

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/1588

26 October 1961

Limited Distribution

Original : English and
French

DRAFT CUSTOMS CONVENTION OF THE ATA CARNET FOR THE TEMPORARY ADMISSION OF GOODS

At their eighteenth session the CONTRACTING PARTIES approved the report of the Group of Experts, which had been appointed by the Council to examine the draft Customs Convention on the ATA Convention for the Temporary Admission of Goods (L/1476), and transmitted it to the Customs Co-operation Council with the suggestion that, in revising the draft Convention, the Council take into account the comments of the Group of Experts.

The revised draft Convention has been transmitted to the secretariat by the Council and is reproduced as an Appendix to this document. It takes into account the substance of the amendments suggested by the GATT Group of Experts. It should be noted, however, that at the request of one delegation, an alternative text has been provided for Article 25 of the Convention. The original text would not permit a reservation to be made to the Convention. The alternative version would allow a Contracting Party to the Convention to make a reservation with regard to goods imported or exported by post. The plenary session of the Council will vote on this point.

Unless comments on the revised draft are received from contracting parties before the nineteenth session of the CONTRACTING PARTIES, the Secretary-General of the Customs Co-operation Council will be notified that although the CONTRACTING PARTIES are not prejudging the issue whether individual governments may decide to sign or adhere to the Convention, nor that they may accept any or all of the annexes, they consider the proposed Convention to be an important step in the direction of freeing trade from international barriers and therefore hope that the Convention will meet with wide acceptance.

APPENDIX

DRAFT CUSTOMS CONVENTION ON THE ATA CARNET
FOR THE TEMPORARY ADMISSION OF GOODS

PREAMBLE

The States signatory to the present Convention,

Meeting under the auspices of the Customs Co-operation Council and the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade (GATT) in consultation with the United Nations Educational, Scientific and Cultural Organisation (UNESCO),

Having regard to proposals made by representatives of international trade and other interests for facilitating the procedures for the temporary duty-free importation of goods,

Convinced that the adoption of common procedures for the temporary duty-free importation of goods would afford considerable advantages to international commercial and cultural activities and would secure a higher degree of harmony and uniformity in the Customs systems of the Contracting Parties,

Have agreed as follows:

CHAPTER I

Definitions

Article I

For the purposes of the present Convention:

- (a) the term "import duties" means Customs duties and all other duties and taxes payable on, or in connexion with importation and shall include all internal taxes and excise duties chargeable on imported goods, but shall not include fees and charges which are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic products or a taxation of imports for fiscal purposes;
- (b) the term "temporary admission" means temporary importation free of import duties in accordance with the conditions laid down by the Conventions referred to in Article 2 of the present Convention or by the national laws and regulations of the country of importation;
- (c) the term "transit" means the conveyance of goods from a Customs office in the territory of a Contracting Party to another Customs office within the same territory in accordance with the conditions laid down in the national laws and regulations of that Contracting Party;

- (d) the term "A.T.A. carnet" (Admission Temporaire - Temporary Admission) means the document reproduced as the Annex to the present Convention;
- (e) the term "issuing association" means an association approved by the Customs authorities of a Contracting Party for the issue of A.T.A. carnets in the territory of that Contracting Party;
- (f) the term "guaranteeing association" means an association approved by the Customs authorities of a Contracting Party to guarantee the sums referred to in Article 5 of the present Convention, in the territory of that Contracting Party;
- (g) the term "the Council" means the organisation set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15th December 1950;
- (h) the term "person" means both natural and legal persons, unless the context otherwise requires.

CHAPTER II

Scope

Article 2

1. Each Contracting Party shall accept in lieu of its national Customs documents and as due security for the sums referred to in Article 5 of the present Convention A.T.A. carnets, valid for its territory and issued and used in accordance with the conditions laid down in the present Convention, for goods temporarily imported under:

- (a) the Customs Convention on the temporary importation of professional equipment, done at Brussels on 8th June 1961,
- (b) the Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events, done at Brussels on 8th June 1961,

in so far as it is a Contracting Party to those Conventions.

2. Each Contracting Party may also accept A.T.A. carnets issued and used under the same conditions for goods temporarily imported under other international temporary importation Conventions or for temporary admission procedures under its national laws or regulations.

