Understanding the U.S./Canada Customs Clearance Process

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Introduction

One day in late 2012, vehicles attempting to enter the United States via the Ambassador Bridge, which connects Detroit, Michigan, and Windsor, Ontario, were faced with unexpected delays and electronic warnings to avoid the bridge altogether. The reason? Canada Border Services Agency (CBSA) agents on the Ontario side of the bridge, North America's busiest border crossing, were staging a work slowdown as a way to express displeasure over a new requirement to wear name tags while on duty.

Although the job action lasted for less than a day, and is certainly not an everyday occurrence, it is indicative of the many factors at play in the world of cross-border trade. Whether you are bringing products into the U.S. from Canada or sending shipments to your Canadian customers, there are a multitude of factors that affect your shipment's successful arrival at its end destination. Those factors include customs requirements, security mandates, duties and taxes, infrastructure limitations, and any number of other issues.

For goods entering Canada, there's no such thing as an "ordinary" cross-border supply chain, since the process a shipment has to follow depends on its contents. Different goods trigger different requirements. Apparel shipments, for example, are controlled by International Trade Canada, while prepackaged consumer products are regulated by Industry Canada. Canada Border Services Agency (CBSA) enforces customs mandates by these and other departments known collectively as "other government departments" (OGDs).

Import requirements are also determined by which Canadian province is the shipment's end destination. Each of Canada's 10 provinces maintains its own tax requirements, and several have very strict marketing and labeling codes (in addition to federal marketing and labeling requirements). In Quebec, for example, which lists French as its primary language, explicit mandates are imposed for the use of French on all packaging, signage, instruction materials, and advertisements.

People are often surprised at the complexity of the U.S./Canada trade process and underestimate the resources necessary to ensure full compliance. Many businesses mistakenly assume that given the closeness of the two nations—shared border, shared language, common values—that cross-border shipments must be a breeze. Unfortunately, that is not the case. Not only is the border compliance process complicated, but it is also very fluid. Regulations and protocols change all the time, often with little notice.

Fortunately, the two governments have recognized the need to address what has been described as a gradual "thickening of the border" in which regulatory burdens have become more onerous and border clearance wait times have become an impediment.

Each government has initiated programs to give "preferential treatment" to carriers that cross the border frequently and qualify for "trusted trade" status. Technology is also playing a role—customs forms that were once filled out by hand can now be filed electronically, enabling a shipment to arrive at the border already precleared for entry. Perhaps most important, facilitating trade is a priority for the countries' top leadership, as evidenced by the 2011 "Beyond the Border" agreement signed by Canadian Prime Minister Stephen Harper and U.S. President Barack Obama. "Beyond the Border" outlines a "shared vision" for greater border security and heightened trade opportunities. Cross-border trade was the subject of executive-level discussions as recently as February 2014 when the leaders of the three North American Free Trade Agreement (NAFTA) nations met in Mexico.

The following paper discusses the U.S./Canada customs process from the perspective of U.S. businesses sending goods to Canada. The discussion includes a top-line overview of key compliance mandates and security programs, along with general information about duties and fees. Information is also included about how to take advantage of government programs designed to encourage trade by offering duty relief, expedited clearance, and other benefits.

U.S./Canada Trade: An Overview

Bilateral trade has long been a cornerstone of both the U.S. and Canadian economies. The two countries enjoy one of the world's most lucrative trade relationships, with more than $1.7 billion in goods crossing the border *each day*. The United States and Canada are each other's top trading partners (although China is the United States' top source of imports), and in 2013 the goods trade relationship was valued at $632.4 billion. U.S. businesses sold more than $300 billion worth of goods to Canada last year and purchased more than $332 billion in Canadian goods.

When services trade is factored in, along with bilateral investments, the total value of the U.S./Canada economic relationship exceeds $1.3 trillion.

