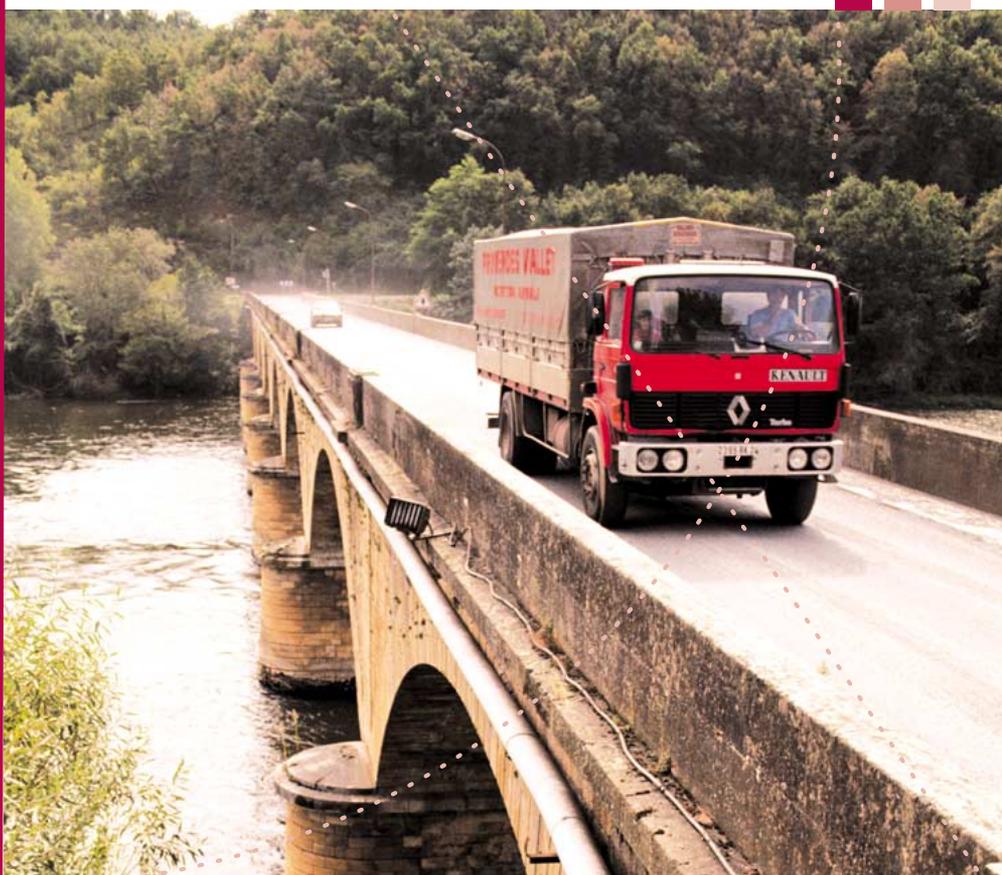


New customs transit
systems **for Europe**



New customs transit
systems **for Europe**



A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (<http://europa.eu.int>).

Cataloguing data can be found at the end of this publication.

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Preface



Michel
VANDEN ABEELE
Director-General

Following the conclusions of the European Parliament's first Temporary Enquiry Committee in 1997 and the Commission's Transit Action Plan, the reform of the transit system and the introduction of the New Computerised Transit System (NCTS) were two of the main challenges for me as Director-General of Taxation and Customs Union.

Of course, major changes and the introduction of new concepts take a while to be prepared and over the last few years a lot of time has gone into preparing the necessary changes. The process has been a joint effort by the services of the Commission, the Member States of the Union, our partner countries of EFTA and Visegrad as well as the trade. The result of this extensive cooperative process now lies before you. It offers you an overall picture of all the changes to the transit system.

If we continue the cooperation through the correct application of the new provisions and the use of the NCTS, we can be assured that we have a transit system that will serve trade, Member States and partner countries well in the future.

A handwritten signature in black ink, consisting of a large, sweeping initial 'M' followed by a smaller, more detailed signature.

Michel VANDEN ABEELE
Director-General
Directorate-General for Taxation and the Customs Union
European Commission

General introduction

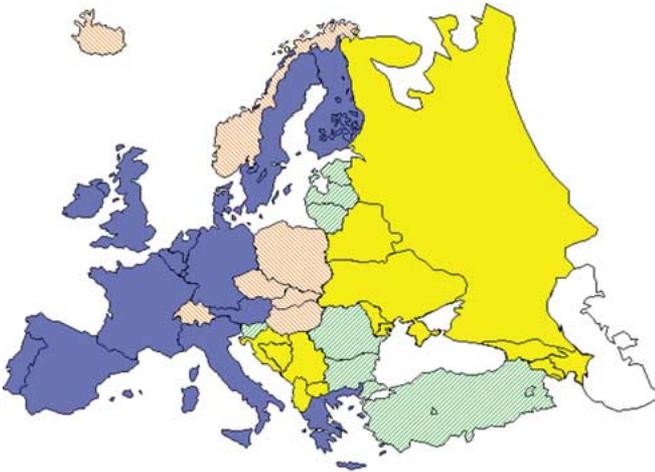
Transit

Customs transit is one of the cornerstones of European integration and of vital interest to European businesses. It enables goods to move more freely and makes customs clearance formalities more accessible. It does so by temporarily suspending duties and taxes that are applicable to goods at import into the Community (Community transit), or between the European Community, the European Free Trade Association and the Visegrad countries (via the Common Transit Convention) or among the States that are now contracting parties to the TIR Convention. For the countries of central and eastern Europe, access to the common transit system plays a key role in their pre-accession strategy.

Some 18 million Community and common transit documents and one million TIR carnets are issued in Europe every year, representing billions of euro in duties and charges, and the numbers are still rising.

In this introductory chapter you will find a short description of these three transit systems and an explanation of why a reform was necessary. We also explain the basic idea behind the computerisation of the transit system. The second chapter gives an extensive explanation of the changes that have been introduced in the Community and common transit systems. The third chapter is dedicated to the introduction of the NCTS, the new European computerised transit system, while the fourth chapter concentrates on the TIR system.

COMMUNITY AND COMMON TRANSIT - TERRITORIAL SCOPE



	European Community (15 Member States)	+ Andorra and San Marino	= Community transit
	EFTA and Visegrad countries	+ European Community	= Common transit
	Countries candidates for accession to the common transit and SAD conventions		
	Other European countries		

Common and Community transit, TIR

What is common transit?

Common transit is used for the movement of goods between the 15 EC Member States, the EFTA countries (Iceland, Norway and Switzerland – including Liechtenstein in as far as it forms a customs union with Switzerland) and the four Visegrad countries (Czech Republic, Hungary, Poland, Slovak Republic). It is based on the Common Transit Convention of 20 May 1987. A 'T1' or 'T2' procedure is used depending on the duty position of the goods (see next paragraph for an explanation of this).

What is Community transit?

Community transit is based on the Community customs code, the Community customs law, and is applicable to the following:

- Movements of non-Community goods for which customs duties and other charges at import are at stake – this is external Community transit. The document used for external Community transit is called 'T1'.
- However, where Community goods are placed under the common transit procedure (see above) and are subject to specific Community measures in relation to their export, then the Community 'external regime' (T1) also applies to them. This is for example the case when there are refunds payable under the common agricultural policy or drawback, remission or repayment of duty.
- Movements of Community goods which, between their point of departure and point of destination in the EC, have to pass through the territory of a third country (this is called internal Community transit).

