

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 17 October 1989

Proposal for a
COUNCIL REGULATION (EEC)
on Community transit

(presented by the Commission)

EXPLANATORY MEMEORANDUM

1. The Community transit procedure, established in 1969 and at present regulated by Council Regulation (EEC) No 222/77 of 13 December 1976, (1) constitutes both the legal and technical basis for the movement of goods within the Community. This procedure was devised with a twofold objective in mind: on the one hand that of ensuring that goods are continuously and efficiently monitored and that the various charges payable on them are collected in all the Member States through whose territory the goods pass during carriage, and on the other hand that of simplifying and speeding up as far as possible, such carriage and of reducing its cost through the use of a single customs document and through the fact that a single operator is made responsible for the entire transport operation, that a single guarantee valid in each of the Member States concerned may, where appropriate, be lodged, that the customs authorities intervene solely at the points of departure and arrival and that all controls and formalities are eliminated during carriage.

As things stand at present, however, a transit advice note must still be lodged each time an internal frontier is crossed so that any irregularity can be traced to the Member State in which it arose.

2. The Community transit procedure applies to the movement of all goods within the Community and consists to that end of two distinct procedures: an external procedure (known as the "T1 procedure") applicable to third-country goods which have not been cleared through customs (non-Community goods), and an internal procedure (the "T2 procedure") applicable to Community goods.

(1) OJ No L 38, 9.2.1977, p. 1.

Structured in that way, the Community transit procedure aims not only to enable goods to be moved within the Community but also to identify and establish the customs status of those goods.

3. By virtue of Article 8a of the Treaty, as amended by the Single European Act, the internal market comprising an area without internal frontiers in which the free movement of goods, *inter alia*, is ensured must be progressively established by no later than 31 December 1992.

Consequently, it will have to be possible from that date to move any goods falling within the scope of the internal market provisions as defined by Article 9(2) of the Treaty (i.e. products originating in Member States and products coming from third countries which are in free circulation in Member States, otherwise known as "Community products") from one point in the Community to another without undergoing any formalities or customs control of any sort.

4. The Community transit procedure must therefore be substantially adapted in terms both of its scope and of its operating rules in order to take account of these new provisions.
5. The free movement of Community goods within the Community will have the effect of extensively eliminating the use of the internal Community transit procedure. This procedure should no longer be applicable other than in the case of:

- goods consigned to or via the EFTA countries, in view of the Community's commitments to those countries under the EEC-EFTA Convention on a common transit procedure.
 - goods which are subject to the internal Community transit procedure in application of a specific Community provision;
 - goods which, during the transitional period following the accession of Spain and Portugal to the Community, are traded between the Community of Ten and those two Member States and between those two Member States themselves and which do not benefit from the total abolition of customs duties and charges having equivalent effect or are subject to other measures as laid down in the Act of Accession.
6. The external Community transit procedure will clearly remain fully applicable since it relates essentially to the movement of third-country goods not in free circulation (non-Community goods).
7. The free movement of Community goods within the Community, which will have the effect of eliminating all controls and formalities, leads to the principle being applied that all goods which are moving within the customs territory of the Community are deemed a priori to have the status of Community goods, unless it is apparent or otherwise established that they do not enjoy that status.

8. However, it would appear necessary to lay down special rules for cases in which goods are carried by sea or air from one port or airport in the Community to another. This is because ports and airports constitute both an external and an internal frontier of the Community, and because it is necessary to distinguish between goods on the basis of their customs status where third-country goods are to be found on board a ship or aeroplane, having been loaded either in another port or airport of the Community, at sea, or during a call or stopover at a port or airport situated in a third country.

9. As regards the functioning of the external or internal Community transit procedure, in so far as the latter will still be applicable, removal of the internal frontiers will have the effect of eliminating all formalities linked to the crossing of those frontiers, and in particular the requirement that a transit advice note be lodged.

In this regard it is recalled that the Commission submitted to the Council a proposal for a Regulation concerning the abolition of lodgement of that document.

10. Moreover, since Regulation (EEC) No 222/77 on Community transit has been amended five times since its entry into force, it would appear appropriate to seize the opportunity offered by the reforms linked to the completion of the internal market to consolidate that Regulation and replace it with a new amended and updated Regulation.

11. The proposed reform outlined above is based on Article 100a of the Treaty, which means acting in cooperation with the European Parliament and securing the opinion of the Economic and Social Committee.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Regulation (EEC) No 222/77 (4), as last amended by Regulation (EEC) No 1674/87 (5), established a Community transit procedure applicable, in principle, to all movements of goods within the Community, the aim of which is to facilitate the carriage of those goods by limiting formalities and controls solely to the points of departure and destination and by reducing administrative action, in particular when goods cross internal frontiers, to the minimum necessary;

Whereas the Community transit procedure comprises a procedure for external transit applicable essentially to the movement of goods from third countries not in free circulation in the Community, and a procedure for internal transit applicable to the movement of goods originating in the Community or in free circulation in the Community;

(1)

(2)

(3)

(4) OJ No L 38, 9.2.1977, p. 1.

