

**CUSTOMS**

**EXTERNAL POLICY**

**CPD CARNET**

**(CARNET DE PASSAGES EN DOUANE)**

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## 1 SUMMARY OF MAIN POINTS

- a) The document outlines the Customs procedures for the acceptance, examination, processing and acquittal of Carnets De Passages En Douane (CPD) for vehicles temporarily imported into or exported from South Africa.
- b) The following goods **are covered** by a CPD **carnet**:
- i) Motor vehicles;
  - ii) Built-in motor vehicle radio's, etc.;
  - iii) Motorcycles and auto-cycles;
  - iv) Trailers and caravans for the conveyance of goods / passengers and designed to be attached to motor vehicles;
  - v) Motor vehicles including their normal spare parts e.g. tyres and tubes as indicated on the CPD **carnet** at the time of importation;
  - vi) Tourist busses carrying passengers (not for commercial use); and
  - vii) Motor racing cars/motorcycles irrespective of whether such cars are to be driven by persons domiciled outside or in South Africa.
- c) The following goods **are not covered** by a CPD **carnet** issued abroad. However, where applicable certain goods may be declared on a temporary import permit which must be obtained from SARS Customs at the first point of entry or the vehicles must be cleared on a **Customs clearance declaration (CCD) (refer to SC-CF-04)** together with the necessary security (not required for yachts arriving temporarily by sea under own power):
- i) By returning residents of South Africa;
  - ii) Buses and various types of commercial vehicles for commercial/industrial purposes e.g. testing, demonstration, exhibition or other trade purposes in which case an ATA Carnet can be used (refer to SC-TA-01-04);
  - iii) Vehicles for contract or construction work or use by a business concern in South Africa;
  - iv) Yachts arriving temporarily by sea under own power (to be treated in the same manner as other foreign going ships visiting the country ports);
  - v) Vehicles imported by persons on employment contracts exceeding twelve (12) months;
  - vi) Motor vehicles which are imported by persons entitled to privileges in terms of Rebate Item
    - i) 406.00;
    - vii) Goods (including means of transport) intended to be processed or repaired and
    - viii) Motor vehicles, the bona fide property of residents of Zimbabwe, Malawi, Mozambique or
    - ix) Angola entering South Africa by any means from any of these territories.
- d) It should be noted that if trailers designed to be attached to motor vehicles carry any motorised vehicle e.g. speed boat, quad bike etc. these motorised vehicles must be covered by a separate CPD **carnet**.
- e) A CPD **carnet (ZA CPD)** cannot be issued by the AA of South Africa for imported second hand vehicles.
- f) Intended settlers need to make formal clearance under Rebate Item 490.03 and not make use of the CPD **carnet**
- g) The forms, letters and annexes referred to in this policy can be found in the SC-TA-01-06-S1.
- h) This policy excludes:
- i) Goods which are covered by an ATA Carnet (refer to SC-TA-01-04);
  - ii) **Clearance declaration (refer to SC-CF-55);**
  - iii) **Bonds (refer to SC-SE-05); and**
  - iv) **Provisional payments (refer to SC-CF-25).**

## 2 POLICY

### 2.1 South Africa and the Istanbul Convention International Agreement

- a) South Africa is a signatory to the Annexes of the Istanbul Convention that covers the temporary importation and exportation of goods by using the international **carnet**.
- b) The Common Customs Area (CCA) of Botswana, Lesotho, Namibia, South Africa and Swaziland is for the purposes of the CPD Carnet convention to be taken as a single territory and importations into these countries are guaranteed by The Automobile Association of South Africa (AA of South Africa).
- c) A Bilateral Agreement exists between the Republic of China and South Africa for the temporary admission of goods. The Agreement is known as the "Rocsa Carnet" and became effective on 01 November 1991. The documentation is similar to that described and the same procedures must be applied to these temporary importations.
- d) Although South Africa has not yet acceded to Annex C of the Istanbul Convention which covers the temporary importation and exportation of vehicles by using the international documents, it is SARS' policy to accept the Istanbul Convention's procedure.