By placing the goods under internal Community transit their Community status is demonstrated and duties or other charges will not be required when they re-enter the Community. The document used for internal Community transit is called 'T2'. Internal Community transit is also applicable to the movement of Community goods to/from those parts of the customs territory of the EC which fall outside the scope of directives on tax harmonisation, such as the Channel Islands and the Canary Islands⁽¹⁾. In those cases a 'T2F' document is used.

- Movements between the EC and Andorra and San Marino are subject to Community transit, in as far as they involve goods covered by the customs union agreements. Here both external and internal transit can be involved depending on whether duties are due or not on arrival.

What is TIR?

The TIR transit procedure ('Transports Internationaux Routiers' – International Road Transport) serves a similar purpose, but covers a larger geographical area. It is based upon the Customs Convention on the International Transport of Goods under cover of TIR Carnets (TIR Convention, 1975) which currently has 64 contracting parties including all the Member States of the EC. Goods may be moved under a single TIR operation across any number of contracting parties, but not for an operation confined to the EC.

The TIR procedure relies on the 'TIR carnet' which serves both as customs declaration and guarantee. It is printed and distributed by the International Road Transport Union (IRU) and it is issued to users by the national guaranteeing associations authorised for this purpose by the competent authorities (usually customs) of each contracting party.

⁽¹⁾ The full list is:

France: Guadeloupe, French Guyana, Martinique and Reunion;
United Kingdom: The Channel Islands (Alderney, Guernsey, Jersey, Sark and Herm);
Greece: Mount Athos;
Spain: Canary Islands;
Finland: Åland Islands.

Why is a reform necessary?

Because of the vast amounts of money involved, the transit systems have always been the focus of fraud. The possibility of fraud occurring has increased with the success of the internal market and with the growth of world trade in general.

The common and Community transit systems, which have been in operation since the late 1960s, began showing weaknesses in the early 1990s:

- the paper-based system turned out not to be fraud-proof;
- there was a growing lack of clarity in procedures and an increasing lack of parallelism between the two systems;
- the incapacity of the systems to deal with specific situations, which meant the risks grew higher and reliability decreased;
- the administrations were incapable of complying with the regulations in force as administrative communication and cooperation were insufficient.



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Following a 1994 report by the Court of Auditors on transit and three communications by the European Commission to the European Parliament and the Council (1995 and 1996), it became clear to administrators and users of the systems that a reform was necessary. This need was confirmed by the report of the Temporary Inquiry Committee of the European Parliament which called for a thorough review of the transit system, leading to changes at both a legal and practical level based on a full computerisation of the system.

A similar process had been going on in the field of the TIR system. In the early 1990s, the TIR system also began to experience a significant increase in fraud leading to large losses of duties and charges. Much of the fraud concerned tobacco and alcohol, both subject to high rates of duties and charges. In those cases the USD 50 000 limit of the guarantee was often inadequate to meet claims made by customs. A special 'tobacco/alcohol' guarantee of USD 200 000 was therefore introduced on 1 January 1994. The situation was so bad that, with effect from 30 November 1994, the central pool of insurers were forced to withdraw their insurance cover for all guarantees for tobacco and alcohol. This meant it was no longer possible to move tobacco and alcohol under TIR. Furthermore, with effect from 1 April 1996, the national associations of some Community Member States withdrew their TIR guarantees for those sensitive goods that were banned from using the comprehensive guarantee in Community transit, for example beef, milk, cream and butter. As a result it is impossible for these goods to move under TIR into or out of the Community.

What is the New Computerised Transit System (NCTS)?

A key part of the reform of the transit system is its computerisation. In today's world, customs administrations have to adapt to the needs of trade with speed and flexibility and keep abreast of the continual changes in the business environment. The NCTS will serve as a tool to manage and control the transit system. Based on the use of advanced computer systems and the electronic processing of data, it will guarantee a more modern and efficient management than the paper-based system, with its proven flaws.

The main objectives of the NCTS are:

- to increase the efficiency and effectiveness of transit procedures;
- to improve both the prevention and detection of fraud;
- to accelerate transactions carried out under a transit procedure and to offer security for them.

As a general rule, the NCTS will be used for both external and internal Community transit and common transit in situations where they are currently carried out using the single administrative document (SAD) made out as either a 'T1' or 'T2'.

Therefore the computerised system will not, at first, cover simplified procedures under which the goods are transported by rail, air, sea or by pipelines and where, essentially, the haulier's own documentation is used.

As the NCTS will be applicable to the movement of goods subject to Community and common transit procedures, 22 countries are involved in the project. It is estimated that it will eventually link some 3 000 European customs offices.

Entry into force

Community and common transit

The new rules are already in force for both common and Community transit. But in order to give customs and trade the necessary time to adapt to the changes it has been decided that the rules will only be implemented on 1 July 2001 with the exception of the rules regarding the comprehensive guarantee for goods involving greater risk of fraud, which are already applicable since 1 January 2001.

Apart from the special rules on the comprehensive guarantee for goods involving greater risk of fraud ⁽²⁾ there is a general transitional period for simplifications, taking into account the time necessary for the trade as well as the national administrations to adapt existing authorisations or deliver new ones. This transitional period will expire on 31 December 2001.

The NCTS

The NCTS will not be fully operational all at once. Instead of a 'big bang', there will be an intermediate period in which the paper-based system and the NCTS will both be used alongside each other, depending on whether the office of departure is computerised or not. When the changeover is complete the 'paper rules' will be discontinued and the 'new' rules will be the only ones applicable. The NCTS has already started with a small number of countries (Germany,

⁽²⁾ The following goods are considered to involve greater risk of fraud:

- Live animals of the bovine domestic species
- Meat of bovine animals, frozen, fresh or chilled
- Milk and cream, concentrated or containing added sugar or other sweeteners
- Butter and other fats and oils derived from milk
- Fresh bananas, excluding plantains
- Cane or beet sugar and chemically pure sucrose, solid
- Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol. or higher
- Spirits, liqueurs and other spirituous beverages
- Cigarettes containing tobacco

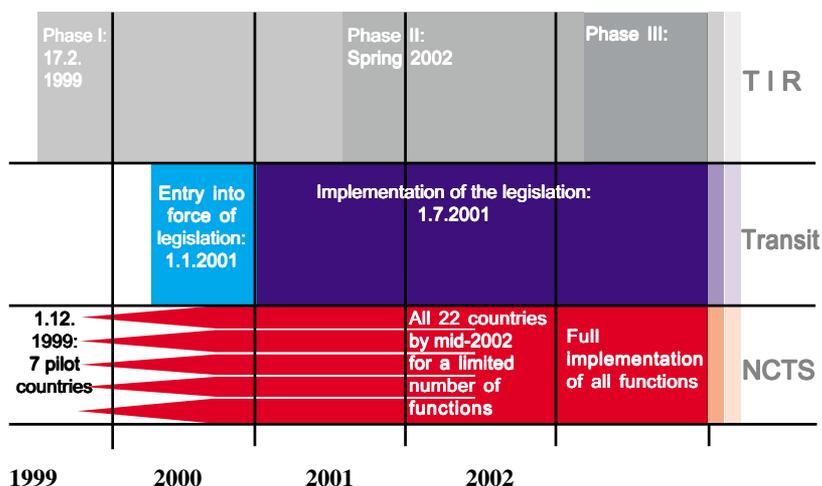
Exact details with regard to HS code and minimum quantities of these goods can be found in Annex I of Appendix I of the Convention (for common transit) and in Annex 44C of Regulation 2454/93 (for Community transit).

the Netherlands, Italy, Spain, Czech Republic, Norway and Switzerland). A limited number of offices in those countries are using a system with limited functions, covering only the essential steps of a complete transit operation, since 2000. The legal base for this phase (Phase II) can be found in provisions which have been applicable since 31 March 1999. It will be progressively extended to all customs offices in all countries by mid-2003. The legal provisions for Phase III will become applicable from 1 July 2001.

