

FINAL REPORT

ATA CARNET OPERATION IN BRAZIL

2016-2021



Brazilian National Confederation of Industry
THE FUTURE OF INDUSTRY

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BRAZILIAN NATIONAL CONFEDERATION OF INDUSTRY – CNI

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2016-2021



Passport for goods



Brazilian National Confederation of Industry

THE FUTURE OF INDUSTRY

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INTRODUCTION

The ATA Carnet (where “ATA” is an acronym composed of the first letters of Admission Temporaire/Temporary Admission in French and English, respectively) is a passport for temporarily exported or imported goods. Under the terms of this document, goods can circulate through 79 countries for a maximum period of 12 months with suspension of customs duties.

The introduction of the ATA Carnet brings advantages for its users and for governments. This passport is used globally, benefiting the country’s image and credibility. It also brings added value to the measures taken at national level to facilitate trade and reduce red tape through the simplified and expeditious procedures it introduces.

For the operation of the ATA Carnet in Brazil, the Brazilian Federal Revenue Service has chosen, as a result of a public notice, the Brazilian National Confederation of Industry (CNI) as the guaranteeing association in the country for five years (2016-2021). The guaranteeing association is a key figure in the Istanbul Convention for maintaining the document model in a country.

In 2021, after two public calls for the selection of a new organization that could assume the role of guaranteeing association for the next five years without any proposals from interested parties, the Revenue Service published DIEXP/Coana Note No. 0.120. This Note informed that, given that since January 1, 2022 there is no longer an organization in Brazil to perform this role, all operations supported by the ATA Carnet were discontinued as of this date.

Therefore, CNI publishes this report with the aim of detailing the model it has implemented over the past five years and suggesting possible ways to improve the Brazilian regime and continuity of operations in the country.

We hope that this publication will promote dialogue between the private sector and the government to address the legal and operational challenges to bring the ATA Carnet back to full use in Brazil.

Enjoy your reading.

Robson Braga de Andrade

President of CNI



EXECUTIVE SUMMARY

The ATA Carnet (where “ATA” is an acronym composed of the first letters of *Admission Temporaire*/Temporary Admission in French and English, respectively) is a passport for temporarily exported or imported goods. Under the terms of this document, goods – from individuals or legal entities – can circulate through 79 countries for a maximum period of 12 months with suspension of customs duties.

In 1963, the ATA Convention entered into force with the aim of creating instruments to facilitate and harmonize temporary export and import procedures, including the suspension of taxes during the validity of the customs regime.

In the following years there was a need to expand the possibilities of using the ATA, which prompted the World Customs Organization (WCO) to start talks to prepare a draft for a worldwide agreement on temporary imports and exports. It was the so-called Istanbul Convention, which aimed to consolidate thirteen (13) agreements on this subject into a single international instrument.

The 1990 Istanbul Convention does not supersede the (older) ATA Convention and both are complementary. Each country has legal regulations and may choose to internalize one or both conventions.

The WCO recommends¹ that the two international treaties be equally accepted by all member countries in order to maximize the benefits of the ATA Network as a trade facilitation tool without having to internalize the different conventions.

Currently, the two conventions have 79 member countries² (the group of countries also known as the ATA Network) that issued 190,124 ATA Carnets in 2019³, covering more than \$22 billion worth of goods. In Latin America, only Brazil, Chile and Mexico are part of the group.

1 WCO. **Recommendation of the customs co-operation council concerning the acceptance of ata carnets in connection with temporary admission**. June 25, 1992. Available at: <https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata/Normas-figuras-imagens/recomendacao-oma.pdf>. Access: May 25, 2022.

2 The 79th country to be part of the ATA network was Vietnam, and as of May 1, 2022, the ATA carnet will be introduced in the country by its guaranteeing association, the Vietnam Chamber of Commerce and Industry (VCCI). Learn more about the members of the ATA network at: <https://iccwbo.org/resources-for-business/ata-carnet/ata-carnet-country/>. Access: May 22, 2022. Learn more about the members of the ATA network at: <https://iccwbo.org/resources-for-business/ata-carnet/ata-carnet-country/>. Access on 05/22/2022

3 The year 2019 is used as reference, as this data predates the COVID-19 pandemic.

Brazil acceded to the Istanbul Convention in 2011 (Decree No. 7,545 of August 2nd, 2011), thus joining the ATA Network and adapting the customs regime to that in force in most industrialized countries.

Following the internalization of the Convention, the Brazilian Federal Revenue Service (*Receita Federal do Brasil* – RFB), which is responsible for the ATA Carnet in Brazil, launched a public notice⁴ to select a non-profit organization that could act as a guaranteeing association in Brazil.

As a result of this notice, the Brazilian National Confederation of Industry (*Confederação Nacional da Indústria* – CNI) was chosen as the guaranteeing association in Brazil, which then delegated the issuance of the ATA Carnet to the state industry federations in the 26 states and the Federal District.

The Letter of Commitment signed by CNI and RFB was valid for five years (July 2016 to June 2021). After the expiration of this agreement, the parties signed an Amendment to the Letter of Commitment, which was valid for six months (July 2021 to December 2021).

In the second half of 2021, the RFB published in the Official Gazette of the Federal Government (*Diário Oficial da União* – DOU) RFB/Sucor/Copol Public Notice No. 01/2021⁵ (UASG 170010) – for the first time on August 18th, 2021 and for a second time on September 23rd, 2021 - with the aim of selecting a new organization that could assume the role of guaranteeing association for the next five years. However, both notices were unsuccessful, since no organization submitted a proposal to be the next guaranteeing association in Brazil.

Pursuant to DÍEXP/Coana Note No. 0.120⁶ (Annex I) issued by RFB on November 26, 2021, considering that the guaranteeing/issuing association is an integral part of the Istanbul Convention for maintaining the ATA Carnet system and that since January 1, 2022, there is no longer an entity performing this role in Brazil, all operations supported by the ATA Carnet were discontinued as of this date.

In order to continue contributing to ATA Carnet operations in Brazil, CNI has published this report in which it attempts to detail the model implemented over the past five years and identify possible ways to improve the Brazilian regime and continuity of operations in the country.

The main highlights, challenges and recommendations of the ATA Carnet operation during this period are presented below.

4 RFB/SUCOR/COPOL Public Notice No. 01/2014, registered by Administrative Proceeding No. 12440.000023/2013-47.

5 Registered in SEI Proceeding No. 18220.100316/2021-12.

6 MINISTRY OF ECONOMY. *ATA Carnet Manual - Closure of Operations on 12/31/2021*. Available at: <https://www.gov.br/receitafederal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata> . Access: May 22, 2022.

ATA CARNET IN NUMBERS



Brazil temporarily exported **\$40 million** worth of goods from **1,057 ATA Carnets** issued by CNI and industry federations during the five years of operation (2016 – 2021).



The states of Rio de Janeiro, São Paulo, and Rio Grande do Sul accounted for **80.51%** of Brazil's issuances.



The main purposes for temporary export reported by Brazilian ATA Carnet users were **professional equipment (50%), exhibitions, fairs and congresses (23%)** and **samples (15%)**.



ATA Carnets were issued for **425 natural and legal persons** by CNI and the industry federations.

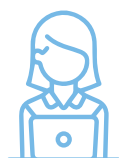


The temporary import of **105,731 goods** was registered, supported by **1,233 ATA Carnets** issued mainly in the United States, Germany, the United Kingdom, France and Israel.



Goods imported into Brazil were mainly intended for use as **professional equipment (72%), for exhibitions, fairs and congresses (24%)** and for **scientific, educational and cultural purposes (2%)**.

SOCIAL MEDIA, PRESS AND MARKETING



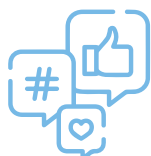
In 2016, CNI also launched the ATA Carnet website on the *Portal da Indústria* (Industry Portal, in Portuguese). Since then, there have been a large number of accesses from interested parties, with a total of **74,119 new accesses**. Most of them were made by **women (58%)**, the age group with the most accesses was between **25 and 34 years** old, and the average time spent on the website was **4 minutes and 18 seconds** (Annex II).



CNI developed an advertising campaign to disseminate the ATA Carnet and **invested BRL 173,267.42** in an advertising campaign that ran between 09/18/2019 and 10/31/2019 and between 12/06/2019 and 10/31/2020. For these campaigns, CNI opted to invest in sponsored links, keywords, and ads on websites, among others (Annex III).



CNI **invested BRL 459,500.00** to advertise the ATA Carnet at some international boarding gates at Guarulhos Airport. This advertising took place between October and November 2019 with over **21,000 broadcasts** of the ATA advertisement at four boarding gates serving an average of **1.8 million passengers** per month (Annex III).



166 posts about the ATA Carnet were made on social media, reaching **124,500 people, 4,100 interactions** and **357 clicks**. These posts were made on CNI's pages on the following social media: Facebook, Instagram, LinkedIn, YouTube and Twitter (Annex IV).



More than 200 news stories, articles and advertisements were published in various media such as *Revista RBCE*, *Valor Econômico*, *Exame.com*, *Estadão.com*, *Correio Braziliense*, *O Estado online*, *Folha.com* and others (Annex V).

INVESTMENTS MADE BY CNI AND THE STATE INDUSTRY FEDERATIONS



CNI invested more than **BRL 3 million** in the implementation of ATA Carnet in Brazil, with the main costs being spent on the maintenance and improvement of the system.



Additionally, the **27 state industry federations** were trained to serve ATA Carnet users and issue documents as needed. According to the CNI cost system, a total of **BRL 489,000** was spent on staff and infrastructure to provide the service over the five years.



CNI and the state industry federations accounted for **BRL 734,566.32 in expense recovery**.



BRL 171,074.63 was spent on travel throughout Brazil to train Brazilian users and raise awareness about the use of the ATA Carnet⁷.



As required by the Letter of Commitment signed with the RFB, a **computerized system was developed** for the issuance of the document, for the transactions to be recorded by the RFB and for the State Treasury Offices to query the transactions. The system for issuing ATA Carnets is accessible at www.ata.cni.org.br and the control system used by the RFB and the State Treasury Offices is accessible at www.receita.ata.cni.org.br.



CNI has attended **six meetings** of the World ATA Carnet Council between 2016 and 2021.



In 2018, CNI launched the **Distance Learning course on ATA Carnet** to make users aware of its benefits. The course is still available at <https://eadcni.eadbox.com/courses/ata-carnet-passaporte-para-as-mercadorias>.

FOREIGN AND DOMESTIC CLAIMS

Since the start of the operations, CNI has received **132 foreign claims**. Only 23 cases were confirmed as non-compliance with the regime. CNI had to settle the debts (import taxes and duties) with the countries into which the goods were imported and seek reimbursement from the ATA Carnet holders.



As a result, **12.5% of ATA Carnets** issued in Brazil were challenged by other countries, a higher percentage compared to the world average in 2020 – 7.7%. This difference is due to the carelessness of Brazilian users when using the ATA Carnet, a problem that must be tackled through training, awareness and monitoring so that users are able to avoid any error in their use of the document or to identify mistakes made by the Customs authorities themselves.

⁷ This amount refers only to the amount spent by CNI. The amounts spent by state industry federations for advertisement and training were not included.



Since the start of the operations, CNI has received **556 domestic claims**. Non-compliance with the regime was confirmed in 30 cases. CNI had to settle the debts (import taxes and duties) with the RFB and seek reimbursement from the guaranteeing associations.

Of the domestic claims received, **42.62%** could have been avoided since proof of re-export was provided. This means that a majority of the claims issued by the RFB were supported by a receipt signed by a tax auditor from the RFB itself, certifying that the goods had left Brazil. However, this record was not kept by Customs and caused rework.

ACTIONS TO IMPROVE THE CUSTOMS REGIME SUPPORTED BY ATA CARNET IN BRAZIL

The execution of the ATA Carnet began in 2016 and, since then, CNI – in partnership with the RFB, the State Treasury Offices and the state industry federations – has been working to improve the procedures related to ATA Carnet operations in Brazil. .

During the more than five years as a guaranteeing association, CNI maintained a panel of claims to monitor claims in defense of essential interests to achieve gains in efficiency and in ATA Carnet operations in Brazil. With the support of the state industry federations, CNI submitted 36 advocacy actions to the government, 22 of which were implemented in whole or in part.

CNI has shared all the challenges related to temporary exports and imports in the form of meetings, letters, emails, position papers, proposals to change legislation, and International Agenda of Industry and much more.

Specifically to the RFB, it was determined that communication should take place with the help of templates⁸. From 2016 to 2021, CNI sent 131 templates, 107 of which were answered by the RFB.

The most prominent advocacy actions were:

- Acceptance of temporary admission of goods as accompanied and unaccompanied luggage.
- Acceptance of temporary admission of goods from countries that are only parties to the ATA Convention. The Brazilian government had originally assumed that the

⁸ Document prepared by CNI and the RFB for communication between the parties on incidents and claims affecting the ATA. This document should contain the date, the ATA number, the data of the requester, a clear inquiry by CNI and the RFB's response.

country's commitment would only refer to documents supported by the Istanbul Convention.

- Withdrawal of the obligation to submit the Foreign Goods Release Document (*Guia de Liberação de Mercadoria Estrangeira* – GLME) and the invoice when using the ATA Carnet. In order to achieve this result, CNI attended two meetings of Working Group No. 54 (Foreign Trade) and one meeting of Working Group No. 26 (Tax Benefits) linked to CONFAZ, the Brazilian National Finance Policy Council, to demonstrate the negative effects of this requirement. To formalize the decision of the working groups, on December 13, 2019, SINIEF Amendment No. 24/19 was published, suspending the obligation to submit the GLME and the invoice, with the aim of controlling and standardizing the procedures for importing goods into Brazil through the development and deployment of the ATA Carnet control system by CNI.
- Mandatory registration of temporary export or import operations supported by the ATA Carnet in the ATA Carnet System, regulated by Ordinance No. 48, of August 2, 2019⁹.
- One of the most important requirements that the guaranteeing association should fulfill would be the development of a computerized system that meets the requirements of the RFB to control the operations with ATA Carnet in Brazil. As the work progressed in the country, it was demonstrated that the State Treasury Offices would need access to this system to maintain control of the cargo without the need for GLME or invoice.
- At the start of operations in Brazil, CNI sought best international practices to assist the RFB and State Treasury Offices in setting up the process to collect federal taxes and state goods and services taxes (ICMS) from the guaranteeing association. Among other things, it was necessary to determine what information should be sent to CNI, how the value would have to be calculated taking into account the limitation foreseen in the Istanbul Convention, and how CNI could proceed with the payment.

⁹ BRAZILIAN FEDERAL REVENUE SERVICE. **COANA Ordinance No. 48, of August 2, 2019**. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=102863>. Access: May 22, 2022.



1 BACKGROUND

The ATA Carnet (where “ATA” is an acronym composed of the first letters of *Admission Temporaire*/Temporary Admission in French and English respectively) was discussed and created in the 1960s – a period marked by two world wars which not only had a profound impact on the global economy, but also on the way countries did business with each other.

During the crises of the 20th century, many countries sought trade agreements and international treaties as a means of economic recovery, and it was necessary to conclude bilateral and multilateral agreements to formalize the facilitated trade conditions that had been negotiated.

Temporary imports and exports were no different, as goods had to be transported temporarily for business promotion and market access actions (e.g. goods destined for international trade fairs and samples for potential buyers). This extended to goods for sporting, cultural, scientific, and service purposes (e.g. equipment for international competitions, art and exhibition materials, laboratory tests, and professional equipment).

