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# CUSTOMS LAW

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## МИТНЕ ПРАВО

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### THE EU TRANSIT PROCEDURES AND REGIONAL INTEGRATION: THE CASE OF UKRAINE

### ПРОЦЕДУРИ ТРАНЗИТУ В ЄС ТА РЕГІОНАЛЬНА ІНТЕГРАЦІЯ: ПРИКЛАД УКРАЇНИ

#### ABSTRACT

The research evaluates the current EU legal framework for customs transit procedure with a view of promotion of regional integration through extension of transit procedures to EU neighbor countries. The article analyzes the formation of EU secondary legislation and its international agreements relating to introduction and application of transit procedure. Particularly, the relation of emerging of common transit procedure to the demands of Article X of GATT and early developments of TIR convention is reveled. The transition from bi-lateral to multilateral approach to extension of EU customs rules on transit is also emphasized. The typology of EU

legal orders (including EU transit, Common transit, TIR transit, etc.) for application of transit procedure is reviewed with the focus at the high level of integration between such legal orders. The issue is considered as an example of Europeanization of customs law and administrative procedural law in general. Besides, the specific case of Ukrainian steps towards implementation of the Common transit procedure is analyzed. The comparative analyses of the relevant provisions of the Convention on Common Transit Procedure and the Law of Ukraine implementing such procedure shows the main gaps and possible issues that may become obstacles to successful joining the above mentioned Convention.

**The key words:** EU transit procedure, Common transit procedure, customs law, New Computerized Transit System, Association Agreement, Ukraine

### **Introduction**

Developments of EU transit procedures throughout the entire history of EU Customs Union reflected the major changes in common policy towards simplification and standardization of customs formalities. For example, the adoption of Single Administrative Document (SAD) in 1988 led to changes in customs legislation “required to enable optimum adaptation of the EU wide customs service to the needs of global trading environment” (Jana, 2017, p. 60). And the development of ITC for Community transit was “inextricable intertwined with the evolution of policy, legislation and procedures in EU customs union” (Jana, 2017, p. 59). Practically the common transit procedure reflected the deepening level of integration between EU member states so far it demanded enhanced standardization of customs administrations’ workflow. Such standardization included legislative and procedural aspects, as well as technical requirements that traditionally were viewed as solely national issues. In this context the case reflects efforts of EU and Member states to respond “the challenge of ensuring uniform application of EU customs law and equal implementing conditions throughout EU” (Limbach, 2015, p. 40).

Further more, the common transit procedure possesses a great importance “in the wider European region context, given the ease of movement between the EU and the wider region, and given the objective of fostering regional integration” (European Union Customs Transit including arrangements with neighboring countries under the Common Transit Convention. WTO Committee on Trade Facilitation). Hence, extending of the common transit rules to non-EU states plays an important regional integrative role, both in the field of economic integration and in the field of approximation of non-EU countries’ national laws to the standards of EU legislation. This traditionally

covers implementation of series of Association Agreements between EU and neighbors countries, which, in particular, is the case for Ukraine.

Finally, for non-EU stated the issue may be viewed in a wider context of conformity with international standards for customs procedures. In particular, it is stipulated by WTO officials, that the common transit procedure is in line with Article 5 GATT (Freedom of Transit) as well as with the WTO Trade Facilitation Agreement, including in particular Articles 6 (fees and charges), 7 (pre-arrival processing; separation of release from final determination of customs duties), 8 (e.g. border agency cooperation, alignment of opening hours), 10 (formalities and documentation requirements), 11 (freedom of transit), and 12 (customs cooperation) (European Union Customs Transit including arrangements with neighboring countries under the Common Transit Convention. WTO Committee on Trade Facilitation). Thus, the successful adoption of the common transit procedure by any third country will be automatically mean the fulfillment of obligations on implementation of relevant provisions of the WTO Trade Facilitation Agreement.

### **Methodology**

The paper is based on analyses of legal norms including EU secondary legislation and its international treaties governing the application of transit procedures. The issue is reviewed in historical context to show the roots of common transit procedure in international instruments of the 1940<sup>th</sup>–1950<sup>th</sup> and thus its coherence with general international standards of customs procedures. Besides the compilation of main legal orders for EU transit procedures is made to acknowledge the level of internal integration of different types of transit procedures applicable in EU. To that end the research utilizes the approach to EU customs law as the one of pioneering sectors of the Europeanization of administrative law. The specific case of Ukraine's efforts to join the Convention on common transit procedure is also considered from the point of view of legislative approximation.