### 2.2 Companies and individuals who may use a CPD **carnet**

- a) Tourists;
- b) Foreign visitors, whether on business or otherwise;
- c) Intended settlers previously issued with a CPD **carnet** who have not yet been granted permanent residence, must on expiry of the CPD **carnets** existing period make formal clearance under item 490.03;
- d) Persons who take up employment for a period not exceeding twelve (12) months (persons who enter South Africa on a work permit exceeding twelve (12) months may not use a CPD **carnet** and must enter the vehicle under rebate of duty in terms of item 490.00 on lodgement of provisional payments to cover duty and value-added tax (VAT);
- e) When the importer mentioned above is the bona fide owner of the vehicle or be able to present a letter of authority from the owner to use the vehicle: the **CPD carnet** holder / representative may not loan, hire, abandon, sell, modify or otherwise dispose of the vehicle to any person, firm or business in the country or dispose of the vehicle in any other manner without the written permission of the Commissioner; and
- f) Vehicles under cover of the CPD carnet may not be left in the country whilst the carnet holder is not physically present in the country.

### 2.3 Guarantees, Clubs and Associations

- a) Approved guaranteeing associations undertake to pay to the Customs authorities of the Contracting Party in the territory of which it is established, the amount of the import duties and taxes and any other amount payable in the event of non-compliance with the conditions of temporary admission or of Customs Transit, in respect of vehicles and goods introduced into that territory under cover of temporary admission papers.
- b) The AIT/FIA are international non-governmental organisations comprising of many affiliated clubs and associations that have the primary objective of encouraging the development of international travel and tourism. The clubs and associations affiliated to the AIT/FIA are authorised to guarantee and issue CPD **carnets** within the framework of the international AIT/FIA Customs documents network. The body works closely with the World Customs Organisation (WCO) and in cooperation with the United Nations (UN) to promote the simplification of Customs formalities governing the temporary importation of means of transport.
- c) The AA of South Africa is the authorised association in South Africa and the territories of Botswana, Lesotho, Swaziland and Namibia who undertake to settle any outstanding duties, levies and VAT

demanding by SARS Customs due to the non-exportation of a vehicle or failure of any party to meet its obligations regarding the temporary or permanent importation of a vehicle.

- d) The relationship between the guaranteeing and issuing associations as well as between the issuing associations and CPD **carnets** is set down in the AIT/FIA Guarantee Agreement.
- e) The AA of South Africa has provided a guarantee of its own, which is held in Cape Town Branch Office and will only guarantee **CPD carnets** if prominently imprinted "AIT/FIA" – full or abbreviated names are accepted and when documents are issued/imprinted by the AA of South Africa. (SC-SE-04)
- f) A list of clubs and associations that are allowed to issue this document are listed on the back page and on the inside of the front cover of the CPD **carnet**. CPD **carnets** issued in these countries may be used under guarantee of the AA of South Africa.
- g) Should a country or the affiliated club or association not appear on the list on the back page of the CPD **carnet**, then the AA of South Africa must be contacted prior to rejecting the document, to obtain written confirmation on the eligibility of the guaranteeing club or association i.e. whether any changes have been effected.
- h) CPD **carnets** issued in South Africa by the AA of South Africa are also guaranteed abroad by the indicated authorised associations ([refer to SC-SE-05](#)).

## 2.4 Value and rates of duty payable

- a) The CPD **carnet** holder / representative must ensure that the correct value is declared and SARS must evaluate whether this value is fair and reasonable.
- b) If the value is considered low at the time of importation of the vehicle the release of the vehicle must not be hampered. The Officer must, however, note this observation on the CPD **carnet** i.e. endorse the entry and counterfoil sheet to this effect. A fair value estimated by mutual agreement with the CPD **carnet** holder / representative is recommended and must be noted in the remarks. This report will serve as a guide in the event of a claim. No alteration by any party to the original value declared on the CPD **carnet** is permitted
- c) When determining a value for Customs duty purposes no allowance can be made for depreciation for any period of use in South Africa.
- d) The rate of duty payable on entry for home consumption is that in force at the time of acceptance of the CPD **carnet** at the place of entry into the country.

