

**PRESENTATION BY EWA SUSZYNSKA  
(POLISH GUARANTEEING ASSOCIATION)  
ON CHANGES/CHALLENGES REQUIRED AS A CONSEQUENCE  
OF ENLARGEMENT**

On the 1<sup>ST</sup> May 2004 the European Union, now comprising 15 states, will become enlarged. Among the 10 new members is Poland, for which accession to the EU is undoubtedly an important event, both political and economic. The new conditions which we shall face are, at the same time, a great challenge for the economic operators in our country. The same applies to ZMPD.

**1. Association today**

The organisation has operated in Poland since 1957, and has nearly 4 thousand members. Thanks to the new ZMPD's Board, which was elected in 1999, the Association has become more modern and now meets the needs of the transport companies who have to function in fluctuating economical conditions.

The scope of ZMPD's activities comprise on the one hand the activity resulting directly from the application of the TIR Convention's provisions, that is to say the management of the TIR system in our country, and on the other hand, the preparation both the Association and our members-carriers for the new conditions, which they will undoubtedly meet in the European Union. However, for many of them, the European Union is not an unknown entity because Poland has for many years applied a transit procedure different from the TIR I refer to the Common transit procedure (since 1987). Thanks to this, both the knowledge and the requirements of the customs procedures as well as the necessity of having at our disposal a modern transport fleet - have become commonplace for many of our members. An example of this also concerns the ADR Convention, which applies to the road transport of dangerous goods. Our access to the European Union will not change anything in this regard. Another convention is the European Agreement concerning the Work of Crew of Vehicles Engaged in International Road Transport, which has already now been put into practice in Poland.

In scope of the TIR – ZMPD, just like all other national associations, conducts among other things, the verification of applicants who wish to participate in the TIR system. This

activity involves the close collaboration with the Polish Customs Administration in the scope of control of the transport companies from the point of view of their fulfilment of the minimum conditions specified in part II of the Annex 9 to the TIR Convention. The Association takes first control of the documents deposited by transport companies who are applying for permission to use the TIR Carnets.

These documents are next transmitted to the Chamber of Customs of Warsaw, which is authorised to give access for use of the TIR procedure. Thanks to a very tight system of verification of these applications and the good mutual co-operation, we note that there has been only a small number of cases of exclusion of Polish carriers from the TIR system within few last years (2000-2003).

These decisions had been annulled by the High Administrative Court (NSA) in three cases. The Court recognised that the Customs Administration had insufficient bases to exclude the carriers from the TIR system.

It should be added that in spite of the approaching date of the enlargement of the EU's external frontiers, which ZMPD foresees as resulting in a drop in the interest in TIR Carnets, we may observe an interesting situation: on the one hand some companies which by themselves resign from the system (for instance as a result of the company's liquidation), while on the other hand – a large number of transport operators have declared an interest in the TIR procedure's application. In the ZMPD's estimation, this results from an increased interest by the trading companies in contacts with the Eastern countries, which, naturally, results in demand for transport services. The transport of goods to these countries may be carried out using the TIR procedure.

Coming back, I would like to underline that with regard to the companies, which have been authorised by the Customs Administration to use the TIR procedure, ZMPD cautions that everyone should deposit suitable financial guarantees. Our association in particular pays attention to the companies which carry out transports to so-called high risk countries. We do our utmost to make sure that the TIR system in Poland functions correctly. The central distribution of the TIR Carnets – only in Warsaw, at the office of ZMPD - aims to achieve that. Although it may look like an inconvenience, however it has many advantages:

1. Safety - both for the TIR system and TIR carnets, through the direct supervision of the "headquarters".

2. The central localisation is in some measure convenient to everyone, and is favourable to ensuring closer mutual contact on line of the transport company - association thanks to the necessity of having to come to ZMPD.
3. The possibility to settle all matters connected with the deposit of the so-called 'admission guarantee' in the ZMPD's office, where a branch office of the National Insurer is located. Thanks to this solution the carriers' time can be saved.
4. The possibility to settle other matters connected with carrying out of the international transport (for instance permissions) at the Ministry of Infra-Structure; the Ministry is also located in Warsaw.

With regard to the second area of functioning of ZMPD: it conducts on a large scale training and information action. It renders assistance and transmits information to its members in cases concerning transport activity, as well as to promote their interests outside, towards the State Organs (among others the Ministry of Infra-Structure, Customs Administration), the national and international organisations.

It participates actively in giving opinions on the creation of the national legal acts (in the scope of the branch of transport), in context of their adaptation to the Union's regulations.

