



The Bennett Jones  
Handbook of Canadian  
Customs Compliance

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# Abbreviations

ACROSS - Accelerated Commercial Release Operations Support System

AMPS - Administrative Monetary Penalty System

ACI - Advanced Commercial Information

AECB - Atomic Energy Control Board

CAED - Automated Export Declaration

AIRS - Automated Import Reference System

BN - Business Number

CBSA - Canada Border Services Agency

CCI - Canada Customs Invoice

CFIA - Canada Food Inspection Agency

CRA - Canada Revenue Agency

CCFTA - Canada-Chile Free Trade Agreement

CCOFTA - Canada-Colombia Free Trade Agreement

CCRFT - Canada-Costa Rica Free Trade Agreement

CEFTA - Canada-European Free Trade Agreement

CIFT - Canada-Israel Free Trade Agreement

CPFTA - Canada-Peru Free Trade Agreement

IE Canada - Canadian Association of Importers and Exporters

CFIA - Canadian Food Inspection Agency

CITT - Canadian International Trade Tribunal

CMVSS - Canadian Motor Vehicle Safety Standards

CPA - Canadian Payments Association

CCD - Cargo Control Document

CCN - Cargo Control Number

CARM - CBSA Accounts Receivable Management System

CFC - Chlorofluorocarbons

CITES - Convention on International Trade in Endangered Species of Wild Fauna and Flora

CCC - Customs Co-operation Council

CSA - Customs Self Assessment

DDP - Delivered Duty Paid

DFAIT - Department of Foreign Affairs and International Trade

DAS - Detailed Adjustment Statement

DASes - Detailed Adjustment Statements

DIN - Drug Identification Number

EDI - Electronic Data Interchange

ETA - Excise Tax Act

EIPA - Export and Import Permits Act

EDC - Export Distribution Centre Program

EOPS - Exporters of Processing Services Program

FIRM - Facility for Information Retrieval Management

FCFS - First-come, first-served

FMD - Foot and Mouth Disease

FAITC - Foreign Affairs and International Trade Canada

FAST - Free and Secure Trade

GEPs - General Export Permits

GIP - General Import Permit

GIRs - General Interpretive Rules

GPT - General Preferential Tariff

GST - Goods and Services Tax

HST - Harmonized Sales Tax

HS - Harmonized System

HCFCs - Hydrochlorofluorocarbons

ICL - Import Control List

ILLA - Importation of Intoxicating Liquors Act

ITC - Input tax credit

IPPC - International Plant Protection Convention

ISO - International Standards Organization

LDCT - Least Developed Country Tariff

LVS - Low Value Shipments

MSDS - Material safety data sheet

MFN - Most Favoured Nation

NRI - Non-resident importer

NAFTA - North American Free Trade Agreement

NPA - Notice of penalty assessment

OECD - Organization for Economic Co-Operation and Development

OGD - Other government department

ODS - Ozone-depleting substances

PRA - Penalty reduction agreement

PIRO - Postal Imports Remission Order

PARS - Pre Arrival Review System

PRFD - Pre-Arrival Release on Full Documentation

PST - Provincial Sales Tax

QST - Quebec Sales Tax

RVC - Regional Value Content

RIV - Registrar of Imported Vehicles

RNS - Release Notification System

RFD - Release on Full Documentation

RMD - Release on Minimum Documentation

SIMA - Special Import Measures Act

TPL - Tariff Preference Level

TRQ - Tariff Rate Quota

TPD - Therapeutic Products Directorate

TBL - Through bill of lading

UMI - Unique Motor Identifier

USDA - United States Department of Agriculture

UST - United States Tariff

VFCC - Value for currency conversion

VIN - Vehicle Identification Number

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# Chapter 1:

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# Introduction



## 1.01 Purpose of the Handbook

This is a Canadian Customs Compliance Handbook, intended to provide the reader with an overview of legal and administrative issues addressed on a day-by-day basis by customs compliance professionals.

The Handbook focuses exclusively on Canadian customs compliance issues, and therefore does not address any foreign customs compliance issues.

The Handbook contains material dealing with the regulation of imports into, and exports from, Canada. It does not deal with Canadian export control issues except in a very summary fashion.

It has been drafted with forethought that the reader may make use of all or parts of it but, in any event, will not treat the Handbook as necessarily comprehensive for all Canadian customs compliance needs. Rather, the astute compliance professional will prepare, or have prepared, a companion Customs Compliance Manual and/or Standard Operating Procedure Manual tailored to the particular business and administrative processes of the importer/exporter.

The Handbook is not intended to be legal advice or a substitute for legal advice. The compliance professional who utilizes this Handbook should consult specialized Canadian legal advisors, such as the authors, should questions arise from a review of the contents of this Handbook, and/or to ensure the professional is equipped with the most up-to-date information available.

This Handbook is up to date as of the date of its publication. It is the intention of the authors to offer an annual update to the marketplace.

## 1.02 Understanding the Role of the Canada Border Services Agency

The Canada Border Services Agency (CBSA) considers that it has been an integral part of Canada's public safety portfolio since December, 2003. The President of the CBSA reports to the Minister of Public Safety Canada.

According to the CBSA, it is "... responsible for providing integrated border services that support national security and public safety priorities and facilitate the free flow of persons and goods, including animals and plants, that meet all requirements

under the program legislation". Its mission is to ensure the security and prosperity of Canada by managing the access of people and goods to, and from, Canada.

