

# tradeweek

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## New Export Reporting System



Rob Kreklewetz, Millar Kreklewetz

*The following article was written by Rob Kreklewetz and Vern Vipul of Millar Kreklewetz LLP.*

*The footnotes for this article are available on our Web site at: [www.iecanada.com/](http://www.iecanada.com/)*

*members\_only/tradeweek/footnotes/05\_vol.116.05\_rob\_kreklewetz.pdf.*

Under the *Customs Act*, all goods that are exported from Canada must be reported to the Canadian government. As a result of Canada's new border initiatives, the former *Reporting of Exported Goods Regulations* (the regulations), which set out the rules for proper reporting, have been completely revamped. While initially slated for March 31, 2005, the Canada Border Services Agency (CBSA) has (just today) delayed implementation of the new system to May 16, 2005, in part as a result of pressure from affected parties, such as members of the rail and courier associations and the Shipping Federation.

While certain elements of the new regulations are identical to the old regulations (for example, most ex-

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## We Value Your Input

Last October, the Canada Border Services Agency (CBSA) unveiled its plans to begin consulting with the trade community to determine the need to make changes to the Free and Secure Trade (FAST) program.

The national consultations are well underway. We are surveying our members to determine their views on the need for changes to the FAST program or an alternative clearance

option outside of CSA/FAST and ACI.

We need your input to ensure the feedback we submit to the CBSA is representative of our membership. Please complete the survey on our Web site at: [www.iecanada.com/industry\\_news/2005/05\\_02\\_02\\_fast\\_questionnaire.pdf](http://www.iecanada.com/industry_news/2005/05_02_02_fast_questionnaire.pdf).

Our survey will close on Monday,

***Input, cont'd on pg. 5***

## Advocacy Day



Jefferson Memorial, Washington

On March 1, 2005, Canada's international trade minister led a delegation of Canadian MPs, provincial officials, and business leaders to Washington to lobby U.S. politicians on major trade issues. Mary Anderson of I.E.Canada joined the delegation and represented the interests of our members.

The advocacy day on Capitol Hill gave the group the chance to build relationships in Congress and the U.S. administration.

The Canadian delegation underlined the importance of the Canadian-U.S. trading relationship and stressed that trade disputes compromise jobs, investment, and the global perception of competition in North America. The group discussed the following disputes with legislators on trade committees in the Senate and the House of Rep-

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## Export Reporting, cont'd from pg. 1

ported goods will only have to be reported if they are worth more than \$2,000 and goods destined to the United States will be exempt from reporting), the new regulations usher in some very different requirements.

First, the new regulations introduce a risk management regime and impose strict reporting requirements on exporters, carriers, and, to a lesser extent, customs service providers. These changes are intended to correct deficiencies in the reporting system for exported goods.

The new regulations also introduce the following clarifications:

- They identify who is responsible for reporting the exported goods
- They establish time frames under which the export report must be made
- They provide where goods that are exported must be reported
- They identify the circumstances under which an export report must be made
- They offer exceptions and alternatives to the general method of reporting

In general, the new regulations can be seen to impose a much greater burden on exporters, carriers, and customs service providers. And where these players fail to comply with the regulations, they will face Administrative Monetary Penalty System (AMPS) penalties.

The balance of this article outlines the new system and its fundamental requirements.

### Reporting by the Exporter

The exporter must report all goods that are exported to the CBSA.

This reporting may be submitted to the CBSA using one of the following methods:

- Canadian Automated Export Decla-

- ration (CAED) Export Reporting
- G7 Electronic Data Interchange (EDI) Export Reporting
- Form B13A Export Declaration
- Summary Reporting

Upon successful submission of the reporting to the CBSA, a "proof of report" will be generated. If the carrier has signed a Memorandum of Understanding (MOU) with the CBSA, the proof of report must be submitted to the carrier **before the goods may be loaded for export** (sometimes referred to as the "no report, no load" requirement). Note that a carrier who has not signed an MOU with the CBSA, doesn't require a proof of report.

### Time Frames

The regulations require exporters to submit the export report before the goods are exported in keeping with the following legislated time frames for each mode of shipment:

**Mail:** Not less than two hours before the goods are delivered to the post office where the goods are mailed

**Marine:** Not less than 48 hours before the goods are loaded onto the vessel

**Aircraft:** Not less than two hours before the goods are loaded on board the aircraft

**Rail:** Not less than two hours before the railcar on which the goods have been loaded is assembled to form part of a train for export

**Highway:** (or any other means) Immediately before the exportation of the goods

Live animals, bulk goods, homogeneous goods, or time-sensitive goods may be reported immediately before they are exported (unless they are restricted goods).

