

Transit

François Corformat and Adrien Goorman

Goods being carried under transit are generally not subject to the payment of duties and taxes, provided the conditions laid down by the customs administration are complied with.¹⁰⁹ Customs transit systems are designed to facilitate the movement of goods crossing the territory of one or more states without jeopardizing revenue through diversion of such goods to the domestic market. To do this, while avoiding excessively burdensome and costly formalities, a balance has to be struck between the requirements of the customs authorities and those of the transport operators. This chapter considers how this might best be done.¹¹⁰

A. Definitions, Principles, and Procedures

Customs transit means the customs procedure under which goods are transported under customs control from one customs office to another.¹¹¹ To facilitate the international transport of goods that have to pass through a number of customs territories, arrangements are made under bilateral or multilateral agreements for the application of standard procedures. In this context, customs international transit is the passage of a consignment through a national customs territory, by entering the territory at a border office, port, or airport and leaving the country via another office, in order to continue its movement to its final destination. The 1971 Convention on the International Transit of Goods and the 1975 Convention on International Transportation by Road (Transport International par Route, TIR) were introduced to facilitate international transport, in particular to improve the efficiency of combined (or multimodal) transport. To date, the TIR Convention has nearly 60 contracting parties, including the European Community. It covers the whole of Europe and reaches

¹⁰⁹Some countries levy transit or service fees, which, so long as they are set at no more than a cost-recovering level, should not be considered as customs duties.

¹¹⁰Parts of this chapter draw on Goorman (1997).

¹¹¹This definition is in Annex E of the revised Kyoto Convention.

out to North Africa and the Near and Middle East. The United States and Canada are contracting parties, as are Chile and Uruguay.

Customs transit may also refer to a purely domestic movement, such as movement from a border station, port, or airport to a customs office or bonded warehouse in the interior of the country. The jargon distinguishes among (1) through transit (office of entry to office of exit); (2) import transit (office of entry to inland customs office); (3) export transit (inland customs office to office of exit); and (4) internal transit (one inland customs office to another).

Customs transit procedures and formalities are usually straightforward and simple to administer; see Box 8.1. At the office of departure, the main requirements for goods in transit include a written declaration; the provision of security;¹¹² examination and identification of goods (when deemed necessary, customs seals are affixed to the preapproved transport unit);¹¹³ and, in the case of goods subject to high duty or tax rates, a number of specific measures considered necessary to ensure security of the goods in transit, such as a prescribed itinerary and time limit, customs escort, and customs seals and identification marks for packages.

Box 8.1. Basic Requirements Under the TIR System

In order to ensure that goods travel with a minimum of interference and yet offer maximum safeguards to customs administrations in all countries of transit, the TIR system contains four basic requirements, called the four main pillars of the TIR transit system:

- Goods should travel in secure vehicles or containers.
- Duties and taxes should be covered by an internationally valid guarantee.
- Goods should be accompanied by an internationally accepted carnet in the country of departure and serving as a control document in the countries of departure, transit, and destination.
- Customs control measures taken in the country of departure should be accepted by the countries of transit and destination.

¹¹²When required, security is generally set with regard to the import duties and taxes potentially chargeable.

¹¹³Transport units are preapproved for the transport of goods under customs seal in accordance with various international agreements, namely the Customs Convention on Containers and the TIR Convention.

With respect to the termination of a customs transit operation, customs formalities usually require that the goods and the relevant goods declaration be presented at the customs office of destination within the time limit fixed, without the goods having undergone any change and with customs seals, fastenings, or identification marks intact.

B. Main Problems and Issues

In many developing countries, the main difficulties for customs in administering the transit regime result from the poor training of customs officers, the lack of physical infrastructure, difficult communications, and the absence of coordination with customs services of neighboring countries.