#### Training activity

Within the structure of the ZMPD, a training centre was founded (in March 2000), possessing an IRU accreditation. Thanks to this, the ZMPD organises courses and seminars for the carriers and they are characterised by great diversity. Essential among them are the courses for new participants in the TIR system, and these are concerned with:

- the TIR Convention
- the CMR Convention, and
- the AETR Convention.

The above mentioned courses are conducted by high class experts, approved by the European Union.

Moreover, it conducts courses for the advisers for transport security (DGSA), in conformity with the new ADR regulations, as well as within the scope of the preparation of the carriers for carrying out the international and national carriages of passengers and carriages of goods (the Certificate of Professional Competence – CPC), as well as within the scope of carriages of dangerous goods (ADR).

In the case of the CPC Certificate, the transport companies are obliged, by virtue of the amended Law on Road Transport, to get this Certificate by the end of the current year. Our carriers have to possess the same qualifications as those in the possession of the European carriers, with whom they will be obliged to compete or to be their partners after integration of Poland with the European Union.

The scope of the carrier's knowledge concerning the Certificate is very large including: the civil, commercial and economic law. This aims at:

- raising of the level of knowledge on conducting transport activity,
- regulation of the road carrier's market within the scope of access to the profession,
- preparation of the carriers for activity on the European Union's market in the aspect of the Poland's accession to the Union.

In relation to the international carriers this knowledge is necessary just now because the majority of them currently operate on the Union's transport market.

While ZMPD conducts, as mentioned, training courses in this area, the exams are being organised by an independent state institution – The Motor Transport Institute. In the years 2002 & 2003, 970 examinations took place and nearly 30 thousand people got the CPC Certificate, from this number nearly 16 thousand persons operate in the context of the national transport of goods and more than 8 thousand persons operate in the context of the international transports of goods. (The Regulation determines that only one Partner of a Company must have the CPC Certificate).

At ZMPD 771 persons were trained in 2002, and 481 persons in 2003 (up to September of the current year).

## Seminars

The seminars consist of a separate category.

A series of lectures have been organised, concerning the EU's requirements in the realm of the international transport. The lectures are being conducted by high-class specialists who have knowledge of the Union's regulations and directives.

## The info action

The ZMPD's office has been adapted to the requirements of the modern economy. The newly established Transport Department collects and transmits to the carriers - ZMPD's members current information concerning conditions for effecting transports in Europe, as well in Asia. It elaborates and forwards the messages by mail and web side transmit information to the All-Polish Press, in the most urgent cases ZMPD cooperates with the Radio & TV.

We also intervene and assist when transport operators and drivers need immediate help in settling a problem, which they face during the journey or at the border.

ZMPD takes part in legislation works of the Sejm (= Diet) as well of the Senate (= Upper House), and the Polish Republic's Government in cases concerning functioning of transport in Poland and abroad.

## **2. The future of ZMPD after the Union's enlargement.**

The role of ZMPD will surely be subject to changes and modifications, especially in view of the anticipated drop in number of TIR carnets it will issue. The sale in last years was on the level of more than 200 thousand annually. During the first year after accession to the Union, i.e. in 2004, it is estimated that the drop in the number of carnets to be issued will be more than 40%.

This results from trend, while other, qualitative at this moment factors, may positively increase the number of the TIR carnets issued (new geographical areas – new countries using the TIR Convention; in the nearest future – the Far East Countries – Mongolia, China), the development of trade contacts with the Russian Federation, and the others.

The reduced quantity of the carnets being issued will result in a decrease in the amount of work connected with TIR system, but another aspect directly connected with the fact that Poland will become an external border of the European Union, should be remembered. Poland will be obliged to inquire and control the correctness of the TIR procedure. Each irregularity in its procedure on the territory of whichever of the Union's country will result in an irregularity on the Union's area. It is important to stress that Poland and the new member states of the Community will take over the burden, which up to now has rested with the associations and the customs administrations of the countries being today the border-countries of the Union.

After accession of our country to the EU, the Polish carriers will still be able to use the TIR system in respect of trade with the third countries. This of course also concerns the other new members. This system will however be subject to some modifications, resulting from the rules functioning within the Community.

In conformity with the art. 91 of the European Community's Customs Code, the transport of goods will only be able to take place under cover the TIR carnets, on condition that:

1. this transport starts or has to be terminated out of the Community, or
2. it concerns consignments of goods, which have to be unloaded on the Customs Territory of the Community, and they are transported together with the goods designed for unloading in the third countries (so-called partial unloading), or
3. it concerns the transport being carried out from one to another place situated in the Community through the territory of the third country.