(5) OJ No L 157, 17.6.1987, p. 1.

Whereas Article 8a of the Treaty establishing the European Economic Community provides for the progressive establishment over a period expiring on 31 December 1992 of the internal market comprising an area without internal frontiers in which the free movement of goods, inter alia, is ensured;

Whereas the application of that provision has the effect of eliminating all controls and all formalities in respect of goods coming under the internal market and moving within the Community, and consequently of rendering, in principle, the procedure for internal Community transit devoid of any purpose; whereas it is necessary, however, during the transitional period following the accession of Spain and Portugal to the Community, to maintain that procedure with regard to trade between the Community of Ten and those two countries and between those two countries themselves in goods which do not yet benefit from the total abolition of customs duties and charges having equivalent effect or remain subject to other measures laid down in the Act of Accession;

Whereas this situation is without prejudice to certain specific measures expressly laid down or to be laid down with a view to the introduction of a procedure for interlinked bonded warehouses relating to excise duties;

Whereas the movement of third-country goods not in free circulation in the Community remains subject to customs requirements intended to guarantee that they are put to their correct use and that any duties payable on them are collected; whereas, consequently, the procedure for external Community transit remains fully applicable to such goods;

Whereas owing to the specific characteristics of the movement of goods by sea or by air from one port or airport situated in the customs territory of the Community to another, special measures should be laid down to ensure, with regard to scheduled services, that goods move as if they crossed from one Member State to another by land;

Whereas it is necessary to guarantee the uniform application of the provisions relating to the movement of goods within the Community and, to that end, to provide for a Community procedure enabling implementing provisions to be adopted within appropriate time limits; whereas it is necessary to organize, through a consultative committee, close and efficient cooperation in this respect between the Member States and the Commission;

Whereas Regulation (EEC) No 222/77 has been amended on various occasions; whereas it would therefore appear expedient to seize the opportunity offered by the reform of the Community transit procedure to reformulate the rules in the matter,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

1. A Community transit procedure, applicable in the situations referred to in paragraphs 2 and 3 to the movement of goods from one point to another within the customs territory of the Community, is hereby established. This procedure shall comprise an external Community transit procedure and an internal Community transit procedure.

2. The procedure for external Community transit shall apply to the movement of the following goods:
 - a) goods which do not satisfy the conditions laid down in Article 9(2) of the Treaty establishing the European Economic Community;

 - b) goods coming under the Treaty establishing the European Coal and Steel Community which, under the terms of that Treaty, are not in free circulation in the Community;

- c) goods which, though satisfying the conditions laid down in Article 9(2) of the EEC Treaty, are subject to a Community measure entailing their export to a third country, and for which the corresponding customs export formalities have been completed. The Commission shall lay down, in accordance with the procedure laid down in Article 43, the cases where this provision shall apply.
3. The procedure for internal Community transit shall apply to the movement of goods which satisfy the conditions laid down in Article 9(2) of the EEC Treaty:
- a) are consigned from one point in the Community to another through the territory of one or more EFTA countries or are destined for or consigned from one or more EFTA countries;
 - b) are consigned in accordance with the methods of administrative cooperation intended, during the transitional period, to ensure, in trade between the Community as constituted on 31 December 1985, on the one hand and Spain or Portugal, on the other hand, as well as in trade between those two new Member States, the free movement of goods which do not yet benefit from the total abolition of customs duties and charges having equivalent effect or remain subject to other measures laid down in the Act of Accession;
 - c) are consigned in cases where a Community provision has expressly provided for the application of that procedure.

Article 2

Subject to the provisions of Article 7(2) and of Article 38, all goods moving within the customs territory of the Community shall be deemed to be Community goods unless it is established that they do not enjoy Community status.

Article 3

Goods moving under the external Community transit procedure pursuant to Article 1(2)(c), and which have not left the customs territory of the Community shall be treated as Community goods, on condition that it is certified that the export declaration and customs formalities corresponding to the Community measures which required the goods to leave the said customs territory as well as, where appropriate, the effects of those formalities have been cancelled.

Article 4

1. By the way of derogation from Article 1, the Community transit procedure shall not apply to goods placed under either the conditional exemption or the temporary importation procedure and which are moving in accordance with one of those procedures.

2. The provision of Article 2 shall not apply to goods moving under a conditional exemption or temporary importation procedure, unless the Community status of such goods is duly established.

Article 5

Provided that implementation of the Community measures applicable to the goods is ensured, Member States may introduce simplified procedures, by means of bilateral or multilateral agreements, which shall conform to the framework provisions to be drawn up and which shall be applicable to traffic between designated undertakings.

Such agreements shall be communicated to the Commission and to the other Member States.

