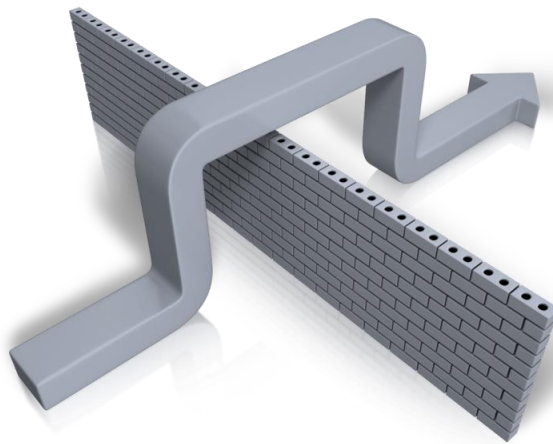




CUSTOMS CLEARANCE
C O N S O R T I U M

TRANSIT, FRIEND OR FOE?



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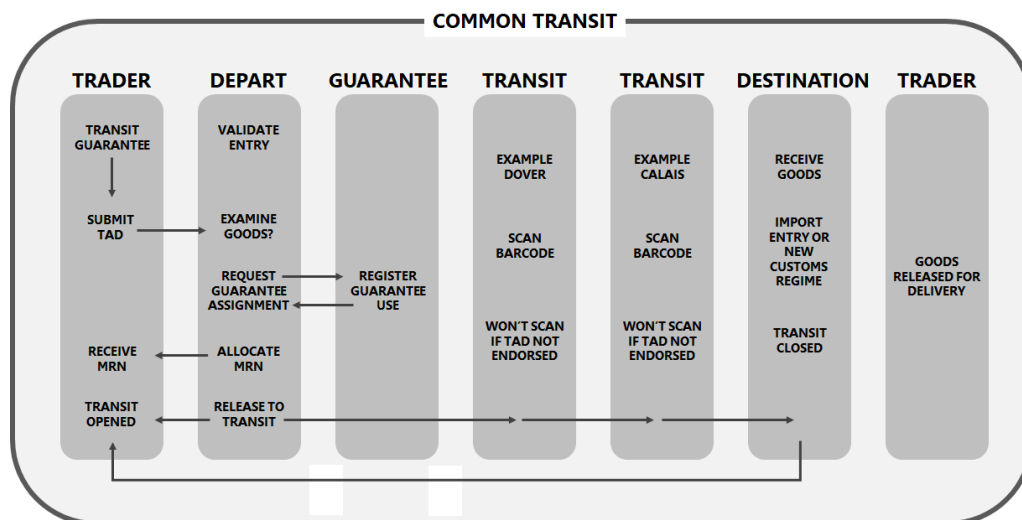
“...traders making use of the CTC would be able to temporarily suspend the payment of duties and taxes, and postpone customs clearance formalities until the goods reach their destination, rather than at the point of entry into the customs territory.” Pauline Bastidon, FTA Head of European Policy.

CTC is the Common Transit Convention, which the UK has now joined in its own right. There are basically two types of transit:-

UNION TRANSIT : goods moving between two EU Member States via another Customs territory

COMMON TRANSIT : Goods able to travel inland to their final destination for Customs clearance.

Before we look at each type of transit and the impact they might have on your business, it is important to understand the concept and rules surrounding transit.



The essential components of transit are that the document is opened in the sending territory (office of departure), passes through offices of transit (borders) and arrives at its intended destination (office of destination) where the document is closed.

The movement from A to B is secured by the transit guarantee shown on the document. Duty and VAT are in suspension until the transit document is closed or expires (9 days). If the document is not closed the goods are deemed to have entered the market without payment of duty/VAT and the transit guarantee holder becomes liable for the duty/VAT due.

The transit MRN can be tracked throughout its journey so it is possible to monitor the document and be aware if the transit is not correctly closed.

https://ec.europa.eu/taxation_customs/dds2/tra/transit_home.jsp?Lang=en

We mention 'transit guarantee' in passing but it is actually the most important part of the process. To obtain a transit guarantee you apply to Customs using the potential debt process under the CCG (Customs Comprehensive Guarantee) system. The amount of guarantee you require should cover the



duty/VAT liability for all goods you are likely to have in transit at any one time (that includes transits waiting to be closed). Figures in excess of £1million are not unusual. As a guide consider 20% of the value of goods in transit. You will soon arrive at an enormous number!

The CCG process will require you to lodge a bank guarantee equal to the amount of transit guarantee you require. Reductions (waivers) are possible and can be as much as 100% meaning that no bank guarantee is required. 100% waivers are virtually a certainty if the applicant is AEO approved. Other than that waivers are applied for and are based on the last 3 years financial performance of the applicant. We have handled many of these applications and have secured a 100% waiver in all but one case.

Having a transit guarantee (with or without waiver) is not the end of the matter. You need to consider the liability attached to each document. How sure can you be that the document will be closed correctly? The risks are not insignificant and need to be carefully managed. You should consider asking your client to provide, at least, an indemnity (see below) or perhaps a deposit which is refunded once the MRN shows as being correctly closed.