3. Each Contracting Party may accept A.T.A. carnets issued and used under the same conditions for transit.

4. Goods imported for processing or repair shall not be imported under cover of A.T.A. carnets.

CHAPTER III

Issue and use of A.T.A. carnets

Article 3

1. Issuing associations shall issue A.T.A. carnets with a period of validity not exceeding one year from the date of issue. They shall indicate on the cover of the A.T.A. carnet the countries in which it is valid and the names of the corresponding guarantecing associations.

2. Once an A.T.A. carnet has been issued no extra item shall be added to the list of goods enumerated on the reverse of the front cover of the carnet, or on any continuation sheets annexed thereto (General List).

Article 4

The period fixed for the re-exportation of goods imported under cover of an A.T.A. carnet shall not in any case exceed the period of validity of that carnet.

CHAPTER IV

Guarantee

Article 5

1. Each guaranteeing association shall undertake to pay to the Customs authorities of the country in which it is established the amount of the import duties and any other sums payable in the case of non-compliance with the conditions of temporary admission, or of transit, in respect of goods imported into that country under cover of A.T.A. carnets issued by a corresponding issuing association. It shall be liable jointly and severally with the persons from whom the sums mentioned above are due, for payment of such sums.

2. The liability of the guaranteeing association shall not exceed the amount of the import duties by more than ten per cent.

3. When the Customs authorities of the country of importation have unconditionally discharged an A.T.A. carnet in respect of certain goods they can no longer claim from the guaranteeing association payment of the sums referred to in paragraph 1 of this Article in respect of these goods. A claim may nevertheless still be made against the guaranteeing association if it is subsequently discovered that the discharge of the carnet was obtained improperly or fraudulently or that there had been a breach of the conditions of temporary admission or of transit.

4. Customs authorities shall not in any circumstances require from the guaranteeing association payment of the sums referred to in paragraph 1 of this Article if a claim has not been made against the guaranteeing association within a year of the date of expiry of the validity of the carnet.

CHAPTER V

Regularisation of A.T.A. carnets

Article 6

1. The guaranteeing association shall have a period of six months from the date of the claim made by the Customs authorities for the sums referred to in paragraph I of Article 5 of the present Convention in which to furnish proof of the re-exportation of the goods under the conditions laid down in the present Convention or of any other proper discharge of the A.T.A. carnet.
2. If such proof is not furnished within the time allowed the guaranteeing association shall forthwith deposit, or pay provisionally, such sums. This deposit or payment shall become final after a period of three months from the date of the deposit or payment. During the latter period the guaranteeing association may still furnish the proof referred to in the preceding paragraph with a view to recovery of the sums deposited or paid.
3. For countries whose regulations do not provide for the deposit or provisional payment of import duties, payments made in conformity with the provisions of the preceding paragraph shall be regarded as final, it being understood that the sums paid shall be refunded if the proof referred to in paragraph I of this Article is furnished within three months of the date of the payment.

Article 7

1. Evidence of re-exportation of goods covered by an A.T.A. carnet shall be provided by the re-exportation certificate completed in that carnet by the Customs authorities of the country into which the goods were temporarily imported.
2. If the re-exportation of goods has not been certified in accordance with paragraph I of this Article the Customs authorities of the country of importation may, even if the period of validity of the carnet has already expired, accept as evidence of re-exportation of the goods:
 - (a) the particulars entered by the Customs authorities of another Contracting Party on the A.T.A. carnet on importation or re-importation or a certificate issued by those authorities based on the particulars entered in a voucher which has been detached from the carnet on importation or on re-importation into its territory, provided that the particulars relate to an importation or re-importation which can be proved to have taken place after the re-exportation which it is intended to establish;
 - (b) any other documentary proof that the goods are outside that country.
3. In any case in which the Customs authorities of a Contracting Party waive the requirement of re-exportation of certain goods admitted into their territory under cover of an A.T.A. carnet the guaranteeing association shall be discharged from its obligations only when the Customs authorities of the country of importation have certified in the carnet that the position regarding goods not re-exported has been regularised.

Article 8

In the case referred to in paragraph 2 of Article 7 of the present Convention, the Customs authorities shall have the right to charge a regularisation fee.

CHAPTER VI

Miscellaneous provisions

Article 9

Customs certificates on A.T.A. carnets used under the conditions laid down in the present Convention shall not be subject to the payment of charges for Customs attendance at Customs offices and posts during normal hours of business.