As a consequence, this means that in conformity with the provisions of the TIR Convention, that the present Convention would be applied only in cases where the Union's border is crossed. Poland, following accession to the Union, will become its integral part. Our West and South borders will no longer exist. Therefore, we must remember, that the Community's territory is treated as one Customs Territory.

In this connection, the control actions in relation to the TIR procedure will be carried out at entry into or exit from the Union's Customs Territory. In situations when the transport takes place through the territory of a third country – where this transport will

temporary leave the territory of the Community and will enter it once again. The TIR Procedure's Control will consequently be subjected to displacement. The member countries of the Union under the term "Customs office en route" understand any Customs office of a Contracting Party through which a road vehicle, combination of vehicles or container is imported onto the Community's customs territory or exported from this territory within the TIR transport. If the goods are imported onto the Community's customs territory under cover of a TIR Carnet, then in conformity with the Implementing Regulations to the Union's Customs Code, they are treated as non-community goods, unless their community status has been confirmed.

Taking into consideration that the European Community is one and integral Customs Territory, we have to remember that the TIR Carnet's discharge is not being effected within the Member Country, but at the level of the Community. In this connection, as well as considering the necessity of simplifications of the formalities connected with the TIR carnets' discharge, the same as reduction of the irregularities connected with this action, the Customs Authorities of the Community's States have adopted certain procedures.

An example of this may be the strictly determined TIR volets' circulation among the Customs Offices involved into the TIR procedure, as well as the unified steps in case of the search procedure. (the reconciliation procedure).

It is important to underline, that if the Customs Authorities of the member country decide to exclude the carrier from the access to the TIR system on their territory, by virtue of the art. 38 of the TIR Convention, then this decision will have to be applied on the whole customs territory of the Community.

On the basis of above, the functioning of the guaranteeing associations, in general, will be modified. According again to the Implementing Regulations to the Customs Code of the European Community, if goods enter the customs territory of the Community, or the TIR procedure starts in this area, then the guaranteeing association becomes liable to the customs of each member country, the territory of which the transport passes, up to the place, in which the goods leave the Community, or to the office of destination, which is located on the customs territory of the Community.

Moreover, each notification of non-discharge of the TIR carnet or of its conditional discharge, and connected to this payment request for settlement of the customs tax and duties (in conformity with the TIR Convention's provisions), issued by the Customs Authorities of the Member Country of the Community in relation to each guaranteeing association, established on the Customs Territory of the Community, will have the same legal effect and as if it would have been issued by the Customs Authorities of the country, in which this association has its legal address.

**This is a new situation for all the associations, involved in the TIR System.**

Irrespective of the foregoing, ZMPD is going to develop new areas of functioning after access, i.e. laying a stress on such forms of activity, as: information, training, carriers' assistance, lobbying, etc.

An extremely important case will be undoubtedly a large information action in the scope of:

- keeping informed on a current base on the conditions of functioning of the road transport in other countries,
- comparing and analysing the costs of functioning of the transport companies in the other countries (this will enable us to take suitable measures aimed at increasing the competitiveness of the Polish carriers),
- analysing the tax matters in different countries,
- possibilities of setting up a business in another country, etc.

The services to the transport companies in the scope of the possibility to deduct the VAT tax from fuel bought on the Union's territory will increase. It will be also the great field of our activity.

Furthermore, we are getting ready to start and initiate the whole program, which will include a number elements concerning, for instance insurer's reduced premium or collective orders for vehicles and spare parts. We are expecting that such kind of assistance will be attractive one for our members.



## Training

Because of the fact that we will be in a quite new situation, we are of the opinion that during the next few years there will be a great interest concerning knowledge about the Union, local provisions, the rules of functioning of the transport in other Union countries, the training will be the great importance within the activity of our Association.

The process of training has to be continued and developed, having no regard on the organizing efforts and connected with it costs.

## Lobbying

For the proper and stable development of our trade in Poland and in order to protect honest competition in transport, there is a need to constantly inform the members of the Government, who are responsible for the legal system, about the current state, about any dangerous situations and the trends of transport developments. It will be transferred, into the quality of the work of the Parliament.

At present, in Poland, the situation does not look satisfactory. We are not able to successfully gain the adequate position of transport sector in the national economy. The transport companies are charged many taxes and dues which, as a result, lead to very high level of costs, and with which we fight permanently. Through the integration of all groups representing the road carriers, we gain more and more successes. We assume that our further consequent activity connected with the future integration and will allow more efficient influence on Polish as well as on European authorities.