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CHAPTER THREE: PHYSICAL OPERATION IN ASEAN CUSTOMS TRANSIT SYSTEM

Objectives

To understand the procedure of ASEAN Customs Transit System performed by Principal and Authorised Transit Trader

SIMPLIFIED PROCEDURE DONE BY AUTHORISED TRANSIT TRADER

Formality at Origin Country / Country of departure

Authorised Transit Trader who acts as Principal, will have benefit of using a multiple journey guarantee and will be authorized to carry out transit operation without presenting the goods and the corresponding Customs transit declaration at the Customs office of departure including means of transport for the goods.

Before performing transit operation, guarantor shall submit guarantee to the office of guarantee and get the approval for multiple journey guarantees. The office of guarantee must keep evidence that it has accepted the guarantor's guarantee and make this available electronically to Customs offices of departure on request. (TA article 6(9))

The office of guarantee issues the Principal multiple journey guarantee certificates. In case of non electronic exchange data, Principal must provide guarantee certificate in paper to the Customs office of departure. (TA article 12(2 &4))

1) Authorised Transit Trader/Principal enters data into Customs transit declaration electronically which the content of Customs transit declaration shall be complied with the structure and particulars set out in a format to be agreed by relevant countries. (TA article 19(2), 23 (2))

The particulars of guarantee certificate shall be entered into Custom transit declaration and also have to be printed on Transit Accompanying Document.

It is important that Principal correctly complete the transit declaration in order to avoid the declaration being rejected.

If a transit declaration is rejected by the system, the reason of the rejection is notified to the Principal who will be allowed to make the necessary changes in the declaration or to submit a new declaration.

NOTE: at present ASEAN has yet concluded maximum number of items in each transit declaration.

2) Customs transit declaration shall indicate the time limit within which the Customs office of departure shall indicate an intention to carry out inspection. (TA article 19(4)

It also requires demonstrating which customs office(s) of departure will be responsible for transit operation as well as how and by when Customs office(s) may carry out any necessary controls before departure of the goods including measures to ensure the goods can be inspected and usage of special seals. (TA article 19(5)

3) Principal submits Customs transit declaration to Customs office of departure as indicated in Customs transit declaration electronically. (TA article 23(1). The Customs transit declaration shall be signed electronically or otherwise authenticated by Principal.

Customs transit declaration can also be authenticated by authorized representative of Principal who renders himself responsible for:

- a. the accuracy of the information given in the declaration;
- b. the authenticity of any documents attached and
- c. compliance with all his obligation relating to use of the ACTS procedure. (TA article 23(4)

4) Customs office of departure accepts and registers the Customs transit declaration if

- it contains all the necessary information,
- it is accompanied by all the necessary documents and
- the goods are presented to Customs if so required. (TA article 23 (5))

When the transit declaration is accepted, the system will generate a Movement Reference Number (MRN) or Register Number (**In EU case**) and the declaration becomes “Accepted”, thereafter the Customs office of departure will decide whether or not to inspect the goods before release.

The Customs office of departure shall response Principal electronically such acceptance. The Customs office of departure may approve and authorise the Principal to commence the operation without presentation of the goods at the Customs office of departure.

5) In case the Principal is authorized so, **if being requested**, the Principal must enter in the designated fields of the Customs transit declaration the details of prescribed itinerary, the period within which the goods must be presented at the Customs office of destination, the identification measures applied not later than on consignment of the goods and shall print wording of “Authorised Transit Trader – Presentation at Customs office of departure exemption” on the Transit Accompanying Document (TAD).

NOTE: In case of not being requested, Principal shall print only such wording on TAD. Not indicate (TA article 23(6))

6) However, if Customs office of departure checks a consignment before departure, Customs office of departure has to record the fact in the designated box of the Transit Accompanying Document and update the system. (TA article 23(7))

NOTE: in EU, after acceptance of the Customs transit declaration and Customs office of departure wish to examine the goods, in normal case, the goods will be examined in the places designated and during the hours appointed, however, if principal requests the examination can be carried out at other places or at other time.

If the control detects minor discrepancies, the Customs office of departure may make minor modification in the declaration data and allow release of the goods.

In case of detecting serious irregularity, the goods will not allow to release.