TIR

TIR Phase I of the revision of the TIR Convention 1975 entered into force on 17 February 1999. Phase II was adopted in October 2000 and will become applicable in 2002. Discussions on Phase III will start in 2001.

The reform of transit is staggered over time



Community/common transit

Introduction

In this chapter we describe the basic ideas behind the reform of the Community and common transit systems, as well as the legislative and operational instruments which have been introduced.

What are the main lines of the reform?

The reform has three main thrusts:

- Improvement of the quality of the transit legislation, meaning:
 - a clearer presentation of the basic legal framework, clearly stating the rights and obligations of both trade and customs;
 - a high degree of harmonisation between Community and common transit;
 - a better integration of the Community transit rules in the Community Customs Code legal framework.
- More effective and uniform implementation of the rules, through:
 - an increased effort by the national administrations to make the procedures actually work;
 - an optimisation of the use of the operational instruments available (by using the possibilities offered under the Customs 2002 programme).
- Computerisation of the transit procedures:
 - to ensure better management and control of the system;
 - to speed up its operation.

Improvement of the quality of the transit legislation

The pre-reform Community and common transit legislation is a mixture of standard rules, formalities and controls – applicable to normal transit operations – as well as simplifications or facilities, which can be granted in some cases. The legislation does not fully take into consideration the reliability of the trader, the risks involved in the goods being transported or the mode of transport used.

The Community and common transit rules have been reorganised on the same lines to improve their inter-operability and to make the rights and obligations of traders clear and evident. This new approach has meant the restructuring of existing provisions and the replacement of most of them by new, consolidated, ones. In particular, the appendices to the Common Transit Convention have had to be fundamentally re-organised. In addition provisions have been inserted on how to lodge a transit declaration when data processing techniques and the computerised transit procedure are used.



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Checking en route

The structure of the new procedures

The new text makes a clear distinction between the regular or standard transit procedure and the use of simplifications. Moreover, it offers a modulated approach, in particular with regard to the guarantee, depending on whether the goods concerned are considered to be ordinary goods or goods involving greater risk of fraud.

The regular transit procedure

This is the procedure, which must be used by a trader who does not yet have a track record, qualify for any simplification or who is an incidental user of the transit system. The regular transit procedure means:

- the presentation of the goods to customs for examination when the transit declaration is made;
- the presentation of the goods and the accompanying documents to any offices of transit and at the office of destination;
- the use of a guarantee valid only for one single transit operation for the full amount of the customs duties and other charges at stake (the 'individual guarantee');
- the obligation to seal the means of transport or the container for identification purposes;
- the obligation to follow an economically justified route or sometimes (in the case of goods involving greater risk of fraud) even a binding itinerary;
- the setting of a time limit within which the goods have to be presented at the office of destination, taking into consideration the route involved and the means of transport used;

List of simplifications

- **Use of a comprehensive guarantee or a guarantee waiver.**
- Special loading lists.
- Use of seals of a special type.
- Exemption from using a binding itinerary for goods involving greater risk of fraud.
- Authorised consignor and authorised consignee.
- Special simplifications for large containers and rail, sea, air or pipeline movements.
- Any additional simplifications that may be granted on the basis of bi- or multilateral agreements between countries (*Art. 6 Convention/Art. 97(2) CCC*).

General conditions for any simplification

The authorisations are only granted to persons who:

- are established in a contracting party (which means the company is incorporated there and can be traced and controlled);
- regularly use the Community/common transit arrangements, or whose customs authorities know that they can meet their obligations;
- who have not committed any serious or repeated offences against customs or tax legislation.

- the obligation to state the harmonised system commodity code (HS code)
 - when the goods concerned involve a greater risk of fraud; or,
 - where the goods are declared for another customs procedure at the same time (e.g. export), which itself requires the provision of the HS code.

Simplifications

There are different types of simplifications that allow authorised traders to derogate from some of the above (see box), but their use is subject to the same approach:

- compliance with a set of general conditions (see box) and any conditions specific to the simplification involved;
- issue of an authorisation to use a particular simplification. The authorisation is subject to withdrawal if the conditions are no longer met after it has been issued.

The issue of an authorisation enables customs to check compliance with the general and specific conditions governing the simplification concerned.

The guarantee system

The guarantee system starts from the idea that an individual guarantee has to be furnished for each transport movement, covering the full amount of customs duties and other charges, like VAT or excise duties, at stake. However, the individual guarantee can be replaced by a comprehensive guarantee covering a number of movements if some very strict criteria are met.

Individual guarantee

A guarantee can be furnished by means of a cash deposit, by having someone willing to act as a guarantor⁽³⁾ or by using a set of guarantee vouchers, each voucher corresponding to a fixed amount (EUR 7 000).

As a consequence of the reform the individual guarantee will be calculated on the basis of the highest rate applicable to the goods in the country of departure. In addition, for certain goods involving greater risk of fraud specific minimum rates apply⁽⁴⁾.

The use of the pre-reform flat-rate guarantee for the fixed amount of EUR 7 000 for a consignment of whatever value has been discontinued. A number of guarantee vouchers must be used in future to cover the whole amount of duties and other charges at stake. Their validity is limited to a maximum of one year.

Comprehensive guarantee

A comprehensive guarantee is one which covers a certain number of transit operations. Major changes have been introduced in this area in order to try and balance the financial risks and burdens of the transit operators.

Guarantees are now fixed to cover the maximum amount of duties and other charges that are at stake in a period of at least one week, based on past transactions and anticipated trends in the trader's operations. The term used for this maximum amount is the 'reference amount'. The trader may not exceed this liability for the movements he undertakes, unless he arranges for supplementary guarantee cover.

Obviously there are conditions to be fulfilled before a trader can be allowed to use this facility. The higher the risks involved, the more strict and numerous the criteria that have to be fulfilled.

⁽³⁾ A guarantor is a moral or legal person who undertakes in writing to pay jointly and severally with the debtor (in most cases the principal) the amount of charges and duties that become due when a transit document is not discharged properly.

In order to become a guarantor one must be established in one of the 22 countries of the Common Convention and be recognised as such by customs.

⁽⁴⁾ Information with regard to the minimum rates for goods involving greater risk of fraud can be found in Annex I of Appendix I of the Convention (for common transit) and in Annex 44C of Regulation 2454/93 (for Community transit).

Reduced levels of cover

The actual level of comprehensive guarantee can be fixed by customs at 100, 50 or 30 % of the 'reference amount' or they can allow a complete waiver of the need to have any guarantee at all. The actual level of reduction depends on the risks involved, the track record of the trader concerned and so forth (see boxes on pages 22 and 23).