### **1. The Early Developments of The Common Transit Rules**

Up to the time, when the EEC Customs Union was introduced, all member-states were the parties to international agreements dealing with the issues of freedom of transit. Apparently, Article V:2 GATT generally granted “freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit

to or from the territory of other contracting parties.” Other paragraphs of Article V GATT provided a set of clarifications and limitations of above-mentioned freedom of transit, hence establishing a general framework for developing any common transit procedures for the Community member States.

In addition most of EEC countries were original parties to the very first TIR Agreement of 16 June 1949, which provided provisional application of the Draft International Customs Convention on the International Transport of Goods by Road. In accordance with the said Agreement, contracting parties undertook to apply on a reciprocal basis the provisions of the proper Draft Convention, prepared by the UN Economic Commission for Europe for a period for three years, that could be renewed for a further period of one year, and so on, until the signing of the Convention itself. Thus, the TIR system was launched for a number of European countries on 1 January 1950, when 1949 TIR Agreement entered into force. The provisional application of the Draft TIR Convention was very important for clarifying respective procedures and technical requirements that resulted with the series of modifications to the Draft Convention, made by additional Protocols.

Also, considering the leading role of UNECE and its Inland Transport Committee in developing the TIR Convention, it was naturally, that the majority of future Community Member States became parties to the first TIR Convention, which was signed in 1959 and entered into force in 1960. Thus, certain level of standardization of customs transit procedures, including the experience of using the single document forms for transit, had been achieved by EEC members even before the initial creation of EEC customs union with its relevant secondary legislation.

The common transit procedure was introduced into EU customs legislation back in 1969 due to the Council Regulation No. 542/69 on Community transit. Though, the subject issue was not included into the first stages of approximation of customs legislation of member states it was stipulated that institution of a Community transit procedure should be made “in order to avoid a succession of national customs procedures in connection with the carriage of goods.” Such avoidance was primary focused on three major issues: simplifications for traders, more effective supervision of transit of goods and more rational use of available facilities at entry points. The said Regulation from the start operated with the concepts of internal and external transit procedures that were to cover

virtually all patterns for movement of goods under customs supervision except temporary admission. Indicatively, it was the first time where the symbols T1 and T2 were assigned for non-Community and Community goods under transit procedure respectively.

However, the EEC Treaty did not provide Community with powers to set up a transit procedure, which could have direct effect in Member States. Thereby, the procedure was established in accordance with Art. 235 of the EEC Treaty, as an action of the Community, that was necessary to achieve one of its objectives in the framework of the common market. Thus, Member States were obligated to issue the necessary rules to implement the Common transit procedure at national level.

The further extension of the Community transit system was made through the series of international agreements. In 1972 the Community transit system was extended by two Agreements to cover trade with Austria and Switzerland, as members of the European Free Trade Association (EFTA) (Transit Manual, 2015). These agreements were considered to be the crucial instruments for facilitating trade between North and South Europe. Thus, they went through series of modifications. For example, Austria and ECC launched an agreement of 11 May 1975 which entered into force on 1 January 1977 regulated the conditions of passage through Austria and warehousing in Austria of goods traded between the Community and Greece and Turkey; and in October 1976 a new trilateral agreement (Austria, Switzerland and ECC) was initiated to extend the system of Community transit to relations between Austria and Switzerland (The European Community and the Countries of the EFTA. Europe Information (1979) Commission of the European Community. No 15).

The latter Agreement between Austria, Switzerland and ECC was signed on 17 May 1977 and entered into force on 17 July 1977. The Agreement of 1977 played very important role as a principal instrument for progressively extending Community customs legislation over third countries dealing even with relations not directly concerning Community or its subjects. The Article 2 of the said Agreement maintained two basic rules. The first one extended the application of the ECC – Switzerland and of the ECC – Austria Transit Agreements “to the movement of goods between two points situated in the Community via both Swiss territory and Austrian territory.” Such clauses may be viewed merely as the certain simplification for external Community transit. But the second rule of was much more sophisticated; so far it has demanded that the same provisions “may also apply to any

other carriages of goods within both Swiss and Austrian territory.” In other words, from that time virtually all transit procedures of these two countries were to be covered on Community transit rules, regardless if transportations in question were somehow related to ECC or were not.

