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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Customs Questions affecting Transport

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#### Customs Conventions on the Temporary Importation of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)

### **The legal interaction between the United Nations Economic Commission for Europe Customs Convention on the Temporary Importation of Private Road Vehicles (1954) and the World Customs Organization Istanbul Convention**

#### **Note by the secretariat**

#### **I. Mandate**

1. At the 136th meeting of the Working Party, the delegations of Azerbaijan and Belarus expressed an interest in receiving detailed information on the functioning of the Carnet de Passage en Douane (CPD) guarantee system. Furthermore, pursuant to a specific request by the delegation of Belarus, the Working Party on Customs Questions affecting Transport (WP.30) requested the secretariat to contact the International Touring Alliance and the International Automobile Federation (AIT/FIA) secretariat, inviting it to provide, at its next session, more information about the two Conventions which are administered by AIT/FIA. In addition, the Working Party requested the secretariat to prepare the present document, providing information on and outlining the legal interaction between the United Nations Economic Commission for Europe (UNECE) Customs Convention on the Temporary Importation of Private Road Vehicles (1954) and the Istanbul Convention of the World Customs Organization (WCO).

#### **II. Overview of the Convention on the Temporary Importation of Private Road Vehicles (of 1954)**

2. This Convention on , hereafter the 1954 Convention, provides for temporary admission of road vehicles engaged in international traffic for private use, without payment of taxes and duties and free of import restrictions and prohibitions (Article 2). Admission of

vehicles can be subject to temporary importation papers describing the vehicle and guaranteeing payment of taxes, duties and customs penalties should the need arise. Contracting Parties to the 1954 Convention commit to accepting the Carnet de Passage en Douane (CPD) as a valid temporary importation document. Temporary importation of private vehicles is also subject to re-exportation of the vehicles in the same general condition except for wear and tear, within the period of validity of the importation documents (Articles 2 and 12). Similar exemptions from taxes and duties and import restrictions apply to spare parts for repair of the vehicle and fuel in ordinary supply tanks (Articles 3–5).

3. Contracting Parties to the 1954 Convention authorize associations (currently AIT/FIA) to issue temporary importation papers, the CPD for private road vehicles, either directly or through corresponding associations (Article 6). The papers may be issued for admission to one country or several countries with a specified maximum period of validity of one year from date of issue (Article 6). The papers must state net weight and value of the vehicle and describe any spare parts and accessories not considered normal equipment of the vehicle (Article 9). Countries can deny the exemption from taxes and duties to vehicles that are shown to have been used for transport against payment or reward within the country of importation (Article 14). The general requirement of re-exportation is waived in the case of vehicles that become badly damaged in the country of importation and are abandoned to the government of that country or are destroyed under official supervision, or in the event that applicable taxes and duties are paid (Articles 13 and 25bis).

4. In the event that import duties and taxes become due for a privately owned vehicle temporarily imported under cover of a CPD, customs have to notify the guaranteeing association within one year of the date of expiry of the validity of the CPD and the association has a period of one year to produce documentary proof of re-exportation of the vehicle in question (Article 27). If such proof is not produced or if it is contested by customs, the guaranteeing association is required to pay provisionally the amount owed within three months (Article 27). The payment becomes final after one year from the date of payment of the provisional payment, if in that time the association has not been able to prove that it is not liable by reason of the vehicle having been re-exported or exempt from the requirement of re-exportation (Article 27). National competent authorities can also prosecute the CPD holder under domestic law (Article 28).

5. The association becomes directly liable towards customs upon issuing a CPD.<sup>1</sup> Applicant CPD holders are required to provide financial security (bank guarantee or cash deposit) to the association on the basis rates of customs duties and taxes in the country to be visited. The association may, in addition, claim reimbursement from the holder for any additional expenses incurred after the customs debt has been met.