Article 6

1. By way of derogation from Article 1, the Community transit procedure shall not apply to the carriage of goods:
 - a) under cover of TIR carnets (TIR Convention) provided that:
 - (i) such carriage began or is to end outside the Community, or

- (ii) such carriage relates to consignments of goods which must be unloaded in the territory of the Community and which are conveyed with goods to be unloaded in a third country;
 - b) under cover of ATA carnets (ATA Convention) used as a transit document, provided that such carriage began or is to end outside the Community;
 - c) under cover of the Rhine Manifest (Article 9 of the revised Convention for the navigation of the Rhine).
 - d) under cover of the form 302 provided for in the Convention between the States party to the North Atlantic Treaty on the status of their forces, signed in London on 19 June 1951.
2. The provisions of Article 2 shall not apply to goods moving under one of the procedures referred to in paragraph 1, unless the Community status of such goods is duly established.

Article 7

1. In the absence of an agreement between the Community and a third country whereby goods moving between two points in the Community may be carried through that country under the Community transit procedure, or establishing a common transit procedure applicable to such cases:
- a) the Community transit procedure shall apply to goods carried through the territory of that third country only if carriage through that country is effected under cover of a single transport document drawn up in a Member State and the operation of that procedure is suspended in the territory of the third country;

(b) goods may, by way of derogation from Article 6(1)(a) and (b), be carried through the territory of that third country under cover of TIR or ATA carnets even if such carriage began and is to end within the Community.

2. The provisions of Article 2 shall not apply to goods moving from one point in the Community to another through the territory of a third country.

Article 8

For the purposes of this Regulation:

(a) "principal" means:

the person who, in person or through an authorized representative, indicates, by lodging the appropriate declaration, that he wishes to place the goods referred to in the declaration under the Community transit procedure and thereby makes himself responsible to the competent authorities for:

- the accuracy of the information contained in the declaration;
- the authenticity of the attached documents;
- compliance with all the obligations inherent in placing goods under that procedure.

(b) "means of transport" means, in particular:

- any road vehicle, trailer, semi-trailer,
- any railway coach or wagon,
- any boat or ship,
- any aircraft,
- any container;

- c) "office of departure" means the office where the Community transit operation begins;
- d) "office of transit" means
- the customs office at the point of exit from the customs territory of the Community when the consignment is leaving that territory in the course of a Community transit operation via a frontier between a Member State and a third country;
 - the customs office at the point of entry into the customs territory of the Community when the goods have crossed the territory of a third country in the course of a Community transit operation;
- e) "office of destination" means the office where goods placed under the Community transit procedure must be produced to complete the Community transit operation;
- f) "office of guarantee" means the office where a comprehensive guarantee, within the meaning of Article 21(2) or a flat-rate guarantee, within the meaning of Article 25, is lodged.

TITLE II

Procedure for external Community transit

Article 9

1. All goods that are to be carried under the procedure for external Community transit shall be the subject, in accordance with the conditions laid down in this Regulation, of a T1 declaration. A T1 declaration means a declaration on a form corresponding to the specimen form drawn up in accordance with Council Regulation (EEC) No 679/85 (1).

2. The form referred to in paragraph 1 may be supplemented, where appropriate, by one or more supplementary forms corresponding to the specimen of the supplementary bis form drawn up in accordance with Regulation (EEC) No 679/85.
3. The T1 and supplementary T1 bis forms shall be printed and completed in one of the official languages of the Community accepted by the competent authorities of the Member State of departure. Where necessary, the competent authorities of the Member State concerned in the Community transit operation may require translation into the official language or one of the official languages of that Member State.
4. The T1 declaration shall be signed by the principal or by his authorized representative, and at least three copies thereof shall be produced at the office of departure.
5. Supplementary documents appended to a T1 declaration shall form an integral part thereof.
6. The T1 declaration shall be accompanied by the transport document.

The office of departure may dispense with production of this document at the time of completion of the formalities. However, the transport document shall be produced whenever required by the customs authorities or any other competent authority in the course of carriage.

7. Where the Community transit procedure in the Member State of departure succeeds another customs procedure, reference shall be made on the T1 declaration to that procedure or to the corresponding customs documents.

Article 10

The principal shall be responsible for:

- (a) production of the goods intact at the office of destination by the prescribed time limit and with due observance of the measures adopted by the competent authorities to ensure identification;
- (b) observance of the provisions relating to the Community transit procedure and to transit in each of the Member States in the territory of which carriage of the goods is effected.

Article 11

- 1. The same means of transport may be used for the loading of goods at more than one office of departure and for unloading at more than one office of destination.
- 2. Each T1 declaration shall include only the goods loaded or to be loaded on a single means of transport for carriage from one office of departure to one office of destination.

Article 12

- 1. The office of departure shall accept and register the T1 declaration, prescribe the period within which the goods must be produced at the office of destination, and take such measures for identification as it considers necessary.

2. Having entered the necessary particulars on the T1 declaration, the office of departure shall retain its copy and return the others to the principal or his representative.

Article 13

1. As a general rule, identification of the goods shall be ensured by sealing.

2. The following shall be sealed:

(a) the space containing the goods, where the means of transport has been approved under other customs rules or recognized by the office of departure as suitable for sealing;

(b) each individual package, in other cases.