## 2.5 The CPD **carnet** format

- a) The format of the CPD **carnet** must comply with the size, colour scheme and format as prescribed by Appendix I to Annex A of the Istanbul Convention.
- b) The document is printed in English and / or French
- c) A CPD **carnet** consists of five (5), ten (10) or 25 pages i.e. made up of the required number of detachable importation and exportation vouchers as well as a counterfoil record sheet and certificate of location that both remain attached in the booklet. (Single importation, exportation and counterfoil documents are sometimes referred to, as "Triptyque", but this practise is falling away and the documents referred to simply as a CPD **carnet**).
- d) No tippex (correction fluid) is allowed on the CPD **Carnet** – changes that must be made are to be neatly crossed out, changed and initialled by the same person who signed or approved the CPD **carnet**.
- e) The CPD **carnet** is made up of the following:
  - i) Front of cover:
    - A) CPD **carnet** number;

- B) Name of CPD carnet holder – surname, first name, principle residence or firm headquarters;
  - C) Issuing Association – usually printed on the form by the AIT / FIA;
  - D) International Organisation – AIT / FIA;
  - E) Period of Validity – generally twelve (12) months from date of issue; Customs may modify this period with the permission of the AA of South Africa; and
  - F) Signatures of the International Organisation, Issuing Association and the CPD carnet holder. Without these signatures, the CPD carnet is invalid and may not be accepted.
- ii) Inside front cover:
    - A) Description of vehicle;
    - B) Any extension of validity; and
    - C) Additional countries where the CPD carnet may be used.
  - iii) Back of cover: List of approved countries for use and the guarantor association in that country.
  - iv) Inside back cover: Instructions and information for the CPD carnet holder
  - v) Importation and exportation voucher:
    - A) CPD carnet number;
    - B) The vehicle particulars listed inside the front cover;
    - C) Name and address of the CPD carnet holder;
    - D) Name of the issuing association; and
    - E) Expiry date of the document.
  - vi) Counterfoil sheets:
    - A) CPD carnet number;
    - B) Place and date of importation and exportation; and
    - C) Official signatures.
  - vii) Certificate of Location:
    - A) Country of current location;
    - B) CPD carnet number;
    - C) Description of vehicle.
  - viii) Rear cover: Directions for use.

f) Each page of the CPD carnet is divided into three (3) sections:

Top section: Importation and exportation counterfoil	i) Counterfoil section, to be stamped once on importation and once on exportation. ii) The left-hand side of the counterfoil must be endorsed and completed by the Customs Office at the point of entry into the country of temporary importation. iii) The right-hand side of the counterfoil must be endorsed and completed by the Customs Branch Office at the point of exit from the country of exportation. iv) The counterfoil section must never be removed.
Middle section: Exportation voucher	i) Exportation of the private / commercial road vehicle originally allowed temporary access. ii) This form must be completed and registered by the Customs Office at the point of exit and removed from the CPD carnet and forwarded to Centralised Customs Ops Support, Private Bag 923, Pretoria, 0001. iii) The right-hand side of the counterfoil must be completed and verified by the Customs Office at the point of exit.
Lower section: Importation voucher	i) Importation of a private / commercial road vehicle. ii) This form must be completed and registered by the Customs Office at the point of entry and must be removed from the CPD carnet and forwarded to Centralised Customs Ops Support. iii) The left-hand side of the counterfoil must be completed and verified by the Customs Office at the point of importation.

g) Sheets (Inside Pages)

- i) Should a country be revisited more than once each visit will require a new page of the document to be stamped. It is vital that the CPD carnet holder gets these endorsements, as they constitute proof of re- exportation;
- ii) In respect of multiple page CPD carnets, the Issuing Association must, on each of the pages/vouchers, reproduce (typed or printed) all the instructions given on the inside of the front

- cover, concerning both the time limit and geographic validity of the CPD carnet, the name and address of the CPD carnet holder and all specifications relative to the vehicle;
- iii) Separate importation papers must cover trailers/caravans/boats, etc.;
  - iv) If it is not valid for one or several territories, the issuing association shall indicate this by means of a stamp on the cover and on the importation vouchers of the CPD carnet; and
  - v) CPD carnet endorsed as "Not valid for the Republic of South Africa" which is imprinted in disc form on the CPD carnet sheets e.g. "Non Valuable Pour" the French for "Not valid for".

