

European Union Customs Transit including arrangements with neighbouring countries under the Common Transit Convention

1. Introduction

Under the rules of the EU Customs Union, the Union's member countries and territories, apply the same external tariffs, formalities and duty suspension measures to goods imported from outside the Union and to goods exported from the Union. Imported goods can, once they have been cleared by customs, circulate freely within the Customs Union. The EU Customs Union consists of the 28 EU Member States, some non-EU territories in Europe of the United Kingdom, and Monaco¹.

The laws on European Union customs formalities, procedures and processes, including rules on transit, are laid down in the Union Customs Code (Regulation (EU) No 952/2013), the Commission Delegated Regulation (EU) 2015/2446, the Commission Implementing Regulation (EU) 2015/2447 and in the Commission Delegated Regulation (EU) 2016/341, as amended².

The EU has customs "transit" arrangements (see next section) with Andorra and San Marino ("union transit"); with the EFTA countries (Iceland, Norway and Switzerland including Liechtenstein), Serbia, FYROM and Turkey (under the Convention on a common transit procedure of 1987 as amended – "common transit"³) and with the 73 countries that have signed up to the 1975 transit convention (the TIR or "Transport Internationaux Routiers" - convention⁴).

2. European Union Transit

Customs transit is a procedure that permits the entry of goods into the EU customs territory, and their transport from the point of entry to a consignee inland, under suspension of duties, other charges and commercial policy measures. This allows customs clearance of the goods and payment of all duties and charges to take place at their final destination rather than at the point of entry so that the goods can enter into free circulation, or into a subsequent suspensive procedure (e.g. customs warehouse, inward

¹ The non-EU territories of the United Kingdom that participate in the Customs Union are the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, Jersey, Guernsey and the Isle of Man. Seven territories within the EU do not participate in the customs union, generally as a result of their geographic circumstances – these are Büsingen am Hochrhein, Campione d'Italia and the adjacent Italian waters of Lake Lugano, Livigno, Ceuta, Melilla, Gibraltar and Heligoland. In addition, overseas countries and territories of Member States generally do not participate in the Customs Union - see Article 4 Union Customs Code.

² See https://ec.europa.eu/taxation_customs/business/union-customs-code/ucc-legislation_en

³ Decision No 1/2016 of the EU-EFTA Joint Committee on common transit of 28 April 2016 amending the Convention of 20 May 1987 on a common transit procedure [2016/858]

⁴ <http://www.unece.org/tir/system/history/tir-history.html>

processing). Transit can also be used for movement of goods that cross the EU customs territory. Figure 1 explains the procedure.

The procedure is in line with international customs approaches laid down in the World Customs Organisation International Convention on the simplification and harmonisation of customs procedures ("Revised Kyoto Convention"⁵) and the International Convention on the Harmonisation of Frontier Controls of Goods⁶. It is also in line with Article 5 GATT (Freedom of Transit) as well as with the WTO Trade Facilitation Agreement, including in particular Articles 6 (fees and charges), 7 (pre-arrival processing; separation of release from final determination of customs duties), 8 (e.g. border agency cooperation, alignment of opening hours), 10 (formalities and documentation requirements), 11 (freedom of transit), and 12 (customs cooperation).

The transfer of customs clearance from the external border to the final destination brings with it a number of advantages for both traders and the customs administrations involved. When the goods are cleared near their final destinations, traders (and customs) can simultaneously inspect the goods; while the traders are examining the goods to see whether they meet contractual requirements, the customs can examine them to establish whether they are in line with customs declarations. Furthermore, the transfer of the clearance procedures to a place at a distance from the border relieves the border customs offices so that traffic can move faster.

As the transit procedure involves a certain risk of non-payment of duty, the goods are moved under customs supervision. Consequently, a guarantee must be lodged for each consignment. The guarantee can be a cash deposit or an undertaking furnished by a financial institution acting as guarantor. The guarantee is calculated in such a way that it covers the full amount of the customs debt likely to be incurred and is based on the import duties that would be applicable to goods of the same kind at the point of entry into the EU if the goods were released for free circulation. The guarantee is required irrespective of whether the movement takes place under union transit, common transit or the TIR convention. Operators based in the EU who move goods in transit on a regular basis may be authorised to lodge a comprehensive guarantee instead of individual guarantees. The comprehensive guarantee can cover several operations and is calculated as the potential debt of generally one week's operations (reference amount). The guarantee can be reduced to 50% or 30% if the operator meets specific criteria and it may even be waived in certain circumstances when the operator meets very strict solvency criteria and is deemed to be a reliable operator (effectively when the operator is an Authorised Economic Operator (AEO)).