3. Means of transport may be recognized as suitable for sealing on condition that:

(a) seals can be simply and effectively affixed to them;

(b) they are so constructed that no goods can be removed or introduced without leaving visible traces of tampering or without breaking the seals;

(c) they contain no concealed spaces where goods may be hidden;

(d) the spaces reserved for the load are readily accessible for customs inspection.

4. The office of departure may dispense with sealing if, having regard to other possible measures for identification, the description of the goods in the T1 declaration or in the supplementary documents makes them readily identifiable.

Article 14

1. The copies of the T1 document returned to the principal or to his representative by the office of departure shall accompany the goods.

2. Each Member State shall provide the Commission with a list of the customs offices authorized to deal with Community transit operations, stating at what hours they are open.

The Commission shall communicate this information to the other Member States.

Article 15

Copies of the T1 document shall be produced in each Member State as required by the customs authorities or any other competent authority, who may satisfy themselves that the seals are unbroken. The goods shall not be inspected unless some irregularity is suspected which could result in abuse.

Article 16

The carrier shall give a transit advice note to each office of transit.

Article 17

Where goods are loaded or unloaded at any intermediate office, copies of the T1 document returned by the office(s) of departure shall be produced.

Article 18

1. The goods described on a T1 document may, without a new declaration being made, be transferred to another means of transport under the supervision of the customs authorities or any other competent authority of the Member State in whose territory the transfer is made. In such a case, the customs authorities or other competent authority shall record the relevant details on the T1 document.
2. The customs authorities or other competent authority may, subject to such conditions as they shall determine, authorize such transfer without supervision.

Article 19

1. If seals are broken in the course of carriage without the carrier so intending, he shall, as soon as possible, request that a certified report be drawn up in the Member State in which the means of transport is located, by the customs authority or any other competent authority. The authority concerned shall, if possible, affix new seals.
2. In the event of an accident necessitating transfer to another means of transport the provisions of article 18 shall apply.

3. In the event of imminent danger necessitating immediate unloading of the whole or part of the load, the carrier may take action on his own initiative. He shall record such action on the T1 document. The provisions of paragraph 1 shall apply in such a case.

4. If, as a result of accidents or other incidents arising in the course of carriage, the carrier is not in a position to observe the time limit referred to in Article 12, he shall inform the competent authority referred to in paragraph 1 as soon as possible. That authority shall then record the relevant details on the T1 document.

Article 20

1. The office of destination shall record on the copies of the T1 document the details of controls carried out and shall without delay send a copy to the office of departure and retain the other copy.

2. A Community transit operation may be concluded at an office of destination other than that mentioned in the T1 document. That other office shall then become the office of destination.

3. Where the goods are produced at the office of destination after expiry of the time limit prescribed by the office of departure and where this failure to comply with the time limit is due to circumstances which are explained to the satisfaction of the office of destination and which are beyond the control of the carrier or the principal, the latter shall be deemed to have complied with the time limit prescribed.

Article 21

1. In order to ensure collection of the duties and other charges which each Member State is authorized to collect in respect of goods passing through its territory in the course of Community transit, the principal shall furnish a guarantee, except as otherwise provided in this Regulation.
2. The guarantee may be comprehensive, covering a number of Community transit operations, or individual, covering a single Community transit operation.
3. Subject to Article 26(2), the guarantee shall consist of the joint and several guarantee:
 - of a credit institution authorized in accordance with Article 3 of Directive 77/780/EEC (1), or
 - of an insurance company authorized to provide this type of guarantee in accordance with Articles 6 and 7 of Directive 73/239/EEC (2), or
 - of any other natural or legal third person established in the Community and approved as guarantor by the Member State in which the guarantee is provided.

Article 22

1. The guarantee referred to in Article 21(3) shall be in the form of one of the specimen guarantees shown as Specimen I or II annexed to this Regulation, as appropriate.

(1) OJ No L 322, 17.12.1977, p. 30.

(2) OJ No L 228, 16.8.1973, p. 3.

2. Where the provisions laid down by national law, regulation or administrative action, or common practice so require, each Member State may allow the guarantee to be in a different form, on condition that it has the same legal effects as the documents shown as specimens.

Article 23

1. A comprehensive guarantee shall be lodged with an office of guarantee.
2. The office of guarantee shall determine the amount of the guarantee, accept the guarantor's undertaking and issue an authorization allowing the principal to carry out, within the limits of the guarantee, any Community transit operation irrespective of the office of departure.
3. Each person who has obtained authorization shall, subject to the conditions laid down by the competent authorities of the Member States, be issued with one or more copies of a guarantee certificate. The design of the guarantee certificate shall be determined in accordance with the procedure laid down in Article 43.
4. Reference to the guarantee certificate shall be made in each T1 declaration.

Article 24

The office of guarantee may revoke the authorization if the conditions under which it was issued no longer exist.

