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PART 114—CARNETS

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SOURCE: T.D. 70-134, 35 FR 9261, June 13, 1970, unless otherwise noted.

§ 114.0 Scope.

This part is concerned with the use of international Customs documents known as carnets. It also contains provisions concerning the approval of as-

sociations to issue carnets in the United States covering merchandise to be exported and to guarantee carnets issued abroad covering merchandise to be imported. The carnet serves simultaneously as a Customs entry document and as a Customs bond.

Subpart A—General Provisions

§ 114.1 Definitions.

The following are general definitions for the purpose of part 114:

- (a) *Commissioner*. “Commissioner” means the Commissioner of Customs.
- (b) *Issuing association*. “Issuing association” means an association approved by the Commissioner for the issue of carnets in the Customs territory of the United States under a Customs Convention to which the United States has acceded.
- (c) *Guaranteeing association*. “Guaranteeing association” means an association approved by the Commissioner to guarantee the payment of obligations under carnets covering merchandise entering the Customs territory of the United States under a Customs Convention to which the United States has acceded.

(d) *A.T.A. carnet*. “A.T.A. carnet” (Admission Temporaire—Temporary Admission) means the document reproduced as the Annex to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631).

(e) [Reserved]

(f) *TIR carnet*. “TIR carnet” (Transport International Routier) means the document reproduced as Annex 1 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 71-70, 36 FR 4490, Mar. 6, 1971; T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 85-180, 50 FR 42517, Oct. 21, 1985]

§ 114.2 Customs Conventions.

The regulations in this part relate to carnets provided for in the following Customs Conventions:

- (a) Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (hereinafter referred to as A.T.A. Convention).
- (b) [Reserved]

(c) Customs Convention on the International Transport of Goods Under Cover of TIR Carnets, done at Geneva on November 14, 1975, as well as the 1959 TIR Convention, TIAS 6633.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 85-180, 50 FR 42517, Oct. 21, 1985]

§ 114.3 Carnets.

(a) *Use.* A carnet issued in conformity with the provisions of a Convention identified in § 114.2 and with the regulations in this part shall serve as an entry document within the scope contemplated by the applicable Convention and as a bond for the performance of acts in compliance with the provisions of such Convention and the Customs statutes and regulations which are involved. Such carnet shall:

(1) Show the period for which it is valid,

(2) Be fully completed in accordance with the provisions of the Convention which provides for its issuance, and

(3) Include an English translation whenever the goods covered by a carnet are described in another language.

(b) *Area of validity.* Carnets are valid in the customs territory of the United States which includes only the States, the District of Columbia, and Puerto Rico.

[T.D. 71-70, 36 FR 4490, Mar. 6, 1971]

Subpart B—Issuing and Guaranteeing Associations

§ 114.11 Approval.

(a) *Documents to be furnished.* Before an association may be approved to serve as issuing association or guaranteeing association in the United States with respect to carnets authorized under a Customs Convention to which the United States has acceded, such association shall furnish the Commissioner a written undertaking, in a form satisfactory to the Commissioner, to perform the functions and fulfill the obligations specified in the Convention under which carnets are to be issued or guaranteed. Evidence of affiliation with an appropriate international organization shall also be required if affiliation with such an organization is re-

quired by the Convention under which carnets are to be issued or guaranteed.

(b) *Publication of notice of approval.* Notice of the approval of an issuing association or a guaranteeing association with respect to a Customs Convention to which the United States has acceded will be published in the FEDERAL REGISTER by the Commissioner.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 71-70, 36 FR 4490, Mar. 6, 1971]

§ 114.12 Termination of approval.

(a) *For cause.* The Commissioner may suspend or revoke the approval previously given to any issuing association or guaranteeing association for failure or refusal to comply with the duties, obligations, or requirements set forth in its written undertaking on which the approval was based; in the applicable Customs Convention; or in the customs regulations; or upon termination of the affiliation with an appropriate international organization required by § 114.11(a). Before such suspension or revocation, the Commissioner shall give the association a reasonable opportunity to refute the alleged failure of compliance.

(b) *Withdrawal.* To be relieved of future obligations, an approved guaranteeing association must notify the Commissioner, in writing, not less than 6 months in advance of a specified termination date that it will not guarantee the payment of obligations under carnets accepted by district directors of Customs after the specified date. The receipt of such notice by the Commissioner will in no way affect the responsibility of the guaranteeing association for payment of claims on carnets accepted by district directors before the designated termination date.

(c) *Notice.* Notice of the suspension or revocation of the approval of an issuing association or a guaranteeing association, or of the withdrawal of an approved guaranteeing association, with respect to a Customs Convention to which the United States has acceded will be published in the FEDERAL REGISTER by the Commissioner.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 71-70, 36 FR 4490, Mar. 6, 1971]

Subpart C—Processing of Carnets**§ 114.21 Acceptance.**

A carnet executed in accordance with § 114.3 shall be accepted provided that when the carnet is presented an association for the guaranteeing of such carnets has been approved in accordance with § 114.11 and such approval has not been terminated as provided for in § 114.12.

§ 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transported, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm., consisting 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 catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be 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.

