



# Memorandum D3-7-1

Ottawa, August 17, 2015

## CBSA Marine Operations – Cargo Containers Used in International Service

### In Brief

This memorandum has been revised to denote the following changes:

- (a) Agency, Division and Branch names were revised to the current appellations.
- (b) Tariff classification numbers were updated.
- (c) Post Audit criteria and audit requirements added, cancelling D3-1-6.

This memorandum outlines and explains the conditions under which cargo containers may be temporarily imported into Canada while in international service.

## Guidelines and General Information

### Definitions

1. For the purpose of this memorandum,

**cargo container** – means a reusable and identifiable article of transport equipment, 6.1 metres or greater in length and having an internal volume of 14 cubic metres or more, classified under tariff item No. 9801.10.20, especially designed to facilitate the carriage of goods by one or more modes of transportation but does not include either a vehicle or conventional packing.

**container operator** – means a person or a company that is a lessor of cargo containers that are classified under tariff item No. 9801.10.20 and used in international service.

**container pool operator** – means a company that maintains a storage facility for cargo containers that are classified under tariff item No. 9801.10.20 and will be leased for use in international service.

**CBSA Post Audit System** – means an independent control system exercised by periodic audits of control and accounting documents covering the use of cargo containers that are classified under tariff item No. 9801.10.00 and conditionally imported by container operators or container pool operators approved under the authority of the Deputy Minister.

**Deputy Minister** – means the Deputy Minister of Public Safety.

### General information

2. These guidelines and procedures apply to cargo containers as defined in paragraph 1 only and do not affect in any way the normal container bank procedures under tariff item numbers. 9813.00.00 and 9814.00.00 for handling containers such as drums, skids, pallets, cores, racks and crates.
3. A cargo container that is employed in the international carriage of goods may be used:
  - (a) to carry goods from outside Canada to a destination or destinations in Canada;

- (b) to carry goods from a place or places within Canada to a destination or destinations outside Canada; and,
- (c) to carry goods from outside Canada to a destination outside Canada but travels in transit through Canada.

4. Cargo containers used to move cargo into Canada are to bear the name or reporting marks of the owner or lessee and the identification number of the container.

5. Information on the Customs Convention on Containers (1972) can be found in the Appendix of this memorandum.

## Documentation and Authorized Use

6. Cargo containers arriving in Canada under the CBSA Post Audit System do not require separate cargo control documents for each cargo container. Control is exercised by means of a Canada Border Services Agency (CBSA) audit of company records.

7. Cargo containers controlled under the CBSA Post Audit System must be exported from Canada within six months of importation.

8. Cargo containers arriving in Canada that are not under the CBSA Post Audit System must be controlled. A list of the cargo containers and their identification marks and numbers along with the cargo control document must be presented to the CBSA. Such containers can only remain in Canada for 365 days.

9. Cargo containers that are or not under post-audit control in Canada may make one domestic move under load en route to a repositioning of the container for export, i.e. between the point of discharge of the imported cargo and the point of loading cargo for export or the CBSA office at the point of exit. This procedure does not apply to a transcontinental or other movement under which a container pool in one part of Canada is merely being supplemented by containers from another pool.

10. In all cases, a cargo container must remain the responsibility of the party under whose control the container is stated to be at time of initial report to the CBSA.

11. Where there is significant evidence that the condition of a container creates an obvious risk to safety, the container may be retained in Canada pending restoration to a safe condition for a period not to exceed 24 months. In such instances, Form [E29B, Temporary Admission Permit](#), is to be issued for the container for a specified period of time that is sufficient to accommodate the stated contingencies and to provide for compliance by exportation. Containers reported under the Customs Post Audit System do not need to be documented on a Form E29B.

## CBSA Post Audit System

12. A firm that maintains an inventory of cargo containers for use in international service may be designated as either a post-audit container operator or container pool operator, provided the company maintains records acceptable to the CBSA of all containers under its ownership or control from which the CBSA auditors may determine all movements of such containers in Canada. Applications for post-audit status should be directed to the following program:

Border Information Service

**1-800-461-9999.** From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237.**

13. Cargo containers arriving in Canada under the ownership or control of post-audit container operators or post-audit container pool operators do not require cargo control documents. When the cargo container with cargo is turned over to a connecting carrier for furtherance to a destination for clearance, the carrier does not need to manifest the container. A reference to the owner or lessee, or the reporting marks, and the identification number of the container in question will be inscribed on the cargo control documents covering the cargo. Subsequent movements of the container in Canada, after the import cargo is discharged, will not be effected under a cargo control document but the CBSA control will be maintained by audits of the records of the container operator and the connecting carriers.