The multilateral approach to the extension of the Community transit system was enhanced in 1987, when the bilateral transit treaties were replaced by two multilateral conventions between European Community and EFTA countries. The first Convention on a common transit procedure introduced the general legal framework for transit of EU goods through territories of EFTA countries; the second one was focused on simplification of customs and other border formalities, apparently including the usage of the Single Administrative Document for goods declaration, which had a huge impact upon standardization of information exchange either between customs and traders and between customs and other state authorities. From that time the development of current EU transit system has been started.

## **2. Modalities of Transit Procedures Applicable to Goods Crossing EU Frontiers**

Despite the general ideas of the procedural unification, the EU transit system is rather complex, because “there are operating within Union a number of different transit regimes with their extensive, substantive, and procedural rules” (Lyons, 2018, p. 400).

In general, considering the provisions of Articles 226 and 227 of the Union Customs Code (UCC) there are seven major transit legal regimes, established in EU, that are applicable both to an external and internal transit:

- Union transit procedure, governed by the *regime communautaire* rules applicable in the customs territory of the EU, which covers EU Member States, as well as Andorra and San Marino under the customs union agreements between the EU and these countries;
- Common transit procedure, which is established by the Convention on a common transit procedure and the SAD Convention applicable to transit between the EU member states of the European Free Trade Association EFTA (Iceland, Norway and Switzerland), Liechtenstein forming a customs union with Switzerland, Turkey, the former Yugoslav Republic of Macedonia and Serbia that have acceded to the Convention;
- TIR transit procedure, based on the TIR Convention, which is practically applied by 57 countries, including all EU Member States;

- Transit procedure for a movement of goods in accordance with the ATA Convention and the Istanbul Convention;
- Transit procedure under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- North Atlantic Treaty transit procedure, established for goods, transported by NATO forces by the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- Postal transit procedure in accordance with the acts of the Universal Postal Union.

On top of that, most of the procedures have additional internal distinguishes regarding goods with different customs statutes, or goods originated or destined for different territories, or different transit routs and means of transport.

Also, it should be noted a close interconnection between Union transit procedure and Common transit procedure so far in many cases the same goods are viewed as ones placed under both procedures. For example, the internal Union transit procedure is applied only in the case if “such a possibility is provided for in an international agreement” (Article 227(1)(a) UCC), which, in particular, includes the Convention on Common transit procedure. Or Article 293(1) of Implementing Regulation provides that “where the holder of the goods uses the common transit procedure... goods circulating within the customs territory of the Union shall be deemed to be placed under the Union transit procedure in accordance with Article 1(2) of the Convention on a common transit procedure” (Implementing Regulation (EU) 2015/2447).

The Union transit basically includes three types of procedures: one procedure for external transit (T1) and two procedures for internal transit (T2 and T2F).

The Union’s external transit procedure (T1) covers the movement of goods through the customs territory of the EU and applies to the following goods:

- non-Union goods moving across the EU with the application of exemptions from customs duties and quantitative restrictions (Article 226(1) UCC);
- Union goods, which have undergone customs clearance for export to third countries in the case of application of certain tariff or non-tariff measures of the common commercial policy related to the export of such

goods (export refunds in accordance with the Common Agricultural Policy, end-use or destination countries control measures, refund of import duties) (Article 189(1) of Delegated Act – DA);

- Union goods exported to a third country and moved within the customs territory of the Union under a TIR operation or under a transit procedure in accordance with the ATA Convention or the Istanbul Convention (Article 189:3 DA);

- the Union goods destined for Andorra, subject to the Common Agricultural Policy.

The Union internal transit (T2) procedure applies to Union goods transported by land in the following cases:

- movement of goods between parts of the customs territory of the EU through the territory of a third country (Article 227 UCC);

- transportation of goods between the customs territories of the EU and San Marino or Andorra that are not covered by the customs unions between the EU and San Marino and Andorra respectively.

