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Customs Conventions on the Temporary Importation

of Private Road Vehicles (1954) and Commercial Road Vehicles (1956)

Issues in the application of the terms of the United Nations Conventions

Non-observance by Egypt and by Jordan of the deadlines in the Conventions

Note by the Fédération Internationale de l'Automobile/Alliance Internationale de Tourisme

Introduction

1. International Automobile Federation (FIA) and International Touring Alliance (AIT) as the international organizations globally administering the Carnet de Passages en Douane (CPD) system wish to bring to the attention of the Working Party on Customs Questions affecting Transport (WP.30) the issues faced by CPD system in Egypt and Jordan in handling customs claims in due time and in accordance with the provisions of the 1954 Convention.
2. The FIA/AIT wish to solicit the opinion of WP.30 on the issues described in this document and would also welcome suggestions on actions which might be taken to alleviate these issues.
3. As WP.30 is aware, the CPD is required both in Egypt and in Jordan. The CPD guaranteeing associations in both countries have expressed their concerns that the corresponding customs authorities do not respect the deadlines and procedures laid down in the Convention, mainly at notifying claims out of time (among others). Whilst not respecting the provisions of the Convention, the customs authorities request the guaranteeing associations to pay for these invalid claims, otherwise they freeze the associations' bank accounts or take cases to Court.

4. The FIA and AIT have repeatedly called for:
 - (a) Strict compliance by the customs authorities and guaranteeing associations with the provisions of the 1954 Convention;
 - (b) Clear and comprehensive information on temporary importation procedures, including rules which apply in case of non-re exportation of vehicles, seizures, fines and fees, etc.;
 - (c) Adequate communication between the customs authorities and guaranteeing association in all matters related to the temporary importation of vehicles under cover of CPDs.
5. To date, our interventions to assist in correcting deficiencies and in reaching agreements between the customs authorities and guaranteeing associations, always in the interest of ensuring the correct application of the Convention, have failed.
6. While the casuistry differs from one country to another, the dysfunctional situation generally leads to one and the same result: payment of old, invalid claims. This leads to a considerable economic loss, since payment of invalid claims is not included in the insurance cover and many times the issuing associations cannot contact or even act against CPD holders for cases they become aware of 20 year after the document was issued.
7. This generates a situation of defencelessness, in as much as the terms that must be equal for all parties involved are not respected. Guaranteeing associations are faced with the requirement of managing claims that do not conform to the terms of the Convention. This produces a large imbalance throughout the system.
8. Regrettably, neither the Egyptian nor the Jordanian customs administrations seem to be able to implement the necessary measures to ensure compliance with the provisions of the conventions in the short term.
9. Annexes I and II provide notes on terms of the 1954 Convention which have not been respected by each of the customs authorities.

Annex I

Issues encountered in Egypt

Non-observance by Egypt of the 1954 Convention

FIA & AIT comments

The 1954 Convention refers throughout to the “customs authorities of the Contracting Parties”. However, problems arise in Egypt due to lack of coordination between entry and exit posts, and the lack of a centralized customs administration. This generates: high number of unfounded claims, notification of claims out of time, cases remaining outstanding dating several decades back and long and cumbersome procedures for recording claim payments which affects to have reliable and updated information on what the real claim status is.

Article 13.3

“The Customs authorities shall notify, so far as possible, to the guaranteeing association, seizures made by or on behalf of these Customs authorities of vehicles admitted under cover of temporary importation papers guaranteed by that association and shall advise it of the measures they intend to take.”

FIA & AIT:

- Seizures are frequent in Egypt and they often result in customs claims. The guaranteeing association is not always informed of seizures. The customs authorities often neglect to advise the guaranteeing association of measures they intend to take. Seized vehicles are often sold in auction by the customs authorities without prior notification to the guaranteeing association, issuing association and CPD holder, however the claim remains outstanding in the registers of the customs authorities.
- In some cases, first notice that a guaranteeing association has received of a seizure is the notification from a Court informing about the lodging of a complaint by the customs authorities against the guarantor association.