Article 25

1. Each Member State may accept that the guarantor referred to in Article 21 guarantees, by a single guarantee and for a flat-rate amount of 7 000 ECU in respect of each declaration, payment of duties and other charges which may become chargeable in the course of a Community transit operation carried out under his responsibility, whoever the principal may be. If carriage of the goods presents increased risks, having regard, in particular, to the amount of duties and other charges to which they are subject in one or more Member States, the flat-rate amount shall be fixed by the office of departure at a higher level.

The guarantee referred to in the first subparagraph shall conform to Specimen III in the Annex.

2. The exchange values in national currencies of the ECU to be applied to the provisions for Community transit shall be calculated once a year.
3. The following shall be determined under the procedure laid down in Article 43:
 - (a) movements of goods which may give rise to an increase in the flat-rate amount, and the conditions under which such an increase shall apply;
 - (b) the conditions under which the guarantee referred to in paragraph 1 shall apply to any particular Community transit operation;
 - (c) the detailed rules for applying the exchange values in national currencies of the ECU.

Article 26

1. An individual guarantee covering a single Community transit operation shall be lodged with the office of departure and shall be valid throughout the Community. The office of departure shall determine the amount of the guarantee.
2. The guarantee may be a cash deposit lodged with the office of departure. In that case, it shall cover the whole Community transit operation and shall be returned when the T1 document is discharged at the office of departure.

Article 27

Without prejudice to provisions prescribing other cases of exemption, the principal shall be exempted by the competent authorities of the Member States from payment of duties and other charges in the case of:

- (a) goods which have been destroyed as a result of *force majeure* or unavoidable accident duly proven, or
- (b) officially recognized shortages arising from the nature of the goods.

Article 28

The guarantor shall be released from his obligations when the T1 document has been discharged at the office of departure.

Where the guarantor has not been notified by the competent authorities of the Member State of departure of the non-discharge of the T1 document, he shall likewise be released from his obligations upon expiry of a period of 12 months from the date of registration of the T1 declaration.

Where, within the period provided for in the second subparagraph, the guarantor has been notified by the competent authorities of the non-discharge of the T1 document, he shall, in addition, be informed that he is or may be liable to pay the amounts for which he is liable in respect of the Community transit operation in question. This notification must reach the guarantor not later than three years after the date of registration of the T1 declaration. Where no such notification has been made before the expiry of the aforementioned time limit, the guarantor shall likewise be released from his obligations.

Article 29

1. Where it is found that, in the course of or in connection with a Community transit operation, an offence or irregularity has been committed in a particular Member State, the recovery of duties or other charges which may be chargeable shall be effected by that Member State in accordance with its provisions laid down by law, regulation or administrative action, without prejudice to the institution of criminal proceedings.
2. Where it is found that, in the course of or in connection with a Community transit operation, an offence or irregularity has been committed without it being possible to establish where it was committed, such offence or irregularity shall be deemed to have been committed in the Member State in which it is detected.
3. Where the consignment has not been produced at the office of destination and the place at which the offence or irregularity was committed is unknown, such offence or irregularity shall be deemed to have been committed:
 - in the Member State within whose jurisdiction the office of departure falls, or

- in the Member State within whose jurisdiction the office of transit at which a transit advice note has been lodged falls,

unless the principal furnishes proof to the satisfaction of the competent authorities that the transit operation concerned was in a regular manner or of the place at which the offence or irregularity was in fact committed.

4. Where, in the absence of such proof, the offence or irregularity is still deemed to have been committed in the Member State of departure or in the Member State within whose jurisdiction the office of transit falls, the duties and other charges shall be collected by that Member State at the highest rates applicable in the Community to the goods which comprise the consignment in question.
5. Where it is subsequently ascertained in which Member State the offence or irregularity was, in fact, committed, the charges (with the exception of import duties) to which the goods are subject in that Member State shall be transferred to it by the Member State which initially collected them, and any overpayment shall be reimbursed to the person who paid the said charges.

Article 30

1. T1 documents issued in accordance with the rules and the identification measures taken by the competent authorities of one Member State, shall have the same legal effects in other Member States as T1 documents issued in accordance with the rules and the identification measures taken by the competent authorities of each of those Member States.

2. Findings of the competent authorities of a Member State made when inspections are carried out under the Community transit procedure shall have the same force in other Member States as findings of the competent authorities of each of those Member States.

Article 31

Where necessary, the competent authorities of the Member States shall communicate to one another all findings, documents, reports, records of proceedings and information relating to transport operations carried out under the Community transit procedure and to irregularities and offences in connection with that procedure.

TITLE III

Procedure for internal Community transit

Article 32

1. All goods that are to be carried under the procedure for internal Community transit shall be the subject of the declaration referred to in Articles 4 and 6 of Regulation (EEC) No 678/85 (1) and be entered on a form corresponding to the specimen form drawn up in accordance with Council Regulation (EEC) No 679/85.
2. The form referred to in paragraph 1 may be supplemented, where appropriate, by one or more supplementary forms corresponding to the specimen of the supplementary form drawn up in accordance with Regulation (EEC) No 679/85.