### **III. Overview of the Istanbul Convention on temporary admission (of 1990)**

6. The WCO Convention on temporary admission, signed in Istanbul in 1990 (hereafter, Istanbul Convention), encompasses the general and specific provisions of some fifteen international conventions on temporary admission, in one single instrument. Several of these are United Nations Conventions and agreements in the field of border crossing

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<sup>1</sup> The information in this paragraph is based on the AIT/FIA CPD Handbook and does not stem directly from the provisions of the Convention.

facilitation, administered by the United Nations Economic Commission for Europe (UNECE):

- Convention concerning Customs Facilities for Touring, 1954
- Additional Protocol to the Convention concerning Customs Facilities for Touring, relating to the importation of tourist publicity documents and material, 1954
- Customs Convention on the Temporary Importation of Private Road Vehicles, 1954
- Customs Convention on the Temporary Importation for Private Use of Aircraft and Pleasure Boats, 1956
- Customs Convention on the Temporary Importation of Commercial Road Vehicles, 1956

7. The main body of the Istanbul Convention consists of general provisions on temporary admission and five Annexes. With the exception of Annex A, all annexes are optional and can be accepted independently. The provisions of the 1954 Convention are spread across several Annexes to the Istanbul Convention.

8. Annex A must be accepted with the Convention at the time of accession with at least one other Annex of each Contracting Party's choice. Annex A concerns temporary importation papers and specifically the requirement to accept the Admission Temporaire/Temporary Admission (ATA) Carnet and CPD as valid temporary importation papers for goods (ATA) and means of transport (CPD). The CPD of Annex A can be used for the temporary admission of all foreign vehicles, including those that may not need to be registered, such as caravans, trailers, rally cars, etc. Annex A also includes a set of rules concerning the guarantee and liability of guaranteeing associations for the CPD, identical to the ones in the 1954 Convention as described (paras.3–4) above. Appendix II to Annex A presents a Model of the CPD.

9. Annex C concerns the temporary importation of means of transport, including road vehicles both for private and commercial use. Annex C contains provisions pertaining to fuel tanks, spare parts and maintenance identical to the ones in the 1954 Convention as described in paragraph 2 above. However, it also specifies that no temporary importation papers or guarantee is required (Article 6) for vehicles that are registered in a foreign territory (Article 5).

#### **IV. Relationship between the two legal instruments**

10. The main text of the Istanbul Convention (Article 27), as well as each Annex, contains a rescinding provision, which terminates and replaces the original Convention with the corresponding Annex. This only applies in relations between the Contracting Parties which have accepted that Annex, which are also Contracting Parties to the Conventions incorporated in the Istanbul Convention. Annex C, Article 11 specifically reads:

“Upon its entry into force this Annex shall, in accordance with Article 27 of this Convention, terminate and replace the Customs Convention on the temporary importation of private road vehicles, New York, 4 June 1954, the Customs Convention on the temporary importation of commercial road vehicles, Geneva, 18 May 1956, and the Customs Convention on the temporary importation for private use of aircraft and pleasure boats, Geneva, 18 May 1956, in relation between the Contracting Parties which have accepted this Annex and are Contracting Parties to those Conventions.”

11. Consequently, countries that are Contracting Parties to both the 1954 Convention and the Istanbul Convention and its Annex C, apply Annexes A and C in the relations

between them. They also apply the 1954 Convention in their relations with countries that are Contracting Parties to the 1954 Convention, but not the Istanbul Convention and its Annex C.

12. Furthermore, according to Article 6 of Annex C to the Istanbul Convention:

"Temporary admission of means of transport shall be granted without a customs document or security being required."

In essence, Annex C prescribes that temporary admission of registered foreign vehicles should be freely allowed, without the use of the CPD and its corresponding guarantee. However, Article 10 of the same Annex allows Contracting Parties to enter a reservation to Article 6. In this case, the CPD would be used for all private vehicles in accordance with Annex A, i.e. with the use of the CPD and the deposit of a financial guarantee through authorized associations. Most Contracting Parties to Annex C have entered the reservation and require the use of the CPD.

