
| ONAYLAYAN (SİCİL-İMZA)                   | Numarası : .....     |
|  | Noterin Adı : .....  |
|  | (Mühür - İmza)       |
|  | SERİ F.              |

## New type vehicle registration document model in the Draft By-Law

| TÜRKİYE CUMHURİYETİ/ REPUBLIC OF TURKEY<br>İÇİŞLERİ BAKANLIĞI/MINISTRY OF INTERIOR<br><div style="display: flex; justify-content: center; align-items: center; gap: 10px;"> <div style="text-align: center;">             ARAÇ TESCİL BELGESİ<br/>             REGISTRATION CERTIFICATE<br/>             CERTIFICAT D'IMMATRICULATION           </div> </div> |  |
|---|--|
| (Y.1) VERİLDİĞİ İL/İLÇE:  |  |
| (A) PLAKA:  | (I) TESCİL TARİHİ:                         |
| (Y.2) TESCİL SIRA NO:   | (D.5) CİNSİ:                               |
| (D.1) MARKASI:  | (D.2) TİPİ:                                |
| (D.3) TİCARİ ADI:   | (D.4) MODEL YILI:                          |
| (R) RENGİ:  | (J) ARAÇ SINIFI:                           |
| (P.5) MOTOR NO:   |  |
| (E) ŞASE NO:  |  |
| (G.1) NET AĞIRLIĞI: kg  | (F.1) AZAMİ YÜKLÜ AĞIRLIĞI: kg             |
| (G) KATAR AĞIRLIĞI: kg  | (Q) GÜÇ AĞIRLIK ORANI (MOTORSİKLET): kW/kg |
| (S.1) SÜRÜCÜ DAHİL KOLTUK SAYISI:   | (S.2) AYAKTA YOLCU SAYISI:                 |
| (P.1) SİLİNDİR HACMİ:   | (P.2) MOTOR GÜCÜ:                          |
| (P.3) YAKIT CİNSİ:  | (Y.3) KULLANIM AMACI:                      |
| (K) TİP ONAY NO:  | (B) İLK TESCİL TARİHİ                      |

|  |                            |
|--|----------------------------|
| (C.1.2) ADI:   |                            |
| (C.1.1) SOYADI/ TİCARİ ÜNVANI:   |                            |
| (C.1.3) ADRESİ:  |                            |
| (C.4) ARAÇ SAHİBİ <input type="checkbox"/> EVET <input type="checkbox"/> HAYIR |                            |
| (Y.4) TC KİMLİK NUMARASI:  |                            |
| (H) TESCİL BELGESİNİN GEÇERLİLİK SÜRESİ:                                       |                            |
| (Z.1) ARAÇ ÜZERİNDE HAK VE MENFAATİ BULUNANLAR                                 | (Z.3.1) NOTER SATIŞ TARİHİ |
|  | (Z.3.2) SATIŞ NO           |
|  | (Z.3.3) NOTERİN ADI        |
| (Z.2) DİĞER BİLGİLER   | (Z.3.4) NOTER MÜHÜR-İMZA   |
|  | (N) BELGE SERİ NO:         |
| (Y.5) ONAYLAYAN SİCİL-İMZA   |                            |

- **What is the national legislation on technical vehicle inspection and control? How and by whom is this legislation enforced? What are the scope and frequency of these controls? Are technical inspections of vehicles also conducted at the roadside? If yes, how often on average per year?**

The MoT is responsible for the enforcement of the relevant legislation on road worthiness tests of vehicles and technical roadside inspection for commercial vehicles.

In this regard, the MoT issued a By-Law on Establishment and Management of Vehicle Technical Inspection Stations and Vehicle Inspection (Official Gazette: 23 September 2004, no 25592) which is compatible with the Council Directive 96/96. According to the By-Law, technical inspections and road worthiness tests will be carried out in Vehicle Technical Inspection Stations owned by real or legal persons who will be authorized by the MoT.

In 2004, a consortium was authorized to build and operate Technical Inspection Stations for 20 years. Works on establishment of 189 fixed and 38 mobile stations are underway. The MoT will supervise/audit the establishment and management of the stations. Since the establishment of the inspection stations has not been completed yet, technical inspections of vehicles are currently being carried out by the General Directorate of Highways in the existing stations.

Frequency of technical inspection varies according to the type of the vehicles. For the time being the inspections are carried out at the following frequencies:

- For the private cars; 3 years after the first registration and every 2 years thereafter;

- For the official and commercial cars; 2 years after the first registration and annually thereafter ;
- For the tractors with the rubber-tyre; 3 years after the first registration and every 3 years thereafter;
- For all other motor vehicles and their trailer and semi-trailers; 1 year after the first registration and annually thereafter.

The studies on preparation of a By-Law on technical roadside inspection for commercial vehicles in accordance with Directive 2000/30/EC are going on. Under the ongoing Twinning Project the technical assistance would be received on this task.

Currently road side inspection for vehicles is carried out by the Ministry of Interior/ Road Traffic Police. At the time of traffic controls done by traffic police, vehicles are sent to inspection stations for technical inspection when necessary.

With an amendment of the By-Law on Road Traffic, it will be provided that all motor vehicles on the road will be inspected by the traffic police on their compliance with the technical requirements. For vehicles which are determined improper an “Inconvenience Fact-Finding Report” will be prepared and the vehicles will be dispatched to the inspection stations for further technical inspection.

In addition, 6 special equipped mobile control trailers for technical roadside inspection of commercial vehicles will be purchased within the EU-funded Project.

#### **SAFETY CONDITIONS**

- **What is the national legislation on vehicle registration documents? What data do these documents contain?**

Information on this issue was given under the technical conditions part.

- **What is there national legislation on the setting up of a data bank on road accidents? Are the data collected in line with the content of the European road accidents database CARE?**

According to the article 5 of Law on Road Traffic, the duty on collecting and evaluating information and statistical data about causes of traffic accidents, providing to take precautions according to the accident results and making offers to relevant institutions was given to the Ministry of Interior-General Directorate of Security.

The Traffic Accident Project to compile detailed information on traffic accidents with fatalities and casualties occurred in the areas under the responsibility of police is carried out. The data obtained through the Project on deaths and injuries occurred in the accident scene covers detailed information required by CARE database. However, in gendarmerie responsibility areas only numerical information of deaths and injuries caused by traffic accidents are obtained. In this regard, studies on providing other information in line with the CARE database formats are going on.

- What are the modalities concerning the attribution of driving licences? What is the minimum age for drivers? What are the driving licence categories? Please provide information on the driving licence model and on the theoretical and practical driving exams. Which institution is in charge of the organisation and supervision of driving exams? Is possession of the appropriate national driving licence sufficient for entry into the profession of commercial vehicle driver? If no, is complementary initial training, sanctioned by a certificate of professional proficiency (CCP) or an equivalent document required? How and by whom is this legislation enforced? Which authority issues permits for the establishment of driving schools and according to what procedure are they issued?

Person having the conditions indicated in the Article 41 of Law on Road Traffic has to attend driving school and accomplish both theoretical and practical final exams in order to get a driving licence.

The Ministry of National Education prepares the curriculum of driving schools and applies theoretical and practical exams for candidate drivers. Driving licences of those who passed these exams are issued by the General Directorate of Security on behalf of the Ministry of Interior.

### Current Driving Licence Model

| T.C. SÜRÜCÜ BELGESİ<br>DRIVING LICENCE  |  |
|---|--|
| ADI-NAME:   |  |
| SOYADI-SURNAME:   |  |
| VER.İL/İLÇE ISSUED AT PROVINCE/COUNTY:  |  |
| BELGE NO-LICENCE NUMBER:  |  |
| VER.TARİH-DATE OF ISSUE:  |  |
| KULLANDIĞI CİHAZ VE PROTEZLER:  |  |
| SINIF-CLASS:  |  |
| <p>TIBBEN YAŞAMIM SONA ERDİKTEN SONRA DOKU VE ORGANLARIMIN<br/>TAMAMINI <input type="checkbox"/> BÖBREKLERİMİ <input type="checkbox"/> KARACİĞERİMİ <input type="checkbox"/><br/>GÖZLERİMİ <input type="checkbox"/> KALBİMİ <input type="checkbox"/> PANKREASİMİ <input type="checkbox"/><br/>DİĞER HASTALARIN TEDAVİSİ İÇİN BAŞLIYORUM</p> <p>NÜFUSA KAYITLI OLDUĞU</p> <p>İL/İLÇE:</p> <p>İMAHALLE/KÖY:</p> <p>CİLT: SAYFA: KÜTÜK:</p> <p>BABA ADI: ANA ADI:</p> <p>DOĞUM YERİ/TARİHİ:</p> <p>KAN GRUBU DÜZENLEYEN BELGE SAHİBİNİN İMZASI</p> |  |

### NEW TYPE DRIVING LICENCE MODEL

- The new driving licenses shall be prepared as plastic cards according to security criteria in line with the Council Directive.

**TR** TÜRKİYE CUMHURİYETİ SÜRÜCÜ BELGESİ  
Permis de Conduire – Driving Licence

1. DEMİRCİOĞLU  
2. Mine Sema  
3. 06/10/1970 İstanbul  
4a. 30/06/1995  
4b. 30/06/2005  
4c. Ankara Emn. MÜd.  
4d. 15186952412  
5. 213745

9. BE C1E gh

7. *Mine Sema*

|     | 9 | 10         | 11         | 12 |
|-----|---|------------|------------|----|
| A1  |   |            |            |    |
| A   |   |            |            |    |
| B1  |   |            |            |    |
| B   |   |            |            |    |
| C1  |   |            |            |    |
| C   |   |            |            |    |
| D1  |   |            |            |    |
| D   |   |            |            |    |
| BE  |   | 30.05.1995 | 30.05.2005 |    |
| C1E |   | 30.05.1995 | 30.05.2005 |    |
| CE  |   |            |            |    |
| D1E |   |            |            |    |
| DE  |   |            |            |    |
| f   |   | 30.05.1995 | 30.05.2005 |    |
| g   |   | 30.05.1995 | 30.05.2005 |    |
| h   |   |            |            |    |

|    |  |
|----|--|
| 13 |  |
| 14 |  |

|     |                        |
|-----|------------------------|
| 1.  | Soyadı                 |
| 2.  | Adı                    |
| 3.  | Doğum Tarihi ve Yeri   |
| 4a. | Düzenleme Tarihi       |
| 4b. | Geçerlilik Tarihi      |
| 4c. | Düzenleyen Birim       |
| 4d. | T.C. Kimlik Numarası   |
| 5.  | Belge Numarası         |
| 7.  | İmza                   |
| 9.  | Araç Sınıfları         |
| 10. | Düzenleme Tarihi       |
| 11. | Son Kullanma Tarihi    |
| 12. | Ek Bilgi / Karşılıklar |

