

Split Occurs in the CCRA

The Canada Customs and Revenue Agency (CCRA) has been split into two separate agencies, the Canada Revenue Agency and Canada Border Services Agency.

The Canada Revenue Agency will be primarily comprised of Excise and Taxation. Canada Border Services Agency (CBSA) will now include Customs, certain aspects of Citizenship and Immigration Canada in particular intelligence, interdiction and enforcement as well as the passenger and initial import inspection services at ports of entry that previously were handled by the Canadian Food Inspection Agency. Immigration policy will continue to be handled by Citizenship and Immigration Canada and importers of plants, animals or food products should continue to contact the Canadian Food Inspection Agency as they would normally.

The Canada Revenue Agency can still be reached on the Internet at: <http://www.ccradrc.gc.ca>. Canada Border Services Agency has set up their own web site at: <http://www.cbsa-asfc.gc.ca>. ▲

New Member to Our Team

On February 3, 2004, Mr. Randy Motley joined our organization as our new Vice President of Canadian Brokerage Operations.

Randy brings with him experience in various service based industries and has worked for G & K Services, Loomis, Shred-It and Greyhound, in addition to owning his own family retail business in his early years.

We are looking forward to many years together.

Dave Hoyland, our former Vice President, Canadian Brokerage Operations, has decided to get away from the day to day

functions but will remain with us as a project manager.

So we get to have our cake and eat it too. ▲



On January 2, 2004 Canada implemented wood packaging regulations in accordance with ISPM #15 (International Standards for Phytosanitary Measures). These import requirements apply to wood packaging materials produced in all areas other than the continental United States. Our Summer 2003 issue of the Customs Reporter had reported the date as January 4, 2004. Strict enforcement of ISPM #15 will not take place until after the legislation for all three NAPPO (North American Plant Protection Organization) members is established.

The wood packaging materials governed by D-98-08 are all species of non-manufactured wood, including dunnage, pallets, crating etc. Importers should also take note of D-02-12 which applies to logs, wood with bark, lumber, wood chips, bark chips, bamboo products, decorative wood items, cones without seed and other forest products.

The regulations do not apply to wood packaging materials

Wood Packaging



derived from manufactured wood, constructed from wood less than 6mm thick, from peeler cores, or constructed from particles such as sawdust, wood shavings, wood wool etc.

CFIA (Canadian Food Inspection Agency) implemented cost

recovery measures for containers that are inspected at their facility in Burnaby, B.C. The documents required prior to the containers being inspected are:

1. A bill of lading or Canada Customs Invoice which includes the ultimate consignee, the exporter/manufacturer and a list of commodities;
2. Any treatment certificates that may be applicable; and
3. A completed Request for Release Approval form.

Additional information may be obtained at the Canadian Food Inspection Agency's web site: <http://www.inspection.gc.ca>. In particular there is a question and answer section at: <http://www.inspection.gc.ca/english/plaveg/for/cwpc/wdpkgqa e.shtml>.

Exporters may obtain information about the requirements of other countries at: <http://www.inspection.gc.ca/english/plaveg/for/cwpc/ispm15e.shtml> ▲

“Shipper” Requirement Delayed

The U.S. Bureau of Customs and Border Protection has delayed its scheduled March 2004 start date of adherence to the Trade Act of 2002 definition of “shipper” for ocean cargo. For the time being the 24-Hour rule definition will be allowed. Under this rule, the party that contracts for carriage can also be shown in the shipper field. ▲

**The new Client Service
Toronto facsimile number
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Countries to Lose General Preferential Tariff Entitlement

The Government intends to withdraw the privileges of the General Preferential Tariff (GPT) treatment from certain countries that will accede to the European Union on May 1, 2004.

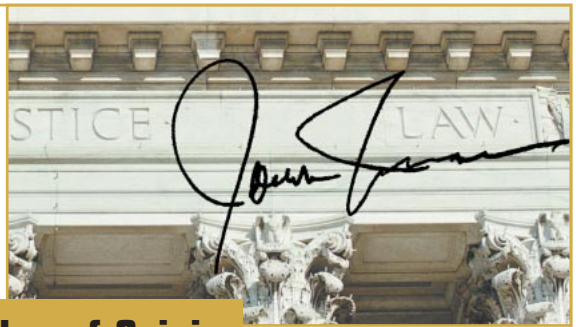
The countries involved are Cyprus, the Czech Republic, the Republic of Estonia, Hungary, the Republic of Latvia, the Republic of Lithuania, Malta, Poland, the Slovak Republic and the Republic of Slovenia. Effective May 1, 2004 these countries will be entitled to the Most Favoured Nation Tariff.

It is anticipated that the increase in duties will amount to approximately \$4.2 million per year. Currently, only 11.8% of imports from these countries are imported under GPT rates. ▲



Currently, electronically transmitted signatures (e.g.: any signature not hand written) are not considered valid under NAFTA. The legislation allows for faxed certificates provided the certificate being faxed has an original signature.