Indemnity example : In consideration of us giving an undertaking in respect of a Community Transit operation (including Union Transit and Common Transit) upon instructions from you, you hereby indemnify us in respect of all and every liability which may be imposed upon us in respect of the said transit operation, and you undertake to make payment to us forthwith and reimburse us in respect of any expenses incurred by us by way of duties, taxes, levies and any other charges whatsoever for which we may become liable as a result of giving such an undertaking on your behalf and instruction.

We are in negotiation with major insurers to under-write this risk for our clients and Consortium members. We had this in the past and intend to have it again in time for the end of the transition period.

One last item on the basic rules of transit; unlike an export EAD where the document is submitted and returns an MRN (Movement Reference Number) the process with transit is different. The document is submitted and returns an LRN (Local Reference Number). This is upgraded to MRN at the Office of Departure, typically the port of export. Customs at the exit ports are likely to be chaotic in the initial stages and should be avoided where possible. It is possible to apply for Authorised Consignor status. This allows you to submit to LRN level, wait for an agreed time for Customs to stop the process if they so wish (normally max one hour) and the document automatically upgrades to MRN and is authenticated. In short, the Authorised Consignor acts as the Office of Departure. To apply for Authorised Consignor status you must be the transit guarantee holder but you can nominate as many locations as you wish.

Authorised Consignor status will allow you to approach the port of exit in an already prepared state and should, if managed correctly, mean you can avoid the queues. We are working closely with Customs to be able to identify those that are pre-authenticated so they can be fast-tracked.

Okay, that's the basic rules done. It's a complicated process but a vital one. The transit manual is a comprehensive document and can be found here :

https://ec.europa.eu/taxation_customs/sites/taxation/files/transit_manual_en.pdf



UNION TRANSIT

Say for example you have goods moving from Republic of Ireland to The Netherlands, via GB. There is no export or import as such but there is a requirement for un-cleared goods to pass through GB without payment of duty or VAT. This is Union Transit. EU goods passing through non-EU territories.

The purpose of the transit document in this scenario is to allow goods to pass through GB without payment of duty/VAT and for them to arrive back in EU and be identifiable as EU goods.

With Union Transit the document is closed when the goods re-enter the EU at the second frontier. No import entry is required but the goods must be presented so that the transit can be concluded. There may still be a requirement for SPS (Sanitary and Phyto Sanitary) controls upon re-entry to EU, even though goods are EU origin and despatch.

The risk and liability with Union Transit are the same as with Common Transit. If the transit is not cleared correctly it could be inferred that the goods have entered the UK market (since there is no record of them leaving) and this will generate a demand for duty and VAT from the UK authorities.

COMMON TRANSIT

Common transit allows goods to pass through the border without import clearance at the border. Clearance takes place at the destination shown on the transit document. This must be an approved place, either an approved Office of Destination, Authorised Consignee or other, such as Temporary Storage Facility (ETSF). For a list of Customs offices across Europe (does not include Authorised Consignees or ETSF's):

https://ec.europa.eu/taxation_customs/dds2/col/col_consultation_location.jsp?Lang=en

In common transit the border becomes an office of transit. An export declaration is required (as goods leaving one Customs territory and destined for another) and likewise an import entry is required to close the transit, or a process to place the goods in to a new Customs procedure.

Common transit will typically be used when goods are, for example, moving from GB to IT via FR. Clearance will not take place in FR but rather the goods will transit FR for ultimate clearance in IT, hence the need for a transit. Movement of goods from GB to FR may or may not be transit. If the goods are being cleared at Calais (anticipated entry) then no transit but if goods are, for example, going to Paris Rungis to clear then a transit will be required (to allow the goods to pass through Calais un-cleared).

This creates a basic rule : If you are shipping from Dover to Calais (for example) you must have one of the following:-

1. UK export MRN and French import MRN
2. Common transit MRN
3. Union transit MRN (if goods came from Ireland for example)

If you have none of the above, you are not border ready and should seek assistance BEFORE approaching the port of exit. Make sure you have an MRN, not an LRN!



TRANSIT STATUS

We often come across confusion with the terms T1 and T2 status. It is often assumed that Union Transit is T2 and Common Transit is T1 – this is not the case. The type of transit and the status are two different things. T2 denotes that the goods in question are EU Community status (either EU origin or duty paid in the EU). T1 denotes that the goods are NOT EU status and have not been cleared in to the EU. It is possible, for example to have a T1 from Republic of Ireland to France if the goods originally entered Ireland from a third country and have not been cleared (put in to free circulation) on arrival.

WE CAN HELP

Should you require any assistance with CCG, Transit, Authorised Consignor, ETSF or other Customs approvals we are here when you need it. We have handled many of these applications, successfully in most cases and with minimal financial impact on your business in terms of bonds and guarantees required.

We hope you have found this guide helpful.

Robert Hardy

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