Regional TIR Seminar

TIR Guarantee System

Sarajevo, 29 - 30 March 2011

Dalida Matic

Head – TIR Claims
1. TIR figures

2. Functioning and organisation of the TIR guarantee system

3. Customs claims procedures

4. TIR Objectives
Dynamics of the TIR System

TIR Carnets issued per year

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TIR Carnet Issuance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>2707950</td>
</tr>
<tr>
<td>2002</td>
<td>3095200</td>
</tr>
<tr>
<td>2003</td>
<td>3298000</td>
</tr>
<tr>
<td>2004</td>
<td>3211050</td>
</tr>
<tr>
<td>2005</td>
<td>3240650</td>
</tr>
<tr>
<td>2006</td>
<td>3599850</td>
</tr>
<tr>
<td>2007</td>
<td>3076250</td>
</tr>
<tr>
<td>2008</td>
<td>3253800</td>
</tr>
<tr>
<td>2009</td>
<td>2230400</td>
</tr>
<tr>
<td>2010</td>
<td>2822200</td>
</tr>
<tr>
<td>Total</td>
<td>30535350</td>
</tr>
</tbody>
</table>
Worldwide:

- 14% in 2010 compared to 2009
- 20% in 2011 compared to 2010

Balkan region:

- 32% in 2010 compared to 2009
- 74% in 2011 compared to 2010
Biggest TIR Users in 2010

- Turkey: 641’480
- Russia: 525’980
- Ukraine: 319’532
- Poland: 262’121
- Belarus: 169’524
## TIR in the Balkan Region

### Issuance of TIR Carnets

<table>
<thead>
<tr>
<th>COUNTRIES</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALBANIA</td>
<td>173</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>BOSNIA AND HERZEGOVINA</td>
<td>0</td>
<td>392</td>
<td>103</td>
</tr>
<tr>
<td>BULGARIA</td>
<td>125963</td>
<td>141464</td>
<td>23732</td>
</tr>
<tr>
<td>CROATIA</td>
<td>3098</td>
<td>4071</td>
<td>991</td>
</tr>
<tr>
<td>MACEDONIA</td>
<td>18119</td>
<td>20075</td>
<td>3830</td>
</tr>
<tr>
<td>MONTENEGRO</td>
<td>19</td>
<td>44</td>
<td>0</td>
</tr>
<tr>
<td>ROMANIA</td>
<td>28661</td>
<td>41254</td>
<td>7796</td>
</tr>
<tr>
<td>SERBIA</td>
<td>13532</td>
<td>19108</td>
<td>3221</td>
</tr>
<tr>
<td>SLOVENIA</td>
<td>8517</td>
<td>9953</td>
<td>1638</td>
</tr>
<tr>
<td><strong>IN TOTAL</strong></td>
<td><strong>198082</strong></td>
<td><strong>236361</strong></td>
<td><strong>41311</strong></td>
</tr>
</tbody>
</table>
TIR achievements in the Balkan Region

- Integration of all former Yugoslav republics into the TIR System
- Serbia is the first country to transmit SafeTIR termination data in real-time (98% within 1 day)
- RTS in Bulgaria and Bosnia and Herzegovina
- TIR-EPD in Bulgaria, Romania and Slovenia
  - In testing phase in Bosnia and Herzegovina
  - Expected in Serbia and Macedonia
TIR achievements in Bosnia and Herzegovina

- Since 15 January 2010 in the TIR System
- Increase of TIR Carnet usage in 2011 compared to 2010
- Almost 5700 SafeTIR termination data processed in 2010, increase of 15% in first months of 2011
- As of 1st January 2011, implementation of RTS
- By 1st June 2011, implementation of TIR–EPD

Bosnia and Herzegovina … an example to follow!
TIR guarantee system

= 

Customs duties and taxes at risk:
- covered at any moment by an internationally recognized guarantee
- if the TIR transport operator cannot be held liable
The IRU is mandated since 1959 to:

• take on responsibility for the effective organisation and functioning of an international guarantee system (Article 6.2bis)

• to centrally print and distribute TIR Carnets
International guarantee system

Deed of Guarantee between Customs authorities and national TIR guaranteeing association

Goods transported under the TIR procedure are not subjected to the payment or deposit of import or export duties and taxes at Customs offices en route (Article 4)

The Guaranteeing Association = national partner to Customs authorities for resolving TIR irregularities caused by any national and foreign TIR Holder
The functioning of the TIR System

Financial Institutions

ASSOCIATION A

Association’s Deed of Engagement

IRU

Financial Institutions

ASSOCIATION B

Deed of Guarantee

Country A

Customs

Deed of Guarantee

Country B

Customs

TIR

TIR

© International Road Transport Union (IRU) 2011
Main actors in the TIR System:

- UNECE and TIR Bodies
- International organisation (IRU)
- Government of the contracting party (usually Customs authorities)
- Authorised national issuing and guaranteeing association
- Authorised transport operator (TIR Carnet holder)
Each actor, according to its role, has a wide range of responsibilities when:

- Implementing the TIR System
- Managing TIR activities
- Handling TIR claims
Customs Authorities

- Control access
  - Authorise a national association to issue TIR Carnets and to act as a guarantor
  - Authorise transport operators
- Designate customs offices open to TIR operations (fix itineraries for TIR consignments)
- Supervise the approval of TIR vehicles
- Apply risk management measures
- Act immediately against fraudsters
- Provide SafeTIR data in real time
National association