## Categories of Driving License

### Current Situation

#### Categories

- A1** Light motor cycle
- A2** Motorcycle
- B** Car, pickup-truck, minibus < 3,5 t
- C** Truck >3,5
- D** Wrecker
- E** Bus
- F** Tractor
- G** Work Vehicles
- H** Special Equipped Automobile and Motorcycle
- K** Candidate driver

#### Proposal in the Draft Law

##### Main Categories

- A** Motorcycle
- B** Vehicles, less than 3,5 tone
- C** Vehicles, more than 3,5 tone
- D** Bus
- E** Vehicles with trailer (for categories B, C, and D)

##### Sub Categories

- A1** Light motor cycle (cylinder volume < 125 cm<sup>3</sup> and 11 kw)
- B1** Three or four Wheel vehicle < 550 kg
- C1** Truck >3,5 t <7,5 t
- D1** Bus (number of seat > 8 ≤ 16)

##### Special Categories

- f** Tractor
- g** Work Vehicles
- h** Special Equipped Automobile and Motorcycle
- k** Candidate driver

## AGE LIMITS FOR TAKING DRIVING LICENSE

| Current Situation |                  | Proposal in the Draft Law |                               |
|-------------------|------------------|---------------------------|-------------------------------|
| Age               | License Category | Age                       | License Category              |
| 17                | A1, A2, F and H  | 16                        | A1 and B1                     |
| 18                | B and G          | 18                        | A (Limited), B, BE, f, g, h   |
| 22                | C, D and E       | 21                        | A (Unlimited), C and all of D |

### Health Condition for Getting Driving Licence

- According to the Law on Road Traffic health conditions of driver candidates will be defined in a By-Law which will be prepared by the Ministry of Health in coordination with the Ministry of Interior.

### Other Matters in Draft Law

- Renewal of the driving licences every 10 years for those under 60 years old, every 5 years over 60 years old after the health control.
- Giving beginner driving licence for two years to those who acquired the right to have a driving licence and setting some limitations during this period for beginner drivers. Namely; in this period, if beginner drivers violate the red light rule more than five times, drive under the influence of drug or alcohol or exceed the 75 penalty points, their driving licenses would be cancelled.
- Having a B, C1 or D1 driving licence at least for 3 years is required to obtain a driving licence category C and D.
- To obtain an authorized driving license to drive trailer vehicles, having a driving licence belonging to that vehicle category is compulsory.

### Professional Competency Certificate

According to the By-Law on Road Transport, professional competency certificate obtained after a certain training programme and examination is compulsory to drive commercial vehicles, besides appropriate driving licence by 1<sup>st</sup> January 2007.

The Ministry of Transport, the Ministry of Interior and the Ministry of National Education are responsible authorities for the enforcement of relevant legislation.

### Training of Drivers

The Ministry of National Education is responsible for issuing permits for private driver training courses in accordance with The Law on Traffic Road (Law No: 2918, Article 123).

Driver Training Courses are opened by natural and legal persons only with permission of the Ministry of National Education (MoNE) and these institutions perform their education-training activities under the control and supervision of MoNE. Persons who want to open Driver Training Course apply to Provincial Directorate of Education of MoNE to obtain a permission to run a driver training course.

Regular inspections are carried out by inspectors of Provincial Directorate of Education. The inspectors check whether the courses are complying with regulations, in areas such as administrative activities, finance, curriculum and quality of training.

- **Is there national legislation concerning road transport of dangerous goods? What is the administrative capacity to enforce the road transport of dangerous goods? Do you have specialised staff to this task? What is the minimum number of controls carried out at the roadside and at the premises of companies? What are the penalties?**

By-Law on Transport of Dangerous Goods by Road (Official Gazette: 22 October 1976, no 15742) has been in force since 1976. However, a new By-Law is under preparation by taking into account the requirements of ADR and relevant EU Directives. Technical assistance will be received under the ongoing Twinning Project.

For improving the administrative capacity, a new Department has been established within the Directorate General of Land Transport (DGLT). Specialized staff have been allocated to this task. The efforts of DGLT to increase the number and quality of staff to a sufficient level are going on.

Currently, controls, except at the premises of companies are carried out by the Ministry of Interior in compliance with By-Law on Transport of Dangerous Goods and By-Law on Road Traffic.

According to the Article 134 of By-Law on Road Traffic, the vehicle violating the rules of carriage of dangerous goods is prohibited from traffic until the necessary conditions are met. However, those not posing hazard to traffic safety and road infrastructure are permitted to continue and to take necessary measures in the nearest town.

- **What is the current reporting system used to collect data on transport of dangerous goods?**

There is a reporting system for data on transport of goods but not specifically for dangerous goods.

## OTHER TECHNICAL SPECIFICATIONS

### Horizontal questions for all land transport modes on transport of dangerous goods

- **What is the administrative capacity to designate and monitor dangerous goods safety advisers according to ADR/RID/ADN? How their training and examinations have been organised? How do you control that companies involved in dangerous goods transport have a safety adviser?**

There is no legislation on safety advisor for the time being. However, a new legislation for regulating the issues regarding safety advisor including their training would be prepared separately or the relevant rules would be specified within the new By-Law on Transport of Dangerous Goods which is under preparation.

- **Is there national legislation concerning transportable pressure equipment, its manufacturing and inspections?**

There is a By-Law on Transportable Pressure Equipment transposing relevant EU legislation (1999/36/EC).

| <i>EU Directive</i>  | <i>National Legislation</i>                           | <i>Number and Date of Official Gazette</i> | <i>Entry into force</i>                   |
|--|---|--|---|
| Council Directive 1999/36/EC of April 1999 on Transportable Pressure Equipment | By-Law on Transportable Pressure Equipment (99/36/AT) | 24766, 05.06.20003                         | 01.01.2004<br>Mandatory use<br>01.07.2005 |

### **How the accreditation and certification of the inspection bodies and certification of the equipment has been organized?**

According to Communiqué on the Basic Criteria for the Designation of Notified and Approved Bodies in accordance with the By-Law on Transportable Pressure Equipment, accreditation of the notified and approved bodies are not obligatory, but if the bodies were accredited, the evaluation should be made on the file bases by TURKAK (Turkish Accreditation Agency).

### **Conformity Assessment:**

In order to ensure transparency and independency of notified and approved bodies to be designated by the Ministry of Industry and Trade (MIT), the application, assessment and designation procedures and the criteria for the NBs and CABs were determined through the following legislation (Official Gazette No. 25030 dated, 24 February 2003):

- Communiqué on the Basic Criteria for the Designation of Conformity Assessment Bodies in Accordance with the By-Law on Pressure Equipment



- Communiqué on the Basic Criteria for the Designation of Notified and Approved bodies in accordance with the By-Law on Transportable Pressure Equipment

According to the above-mentioned criteria, CABs to be appointed by the Ministry as a notified body should meet the following requirements:

- The requirements laid down in the By-Law on Conformity Assessment and Notified Bodies (No. 2001/3531), which is an implementing regulation of the Law No. 4703 and published in the Official Gazette 17 January 2002, no: 24643,
- Minimum criteria set out in the Annex of the relevant By-Law for notified bodies,

Communiqué covers;

- Technical and administrative criteria to be met by CABs (no additional criteria other than those mentioned in the Directive, reference to EN 45000 series standards)
- Application procedure (where to apply, accompanying documents for application)
- Evaluation procedure
- Designation
- Duties and responsibilities of CABs

Ministry signed a Protocol with TURKAK on 18.4.2003.

- According to this Protocol, TURKAK makes all necessary assessment for designation.
- Upon the positive assessment report of TURKAK, the MIT makes the final decision to notify the candidate body to the Commission.

**Candidate Notified Bodies;**

| <i><b>Name of the CABs</b></i>                        | <i><b>Product/Range Of Product</b></i>         | <i><b>Modules</b></i>  | <i><b>Address</b></i>   | <i><b>Tel, Fax, e-mail</b></i>   |
|---|--|--|---|--|
| Turkish Lloyd<br>(already notified to the Commission) | Transportable Pressure Equipment<br>(99/36/AT) | A1, B, B1, C1, D, D1, E, E1, F, H, H1, Periodic Inspection of Products (Module 1), Periodic Inspection Through | TURK LOYDU VAKFI<br>Tersaneler Cd. No: 26<br>81700 Tuzla-İSTANBUL | +90 312 46810 46/ +90 216 446 22 40<br><br>+90 216 446 19 14<br>sbakirci@turkloydu.org |

|  |   |   |  |   |
|--|---|---|--|---|
|  |   | Quality Assurance (Module 2)  |  |   |
| TSE (already notified to the Commission)                   | Transportable Pressure Equipment (99/36/AT) | D, D1, E, E1, H, H1, Periodic Inspection Through Quality Assurance (Module 2) | TÜRK Standartları Enstitüsü (TSE) Necatibey Cad. No 112 06100 Bakanlıklar - ANKARA | +90 312 416 62 00<br>+90 312 416 66 11                                      |
| Chamber of Machinery Engineers (under TURKAK's assessment) | Transportable Pressure Equipment (99/36/AT) |   | Makine Mühendisleri Odası<br><br>Sümer Sokak No. 36/1-A Demirtepe- ANKARA          | +90 312 231 31 59<br>+90 312 231 31 65<br>mmo@mmo.org.tr                    |
| Bureau Veritas, BV (under TURKAK's assessment)             | Transportable Pressure Equipment (99/36/AT) |   |  | +90 216 361 96 96<br>+90 216 361 97 50<br>rifat.pergel@tr.bureauveritas.com |

Certification of the equipment is obtained according to conformity assessment procedures set out in the By-Law on Transportable Pressure Equipment.

#### **How the inspection bodies are monitored?**

Monitoring is made by MIT or TURKAK on behalf of the MIT according to the Communiqué on the Basic Criteria for the Designation of Conformity Assessment Bodies in Accordance with the By-Law on Pressure Equipment and Communiqué on the Basic Criteria for the Designation of Notified and Approved Bodies in Accordance with the By-Law on Transportable Pressure Equipment. But Turkey has not designated any notified or approved bodies yet. Positive evaluation reports for TSE and Turk Loydu have been received from EA. Negotiations are going on with the Commission concerning identification numbers for NBs. assessment procedure for the candidate approved bodies has been going on for EVAS and IPRAZ by TURKAK.

#### **How the market surveillance has been organized?**

The market surveillance under By-Laws on Pressure Equipment and Transportable Pressure Equipment is carried out pursuant to the provisions of the "Law No. 4703 on Preparation and

Implementation of Technical Legislation on Products” (hereinafter referred to as Law No.4703) (Official Gazette 11 July 200, no: 24459), the “By-Law on Market Surveillance of Products No. 2001/3529” (Official Gazette 17 January 2002, no: 24643) and the “By-Law on Procedures and Principles for Market Surveillance to be Performed by the Ministry of Industry and Trade” (Official Gazette 9 May 2003, no: 25103).