## 2.6 Examination of goods / application: special / extra attendance

- a) Vehicles must be examined at the place of entry into South Africa and on exit and the necessary documentation of the CPD carnet must be completed by the Customs Officer.
- b) The examination of vehicles must be carried out in the presence of the CPD carnet holder / representative.
- c) Examinations of goods conducted at premises outside of the control of the locally appointed Branch Office may be considered in deserving cases. However, any costs incurred are for the account of the CPD carnet holder of the CPD carnet and extra attendance charges must be collected for such examinations (refer to SC-CF-22).
- d) Where the nature or size of the vehicles justifies an examination at premises not under the control of the Controller/Branch Manager, a written application from the holder of the CPD carnet may be considered. If approved, extra attendance fees at the applicable rate must be charged per Officer per hour or part thereof. Payment must be made and recorded on a DA 73 (refer to SC-CF-22) that must be registered prior to the examination taking place and the CPD carnet holder must provide transport. Such examinations are to be carried out entirely at the expense of the CPD carnet holder (refer to SC-TA-01-05-A01).

## 2.7 Substitutions, replacements and grace period

### 2.7.1 Acceptance of CPD carnet's for substitution (Extension of validity period)

- a) A substitution to allow the vehicle to overstay the fixed period of twelve (12) months will only be allowed once, and will be valid for a period not exceeding one (1) year from the original validity period. This request must be made at least thirty (30) days before expiration of the original CPD carnet.
- b) Any other requests for extensions by persons who enter South Africa e.g. who cannot exit South Africa within the validity period of the substitution or where a substitution is not allowed, must enter the vehicle under rebate of duty in terms of item 490.00 on lodgment of provisional payments to cover duty, levies and VAT.
- c) The guarantor (the AA of South Africa) must submit a request to Centralised Customs Ops Support on SC-TA-01-03-A03.
- d) If the Issuing Association does not grant permission for the extension, SARS will not entertain the application.
- e) The Issuing Association is not allowed to issue a new CPD Carnet without the authority letter from SARS.
- f) The old and the new CPD Carnet, together with the letter of approval for substitution, as well as the vehicle, must be presented to Customs (SC-TA-01-03-A06) for validation of the new CPD Carnet.

### 2.7.2 Replacement of CPD carnet's which were destroyed, lost or stolen

- a) The CPD carnet holder / representative may request that a replacement document, be issued if the original document is destroyed, lost or stolen. The validity period, value, description, etc. as per the original CPD carnet will remain the same.



- b) The request to replace a CPD carnet must be made as soon as the CPD carnet holder / representative becomes aware of the destruction, lost or theft of the original document and it must still be within the validity period of the CPD carnet.
- c) The guarantor (the AA of South Africa) must submit a request to Centralised Customs Ops Support for a replacement carnet on the prescribed letter SC-TA-01-03-A02.
- d) Centralised Customs Ops Support will entertain no application unless such application is received from the AA of South Africa. A Branch Office may not approve such an application,
- e) If the Issuing Association does not grant permission for the replacement, SARS will not entertain the application.
- f) The Issuing Association is not allowed to issue a new CPD carnet without the authority letter from SARS.
- g) The replacement CPD carnet as well as a copy of the letter of approval for replacement, together with the vehicle, must be presented to Customs (refer to SC-TA-01-03-A06) for validation of the new CPD carnet.
- h) If a CPD carnet was lost, stolen or fraudulent, Centralised Customs Ops Support must inform the Customs Branch Offices on SC-TA-01-03-A09.

### 2.7.3 Grace period

- a) If the validity period of a CPD carnet will expire while the CPD carnet holder / representative is in the process of preparing the vehicle for exportation, the CPD carnet holder / representative may apply for a period of grace. This request must be made at least thirty (30) days before the expiry of the CPD carnet to the guaranteeing association (the AA of South Africa).
- b) An application will only be considered in exceptional circumstances, e.g. the vehicle has been loaded into a container but due to unforeseen circumstances by the carrier the vehicle will not be shipped on time, e.g. change of shipment date and that the CPD carnet has expired, permission will be granted.
- c) A period of grace will only be allowed once for a period not exceeding three (3) months from the expiry date of the CPD carnet.
- d) The guarantor (the AA of South Africa) must submit a request to Centralised Customs Ops Support for a period of grace on SC-TA-01-03-A02.
- e) Centralised Customs Ops Support will entertain no application unless such application is received from AA of SA. A Customs Branch Office may not approve such an application.
- f) The letter of grace (refer to SC-TA-01-03-A07) must be presented together with the CPD carnet at the time of exportation, to the Customs.