Goods trade with Canada accounted for more than 16 percent of total U.S. trade during 2013, a figure that has remained largely consistent over the past several years. Other top trade partners include:

U.S. TOP TRADE PARTNERS

COUNTRY	PERCENTAGE
Canada	16.4
China	14.6
Mexico	13.2
Japan	5.3
Germany	4.2
South Korea	2.7
United Kingdom	2.6

Source: U.S. Census Bureau—Top Trading Partners

Analysis of export and import levels reveals just how important the trade relationship is to the two countries.

TOP EXPORT/IMPORT DESTINATIONS FOR THE UNITED STATES AND CANADA—2013

U.S. TOP EXPORT DESTINATIONS

COUNTRY	PERCENTAGE
Canada	19
Mexico	14.3
China	7.7
Japan	4.1
Germany	3
Brazil	3
Netherlands	2.7
Hong Kong	2.7
South Korea	2.6

U.S. TOP IMPORT SOURCES

COUNTRY	PERCENTAGE
China	19.4
Canada	14.6
Mexico	12.4
Japan	6.1
Germany	5.1
South Korea	2.7
United Kingdom	2.3
Saudi Arabia	2.3
France	2

Source: U.S. Census Bureau—Top Trading Partners

CANADA'S TOP EXPORT DESTINATIONS

COUNTRY	PERCENTAGE
United States	74.5
China	4.3
United Kingdom	4.1
Japan	2.3
Mexico	1.2
Netherlands	1
South Korea	0.8
Germany	0.8
France	0.7
Brazil	0.6

CANADA'S TOP IMPORT SOURCES

COUNTRY	PERCENTAGE
United States	49.52
China	10.8
Mexico	5.51
Japan	2.93
Germany	2.87
United Kingdom	2.32
South Korea	1.48
France	1.24
Algeria	1.23
Italy	1.14

Source: Canada's State of Trade: Trade and Investment Update—2013

What exactly is moving across the border?
Perhaps not surprisingly, the United States has increased its reliance on Canada's vast resources, and Canada is the largest foreign supplier of oil, natural gas, and electricity to the U.S. Canada accounts for 25 percent of U.S. oil imports and 85 percent of natural gas imports.

U.S. automotive products rank as Canada's leading import from the U.S., accounting for almost one-fifth of the total.

According to the U.S. Census Bureau, which tracks imports and exports, top sales to Canada through October 2013 included:

PRODUCT CATEGORY	VALUE (IN BILLIONS)
Transportation Equipment	$54.01
Machinery, except Electrical	$27.29
Chemicals	$25.51
Computer & Electronic Products	$22.28
Food & Kindred Products	$12.50
Petroleum & Coal Products	$12.18
Primary Metal Mfg.	$12.07
Fabricated Metal Products	$10.68

Top purchases from Canada included:

PRODUCT CATEGORY	VALUE (IN BILLIONS)
Oil & Gas	$73.53
Transportation Equipment	$56.58
Chemicals	$22.11
Primary Metal Mfg.	$18.70
Petroleum & Coal Products	$15.70
Food & Kindred Products	$11.79
Machinery, except Electrical	$11.37
Paper	$8.42

Online sales take hold in canada
A recent surge in eCommerce among Canadian consumers has enticed many U.S. businesses to expand their reach into the Canadian market. As reported in Internet Retailer, a study by Forrester Research Inc. found that online sales will increase to $32.8 billion by 2018, which marks a 10 percent annual increase over the $20 billion Canadian consumers spent during 2013. As a percent of total Canadian retail sales, online sales will increase from seven to 10 percent.

Forrester analyst Peter Sheldon attributes Canadians' online spending increase to three recent developments: (1) increased number of Canadian retailers that have expanded beyond brick-and-mortar capability; (2) increased number of U.S. retailers that have improved accessibility to the Canadian market; and (3) Canadian consumers' increasing comfort with online shopping.

