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Working Party on Customs Questions affecting Transport

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CUSTOMS CONVENTIONS ON THE TEMPORARY IMPORTATION OF PRIVATE ROAD VEHICLES(1954) AND COMMERCIAL ROAD VEHICLES (1956)

Difficulties in the application of the 1954 Convention in Australia

Transmitted by the International Touring Alliance (AIT) and the International Automobile Federation (FIA)

1. The Customs authorities of Australia have asked for clarification on what constitutes the "private" versus "commercial" use of a vehicle as set down in the Customs Conventions on the Temporary Importation of Private and Commercial Road Motor Vehicles (1954 and 1956 Conventions). They have noted that there are certain "grey areas" with respect to the interpretation of private and commercial use. A few examples are cited here below.

PLEASE NOTE: The distribution of documents of the Inland Transport Committee and its subsidiary bodies is no longer "restricted." Accordingly, the secretariat has adopted a new numbering system whereby all documents other than Reports and Agendas will be numbered as follows: TRANS/WP.30/year/serial number. Reports and Agendas will retain their previous numbering system (e.g., TRANS/WP.30/177).

A. RALLY VEHICLES

2. The Australian Customs Service (ACS) states that there are adequate references in the 1954 Convention to interpret that rally cars are excluded: for example, the mention of "private use" and "reward" in article 1 (c) and article 14.
3. Nevertheless, upon the specific request of the AIT Secretariat and the Australian Automobile Association (the guaranteeing association) to reconsider this matter, the ACS agreed in November 1995 to accept AIT/FIA carnets for road-registered rally, vintage and veteran cars.
4. In the case of rally vehicles, prize money may be offered to successful drivers: may this be interpreted as "reward"?

VEHICLES ON LOAN FOR BUSINESS, DEMONSTRATION OR OTHER PURPOSES

5. The ACS raised a case where a Japanese citizen temporarily imported a road motor vehicle supplied to him by a car company to enable him to travel in Australia to take photographs and write articles for publication in Japan.
6. Customs were concerned that this type of use was in contravention to the Convention as it hinged on a commercial rather than private type of activity. However, as the Convention provides limited exclusions to the term "private use", the ACS reviewed their policy and will allow vehicles to enter under cover of "carnets de passages en douane" in similar circumstances.
7. How would such a case be interpreted if the purpose of the venture was to promote this type of road motor vehicles?

SMALL COACHES/MINIVANS CARRYING FARE PAYING PASSENGERS

8. Are these road motor vehicles in contravention to the remuneration and reward provisions of the 1954 Convention? How would other Contracting Parties deal with the temporary importation of such vehicles which wish to enter for tourism purposes?

FOREIGN WORKERS WHO BRING THEIR VEHICLES

9. Another area of concern to the ACS is people who are posted by their companies to work in Australia and wish to temporarily import their vehicles. Temporary residents often come to work for 4-5 years which is beyond the normal issue period for "carnets de passages en douane" (CPD). The cars do not normally meet Australian design rule standards and are therefore unable to obtain circulation rights except by way of the CPD.

10. Essentially, acceptance of the CPD is up to the Australian Customs Service who tries to facilitate CPD holders in the best way possible. The ACS, whose role is not only to protect the revenue but to ensure that Australia's international obligations and laws are upheld, believes that, on some occasions, the spirit of the 1954 Convention is not always being carried through (Australia is a Contracting Party to the 1954 Convention, but not to the 1956 Convention).

11. The AIT/FIA Customs Commission, on behalf of the Australian Customs Service, would appreciate the opinion of the Working Party - as well as that of national customs experts - on whether any of the above "grey areas" would be in contravention to the 1954 Convention.

N.B.: The AIT and FIA note with satisfaction that the ACS has endeavoured not to impose Customs procedures which may impede the development of international tourism, in line with article 29 of the Convention, and has complied with the "greater facilities" provision set down in article 32 bis.