The new guarantee system is based on the risks involved in the actual transport by the individual trader carrying out the transit operation (who is called the principal); the higher the risks involved, the stricter the guarantee requirements.

Temporary ban of comprehensive guarantee

In exceptional cases this tailored approach to individuals cannot be maintained and more general measures, which are irrespective of the personal qualities of the principals involved, have to be taken.

It may be necessary, at times, to insist that in no case there be a reduction of the actual amount of the comprehensive guarantee below the 'reference amount' for the transport of specified high-risk goods like, perhaps, tobacco. This measure could be introduced when it is evident that there is an exceptional large-scale risk of fraud. If even this turns out to be insufficient to protect the revenue, then a ban on the use of the comprehensive guarantee for the transport of these goods can also be introduced.

The new provisions set out the specific conditions, which have to be fulfilled before such exceptional measures may be taken.

CRITERIA FOR REDUCTION OF COMPREHENSIVE GUARANTEE OR GUARANTEE WAIVER

NORMAL GOODS

% guarantee amount Criteria	100 %	50 %	30 %	Waiver
1. Good general financial standing	No additional conditions	√	√	√
2. Sufficient experience (years)		√(1)*	√ (2)*	√ (3)*
3. Very close cooperation with the competent authorities		–	√	√
4. Control of transport operations		–	–	√
5. Good financial standing, sufficient to fulfil the commitments of the principal		–	–	√

* Period reduced by one year when the principal lodges the transit declaration using data processing techniques.

GOODS INVOLVING GREATER RISK OF FRAUD

% guarantee amount Criteria	100 %	50 %	30 %	No waiver allowed
1. Good general financial standing	√	√	√	
2. Sufficient experience (years)	√(1)*	√ (2)*	√ (3)*	
3. Very close cooperation with the competent authorities	√ or √	√	√	
4. Control of transport operations		√	√	
5. Good financial standing, sufficient to fulfil the commitments of the principal	–	–	√	

* Period reduced by one year when the principal lodges the transit declaration using data processing techniques.

Guarantee waivers for certain modes of transport

It is not necessary to provide a guarantee for transit operations which are being carried out by air, on the Rhine and the Rhine waterways, pipeline or by the national railway companies of the participating countries to the Common Transit Convention. However, for rail transport, this only applies to cases where a simplified procedure is being used (see below on page 31 under 'Challenges for the future').

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Shipping between Community ports is treated differently depending on whether it is 'regular' or not

The pre-reform guarantee waiver for journeys by sea has been withdrawn, except for the simplified procedure which applies to regular shipping services under the Community transit (see box).

Intra-Community movements by sea

The rules for sea transport in the Community have been amended by Regulation No 75/98 of 12 January 1998 (OJ L 7, 13.1.1998) which is in force since 1 July 1998. The revised legislation refers to:

'Regular shipping services' between Community ports. Regular shipping services are those authorised as such by the customs authorities on request by the company in charge of the regular line. Non-Community goods carried by them are subject to Community transit and have to be documented as such. For these goods a guarantee is needed. All other goods are deemed to be Community goods and not subject to proof of their status, unless customs proves the contrary.

'Non-regular shipping services' are all the other services where all the goods are regarded as non-Community goods and liable to duties when entering the customs territory of the EC, unless of course it can be established that they are Community goods by way of proof of their status (e.g. by using a T2L status document).

The end of a transit procedure and its discharge

A difference between the 'end' and the 'discharge' of the transit procedure has been introduced. This is in order to clearly define the scope and limits of the principal's obligations and to make sure that his liability is restricted to events occurring up until the end of the procedure, but not later.

The end of a transit operation is defined as the moment when the goods and accompanying documents are properly presented to the customs office of destination. But although the movement is considered to have ended at that moment, the procedure is not automatically discharged. This can only be done when the customs authorities of the country of departure, by comparing the information available at the office of departure with that sent back by the office of destination, are able to establish that the procedure has been properly concluded.

As well on the legal as on the operational side, measures have been introduced to ensure a speedy discharge of the transit procedure after its proper ending has been established.

When the paper control system is being used, if after two months there still is no proof of the proper ending of the procedure, the principal may produce a form of alternative evidence. For this purpose the principal may use an extra copy of the single administrative document, which he can have stamped at the office of destination, at the same time as the original copy intended for return via customs channels.

If no proof has been produced after four months, the authorities at the office of departure must start the inquiry procedure. They will seek

information from the office of destination and, if appropriate, any office of transit, in order to find if the procedure has ended or not. If they establish that the procedure has not ended, then they will try to locate the place where the customs duties and other charges are due. This is to establish which country is competent for the recovery of the duties and other charges from the debtors.

It should be noted that it is always possible for the customs authorities to launch a post clearance control of any document.

Recovery of customs duties and other charges

The Community and common transit systems now have essentially the same rules to establish:

- if and where a customs debt has been incurred, that is, customs duties and other charges have become due when the goods have gone missing or the obligations of the principal have not been met;
- who is liable to pay this debt (one of these persons is always the principal but there can be others);
- which authority, in which country, should proceed to recover the debt, and thus to whom the customs duties and other charges shall be paid.

If after 10 months (which is normally the period necessary for the inquiry procedure), it has still not been possible to establish where the debt is due, then the country of departure (or of entry) is deemed to be competent and will conduct the recovery procedure against the debtors or the guarantor and collect the money.

If it later appears that the debt actually occurred in another country than that which has collected the money, and if this country recovers the relevant duties and other charges, then, in order to avoid double payment, the original debtors must be compensated by the authorities of the country that originally collected the amount due ⁽⁵⁾.

The need for positive action

New legislation should never be an aim in itself: it needs to be applied correctly, uniformly and effectively. All the players involved need to play their part, assuming their obligations so as to ensure that the aim of the reform is met and to ensure a secure and controllable environment. Because of the international nature of transit, requiring equal treatment of operators in all the countries involved, customs need to work together as if they were one. The Council of the European Union underlined this idea, as did the EC/EFTA Joint Committee ⁽⁶⁾, in respective resolutions giving the utmost importance to the operational part of the transit reform.

The instruments to achieve this goal exist at Community as well as at national level. To achieve results, the Commission operates through the 'Customs 2002' programme ⁽⁷⁾. But most practical measures to improve the functioning of the transit system remain the direct responsibility of the national administrations, especially the provision of the necessary resources.

⁽⁵⁾ In as far as Community transit is concerned the system of repayment only refers to the other charges and not to the customs debt.

⁽⁶⁾ The Committee that governs the Common Transit Convention.

⁽⁷⁾ The 'Customs 2002 programme' replaces the former 'Customs 2000' programme and 'Matthaeus' training programme.

Operational improvements

The main new tools that have been introduced at an operational level are those intended to:

- Improve administrative management and cooperation, such as the appointment of national transit coordinators and local liaison officers. An address book containing all their names and addresses is updated regularly and is available on the Commission's Europa website (http://europa.eu.int/comm/taxation_customs/publications/info_doc/info_doc.htm).

The job of the national transit coordinators is, among other things, to produce a national management and control plan every year in order to get a clear picture of how the system is working and where improvements have been made, and which need to be introduced.

- Explain and implement the new legislation, such as the production of a transit manual, common to all countries. The publication (with a version on the web) is due in 2001. The aim is to ensure a correct and harmonised application of transit legislation by customs and operators everywhere. It will provide all users with a complete and homogeneous set of explanations of the system and procedures.