U.S. retailers are tapping into the growing Canadian eCommerce market by offering Canadian versions of their websites and by improving delivery options to Canadian customers. Among U.S. retailers offering Canadian-customized ".ca" websites are Target, Walmart, J. Crew, Amazon, and Nordstrom. U.S. retailers are popular with Canadian consumers. In fact, Statistics Canada reports that 63 percent of Canadian online shoppers report having made purchases from U.S sites.

The Compliance Process—Sending Goods to Canada

While both the U.S. and Canadian governments have taken steps in recent years to encourage trade between the two countries, the border clearance process remains a highly complicated and exacting process. As the U.S. Commercial Services notes in its A Practical Guide to Doing Business in Canada: "Canadian customs documentation, bilingual labeling and packaging requirements and the handling of federal and provincial sales tax can be surprisingly challenging." Shipments must also comply with security protocols put in place in recent years. In addition, depending on a shipment's contents, additional "other government department" (OGD) mandates may be triggered.

Another thing to keep in mind, the regulatory environment is very fluid, with changes and modifications happening on a regular basis, often with little notification. Shippers are responsible for keeping abreast of these modifications.

Following is a top-line overview of some of the regulations and procedures with which businesses exporting to Canada must be in compliance:

Registration and Paperwork

Canada Border Services Agency (CBSA) is responsible for managing the movement of goods to and from Canada and has in place strict compliance mandates to determine exactly which products may—and those that may not—enter the country. In addition, CBSA implements customs-related initiatives on behalf of other government agencies and departments that have authority over various aspects of the trade process. Here is an abbreviated overview of regulations a business may face:

- **Business Number.** Any business importing or exporting goods to Canada must register with the Canada Revenue Agency and be issued a business number that must be used on all paperwork, which is used to track all customs-related documentation and payments.
- **Cargo Control Document (CCD).** Canada Border Services Agency (CBSA) requires that a cargo control document accompany each shipment. The CCD is also referred to as a manifest and includes an itemized list of the contents included in a shipment.
- **Commercial Invoice or Canada Customs Invoice.** A commercial invoice is the primary document a buyer/importer uses to pay a vendor/exporter and generally includes the following information: description of the goods, direct shipment date, tariff treatment, country of origin, tariff classification, value for duty, appropriate duty or tax rates, and calculation of duties owed.

- Canada Customs Coding Form-B3: CBSA requires Form B3 as a way to account for goods, regardless of their value, for commercial use in Canada. This document captures a wide range of information about each shipment, including country of origin, tariff treatment, mode of transport, and tax liabilities.
- **NAFTA Certificate of Origin.** Shipments eligible for preferential treatment as outlined by the North American Free Trade Agreement must be accompanied by a Certificate of Origin. This document includes detailed information about the contents of a shipment, including the origination of each component part. The Certificate or Origin is not required for non-NAFTA shipments or for shipments valued at less than US$1,000.
- **Import Permits.** CBSA assists other government departments (OGDs) in administering entry requirements for products that fall within their areas of control. Many goods subject to OGD requirements necessitate special permits, licenses, certificates, or other paperwork. Special examination by customs officers may also be required for certain goods. Following is a list from the CBSA website of some of the most commonly imported products that may require review by an OGD:

GOVERNMENT DEPARTMENT/AGENCY	COMMODITIES/AREA OF RESPONSIBILITY
Canadian Firearms Program	Firearms
Canada Post	Nonmailable matter (perfume, perishable items, flammable liquids, replica, or inert munitions)
Canadian Food Inspection Agency	Food, plants, animals, and related products
Canadian Heritage	Cultural property
Canadian Nuclear Safety Commission	Radioactive isotopes
Competition Bureau Canada	Clothing labels, marking of precious metals, packaging and labeling of nonfood products
Environment Canada	Endangered or threatened species of plants and animals; hazardous waste and hazardous recyclable materials; wild animal and plant trade
Fisheries and Oceans Canada	Aquatic invasive species
Foreign Affairs and International Trade Canada	Agricultural products Firearms Goods under trade embargoes Steel Textiles and clothing
Health Canada	Consumer goods Drugs Food Medical devices Natural health products Pesticides Pharmaceuticals Radiation-emitting devices Toxic substances Vitamins
Industry Canada	Radio communications Telecommunications equipment
Natural Resources Canada	Explosives, including fireworks and ammunition Minerals and metals, including gold, silver, copper, diamonds, and all gems Regulated energy-using products
Public Health Agency of Canada	Bodies and body parts Human pathogens
Transport Canada	Tires Transportation of dangerous goods Vehicles