The transit procedure also requires that the goods being moved be presented at the customs office of destination within a stipulated period without having been altered in any way.

Transit may take the form of "*external transit*", meaning that non-Union goods may be moved from one point to another within the customs territory of the Union to the point of destination, or "*internal transit*", meaning that Union goods may be moved from one

⁵ http://www3.wcoomd.org/Kyoto_New/Content/content.html

⁶ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-A-17&chapter=11&clang=_en

point to another within the customs territory of the Union, passing through a country or territory outside the customs territory, without any change in customs status.

3. Regional integration, Common Transit Convention

Transit is obviously a very important procedure in the EU but also in the wider European region context, given the ease of movement between the EU and the wider region, and given the objective of fostering regional integration. It is in the EU's interest to facilitate transit procedures for economic operators delivering goods across and beyond the EU region.

Close cooperation on transit has already been established with some of our partner countries. The common transit procedure is used for the movement of goods between the 28 EU Member States, the EFTA countries (Iceland, Norway, Liechtenstein and Switzerland), Turkey (since 1 December 2012), the former Yugoslav Republic of Macedonia (since 1 July 2015) and Serbia (since 1 February 2016). The procedure is based on the [Convention of 20 May 1987](#) on a common transit procedure. The Convention was amended on 5 December 2017 by the [EU/EFTA Joint Committee Decision No 1/2016](#) in order to be aligned with the Union Customs Code. The rules are effectively identical to those of the Union transit. Some further countries, such as the Western Balkans, Georgia, Moldova and Ukraine, which are currently observers in the technical experts group on transit, are working to join it.

As regards accession to the Common Transit Convention, the Contracting Parties decide, on the basis of consensus, which other countries may join the Convention. The requirements are strict and include convergence and equivalence of legislation and procedures, as well as a computerized transit system built according to common specifications. A thorough assessment is conducted of how all relevant criteria are met, including interoperability and inter-connectivity, legislation, administrative capacity and equivalence of concepts, before a new Contracting Party is invited to join. The process is laborious and intensive and usually takes several years but the investments are generally profitable for administrations as recent accessions have shown.

4. TIR ("Transport Internationaux Routiers") Convention

The TIR system is the international customs transit system with the widest geographical coverage, with 73 Contracting Parties and almost 60 countries actively using the procedure. As in the case of other customs transit procedures, the TIR procedure enables goods to move under customs control across international borders without the payment of the duties and taxes that would normally be due at import (or export). A condition of the TIR procedure is that the movement of the goods must include transport by road.

In the EU, the TIR Convention 1975 was approved by Council Regulation (EEC) No 2112/78 of 25 July 1978 and entered into force in the European Community on 20 June 1983. The annex to this Council Regulation contains the TIR Convention. Council Decision 2009/477/EC of 28 May 2009 (OJ L 165 of 26 June 2009) and several subsequent amendments brought into EU law revised versions of the Convention.

Goods move from a customs office of departure in one country to a customs office of destination in another country under cover of an internationally accepted customs transit

document, the TIR carnet. This carnet demonstrates that the issuer is covered by a financial guarantee for the payment of the suspended duties and taxes, under the international guarantee system that is administered by the International Road Transport Union (IRU).

Although each EU Member State is a Contracting Party to the TIR Convention, the European Union is considered to be a single territory for the purposes of the TIR procedure. This means TIR can only be used in the Union for international movements, *i.e.* where the movement either starts or ends in a third country, or where the goods move between two or more EU Member States via the territory of a third country.

5. Automation/Information Exchange for transit procedure

All EU customs procedures and processes are in the process of being fully automated as stipulated in the Union Customs Code. Transit was the first procedure to be automated. The process started in the late nineties to counter important fraud cases that occurred in relation to transit operations. The EU has implemented the very comprehensive "New Computerised Transit System" (NCTS), which is a computerized management tool that enables real-time monitoring of transit movements. It has replaced paper documents and the process of managing those documents that applied under previous rules with electronic messages between traders and Customs, and between Customs offices. This has resulted in an improved quality of service for traders, and a more efficient management and surveillance system for Customs.

