

General Secretariat

CUSTOMS CONVENTION

regarding E.C.S. carnets for commercial samples
done at Brussels, on the 1st March 1956

The Governments signatory to the present Convention,

Desiring to facilitate the temporary importation of commercial samples,

Having regard to the aims of the International Convention to facilitate the Importation of Commercial Samples and Advertising Material drawn up at Geneva on 7th November, 1952, and opened for signature on 1st February, 1953,

Have agreed as follows :

ARTICLE I

For the purposes of the present Convention :

(a) The term "samples" means articles which are representative of a particular category of goods already produced or are examples of goods the production of which is contemplated, on condition that they :

- (1) are owned abroad and are imported solely for the purpose of being shown or demonstrated in the territory of importation for the soliciting of orders for goods to be supplied from abroad; and
- (2) are not sold or put to normal use except for purposes of demonstration or used in any way for hire or reward while in the territory of importation; and
- (3) are intended to be re-exported in due course; and
- (4) are capable of identification on re-exportation;

but does not include identical articles brought in by the same individual, or sent to a single consignee, in such quantity that, taken as a whole, they no longer constitute samples under ordinary commercial usage.

(b) The term "import duties" means customs duties and all other duties and taxes payable on or in connection 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.

- (c) The term "E.C.S. carnet" (Echantillons commerciaux - Commercial samples) means the document drawn up under that description by the Council, reproduced as the Annex to the present Convention. This document shall be printed in French, English and the official language, or one of the official languages, of the country of issue.
- (d) The term "approved association" means an association approved by the Customs authorities of any Contracting Party for the issue of E.C.S. carnets or for the provision of the guarantee of the payment of the import duties and other charges referred to in Article II of the present Convention.
- (e) The term "issuing association" means an approved association which issues E.C.S. carnets in the country of original exportation of the samples.
- (f) The term "guaranteeing association" means an approved association in the country of importation which provides the guarantee for the payment of the import duties and other charges referred to in Article II of the present Convention.
- (g) The term "the Convention establishing the Council" means the Convention establishing the Customs Co-operation Council done at Brussels on 15th December, 1950.
- (h) The term "the Council" means the Customs Co-operation Council referred to in sub-paragraph (g) of this Article.

ARTICLE II

1. Each guaranteeing association shall guarantee to pay to the Customs authorities of the territory in which it is established the amount of the import duties and other charges referred to in paragraph 4 of this Article which may become due in respect of samples imported into that country under cover of E.C.S. carnets issued by a corresponding issuing association. The liability of the guaranteeing association shall not exceed the amount of the import duties by more than ten per cent.
2. E.C.S. carnets shall be issued by issuing associations. Carnets shall be issued only to persons, natural or legal, resident in the country of issue who can establish that they are manufacturers or traders or representatives or employees of manufacturers or traders.
3. Notwithstanding the provisions of paragraph 2 of this Article, issuing associations may issue carnets to persons not resident in the country of issue if the Customs authorities of the country of temporary importation agree to accept carnets so issued.
4. Each Contracting Party shall, in the case of samples which are imported into its territory by a natural person resident in the territory of another Contracting Party and which qualify for temporary admission into its territory free of import duties, accept, as due security for the amount of the import duties and of other charges (other than the fees and charges mentioned in sub-paragraph (b) of Article I of the present Convention) which may arise as a result of the temporary duty-free importation of such samples, E.C.S. carnets valid for its territory and issued and used in accordance with the conditions laid down in this Convention.

5. Notwithstanding the provisions of paragraph 4 of this Article, Contracting Parties may accept E.C.S. carnets, under such conditions as they may determine, for unaccompanied samples or for samples imported by a natural person resident in their territory.

ARTICLE III

E.C.S. carnets or parts of E.C.S. carnets intended to be issued in the country into which the carnets are imported and which are sent to an approved association concerned with the issue of such carnets by a corresponding foreign association, by an international organization or by the Customs authorities of a Contracting Party, shall be admitted free of import duties and free of any import prohibition or restriction. Corresponding facilities shall be granted at exportation.

ARTICLE IV

If applicable, the issuing association shall indicate on the cover and on the importation vouchers of the carnet the countries in which it is not valid.

ARTICLE V

Issuing associations shall issue E.C.S. carnets with a period of validity not exceeding one year from the date of issue.

ARTICLE VI

Once an E.C.S. carnet has been issued by an issuing association no extra item shall be added to the list of samples enumerated on the reverse of the cover of the carnet.

ARTICLE VII

1. The samples imported under cover of an E.C.S. carnet shall be re-exported in the same general state within the period of validity of the carnet and within the period determined by the Customs authorities of the country of temporary importation, which shall not, in any case, exceed the period of validity of the carnet.
2. Samples covered by an E.C.S. carnet which are exported or imported in one consignment, shall also be re-imported or re-exported in one consignment unless the Customs authorities of the countries concerned allow otherwise.
3. Evidence of re-exportation shall be provided by the re-exportation certificate completed in the E.C.S. carnet by the Customs authorities of the country into which the samples were temporarily imported.