The U.S. Commercial Service advises that securing the necessary permits can be time consuming and that attending to potential OGD requirements should be "one of the first steps taken" in initiating the export process.

Labeling and Packaging Requirements

Canada is a bilingual country, with both English and French listed as the nation's official languages. More than 32 percent of the overall population lists French as their "preferred" language, and as such, the government's labeling and packaging requirements reflect this bilingualism.

Products entering Canada must comply with numerous marketing and labeling requirements that are mandated both at the federal level and by the provinces. The Consumer Packaging and Labeling Act, for example, mandates that products be labeled in English and French, with weights and measurements displayed in metrics. In addition, an imported product must display the name of a Canadian importer, and the Canada Revenue Agency requires a country-of-origin marking on specific goods.

At the provincial level, care must be taken to ensure compliance with any and all specific requirements. The province of Quebec, where French is the sole official language, has more exacting requirements with regard to the prominence of French on materials, including labels, instructions/warranties, marketing materials, advertising materials, and brand names. In general, Quebec requires that all products sold there be labeled in French and that French be given equal prominence with any other language on a product's packaging.

Duties and Fees

Critically important to doing business in Canada is an understanding of that country's unique sales tax code. In Canada, sales taxes are collected at the federal and provincial levels of government, and a business must be careful to comply with all applicable levies. Please note that sales taxes are different from import duties. Import duties on goods between the U.S. and Canada were virtually eliminated via NAFTA.

- A federal Goods and Services Tax (GST) of five percent of value is assessed on just about all goods entering the country.
- Provincial sales taxes are levied at the province level and are collected locally.
- The provinces of Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, and Ontario have opted to "harmonize" their provincial sales tax with the general sales tax. This combined rate is called the "harmonized tax," and represents the sum of the 5 percent federal GST plus the appropriate provincial tax.

Following is an overview of the tax structure in each province and territory:

PROVINCE	GST	PST	HST
Alberta	5%	0	NA
British Columbia	5%	7%	NA
Manitoba	5%	7%	NA
New Brunswick	5%	NA	13%
Newfoundland and Labrador	5%	NA	13%
Northwest Territories	5%	NA	NA
Nova Scotia	5%	NA	15%
Nunavut	5%		
Ontario	5%	NA	13%
Prince Edward Island	5%	9%	14%
Quebec	5%	9.975% (QST)	NA
Saskatchewan	5%	5%	NA
Yukon	5%	0	NA

Depending on the items being shipped, goods may also be subject to excise taxes and other fees. For example, an "antidumping duty" is assessed on any product entering Canada whose manufacturer, is in any way subsidized by the U.S. government. If fees are owed, the value of the goods being shipped must be converted into Canadian dollars to determine the amount of fees owed.

Another important thing to understand about the Canadian tax code—it is subject to change and without much notice. Businesses are responsible for keeping abreast of all tax policy changes and for ensuring that correct taxes are collected and paid.

Most U.S. businesses with dealings in Canada choose to entrust this responsibility to a qualified logistics provider or customs broker. A qualified third party will ensure that all tax obligations are met so that customers are not presented with unexpected invoices at time of delivery for additional taxes.

U.S. Export Requirements for Canada-Bound Products

While goods crossing the border into Canada must comply with CBSA import requirements, they must also satisfy U.S. export mandates. Common documents required could include an invoice or export packing list along with a bill of lading.