A major problem with transit operations in developing countries is the complexity of regulations and high costs associated with various formalities, in particular from maritime to landlocked countries. Legislation and regulations may impose high insurance premiums, high demurrage charges on containers and transport vehicles, high additional storage and documentation charges, payment of carriers' container guarantees or deposits, payment of customs bonds, and other unpredictable handling and processing fees. In some countries of West Africa, for example, the cost of moving a container of cargo inland to the importer's premises may reach up to three times the cost of its shipment from the port of export in Europe or the United States. Moreover, there are often high levels of loss of goods in transit operations due to lack of security, poor tracking of cargo, and corruption.

The revenue risk

Security is usually in the form of cash, bank guarantees, customs, or surety bonds. Experience shows that the transit regime is often used as a means to import goods fraudulently. Transit carries a high revenue risk, because the revenue loss on any shipment diverted from its destination is total. When it involves alcoholic beverages, tobacco products, electronic consumer goods, motor vehicles, and other goods subject to high duty or tax rates, the revenue loss can be very high indeed. The European Union estimates that some US\$4 billion is lost every year through the illegal diversion of transit goods into domestic consumption in the EU.

It is not unknown in developing countries for hundreds of truckloads or containers to come in under cover of transit documents and remain unaccounted for, in the sense that reexportation of these shipments is never recorded, leaving customs not knowing whether the goods actually left the country. In many cases, even if it is known to customs that the shipments did not leave the country, they are unable to recover the duties and taxes lost because of the following factors:

- Lack of strict documentary follow-up on the transit movement.
- Lack of timely action when the conditions of the transit regime are not met (see administrative requirements below).
- Transit being allowed to take place with vehicles that cannot be properly closed and sealed.
- Lack of security or solvency on the part of the transporter making it impossible to recover duties owed in case of nonexecution of the transit.

The specific problem of the guarantee

In some developing countries and economies in transition, the banking system is not sufficiently developed for customs to require that all transit shipments be covered by a bank guarantee. Requiring a monetary deposit from the transporter is often impractical. Defining the proper amount of a bank guarantee or deposit is also often difficult, because of a lack of infrastructure at the border station, which prevents even a cursory examination of a shipment that would allow customs to make a calculation of the amount of duties and taxes to be paid.

In one country that was faced with this situation, the customs director general accepted the “personal guarantee” of the customs broker to allow goods to move in transit from the border to an inland office. While not as good as a general guarantee, this temporary measure proved to be successful because the brokers were concerned that they would lose their license to operate if shipments were not accounted for.

C. Ensuring Effective Control

Administrative requirements

The administrative requirements for effective monitoring and control of transit can be easily imposed and enforced in most countries. The main requirements are the following:

- A centralized control system (e.g., a central unit at customs headquarters) must be established to monitor transit operations.
- A system of bonds/securities/guarantees must be in place that covers the liability for duties and taxes and allows the customs administration to collect the duties and taxes due when noncompletion of the transit or related acts of fraud take place.
- The guarantee needs to cover the liability for duties and taxes calculated on the highest tariff and tax rates that might be applicable in case the transit is

not completed. It cannot be released until the shipment has reached the customs border office or the clearance station in the interior and customs has certified that the shipment has arrived intact.

- Transit can only be carried out by bonded carriers, approved for transit by the customs administration on the basis of solvency, reputation, and past record. Transit by the owner of the goods could be allowed if adequate security is provided and all the other requirements and conditions are fulfilled.
- Carriers must assume liability for duties and taxes until the transit is completed (shipment has left the country) or responsibility is transferred to another party (for internal transit). Making carriers financially liable creates an incentive for them to complete the transit correctly and to obtain the necessary evidence of exportation or, alternatively, of arrival at the office of destination.
- Transit documents must give a full and complete description of both the consignments and their quantities, so that customs at the point of destination can effectively detect shortages or substitutions.
- Transit must follow the prescribed route and be completed within the prescribed time limit and the vehicle must be sealed.
- Information on transit shipments leaving the customs post at the departure/entry point should be communicated (e.g., by e-mail, telex, or fax) to the centralized control unit at customs headquarters, as well as to the border station of exit or the interior clearance office, to allow for monitoring and, if needed, for early action to be taken when shipments do not arrive on time.
- The release of the guarantee should be authorized by the centralized control unit upon receipt of the proof of exportation and/or arrival of transit shipments (complete and intact) at the customs clearance office of destination.
- In case of noncompletion of transit or other irregularities, the guarantee should be used for the payment of duties, taxes, and fines.
- Customs should selectively escort and/or check consignments during transit.
- Especially for landlocked countries, the adoption of the TIR system should be promoted, or an agreement should be made with the neighboring country/countries from which shipments are sent, to use the same transit document to cover the journey from the office of departure to the office of destination (final clearance office). They could agree on the validity of each

