

Russell A. Farrow Limited Continues to Grow

On September 24th, 2004, Rick Farrow, President and C.E.O. of Russell A. Farrow Limited, announced the acquisition of CJ Butcher Customs Brokers Limited of LaSalle, Ontario.

CJ Butcher commenced operations in Windsor, ON (where we are headquartered) in 1984 and had grown to a staff of eight serving over a hundred local and North American companies. Rick Farrow has confirmed that CJ Butcher's founder Cyndi Butcher will continue her distinguished business career with Russell A. Farrow Limited for many years to come. She will work closely with our senior management to provide our clients with superior customer service.

Ms. Butcher comes to us with impressive credentials. She has served seventeen years on the Board of the Canadian Association of Mold Makers and is currently President Elect of that organization. In addition, she is a member of the Canadian Tool Manufacturers Association, the Textile Committee of the Canadian Importers & Exporters Association, the LaSalle Business Association and was at one time a Director of the Chamber of Commerce.

This represents the third acquisition by Russell A. Farrow Limited in sixteen months and follows the purchase of Ameri-Can Customs Brokers of Amherst, NY and Alberta Customs Brokers of Edmonton, AB. As the largest independent and privately owned customs brokerage firm in Canada, we now employ five hundred-plus employees throughout North America and are able to offer a full range of services. ▲



Fall Seminars a Success

Our International Trade Consulting Division has now completed its first round of seminars on NAFTA, C-TPAT, PIP, ACI and CSA. We were very pleased with the attendance and the positive feedback we received, so you may look forward to new seminar topics in 2005. ▲

Fasteners Worth Their Weight in Gold?

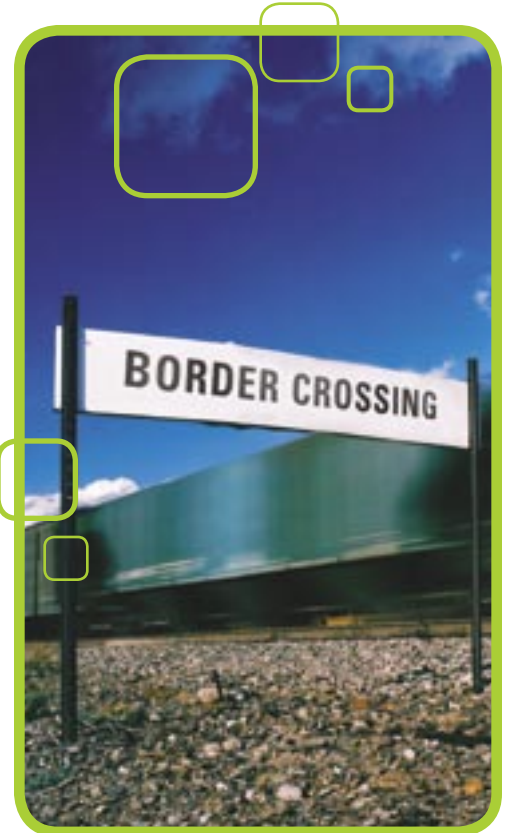
As many of our clients have already experienced, Customs is imposing provisional duties on certain carbon and stainless steel fasteners from the People's Republic of China and Chinese Taipei (formerly Taiwan).

The duties have been imposed to combat alleged dumping and subsidies. Preliminary investigations have determined that imports from the People's Republic of China are being dumped into Canada by an average of 52% and subsidized by 32% while imports from Chinese Taipei average 64% and 7%. Therefore importers are looking at additional duties of up to 84% and 71%. If buying from companies who were uncooperative the rates reach 158% and 133%.

Excluded from the initial finding are fasteners specifically designed for application in the automotive or aerospace industry.

While the price may be a tip off that goods are being dumped if ordering directly from a named country, importers should be aware that the provisional duties apply to the fasteners in question regardless if they have been entered into the commerce of another country. Therefore, keep in mind that the duties may apply to shipments coming from the United States as well, if the origin of the fasteners is either PRC or Chinese Taipei.

The Canadian International Trade Tribunal has already launched a full investigation and is expected to issue a final decision by January 7, 2005. ▲



Participation in PIP

We are pleased to announce that Russell A. Farrow Limited has received our Partners in Protection (PIP) certification. PIP focuses on developing a more secure border environment through enhanced physical security and processes. This partnership will contribute to the protection of Canadian society and the facilitation of legitimate trade.