The CBSA manages land-border crossings and operates at numerous Canadian international airports. It also carries out marine operations at major ports and rail operations at numerous rail sites. It processes and examines international mail at a number of mail processing centres.

The CBSA administers more than 90 statutes, regulations and international agreements, many of which on behalf of, or in partnership with, other federal governments and agencies, as well as provinces and territories.

Legislative, regulatory and partnership responsibilities include:

- administering laws that govern admissibility of people and goods, plants and animals into, and out of Canada;
- detaining people who pose a threat to Canada;
- removing people who are inadmissible to Canada;
- interdicting illegal goods entering or leaving the country;
- protecting food safety, plant and animal health, and Canada's resource base;
- promoting Canadian business and economic benefits by administering trade legislation and trade agreements to meet Canada's international obligations;
- enforcing trade remedies that help protect Canadian industry from the injurious effects of dumping and/or subsidization of imported goods;
- administering the redress mechanism;
- promoting Canadian interests in various international fora with international organizations; and
- collecting applicable duties and taxes on imported goods.

Accordingly, the CBSA has wide-ranging responsibilities covering both tariff and non-tariff barriers to international trade into, or out of, Canada.

### 1.03 Understanding the Role of the Canadian Importer and the Canadian Exporter

The Canadian importer is responsible for reporting and accounting for its imported goods to the CBSA. It must accurately and sufficiently describe the quantity and nature of imported goods and classify them for tariff purposes. It must accurately value the goods. It must ascertain the applicable tariff preference and, in conjunction with tariff classification, determine the applicable rate of duty. Finally, it must account for the goods and pay applicable customs duties, including goods and services taxes, trade remedy duties, excise duties, and other defined duties.

The importer must also satisfy the regulatory requirements of a plethora of statutes, regulations and government policies that impact imported goods. These regulations cover various subjects that include packaging, labelling, and marking of goods, qualitative and safety standards, and other product-based regulations establishing conditions for lawful importation, marketing and/or distribution of goods.

The importer must also obtain applicable import permits in connection with products that are subject to tariff rate quota or are otherwise under import surveillance for monitoring purposes.

Finally, the importer is responsible to ensure that it does not import prohibited goods.

A Canadian exporter must report its exports as required, unless the reporting of exports is exempt.

The exporter has responsibility to ensure that it obtains export permits, or quotes export permit numbers, as applicable, in connection with its exportations. The exporter who certifies goods as qualifying for tariff preferences in their country of importation must do so accurately.

Finally, both importers and exporters must maintain books and records, as prescribed, and must be prepared to furnish access to and copies of pertinent books and records during a trade verification audit.

### 1.04 Establishing a Corporate Customs Compliance Policy

In order to become Canadian customs compliant, it is important that customs compliance be valued, mandated, prioritized, and enforced by the most senior levels of corporate management. The identified management person, be that person

the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, or General Counsel, should have a basic understanding of the tenets of Canadian customs compliance, including its importance in the context of, and how it impacts, business operations and costs. Senior management will ultimately be responsible for liabilities and the company's reputation flowing from its customs compliance, and therefore should insist on establishment of compliance standards, and regular reporting and measurement of the company's customs compliance performance.

The acceptance of a customs compliance corporate policy is best evidenced by a Statement of Corporate Customs Policy. However, such a statement is no substitute for investment in critical systems, software and education, and a framework for reporting, assessing and improving customs compliance through programs designed for its enhancement.

The Corporate Customs Compliance Policy may be part of an overall corporate compliance policy which includes other business aspects or may stand alone. Either way, the Statement of Corporate Customs Compliance Policy should be widely read and specified employees should be required to certify that they have received, reviewed, and are well acquainted with the Corporate Customs Compliance Policy, this Handbook, and company-specific Customs Compliance and/or Standard Operating Procedures Manuals. It may be advisable to maintain a copy of the Employee's Certificate with the employee's personnel file.

A Corporate Customs Compliance Policy should include a Statement or Vision of Corporate Commitment, and a Statement of Corporate Policy.

## 1.05 Model Compliance Statement

All compliance statements should reflect the corporate culture of the importer or exporter. In some cases, a formal tone is appropriate, while in others a more relaxed tone is appropriate. However, the message or messages must be clear and concise.

A Corporate Customs Compliance Policy Statement may be brief or extensive. Following are a non-exhaustive list of subjects that may be addressed in a Statement of Corporate Customs Compliance Policy:

- title: Statement of Corporate Customs Compliance Policy;
- date (and date superseded);
- purpose of corporate policy;
- scope of policy;
- statement of Canadian laws and regulations impacted by the policy;
- commitment to access to use of up-to-date information and data;
- a statement as to training resources and/or requirements;
- use of the Customs Compliance Manual;
- use of the Standard Operating Procedures Manual;
- contact information of key individuals within the firm;
- contact information of customs legal advisors;
- contact information of customs broker;
- description of Customs Compliance Program and regularity of reviews and updates;
- position regarding internal reports of events or information that are of significance to the company in connection with its customs practices; and
- cross-reference to an employee certification.