### CAED

CAED is a Windows-based software that allows exporters to complete and submit their export declaration to the CBSA by the Internet or by e-

mail. The necessary software is available free of charge. A CAED demonstration and information on how to obtain the software are available from Statistics Canada.

### Summary Reporting

Although the majority of exporters with reporting requirements use CAED, the old monthly Summary Reporting process is still available. The Summary Reporting process allows authorized exporters to submit a summary report after the goods have been exported (rather than report the goods before they are exported).

As Summary Reporting is intended for exporters who regularly export low-risk goods, one will see that it will generally only be available for bulk or homogeneous goods.

The Summary Report ID number will act as the proof of report when Summary Reporting is used. The Summary Report ID number must be submitted to carriers who have signed an MOU with the CBSA before the goods can be loaded for export (see below).

### Restricted Goods

As under the old rules, goods that are controlled, regulated, or prohibited by any federal legislation, must be reported by the exporter before they are exported regardless of destination.<sup>1</sup> In addition, the requisite export certificate, permit, or licence must be submitted with the export report, authorizing the goods for export.<sup>2</sup>

(While the new regulations provide preferential treatment for the reporting of goods in certain circumstances, such preferential treatment is generally unavailable if an officer suspects on reasonable grounds that goods are exported contrary to federal legislation.)

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## Advocacy Day, cont'd from pg. 1

representatives:

### The Softwood Lumber Dispute

The softwood lumber dispute is one of the most difficult issues between Canada and the United States.

Although Canada has won WTO and NAFTA rulings in the dispute, it hasn't been resolved. Washington has refused to drop its duties on softwood lumber imports from Canada, or return the roughly \$4 billion it has collected in levies on Canadian softwood lumber. In early February, Ottawa requested WTO authorization to levy penalties on American imports of more than \$4 billion.

### The Byrd Amendment

Ottawa is also pressing Washington to abolish the Byrd Amendment, which requires American customs authorities to forward the duties collected from an anti-dumping or anti-subsidy order to American firms petitioning for the duties. To date, the American government has paid more than \$1 billion directly to U.S. companies that file successful antidumping and countervailing duty petitions.

In 2002, a WTO dispute settlement panel ruled that the Byrd Amendment violates U.S. trade obligations. The decision was later upheld by the WTO Appellate Body, which cleared the way for retaliatory sanctions unless the U.S. repeals the law.

Although the Canadian government is open to a negotiated settlement, it is serious about the prospect of retaliation if necessary if the Byrd Amendment is not abolished.

### Windsor/Detroit Border Crossing

The Canadian delegation underlined the importance of strengthening the infrastructure at the Windsor-Detroit border crossing, which is the busiest link between the United States and Canada. Heightened security has resulted in backups on

both sides of the border.

### NAFTA Dispute Settlement

The delegation expressed concerns that the NAFTA dispute settlement system is not working as it should.

### Making New Contacts

The Canadian delegation also met with members of the Consuming Industries Trade Action Coalition (CITAC). The group has called on the U.S. Congress to repeal the Byrd Amendment for the benefit of U.S. consuming and other industries, to comply with international trade rules, and avoid retaliation by U.S. trading partners.

The trade group wants to ensure that U.S. consuming industries and manufacturers have access to global markets for imports that enhance the international competitiveness of American firms.

"The Byrd Amendment rewards U.S. companies for doing nothing more than filing trade suits," said Michael Fanning, chairman of CITAC. "The law creates a strong incentive to file unjustified trade cases that harm American consumers and the consuming industries that serve them."

U.S. companies in the steel and steel-containing products sectors captured over \$138 million U.S. in Byrd payouts and American candle companies received more than \$50 million U.S. in the 2004 fiscal year. Food products, softwood lumber, chemical, and cement companies also received significant payouts. (The list of \$1 million-plus recipients is available on CITAC's Web site at: [www.citac.info/](http://www.citac.info/).)

### Building Relationships

The Washington visit also gave the representatives of the various trade associations the chance to meet and discuss advocacy opportunities and trade issues they have in common. Mary Anderson met Hal Northcott, president, American Association of



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Exporters and Importers (AAEI).

Mary Anderson suggested that I.E. Canada and AAEI explore closer collaboration with each other. She also invited Hal Northcott to speak at our Emerging Issues in Customs Conference in April. Hal accepted the invitation and will discuss AAEI's priorities and its response to key American customs issues. We look forward to welcoming Hal at our upcoming customs conference!

## Shipping and Trade Horizons



Leo Ryan

***Shipping and Trade Horizons**, a Tradeweek column, is produced by Leo Ryan. The column addresses Canadian industry issues and trade developments of interest to our members.*

### Timely Canada Trade Mission to India

When one looks at the attention being paid by Canada's business community to emerging markets, China has obviously been on the top of the radar screen, followed perhaps by Brazil. Clearly the opportunities in India, the world's fourth largest economy in terms of purchasing power parity, have not been fully appreciated.

