



Beyond the Border: *Shared Vision for Perimeter Security and Economic Competitiveness*

Trusted Traders

Tier II Stakeholder Joint Consultation Report

This report was based on information available prior to September 28, 2012.

Introduction

On February 4, 2011, the Prime Minister of Canada and the President of the United States issued *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*. A joint Action Plan was developed to reach the goal of a perimeter approach to security and economic competitiveness. One of the four areas of cooperation identified in the Action Plan is trade facilitation, economic growth and jobs which contains deliverables designed to enhance benefits of programs that help trusted businesses to move efficiently across the border while reducing their administrative burden.

As part of the Action Plan, U.S. Customs and Border Protection (CBP) in conjunction with the Canada Border Services Agency (CBSA) committed to *“jointly consult with tier-two stakeholders in both countries to identify and assess additional ways to expedite border processes. Recognizing that tier-two members have already provided us with extensive information, we will identify and assess options to collect data in advance through streamlined and more efficient means that are more responsive to shippers’ business processes, while safeguarding our ability to assess individual shipments for the risk they may present. A report with recommendations on pilots or new initiatives will be completed and distributed to members by September 2012.”*

Tier II Trusted Trader programs focus on trade compliance as well as expedited border and accounting processes.

On May 16 and July 25, 2012 joint consultations were conducted with a cross-section of Tier II stakeholders in both countries. The objective of the consultations was to identify additional methods to expedite processes for Tier II stakeholders which have not been identified as part of the Action Plan.

This report will first provide a brief overview of the current Tier II programs, outline the ideas that were provided during the joint consultations, and identify the next steps that the CBSA and CBP intend to pursue.

Current Tier II Importer Programs

The CBSA Customs Self-Assessment Program

The Customs Self-Assessment (CSA) Program was implemented as part of the Customs Action Plan in December 2001. Importers who demonstrate a good compliance history with the CBSA, pass a vigorous risk assessment process, and who can demonstrate that their books, records and business systems have, or are expected to have, the necessary internal controls and procedures — including linkages, controls and audit trails — to support the CSA program, can become CSA participants.

Approved CSA importers are responsible for self-reporting related revenues on the importation of goods into Canada to the CBSA. Importers use the data stream from their own business

systems to fully self-assess and satisfy customs requirements and no longer need to maintain additional and separate customs processes. Additionally, each importer is assigned a compliance manager to facilitate CSA participation.

There are three main benefits of the CSA program: expedited border clearance, trade data reporting and corrections, and revenue reporting and payment which is explored in detail below.

Expedited Border Clearance

CSA importers provide information on their Trade Chain Partners (TCPs) to the CBSA in advance of clearance, in profile form. As a requirement of continued participation in the CSA program importers are required to keep this profile information up to date. This allows the CBSA continual access to the data elements which can be used to identify any possible threats to health and security or for further risk assessment and scrutiny as is deemed necessary.

Due to the fact that CSA members are subject to vigorous risk assessment when applying to the program and that TCP information is provided in advance of clearance, CSA members gain efficiencies at the border. One of the efficiencies gained by CSA importers is that when goods qualify for CSA clearance importers do not have to transmit transactional information in advance of arriving at the border. Goods shipped to Canada directly from the United States and Mexico that do not have any Other Government Department restrictions, are eligible for CSA clearance. There are three data elements that must be presented for a CSA clearance: a bar code representing the CSA carrier, one representing the CSA importer's business number, and identification confirming that the driver is a member of the Free and Secure Trade (FAST) program. This expedited process represents the potential for significant savings for the importer through reduced administrative costs.

CSA importers who are also members of Partners in Protection (PIP), using a carrier who is a member of both the CSA and PIP programs, are eligible to use FAST lanes or booths where available. Dedicated FAST lanes or booths are available at Canada's busiest commercial border crossings: Windsor/Detroit Ambassador Bridge, Sarnia Blue Water/Port Huron Bridge and Pacific Highway/Blaine–British Columbia/Washington. Use of the FAST lanes/booths translates into shorter wait times at the border and faster delivery times, which is a competitive advantage for both carriers and importers.

Trade Data Reporting and Correction

Although the clearance option is restricted, all trade data and revenue reporting, regardless of shipment origin, are eligible for the simplified CSA processes. Reporting is triggered by the CSA importer's books and records which improves compliance and reduces penalties for the company. They are also able to consolidate their trade data reporting and adjustments which results in fewer customs transactions. CSA importers have longer reporting time frames for customs data which improves accuracy and completeness of what is submitted to the CBSA and reduces the number of adjustments required. For example, non-CSA importers must provide trade data for their high-value shipments within five business days whereas CSA

importers report trade data on a monthly basis. Adjustments filed by CSA importers are done electronically, while non-CSA importers must file adjustments in paper form.