7) If Principal wishes to amend particulars of the Customs transit declaration after the customs transit declaration has been accepted, he can perform so with approval of Customs office of departure and the amendment should not affect the nature, type or official description of goods. (TA article 23(8)). The amendment cannot be done if

a. Customs office of departure informed the Principal that they intend to examine the goods,

b. Customs office of departure finds the particulars in Customs transit declaration are incorrect,

c. Goods have been released (TA article 23(9)).

8) Customs office of departure must retain the declaration and authorize release of the goods by issuing a Transit Accompanying Document to the Principal (TA article 24(1)), or in case Customs office of departure allows, Transit Accompanying Document can be printed out by Principals or other authorised computer system. (TA article 24(3))

9) Customs office of departure affixes the Customs seals or verifying the special seals. In case seal cannot be affixed, the goods will be allowed to release in normal case (TA article 25(2)).

The road vehicle, trailer and any container together with the goods and the Transit Accompanying Documents shall presented to the Customs office of departure for checking accuracy of the Customs transit declaration, if required. (TA article 25(1))

NOTE: In EU, Customs office of departure, having affixed the seals, shall enter the number in figure and the identification marks of the affixed seal in the declaration data.

The Customs office of departure can waive the requirement for sealing when the description of goods in the declaration data is sufficiently precise to ensure easy identification of the goods.

10) Customs office of departure may prescribe an itinerary by considering an economically justified route and any information supplied by the Principal and will notify the Principal by printing on the Transit Accompanying Document. (TA article 25(4)).

NOTE: In EU, the Customs office of departure, taking into account any relevant details communicated by the principal, will specify a prescribed itinerary by entering in the declaration data the details of the countries to be transited.

The prescribed itinerary may be changed during transit operation. Where there is a change in the itinerary, the carrier is obliged to make the necessary entries in the Transit Accompanying Document and present them together with the consignment to the customs authorities of the country in whose territory the means of transport is located. The competent authorities will consider whether the transit operation may continue, take any steps that may be necessary and endorse the Transit Accompanying Document.

11) The Customs office of departure shall set a time limit for completion of the transit operation by the presentation of the goods at the Customs office of destination by considering itinerary, current transport legislation and information provided by the Principal. This time limit shall be binding on competent authorities of the countries where transit operation is entered.

In case the time limit is exceeded in circumstances which are not the fault of the carrier or principal, the latter shall be deemed to have complied with the time limit prescribed.

NOTE: In EU, the Customs office of departure shall either enter, and/or endorse when in agreement with the time limit entered by the Principal, the time limit in the declaration data.

ASEAN has no mentioned where or which document to be entered.

12) After releasing the goods, the Customs office of departure shall transmit details of the ASEAN Customs transit declaration to the Customs office of destination using the 'Anticipated Arrival Record' message and to each Customs office of transit using 'Anticipated Transit Record' message.

NOTE: Before releasing the goods, the Customs office of departure shall check the existence and validity of the guarantee (including guarantee waiver, individual guarantee by a guarantor or vouchers or multiple guarantee) by communicating with office of guarantee either by electronic or paper.

In EU, the existence and validity of the guarantee is checked by the means of Guarantee Reference Number – GRN and access code. Customs office shall ask office of guarantee the integrity and validity of a guarantee and check the amount of guarantee whether is sufficient and valid in all countries where transit operation is arranged including the name of principal shown in guarantee.

The transit operation now is commenced.

Formality at Transit Countries (TA article 26)

For the purpose of control, when crossing the border, the means of transport, goods and Transit Accompanying Document with any list of items relating thereto must be presented at Customs office of transit by Carrier.

The Customs office of transit shall:

1. record the passage of the goods against the “Anticipated Transit Record” message received from the Customs office of departure. The passage of the goods will be notified to the Customs office of departure using the “Notification Cross Frontier” message. This notice can also be used by Customs offices of transit to verify that the goods were subsequently taken under Customs control. (TA article 5(2))
2. Check the seal if it is still intact and non-intrusive inspection.
3. not require routine examination en route of the means of transport (TA article 26(4))

NOTE: In EU, the Customs office of transit will register the MRN and register the border crossing and send the message Notification of Crossing Frontier to the Customs office of departure.

In ACTS, there is no mention on how the point of exit of the Customs office of transit should perform.

