

New Web Site to Access Food, Plant and Animal Health Regulations



The Food and Agriculture Organization of the United Nations (FAO) has developed a web site to allow importers and exporters easy access to foreign and domestic regulations regarding food, plant and animal health: International Portal on Food Safety, Plant and Animal Health (IPFSAPH).

Previously, companies interested in determining the regulations for a certain product or country needed to access the information from several different sources. This portal is intended to provide a single access point.

The sanitary and phytosanitary information is available in English, French and Spanish and may be searched by commodity, country, issue and source. In the future, it is expected to be available in Chinese and Arabic as well.

The FAO created the web site in conjunction with Codex Alimentarius, Convention on BioDiversity, International Plant Protection Convention, World Organization for Animal Health, World Health Organization and the World Trade Organization.

To visit the free access site go to: www.ipfsaph.org.

In a related matter, the Canadian Food Inspection Agency (CFIA) has produced a draft document entitled "Good Importing Practices for Food (GIP)."

The GIP is intended to address a number of issues such as control of imported product, equipment, premises, sanitation and pest control, transportation and storage, records and complaint handling and recalls. It is meant to be of assistance to any food importer regardless of their size or types of food being imported.

The document is currently available on the CFIA web site at:

www.inspection.gc.ca/english/fssa/labeti/inform/impprae.shtml.

The closing date for comments and suggestions is November 1, 2004.

They may be made using the web site feedback form. Comments may also be sent to Dave Brown, Room 2027, 159 Cleopatra Dr., Ottawa, ON, K1A 0Y9. E-mail: djbrown@inspection.gc.ca. ▲

Changes to Penalties Under AMPS (Administrative Monetary Penalty System)

The Canada Border Services Agency (CBSA) recently announced several changes and additions to the AMPS Master Penalty Document. An explanation of these changes is included in an AMPS Circular that can be viewed on the Internet together with the revised and new penalties at: <http://www.cbsa-asfc.gc.ca/general/amps/menu-e.html>.

Two new contraventions - C360 and C361 - have been added, necessary according to CBSA, given the uncertainty surrounding C019 and C020 that will be phased out in the near future.

Contraventions C019 (high value) and C020 (low value) deal with the "failure to report imported goods... in writing at the nearest designated customs office that was open for business." Contraventions C360 (high value) and C361 (low value) were developed to deal with unreported goods found during examinations. These new contraventions may well have serious ramifications for importers whose vendors over ship.

From the introduction of AMPS, our national association (Canadian Society of Customs Brokers) has contested the backgrounders to C019 and C020. The position is that these penalties, based on Section 7.1 of the Customs Act, should apply to the carrier only. The legislation applying to C360 and C361 is Section 32.2 of the Customs Act, and it clearly states that these contraventions should be applied when there is a "failure to account for all imported goods" rather than a "failure to report imported goods." ▲

What Lies Ahead



Canada's intermodal service is in crisis due to a number of reasons. Traffic has increased with the number and size of container ships growing all the time. Currently, the Panama Canal is working at almost full capacity. Panama is faced with the decision of whether or not to build a third set of locks to allow access to container ships already in service that are too big to traverse the canal, not to mention those that are currently under construction.

With the focus on security, often containers cannot meet the same transit times as they did previously. Bottlenecks caused by strikes and last summer's blackout in the northeast U.S. and southern Ontario have had long term repercussions. CN's Brampton Intermodal terminal has been under pressure for quite a while with backlogs of containers, sometimes resulting in containers being stacked 3 deep and 5 wide. This, despite encouraging truckers to pick up on weekends and at night. No doubt the trucking industry is hampered by their inability to deliver those same containers to their customers at those hours. The West Coast is equally taxed with the bump in imports from Asian markets, especially from China.

In addition, despite a number of initiatives - CPR is able to power intermodal trains three kilometres in length through the use of remote-control locomotives - rail companies have been unable to keep up with the increase in traffic.

This problem is not restricted to just Canada, congestion is being experienced in the United States as well. In view of the magnitude and complexity of the situation, there will not be a quick fix. ▲

Extension of General Preferential and Least Developed Country Tariff Programs

Both the General Preferential and Least Developed Country tariff programs were due to expire on June 30 of this year. They have now been extended to June 30, 2014. ▲



Sweetgrass Hours Extended

Our U.S. operation is pleased to announce that our hours of operation at Sweetgrass, Montana (Coutts, Alberta) have been extended to 7:00 AM to 9:30 PM Mountain Time, Monday through Friday. ▲

Special Import Measures Act (SIMA) and Administrative Monetary Penalty System (AMPS)

Are your goods subject to SIMA?