Due to the specificity of this type of operation, namely the export of goods that remain abroad for a certain period of time and then return to the country of origin, it proved necessary to create instruments to facilitate and harmonize temporary export and import procedures, including tax suspension during the period of validity of the customs regime.

With these goals in mind, the Customs Cooperation Council (now the World Customs Organization – WCO) established, in 1961, through the ATA Convention, harmonized rules for the temporary transport of goods between the signatory countries. The convention entered into force two years after it was drafted.

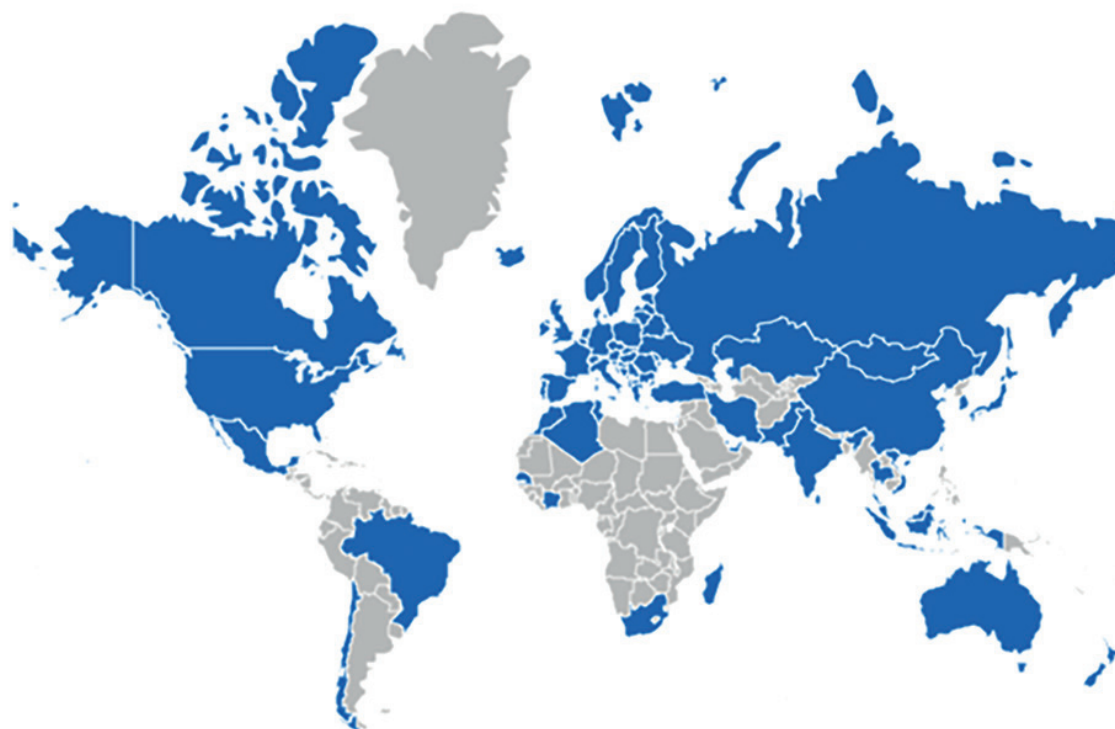
In the years that followed, the options for using the ATA had to be expanded. The WCO then started discussions to develop a draft global agreement on temporary imports and exports – the Istanbul Convention – which aimed to consolidate thirteen (13) agreements on this subject into a single international instrument.

The Istanbul Convention (1993)¹⁰ does not supersede the ATA Convention (1963)¹¹, as the two are complementary, with each country having legal provisions and the option to internalize one or both conventions.

The WCO recommends¹² that the two international treaties be equally accepted by all member countries in order to maximize the benefits of the ATA Network as a trade facilitation tool without having to internalize the different conventions.

Currently, the two conventions have 79 member countries¹³ (the group of countries also known as the ATA Network) that issued 190,124 ATA Carnets in 2019¹⁴, covering more than \$22 billion worth of goods. In Latin America, only Brazil, Chile and Mexico are part of the group.

FIGURE 1 – Member countries of the ATA Network



Source: Prepared by the author based on the International Chamber of Commerce (ICC) website.

10 The Istanbul Convention entered into force on November 27, 1993.

11 The ATA Convention entered into force on July 30, 1963.

12 WCO. **Recommendation of the customs co-operation council concerning the acceptance of ata carnets in connection with temporary admission**. June 25, 1992. Available at: <https://www.gov.br/receita-federal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata/Normas-figuras-imagens/recomendacao-oma.pdf>. Access: May 25, 2022.

13 The 79th country to be part of the ATA network was Vietnam, and as of May 1, 2022, the ATA carnet will be introduced in the country by its guaranteeing association, the Vietnam Chamber of Commerce and Industry (VCCI). Learn more about the members of the ATA network at: <https://iccwbo.org/resources-for-business/ata-carnet/ata-carnet-country/>. Access: May 22, 2022.

14 The year 2019 is used as reference, as this data predates the COVID-19 pandemic.

Some of the benefits of using the ATA Carnet include:

- a) internationally recognized document;
- b) a wide network of guaranteeing associations providing greater capillarity and security for operations;
- c) reduction of red tape and simplification of customs procedures for temporary transactions in all countries of the ATA Network;
- d) reduction of the time required to clear the goods;
- e) more efficient control of temporarily imported and exported goods, leading to cost reductions and efficiency gains in customs administrations;
- f) facilitated technology transfer between countries;
- g) replacement of national customs formalities for temporary or transit import and export for operations supported by the ATA Carnet;
- h) cost reduction in the clearance of goods at each border; and
- i) coverage made possible by the circulation of goods temporarily imported into multiple member countries as often as necessary during the validity of the ATA Carnet.

To ensure the full operation of the ATA Carnet, various public and private stakeholders integrate the operation in the member countries of the ATA Network.

TABLE 1 – Operation of entities/institutions guaranteeing the operation of ATA Carnet.

Entities/Institutions	Operation
World Customs Organization (WCO)	Organization in charge of administering the ATA Convention and the Istanbul Convention and ensuring their uniform interpretation and application.
International Chamber of Commerce (ICC)	Through the World Chambers Federation (WCF) ¹⁵ , it is responsible for managing the network of guaranteeing associations and providing guidance on the operation of the ATA Carnet in member countries.
Customs	Customs authority of the country which is responsible for the validation of temporary imports and exports, delegating the management of the ATA Carnet to a guaranteeing association.
Guaranteeing association	National entity recognized by the Customs authorities of a country as responsible for managing and guaranteeing the operations with ATA Carnet.
Issuing association	National entity recognized by the guaranteeing association as responsible for issuing the ATA Carnet for temporary exports.

Source: Prepared by the author based on ICC accreditation documents.

¹⁵ The International Chamber of Commerce (ICC) manages the international guarantee chain of the ATA Carnet through its special body, the World Chambers Federation (WCF).

Brazil acceded to the Istanbul Convention in 2011 (Decree No. 7,545 of August 2nd, 2011), thus joining the ATA Network and adapting the Brazilian customs regime to that in force in most industrialized countries.

The Convention has 13 annexes, each dealing with a specific purpose, i.e. the purposes for which goods provided with an ATA Carnet may be temporarily imported into a country. Brazil has adhered to five of these annexes, namely:

- **Annex A:** concerning temporary admission papers (ATA Carnets and CPD Carnets);
- **Annex B.1:** concerning goods for display or use at exhibitions, fairs, meetings or similar events;
- **Annex B.2:** concerning professional equipment;
- **Annex B.5:** concerning goods imported for educational, scientific or cultural purposes; and
- **Annex B.6:** concerning travelers' personal effects and goods imported for sports purposes.

As in Brazil, each country that internalizes one of the conventions (ATA Convention or Istanbul Convention) must communicate for which annexes/purposes it accepts temporary admissions into its territory.

Therefore, whenever it is necessary to temporarily import a good into one of the member countries of the ATA Network, it is important to verify which annexes/purposes that country accepts, so that the operation does not have problems in customs clearance.

Following Brazil's internalization of the Istanbul Convention in 2011, the Brazilian Federal Revenue Service (*Receita Federal do Brasil* – RFB), which is responsible for the ATA Carnet in Brazil, launched a public notice¹⁶ to select a non-profit organization that could act as a guaranteeing association in Brazil.

As a result of this public notice, the Brazilian National Confederation of Industry (*Confederação Nacional da Indústria* – CNI) was chosen as the guaranteeing association in Brazil, which then delegated the issuance of the ATA Carnet to the state industry federations in the 26 states and the Federal District.

The Letter of Commitment signed by CNI and RFB was valid for five years (July 2016 to June 2021). After the expiration of this agreement, the parties signed an Amendment to the Letter of Commitment, which was valid for six months (July 2021 to December 2021).

16 RFB/SUCOR/COPOL Public Notice No. 01/2014, registered by Administrative Proceeding No. 12440.000023/2013-47.

In the second half of 2021, the RFB published in the Official Gazette of the Federal Government (*Diário Oficial da União* – DOU) RFB/Sucor/Copol Public Notice No. 01/2021¹⁷ (UASG 170010) – for the first time on August 18th, 2021 and for a second time on September 23rd, 2021 – with the aim of selecting a new organization that could assume the role of guaranteeing association for the next five years. However, both notices were unsuccessful, since no organization submitted a proposal to be the next guaranteeing association in Brazil.

Pursuant to DIEXP/Coana Note No. 0.120¹⁸ (Annex I) issued by RFB on November 26, 2021, considering that the guaranteeing/issuing association is an integral part of the Istanbul Convention for maintaining the ATA Carnet system and that since January 1, 2022, there is no longer an entity performing this role in Brazil, all operations supported by the ATA Carnet were discontinued as of this date.

17 Registered in SEI Proceeding No. 18220.100316/2021-12.

18 MINISTRY OF ECONOMY. **ATA Carnet Manual - Closure of Operations on 12/31/2021**. Available at: <https://www.gov.br/receita-federal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata> . Access: May 22, 2022.



2 OBLIGATIONS OF THE GUARANTEEING ASSOCIATION

The Letter of Commitment described the obligations that CNI should meet as a guaranteeing association in Brazil during the period of validity. These obligations covered several aspects, such as: providing a good service; complying with customs regulations; having a physical structure (equipment and furniture); ensuring qualified professionals to serve the users; and assuming all labor and social security obligations for the professionals providing the services in Brazil, among others.

The main obligations set out in the Letter of Commitment between CNI and the RFB, as well as the actions carried out by CNI during the five years of its activity in Brazil, are listed below.

TABLE 2 – Main obligations established in the Letter of Commitment

Main obligations established in the Letter of Commitment	Actions carried out
Responsibility for the guarantee and issuance of the ATA Carnet.	CNI assumed responsibility for the guarantee and delegated the issuance of the ATA Carnet to the state industry federations.
Commencement of service 45 business days after signing the Letter of Commitment.	For temporary imports, the guarantee service began shortly after the Letter of Commitment was signed on July 1, 2016. For temporary exports, the guarantee and issuance of the ATA Carnet was not possible until after the publication of the Normative Instruction regulating the operation by the Brazilian Government on August 29, 2016 ¹⁹ .
Provision of adequate equipment, human resources, facilities and operating methods	Services were provided by the state industry federations of the 26 states and the Federal District, with qualified professionals available to assist users.
Review of the price commitment for issuing the ATA Carnet	In March 2020, the RFB approved a price adjustment for issuing the ATA Carnet, but in view of the COVID-19 pandemic, CNI decided not to apply the new prices until March 2021.
Continuous and regular provision of services	The guarantee and the provision of issuing services were maintained without interruption for the duration of the Letter of Commitment.

¹⁹ BRAZILIAN FEDERAL REVENUE SERVICE. **RFB Normative Instruction No. 1657 of August 29, 2016**. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=76899&visao=anotado>. Access: May 22, 2022.

Main obligations established in the Letter of Commitment	Actions carried out
Satisfactory service delivery, user equality, and friendly and respectful service to all	The perception survey conducted by CNI in 2021 (Annexes VI and VII) showed that 77.78% of respondents rated the performance of CNI as the guaranteeing association in Brazil as good or very good. In addition, 79.63% rated the performance of the state industry federations as issuing associations as good or very good.
Modernization of techniques adopted, equipment and facilities used and their maintenance, and improvement of services.	CNI and the state industry federations have always sought to improve customs procedures, the issuance process, systems, and the information available to users, among other things.
Permanent cost reduction, creating conditions for tariff reductions.	Since 2016, when the issuance of ATA Carnets began in Brazil, the price has remained unchanged. In 2020, despite the RFB's authorization to adjust the price for issuing the ATA Carnet, in view of the COVID-19 pandemic, CNI decided not to make this adjustment until March 2021.
Conduction of a survey to measure user satisfaction with the services provided, with preparation of annual reports	CNI provided regular reports to the RFB and conducted two surveys (Annexes VI and VII) to measure the satisfaction of ATA Carnet users (2018 and 2021).

Source: Prepared by the author based on the Letter of Commitment.

In addition to the obligations above, one of the most important requirements that the guaranteeing association should fulfill was the development of a computerized system that meets the requirements of the RFB to control the operations with ATA Carnet in Brazil.

The ATA Carnet Brasil (control) System²⁰ was not implemented until September 2, 2019, when its use by RFB tax auditors became mandatory under Ordinance No. 48 of August 2, 2019²¹.

Since temporary admissions were allowed as of July 1, 2016 and the computerized system was not implemented until September 2, 2019, there are no statistics on temporary admissions maintained and/or disclosed by the government prior to the implementation of the CNI system. The late implementation of the computerized system was due to the complex developments needed to meet the requirements of the tax auditors.

According to RFB/Copol Public Notice No. 01/2014, the computerized system should at least have the following features: database, online access, confirmation of authenticity, registration of operations, issuance of reports, query of operation records, registration of basic data of the ATA, and registration of customs units.

²⁰ The ATA Carnet Brasil (control) System is still available for registration by the RFB and consultation by the State Treasury Offices at: www.receita.ata.cni.org.br.

²¹ BRAZILIAN FEDERAL REVENUE SERVICE. **COANA Ordinance No. 48, of August 2, 2019**. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=102863>. Access: May 22, 2022.

Due to changes in processes or legislation during the development of the system, the RFB determined that some features that were foreseen in the Public Notice did not need to be developed because they no longer made sense for operations with ATA Carnet.

Other features were not required by the RFB, given the priority given to other developments or improvements that were not foreseen in the Public Notice but were more urgent for tax auditors, such as the capability to attach PDF documents.

In addition, as of 2020, according to SINIEF Amendment No. 24/19 dated December 13, 2019, it was necessary to develop the access of the State Treasury Offices to the system. This feature was not foreseen in the Public Notice, but it was found that, in order for the user to be considered exempt from the Foreign Goods Release Document (*Guia para Liberação de Mercadoria Estrangeira – GLME*)²² and the invoice for temporary import and reimport operations, the states would have to be able to track the cargo, which was made possible by access to the RFB system.

During the period it acted as the guaranteeing association, CNI maintained a 248-hour monthly contract with a technology service provider for the development, improvement, and maintenance of systems. The contracted hours were divided into professionals responsible for the management of operations, development (evolution and correction), testing, and infrastructure management.

By June 2021, the contracted hours were used in 232 requests for the development of all features of the control and issuance systems of ATA Carnet.

22 Foreign Goods Release Document (GLME) without proof of payment of the Tax on the Circulation of Goods and on Services of Interstate and Intermunicipal Transportation and Communication (ICMS).