A Statement of Corporate Commitment in connection with customs compliance should be modeled in a like manner to other corporate commitments. Some of the elements that might be included in a Commitment Statement are as follows:

- a commitment of the use of the Customs Compliance Manual and to having it updated regularly;
- a commitment to legal and consulting resources to assist and support customs compliance;
- a commitment to state-of-the-art systems and software to ensure accurate reporting and to assist in measurement of compliance performance;
- a commitment to recognition of the importance of customs compliance within the organization;
- a commitment to fostering a strong and transparent relationship with the CBSA;
- a commitment to an objective of 100-percent compliance and adherence to all import, export, and other regulations impacting imports and exports;

- a commitment to regular internal reviews of customs compliance;
- a commitment to regular training of customs compliance staff;
- a commitment to integration of customs compliance functions within the organization; and
- a commitment to internal education of other departments within the company regarding customs compliance.

The Statement of Corporate Commitment should be executed by the most senior officer of the company and should be acknowledged by the Board of Directors.

An Employee Certification will document that employees have received and reviewed this Handbook, and as appropriate and applicable, a company-specific Customs Compliance and/or Standard Operating Procedures Manuals. It will further commit the employee to continuous education respecting regulatory and policy changes impacting Canadian customs compliance.

It could also make provision that adherence to the policies and procedures contained in the Handbook, Customs Compliance and/or Standard Operating Procedures Manuals are a condition of employment and require that the employee report all instances of customs non-compliance to appropriate, designated management.

Sample



# Chapter 2:

# Internal Administrative Requirements for Implementation

## 2.01 Corporate Participant Roles and Responsibilities

### Executive

In order to ensure acceptable levels of Canadian customs compliance, it is necessary that it be valued and given priority and support within the organization. An executive should be appointed to take overall responsibility for customs compliance in order to ensure that it is treated with the proper amounts of consideration, effort, and resources.

The appointed executive would be responsible for the supervision of the Compliance Manager and the Manager's compliance team members, and would ultimately be responsible to the most senior executive (usually the President) in the company, and in turn to the Board.

The appointed executive role is normally played by an executive such as the Chief Financial Officer (or Controller) or the General Counsel and Vice President Legal Affairs in companies that take customs compliance seriously. These individuals would normally report directly to the President of the company and upon request, present compliance reports to the Board.

It should be understood that the appointed executive may not necessarily be fully conversant with all things "customs compliance". But every effort should be made to both educate the executive and keep the executive up to date in terms of developments impacting Canadian customs compliance. A regular dialogue should take place between the Compliance Manager and the appointed executive and a feedback loop should be developed in order to ensure that the Compliance Manager understands corporate constraints and policies and, at the same time, the appointed executive understands the requirements of Canadian customs compliance.

In the normal course, the appointed executive becomes the "champion" of customs compliance for the company.

### Compliance Manager

In a perfect world, the Compliance Manager has responsibility only for Canadian (and/or other jurisdiction) customs compliance and does not fulfill other roles such as logistics. This ensures that the Compliance Manager is able to focus on the management of the customs affairs for the company.

In the capacity of the Compliance Manager, it is expected that the individual will have responsibility for compliance team members and staff, will report to a senior appointed executive, and will have direct contact and management of the

relationship with service providers such as the customs broker, outside legal counsel, and/or consultants as the case may be. The Compliance Manager should be directly involved in retaining outside services such as customs brokerage, legal and consulting advice. The Compliance Manager should have responsibility for recommending the best service providers to meet the needs of the company. The Customs Compliance Manager should report on the value and performance of outside service providers to ensure that the Compliance Manager assumes responsibility for their continued employment.

Assuming the Customs Compliance Manager is permitted to focus on the responsibility for customs compliance alone, this will permit the Manager sufficient time to not only manage the compliance team and outside service providers, but also to remain up to date in terms of changes in law or policy that would impact the manner in which the company ensures its customs practices are compliant. For these purposes, the Compliance Manager should be encouraged to periodically attend educational seminars. As well, the individual should be encouraged to join associations of importers and exporters or other professionals whose focus is, to a great extent, centered on Canadian customs compliance. Sufficient company budget and other resources should be made available for these purposes.

### Compliance Team Members

Depending on the size of the organization, the Compliance Manager may require additional staff to assist in connection with Canadian customs compliance. The size of the staff may vary depending on the number of transactions involved in importation or exportation. Also, the degree of complexity of international trade may dictate the size of staff. In some organizations, it is necessary to have staff dedicated exclusively to deal with, for example, tariff classification. In others, there is such reliance on NAFTA or other preferential tariff treatment that this work represents full-time employment. The other factor that impacts the size of the staff is the reliance that the company places on outside service providers. If the company wishes to conduct self-reporting and/or self-adjustment and limits the work done by outside service providers such as the customs broker, then additional staff may be required. Cost-benefit analysis and control over the quality of reporting to the CBSA are factors to be taken into account in balancing internal vs. external staffing of customs compliance services.

In some organizations, the compliance team members include personnel from other departments. It is recommended that, if possible, the team include at least one person from the Legal Department, a person from the Finance/Accounting Department, and a third person from the Procurement Department.

### Other Interacting Corporate Personnel

As noted in the discussion above concerning compliance team members, customs compliance does not take place in isolation and it is necessary to interact with other company department personnel.