The Union internal transit procedure (T2F) applies to Union goods exported from or destined to «special fiscal territories» through the customs territory of the EU, if the country of destination is different from the country of importation (Art. 188 DA).

The list of such «special fiscal territories» includes: the Aland Islands, the Canary Islands, the Channel Islands, French Guiana, Guadeloupe, Martinique, Mount Athos, Reunion.

Convention on Common transit procedure provides two types of transit procedures for movement of goods between EU and other Contracting parties, or between other Contracting parties themselves:

- T1 Common transit procedure (which is external transit from the EU prospective) may be applied to all goods in such movement “regardless of the kind and origin” (Articles 1(1) and 2(2));

- T2 Common transit procedure (which is internal transit for EU) applies only to the EU goods at the EU customs territory if such goods are not subjects to customs export formalities for the grant of refunds for export; and to EU goods at the territories of the other Contracting parties, if such goods have arrived under the T 2 procedure (Article 2(3)).

Different legal orders governing the EU internal and external transit procedures additionally include specific requirements for the application of information and communication technologies for customs formalities towards goods in transit. Furthermore, the transit was the first procedure



for which the EU introduced common requirements for electronic records, and accordingly, the New Computerized Transit System (NCTS) became the first pan-European customs automated information system, which is mandatory for customs administrations, traders and carriers. In particular, currently all transit of goods under Union and Common transit procedures, as well as under TIR transit procedure, is subject to obligatory performing of customs formalities in electronic form.

The NCTS was initially launched by the Parliament and the Council in Decision No. 105/2000/EC of 17 December 1999, which demanded that “the computerisation of the Transit system... must be fully operational by 30 June 2003”. In 2005 Council assumed that the NCTS had been proven to be reliable and satisfactory both for customs administrations and for economic operators, thus it was no longer economically justified to permit formalities to be carried out on the basis of a transit declaration made in writing, the use of which implies that the customs authorities are obliged to enter manually the declaration data into the computerised system. Hence, in accordance to Council Regulation (EC) No. 837/2005, since July 1, 2006 it became obligatory to lodge transit declarations at the office of departure using a data-processing technique.

Besides, due to Article 273 (1) of Implementing Regulation the obligatory usage of electronic transit system was extended to the exchange of TIR carnet data for TIR operations (Implementing Regulation (EU) 2015/2447).

The only exceptions whereas the customs authority may accept a paper-based transit declaration (Articles 294 and 291 of Implementing Regulation) are events of a temporary failure of:

- the electronic transit system;
- the computerised system used by the holders of the procedure for lodging the Union transit declaration by means of electronic data-processing techniques;
- the electronic connection between the computerised system used by the holders of the procedure for lodging the Union transit declaration by means of electronic data-processing techniques and the electronic transit system.

### **3. Common Transit Procedure's Extension: The Case of Ukraine**

The Common transit procedure, established by the 1987 Common Transit Convention, proved to be not merely the instrument for

simplification of transit custom formalities, but also become a means for enhancing operational approximation to EU standards for customs and other border agencies of its neighbor countries. Furthermore, joining the Common Transit Convention had become an essential step for deepening economic integration from free trade zones to full EU membership or at least to comprehensive customs unions with EU. For example, such passes were followed by majority of EFTA countries that were original contracting parties to 1987 Convention or “Vysegrad” countries that joined Common transit system in 1996. At the same time development of customs union between EU and Turkey also leded the latter to joining Common transit system in 2012.

Moreover, due to EU accession criteria under the Chapter 29: Customs Union there is a mandatory requirement for membership – to fully implement the Community Transit Procedures requirements including developing an automated transit system compatible to the NCTS (Strategy for Implementation of Common Transit System NCTS (New Computerised Transit System) for The Republic of Macedonia).

Annex XV to Chapter 5 of Association Agreement between EU and Ukraine on approximation of customs legislation specifically addresses the issues of application of Common Transit and SAD legal frameworks. In particular it sets Ukraine’s obligations to incorporate in national legislation provisions of Convention of 20 May 1987 on the Simplification of Formalities in Trade in Goods and Convention of 20 May 1987 on a common transit procedure (as revised). That was to be done within 1 year following the entry into force of Association Agreement. The respective deadline expired on September 1, 2018.