Total number of inspectors assigned for the market surveillance of pressure vessels and pressure equipment and transportable pressure equipment are 155. While 25 of them are technical staff of DG for Measurement and Standards, 130 of them are serving at the 81 provincial directorates of MIT.

DG for Measurement and Standards is responsible for 6 new and global approach Directives and 32 old approach Directives. Budget for the market surveillance activities of these Directives is totally around 400,000 € for the year 2006.

- 171,875 € of this amount is for taking samples, testing and training expenses.
- 228,500 € of this amount is for the personnel expenses.
- The budget allocated is financed from the budget of the DG for Measurement and Standards.

Personnel expenses of the provincial directorates are allocated from the budget of these directorates.

MIT strengthened and re-organized its existing system according to the transposed legislation.

In the “By-Law on Procedures and Principles for Market Surveillance to be Performed by the Ministry of Industry and Trade”, the principles of inspection and the sanctions to be imposed are defined in detail together with the duties and responsibilities of the inspectors.

The personnel in charge of market surveillance is authorized to make examinations on the product, review the documents and/or conformity marking, make physical examination and take samples for testing.

The MIT makes use of the following resources for market surveillance activities:

- RAPEX web site,
- Notifications of Member States (CIRCA),
- Complaints of consumers, manufacturers or Association of Pressure Equipment Sector,
- Information obtained from the Consumer Protection Associations
- Information obtained from the proceeding inspection reports
- Accidents, etc.

For non-conforming and unsafe products, the MIT takes necessary measures (including administrative fines, withdrawal from the market and disposal of product, granting time limit for remedying the non-conformity, informing the public through media of the nonconforming products as well as of the manufacturer) in accordance with the Law No.4703.

All actions are taken and penalties are applied according to the provisions of the Law No. 4703, the “By-Law on Market Surveillance of Products” and the “By-Law on Procedures and Principles for Market Surveillance to be Performed by the Ministry of Industry and

Trade”. In each case, such actions and penalties are applied considering the level of non-conformity and the principle of proportionality.

To provide an effective implementation of the By-Laws, there is a technical committee on pressure equipment (BASTEK), in which the private and public sector representatives participate.

Informative seminars are held by the MIT in collaboration with the Chambers of Commerce and Industry and sectoral associations for raising awareness in the field (up to now, seminars in 15 provinces, where the industrial activities are very intensive, have been organised).

For raising awareness among the consumers and manufacturers, cooperation is established between the MIT and NGOs.

### **International organisations and conventions**

- **On which date did your country sign or intends to sign the United Nations ADR agreement?**

ADR Agreement has been ratified by the Turkish Parliament in December 2005 (Official Gazette: 6 December 2005, no 26015). The notification process to the UN is still in progress.

- **Do you have a national translation of ADR available? If yes, which year's version?**

2005 Year's version of the ADR Agreement has been translated into Turkish.

**STATE AID – COMPETITION RULES**

- **What type of state aid is currently provided to the transport sector (aviation, maritime transport, rail transport, public transport). Does your country have a strategy to align state aid regimes to the acquis?**

There is no sector specific state aid programs provided for transport sector.

**A-State Aid Programs Implemented by Turkey**

**a) Title of the program**

DECREE CONCERNING STATE ENCOURAGEMENTS TO INVESTMENTS

**b) Turkish legislation related to the program (law, communiqué etc.) – Official Journal date and no**

Decree No:2002/4367, dated: 10 June 2002, (Official Gazette: 09 July 2002, no 24810)

**c) Objective of the program**

The purpose of the general investment encouragement program is to encourage, support and orient investments, in-line with international commitments, in conformity with the objectives of Development Plans and Annual Programs, in order to reduce regional imbalances within the country, create new employment opportunities, while taking advantage of advanced and appropriate technologies with greater added value and to increase international competitiveness.

**d) Duration of the program**

Duration of the program has not been specified in the Decree.

**e) Source and amount of the program (budget allocations, net usage)**

Source of the measures implemented under the program is the government budget. Since the program is a combination of tax exemptions, it is difficult to claim a lump sum amount.

**f) State aid measures implemented in the program**

**1- Title**

Exemption from Customs Duties and Fund Levies

1.1. Implementing institution or agency

Undersecretariat of Treasury

- General Directorate of Incentives and Implementation (GDII)
- General Directorate of Foreign Investments (GDFI)

1.2. Amount and conditions (aid intensity, eligible expenditures, net aid after tax)

For the investment projects which are evaluated and found eligible by the Undersecretariat of Treasury, imports of the machinery and equipment to be used in the production process shall be subject to Customs Duty exemption. Once the exemption is listed on the "Certificate", the investor can import the machinery and equipment indicated on the approved list, namely the "Machinery and Equipment List" aiming only at the purposes of the investment in question, without paying any customs duties. Due to the Customs Union between Turkey and the EU, this measure is only applicable to the machinery and equipment imported from the third countries.

2- Title

Value Added Tax Exemption for imported and domestically purchased machinery and equipment

2.1. Implementing institution or agency

Undersecretariat of Treasury

- General Directorate of Incentives and Implementation (GDII)
- General Directorate of Foreign Investments (GDFI)

2.2. Amount and conditions (aid intensity, eligible expenditures, net aid after tax)

Pursuant to Law No. 4369 dated 22/7/1998, imports and domestic purchases of machinery and equipment within the scope of approved machinery and equipment lists attached to the investment encouragement certificate are exempt from the Value Added Tax.

**g) Beneficiaries of the program:**

The program covers all investment activities related to the production of goods and services, research and development (R&D), environmental protection and improvement of quality and standards. In addition, within the program there is no industrial selectivity. Therefore, the program covers all investments in all industrial branches including land, air and maritime transport investments.

By taking into consideration of the secondary EU legislation on state aid to land, air and maritime transport, as a nonexhaustive list, following types of investments are encouraged within the scope of the program:

### Land Transport

- Railroad transport equipment including locomotive and wagons
- Trailer, semi-trailer and tow-truck renewal investments for international cargo transport
- All means of public transport investments of municipalities
- Heavy construction equipment for railway, fast tram, light rail transit
- Bus terminal construction
- Combined (road, maritime, air and railway) container transport investments

### Air Transport

- Maintenance and repair facilities for air transport vehicles
- Air traffic control and communication systems and services ancillary to air transport
- Firefighting services, fuel supply tanker and similar services provided to planes at airports
- Construction and operation of airport terminal buildings and warehouses
- Ground cargo services provided for air transport

### Maritime Transport

- Imports of ships (only for new vessels) and equipment for ship/shipbuilding
- Construction of seaports, piers, docks and fishermen's harbours providing free and equal access
- Cargo transport by containers
- Tugboat and towage services
- Loading and discharging equipments operating in seaports

## **B- Capital Transfers to TCDD and TDI A.Ş. (Turkish Maritime Organization Incorporation)**

TCDD (Railways) and TDI (Maritime) receive capital from Treasury and Privatisation Agency respectively. These institutions are making loss. As an owner, Treasury and Privatisation Agency may make capital transfers to these institutions.

Transfers are limited to;

- Budgetary allocations and availability of Privatization Fund sources
- Wage, salary and investment expenses of the entities

If the institutions recover, transfer may be cancelled or decreased by the Treasury or Privatization Agency.

Capital Transfer to the TCDD is paid according to Decree Law No. 233. As to Article 37 of the Decree Law; The Treasury shall transfer capital for investment and operational deficits of TCDD.

Table 1 shows the capital transfer figures over the period 2004 - 2006.

**Table 1.**

| <b>Capital Transfers to TCDD and TDI</b> |             | <b>(Million Euro)*</b> |                  |
|--|-------------|------------------------|------------------|
|  | <b>2004</b> | <b>2005</b>            | <b>2006(Prg)</b> |
| <b>TCDD (Railways)</b>                   | 306         | 289                    | 738              |
| <b>TDİ (Maritime)</b>                    | 1           | 17                     | 21               |
| <b>TOTAL</b>                             | 307         | 306                    | 759              |

\*2004:1 Euro= 1,76 YTL

2005: 1 Euro= 1,67 YTL

2006: 1 Euro= 1,65 YTL

### **C-Other Financial Transfers**

Subsidies for track maintenance and repair, in accordance with Decree Law No. 233 and TCDD's Incorporation Statute, are paid by the Ministry of Transport.

### **D-Transport Investments with Foreign Financing**

The Republic of Turkey provides foreign financing only to an investment project of a public institution provided that the related project is in the Annual Investment Program. However, during the financing of these projects via foreign sources, the tender processes should be based on competitiveness without any exception.

i) For the airplane purchases, the Republic of Turkey neither becomes the borrower nor the guarantor of the foreign credit agreements for the financing of any airline company, including Turkish Airlines (THY). THY has recently become a company of which 51% of the shares belong to private sector. For this reason, except for the existing guarantees, Turkish Government could no longer be the borrower or the guarantor of the foreign credit agreements for the financing of THY airplane purchases. From this perspective, there is no case which might be defined as state aid.

ii) For the airport building, General Directorate of State Airports Administration (DHMI) constructs large scale airport terminals via BOT scheme without treasury guarantee.

iii) The Republic of Turkey has not provided any foreign credit for a project under maritime transport sector since 1989.

iv) For the road transport, Turkish Government finances the road construction projects. The tender processes of these projects are based on competitiveness and do not confer any advantage to any undertaking.

v) Turkish Government may finance the projects of railway transport through foreign credits. The tender processes of these projects are again based on competitiveness.

State aids for railways in Turkey will be re-arranged in accordance with EU *acquis*. A twinning project, namely "Organisation of the Railway Sector" within the scope of 2003 Financing Memorandum between Turkey and the EU, is being carried out to organize legal



and structural framework of the Turkish railway sector. Technical studies on drafting a general railway framework law are underway.

Technical studies on harmonization of Turkish legislation with the EU acquis for other transport modes are going on.

- **Please provide an overview of the (legal) situation and actual plans for granting concessions (especially in the area of PPPs) for the construction and operation of transport infrastructure.**

#### A-Overview of the Legal Situation in Turkey for PPP projects in Transport Sector

There are two PPP laws in Turkey for transport sector. These are:

Law on Granting Authorization to Institutions Other Than The General Directorate of Highways for Construction, Maintenance and Operation of Highways No. 3465 (Official Gazette dated 02 June 1988)

This law forms the legal basis exclusively for highways and related roadside facilities to be built under the Build-Operate-Transfer (BOT) model or to be operated under the Transfer of Operation Rights (TOR) model.

There are 35 roadside facilities ongoing projects under BOT model subject to this Law. 25 of roadside facilities built are under operation.