3 OPERATING MODEL

3.1 ISSUANCE

According to RFB/Copol Public Notice No. 01/2019, the selected guaranteeing association could choose to issue the ATA Carnet and/or delegate this role to other national organizations.

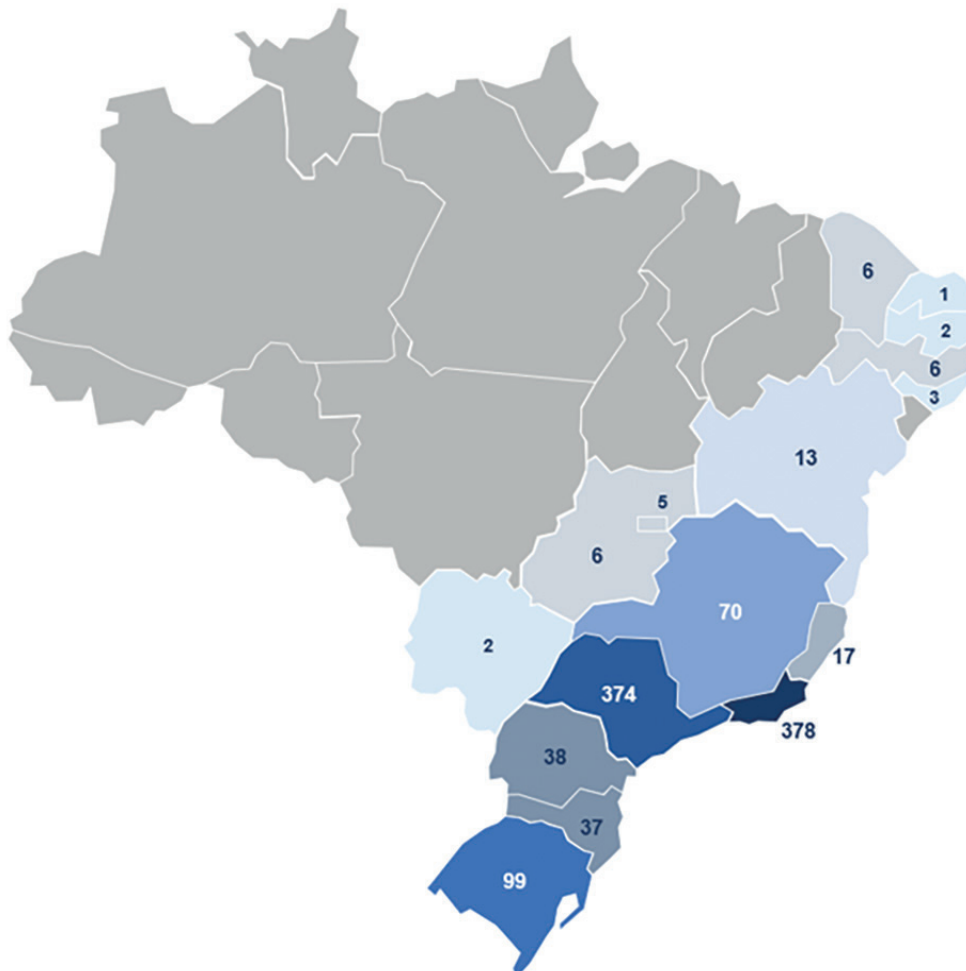
CNI was selected in the Public Notice and, in view of its statutory actions coordinated with the state industry federations, most of the ATA Carnets were issued by the latter through the International Business Centers (IBCs Network) which are present in all states and the Federal District.

The IBCs Network, coordinated at the national level by CNI, promotes the internationalization of Brazilian companies through a series of services tailored to their needs, with the aim of ensuring a competitive and sustainable performance in the international market.

In doing so, the guaranteeing association fulfilled one of the eligibility criteria of the Public Notice, namely the highest number of Brazilian state capitals with offices for the issuance and validation of the ATA Carnet.²³

However, during the years of operation in Brazil, it was found that there was not a great demand for the issuance of the document in all states: of the 27 service offices, only 16 states issued ATA Carnets. The states with the most issuances were Rio de Janeiro, São Paulo and Rio Grande do Sul, which together accounted for 80.51% of issuances nationwide.

²³ Item 5 of RFB/Copol Public Notice No. 01/2014. From the eligibility criteria, item 2: Highest number of Brazilian state capitals with offices to issue and validate the ATA Carnet.

FIGURE 2 – ATA Carnets issued by state (2016-2021)

Source: ATA Carnet Brasil (issuance) System.

3.2 INSURANCE

According to the ATA Network Declaration adopted by the WCF and signed by CNI as a condition to assume as the guaranteeing association in Brazil, before issuing the ATA Carnet, the issuing association should require the applicant to take out insurance or take out insurance for the applicant itself. This insurance should include:

- a) a joint and multiple commitment by one or more insurance companies, banks or guarantors; and
- b) a cash deposit, a security in the form of shares, or the freezing in its name of funds deposited with a bank.

This security should cover the maximum amount of import duties that could be levied in the event of non-compliance, plus 10%.

Considering this condition for issuing the ATA Carnet, before starting the operations in Brazil, CNI mobilized insurance companies that could develop this type of insurance for the ATA Carnet. Since the start of operations, only one insurance company has issued this type of insurance for individuals and legal entities that have used the ATA Carnet.

In the two satisfaction surveys conducted in 2018 and 2021 (Annexes VI and VII), two suggestions for improving the insurance could be verified:

- a) create more than one form of insurance, not just surety bonds; and
- b) have more than one insurance company offering ATA Carnet insurance.

Implementing these two improvements would speed up the process of taking out insurance, with more quality and less red tape, which would allow users to apply more competitive prices.

In addition, according to the protocol on the organization of international bonded customs warehouses regarding ATA Carnets, CNI is required to make a deposit of \$100,000 with the World Federation of Chambers (WCF). This deposit is proof that the organization is able to fully and properly fulfill its obligations to guarantee the issued ATA Carnets.

3.3 USER TRAINING AND SUPPORT

Before starting to issue ATA Carnets in Brazil in 2016, CNI conducted training courses for all issuing associations with the support of renowned foreign trade experts. On this occasion, among other things, the legislation of the system in Brazil and in the world, its advantages, and a demonstration of the ATA Carnet Brasil (issuance) System²⁴ were presented.

CNI continued to provide regular training to ATA Carnet specialists at the issuing associations to keep them updated on improvements in the operation, legislation, and best practice sharing, among other topics. In addition, CNI maintained an open channel to answer questions from the issuing associations via email, phone, and a customer service platform where 964 queries were answered.

²⁴ The issuance system is only available via: www.ata.cni.org.br.

For users interested in the ATA Carnet, a simple form was made available on Portal da Indústria (Industry Portal, in Portuguese), where they could submit their contact information to be served by ATA Carnet specialists in the indicated state. Another possibility was the support via the Citizen Assistance Service (*Serviço de Atendimento ao Cidadão – SAC*)²⁵, which is available via Portal da Indústria. Any doubts continue to be directed to the CNI office responsible for the ATA Carnet.

CNI and the state industry federations have sought to provide training for those interested in the ATA Carnet in all Brazilian states, including for individuals, companies, associations, Customs authorities and institutional partners.

FIGURE 3 – Photo of a seminar at the São Paulo State Industry Federation (FIESP) in 2018



Source: Internal photographic record.

25 BRAZILIAN NATIONAL CONFEDERATION OF INDUSTRY – CNI. **Contact**. 2022. Available at: <https://www.portaldaindustria.com.br/cni/canais/assuntos-internacionais/o-que-fazemos/servicos/ata-carnet/contato/>. Access: May 22, 2022.

FIGURE 4 – Photo of a seminar at the Pernambuco State Industry Federation (FIEPE)



Source: Internal photographic record.

In 2018, CNI launched the Distance Learning course on ATA Carnet and made it available free of charge to anyone interested in the subject, with 405 people enrolled, 29 of whom were RFB tax auditors²⁶. The course was then made available on the ExportaFlix website²⁷, where it is still accessible to the general public.

In 2019, CNI and the RFB also provided training for Customs authorities throughout the country. The training was conducted online and aimed to present the ATA Carnet Brasil (control) System, which became mandatory as of September, 2019. On this occasion, CNI provided the RFB with a Power Point document describing all features of the system.

BRL 171,074.63 was spent on travel throughout Brazil to train Brazilian users and raise awareness about the use of the ATA Carnet²⁸.

²⁶ The course had 405 registered participants, of which 184 completed the course. Of the 29 registered participants from the Brazilian Federal Revenue Service (RFB), 24 completed the course. There were 218 registered participants who did not start the course and 3 who did not complete it.

²⁷ BRAZILIAN NATIONAL CONFEDERATION OF INDUSTRY – CNI. **ATA Carnet**: passaporte para as mercadorias. Available at: <https://eadcni.eadbox.com/courses/ata-carnet-passaporte-para-as-mercadorias>. Access: May 22, 2022.

²⁸ This amount refers only to the amount spent by CNI. The amounts spent by state industry federations for advertisement and training were not included. Source: CNI Budgeting System (SORS).

With a focus on Latin American countries, CNI carried out actions aimed at informing neighboring countries of the special customs regime of temporary imports and exports with ATA Carnet and promoting the internalization of the Istanbul Convention. In April 2019, CNI, in partnership with Rio Grande do Sul Industry Federation (FIERGS), hosted the 30th edition of the “*Conhecendo a Indústria*” (Knowing the Industry) program, with the participation of ambassadors and the diplomatic corps of 15²⁹ Latin American countries.

FIGURE 5 – Video of the event “*Conhecendo a Indústria*”³⁰



Source: Internal photographic record.

Also in 2019, at the invitation of the Peruvian Customs authority, CNI took part in a workshop to discuss the Brazilian experience with the ATA Carnet. Representatives of the International Chamber of Commerce (ICC) and the World Trade Organization (WTO) also took part in the initiative with the aim of supporting the introduction of the ATA Carnet in Peru³¹.

29 Barbados, Bolivia, El Salvador, Ecuador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Dominican Republic, Trinidad and Tobago and Uruguay.

30 TV FIERGS. Event on ATA Carnet at FIERGS. April 5, 2019. (Online video). Available at: https://www.youtube.com/watch?v=Ju_5b3qx-5Ow. Access on May 22, 2022.

31 The ATA carnet has not yet been introduced in the country.

FIGURE 6 – Photo of the group that took part in the workshop in Peru



Source: Internal photographic record.

3.4 SOCIAL MEDIA, PRESS AND MARKETING

The ATA Carnet started operations in Brazil a few years ago and, as expected, it was necessary to disseminate the information about the system to different audiences by different means. The dissemination of the system has been an important pillar to promote the issuance of ATA Carnets in Brazil and to guide the users of the document and the RFB itself on how to use it correctly. To achieve this, CNI tried to work in different ways.

166 posts about the ATA Carnet were made on social media, reaching 124,500 people³², 4,100 interactions and 357 clicks. These posts were made on CNI's pages on the following social media: Facebook, Instagram, LinkedIn, YouTube and Twitter (Annex IV).

³² Reach is the total number of different people reached through a series of placements for a creative (advertisement, banner, printed content etc.). It is the number of people who have seen a particular piece of content disseminated by the brand.

FIGURE 7 – ATA Carnet advertising created by CNI³³

Source: Internal record.

FIGURE 8 – Video on the ATA Carnet created by CNI³⁴

Source: Internal record.

33 BRAZILIAN NATIONAL CONFEDERATION OF INDUSTRY – CNI. **Que tal um passaporte para mercadorias?** Available at: <https://www.facebook.com/cnibrasil/videos/1663863810297645/>. Access on May 22, 2022.

34 BRAZILIAN NATIONAL CONFEDERATION OF INDUSTRY – CNI. **Você já conhece o #ATACarnet? Sarah Saldanha, gerente de Serviços de Internacionalização da CNI, explica as vantagens do serviço.** Available at: <https://www.facebook.com/cnibrasil/videos/1663863810297645/>. Access on May 22, 2022.

CNI also developed the ATA Carnet website on Portal da Indústria with the aim of disseminating as much information as possible about the system. The website contained user service, ATA Carnet price simulator, frequently asked questions, current legislation, member countries, and user testimonials, among other things.

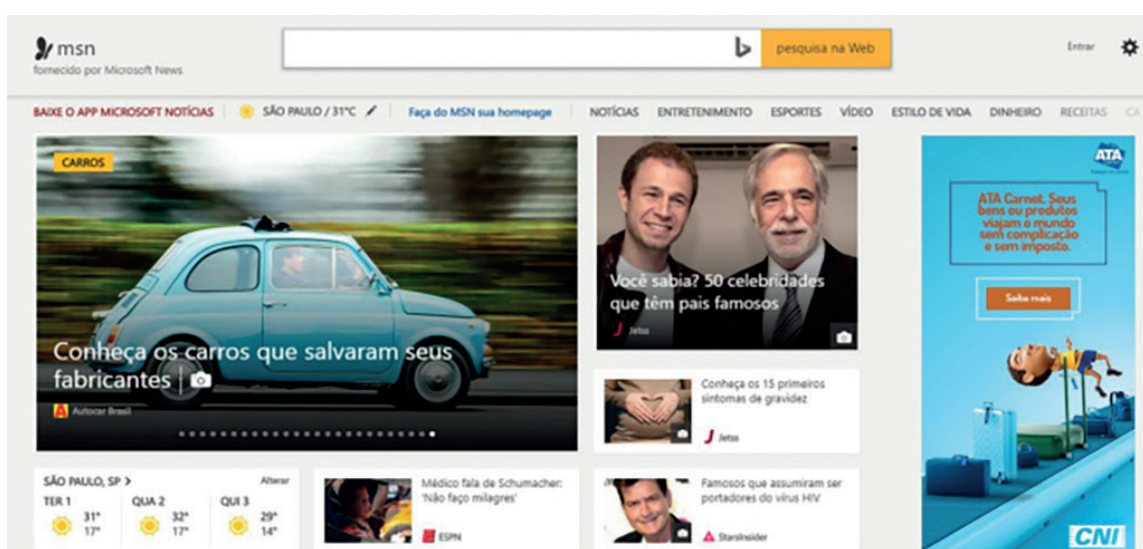
Our operations are constant, so agility is essential. The ATA Carnet made it easier for cameramen, reporters and production teams to travel. The guarantee of safe entry at the destination without customs costs or delays gives us the certainty of getting the best news stories and coverage of events and sports, as well as filming our programs. In general, Ata Carnet helps us to provide the best programming in the country to viewers of all media.

Wilson Maragno, statement of the international logistics manager of Rede Globo.

The website was launched in 2016 and has since enjoyed great popularity among interested parties with 74,119 new accesses. Most of them were made by women (58%), the age group with the most accesses was between 25 and 34 years old, and the average time spent on the website was 4 minutes and 18 seconds (Annex II).

To maximize the dissemination of ATA Carnet, CNI invested BRL 173,803.65 in an advertising campaign that ran between 09/18/2019 and 10/31/2019 and between 12/06/2019 and 10/31/2020. For these campaigns, CNI opted to invest in sponsored links, keywords, and ads on websites, among others (Annex III).

FIGURE 9 – Example of a sponsored link



Source: Internal record.

In addition to these actions on the Internet, CNI invested BRL 459,500.00 to advertise ATA Carnet at some international boarding gates at Guarulhos Airport, which is responsible for the largest movement of ATA Carnets in Brazil. This advertising took place between October and November 2019 with over 21,000 broadcasts of the ATA Carnet advertisement at four boarding gates serving an average of 1.8 million passengers per month (Annex III).

FIGURE 10 – Example of an ATA Carnet advertisement at one of the international boarding gates at Guarulhos Airport



Source: Internal record.