(1) OJ No L 79, 21.3.1985, p. 1.

3. The internal Community transit declaration shall bear the symbol T2.
4. The provisions of Title II shall apply *mutatis mutandis* to the procedure for internal Community transit.

Article 33

1. Any person satisfying the conditions laid down in paragraph 2 may obtain from the competent authorities in the Member State where he is established, subject to the limits laid down in paragraph 3, a guarantee waiver for internal Community transit operations he carries out from any Member State of departure and through the territory of any Member State.
2. The guarantee waiver referred to in paragraph 1 shall be granted only to persons:
 - (a) who are resident in the Member State where the waiver is granted, and
 - (b) who are regular users of the Community transit procedure, and
 - (c) whose financial situation is such that they can meet their commitments, and
 - (d) who have not committed any serious infringement of customs or fiscal laws, and
 - (e) who undertake to pay, upon the first application in writing by the competent authorities of the Member States, any sums claimed in respect of their Community transit operations.

3. The guarantee waiver granted in accordance with paragraphs 1 and 2 shall not apply to internal Community transit operations involving goods:
 - (a) whose total value exceeds 50 000 ECU, or
 - (b) which present increased risks on account of the level of duties and other charges to which they are subject in one or more Member States.
 4. The authorities granting the waiver shall issue to each person obtaining it one or more copies of a guarantee waiver certificate. Where the guarantee waiver is applied, reference to the certificate shall be made on the corresponding T2 declaration.
 5. The authorities granting the guarantee waiver shall cancel it:
 - (a) in the event of a serious irregularity committed by the beneficiary as the principal in a Community transit operation;
 - (b) where any of the conditions laid down in paragraph 2 is no longer satisfied;
 - (c) where the beneficiary has not complied with the undertaking given in accordance with paragraph 2(e).
- Each Member State shall notify the other Member States of any cancellation of a guarantee waiver.
6. The following shall be determined in accordance with the procedure laid down in Article 43:
 - (a) the specimen undertaking to be entered into by the person concerned in accordance with paragraph 2(e);

- (b) the goods to which the guarantee waiver does not apply in accordance with paragraph 3(b);
- (c) the specimen guarantee waiver certificate referred to in paragraph 4 and the conditions for its use.

TITLE IV

Special provisions applying to certain modes of transport

Article 34

1. The railway authorities of the Member States shall be exempt from the requirement to furnish a guarantee.
2. Article 16 shall not apply to the carriage of goods by rail. The records kept by the railway authorities shall be substituted for transit advice notes.

Article 35

1. No guarantee need be furnished for the carriage of goods on the Rhine and the Rhine waterways.
2. Each Member State may dispense with the furnishing of a guarantee in respect of the carriage of goods on other waterways situated in its territory. It shall transmit details of the measures taken to that effect to the Commission, which shall inform the other Member States.

Article 36

1. Where goods to which the Community transit procedure is applicable in accordance with Article 1 are carried by sea, that procedure shall be compulsory solely for goods loaded at a port in one Member State and bound for a port in another Member State.
2. No guarantee need be furnished to cover the sea journey.

Article 37

1. Where goods to which the Community transit procedure is applicable in accordance with Article 1 are carried by air, that procedure shall be compulsory solely for goods loaded at an airport in one Member State and bound for an airport in another Member State.
2. No guarantee need be furnished to cover the journey by air.

Article 38

1. Article 2 shall apply solely to goods carried by ship or aircraft operating scheduled services between two or more ports or airports situated in the customs territory of the Community without passing through ports or airports situated outside that territory; in this regard, the Member States shall, by means of bilateral or multilateral agreements, draw up the list of scheduled services for the carriage of goods between their ports and airports.

2. Goods carried by ship or aircraft operating services other than those described in paragraph 1 shall be deemed to be non-Community goods unless their Community status is duly established.

Article 39

1. Where goods to which the Community transit procedure is applicable in accordance with Article 1 are carried by pipeline, that procedure shall be compulsory.
2. No guarantee need be furnished for the carriage of goods by pipeline.
3. Article 2 shall apply to goods carried by pipeline.

TITLE V

Special provisions applying to postal consignments

Article 40

1. By way of derogation from Article 1, the Community transit procedure shall not apply to postal consignments (including postal packages).
2. Article 2 shall apply to goods contained in consignments sent from a post office situated in the Community unless a label of a type to be prescribed is affixed to the packages or the accompanying documents. The competent authorities of the Member State of dispatch shall be responsible for affixing such a label or causing it to be affixed to the packages and to the accompanying documents where the goods do not satisfy the conditions laid down in Article 9(2) of the EEC Treaty.

TITLE VI

Provisions relating to the application
of this Regulation

Article 41

The Committee on the Movement of Goods, hereinafter referred to as "the Committee", set up pursuant to Article 15 of Regulation (EEC) No 678/85 shall be responsible for the implementation of Articles 42 and 43.