## 2.8 Irregularities

### 2.8.1 Where vehicles imported under cover of a CPD carnets are stolen

- a) Where vehicles are stolen the guaranteeing association is still responsible to meet their obligations. Where the conditions of the CPD carnet are not met this will still result in a claim being lodged for outstanding duties. Any claim for duty must be directed to the guaranteeing association (the AA of South Africa) and not the CPD carnet holder / representative of the CPD carnet. Stolen goods must also be reported to the South African Police Service (SAPS) by the CPD carnet holder / representative.
- b) Robbery by armed or dangerous attackers can be regarded as *force majeure*, but theft in the ordinary cause will seldom be regarded as *force majeure*.



- c) Theft is prima facie considered the fault of the CPD **carnet** holder / representative i.e. by observing normal care, the incidence of theft can be avoided. The theft of goods is definitely not “destruction or loss by accident”. Therefore in the case of theft, the duty remains payable.
- d) In instances involving theft of goods imported under cover of a CPD **carnet**, a copy of the South African Police Service report must be forwarded to Centralised Customs Ops Support.

### 2.8.2 Seizure, penalties and irregularities

- a) In the event of possible misuse of the system, contracting parties may take action against the persons using the CPD **carnet**, for the recovery of any outstanding duties or other sums payable, including the imposition of penalties, etc. The guaranteeing associations will be expected to assist in this regard. SARS holds the AA of South Africa liable for duties and VAT.
- b) Should any irregularity warrant the consideration of penalties and/or forfeiture, it must happen in the normal Customs manner e.g. letter of intent, demand for penalties, etc.
- c) When vehicles are seized the requirements for re-exportation is suspended and the Customs Branch Office must notify Centralised Customs Ops Support of the seizure.
- d) Centralised Customs Ops Support must then in turn notify the AA of South Africa of this development and the measures to be taken to resolve the matter.

### 2.8.3 Abandonment / destruction

- a) Vehicles landed damaged or involved in an accident are still the responsibility of the **CPD carnet** holder or guaranteeing association and will still be subject to a claim for outstanding duties and VAT, which will be lodged with the AA of South Africa. There can be no deduction given from the value for duty purposes, even if the vehicle is a total wreck and even if sold as scrap or dismantled for sale of the salvageable parts. It must be remembered that any claim for duty must be directed to the guaranteeing association and not the holder of the CPD **carnet**.
- b) However, provision is made in terms of Rebate Item 412.07 / 522.02 for the duty to be rebated or refunded should the damaged motor vehicle not be exported and Controller / Branch Managers may entertain applications for the abandonment and/or destruction of severely damaged vehicles in terms of the provisions of the Rebate Item, i.e. where the motor vehicle is unable to be exported under its own power.
- c) Abandonment can only be made by the owner or his / her duly authorised agent within twelve (12) months of the date of the importation of the motor vehicle into the country, and must be unconditional and at the owner's or agent's risk/expense. An application for abandonment can be considered in terms of Rebate Item 412.07 and must be made before the expiry of the validity of the CPD **carnet**, in writing to the nearest Customs **Branch** Office. Once written permission was obtained, the damaged vehicle must be delivered to the nearest State warehouse (refer to SC- CW-01-04) or alternative place indicated by the Controller/Branch Manager and the necessary documents forwarded to Centralised Customs Ops Support.
- d) The AA of South Africa must inform NIGA of vehicles damaged or destroyed in an accident or the CPD **carnet** itself is lost.
- e) VAT remains payable since no exemption item makes provision for exemption. The **CPD carnet** holder / representative may prior to abandonment request VAT Exemption.
- f) A **CCD (refer to SC-CF-55)** must be completed and submitted by the **CPD carnet** holder / representative bringing duty and VAT to account on the proceeds of the waste/scrap. [refer to Section 75(22)]

### 2.8.4 Entered for home consumption

- a) Permission to bring duties to account must be obtained before the expiry date of the CPD **carnet** from the nearest Customs Branch Office.