Another investment made by the guaranteeing association to promote the ATA Carnet was to set up a stand at foreign trade fairs to answer questions from interested participants and to take part in the events by giving a lecture on the document. Some examples of events in which CNI participated include the Brazil-Germany Economic Meeting (*Encontro Econômico Brasil-Alemanha* – EEBA) and the National Foreign Trade Meeting (*Encontro Nacional de Comércio Exterior* – Enaex), both with more than 2,000 participants every year.

FIGURE 11 – Photo of CNI’s participation at Enaex³⁵



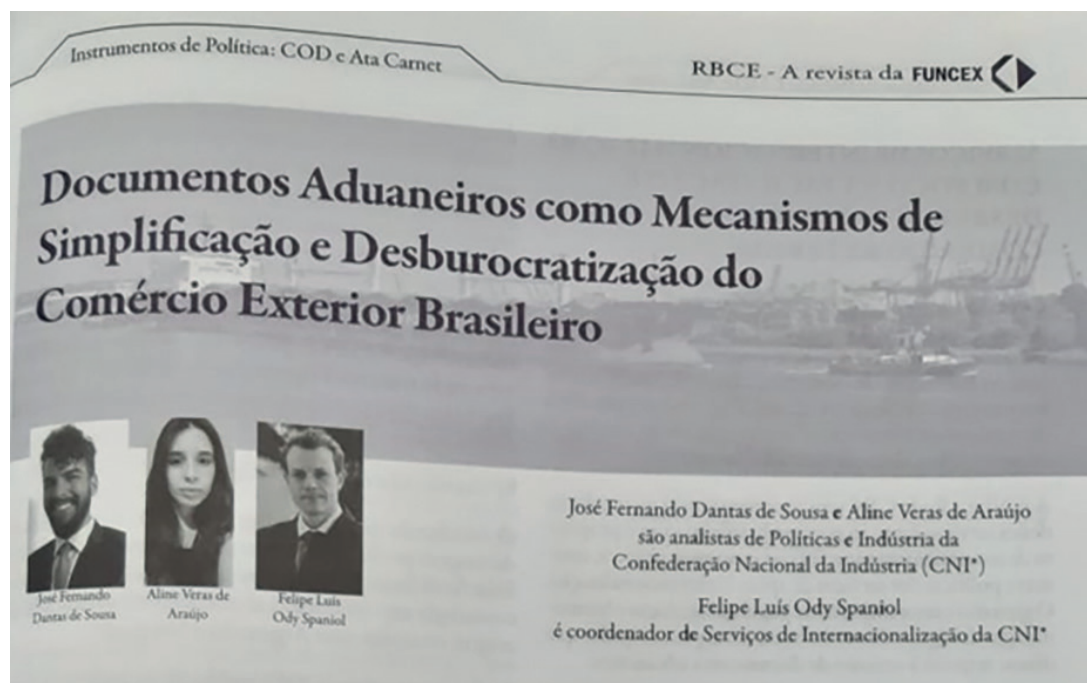
Source: Internal record.

Finally, another way to communicate progress, issues, and information about the ATA Carnet was through the publication of news stories, advertisements, and articles in various newspapers (print and online), magazines (print and online), and websites related to foreign trade.

More than 200 news stories, articles and advertisements were published in various media such as *Revista RBCE*³⁶, *Valor Econômico*, *Exame.com*, *Estadão.com*, *Correio Braziliense*, *O Estado online*, *Folha.com* and others (Annex V).

35 GOOGLE IMAGES. **Enaex ata carnet**. 2022. Available at: https://www.google.com/search?q=enaex+ata+carnet&client=firefox-b-d&channel=nrow5&sxsrf=APq-WBuDCPb-y8K59ebFRADQNu48uEUG6g:1645821266824&source=lnms&tbm=isch&sa=X&ved=2ahUKewi03eP_2Zv2AhWGLLkGHWukADgQ_AUoAXoECAEQAw&biw=1920&bih=955&dpr=1#imgsrc=SzlulchyiT0lXM. Access: May 22, 2022.

36 *Revista Brasileira de Comércio Exterior* (RBCE).

FIGURE 12 – Article published in RBCE Magazine³⁷

Source: RBCE

As a result of all these efforts to disseminate and consolidate the ATA Carnet in Brazil, in 2018 the country overtook Chile³⁸ and Mexico³⁹ in the number of ATA Carnets issued to become the largest issuer in Latin America. In 2019, Brazil reached the highest number of issuances ever (355 ATA Carnets) and moved up from 72nd (in 2016) to 42nd in the world ranking of issuing countries.

3.5 INVESTMENTS AND RECOVERY OF EXPENSES

To introduce the ATA Carnet in Brazil, CNI invested BRL 3,045,488.25⁴⁰, and the main focuses of investment were:

- ATA Carnet Brasil (issuance and control) System: development of the system for issuance and control of operations with ATA Carnet.

37 FUNDAÇÃO CENTRO DE ESTUDOS DO COMÉRCIO EXTERIOR – FUNCEX. Documentos aduaneiros como mecanismos de simplificação e desburocratização do comércio exterior brasileiro. 2020. Available at: <https://funcex.org.br/info/rbce-145-outubro-dezembro-2020/documentos-aduaneiros-como-mecanismos-de-simplificacao-e-desburocratizacao-do-comercio-exterior-brasileiro>. Access: May 22, 2022.

38 Chile joined the ATA Network in 2005.

39 Mexico joined the ATA Network in 2011.

40 This amount does not include investments in staff, fees and advertising campaigns.

- Travel: domestic or international travel to attend annual meetings with members of the ATA Network and travel to promote the ATA Carnet.
- Other expenses: this item includes expenses related to the purchase of paper for ATA printing, printing of document protection folders, taxes and payment fees, translation services, among others.

The state industry federations invested a total of BRL 489,000 on staff and infrastructure to provide the service over the five years of operation, according to the CNI cost system.

With regards to recovery of expenses, the Public Notice establishes that the services provided by the guaranteeing association related to the issuance and guarantee of ATA Carnets in Brazil are paid by the users according to the established prices.

According to the Public Notice, the prices for issuing the ATA Carnet should be set at the discretion of the guaranteeing association, taking into account different ranges of prices, generally based on the number of countries to be visited, the value of the goods, and the type and quantity of the included items. The prices of the ATA Carnet should also be adjusted annually as indicated by the guaranteeing association and approved by the RFB⁴¹.

The price for issuing the ATA Carnet was one of the eligibility criteria in the Public Notice⁴². The entities interested in submitting a proposal should offer the lowest price in relation to the value of goods. CNI offered the lowest price at that time, which remained valid for more than four years without any adjustment.

The guaranteeing association was authorized to readjust the price in March 2020 after the RFB approved the new indicated prices, but due to the COVID-19 pandemic, CNI decided not to apply it at that time. The adjustment was made in March 2021, as shown in the following table.

41 Clause seven, sole paragraph: The index to be used for calculating the adjustment of the rates is the Broad Consumer Price Index (IPCA) revised for the period in question, which is calculated and published by the Brazilian Institute of Geography and Statistics (IBGE), or any other index that may replace it.

42 Item 5 of RFB/Copol Public Notice No. 01/2014. Lowest price for services, in Brazilian reais, per document issued, in relation to the value of goods.

TABLE 3 – Price for issuing the ATA Carnet

Value of goods (USD)	Price in force between 10/01/2016 and 03/08/2021	Price in force between 03/09/2021 and 12/31/2021
1 to 9,999	BRL 442.97	BRL 599.51
10,000 to 49,999	BRL 531.37	BRL 719.15
50,000 to 249,999	BRL 797.55	BRL 1,079.40
Over 250,000	BRL 931.14	BRL 1,260.2
Continuation sheets ⁴³	BRL 42.00	BRL 56.00
Additional sets ⁴⁴	BRL 105.00	BRL 139.00
Duplicate	BRL 246.00	BRL 299.00
Early delivery for applications received before 12 p.m. for next day delivery ⁴⁵	BRL 126.00	BRL 159.00
Early delivery for applications received before 12 p.m. for same day delivery	BRL 194.00	BRL 249.00

Source: ATA Carnet Brasil (issuance) System.

CNI established a percentage to split the amounts charged for issuance between itself and the state industry federations: for each ATA Carnet issued, the issuing association retained 60% of the price charged for issuance and CNI retained 40%. The total recovery of expenses amounted to BRL 734,566.32.

3.6 FOREIGN AND DOMESTIC CLAIMS

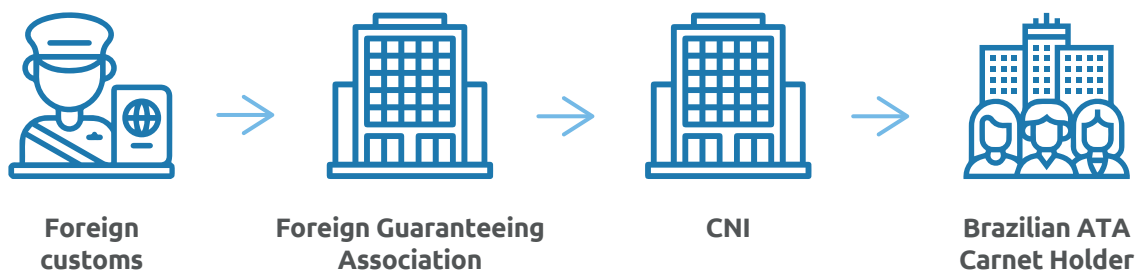
As provided for in the Public Notice, CNI is also responsible for verifying non-compliance with the system in temporary Brazilian exports or imports.

In the first case, CNI is responsible for guaranteeing the ATA Carnets issued in Brazil and imported temporarily into other countries. Through a **foreign claim**, as this process is called, foreign Customs authorities can check whether the goods supported by a Brazilian ATA Carnet actually left the country within due time.

⁴³ Additional amount paid when an additional General List sheet is required to include all goods in the ATA Carnet.

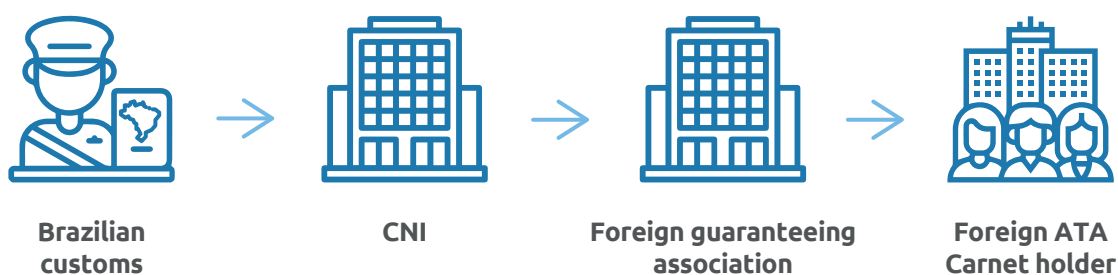
⁴⁴ Additional sets are issued when the user needs to make more trips than what was allowed when the ATA Carnet was issued. According to the CNI model, each additional set corresponds to two new trips that can be made during the validity of the document.

⁴⁵ Early delivery of the document may be requested after the surety bond has been taken out.

FIGURE 13 – Foreign claim

Source: Prepared by the author.

Another duty of the guaranteeing association is to guarantee the ATA Carnets issued by other member countries of the ATA Network and temporarily imported into Brazil. Through a **domestic claim**, as this process is called, the Brazilian Federal Revenue Service (RFB) can check whether the goods supported by a foreign ATA Carnet actually left Brazil within due time.

FIGURE 14 – Domestic claim

Source: Prepared by the author.

These procedures are necessary to ensure that the Brazilian government and the other governments of the ATA Network member countries do not suffer losses in cases of non-compliance with the import tax regime that has been suspended. Thus, if a Customs authority confirms that the system has not been complied with, the guaranteeing associations are responsible for paying that debt and then seeking a refund from the ATA Carnet holders.

Customs authorities can file a claim for several reasons, e.g. because the holder or agent of the ATA Carnet failed to record the re-export when it left the country, because the Customs authority failed to properly keep the re-export document, and because the goods remained in the country, to name a few.

In the absence of non-compliance, the ATA Carnet holder must provide evidence that the goods have been returned to the country of origin. In accordance with Article 10, Chapter V, Annex A of the Istanbul Convention, Customs authorities may accept the completed, stamped and duly signed re-exportation counterfoil, or indirect evidence, which may be counterfoil of importation into another territory, of re-importation or any other documentary proof that the goods are outside the territory of temporary admission. It is up to the Customs authorities of the individual countries to assess and accept or reject the evidence submitted.

After the claim is filed by the Customs authority, the guaranteeing associations and the holder of the ATA Carnet have up to six months to provide the evidence. If the holder of the ATA Carnet fails to submit the evidence or the Customs authority does not accept the evidence provided, a three-month period for the payment of the taxes suspended by the system starts immediately.

Istanbul Convention (August 2, 2011), Annex A, Chapter V, Article 9, Item 1, Letter A:

The guaranteeing association shall have a period of six months from the date of the claim made by the Customs authorities for the sums referred to in Article 8, paragraph 1 of this Annex in which to furnish proof of re-exportation under the conditions laid down in this Annex or of any other proper discharge of the ATA carnet.

RFB Normative Instruction No. 2036 (June 24, 2021), Chapter VII, Article 26, Paragraph 5:

In the cases referred to in items I, II and III of the head provision, the guaranteeing association may have a period of up to six (6) months from the date of the summons to prove that the goods have been re-exported.

The guaranteeing association of the country of temporary admissions advances the payment of the taxes to the Customs authority in its country and then requests refund to the guaranteeing association of the country that issued the ATA Carnet that gave rise to the claim. During this payment period, the ATA Carnet holder can still provide proof evidence and request a refund if import duties have already been paid.

After the guaranteeing association has provided evidence of re-exportation or made the tax payment to the Customs authority of the country of temporary admission, the Customs authority who initiated the claim must inform the guaranteeing association that the process has been completed. According to the WCO recommendation, the Customs authority must close the claim within three months of the presentation of the counterevidence or after payment of the taxes⁴⁶.

⁴⁶ In Brazil, the Brazilian Customs must provide the guaranteeing association with a decision order or other document evidencing the closure of the claim.

Annotated Istanbul Convention (translation by CNI)⁴⁷:

“Period for the Customs of the territory of temporary admission to advise the guaranteeing association of the acceptability of the proof of the re-exportation of the goods or of any other proper discharge of the ATA carnet”.

The Committee was asked by the International Bureau of Chambers of Commerce to consider recommending to Contracting Parties to the ATA Convention that the Customs authorities of the territory of temporary admission should advise the guaranteeing association of whether or not the proof furnished by that association of the re-exportation of the goods or of any other proper discharge of the ATA carnet under the terms of Article 7 of the Convention was acceptable, within two months from the date on which such a proof was submitted.

The Committee noted that, in most cases, the Customs authorities promptly notified the guaranteeing associations of their decision in respect of the proof furnished. However, recognizing the problems for the issuing and guaranteeing associations if such a notification were unduly delayed, the Committee stressed the importance of a timely notification. Therefore, it was agreed to recommend that, within three months from the receipt of the proof furnished, the Customs authority informs about the closure of the claim.

RFB Normative Instruction No. 2036 (June 24, 2021), Chapter VII, Article 26, Paragraph 8:

Once the proof of re-export is presented by the guaranteeing association, the RFB has a period of three (3) months to comment on its acceptance.

