

A Guide to Importing and Exporting



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North American regulations that today's trader needs to know

Doing business in international markets can bring rewards, but increasingly, it comes with risks and liabilities that can get in the way of success. In the past five years, Canada and the U.S. have introduced a myriad of new trade regulations aimed at modernizing customs processes and shoring up supply chain security. These were driven primarily by the respective customs authorities in the two countries: Canada Border Services Agency (CBSA) in Canada, and Customs & Border Protection (CBP) in the U.S.

The first step to managing the risks of international trade is to understand the intent, requirements and implications of the different initiatives facing businesses today. This guide is intended to provide an overview of what PBB Global Logistics considers to be the most critical policies. For further details on any of the programs outlined here, please contact PBB's Trade & Compliance Services at 1-800-924-4466 or by e-mail at tcs@pbb.com (U.S. compliance inquiries) or tcsca@pbb.com (Canadian compliance inquiries).

PBB also offers a comprehensive series of complimentary white papers on many of the topics outlined in this guide and can be accessed at www.pbb.com/whitepapers/

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ACI **Advance Commercial Information****Intent:**

To provide CBSA with electronic cargo data prior to arrival in order to improve its ability to screen and target shipments for potential contraband and/or terrorist threats.

Key dates:

April 19, 2004: ACI introduced for marine mode of transport.

December 5, 2005: ACI to be extended to air cargo.

2006: ACI to begin for rail transportation.

2006: ACI for truck-bound shipments to begin.

Requirements:

Data for all shipments imported into Canada must be transmitted electronically to the CBSA within the prescribed time frame:

Marine: 24 hours prior to loading.

Air: At “wheels up” for flights less than four hours; or four hours prior to arrival for flights over four hours in length.

Rail: Two hours before arriving at border.

Truck: One hour prior to arrival. Free And Secure Trade (FAST) shipments are exempt.

Impact on traders:

Businesses need to be proactive to ensure that shipment data can be made available to transmit within the prescribed time frame for reporting. Production and/or inventory practices may even have to be adjusted to accommodate the new regulations. Carriers, customs brokers and other supply chain partners should be consulted to ensure their systems and procedures are compliant with ACI.

AECI **Advance Electronic Cargo Information****Intent:**

To provide CBP with electronic cargo data prior to arrival in order to improve its ability to screen and target shipments for potential contraband and/or terrorist threats.

Key dates:

January 5, 2004: Final rules for AECI came into effect, although implementation dates for different modes are staggered.

March 4, 2004: The compliance date for advance notification of marine cargo imports (note: the 24-Hour Rule has been in place since December 2002 under the Container Security Initiative).

July 12, 2004: Rail cargo reporting began for imports.

August 13/October 13/December 13, 2004: Import air cargo reporting began, for airports in the Eastern, Central and Western states respectively.

November 15, 2004/December 15, 2004/January 14, 2005: Phased-in truck reporting began through the Pre-Arrival Processing System (PAPS) at selected ports of entry.

Requirements:

Data for all shipments imported into the U.S. must be transmitted electronically to CBP within the prescribed time frame, which is based on the mode of transport involved:

Marine: 24 hours prior to loading.

Air: At “wheels up” for flights originating in the Americas north of the Equator; otherwise, four hours prior to arrival.

Rail: Two hours before arrival at border.

Truck: One hour prior to arrival at border for non-FAST shipments; 30 minutes for FAST shipments.

Impact on traders:

Businesses must be proactive to ensure that shipment data can be made available to transmit within the prescribed time frame. Production and/or inventory practices may have to be adjusted. Carriers, customs brokers and other supply chain partners should be consulted to ensure their systems and procedures are compliant with AECI.

AMPS **Administrative Monetary Penalty System****Intent:**

A civil penalty regime that is designed to secure compliance with customs legislation through the application of monetary penalties.

Key dates:

October 7, 2002: AMPS enforcement began.

Requirements:

AMPS does not impose any new obligations related to customs processes. Instead, it places a premium on compliance with existing rules by attaching monetary penalties to various contraventions. AMPS places the responsibility on importers and

carriers to ensure that import and export declarations are correct. It encourages traders to take a proactive approach in complying with customs legislation.

Impact on traders:

Around 1,000 AMPS are currently being assessed each month, with an average value of around \$650. A business' history with AMPS is an important variable used by Canadian customs officials in targeting shipments for examination. AMPS will impose monetary penalties in proportion to the type, frequency and severity of the infraction. These penalties are designed to be corrective rather than punitive. A clean import history will be beneficial in reducing delays at time of importation.

CSA Customs Self Assessment

Intent:

An aggressive approach to CBSA's import process that provides a streamlined accounting and payment process for duty and taxes on imported goods, as well as expedited clearance at the border for low-risk importers using approved carriers.

Key dates:

December, 2001: CSA came into effect.

Requirements:

CSA-approved importers are allowed to self-declare their imports within a prescribed period, essentially on a monthly basis. Only businesses and carriers known to Customs, with a track record free of major commercial infractions, can qualify for the program. Importers and carriers alike must confirm that their books and

records provide appropriate audit trails and linkages. Furthermore, they must be capable of operating in a "paperless" environment through electronic platforms.