Several government agencies have jurisdiction over different components of the export process, so it's important to ensure full compliance. The Census Bureau maintains the official list of export tariff codes—known as "Schedule B"—which must be included on all export documentation. The Departments of State, Treasury, and Commerce have jurisdiction over certain types of products and must grant permission before a product can leave the country. Customs and Border Protection (CBP) enforces most export regulations on behalf of these "other government departments," but specific requirements are issued by each lead agency.

In general, products leaving the U.S. will require:

Electronic Export Information (EEI). An EEI is required whenever the value of the commodity classified under each Schedule B number is more than $2,500 or if a validated export license is required to export the commodity. The exporter is responsible for preparing the EEI, which must be filed with CBP electronically through the Automated Export System (AES). Please note that the *EEI is not required for shipments to Canada* unless the products also require an export license.

The Automated Export System (AES). AES is an integral part of the process. AES allows all exported-related data to be filed electronically and is a joint venture between multiple U.S. government agencies, including Customs Border Protection (CBP), the U.S. Commerce Department/ Census Bureau, and the Department of Homeland Security. In general, a business wishing to export, or its authorized agent, transmits the EEI via AES. AES then validates the data and either confirms the export transaction or flags it for further review.

Export Licenses. In some instances, an exporter is required to obtain permission, in the form of an export license, for certain types of exports. The licenses are issued by the appropriate government agency. Most export transactions do not require issuance of a license, but it is up to the exporter to determine whether or not one is warranted for its shipment. Exporters need to be aware of all federal departments or agencies that have jurisdiction over their products and determine if a license is required.

Security Mandates

Border security is an important part of the cross-border clearance process, with programs in place on either side of the border to minimize the risk of contraband or terrorist-related materials from entering the United States or Canada. In fact, the increased volume of security-centric mandates, and the incidence of "random" security inspections that have been implemented in recent years, have had the unintended consequences of exacerbating clearance delays and increasing transportation costs. A 2012 report by Canada's Fraser Institute estimated that increased security mandates cost the Canadian economy more than US$19 billion per year. Similarly, a joint report by the U.S. and Canadian Chambers of Commerce blamed "new or increasing fees, uncertainty over onerous wait times, layers of rules and regulations from different departments, more stringent requirements once compliance is achieved, and infrastructure impediments for a thickening of the border."

The two countries have taken steps in recent years to reassess border security procedures, and processes have improved. For one thing, each government is attempting to automate security protocols and collect data about shipments before arrival at the border so that agents can prioritize and make sure resources are appropriately allocated.

In Canada, CBSA's cornerstone security program is called Advance Commercial Information (AIC). Through ACI, CBSA officers are provided with electronic pre-arrival information for all shipments scheduled to arrive—via air, sea, rail, or land—at the border. The pre-arrival notification allows CBSA agents to focus their resources on higher risk shipments and permit low-risk shipments to arrive at the border precleared for entry.

Eventually all data will be captured in CBSA's customized "eManifest" reporting system. The eManifest system, which was to have taken effect for rail and highway carriers in 2012, has been postponed repeatedly but is expected to take effect during 2014. Following a sixth-month "grace period," compliance will become mandatory and carriers will face penalties for failure to electronically pre-submit cargo data via the eManifest portal.

A similar program being developed in the U.S. is the Automated Commercial Environment (ACE). As described by CBP, when fully developed, ACE will serve as the backbone for the International Trade Data System (ITDS) and will ultimately become the single window for all trade and government agencies involved in exporting and importing. The project's development received a boost in February 2014 when President Barack Obama signed an executive order calling for completion of the ITDS by the end of 2016.

Facilitating Compliance—Trusted Trade Programs

Both the U.S. and Canada maintain "trusted trade" programs that provide preferential treatment for qualified businesses.