In EU, the goods and TAD can be presented to an office of transit other than the declared office of transit with some formality through computerization.

Formality at Destination Country

1. After the goods and means of transport has crossed the border of transit country to destination country, Carrier must present the goods and related transit documents to Customs office of destination, which shall be deemed to constitute the end of the transit operation. (TA article 28(1))
2. The Customs office of destination shall register the presented documents and record on the Transit Accompanying Document the date of arrival and enter the details of controls carried out and update the computerized system (TA article 28(2))

NOTE: In EU, The customs shall register the arrival and enter the following information in the system:

- a) MRN (the registration number),
- b) the date of arrival,
- c) in case of events en route (incidents, transshipment) all necessary information retrieved from the TAD (if not already recorded by a previous customs office).

3. The Customs office of destination shall use the ‘Arrival Advice’ message to notify the Customs office of departure on the arrival of the goods, which such transmission shall be not later than the following day after the goods are presented at the Customs office of destination. The Customs office of destination may retain a copy of Transit Accompanying Document as required. (TA article 5(3) and article 28(3))

4. The Customs office of destination shall endorse the Transit Accompanying Document and provide to the Principal upon request as for the purpose of ending of transit operation evidence and carrier will keep TAD as documentary proof. (TA article 29)

5. The Customs office of destination shall notify the Customs office of departure that the transit operation procedure has been terminated without delay by sending a “Control Result” message. (TA article 30 (2&3))

NOTE: In EU, before sending the control result to the Customs office of departure, the Customs office of destination shall enter the appropriate control result in the system:

a) Where the office of destination decides not to control, the code A2 “considered satisfactory” shall be entered.

In this case, Control result message must be sent the same day the goods are presented or at the latest on the working day following the day of presentation.

b) Where the office of destination decides to control, it shall check at least:

- the means of identifications : condition of seals affixed or goods description
- the time limit and the itinerary

If no irregularities are detected, the code A1 ‘satisfactory’ is entered in the system.

In this case, Control result message must be sent the same day the goods are presented or at the latest on the working day following the day of presentation or in exceptional cases within 6 calendar days following the day of presentation.

6. Principal’s agent will carry out customs formality with the customs office of destination or other customs office than the one entered in the Customs transit declaration.

The said customs office, then turn to be the Customs office of destination and shall notify the original Customs office of destination and the Customs office of departure accordingly. (TA article 28(4))

Discharge of Transit Operation shall be done by the Customs office of departure while the termination of a transit operation shall be certified by the Customs office of destination that the procedure has been terminated correctly. (TA article 31)

AUTHORISATION TO END TRANSIT OPERATION AT TRADER'S PREMISE (TA article 41)

Trader, a Principal who has been granted ATT status or Principal who can meet criteria as determined by domicile country where he is established may be authorized to take delivery of goods without presenting the goods and TAD to Customs office of destination.

The authorisation shall specify

- a) the Customs office(s) of destination who is responsible for the goods received by authorised consignee,
- b) how and by when, the authorised consignee inform the Customs office of destination the arrival of the goods in order that the office may carry out any necessary control,
- c) any goods to which the authorisation does not apply and which must be presented at the Customs office of destination,
- d) the arrangement for the trader to receive the “Anticipated Arrival Record” message from the Customs office of destination.

The competent authorities shall specify in the authorisation whether any action is required by the Customs office of destination before the trader may dispose of the goods.

When the goods arrive at place specified in the authorisation, the trader shall

- a) immediately inform the Customs office of destination of any excess quantities, deficits, substitutions or other irregularities such as broken seal,
- b) immediately and before unloading, send the Customs office of destination “Arrival Advice” message.

Transit operation is deemed to be ended up when accompanied documents and intact goods have been delivered within prescribed time to the authorised trader's premise.

Consignee as authorised Trader shall issue a receipt for each consignment delivered when being requested by Carrier.

Upon receiving the “Arrival Advice” message, the Customs office of destination shall determine whether inspection is required and perform the termination of the transit operation.

FALL-BACK PROCEDURES

The fall-back procedures based on use of paper documents can be performed Customs transit declaration when it could not implement the standard electronic procedures in whole or part due to breakdown of the computer system.