It should be noticed, that Association Agreement uses term “incorporate in national legislation” due to specific procedure of accession to respective Conventions.

In accordance with Article 15a (1) of the Convention on a Common Transit Procedure, and with Article 11a (1) of the Convention on Simplification of Formalities on Trade in Goods, an accession of third countries may be done only on invitation, which follows a decision of the Joint Committees of Conventions. Practically, such invitation can be obtained only after a period of unilateral application of respective rules and procedures by a third country, which in the case of Convention on a Common Transit Procedure has to be accompanied with developing national ITC components for using NCTS to perform customs formalities

related to Community transit procedure, as it is prescribed by Article 4 and 5 of Appendix I to the Convention. A thorough assessment is conducted of how all relevant criteria are met, including interoperability and inter-connectivity, legislation, administrative capacity and equivalence of concepts, before a new Contracting Party is invited to join (European Union Customs Transit including arrangements with neighboring countries under the Common Transit Convention. WTO Committee on Trade Facilitation).

Ukrainian Parliament has adopted on September 12, 2019, the Law on the Regime of Joint Transit and Introduction of National Electronic Transit System No. 78-IX (hereinafter – Law 78-IX). This Law is to come in force on March 25, 2020, and will be in act till the joining the Convention on Common Transit Procedure.

Article 2 (1) of the Law 78-IX stipulates that the purposes of this Law are:

- the implementation of the Conventions on Common Transit Procedure and Simplification of Formalities on Trade in Goods;
- and the introduction of an electronic transit system for the electronic exchange of data between the Ukrainian customs authorities under the common transit regime.

Holders of the procedure are given a right to choose whether to place goods under transit procedure in accordance with the Customs Code of Ukraine or under common transit procedure in accordance with the Law 78-IX (Article 2 (3)). The latter is considered as “a kind of the customs transit procedure”.

Generally, the provisions of the Law 78-IX reproduce basic rules of the Convention on Common Transit Procedure (Table 1).

Manifestly the Law 78-IX omits the issues related to the requirements for operation of electronic transit and application of specific documents for the common transit procedure (As it is, in particular, established in the Appendixes II and III to Convention on Common Transit Procedure). It even misses general definitions concerning the electronic declaration and usage of NCTS. To that end the Law 78-IX just makes a direct reference to the Convention on Common Transit Procedure.

In particular, such references, made in provisions of the Law 78-IX, concern:

- the definition of electronic transit system, which is defined as “system applied by the Contracting Parties to the CPT Convention” (Art. 1 (1) (1));

**Table 1 – The Compaction of main chapters of Annex I  
to the Convention on Common Transit procedure  
and of the Law of Ukraine No. 78-IX**

<b>APPENDIX I CTP</b>	<b>LAW OF UKRAINE No. 78-IX</b>
<b>Subject matter and scope of the procedure and definitions (Art. 1–3)</b>	<b>Definition of terms, scope of the common transit regime (Art. 1–6)</b>
<b>General provisions on the common transit procedure (Art. 4–7)</b>	
<b>Obligations of the holder of the procedure and of the carrier and the recipient of goods moving under the common transit procedure (Art. 8)</b>	
<b>Guarantees (Art. 9–13.)</b>	<b>General provisions for the application of a financial guarantee (Art. 19–25)</b>
<b>Miscellaneous provisions (Art. 14–17)</b>	
<b>Individual guarantee (Art. 18–23)</b>	<b>Individual guarantee (Art. 26–28)</b>
	<b>The financial guarantor (Art. 29–30)</b>
<b>Means of transport and declarations (Art. 24–29a)</b>	—
<b>Formalities at the customs office of departure (Art. 30–41.)</b>	<b>Customs formalities at the customs office of departure (Art. 6–12)</b>
<b>Formalities during transport (Art. 42–44)</b>	<b>Customs formalities during the transportation of goods (Art. 13)</b>
<b>Formalities at the customs office of destination (Art. 45–47)</b>	<b>Customs formalities at a customs of destination (Art. 14–17)</b>
<b>Formalities related to the end of the procedure (Art. 48–52)</b>	
<b>Common transit procedure for moving goods by fixed transport installation (Art. 53–54)</b>	<b>Features of moving goods by stationary means of transportation (Art. 18)</b>
<b>General provisions concerning simplifications (Art. 55–73)</b>	<b>Special transit simplifications and their types (Art. 31–38)</b>