Article 10

In the case of the destruction, loss or theft of an A.T.A. carnet while the goods to which it refers are in the territory of one of the Contracting Parties, the Customs authorities of that Contracting Party shall, at the request of the issuing association and subject to such conditions as those authorities may prescribe, accept a replacement document, the validity of which expires on the date of expiration of validity of the carnet which it replaces.

Article 11

1. When goods temporarily imported cannot be re-exported as a result of a seizure, other than a seizure made at the suit of private persons, the requirement of re-exportation shall be suspended for the duration of the seizure.
2. The Customs authorities shall, so far as possible, notify the guaranteeing association of seizures made by or on behalf of the Customs authorities of goods admitted under cover of A.T.A. carnets guaranteed by that association and shall advise it of the measures they intend to take.

Article 12

A.T.A. carnets or parts of A.T.A. carnets intended to be issued in the country into which they are imported and which are sent to an issuing association by a corresponding foreign association, by an international organisation or by the Customs authorities of a Contracting Party, shall be admitted free of import duties and free of any import prohibitions or restrictions. Corresponding facilities shall be granted at exportation.

Article 13

For the purposes of the present Convention the territories of Contracting Parties which form a Customs or economic union may be taken to be a single territory.

Article 14

In the event of fraud, contravention or abuse, the Contracting Parties shall, notwithstanding the provisions of the present Convention, be free to take proceedings against persons using A.T.A. carnets for the recovery of the import duties and other charges payable and also for the imposition of any penalties to which such persons have rendered themselves liable. In such cases the associations shall lend their assistance to the Customs authorities.

Article 15

The Annex to the present Convention shall be construed to be an integral part of the Convention.

Article 16

The provisions of the present Convention set out the minimum facilities to be accorded. They do not prevent the application of greater facilities which certain Contracting Parties grant or may grant in future by unilateral provisions or in virtue of bilateral and multilateral agreements.

CHAPTER VII

Final provisions

Article 17

1. The Contracting Parties shall meet together when necessary in order to consider the operation of the present Convention and, in particular, in order to consider measures to secure uniformity in the interpretation and application of the present Convention.
2. Such meetings shall be convened by the Secretary General of the Council at the request of any Contracting Party. Unless the Contracting Parties otherwise decide, the meetings shall be held at the Headquarters of the Council.
3. The Contracting Parties shall lay down the rules of procedure for their meetings. Decisions of the Contracting Parties shall be taken by a majority of not less than two-thirds of the Contracting Parties present at the meeting and voting.
4. The Contracting Parties shall not take a decision on any matter unless more than half of them are present.

Article 18

1. Any dispute between Contracting Parties concerning the interpretation or application of the present Convention shall so far as possible be settled by negotiation between them.

2. Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Contracting Parties, meeting in conformity with Article 17 of the present Convention, which shall thereupon consider the dispute and make recommendations for its settlement.

3. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Contracting Parties as binding.

Article 19

1. Any State Member of the Council and any State Member of the United Nations or its specialised agencies may become a Contracting Party to the present Convention:

- (a) by signing it without reservation of ratification;
- (b) by depositing an instrument of ratification after signing it subject to ratification; or
- (c) by acceding to it.

2. The present Convention shall be open until..... for signature at the Headquarters of the Council in Brussels, by the States referred to in paragraph 1 of this Article. Thereafter, it shall be open for their accession.

3. In the case envisaged in paragraph 1 (b) of this Article, the present Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.

4. Any State, not being a Member of the Organisations referred to in paragraph 1 of this Article, to which an invitation to that effect has been addressed by the Secretary General of the Council at the request of the Contracting Parties, may become a Contracting Party to the present Convention by acceding thereto after its entry into force.

5. The instruments of ratification or accession shall be deposited with the Secretary General of the Council.

Article 20

1. The present Convention shall enter into force three months after five of the States referred to in paragraph 1 of Article 19 thereof have signed it without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any State ratifying or acceding to the present Convention after five States have signed it without reservation of ratification or have deposited their instruments of ratification or accession, the present Convention shall enter into force three months after the said State has deposited its instrument of ratification or accession.

Article 21

1. The present Convention is of unlimited duration but any Contracting Party may denounce it at any time after the date of its entry into force under Article 20 thereof.
2. The denunciation shall be notified by an instrument in writing, deposited with the Secretary General of the Council.
3. The denunciation shall take effect six months after the receipt of the instrument of denunciation by the Secretary General of the Council.
4. Any A.T.A. carnet issued before the date when a denunciation in accordance with paragraph 1 of this Article, or a notification under paragraph 2 (ii) of Article 22 of the present Convention takes effect shall remain valid and the guarantee of the guaranteeing association shall hold good.