It can be applied when computerized systems of competent authorities, the Principal are not function and where the whole or part of the network between the Principal and authorities is not functioning. (TA article 32(1&2))

FORMALITY OF FALL-BACK PROCEDURES

When Principal declares in Customs Entry manually, the customs office of departure will check the correction and if accepted, the customs office of departure will issue Transit Accompanying Document to Principal for handing over carrier. To release the goods with or without presentation of goods is depending on Customs office of departure’s discretion.

Carrier will convey means of transport and goods enter into the territory of transit country where Customs office of transit will be presented the Transit Accompanying Document. Seal will be checked and TAD will be retained by the Customs office of transit. When the goods and means of transport arrive at destination country, Customs office of destination will check the seal and receive TAD from Carrier both original and additional TAD. Customs office of destination will stamp on the original TAD and return to the carrier.

All manual records must be input to the computerized system as soon as possible by the Principal, Customs offices of departure, transit and destination. (TA article 32(4,5,6))

INCIDENT DURING TRANSIT OPERATION (TA article 27)

Whenever that following cases happen during transit operation, the carrier shall make the necessary entries in the Transit Accompanying Document and submit with the consignment including any other related transit documents to the competent authority of the country where the means of transport is located:

- a) if the itinerary prescribed by the competent authorities is changed,
- b) if the seals are broken in the course of a transport operation for reasons beyond the carrier’s control,

- c) if goods are transferred to another similar means of transport for reasons beyond the carrier's control,
- d) in the event of imminent danger necessitating immediate partial or total unloading of the means of transport,
- e) in the event of any incident or accident capable of affecting the ability of the Principal or the carrier to comply with his obligation.

If the competent authorities consider that the transit operation can be carried out in the normal way, they shall endorse in TAD and update the computer system.

In case goods are transported via other customs office of transit than that notified to the Customs office of departure and mentioned in the declaration, the said office shall notify the original Customs office of transit by electronic.

NOTE: In EU, the practice of the above is similar, however, the rules are set that where only the tractor is changed during journey (without the goods being handled or transshipped), the registration number and nationality of the new tractor shall be entered in TAD, the information shall be registered in the system later by either the office of transit or by the office of destination.

It is also allowed the splitting of the consignment which is under customs control, such transit operation must be terminated and a new transit declaration must be completed for each part of the consignment. ASEAN has no mention this procedure.

POST TRANSIT PROCEDURE

ENQUIRY PROCEDURE TO ESTABLISH CORRECT TERMINATION OF A TRANSIT OPERATION

If the Customs office of departure have not received the "Arrival Advice" message within two days of time limit within which the goods must be presented at the Customs office of destination, the Customs office of departure shall initiate an enquiry procedure a request to confirm that the goods have not been presented by sending the Customs office of destination and the Customs office of destination shall reply to such requests within seven days. (TA article 33 (4)

If the Customs office of departure has not received the "Control Results" within six days after having received the "Arrival Advice" message, the Customs office of departure shall initiate an enquiry procedure by sending the Customs office of destination a reminder request for the "Control Results" message. (TA article 33 (1&3)

Since the termination of transit operation is when the "Control Results" message has been sent to the Customs office of departure from the Customs office of destination, therefore,

in case the Customs office of departure does not receive confirmation of termination within the prescribed time-limits (not fixed the number of days), it shall inform the Principal to submit the proof that transit operation has been terminated within 30 days after getting the notice. Such proof may be in form of certified documents issued by the competent authorities of the country of destination. If the competent authorities are satisfied with evidence, the transit operation is terminated. (TA article 34 (1& 2))

In case the goods have not been presented at the Original Customs office of destination, the Customs office of departure can terminate transit operation if the Principal provides satisfactory evidence and the Customs office of departure shall notified the original Customs office of destination within six days. (TA article 34(4) If the Customs office of departure conducts checking the proof and find correct termination under Customs control, it shall inform the Principal and notify the original Customs office of destination. (TA article 34 (5))

CUSTOMS DEBT AND RECOVERY

Customs Debt may incur if

- a) the goods are removed unlawful from the ACTS procedure,
- b) there has been a failure to fulfil one of the obligation of ACTS procedure or to comply with a condition governing the placing of goods under the ACTS procedure. (TA article 35 (1))

The competent authority shall claim for customs debt at the place where the irregularity occurred and if it is unable to identify which territory an irregularity was committed, the territory of the country where it was detected shall be deemed as the territory. (TA Article 35 (2)

Customs debt shall be responsible by Principal and guarantor shall be jointly and severally liable for the Customs debt as well as the person who unlawful removed the goods from the ACTS procedure, or any person who participated in such removal or aware such removal and any person who acquired or held the goods with the awareness at the time of acquiring or receiving the goods that it has been unlawfully removed from the ACTS procedure.