#### **Example on the relations between Contracting Parties to one or both Conventions**

<i>Country</i>	<i>1954 Convention</i>	<i>Istanbul Convention and Annex C</i>
<i>x</i>	✓	✓
<i>y</i>		✓
<i>z</i>	✓	✓
<i>k</i>	✓	

13. Countries x, y and z apply the Istanbul Convention in the relations between them.

14. Countries x and z apply the Istanbul Convention in the relations between them despite the fact that they are both also Contracting Parties to the 1954 Convention.

15. Countries x and z apply the 1954 Convention in their relations with country k.

16. This leaves the question of the relations between countries y and k that are parties to different legal instruments. To address this, WP.30 in UNECE and the Customs Cooperation Council in WCO, each issued in 1993 and 1992 respectively, a resolution on the mutual acceptance of the CPD under the 1954 Convention and the Istanbul Convention.<sup>2</sup>

17. In Resolution No. 48 WP.30 recommended that the Contracting Parties to the 1954 Convention should accept the CPD both under the 1954 Convention and the Istanbul Convention. The Resolution also requested the Executive Secretary of UNECE to notify all Contracting Parties to the 1954 Convention that the CPD issuing and guaranteeing associations of the 1954 Convention will also act as issuing and guaranteeing associations under the Istanbul Convention. The Resolution is subject to acceptance by Contracting Parties, by means of notifying the Executive Secretary of UNECE within one year from the date of notification. Contracting Parties that either acceded to the 1954 Convention after 1994, or, plan to accede in future, can notify the Executive Secretary if they agree to accept the Resolution and from which date they can apply it.

18. The WCO Customs Cooperation Council also recommended the equivalent, i.e. that Contracting Parties to the Istanbul Convention accept the CPD under the 1954 Convention and that the issuing and guaranteeing associations under the 1954 Convention will also

<sup>2</sup> The full text of the two resolutions is reproduced in Annex I.

have the same role under the Istanbul Convention. This recommendation was also subject to acceptance by Contracting Parties.

19. As a result, countries y and k can apply the CPD between them even though formally they are parties to different Conventions. As long as the two instruments are identical this is feasible. However, if, at some point in time, the 1954 Convention or the Istanbul Convention is amended by the Contracting Parties to them in a way that the two instruments are no longer compatible, countries y and k that are each only parties to one of the two could not, technically, successfully maintain the use of CPD under different legal provisions.

## V. The two Conventions in figures<sup>3</sup>

Contracting Parties to the Istanbul Convention	70
Contracting Parties to the 1954 Convention:	89
Contracting Parties to both Conventions:	45
Contracting Parties <b>only</b> to the Istanbul Convention:	25
Contracting Parties <b>only</b> to the 1954 Convention:	43
Contracting Parties to the Istanbul Convention that have accepted Annex C	43
Contracting Parties to the Istanbul Convention and Annex C with a reservation to its article 6:	27

## VI. Conclusions and Considerations for the Working Party

20. A country which wishes to introduce the CPD as a control system for the temporary importation of private vehicles by non-residents, can accede to either one or both Conventions:

- Joining the 1954 Convention would mean that the acceding country can apply the CPD for private vehicles and also accept the CPD under the Istanbul Convention. It may also participate in the decisions regarding amendments to the 1954 Convention.
- Joining the Istanbul Convention means that the acceding country will commit to a broader range of temporary admission provisions; it is mandatory to accept the body of the Istanbul Convention and its Annex A, which collectively covers several temporary admission issues beyond just privately owned vehicles. Further to this, Annex C, which contains other elements of the 1954 Convention, has to also be accepted. In addition, Annex C also applies to the temporary importation of commercial road vehicles. If the acceding country that has accepted Annex C wishes to use the CPD under the Istanbul Convention, it has to also make a reservation excluding the application of Article 6 of Annex C. Following this process, the CPD can also be used in relations with Contracting Parties to the 1954 Convention as well. Contracting Parties to the Istanbul Convention also participate in its Administrative Committee.