Free and Secure Trade Program (FAST). FAST is a joint initiative between the Canada Border Services Agency (CBSA) and U.S. Customs and Border Protection (CBP) that offers expedited clearance for low-risk commercial shipments. Eligible carriers must complete a background check and fulfill certain eligibility requirements. Benefits of FAST include:

- Access to dedicated lanes (where available) at border crossings for greater speed and efficiency
- Reduced number of inspections
- Enhanced supply chain security
- FAST membership card can be used as proof of identification
- Streamlined process that reduces delivery times and landed costs of imports
- Allows border agents to focus on higher risk shipments

Canadian Programs

Partners in Protection (PIP). PIP is a CBSA program that enlists the voluntary cooperation of private industry to enhance border security and verify the safety of the supply chain. Participating businesses agree to implement and adhere to high security standards throughout their supply chains. In exchange, PIP members are entitled to expedited clearance and additional preferential treatment.

Customs Self-Assessment (CSA). CSA is a program administered by CBSA designed for lowrisk, pre-approved importers, carriers, and registered drivers. Membership in the CSA program simplifies the border-crossing process for low-risk shipments so that border agents can allocate resources to higher risk shipments. In 2013, CSA was expanded to allow participation by U.S. importers.

U.S. Programs

Customs-Trade Partnership Against Terrorism (C-TPAT). C-TPAT is a joint business-government initiative administered by CBP that enhances U.S. border security by verifying the safety of the supply chain. Businesses that apply to be C-TPAT members agree to conduct a self-assessment of supply chain security and to encourage their business partners to verify the security of their supply chains. In exchange, C-TPAT participants receive certain benefits including:

- Reduced number of border inspections
- Access to C-TPAT membership list
- Eligibility for account-based processes (bimonthly/monthly payments, etc.)

Importer Self-Assessment (ISA). C-TPAT members are eligible to participate in CBP's Importer Self-Assessment program, which exempts importers from certain CBP audits in exchange for establishing internal compliance controls. Through ISA, an importer will conduct an internal audit of its own compliance record and determine and address and risk areas.

Certified Cargo Screening Program (CCSP). Administered by the Transportation Security Administration (TSA), CCSP allows qualified transportation carriers and logistics providers to screen air cargo away from an airport at a certified location. CCSP was developed as a way to address expected congestion and wait periods following a Congressional mandate that all cargo transported on passenger aircraft is prescreened as of August 1, 2010.

If it sounds like there is a lot of overlap between these programs, you are correct. In fact, a key tenet of the 2011 U.S.-Canada "Beyond the Border" initiative called for increased harmonization of trusted shipper programs (see below for more information about "Beyond the Border"). Efforts are underway to improve coordination between C-TPAT and PIP, for example, so that going forward, applicants can use a single application and share processing and documentation practices.

Facilitating Compliance—Expedited Clearance into Canada

In addition to its trusted trade programs, CBSA maintains additional programs to help expedite the customs review.

Pre-Arrival Review System (PARS). The Pre-Arrival Review System allows importers and brokers to electronically submit shipment information to CBSA prior to arrival at the border. PARS allows CBSA agents advance notice of incoming shipments so that a determination can be made if the shipment will warrant additional inspection. According to CBSA's website: "When the shipment arrives, the CBSA will release it within minutes unless an examination or further processing is required to meet another government department's regulation."

Courier Low Value Shipment (LVS). The Courier Low Value Shipment program is available for goods entering Canada via courier that are valued at less than CAN$2,500. Goods entering Canada under the LVS program benefit from expedited clearance. However, goods subject to other government department (OGD) regulations are not eligible for this program and must instead follow regular clearance procedures.

Duty Management for U.S. Businesses

While most businesses understand that duty payment is an integral part of any trade transaction, less understood are the steps a business can take to minimize its duty obligations or to even have its products clear the border duty free. U.S. businesses can take advantage of several opportunities, listed below, that may provide cost savings for Canada-bound products.