14. The repositioning described in paragraph nine (9) that are under post-audit control in Canada may take place over a route outside the territorial limits of Canada provided the following applies:

- (a) at the time of its importation, the container was being used to transport imported goods;
- (b) the container is repositioned to pick up a load in Canada for export;
- (c) the route taken is directly incidental to the repositioning;
- (d) the transportation equipment used to move the container is either of Canadian origin or has been fully duty-paid in Canada; and
- (e) the container is under the control of the CBSA Post Audit System.

15. Under no circumstances may an empty container arriving in Canada be used in domestic point-to-point service.

### **Criteria for Admittance to the CBSA Post Audit System**

16. In order to qualify for admittance to the CBSA Post Audit System, the applicant must:

- (a) have a third party relationship or, in other words, not be related to either the shipper or the consignee;
- (b) be licensed by appropriate regulatory authorities to engage in the international carriage of goods;
- (c) have approved CBSA bonded carrier status and have been a bonded carrier for one year;
- (d) be responsible for making the initial report to the CBSA of all import shipments made by that company into Canada;
- (e) permit agency auditors access to all company records for the purpose of determining eligibility for the system and compliance with CBSA reporting requirements;
- (f) have available, for the purpose of the opening audit (the facilitation audit), the CBSA cargo reporting documents covering at minimum the last calendar year;
- (g) must be able to isolate cargo moving into Canada from all other cargo being carried by the company;
- (h) maintain an audit trail that allows an auditor to correlate a shipment, identified in the revenue accounting records as having entered Canada, with the cargo control document and to verify its report to the CBSA;
- (i) maintain systems for the reporting of overage and shortage, Company owned material (COMAT) (imports made for the use and consumption of the company), and for the reporting of repairs made outside Canada;
- (j) import a sufficient volume of goods to warrant the cost to the Agency of maintaining the company on the post audit system. This volume figure must be determined on a case-by-case basis.

### **Audit Trail Requirements**

17. During both the initial facilitation audit to determine eligibility and subsequent verification audits, agency auditors will be reviewing company records relating to the reporting of import shipments and, where non-duty paid equipment is used, the use of that equipment in Canada.

18. Consequently, auditors will require access to such records as:

- (a) bills of lading;
- (b) waybills;
- (c) invoices;
- (d) CBSA Cargo Control Document(s);
- (e) electronic Advance Commercial Information reports;
- (f) equipment lists;
- (g) equipment usage logs;

- (h) dispatch records;
- (i) accounts receivable;
- (j) accounts payable.

**Note:** This is not an all-inclusive list and additional information may be required, depending on the nature of the carrier's operation.

19. All of the documentation required for an audit must be available within the applicant's records. Audits will not be conducted at more than one company to track down any shipment.

20. A post audit carrier is permitted to contract with another carrier to transport goods into Canada on behalf of the post audit carrier. However, the goods must be reported to the CBSA under the post audit carrier's cargo control documents and carrier code. Furthermore, the audit trail for these goods must be maintained in the post audit carrier's books and records.

21. Applicants must maintain an internal system of control over the use of non-duty paid equipment entering Canada in the course of international service, as well as over non-duty paid equipment pick-up on interlines. The system must be able to provide the following information:

- (a) equipment identifiers. i.e. serial numbers;
- (b) dates of import shipments to Canada;
- (c) probill numbers;
- (d) origins of shipments;
- (e) destinations of shipments.

22. For additional information on the use of non-duty paid equipment engaged in the international commercial transportation of goods and persons, refer to [Memorandum D3-1-5, \*International Commercial Transportation\*](#).

## General

23. Post audit privileges are not transferable and cannot be sold or disposed of through amalgamation or change of ownership.

## Penalty Information

24. For information on administrative penalties, please refer to [Memorandum D22-1-1, \*Administrative Monetary Penalty System\*](#) (AMPS). Information on AMPS penalties is also available on the [AMPS Web page](#).

25. Other administrative sanctions, such as the revocation of program privileges and penalties of other government departments, may also be applicable.

