



**Record of Decisions (ROD)
FDFA-CBSA Meeting
April 26, 2017**

Attendees / Présents:

Darryl Larson (A/Director General; Trade and Anti-dumping Programs Directorate, CBSA)
Charles Chenard (Director General, National Real Property and Accommodations, CBSA)
Abe Taqtaq (President, FDFA)
Laurie Karson (Executive Director, FDFA)
Antoine Parker (Director; Industrial Products, Trade and Anti-dumping Programs Directorate, CBSA)
Philippe Bachand (BHT de Philipsburg – Quebec)
Shawn Riel (Manager; Assessment and Licencing Unit, Trade and Anti-dumping Programs Directorate, CBSA)
Samantha Gour (Strategic Advisor, Trade and Anti-dumping Programs Directorate, CBSA)

Summary of Discussion:

CBSA Organizational Changes

Effective March 20th, Darryl Larson was appointed to the position of acting Director General of the Trade and Anti-dumping Programs Directorate. Darryl has over 25 years of experience in conducting, managing, and directing investigations of unfair trade allegations (dumping and subsidizing) under Canada's *Special Import Measures Act*. In 2014, he was named as the Director of Program Integrity in the newly created Trade and Anti-dumping Programs Directorate in order to identify and address vulnerabilities in the management and delivery of the CBSA's programs.

Darryl, as well as Shawn Riel are seeking Vice-President approval to attend the FDFA Operators Semi-Annual meeting on May 31, 2017. The FDFA requested that they provide an update on Gordie Howe, at that time.

CBSA Comptrollership Update

In follow-up to the October 2, 2016 meeting which took place between the CBSA and FDFA, the CBSA provided an update on the independent third party review which was initiated to provide a fair market rental rate for the Crown land on which the Duty Free Shop's (DFS) are situated. The study conducted analyzed each DFS's land value, sales revenue, the population of nearby towns/cities, border traffic volumes and land value of nearby retailers. As per the commitment made by the CBSA, the new review ensured that DFS operators were engaged and consulted on a collective and individual basis so that the unique situation of each operator and land border market was taken into account. The attached paper summarizes the findings of the consultations. The CBSA anticipates that a final decision pertaining to this matter will be reached by June 24, 2017.

Administrative Forms (B116 & B117) Update

B116

The CBSA explained that it was still required to document domestic goods on the B116 as the value for tax for all goods in the duty free inventory must be tracked. This information is also required for the purposes of calculating the bond amount.

B117

The CBSA explained that it recognized there had been a significant delay in its response to the FDFA position paper; however, the Agency wanted to ensure that all of their views had been properly considered. It was also explained that due to recent changes at the executive level, Darryl required time to be briefed and understand



the file. That said, CBSA indicated that a response should be forthcoming. The CBSA then explained the background and privacy concerns, namely that under the *Privacy Act*, CBSA should not be collecting information that is not required in the administration of the program. As the duty free shop sales statistics were formerly collected to establish the license fee which has been eliminated, the purpose for which this information was collected is no longer present. CBSA explained that program compliance can be more effectively monitored through their inspection procedures.

The FDFA indicated that some port of entries were not accepting the B117 forms by email. CBSA stated that they could communicate with these sites to see if this issue could be resolved.

Update on CBSA Audits

The CBSA provided an update on the ongoing Audits in which the Trade and Anti-dumping Programs Directorate is implicated. Verification procedures in which the Directorate was responsible to develop have been finalized and are ready for distribution upon the translation being finalized. The CBSA anticipates that the implementation date of these procedures will take effect early May 2017. A communique will be written and sent to Laurie for distribution to FDFA members once the changes take effect. The audit procedures will not form part of this communique as it cannot be shared externally.

Moving forward annual audit verifications will take place for all DFS'. A notification will be sent to the operator by the CBSA prior to the audit verification taking place. CBSA regional staff will be conducting the verifications with support by Headquarters. The CBSA is to determine whether or not it is possible to send a list of what will be required during the audit to the operator in advance.

The FDFA raised concerns regarding the timing of the audits and what the protocol is surrounding the re-scheduling of said audits, should a DFS owner have prior commitments. The CBSA reassured the FDFA that they are amendable to rescheduling should that be the case. The CBSA also reassured the FDFA that should a DFS be found to be non-compliant, that this information is confidential. The FDFA requested that subsequent to the audits taking place, should minor infractions be found, that the list of infractions be sent to DFS operators as a reminder. The DFS name will not be provided with the list, as per CBSA confidentiality guidelines.

Bonds

The FDFA requested that the CBSA consider reducing the bond from 25% for DFS operators. The CBSA explained the intention of the bond and that it must cover 100% of the duties and taxes normally payable on the DFS inventory. The current level of 25% was achieved through a methodology proportionally weighing imported and domestic goods. While the CBSA noted that it can possibly revisit the bond calculation methodology, it is complex, and would need to be done on a case by case basis. This could result in bonds either increasing or decreasing.

Regulatory Update

In regards to D432 the CBSA indicated that they undertook a significant amount of work to review the policy and historical documentation. The CBSA is currently undergoing internal consultations. The CBSA's goal is to have the draft product ready for consultation with external stakeholders by fall 2017.

CBSA also provided an update on the regulatory amendments. Amendments were enacted through the customs notice and are now with Treasury Board. The CBSA anticipates that the triage will be approved in the future, and will then be sent to the Department of Justice.

Approved by:
Charles Chenard
Darryl Larson