other's existing national transit documents, or on a new international transit document.¹¹⁴

New techniques

Software applications and new techniques have been recently developed to assist in the monitoring of transit procedures and the tracking of cargo.

The United Nations Conference on Trade and Development (UNCTAD) has made available since 1999 a specific module called MODTRS to handle transit documents in conjunction with other modules of the ASYCUDA++ system covering the main customs clearance functions (see Box 8.2). The module for the management of transit procedures in ASYCUDA++ handles three documents, namely the *TIR carnet*; the *T1 form*, based on the single administrative document (SAD); and the *first identification procedure*, which is an authorized preclearance procedure. The module can be used for all types of transit as defined in the Kyoto Convention and covers the movements of through transit, import transit, export transit, and internal transit.

Electronic seals have been developed to provide for the identification, detection, and tracking¹¹⁵ of trucks transiting through a country. Trucks are “sealed” with a seal marker when entering the country. The electronic monitoring system (see Box 8.3) will report to the customs service all pertinent data and “anomalies” related to the actual route taken by an electronically sealed truck.¹¹⁶

¹¹⁴The latter is preferable, since the document will need to consist of several copies, which is unlikely for the existing national documents.

¹¹⁵This is not a continuous tracking but the recording by fixed detection sites of the actual route.

¹¹⁶Although there has been no report on the use/cost of the system, it is considered to be efficient, reliable, able to handle a substantial number of trucks, and low in cost.

Box 8.2. ASYCUDA++ Transit Control System

This system allows for data capture by traders (brokers or carriers), using a specific module for DTI (Direct Trader Input, discussed in Chapter 9) or by customs officers. After the cargo is presented to customs and, if necessary, controlled, the document is validated in the computerized system. Upon validation of the document by customs, a message is automatically transmitted to the office of destination where the goods should be presented again to customs. This is done by the appropriate ASYCUDA software, A++GATE (ASYCUDA Global Access to Trade Efficiency), through the national telecommunications network. This message informs the office of destination that a cargo should arrive in a specified period of time. When the cargo arrives at the destination, the transit message is retrieved based on the paper document presented by the driver, and the customs control is performed. If everything checks out, the transaction is closed and a release message is automatically sent to the office of departure via the same media. The receipt of the message at the issuing office allows the latter to sign off on the transit document and release the guarantee, as the trader has fulfilled his obligations.

Box 8.3. Electronic Seal System

The electronic seal system includes

- a visible electronic seal (or marker) that can be affixed to or removed from a truck;
- an electronic “transit card” linked electronically to the seals;
- a fixed detection network and mobile detection equipment (for customs officers);
- seal electronic stations at customs checkpoints and inland customs offices for data input and output; and
- a central computer system managing the system and the electronic detection network.

D. Conclusions

Wherever diversion of transit cargo is a significant revenue risk, an evaluation of the transit control system should be conducted along the lines listed above. As a first step, political will and adequate legislation to enforce penalties and sanctions are necessary for successful transit operations.

Regional agreements should be sought to promote the adoption of the TIR or an equivalent system, together with the development of a regional agreement among banks to support the issuance/release of bank guarantees.

New techniques, including software applications and electronic seal systems, should be adopted by countries with significant truck traffic with high-value or sensitive cargo.