



Ottawa, July 3, 2009

# MEMORANDUM D3-1-5

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## In Brief

### INTERNATIONAL COMMERCIAL TRANSPORTATION

1. The Memorandum D3-1-5, dated September 5, 2008, supersedes Memorandum D3-1-5, dated March 24, 2000.
2. This In Brief page has been revised to denote changes made as a result of the Government of Canada's Paperwork Burden Reduction Initiative. This revision replaces the In Brief page dated September 5, 2008.
3. In accordance with the above, the following changes were made:
  - (a) Paragraph 8, Transportation Incidental to the International Traffic of the Goods (Incidental Domestic Use) (Memorandum D3-1-5, dated March 24, 2000), was deleted as the provincial requirement is not the responsibility of CBSA.
  - (b) Paragraph 6, Transportation Incidental to the International Traffic of the Goods (Incidental Domestic Use), and paragraph 13, Empty Vehicles and Containers (Memorandum D3-1-5, dated March 24, 2000), were combined; refer to paragraph 6, Transportation Incidental to the International Traffic of the Goods (Incidental Domestic Use) of Memorandum D3-1-5, dated September 5, 2008.



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Ottawa, September 5, 2008

# MEMORANDUM D3-1-5

## INTERNATIONAL COMMERCIAL TRANSPORTATION

This memorandum outlines the conditions under which foreign-based vehicles and containers used in the international commercial transportation of passengers or goods can be temporarily imported into Canada, without payment of duties.

Refer to Memorandum D3-7-1, *CBSA Marine Operations – Cargo Containers Used in International Service* for information regarding the conditions under which cargo containers may be temporarily imported into Canada while in international service.

### Legislation

#### *Customs Tariff*

98.01 Conveyances or containers of Chapters 86, 87, 88 or 89, engaged in the international commercial transportation of goods or passengers, including any ancillary equipment necessary to ensure the safety, security, containment and preservation of the goods or passengers.

9801.10.00 Conveyances or containers,

(a) on condition that:

(i) in the case of vehicles, they are registered and licensed in a foreign country and are operated in Canada with a vehicle licence issued by the appropriate provincial licensing authority;

(ii) in the case of aircraft, they comply with the requirements of the *Aeronautics Act* and any regulations made thereunder; and

(iii) in the case of vessels, they comply with the requirements of the *Canada Shipping Act* and *Coasting Trade Act*, and

(b) on condition that:

(i) the ancillary equipment for the containers does not include vehicles, accessories, spare parts of vehicles or packaging, and

(ii) the containers:

(A) are fully or partially enclosed to constitute a compartment intended for containing goods;

(B) are of a permanent character and suitable for repeated use;

(C) are designed to carry goods by one or more modes of transport without requiring intermediate reloading; and

(D) are 6.1 m or more in length and have an internal volume of 14 m<sup>3</sup> or more; and

(c) on condition that the conveyance or containers:

(i) are owned or leased and imported by a person whose domicile is in a foreign country;

(ii) leave from and return to the foreign country in the normal course of operation;

(iii) are controlled from the foreign country; and

(iv) are exported within 30 days of the date of their importation or for an additional period not exceeding 24 months where a CBSA officer is satisfied that the exportation of the conveyances or containers is delayed because:

(A) of adverse weather conditions;

(B) the conveyances or containers are being equipped, reconditioned, reconstructed, refurbished or repaired;

(C) the conveyances or containers have a major equipment breakdown;

(D) the conveyances or containers are detained under an order of a Canadian court, or under an Act of Parliament or the legislature of a province or any regulation made thereunder; or

(E) the delivery of the goods to be loaded on or in the conveyances or containers is delayed.

The conveyances or containers provided for in this tariff item may engage in the transportation of goods from one point in Canada to another point in Canada where:

(a) that transportation is incidental to the international traffic of the goods;

(b) the transportation does not occur outside the territorial limits of Canada; and

(c) the conveyance or container has not entered Canada for the purpose of an in-transit movement through Canada to a point outside Canada.

9801.20.00 Locomotives or railway rolling stock or miscellaneous railway equipment, regardless of tariff treatment entitlement or country of origin, owned or under the control of a railway company in the United States, temporarily engaged in the transportation of goods or passengers from a place in Canada to another place in Canada or imported on a temporary basis for the repair, testing or maintenance of railways in Canada.

9801.30.00 Vessels engaged in international commercial transportation having a Canadian base of operation, other than those having both the departure and destination points situated on the St. Lawrence River or the Great Lakes.

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#### GUIDELINES AND GENERAL INFORMATION

1. Tariff item 9801.10.00 allows foreign-based vehicles or containers used in the international commercial transportation of goods or passengers to be temporarily imported into Canada without payment of duties and taxes. Although no formal accounting is required, vehicles arriving in or departing from Canada may be required to report to CBSA to be examined.