Revenue Reporting and Payment

CSA importers self-assess the revenues they report and must submit a monthly summary form reporting revenue on the importation of commercial goods into Canada. This is given to the CBSA on a single electronic document that contains a summary of all accounting, adjustment, penalties and drawbacks for the accounting period. Refund and drawback amounts are reported as credits, deducted from amounts owing each month, and payment is made at a financial institution for the net amount owing. This improves cash flow for the importer.

CBP's Importer Self-Assessment Program

CBP's Importer Self-Assessment Program (ISA) is a voluntary trade compliance program. A General Notice describing the Self-Assessment Program was published in the Federal Register on June 17, 2002 (67 Fed. Reg. 41298). The program provides the opportunity for importers, who have made a commitment of resources to develop and maintain a U.S. Customs and Border Protection (CBP) trade compliance program, to assume responsibility for monitoring their own compliance in exchange for certain trade facilitation incentives. The ISA is based on the premise that importers with strong internal controls achieve the highest levels of compliance and provides a means to recognize and support importers that have implemented such systems. As of September 30, 2012 the ISA program has 248 members that represent 24 percent of the total import value.

To be eligible for ISA, the applicant must be a U.S. resident importer, have at least two years of importing history with CBP and be a member of Customs-Trade Partnership Against Terrorism (C-TPAT). ISA applicants are required to maintain a system of internal control designed to provide reasonable assurance of compliance with laws and regulations enforced by CBP. Upon receipt of the ISA application, CBP conducts a complete risk assessment of the importer and evaluates the applicant's procedures and internal control over import-related transactions. The evaluation focuses on the design of the applicant's internal control, which involves determining if internal control is documented, logical, reasonably complete, and is likely to prevent or detect non-compliances in identified risk areas.

The design of internal control cannot be assessed through the evaluation of individual controls in isolation. Rather, controls are assessed as a group by:

- Obtaining an understanding of the processes and flow of information through the entry process;
- Determining what can go wrong within the entry process; and
- Determining whether the controls are sufficient to address the potential problems within the entry process.

Upon completion of the evaluation process, CBP prepares a report that is provided to the ISA Review Board, an independent body within CBP responsible for deciding whether the applicant

will be accepted into the program. Upon acceptance into the program, ISA members may experience the following:

- Exemption from the focused assessment audit pool
- Expedited cargo release
- Designated national account manager
- Expanded opportunities for prior disclosure
- Possible mitigated penalties and liquidated damages
- Priority consideration to participate in the Centers of Excellence and Expertise
- Expedited internal advice or rulings requests
- Quarterly submission of importer's entry summary data
- Opportunity to apply for coverage of multiple business units

Joint Consultations

The first consultation was held on May 16, 2012 in Washington, D.C. The second consultation was held on July 25, 2012 in Washington, D.C. with the "Businesses for a Better Border (B3)" coalition.

Findings

During the consultations many ideas were discussed that we have divided into items for consideration by the CBSA and CBP.

CBSA

- Can other government department (OGD) data requirements be simplified or provided post-border? The general consensus from stakeholders was that this is where the majority of delays at the border are experienced.
- Can in-bond (from the U.S., Mexico or a free-trade zone) or in-transit goods coming from the U.S. be made eligible for CSA clearance?
- Can Tier II Trusted Traders receive front of the line examinations? What about front of the line application processing, appeal processing, advance rulings, etc.
- Make offshore goods eligible for the CSA program.

CBSA Initiatives

As a result of the consultations the CBSA has committed to exploring the feasibility of the following enhancements for its Tier II Trusted Traders:

- Implementation of a CSA offshore option
- Streamlining of OGD data requirements
- CSA clearance for in-bond (from the U.S., Mexico or a free-trade zone) and in-transit shipments from the U.S.
- Front of the line privileges

CSA Offshore Implementation

At the joint consultation in May, Canadian Tier II stakeholders reiterated their request for an option for CSA clearance of goods coming from offshore countries. Currently only goods shipped to Canada directly from the United States and Mexico are eligible for streamlined CSA clearance. An offshore option would allow for an all-inclusive choice between the regular transactional stream and CSA clearance with minimal transactional data.

Under the proposal the exact same data elements agreed upon for security screening would be collected from the CSA importer. However, the CSA importer would provide all of the data elements in advance, in profile form. As with the current TCP information, the importer would be required to keep their profile information up to date. This would allow the CBSA continual access to the same data elements for CSA importers which would be provided on a transaction-by-transaction basis for non-CSA importers. This data would then be available to identify any possible threats to health and security or for further risk assessment and scrutiny as is deemed necessary.

In this proposal there would be no change to the carrier's requirements; they would still be required to provide crew, conveyance and cargo information transactionally for risk assessment purposes. The offshore option would cover all modes and allow for an all-inclusive choice between the regular transactional stream and a profile-based CSA clearance option for trusted traders with minimal transactional data.

The CBSA has performed extensive research and consultation surrounding this issue and the trade community has presented the CBSA with a cost analysis indicating they would receive substantial savings from a CSA offshore option. The CBSA has taken this under advisement and is currently examining the feasibility of providing a CSA offshore option to Tier II stakeholders.