(b) [Reserved]

(c) *TIR carnet*—(1) *Use.* The TIR carnet may be accepted at any port of entry for the transport of merchandise in road vehicles or in containers, even if the containers, without being loaded on road vehicles, are carried by other means of transport for part of the journey between the customs offices of departure and destination. The TIR carnet may also be accepted for the transport of “heavy or bulky goods” as

defined in Article 1 of the TIR Convention. The TIR carnet covers the transportation of merchandise for customs purposes only. Road vehicles transporting merchandise under cover of a TIR carnet must also comply with all other applicable requirements of Federal and State agencies concerned with the regulations of such vehicles and their personnel.

(2) *Taken on charge.* A TIR carnet is “taken on charge” by Customs when it is accepted as a transportation entry and when the shipment covered thereby is receipted for by the bonded carrier (see §§ 18.1, 18.2, and 18.10(a) of this chapter). Until the carnet is “taken on charge,” the guaranteeing association shall have no liability to the United States under the carnet.

(d) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier’s bond.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 71–70, 36 FR 4490, Mar. 6, 1971; T.D. 82–116, 47 FR 27262, June 24, 1982]

§ 114.23 Maximum period.

(a) *A.T.A. carnet.* No A.T.A. carnet with a period of validity exceeding 1 year from date of issue shall be accepted. This period of validity cannot be extended.

(b) *TIR carnet.* A TIR carnet may be accepted without limitation as to time provided it is initially “taken on charge by a customs administration (United States or foreign) within the period of validity shown on its front cover.”

[T.D. 71–70, 36 FR 4491, Mar. 6, 1971, as amended by T.D. 82–116, 47 FR 27262, June 24, 1982; T.D. 85–180, 50 FR 42517, Oct. 21, 1985]

§ 114.24 Additions.

When 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 cover of the carnet or on any continuation sheet annexed thereto.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 82–116, 47 FR 27262, June 24, 1982]

§ 114.25 Replacement of carnets.

In the case of destruction, loss, or theft of an A.T.A. carnet while the goods which it covers are in the Customs territory of the United States, the director of the port where such goods were imported may, upon request of the association which issued the carnet abroad, accept a replacement document, the validity of which expires on the same date as that of the carnet which it replaces, provided the port director determines that the description of merchandise in the replacement document fully corresponds to the description set forth in the importation voucher from the carnet to be replaced.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982]

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditional discharge.* An A.T.A. carnet shall be discharged unconditionally by the port director when he is satisfied that all merchandise covered thereby is reexported or destroyed. A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported under customs supervision. In all other cases, any discrepancy shall be noted on the appropriate counterfoil, and action shall be taken in accordance with § 10.39 or § 18.6 of this chapter.

(b) *Effect of discharge.* When a port director has discharged a carnet unconditionally by completion of the appropriate counterfoil, no claim may be brought against the guaranteeing association for payment under the carnet unless it can be established that the discharge was obtained improperly or fraudulently or, in the case of an A.T.A. carnet, that there has been a breach of the conditions of temporary importation.

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to Customs is not accepted, it shall be stamped "Not Taken on Charge" (see § 114.22(c)(2)). If merchandise not required to be transported in bond moving under cover of a TIR carnet is not

exported, the carnet shall be stamped "Cancelled."

[T.D. 71-70, 36 FR 4491, Mar. 6, 1971, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982]

Subpart D—Miscellaneous**§ 114.31 Restrictions.**

(a) *Mail importations.* Carnets shall not be accepted for importations by mail.

(b) *Temporary importations.* Merchandise not entitled to temporary importation under bond shall not be imported under cover of an A.T.A. carnet.

(c) *Transportation in bond.* Except as provided in § 18.43 of this chapter, merchandise not entitled to transportation in bond shall not be transported under cover of a TIR carnet.

[T.D. 71-70, 36 FR 4491, Mar. 6, 1971, as amended by T.D. 85-180, 50 FR 42517, Oct. 21, 1985]

§ 114.32 Samples for taking orders.

A.T.A. carnets may be accepted for unaccompanied samples and samples imported by a natural person resident in the Customs territory of the United States, as well as for samples imported by a natural person resident in the territory of another contracting party to the A.T.A. Convention.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982]

§ 114.33 Action against carnet user.

In the event of fraud, violation, or abuse of the privileges of a Convention, action may be taken against the users of carnets for applicable duties and charges or liquidated damages, as the case may be. Penalties to which such persons have thereby rendered themselves liable may also be imposed.

§ 114.34 Cancellation of erroneous charges.

(a) *TIR carnet.* When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded, as provided by § 18.8 of this chapter.

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(b) *A.T.A. carnet*. When it is determined that liquidated damages assessed or paid for failure to properly re-export or destroy merchandise temporarily imported under cover of an A.T.A. carnet did not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded as provided by §10.39 of this chapter.

(c) *Determination dependent upon a construction of law*. When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling by the Commissioner of Customs decisive of the issue. Approval of the Commissioner shall be requested in all doubtful cases. (See §172.31 of this chapter.)

[T.D. 74-227, 39 FR 32023, Sept. 4, 1974, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982]

PART 115—CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION PURSUANT TO INTERNATIONAL CUSTOMS CONVENTIONS

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AUTHORITY: 5 U.S.C. 301, 19 U.S.C. 66, 1624; E.O. 12445 of October 17, 1983.

SOURCE: T.D. 86-92, 51 FR 16161, May 1, 1986, unless otherwise noted.