Article 24.1

“If temporary importation papers have not been regularly discharged, the Customs authorities of the country of importation shall (whether the papers have expired or not) accept as evidence of re-exportation of the vehicle or component parts the presentation of a certificate based on the standard form shown in Annex 4 of this Convention issued by an official authority (consul, Customs, police, mayor, judicial officer, etc.), attesting the facts that the vehicle or component parts in question have been presented to it and are outside the country of importation. As an alternative they shall accept any other valid documentary evidence that the vehicle or component parts are outside the country of temporary importation. In the case of papers, other than the "carnets de passages en douane", which have not expired, the papers shall be produced at the same time as the evidence referred to above. In the case of carnets the Customs authorities shall accept, as evidence of re-exportation of the vehicles or component parts, the visas entered thereon by the Customs authorities of countries subsequently visited.”

FIA & AIT:

- Certificates of Location (CoL) are systematically refused unless they are “legalized” or stamped by an Egyptian official. This is often impossible, inconvenient and

costly. Other valid documentary evidence is often refused (e.g. proof of subsequent entry into other countries).

- As in the case above mentioned, the non-acceptance by the customs authorities of CoL and other valid documentary evidences of re-export entails that many claim cases end up in Court, via lawsuits filed by the customs authorities.

Article 25 bis

“The competent Customs authorities shall not require payment of import duties and import taxes where it is proved to their satisfaction that a vehicle imported under cover of temporary importation papers can no longer be re-exported because it has been destroyed or irrecoverably lost for reasons of force majeure. (e.g. vehicles stolen at gunpoint, vehicles stolen and then found absolutely irrecoverable for use).”

FIA & AIT:

- Evidences proving cases of force majeure are refused by customs authorities.
- If not paid, these cases end up in Court too, via lawsuits filed by the customs authorities.

Article 26

“Customs authorities shall not have the right to require from the guaranteeing association payment of import duties and import taxes on vehicles or component parts temporarily imported when the non-discharge of the temporary importation papers has not been notified to the guaranteeing association within a year of the date of expiry of the validity of those papers. The Customs authorities shall provide the guaranteeing associations with details of the amount of import duties and import taxes within one year from the notification of the non-discharge. The guaranteeing associations' liability for these sums shall cease if such information is not furnished within this one-year period.”

FIA & AIT:

- Notifications of claims are sometimes presented after the one-year deadline, yet the guaranteeing association is held responsible.
- In Egypt, the guaranteeing association has even been requested to pay claims dating back to the early 1970s, when the first notice they have had of the existence of the case is a Court requirement to pay received in the 2000s.
- Details of duty calculations are not always provided or, at least, given within one year - the claim remains active nevertheless.
- These cases considered as time-barred (non-valid as per the provisions of the Convention) end up in Court too, via lawsuits filed by the customs authorities.

Article 27

“The guaranteeing associations shall have a period of one year from the date of notification of the non-discharge of temporary importation papers in which to furnish proof of the re-exportation of the vehicles or component parts in question under the conditions laid down in this Convention. Nevertheless, this period can come into force only as of the date of expiry of the temporary importation papers. If the Customs authorities contest the validity of the proof provided they must so inform the guarantor within a period not exceeding one year.”

FIA & AIT:

- Proof of clearance (CoLs & other evidences of re-export) is sometimes contested beyond the one-year deadline (sometimes, 3-4 years later).

List of outstanding claim cases (1966-2010) as per the information provided by the Egyptian customs authorities to the FIA (February 2017) and contrasted with the registers kept at the Egyptian guaranteeing association (February 2017)

(Currency: Egyptian pound (LE))

Year	Court Cases (*)	Duty on Court Cases (*)	Outstanding Cases (*)	Duty Outstanding (*)	Time Barred Cases (*),(**)	Duty Time Barred claims (*)	Cases already cleared (*), (**)	Duty on cases already cleared (*)	Cases not logged (*), (**)	Duty on cases not logged (*)
1966	0	0	1	1 774	0	0	0	0	0	0
1967	0	0	0	0	0	0	0	0	0	0
1968	0	0	0	0	0	0	0	0	0	0
1969	0	0	2	1 540	0	0	0	0	0	0
1970	0	0	1	350	0	0	1	299	0	0
1971	0	0	4	4 271	0	0	1	362	0	0
1972	2	4 147	5	8 934	0	0	1	1 288	0	0
1973	0	0	1	1 345	0	0	0	0	0	0
1974	0	0	1	1 162	1	584	0	0	0	0
1975	1	3 914	7	12 540	0	0	1	1 788	0	0
1976	2	4 474	12	49 130	0	0	3	17 713	1	8 330
1977	2	7 833	10	72 893	0	0	0	0	0	0
1978	0	0	10	91 877	3	15 869	2	8 639	0	0
1979	0	0	5	26 590	2	39 297	3	22 452	0	0
1980	0	0	4	39 105	1	14 607	1	7 335	0	0
1981	0	0	4	2 745	0	0	0	0	0	0
1982	1	3 774	1	2 991	0	0	1	6 073	0	0
1983	1	11 427	1	13 891	0	0	0	0	0	0
1984	1	5 782	0	0	0	0	0	0	0	0
1985	0	0	0	0	0	0	0	0	0	0
1986	0	0	1	27 752	0	0	0	0	0	0
1987	0	0	1	56 252	0	0	0	0	0	0
1988	0	0	1	87 502	0	0	0	0	0	0
1989	1	55 971	1	100 000	1	67 605	0	0	0	0
1990	1	58 415	2	48 051	0	0	2	2 174	0	0
1991	0	0	2	5 424	2	332 743	1	95 400	0	0