Streamlining of Other Government Department (OGD) Data Requirements

The CBSA continues to work with OGDs to find methods of streamlining the provision of data required for the clearance of goods. To that end a pilot has begun with Natural Resources Canada (NRCan).

NRCan announced that effective April 12, 2012, new *Energy Efficiency Regulations* and NRCan data elements will be required at the time of clearance. The new and existing NRCan requirements did not allow CSA clearance for NRCan-regulated commodities.

After liaising with NRCan, the CBSA was able to reach an agreement on a pilot to allow CSA importers to import regulated energy-using products under the CSA program. As of June 1, 2012, CSA importers have been able to import regulated energy-using products under the CSA program.

CSA importers are providing the required NRCan data elements, however, the data will be transmitted directly to NRCan monthly rather than at time of clearance.

CSA Clearance for In-bond (from the U.S., Mexico or a Free-trade Zone) and In-transit Shipments from the U.S.

CSA members also requested the expansion in the goods eligible for CSA clearance. Under the current program, goods must be shipped directly to Canada from within the U.S. or Mexico. Shipping of the goods to Canada must begin in the U.S., or if the goods have entered the U.S. from a third country, they must first enter the economy of the U.S. before shipment to Canada. Goods that are shipped to Canada through the U.S. from a third country without first entering the U.S. economy are not eligible for CSA clearance (i.e. in-transit/in-bond shipments).

The CBSA is to explore the feasibility and associated issues with allowing CSA clearance for in-bond shipments from the U.S., Mexico and free-trade zones as well as in-transit shipments from the U.S. Allowing CSA clearance for these shipments would allow streamlined clearance for the goods, and a reduction of data elements required at the time of clearance, both of which translate into cost savings for the importer.

Front of the Line Privileges

The stakeholders suggested during the consultation that front of the line privileges for examinations, appeals and advance rulings be extended to Tier II stakeholders.

The privilege of front of the line examinations pertains to Tier I trusted traders. The comments received during these consultations have been passed to the Tier I program area but do not form part of the purview of this report.

CBP Initiatives

The discussions with the CBP and CBSA stakeholders held in May 2012 were particularly informative and insightful. While the stakeholders on both sides expressed satisfaction with their respective trusted trader program, they identified some suggestions for CBP to consider. Some of the key areas of discussion were as follows:

- Inquiries about CBP's new initiative, the Centers of Excellence and Expertise, and how they would affect trusted traders regarding expedited cargo processing and increase efficiencies in data reporting.
- Some stakeholders suggested that CBP accept less information at time of entry for the release of cargo and reduce the data elements required.
- Some stakeholders suggested that CBP broaden the scope of harmonization to include other government agencies.

Centers of Excellence and Expertise (CEE)

The stakeholders asked what impact the CEEs may have on entry processing and how participants may be selected. While participation is voluntary, trusted traders have priority consideration for participation in the CEE. As the Centers become fully operational, all entries filed by ISA members should be routed through the appropriate CEEs based on the industry.

The approach of single-point processing of entries through the CEEs may effectively reduce redundancies and eliminate unnecessary reviews, while ensuring uniformity and maximum efficiency and predictability for trusted traders. During fiscal year 2012, CBP erected four CEEs for the following locations and industry:

New York, NY	Pharmaceuticals, Health & Chemicals
Los Angeles, CA	Information Technology & Consumer Electronics
Detroit, MI	Automotive and Aerospace
Houston, TX	Petroleum, Natural Gas and Minerals

CBP is currently working through the CEEs to transform the way CBP approaches trade operations and works with the international trade community. Because the CEEs are processing on an account level, CBP is able to more effectively enforce compliance and facilitate trade. The remaining six CEEs are scheduled to be implemented by fiscal year 2013.

Expedited Cargo Release and Simplified Entry Processes

ISA members have been removed from the Stratified Compliance Exam pool. Inbound shipments by these companies are exempt from Security Cargo Exams. This serves to expedite cargo facilitation process beyond that offered by the C-TPAT program.

CBP's Simplified Entry gives the trade community a streamlined importation process and represents the final link to automating the cargo release portion of the importation process in CBP's Automated Commercial Environment. Simplified Entry allows for earlier filing of the import data which allows CBP to tell the trade community sooner whether tier products may be admissible or whether additional information is required. The result is greater predictability and transparency of decisions made earlier in the supply chain process.

CBP has discussed with the trade community the possible development of a "Simplified Summary" program that would streamline the collection of duties, taxes and fees for ISA members. It would do this by permitting the periodic consolidated submission of information concerning the importation of goods over a calendar month, and the single payment of revenue obligations associated with those importations. CBP continues to consider the feasibility of such a program.

Broadening the scope of harmonization

The stakeholders urged CBP to pursue a "Single Window" approach of having a single point for the business-to-government submission of required information for imports. CBP continues to explore the feasibility of a Single Window approach.