This question has become even more important with the advent of AMPS. The assessment of provisional, anti-dumping and countervailing duties can be a nasty surprise at the best of times but they can now be compounded with the addition of AMPS penalties. AMPS penalties apply when importers fail to pay the applicable SIMA duties at the time of accounting.

SIMA was instituted to protect Canadian industry from imports that are "dumped" on the market or are "subsidized" thus creating an unfair advantage. SIMA assessments may vary according to the country of origin/export or even according to a particular vendor.

It is the importers' responsibility to:

1. properly describe the imported goods;
2. use the proper SIMA code;
3. maintain proper records; and
4. calculate and pay the proper amount of SIMA duty **at the time of accounting**.

If you are a known importer of goods subject to SIMA, then Canada Border Services Agency (CBSA) and Canadian International Trade Tribunal (CITT) will notify you of investigations. However, if you are a new importer then to determine if your goods are subject to SIMA, an updated list is posted monthly at: www.cbsa-asfc.gc.ca/sima.

The list is also available from regional Customs offices or from Russell A. Farrow. In addition, if you believe your goods may be subject to SIMA, specific information may be obtained from the regional SIMA liaison officer, Customs client services or the Anti-dumping and Countervailing Directorate in Ottawa.

In short, SIMA currently applies to: bicycles and frames, carbon steel pipe fittings, cigarette tubes, concrete reinforcing bar, dishwashers and dryers, footwear-various, fresh garlic, granite memorials, meats and various food products, potatoes, certain steel fasteners, steel fuel tanks, steel pipe-carbon welded, steel plate-carbon hot-rolled, steel round bar-stainless, steel sheet-various, sugar, xanthates and X-ray contrast media.

It is in your best interests to determine whether or not your goods are subject to SIMA prior to shipment, as the value may well have to be advanced in excess of 100%. We may also be able to make a determination prior to release provided your vendor supplies a complete description of the goods and countries of origin on their invoices.

Additional information may be obtained from any of our Trade Compliance departments or at: www.cbsa-asfc.gc.ca/sima/self-e.html. ▲

U.S.A. to Eliminate Paper Export Filings

Currently, 91.5% of U.S. exports are reported via the Automated Export System (AES). This number should increase in the near future with the addition of several air cargo forwarders to the AES. Therefore the U.S. Census Bureau proposes that by January 2005, 100% of exports will be filed through AES. Forwarders along the U.S. - Mexico border represent the largest group still continuing to file export documents via paper. ▲

Deductibility of Penalties and Fines

In the Spring 2003 issue of the Customs Reporter, we answered the question of whether AMPS penalties were a deductible expense for Income Tax purposes with a "maybe." The answer may change to a definite "no." The 2004 Budget proposes that "fines and penalties imposed by a government, government agency, regulator, court or other tribunal, or any other person having statutory authority to levy the fine or penalty in question" not be deductible for income tax purposes. ▲



Rail Companies Require Complete Information

In accordance with the Trade Act of 2002 (U.S.) and Advance Commercial Information (Canada), rail companies require complete cargo information for shipping either to the United States or Canada.

For complete details, please contact your local rail representative. ▲

Russell A. Farrow Limited Honoured

At the August meeting of Toyota Kaisen Partners held at Kananaskis, Alberta, Russell A. Farrow Limited was presented with a Toyota Kaisen Excellence Award.

Signed by Barry Hayward, Managing Director of Toyota Canada, it reads "In recognition of Russell A. Farrow Limited's achievements as a key logistics partner in 2004. Your commitment to our success is appreciated."

Russell A. Farrow is also pleased to report that MacKinnon Transport Inc., through a survey of their company drivers and owner operators, voted Russell A. Farrow Limited "The Preferred Number One Customs Broker in 2003." This award was in recognition of outstanding staff and service.

We are extremely gratified to receive these acknowledgements and we will strive to continue to provide our outstanding quality service. ▲



Russell A. Farrow Limited Introduces International Trade Consulting Division

While Russell A. Farrow Limited has always provided consulting services, we felt the need to focus our energies with the introduction of Customs' new programs such as C-TPAT (Customs-Trade Partnership Against Terrorism), PIP (Partners in Protection) CSA (Customs Self Assessment), FAST (Fast and Secure Trade) etc. Therefore we are pleased to announce that Jennifer Deans will be heading our new International Trade Consulting division.