However, it is important to note that a Customs authority can only file a claim through the ATA Network within a period of up to one year from the date the ATA Carnet expires. If this period has expired without the Customs authority filing a claim, the Customs authority must contact the holder directly to determine whether the regime has not been complied with. In this case, responsibility lies with the Customs authorities and not with the ATA Network.

Istanbul Convention (August 2, 2011), Annex A, Chapter IV, Article 8, Item 4:

Customs authorities shall not in any circumstances require from the guaranteeing association payment of the sums referred to in paragraph 1 of this Article if a claim has not been made against the guaranteeing association within a year of the date of expiry of the validity of the ATA carnet.

⁴⁷ WORLD CUSTOMS ORGANIZATION. Handbook Convention on Temporary Admission (Istanbul, 26 June 1990). 2016. Available at: https://www.gov.br/receita-federal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata/Normas-figuras-imagens/re-decin_atacarnet_convencaoistambulcomentada.pdf. Access: May 22, 2022.

RFB Normative Instruction No. 2036 (June 24, 2021), Chapter VII, Article 26, Paragraph 4:

The request for payment under Paragraph 2 shall be made within a period of one (1) year from the date of expiry of the validity of the ATA Carnet.

To avoid this process, the holder or representative of the ATA Carnet, who is responsible for the correct validation of the document, shall always present it when entering or leaving a country and request the stamps and signatures required by Customs.

To manage the claims, whether foreign or domestic, CNI created an internal process to ensure payments due, deadlines and processes for responding to the claims, as well as monitoring of improvements that should be implemented by the RFB and the State Treasury Offices. In the following topics, it will be possible to understand the number of claims received and the challenges faced by CNI in this process.

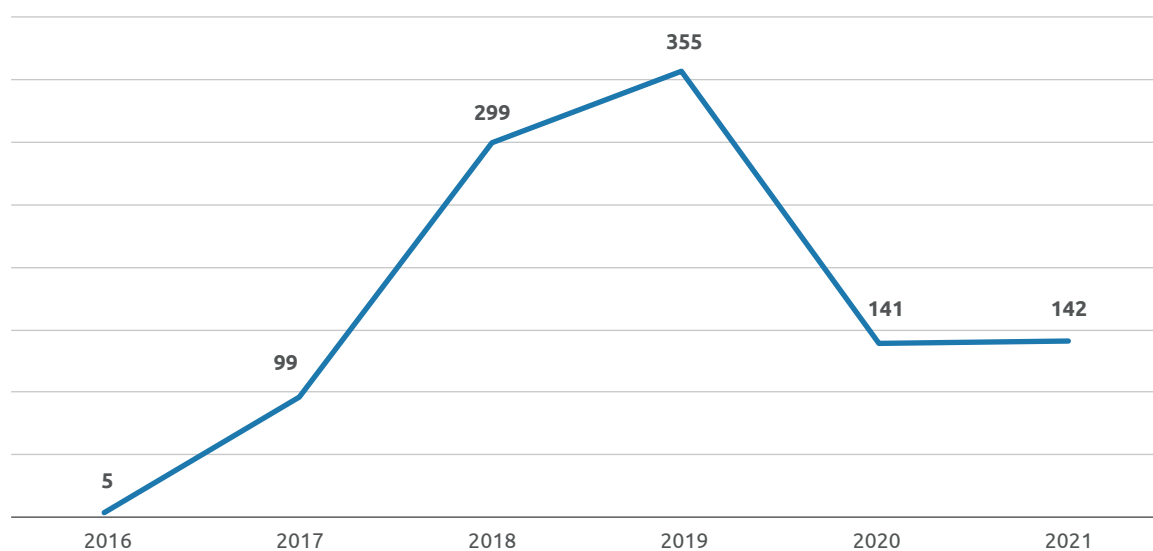


4 TEMPORARY EXPORTS

4.1 KEY NUMBERS

From 2016 to 2021, 1,057 ATA Carnets were issued to support USD 41,170,916.92 in goods. In addition, 17 additional sets and 7 ATA Carnet duplicates were issued.

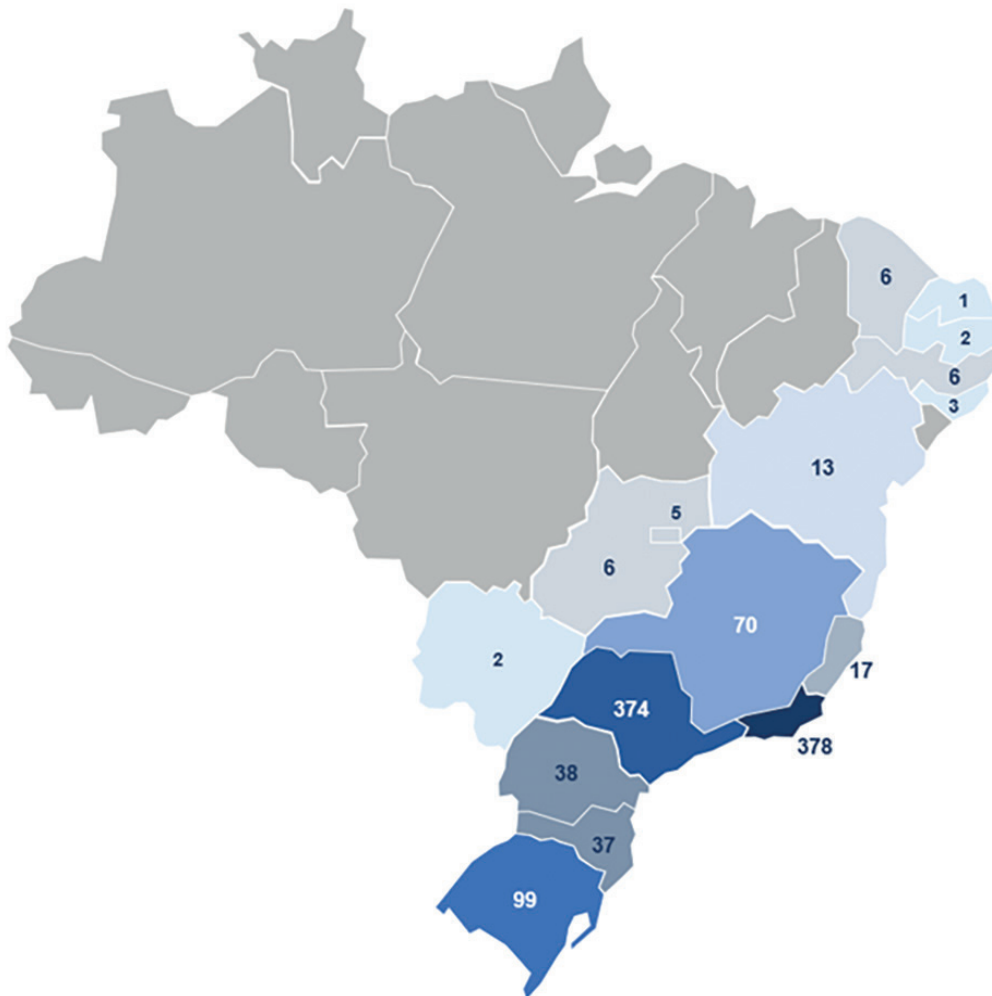
GRAPH 1 – ATA Carnets issued in Brazil (2016-2021)



Source: ATA Carnet Brasil (issuance) System.

The drop in the number of issuances in 2020 and 2021 is due to the COVID-19 pandemic, as travel and events were drastically reduced at that time. In 2020, Brazil had a 60.28% decrease in issuances compared to 2019. Taking into account all issuing countries, the average decrease was 55%.

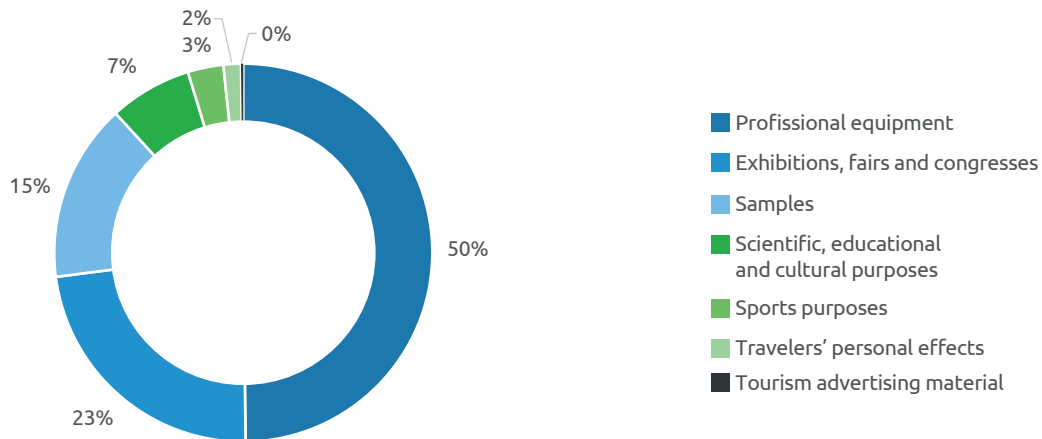
The states of Rio de Janeiro, São Paulo, and Rio Grande do Sul accounted for 80.51% of Brazil's issuances.

FIGURE 15 – ATA Carnets issued by state (2016-2021).

Source: ATA Carnet Brasil (issuance) System.

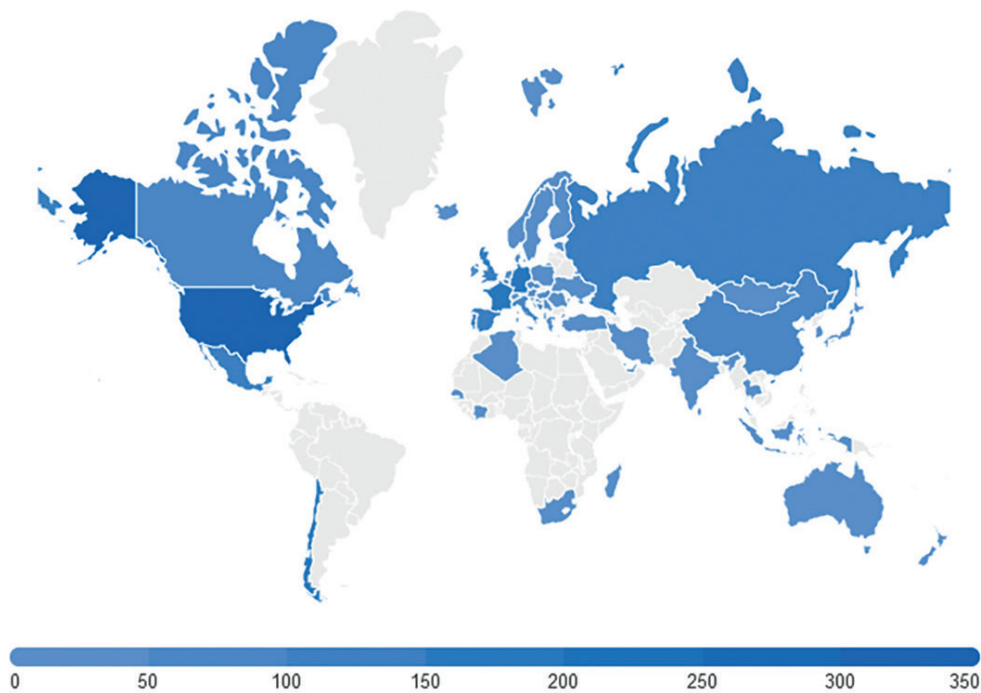
Between 2016 and 2021, 425 individuals and legal entities were served. The main user sectors were telecommunications, machinery and equipment, clothing and accessories, medical and hospital instruments, and footwear. These sectors accounted for 42.5% of ATA Carnets issued in Brazil.

The main purposes reported by Brazilian ATA Carnet users are professional equipment, exhibitions, fairs and congresses, and samples.

GRAPH 2 – Main purposes

Source: ATA Carnet Brasil (issuance) System.

The main destinations reported by users for temporary exports under the ATA Carnet were the United States, Germany, Portugal, Chile, France, Spain, Mexico, the United Kingdom, Russia and Italy.

FIGURE 16 – Destination countries of ATA Carnets for temporary exports⁴⁸

Source: ATA Carnet Brasil (issuance) System.

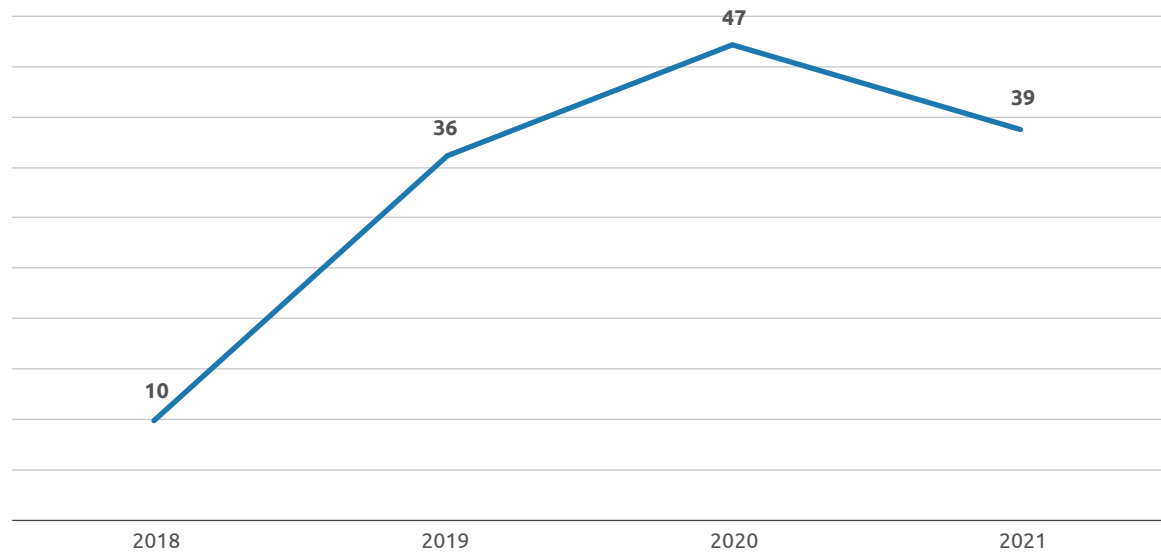
⁴⁸ Destination countries of ATA Carnets for temporary exports: United States, Germany, Portugal, Chile, France, Spain, Mexico, United Kingdom, Russia, Italy, Canada, China, Japan, United Arab Emirates, Netherlands, South Africa, Switzerland, Austria, Turkey, Israel, Belgium/Luxembourg, South Korea, Greece, India, Finland, Croatia, Denmark, Czech Republic, Hong Kong, Morocco, Sweden, Hungary, New Zealand, Poland, Ukraine, Indonesia, Malta, Norway, Qatar, Cyprus, Slovenia, Ireland, Iceland, Lebanon, Madagascar, Romania, Serbia, Thailand, Algeria, Bosnia and Herzegovina, Sri Lanka, Taiwan, Albania, Ivory Coast, Estonia, Gibraltar, Iran, Mongolia, Pakistan, Senegal and Singapore.

4.2 NUMBER OF FOREIGN CLAIMS

From 2016 to 2021, the CNI received 132⁴⁹ claims from other countries that had received Brazilian ATA Carnets (foreign claims). Non-compliance with the regime was confirmed in 23 cases. CNI had to settle the debts (import taxes and duties) with the countries into which the goods were imported and seek reimbursement from the ATA Carnet holders.