<sup>3</sup> A complete table of Contracting Parties to each Convention can be found in Annex II.

21. Finally, it should be mentioned that some countries use and accept the CPD without being Contracting Parties to either Convention (e.g. Colombia, Kenya). This means that these countries have introduced the CPD as an acceptable temporary importation document into national legislation, but do not have any voting rights in decisions regarding amendments and updates of the legal instruments.

22. The Working Party is invited to take note of the above information in its discussions on the legal interaction of the two Conventions, and to decide if it wishes the secretariat to provide any additional information at the next session.

## Annex I

**Resolution No. 48**  
**Adopted on 2 July 1993**  
**by the UN / ECE Working Party on Customs Questions**  
**affecting Transport**

**For Contracting Parties to the 1954 Customs Convention on the**  
**Temporary Importation of Private Road Vehicles (4 June 1954)**

*The UN / ECE Working Party on Customs Questions affecting Transport,*

*Recalling* the provisions of article 7, paragraph 1 of the Customs Convention on the Temporary Importation of Private Road Vehicles (4 June 1954) (hereinafter called the Vehicle Convention 1954),

*Recalling* that Annex 1 of this Convention lays down a model for temporary importation papers (carnets de passage en douane) to be used for the temporary importation of private road vehicles, and that this model as well as the conditions for its use are virtually the same as those for the temporary admission papers (carnet CPD) laid down in the Convention on Temporary Admission, Annex A, Appendix II (hereinafter called the Istanbul Convention),

*Noting* that the carnet issuing and guaranteeing associations operating under the Vehicle Convention 1954 are the same as those which will operate under the Istanbul Convention,

*Conscious* of the importance of ensuring a smooth transfer from the Vehicle Convention 1954 to Annex C to the Istanbul Convention and of avoiding undue hardship to the issuing and guaranteeing associations,

*Appreciating* the willingness of the issuing and guaranteeing associations operating under the Vehicle Conventions to render the relevant issuing and guaranteeing chains operational also under Annexes A and C to the Istanbul Convention in so far as road motor vehicles for private use and trailers are concerned, and their commitment to guarantee CPD carnets provided for in the two Conventions,

*Recommends* that those Contracting Parties to the Vehicle Convention 1954 which accept a carnet for temporary importation of private road vehicles, should accept both the carnet model laid down in the carnets de passages en douane of Annex I to the Vehicle Convention 1954 and the temporary admission papers of the CPD Carnet laid down in the Istanbul Convention, Appendix II of annex A;

*Requests* the Executive Secretary of the United Nations Economic Commission for Europe (hereinafter called the Executive Secretary) to notify the Contracting Parties to the Vehicle Convention 1954 of the undertaking by the issuing and guaranteeing associations to guarantee, vis-à-vis the Customs administrations, the carnets provided for in the two Conventions. The Executive Secretary is also requested to append this resolution to such a notification;

*Requests* each Contracting Party to the Vehicle Convention 1954 to notify the Executive Secretary whether it accepts or does not accept this resolution. Such notification shall be made within one year following the date on which the Executive Secretary notifies Contracting Parties of the undertaking by the issuing and guaranteeing associations to guarantee the carnets provided for in the two Conventions;

In the case of acceptance, the Contracting Party shall also notify the Executive Secretary of the date from which it will apply the resolution and of the conditions of its application;

Failure to notify the Executive Secretary within one year shall mean that the Contracting Party is unable to accept the resolution. However, a Contracting Party may accept this resolution at a later date;

The Executive Secretary shall transmit this information to the Customs administrations of the Contracting Parties to the Vehicle Convention 1954. He shall also transmit it to the Secretary- General of the Customs Co-operation Council, to regional economic integration organizations which qualify as Contracting Parties and to the International Touring Alliance and the International Automobile Federation.

