



PBB GLOBAL LOGISTICS – WHITE PAPER

The Customs Action Plan

What traders must do to prepare for new compliance and security challenges

For the past several years, the Canada Border Services Agency (CBSA) has been working on a multi-faceted strategy to revamp, and fundamentally change, the way it operates and interacts with the trading community. Importers and traders must understand these changes and take the necessary precautions to ensure that their customs function integrates effectively into the new world of trade.

What strategies must I consider? Will my goods be high risk or low risk?

The answers are straightforward and complex at the same time. This white paper will highlight the new regulations and offer some suggestions on how traders can prepare themselves proactively for the new customs environment.

Fundamental changes

In the spring of 2000, the Canadian government released its Customs Action Plan, designed to modernize Canada's border management process over the next five years. Three initiatives in particular promised to have the most dramatic impact on traders:

- i) Customs Self Assessment (CSA)
- ii) Administrative Monetary Penalty System (AMPS)
- iii) Advance Commercial Information (ACI) – previously known as Carrier Re-engineering

Events over the last few years have served to heighten security concerns affecting international supply chains, especially at key border points. The programs originally envisioned in the Customs Action Plan proved to be a timely springboard for strengthening security-focused regulations, while at the same time remaining



true to the government's original goal of modernizing its border processes.

CBSA introduced CSA in the fall of 2001 and began enforcing AMPS on October 7, 2002. ACI began more recently in April 2004 and will be gradually phased in over the next two years.

Each of these initiatives is unique and complex. The key is to ensure that you and your customs team

have an understanding of how each program applies to you and affects your supply chain processes. With this knowledge, and a thorough review of your company's supply chain, you can properly adapt to the new trading environment.

A shift in responsibility

It is clear that the changes will impact traders' customs strategies. The shifting of responsibilities from Customs to importers, combined with increased security, brings forth major challenges to traders involved in international business. Customs will monitor, verify and penalize, but it is now up to the importer to

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Date: March 2005



make sure the regulations are being followed. If they are not, CBSA will apply strict penalties as prescribed under AMPS.

A secondary theme found in all aspects of the Customs Action Plan is an emphasis on electronic transactions and technology. As more and more business is conducted online, Customs is leading the shift to a more electronic platform in all border and port operations.

CSA – Streamlined release, streamlined accounting

Customs Self Assessment is one of the major changes that has been implemented under the Customs Action Plan. It is a sweeping plan that allows the importer to self-declare shipments.

Key features include:

- Streamlined accounting and payment processes for all imported goods.
- Streamlined clearance procedures for eligible goods by approved importers using approved carriers and drivers.
- Extended time frames for reporting trade data.

Initially, shipments eligible for CSA clearance include low risk goods imported from the U.S. that have not been transshipped, and that are not controlled or regulated by any other government department. Businesses importing goods from other countries around the world will need to continue with the “traditional” customs clearance systems, meaning a dual system.

Only businesses and carriers known to Customs, with a track record free of major commercial infractions, will qualify for the program. The importer and carrier must also confirm that their books and records provide appropriate audit trails and linkages. Furthermore, businesses and carriers must be capable of operating in a “paperless” environment – through electronic platforms.

Carriers must accept responsibility for goods destined to a CSA-designated importer. Liability exists up to the point of receipt by the importer.

While the benefits of Customs Self Assessment through streamlined clearance are huge, the qualifying conditions and associated technology costs effectively limit its practical application to a minimal number of importers. Because all CSA transactions must be completed in an electronic environment, participation in the program requires substantial investment in hardware and software. As of January 2005, only 165 importers had applied for CSA status – and less than twenty have been

approved. Large Just-in-Time manufacturers, often in the automotive sector, are typically representative of the types of importers who find their participation most worthwhile, because CSA improves timeliness and predictability at the border.

For most importers, it is strongly advised to fully consider and analyze the benefits and costs of CSA before deciding whether to apply for the program. Yet despite the low participation rate to date, look for interest in CSA to increase substantially in the months ahead as importers come to appreciate its value as an alternative to ACI.

The FAST incentive to use CSA

The Canadian and U.S. governments announced a new program called Free And Secure Trade (FAST), which went into effect in December of 2002. FAST is an expedited release program offered at 12 border crossings between Canada and the

U.S. (some even offer dedicated FAST truck lanes), with plans to expand to all major commercial crossings down the road.

Importers, carriers and drivers must apply in order to participate. CSA approval is a prerequisite and participants must be willing to enter into an agreement with CBSA's Partners in Protection (PIP) program. FAST and PIP both focus on security and participants must complete a self assessment of current security measures and procedures used throughout their entire supply chain.

FAST participants can expect shipments to be cleared at the border with greater speed and certainty, reducing costs associated with information requirements, customs examinations and delays at the border. However, pending major infrastructure improvements at most Canada-U.S. crossings, the overall benefit of FAST is diluted considerably when long traffic bottlenecks prevent easy access to dedicated lanes.

CSA Checklist:

- Review your position/needs
- Understand the costs of taking part
- Look at potential benefits and evaluate return on investment
- Obtain executive level buy-in and support
- Consult with a licensed professional

AMPS To Do List:

- Understand new penalty structure and implications
- Ensure compliance
- Consult with a licensed professional
- Consult with third party partners to ensure their compliance

AMPS – from sanctions to penalties

The Administrative Monetary Penalty System is CBSA's new schedule of civil penalties and other sanctions for non-compliance. At the heart of this system is the intention to promote voluntary compliance and correct non-compliance.