As a result, 12.50% of ATA Carnets issued in Brazil were challenged by other countries, a higher percentage compared to the world average in 2020 – 7.7%. This difference is due to the carelessness of Brazilian users when using the ATA Carnet, a problem that must be tackled through training, awareness and monitoring so that users are able to avoid any error in their use of the document or to identify mistakes made by the Customs authorities themselves.

GRAPH 3 – Number of foreign claims received by year (2018-2021)⁵⁰



Source: Internal record.

⁴⁹ CNI can still accept foreign claims until December 31, 2023, since Customs authorities can request payment within one year of the date of expiry of the ATA Carnet.

⁵⁰ CNI only started to receive foreign claims in 2018.

In relation to the 23 cases of non-compliance with the regime, CNI has already paid debts amounting to BRL 135,683.20 and is planning to pay in 2022 approximately BRL 80,805.22⁵¹ in import taxes and duties related to non-compliance with the regime by the holders. During the entire period it served as guaranteeing association, CNI has only had to use the security bond twice, in situations where ATA Carnet holders refused to reimburse CNI⁵².

In cases where an insurance claim was raised, the full amount was not reimbursed to CNI by the insurer due to a limitation on the amount of the guarantee. With this, BRL 23,696.74 will not be reimbursed to CNI, being assumed by the guaranteeing association as a loss.

51 These amounts are for claims made in 2021.

52 If the holder refuses to reimburse CNI, the guaranteeing association must raise a claim with the insurance company, which then collects the amount due from the holder.



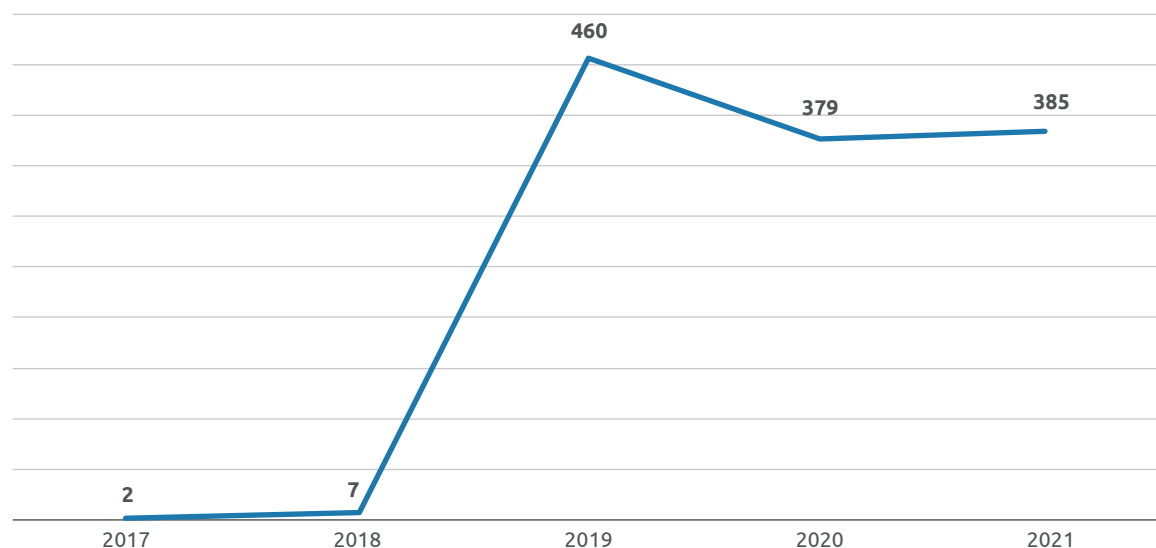
5 TEMPORARY IMPORTS

5.1 KEY NUMBERS

As previously reported, temporary admission with ATA Carnet in Brazil started in 2016, but the ATA Carnet Brasil (control) System was not implemented until September 2, 2019, when its use by RFB tax auditors became mandatory under Ordinance No. 48 of August 2, 2019. Therefore, there are no statistics on temporary admissions with ATA Carnet maintained and/or disclosed by the Brazilian government prior to the system implementation.

After its implementation, the temporary admission of 105,731 goods supported by 1,233 ATA Carnets was registered⁵³.

GRAPH 4 – ATA Carnets imported (2017-2021)⁵⁴

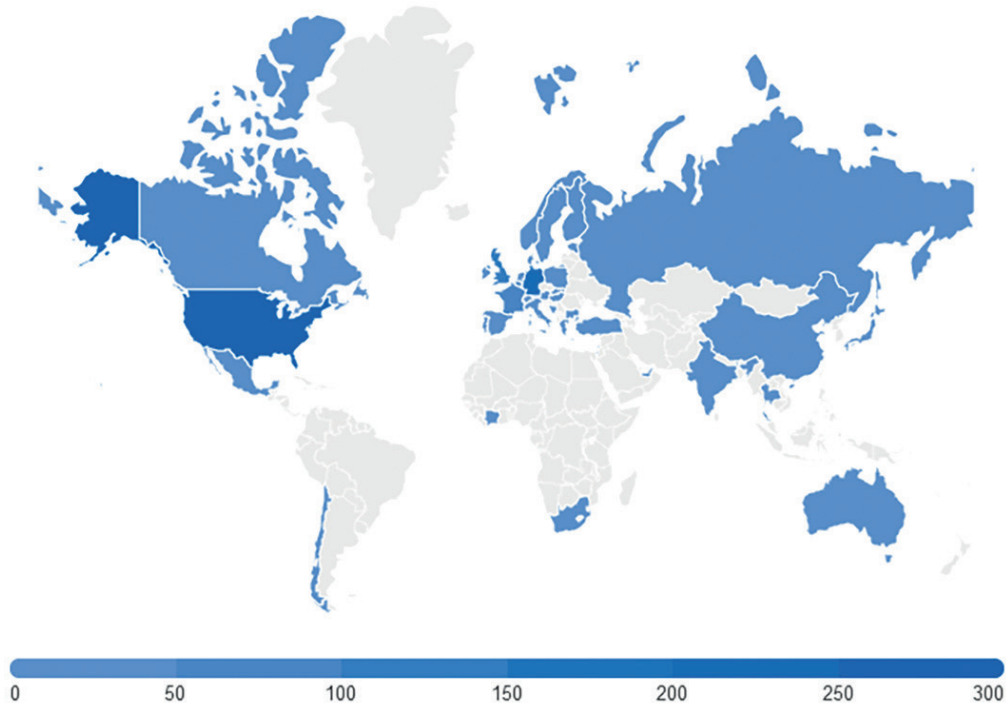


Source: ATA Carnet Brasil (control) System.

The main countries of origins of ATA Carnets temporarily imported into Brazil were the United States, Germany, the United Kingdom, France and Israel, respectively.

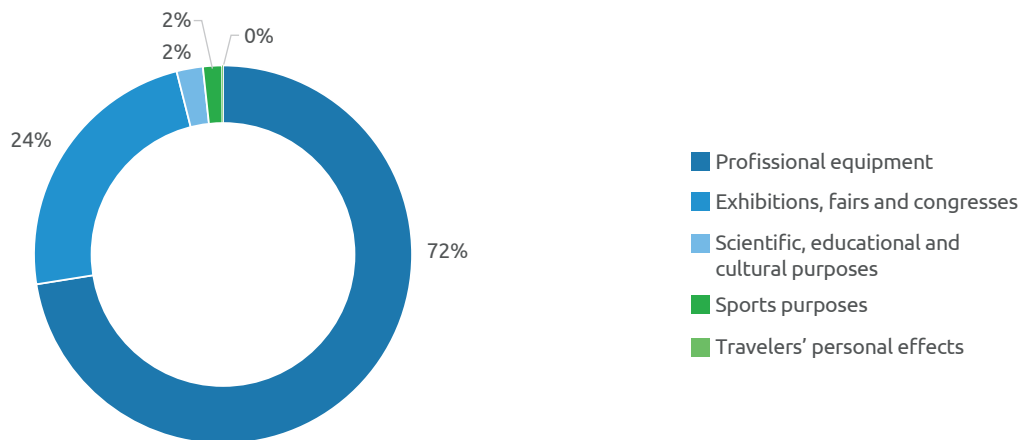
⁵³ These numbers may change as the system is still available to RFB tax auditors, who can retroactively enter information.

⁵⁴ Records for 2017 and 2018 were retroactive.

FIGURE 17 – Countries of origin of ATA Carnets for temporary admission⁵⁵

Source: ATA Carnet Brasil (control) System.

Goods imported into Brazil, on the other hand, were mainly intended for use as professional equipment, for exhibitions, fairs and congresses, and for scientific, educational and cultural purposes (2%).

GRAPH 5 – Main purposes

Source: ATA Carnet Brasil (control) System.

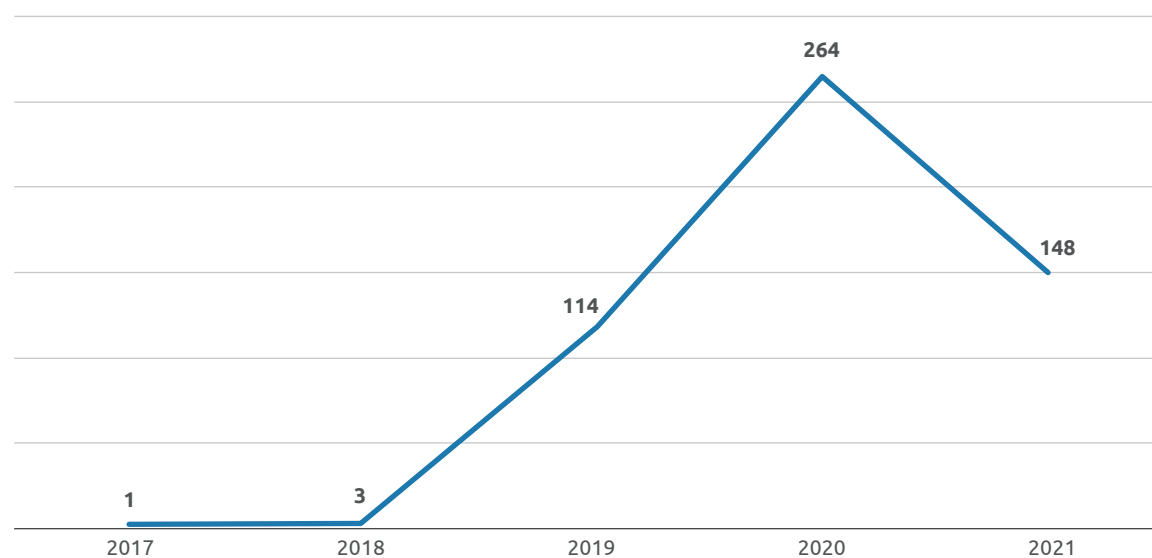
⁵⁵ Countries of origin of ATA Carnets for temporary admission: United States, Germany, United Kingdom, France, Israel, Switzerland, Spain, Italy, Netherlands, Japan, Portugal, Canada, Sweden, China, Austria, Denmark, South Korea, Belgium/Luxembourg, Russia, Mexico, Chile, Poland, Finland, Australia, Norway, Turkey, Estonia, Bosnia and Herzegovina, Ivory Coast, India, Bulgaria, Greece, Hungary, Ireland, Slovakia, South Africa, Thailand, and United Arab Emirates.

5.2 NUMBER OF DOMESTIC CLAIMS

Since the start of the operations, CNI has received 556⁵⁶ domestic claims from the RFB regarding ATA Carnets issued in other countries that have been temporarily imported into Brazil. Non-compliance with the regime was confirmed in 30 cases. CNI had to settle the debts (import taxes and duties) with the RFB and seek reimbursement from the guaranteeing associations.

Of the domestic claims received, 42.62% could have been avoided since proof of re-export was provided. This means that a majority of the complaints issued by the RFB were supported by a receipt signed by a tax auditor from the RFB itself, certifying that the goods had left Brazil. However, this record was not kept by Customs and caused rework.

GRAPH 6 – Number of domestic claims received by year (2017-2021)⁵⁷



Source: Internal record.

In relation to the 30 cases of non-compliance with the temporary admission regime, CNI has already paid debts amounting to BRL 941,502.62⁵⁸ in import taxes and duties related to non-compliance with the regime by foreign holders. Of this amount, BRL 76,953.99 will not be reimbursed to CNI. This is due to the fact that the RFB and the State Treasury Offices have collected from CNI amounts in excess of the limit provided for in the Istanbul Convention and in the Brazilian legislation. Since part of this amount has exceeded the

⁵⁶ CNI can still receive foreign claims until December 31, 2023.

⁵⁷ CNI started to receive domestic claims in 2017.

⁵⁸ This amount relates to payments of federal taxes to the RFB and ICMS tax to the State Treasury Offices.

limit, the guaranteeing associations will not reimburse this excess⁵⁹ and CNI will assume this amount as a loss.

Istanbul Convention (August 2, 2011), Annex A, Chapter IV, Article 8, Item 2:

The liability of the guaranteeing association shall not exceed the amount of the import duties and taxes by more than ten percent.

RFB Normative Instruction No. 2036 (June 24, 2021), Chapter II, Article 10, Sole Paragraph:

The liability of the guaranteeing association shall not exceed the amount of the import duties and taxes by more than ten (10) percent.

Of the charges received, CNI filed a challenge⁶⁰ against 33⁶¹ domestic claims, and by the end of 2021 there was no ruling on these challenges by the RFB. They were filed for various reasons, such as charging more than allowed, charging for a claim in which proof was sent, charging with incorrect calculations, charging after the deadline, among others.

In addition, it is currently not clear in Brazil how the reimbursement process by the RFB and the State Treasury Offices should take place, as provided for in the Istanbul Convention and the Brazilian legislation.

Istanbul Convention (August 2, 2011), Annex A, Chapter V, Article 9:

a) The guaranteeing association shall have a period of six months from the date of the claim made by the Customs authorities for the sums referred to in Article 8, paragraph 1 of this Annex in which to furnish proof of re-exportation under the conditions laid down in this Annex or of any other proper discharge of the ATA Carnet.

b) If such proof is not furnished within the time allowed the guaranteeing association shall forthwith deposit, or pay provisionally, such sums. This deposit or payment shall become final after a period of three months from the date of the deposit or payment. During the latter period, the guaranteeing association may still furnish the proof referred to in subparagraph (a) of this paragraph with a view to recovery of the sums deposited or paid.

c) For Contracting Parties whose laws and regulations do not provide for the deposit or provisional payment of import duties and taxes, payments made in conformity with the provisions of subparagraph (a) of this paragraph shall be regarded as final, but the sums paid shall be refunded if the proof referred to in subparagraph (a) of this paragraph is furnished within three months of the date of the payment.

⁵⁹ Foreign guaranteeing associations are only obliged to reimburse CNI in accordance with the Istanbul Convention.

⁶⁰ The challenge is the instrument to contest an assessment made by the tax authority.

⁶¹ The first challenge requests were filed by CNI in 2020.

RFB Normative Instruction No. 2036 (June 24, 2021), Chapter II, Article 10, Sole Paragraph:

Paragraph 4 The guaranteeing association also has a period of three (3) months from the payment referred to in the head provision to prove the re-exportation of the goods.

Paragraph 5 In the case of paragraph 4, the reimbursement of the amounts paid can be requested by means of a reimbursement request.

CNI has already presented this issue to the RFB and formalized the challenge by means of a template on March 9, 2021. Since then, CNI has tried to find alternatives to solve this problem, but none have proven effective so far.

Regarding the procedure to request reimbursement from the State Treasury Offices, CNI attended two meetings⁶² of Working Group No. 54 (Foreign Trade) of the Brazilian National Finance Policy Council (CONFAZ) to discuss the issue. On August 4, 2021, CNI sent to CONFAZ, via email, the proposal to amend SINIEF Amendment No. 24/19 with provisions on the reimbursement procedure. There was no further progress after that.