ARTICLE VIII

1. In any case in which the Customs authorities of a Contracting Party waive the requirement of re-exportation of certain samples admitted into their territory under cover of an E.C.S. carnet, the guaranteeing association shall be discharged from its obligations only when the Customs authorities of the country of temporary importation have certified in the carnet that the position regarding samples not re-exported has been regularised.
2. When samples 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 within the periods provided for in Article VII of the present Convention shall be suspended for the duration of the seizure.
3. The Customs authorities shall notify, so far as possible, to the guaranteeing association, seizures made by or on behalf of the Customs authorities of samples admitted under cover of E.C.S. carnets guaranteed by that association and shall advise it of the measures they intend to take.

ARTICLE IX

When the Customs authorities of a Contracting Party have unconditionally certified the re-exportation of samples in an E.C.S. carnet they can no longer claim from the guaranteeing association payment of the amounts referred to in Article II of the present Convention in respect of these samples. A claim may nevertheless still be made against the guaranteeing association if it is subsequently discovered that the certificate of re-exportation was obtained improperly or fraudulently or that there had been a breach of the conditions of temporary importation.

ARTICLE X

Customs certificates on E.C.S. 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 the normal business hours.

ARTICLE XI

1. If an E.C.S. carnet has not been regularly discharged, the Customs authorities of the country of temporary importation may, even if the carnet has expired, accept as evidence of re-exportation of the samples, unless they are in possession of positive evidence of non-re-exportation :
 - (a) the particulars entered by the Customs authorities of another Contracting Party on the E.C.S. carnet on re-importation into the country of departure, provided that the particulars relate to a re-importation which can be proved to have taken place after the re-exportation which it is intended to establish;

- (b) a certificate by the Customs authorities of another Contracting Party which is based on the particulars contained in a voucher which has been detached from the carnet on importation into the territory of that Contracting Party, provided that the particulars relate to an importation which can be proved to have taken place after the re-exportation which it is intended to establish.
2. The Customs authorities of the country of temporary importation may also accept any other documentary evidence that the samples are outside that country.
 3. In the case of the destruction, loss or theft of an E.C.S. carnet while the samples 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, 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 XII

In the cases referred to in Article XI of the present Convention, the Customs authorities shall have the right to charge a regularisation fee.

ARTICLE XIII

Customs authorities shall not in any circumstances require from the guaranteeing association payment of the import duties and other charges referred to in Article II of the present Convention when a claim has not been made against the guaranteeing association within a year of the date of expiry of the validity of the carnet.

ARTICLE XIV

1. The guaranteeing association shall have a period of six months from the date of notification of the non-discharge of an E.C.S. carnet in which to furnish proof of the re-exportation of the samples under the conditions laid down in the present Convention.
2. If such proof is not furnished within the time allowed, the guaranteeing association shall forthwith deposit, or pay provisionally, the amount of the import duties and other charges referred to in Article II of the present Convention. This deposit or payment shall become final after a period of three months from the date of the deposit or provisional payment. During the latter period, the guaranteeing association may still avail itself of the facilities provided by the preceding paragraph with a view to repayment 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 will be regarded as final, it being understood that the sums paid may be refunded when proof of the re-exportation of the samples under the conditions laid down in the present Convention has been furnished to the Customs authorities.

ARTICLE XV

Nothing in this Convention shall prevent Contracting Parties which form a customs or economic union from enacting special provisions applicable to residents of the States forming that union.

ARTICLE XVI

In the event of fraud, contravention or abuse, the Contracting Parties shall, notwithstanding the provisions of this Convention, be free to take proceedings against persons using E.C.S. 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 XVII

The provisions of the present Convention shall also apply to positive cinematograph advertising films of a width not exceeding 16 mm. shown to the satisfaction of the Customs authorities to consist essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogues, provided that the films :

- (a) relate to products or equipment offered for sale or for hire by a person established in the territory of another Contracting Party; and
- (b) are of a kind suitable for exhibition to prospective customers but not for general exhibition to the public; and
- (c) are imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

ARTICLE XVIII

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 Permanent Technical Committee of the Council which shall thereupon consider the dispute and make recommendations for its settlement.

3. If the Permanent Technical Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.
4. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Committee or Council as binding.

ARTICLE XIX

The present Convention shall be open for signature until 30th September, 1956 by any Government which is a Contracting Party to the Convention establishing the Council.

ARTICLE XX

The present Convention shall be subject to ratification. Instruments of ratification shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of the Council of each such deposit.

ARTICLE XXI

1. Three months after the date on which the Belgian Ministry of Foreign Affairs has received the instruments of ratification of three Governments the present Convention shall come into force in respect of those Governments.
2. For each signatory Government ratifying after that date, the Convention shall come into force three months after the date of the deposit of its instrument of ratification with the Belgian Ministry of Foreign Affairs.

