



## **SCREENING CHAPTER 14 TRANSPORT POLICY**

### **AGENDA ITEM I: STATE AID**

**Country Session: The Republic of TURKEY  
25-28 September 2006**



## CONTENT

- Financial Transfers to TCDD and TDI
- Encouragement and Orientation of Investments and Services
- External Financing
- Direct Business Taxation
- Indirect Taxation



## Financial Transfers to TCDD and TDI

### Responsible Authorities:

- Undersecretariat of Treasury (UT)- General Directorate of State Owned Enterprises (SOEs)
- Privatisation Administration

### Duties of UT

- Ownership of SOEs on behalf of the state.
- Provide financing to SOEs as capital injection.
- Finance services of general economic interest through SOEs as duty loss payments.
- Programme and monitor annual budgets of SOEs.

### About SOEs

Operate in Transport (Railways).

## Financial Transfers to TCDD and TDI (CONT'D)

### Capital Transfers: Scope

- TCDD (Railways) and TDI (Maritime) receive capital from UT and Privatisation Administration respectively.
- As owners, Treasury and Privatisation Administration, make capital transfers to these loss making institutions.



## Financial Transfers to TCDD and TDI (CONT'D)

### Legislation

- Decree Law on State Owned Enterprises No. 233  
(Official Gazette: 18 June 1984, No.18435)
  - Article 37: The Treasury shall transfer capital for investment and operational deficits of SOEs
  
- Law on Privatisation No.4046
  - Article 10: Capital obligations of Privatisation Administration may be met from the Privatisation Fund sources

## Financial Transfers to TCDD and TDI (CONT'D)

### Capital Transfers: Features

- These transfers are limited to;
  - Budgetary allocations and availability of Privatisation Fund sources,
  - Wage, salary and investment expenses of the entities,
  - For other expenses of institutions which have no operational activity, in the process of liquidation
- If the institutions recover, transfer may be cancelled or decreased by the UT or Privatisation Administration.



## Capital Transfers

Million Euro

	2004	2005	2006(Prg)
TCDD(Railways)	306	289	738
TDİ(Maritime)	1	17	21
<b>TOTAL</b>	<b>307</b>	<b>306</b>	<b>759</b>

\*2004:1 Euro= 1,76 YTL

2005: 1 Euro= 1,67 YTL

2006: 1 Euro= 1,65 YTL

## Financial Transfers to SOEs

### Duty Losses: General Scope and Legislative Framework

- 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 to state 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 shall be audited and finalised by the Treasury before payment.
  - Duty losses may be paid in advance to SOE's according to Annual Budget Law.



## Financial Transfers to SOEs (CONT'D)

### Duty Loss Applications: TCDD (Railways)

- The Decree of Council of Ministers: 1989/14558
  - Operation of some uneconomic railway lines.
  - Loss arised from these lines has been paid to TCDD after audit.



## Duty Loss Payments :

Million Euro

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

**\*End year programme figures for 2006**

\*2004: 1 Euro= 1,76 YTL

2005: 1 Euro= 1,67 YTL

2006: 1 Euro= 1,65YTL



## Financial Transfers to SOEs (CONT'D)

### 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.

## Encouragement and Orientation of Investments and Services

### ➤ Decree concerning state encouragements to investments

Turkish legislation, which is applicable to all sectors, related to the program :

- Decree No:2002/4367, dated: 10 June 2002, published in the Official Gazette: 9 June 2002, no 24810
- Communiqué No.2002/1 on the Implementation of the “Decree Concerning the State Encouragements to Investments” No.2002/4367 (Official Gazette: 30 June 2002, no 24831)



## Encouragement and Orientation of Investments and Services (CONT'D)

### ➤ Objective of the program:

To encourage, support and orient investments, in line with international commitments, 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 realize international competitiveness.



## Encouragement and Orientation of Investments and Services (CONT'D)

### Regional Classification

Developed regions: Istanbul and Kocaeli provincial boundaries. Metropolitan Municipality boundaries of Ankara, Izmir, Bursa, Adana, and Antalya provinces.

Normal Regions: Provinces situated outside of the Developed Region and Priority Development Region classifications.

Priority Development Regions: Provinces, which are determined as the Priority Development Regions by the Decision of the Council of Ministers.



## Encouragement and Orientation of Investments and Services (CONT'D)

### ➤ Duration of the program

Not specified in the Decree.

### ➤ Source and amount of the program

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

### ➤ Implementing institution

Undersecretariat of Treasury

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



## Encouragement and Orientation of Investments and Services (CONT'D)

### ➤ Beneficiary:

The program covers all investment activities related to the production of goods and services, R&D, environmental protection and improvement of quality and standards.