Projects under this law are subject to tendering process.

Law on Realization of Certain Investments and Services in the Build-Operate-Transfer Model (Official Gazette dated 13 June 1994)

This law forms the legal basis for numerous categories of infrastructure investments to be built under the BOT model named as bridges, tunnels, dams, irrigation, drinking and tap water, treatment plants, sewage, communications, generation, transmission, distribution and trade of electricity, mines and mining operations, factories and similar facilities, investments for preventing environmental pollution, highways, railways, underground and ground auto parks, sea and airports for civil use, and other similar investments and services.

There are numerous projects subject to this Law. In the transport sector, 5 airport terminal projects and 1 tunnel road projects have been constructed and in operation. Also 2 port projects of DLH have been constructed and in operation, one port is currently under construction.

Projects under this law are subject to tendering process.

#### ADDITIONAL EXPLANATION

Although the duty losses are not considered as state aids, because all kinds of transfers to transport SOEs have been requested by the Commission during the screening meeting, general scope of duty losses as well as amounts transferred to TCDD in this regard are given below:

### Duty Losses:

The SOEs may be assigned to conduct services and/or Council of Ministers may set their prices for general economic interest.

Decree Law 233, Article 35 authorizes the Council of Ministers and states principles of such duties. Based on this statement, further Decrees have been supplied for each duty.

Basic principles are:

- Cost of duties plus a 10% margin shall be transferred to SOEs from the budget.
- Costs to be audited and finalised by the Treasury before payment. This procedure takes some time and payments take place at least after a year. For this reason, duty losses may be paid in advance to SOEs according to Annual Budget Law (Law no 5437).

TCDD (Railways) is a Transport SOE which is assigned to conduct public services by the Decree of Council of Ministers: 1989/14558. These services are limited to the operation of some uneconomic railway lines. Losses arising from these lines are paid to TCDD after audit.

Table 1 shows the duty loss payment figures over the period 2004 - 2006.

Table 1

Duty Loss Payments:

Million Euro\*

|                        | 2004 | 2005 | 2006 (Prg) |
|------------------------|------|------|------------|
| <b>TCDD (Railways)</b> | 79   | 114  | 148        |

\* 2004: 1 Euro= 1,76 YTL

2005: 1 Euro= 1,67 YTL

2006: 1 Euro= 1,65YTL

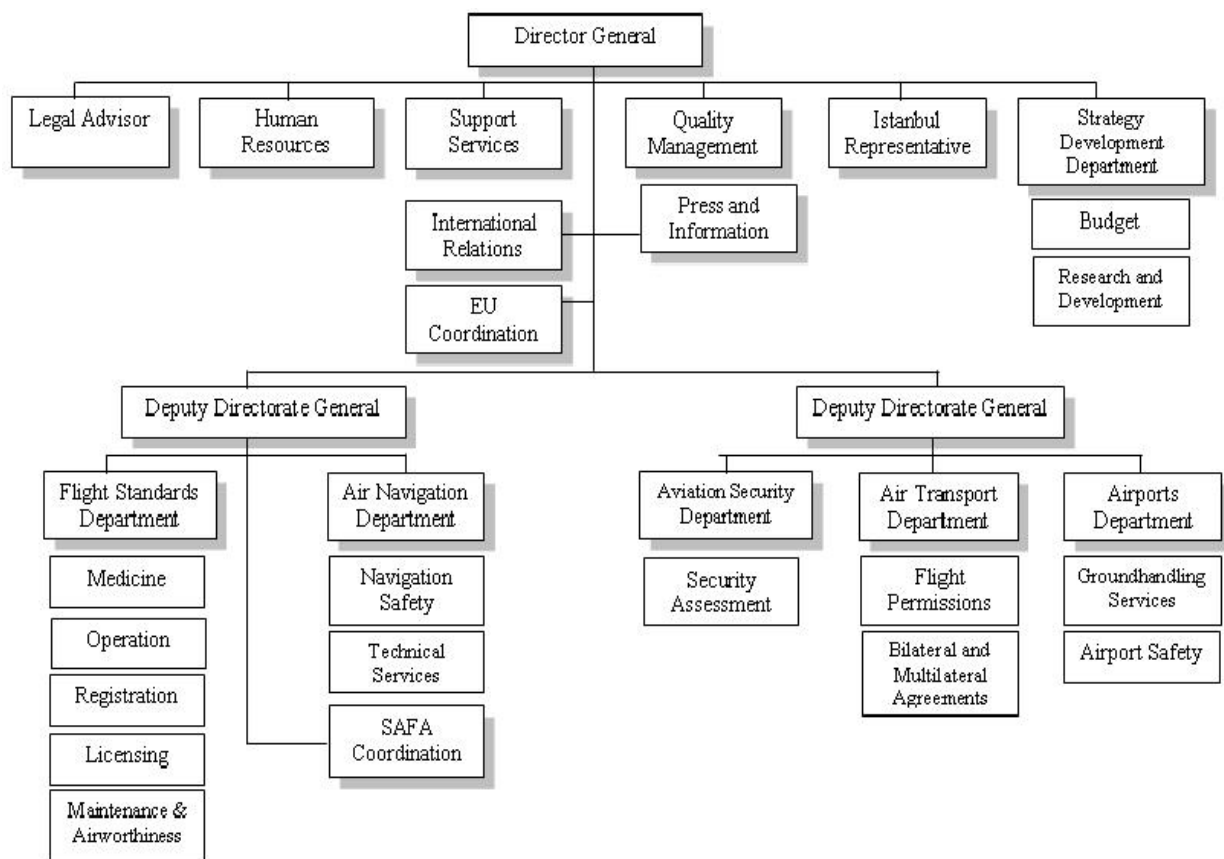
## AIR TRANSPORT

### MARKET ACCESS

#### Administrative capacity

- **What is the situation in terms of administrative capacity of the regulatory body, the civil aviation authority and the slot allocator (number of personnel, reporting lines, organigrams, key data,...)**

Organization chart of Directorate General of Civil Aviation (DGCA) is as follows:



### Legislation

- The Law on Establishing of Organization and Duties of Ministry of Transport no. 3348 (Official Gazette: 17 April 1987, no 19434 )
- The Law on Turkish Civil Aviation No. 2920 (Official Gazette: 19 October 1983, no 18196 )
- The Law on the Duties and Organisation of Directorate General of Civil Aviation No. 5431 (Official Gazette: 18 November 2005, no 25997)

As the Turkish Civil Aviation Authority, the DGCA is responsible for the development and supervision of Turkish Civil Aviation sector in accordance with international safety and security requirements, and provides equal opportunities for the provision of civil aviation services. Within the framework of these responsibilities, DGCA engages in the development of civil aviation rules, supervision of the implementation of the international agreements, airworthiness, flight operations, licensing and air traffic management.

Turkey currently holds the membership of;

- ◆ International Civil Aviation Organisation (ICAO)
- ◆ European Civil Aviation Conference (ECAC),
- ◆ Joint Aviation Authorities (JAA) and
- ◆ European Organisation for the Safety of Air Navigation (EUROCONTROL).

As a consequence of Turkey's membership in these international organisations, DGCA follows the international standards and rules, and ensures their implementation in the Turkish civil aviation sector.

Aiming at providing flight safety and aviation security and ensuring the compatible atmosphere for fair competition of Turkish civil aviation sector by taking into account the international standards, the duties of DGCA are:

- ◆ ***Coordination and Establishment of Rules:*** Improving the legislation for conducting the civil aviation sector to make more compatible to constantly changing international standards and contemporary conditions.
- ◆ ***Inspection and Permanent Supervision of the Competence of Rules and Standards:*** Inspecting regularly air carriers, aircraft, licensed technical staff and airports, which have been authorised by the Ministry of Transport, and providing the civil aviation activities to be safe and secure within the framework of latest international rules and regulations.
- ◆ ***The Application of Sanctions:*** Applying sanctions such as deprivation of rights and penalties in case of deficiencies and failure in fulfilling the standards.

After the publication of the Law on the Duties and Organisation of Directorate General of Civil Aviation No. 5431 (Official Gazette: 18 November 2005, no 25997), within the context of restructuring process new staff are employed and their training programs are going on. As of September 2006, the number of personnel is 129.

## **SLOT ALLOCATION**

With the Instruction for Slot Implementation Procedures (revised on August 31, 2006 by Minister's Approval) slots are allocated in an independent, transparent and non-discriminatory manner by a Slot Coordinator in consultation with the Commission for Evaluation of Slot Allocation (CESA).

Slot Coordinator, appointed by Director General of Civil Aviation, is the only authorised person for slot allocation and directly accountable to the Minister. CESA is a consultative body comprised of representatives of national and foreign air carriers, managing body of airports, ground handling companies and all other relevant bodies.

Besides, the Slot Technical Committee established under DGCA is responsible for infrastructure capacity assessments. Allocated slots are also being monitored by Slot Coordinator, and sanctions are applied in case of non-compliance.

There are 20 persons working for Slot Coordination Center on 24 hours basis.

### **Economic regulations**

- **To what extent has the framework legislation for the internal air transport market (EC Regulations 2407/92, 2408/92 and 2409/92) been implemented?**

Domestic air transport market is fully liberal in Turkey. By-Law on Commercial Air Transport Operators SHY 6A (Official Gazette: 16 June 1984, no 18433) based on JAR OPS 1, regulates licensing of commercial air transport operators. Other related Joint Aviation Requirements (JARs) are also implemented.

According to Article 31 of the Law on Turkish Civil Aviation, carriage of passenger, cargo and mail for commercial purposes between two points in Turkey is performed by Turkish registered air carriers.

According to the Article 25 of the Law, operators determine airfares according to the market conditions and announce to third parties 3 days before the implementation.

- **Are public services contracts for passenger services existing or being developed? / Any cross-subsidisation between different market actors such as the national airline, the ATS provider, the airports etc.?**

There are no current public service contracts for passenger services. But in 2006 Annual Program, a priority is given to regional airline services and development of a public service obligation (PSO) scheme is planned as a related measure. The preliminary studies regarding the PSO are in progress.

- **What is the legal basis for having a national air carrier? What was the procedure applied for selecting the national air carrier?**

There is no such a definition of national air carrier in the legislation. However, By-Law on Commercial Air Transport Operators (SHY 6A) is the legal basis for having an Air Operator Certificate (AOC). The procedure to get the AOC is explained below.

- **What is the financial relation between the national airline and public authorities? What are the conditions, if any, for granting subsidies?**

Turkish Airlines, the national airline and flag carrier in Turkey, is privatized via several public offerings. 51% of the shares are listed and the remaining shares are held by Privatization Administration. Since the majority of the shares are privately owned, THY is no longer treated as a public entity and it is subject to private law.