A training session



© photo UE

- Improve customs supervision and control of transit procedures, such as:
 - the early warning system (an updated and improved system of prior alert where the office of departure warns the office of destination of the imminent arrival of high-risk movements);
 - an inter-administration data bank containing information about genuine, lost, stolen and forged customs stamps and seals, pre-authenticated transit declarations and guarantee undertakings (called the TCT system).



Sealing the cargo

© Austrian Ministry of Finance

- Increase the partnership with trade. At present this means the Transit Contact Group, which was established in 1997⁽⁸⁾. This group has been meeting twice a year in order to discuss the progress of contents and the ongoing reform. The group will remain active as a platform to exchange information on the functioning of the revised transit system.

⁽⁸⁾ This group consists of representatives from all kinds of trade associations that are active at Community and/or a pan-European level, national customs administrations and the services of the Commission.

Challenges for the future

Reform of the transit procedure for transport by rail and large containers

Another part of the reform concerns the reform of the transit procedure for transport by rail. There are several reasons why this part of the transit legislation needs to be reformed as well. After all the years it has been used, it is now time to check the functioning of the simplifications that have been granted to the national railway companies and the way in which those companies assume their responsibilities. Apart from this it has become necessary to take severe precautionary measures to prevent the intrusion of fraud into the field of rail transport and to review the system in the light of the changed environment in which rail transport is being performed (e.g. as a result of the liberalisation of the railway market and the arrival of private railway companies which may operate across internal Community borders).

The reform of the transit procedures for rail transport will be the main concern for the year 2001.

Enlargement of the Common Transit Convention and of the European Union

On 1 July 1996 the EC/EFTA Transit Convention was extended to the 4 Visegrad countries (Czech Republic, Hungary, Poland, Slovak Republic). The accession of these countries to the convention was preceded by an extensive phase of technical assistance funded by the EC Phare programme.

A similar approach is now being taken for a second group of countries: Estonia, Latvia, Lithuania, Bulgaria, Romania, Slovenia and – although under slightly different conditions – Turkey.

However, the European Parliament and the Commission have decided that further invitations for accession to the Common Transit Convention will not be sent before the reform and the computerisation of the transit system have been completed. This means that the requirements these countries will have to fulfil and the training they will receive will be on the basis of the revised and computerised transit system.

© photo UE



Meeting of the EC/EFTA Working Group on Transit

New European customs facilitation convention

The need for the existence of three transit systems in Europe (Community/common transit and TIR) must be questioned more and more as trade and economic and political integration in Europe advance. Simplified management tools such as the NCTS and the increasing parallelism between Community and common transit will pave the way for a step by step approach towards a 'pan-European' transit system, as advocated in the final report of the Temporary Inquiry Committee of the European Parliament.

The two main pillars for any such pan-European transit system would be:

- a comprehensive European convention on all aspects of customs facilities in Europe (transit, SAD/SAM⁽⁹⁾, facilitation of cross-border formalities and controls etc.);
- an overall management and decision-making process, which takes into consideration a well-balanced representation of all countries concerned, adapting the existing system, which requires unanimity for all decisions and which makes amending the convention a lengthy and cumbersome procedure.

⁽⁹⁾ SAD (Single Administrative Document) – SAM (Single Administrative Message).

The New Computerised Transit System (NCTS)



Photo UE

A personal computer using the New Computerised Transit System (NCTS)

Introduction

In this chapter we first describe the advantages of the NCTS and the obligations for both trader and customs. We then outline how the system works.

What are the advantages of the NCTS for trade?

The system offers traders many advantages, including:

- Improved quality of service:
 - Less time spent waiting at customs, because the declaration will have been sent electronically beforehand;
 - Greater flexibility in presenting declarations.

- Earlier discharge of the transit procedure because an electronic message is used instead of the return of the paper copy No 5 by mail, leading to a faster release of the guarantee.
- The high costs, incurred in relation with the paper-based system of declaring goods (lengthy procedures involving much time and effort), are reduced.
- A greater clarity of the transit operation, for the benefit of trade.
- Because customs will have decided well in advance of the arrival of the goods at the office of destination whether or not they want to check the consignment, the trader will not lose valuable time at the office of destination waiting for a decision.

Apart from these general advantages for trade, there is an additional advantage for authorised consignors linked to the NCTS system. They no longer have to carry out the cumbersome formalities that are necessary in a paper-based environment, because all the movements will be directly managed by the system.

What are the advantages of the NCTS for customs?

- The communication and coordination between the customs administrations involved will improve.
- Repetitive activities will only have to be performed once; this saves time and eliminates the risks involved in the duplication of information.
- Creation of a more coherent system, which will speed up the processing of data and at the same time making the system more flexible.

- Harmonisation of operating criteria, which will do away with the plethora of subprocedures and divergent interpretations of how the rules have to be implemented.
- Availability of a system run directly by customs, which offers greater security and a higher tempo in managing transit, provides more reliable data and better monitoring of movements.

It is clear that the trader indirectly benefits from the advantages of the NCTS for customs, and vice versa.

Which traders can use the NCTS?

- In principle all traders can use the NCTS. It is only necessary to use the electronic data interchange (EDI) procedures which have been established for the communication with customs in order to be connected to the NCTS.

What are the customs' obligations?

Customs will have to:

- install computer infrastructure, or adjust their existing facilities, to meet the specific needs of the NCTS, including compatibility with the Common Communication Network (CCN/CSI);
- set up an organisation to keep the computer applications running (Helpdesk);
- formulate and develop measures to ensure that the NCTS is integrated into the existing procedural and organisational set-up;
- devise and introduce suitable training for customs staff and traders.

Operation

Main items or messages used in a NCTS operation

Before going into the details it is useful to mention the main items and messages in a NCTS operation.

- The transit declaration, which is presented in a paper or electronic form.
- The movement reference number (MRN), which is a unique registration number, given by the system to the declaration to identify the movement.
- The transit accompanying document, which accompanies the goods from departure to destination.
- The 'anticipated arrival record' message, which is sent by the office of departure to the declared office of destination mentioned in the declaration.
- The 'anticipated transit record' message, which is sent by the office of departure to the declared office(s) of transit⁽¹⁰⁾ to notify the anticipated border passage of a consignment.
- The 'notification of crossing frontier' message, which is sent by the actual office of transit used after having checked the consignment.
- The 'arrival advice' message, which is sent by the actual office of destination to the office of departure when the goods arrive.
- The 'control results' message, which is sent by the actual office of destination to the office of departure after the goods have been checked.

⁽¹⁰⁾ An office of transit is a customs office situated at one of the external land borders of the EU or one of the other participating countries of the Common Transit Convention.

Furthermore it is important to understand that the system covers all the possible combinations of normal and simplified procedures, at departure as well as at destination.

Office of departure

The transit declaration is presented at the office of departure, either in paper form (in which case the data is introduced in the system by the customs office – see Diagram1) or in a computerised form (see Diagram 1, as well as Diagram 2 in case the simplified procedure is being used – see page 43). Electronic declarations can be made from terminals made available to traders at the customs office of departure or from a trader’s own premises.