For our clients who are already participating in the PIP program, you can be at ease that RAF has met the security requirements of the program. For our clients who are not, our expertise can help you through the cumbersome process of becoming certified. Contact Jennifer Deans at (416) 622-9327 ext. 216 for a full review of your security program and procedures. ▲

Don't Forget to Renew Your NAFTA Certificates for 2005

Toyota CSA Interview

In March, Toyota Canada Inc. became our first client to move to the CSA (Customs Self Assessment) program. This process resulted in Russell A. Farrow Limited being awarded the Toyota Kaisen Excellence Award which recognizes our achievements as a key logistics supplier to Toyota. In the following excerpt from an interview with Claude Lambert, Manager Transportation & Operations Corporate Logistics for Toyota Canada Inc., we discussed the decision to move to CSA and the process itself.

RAF: What were the key business drivers that caused Toyota to decide to move to CSA?

Toyota: Although there were no monetary motivators for Toyota Canada Inc. to apply for CSA, the quick release of goods at the border was the reason for application. ACI (Advance Commercial Information) as an alternative was not a situation Toyota Canada Inc. wanted to get into due to the delays.

RAF: How was the move to CSA viewed by Toyota management?

Toyota: Toyota Management understood the importance of the quick clearance benefits. As well, as a model importer, TCI supports the new government's programs, which allow more efficient border crossings.

RAF: What were the factors you considered in deciding to partner with RAF to develop Toyota's CSA program?

Toyota: The fact that we made efforts in the early stages of the relationship to become paperless by opening up electronic connections to move documents between our companies, allowed us to use the platform to complete the requirements of CSA fairly easily. Secondly, Toyota believes in working in long term relationships with its vendors to develop solid business relationships based on trust, and a win/win approach to resolving problems or growing together.

RAF: What has been the greatest benefit(s) you have realized from the move to CSA?

Toyota: Faster border crossings, (easier to place claims against the freight for duty drawback and amendments as they become a simple deduction on the K84.)

RAF: What would you say is the biggest difference between CSA and the old system of PARS?


Toyota: Less of a need to formalize items like B2 claims which includes the large amounts of paperwork we had to generate to get claims approved.

RAF: What advice would you have for any company considering the move to CSA?

Toyota: Work closely with the Customs Manager in charge of your approval, and listen to all the advice they give you. ▲



Modifications to Export Declaration Form B13A



Customs has slightly modified the form used for declaring export shipments. In particular for those companies using privately printed versions field 9(a), Customs proof of report no., must be in the same format as the version published by the Canada Border Services Agency. It is the only allowed format because of stamp machine specifications. Copies of the new form may be viewed at the Customs web site at: www.cbsa.gc.ca under the Publications and Forms area. Keep in mind that exporters must submit their export declarations according to the legislated time frames. The carrier will not load goods if the required export documentation has not been filed.

In addition, all exporters shipping goods to other than the United States and its protectorates Puerto Rico and the U.S. Virgin Islands must register with the Canada Revenue Agency (CRA) for a Business Number with an RM identifier for exporting. Companies must ensure that if they already have an RM identifier that it is activated for exporting prior to shipping any goods. If the Business Number is missing or incorrect the exporter may be subject to a penalty.

Should you have any concerns with regard to your Business Number status please contact the CRA's Business Enquiries line at 1-800-959-5525 or contact your local Russell A. Farrow office. ▲

Quota Elimination on Textiles and Clothing

In accordance with the World Trade Organization (WTO) Agreement on Textiles and Clothing, Canada will complete its commitment to end import restraints on December 31, 2004 when it will discontinue the requirement for export licences from all WTO and non-WTO countries.

The effective date will be based on the date of shipment from the country of origin. Therefore it is possible that shipments received in January 2005 may still require export licences if shipped on December 31, 2004 or earlier. This applies to goods that have been transhipped through a third country or stored in bond if they were shipped prior to the end of 2004.

The remaining countries involved are five with whom Canada has bilateral restraint agreements: Lebanon, Syria, Vietnam, Cambodia and Laos; and one with whom Canada has an unilateral restraint agreement: North Korea. All are WTO non-members.