- b) The application must be in writing by, or on behalf of, the **CPD carnet** holder.
- c) The **CPD carnet** and all relevant documents identifying the vehicle must support the application.
- d) Temporary admitted vehicles entered for home consumption are dutiable at the value at the time of importation and at the rate of duty current at the time of entry (refer to paragraph 2.4).
- e) A **CCD** must be processed to bring duties and VAT to account (refer to **SC-CF-55**).
- f) Once a **CCD** was processed, the exportation voucher still has to be processed and a copy of the **CCD** has to be submitted together with the **CPD carnet** to Centralised Customs Ops Support.
- g) Under no circumstances may a vehicle be cleared on a DA 490 for home consumption

## 2.9 Acceptable proof of acquittal documents

- a) An importation voucher can only be considered finalised when the goods are:
  - i) Re-exported (export declaration);
  - ii) **CCD** (refer to **SC-CF-55**);
  - iii) Destroyed under customs supervision (destruction certificate – P1.154);
  - iv) Abandoned to the state (state warehouse slip) (refer to **SC-CW-01-04**);
  - v) Where a certificate of location is produced; and / or
  - vi) Where the SARS Commissioner waives duties and export requirements.
- b) Where the **CPD carnet** is not certified by a Customs Branch Office, the following evidence may be considered:
  - i) The particulars entered and authorised by another contracting Customs Authority on importation or re-importation of the goods into that country or a certification on the detached relevant **CPD carnet** by those authorities.
  - ii) Any other acceptable documentary proof that the goods is outside South Africa, e.g. a re-location certificate from a reliable source.
  - iii) If a **CCD** from any BLNS country is produced to prove that duties and VAT (where applicable) were brought to account, a duly completed **CCD** reflecting the **CPD carnet** number thereon.
- c) No affidavits will be accepted in lieu of goods being exported.
- d) A DA 490 or DA 70 will not be regarded as an acquittal document.

## 2.10 Designated places of exit

- a) Goods must be exported via a designated commercial Customs place of exit in order to obtain the documentary proof substantiating proof of export. Should none of the designated commercial places of exit as listed below be used the goods will not be regarded as exported. Examinations must be done on the goods and the CPD endorsed and signed by the Customs Officer at the place of exit.
  - i) **International Airports:**
    - A) Bloemfontein;
    - B) Cape Town;
    - C) King Shaka;
    - D) O R Tambo;
    - E) Kruger Mpumalanga;
    - F) Lanseria;
    - G) Polokwane;
    - H) Port Elizabeth;and
    - I) Upington.
  - ii) **Border Posts in the Common Customs Area:**
    - A) Beit Bridge;
    - B) Kazangulu;
    - C) Kazungula Ferry / Road;
    - D) Lebombo;

- E) Lomahasha;
  - F) Mhlumeni.
  - G) Oshikango;
  - H) Ramokgwebane; and
  - I) Wenela / Katimo Mulilo;
- iii) **Harbours in the Common Customs Area:**
- A) Cape Town;
  - B) Durban;
  - C) East London;
  - D) Mossel Bay;
  - E) Port Elizabeth;
  - F) Port of Ngura;
  - G) Richards Bay;
  - H) Saldanha Bay; and
  - I) Walvis Bay.

### 3 Keeping of records

- a) Every client must keep for record purposes for a period of five (5) years:
  - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
  - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A)
- c) Every client must produce such books, accounts and documents on demand.

### 4 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
  - i) Monetary penalties (SC-CO-01-02);
  - ii) Criminal prosecution; and / or
  - iii) Suspension / cancellation of registration / licence / accreditation.