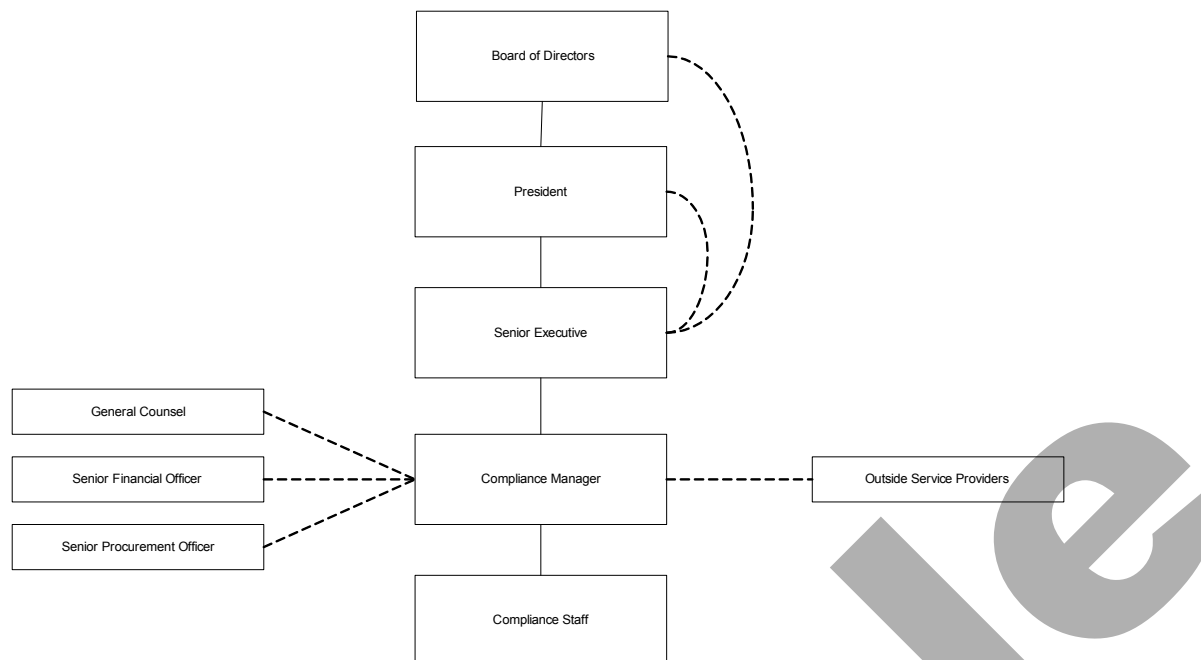
It is recommended that a strong relationship be built with the General Counsel. This will ensure the legal framework of Canadian customs compliance is understood by the company and responsibility for legal aspects of customs compliance is in the hands of the individual most capable of dealing with legal issues. Virtually all elements of Canadian customs compliance have a legal context. All of the substantive programs impacting reporting and declaration to the CBSA: customs valuation, tariff classification, and tariff preference, are built on legal principles. Accordingly, in-house counsel, if the office exists, should be part of the compliance team, and should assist in the retaining of outside legal counsel.

Secondly, representation on the compliance team from the Department of Finance/Accounting is necessary. There is a linkage between customs reporting and financial reporting that must be very strong. Amounts paid for goods, services, and/or intellectual property rights and recorded for financial purposes must correspond with declarations of customs values to the extent these elements are factors in determining the value for duty. As well, adjustments to correct for errors in amounts charged and paid for goods must not only be reported for commercial and financial purposes, but also for customs purposes.

The third individual who should be part of the interacting company personnel on the compliance team is the senior person responsible for procurement of goods (and services and intellectual properties as the case may be). Key is an individual who understands the nature of the transactions which give rise to importation and exportation. The details of these transactions, from both a legal and commercial point of view, are relevant and critical to the determinations to be made in reporting and declaring imports and exports to the CBSA.

## 2.02 Organizational Structure for Compliance Purposes

In the normal course, the Compliance Manager would sit in the middle of the organizational structure for compliance purposes. Above the Compliance Manager would be a senior executive who would in turn report to the President and/or to the Board. Beneath the Compliance Manager would be found the Compliance Manager's staff. Dotted lines running horizontally to General Counsel, the Chief Financial Officer, and to the senior procurement officer on one side, and to outside service providers on the other, would complete the picture.



## 2.03 Corporate Participant Education and Training

It is essential that not only the Compliance Manager, but all compliance team members and the executive to whom the Compliance Manager reports, acquaint themselves with Canadian customs compliance. A review of this Handbook would serve that purpose.

In addition, it is important the Compliance Manager conduct in-house training not only for the compliance team members, but also for other groups in the organization responsible for accounting/finance, procurement, and logistics. In addition, from time to time, a briefing note on developments that require cooperation of other corporate participants would be appropriate.

Customs compliance is an ongoing discipline which requires regular education and training in order to ensure that the highest levels of compliance are achieved.

## 2.04 Communication with External Participants

### Communication with the Government

It is important that all communication with the Government be documented. In this fashion, the importer/exporter obtains certainty and proof of its obligations that may exist quite apart from those that are governed by laws and published policies. It is also important to document communications to confirm concessions obtained from government officials exercising their discretion.

To the extent that communications are confidential, it is critical that documentation be marked as such. Failing same, for example in the course of an audit and even when the CBSA has already indicated that all documentation received will be treated as confidential, there is greater risk that documentation will inadvertently be improperly disclosed.

No communication with the government is subject to solicitor-client privilege even if communicated by external or internal legal advisors. Accordingly, there is no point in marking such documentation as “privileged”.

As communication with the government concerning customs compliance may be highly sensitive, it should be vetted by the appointed executive and General Counsel, if not external counsel, prior to filing.