Article 42

The Committee may examine any question relating to the application of this Regulation submitted to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 43

The Commission shall, after consulting the Committee, adopt the provisions necessary:

- (a) for the application of this Regulation;
- (b) for the adaptation of the Community transit procedure so that certain Community measures entailing control of the use or destination of goods subject to it may be applied;
- (c) for the simplification of formalities under the Community transit procedure or for their adaptation to requirements arising from the particular nature of certain goods;
- (d) for the management and discharging of Community tourist operations by public or private computerized systems.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

TITLE VII

Final provisions

Article 44

Each Member State shall inform the Commission of the provisions which it adopts for the implementation of this Regulation.

The Commission shall communicate this information to the other Member States.

Article 45

1. Regulation (EEC) No 222/77 is hereby repealed.

2. In all Community instruments other than this Regulation in which reference is made to Regulation (EEC) No 222/77, to Articles thereof or to implementing Regulations adopted under the procedure laid down in Article 57 thereof, such references shall be treated as references to this Regulation or to implementing Regulations made thereunder.

TITLE VIII

Entry into force

Article 46

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1993.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

COMMUNITY TRANSIT PROCEDURE

COMPREHENSIVE GUARANTEE

(Comprehensive guarantee covering several Community transit operations)

I. Undertaking by the Guarantor

1. The undersigned¹
.....
resident at²
.....
hereby jointly and severally guarantees, at the office of guarantee of
up to a maximum amount of
in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany,
the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian
Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese
Republic, the United Kingdom of Great Britain and Northern Ireland, any amount for which the
principal³
.....
may be or become liable to the abovementioned States by reason of infringements or
irregularities committed in the course of or in connection with Community transit operations
carried out by that person, including duties, taxes, agricultural levies and other charges -
with the exception of pecuniary penalties - as regards principal or further liabilities,
expenses and incidentals.

2. The undersigned undertakes to pay upon the first application in writing by the competent
authorities of the States referred to in paragraph 1 and without being able to defer payment
beyond a period of 30 days from the date of application the sums requested up to the limit of
the abovementioned maximum amount, unless he or she or any other person concerned establishes
before the expiry of that period, to the satisfaction of the competent authorities, that the
Community transit operation was conducted without any infringement or irregularity within the
meaning of paragraph 1.

The competent authorities may, upon request of the undersigned and for any reasons recognized
to be valid, defer the period within which the undersigned is obliged to pay the requested
sums beyond a period of 30 days from the date of application for payment. The expenses
incurred, from granting this additional period, and in particular any interest, must be
calculated in such a way that the amount is equivalent to that which would be charged to that
end on the money market or financial market in the State concerned.

This amount may not be reduced by the sums already paid in pursuance of this undertaking
unless recourse is had to the undersigned in respect of a Community transit operation which
began before the receipt of the earlier application for payment or during the 30 days
following that receipt.

1 Surname and forenames, or name of firm.
2 Full address.
3 Surname and forenames, or name of firm, and full address of the
principal.

3. This undertaking shall be valid from the day of its acceptance by the office of guarantee. This guarantee may be cancelled at any time by the undersigned, or by the State in the territory of which the office of guarantee is situated.

The cancellation shall take effect on the 16th day after notification thereof to the other party.

The undersigned shall remain responsible for payment of the sums which become payable in respect of Community transit operations covered by this undertaking which began before the date on which the cancellation took effect, even if the demand for payment is made after that date.

4. For the purpose of this undertaking the undersigned gives his address for service,¹ as²

.....

and, in each of the other States referred to in paragraph 1, as care of:

State	Surname and forenames, or name of firm, and full address
.....
.....
.....
.....
.....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at on

.....

(Signature)³

II. Acceptance by the office of guarantee

Office of guarantee

Guarantor's undertaking accepted on

.....

(Stamp and signature)

¹ If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the other States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

² Full address.

³ The signature must be preceded by the following in the signatory's own handwriting: 'Guarantee for the amount of', with the amount written out in full.

SPECIMEN 11
COMMUNITY TRANSIT PROCEDURE
GUARANTEE FOR A SINGLE OPERATION

(Guarantee covering a single Community transit operation)

I. Undertaking by the guarantor

1. The undersigned¹

.....
.....
resident at²

hereby jointly and severally guarantees, at the office of departure of
up to a maximum amount of
in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany,
the Hellenic Republic, The Kingdom of Spain, the French Republic, Ireland, the
Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the
Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland,

any amount for which the principal³
may be or become liable to the abovementioned States by reason of infringements or
irregularities committed in the course of or in connection with the Community transit
operation carried out by that person from the office of departure of
to the office of destination of
in respect of the goods designated hereinafter, including duties, agricultural levies and
other charges – with the exception of pecuniary penalties – as regards principal or further
liabilities, expenses and incidentals.