ARTICLE XXII

1. The Government of any State which is not a signatory to the present Convention but which is a Contracting Party to the Convention establishing the Council may accede to the present Convention as from 1st October, 1956.
2. Instruments of accession shall be deposited with the Belgian Ministry of Foreign Affairs, which shall notify all signatory and acceding Governments and the Secretary General of the Council of each such deposit.
3. The present Convention shall come into force for any acceding Government three months after the date of the deposit of its instrument of accession, but not before it comes into force in accordance with paragraph 1 of Article XXI above.

ARTICLE XXIII

1. The present Convention is of unlimited duration, but at any time after the expiry of twelve months from its entry into force under paragraph 1 of Article XXI above, any Contracting Party may withdraw therefrom. Withdrawal shall take effect three months after the date of receipt by the Belgian Ministry of Foreign Affairs of a notification of withdrawal. The Belgian Ministry of Foreign Affairs shall notify each withdrawal to all signatory and acceding Governments and to the Secretary General of the Council.
2. Any E.C.S. carnet issued before the date when the withdrawal takes effect shall remain valid, and the guarantee of the guaranteeing association shall hold good.

ARTICLE XXIV

1. Any Government may at the time of its ratification or accession, or at any time thereafter, declare by notification given to the Belgian Ministry of Foreign Affairs that the present Convention shall extend to 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 Belgian Ministry of Foreign Affairs, but not before the Convention has come into force for the Government concerned.
2. Any Government 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 by notification given to the Belgian Ministry of Foreign Affairs withdraw in respect of that territory in accordance with the provisions of Article XXIII of the present Convention.
3. The Belgian Ministry of Foreign Affairs shall inform all signatory and acceding Governments and the Secretary General of the Council of any notification received by it under this Article.

ARTICLE XXV

1. The Council may recommend to Contracting Parties amendments to the present Convention.
2. The text of any proposed amendment recommended by the Council shall be communicated to all Contracting Parties by the Belgian Ministry of Foreign Affairs.
3. Any proposed amendment communicated in accordance with the provisions of the above paragraphs shall be deemed to be accepted if no Contracting Party has notified its objection to such amendments within six months of the date on which the Belgian Ministry of Foreign Affairs has communicated such amendments.

4. The Belgian Ministry of Foreign Affairs shall inform the Governments of all Contracting Parties as soon as possible if an objection has been notified against a proposed amendment and should there have been no objections the amendment shall come into force for all Contracting Parties three months after expiry of the six months referred to in paragraph 3 above.
5. The Belgian Ministry of Foreign Affairs shall notify the Governments of the Contracting Parties of accepted amendments or amendments deemed to have been accepted.
6. Any Government ratifying or acceding to the present Convention shall be deemed to have accepted any amendments which have entered into force at the date of the deposit of its instrument of ratification or accession.
7. Notwithstanding the provisions of this Article, the Council shall establish rules for the amendment of the E.C.S. carnet.

ARTICLE XXVI

Reservations to this Convention shall not be permitted.

In witness whereof the undersigned, having been duly authorized thereto by their respective Governments, have signed the present Convention.

Done at Brussels on the 1st March, 1956,

in the English and French languages, both texts being equally authentic, in a single original, which shall be deposited in the archives of the Government of Belgium which shall transmit certified copies thereof to each signatory and acceding Government.

FOR SIGNATURE
PROTOCOL OF SIGNATURE
FOR REPLACEMENT

At the time of signing the Customs Convention regarding E.C.S. carnets for commercial samples of this day's date the undersigned, having been duly authorized thereto by their respective Governments, make the following declarations :

1. 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.
2. The Contracting Parties undertake to consider the E.C.S. carnet as a new facility and not as an obligation binding on persons temporarily importing samples.
3. The Contracting Parties recognise that the good working of this Convention entails the granting of facilities to approved associations in respect of the transfer of currency :
 - (a) to settle claims by the Customs authorities of Contracting Parties;
 - (b) when import duties are repaid in accordance with the provisions of Article XIV of the Convention;
 - (c) to pay for blank E.C.S. carnets forwarded to approved associations by their federations or corresponding associations.

In witness whereof the undersigned have signed the present Protocol which shall form an integral part of the Convention.

Done at Brussels on 1st March, 1956.

FOR GERMANY (FEDERAL REPUBLIC OF) :

FOR AUSTRIA :

FOR BELGIUM :

FOR DENMARK :

FOR SPAIN :

FOR FRANCE :

FOR GREAT BRITAIN AND NORTHERN
IRELAND :

FOR GREECE :

FOR IRELAND :

FOR ITALY :

FOR LUXEMBOURG :

FOR NORWAY :

FOR PAKISTAN :

FOR THE NETHERLANDS :

FOR PORTUGAL :

FOR SWEDEN :

FOR SWITZERLAND :

FOR TURKEY :