

# **KYOTO CONVENTION**

## **GUIDELINES TO SPECIFIC ANNEX E**

### ***Chapter 1***

### ***CUSTOMS TRANSIT***



WORLD CUSTOMS

ORGANIZATION

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## 1. Introduction

Moving goods from one point to another is the basis of most commercial activities. When entering a Customs territory, goods are normally liable to import duties and taxes, and subsequent re-exportation does not necessarily give entitlement to a repayment. For this reason the legislation of most administrations contains provisions under which such movements may take place without payment of the import or export duties and taxes, the goods being transported under Customs control to ensure compliance with the requirements laid down. The procedure under which such movements are made is termed Customs transit.

To facilitate the international transport of goods which have to pass through a number of Customs territories, arrangements have been made under international agreements for the States concerned to apply standard procedures for the treatment of goods carried in Customs transit through their territories.

In order for any goods to move under a transit procedure, a request must be made for Customs clearance in transit, subject to the conditions set by the various provisions. The Goods declaration to be used depends on the type of transit planned and the Convention at issue.

When the goods are required to move from one Customs office to another for control purposes within one Customs territory, this is referred to as national transit. When the Customs offices are in more than one Customs territory, this is international transit. The Chapter on Customs transit relates to both national and international Customs transit.

This Chapter, however, does not apply to goods carried by post or in travellers' baggage. Nor does the Chapter apply to goods which are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office. Such a transfer is dealt with by the Chapter 2 on Transshipment of the Specific Annex E.

In the present Guidelines the Goods declaration refers not only to a "paper" document. In accordance with the provisions of the General Annex, Customs administrations should allow the information contained in the Goods declaration and supporting documents to be submitted by electronic data transmission. As all development of electronic transmission in Customs should be promoted, this includes the data necessary for the Customs transit procedure. An explanation on the New Computerized Transit System (NCTS) of the European Communities is attached as Appendix II to this Guideline for reference purpose.

## 2. Definitions

**E1./F4.** *"authorized consignee" means a person empowered by the Customs to receive goods directly at his premises without having to present them at the office of destination;*

**E2./F5.** *"authorized consignor" means a person empowered by the Customs to send goods directly from his premises without having to present them at the office of departure;*

- E3./F1.**     **"control office"** means the Customs office responsible for one or more "authorized consignors" or "authorized consignees" and, in this respect, performing a special control function for all Customs transit operations;
- E4./F7.**     **"Customs transit"** means the Customs procedure under which goods are transported under Customs control from one Customs office to another;
- E5./F6.**     **"Customs transit operation"** means the transport of goods from an office of departure to an office of destination under Customs transit;
- E6./F2.**     **"office of departure"** means any Customs office at which a Customs transit operation commences;
- E7./F3.**     **"office of destination"** means any Customs office at which a Customs transit operation is terminated;
- E8./F8.**     **"transport-unit"** means :
- (a) containers having an internal volume of one-cubic metre or more, including demountable bodies;
  - (b) road vehicles, including trailers and semi-trailers;
  - (c) railway coaches or wagons;
  - (d) lighters, barges and other vessels; and
  - (e) aircraft.

All the definitions of terms necessary for the interpretation of more than one Annex to the Convention are placed in the General Annex. The definitions of terms applicable to only a particular procedure or practice are contained in that Specific Annex or Chapter.

### **3. Principle**

The basic principle of Customs transit is to permit goods to move from one Customs office to another in the same Customs territory or another Customs territory, without collecting the duties and taxes that may be applicable to imported or exported goods and without applying economic prohibitions or restrictions, and under the condition that all the requirements concerning Customs seals, time limits or security etc. are met.

Customs transit through the Customs territory may be authorized for goods which, under national legislation, are subject to prohibitions or restrictions at importation. In such cases, Customs may impose particular requirements, such as the issue of a license and the production of evidence of arrival of the goods in the Customs territory of destination, and may impose strict controls, such as requiring the goods be transported under Customs escort.

Goods under Customs transit may not be used in the territory being transited. If the goods are brought into use, a further Customs procedure is first necessary. In fact, transit is always followed by another Customs procedure, such as clearance for home use, warehousing, temporary admission or a new transit procedure.

### **Standard 1**

*Customs transit shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.*

The revised Kyoto Convention has a set of obligatory core provisions that are contained in the General Annex. The General Annex reflects the main principles considered necessary to harmonize and simplify all the relevant Customs procedures and practices which Customs apply in their daily activities.

As the core provisions of the General Annex are applicable to all Specific Annexes and Chapters, they should be applied in full for Customs transit. Where a specific applicability is not relevant, the general facilitation principles of the General Annex should always be borne in mind when implementing the provisions of this Chapter. In particular, Chapter 1 of the General Annex on General principles, Chapter 3 on Clearance and other Customs formalities, Chapter 5 on Security, Chapter 6 on Customs control and Chapter 7 on Information technology should be read in conjunction with this Chapter on Transit.

Contracting Parties should particularly note Standard 1.2 of the General Annex and ensure that their national legislation specifies the conditions to be fulfilled and the formalities to be accomplished for Customs transit.

In line with Article 2 of the Convention, Contracting Parties are encouraged to grant greater facilities than those provided for in this Chapter.

## **4. Scope**

### **Standard 2**

*The Customs shall allow goods to be transported under Customs transit in their territory :*

- (a) from an office of entry to an office of exit;*
- (b) from an office of entry to an inland Customs office;*
- (c) from an inland Customs office to an office of exit; and*
- (d) from one inland Customs office to another inland Customs office.*

#### **4.1. National and international Customs transit**

Transit movements referred to in Standard 2 are :

- **“National Customs transit”** : when the transit procedure applies to one country or Customs territory only and the office of departure and the office of destination are in the same territory. Any security required relates only to the transit movements in the Customs territory concerned.
- **“International Customs transit”** : when the transit movements are part of a single Customs transit operation during which one or more frontiers are crossed in accordance with a bilateral or multilateral agreement. This agreement generally sets out the form of the Goods declaration for Customs transit and, if required, a security acceptable in each of the administrations which are parties to this agreement.

The following notions and comments are intended to facilitate the application of these Guidelines:

**Goods declaration** : The document defined as the “Goods declaration” in the General Annex. This is the Customs document required for transit.

**Customs office** : The term “Customs office” is not strictly limited to the premises and site of a Customs office. For example, when transit begins at the “Customs office”, this can mean the domicile of an authorized consignor.

**Domicile** : The rooms, halls, piers and similar places at the premises of an authorized consignor or consignee, recognized by Customs as a zone where Customs operations can be carried out.

**Office of entry** : Customs office at or near the frontier through which the goods under the transit procedure enter the Customs territory.

**Office of exit** : Customs office at or near the frontier through which the goods under the transit procedure leave the Customs territory.

#### **4.2. Customs transit movements**

The following expressions may be used to describe the Customs transit movements referred to above :

- (a) through transit (office of entry to office of exit);
- (b) transit at importation (office of entry to inland Customs office);
- (c) transit at exportation (inland Customs office to office of exit);
- (d) internal transit (one inland Customs office to another).

These expressions are used here purely to facilitate the description of the various possible types of Customs transit movement. They do not form part of internationally accepted Customs terminology.

The term “inland Customs office” is not used in this context in any geographical sense. An inland Customs office may be situated anywhere in the Customs territory concerned (it might be on the coast for example). The term as used in this Standard denotes an office of destination situated after the office of entry in the Customs territory concerned, or an office of departure situated before the office of exit of the Customs territory concerned. In a transit operation, the goods do not physically enter the territory through the inland office, located away from the frontier, but through the office of entry. Likewise, they do not leave the territory through the inland office, located away from the frontier, but through the office of exit. However, the inland Customs office is generally an office of destination (case (b)) or of departure (case (c)). It should be noted that in some cases, the inland Customs office takes on specific tasks without being either an office of destination or an office of departure. This is the case if, during transit, goods under Customs seal are transferred under Customs control to another transport-unit (e.g. following an incident such as a defective container or damaged vehicle – provided that the vehicle can be driven to the Customs office).

#### **4.3. Duties and taxes**

### **Standard 3**

*Goods being carried under Customs transit shall not be subject to the payment of duties and taxes, provided the conditions laid down by the Customs are complied with and that any security required has been furnished.*

The basic principle of Customs transit is relief from import and export duties and taxes for goods in Customs transit passing through a Customs territory.

However, this provision does not prevent :

- The collection of export duties and taxes in the country of exportation when such duties and taxes remain due whether the goods are exported under Customs transit or under a national exportation procedure.
- The collection of import duties and taxes in the country of destination when the Customs transit operation is terminated and, for example, the goods are cleared for home use.

#### **4.4. Responsibility of persons**

##### **Standard 4**

*National legislation shall specify the persons who shall be responsible to the Customs for compliance with the obligations incurred under Customs transit, in particular for ensuring that the goods are produced intact at the office of destination in accordance with the conditions imposed by the Customs.*

According to the General Annex, the declarant is liable to Customs for the accuracy of the information in the Goods declaration. However, this provision does not exempt third parties from liability. If during Customs transit certain conditions imposed by Customs are not respected through no fault of the declarant (e.g. the driver deviates from an itinerary prescribed by Customs or does not observe a time limit for presentation to a Customs office), the person directly concerned may have to take responsibility.

In cases of irregularity, and especially fraud, it is generally a case of determining the responsibilities of the persons involved (declarant, commercial operator, driver, carrier, consignor, consignee or other), so as to fully clarify the matter.

Given that the definition of persons responsible may vary from Customs territory to Customs territory, national legislation should define persons responsible to Customs for compliance with the obligations incurred under Customs transit.

#### **4.5. Schedule and place of Customs clearance**

Standards 3.2 and 3.22 of the General Annex state that the Goods declaration must be presented during the hours designated by Customs and that Customs should allow, at the declarant's request, the Goods declaration to be lodged outside the opening days and hours of the designated Customs office.