<i>Year</i>	<i>Court Cases (*)</i>	<i>Duty on Court Cases (*)</i>	<i>Outstanding Cases (*)</i>	<i>Duty Outstanding (*)</i>	<i>Time Barred Cases (*),(**)</i>	<i>Duty Time Barred claims (*)</i>	<i>Cases already cleared (*), (**)</i>	<i>Duty on cases already cleared (*)</i>	<i>Cases not logged (*), (**)</i>	<i>Duty on cases not logged (*)</i>
1992	0	0	1	74 300	0	0	1	166 600	0	0
1993	0	0	2	350 065	0	0	1	49 200	1	105 655
1994	0	0	0	0	0	0	1	218 379	0	0
1995	0	0	1	168 000	0	0	1	7 775	0	0
1996	0	0	2	371 662	1	103 099	0	0	0	0
1997	1	189 366	3	347 337	0		0	0	0	0
1998	0	0	2	588 100	0		0	0	0	0
1999	0	0	3	338 430	1	139 137	0	0	0	0
2000	1	201 295	1	64 945	0	0	0	0	0	0
2001	0	0	0	0	0	0	0	0	0	0
2002	0	0	0	0	1	125 730	0	0	0	0
2003	2	389 210	1	1 415	0	0	0	0	0	0
2004	1	421 899	0	0	0	0	0	0	0	0
2005	7	2 965 870	2	23 435	0	0	0	0	0	0
2006	2	178 415	1	94	0	0	0	0	0	0
2007	8	2 714 872	2	790 129	0	0	1	169 114	0	0
2008	9	3 377 560	1	194 194	0	0	1	13 000	0	0
2009	10	4 328 390	4	1 990 888	0	0	0	0	0	0
2010	29	14 726 444	9	3 889 028	0	0	1	184 044	1	471 999
Total	82	29 649 058	112	9 848 141	13	838 671	24	971 635	3	585 984

(*) NB: Definitions*Court Cases*

Customs claims that have been put in to the courts in Egypt by any of the customs authorities (reason(s) why the customs would put these claims in to court are already mentioned above); by a holder of the CPD for particular reasons; by the CPD holder and/or the Issuing club as evidences have not been accepted by the Egyptian customs in line with the terms of the 1954 Convention.

Duty on Court Cases

This is the total amount of duties lodged as outstanding and due for payment to the customs authorities for all 82 cases that are in court. The amount for the 82 cases amounts to LE 29,649,058 (70.71 per cent of the overall amount payable on all old claims).

Outstanding claims

These claims are categorized where customs have advised that they recognize that the claim is still open, where they are awaiting evidences, agreeing evidences or are unable to marry up the importation and exportation vouchers between customs posts.

Duty Outstanding

This is the total amount of duties lodged as outstanding and due for payment to the customs authorities for all 112 cases that the authorities state are still outstanding. The amount for the 112 cases amounts to LE 9,848,141 (23.57 per cent of the overall amount payable on all old claims).

Time Barred cases

These are claims that remain outstanding by customs or are in court. However, these cases were not provided to the guarantee association in due time as described in Article 26 of the corresponding notes.

Duty on Time Barred cases

This is the total amount of duties lodged as due to customs on all Time Barred claims which we know are not lodged by the Egyptian customs in line with Article 26 of the 1954 Convention. For the 13 cases, the total amount of duty requested by customs is LE 838,671 (2.00 per cent of the total amount requested from Egyptian Customs on all claims).