- 2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the States referred to in paragraph 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the competent authorities, that the Community transit operation was conducted without any infringement or irregularity within the meaning of paragraph 1.**

The competent authorities may, upon request of the undersigned and for any reasons recognized to be valid defer the period within which the undersigned is obliged to pay the requested sums beyond a period of 30 days from the date of application for payment. The expenses incurred, from granting this additional period, and in particular any interest, must be calculated in such a way that the amount is equivalent to that which would be charged to that end on the money market or financial market in the State concerned.

- 3. This undertaking shall be valid from the day of its acceptance by the office of departure.**

¹ Surname and forenames, or name of firm.
² Full address.
³ Surname and forenames, or name of firm, and full address of the principal.

4. For the purposes of this undertaking, the undersigned gives his address for service¹ as² and, in each of the other States referred to in paragraph 1, as care of:

State	Surname and forenames, or name of firm, and full address
.....
.....
.....
.....
.....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at on

.....
(Signature)³

II. Acceptance by the office of departure

Office of departure

Guarantor's undertaking accepted on to cover the operation referred to in the T1/T2⁴ document issued on under No

.....
(Stamp and signature)

¹ If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the other States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

² Full address.

³ The signature must be preceded by the following in the signatory's own handwriting: "Guarantee".

⁴ Delete as appropriate.

SPECIMEN III
COMMUNITY TRANSIT PROCEDURE
FLAT-RATE GUARANTEE
(Flat-rate guarantee system)

I. Undertaking by the guarantor

1. The undersigned¹
.....
resident at²
.....
hereby jointly and severally guarantees, at the office of guarantee of
in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany,
the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the
Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the
Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland, any amount for
which a principal may be or become liable to the abovementioned States by reason of
infringements of irregularities committed in the course of or in connection with Community
transit operations including duties, taxes, agricultural levies and other charges - with the
exception of pecuniary penalties - as regards principal or further liabilities, expenses and
incidental charges with regard to which the undersigned has agreed to be responsible by the
issue of guarantee vouchers up to a maximum amount of 7 000 ECU per guarantee voucher.

2. The undersigned undertakes to pay upon the first application in writing by the competent
authorities of the States referred to in paragraph 1 and without being able to defer payment
beyond a period of 30 days from the date of application the sums requested up to 7 000 ECU
per guarantee voucher, unless he or she or any other person concerned establishes before the
expiry of that period, to the satisfaction of the competent authorities, that the Community
transit operation was conducted without any infringement or irregularity within the meaning
of paragraph 1.

The competent authorities may upon request of the undersigned and for any reasons recognized
to be valid, defer the period within which the undersigned is obliged to pay the requested
sums beyond a period of 30 days from the date of application for payment. The expenses
incurred, from granting this additional period, and in particular any interest, must be
calculated in such a way that the amount is equivalent to that which would be charged to that
end on the money market or financial market in the State concerned.

3. This undertaking shall be valid from the day of its acceptance by the office of guarantee.

This guarantee may be cancelled at any time by the undersigned, or by the State in the
territory of which the office of guarantee is situated.

The cancellation shall take effect on the 16th day after notification thereof to the other
party.

The undersigned shall remain responsible for payment of the sums which become payable in
respect of Community transit operations covered by this undertaking which began before the
date on which the cancellation took effect, even if the demand for payment is made after that
date.

¹ Surname and forenames, or name of firm.
² Full address.

SPECIMEN III

4. For the purposes of this undertaking, the undersigned gives his address for service,¹ as²
and, in each of the other States referred to in paragraph 1, as care of:

State	Surname and forenames, or name of firm, and full address
.....
.....
.....
.....
.....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at on

.....

(Signature)³

II. Acceptance by the office of guarantee

Office of guarantee

Guarantor's undertaking accepted on

.....

(Stamp and signature)

¹ If, in the law of the State, there is no provision for giving addresses for service, the guarantor shall appoint, in each of the States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

² Full address.

³ The signature must be preceded by the following in the signatory's own handwriting: 'Guarantee'.

COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

- I. What is the main reason for introducing the measure?
Substantial adaption of the Community transit procedure to take account of new provisions resulting from the abolition of Internal frontiers, as laid down in Article 8a of the Treaty
- II. Features of the businesses in question. In particular:
- a) Are there many SMEs?
Yes, all those firms which have intra-Community trade
- b) Have any mergers been noted in any regions which are:
- i) eligible for regional aid in the Member States?
No
- ii) eligible under the ERDF?
- III. What direct obligations does this measure impose on businesses?
^{No}
None.
- IV. What indirect obligations are local authorities likely to impose on businesses?
None.
- V. Are there any special measures in respect of SMEs?
Please specify.
No.
- VI. What is the likely effect on:
- a) the competitiveness of businesses?
Saving of time due to the reduction in administrative formalities.
- b) employment?
The consequences on employment are, generally, those of the abolition of internal frontiers.
- VII. Have both sides of industry been consulted?
Please indicate their opinions.
The Customs Consultative Committee has been informed of the adaptation of the Community transit procedure as a necessary step towards completion of the Internal Market.





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