In view of measures aimed at facilitating traffic flow, Customs must forecast extended hours of business for these transit operations. This facility does not prejudice the right of Customs to use controls adjusted to the risks (risk management).

### **5. Authorized consignors and authorized consignees**

##### **Recommended Practice 5**

## Kyoto Convention – Specific Annex E – Chapter 1 Guidelines on Customs transit

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*The Customs should approve persons as authorized consignors and authorized consignees when they are satisfied that the prescribed conditions laid down by the Customs are met.*

The level of traffic flows, the ever shorter transport times and the electronic transmission of data have encouraged many administrations to seek solutions requiring the operator's co-operation without compromising compliance with Customs law. Many administrations have decided that traders who demonstrate a record of good compliance with Customs requirements can be allowed to accomplish the Customs formalities with little physical intervention by Customs on a regular basis.

As an authorized consignor or authorized consignee, the person concerned is permitted to carry out specified Customs operations on his premises. This status is based on an authorization that Customs grants to the person concerned (forwarder, importer, exporter, etc.) after having approved the premises of the authorized consignor or consignee and setting forth an agreement between Customs and the person concerned specifying the latter's rights and obligations.

Each authorized consignor or consignee is responsible to a Customs office known as the "control office" which monitors the activity of the authorized consignor or consignee and also acts as office of departure or destination, as the case may be, on the understanding that the goods are not physically presented at this office. The authorized consignor or consignee procedure is advantageous to both Customs and the person concerned. What is more, Customs loses none of its control powers.

As Customs transit has to be preceded or followed by another Customs procedure (e.g. *exportation* followed by *transit at exportation*; *transit at importation* followed by *clearance for home use*; *transit from importation* followed by *warehousing*), the authorization granted by Customs conferring the status of authorized consignor should normally cover both export and transit. The Customs administrations grant that the status of authorized consignee will control transit and home use (or even other procedures). If necessary, national legislation and Customs determine the procedures concerned.

The implementation procedures are set out in the "Methods of Application" Appendix I to these Guidelines. They are for information purposes only for administrations wishing to initiate an authorized consignor or authorized consignee procedure. Such administrations can use them as a basis and adapt them to local conditions.



## **5.1. Benefits of the status of authorized consignor and authorized consignee**

### **5.1.1. For the operator :**

- Less waiting time at the frontier
- More flexible (24 hours a day) Customs notification, computerization
- Trader's agent not required at the frontier
- Immediate release of the goods in the country of destination if Customs waives controls; faster delivery to the customer
- Customs clearance (termination of transit)/export (opening of transit) at the operator's domicile
- Controls at the operator's domicile facilitated by the infrastructure available
- More rapid release of the means of transport
- Less risk of damage to the goods

### **5.1.2. For the Customs :**

- Better use of Customs resources and facilities
- Data provided by electronic data transmission can be managed more easily
- No loss of or restriction on the right to conduct controls
- No infrastructure (piers, halls, etc.) to be made available to the operator.

## **6. Formalities at the office of departure**

### **(a) Goods declaration for Customs transit :**

#### **6.1. Goods declaration and descriptive documents**

#### **Standard 6**

*Any commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive part of the Goods declaration for Customs transit and this acceptance shall be noted on the document.*

The Goods declaration should make it possible to identify goods to be placed under the transit procedure. The document defined as the "Goods declaration" in the General Annex is the Customs document required for transit. However, the data required is often already in the operator's computer system, in commercial documents or in transport documents (such as the packing list). These documents can therefore be accepted as the descriptive part of the Goods declaration and the declaration itself shall contain only the very minimum data required to identify

the goods, such as the total number of packages, the total weight and the reference “according to the attached lists” or similar language.

The Customs office of destination and, where applicable, the other Customs offices concerned, such as the offices of exit and entry, should be able to ensure that the commercial document or the accompanying transport document making up the descriptive part of the Goods declaration is the actual document accepted by the Customs office of departure. That is why this document shall be marked by Customs. A sensible solution would be to stamp the document with both the number of the Goods declaration (identification) and the official seal (authentication).

A computerized system would successfully replace the paper Goods declaration and prevent the occurrences of no more lost documents and forgeries. Some administrations are already developing or implementing such systems for transit (European Community, TIR).

## **6.2. Transport and commercial documents**

### **Recommended Practice 7**

*The Customs should accept as the Goods declaration for Customs transit any commercial or transport document for the consignment concerned which meets all the Customs requirements. This acceptance should be noted on the document.*

Given the legal nature of a transport contract (e.g. rail or road waybill) or a commercial document (invoice), Recommended Practice 7 sets out the reliable legal framework authorizing the use of these documents as a transit declaration. This simplified method is already used in certain administrations for national transit and applies to rail traffic, road traffic, river traffic, air traffic or carriage of goods coastwise. This procedure can also be applied to international rail or road transport using an international transit document recognized by virtue of an international Convention. In some cases, the transport or commercial documents must contain certain information required by Customs to identify the goods, in particular for security purposes, and to fix the liability for any duties and taxes that might become chargeable. If such a document is accepted as the transit document, the Customs office of departure must mark it by applying a stamp containing the elements generally used by Customs to identify and authenticate a transit declaration, such as the transit declaration number, the office of departure and the office of destination, the number of any seals applied and the official stamp.

In various administrations simplified procedures exist under which certain Customs formalities, including the presentation of a Goods declaration, are waived. These procedures are applicable, for example, to goods carried by rail under cover of an international consignment note, and to goods moving only in the frontier zone.

Examples :

Customs may dispense with the need for a specific Customs document for goods carried by rail when the railway authorities operate an accounting control system under Customs supervision enabling Customs to control proper completion of international Customs transit operations and to check that the goods arrive at their destination. The details of these arrangements are laid down by mutual agreement between Customs and railway authorities.

Customs may dispense with the requirement of a Goods declaration for Customs transit for goods moving only in the frontier zone when they are familiar with the circumstances of the operation, the persons concerned are financially sound, and compliant with Customs laws,

and Customs are satisfied that the goods will be properly presented at the office of destination.

**(b) Sealing and identification of consignments :**

**6.3. Integrity of the consignment**

**Standard 8**

*The Customs at the office of departure shall take all necessary action to enable the office of destination to identify the consignment and to detect any unauthorized interference.*

The aim of any transit operation is to move goods from one point to another and to ensure that the consignment reaching the destination is the same consignment that was under Customs control at the start of the transit procedure. The measures taken by Customs must therefore ensure identification of the consignment and ascertain whether, en route, any goods have been removed, exchanged or have undergone any unauthorized interference.

In the procedure set out for the authorized consignor or consignee, it is the person obtaining this particular status who assumes this responsibility. Any measures taken at the office of departure when beginning the transit procedure should be recognized as sufficient by the Customs of the other administrations at issue, unless the conditions are different (e.g. different risk profile).

**6.4. Fitting out and approval of the transport-unit**

**Recommended Practice 9**

*Subject to the provisions of other international conventions, the Customs should not generally require that transport-units be approved in advance for the transport of goods under Customs seal.*

If transit is carried out under Customs seal, the transport-unit must meet certain construction and fitting conditions so that the affixing of the seal does not provide merely illusory security. The reason for which the transport-unit was sealed is not a decisive factor.

Approval of a transport-unit consists of examining whether it meets the Customs security requirements and of preparing a certificate, generally valid for a limited period, certifying that it is considered suitable for transport under Customs seal. It is up to Customs to examine the transport-unit and to draw up the approval. This is done at the request of the person concerned.

Unless expressly required by other international agreements, approval of the transport-unit is not mandatory for transport under Customs seal. Customs shall decide whether the transport-unit is sufficiently secure for Customs transit purposes. However, for transports regularly carried out under Customs seal, approval should facilitate Customs sealing.

When approval of transport-units for goods placed under Customs seal is required, the conditions of this approval are governed by national legislation and various international agreements, such as the Customs Convention on Containers of 2 December 1972 and the Customs Convention on the international transport of goods under cover of TIR carnets of 14 November 1975. Countries may make additional arrangements for approval through bilateral or multilateral agreements, where the transport-units are to be used for Customs transit solely in their territories.

Even if approval of transport-units is envisaged for transports where it is not mandatory, the provisions contained in the above-mentioned international agreements could be helpful for administrations wishing to set up an approval procedure.

The construction of some transport-units, such as motorized road vehicles, railway wagons or containers, must meet certain technical conditions in order to be approved by Customs for the transport of goods under Customs seal under the transit procedure. These conditions include that the transport-unit be :

- specially designed to facilitate the transport of goods by one or more means of transport,
- permanent and sufficiently durable to allow repeated use, and
- provided for in Standard 10 of this Chapter.

### **Standard 10**

*When a consignment is conveyed in a transport-unit and Customs sealing is required, the Customs seals shall be affixed to the transport-unit itself provided that the transport-unit is so constructed and equipped that :*

- (a) Customs seals can be simply and effectively affixed to it;*
- (b) no goods can be removed from or introduced into the sealed part of the transport-unit without leaving visible traces of tampering or without breaking the Customs seal;*
- (c) it contains no concealed spaces where goods may be hidden; and*
- (d) all spaces capable of holding goods are readily accessible for Customs inspection.*

*The Customs shall decide whether transport-units are secure for the purposes of Customs transit.*

When the transport-unit meets the conditions set out in this Standard, the Customs seals must be affixed to the transport-unit itself. However in certain circumstances Customs may decide to seal transport-units which have not been approved for the transport of goods when they are satisfied that the units, when sealed, are sufficiently secure.