Cases already cleared

These are cases lodged by the Egyptian customs where, over time, it has been cleared by our guaranteeing association, on the authority of the Egyptian customs. For unknown reasons the claim is opened again.

Duty on cases already cleared

This is the amount of duties lodged as due to customs on all cases previously cleared. The amount due to customs for previously cleared cases is LE 971,635 (2.32 per cent on total amount of duty requested on all old claims).

Cases not logged

These are cases that we have only just been notified of by the Egyptian customs in February 2017.

Duty on cases not logged

This is the amount of duties lodged as due to customs on all cases where we have only just been advised of the claim. The amount due to customs for cases not previously advised is LE 585,984 (1.4 per cent of the total amount requested on all old claims).

() NB: Definitions**

These cases (40) were registered as time-barred, cleared or were not even notified to the guaranteeing association, however in the list provided by the customs authorities in February 2017 these cases appear either as court cases either as outstanding, amounting to LE 2,396,290.

Annex II

Issues encountered in Jordan

Non-observance by Jordan of the 1954 Convention

FIA & AIT comments

The 1954 Convention refers throughout to the “customs authorities of the Contracting Parties”. However, problems arise in Jordan due to lack of coordination between entry and exit posts and inefficient communication with the guaranteeing association which impedes that claims are notified in due time as per the terms of the Convention.

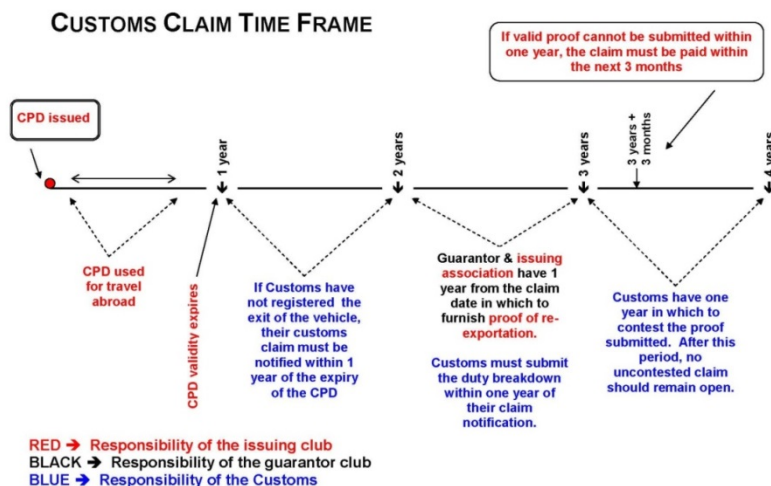
Article 26

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FIA & AIT:

- Notifications of claims are sometimes presented after the one-year deadline, yet the guaranteeing association is held responsible. Details of duty calculations are not always provided or, at least, given within one year - the claim remains active nevertheless.

Customs claim time frame as per Article 26 and Article 27 1954 United Nations Convention on temporary importation of private vehicles



Sample list of claim cases where the above mentioned deadlines have not been respected

		<i>CPD Number</i>	<i>CPD Expiry date</i>	<i>Claim notification date</i>	<i>Years between dates</i>
1	Det	461 395	9/09/2006	27/12/2016	10
2	Cat	48 540	20/10/2004	22/01/2017	13
3	Cat	89 827	28/12/2004	22/01/2017	13
4	Cat	90 811	3/03/2006	22/01/2017	10
5	Cat	89 722	15/12/2004	22/01/2017	13
6	Cat	48 164	28/09/2004	23/04/2017	13
7	Cad	299 269	1/11/2005	23/04/2017	12
8	Det	127 417	10/07/2004	27/12/2016	12
9	Cat	48 189	29/09/2004	02/09/2010	6
10	Ddd	992 566	13/11/2013	27/12/2016	3
11	Ddd	992 114	12/09/2013	27/12/2016	3
12	Ddt	917 993	2/02/2013	27/12/2016	3
13	Ccd	143 233	9/05/2009	03/02/2013	3
14	Ccd	143 233	9/05/2009	03/02/2013	3
15	Cad	574 868	4/10/2008	02/09/2010	2
16	Ddd	550 715	27/10/2011	19/06/2013	2
17	Cbt	33 808	23/03/2008	02/09/2010	2
18	Cad	697 691	25/10/2008	02/09/2010	2
19	Des	158 945	6/10/2014	27/12/2016	2
20	Des	4 468	26/03/2014	27/12/2016	2