### Communication with the Customs Broker

Communications with customs brokers or any other professional advisors, including accountants or consultants, is never subject to solicitor-client privilege unless it is done under the umbrella of solicitor-client privilege through proper communication organization and portals. In order to obtain solicitor-client privilege, it is necessary that work being

performed by non-lawyers, for example a customs broker, is done under a mandate obtained under the direction of outside legal counsel.

While communications with customs brokers may in some circumstances be confidential, there is always risk that communications with customs brokers, including documentation, may be released to the CBSA upon demand. The customs broker is licensed by the CBSA and in many cases views itself as having at least an equal obligation, even though not fiduciary, towards the CBSA. Accordingly, communications with the customs broker must be thoroughly vetted and should be constrained to the extent there is fear that these communications could end up in the hands of CBSA officials.

### Communication with Vendors

In order that vendors provide the proper documentation and meet their commitments to the importer to allow the importer to be customs compliant, it is necessary that the handling of communications be described in written agreements respecting obligations by vendors toward the importer.

Communications with vendors is generally not subject to solicitor-client privilege and the importer should be aware that if requested by the CBSA, a cooperating vendor may disclose confidential information. In order to suppress this possibility, it is wise that importers enter into confidentiality agreements with their vendors.

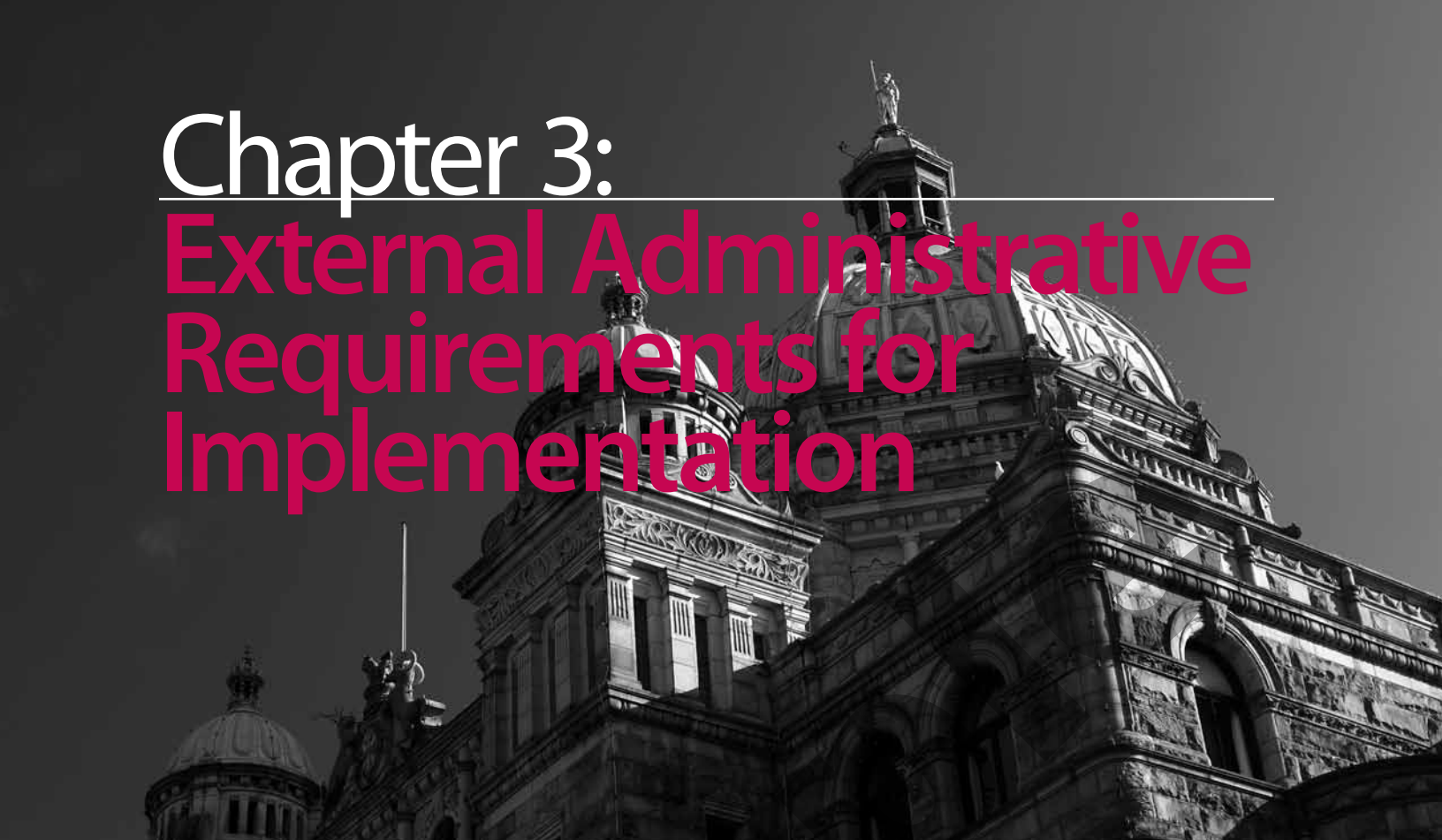
### Communication with External Legal Counsel

In the normal course, communication with external legal counsel is subject to “solicitor-client privilege”. However, only communications falling within the legal counsel relationship will attract privilege. In other words, the communication with legal counsel must be in relation to advice concerning legal rights and obligations. In order to earmark documentation with external legal counsel so as to ensure others in the organization do not inadvertently disclose same without consulting General Counsel, it is wise to mark these communications “subject to solicitor-client privilege”.

