WCO Europe Regional Workshop
Trade Facilitation and Implementation of the WTO Trade Facilitation Agreement

Item 11 – Transit

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Transit

• WTO GATT Article V: Freedom of Transit

➢ Traffic in transit =
  ✓ the passage across the territory of a Member
  ✓ of goods (including baggage), vessels and other means of transport coming from or going to another Member (§1)

➢ Freedom of transit =
  ✓ not to discriminate/distinguish traffic in transit on the basis of: flag; places of origin, dispatch, entry, exit, destination; ownership... (§2)
  ✓ not to hinder traffic of goods in transit by imposing unnecessary delays or restrictions or unreasonable charges (§ 3 & 4)
  ✓ to allow MFN treatment to transit goods (§5)
  ✓ to ensure equal treatment to goods imported after transit, irrespective of the country of prior transit (§6)

➢ Limits = ‘most convenient’ routes; customs offices

➢ Freedom of transit, MFN treatment and regional transit arrangements
  ❖ Note of WTO Secretariat G/C/W/408 of 10.09.2002
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- **WTO TFA Article 11: Freedom of Transit**
  - **TFA 11 within TFA:**
    A specific application to traffic in transit of more general obligations resulting from TFA, in particular from the following provisions:
    - Article 1: Publication and availability of information
    - Article 6: Disciplines on fees and charges
    - Article 7: Release and clearance of goods
    - Article 8: Border agency cooperation (coordinated border management)
    - Article 10: Formalities
    - Article 12: Customs cooperation
  - **TFA 11 versus GATT V:**
    - Confirmation of obligations under GATT V
    - Clarification of obligations under GATT V
    - Enhancement of obligations under GATT V
    - More consideration is given to the operation of transit regimes
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• **WTO TFA Article 11: Freedom of Transit**

  ➢ **Confirmation of GATT V:**
    ✓ §7: prohibition of *customs charges & unnecessary delays or restrictions*
    ✓ §2: prohibition of *fees and charges* (see TFA 6)
    ✓ §4: *equal treatment*

  ➢ **Clarification of GATT V:**
    ✓ §1: elimination of all unnecessary ‘*regulations or formalities*’ or their replacement by measures being the most ‘*reasonable*’ and ‘*less-restrictive*’ possible & not constituting ‘*disguised restrictions*’
    ✓ §3: prohibition of ‘*voluntary restraints*’ or any similar measures on traffic in transit (except WTO compliant regulation of transport)
    ✓ §8: non-application of *technical regulations and conformity assessment procedures* (within the meaning of TBT Agreement)
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• WTO TFA Article 11: Freedom of Transit

➤ Enhancement of GATT V through more specific obligations:

☐ Formalities and controls

✓ §5: establishment of *physically separate infrastructures* (lanes, berths, etc.) for traffic in transit (see TFA 8)

✓ §6: limitation of formalities, documentation and customs controls to the *identification* of goods and *fulfilment of transit requirements* (see TFA 10)

✓ §9: possibility of *advance filing and processing* (TFA 7.1)

✓ §10: prompt *termination* of transit operations

✓ §15: limitation of *convoys or escorts* to high risk cases
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• **WTO TFA Article 11: Freedom of Transit**
  
  ➢ **Enhancement of GATT V through more specific obligations:**
    
    ✓ **Guarantees** *(see TFA 7.3)*
    
    ✓ §11: limitation of *guarantee requirements* to ensuring fulfilment of transit requirements
    
    ✓ §12: *discharge* of guarantees without delay
    
    ✓ §13: possibility of *comprehensive* guarantees *(see TFA 7.7.3)*
    
    ✓ §14: *publication* of information on guarantee *(see TFA 1)*

    ✓ **Cooperation and coordination**
    
    ✓ §16: *enhancement of freedom of transit* regarding *i.a.: charges, formalities and legal requirements, practical operation of transit regimes*
    
    ✓ §17: *National Transit Coordinators*
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- WTO TFA Article 9: Movement of goods intended for import under customs control

- TFA 9 covers the movement of imported goods under customs control from a customs office of entry to a customs office where they will be released or cleared: thus establishing a kind of ‘partial transit’

- The obligation under TFA 9 is not so strong as freedom of transit under GATT V & TFA 11

- Nevertheless, where implementing TFA 9 and even if the point of destination of the goods is different, Members should more or less apply principles similar to those pertaining to freedom of transit

- A same transit arrangement/regime/procedure may ensure compliance with both TFA 11 (freedom of transit) and TFA 9 (movement of goods under customs control)
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GATT V & TFA 11

Member B → Member A → Member C

FREEDOM OF TRANSIT

TFA 9

Member → MOVEMENT UNDER CUSTOMS CONTROL
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• **Main features of any transit arrangement/regime/procedure**

  ➢ **Purpose, scope and effects**
    ✓ Allow the movement of goods *under customs supervision/control* within a customs territory
    ✓ Without applying *customs duties, other charges or restrictions* until the goods leave the territory or are released/cleared within

  ➢ **Formalities and controls**
    ✓ **Placement**: declaration filing, data requirements
    ✓ **Control measures**: identification of goods (sealing of means of transport), convoys/escorts, obligations ‘*en route*’, time-limit
    ✓ **Termination** at destination
    ✓ **Discharge** by customs
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• **Main features of any transit arrangement/regime/procedure**

  ➢ **Guarantees**
    ✓ Covering the *financial risks* of the operation (duties and charges)
    ✓ Different *forms* and coverage: *single* or *comprehensive* guarantee
    ✓ *Released* depending on termination & discharge of the operation

  ➢ **Simplifications**
    ✓ Simplifications based on *transport documentation/data*
    ✓ Simplifications for *authorized operators* (consignor, consignee, carrier), subject to fulfilment of *compliance criteria*: see TFA 7.7.3.g
    ✓ Guarantee *reductions and waivers*

  ➢ **Customs cooperation**
    ✓ Enquiries on *termination and discharge* of transit operations
    ✓ Assistance in *recovery* of duties and charges
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- Forms of transit

**National transit**

**International transit** *(e.g. TIR carnet)*

**Regional transit** *(e.g. Common Transit)*
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Thank you

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