The United States, as a member of the WTO, is also looking at eliminating quotas, but is considering imposing new limits on imports from China. A lawsuit has been filed by a number of U.S. retailers with the U.S. Court of International Trade seeking an injunction to block the Commerce Department and other U.S. agencies from considering several petitions from domestic textile companies wanting limits on clothing and textile imports from China. ▲



U.S. Customs and Border Protection Updates

Effective October 1, 2004 tariff classifications are now required at the time of release regardless of the value of the merchandise. The ultimate U.S. consignees' IRS numbers are mandatory as well. Effective November 15, 2004, advance electronic notice of general cargo for truck shipments will be necessary.

U.S. Customs' program to allow importers to consolidate their duty and fee payments is well underway. The Periodic Monthly Statement program allows importers and their designated customs brokers to pay import duties and fees fifteen (15) calendar days after the end of the month in which the goods were entered or released – whichever comes first. ▲

Retaliation Against the Byrd Amendment

Canada is much closer to being able to retaliate against the United States' *Continued Dumping and Subsidy Offset Act of 2000* (commonly known as the Byrd Amendment).

In effect, the Byrd Amendment allows the U.S. government to distribute the anti-dumping and anti-subsidy duties it collects to the U.S. companies that made the complaints. The duties may only be disbursed after entries have been "liquidated" which in some cases may involve several years if appeals have been filed.

This practice has been ruled in contradiction of the WTO rules because it amounts to double dipping by those U.S. companies. They benefit from the imposition of anti-dumping and countervailing duties on imports but they also receive payments from the government when said duties are distributed. It also promotes incentive to file additional cases.

The WTO Dispute Settlement Body ruled against the Byrd Amendment on January 27, 2003 and the United States had until December 27, 2003 to change its policy. As a result of the United States' failure to do so, on January 26, 2004 Canada and seven other parties (Brazil, Chile, the European Union, India, Japan, Mexico and South Korea) petitioned the WTO for the authority to retaliate.

Clearly, these matters must be taken seriously as a major time commitment is involved. It wasn't until August 31, 2004 that the WTO ruled that the petitioners could retaliate by up to 72 percent of the annual anti-dumping and countervailing duties on exports from these countries disbursed to U.S. companies in a given year. Furthermore, those parties had to submit their final request for retaliation authorization as required by the WTO on November 10, 2004.

While the best possible solution would be for the U.S. to repeal the amendment, Canada must consider its options in the event they do not. The disbursements collected on Canadian exports have not been too onerous so far (US\$17 million from 2001 to 2003), but there are considerable monies at stake once Canadian softwood lumber exports enter the picture in 2007. It is estimated that over US\$1 billion could be involved.

As outlined in the Canada Gazette notice EXTRA Vol. 138, No. 19 (available at <http://canadagazette.gc.ca/part1/2004/20041123-x/html/extra-e.html>), Canada is considering the following actions and will make its decision in part based on comments received from interested parties until December 20, 2004.

One option is to place a surtax of 100 percent on imports of selected products from the United States. A list of the proposed products includes in general terms the following: air conditioners; beer and spirits; bicycles; carpets; cigarette lighters; colour televisions; cosmetic products; food products and prepared foodstuffs; furniture; glassware and pearls; gloves, mittens; rubber footwear; leather and leather composition products; light fittings; office equipment; photographic equipment; pleasure craft; recreational items (e.g.: billiard tables; automatic bowling equipment; skis; golf clubs and exercise equipment); sound reproducing and recording apparatus; textile floor covering; tobacco products; vending machines; video reproducing and recording apparatus; wood, wood pulp and paper products. For a detailed list please refer to the Canada Gazette or contact your local Russell A. Farrow office.

Another option is to suspend "the injury requirement for the application of border measures on dumped and subsidized goods originating in or exported from the United States. In this regard, the *Special Import Measures Act*, in accordance with the WTO Anti-dumping and Subsidies agreements, stipulates that anti-dumping and countervailing duties can be imposed only following determinations that the subject dumped or subsidized imports are causing or threatening to cause material injury to the Canadian domestic industry producing like goods. Under this option, an anti-dumping and/or countervailing investigation involving... **Continued on page 4**

A.T.A. Carnets

The Canada Border Services Agency has changed their policy with regard to time limits concerning A.T.A. Carnets. A.T.A. Carnets are documents recognized by a number of countries that are issued to handle the temporary importation of goods.