#### Foreign-Based Vehicles or Containers

2. In this memorandum, “foreign-based vehicles or containers” means any vehicles or containers that:

- (a) are owned or leased and imported by a person whose domicile is in a foreign country;
- (b) leave from and return to the foreign country in the normal course of operation;
- (c) are controlled from the foreign country; and
- (d) are exported within 30 days of the date of their importation.

#### International Commercial Transportation

3. In this memorandum, “international commercial transportation” means any transportation resulting in, or intended to result in, the carriage of persons or goods for hire or reward, or any transportation of persons or goods by or on behalf of an enterprise engaged in an activity of financial return, where the persons or goods are conveyed:

- (a) from outside Canada to a place inside Canada;
- (b) from a place inside Canada to a place outside Canada; or
- (c) from a place outside Canada in-transit through Canada to another place outside Canada.

4. The determination of whether or not a foreign-based vehicle or container is engaged in international commercial transportation is based on the origin and destination of the goods carried and not the actual route of the vehicle. A vehicle or container used in the carriage of goods described in this memorandum are considered to be participating in the international commercial transportation of goods, even if it was not the one that actually brought the goods into Canada. There are no limits to the number of vehicles or containers that can be used to bring the goods to their destination.

#### Transportation Incidental to the International Traffic of the Goods (Incidental Domestic Use)

5. In this memorandum, “transportation incidental to the international traffic of the goods” means the transportation of goods between points in Canada that occurs immediately before or after the vehicle or container is used for international commercial transportation. Any vehicle or container qualifying under tariff item 9801.10.00 is allowed to engage in the transportation of goods from one point in Canada to another point in Canada provided it:

- (a) is moving in the general direction of the delivery point of the international load;
- (b) has entered Canada empty to pick up goods for export;
- (c) will be picking up a load for export after the delivery of the international load; or
- (d) is part of the return movement of the conveyance or container to its country of origin.

6. The transportation from one point in Canada to another point in Canada must occur immediately before or after the vehicle or container is used for international commercial transportation. Therefore, a foreign-based vehicle or container is restricted to one point-to-point movement immediately before or immediately after it is used for international commercial transportation. The restriction also applies to a foreign-based vehicle or container entering Canada with or without a payload (empty).

**Note:** A vehicle or container entering Canada may be used in transportation incidental to the international traffic of the goods on the inward leg of an international journey, provided it enters Canada to pick up a load for export.

7. In all cases, the transportation from one point in Canada to another point in Canada must follow a route that is similar and consistent with the movement of the goods in international commercial transportation. Foreign-based vehicles or containers may also be used in the transportation of goods from one point in Canada to another point in Canada to top off a less than full import or export load.

#### In-transit Movements

8. The *Reporting of Imported Goods Regulations* and tariff item 9801.10.00 allow qualifying vehicles or containers to participate in international commercial transportation from a place outside Canada in-transit through Canada to a place outside Canada.

9. A vehicle or container qualifying under tariff item 9801.10.00 that transports goods from a point outside Canada in-transit through Canada to another point outside Canada is considered engaged in international commercial transportation, although the goods may also have been transported on a Canadian-based vehicle or container. The

fact that the goods may have been transported on a Canadian-based vehicle or container for a portion of the journey then transferred to a foreign-based vehicle or container will not alter the international nature of the movement.

10. No incidental domestic use is allowed when a foreign-based vehicle or container transports goods from a point outside Canada in-transit through Canada to another point outside Canada, i.e., U.S. – Canada – U.S.

11. Similarly, no incidental domestic use is allowed when a foreign-based vehicle or container transports goods from a point in Canada in-transit through a foreign territory to another point in Canada, i.e., Canada – U.S. – Canada.

### **Empty Vehicles and Containers**

12. A vehicle or container entering Canada empty may be used in transportation incidental to the international traffic of the goods on the inward leg of an international journey, provided it enters Canada to pick up a load for export. The export load should have been scheduled prior to the time the vehicle or container enters Canada. In all cases, the incidental domestic use must follow a route that is similar and consistent with the destination of the vehicle in Canada where the export load will be picked up. The foreign-based vehicle or container will be restricted to one such movement during an international journey.

13. The movement of a foreign-based vehicle or container without a payload between two points in Canada is not considered transportation incidental to the international traffic of the goods. An empty foreign-based vehicle or container can be moved to any location in Canada freely and without restrictions.

### **Pick-up and Delivery Operations**

14. Carriers often operate terminals, warehouses, or drop yards in Canada as intermediate points to consolidate or deconsolidate shipments (break bulk) and to pick-up or deliver goods. After international goods have been delivered to one of these places, the foreign-based vehicle or container may be used to pick-up or deliver goods from that location for the remainder of the 30-day period permitted in Canada. This is allowed provided the vehicle or container is being used exclusively to complete deliveries of other international goods previously unloaded at the warehouse, or to pick-up and deliver to the warehouse goods that will eventually be exported from Canada.