Thus, a planned trade mission on April 3-7 to Mumbai and New Delhi led by James Peterson, the federal Minister of International Trade, will be a timely event. A Team Canada mission to India in 2002 involved some 150 business executives and government officials.

Interestingly enough, the upcoming mission comes on the heels of a recent economic mission to India organized by the Quebec government. In the words of a participant in this mission, Ida Crasto, a shipping

agency executive who is a member of the Quebec-India Business Council, the key to success lies in building a wide network of contacts through what she calls "the three Rs of business – relationship, relationship and relationship."

Over the next 10 years, India is poised to make tremendous economic strides. According to a Goldman Sachs report, India's growth rate will exceed that of China by 2010. Last year, its GDP climbed by 7.5 per cent. Just the red-hot Information Technology sector, which is advancing by about 30 per cent annually, is expected to account for up to 8 per cent of GDP by 2008.

There are forecasts, too, that India's population, currently close to 1.1 billion, could overtake mighty China (1.3 billion people) within a few decades.

There have been many false dawns in India's reforms in recent years, but the new Congress government, despite reliance on support from communist parties, has pledged to liberalize the economy further and double its share of world trade within five years.

The expanding middle classes have pressing needs for everything from education and medical care to financial services. On the other hand, there continues to be awesome human development, environmental and infrastructure challenges. The World Bank estimates that over 30 per cent of India's population lives on less than \$1 a day. The income gap between rich and poor remains alarming.

Canada's largest trading partner in South Asia, India, nevertheless, ranks just 18<sup>th</sup> among Canadian export markets. Our exports have risen from \$560 million in 2000 to \$875 million in 2004. Imports are more substantial, increasing from

\$1.2 billion in 2000 to \$1.6 billion in 2004, reports Statistics Canada. Main exports include non-industrial diamonds, knitted cotton apparel and chemicals. Leading imports include newsprint, telephonic equipment, potassium chloride and wood pulp.

Canadian trade officials see significant opportunities for Canadian trade and investment in such areas as agriculture, information technology, transportation, biotechnology, mining and minerals, oil and gas development, insurance and banking. There is a growing Canadian presence in fields such as education, software, and financial services. On the investment side, the New Delhi authorities have shown a more open attitude towards overseas investments by Indian companies. A previous regulation limited such investment to 50 per cent of the net worth of the Indian firm and a ceiling of US\$100 million. This restriction has been removed.

Meanwhile, Canadian importers and exporters are well served by the various global and niche carriers active in the maritime trade between Canada and India. These carriers notably call at the ports of Montreal, Halifax, Saint John and Vancouver. And with mounting congestion at west coast ports, Halifax considers that shippers in the Indian subcontinent should look more closely at the deepwater Nova Scotia port to bring their goods to North America via the Suez Canal.

**leo.ryan@bellnet.ca**

#### Did You Know?

More trade flows between Windsor, Ontario and Detroit, Michigan than through any other border crossing in the world.

More than 15 million vehicles crossed the busy link between 2003 and 2004.



## Export Reporting, cont'd from pg. 2

### Exceptions to Export Reporting

The regulations outline a number of exceptions to export reporting, including those found in section 6, which lists certain classes of goods that may be exported without being reported. The exceptions include personal and household effects, personal gifts, and donations of goods (excluding conveyances), and goods exported for repair or warranty repair that will be returned to Canada.

Other clear exceptions include those commercial goods with a value of less than \$2,000. In addition, goods exported to the U.S. within the scope of the MOU on the Exchange of Import Data between Canada and the U.S. are exempt from export reporting (with the exception of those goods exported to the U.S. by train).<sup>3</sup>

### Reporting by a Carrier

While export reporting is required for all "exporters," carriers are also required to report the conveyance to the CBSA before the conveyance departs, regardless of whether they have signed an MOU with the CBSA.

Fortunately, the "conveyance reports" requirement does not apply to regularly scheduled aircraft departures or highway conveyances (with some exceptions).<sup>4</sup>

Finally, section 10 of the old regulations required carriers to submit cargo reports before the goods were exported. However, non-highway carriers who have signed an MOU with the CBSA may report all goods at a prescribed time following the exportation of the goods. Such carriers will require a proof of report from the exporter before they load the goods for export. Highway carriers are generally only required to report goods moving in transit through Canada to a destination outside of Canada.

### Customs Service Providers

Section 14 of the new regulations

states that "customs service providers," such as brokers and other agents, are only required to report exported goods when, at the time of exportation, a customs officer suspects on reasonable grounds that the goods are being exported contrary to federal legislation. **For that reason**, the customs officer requests that the goods be reported.