Provided communications with external legal counsel are privileged as described above, they are treated as confidential and need not be disclosed to any other party outside of the importer organization. However, if disclosed, this will generally cause the privilege to terminate.

## 2.05 Procedures in the Event of an Emergency

It is important that there be internal procedures to be followed in cases of emergencies. It is not always the case that the Compliance Manager is at his or her desk when a customs compliance emergency arises. Therefore, it is important for the Compliance Manager to make alternative compliance team members available to take emergency calls or to deal with emergency circumstances in the absence of the Compliance Manager. Voice mails and correspondence should refer to alternative individuals in the organization who can be reached in the case of an emergency. These individuals should be aware that their co-ordinates have been provided and in the event they are unavailable, make suitable alternative arrangements.



# Chapter 3:

# External Administrative Requirements for Implementation

## 3.01 Importer of Record

### Understanding the Role of the Importer of Record

The importer of record is the entity that is legally responsible for the proper declaration and accounting of the imported goods. Accounting involves the filing of documentation or information in respect of the goods in the form of a customs entry and payment of any applicable duties and taxes owing. It is the duty of the importer of record to ensure that the declarations made to the CBSA are true and accurate. Errors in the declaration are to be reported to the CBSA within 90 days of the date on which the importer has reason to believe that an error respecting valuation, tariff classification, or tariff preference occurred. Jointly with the owner of the goods, the importer is responsible for any additional duties, taxes, penalties and interest that may be assessed following importation.

An importer of record will often enlist the services of a customs broker. It is the importer of record who issues and signs a power of attorney authorizing the customs broker to act as an agent on its behalf. Although the customs broker is authorized to act on the importer's behalf, the ultimate liability for payment of any duties, taxes, penalties or interest owing and for the information provided to the CBSA respecting the imported goods rests with the importer of record.

Importers of record may be, but are not necessarily, resident in Canada, and may be, but are not necessarily, the owner of the imported goods. The Canadian *Customs Act* contemplates that the importer of record and the owner of the goods may be different and that one or both may not reside in Canada.

Where the importer of record and the owner of the goods are not the same entity, and the goods at time of release are not owned by the importer of record, the *Customs Act* prescribes joint and several liability for payment of duties and taxes on the importer of record and the owner of the goods.

### Obtaining a Business Number for Import Purposes

The Business Number (BN) is a number that is assigned by the Canada Revenue Agency (CRA) and identifies the program or type of account. The four major program account identifiers are as follows:

RC – Corporate Income Tax,

RM – Import/Export, or one or the other of Import or Export,



RP – Payroll Deductions, and

RT – Goods and Services Tax/Harmonized Sales Tax (GST/HST).

There are 15 digits in the BN. The first nine-digits represent the numeric company registration number and the balance of six digits represents the six-character alphanumeric account identifier.

*Example (Import-Export Account):*

12345 6789 RM 0001

Company Registration Number Program Identifier Account Number

*Example (GST/HST Account):*

12345 6789 RT 0001

Should a company have multiple unincorporated divisions, it may wish to, and may already, have multiple account numbers in each program.

*Example (Import-Export Account) – multiple divisions:*

12345 6789 ABC Company, Inc. RM 0001

12345 6789 DEF Sales, a division of ABC Company, Inc. RM 0002

*Example (GST/HST Account – multiple divisions):*

12345 6789 ABC Company, Inc. RT 0001

12345 6789 DEF Sales, a division of ABC Company, Inc. RT 0002

Where a single company is registered for a number of programs, for instance, Corporate Income Tax, GST/HST, Payroll and Import/Export, and has more than one division, the nine-digit numeric company registration number issued is the same for all programs. The six-character alphanumeric account identifier would be different as determined by the type of program and number of divisions.

It is important to note that a corporation is required to file a single tax return. Unless there has been an acquisition or merger within a given year, the corporation would retain a single RC (Corporate Income Tax) and a single RT (GST/HST) Account.

*Example (Single Company - Multiple Program Accounts – Multiple Divisions):*

98765 4321 RC 0001 (Corporate Income Tax Account – All Divisions)

98765 4321 RT 0001 (GST/HST Account – All Divisions)

98765 4321 RM 0001 (Import-Export Account – First Entity or Division to be established)

98765 4321 RM 0002 (Import-Export Account – Division #2)

98765 4321 RP 0001 (Payroll Deductions Account – First Entity or Division to be established)

98765 4321 RP 0002 (Payroll Deductions Account – Division #2)

Prior to importing, an application for a BN (RM Import/Export Account) must be made and obtained in order to import and account for the goods to the CBSA. All commercial importations require that a valid BN (Import/Export Account Number) be indicated at time of release and at time of confirmation of the Customs Entry (B3). In order to satisfy these requirements, a registration form must be completed. The type of form will depend on the importer's situation as follows:

1. Form RC1 (Request for a Business Number (BN)) – This form would be used by businesses with no other BN accounts with the CRA, *i.e.*, a new business or perhaps a non-resident business that is then currently establishing a market in Canada. (Please refer to Appendix A at the end of Chapter 3.)
2. Form RC1C (Business Number (BN) – Import/Export Account Information) – This form would be used by businesses that have a BN but do not have an RM (Import-Export) account, *i.e.*, an established Canadian business that is registered for GST/HST, Corporate Income Tax and Payroll but wishes to import product under its own business name. (Please refer to Appendix B at the end of Chapter 3.)