In addition, there are several international agreements that contain details of transport-units approved for the transport of goods under Customs seal. Some of these international agreements are the Customs Convention on Containers, done at Geneva on 18 May 1956, the Customs Convention on the international transport of goods under cover of TIR carnets, done at Geneva on 15 January 1959, the Unité technique des chemins de fer, concluded at Berne in May 1886 (1960 edition), and the Regulations of the Central Rhine Commission concerning the sealing of Rhine navigation vessels (21 November 1963 version).

Transport-units may also be approved in the future pursuant to new agreements that could supersede those listed above. Furthermore, additional arrangements for approval can be made by administrations through bilateral or multilateral agreement for transport-units to be used for Customs transit solely within their territories, such as containers having an internal volume of less than one-cubic metre but which in all other respects qualify for Customs treatment as containers.

In all such cases where a Customs territory is a Contracting Party to an international agreement or has entered into a bilateral or multilateral agreement, Customs normally accept transport-units under these agreements and affix a seal on the unit itself.

In addition to the standard practice of Customs themselves affixing Customs seals, there are two alternative methods of sealing used in some administrations which may be regarded as offering greater facilities. These are:

- (a) Customs seals are issued to approved persons who themselves affix the seals;
- (b) the acceptance by Customs of private seals affixed by the person concerned.

## **6.5. Open transit**

### **Recommended Practice 11**

*Where the accompanying documents make it possible unequivocally to identify the goods, the latter should generally be transported without a Customs seal or fastening. However, a Customs seal or fastening may be required :*

- *where the Customs office of departure considers it necessary in the light of risk management;*
- *where the Customs transit operation will be facilitated as a whole; or*
- *where an international agreement so provides.*

The vast majority of transit operations present no particular risk to compliance with Customs law. That is why the generalized affixing of a Customs seal to safeguard the identity of the goods may be a disproportionate measure, especially when the same results can be obtained using other identification methods. In transit operations, suitable documents are generally available to satisfy Customs identification criteria. Thus, Customs feels that these documents allow proper identification of goods, transport should take place without Customs seal, i.e. open transport should be the rule and affixing a seal the exception.

The following information in the accompanying documents generally permits proper identification :

- Packaging (marks, serial numbers, type and number)
- Trade description of the goods
- Gross mass (gross weight)

The fact of not requiring a Customs seal as a matter of course, but rather as an exception, does not limit Customs' right to require a seal when deemed useful or prudent. Customs can therefore require seals not only for high-risk goods or to facilitate the Customs transit operation in general, but also for any other reason. A Customs administration is therefore not limited in its right to affix a seal.

High-risk goods are goods subject to a high tax or subject to special control measures for which Customs feels that there is a higher likelihood of non-compliance with Customs laws. The issue of risks is covered in Chapter 6 of the General Annex on Customs control and should be consulted for all aspects of risk management.

Goods subject to very high duties (cigarettes, alcohol, etc.) are the highest risk in terms of transit. In fact, if diverted during a transit procedure and brought onto the market without being cleared for home use they can be extremely profitable, and this is their attraction. Apart from duty levels, high-risk goods also include goods subject to prohibitions or restrictions involving licences or

permits. In several administrations this is the case for agricultural produce or other sensitive products. It should be noted that a risk for some administrations is not necessarily a risk for others.

Some international agreements, such as the TIR Convention, expressly prescribe Customs seals for transit. For transport under cover of these agreements, the provisions of the agreements at issue are decisive.

The declarant cannot request Customs seals be affixed simply for convenience, for example because he does not have a list permitting proper identification of the goods in the transport-unit. However, given the liability of the declarant and possibly other persons during a transit operation, if the person concerned feels that the Customs seal reduces the risks they take, Customs should be flexible if asked to seal a consignment.

In national transit, the practice is sometimes to prepare a Goods declaration with the minimum of data adequate for proper identification. In such cases, it would run counter to the aim of the Recommended Practice to require the declarant to go to great efforts to obtain the necessary data if the Customs seal can settle the question of identification.

If a transit operation can take place without a Customs seal, there should be no objection to transfer of the goods from one means of transport to another. This facility is mentioned under “En route formalities”.

## **6.6. Solutions other than seals**

### **Standard 12**

*If a consignment is, in principle, to be conveyed under Customs seal and the transport-unit cannot be effectively sealed, identification shall be assured and unauthorized interference rendered readily detectable by :*

- *full examination of the goods and recording the results thereof on the transit document;*
- *affixing Customs seals or fastenings to individual packages;*
- *a precise description of the goods by reference to samples, plans, sketches, photographs, or similar means, to be attached to the transit document;*
- *stipulation of a strict routing and strict time limits; or*
- *Customs escort.*

*The decision to waive sealing of the transport-unit shall, however, be the prerogative of the Customs alone.*

In some cases the transit should be under Customs seal, but the transport-unit may not be suitable for this and hence cannot be properly sealed. In such cases, the measures mentioned in Standard 12 are alternative solutions to ensure Customs security (in principle non-cumulative).

Among the solutions proposed, imposing a fixed routing and a strict time limit considerably reduces room for manoeuvre by the transporter and enables Customs to conduct more effective controls.

Customs may prescribe an escort if the risks to compliance with Customs law so require, however it should be noted that Standard 15 requires that an escort be used only when indispensable. Customs may also provide an escort on request as a special service if it has sufficient resources available and provided it considers the reasons for the request valid. The

Customs escort is intended solely to ensure the identity of the goods and cannot take on police tasks (such as protecting against theft).

The exact measures that Customs may have to take when goods are transported in a non-sealable transport-unit will depend on the specific circumstances of each case, taking account of various elements such as the nature of the goods and the packaging, the duties and taxes that may be payable at importation or at exportation and the previous history of the person concerned.

As specified in Standard 12, Customs decides whether or not to waive the seal. Thus the decision as to whether the transit can be carried out using a non-sealable transport-unit lies with Customs alone. The declarant cannot therefore use this Standard to make frequent or regular transits for which a seal would normally be required, for the simple reason that his transport-unit cannot be sealed effectively.

### **6.7. Time limit for transit**

#### **Standard 13**

*When the Customs fix a time limit for Customs transit, it shall be sufficient for the purposes of the transit operation.*

In principle many administrations set quite generous standard time limits so that the transit operation can take place under good conditions. Such general time limits are easy to apply and permit a certain degree of harmonization. The primary objective of a time limit is to permit termination of transit in a reasonable time and, if necessary, to initiate an investigation to ensure compliance with the Revenue and without causing unnecessary delay which would only complicate the next part of the operations. General time limits are mainly for goods presenting no particular risks. A more specific time limit could be used if Customs felt the risks were higher, for example as described in Standard 12.

In some groups of administrations where there is a transit agreement, when the office of departure has found it necessary to specify a time limit, the other administrations in the agreement should accept that time limit and not require another one.

When Customs fix a time limit for Customs transit, it should take into account any special regulations to which carriers are subject, particularly regulations concerning working hours and mandatory rest periods for drivers of road vehicles.

#### **Standard 14**

*At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend any period initially fixed.*

Under normal circumstances the initial time fixed for the completion of the transit operation would be sufficient for the completion of the operation. However, there may be instances when this time limit cannot be complied with by the operator. This could be caused by unforeseen events such as a breakdown to the transport-unit or an accident. Although such events are required to be reported to the nearest Customs office or other competent authorities as stipulated under Recommended Practice 22, it would nevertheless result in the transit operation not being completed within the initial time limit fixed. Standard 14 requires Customs to extend the period initially fixed in such circumstances if a request is made and they deem the reasons to be valid.

## **6.8. Special measures**

### **Standard 15**

*Only when they consider such a measure to be indispensable shall the Customs :*

- (a) require goods to follow a prescribed itinerary; or*
- (b) require goods to be transported under Customs escort.*

Provided that identification of the consignment and the detection of any unauthorized interference can be assured by the ordinary measures set out in Recommended Practice 11, by using Customs seals, or by applying the stricter measures described in the first part of Standard 12 (full examination of the goods and recording the results on the Goods declaration, sealing of each package and precise description supplemented with samples, etc.), there should be no obligation to follow a prescribed itinerary or to have the goods transported under Customs escort, unless Customs exceptionally judges these special measures vital, for example because of a high risk. However, it should be recalled that Customs and, by extension, the Customs escort, is not responsible for guaranteeing the physical safety of goods, but rather for ensuring that they are presented at the Customs office of destination. That is why, when it comes to judging whether or not an escort is necessary, no account should be taken of the concept of protecting the goods against theft or highway robbery, for example.

## **7. Customs seals**

### **Standard 16**

*Customs seals and fastenings used in the application of Customs transit shall fulfil the minimum requirements laid down in the Appendix to this Chapter.*

To ensure the security of the goods in transit operations, Customs themselves usually affix Customs seals and fastenings on the goods and/or the transport-unit.

Customs seals must conform to certain minimum requirements. The office of destination must also be able to identify the office that affixed the Customs seals and fastenings and to ensure that goods in transit have not been tampered with. The details of the minimum requirements of such Customs seals and fastenings are set out in the Appendix to this Chapter and are included in these Guidelines. The particulars of the Customs seals used should be identified in the Goods declaration or the transport document.

As a facilitative measure Customs also allow authorized consignors to fix seals themselves. (See Guidelines to Standard 10 of this Chapter.) This enables the sealing to take place at the place of loading or stuffing of the goods.

Authorized consignors and other persons authorized for Customs transit are required to use seals bearing a specific identification (name of Customs territory, serial numbering and possibly other distinctive signs such as code letters or numbers). These seals make it possible to identify the Customs territory where the seals were applied, the person who affixed them and the consignment. As in the case of Customs seals affixed by Customs themselves, the details of the seals affixed by authorized consignors or other authorized persons will have to be recorded on the Goods declaration and transport document to ensure that they are not replaced en route.



Customs will usually require the authorized persons to take precautionary measures such as requiring that adequate records of the use of the approved seals are maintained; that the seals are kept in a place of safety and access to the approved seals is restricted to specially authorized personnel; and that these seals are affixed by an authorized person within their organization.