The NCTS must be used by operators for transit declarations concerning movements within the EU ("Union transit", which includes Andorra and San Marino) and with "common transit countries" (EFTA, Serbia, FYROM and Turkey). The NCTS is mandatory regardless of the mode of transport concerned (*i.e.* air, sea, road or rail). The exception to the use of NCTS is where a commercial document serves as the transit declaration (*e.g.* where a shipping manifest or the international waybill for transport of goods by rail (the "Contrat de transport International ferroviaire des Marchandises" or "CIM" consignment note) serves as a transit declaration).

Under the TIR procedure, which, unlike the Union and common transit procedure, is still a paper-based system⁷, it is necessary for the movement of goods between the countries that have signed up to that procedure and the EU to include transport by road and for the goods to be accompanied by the above-mentioned TIR carnet.

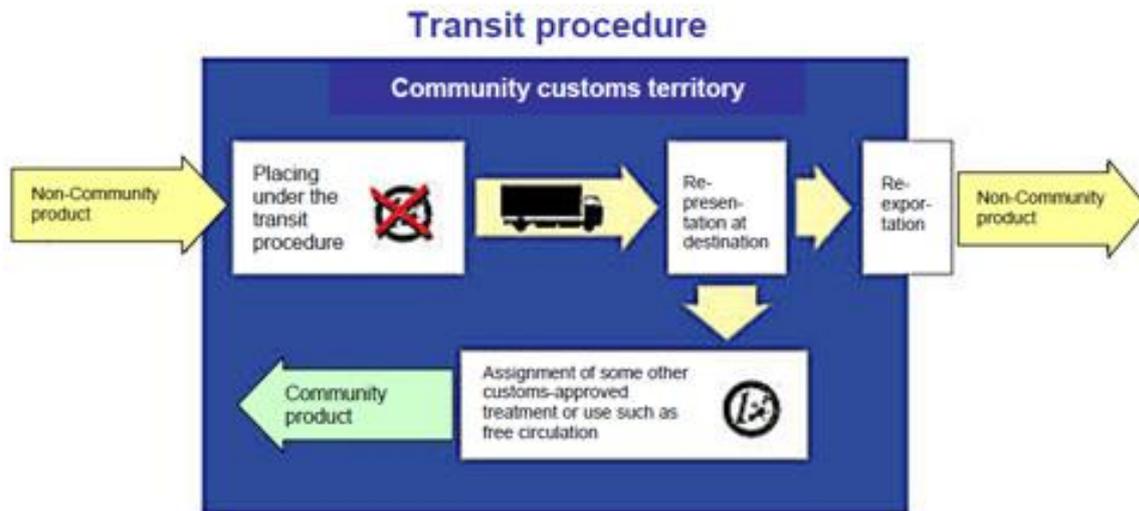
The automation of transit is a crucial objective, because goods cross multiple borders and pass multiple customs and border controls before they reach their destination. It is only by the exchange of information between the offices of departure, the offices on route and the office of destination that customs can monitor transit movements, establish whether goods have been correctly declared and determine whether the transit procedure has been correctly completed. Effective exchange of information helps all border agencies involved to gather intelligence and take appropriate decisions concerning the applicable control measures. The availability of data at the customs offices involved significantly

⁷ However, within the EU, the TIR procedure is partly integrated into NCTS and thus partly electronic. Work is ongoing in UNECE to computerise TIR (e-TIR).

improves the efficiency of risk management systems, helps in the targeting of high-risk consignments, and prevents impediments to trade flows.

