

## SIMA Updates

The *Special Import Measures Act* (SIMA) is an anti-dumping and countervailing law meant to help protect Canadian industry from injury caused by the dumping and subsidizing of imported goods. Recent developments in the Canada Border Services Agency's (CBSA) administration of SIMA are highlighted below.

**Fasteners**—The Canadian International Trade Tribunal (CITT) has initiated an interim review of its January 7, 2005, findings regarding the dumping and subsidizing of fasteners and related products manufactured in and/or exported from China or Taipei.

The CITT has decided to exclude Aster screws from its findings on fasteners. The CITT has received a request to also exclude equivalent screws, including HECO-FIX -plus® screws.

**Copper Pipe Fittings**—On May 14, 2007, the CITT ruled that it will not impose anti-dumping duty on imports of copper pipe fittings originating in or exported from the United States, Korea or China.

**Copper Rods**—The CBSA will no longer collect anti-dumping, and countervailing duties on imports of copper rods with diameters between 6 and 11 millimetres that are manufactured in and/or exported from Brazil and Russia.

Also, the CITT ruled on March 28, 2007 that Brazilian and Russian imports of copper rods have not caused and do not threaten to cause injury to Canadian producers.

**Bicycles and Frames**—The CITT will hold a public hearing on October 15, 2007 regarding the initiation of an expiry review of bicycles and bicycle frames manufactured in and/or exported from China, or Taipei. The expiry review's purpose is to determine whether the expiry of the current order of bicycles and bicycle frames from China, or Taipei will likely result in those products being dumped.

Please contact KPMG's Trade & Customs practice for more information on these or any other SIMA issues.

## More Information?

For more information on the articles in this newsletter or any of the services mentioned, contact a KPMG Trade & Customs professional.

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# Trade Matters

TAX

## Frequent Importer Release System Program to Be Eliminated

The Canada Border Services Agency (CBSA) announced the elimination of the Frequent Importer Release System (FIRST) paper release option as of January 31, 2008.

The Customs Action Plan, launched in April 2000, provided a strategy to increase the use of electronic data interchange (EDI) by eliminating paper releases. The Advanced Commercial Information (ACI) initiative, also referred to as "eManifest," is being developed to replace FIRST.

Phase I and II of ACI's air and marine modes have already been implemented. Once FIRST is eliminated and ACI is fully implemented, importers will have to use either ACI or the Customs Self-Assessment (CSA) procedure to release commercial imports.

### ACI

When fully implemented, ACI will require the electronic transmission of pre-arrival cargo information to the CBSA for risk assessment before such shipments reach the border. ACI will eventually require the electronic transmission of pre-arrival importer admissibility data as well.

### CSA

CSA streamlines the clearance and payment process for CSA-eligible goods and simplifies trade data reporting, self-adjustments, revenue reporting, and duty payment. CSA-eligible goods are released based on the following three data elements:

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- a CSA-approved importer
- a CSA-approved carrier
- a Free and Secure Trade–registered driver.

CSA enables importers to use their own system to fully self-assess and ensure compliance with their customs obligations.

### **Paper releases on minimum documentation and pre-arrival reviews eliminated**

As of October 15, 2007, and subject to exemptions, the CBSA will no longer accept paper copies of Release on Minimum Documentation and Pre-Arrival Review System service options.

To comply with this change by January 2008 and to avoid costly border delays, importers are encouraged to investigate other release and service options offered by the CBSA.

### **US Customs and Border Protection Headquarters to Review Import Entries**

US Customs and Border Protection (USCBP) recently published a directive advising the trade community that, because of a lack of “reasonable care” practised by importers and brokers, it will review import entries to identify “egregious errors” in statistical data reporting.

Specifically, USCBP will review the countries of origin, quantities, tariff classifications, and manufacturer identification numbers on import entries. Errors regarding such data skew the true nature of certain transactions, impeding USCBP’s ability to assess

correct duty, collect accurate statistics, and ensure other requirements have been met.

USCBP reminds the trade community that section 19 USC 1484 of the US Regulations states it is the importer of record’s responsibility to use reasonable care when entering, classifying, and valuing merchandise.

USCBP has directed all ports to pursue penalties against importers and brokers when statistical data errors are identified.

Importers of record in the US should review their current procedures to ensure they comply with US Regulations.

### **Border Security**

Canada’s federal government recently announced it has invested \$11.6 million to expand the Partners in Protection (PIP) security program to maximize the benefits for approved participants, and to harmonize PIP with the US Customs-Trade Partnership Against Terrorism (C-TPAT) security program.

KPMG regularly conducts joint-compliance and security assessments for clients that wish to register for programs such as PIP or C-TPAT. If you wish to enrol in such a program, contact your KPMG adviser.

### **Assessing Your Company’s Customs Compliance Risk**

KPMG’s Trade and Customs practice has developed a reasonably-priced, and valuable compliance assessment tool to help assess your company’s customs compliance risk. This tool allows us to provide a snapshot report that consolidates your company’s

import activity as far back as four years and clearly outlines your company’s key customs risk areas. The report also advises you on potential monetary penalties, duty recovery opportunities, unusual transactions, time-sensitive trade benefits, and other areas of concern.

The assessment tool is an excellent first step to determine whether your company needs a customs compliance review. Performing a customs compliance review as part of your annual business operations may provide your company with sufficient customs assurance as well as mitigate unforeseen customs duty, tax, and penalty assessments. The tool can also detect compliance problems without intruding on your company’s internal resources.

Finding and correcting compliance issues before a CBSA audit can help you avoid potential monetary penalties and costly retroactive corrections.

To learn more about the customs compliance assessment tool, contact KPMG’s Trade & Customs practice.

### **Customs Duty Recovery**

As the popularity of sourcing products globally, particularly from Asia, continues to grow, KPMG’s Trade & Customs practice continues to help identify recovery opportunities for Canadian importers through our duty recovery and duty relief services.

Many importers do not recognize the many ways they can realize customs duty recoveries. Broadly speaking, these recoveries can be realized through

- duty recovery reviews to identify customs duty overpayments
- administrative provisions such as drawbacks, duty deferral programs, and orders in council
- applying for relief under the special relief provisions granted by government authorities.

### **CBSA Issues—Revised Re-Assessment Policy**

The CBSA recently issued a new Customs Memorandum (D-Memo) clarifying when an importer must correct inaccurate import declarations, and how far back such corrections must be made, particularly for declarations of origin, tariff classification, and value for duty.

The D-Memo also presents several scenarios under which an importer would be deemed to have specific information giving the importer reason to believe the declaration is inaccurate, therefore obligating the importer to correct the declaration within 90 days of receiving such information.

How far back corrections to inaccurate import declarations must be made can be unclear. The scenarios presented in the D-Memo involve whether the importer is the subject of a CBSA post-release verification or an importer-initiated post-release verification, and whether the importer had reason to believe the import declaration was inaccurate before such a CBSA audit. Correction periods for importers may vary depending on the scenario.