Because the Canada Border Services Agency does not have any specific regulations governing electronic signatures, they refer to the Personal



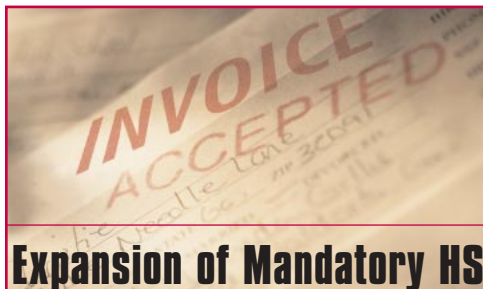
Signatures on NAFTA Certificates of Origin

Information Protections and Electronic Documents Act. (See <http://laws.justice.gc.ca/en/P-8.6/91355.html#rid-91475>.) Section 42(b) states:

“A requirement under a provision of a federal law for a document to be in its original form is satisfied by an electronic document if (b) the electronic document contains a secure electronic signature that was added when the electronic document was first generated in its final form and that can be used to verify that the electronic document has not been changed since that time; ...”

As such, a Certificate sent as an e-mail attachment cannot contain a signature in the approved format and is not acceptable as a proof of origin even if the original was signed by hand and scanned prior to transmission. In addition, typed or rubber stamped signatures are invalid as well.

The Agency is cognizant of the fact that in this day and age they need to find a way for the transmission of electronic certificates and are pursuing the matter. Until then, only certificates with original, hand written signatures, or copies of such certificates, are acceptable. ▲



Expansion of Mandatory HS

On May 3, 2004 Canada Border Services Agency (CBSA) will be implementing the second phase of Mandatory HS. The first phase was implemented in 2002 and required only one HS Code representing the highest value commodity or a reasonable representation of the goods in the shipment. Russell A. Farrow Limited has been providing that information to CBSA at the time of release and we will continue to do so with the implementation of the next phase that requires up to five HS Codes.

As in all situations requiring clarification or additional information, we will contact you as necessary, either via fax or, in the most urgent situations, via phone call. We continue to recommend that you encourage your suppliers to provide the most accurate and complete descriptions possible on their invoices and other documents provided for Customs purposes in order to avoid delays or penalties.

Please contact us if you have any questions. ▲

U.S. FDA Prior Notice Moves Into Phase Two

The Food and Drug Administration has moved into the second phase of the prior notice requirements for food products under the BioTerrorism Act. In this phase, no shipments will be stopped for administrative failures.

The emphasis will continue to be on education with the Bureau of Customs and Border Protection (CBP) issuing notices to those importers/exporters who fail to provide the necessary prior notice. However, the CBP will now be in a position to issue monetary penalties to those

violators who blatantly abuse the system, for example those who are repetitive non-compliers.

If you are planning on shipping food products to the United States or are importing food products into the United States, please contact any of our U.S. offices or our web site (www.farrow.com) to obtain our Prior Notification of Shipment Worksheet which details all the information that needs to be provided. ▲

Cargo Dimensions

Required on Air Waybills

Effective April 1, 2004, IATA (International Air Transport Association) regulations will require that cargo dimensions be included on air waybills. According to Canadian Transportation & Logistics, those dimensions are to include: greatest length, greatest width, greatest height, unit of measure and number of pieces and are to be shown in the box “Nature and Quantity of Goods”.

In the event the dimensions are not available at the time of completion of the air waybill then that must be noted as “No Dimensions Available”. ▲

U.S. – Australia Free Trade Agreement



The United States and Australia recently signed a Free Trade Agreement. According to the Office of the United States Trade Representative, more than 99 percent of U.S. exports of manufactured goods will be duty free immediately upon the agreement coming into force. Manufactured goods represent 93 percent of the U.S. exports to Australia. The U.S. export market to Australia is the ninth largest, providing a US \$9 billion surplus.

There is a two-way advantage, because Australian tariffs tended to be much higher than U.S. tariffs and U.S. exporters currently pay 10 times the tariffs than is collected by the United States on imported Australian goods.

This agreement is the first since NAFTA that the United States has entered into with a developed country. ▲

This question may seem trivial, but in the eyes of Border Services it is of some importance. The importer is required to keep on file, documents that substantiate the correct date of direct shipment to Canada. This information is required in order to determine the correct exchange rate to use in order to arrive at the correct valuation of goods being imported.

As outlined in Customs Memorandum D13-3-4, there are three things to consider when trying to determine the correct "date" and "place" of direct shipment to Canada. The first item being the "event" that caused goods to be shipped to Canada, normally the sale for export. The second item, the time or "date" is considered to be the moment when goods begin their direct and continuous journey to a specific destination in Canada. The third item, the "place" is the physical location of the goods in question when the "event" and the "date" coincide.