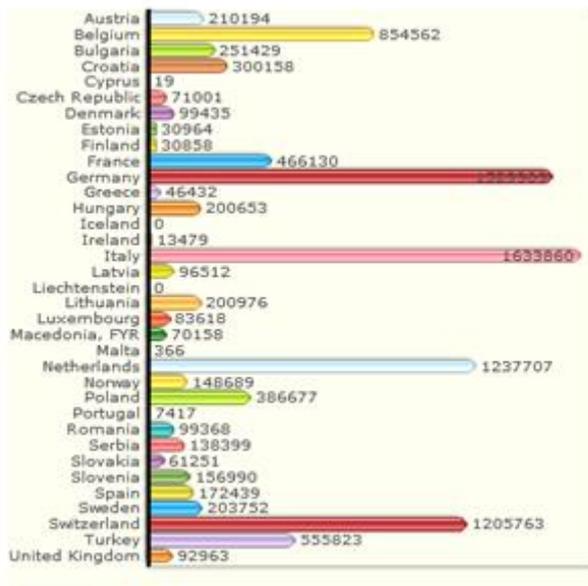
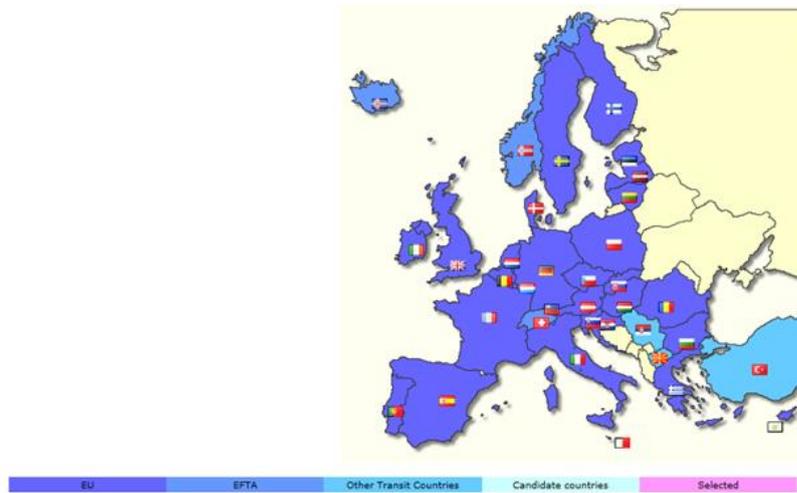
Article 10 WTO TF encourages WTO members to use relevant international standards; the EU is aligning its data requirements to the WCO Data Model, including as regards transit-related data. The EU data sets are also in line with global developments and non-EU countries' requirements.

Figure 1: Transit procedure



Some figures: Union & common transit movements

Destination countries (May 2017 to April 2018)



Source:

http://ec.europa.eu/taxation_customs/dds2/tra/transit_emap.jsp?Lang=en

Conclusion

The EU Customs Union operates three forms of "transit" arrangements – "union transit" within the EU and including Andorra and San Marino; "common transit" with the four EFTA countries, Serbia, FYROM and Turkey; and TIR with the almost 60 countries signed up to the 1975 transit convention that use it actively.

The EU has implemented the very comprehensive "New Computerised Transit System" (NCTS) which must be used by operators for transit declarations concerning movements within the EU and "common transit" countries. The NCTS is mandatory regardless of the mode of transport concerned (i.e. air, sea, road or rail). The exception to the use of NCTS is where a commercial document serves as the transit declaration.

Under the TIR procedure, which, unlike the Union and common transit procedure, is a paper-based system, it is necessary for the movement of goods between the countries that have signed up to that procedure and the EU to include transport by road and for the goods to be accompanied by the above-mentioned TIR carnet. In the EU, TIR is partly integrated in NCTS.

The NCTS offers traders many advantages, including improved quality of service:

- Less time spent waiting at Customs: because declarations will have been sent electronically beforehand, advanced risk analysis can be applied and decisions can be taken beforehand on whether or not to examine the goods;
- Greater flexibility as regards the time and place for presenting declarations to Customs;
- Earlier discharge of the transit procedure: because an electronic message will be used in place of returning the paper copy ("No 5") by mail to the office of departure, this leads to faster release of the guarantee;
- Reduction in the high costs incurred in the paper-based system of declaring goods (lengthy procedures involving considerable time and effort);
- Harmonization of Customs procedures and greater clarity of the transit operation, for the benefit of trade;
- No loss of valuable time at the office of destination waiting for a decision: Customs may, under the NCTS, decide well in advance of the arrival of the goods at the office(s) of transit and office of destination whether or not they need to check the consignment, on the basis of the information they have received.
- Additional simplification advantage for authorized consignors and authorized consignees, who communicate with Customs using only NCTS: this further accelerates the entire procedure.

The advantages of the NCTS for Customs include:

- Improvement of communication and coordination between the Customs administrations involved;
- Time savings and elimination of risks that duplicated information can bring, as under the NCTS some activities only have to be performed once;

- A more coherent system, which speeds up the processing of data, including the use of electronic risk analysis, and at the same time makes the system more flexible.