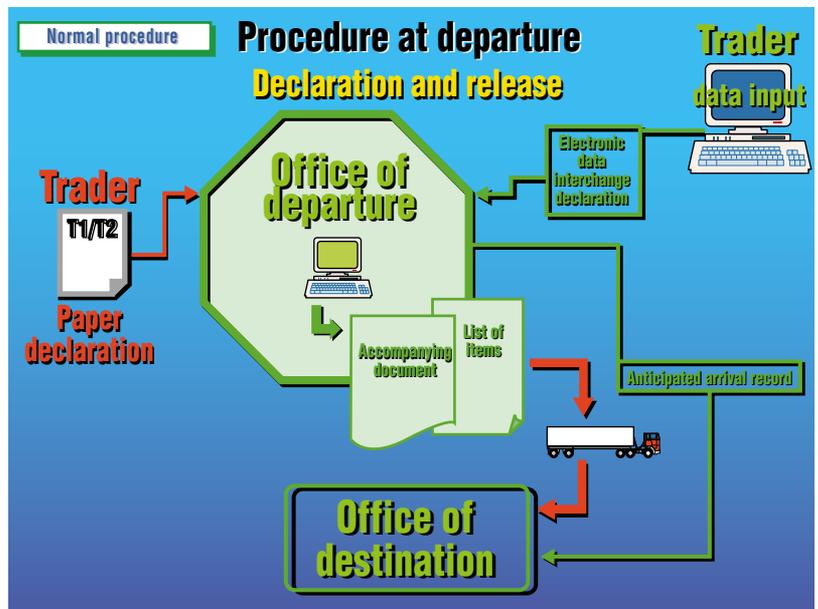


Diagram 1 – Office of departure – Normal procedure

Whatever the form of the presentation, the declaration must contain all the data required and comply with the system specifications, since the system codifies and validates the data automatically. If there is an inconsistency in the data the system will indicate this. The trader will be informed, so that he can make the necessary corrections before the declaration is finally accepted.

Once the corrections have been entered and the declaration is accepted, the system will provide the declaration with a unique registration number, the movement reference number.

Then, once any inspections have been carried out, either at the office of departure itself or at the authorised consignor's premises, and the guarantees are accepted, the goods will be released for transit. The

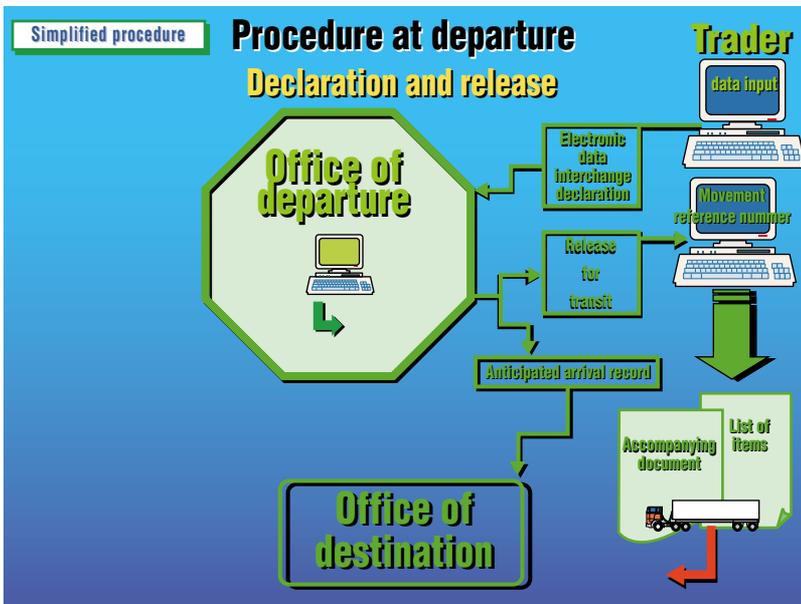


Diagram 2 – Office of departure – Simplified procedure (authorised consignor)

system will print the transit accompanying document and, where appropriate, the list of items, either at the office of departure or at the authorised consignor's premises. The accompanying document and the list of items must travel with the goods and be presented at any office of transit and at the office of destination.

When printing the transit accompanying document and the list of items, the office of departure will simultaneously send an anticipated arrival record to the declared office of destination. This message will mainly contain the information taken from the declaration, enabling the office of destination to control the consignment when it arrives. The office of destination needs to have access to the best possible information about the transit operation to take a correct and reliable decision about what actions to take when the goods arrive.

Should the movement have to pass an office of transit, the office of departure will also send an anticipated transit record, so that any office of transit has prior notification of the consignment concerned and can check the passage of the movement.

Office of destination

Upon arrival, the goods must be presented at the office of destination (either indirectly via the authorised consignee – see page 43 – or directly) together with the transit accompanying document and the list of items, if appropriate (see Diagram 3, and Diagram 4 in case of the simplified procedure). Customs, having already received the anticipated arrival record will have full details about the operation and therefore will have had the possibility to decide beforehand what controls are necessary.

When they enter the movement reference number into the system, it will automatically locate the corresponding anticipated arrival record, which will be used as a basis for any action or control, and send an arrival advice message to the office of departure.

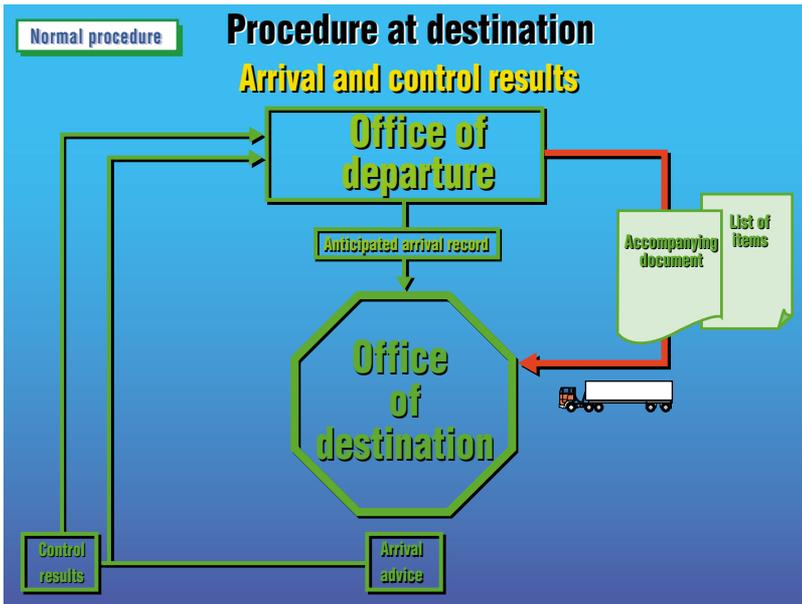


Diagram 3 – Office of destination – Normal procedure

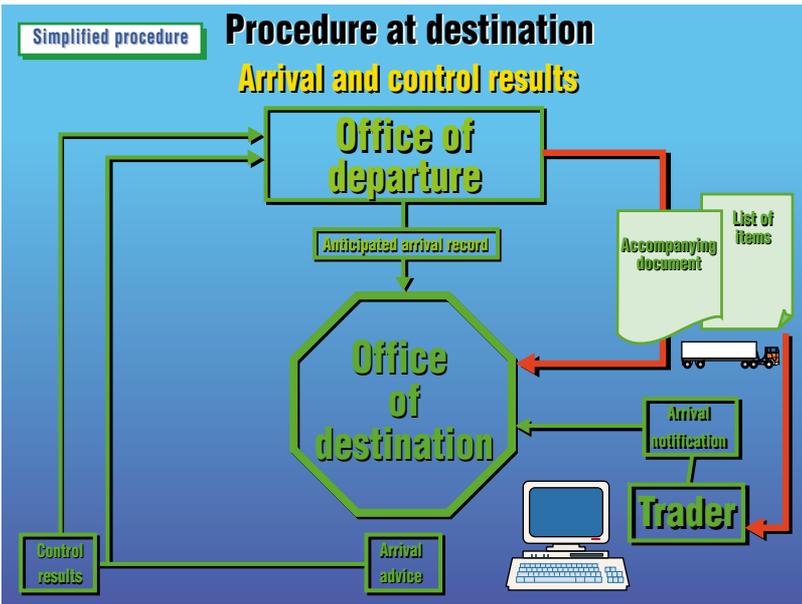


Diagram 4 – Office of destination – Simplified procedure (authorised consignee)