Non-Resident Importer (NRI) Program. The Non-Resident Importer Program is administered by CBSA as a way to increase U.S. sales to Canada. An NRI is a U.S. company that does not have a physical presence or any assets in Canada but imports into Canada under its company name. The NRI essentially serves as both the importer and exporter of record, which facilitates the sale of goods to Canadian customers in several ways. All fees and taxes can be collected at the time of sale, so Canadian customers are charged a comprehensive "landed" cost up front. In addition, doing business with an NRI frees a Canadian customer from involvement in the import process, which levels the playing field—buying from a U.S. NRI becomes virtually the same as interacting with a company physically located in Canada.

Duty Drawback. Businesses that import goods that are used in the manufacture of products that are subsequently exported are eligible for a refund of up to 99 percent of the amount of duty initially paid. This refund is called a drawback and is available through CBP's Duty Drawback program. Be forewarned though, CBP considers drawback to be a privilege rather than a right, and as such, the application process is very confusing and detailed. Detailed paperwork and recordkeeping are required, but the benefits can be quite substantial. A qualified logistics provider should be consulted about implementing a recordkeeping process to ensure that a business is able to claim the drawback to which it is legally entitled.

North American Free Trade Agreement (NAFTA). NAFTA provides for the elimination of tariffs on virtually all domestic goods traveling between the U.S., Canada, and Mexico. The agreement sets clear "rules of origin" that specify the conditions of production in order for a product to be eligible. For example, a product imported into the United States from a non-NAFTA country and then shipped to Canada may not qualify for duty-free treatment. The applicable rule of origin for the product in question would have to be consulted for a definitive answer.

Tariff Reclassification. Ensuring that a product has been assigned the correct tariff classification can have significant financial considerations. Every product that crosses the border is assigned a tariff code as set out in the universally recognized Harmonized Tariff Schedule (HTS). The HTS includes more than 10,000 product categories, which leaves a fair degree of interpretation in determining the code to assign to a particular product. Which code is assigned could determine whether a product is eligible for Free Trade Agreement benefits or if punitive antidumping or countervailing duties apply. Thus, great care should be taken in determining a tariff code to ensure a product receives fair treatment.

Penalties

Businesses that fail to properly comply with customs mandates face serious consequences, primarily in the form of fines, clearance delays, and in some cases, rejection of shipments. Anyone who submits compliance documentation to CBSA or CBP is held liable for the information included in that paperwork and held accountable should erroneous information be provided.

The Administrative Monetary Penalty System (AMPS) works to ensure full and accurate compliance with all CBSA requirements by imposing monetary penalties for non-compliance. AMPS penalties range from small amounts to a maximum of CAN$25,000 per infraction, and businesses are reminded that they—and not their broker or carrier—are ultimately responsible for the accuracy and completeness of import documentation, as well as any AMPS penalties that may be issued.

In addition, a CBSA agent may deny a shipment entry at the border for any number of reasons. If wood packaging materials, for example, are not properly treated, a shipment may be turned away.

Similar to AMPS, U.S. Customs and Border Protection maintains a Penalties Program as a way to address noncompliance. The Penalties Program extends to individuals who provide incorrect information on a wide range of customs documents, including drawback claims, or who submit an improper NAFTA certificate of origin.

Improving the U.S./Canada Cross-Border Process

The good news about U.S./Canada cross-border clearance is that the process is getting better. And the process is getting better largely due to a commitment from leadership in each country.

Most recently, in February 2014, U.S. President Barack Obama signed an executive order authorizing completion of an International Trade Data System (ITDS) by the end of 2016. When in place, ITDS will create a "single window" through which all U.S. government-mandated import and export data will flow. As President Obama correctly noted, currently businesses must "submit information to dozens of government agencies, often on paper forms, sometimes waiting on process for days to move goods across the border." With a centralized ITDS in place, U.S. businesses could potentially see enormous savings—both in resources and money—as the border clearance process becomes easier and faster.

