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TEL: (356) 2568 5 110

**Obligations Of The Holder Of The Union Transit Procedure And Of The Carrier And Recipient Of Goods Moving Under The Union Transit Procedure**

Malta, along with all other parties to the Common Transit Convention, has been investigating the high number of undischarged movements in NCTS. It has become clear that a major reason for non-discharge is that goods and/or the TAD are not being presented to Customs at the Office of Destination. In some cases, customs declarations are being made without reference to transit while in others no customs declarations are being made at all.

Some Consignees are not recognising the TAD as an official document and are not aware of their responsibilities according to the law.

This notice draws attention to the legal responsibilities of importers and carriers and explains what Customs are doing to promote compliance.

Article 233 of Regulation (EU) No 952/2013 (the Union Customs Code) provides that the principal is responsible for producing goods intact, within prescribed time limits, at the Customs Office of Destination. The Article goes on to provide that a carrier or recipient of goods who accepts goods knowing that they are moving under Community Transit is also responsible for meeting these obligations. The provisions are replicated in the Common Transit Convention.

Principals, carriers and consignees should ensure that they know when goods are moving under transit and make the necessary arrangements to comply with procedures. They should also ensure that both they and their employees are able to recognize a TAD as an official document. In a transit movement under the NCTS 'Normal Procedure', the TAD accompanies the goods and both it and the goods must be presented to Customs at the nominated Office of Destination. Customs retain the TAD and send an NCTS arrival message. If a TAD is included with paperwork received by the consignee there is a strong presumption that the transit movement has not been completed. In such circumstances the consignee should contact Customs immediately.

It is important to note that failure to fulfil these obligations may constitute offences in terms of the Union Customs Code (Reg (EU) No 952/2013) and/or of the Customs Ordinance (Chap. 37) and, consequently, subject to penalties/criminal offences.

**Alan Mamo**  
**Director Compliance & Systems**

**Excerpt from the Union Customs Code**

**Article 233**

Obligations of the holder of the Union transit procedure and of the carrier and recipient of goods moving under the Union transit procedure

1. The holder of the Union transit procedure shall be responsible for all of the following:

(a) presentation of the goods intact and the required information at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification;

(b) observance of the customs provisions relating to the procedure;

(c) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods.

2. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.

3. A carrier or recipient of goods who accepts goods knowing that they are moving under the Union transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification.

## **Excerpt from the Transit Manual**

### ***4.1.3.3. Office of destination***

Upon arrival, the goods must be presented at the office of destination or to the authorised consignee 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 opportunity to decide beforehand what controls are necessary.

When they enter the movement reference number (MRN) 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 at the office of departure and free the guarantees that were used for it.