## **Recommendation of the Customs Cooperation Council of 25 June 1992 concerning the acceptance of CPD carnets in connection with temporary admission**

*The Customs Cooperation Council,*

*Recalling* the Convention on Temporary Admission (Istanbul Convention) adopted at its 75th and 76th sessions in Istanbul on 26 June 1990,

*Recalling* that Appendix II to Annex A to that Convention lays down a model for temporary admission papers (CDP carnets) to be used for temporary admission of means of transport under Annex C to the Convention, and that this model as well as the conditions for its use are virtually the same as those for the temporary Importation papers ("carnets de passages en douane") laid down in the Customs Convention on the Temporary Importation of Private Road Vehicles, 1954, and the Customs Convention on the Temporary importation of Commercial Road Vehicles, 1956 (hereinafter called the Vehicles Conventions),

*Noting* that the carnet issuing and guaranteeing associations operating under Annex C to the Istanbul Convention will be the same as those operating under the Vehicles Conventions,

*Conscious* of the importance of ensuring a smooth transfer from the Vehicles Conventions to Annex C to the Istanbul Convention and of avoiding undue hardship to the issuing and guaranteeing associations,

*Appreciating* the willingness of the issuing and guaranteeing associations operating under the Vehicles Conventions to render the relevant issuing and guaranteeing chains operational also under Annexes A and C to the Istanbul Convention in so far as road motor vehicles and trailers are concerned, and their commitment to guarantee CPD carnets provided for in the three Conventions,

*Recommends* that those Contracting Parties to the Istanbul Convention which accept Annex C thereto and which accept a CPD carnet for temporary admission of means of transport under that Annex, should accept both the carnet model laid down in Appendix II to Annex A to the Istanbul Convention and the temporary importation papers (carnets de passages en douane) laid down in the Vehicles Conventions,

*Requests* the Secretary-General of the Customs Cooperation Council to notify the Contracting Parties to the Istanbul Convention of the undertaking by the issuing and guaranteeing associations to guarantee, vis-à-vis the customs administrations, the carnets provided for in the three Conventions. The Secretary-General is also requested to append this recommendation to such a notification.

*Requests* each Contracting Party to the Istanbul Convention to notify the Secretary-General of the Customs Cooperation Council whether it accepts or does not accept this recommendation. Such notification shall be made within one year following the date on which the Secretary-General notifies Contracting Parties of the undertaking by the issuing and guaranteeing associations to guarantee the carnets provided for in the three Conventions.

In the case of acceptance, the Contracting Party shall also notify the Secretary-General of the date from which it will apply the recommendation and of the conditions of its application.

Failure to notify the Secretary-General of the Customs Cooperation Council within one year shall mean that the Contracting Party is unable to accept the recommendation. However, a Contracting Party may accept this recommendation at a later date.

The Secretary-General shall transmit this information to the customs administrations of Council Members. He shall also transmit it to the customs administrations of the Members of the United Nations or of its specialized agencies, to the Executive-Secretary of the Economic Commission for Europe, to Customs or Economic Unions which qualify as Contracting Parties, and to the Alliance Internationale de Tourisme and the Fédération Internationale de l'Automobile.

## Annex II

### Complete table of Contracting Parties

<i>Convention on the Temporary Importation of Private Road Vehicles (Geneva, 1954)</i>	<i>Convention on Temporary Admission (Istanbul, 26 June 1990)</i>	<i>Annex C to the Convention on Temporary Admission (Istanbul) (* = reservation Article6)</i>
Albania	Albania	Albania
Algeria	Algeria	Algeria
-	Andorra	-
Argentina	-	-
Australia	Australia	-
Austria	Austria	Austria*
-	Bahrain	-
Barbados	-	-
-	Belarus	-
Belgium	Belgium	Belgium*
Bosnia and Herzegovina	Bosnia and Herzegovina	-
-	Brazil	-
Bulgaria	Bulgaria	Bulgaria*
Cambodia	-	-
Canada	-	-
Central African Republic	-	-
Chile	Chile	-
-	China	-
Costa Rica	-	-
Croatia	Croatia	Croatia*
Cuba	-	-
Cyprus	Cyprus	Cyprus*
-	Czech Republic	Czech Republic*
Denmark	Denmark	Denmark
Dominican Republic	-	-
Ecuador	-	-
Egypt	-	-