The seals must be Customs-approved, and Customs should keep a check on the seals in the possession of the authorized person by requiring that he periodically notify them of the seals used.

The manufacturer or supplier of the seals must also be Customs-approved, and Customs can require these manufacturers or suppliers to give an understanding not to supply seals without Customs approval.

Some administrations encourage the use of high security seals at the point of stuffing of a container as part of seal integrity programs. Further explanation of the use of seals in such integrity programs may be found in the Guideline to Chapter 6 of the General Annex.

### **Minimum requirements to be met by Customs seals and fastenings**

A. *Customs seals and fastenings shall meet the following minimum requirements :*

1. *General requirements in respect of seals and fastenings :*

*The seals and fastenings shall :*

- (a) be strong and durable;*
- (b) be capable of being affixed easily and quickly;*
- (c) be capable of being readily checked and identified;*
- (d) not permit removal or undoing without breaking or tampering without leaving traces;*
- (e) not permit use more than once, except seals intended for multiple use (e.g. electronic seals);*
- (f) be made as difficult as possible to copy or counterfeit.*

2. *Physical specification of seals :*

- (a) the shape and size of the seal shall be such that any identifying marks are readily distinguishable;*
- (b) each eyelet in a seal shall be of a size corresponding to that of the fastening used, and shall be positioned so that the fastening will be held firmly in place when the seal is closed;*
- (c) the material used shall be sufficiently strong to prevent accidental breakage, early deterioration (due to weather conditions, chemical action, etc.) or undetectable tampering;*
- (d) the material used shall be selected by reference to the sealing system used.*

3. *Physical specification of fastenings :*

- (a) the fastening shall be strong and durable and resistant to weather and corrosion;*
- (b) the length of the fastening used shall not enable a sealed aperture to be opened or partly opened without the seal or fastening being broken or otherwise showing obvious damage;*
- (c) the material used shall be selected by reference to the sealing system used.*

4. *Identification marks :*

*The seal or fastening shall be marked :*

- (a) to show that it is a Customs seal, by application of the word "Customs" preferably in one of the official languages of the Council (English or French);*
- (b) to show the country which affixed the seal, preferably by means of the sign used to indicate the country of registration of motor vehicles in international traffic;*
- (c) to enable the Customs office which affixed the seal, or under whose authority the seal was affixed, to be identified, for example, by means of code letters or numbers.*

B. *Seals or fastenings affixed by authorized consignors and other authorized persons for Customs transit purposes to ensure security for Customs purposes shall offer physical security comparable to that*

*of seals affixed by the Customs and shall make it possible to identify the person who affixed those seals, by means of numbers to be entered on the transit document.*

### **Recommended Practice 17**

*Customs seals and identification marks affixed by foreign Customs should be accepted for the purposes of the Customs transit operation unless :*

- *they are considered not to be sufficient;*
- *they are not secure; or*
- *the Customs proceed to an examination of the goods.*

*When foreign Customs seals and fastenings have been accepted in a Customs territory, they should be afforded the same legal protection in that territory as national seals and fastenings.*

This provision recommends that Customs facilitate transit operations by accepting Customs seals and identification marks affixed by foreign Customs. This avoids the need for re-sealing of the goods or the transport-unit at each frontier office, thereby reducing any delays that could arise from Customs intervention. Such facilitation is normally accorded on the basis of bilateral or multilateral agreements. Under these agreements, similar facilitation should also be accorded to Customs-approved seals used by authorized consignors and other authorized persons. The acceptance of foreign Customs seals requires Customs to afford the same legal protection in their territory as given to national Customs seals and fastenings. As a greater facility, Customs could also accept foreign Customs seals even when there are no agreements to that effect.

The acceptance of foreign Customs seals does not restrict Customs from affixing their own Customs seal if the foreign seals and identification marks are found to be insufficient, not secure or when the goods need to be examined.

### **Recommended Practice 18**

*Where the Customs offices concerned check the Customs seals and fastenings or examine the goods, they should record the results on the transit document.*

In transit operations, Customs would normally check to ensure that the Customs seals and fastenings are intact and that the transport-unit is secure. The goods are generally not examined, except in rare circumstances when there is evidence of tampering with the seals or fastenings. Examination should also be avoided when the goods are to be imported into a Customs territory since, if an examination is required, it will take place when the goods are placed under another procedure such as clearance for home use.

In international transit the goods should not be examined while moving en route if at all possible. However there may be exceptional circumstances that would warrant Customs to examine the goods. In doing so the seals and fastenings would have to be broken and upon the completion of the examination new seals would have to be affixed.

When Customs performs any of these functions (checks the seals and fastenings, examines the goods and re-seals the transport-unit) they should record the details of the examination and the seals or identification marks of the new seals on the document that accompanies the goods. This is to ensure that continued transit operation is not hindered and no complication arises when the transit document is finally presented to the office of departure.

## 8. Formalities en route

### 8.1. Change in the office of destination

#### Standard 19

*A change in the office of destination shall be accepted without prior notification except where the Customs have specified that prior approval is necessary.*

The Goods declaration must indicate an office of destination where the Customs transit will be terminated.

Indicating the office of destination is useful, especially for directing investigations if the Goods declaration is not presented properly or if this office has specific competencies (e.g. Customs offices within the premises of an exhibition). However, Standard 19 allows the office of destination to be changed without notifying Customs, except where Customs have specified that prior approval is necessary. In fact, for reasons beyond the carrier's control, such as a congested or blocked road or rail link, a closed airport, an inaccessible port, etc., or for transport or logistical requirements that the operator need not justify, or simply because the intended office of destination is overloaded, the Goods declaration can be presented at an office of destination other than that indicated in the Goods declaration. Customs could also allow the goods to be entered another Customs procedure. The new office of destination should inform the office of departure of the change in destination. When they consider it useful, Customs should specify on the Goods declaration that its prior approval is required for changing the office of destination. This could be the case for high-risk goods or goods subject to specific controls under Standard 12.

The indication of an office of destination does not necessarily involve the actual presentation of the transport-unit or the goods in the premises of that office, if an agreement with Customs sets out another procedure (e.g. authorized consignee).

### 8.2. Transfer from one transport-unit to another en route

#### Standard 20

*Transfer of the goods from one means of transport to another shall be allowed without Customs authorization, provided that any Customs seals or fastenings are not broken or interfered with.*

The essential point in this Standard is that Customs seals and fastenings must not be broken or interfered with. Thus there is no problem with transferring goods from one means of transport to another if the transport-unit itself has not been sealed. Even if the transport-unit itself has been sealed, transfer en route without Customs authorization is possible if, for example, a sealed container is transferred intact from one means of transport to another.

### 8.3. Mixed transport

#### Recommended Practice 21

*The Customs should allow goods to be transported under Customs transit in a transport-unit carrying other goods at the same time, provided that they are satisfied that the goods under Customs transit can be identified and the other Customs requirements will be met.*

To get best use of the loading surface of the transport-unit, transporters may request that other goods be transported together with the consignment in transit. These will usually be goods in free circulation being transported from one point to another in the same Customs territory, which

may be the country of departure, the country of destination or a Customs territory being crossed. They may also be goods that will be declared for exportation later at a Customs office in the Customs territory where the transport-unit was loaded.

If the transport-unit is not sealed, loading and unloading of the goods in free circulation can take place at any time and any place without having to notify Customs. These operations can even result in a change of routing, provided that the route is not expressly prescribed by Customs and that the time limit is sufficient. The transporter should be able to account for the presence of these goods using commercial transport documents, such as the delivery note or invoice. It should also be easy to distinguish the consignment of goods under Customs transit from the goods in free circulation.

If the transport-unit is placed under seal, loading and unloading of goods not covered by transit can only be carried out under Customs control. For goods which Customs believe pose a high risk of fraud, the Customs office can refuse the mixed transport or make it subject to special conditions. Normally the goods in free circulation accompanying goods in transit will be going to the same destination. Should the goods in free circulation be unloaded en route, this operation can take place at a Customs office not involved in the transit. This Customs office should remove the seal, and then reseal the transport-unit after checking the unloaded goods, randomly and according to the risks. The change of seal will be indicated on the Goods declaration.

#### **8.4. Accidents or other unforeseen events**

##### **Recommended Practice 22**

*The Customs should require the person concerned to report accidents or other unforeseen events directly affecting the Customs transit operation promptly to the nearest Customs office or other competent authorities.*

Accidents or other unforeseen events can have repercussions on transit. They can result in accidental breaking of the seal, loss or destruction of the goods or the urgent transfer of the goods to another transport-unit necessitating removal of the seal (e.g. if a refrigerated lorry breaks down).

The accident in question need not necessarily involve the vehicle carrying the goods under Customs transit. It may involve other vehicles, resulting in the road being blocked or traffic diverted, making it impossible for the carrier to respect a strict time limit or a prescribed itinerary.

Seals ought normally to be removed or replaced by Customs, but unforeseen events do not always enable this principle to be observed. For example, if a vehicle breaks down and there is no Customs office within a reasonable distance, the person concerned should call another authority (e.g. police, town hall) so that it can vouch that the seal was intact before the goods were transferred to another transport-unit. Ideally that authority would reseal the transport-unit after supervising the transfer, and note this on the transit document.

During such incidents, it would be useful if the interested party could subsequently provide proof of the event in question by means of a report or certificate from the authority justifying why the transit-related conditions were not respected. This certificate could describe the nature of the incident and the consequences on the goods concerned and most competent local authorities are actually prepared to provide the assistance when requested.

Only incidents which directly affect the running of the transit operation require specific measures in the above sense. Thus, for example, if the transport-unit is not sealed, Standard 20 already generally allows goods to be transferred from one transit-unit to another. In some cases, the incident would not therefore have to be recorded. The same applies if, despite serious

difficulties en route, the consignment reaches the office of destination later than expected, but nevertheless within the generally prescribed time limit.