### **Equipment Switching**

15. During the transportation to or from an intermediary point or final destination in Canada, the goods may be physically transferred directly from one vehicle to another, or the whole trailer may be transferred from one tractor to another tractor. There are no limits to the number of times international goods may be transferred to other foreign-based vehicles or containers.

### **Ancillary Equipment**

16. Ancillary equipment means any equipment which enhances the safety, security, containment, and preservation of goods carried in vehicles falling within the terms of tariff item 9801.10.00. Ancillary equipment can be imported pursuant to tariff item 9801.10.00 without documentation in accordance with the *Reporting of Imported Goods Regulations*, when it is used in international service.

### **Time Limits**

17. Under normal circumstances, vehicles or containers entitled to importation under tariff item 9801.10.00 must be exported from Canada within 30 days of the date of importation into Canada.

18. This period may be extended by a border services officer where the officer is satisfied that, at the expiration of the 30-day period, the departure of the vehicle is delayed for reasons specified in tariff item 9801.10.00. In this case, Form E50B, *Vehicle Permit*, may be issued for the conveyance for a specified period of time sufficient to accommodate stated contingencies and provide for compliance by exportation.

19. Vehicles or containers reported under the post audit system do not require approval from CBSA for extension of the 30-day time limit. Verification of circumstances where foreign-based equipment is in Canada beyond 30 days will be conducted as part of audits.

### **Record Keeping**

20. Every person who transports or causes to transport into Canada, goods that have been imported but not released, will keep all invoices, bills, accounts and statements, or a copy, relating to the transportation of the goods, in accordance with the *Transportation of Goods Regulations*. These records must be kept for a period of three years commencing on the 1st day of January of the calendar year following the calendar year during which the goods were transported.

### **Diversions/Penalties**

21. A vehicle or container which is diverted from use in international commercial transportation or is remaining in Canada beyond the 30-day time limit prescribed in tariff item 9801.10.00, will be accounted for in accordance with the provisions of the *Customs Act*.

22. Where there is sufficient evidence to demonstrate that the vehicle or container was not entitled to enter Canada duty-free because it fails to meet one of the conditions of tariff item 9801.10.00, CBSA may take seizure action under section 110 or ascertained forfeiture action under section 124 of the *Customs Act*.

## Verification, Enforcement, and Control

23. CBSA may perform periodic audits of the records kept by carriers who import vehicles or containers into Canada pursuant to tariff item 9801.10.00.

24. Complaints of alleged violations of tariff item 9801.10.00 or other suspicious cross-border activity can be directed to the Border Watch toll-free line at **1-888-502-9060**.

## Immigration Requirements

25. Citizenship and Immigration Canada should be contacted concerning immigration requirements when conveyances will be operated in Canada by persons who are not Canadian citizens or permanent residents of Canada.

26. Foreign-based vehicles or containers admitted under tariff item 9801.10.00 must also comply with the cargo control requirements outlined in the following memoranda:

*D3-2-2, Air Cargo – Import Movements*

*D3-4-2, Highway Cargo – Import Movements*

*D3-5-2, Marine Cargo – Import Movements*

*D3-6-6, Rail Cargo – Import Movements*

## Additional Information

27. The CBSA's Border Information Service (BIS) line responds to public inquiries related to import requirements of other government departments, including Industry Canada. You can access BIS toll-free throughout Canada by calling **1-800-461-9999**. If you are calling from outside Canada, you can access BIS by calling 204-983-3500 or 506-636-5064 (long-distance charges will apply). To speak directly to an agent, please call during regular business hours from Monday to Friday (except holidays), 8 a.m. to 4 p.m. local time. More BIS information can be found on the CBSA's Web site at **www.cbsa.gc.ca**.

28. For more information on Carrier and Cargo Programs, visit the CBSA Web site.

29. Please direct all correspondence to:

Carrier and Cargo Programs  
Commercial Border Policy Division  
Admissibility Branch  
Canada Border Services Agency  
150 Isabella Street, 4th Floor  
Ottawa, ON K1A 0L8

Fax: 613-957-9717

## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Carrier and Cargo Programs Commercial Border Policy Division Admissibility Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>7670-3</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Customs Tariff</i>, tariff item 9801.10.00, 9801.20.00 and 9801.30.00. <i>Reporting of Imported Goods Regulations</i> <i>Transportation of Goods Regulations</i></p>	<p><b>OTHER REFERENCES –</b></p> <p>D3-2-2, D3-4-2, D3-5-2, D3-6-6, D3-7-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>D3-1-5, March 24, 2000</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