- **What are the rules for air fares? How and by whom are these enforced?**

According to the Article 25 of the Law on Turkish Civil Aviation, operators determine airfares according to the market conditions and announce to third parties 3 days before the implementation.

- **What are the rules for Computerised Reservation Systems? How and by whom are these enforced?**

There is no legislation concerning Computerised Reservation Systems.

- **How can air carriers obtain authorisation to operate specific routes, whether they are domestic or international? Do certain air transport undertakings hold exclusive rights on specific air routes?**

Both domestic and international air carriers to operate international scheduled services are subject to the designation in accordance with the existing bilateral air transport agreements. Domestic or international air carriers apply to DGCA at the beginning of each summer and winter schedule seasons in order to get flight permission in the framework of Turkish AIP provisions. The applications are evaluated and the authorisations are granted in accordance with the existing bilateral air transport agreements, national & international rules and regulations.

No exclusive rights on the specific air routes are granted to any air transport undertakings.

- **What are the conditions for licensing and certification of airlines? (operating license and/or AOC)**

According to SHY 6A:

- I. The Process of an Air Operator Certificate
  1. Pre-application (examined in 30 days)
  2. Legal application
    - i. Preliminary permission period (Evaluation in 60 days)
    - ii. Document compliance period
    - iii. AOC application process (examined in 90 days)
  3. Audit
  4. Evaluation (Evaluation in 60 days)
  5. AOC issue (AOC is valid for 1 year for the first issue)
- II. General Qualifications of an Operator
  - a) Organisational Structure
  - b) Commercial Registration and Main Contract

An Operator must have a trademark registered and publish its main contract according to Law on Turkish Commercial Code No: 6762

At least 51% of an operator's shares must be registered share.

- c) Financial Competence

According to field of activity, an operator must have a sufficient financial competence.

- If seat capacity of aircraft is 100 or more, operator shall have paid-in capital of 1 million USD.
- If seat capacity of aircraft is less than 100, operator shall have paid-in capital equivalent of at least 1 year operating costs.

d) Feasibility Report;

- shall cover every estimated income and expenditure,
- no net profit less than 5% of total income can be envisaged,
- shall cover at least 3 year cashflow statement (investment and aircraft hire, fuel, personnel, maintenance, insurance, ground handling, airports and Eurocontrol) and line costs.

e) Aircraft Provision and Registration Status

- For domestic or international non-scheduled flights, Operator shall have at least 2 aircraft that have 100 or more seat-capacity.
  - If all aircraft are leased, a letter of guarantee of 1,5 million USD is required
  - If some aircraft are leased and some aircraft are owned by the operator, a letter of guarantee of 100.000 USD for each leased aircraft
  - If all aircraft are owned by the operator, a letter of guarantee is not required.
- For domestic scheduled or non-scheduled flights,

Operator shall have at least 2 aircraft of at least 20 and at most 100 seat-capacity.

- If all aircraft are leased, a letter of guarantee of 250.000 USD
- If some aircraft are leased and some aircraft are owned by operator, a letter of guarantee of 50.000 USD for each leased aircraft
- If all aircraft are owned by operator, a letter of guarantee is not required.
- For operation with maximum 20 seat-capacity, Operator shall have at least 1 aircraft. A letter of guarantee is not required.
- For only cargo operation, operator shall have at least 1 aircraft. A letter of guarantee is not required.

f) Operator's Equipment

g) Recruitment of Licensed Personnel

h) Operations Manual

i) Aircraft Maintenance Instruction

j) Maintenance Management Exposition

k) Founders and Management Personnel

- **Are there any minimum requirements for aviation insurance? If yes, what risks do they cover and what are the respective amounts?**

#### Insurance Requirements for Air Carriers and Aircraft Operators

- According to the Law on Turkish Civil Aviation, minimum level of insurance to cover liability in respect of passengers, baggage and cargo is subject to the Warsaw Convention. Turkey signed the Montreal Convention on 28 May 1999 (Convention for the Unification of Certain Rules Relating to International Carriage by Air). However, ratification process of the Montreal Convention is going on.
- Article 138 of the Law requires air carriers to be insured to cover liability in respect of third parties. By-Law on Insurance Requirements for Aircrafts Operating in Turkish Airspace in respect of Third Parties (Official Gazette: 15 November 2005, no 25994) regulates the minimum level of insurance.
- In respect of liability for third parties, the minimum insurance covering per accident shall be:

| Category | MTOM (kg) | Minimum insurance<br>(Million SDR) |
|----------|-----------|------------------------------------|
| 1        | < 500     | 0,75                               |
| 2        | < 1 000   | 1,5                                |
| 3        | < 2 700   | 3                                  |
| 4        | < 6 000   | 7                                  |
| 5        | < 12 000  | 18                                 |
| 6        | < 25 000  | 80                                 |
| 7        | < 50 000  | 150                                |
| 8        | < 200 000 | 300                                |
| 9        | < 500 000 | 500                                |
| 10       | ≥ 500 000 | 700                                |

- **Which bilateral agreements with EU Member States and with third countries are in force? How are they implemented in practice? What type of regime (liberal/restrictive) is established under these agreements?**

Turkey has bilateral air transport agreements with 84 countries, 24 of which are EU Member States, namely Austria, Belgium, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, The Netherlands, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

Liberal/ restricted regime to be established is dependant on the bilateral relations with the countries which are signed the air transport agreements within the principle of reciprocity.

#### Airports / general

- **How and by whom are airports operated?**

According to the Article 34 of the Law on Turkish Civil Aviation and Article 5 of By-Law on the Construction, Operation and Certification of Airports (SHY-14A) based on ICAO Annex 14, airports are operated by state, public legal persons, natural persons or private legal persons.



The operation of airports by the natural persons or private legal persons is subject to the permission of the Minister of Transport after the affirmative opinion of Turkish General Staff.

The Commission for the Evaluation of Airport Operation Applications decides whether the applicant meets the standards indicated in SHY-14A. If the standards are met, the Airport Operation License is granted.

36 airports are operated by the Directorate General of State Airports Administration (DHMI) which is a State Economic Enterprise. Sabiha Gokcen Airport is operated by HEAS (A corporation established according to the Turkish Commercial Code and 99 % of whose shares are owned by the Undersecretariat of Defense and Industry) and Eskisehir Anadolu Airport is operated by a university. Moreover, 14 military airports are open to civil air traffic and are used with permission from military. Furthermore, there are also 10 airports, which are operated by private flight schools, universities, Turkish Aeronautical Association, are used for special purposes.

- **How and by whom are airport charges set?**

Airport charges are set according to cost basis. For the determination of airport charges; the views of IATA and IACA Members, the charges in neighbouring countries, European and African countries are taken into consideration. The charges are endorsed by the Minister of Transport.

- **Is there a consultation mechanism?**

No.

- **Is airport management separate from airport ownership?**

Airport management is not separate from airport ownership except Sabiha Gokcen Airport. Sabiha Gokcen Airport is owned by government and managed by HEAS. Other airports (36 airports) are owned and managed by DHMI. However, some terminal buildings are operated by Built-Operate-Transfer Model which are; Antalya 1st and 2nd International Terminal, Dalaman New International Terminal and İzmir Adnan Menderes International Terminal Buildings. Ankara Esenboğa Airport Domestic and International Terminal Buildings and will have been managed by BOT Model by the end of 2006. Furthermore, Istanbul Ataturk Airport Domestic and International Terminal Buildings are managed by a private company which hired them from DHMI.

- **Are airport service charges the same for Domestic Air Carriers and Foreign Air Carriers?**

Airport charges are the same for domestic and foreign air carriers.

- **Do you have regulations enabling to carry out safety inspections of airport facilities and services, licensing and certification of airports (ref.: Manual on Certification of Aerodromes, ICAO Doc 9774)?**

Safety inspections facilities and services, licensing and certification of airports are carried out according to the By-Law on the Construction, Operation and Certification of Airports (SHY-14A) based on ICAO Annex 14 and Doc 9774.

- **In establishing the airport Safety Management System (mandated by ICAO Annex 14 from November 2005), do you refer, or plan to refer, to EUROCONTROL Safety Regulatory Requirements (ESARR) 3 and/or 4?**

Technical studies for establishing airport safety management system according to ESARR 3 and 4 are going on.

- **What are the rules and procedures applicable to the development of airports? Are there different rules for international/domestic and main/regional airports?**

Development of airports are evaluated by the Ministry of Transport with the coordination of Turkish General Staff according to the By-Law on the Construction, Operation and Certification of Airports SHY-14A, Article 5.

Development of airports which are operated by DHMI is based on yearly prepared Investment Programme which is approved by the Cabinet and published at Official Gazette. There are no different rules for international/domestic and main/regional airports, but some of the congested airports' terminal buildings are constructed by private sector with Built-Operate-Transfer model.

- **What is the project cycle? How are local and/or regional authorities associated with transport infrastructure projects?**

The same public investment process is applicable for all projects independent of sectoral variations.

- Development Plan is prepared for 7 years period rather than 5 years in order to comply with the EU budgeting. Development Plan explains the sectoral priorities in general according to the Development Plan Strategy and makes projections concerning macro indicators. Ad Hoc Committee reports, Sectoral Strategies, Master Plans etc. constitute the basis for Development Plan.
- Development Plan is split into 3 years Medium-Term Programme every year. Medium-Term Programme is a 3 years rolling document, which sets out priorities for medium-term objectives. According to the Medium Term Programme, Medium Term Financial Plan is prepared that contains indicative investment ceilings and income and expenditure forecasts.
- Annual Programme is prepared according to the Medium-Term Programme on annual basis. Development Plan is implemented through annual programmes and budgets and work plans of public institutions are prepared in accordance with them. Three years 'objectives' of Medium-Term Programme are elaborated as 'measures' in annual programmes.
- Investment Circular is issued with its annex 'Investment Programme Preparation Guide'. Investment Circular includes investment proposal ceilings, sectoral and

regional priorities, and priorities on project basis, also the parameters. Investing institutions become acquainted with their own indicative budget ceilings.

- Project proposals are gathered from regional and local administrations, public authorities, NGOs and citizens etc. by the institutions. Proposals complying with the above mentioned documents are sent to State Planning Organisation (SPO).
- SPO analyzes the projects submitted by the investing institutions through Financial, Economic, Social, Institutional, Environmental, and Regional Analyses.
- SPO submits a budget investment proposal to High Planning Council (HPC) after having analysed the project proposals and compromised with the institutions on them in cooperation with Undersecretariat of Treasury and Ministry of Finance.
- Draft Budget approved by the HPC is sent to Turkish Grand National Assembly (TBMM)
- Budget ceilings are discussed in the TBMM Planning & Budgeting Commission
- Budget is approved by latest the end of the year and the budgets of the institutions are finalised after the budget becomes law.
- Projects are included in investment programme according to the final budget ceilings and investment programme is issued until 15<sup>th</sup> of January.
- Investment Programme shows the projects' following characteristics:
  - annual allocations and their sources (budget type),
  - cumulative expenditure until that year,
  - costs,
  - locations,
  - characteristics,
  - start-end dates,

which are listed on sectoral and institutional basis.