Businesses based in Quebec that wish to register for a GST/HST BN must do so through Revenu Quebec and must complete the Form LM-1-V. (Please refer to Appendix C at the end of Chapter 3.) The GST/HST BN assigned will not bear the account number at the end, *i.e.*, 0001; it will simply end with RT. To register for an import/export account, a Quebec-based business must still register with the CRA utilizing Form RC1 or Form RC1C depending on whether the business has already been assigned a GST/HST BN from Revenu Quebec. The import/export account BN assigned to the Quebec-based business will have the account number at the end, *i.e.*, RM 0001.



Specific instructions for non-resident GST/HST BN registration are found in Chapter 18.

There are certain circumstances in which an importer is not required to register for an import/export RM account, as follows:

1. Low Value Shipments (LVS), where the customs broker provides a one-time clearance service for the importer and the shipment is valued at less than C\$1600. The customs broker may utilize its own import/export BN to process this type of entry. The broker's BN will need to indicate to the CBSA that this is a "LVS one-time importer";
2. Courier/LVS Shipments released through the courier/LVS program may be consolidated under one entry and cleared with the CBSA using the customs broker's import/export BN;
3. High Value Non-Commercial (Casual) Goods may also be accounted for under the customs broker's import/export BN. The broker's BN must indicate to the CBSA that this is a "High Value, Casual Importation";
4. Temporary Importations of commercial goods that are imported into Canada on Form E29B (Temporary Admission Permit) and then exported. Should the goods remain in Canada, the importer must register for an import/export BN and formally account for the goods; and
5. Convention and Trade Show products may be imported under the customs broker's import/export BN and under the name of the convention or trade show. However, if commercial products are sold at the show, the individual importer of those products would need to register for an import/export BN.

It is crucial that the import/export BN on file with the CRA accurately reflect the proper name, address and legal entity status of the importer. The CRA must be notified immediately of any changes to the information on file. Of equal importance is that the customs broker declare the correct importer of record by applying the correct import/export BN at time of release and confirmation of the imported goods.

### 3.02 Import Security Requirements

In order for goods to be released by the CBSA prior to payment of duty and taxes, an acceptable form of security must be posted. The CBSA will accept cash, money order, certified cheque, transferable bond issued by the Government of Canada or a D120 Customs Bond (further discussed below).

When security is filed, the following information is required:

1. Name and address of the importer or the broker who is posting the security (a contact person with their telephone and fax numbers should be included),
2. Party filing (importer or customs broker),
3. Business Number,
4. Central payment office, where requested,
5. Purpose of security (release prior to payment of duties and taxes), and
6. Type of security (bond, cash, money order or certified cheque) and amount.

When posting security using a surety or financial institution bond, the Form D120, Canada Customs Bond, is to be used. (Please refer to Appendix D at the end of Chapter 3.) A list of bonding companies approved by the Treasury Board of Canada Secretariat has been provided in Appendix E at the end of this chapter. Bonds may also be issued by certain members of the Canadian Payments Association (CPA) which are corporations with deposits that are insured or guaranteed by defined parties, and credit unions, the CPA memberships of which are central co-operatives. For the most part, bonds are requested and issued by one of the companies listed in Appendix E.

Should a certified cheque or money order be presented as security, it must be issued by a chartered bank, credit union, caisses populaires, trust company or other financial institution that is a member of the CPA.

A letter of credit is not considered to be an acceptable form of security.

Government of Canada bonds will be accepted provided they are in non-certificate format under a Safekeeping Agreement where Bonds are transferable. (Please refer to Appendix F at the end of Chapter 3.) If this form of security is chosen, then a Safekeeping Agreement and Form BSF391, Transfer of Registered Bonds, must be submitted to the CBSA. (Please refer to Appendix G at the end of Chapter 3.)

Security may be posted at a single CBSA office if the importer plans on importing all of its products through that one office. If multiple points of entry are to be used, then national security must be filed with CBSA Headquarters, Brokers Licensing and Account Security Programs, in Ottawa.

The customs broker or the importer may file for security with the CBSA. Where a customs broker pays the duty and taxes owing to the CBSA on its client's behalf, the customs broker will need to maintain sufficient security to cover all of the importer's duty and taxes outlays as prescribed by the CBSA.

Due to the increasing cost of maintaining security, interest costs, and collection risks associated with the outlay of large amounts of duties and taxes expended on behalf of their clients, customs brokers, in today's environment, either no longer offer to maintain security on behalf of importers or encourage importers to maintain their own security with the CBSA (under which circumstances importers pay duties and taxes owing directly to the CBSA).

### Customs Brokers Security

Where a customs broker is handling customs clearance for an importer under the customs broker's own security number, the amount of security to be posted by a customs broker is calculated based on the average monthly duties and taxes (including GST) owing on these transactions (imports) that have occurred over a 12-month period. This type of security is known as **Release Prior to Payment** and has a maximum security amount requirement of C\$10 million.

When an importer, who is otherwise utilizing a customs broker's service, chooses to post its own security and pay the duties and taxes directly to the CBSA, the total amount of security required of the Customs broker will be reduced by that specific importer's average monthly amount of duties and taxes (including GST) owing.