### Further Information

CBSA's administrative policy on the new regulations will be finalized soon. CBSA Memorandum D20-1-1, *Export Reporting*, will outline the agency's administrative policy in this context.

### Input, cont'd from pg. 1

April 4. You still have a few weeks to complete the survey. It will only take a few minutes of your time!

### Emerging Issues in Customs

Don't miss our Emerging Issues in Customs Conference, which takes place April 18 to 20, 2005. The Hilton Toronto Airport Hotel will be the venue for the event.

This three-day program is packed with workshops and concurrent sessions that are ideal for trade and logistics professionals seeking ways to bolster customs and trade compliance.

The association has invited senior representatives from the Canadian and American customs agencies to participate. Delegates will learn about the very latest customs changes and how companies are planning for these modifications.

We have recently confirmed A.N. Deringer as our silver sponsor. Other sponsorship opportunities are also available. For details, visit our Web site at: [www.iecanada.com](http://www.iecanada.com).

### ExpoWorld Canada

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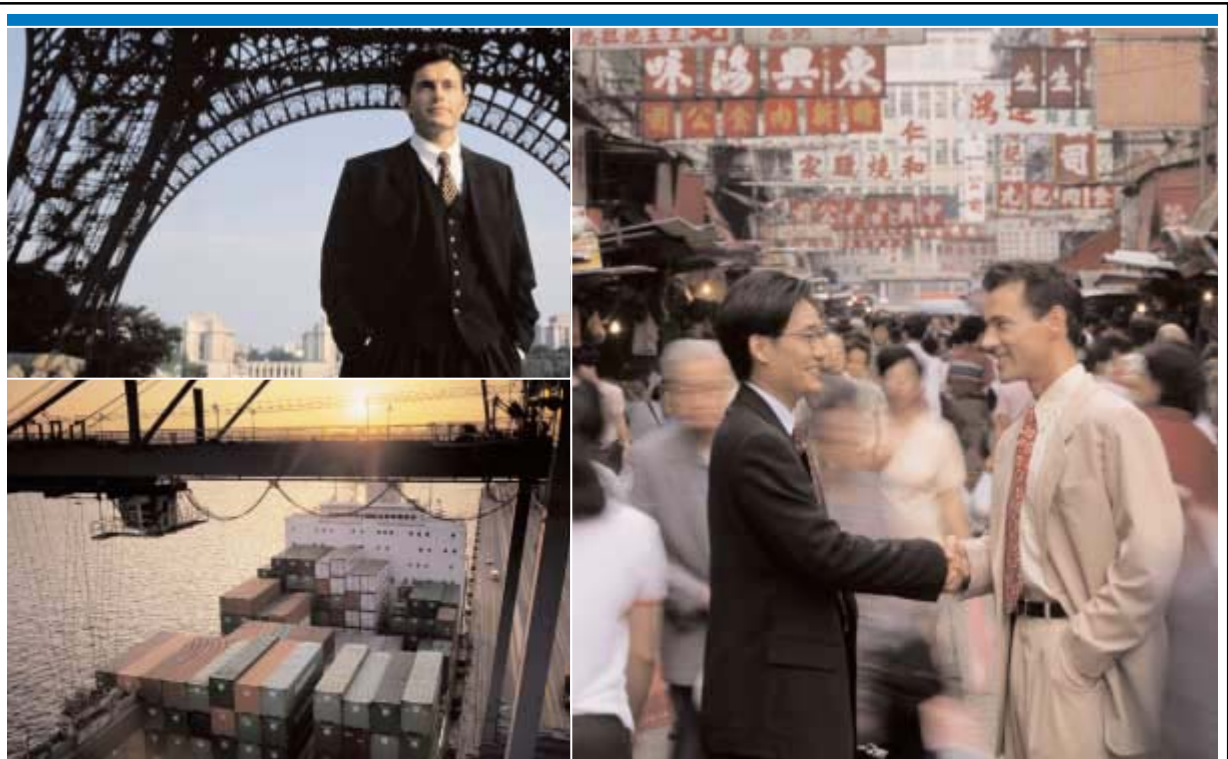
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### The Byrd Amendment

We would like to know your company's stance on the Byrd Amendment. Do you support the Byrd Amendment or would you like to see it abolished? Please relay your thoughts to Mary Anderson by e-mail at: [manderson@iecanada.com](mailto:manderson@iecanada.com).



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Canadian Association of Importers and Exporters Inc.  
Association canadienne des importateurs et exportateurs inc.

438 University Avenue, Suite 1618  
Toronto, Ontario M5G 2K8  
Telephone 416 595-5333  
Fax 416 595-8226  
[www.iecanada.com](http://www.iecanada.com)

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Assistant and Desktop Publisher: Chris Neilson

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