Several documents may be required in order to establish all three criteria such as invoices, purchase orders, freight invoices, bills of lading etc. In addition care must be taken in looking at the documents, for example a bill of lading may only establish the date the goods left the seaport in the export country. An inland bill of lading may indicate the destination as Canada in which case the direct and continuous journey will have started prior to lading at the seaport.

The following two examples from D13-3-4 help to illustrate the complexities involved.

Situation 1

"A Canadian importer negotiates a supply agreement with a Japanese manufacturer to purchase a certain

When Were Your Goods Shipped?



amount of chain-saws, for a fixed price, over a one-year period. The importer does not have sufficient space in Canada to warehouse the chain-saws all at once. The manufacturer produces chain-saws regularly and transports them to its warehouse in Japan. The Canadian importer will issue release orders once a month for a specified number of the chain-saws. As per the agreement, the importer will pay on a monthly basis for the chain-saws shipped during the month. All orders received in Japan from various purchasers, including the orders received from the Canadian importer, are filled from stock in the warehouse.

The monthly release orders represent the event, not the supply agreement, since that agreement has not caused goods to be shipped to Canada. Each time a release order is issued by the importer, the specified number of chain-saws is prepared, identified as being destined to Canada, and shipped, therefore establishing the time upon which the goods will begin their continuous journey to Canada. It is the coincidence between the event and the time which causes the warehouse to be the place, and not a point of transshipment. Given these facts, the place of direct shipment is likely

to be the warehouse located at the Japanese ocean port, not the manufacturer's premises."

Situation 2

"An importer of clothing in Winnipeg places an order for cotton shirts with a manufacturer in Hong Kong. The importer instructs the manufacturer to ship the goods by boat to San Francisco. The importer makes arrangements to unload the goods at San Francisco where they are consolidated with other goods by a trucking company who will deliver them to the importer in Winnipeg.

The event which caused the goods to be shipped to the importer in Winnipeg was the sale between the importer and the Hong Kong manufacturer. The purchase order and the commercial invoice may document this. The time is the moment the goods left the manufacturer's plant in Hong Kong to begin their direct journey to Canada. The purchase order and commercial invoice should show that Winnipeg was the Canadian destination when the goods left the manufacturer's plant.

The coincidence of the event and time serve to establish the place of direct shipment. Given these facts, the manufacturer's plant in Hong Kong would be the place of direct

shipment. San Francisco was only a transshipment point. As the goods changed carriers and were consolidated in San Francisco, the direct journey to Canada was not interrupted. Hong Kong could remain the place of direct shipment. The type of documentation required by the importer to prove that Hong Kong was the place of direct shipment might include the purchase order and the commercial invoice as well as the bill of lading and any freight invoices."

You may think that a difference of a day or two in the rate of exchange probably doesn't have much impact but there are instances where even a minor difference can have an adverse affect. For example, an import permit is not required for the importation of clothing samples valued at less than CA\$500.00. Once that threshold is exceeded permits are required and AMPS penalties apply if they are not obtained. It doesn't take much difference in the rate of exchange to increase a value from \$499.99 to \$500.01.

Needless to say, determining these factors may be more complex than you may expect. If you have questions with regard to the determination of time and place of direct shipment to Canada, please contact us. Keep in mind that you have an obligation to file amendments when errors in the date of direct shipment are made, and as your Customs Broker, we are not always aware of all the circumstances that may be involved in making that determination. ▲

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When is a Refund Not a Refund?

Canada Border Services Agency (CBSA) has issued a new version of Customs Memorandum D11-6-6 dealing with Self-Adjustments of Origin, Tariff Classification, Value for Duty, and Diversion of Goods.

In the D-memo, CBSA has specified that GST registrants who have imported taxable duty free goods that they discover to be over valued must make a correction under section 32.2 of the Customs Act. Thus making this situation which is technically a refund now a correction and subject to AMPS penalties.

Keep in mind that non-revenue changes created by errors in tariff classification, tariff treatment and valuation were always required to be handled under sub-section 32.2 of the Customs Act and require amendment within 90 days of the discovery of the error. ▲

AMPS Six-Month Review

Border Services has released their report on the six-month review that was performed after the launch of the AMPS program.

A copy of the review is available at the Canadian Society of Customs Brokers web site at: <http://www.cscb.ca/listinfo/ampsreviewfeb04appab.pdf> while a number of the statistics are available at: <http://www.cscb.ca/listinfo/appendices.xls>. ▲



Canada's 24-Hour Rule Takes Effect April 19th

Importers of ocean freight can expect to see surcharges on their freight invoices once carriers and freight forwards have to submit their manifests electronically to Canada Border Services Agency 24 hours prior to lading at the foreign port.

This procedure mirrors a similar process already implemented by the United States. ▲

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