Principal and the guarantor cannot be relieved from their liability even though such persons are getting involved; however, the payment of Customs debt by those persons shall partly or completely discharge the liability of the Principal and/or the guarantor as the case may be.

The Customs debt shall be exempted if

- a) Such person concerned proved that a failure to fulfill obligation is due to the total destruction or irretrievable loss of goods by its nature,

- b) Force majeure,
- c) Consequence of authorization by the competent authorities,
- d) Goods are deemed as irretrievably lost and certified by the competent authorities that it cannot be used.

However, if the competent authorities deem that the goods have undergone a substantial change by its nature, force majeure or the consequence of authorization by the competent authorities, but a Customs debt remains, the competent authorities shall calculate this debt at the time debt is due by considering type, quality, quantity weight and customs value of such goods.

The Customs office of departure shall provide assistance to the claiming authority in notifying the Principal who is deemed to have incurred a liability for Customs debt. (TA article 36(8)) and shall advise the applicant authority of actions taken to assist in recovering the claim and of any outcome within sixty days from receipt of the request.

ADMINISTRATIVE ASSISTANCE FOR THE RECOVERY OF CLAIMS

The recovery of claims where these arise in the territory of a contracting party other than where the Principle is based shall be mutually assisted. The request shall indicate;

- a) the name and address of the person concerned;
- b) details of the transit operation concerned;
- c) the grounds for the claims;
- d) the amount to be claimed; and
- e) any other relevant information as required by the requested authority.

When being requested, the “requested authority shall promptly or within sixty days advise of action taken to the “applicant authority” for assistance in recovering the claim and of any outcome or any reasons for refusing assistance.

The requested authority shall suspend action if the Principal provides satisfactory evidence that the claim is being contested in the country of the applicant authority, alternatively the applicant authority may not make a request of assistance if the claim is being contested under their own national legislation.

The currency of recovery shall be stated in both currencies of applicant authority and requested authorities with the exchange rate on the date of request. In general, Principal or Guarantor shall transfer recovery to the applicant authority. In case Principal could not

pay debt, requested authority shall enact recovery proceedings against the Guarantor through his nominated national representative.

VEHICLES AND CONTAINERS FOR THE PURPOSE OF TRANSIT OPERATION

Road transit transport vehicle, combination of road transit transport vehicle and trailer or container carrying goods shall not be required to be declared as goods under the ACTS procedure. No guarantee shall be required for. (TA article 38)

However, if the Customs office of transit or destination requires the completion of formalities to ensure that the road vehicle, combination of road vehicle and trailer or container will be re-exported, such procedure can be done. (TA article 38(2))

MINOR DISCREPANCIES

Minor discrepancies in the observance of time-limits or routes prescribed shall be disregarded.

Minor discrepancies, such as typo error, between the particulars in TAD or Customs transit declaration and the actual contents of the means of transport shall not ipso facto prevent the discharge of the transit operation. (TA article 39)

EXCLUSION

Each Contracting party shall have the right to exclude temporarily or permanently from the use of the ACTS procedure any person guilty of a serious offence against Customs or other relevant laws or regulation applicable to the international transport of goods which in the judgment of the competent authorities justifies such action. This exclusion shall be notified within 7 days to the competent authorities of all other contracting parties where applicable to the relevant guarantor. (TA article 40)

CONFIDENTIALITY

Confidentiality shall not be allowed to access if the disclosure would

1. be contrary to the public interest as determined by national legislation,
2. be contrary to any of national legislation including but not limited to legislation protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions,
3. be impede law enforcement,
- 4 prejudice legitimate commercial interest, competitive position.

In case providing confidentiality to contracting party, such information shall be kept as confident and shall not disclose without permission of information provider without written consensus.