APPENDIX I CTP	LAW OF UKRAINE No. 78-IX
<b>Comprehensive guarantee and guarantee waiver</b> (Art. 74–80)	<b>Application of special transit simplifications</b> (Art. 39–49)
<b>Use of seals of a special type</b> (Art. 81–83)	
<b>Authorized consignor status</b> (Art. 84–86)	
<b>Authorized consignee status</b> (Art. 87–90)	
<b>Paper-based common transit procedure for goods carried by rail</b> (Art. 91–107)	–
<b>Paper based common transit procedure for goods carried by air...</b> (Art. 108–111b)	–
<b>Debt and debtor</b> (Art. 112–115)	<b>Customs debt</b> (Art. 50–55)
<b>Action against the debtor or the guarantor</b> (Art. 116–118)	

– the obligation of Ministry of finance of Ukraine to establish “forms of electronic messaging, as well as the procedure for the exchange of such messaging between customs authorities and enterprises” taking in account the relevant CPT Convention provisions (Art. 3 (2));

– the demand for Customs Service of Ukraine to establish “the forms and data sets of electronic messages” taking into account the provisions of the CTP Convention (Art. 3 (2));

– the rule that declaration of goods in the common transit procedure shall be made “using the customs declarations of specific types corresponding to the types of customs declarations” established by the CTP Convention (Art. 6 (1)).

Thus, prospects of full-scale introduction of the common transit procedure are still uneven, because of the great dependence from the prompt development of respective secondary legislation, which is still drafted. At least on February 28, 2020 the Ministry of Finance of Ukraine just announced the plans to discuss with stakeholders a draft of an act, which is needed to introduce the NCTS (Dlia hromadskoho obhovorennia predstavleno proiekt Postanovy KMU, neobkhidnoi dlia zaprovadzhennia AEO ta NCTS).

## Results and Discussion

Despite the general adopted approach, that the common transit procedure is an alternative transit procedure that may be used instead of respective

transit regime provided by the Customs Code of Ukraine (CCU), there a number of issues that may become obstacles to its effective application.

The biggest concern is based on the possibilities of integration of the new common transit procedure into the existing system of customs formalities in Ukraine. As it was mentioned above, in EU and other Common transit countries the common transit procedure is highly integrated with other transit legal orders (for example with TIR transit) and even with other customs procedures.

On the other hand, despite the high enough level of standardization with international standards in the field, Ukrainian customs procedures still differ in many aspects from the EU ones. Hence, the application of common transit procedure involves the introduction of the amount of new subject matter, i.e. “customs debt” or “individual guarantee” that have not been used in Ukrainian legislation yet. The issue sounds even more complex, considering that in the other types of customs procedures the customs debt and respective type of guarantee will not be used even after the Law 78-IX comes in force. So the strong concerns if Ukrainian customs authorities can effectively apply an absolutely different transit legal orders may arise.

Besides, the Law 78-IX includes certain provisions that may question the application of the key features of the common transit procedure, namely the simplification of the procedure, lodging electronic declaration and performing all customs formalities in electronic form.

For example, this related to the presentation of supplementary documents to customs declaration at the customs office of departure. The Article 30 of CTP Convention permits customs authorities to allow such documents not to be presented to the customs office of departure. Instead the wording of respective provision of the Law 78-IX is rather different, stipulating, “at the request of the customs office of departure, the holder of procedure shall submit the [supplementary] documents” (Art. 6 (3)). Which is not encouraging customs officials to provide simplifications. Besides the same provision provides possibility of submitting documents “in the form of electronic or paper documents or their electronic (scanned) copies, certified by a qualified electronic signature of the regime entity or his authorized person”. However, NCTS standards permit only using EDI messaging, which raises the question of relevance of scanned copies of paper documents to such standards, as well as an issue of interoperability between existing Single Automated Information System of Ukrainian Customs and NCTS.

## Conclusion

It is possible to state that the initial EU transit procedures emerged from the GATT rules on freedom of transit and the experience of standardization within the frameworks of the first TIR agreements. The important milestones in the EU transit developments were the extension of common transit frameworks to the third countries in 1972; the start of application of the common transit procedure to the transportation of goods between solely third countries in 1977; and the transition from bi-lateral to multilateral approach for international instruments on common transit in 1987.