### 5 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
  - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
  - ii) Imposes a duty on the State to give effect to those rights;
  - iii) Promotes an efficient administration as well as good governance; and
  - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action, which significantly and unfavourably affects the rights or valid expectations of any person, must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
  - i) Written reasons of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representations;

- iii) A clear statement of the administrative action; and
  - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.
- e) Before administrative action can be taken by Customs the client must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
  - ii) Present and dispute information and arguments; and
  - iii) Appear in person.
- f) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the client became aware of the action, request Customs to furnish written reasons for the action.
- g) Customs must within ninety (90) days after receiving the request, give the client adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

## 6 Appeals against Decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

## 7 REFERENCES

### 7.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<b>Customs and Excise Act, No. 91 of 1964:</b> Sections 10(1), 38, 39, 43(1)(a), 44, 45(1), 49, 65(7), 75, 75(6) (a), 76, 76B, 78, 80, 83, 87, 88, 91, 92, 94, 97 and 114. <b>Customs and Excise Rules:</b> 99.01, 101, 101A, 120.01 – 120.07. Schedule 4 Notes 4, 7(A), and 9 to Rebate Item 480.00 of The Harmonised Tariff. <b>Value Added Tax Act, No. 89 of 1991:</b> Section 7, 13 and 39.
Other Legislation:	<b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3
International Instruments:	Alliance Internationale de Tourisme (AIT) / Federation Internationale de L 'Automobile) FIA Manual <b>Istanbul Convention:</b> Annex A and C <b>Kyoto Convention:</b> Specific Annex A and G, Chapter 1

### 7.2 Cross References

DOCUMENT #	DOCUMENT TITLE
QMS-01	Quality Management System Manual
SC-CC-24	Internal Administrative Appeal - External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	Completion Of Declarations – External Manual
SC-CF-20	Clearance of Goods Qualifying for Rebate – External Policy
SC-CF-22	Special and Extra Attendance – External Policy
SC-CF-25	Provisional Payments - External Policy
SC-CF-55	Clearance Declaration – External Policy
SC-CO-01-02	Offences and Penalties – External Policy

DOCUMENT #	DOCUMENT TITLE
SC-CW-01-04	State Warehouse - External Policy:
SC-SE-05	Bonds - External Policy
SC-TA-01-04	ATA Carnet - External Policy

### 7.3 Quality Records

NUMBER	TITLE
DA 73	Application for Special / Extra Attendance

## 8 DEFINITIONS AND ACRONYMS

AA of South Africa	The Automobile Association of South Africa
AIT	The Alliance Internationale de Tourisme (International Alliance of Tourism)
ATA	Admission Temporaire / Temporary Admission
ATA Carnet	Is an international Customs document, which covers the approved temporary importation and / or exportation of qualifying goods from or into South Africa (including the BLNS countries) in terms of the Istanbul Convention e.g. <ul style="list-style-type: none"> <li>a) goods for display or use at exhibitions, fairs, shows, meetings or similar events;</li> <li>b) commercial samples owned abroad and imported for the purpose of being shown or demonstrated; and</li> <li>c) Professional equipment (including ancillary apparatus and accessories) owned abroad and for use solely by or under the supervision of a person resident abroad or a legal person established abroad.</li> </ul>
BLNS Countries	The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland
Carnet	The word carnet is French for "booklet" which describes the physical appearance of the document.
Carnet holder	Is the person who owns the vehicle / goods and if not, is allowed on production of a letter of authority from the owner, to utilise the vehicle. The person will be named on the front cover of the CPD carnet.
CCA	Common Customs Area
CCD	Any CCD made to declare goods imported, exported, moved in bond or transit or moved across the borders between the SACU countries
Commercial use	The transport of persons for remuneration and the industrial or commercial transport of goods, whether or not for remuneration
CPD (Carnet De Passages en Douane)	Carnet De Passages en Douane for motor vehicles and trailers is the French for a booklet allowing motor vehicles and trailers through a Customs territory. It is an internationally accepted Customs document used to facilitate the temporary (duty and VAT free) importation and/or exportation of mainly motor vehicles into South Africa (including the BLNS countries) and contracting parties provide an internationally valid guarantee for these vehicles. A CPD carnet also assists contracting parties to waive import and export prohibitions and restrictions e.g. Import Permits and import approval certification from the South African Bureau of Standards (SABS) provided the vehicle is finally re-exported and not entered for home consumption (for motor vehicles, trailers, caravans and other goods covered by the CPD carnet).
Customs Office of entry (commencement)	Any Customs Office in the country where the temporary importation first took place, e.g. Durban, Beit Bridge, etc.
Customs Office of exit	Any designated Customs Office in the country where the exportation took place e.g. Beit Bridge, Oshikango, etc.
Discharge	Means acceptable compliance with the conditions of the temporary importation or transit of goods brought into the country under cover of a CPD carnet i.e. exportation within the prescribed period. This will also apply when other acceptable evidence is produced i.e. due entry under a General Rebate Item, payment of duties and VAT due and compliance with the conditions of any law on goods that remains in the country.