## Encouragement and Orientation of Investments and Services (CONT'D)

- By taking into consideration of the EU legislation on state aid to land transport, as a nonexhaustive list, following types of investments are encouraged within the scope of the program:
  - Railroad transport equipment including locomotives and wagons,
  - Trailer, semi - trailer and tow - truck renewal investments for international cargo transportation,
  - 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

## Encouragement and Orientation of Investments and Services (CONT'D)

### ➤ State aid measures implemented in the program:

- Exemption from Customs Duties and Fund Levies

Imports of the machinery and equipment within the scope of investment project are exempt from Customs Duty

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

Pursuant to Law No. 4369 dated 22/7/1998, imports and domestic purchases of machinery and equipment within the scope of investment project are exempt from VAT.

## External Financing

- The Republic of Turkey provides foreign financing in transport sector for the projects of;
  - Highways and toll roads,
  - Railways,
  - Air transport and
  - Maritime transport projects
- Regardless of the sub-sector, the financing could be provided for an investment project of a public institution
- The project should be in the Annual Investment Program in order to be financed

## External Financing (CONT'D)

### Legislative Background

- Law on Public Finance and Regulation of Debt Management No.4749 (Official Gazette: 12 April 2002, no 24721)
- The law regulates, among other things, external borrowing of Turkey. According to Article 7;
  - in order to implement different competitive tender procedures other than provisions of Public Procurement Law for the public sector projects to be realized through foreign financing within the framework of bilateral protocols, it is obligatory to get;
  - the positive opinion of the Ministry of Finance, UT and State Planning Organization before the protocol is signed or
  - the decision of the Council of Ministers after the protocol is signed.

## External Financing (CONT'D)

### Legislative Background

- Article 7 of the Law clearly specifies that even the special tender procedures stipulated in a bilateral protocol should be in conformity with “**competition**” principle.
- It shall be in line with principles of
  - i) competition,
  - ii) non discrimination,
  - iii) transparency,
  - iv) equal treatment rules



## External Financing (CONT'D)

### Legislative Background

- Communiqué published in the Official Gazette dated July 21, 2001
  - Defines the principles and procedures of tendering process with foreign financing for the investment projects of public institutions which are published in the Annual Investment Program.
  - The procedure, which is called “*international tender with foreign financing*”, is defined as a competitive tender which is announced in at least two foreign newspapers one of which should be Official Journal of the European Union.



## External Financing (CONT'D)

### Legislative Background

- Specific provisions of bilateral protocols, international financial institutions that the Republic of Turkey is a party and EIB agreements are exempt from the contents of this Communiqué.
- However, those special provisions and the fact that the lender is an IFI like EIB, shall not breach of the principle of competitiveness in the Tender processes.



## External Financing (CONT'D)

### Legislative Background

- According to the Public Finance and Regulation of Debt Management Law, UT is in charge of preparation and negotiation of the foreign credit agreements in which the Government is either the borrower or the guarantor.
- UT only becomes the borrower or the guarantor for foreign credits aimed at financing the projects of public institutions.



## External Financing (CONT'D)

### Legislative Background

- If the project implementing agency is a general budget institution, UT is the borrower and allocates the borrowed amount to the institution free of charge, without requiring repayment of principal, interest or other fees.
- If the project implementing agency is a non-general budget institution, i.e. a state owned enterprise or a municipality, UT either acts as the borrower of the credit agreement(s) and then on lends the borrowed amount to the implementing agency or the implementing agency acts as the borrower under UT guarantee.



## External Financing (CONT'D)

### Air Transport

#### I) Airplane Purchases

- Turkish Airlines (THY), a formerly state owned company, recently became a company of which 51% of the shares belong to private sector.
- With this ownership structure, more than 50% of shares belong to private sector, it is not possible for the Government to become either the borrower or the guarantor of the foreign credits for the airplane purchases of THY.
- However, existing guarantees extended by the UT to THY are still valid.
- For this reason, there is no case which might be defined as state aid, distorting the competition for the airplane purchases.



## External Financing (CONT'D)

### Air Transport

#### II) Airport Construction

- Airports which belong to Government could either be built by;
  - i) DG Construction of Railways, Ports, Airports (DLH) a general budget institution under the MoT or by
  - ii) DG State Airports Administration (DHMI), a state owned enterprise (100% of the capital belongs to state).
- DHMI constructs large scale airport terminals by Built Operate Transfer (BOT) scheme. The tender process is based on competition.
- There is no Treasury guarantee given under this BOT scheme. From this perspective, the financing of these projects via BOT scheme does not distort competition.



## External Financing (CONT'D)

### Air Transport

- DHMI constructs small scale airport projects out of its own resources.
- DLH is not constructing any airport with foreign financing for the time being.



## External Financing (CONT'D)

### Maritime Transport

- In the last 20 years, only one project of the DLH was financed via foreign credit, in 1989.
- Since then, UT has not provided any type of foreign credit, neither as a borrower nor as a guarantor for the financing of a project.