Article 22

1. Each State referred to in paragraph 1 or paragraph 4 of Article 19 above shall at the time of signing, ratifying or acceding to the present Convention or thereafter notify the Secretary General of the Council of the temporary admission or transit procedures in respect of which it undertakes to accept A.T.A. carnets under paragraph 2 and paragraph 3 of Article 2 of the present Convention.
2. Such a notification shall specify the date from which such acceptance shall take effect. Any time thereafter, similar notifications may be addressed to the Secretary General of the Council either
 - (i) extending its scope, or
 - (ii) subject to paragraph 4 of Article 21 of the present Convention, restricting or rescinding its scope.

Article 23

1. The Contracting Parties meeting in conformity with Article 17 of the present Convention may recommend amendments thereto.
2. The text of any amendment so recommended shall be communicated by the Secretary General of the Council to all Contracting Parties, to all other signatory or acceding States, to the Secretary General of the United Nations, to the CONTRACTING PARTIES to the GATT, and to UNESCO.
3. Within a period of six months from the date on which the recommended amendment is so communicated, any Contracting Party may inform the Secretary General of the Council:
 - (a) that it has an objection to the recommended amendment, or
 - (b) that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled in its country.

4. If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of its acceptance of the recommended amendment, submit an objection to that amendment within a period of nine months following the expiry of the six-month period referred to in paragraph 3 of this Article.

5. If an objection to the recommended amendment is stated in accordance with the terms of paragraphs 3 and 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.

6. If no objection to the recommended amendment in accordance with paragraphs 3 and 4 of this Article has been stated, the amendment shall be deemed to have been accepted as from the date specified below:

- (a) if no Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the expiry of the period of six months referred to in paragraph 3;
- (b) if any Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the earlier of the following two dates:
 - (i) the date by which all the Contracting Parties which sent such communications have notified the Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month period;
 - (ii) the date of expiry of the nine-month period referred to in paragraph 4 of this Article.

7. Any amendment deemed to be accepted shall enter into force six months after the date on which it was deemed to be accepted.

8. The Secretary General of the Council shall, as soon as possible, notify all Contracting Parties of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. He shall subsequently inform all the Contracting Parties whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or accept it.

9. Any State ratifying or acceding to the present Convention shall be deemed to have accepted any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or accession.

Article 24

1. Any State may, at the time of signing the present Convention without reservation of ratification, or of depositing its instrument of ratification or accession or at any time thereafter, declare by notification given to the Secretary General of the Council that the present Convention shall extend

to all or any of the territories for whose international relations it is responsible and the Convention shall extend to the territories named in the notification three months after the date of the receipt thereof by the Secretary General of the Council but not before the Convention has entered into force for the State concerned.

2. Any State which has made a declaration under paragraph 1 of this Article extending the present Convention to any territory for whose international relations it is responsible may notify the Secretary General of the Council, in accordance with the provisions of Article 21 of the present Convention, that the territory in question will no longer apply the Convention.

Article 25

No reservation to the present Convention shall be permitted.

or

Each Contracting Party may by reservations provide that A.T.A. carnets shall not be accepted under the present Convention for goods imported or exported by post. No other reservations to the present Convention shall be permitted.

Article 26

The Secretary General of the Council shall notify all Contracting Parties, the other signatory and acceding States, the Secretary General of the United Nations, the CONTRACTING PARTIES to the GATT and UNESCO of:

- (a) signatures, ratifications and accessions under Article 19 of the present Convention;
- (b) the date of entry into force of the present Convention in accordance with Article 20;
- (c) denunciations under Article 21;
- (d) notifications made in accordance with Article 22;
- (e) any amendment deemed to have been accepted in accordance with Article 23 and the date of its entry into force;
- (f) declarations and notifications received in accordance with Article 24.

Article 27

In accordance with Article 102 of the Charter of the United Nations, the present Convention shall be registered with the Secretariat of the United Nations at the request of the Secretary General of the Council.

In witness whereof the undersigned plenipotentiaries have signed the present Convention.

Done at Brussels this day of in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies to all the States referred to in Article 19, paragraph 1 of the present Convention.

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Annexes are not reproduced

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