- Projects are realised by investing institutions; however, there is no effective monitoring mechanism. Only,
  - Investing public institutions sending the financial realisation status of the projects on three-month basis to SPO
  - Promulgation of these financial realisation by SPO through 'Public Investments Report'

- **How is legislation on environmental impact assessment implemented?**

### **Environmental Impact Assessment (EIA):**

#### **➤ By-Law on Environmental Impact Assessment**

The By-Law on EIA (Official Gazette: 16 December 2003, no 25318) is the main national legislation regarding the assessment of the effects of public and private projects on the environment.

Article 4 of the By-Law includes the definitions and abbreviations of Ministry, environment, impact, impact area, project, environmental impact assessment (EIA), environmental impact assessment process, owner of the project, general format for introducing project, EIA report special format, commission and EIA positive decision and so on.

The Article 7 of the By-Law on EIA states that it is mandatory to prepare an Environmental Impact Assessment Report for all projects which are listed in Annex I and those projects listed in Annex II for which a decision is taken as “Environmental Impact Assessment is required.”

Transport projects exist in Annex I and Annex II.

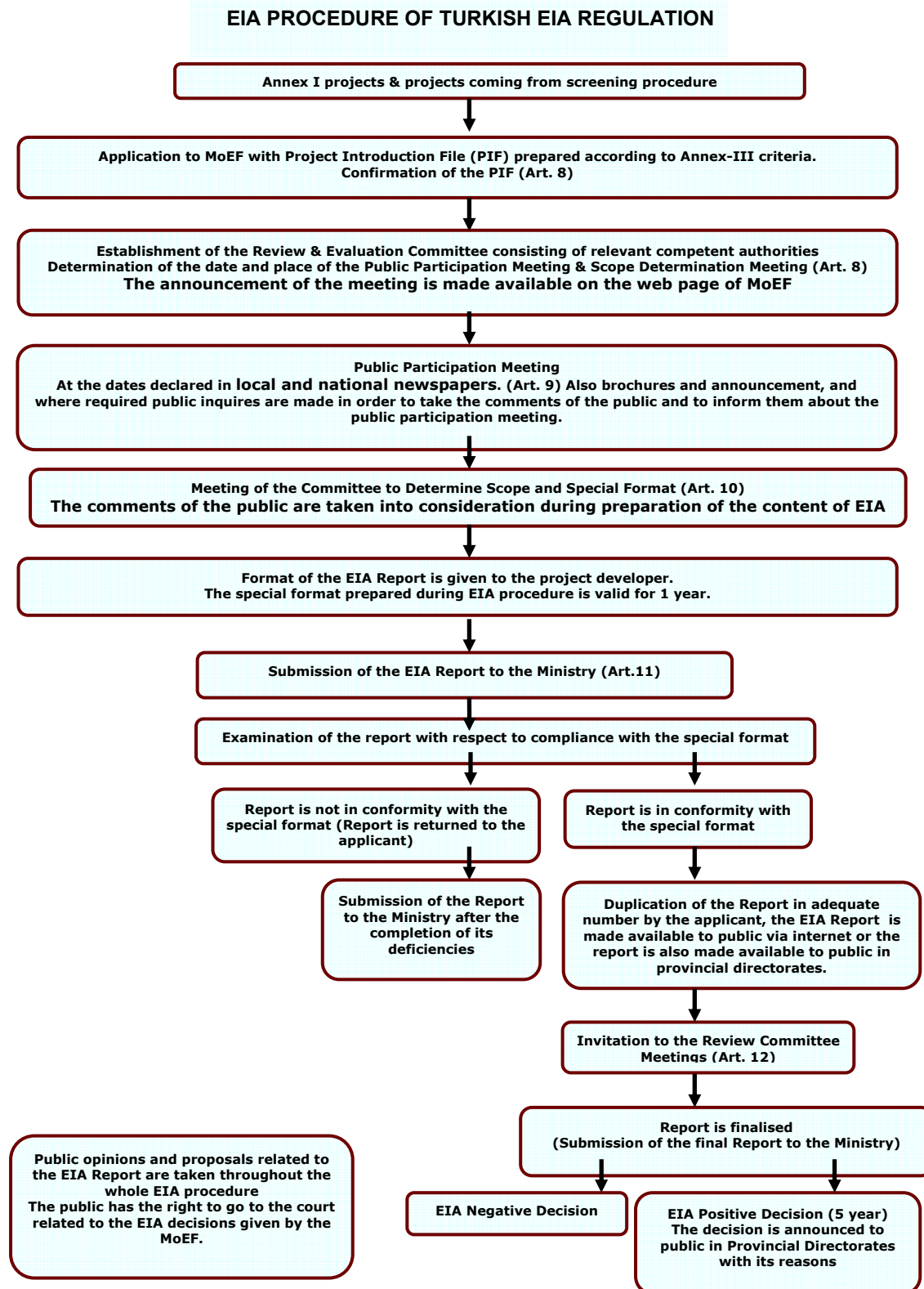
#### **Related Projects in Transport Sector in Annex I:**

1. Roads, railways and airports
  - a) Intercity railways lines,
  - b) Airports having a runway length of 2100 m and above,
  - c) Construction of highways, express roads and state roads.
2. Waterways, harbours and shipyards

#### **Related Projects in Transport Sector in Annex II**

1. Infrastructure facilities
  - a) Construction of inland waterways (Those not listed in Annex-I),
  - b) Harbours, ports, quays (those not listed in Annex-I),
  - c) Fisherman shelters, tugboat shelters,
  - d) Works on shores to prevent erosion and works on shores which cause changes on shore; breakwater, spur, mole, etc (except for maintenance and repair works),
  - e) Railways lines (those not listed in Annex-I),
  - f) Construction of transfer-purpose facilities used in railway transport, railway terminals,
  - g) Streetcars, lifted and underground railways, similar lines used to transport passengers (subway, light-rail transport systems, etc.),
  - h) Airports (those not listed in Annex-I),
  - i) Provincial roads,
  - j) Enlargement of two or more lane roads into four or more lanes, with a continuous length of 10 km,
  - k) Slip places (those facilities offering services such as pulling yachts and boats onto land, maintenance, repair, accommodation, launch and/or boat manufacture facilities),
  - l) Bottom dredging projects.

EIA procedure in Turkey is summarised below:



- **How is legislation on public procurement implemented?**

Law 4734 is to establish the principles and procedures to be applied in procurements held by all public entities and institutions governed by public law or under public control or using public funds. Any procurement of goods, services and works, the cost of which is covered by

any kind of resources that are at the disposal of the contracting entities mentioned below shall be executed in accordance with the provisions of this Law. In order to carry out the duties assigned with this Law, a Public Procurement Authority with public legal entity, which is administratively and financially autonomous, has been established. Public Procurement Authority is assigned and authorized for the accurate implementation of the principles, procedures and proceedings specified in this Law.

- **Are there measures to monitor and limit noise levels around airports (i.e. noise zoning, land-use rules) and measures to contain or reduce air pollution resulting from air transport activities?**

In 2007 it is planned to install the noise monitoring systems at 3 busy airports. Also, By-Law on Evaluation and Management of Environmental Noise (Official Gazette 1 July 2005 no: 25862) is prepared by the Ministry of Environment and Forestry in accordance with 2002/49/EC. It requires the preparation of strategical noise map shall be accomplished until 2018.

#### **Is there a progressive phase-out programme for Chapter 2 aircraft?**

ICAO Annex 16 Chapter 2 type Aircrafts are not accepted to Turkish registration according to Instruction SHT 36-1A (4 December 1995) on “Determination of Operation Requirements of Aircraft due to Noise Levels”. Also, according to Article 18 of By-Law on Commercial Air Transport Operators (SHY-6A), all aircraft owned or leased by an operator shall abide the noise limits described in ICAO Annex 16 Chapter 3. Currently there is no Chapter 2 aircraft registered in Turkey.

- **Are airport authorities responsible for control/guidance of aircraft on the parking area?**

Airport authorities are responsible for control/guidance of aircraft on the parking area.

- **Are airport authorities/operators involved in the medium term capacity planning in the frame of the process to develop the “Local Convergence and Implementation Plan” (LCIP)?**

As an ANSP and airport operator, DHMI is involved in the LCIP development process.

- **Are airport authorities able to select the provider of Control Tower service among the service providers certified in the frame of the “Single European Sky”?**

N/A

#### **Groundhandling**

**Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports applies to airports whose annual traffic is over 1 million passenger movements (Article 7 on self-handling) and 2 million passenger movements (Article 6 on third party handling) respectively.**

- **Do the airports in your country meet these thresholds?**

9 international airports in Turkey (namely Atatürk, Esenboğa, Adnan Menderes, Antalya, Dalaman, Adana, Trabzon, Milas-Bodrum and Sabiha Gökçen) have annual traffic over 1 million passenger movements. 6 of these airports (Atatürk, Esenboğa, Adnan Menderes, Antalya, Dalaman and Milas-Bodrum) have annual traffic over 2 million passenger movements.

**To ensure competition, Directive 96/67/EC requires a minimum number of service providers for specified categories of groundhandling services, which are basically the services provided at the airside (baggage and ramp handling, fuel and oil handling, and freight and mail handling). Access to the supply of the other groundhandling services should be completely open. For individual Member States, the possibility exist that they allow full competition - either at the categories of airports covered by the Directive or at all airports - and that they do not impose any limitation on the number of groundhandling suppliers.**

- **What is the present situation in your country?**

Limitations on the number of groundhandling service suppliers that have Group A licenses (supplying to third parties):

At Airports that have total (domestic+international) annual traffic

- up to 1 million passenger movements → max. 2 suppliers
- up to 2 million passenger movements → max. 3 suppliers
- over 2 million passenger movements → 1 additional supplier for each increase of 2 million passenger movements

are allowed. There is no requirement for a minimum number of service providers. However, at Turkish airports that meet the passenger movement threshold of the Council Directive 96/67/EC there are actually 2 Group A groundhandling services except Sabiha Gökçen Airport, where the airport operator supplies the groundhandling services.

There is no limitation on the number of self-handling airport users except the physical capacity of the airports.

**When a Member State restricts the number of service suppliers to two, at least one of them should fully independent from the airport operator or the dominant air carrier at the airport.**

**Article 9 provides the possibility for a Member State to decide on the application of exemptions on the main principles of market opening.**

- **Even if at present no such exemptions apply in the Member States any more, would your country see the need to decide to limit the number of suppliers because of specific constraints of available space or capacity?**

There's no such provision on the independence of groundhandling suppliers from the airport operators.