Destruction and abandonment of goods are governed by Chapter 3 of the General Annex.

## 9. Termination of Customs transit

### 9.1. End of Customs transit

#### Standard 23

*National legislation shall not, in respect of the termination of a Customs transit operation, require more than that the goods and the relevant Goods declaration be presented at the office of destination within any time limit fixed, without the goods having undergone any change and without having been used, and with Customs seals, fastenings or identification marks intact.*

Transit is deemed terminated when the goods are placed under the control of the Customs office of destination or, where applicable, the domicile of an authorized consignee, and the Goods declaration is endorsed. Other formalities generally follow, such as sending notification of termination to the Customs office of departure, and releasing or refunding the security for the transit operation.

The controls carried out by the office of destination at the end of Customs transit will depend on the specific circumstances of each transit operation. If seals or identification marks have been affixed, Customs generally ensures that they are intact. Customs may also verify that the transport-unit is otherwise secure and may carry out either a summary or detailed examination of the goods themselves so as to place them under another Customs procedure. If there is an authorized consignee, he is responsible for most of these tasks (see Appendix I on Methods of Application).

### 9.2. Notification of termination

#### Standard 24

*As soon as the goods are under its control, the office of destination shall arrange without delay for the termination of the Customs transit operation after having satisfied itself that all conditions have been met.*

Whereas the office of destination ends the transit operation and certifies this on the Goods declaration, there are several possible termination methods, depending on whether the transit is national or international, the type of security and the manner in which the liability for duties and taxes is discharged. If the transit is international the system of international guarantees will come into operation. The different types of security are described in the Guidelines to Chapter 5 on the "Security" of the General Annex.

Standard 24 states that as soon as the goods are under its control, the office of destination shall arrange without delay for the termination of the Customs transit operation. Thus, the Customs office of destination should not wait until the goods are under a new Customs procedure (e.g. clearance for home use, temporary admission, new transit procedure) before proceeding with the termination. To avoid unnecessary investigations and to enable any security to be released to the entitled person, care must be taken to ensure that the notification of termination should be sent to the person concerned as soon as possible. This may involve returning the document to the operator for the attention of the guaranteeing association or it may involve returning a copy of the Goods declaration duly endorsed to the Customs office of departure, possibly to the office of entry of the Customs territory concerned. In the latter case Customs could consider providing the operator with a copy in order to avoid difficulties if the original goes astray. This can be done via any medium, and electronic systems offer considerable advantages for this (instant transmission of the notification of termination, release of the security, no need for subsequent investigations, an end to false documents, false Customs seals or lost documents).

If the goods are not exported promptly upon arrival at the office of destination, they should be placed under Customs control as soon as possible. Once the goods are under Customs control

or placed under another Customs procedure, the office of destination should ensure that the transit declaration does not remain open (e.g. during warehousing prior to loading onto a vessel or in a zone outside Customs premises) so that the liability of the transporter who has delivered the goods intact at the office of destination can be discharged.

When the goods arriving in a Customs territory are to be placed under Customs transit to travel to the intended office of exportation, some administrations, as a facility to trade, combine the Customs transit and exportation procedures into a single arrangement. In such cases the Customs transit operation cannot be terminated until exportation has taken place. Some administrations also provide a similar arrangement for goods leaving an inland office for subsequent exportation by combining the Customs transit and exportation procedures as a facilitation measure.

### **9.3. Monitoring the termination**

When setting up a transit system, provisions should always be made for a Customs office to ensure that the duly endorsed Goods declaration is returned as explained in the previous paragraph. Many administrations assign this task to the Customs office of departure for both national and international transit.

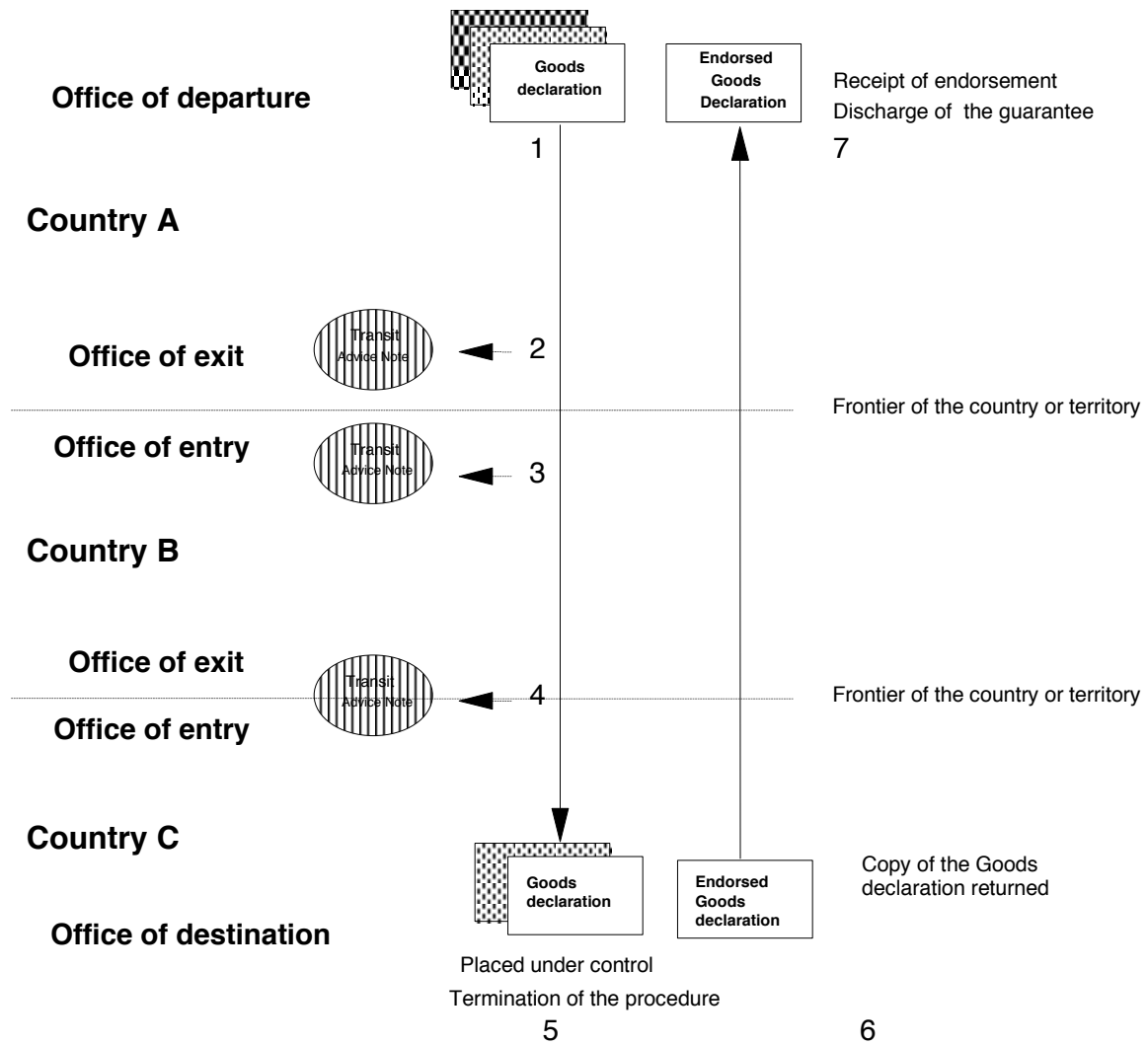
If a termination notice is not returned to the office of departure in national transit, some administrations do not initiate a search procedure and use the security for payment of the duties and taxes, considering that the person responsible has not fulfilled the obligation of presenting the goods to the Customs office of destination within a set time limit. In an international transit operation covered by a general security or at least a security valid for the whole transit operation, the Customs territory in which the goods left Customs control should be determined in every case so that the duties and taxes can be claimed by the Customs territory concerned, if necessary by using the security covering the transit operation.

In international transit involving the crossing of several Customs territories, the office of departure could be entrusted with monitoring the smooth running of the whole transit procedure. If the transit operated smoothly, the Customs territories crossed would not have to carry out any special surveillance measures; they would merely be required to record the entry and exit of the transport-unit in a very simplified manner.

If the endorsed Goods declaration is not returned within a reasonable time limit, the office of departure should initiate an investigation. If this gives no results, the first Customs territory where the offence could have been committed would be required to recover the duties. Lodgement of a simple transit advice note identifying the transport-unit and the Goods declaration or declarations would make it possible to determine the last territory in which the transport-unit was seen. At juxtaposed national control Customs offices, a single transit advice note for two bordering Customs territories should suffice. The transit advice note could also be advantageously replaced by a computerized procedure (e.g. electronically recording transit). This international transit system makes more sense if combined with a security valid for the whole Customs transit operation.

This system is represented in the following example.

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Comments

The Customs office of departure ensures that it receives a duly endorsed Goods declaration and keeps a copy of the declaration to carry out an investigation, if required, in good time (1).

A transit advice note is left at each Customs office en route (2/3). At juxtaposed national control offices, a single transit advice note valid for the two countries concerned would suffice (agreement between country B and country C) (4)

The transit advice note is simply collected. It may become useful if investigations prove necessary to determine in which Customs territory the goods were delivered. Customs in that territory will collect the duties and taxes, if necessary using the security.

At the Customs office of destination (or the authorized consignee's domicile), the goods are placed under Customs control and the Goods declaration is endorsed and returned to the Customs office of departure (5/6)

The Customs office of departure checks that the endorsed Goods declaration is in order, and where appropriate discharges the security (7).