Despite the existence of six different legal orders for transit procedure within EU legislation, all types of the procedure are highly integrated with respect to the basic terms and conditions, and internal processes of national customs administrations for performing customs formalities. Furthermore different legal orders for the transit in many cases are paralleled or overlapping even for transportation of the same goods.

From prospects of third countries, the application of the Common transit procedure has proved itself as the one of demands for effective functioning of free trade zones with EU, and at the same time – precondition for negotiations of acceptance of new members to EU.

The Ukrainian attempt to implement the rules of the Convention on Common Transit Procedure is experiencing a number of flaws so far. In particular, the issue includes significant differences in basic terms, conditions and formalities between the common transit procedure and the other customs procedures in Ukrainian legislation. On top of that Ukraine is far behind schedule for implementation of the Common transit procedure, and is still uneven about drafting relative secondary legislation and solving technical issues of introduction national applications of the NCTS.

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## АНОТАЦІЯ

**Кріль Р.В. Процедура транзиту в ЄС та регіональна інтеграція: приклад України. – Стаття.**

У цьому дослідженні здійснено оцінку діючої законодавчої бази ЄС щодо митного транзиту з метою сприяння регіональній інтеграції шляхом розширення транзитних процедур на сусідні країни ЄС. У статті проаналізовано формування вторинного законодавства ЄС та його міжнародних угод, що стосуються запровадження та застосування транзитної процедури. Зокрема, виявлено взаємозв'язок виникнення загальної транзитної процедури з вимогами статті X ГАТТ

та ранніми розробками конвенції МДП. Також підкреслюється перехід від двостороннього до багатостороннього підходу до розширення митних правил ЄС щодо транзиту. Переглядається типологія правових норм ЄС (включаючи транзит ЄС, загальний транзит, транзит МДП тощо) для застосування транзитної процедури з акцентом на високому рівні інтеграції таких правових норм. Це питання розглядається як приклад європеїзації митного права та адміністративного процесуального права загалом. Крім того, проаналізовано конкретні кроки України щодо впровадження спільної транзитної процедури. Порівняльний аналіз відповідних положень Конвенції про загальну транзитну процедуру та Закону України, що імплементує таку процедуру, показує основні прогалини та можливі питання, які можуть стати перешкодою для успішного приєднання до вищезазначеної Конвенції.

**Ключові слова:** транзитна процедура ЄС, загальна процедура транзиту, митне законодавство, нова комп'ютеризована система транзиту, Угода про асоціацію, Україна.

## АННОТАЦИЯ

**Криль Р.В. Процедуры транзита в ЕС и региональная интеграция: пример Украины. – Статья.**

В данном исследовании проведена оценка действующей законодательной базы ЕС в сфере таможенного транзита с целью содействия региональной интеграции путем расширения транзитных процедур на соседние страны ЕС. В статье проанализировано формирование вторичного законодательства ЕС и его международных соглашений, касающихся введения и применения транзитной процедуры. В частности, выявлена взаимосвязь возникновения общей транзитной процедуры с требованиями статьи X ГАТТ и ранними разработками конвенции МДП. Также подчеркивается переход от двустороннего к многостороннему подходу в сфере расширения таможенных правил ЕС о транзите. Пересматривается типология правовых норм ЕС (включая транзит ЕС, общий транзит, транзит МДП и т.д.) для применения транзитной процедуры с акцентом на высоком уровне интеграции таких правовых норм. Этот вопрос рассматривается в качестве примера европеизации таможенного права и административного процессуального права в целом. Кроме того, проанализированы конкретные шаги Украины по внедрению совместной транзитной процедуры. Сравнительный анализ соответствующих положений Конвенции об общей транзитной процедуре и Закона Украины, который имплементирует такую процедуру, показывает основные пробелы и возможные вопросы, которые могут стать препятствием для успешного присоединения к вышеупомянутой Конвенции.

**Ключевые слова:** транзитная процедура ЕС, общая процедура транзита, таможенное законодательство, новая компьютеризированная система транзита, Соглашение об ассоциации, Украина.