Previously, in February 2011, President Obama joined Canadian Prime Minister Stephen Harper in announcing the (Beyond the Border: A Shared Vision for Perimeter Security and Economic Competiveness) initiative. The agreement lays out a framework to improve border security while simultaneously facilitating trade, and it addresses some industry complaints about inhibitors to cross-border trade.

With regard to its impact on trade, the agreement calls for improvements including:

- Harmonization of supply chain security programs so that members in the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) and Canada's Partners in Protection (PIP) programs will eventually receive similar benefits and privileges on either side of the border.
- Since participation in PIP or C-TPAT is a prerequisite for participation in the Free and Secure Trade (FAST) program, synchronizing C-TPAT and PIP will allow more carriers to have access to FAST express lanes at key border crossings.
- Changes to the popular low-value shipment processes so that more shipments can benefit from an expedited clearance process.
- Accelerated border crossings by allowing cargo cleared at an initial port of entry to avoid additional inspections as it travels to its final destination. Under this scenario, a shipment of goods that arrives via ship in Vancouver, but is ultimately destined for Chicago, would not have to clear customs upon arrival at the U.S. border, so long as it was cleared by Canadian officials at the first point of entry.
- Establishment of a "single window" for submission of customs and other regulatory information.
- Commitment to improving infrastructure.

While these are very laudable goals, it will certainly take a period of years before they are fully enacted. Many of these proposals will require serious discussion within each country before actual work can begin. For example, some in Canada have raised opposition to the sharing of intelligence about potential security risks. The concern is that Canadian sovereignty might be sacrificed or that Canadians could be subject to U.S. security mandates. These concerns could result in significant changes to efforts to synchronize data sharing or derail the process entirely.

Nevertheless, “Beyond the Border” is indicative of a commitment by both countries to expand cross-border trade and facilitate the process wherever possible.

Conclusion

The Canadian market offers significant opportunities for U.S. businesses, as evidenced by the more than $1.7 billion in goods that cross the border on a daily basis. This begs the question: If that much volume crosses the border *every day*, how difficult can it be to navigate the cross-border clearance process? As the above discussion makes clear—it can be very difficult. Paperwork, security clearances, duties and taxes, customs declarations, and screening procedures are just some of the components of the border clearance process every shipment must undergo. And that's just to gain clearance to cross the border! Once over the border, a shipment must be entered into a U.S. or Canadian distribution network that can ensure delivery to a shipment's final destination.

Most businesses find that managing the process is not worth expending internal resources and choose instead to enlist a customs broker or logistics provider for this important function. But buyer beware! Many logistics providers claim to have expertise in the Canadian market, but few actually have the proven track record and experience with the customs process to offer a seamless border crossing and guaranteed on-time delivery within the Canadian market.

When choosing your Canadian logistics partner, it's essential to choose wisely! Talk to many different providers and take the time to fully understand their capabilities. If you do not have absolute confidence in a logistics provider's capabilities, keep looking!

As U.S./Canada cross-border trade continues to grow, logistics will be an important factor in determining whether a business is able to compete in the Canadian market or whether its goods are left at the border.

Purolator. We deliver Canada.

Purolator is the best-kept secret among leading U.S. companies who need reliable, efficient, and cost-effective shipping to Canada. We deliver unsurpassed Canadian expertise because of our Canadian roots, U.S. reach, and exclusive focus on cross-border shipping.

Every day, Purolator delivers more than 1,000,000 packages. With the largest dedicated air fleet and ground network, including hybrid vehicles, and more guaranteed delivery points in Canada than anyone else, we are part of the fifth largest postal organization in the world.

But size alone doesn't make Purolator different. We also understand that the needs of no two customers are the same. We can design the right mix of proprietary services that will make your shipments to Canada hassle free at every point in the supply chain.

For more information:

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