<b>FIA</b>	The Federation Internationale de L'Automobile (International Federation of Automobiles)
<b>Force Majeure</b>	A superior or irresistible force an event or effect that cannot be reasonably anticipated or controlled. This will include natural calamities such as storms, lightning, shipwreck, inundations, fires, hostile incursions, exceptional droughts or frosts. Force majeure is the same as vis major.
<b>GATT</b>	General Agreement on Tariffs and Trade
<b>GR</b>	General Rebate
<b>Import duties</b>	Customs duties and VAT payable on or in connection with the importation of the goods
<b>International Clubs and Organisations</b>	International Clubs and Associations in other countries that are affiliated to and approved by the AIT/FIA to issue <b>CPD carnets</b> . CPD carnets issued in these countries are guaranteed by the AA of South Africa when travelling through SACU
<b>Means of Transport</b>	Any vessel including lighters and barges (whether or not shipborne), and hydrofoils, hovercraft, aircraft, motor road vehicles (including cycles with engines, trailers, semi-trailers and combinations of vehicles) and railway rolling stock; together with their normal spare parts, accessories and equipment carried on board; including special equipment for the loading, unloading, handling and protection of cargo
<b>NIGA</b>	National Issuing and Guaranteeing Association
<b>Period of grace</b>	Period not exceeding three (3) months in which an expired CPD <b>carnet</b> can be used to re- export the goods
<b>Person</b>	Both natural and legal persons unless the context otherwise requires
<b>PP</b>	Provisional Payment (DA 70)
<b>Prima Facie</b>	At first sight, accepted as so until proved otherwise
<b>Private use</b>	The transport exclusively for personal use by the person concerned, excluding commercial use
<b>Replacement</b>	Production of a new CPD <b>carnet</b> for lost, destroyed or stolen original CPD carnet. The replacement document will retain the validity period of the original CPD <b>carnet</b>
<b>SABS</b>	South African Bureau of Standards
<b>SACU</b>	The Southern African Customs Union, consisting of: The Republic of South Africa; The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland
<b>Substitution</b>	The extension of the validity period to allow a vehicle to overstay the fixed period of 12 months. A new CPD <b>carnet</b> is issued and the validity period extended (the replacement CPD <b>carnet</b> is issued abroad or locally by the AA of South Africa)
<b>Temporary admission</b>	A Customs procedure under which certain goods can be brought into a Customs territory and so designed to facilitate their temporary duty free admission, the elimination of difficulties normally encountered when having to make declarations, lodgement of securities, producing of permits and compliance with other formalities associated with the importation and exportation of goods. Such vehicles and goods must be imported for a specific purpose, be intended for re-exportation within the specified period, without having undergone any change except normal depreciation due to the use made of them. (Refer to Istanbul convention, Chapter 1, article 1)
<b>UN</b>	United Nations
<b>VAT</b>	Value-Added Tax
<b>Vis Major</b>	See <i>force majeure</i>
<b>WCO</b>	World Customs Organisation

## 9 DOCUMENT MANAGEMENT

<b>Policy Owner</b>	<b>Group Executive: Customs Branch</b>
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Detail of change from previous revision	<b>Insert:</b> a) The word CPD and / carnet throughout as reference to CPD carnet; and b) The standard paragraph relating to: i) Promotion of Administrative Justice Act (PAJA); and ii) Appeal against Decision
Template number and revision	GC-TM-02 - Rev 15