- Contribute to authorisation procedures for transporters as per TIR Convention and IRU rules
- Issue, control and return of TIR Carnets
- Act as guarantor (subsidiary and dependent)
- Comply with procedures and deadlines as prescribed in the TIR Convention
- Train TIR Carnet holders
- Apply risk management procedures
- Cooperate with Customs Authority in a true PPP
Transport operator

- Lodge accurate TIR declaration to Customs
- Present road vehicle together with load and TIR Carnet at Customs office of departure, en route and destination for control
- In case of an irregularity, cooperate with Customs and associations to resolve irregularities and to identify the directly liable person(s)
Principles governing the TIR guarantee chain

- **TIR Holder – Customs declarant**
  - Directly liable for payment of customs duties and taxes (except circumstances of Article 41)

- **National association and IRU**
  - Central management of claims
  - Ensure financial institution coverage, but TIR guarantee dependent and subsidiary
Principles governing the TIR guarantee chain

- **Customs authority**
  - Responsible for handling the TIR procedure
  - In case of irregularity, undertake all possible effort to identify and collect payment from directly liable person(s)
  - Call upon TIR guarantee when all efforts are duly proven but have failed
Legal framework for TIR Claims procedures

- TIR Convention
- National laws and regulations
- National Deed of Guarantee

© International Road Transport Union (IRU) 2011
Call upon the national association

Minimum conditions:

- Valid TIR Carnet accepted by Customs of the country
- Irregularity under the TIR procedure
- Irregularity on the territory of claiming Customs
- Irregularity gave rise to a Customs debt
- Article 8.7: obtain payment from directly liable person
- Article 11: claim to national association according to deadlines
Irregularity under TIR

- **Article 1(q)**
  
The guaranteeing association acts as a guarantor for persons using the TIR procedure

- **Article 8.1:**
  
The guaranteeing Association shall undertake to pay the import or export duties and taxes due under the Customs laws and regulations of the country in which an irregularity has been noted in connection with a TIR operation
Irregularity under TIR

- Articles 28.2 and 40:
  
  Goods placed under another Customs regime that preceded or followed the TIR transport, the incurrence of irregularities under this other regime must not be attributed to the TIR Carnet Holder in his capacity as a Holder and as a consequence not to the guaranteeing association.

- Only irregularities occurred during the course of the TIR operation fall under the handling of the TIR Guarantee Chain.
Article 8.4

Liability of the guaranteeing association to the authorities of the country where the Customs office of departure is situated shall commence at the time when the TIR Carnet is accepted by the Customs office.
Irregularity on the territory of the claiming Customs

- **Article 36**
  Any breach of provisions of this Convention shall render the offender liable in the country where the offence was committed.

- **Article 37**
  When it is not possible to establish in which territory an irregularity was committed, it shall be deemed to have been committed in the territory of the Contracting Party where it is detected.
Incurrence of a customs debt

- Unlawful introduction of the goods on free market
  - Introduction of non Customs cleared goods on the market without payment of Customs duties and taxes due

- Article 41 - Exceptions
  - Destruction of goods
  - Force majeur
  - Sequestration of goods by Customs
Article 8.7: Directly liable person(s)

- Identification of the person(s) directly liable for payment of the Customs debt:
  - Customs declarant e.g. TIR Carnet Holder
  - The person who received the goods e.g. Importer, Consignee
  - The person who participated in the removal of goods from Customs supervision

- Determined in accordance with national legislation
Article 8.7: Directly liable person(s)

Once identified, payment of due Customs debt shall be requested and collected from the debtor.

The public authority shall avail itself with all means in law to protect the interests they are responsible for, when researching the Customs debtor and obtaining settlement of the due debt from him:

- Request payment from the TIR Carnet holder
- Collection of payment through enforcement measures, sequestration of assets etc.
Article 8.7: Directly liable person(s)

- If the holder does not respond to Customs request, immediate action from Customs to protect the TIR System from abuses:
  - Revocation of authorisation for national TIR Carnet Holders (Article 6.4)
  - Temporary or permanent exclusion for foreign TIR Carnet Holders (Article 38.1)
  - Refuse acceptance of new TIR Carnets and sequestrate goods, vehicles, assets of the holder to secure Customs debt
Claim to the national association

- Valid notification and claim for payment, limited to the maximum guaranteed amount, received by the national association within the deadlines of Article 11 of the TIR Convention

Acceptance of TIR Carnet  Notification of non-discharge  Payment request  3 months from for association to pay / oppose

1 year  3 months min.  2 years max.
TIR Claims figures

- 240 Customs claims received in 2010
- 101 Customs claims paid
- 339 Customs claims closed without payment
- Average amount paid per TIR carnet is around USD 33000

Less than 0.0001% become a claim i.e. 1 out of 12000
Future objectives

- Implement efficient IT Risk Management tools in partnership with Customs authorities in all contracting parties and in cooperation with UNCTAD (ASYCUDA World TIR)
- Expand TIR usage within contracting parties and interested candidates: Afghanistan, Pakistan, China, South America etc.
- Dedicated partnership with Customs authorities to achieve common goals as efficient and secure TIR procedures and reduced border waiting times
Thank you

Hvala - Хвала