These procedures that could be returned to CNI amount to BRL 200,197.53⁶³, if the RFB accepts the submitted proof of re-exportation. If CNI is not able to apply for reimbursement and therefore misses the deadlines, this amount will be assumed by the entity as a loss.

⁶² On May 10, 2021 and on August 4, 2021.

⁶³ This amount relates to payments of federal taxes to the RFB and ICMS tax to the State Treasury Offices.

6 CHALLENGES TO THE TEMPORARY EXPORT AND IMPORT PROCESS

The execution of the ATA Carnet began in 2016 and, since then, CNI – in partnership with the RFB, the State Treasury Offices and the state industry federations – has been working to improve the procedures related to ATA Carnet operations in Brazil. .

During the more than five years that CNI acted as guaranteeing association, it actively engaged in maintaining a pleadings panel that oversaw all advocacy actions necessary for the full functioning of the ATA Carnet in Brazil. With the support of the state industry federations, CNI submitted 36 advocacy actions to the government, 22 of which were implemented in whole or in part.

CNI has shared all the challenges related to temporary exports and imports in the form of meetings, letters, emails, position papers, proposals to change legislation, and International Agenda of Industry and much more.

Specifically to the RFB, it was determined that communication should take place with the help of templates⁶⁴. From 2016 to 2021, CNI sent 131 templates, 107 of which were answered by the RFB.

The advocacy actions started with the first publication of RFB Normative Instruction No. 1639 of May 10, 2016⁶⁵. In the sole paragraph of Article 1, it was indicated that the normative instruction would only apply to goods with an Air Waybill (unaccompanied baggage)⁶⁶.

RFB Normative Instruction No. 1639 (May 10, 2016), Article 1, Sole Paragraph:

The provisions of this Normative Instruction apply only to goods accompanied by an Air Waybill.

⁶⁴ Document prepared by the CNI and the RFB for communication between the parties on incidents and claims affecting the ATA. This document should contain the date, the ATA number, the data of the requester, a clear inquiry by CNI and the RFB's response.

⁶⁵ BRAZILIAN FEDERAL REVENUE SERVICE. **RFB Normative Instruction No. 1639 of May 10, 2016**. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=73815>. Access: May 22, 2022.

⁶⁶ Unaccompanied baggage means a baggage that arrives in the country with an Air Waybill or equivalent document (Available at: <https://www.gov.br/anvisa/pt-br/assuntos/paf/importacao/importacao-de-produtos/modalidades-de-importacao/bagagem-acompanhada-e-bagagem-desacompanhada>. Access: 05/22/2022.). For example: a machine that comes to Brazil via a freight forwarder.

The member countries of the ATA Network and the ICC frequently contacted Brazil at that time and asked the country to follow the WCO recommendation⁶⁷, i.e. to accept the temporary admission of goods traveling without an Air Waybill (accompanied baggage)⁶⁸. Failure to follow this recommendation would prevent users from using the regime.

After some meetings between CNI and the Brazilian government, it was possible to amend the Brazilian legislation through the publication of RFB Normative Instruction No. 1727, dated August 10, 2017, which revoked the sole paragraph of Article 1. After this revocation, Brazil began accepting the temporary admission of goods as accompanied or unaccompanied baggage.

As communicated in DÍEXP/COANA Note No. 0.120, it could be demonstrated that the ATA Carnet was mainly used by travelers (accompanied baggage), with a small amount of goods transported as freight (unaccompanied baggage).

Another issue that was much discussed at the beginning of the operation was the acceptance of temporary admission of ATA Carnets issued only by member countries of the ATA Convention. As we have already seen, the Istanbul Convention does not supersede the ATA Convention. However, at the beginning of the operations, Brazil did not accept ATA Carnets issued by countries that had only internalized the ATA Convention, due to the following section in the first normative instruction published.

RFB Normative Instruction No. 1639 (May 10, 2016), Article 16, item IX:

Be issued by a country party to the Istanbul Convention.

Refusal to issue an ATA Carnet would restrict its use for some countries that are major trading partners of Brazil but have only internalized the ATA Convention, such as the United States, Canada and Japan.

After the WCO recommendation on this issue was sent to the Brazilian government, it could be understood that although Brazil is not a party to the ATA Convention, the application of the temporary admission regime to goods under the ATA Carnet extends to Carnets

67 Istanbul Convention annotated by WCO: With the exception of postal traffic, in respect of which a reservation is possible (Article 18 of Annex A), Annex A contains no provisions limiting its application to goods (including means of transport) imported by any particular mode of transport (road, rail, sea, inland waterway, air) or distinguishing between accompanied and unaccompanied goods. Available at: https://www.gov.br/receita-federal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata/Normas-figuras-imagens/redecin_atacarnet_convencaoistambulcomentada.pdf. Access: 5/22/2022.

68 Accompanied baggage means a baggage which the passenger carries with them on the same means of transport in which they travel and which is not subject to an Air Waybill or equivalent document (Available at: <https://www.gov.br/anvisa/pt-br/assuntos/paf/importacao/importacao-de-produtos/modalidades-de-importacao/bagagem-acompanhada-e-bagagem-desacompanhada>. Access: 05/22/2022.). For example: a photographer who comes to Brazil for a job transports his equipment in his own suitcase, accompanied only by the ATA Carnet and without the need for an Air Waybill.

issued by countries that have guaranteeing associations that are part of the ATA Network, i.e., that are affiliated members of the international guarantee chain⁶⁹.

As a result, RFB Normative Instruction No. 1763, dated November 21, 2017, was published with the aim of clarifying the previous understanding:

RFB Normative Instruction No. 1639 (May 10, 2016), Article 16, item IX:

Be issued by a guaranteeing association that is an affiliated member of the international guarantee chain - International Chamber of Commerce World Chambers Federation (ICC-WCF ATA), provided that the conditions, limits and requirements of the Istanbul Convention established by Decree No. 7545 of 2011 are complied with.

After this amendment to the Brazilian legislation, it was possible to accept ATA Carnets from all member countries of the ATA Network, regardless of which convention was internalized. The country that issued the most ATA Carnets imported into Brazil was the United States (which is only a party to the ATA Convention).

Also in 2016, CNI received inquiries about the mandatory use of an invoice for goods supported by an ATA Carnet in transit through Brazilian states, both when goods enter Brazil (import and re-import) and when they leave (export and re-export). In addition, when importing and reimporting into Brazil, it was mandatory to contact the state Treasury Office to request the Foreign Goods Release Document (*Guia de Liberação de Mercadoria Estrangeira* – GLME) to ensure the suspension of the Tax on the Circulation of Goods and on Services of Interstate and Intermunicipal Transportation and Communication (ICMS) .

CNI attended two meetings of Working Group No. 54 (Foreign Trade) and one meeting of Working Group No. 26 (Tax Benefits) of the Brazilian National Finance Policy Council (CONFAZ) to show that these two documents caused situations such as:

- delay in the release of the GLME, which delayed the obligations of ATA Carnet users and caused more costs;
- improper request for (different) documents for the clearance of goods, documents that are not required when the operation is supported by the ATA Carnet;
- improper payment of the ICMS tax as a condition for the release of the goods (the operation with ATA Carnet is exempt from import duties and this duty was undue); and
- misinformation (it was very difficult for foreign ATA Carnet users to obtain information about how to request the GLME in the states).

⁶⁹ MINISTRY OF ECONOMY. **Histórico**. 2021. Available at: <https://www.gov.br/receita-federal/pt-br/assuntos/aduana-e-comercio-exterior/manuais/carne-ata/topicos/1-aspectos-gerais/1-1-historico#istambulversusata>. Access: May 22, 2022.

To address the need to introduce control and standardization procedures when importing goods into Brazil, SINIEF Amendment No. 24/19 was published on December 13, 2019, which removes the need for the GLME and the invoice, on the condition that CNI grants the State Treasury Offices access to the ATA Carnet Brasil (control) System developed for the RFB.

In addition to these pleas, CNI also supported the Brazilian government in implementing some improvements:

- At the start of operations in Brazil, CNI sought best international practices to assist the RFB and State Treasury Offices in setting up the process to collect federal taxes and state goods and services taxes (ICMS) from the guaranteeing association.

It was necessary to clarify what information the RFB should provide to the guaranteeing association when opening the domestic claim so that the foreign guaranteeing association could be inquired. The RFB determined that the document that would open the domestic claim would be a subpoena and, as required by CNI, should include the following information: name of the guaranteeing association that issued the ATA Carnet, expiration date of the ATA Carnet, date of importation by Brazilian Customs, date of re-exportation established by Brazilian Customs, and copy of the ATA Carnet in question.

Regarding the collection of taxes, in case of non-compliance with the regime, the RFB determined that the collection of federal taxes from the guaranteeing association would be made by means of a tax assessment notice (some time later it was confirmed that this was not the best way to carry out the collection of federal taxes). CNI received the first tax assessment notice in 2019 and found that the form of collection was incorrect, since the document calculated the amount of tax plus interest and penalties, without taking into account the 10% limit provided by the Istanbul Convention.

Therefore, CNI informed Customs that the collection was incorrect and instructed them on the correct course of action. It then received a notice with the correct form of collection, i.e. calculating the amount of federal taxes plus 10% to cover part of the interest and penalties.

Since the interest and penalties levied by Brazilian Customs are higher than the guaranteeing association's liability as stipulated in the Istanbul Convention, the Brazilian Customs must collect federal taxes and part of the interest and penalties from the guaranteeing association, within the limitation of the Convention, and the rest must be collected by the RFB directly from the ATA Carnet holder.

To pay federal taxes, CNI prepared a Federal Revenue Collection Document (*Documento de Arrecadação de Receitas Federais* – DARF) with the amount specified in the tax assessment notice and made the payment.

Once the federal taxes were paid, payment of the state tax (ICMS)⁷⁰ could proceed, which could result in different procedures from state to state. In general, CNI prepared the state collection document in the amount of the total tax without taking into account the 10% limitation provided for in the Istanbul Convention. This occurred because the states did not define how the guaranteeing association could make the payment within their responsibility and there was no way to generate the collection document within the limitation provided.

After paying the ICMS, CNI would send the proof of payment to the State Treasury Office of the RFB customs office which opened the domestic claim.

- Definition of only a simple original power of attorney so that holders could authorize the use of the ATA Carnet by their representatives (without the need to notarize or to add annotations).
- Inclusion, in the RFB's internal manual, of guidance on how the customs officer should register multiple temporary admissions with ATA Carnet in a single Air Waybill – AWB.
- Regulation No. 48 of August 2, 2019 made it mandatory for the RFB to register temporary imports and exports in the ATA Carnet Brasil (control) system.

Even after the above changes were made in the processes and in the normative instructions for temporary import and export, some improvements to the regime were still necessary for both users and the guaranteeing association in Brazil. Therefore, after advocacy measures by CNI, on June 24, 2021, RFB Normative Instruction No. 2036⁷¹ was published, completely revoking the previous ones. It was a complete overhaul, which attended to 13 advocacy actions that were being monitored by the pleadings panel. The improvement points were:

- Standardization so that all communication regarding domestic ATA Carnet claims is done through the RFB system (e-CAC) – a better way to ensure control and security in an online system.
- Standardization of the information to be sent to the guaranteeing association together with the domestic claim (import receipt and NCM⁷²) so that all data can be forwarded to the foreign guaranteeing association.

70 Federal taxes are part of the ICMS calculation.

71 BRAZILIAN FEDERAL REVENUE SERVICE. **RFB Normative Instruction No. 2036 of June 24, 2021**. Available at: <http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?visao=anotado&idAto=118647>. Access: May 22, 2022.

72 Mercosur Common Nomenclature (*Nomenclatura Comum do Mercosul* – NCM).

- Inclusion in the domestic claim of the total amount of the taxes on the ATA Carnet under dispute so that the guaranteeing association can immediately pay the import duties in the event of proven non-compliance with the regime.
- Determination of payments by CNI in the event of non-compliance with the regime after the six-month period for the submission of evidence, without having to issue a tax assessment notice. Even after payment of the import duties due by means of the tax assessment notice, the RFB would not acknowledge receipt of this payment in a timely manner and, consequently, CNI would enter debtor status, jeopardizing the renewal of its Debt Clearance Certificate (*Certidão Negativa de Débitos*– CND).
- Determination of a period of up to three months for the RFB to send the guaranteeing association a decision or other document evidencing closure of the claim for the ATA Carnets under dispute, as recommended by the WCO.
- Acceptance by the RFB of the payment of federal taxes, subject to the guaranteeing association's 10% limitation under the Istanbul Convention, without additional charges in excess of the allowable limitation.
- Introduction of a procedure for requesting a refund from the RFB if proof of re-exportation is provided within three months of paying federal taxes. In the normative instruction it was indicated that this procedure is possible. However, the way in which a refund can be requested was not explained in detail.
- Enforcement of the Istanbul Convention deadline for the RFB to file the domestic claim with the guaranteeing association within the collection period (up to one year after the ATA Carnet expires).
- Elimination of discrepancies between the texts of the Istanbul Convention and RFB normative Instruction No. 1639/2016 on the admission of goods for professional equipment purposes.
- Definition and dissemination of the reasons accepted by tax auditors for accepting replacement ATA Carnets.

Significant improvements have been made in recent years. However, the reduction of red tape and simplification of this regime in Brazil should continue to be regularly promoted by public and private institutions.



FRAGILE

7 RECOMMENDATIONS FOR THE CONTINUITY OF THE ATA CARNET IN BRAZIL

The ATA Carnet has been a consolidated regime worldwide since the 1960s. Its operation under favorable conditions has the potential to cut red tape and reduce customs costs, and is in itself an economic stimulator and an enabler of cultural, scientific, sports, and technological development mega-events.

CNI is aware that Brazil's active and efficient participation in the global operation of ATA Carnet creates an opportunity for additional attractiveness for the country.

The operations carried out by CNI over the past few years, it was possible to consolidate important knowledge and assess practices that leverage the regime and maximize its gains for users and for the country. Among the key recommendations, four primary areas stand out: diplomatic, normative, procedural, and systemic.

DIPLOMATIC

- Accession of Latin American countries to the ATA Network as a strategy to maximize the benefits of the regime, including in trade, technology, and innovation deals taking place between countries in the region. Argentina, Uruguay, Peru and Colombia were identified as priority markets by respondents to the 2021 CNI perception survey (Annex VII). Argentina is also a priority country on the agenda of ICC's World ATA Carnet Council.
- Active participation of the Brazilian government in the implementation of e-ATA (project to digitize the procedure with ATA Carnet).

NORMATIVE

- Qualification of a non-profit organization that operates nationwide and reaches the regime's priority audiences as the next guaranteeing association.
- Accession to the new annexes of to the Istanbul Convention. According to the perception survey (Annex VII) conducted by CNI in 2021, respondents indicated that

Brazil should prioritize the internalization of the following annexes: commercial samples, manufacturing operations, and humanitarian purposes.

It is important that Brazil internalizes all annexes so that users can fully benefit from the regime.