After the relevant controls have been carried out, the office of destination will notify the office of departure of the control results by using a control results message, stating which, if any, irregularities have been detected.

The control results message is necessary to discharge the transit operation and free the guarantees that were used for it.

Office of transit

When the goods pass by an office of transit, the goods, the transit accompanying document and, where appropriate, the list of items have to be presented to customs. The anticipated transit record, already available in the system, will automatically be located when the movement reference number is entered and subsequently the movement may be approved for passage. A notification of crossing the frontier is sent to the office of departure.

Change of office of transit or destination

If the goods go via an office of transit other than the declared one, the message that had initially been sent to the declared office of transit is of no use. In this case the actual office of transit will send a message to the office of departure, requesting the anticipated transit record, so that it can access the relevant information. Having checked the movement it will send the notification of crossing the frontier to the office of departure.

Likewise, the goods can be presented at an office of destination, other than the declared one. The actual office of destination will request the office of departure to send the anticipated arrival record so that the new office of destination may obtain the necessary information on the consignment.

If there is a change in office of transit or destination, the messages which have been sent to the declared offices are of no use and will remain open. To this end, the system will automatically send a message to the declared offices, notifying them where and when the goods have been presented, so that they can close the messages.

Simplified procedures: authorised consignor and authorised consignee

The use of both simplified procedures represents the optimal use of resources within the framework of the NCTS. The possibility of carrying out all the procedures at one's own premises and exchanging information with customs electronically is clearly the most rapid, comfortable, secure and economic way of doing business.

Obviously in addition to satisfying the normal criteria to become an authorised consignor or authorised consignee, they will have to possess an adequate electronic data processing system for information interchange with their relevant customs offices. Of course this can only work if these offices are connected to the NCTS.

Once these criteria have been fulfilled the NCTS allows authorised consignors to:

- create the transit declaration in their own computer system;
- send the corresponding declaration message electronically to the office of departure without the goods having to be physically presented there;
- send and receive by electronic means subsequent messages, including requests for correction of the declaration, notification of its acceptance and notification of the release of the goods.

As far as authorised consignees are concerned the NCTS allows them to:

- receive the goods and the accompanying document directly at their own premises;
- send the arrival notification message to the relevant office of destination electronically;
- receive and send subsequent messages concerning permission to unload goods and the notification of the results of the unloading to customs electronically.

These advantages really make the NCTS the transit system of the future.

Revision of the TIR Convention

Introduction

In this chapter we describe the legislative and operational measures that have been taken – and the further measures that are still being discussed – to improve the TIR system for the benefit of its users, the organisations responsible for administering it, and the authorities who control it. We begin by giving a description of the legislative part of the reform process, describing the preliminary measures leading up to the reform as well as Phase I of the revision itself. Phases II and III will only be mentioned briefly. Lastly we refer to the operational measures which have been taken.

Preliminary measures

Resolution No 49 – Short-term measures

In a first attempt to improve the fraud-troubled TIR system, the UN/ECE Working Party (see box) adopted, on 3 March 1995, Resolution No 49 concerning short-term measures to ensure the security and the efficient functioning of the TIR transit regime. In the resolution, the working party expressed concern about the fraud in TIR and a determination to safeguard the system through joint action by all parties involved. It decided that, whilst awaiting the revision of the TIR Convention as a whole, a number of short-term measures should be implemented as soon as possible by the competent authorities of the contracting parties.

The TIR administrative system

The Administrative Committee and the Working Party

The Administrative Committee administers the TIR system for the TIR Convention supported by the UN/ECE Working Party on Customs Questions affecting Transport. These bodies are responsible for legislative and other important issues relating to the TIR procedure.

The Executive Board

Phase I of the revision of the TIR Convention established a TIR Executive Board responsible for dealing with practical and operational details of the TIR procedure. Thus the TIR system should be able to react more quickly to problems that arise. The Executive Board is composed of nine members drawn from among contracting parties and elected by the Administrative Committee⁽¹¹⁾. Its functions include:

- supervising the application of the convention, including the operation of the guarantee system;
- coordinating and fostering the exchange of information between competent authorities of contracting parties, associations and international organisations;
- facilitating the settlement of disputes between contracting parties, associations, insurance companies and international organisations;
- supporting the training of personnel of customs authorities and other interested parties concerned with the TIR procedure.

International Road Transport Union (IRU)

The Geneva-based IRU is responsible for the printing and issuing of TIR carnets and the organisation of the international guarantee system which forms the backbone of TIR.

⁽¹¹⁾ The members of the TIR Executive Board should represent the interests of the contracting parties to the Convention and not the specific interests of individual governments or organisations. Its composition should to the extent possible reflect the geographical coverage of the TIR Convention. The current members come from the European Commission, Croatia, Estonia, Germany, Poland, the Russian Federation, Switzerland, Turkey and Ukraine.

'SAFETIR' – Control system for TIR carnets

The International Road Transport Union (IRU) (see box), in order to have a better oversight of what was happening in TIR, introduced a control system called SAFETIR in the early 1990s. The idea was to find out as rapidly as possible the successful outcome of TIR movements. Following the adoption of Resolution 49 the Administrative Committee (see box), accepting the need to take further short-term measures to safeguard the system and to reassure the international insurers, adopted a recommendation, designed to ensure the effective operation of SAFETIR. It called on customs authorities to inform the IRU via the national guaranteeing associations about TIR carnets presented at destination. If possible this was to be done on a daily basis.

All the Community Member States have implemented this recommendation. Customs in the Community will continue to cooperate with the IRU to improve the efficiency and effectiveness of SAFETIR.

Revision of the TIR Convention 1975

The revision concerns amendments to the 1975 TIR Convention, including the explanatory notes. These interpret certain provisions of the convention and are contained in an annex to the convention. The revision also applies to the 'Comments' on the convention: they are important for the interpretation, harmonisation and application of the convention because, although not legally binding, they reflect the opinion of the Administrative Committee and of the UN/ECE Working Party.

It was clear from the outset that the process of revision would be complex and take a considerable time to complete. It was therefore decided to carry out the revision in three separate phases. So far only Phase I has been completed and has entered into force



The famous TIR plate showing that you come from afar

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Revision Phase I

These changes were adopted by the Administrative Committee in June 1997 and came into force on 17 February 1999. They aim to strengthen the TIR system by

- laying down minimum conditions to be met by the associations that issue carnets and act as guarantors;
- requiring that persons wishing to have access to the TIR system must be authorised and must meet minimum conditions;
- the establishment of a TIR Executive Board to supervise the application of the TIR Convention (see box).