26. In some situations, failure to comply with the CBSA requirements outlined in the [Customs Act](#) may result in the seizure and forfeiture of the goods and/or conveyance. In serious cases, criminal charges may be applicable.

## Additional Information

27. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

## Appendix

### Information on the [Customs Convention on Containers \(1972\)](#)

#### Purpose of Canadian Membership

1. Canada is a contracting party to the Customs Convention on Containers (1972). The purpose of Canada's membership in this international agreement is to help exporters and importers achieve the commercial benefits of container transportation by using containers that have been inspected and approved according to the provisions of the Convention and that are identified by an internationally recognized approval plate. Membership also gives Canadian manufacturers of containers an opportunity to have their products inspected and approved in Canada.

#### Basic Provisions of the Convention

2. The basic provisions of the Convention are the following:
- (a) Contracting parties must grant temporary admission of containers free of import duties and taxes; and,
  - (b) Containers should comply with the provisions of the Convention regarding construction, marking, inspection and approval.

#### Temporary Admission

3. The "Guidelines and General Information" section is sufficient in scope to comply with the free temporary admission provisions of the Convention and no change in existing procedures is necessary.

#### Construction of Containers

4. Approval for the international transport of goods may be granted only to containers constructed and equipped in the following manner:
- (a) No goods can be removed from, or introduced into, the sealed part of the container without leaving visible traces of tampering or without breaking the Canada Border Services Agency (CBSA) seal;
  - (b) A CBSA seal can be simply and effectively affixed to the container;
  - (c) The container contains no concealed spaces where goods may be hidden; and
  - (d) All spaces in the container capable of holding goods are readily accessible for CBSA inspection.

#### Marking of Containers

5. The following information is to be durably marked in an appropriate and clearly visible place on containers:
- (a) The country to which the container belongs;
  - (b) The identification of the owner or principal operator;
  - (c) The identification marks and numbers of the containers given by the owner or operator; and,
  - (d) The tare weight of the container, including all its permanently fixed equipment.

#### Inspection and Approval of Containers

6. Containers may be inspected and approved for the transport of goods under CBSA seal in one of two ways:
- (a) At the manufacturing stage, by design type; or
  - (b) At a stage subsequent to manufacture, either individually or for a specified number of containers of the same type.
7. The certifying agency responsible for granting approval must issue to the applicant, after approval, a certificate of approval valid either for an unlimited series of containers of the approval type or for a specified number of containers, as the case may be.
8. The beneficiary of approval must affix an approval plate to the approved containers before using the containers to transport goods under CBSA seal.

9. The approval plate has to be affixed permanently and in a clearly visible place adjacent to any other approval plate issued for official purposes.
10. The approval plate must take the form of a metal plate on which the following information is to appear:
- (a) The words, “Approved for Transport Under CBSA Seal”;
  - (b) The country/number of certificate of approval/year. For example, CDN/26/74 means Canadian Certificate of Approval, No. 26, issued in 1974; and
  - (c) Identification of the type of container and the serial number of the container in the type series.
11. The following certifying agencies have been authorized to inspect and approve containers in Canada:
- Lloyds Register of Shipping
  - Bureau Veritas
  - American Bureau of Shipping
  - Caution for Exporters
12. In order to obtain the benefits of the Convention, shippers must use a container that has been constructed, marked, inspected and approved for the international transport of goods according to the Convention. Failure to use an approved container could result in the shipment being delayed abroad.

### **Additional Information**

13. This Appendix is intended to convey the primary provisions of the Convention to shippers, carriers, container manufacturers, Border Services Officers and other interested persons. Additional information is available from the following:

- (a) International Affairs Division;
- (b) Regional assistant deputy ministers of Public Safety Canada;
- (c) Certifying agencies (see paragraph 11 of this Appendix).

<b>References</b>	
<b>Issuing Office</b>	Transporter and Cargo Control Programs Unit Program and Policy Management Division Commercial Program Directorate
<b>Headquarters File</b>	7672-0
<b>Legislative References</b>	<a href="#"><i>Customs Act</i></a> <a href="#"><i>Customs Tariff</i></a>
<b>Other References</b>	<a href="#"><i>D22-1-1</i></a>
<b>Superseded Memorandum D</b>	D3-7-1 dated May 3, 2013 D3-1-6 dated April 26, 2013