Until recently, goods entered under the control of an A.T.A. Carnet could only remain in Canada for 12 months. If the goods were to remain longer than that, then they had to be transferred to a Form E29B, Temporary Admission Permit. Effective June 1, 2004, local CBSA offices are authorized to accept replacement carnets to cover goods remaining in Canada for longer than a year. Generally, extensions will only be granted for six months at a time but if warranted, a CBSA officer may grant extensions of up to an additional twelve months.

The replacement Carnet must be presented to Customs prior to the expiry date of the original and the list of goods must be identical to the original. Customs may require the examination of the goods as well.

In Canada, A.T.A. Carnets are issued by the Canadian Chamber of Commerce. ▲

Marking of Goods

The phrase "marking of imported goods" is distinctly different from "packaging and labelling of goods" in both Canada and the United States. Marking of goods refers specifically to country of origin, while packaging and labelling regulations in general refer to product identity, quantity and dealer information.

In both countries goods are to be marked with the country of origin, prior to importation. In the United States, as a rule of thumb all goods need to be marked with country of origin. In Canada, only certain classes of goods require marking: Goods for Personal or Household Use; Hardware; Novelties and Sporting Goods; Paper Products; Wearing Apparel; and Horticultural Products.

In Canada, country of origin has two definitions. For goods imported from a NAFTA country, the country of origin is subject to the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations. Essentially, these regulations follow the NAFTA rules of origin but if all other methods are not applicable, then ultimately the origin is considered to be the last country in which the goods underwent production. For goods imported from a non-NAFTA country, the country of origin is subject to the Determination of Country of Origin for the Purpose of Marking Goods (Non-NAFTA Countries) Regulations. Essentially, the country of origin is the country in which the goods were substantially manufactured.

In the United States, country of origin is defined as the country of manufacture, production, or growth of the article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin"... **Continued on page 4**



Canadian Publication
Agreement Number
40069607

Return Address: Suite 1450 Scotia Place
10060 Jasper Avenue, Edmonton, AB T5J 3R8



reporter

CUSTOMS

Byrd Amendment continued from page 3... imports from the United States which concludes with a negative final injury determination could result in the application of duties under the *Customs Tariff*, equivalent to the dumping and/or subsidization margins found during the investigation. For more information on Canada's anti-dumping and countervailing laws, refer to the Canada Border Services Agency (CBSA) Web site at www.cbsa-asfc.gc.ca/sima/menu-e.html. ▲

Marking of Goods continued from page 3... within the meaning of this part; however, for goods of a NAFTA country, the NAFTA Marking Rules will determine the country of origin. When in doubt both countries will issue rulings upon request. Please feel free to contact your local Russell A. Farrow office should you require assistance in this regard.

In Canada, the Competition Bureau is responsible for the administration and enforcement of the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*, and the Canadian Food Inspection Agency handles the Food and Drugs Act. In the United States, the Federal Trade Commission and the Food and Drug Administration administer *The Fair Packaging and Labeling Act*. Additional information regarding these Acts may be accessed through the following web sites:

<http://competition.ic.gc.ca/epic/internet/incb-bc.nsf/en/cp01007e.html> &
<http://competition.ic.gc.ca/epic/internet/incb-bc.nsf/en/home>

<http://www.inspection.gc.ca/english/toce.shtml>
<http://www.ftc.gov/os/statutes/fplajump.html>
<http://www.fda.gov/opacom/laws/fplact.htm>

While these bodies govern the bulk of the packaging and labelling regulations, there are other departments that you may need to consider when importing that deal with areas such as environment, radio communications, nuclear energy etc. ▲

The Customs Reporter is a bulletin on Customs and International Trade for the clients of Russell A. Farrow Limited.

Publisher: **Rick Farrow**

Editors: **Randy Motley
Susan Love**

Contributors: **John Brooks
Walter Pizzolito
Wendy Stayko**

This publication is not intended to provide legal or other professional advice. Readers are asked to contact their local RAF office for advice specific to their needs.



Head Office: Post Office Box 333, 2001 Huron Church Road,
Windsor ON N9A 6L6 Phone: (519) 252-4415 Fax: (519) 252-0982

Web site: <http://www.farrow.com>

© 2005 Russell A. Farrow Limited ISSN: 1206-4211

**VISIT OUR
WEB SITE**
FOR UPDATES
ON THESE AND
OTHER TOPICS



www.farrow.com