When a resident importer, who is otherwise utilizing a customs broker's service, completes a GST Letter agreeing to make payment of the GST owing on its importations, either directly to the CBSA or through its Customs broker, then the amount of security required of the customs broker will be reduced by that specific resident importer's monthly average of GST owing.

The minimum security amount is C\$25,000 where a customs broker transacts business at all CBSA customs offices.

The minimum security amount is C\$5,000 where a customs broker transacts business at only one CBSA customs office.

If security is approved, the customs broker will be issued a five-digit security number. This type of security is called "Customs Broker Security".

### Importer Security

An importer that is a resident of Canada and that wishes to make payment of duties and taxes owing directly to the CBSA and to account for shipments under its own security number, will be required to post an amount of security based on the importer's monthly average of duties and taxes owing (*excluding GST*) and based on the transactions that have occurred within a 12-month period. The maximum amount required is C\$10 million.

An importer that is not a resident of Canada and that wishes to make payment of duties and taxes owing directly to the CBSA and to account for shipments under their own security numbers, will be required to post an amount of security based on the importer's monthly average of duties and taxes owing (*including the GST*) and based on the transactions that have occurred within a 12-month period. The maximum amount required is C\$10 million.

Where goods are unconditionally duty and tax free (including GST) at time of importation, the importer, whether resident or non-resident, will not be required to post security.

For resident and non-resident importers to import through all CBSA customs offices, the minimum security amount required is C\$5,000.

For resident and non-resident importers to import through only one CBSA customs office, the minimum security amount is C\$250.

If security is approved, the importer will be issued a five-digit security number.

If the importer's security number is used, the importer will be issued its own Form K84 from the CBSA whether or not the goods are cleared with the assistance of a customs broker.

This type of security is called "Importer Security" and is most often used on shipments which the importer is self-clearing (that is, not utilizing the services of a customs broker).

When an importer has obtained security and has been issued a five-digit security number, the payment of duties and taxes owing becomes the importer's direct responsibility.

### Direct Security Option (Resident and Non-Resident Importers)

Due to the increasing cost of maintaining security, interest costs, and collection risks associated with the outlay of large amounts of duties and taxes expended on behalf of their clients, customs brokers, in today's environment, are either no longer offering to maintain security on behalf of importers, or are encouraging importers to maintain their own security.

In order for brokers to reduce their costs for security and risk, brokers will encourage importers to post their own security and obtain their own account security number while the customs broker continues to clear the goods under its own import security number and identifies, to the CBSA, those shipments that are now importer secured. From its monthly K84 (daily notices and monthly statement), the broker will determine the amount of duties and taxes (including GST) that the importer owes and will provide this amount to the importer to facilitate the importer's payment. (Please refer to Appendix H at the end of Chapter 3 for an example of a K84 Daily Notice and Monthly Statement.)

Payment is to be made by the importer to a CBSA office by cheque, made out to the Receiver General for Canada, or it can be made through the importer's customs broker.

In all cases in which an importer's security number has been used at time of entry or a customs broker has identified the entry as importer-secured, payment must be made by the importer and payment must be made by the last business day of the month. Liability for timely payment rests with the importer and not with the customs broker. The importer will be assessed interest and penalties if payment is not received on time. Additional information on time limits for payment of duties and taxes are found in Chapter 14.

This type of security is called the "Direct Security Option". This option requires that the importer complete a "Direct Security Letter" which will need to be maintained on file with the customs broker in the event the CBSA requests a copy. (Please refer to Appendix I of this chapter for a specimen copy of the Direct Security Letter.)

### Goods and Services Tax (GST) Option – Resident Importers Only

Resident importers of Canada may also complete a GST Letter (Appendix J of this chapter) to pay the GST owing on their imports directly to the CBSA. (Please refer to Appendix J at the end of Chapter 3.) This GST Letter does not cover any other duties or taxes owing, and must be maintained on file with the customs broker in the event that the CBSA requests a copy.

Payment for the GST owing is to be made to a CBSA office by cheque, made out to the Receiver General for Canada, or payment can be made through the importer's customs broker.

The customs broker continues to hold security and make payment for the duties and other taxes owing on the importer's behalf in this scenario.

From the monthly K84, the broker will determine the amount of GST that the importer owes and will indicate this amount to the importer. Payment of the GST owing must be made by the last business day of the month.

This type of security is called the "Goods and Services (GST) Option"; liability for timely payment rests in the hands of the importer and not with the customs broker. The importer will be assessed interest and penalties if payment of the GST is not received on time.

### Changes in Security Amounts, Interim Payment, Central Payment and Cancellation

Amounts of security are to be reviewed by importers and brokers annually and a record of these reviews are to be maintained on file for verification by the CBSA when required. When additional security is necessary, a rider or endorsement must be obtained.

Customs brokers and importers may request interim payment privileges to ensure that their imports do not exceed the related security amount posted.

The forms of security discussed above, namely the "Customs Brokers Security", "Importer Security", "Direct Security Option" and "Goods and Services Tax (GST) Option", may be cancelled and privileges revoked where conditions have not been met, or where conditions have been filled but the security requirement no longer exists.

## 3.03 Enlisting the Services of a Customs Broker

### Service and Quality Requirements

The majority of importers in Canada utilize the services of a customs broker to manage their imports and to act on their behalf at time of release and in the confirmation of their entries. Although the customs broker is under certain obligations, it is ultimately the importer who bears the responsibility for the information that is presented by the customs broker to



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