Under AMPS, seizure of shipments and ascertained forfeitures are restricted to only the most serious of offenses. Penalties are assessed appropriate to the level and severity of the non-compliance. Such penalties range from a "Notice of Infraction" up to a fine of \$25,000 per incidence.

AMPS applies to all parties in the supply chain, including importers, exporters, brokers, warehouse operators, carriers and freight forwarders.

Over 26,000 AMPS penalties, averaging close to \$600 each, were assessed between the October 7, 2002 enforcement date and end of August 2004. That is just a small percentage of the approximately 11 million releases processed in a given year, suggesting that Customs officials may have been exercising some discretion as businesses get accustomed to the AMPS system.

AMPS also introduces a new emphasis on accurate reporting of exported goods. Exporters must ensure that all exports to non-U.S. destinations are declared to CBSA in a timely fashion. Reporting time frames, based on the mode of transport, are intended to provide Customs with sufficient time to perform export targeting.

The exporter and/or carrier will also be responsible for ensuring required export permits, licenses or certificates for controlled, prohibited or regulated goods regardless of value or destination are submitted. The carrier must ensure that all documentation provided to him by the exporter is submitted to Customs at the prescribed time and place.





Other AMPS Highlights:

- It is possible for an importer to be subject to both seizure and AMPS monetary penalties.
- Records relating to penalties may be "retained" for a specific number of years (3–6).
- This retention period also serves as the time frame for graduated penalties, should second or successive offences take place.
- A database of infractions by company will be maintained by the CBSA and available to Customs officers.

Advance Commercial Information – How does it affect you?

Advance Commercial Information requires that importers transmit electronic shipment data before their goods arrive at the border, helping Customs target contraband and identify safety concerns and security threats.

Table 1: CBSA Inbound Advance Commercial Information

MODE	EFF. DATE	TRANSMITTAL TIMEFRAMES
 Vessel	April 2004	24 hours prior to loading
 Air	December 2005	Flights less than 4 hours: "Wheel's up", at time of take off; Flights greater than 4 hours: 4 hours prior to arrival.
 Truck	2006	Non-FAST shipments: 1 hour prior to arrival at border FAST shipments: No advance notice requirement
 Rail	2006	2 hours before arrival at border

Under current policy direction, CSA/FAST importers are exempted from ACI rules. As a result there are two effective processing streams at the Canadian border: CSA/FAST for a small number of approved, low-risk importers and ACI seemingly for everyone else.

In April 2004, CBSA began requiring advance shipment data for ocean cargo 24 hours prior to loading at the foreign port of origin, excluding U.S. ports. This was the first phase of ACI. The program's reporting requirement will extend to air cargo on December 5, 2005. Rail and trucking is covered later, some time in 2006 (refer to Table 1 for the prescribed time frames set out for each mode).

Mandatory H.S. Codes

One of the key elements of the program is mandatory 10-digit HS classification, which was introduced in May 2002. Initially only one item on a multi-line invoice required a 10-digit HS code. Starting May 2004, importers had to provide at least five complete HS codes (including the code for the highest value line).

ACI Checklist:

- Understand the three proposed phases
- Review your operations to ensure that shipment data is available to transmit within the prescribed time frame
- Adapt inventory and production processes if necessary
- Ensure your supply chain partners are fully compliant

CBSA is pushing forward towards full HS reporting, a major component of ACI. CBSA estimates that the five line HS code requirement will address 93 percent of all release transactions. It applies to all RMD and PARS transactions that are over \$1,600 CAD in total value. Approved CSA/FAST importers are exempt from the requirement.

Release at first point of arrival

In the initial phases, Customs requires advance electronic information only for **admissibility purposes**, to pre-screen shipments for contraband and security threats. **Customs release** (i.e. the goods have been presented to customs with proper documentation and all duty and taxes paid) is effected independently through existing release programs such as PARS or FIRST.

In the final phase, subject to a final decision by CBSA, ACI data may be used for purposes of both **admissibility and release** at the first point of arrival. FIRST will be discontinued, and possibly PARS as well.

With this final phase still under policy development, it raises a number of questions and challenges to importers and carriers.

This is particularly true if CBSA proceeds with customs release at first point of approval through ACI. Will bonded warehouses be required under the new system? Without this ability to move and/or inspect uncleared goods at an inland location, what will happen to traffic congestion at our already busy border points? Look for these issues to be carefully considered in the months ahead.

Change is here – what should you do?

The application of these changes will have an enormous impact on the trading community, whether you are an importer, an exporter or a carrier. With a shifting of responsibility to the trader, you must be certain that your import and export compliance strategies are sufficient to enable you to compete in the new international trading environment. There is an opportunity to gain efficiencies and to profit from these changes. Understanding the new regulatory environment is the key, and consulting with a licensed professional can be a good place to start. By being proactive now, you can prevent supply chain delays and unnecessary costs in the future.

PBB GLOBAL LOGISTICS, MARCH 2005

Customs Action Plan To Do List:

- Be conversant with changes
- Understand your current customs practices
- Understand your third party suppliers' customs practices
- Consult a licensed professional to consider all options

Strategic solutions for a new era of international trade

PBB's Trade & Regulatory Services professionals ensure compliance in this era of constant change:

- Strategic integrated trade planning and analysis
- Customs compliance assessments
- Securing binding decisions
- Leveraging regulatory change to your advantage
- Representing traders in each stage of Customs audits



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