<i>Convention on the Temporary Importation of Private Road Vehicles (Geneva, 1954)</i>	<i>Convention on Temporary Admission (Istanbul, 26 June 1990)</i>	<i>Annex C to the Convention on Temporary Admission (Istanbul) (* = reservation Article6)</i>
-	Estonia	Estonia*
El Salvador	-	-
Fiji	-	-
Finland	Finland	Finland*
France	France	France
-	Georgia	Georgia
Germany	Germany	Germany*
Ghana	Ghana	-
Guatemala	-	-
-	Greece	Greece*
Haiti	-	-
Holy See	-	-
Honduras	-	-
-	Hong Kong, China	Hong Kong, China
Hungary	Hungary	Hungary*
India	-	-
Iran (Islamic Republic of)	-	-
Ireland	Ireland	Ireland*
Israel	Israel	-
Italy	Italy	Italy
Jamaica	-	-
Japan	-	-
Jordan	Jordan	-
-	Kazakhstan	-
-	Latvia	Latvia
Liberia	-	-
Lithuania	Lithuania	Lithuania*
Luxemburg	Luxemburg	Luxemburg
-	Madagascar	Madagascar
Malaysia	-	-

<i>Convention on the Temporary Importation of Private Road Vehicles (Geneva, 1954)</i>	<i>Convention on Temporary Admission (Istanbul, 26 June 1990)</i>	<i>Annex C to the Convention on Temporary Admission (Istanbul) (* = reservation Article6)</i>
Mali	Mali	-
Malta	Malta	Malta*
Mauritius	Mauritius	-
Mexico	-	-
Monaco	-	-
-	Mongolia	-
Montenegro	Montenegro	Montenegro
Morocco	Morocco	-
Nepal	-	-
Netherlands	Netherlands	Netherlands*
New Zealand	-	-
-	Niger	-
Nigeria	Nigeria	Nigeria
Norway	-	-
-	Oman	-
-	Pakistan	-
Panama	-	-
Peru	-	-
Philippines	-	-
Poland	Poland	Poland*
Portugal	Portugal	Portugal*
-	Republic of Moldova	Republic of Moldova*
Romania	Romania	Romania*
Russian Federation	Russian Federation	-
Rwanda	-	-
Saudi Arabia	Saudi Arabia	-
Senegal	-	-
Serbia	Serbia	Serbia
Sierra Leone	-	-
Singapore	-	-

<i>Convention on the Temporary Importation of Private Road Vehicles (Geneva, 1954)</i>	<i>Convention on Temporary Admission (Istanbul, 26 June 1990)</i>	<i>Annex C to the Convention on Temporary Admission (Istanbul) (* = reservation Article6)</i>
-	Slovakia	Slovakia
Slovenia	Slovenia	Slovenia*
Solomon Islands	-	-
-	South Africa	-
Spain	Spain	Spain*
Sri Lanka	-	-
Sudan	Sudan	-
Sweden	Sweden	Sweden*
Switzerland	Switzerland	Switzerland
Syrian Arab Republic	-	-
-	Tajikistan	-
-	Thailand	-
the former Yugoslav Republic of Macedonia	the former Yugoslav Republic of Macedonia	the former Yugoslav Republic of Macedonia*
Tonga	-	-
Trinidad and Tobago	Trinidad and Tobago	Trinidad and Tobago
Tunisia	-	-
Turkey	Turkey	Turkey*
Uganda	-	-
-	Ukraine	Ukraine
United Arab Emirates	United Arab Emirates	-
United Kingdom of Great Britain and Northern Ireland	United Kingdom of Great Britain and Northern Ireland	United Kingdom of Great Britain and Northern Ireland*
United Republic of Tanzania	-	-
United States of America	-	-
Uruguay	-	-
-	Zimbabwe	-
European Union	European Union	European Union*