



TAJIKISTAN: SIMPLIFICATION OF PROCEDURES FOR INTERNATIONAL RAIL AND MOTOR CARGO TRANSPORTATION^{*}

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Simplification of procedures for international rail and motor cargo transportation

This issue has not fallen into the background. Although it is being considered time and again, some of its aspects still require a more explicit statement and explanation. We should pay due attention to these aspects.

The agency responsible for simplification of formalities for international rail and road cargo transportation is the Inland Transport Committee under the UN EEC acting together with nongovernmental specialized organizations – the International Union of Motor Transport (IUMT) and the International Union of Rail Transport (IURT). The old-line institution of transit is generated by objective demands of the international commodity exchanges; it is as old as the international trade.

Two types of relations could be identified in the legal mechanism of trade. They emerge at the transit of mobility means and at the transit of commodities respectively.

Regulations designed for the transit of mobility means have specific features within the customs regulations of Tajikistan's external economic activities. That is explainable – the transport means play, in the first turn, the role of an auxiliary link in the system of international commodity exchange. As a rule, they are not subject to the regulations for the national external economic activities. Thus it is quite logical that the provisions of the Customs Code of the Republic of Tajikistan related to the transit customs mode concern only to commodities.

For a long while transit commodities passed through the customs territory of Tajikistan were dutiable. The recognition of controversies in this practice and the country economic interests has lead to a simplification of transit conditions and exemption of commodities transported through the customs territory from revenues and taxes.

The customs transit was being formed along with the development of the communication and transportation infrastructure and an increase of international commodity flows. The customs transit allowed to eliminate the protectionist measures targeted at the commodities subject to the customs control while passing through the customs territories.

The economic character of the customs mode establishes its function mainly for the following:

- development and facilitation of international transportation (external aspect);
- encouragement of activities in the sphere of transport services and handling of cargos (internal aspect).

The elaboration of various international legal regulations targeted at the unification and facilitation of commodity transits was also conducive to the development of the national transit mode. At the national level the application of various forms of the transit mode is stipulated by specific internal factors (for instance, by an existing developed transport infrastructure in the country).

Assuming the sources of legal regulations and the spheres of application of the customs transit it is possible to identify the following types of transit:

- International transit. Application of conventions related to transit issues is envisaged by certain provisions of other international treaties, those not specifically dedicated to the issues of transit (for example, the Global Point-duty Convention, which, among other regulations, establishes the order of transit postal deliveries);
- Transit of commodities carried out in accordance with the national legislation.

Identification of these types of transit is conditional since the international treaties, for a practical implementation, as a rule, should be reinforced by relevant internal legal provisions on the territory of this State. For example, the order and conditions for the application of the Customs Convention on International Transportation of Commodities (Convention of 1975) provisions is reinforced by a special decree of the Customs Committee under the Government of the Republic of Tajikistan.

Regulations of the customs transit mode established in the Customs Code of the Republic of Tajikistan create quite a flexible basis for an application of this mode considering the needs of certain categories of beneficiaries, specifics of various types of transportation, special features of some commodities, etc. It also allows to identify the types of application of this mode. It contains a number of common features, such as:

- application of certain documents (declarations, unified international customs papers, etc.);
- application of common customs provisions, conditions and volumes of warranties, etc., special forms of customs control.

Regulations for the transit customs control mode do not establish any special limitations concerning stock lists, quantity and assignment of goods, which could be subject to the transit mode. Limitations in the application of the transit mode, as well as limitations in application of other modes, is based upon the common rule established in the article 20 of the Customs Code of the Republic of Tajikistan. It admits a prohibition of transit of certain commodities through the customs border of the Republic of Tajikistan.

The Customs Code does not contain any specific conditions limiting the types (forms) of transportation related to the transit mode for commodities being transported through the territory of Tajikistan, unless there is any special procedure established by the government of the Republic of Tajikistan.

The Customs Code establishes common requirements of putting commodities into the customs transit mode. These requirements could also be considered as conditions and requirements of positioning these commodities under this mode. They could be conditionally subdivided into two groups: i) requirements to the commodities (precisely, to conditions of being under the transit mode); and requirements to the carrier (or his transport means), the one carrying out a transportation of commodities in accordance with the customs transit mode.

During the whole period of transit transportation, i.e. while the commodities remain under the customs mode, they are considered to be under the customs control. There are plenty of problems in this sphere; these problems should be solved at the regional level.

The validity of the customs transit mode expires after the delivery of commodities and the presentation of consignment notes within a given period to the customs bodies at the point of destination, and after the execution of relevant customs procedures. Upon the accomplishment of the customs procedures and the expiration of the transit mode the commodities, depending on the initial purpose of placing under the transit mode, should leave the customs territory of the Republic of Tajikistan or should be placed under another customs mode.

According to the Customs Code of the Republic of Tajikistan the responsibility for the transit of commodities is rested upon the carrier. The carrier should pay the whole amount of customs duties, which would be subject to payment while placing transit commodities respectively under the mode of free circulation or export in cases when these commodities during the transit transportation were:

- given out without a permission from a customs body;
- lost during a transit transportation;
- have not been delivered to the customs destination point.

The carrier is exempted from this duty if a destruction, an irretrievable loss or a partial loss of commodities occurred due to:

- an accident or a force majeure;
- a fair wear and tear or a natural loss during transportation and storage;
- unlawful actions (identified in the national legislation) by bodies or officials of foreign countries.