PROCEDURAL

- Standardize the processes across RFB units and continuously train customs officers to receive, review and validate the document. Users still report difficulties with customs due to lack of knowledge of the regime by tax auditors.
- Together with the consenting bodies, ensure the unenforceability of authorizations and specific procedures for temporary admission and export operations supported by the ATA Carnet, in accordance with CAMEX Resolution No. 101 of October 31, 2016, and establish focal points in the consenting bodies to meet the needs of users – Brazilians and foreigners – related to the ATA Carnet.
- Full compliance with the conditions provided for in the new normative instruction regarding the documents that must be sent to the guaranteeing association together domestic claims (import receipt, tax amount, and NCM).
- Compliance with the six-month period for submitting counterevidence as set out in the Istanbul Convention, Annex A, Chapter V, Article 9, Item 1, Letter A, and in RFB Normative Instruction No. 2036 (dated June 24, 2021), Chapter VII, Article 26, §Paragraph 5.
- Implementation of the correct methodology for ICMS collection by CONFAZ Working Group No. 54, respecting the guaranteeing association's 10% limitation under the Istanbul Convention.
- Implementation of the correct methodology for the reimbursement process, according to Paragraphs 4 and 5, Article 10, Chapter III of Normative Instruction No. 2036/2021, by CONFAZ Working Group No. 54, including a detailed description of the process in SINIEF Amendment No. 24/16 of December 13, 2019.
- Charge 10% threshold for payment of suspended federal taxes, without additional charges in excess of the allowable limitation. The practice is provided for in the Istanbul Convention, Annex A, Chapter IV, Article 8, and RFB Normative Instruction No. 2036 (dated June 24, 2021), Chapter III, Article 10, Sole Paragraph.
- Detail the procedure for requesting a refund from the RFB if proof of re-exportation is provided within three months of paying federal taxes.
- Ensure that domestic claims that have been challenged are judged and closed.
- Immediate invalidation of domestic claims submitted by the RFB outside the collection period of up to one year from the date of expiry of the validity of the ATA Carnet, in accordance with the Istanbul Convention, Annex A, Chapter IV, Article 8,

Item 4, and the RFB Normative Instruction No. 2036 (dated June 24, 2021), Chapter VII, Article 26, Paragraph 4.

- Mandatory closure within a maximum period of up to three months for the RFB to send the guaranteeing association a decision or other document evidencing closure of the claim for the ATA Carnets under dispute, as recommended by the WCO and provided for in RFB Normative Instruction No. 2.036 of June 24, 2021, Chapter VII, Article 26, Paragraph 8.
- Establishment of a service channel, on a continuous basis and with timely response, by the General Coordination of Customs Administration (*Coordenação-Geral de Administração Aduaneira – COANA*)⁷³ for any inquiries by the Brazilian guaranteeing association related to ATA Carnet (including operation, summons, collection etc.) until their resolution.

SYSTEMIC

- Completion of the registrations of the State Treasury Offices in the ATA Carnet Brasil (control) System. The states of Ceará and Pará have not yet submitted data for registration in the system.
- Continuous and timely audit of the ATA Carnet Brasil (control) System by the RFB's tax auditors.

The recommended measures will help increase the flow of trade, maximize the benefits of the regime, and create new business opportunities related to the objectives stated in this document, in addition to supporting multilateral cooperation in the fields of science, culture, and sport.

The measures also contribute to improving the process for filing domestic claims in order to reduce the risks for the Brazilian guaranteeing association and to strengthen confidence of foreign associations in the Brazilian process.

⁷³ RFB entity responsible for ATA Carnets.



FINAL CONSIDERATIONS

Brazil has made important progress by joining the Istanbul Convention and introducing the special customs regime of the ATA Carnet.

The benefits include reduced customs clearance time, better control of goods during temporary export and import, cost reduction, greater legal certainty, international standardization of procedures and processes, simplification of documents, and less need for interaction with various consenting bodies. All these aspects facilitate foreign trade and affect the competitiveness of Brazilian companies.

This report attempted to detail the model implemented by CNI over the last five years and identify possible alternatives to improve the Brazilian regime and ensure continuity of operations in the country. This includes the activities required from the national guaranteeing association, the network of foreign guaranteeing associations, the users of the regime, and the Brazilian government.

Due to the importance of the ATA Carnet to the business environment, it is important that the Brazilian government finds an organization that has an interest in being the next guaranteeing association. Without it, the ATA Carnet will remain suspended in Brazil, which will affect the business of Brazilian and foreign users.

In order for an organization to qualify as the next guaranteeing association, it is clear that the Brazilian government must implement many of the improvement measures outlined in the previous section. Otherwise, there will continue to be many financial, legal, and tax risks that will make it difficult to guarantee and issue ATA Carnets in Brazil.

With the internalization of the Istanbul Convention in 2011, the country has shown itself to be open to adapting to the international standard and to greater integration into global trade flows, which has progressed, albeit with difficulties. It is not acceptable for the country to fall back on the facilitation agenda, otherwise all the efforts and work of the last decade will be lost.

Likewise, efforts to expand the network of signatory countries to the Convention must continue, with greater participation from Latin America. Countries such as Argentina, Uruguay, Paraguay, Peru, Colombia and others should be prioritized by the Brazilian government to raise awareness of the importance of the ATA Carnet customs regime. In particular, neighboring countries will benefit greatly from the adoption of a standardized and integrated temporary export and import regime.

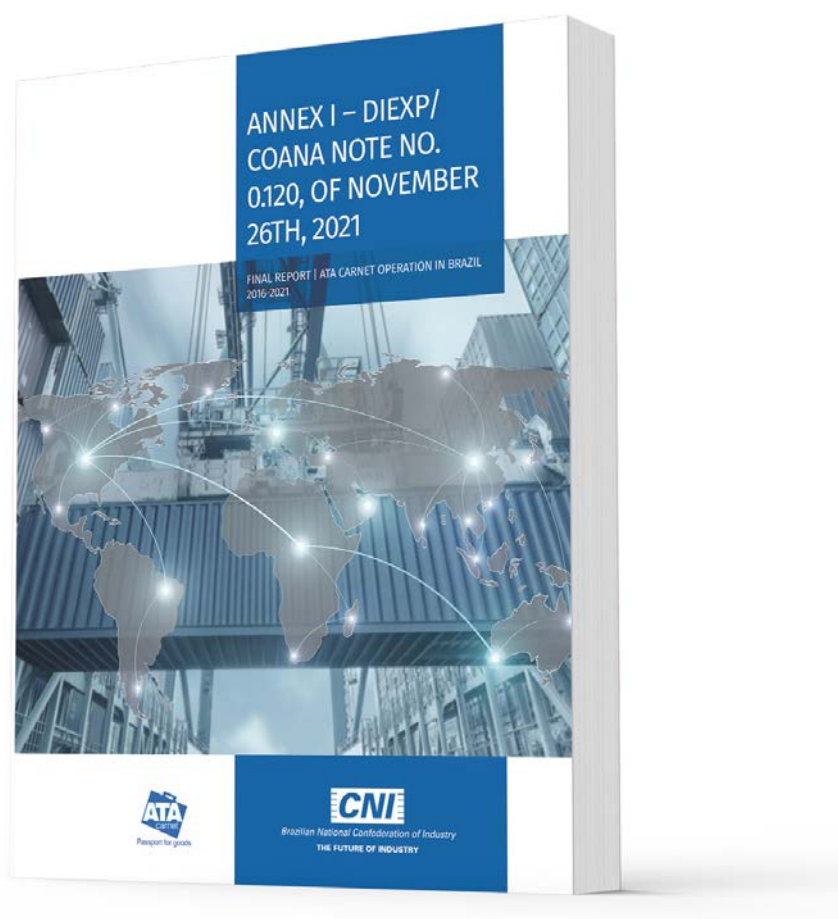
The Brazilian National Confederation of Industry will always be available to support discussions on the ATA Carnet and, above all, to provide all the information needed to support the next guaranteeing association and the Brazilian government in the continuity of the operations with ATA Carnet in Brazil.



ANNEXES

To access the annexes, click on the links below:

ANNEX I – DIEXP/COANA NOTE NO. 0.120, OF NOVEMBER 26TH, 2021



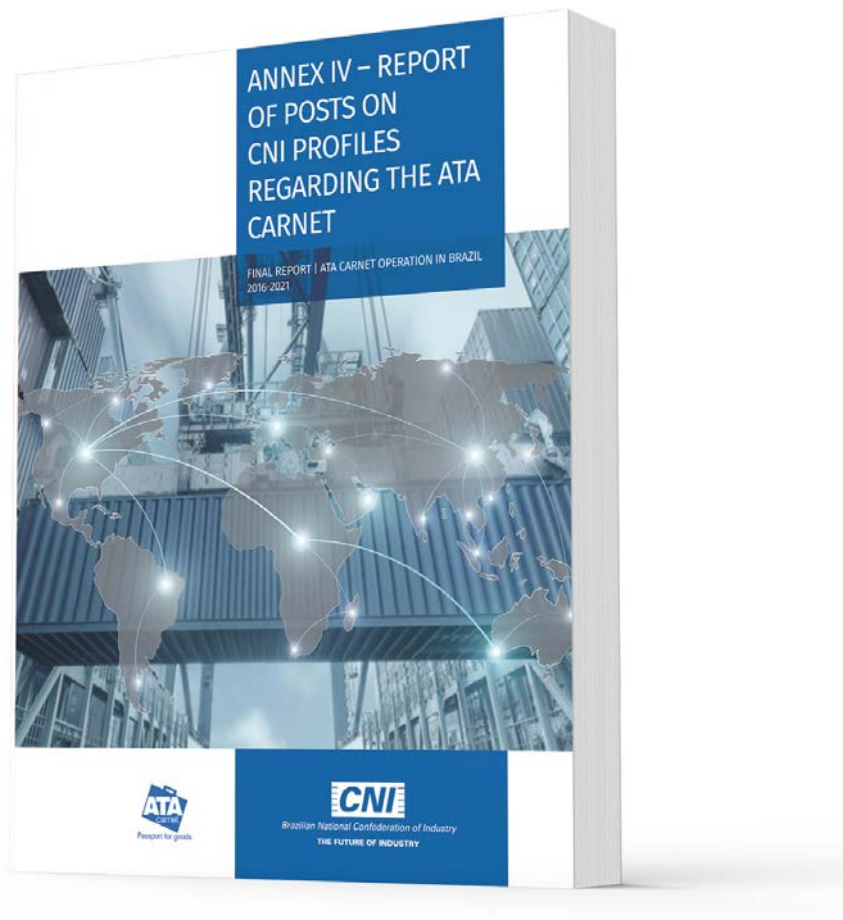
ANNEX II – PORTAL DA INDÚSTRIA ACCESS DATA



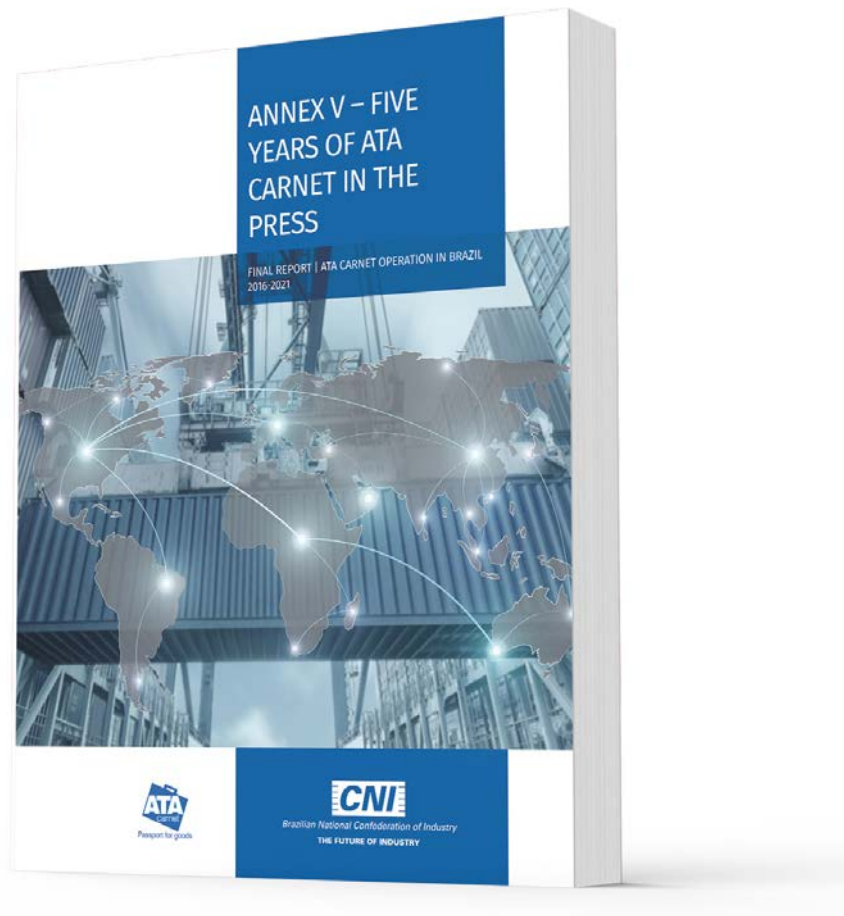
ANNEX III – ADVERTISING CAMPAIGNS



ANNEX IV – REPORT OF POSTS ON CNI PROFILES REGARDING THE ATA CARNET



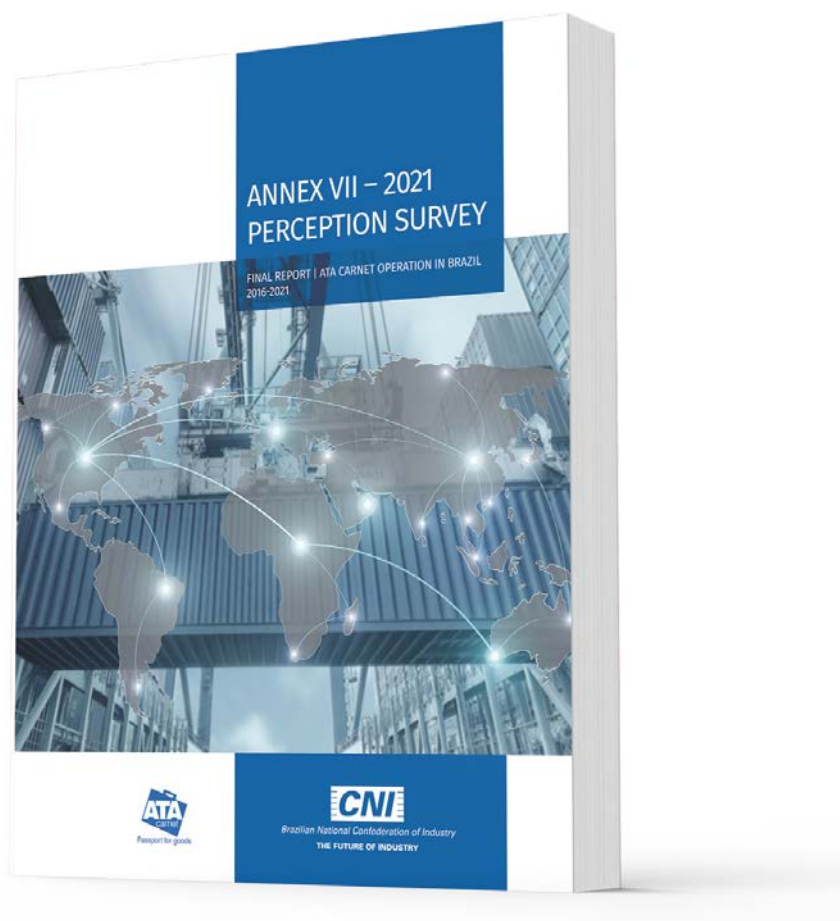
ANNEX V – FIVE YEARS OF ATA CARNET IN THE PRESS



ANNEX VI – 2018 PERCEPTION SURVEY



ANNEX VII – 2021 PERCEPTION SURVEY



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