Associations issuing TIR carnets and acting as guarantors

As said above, each contracting party may authorise associations to issue carnets and act as guarantors. The Phase I changes will impose minimum conditions and requirements that must be met by an association and provide for the authorisation to be revoked if those conditions are no longer fulfilled. The conditions include:

- existence as an established association for at least one year;
- sound financial standing and organisational capabilities enabling it to fulfil its obligations under the convention;
- knowledge of its staff about the proper application of the convention;
- absence of serious or repeated offences against customs or tax legislation;
- undertaking by the association that it will verify that persons requesting authorisation for access to the TIR procedure fulfil the minimum conditions;
- provision of a guarantee and coverage of its liabilities by satisfactory insurance.

Authorisation of persons wishing to have access to the TIR procedure

Phase I introduces a new requirement that persons wishing to have access to the TIR procedure must be authorised and, for this, must comply with minimum conditions and requirements. The conditions include:

- experience or, at least, capability to engage in regular international transport (being a holder of a licence for carrying out international transport etc.);
- sound financial standing;
- knowledge of the application of the TIR Convention;
- absence of serious or repeated offences against customs or tax legislation;
- the giving of a written undertaking to an association to comply with customs formalities, pay sums due, etc.

In all cases, the carnet holder is regarded as a 'person wishing to have access to the TIR procedure' and must therefore be authorised. In most, but not all, Member States and other contracting parties, authorisation is also mandatory for persons who transport goods under TIR, but are not themselves the carnet holder. The authorisation procedure in each contracting party involves both the competent authorities and the national associations, but the details are a matter for national decision. The competent authorities are required to transmit to the TIR Executive Board details of each person authorised or whose authorisation has been withdrawn.

Revision Phase II

The main objective of this phase is to ensure a stable and well-functioning international guarantee system and to improve the harmonisation of administrative procedures between the contracting countries. The following matters are included:

- what the status and function of international organisations involved in TIR should be;
- definition of 'termination'⁽¹²⁾ and 'discharge' of a TIR operation;
- best practices for termination, discharge and inquiry procedures;
- alternative forms of evidence as proof of the termination of a TIR operation;
- definition and responsibilities of the holder of TIR carnets.

Revision Phase III

It is anticipated that this phase will include the computerisation of the TIR procedure and the revision of the TIR carnet. Work will start in the year 2001. However, no final decisions have been taken and the actual content of this phase could be changed in the light of new requirements or developments.

Operational measures

As said before, the transit reform being undertaken in Europe encompasses not only legislative changes and computerisation but also a number of operational measures. It should be noted that these operational measures and their objectives apply not only to Community and common transit, but to the TIR procedure as well. In the case of TIR there is, in particular, a measure to reduce the time taken for the return of the 'termination' voucher of the TIR carnet and the consequent prompt input of data to the SAFETIR system.

⁽¹²⁾ Termination is the equivalent of the 'ending of a transit operation' in Community and common customs transit terms.

Further reading

These are some of the more important texts.

A. COMMUNITY/COMMON TRANSIT REFORM IN GENERAL

- European Parliament

'Report on the Community transit system' by the EP Committee of Inquiry into the Community transit system, Doc. PE 220.895, 20.2.1997.

- Council

Council Resolution of 23 November 1995 on the computerisation of customs transit systems, OJ C 327, 7.12.1995, p. 2.

Council Resolution of 21 June 1999 on the reform of customs transit systems, OJ C 193, 9.7.1999, p. 1.

- EC/EFTA Joint Committee on Transit

EC/EFTA Joint Committee Resolution of 2 December 1999 on the reform of the common transit system, OJ C 42, 15.2.2000, p. 4.

- Court of Auditors

Annual report for 1994, OJ C 327, 7.12.1995.

- Commission

Annual report for 1994 'Protecting the Community's financial interests – the fight against fraud', COM(95) 098.

Communication of 29 March 1995 'Fraud in the transit procedure, solutions foreseen and perspectives for the future', COM(95) 108 final.

Communication of 3 April 1996 'Commission action to counter transit fraud', SEC(96) 290 final.

Communication of 9 October 1996 'The future of transit: interim report' and attached Interim Report on transit, COM(96) 477 final.

Acts of the 'Eurotransit' Conference of 6 and 7 February 1997, Document XXI/1070/97.

Communication of 30 April 1997 to the European Parliament and the Council 'Action plan for transit in Europe – a new customs policy', COM(97) 188 final and OJ C 176, 10.6.1997, p. 3.

- Economic and Social Committee

Opinion on the communication of the Commission to the European Parliament and the Council: 'An action plan for transit in Europe – a new customs policy', OJ C 355 of 21.11.1997.

B. LAW APPLYING TO CUSTOMS TRANSIT

- Community transit

Community Customs Code CCC^o: Council Regulation (EEC) No 2913/92 of 12 October 1992, OJ L 302, 19.10.1992, as amended for transit reform by:

– European Parliament and Council Regulation (EC) No 955/1999 of 13 April 1999, OJ L 119, 7.5.1999.

Implementing Provisions of the Code (IPC): Commission Regulation (EEC) No 2454/93 of 2 July 1993, OJ L 253, 11.10.1993, as amended for transit reform by:

– Commission Regulation (EC) No 502/1999 of 12 February 1999 (NCTS-Phase II), OJ L 65, 12.3.1999,

– Commission Regulation (EC) No 2787/2000 of 15 December 2000 (global reform), OJ L 330, 27.12.2000.

- Common transit

EC/EFTA Convention on a common transit procedure of 20 May 1987 (OJ L 226, 18.8.1987), as amended by:

– EC-EFTA Joint Committee Decision No 1/1999 of 12 February 1999 (NCTS), OJ L 65, 12.3.1999,

– EC-EFTA Joint Committee Decision No 2/99 of 30 March 1999 (NCTS and CCN/CSI), OJ L 119, 7.5.1999,

– EC-EFTA Joint Committee Decision No 1/2000 of 20 December 2000 (global reform), OJ L 9 of 12.1.2001.

- Single Administrative Document Convention

EC/EFTA Convention on the simplification of formalities in trade in goods (introducing a Single Administrative Document for use in such trade), OJ L 134, 22.5.1987, as amended for common transit by:

EC-EFTA Joint Committee Decision No 1/2000 of 20 December 2000, OJ L 9 of 12.1.2001.

- Customs 2002 programme

European Parliament and Council Decision No 210/97 of 19 December 1996 adopting an action programme for customs in the Community (Customs 2002) (OJ L 33, 4.2.1997), as amended by:

Decision No 105/2000/EC of the European Parliament and of the Council of 17 December 1999 amending decision No 210/97/EC adopting an action programme for customs in the Community (Customs 2000) and repealing Council Decision 91/341/EEC, OJ L 13, 19.1.2000, p. 1.

- TIR Convention

Customs Convention on the International Transport of Goods under cover of TIR carnets (TIR Convention, 1975), TIR Handbook, ECE/TRANS/TIR/5, United Nations Publications.

UN Depository Notification C.N. 433 1999 TREATIES-1 of 17.11.1997 concerning Phase I of the revision of the TIR Convention and relative national implementation measures by the contracting parties.

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