## External Financing (CONT'D)

### Land Transport

- Construction of roads (highways and toll roads) is the responsibility of the General Directorate of Highways (KGM), a general budget institution under the Ministry of Public Works and Settlement.
- KGM undertakes the massive portfolio of road construction projects either through budgetary resources or through foreign financing, i.e. foreign credits.
- Whether by budgetary resources or through foreign financing, the tender process of the road construction projects is carried out by KGM and is based on competitiveness.
- In case the project is planned to be financed with foreign credits, the tender is announced in at least two foreign newspapers one of which should be Official Journal of the European Union.

## External Financing (CONT'D)

### Land Transport

- As KGM is a general budget public institution, the borrower of the credit agreements for the financing of the road construction projects is the UT.
- UT allocates these loans to KGM for its utilization, free of charge, without requiring any repayment of principal, interest or other fees.
- Tender processes of highway and toll road construction projects with foreign financing are based on competition and does not confer any advantage to any undertaking.



## External Financing (CONT'D)

### Railway Transport

- The construction of railways is the responsibility of the DLH.
- In practice, TCDD is also constructing railways.
- Whenever DLH is conducting a railway project with foreign financing, UT is the borrower of the credit agreement(s). UT allocates these credits to DLH free of charge, without requiring repayment of principal, interest or other fees.
- TCDD is a state owned enterprise and a non general budget institution. For this reason, UT either borrows and on lends to TCDD or TCDD acts as the borrower under UT guarantee.





## **SCREENING CHAPTER 14 TRANSPORT POLICY**

# **AGENDA ITEM I: STATE AID/ Direct Business Taxation and Indirect Taxation**

**Country Session: The Republic of TURKEY  
25-28 September 2006**



## CONTENT

- Exemption Provided by Law on Excise Duty No. 4760
- Exemption Provided by Law on Corporate Income Tax (CIT) No. 5520
- Tax Exemptions For Maritime Transport
- Exemption Provided by Law on Value Added Tax (VAT) No. 3065



## **Exemption Provided by Law on Excise Duty No. 4760**

- Imports and purchase of planes and helicopters by Turkish Aeronautical Association (Article 7/3)
- The delivery of fuel to planes and ships that make international voyages (Article 5)
- The delivery of diesel fuel to juggernauts and lorries transport goods to abroad and their coolers in the border (Article 7/A)
- Jet fuel is subjected to zero excise duty (List I)
- The delivery of diesel fuel and fuel oil to cargo ships (only in cabotage) or passenger and fishing vessels is subjected to zero excise duty (Cabinet Decree No. 2003/5868)



## Exemption Provided by Law on Corporate Income Tax (CIT) No. 5520

(Art.4)

- Passenger transport enterprises operated by local public administrations within municipal boundaries.
- Agricultural enterprises of village or village unions qualifying passenger transport enterprises thereof.

## Tax Exemptions in Maritime Transport

- The exemption from customs duties and related taxes for imports of ships (only for new vessels) and equipment for ship/shipbuilding under the terms of Law No: 2581 on the Development of Maritime Commercial Fleet and Support of Shipbuilding Facilities is applicable.
- Revenues obtained from the operation and transfer of registered in the Turkish International Ship Registry are exempt from income tax and corporate tax and related funds. Fees belonging to the employees of the ships are exempt from income tax.
- Contracts of buying and selling, mortgage, registration, credit and freight related to ships and yachts to be registered into Turkish International Ship Registry are exempt from Stamp Duty, Fees, Banking and Insurance Transaction Tax and Duties.

## **Exemption Provided by Law on Value Added Tax (VAT) No. 3065**

- Marine transport vessels used in transport of passengers or goods (Article 13/a)
- Planes and helicopters used in transport of passengers or goods (Article 13/a)
- Rolling stock (locomotives and wagons) (Article 13/a)
- The repair, maintenance and restoration of maritime vessels, aeroplanes and rolling stock that benefit exemption (Article 13/a)
- Tractor trailers appropriate to EURO norms, ambulances, frigorific trucks, apron buses in the scope of incentive certificates (Article 13/d)

## **Exemption Provided By Law on VAT No. 3065 (CONT'D)**

- Services provided to planes and ships and for their passengers and goods in seaports and airports (Article 13/b)
- Services and deliveries related to construction, renovation and extension of seaports, airports and railways connected to seaports (Article 13/e)

## **Exemption Provided By Law on VAT No. 3065 (CONT'D)**

- The selling, hiring or the transfer of operating rights of enterprises in the scope of privatisation (Temporary Article 12)
- The delivery of vehicles by military factories, navy yards and organizations (Article 17/3-a)
- Transit transport and transport among Turkey and foreign countries of goods and passenger by maritime, airways, roads and railways (Cabinet Decree No. 84/8889)