### **Other options**

- The administrative management of the Goods declarations can be entrusted to a "central" Customs office. This office ensures that the Goods declarations issued by the offices of a whole Customs territory or region are completed and the security is discharged. If necessary, this office also conducts investigations on behalf of the office of departure. This "centralizing" enables the work to be done more efficiently, and preferably by computer.
- Each Customs administration monitors the entry and exit from its territory using import and export vouchers on the Goods declaration; thus overall monitoring is not carried out by the Customs office of departure. This system also has advantages, but only if the security is valid from start to finish of the transit operation (e.g. chain of guaranteeing associations). If not, to require a security in each administration would considerably limit the attraction of an international transit procedure.

#### **9.4. Failure to follow a prescribed itinerary or to comply with a prescribed time limit**

##### **Recommended Practice 25**

*Failure to follow a prescribed itinerary or to comply with a prescribed time limit should not entail the collection of any duties and taxes potentially chargeable, provided the Customs are satisfied that all other requirements have been met.*

In accordance with Standard 15, Customs prescribe the itinerary only when this is considered absolutely necessary. Any prescribed itinerary must therefore be followed. However, when the goods are presented at the Customs office of destination without the prescribed itinerary being followed and the failure to comply with this order is due to circumstances explained to the satisfaction of the office of destination, Customs may consider that the conditions prescribed have been observed. The same should apply if the time limit prescribed by the office of departure or that of the office en route has not been complied with for similar reasons.

In case of failure to follow a prescribed itinerary or to comply with a prescribed time limit, Recommended Practice 25 recommends not collecting the duties and taxes potentially chargeable, provided that Customs are satisfied that all other requirements have been met. However, this provision does not prevent Customs from imposing a fine if the prescribed conditions regarding the route or the time limit have not been respected.

### **10. International agreements relating to Customs transit**

##### **Recommended Practice 26**

*Contracting Parties should give careful consideration to the possibility of acceding to international instruments relating to Customs transit. When they are not in a position to accede to such international instruments they should, when drawing up bilateral or multilateral agreements with a view to setting up an international Customs transit procedure, take account therein of Standards and Recommended Practices in the present Chapter.*

There are several international instruments containing provisions relating to Customs transit. The most well known are :

- The Customs Convention on the International Transport of Goods under cover of TIR carnets (TIR Convention), Geneva, 14 November 1975.
- The Convention on Temporary Admission (done at Istanbul, 26 June 1990).

The Istanbul Convention groups various facilities for the temporary admission of goods into a single instrument. Consequently it does not deal with matters of Customs transit. Nevertheless it is mentioned here since Annex A relates, in particular, to ATA carnets, which also comprise an international transit system.

- The Customs Convention on the ATA carnet for the Temporary Admission of Goods (ATA Convention), Brussels, 6 December 1961.

ATA carnets can be accepted for the transit of goods under temporary admission which have to be conveyed to or from their destination under Customs control, either in the Customs territory of temporary admission or through a Customs territory or countries between those of exportation and importation.

The Contracting Parties to the Kyoto Convention which accept Specific Annex E on Transit should give careful consideration to the possibility of acceding to the above international agreements or to the instruments that will have replaced them. Those not in a position to accede to them should, when drawing up bilateral or multilateral agreements with a view to setting up an international Customs transit procedure, take account of the Standards and the Recommended Practices of the General Annex (especially the Chapter 5 on Security) and this Chapter on Customs transit, and also include in these agreements the provisions listed below.

When transit vehicles cross the frontier, Customs should, as a rule, limit the extent of the formalities to be carried out at the office of exit (which may be not the Customs office of departure) or the office of entry (which may not be the office of destination).

- Customs should check that there is a transit document and then endorse it, if an agreement between the Contracting Parties so provides. If that is not the case, Customs should issue a transit advice note and carry out random checks on whether the measures ensuring the integrity of the goods are complied with. Customs examination of the load or of the goods should be exceptional.
- When a Customs office of exit or entry removes a Customs seal or identification mark, for example in order to examine the goods, it should record details of the new Customs seals or identification marks on the Goods declaration accompanying the goods.
- Formalities at the Customs offices of exit or entry should be further reduced, or completely abolished, since the discharge of the obligations incurred under Customs transit is given by the competent authorities for the entire Customs transit operation.
- Arrangements should be made for mutual assistance measures between the Customs administrations of the Customs territories concerned with regard to the verification of documents describing goods transported under Customs transit and of the authenticity of Customs seals.

As far as possible, controls should be carried out only in the offices of departure and destination. At the Customs offices of entry and exit, controls could in principle be limited to giving notification that the transport-unit passed through by submitting a brief form to facilitate investigations in case of irregularities. For juxtaposed control offices, the Contracting Parties concerned could agree that the form be submitted at the office en route at entry. If need be, the

office en route at exit could therefore obtain the desired information from the neighbouring Customs office en route at entry.

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## Appendix I

### Methods of Application

#### 1. SWITZERLAND

##### **Authorized consignor and authorized consignee**

This Appendix does not describe the procedure preceding or following Customs transit. However, where additional information may prove useful for the application of transit, the necessary information is given. The procedures described herein are for information purposes only for Customs administrations wishing to set up an authorized consignor or consignee procedure. They can base themselves on the special procedures for authorized parties in Chapter 3 of the General Annex as well as this Appendix, and adapt them to local conditions.

##### **General conditions for granting authorized consignor or authorized consignee status**

Customs could accept as authorized consignor or consignee any person subject to Customs obligations, provided that :

- they have an appropriate record;
- they regularly send or receive goods;
- their domicile is sufficiently close to the competent Customs office to enable controls to be carried out without generating excessive administrative work;
- they designate premises and/or a room for placing under Customs control the goods for consignment or receipt (the tasks of placing goods under Customs control is assigned to the authorized consignor or authorized consignee);
- their administrative management and user system are organized in such a way that the arrival of a consignment can be checked at any time without fail, from arrival up until removal; by transmitting data the authorized consignor or consignee takes on an obligation to Customs;
- they provide Customs with the necessary infrastructure (writing desk, possibly telephone),
- they furnish a security to guarantee payment of duties and taxes in case of irregularity.

The security is a surety valid until withdrawal of the status and subject to changes according to developments (solvency of the security, major growth of the authorized consignor or consignee requiring a greater degree of cover, for example). This security is separate from the one which, where applicable, is required for the transit procedure. Whereas the latter only covers the transit operation, the general security by the authorized consignor serves as a security for other operations (e.g. disappearance of goods from the authorized consignee's premises after termination of Customs transit, but before clearance for home use).

The authorization issued by Customs lists the conditions for using the procedure. The authorization holder is required to notify Customs of any change in the conditions forming the basis of the authorization.

Customs may refuse authorization if the person does not guarantee that the procedure will take place in accordance with the rules or if the person has committed serious or repeated infringements against Customs or tax rules.

### **Authorization**

If the person requiring authorized consignor or authorized consignee status appears to meet the general conditions, Customs shall carry out a more detailed inspection at the person's premises. On that occasion, the general conditions mentioned above and the methods for implementing the Customs procedure or procedures at issue will be determined. In this case, Customs also plays an advisory role in developing a system which is beneficial to both parties. In addition to the basic conditions mentioned above, the following points could be defined :

- The Customs control office which will be the person's contact office for all Customs matters
- Scope of the status of authorized consignor or consignee
- Type of traffic (export and transit; transit and clearance for home use, transit and temporary admission, etc., road traffic, rail traffic; air traffic; water traffic, etc.), possible exclusion of certain goods or laying down special obligations
- Procedure for giving notification of the consignment.

This means notifying Customs of the arrival of the consignment by electronic data transmission with all the information required. For the transit procedure, such notification comprises a minimum of data, but must permit identification of the transport-unit and the type and quantity of the goods at issue. Customs may add other conditions to this notification (e.g. information on the requirement for and presence of a licence).

- Time limit for intervention by Customs

This time period, to be set individually, depends on local conditions and the transmission method. It could be of the order of 30 minutes, but some Customs offices accept shorter times. A reasonable balance has to be struck between a sufficient time for Customs to assess the situation and make a decision on the one hand, and not to make operators wait unnecessarily on the other. When Customs are notified of the consignment, the latter has the specified intervention time to notify the person if Customs intends to carry out the control. If Customs gives no indication during the intervention period, the consignment is deemed released for the rest of the procedure (authorized consignor : consignment placed under the transit regime may be moved; authorized consignee : unloading of the transport-unit may commence, subject to the application procedures for the procedure following transit). If Customs states its intention to conduct a control, this will be carried out within a reasonable time limit, regardless of the time limit for intervention). The intervention time limit shall not prejudice Customs' right to carry out impromptu controls.

- Information in the Goods declaration
- Methods of identification of goods

In the Customs transit procedure, the status of authorized consignor or consignee requires certain additional information when drawing up or discharging the Goods declaration.

- Responsibility

The persons responsible as well as their responsibilities shall be defined. Authorized consignors/consignees will ensure that their staff is familiar with Customs requirements.

- Customs controls

In addition to the controls notified during the intervention period and impromptu controls, the person will authorize Customs to examine the data management and commercial documents where required to ensure that the procedures laid down are being observed.

- Time limit for retaining supporting documents.

### **Authorized consignor**

#### General

The authorized consignor procedure applies to goods in free circulation for which the authorized consignor is deemed subject to Customs requirements and also applies to goods under Customs control.

This may relate to all transit procedures (national transit; international transit).

The authorized consignor carries out certain tasks at the office of departure, which may vary according to the transit procedure (e.g. opening the Goods declaration) and, if necessary, is authorized to seal the transport-unit, unless the procedure at issue states otherwise (e.g. TIR carnet).