While some of these programs have been slow to get off the ground (see the table on FAST and CSA statistics included in this issue), they are the wave of the future. It may be too early for some importers to pursue some of these initiatives to their full extent, it may be well worthwhile to at least start the process.

Jennifer will be the person to contact if your company is interested in C-TPAT and PIP audits. The department will also be responsible for assisting our clients in verifying the accuracy of the NAFTA certificates that they prepare.

Jennifer is located at our Toronto office and may be contacted by telephone at: (416) 622-3777, ext. 216; by cell phone at: (416) 867-6332; by fax at: (416) 622-2217; by e-mail at: jennifer.deans@farrow.com; or by snail mail at: Russell A. Farrow Limited, 5397 Eglinton Avenue W., Ste. 220, Etobicoke, ON, M9C 5K6.

We also have a number of seminars planned. Please contact Sherry Lamont at: sherry.lamont@farrow.com, if you would like to be placed on our notification list. ▲

| | NAFTA Full Day \$299.00 | C-TPAT / PIP AM (Half Day) \$79.00 | ACI / CSA PM (Half Day) \$79.00 |
|---|----------------------------|---------------------------------------|------------------------------------|
| Calgary Greenwood Inn | Thursday Sept. 30, 2004 | Thursday Oct. 14, 2004 | Thursday Oct. 14, 2004 |
| Edmonton Delta Edmonton Centre Suite Hotel | Tuesday Sept. 28, 2004 | Tuesday Oct. 12, 2004 | Tuesday Oct. 12, 2004 |
| Toronto Courtyard by Marriot Toronto Airport | Tuesday Oct. 5, 2004 | Tuesday Oct. 19, 2004 | Tuesday Oct. 19, 2004 |
| Windsor Holiday Inn Select | Thursday Oct. 7, 2004 | Thursday Oct. 21, 2004 | Thursday Oct. 21, 2004 |

Free and Secure Trade (FAST) and Customs Self Assessment (CSA) Statistics

Canada Border Services Agency has released the following statistics with regard to FAST and CSA. The figures are based as of June 30, 2004. ▲

| | | Importers | Carriers | Drivers |
|-------------|----------|-----------|----------|---------|
| FAST | Applied | 48 | 533 | 40048 |
| | Approved | 12 | 301 | 29265 |
| CSA | Applied | 177 | 1011 | 87619 |
| | Approved | 15 | 352 | 77470 |

Advance Commercial Information (ACI)

As mentioned in the last issue of the Customs Reporter (Spring 2004), importers are now required to supply, where applicable, at least five tariff classifications on high

continued on next page

Canadian Publication
Agreement Number
40006906

ACI - continued from page 3

value shipments. This is only a portion of the Advance Commercial Information that Canada Border Services requires.

Currently, cargo and conveyance reporting is required for goods shipped via the marine mode with the exception of goods laden in the United States. On May 9th, 2005 this reporting will extend to air and rail modes, as well as marine shipments loaded in the U.S. In the fall of 2005, the reporting is planned to include highway modes as well.

The time frames for reporting vary according to mode of transport and length of journey but in general carriers are expected to report ocean shipments 96 hours in advance (marine shipments from the U.S. will only require 24 hour notice), air shipments 4 hours before flight arrival, and rail shipments 2 hours before train arrival.

To offset some of the costs, a number of carriers have instituted a fee for transmitting the ACI data. The question has been raised as to whether this fee should be added to the value of the imported goods. This is dependent on whether the goods have been shipped FOB (free on board – consignee is responsible for transportation charges) or CIF (cost, insurance, freight – transportation charges are included in the value of the goods).

In accordance with the Customs Act fees that are incurred in “the cost of transportation of, the loading, unloading and handling charges and other charges and expenses associated with the transportation of, the goods...” (subparagraph 48(5)(a)(b)(i) Customs Act) are deductible from the price paid or payable. As such, if the ACI fee is charged by the transportation company, since the information is a requirement to import the goods, the cost is deductible. However, if the vendor has included the fee in the cost of the goods and the importer is unable to substantiate the amounts, then the fee is not allowed to be deducted. ▲

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Customs Reporter

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

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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.



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