It is possible to limit the number of suppliers because of specific constraints of available space or capacity and of the fact that there are actually 2 groundhandling service suppliers that have Group A licenses, when necessary.

- **What would your country consider the most difficult or ‘problematic’ aspects of the Directive to comply with in your country? (These aspects can range from law making aspects, to enforcement or the required restructuring of the groundhandling industry at your airports.)**

Requirement on the establishment of Airport Users’ Committees at each airport.

#### **Slot allocation**

**Council Regulation (EEC) 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports has been amended by Regulation (EC) 793/2004 of 21 April 2004.**

- **Does your country at present have coordinated airports or schedules facilitated airports within the meaning of Regulation (EC) 793/2004?**

Istanbul Atatürk Airport, Ankara Esenboğa Airport, Kayseri Erkilet Airport are coordinated airports for both summer and winter scheduling periods. Milas-Bodrum Airport is schedules facilitated airport for both summer and winter scheduling periods. Antalya Airport, İzmir Adnan Menderes Airport, Dalaman Airport are coordinated airports for summer scheduling period and schedules facilitated airports for winter scheduling periods.

- **If a schedules facilitator or coordinator has been appointed in your country, what legal structure has been chosen and does this structure ensure sufficient independence for the coordinator?**

Instruction for Slot Implementation Procedures was revised on August 31, 2006 by Minister’s Approval. Slot allocation is realised in an **independent, transparent and non-discriminatory** manner by a Slot Coordinator in consultation with Commission for Evaluation of Slot Allocation (CESA).

Slot Coordinator appointed by the Director General of Civil Aviation is the only **authorised person** for slot allocation and directly responsible to the Minister.

- **Do new entrants get sufficient opportunities to get access to commercially interesting slots at certain airports in your country, also at those airports where the slot Regulations do not apply?**

According to the Instruction for Slot Implementation Procedures, “new entrant” means “an air carrier requesting slots at an airport on any day and holding or having been allocated fewer than four slots at that airport on that day.”

The priority of new entrant could only be used when the application is made before the IATA meeting to be held for the season concerned. IATA rules are being applied for the slot allocation. Historic slots, hour changes in the historic slots and new entrants are being



respectively reviewed. After slots are allocated to the historic slots and hour changes in the slots, 50 % of the remaining capacity is allocated to the new entrants.

## **AIR TRAFFIC MANAGEMENT**

### **Institutional**

- **Which department has the regulatory responsibility for ATM? Is this department separated from the ANSP? Do you plan to establish or nominate a National Supervisory Authority?**

DGCA Air Navigation Department has the regulatory responsibility for ATM. This responsibility is mandated with the Article 10 of the Law on the Organisation and the Duties of the Directorate General of Civil Aviation No. 5431 (Official Gazette: 18 November 2005, no 25997)

DGCA is a separate entity from the ANSP.

Studies are going on for the nomination of DGCA as the National Supervisory Authority.

- **Have you already taken any steps in order to adopt Commission Regulation (EC) 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services?**

Commission Regulation (EC) 2096/2005 is being examined, evaluated and compared with the existing practices / legislations.

- **Do you envisage to establish a certification scheme compliant with the Single Sky regulations and to certify national Air Navigation Service Providers?**

Establishment of a certification scheme compliant with the Single Sky regulations and certification of National Air Navigation Service Providers are under consideration.

- **Who has the responsibility for certification of ATM-personnel and equipment?**

DGCA is responsible for the certification of ATM-personnel. This is identified with the Law on Turkish Civil Aviation and the Law on the Organisation and the Duties of the Directorate General of Civil Aviation.

- **Are you licensing your training unit/institutes? If yes, which department has the responsibility for licensing of training institutes and training units (OJT)?**

According to the provisions of the Law on the Organisation and the Duties of the Directorate General of Civil Aviation studies for the licensing of training institutions are initiated.

Basic (ab-initio) training is given at the Training Institute of DHMI and Anadolu University, Civil Aviation School. Their training programmes are approved by DGCA in accordance with EUROCONTROL's common core content.

OJT is given at the ATC operational units by OJTIs. DHMI is also responsible for having the instructors/OJTIs training and endorsement.

There is a close cooperation between EUROCONTROL Institute of Air Navigation Services (IANS) and Turkish institutions.

## **Regulation**

- **How far is your country with implementing ESARR 2, 3, 4, 5 (version 2.0) and 6?**

Preliminary drafts of By-Laws on the implementation of ESARR 2 on reporting and analysis of safety occurrences and of ESARR 5 (version 2.0 part 1) on ATM services personnel have been completed.

For the ESARR 3 on the use of safety management systems by ATM Service Providers, ESARR 4 on the risk assessment and mitigation in ATM, ESARR 5 (version 2.0 part 2) on ATM services personnel and ESARR 6 on software in ATM systems, technical studies are going on.

- **What are your actions with regard to the Single European Sky initiative and the four main regulations EC 549/2004, 550/2004, 551/2004 and 552/2004 which came into force on 20 April 2004?**

The said regulations are being examined, evaluated and compared with the existing practices / legislations.

## **ATM operational systems**

- **Which department is responsible for classification and design of civil and military airspace?**

According to the Law on the Organisation and the Duties of the Directorate General of Civil Aviation, DGCA, in coordination with DHMI (civil ANSP) and Turkish Air Force (military ANSP), is responsible for classification and design of civil and military airspace.

- **Do you already have plans to participate to a Functional Airspace Block? Have you already taken steps in order to adopt Commission Regulation (EC) 730/2006 of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195?**

There is no definite plan to participate in a Functional Airspace Block yet. Turkey is following the developments in the region and has close relationships with the neighbouring states.

In the meantime, Turkey is also a member of Air Traffic Management Cooperation in South-Eastern Europe (ACE) together with Bulgaria, Romania and Moldova. (Ukraine also declared its intention to participate in ACE Mechanism)

Commission Regulation (EC) 730/2006 has been examined, evaluated and compared with the existing practices and technical studies are going on to prepare a draft text. However, full implementation is expected to take place after accession to the EU.

- **Do you follow the European Convergence and Implementation Plan (ECIP) for the simplification of European airspace?**

As a member of EUROCONTROL, Turkey follows ECIP. Airspace simplification criteria are under consideration, but it can be stated that Turkish Airspace consists of controlled (ATS Routes, TMAs, CTRs) and uncontrolled (the rest of the airspace) areas.

- **To which extend do you apply the flexible use of airspace (FUA)? Have you already taken steps in order to adopt Commission Regulation (EC) 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace?**

Flexible Use of Airspace (FUA) – level 1 concept of EUROCONTROL has been applied. In addition, Turkish Air Force and DHMI have developed their own alternate and practical FUA concept, which is considered to be more suitable to the special geo-political situation of Turkey. Turkish Military, through this more efficient FUA concept, has shown much flexibility in relinquishing un-used Military Airspace to DHMI when no military traffic is expected (evenings, weekends, etc.).

Commission Regulation (EC) 2150/2005 is also evaluated and technical studies are going on.

- **Does your country have a permanent joint civil-military airspace policy organisation?**

Civil – Military Coordination Group (consists of representatives of the Ministry of Foreign Affairs, Turkish General Staff, DGCA, DHMI and Turkish Air Force) undertakes these duties.

- **How is day-to-day civil-military coordination organized?**

Although Military and Civil ATC services are independent to some extent from each other, efficient and well working civil/military coordination is maintained. ADNC (Air Defence Notification Centre) is located at the same building with Ankara ACC and there is a “civil-military coordination unit” serving within İzmir / A. Menderes ATC unit to make the necessary coordination for military flights. There are also direct telephone lines between all civil and military ATC units and radar bases to ensure uninterrupted data flow.

- **Do your civil and military ATC use the same operational systems?**

ADNC and Civil-Military Coordination Unit use the same operational system. Other military units and radar bases are entirely independent from civil ATC units and use their own operational systems.

- **Who is responsible for separating civil and military aircraft in civil airspace?**

Civil air navigation service provider (DHMI) is responsible for the separation of civil and military aircraft in civil airspace.

## **Human resources**

- **How many ATC units are manned by your ANSP(s)?**

DHMI provides air navigation services by means of its approach control units and aerodrome control towers at 32 Turkish airports, and en-route air navigation services throughout Turkish airspace from two separate ACCs located in Ankara and İstanbul. (İzmir / A. Menderes ATC Unit also provides area control service for the south-eastern part of İstanbul FIR.)

- **Have you determined minimum and maximum operating working hours for ATCOs?**

ATCOs work in accordance with the shift system at airports. The system usually consists of 4 shifts and in parallel to this four different teams (ATCOs) in each ATC unit, and the working pattern is 2 days on 2 days off. This system requires ATCOs to be off for 24 hours following each 12 hours daytime shift and 48 hours for each 12 hours nighttime shift. The operational working hours (hours spent in handling traffic) are naturally less than the shift hours. As a result, each ATCO spends 180 hours on duty while the operational working time per ATCO is approximately 90 hours a month.

- **Have you determined a maximum age for ATCOs?**

The maximum age for ATCOs is same as other officials in Turkey which is 65 for men and 63 for women. But, after the age of 50, ATCOs are usually directed to other duties such as training, projects, administrative duties, etc.

- **Do you issue licenses to ATCOs according to ICAO Annex 1 or EUROCONTROL ESARR**

The ATCO licensing requirements are same with ICAO Annex 1. Moreover, it can be stated that most part of these requirements complies with ESARR 5.

- **Have you already taken steps in order to adopt Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence? And who is responsible for this?**

The directive has been examined and technical studies are going on to prepare a draft legislation. DGCA and DHMI are responsible for the adaptation and implementation of Directive 2006/23.

- **Has the provider delegated responsibility for rating and endorsement of Air Traffic Controllers?**

Ratings and endorsements of ATCOs are fulfilled by the ANSP. Rating examinations are done through a commission consisting of experts from the Headquarter and from local ATC units (OJTI and instructors).

- **Do you issue licences, certifications or attestation to Air Traffic Safety Electronic Personnel according to ESARR 5?**

For the time being, there are no licences, certifications or attestation issued to Electronic Personnel according to ESARR 5. Technical studies are going on.

- **Do you have a system to validate ATCOs performance regularly?**

ATCOs performance is validated by means of rating examinations performed annually.

#### **AIR SAFETY**

- **Do you have an independent ATM Safety Department?**

There is no independent ATM safety department but teams in DHMI and DGCA are working on ATM safety.

- **How is your formal reporting system for ATC occurrences organized?**

Occurrence reporting is mandatory for ATCOs, and all occurrences are reported either by pilots or ATCOs (through the local management) to the DHMI Headquarter and DGCA. In addition to this, voluntary reporting is encouraged as a best practise, and all witnesses (passengers, etc.) could also report the occurrences.