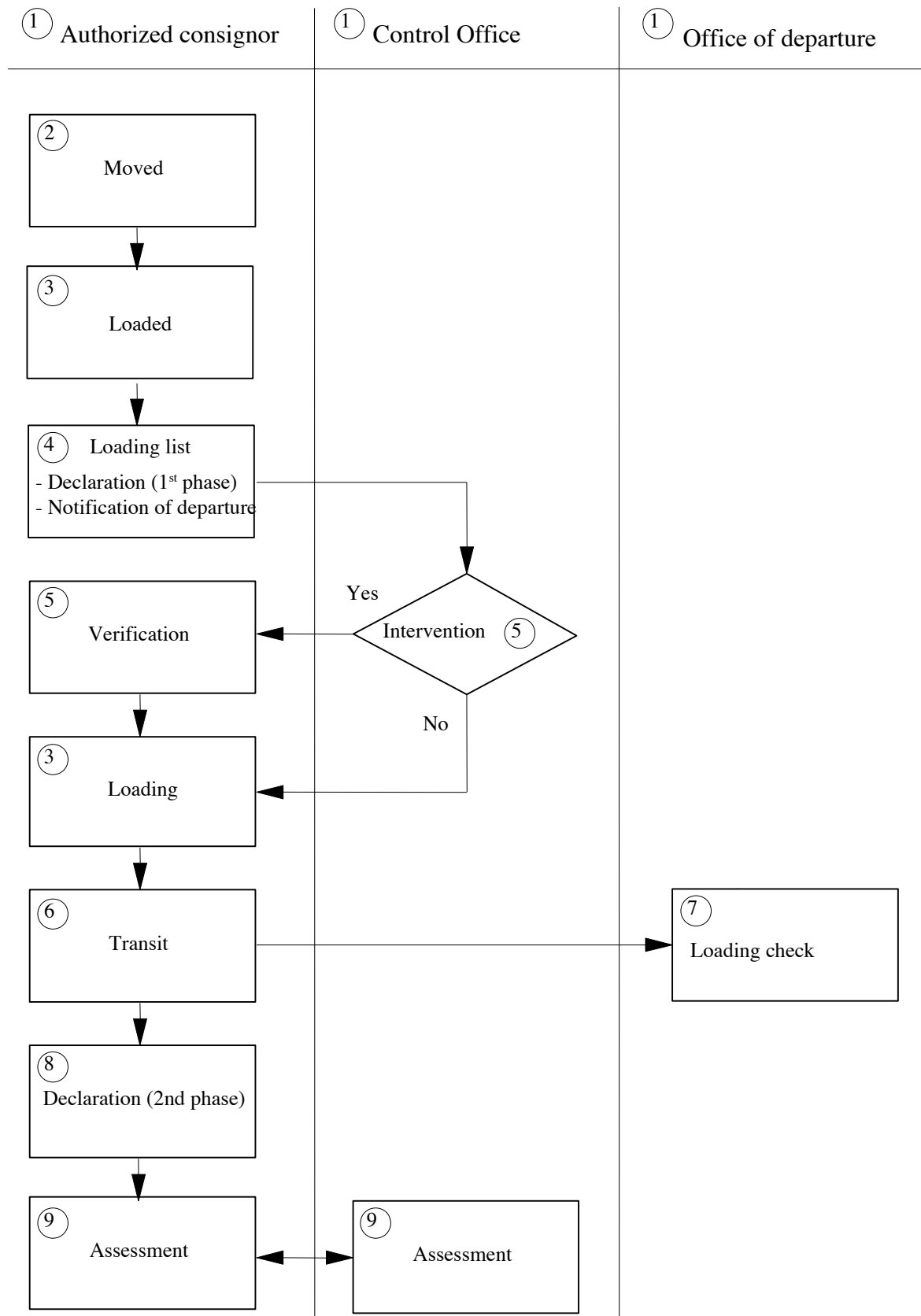
In principle, the duties in question are generally guaranteed for all the transit operations, unless stated otherwise in the procedure at issue (TIR carnet, goods requiring a separate security for each transit operation).

With regard to the seal affixed by the authorized consignor, the Appendix to the Chapter on Customs transit is the final authority.

#### **Example of how the procedure could take place**

In this example, the procedure applicable to the authorized consignor covers the export procedure (or other procedures where applicable) and the transit procedure at departure.

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ⓧ The circled figures refer to the detailed description below.

## **1. Partners**

Authorized consignor :

Authorized consignor indicated in the authorization.

Customs office :

The Customs control office named in the authorization to ensure that the procedure takes place at the authorized consignor's premises.

Office of exit :

The Customs office situated at the frontier of the country of departure.

## **2. Moved**

The goods coming from free circulation are moved to the authorized consignor for Customs processing. Should Customs carry out a control, the authorized consignor must be able to justify where they came from.

## **3. Loading**

Loading in the transport-unit can already begin before the loading list is sent (4) or not until after the time limit for intervention has elapsed or after Customs controls (5).

The goods can also be left in the means of transport of arrival or be transhipped to another means of transport.

Goods from the authorized consignor can also consist of additional goods already in the means of transport (e.g. goods already placed under a Customs procedure by another authorized consignor).

## **4. Loading list (first phase declaration and notification)**

The loading list has two functions :

- (a) It is the binding simplified export declaration in the first phase of the declaration procedure and
- (b) It is also a notice of departure and will also contain the transport data.

The loading list is generally sent to the control office by electronic data transmission.

Contents of the loading list :

- (a) for **general transport** (vehicle, container, etc.)
  - Consignor's name (authorized consignor)
  - Date and time of departure
  - Registration number of the vehicle or container
  - Gross weight of the whole consignment (load weight)



- Number and type of Goods declarations for the transit
- Where applicable, number and type of Customs seals
- Customs office via which the goods are to leave the Customs territory

(b) for each **consignment** (batches in the loading list)

- Identification (e.g. reference number + serial number)
- Packaging (marks, serial numbers, type and number)
- Exporter (name, place)
- Trade description of the goods
- Gross mass (gross weight)
- Indication of whether the goods are subject to an export licence
- Country of destination
- Type of Customs clearance (e.g. exportation, end of a temporary admission procedure).

Information on each consignment can be contained in the information on the general transport if it is valid for the whole transport.

A Goods declaration can be used instead of the loading list if it contains the information required (e.g. unitary goods).

Goods requiring an export licence can be accepted, provided that the licence is available in this phase.

## **5. Intervention and inspection**

The loading list is a binding Goods declaration (e.g. outright exportation procedure). Upon its receipt, the control office decides whether or not to carry out an inspection. If so, it must inform the authorized consignor of its intentions within the specified intervention period, otherwise the transport or loading can take place.

The intervention period is only valid during the Customs office opening hours. Shorter intervention times may be agreed where local conditions so permit. The time of the electronic data transmission to the control office is decisive. The time limit tacitly expires at the end of the intervention period, which may be shortened by rapid release from the Customs office.

In principle, inspections are only carried out during the opening hours of the control office, using the loading list as a basis. Customs may request additional documents (e.g. transport order, invoices, etc.).

## **6. Transit**

The Goods declaration (transit) is drawn up on the basis of the loading list, which is often only a duly completed copy of the Goods declaration. In principle, all types of Customs clearance in transit for all types of traffic are possible (see below).

The authorized consignor is required to notify the Customs office without delay when errors in the loading or other irregularities are noted after the goods have been shipped.

### **7. Loading control**

The Customs control office can also conduct loading controls through the Customs office of exit of the Customs territory concerned. Customs may also ensure that the load has not been changed since notification to the Customs control office. Customs should allow extended opening hours (e.g. from 5 a.m. to 10 p.m.) for these controls in exceptional circumstances.

### **8. Declaration (2nd phase)**

The consignments numbered on the loading list should generally be declared the working day following notification of departure. The phase 2 declaration is also binding.

Declarations should refer to the batches on the loading list (by mentioning the identification numbers). The second phase declaration can also be combined with phase 1.

### **9. Assessment**

The authorization will set the time limit for returning a copy of the Goods declaration (transit) to the control office.

#### **National and international transit**

##### **Customs clearance in national transit**

A very simple system may be used for clearance in national transit of goods in internal free circulation and cleared at export. In the following model, the exporter would enjoy a simplified exportation procedure enabling him to state periodically (e.g. in the form of a monthly summary), by computerized procedure, all the data required by Customs. However, to permit processing of the goods at the time of actual exportation, the exporter sends notification by means of an existing document, such as the delivery sheet, containing at least the following information :

- Consignment identification number;
- Packaging (marks, serial numbers, type and number)
- Trade description
- Gross weight of the whole consignment
- A stamp of a varying dimensions containing a minimum of data.

This stamp mark (an adhesive stamp, computer-generated stamp, etc.) made by the authorized consignor, gives the commercial document the status of an export document. If an ad hoc heading is added, it becomes a transit document. The stamp could be based on the following model, but may be amended according to the specific needs of the Contracting Party.

<b>EXPORTATION by simplified procedure</b>				Exportation
Export licence		Avai- lable	not necessary	
<b>Recipient of the procedure Authorization number</b>				Export + Transit
<b>Office of control :</b>				
<b>Equivalent to national bond Note in the simplified procedure</b>				Transit
<b>Departure</b>		<b>Unloa d ing</b>		
Date: Day.Month.Year				
Time-limit : 2 days without Customs seal				

The original of the transit document is sent with the consignment and, once signed by the office of destination, is returned to the office of issue. This simplified transit document is valid only for clearance in national transit.

### Customs clearance in international transit procedures

#### Basic procedure

The goods to be placed under the transit procedure are not presented at the Customs office and the formalities take place on the premises of the authorized consignor. As the authorized consignor carries out certain functions delegated by the office of departure (his control office), in addition to the data normally required he shall complete the Goods declaration (e.g. using an adhesive stamp or computer-generated stamp) with the following references :

- identification of the Customs territory, Customs office, transit document number, title, date, authorized consignor and authorization;
- "simplified procedure", any Customs seals and the time limit for transit.

The authorized consignor is not required to sign computer-generated Goods declarations. In the space for the signature he writes "signature waived". A copy of the Goods declaration is returned to the control office within the time limit set by the agreement (e.g. the following working day).