Impact on traders:

The benefits of streamlined accounting and customs clearance can be enormous. However, the qualifying conditions to ascertain that internal accounting systems are adequate and the associated technology costs effectively limit CSA to only a handful of importers. Experience to date shows that Just-In-Time manufacturers, such as those in the automotive industry, are best suited for CSA. The question of whether to participate is ultimately a corporate-wide decision, requiring buy-in from senior management.

C-TPAT Customs-Trade Partnership Against Terrorism

Intent:

A voluntary program to encourage businesses to undertake initiatives to improve security within their supply chains.

Key dates:

April 16, 2002: Program announced (immediately effective).

March 25, 2005: "Guideline" approach to security measures replaced by mandatory minimum standards. All new applicants must fully comply in order to get approved, and existing members are given a transitional period to phase in the new standards.

Requirements:

To qualify, businesses must conduct a comprehensive self-assessment of their security initiatives. They must demonstrate to

CBP an ability to meet all minimum C-TPAT standards. These include physical standards (e.g. lighting, fencing, alarms and video surveillance at all facilities), internal procedural standards (e.g. personnel background checks, training, measures to secure information, documentation and data) and supply chain standards (requiring written and verifiable evidence that the participant's foreign business partners – manufacturers, suppliers, carriers, ports, terminals, brokers, etc. – are also meeting minimum C-TPAT standards.)

Impact on traders:

Participation in C-TPAT can provide businesses with a number of tangible benefits, primarily eligibility for FAST customs clearance and reduced frequency of customs examinations.

FAST Free And Secure Trade

Intent:

To expedite the customs release of low-risk goods on both sides of the border.

Key dates:

June, 2002: FAST came into effect, as a result of the Smart Border Declaration between the U.S. and Canada. Over time, all major border crossings are expected to offer FAST clearance, with some providing dedicated truck lanes.

Requirements:

To use FAST into Canada, the importer or carrier must be authorized under CSA and participate in the Partners in Protection (PIP) program. To use FAST into the U.S., the

importer or carrier must participate in the C-TPAT program. In both cases, the importer or carrier must use a FAST-approved driver.

Impact on traders:

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. One notable difference in the implementation of FAST between Canada and the U.S. is that Canadian FAST importers do not have to provide advance shipment data to Customs under ACI. U.S. FAST importers, however, are not exempt from the advance notice requirements of AECI.

FDA Bioterrorism Act

Intent:

To strengthen the Food & Drug Administration's (FDA) ability to protect the U.S. food supply against bioterrorism and other health threats.

Key dates:

December 12, 2003: New FDA rules come into effect.

August 12, 2004: Full enforcement of the rules commenced.

Requirements:

1. U.S. agency: All foreign facilities must appoint a U.S. based agent for purposes of registration and communication with the FDA.
2. Registration of food facilities: All food facilities that operate in or export to the U.S. must register with the FDA.
3. Prior notice: Details of all food imports have to be transmitted to the FDA prior to arrival at the border, depending

on the mode of transport (two hours before arrival by road; four hours before arrival by air or by rail; eight hours before arrival by water).

4. Record-keeping requirements: Affected businesses are required to create and maintain certain records for a maximum period of two years.

Impact on traders:

The FDA has narrowed down its traditional broad definition of "food" for the purposes of its new Bioterrorism regulations, so businesses should find out whether the new rules impact their operations. If so, they need to register food facilities and if applicable, appoint a U.S. agent. To comply with prior notice regulations, the same advice as with ACI and AECI applies: make sure shipment data is available within the prescribed time frames and ensure that all supply chain partners are knowledgeable of the new rules.

Mandatory H.S. Codes

Intent:

To improve the quality of ACI and AECI data received by U.S. and Canadian customs.

Key dates:

May 3, 2004: Five line items on all Canadian multi-line electronic and paper releases must contain complete 10-digit Harmonized System (H.S.) codes.

October 1, 2004: CBP requires 100% H.S. classification to 10 digits for all goods entering the U.S.

2006: Timed with the full implementation of ACI, Canada will also require complete 10-digit codes on all goods.

Requirements:

The U.S. rule is straightforward, requiring 100% classification to 10 digits. The interim Canadian rule currently applies to all Release on Minimum Documentation (RMD) and Pre-Arrival Release System (PARS) transactions that are over \$1,600 CAD in total value. When determining which five items to report to the 10th digit, it is obligatory that the highest dollar value item is indicated. The remaining four lines must be representative of the general contents of the shipment.

Impact on traders:

Businesses should be proactive in maintaining their tariff databases to ensure compliance, to avoid potential delays and to prevent compromising their profile with Customs.

PIP Partners In Protection

Intent:

Canada's counterpart to C-TPAT, encouraging businesses to undertake initiatives to improve supply chain security.

Key dates:

2002: Partners In Protection program, in existence since 1994 to combat drug and contraband smuggling, is updated to address supply chain security concerns.

Requirements:

By signing a Memorandum of Understanding with CBSA, a

business or organization agrees to develop a joint plan of action, conduct security assessments, participate in awareness sessions, and consult with CBSA on supply chain security improvements.

Impact on traders:

Like C-TPAT, PIP is voluntary in nature, and participants may benefit from the quicker movement of low-risk travelers and goods across the border. However, in order to qualify for FAST customs release, carriers and importers must participate in PIP (along with CSA).