- **In the frame of a total transport organisation, or in the frame of a total aviation system vision, or in isolation for ATM?**

In the frame of a total aviation system vision.

- **Do you have an anonymous reporting system for ATM personnel?**

Current reporting system does not fully comply with anonymous mechanism; instead we are applying ICAO and ESARR requirements. All data related with the incidents investigation (including investigation reports) are confidential.

- **Does your criminal law limit voluntary reporting?**

No.

- **How are aviation safety requirements in the field of design, operation and maintenance of aircraft and persons and organisations involved implemented and applied (i.e. licensing of pilots and crew, flight time limitation scheme and training requirements of pilots and cabin crew)? Which institution is responsible for controlling the implementation of aviation safety requirements?**

Licensing of Pilots is done according to By-Law on Aeroplane Flight Crew Licensing SHY-1 (Official Gazette: 6 June 2006, no: 26190) based on JAR-FCL 1.

Licensing of cabin crew is done according to Cabin Crew Training and Standardization Instruction SHT 61-40 based on JAR-OPS Subpart O.

For limitations on flight times, Instruction on the Flight, Working and Rest Time of Flight Crew and its Implementation Rules (SHT-6A.50 Rev.04) which is based on ICAO Annex 1 and 6 is enforced.

| TIME                       | WEEKLY   | MONTHLY   | THREE MONTHLY | ANNUALLY   |
|----------------------------|----------|-----------|---------------|------------|
| <b>Flight Duty Time</b>    | 56 hours | 210 hours | 500 hours     | 1800 hours |
| <b>Flight Time (Block)</b> | 36 hours | 110 hours | 300 hours     | 1000 hours |

Table-1 Maximum Working Time

|             | Weekly | Monthly               | Three Monthly | Annually |
|-------------|--------|-----------------------|---------------|----------|
| <b>Time</b> | 1 day  | 7 days<br>(2+2+1+1+1) | 21 days       | 96 days  |

Table-2 Minimum Free Time

| Previous Flight Duty Time                                    | Minimum Resting Time      | Minimum Resting Time with decision of Pilot in Command |
|--|---------------------------|--|
| <b>Up to 6 hours</b>   | 8 hours                   | 8 hours  |
| <b>Up to 11 hours (including)</b>                            | 10 hours                  | 10 hours   |
| <b>More than 11 hours</b>                                    | 12 hours                  | 10 hours   |
| <b>12–14 hours or Time Zone difference more than 3 hours</b> | 14 hours                  | 12 hours   |
| <b>Long range flights</b>                                    | 2 Local nights / 36 hours | 2 Local nights / 36 hours - 2                          |

Table-3 Minimum Rest Times

A certificate of airworthiness, valid for maximum 1 year, is issued for each aircraft registered in Turkey. Airworthiness inspections are made annually according to Instruction on Rules for Issue and/or Renewal of Airworthiness Certificate SHT21.1 Revision 2 (Dated 9 January 2001). A noise certificate is issued for aircraft stated in ICAO Annex 16 by considering noise limits specified in ICAO Annex 16.

Article 5 of the By-Law on Commercial Air Transport Operators Maintenance System SHY-M (Official Gazette: 19 August 2004, no: 25558), which is based on JAR-OPS Subpart-M, states that; excluding pre-flight inspections, an operator can not operate an aircraft unless such aircraft has been maintained and released to service by a JAR-145 approved maintenance organisation.

The mutual recognition acquired in 2002 provides the JAR-145 maintenance organisation approvals granted by DGCA to be recognized by other JAA Member States. In order to specify the requirements for granting JAR-145 maintenance approvals, By-Law on Approved Maintenance Organisations SHY-145 (Official Gazette: 9 July 2004, no: 25517) is enforced for approval process. Although SHY-145 is based on JAR-145 Amendment 5, JAR-145 Amendment 6 is being used for the approval of Maintenance Organisations.

For the licensing of maintenance personnel for aircraft with maximum take off weight 5700 kg and above, By-Law on Aircraft Certifying Staff SHY-66 (Official Gazette: 16 June 2005, no: 25847) which is based on JAR-66 Amendment 0 is in force since 31 December 2005. Licensing of other maintenance personnel is regulated by the Aircraft Technician Licenses Instruction SHDT-35 (Official Gazette: 9 June 1962 no: 11124) which is based on ICAO Annex 1.

There is no national legislation on design organisation approvals since there is no such organisation. For production organisations, there is no national legislation but coordination with EASA is provided for the approval process.

DGCA is responsible for controlling the implementation of aviation safety requirements.

- **Is there legislation on accident investigation and mandatory incident reporting? Are statistical data available on air misses (almost collisions) which have occurred during the last ten years? Is there a specialised administration that coordinates investigation procedures and monitors reports, data and statistics?**
  - By-Law on Civil Aircraft Accident Investigation SHY 13.
  - By-Law on Duties, Authorizations and Responsibilities of Technical Inspectors and Their Working Methods and Principles (Official Gazette: 15 April 2006 no 26140).
  - By-Law on Investigation and Reporting of ATM related Occurrences SHY 65 - 02.

With Article 18 of By-Law on Duties, Authorizations and Responsibilities of Technical Inspectors and Their Working Methods and Principles, the Accident Investigation Committee, which is functionally independent from DGCA, placed under the authority of the MoT and whose members are selected among the members of the Flight Safety Commission, is constituted. DGCA carries out the secretariat function of the Committee.

In addition, SHY 65 – 02 was harmonised with ESARR 2 and its approval process is going on.

Since all safety related data have to be stored without any time limitation according to national legislation, there exist statistical data on incidents which have occurred during the last ten years.

Both DGCA and DHMI coordinate incident investigation procedures and monitor the reports, data and statistics. These duties are performed by the experts of air navigation departments of both organisations.

## **AIR SECURITY**

### **National Civil Aviation Security Programme**

- **Has your country a National Civil Aviation Security Programme (NASP)?**

Turkey has a NCASP developed in 1996 and 6th revision was just made in September 2006.

- **What is its legal status? How are the standards and norms which are set by the NASP applied legally and in practice?**

Article 40 of Law on Turkish Civil states that MoT is responsible for safeguarding civil aviation at airports in co-operation with other ministries, in particular with the Ministry of Interior.

NCASP is signed by undersecretaries of Ministry of Interior and MoT. Standards and norms in NCASP are mandatory.

According to Provincial Administration Law no 5442 (Official Gazette: 18 June 1949, no 7236) and By-Law No. 9707 (Official Gazette: 14 August 1997, no 23080) Deputy Governors are appointed to airport in order to implement NCASP and coordinate security activities.

- **Does the NASP contain all the security measures described in the Annex to Regulation 2320/2002?**

NCASP complies with the ICAO Annex 17 and ECAC Doc 30.

- **Is it clear from the NASP which entity is responsible for the implementation of these security measures?**

DGCA is responsible for the implementation of security measures.

#### **National Quality Control Programme**

- **Has your country a National Quality Control Programme (NQCP) in place (it might be part of the NASP)?**

Turkey has a NCASQCP which entered into force in May 2003. It is the Annex 1 of NASP.

- **What is its legal status? How is compliance monitoring implemented legally and in practice?**

It has the same status as NASP which is signed by undersecretaries of the Ministry of Interior and MoT. Compliance monitoring is performed by Training Research Inspection Experts Committee which consists of representatives of DG of Police, DGCA, DHMI, Turkish Airlines, Customs, Customs Guards and Gendarmerie.

#### **Airport security**

- **Are airside, landside, security restricted areas and critical parts of security restricted areas established at airports?**

Airside/landside and restricted areas and critical parts are established at Turkish airports. It is a requirement of NCASP.

- **How is the access of staff and of vehicles to these areas controlled? Are all staff issued with identification cards and all vehicles with passes?**



There is an access system for both vehicles and staff before entering these areas. All staff and vehicles are screened and searched. Airport IDs are issued to all staff and all vehicles have apron plates, or temporary plates are given when entering restricted areas.

- **Is all staff screened before entering security restricted areas?**

All staff is screened before entering the terminal and security restricted areas.

- **Are aircraft searched when taken into a security restricted area? How are they protected after search and before departure?**

All aircraft are searched when taken into a security restricted area and protected by airlines and patrolled by airport security and police.

### **Passengers and baggage**

- **Are all passengers and their cabin baggage screened? Are arriving and screened departing passengers separated? If not, what measures are taken? How are passengers transferring from flights originating in third countries to other flights handled?**

All passengers and their cabin baggage are screened prior to entering sterile area. Arriving and departing passengers are separated so that mixing of screened and unscreened passengers is prevented. According to risk assessment and their originating countries transit/transfer passengers might be subject to screening.

- **Is all hold baggage, originating and transfer, screened and protected? Is baggage reconciliation implemented?**

All originating hold baggage is screened and protected. Only authorized staff has access to baggage make-up areas. According to risk assessment transfer baggage might be screened. Passenger baggage reconciliation is implemented manually or fully automatic.

### **Cargo and other aspects**

- **How has your country implemented the cargo and mail security regime?**

Turkey does not implement a cargo and mail security regime. All cargo and mail are subject to screening when entering into security restricted areas.

- **How is the security of air carriers' mail, materials, catering and- cleaning implemented?**

All materials are subject to screening before taken into security restricted areas.

- **How are security and other airport staff recruited and trained (national security training programme)?**

All staff are trained and certified according to NCASTP requirements.

## **ENVIRONMENTAL CONDITIONS**

- **Are there measures to monitor and limit noise levels around airports (i.e. noise zoning, land-use rules) and measures to contain or reduce air pollution resulting from air transport activities?**

In 2007 it is planned to install the noise monitoring systems at 3 busy airports. Also, By-Law on Evaluation and Management of Environmental Noise (Official Gazette 1 July 2005 no: 25862) is prepared by the Ministry of Environment and Forestry in accordance with 2002/49/EC. It requires the preparation of strategical noise map shall be accomplished until 2018.

### **Is there a progressive phase-out programme for Chapter 2 aircraft?**

ICAO Annex 16 Chapter 2 type Aircrafts are not accepted to Turkish registration according to Instruction SHT 36-1A (4 December1995) on “Determination of Operation Requirements of Aircraft due to Noise Levels”. Also, according to Article 18 of By-Law on Commercial Air Transport Operators (SHY-6A), all aircraft owned or leased by an operator shall abide the noise limits described in ICAO Annex 16 Chapter 3. Currently there is no Chapter 2 aircraft registered in Turkey.

## **PROTECTION OF PASSENGERS**

- **If there any existing action plan to cover protection of passengers?**

Although there is no action plan for the protection of passengers, DGCA evaluates passenger complaints within the scope of Law on Turkish Civil Aviation.