#### TIR carnets and ATA carnets

TIR carnets must be presented at the Customs office so that the sheet and voucher can be processed and checked. Transport of goods under TIR carnet is subject to general provisions and

must be made under Customs seal. ATA carnets (transit counterfoils) are processed in a similar way.

#### Transit in rail traffic

If the railways are under State control, they have a control function inasmuch as the consignment will be forwarded in accordance with the transport order (consignment note) to an office of destination. The place of loading or preparation for consignment will be decided upon between the authorized consignor and the Customs control office, on a case-by-case basis and depending on the type of rail transport (authorized consignor with rail links, free loading at the station of dispatch, etc.).

Customs does not require the Goods declaration to be presented. Instead it is replaced by an international consignment note or a transfer note for a container, containing the necessary information ("Customs" pictogram label, stamp which may contain the Customs territory crest, Customs office, loading number, date, approved consignor and authorization number).

The Customs office will ensure that the authorized consignor has submitted to the railways the unchanged Goods declarations and consignments.

#### **Transit in air and water traffic**

A procedure based on rail traffic can be applied to air and water traffic, subject to local conditions.

#### **Authorized consignee**

The procedure applicable to the authorized consignee extends to goods transported to the consignee's premises under a transit procedure.

This may cover all the transit procedures (national transit; international transit).

The authorized consignee carries out some of the office of destination's tasks which may vary according to the transit procedure and, where applicable, removes the Customs seal, unless Customs states otherwise.

The goods are moved to the consignee's premises under the transit procedure with Customs declaration. The authorized consignee takes into charge the Goods declaration and removes any seals, unless the transit procedure or Customs states otherwise.

The notification by the authorized consignee to the Customs office must cover the whole load of the vehicle. The consignee shall send Customs, by electronic data transmission, the business name, date and time of arrival, number of the goods list (summary list of all the goods contained on the Goods transit declaration or declarations : this goods list will be an important document for the subsequent clearance for home use procedure), file number, identification of the transport-unit, number of packages, gross weight, number, type and serial numbers of goods transit declarations, and, where applicable, the number and type of Customs seals.

The Customs office has an agreed time limit for stating whether it intends to check the load or carry out a physical inspection of the goods. At the end of this time limit, in the absence of notification from the Customs office, release is deemed to be granted. The consignee may then remove any Customs seals and use the goods, subject to the conditions applicable to the procedure following Customs transit (e.g. clearance for home use). An inventory must be made of all the goods to permit the application of the procedure following transit. Depending on the transit procedure applied, discharge of the Goods declaration can be either fully or partially entrusted to the authorized consignor (e.g. stating the date of arrival and the result of the goods examination,

and, where applicable, seals), unless the transit procedure (e.g. TIR carnets) or Customs otherwise requires.

After subsequent presentation of the Goods declaration at the Customs control office, the latter will authenticate the discharge statements (unless the discharge procedure is solely under Customs competence, e.g. as for TIR carnets). This authentication does not mean that Customs has checked the data, but rather that it has accepted it. If the discharged Goods declaration has to be returned to a Customs office in another Customs territory (e.g. because the Customs office manages the security), this authentication is required as the office of departure does not generally control authorized consignees resident in another Customs territory.

The Customs office is solely responsible for releasing the Customs transit security, unless the transit procedure (e.g. TIR carnet) otherwise requires.

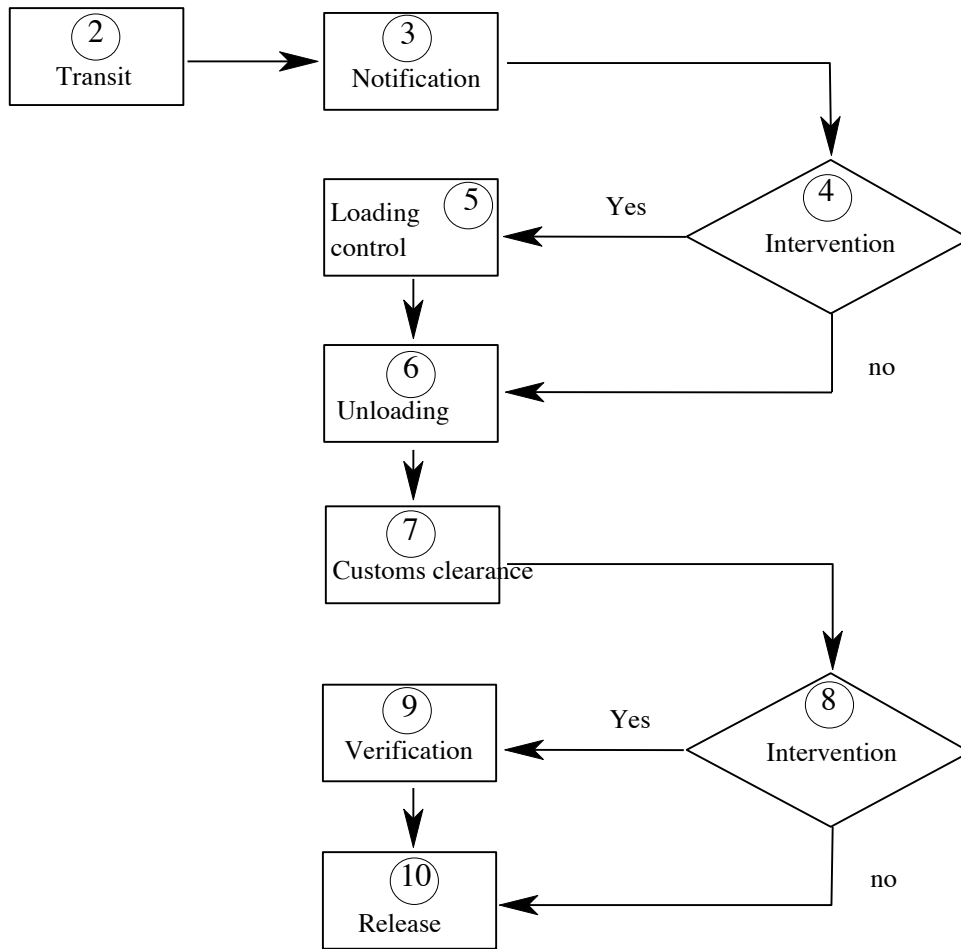
#### Goods intended for another transit procedure

Goods intended for subsequent transit must be named as such in the inventory list. They may not be interfered with in any way. Goods stored at the premises of the authorized consignee are considered to be under Customs control. Re-consignment to another inland Customs office is carried out using a national transit document if the arrival of Goods declaration is no longer valid.

#### **Example of how the process may take place**

In this example, the procedure applicable to the authorized consignee covers the transit procedure at arrival and the clearance for home use procedure (and other procedures where applicable).

① Customs office of entry    ① Authorized consignee    ① Control office



ⓧ The circled figures refer to the detailed description below.

## **1 Partners**

Customs office of entry :

Any competent Customs office situated at the border or inland.

Authorized consignee :

Authorized consignee indicated in the authorization.

Control office :

Customs office named in the authorization supervising the procedure at the authorized consignee.

## **2 Transit**

All types of Customs clearance in transit for all types of traffic are possible.

Customs determines the types of traffic for which the Goods declaration can be waived (e.g. when the international rail consignment note, the air waybill or the manifest serves as a Goods declaration).

## **3 Notification**

The authorized consignee informs the Customs office of the goods' arrival. This notification, by electronic data transmission, shall contain the following data :

- Consignee (authorized consignee)
- Date and time of arrival
- Number of the goods list
- File number
- Identification of the vehicle or container
- Number of packages
- Weight of the load (gross weight)
- Number and type of Goods declarations
- Where applicable, the number and type of Customs seals

The procedure is settled with each authorized consignee subject to local conditions.

Advance notice, i.e. notice before the arrival of the goods at the authorized consignee, is acceptable. For frequent consignments this may take the form of a general notification. The Customs office must be informed immediately when the goods actually arrive; if circumstances so permit (frequent transports – practically according to a timetable – of specified goods), the authorized consignee merely has to give notification that a consignment has been cancelled or delayed in good time.

## **4/5 Loading control**

If the control office plans to check the consignment at the authorized consignee's premises, it so notifies the consignee during the intervention period agreed, otherwise the authorized consignee is permitted to remove any Customs seals and unload the goods. The intervention period is generally half an hour and is only applicable during the Customs office opening hours. The time at which the data is electronically transmitted to the Customs office is decisive. When local conditions so permit, shorter intervention periods can be agreed. Customs must decide whether or not to check the load during the intervention period. However, the check can be carried out later, but still within a reasonable time period. The time period set does not adversely affect the Customs right to carry out impromptu checks.

## **6 Unloading**

At the end of the intervention period or on completion of the loading control by the Customs office, the authorized consignee can unload the goods and place them in the premises named in the authorization. He can, however, also leave the goods on the means of transport of arrival or tranship them.

All the goods, including those which remain on the means of transport of arrival or are transhipped, must be listed. The form of inventory is set out in agreement with the authorized consignee.

The authorized consignee is required to notify the Customs office immediately of any missing or surplus goods, switched goods or other irregularities.

Special conditions are laid down for certain goods, such as those subject to controls outside Customs' competence (veterinary inspection for animals, control of plants, etc.) to take account of local conditions (separate warehousing, transit at the destination of the competent Customs office, for example).

## **7-10 Customs clearance, inspection and release**

These operations in principle belong to the procedure following transit.

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## Appendix II

### METHODS OF APPLICATION

#### 2. European Community

## 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<sup>1</sup> 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.

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) or in a computerised form. Electronic declarations can be made from terminals made available to traders at the customs office of departure or from a trader’s own premises.

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.

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<sup>1</sup> ) 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.

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 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 or directly) together with the transit accompanying document and the list of items, if appropriate. 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.

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.

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