



NEWS

Canada: New Advance Commercial Information (ACI) Requirements

We are grateful to Messrs Borden Ladner Gervais LLP, Montreal for the following advice on Canada's new Advance Commercial Information requirements.

In common with the new US Automated Manifest System (AMS), Canada has drawn up similar regulations to enable the Canada Border Services Agency (CBSA) to identify goods of unknown or high risk. The initiative, termed the Advance Commercial Information (ACI) system, was developed in conjunction with AMS and will enter into force on 19 April 2004. It is highly unlikely that the implementation date will be deferred.

Reporting Parties

Cargo details are to be reported via the ACI system by the Marine Carrier. CBSA officials have indicated that the Marine Carrier is considered to be the party responsible for the cargo as evidenced by the ocean bill of lading or the contract of carriage. In the case of consortiums, each participant is responsible for reporting their own cargo. The cargo information required is set out in Customs Form A6A, a copy of which can be found at: <http://www.cbsa-asfc.gc.ca/E/pbg/cf/a6a/a6a-00b.pdf>.

Details concerning the vessel are to be reported via the ACI system by the Master Carrier, deemed by CBSA to be the party responsible for the operation of the ship which may include the owner, the manager or the time charterer. Customs Form A6 contains the necessary particulars: <http://www.cbsa-asfc.gc.ca/E/pbg/cf/a6/a6-00b.pdf>.

Carrier Code

In order to transmit the data, the Marine Carrier and the Master Carrier will each require a 9000 series Carrier Code which may be obtained by completing Customs Form E369 "Application to Transact Non-Bonded Carrier Operations at Point of Arrival in Canada". For more details see: <http://www.cbsa-asfc.gc.ca/E/pbg/cf/e369/e369-99b.pdf>. The completed form should be faxed to CBSA's Carrier & Cargo Policy Section at +1 613 957 9717. A Carrier Code is normally issued within two working days.

Carriers who wish to forward cargo in bond from a Canadian seaport overland to a Canadian destination must apply for a Carrier Code using Customs Form E370 "Application to Transact Bonded Carrier and Forwarding Operations". For more details see: <http://www.cbsa-asfc.gc.ca/E/pbg/cf/e370/e370-00b.pdf>.

Customs Bond

CBSA regulations currently require Carriers to post security in the sum of CAN \$25,000 if they intend to forward cargo in bond from a Canadian seaport overland to a Canadian destination. However, no bond is required if the Carrier is not responsible for the inland movement of cargo or if a bonded highway carrier is used. It is understood that this policy will remain unchanged once compliance with ACI becomes mandatory.

A blank Customs Bond may be downloaded at <http://www.cbsa-asfc.gc.ca/E/pbg/cf/d120/d120-e.pdf>. For a list of CBSA-approved bond providers, see <http://www.cbsa-asfc.gc.ca/E/pub/cm/d1-7-1/d1-7-1-e.html#appB>.

A Customs Bond may be obtained for a single trip or on a general authorization basis. CBSA recommends that Carriers who transport more than five applicable shipments to Canada annually apply for the latter in order to expedite customs formalities.

Further information on Carrier Codes and Customs Bonds may be found at <http://www.cbsa-asfc.gc.ca/carrier/> and within the following CBSA Memoranda:

D1-7-1 "Posting Security for Transacting Bonded Operations": <http://www.cbsa-asfc.gc.ca/E/pub/cm/d1-7-1/d1-7-1-e.pdf>

D3-1-1 "Regulations Respecting the Importation, Transportation and Exportation of Goods": <http://www.cbsa-asfc.gc.ca/E/pub/cm/d3-1-1/d3-1-1-e.pdf>

D3-5-2 "Marine Cargo – Import Movements": <http://www.cbsa-asfc.gc.ca/E/pub/cm/d3-5-2/d3-5-2e.pdf>

Submission of Cargo Information

CBSA currently offers five Electronic Data Interchange (EDI) options to enable Marine Carriers to make cargo declarations via ACI. Details of these options are available on CBSA's website at: www.cbsa-asfc.gc.ca/import/advace/faqs-e.html.



CBSA may also permit a third party service provider to transmit the required information on behalf of the Marine Carrier. A list of companies who have approached CBSA to express an interest in offering such a service may be found [here](#). Further details may be obtained by contacting CBSA's Electronic Commerce Unit (Tel: +1 888 957 7224).

Once a third part service provider has been selected, the Marine Carrier and the service provider must complete an application and a Memorandum of Understanding, both of which must be sent to CBSA for authorisation before any cargo information is submitted. Alternatively, CBSA may be willing to accept an approved form specifying the Marine Carrier's full style, Carrier Code and method of EDI transmission.

Test Environment

Although CBSA has provided guidelines by which Marine Carriers must submit cargo and vessel data electronically, it is up to the parties themselves to develop the necessary forms to fulfill this task. No standard form or manifest has been created by CBSA. However, CBSA has established a test environment in which forms may be reviewed and evaluated, and where Marine Carriers may test the electronic transmission of data under the new ACI initiative.

Cargo to be Reported

The cargo data must include what CBSA terms a "detailed commodity description". Descriptions must be in plain language and detailed enough to allow CBSA officials to identify the size, shape, and characteristics of the goods. General descriptions such as "apparel", "electronics", and "equipment" are not acceptable, and should be replaced with more specific terms such as "clothing", "personal/household electronics" and "automotive equipment". Remarks such as "freight of all kinds", "said to contain", and "shipper's load, stow and count" are also unacceptable for the purpose of ACI reporting. However, Marine Carriers may continue to use such terminology on bills of lading.

Cargo Reporting Process

Marine Carriers must report cargo information electronically via ACI within a specified period of time prior to the vessel's arrival in Canada. Cargo loaded in the USA is not subject to such advance reporting requirements at the present time, although this may change once ACI has been fully implemented. Reporting requirements depend on the type of cargo being shipped.

Container cargo

Details of goods shipped to Canada in containers must be transmitted via ACI at least 24 hours prior to loading. The Marine Carrier will be permitted to load if CBSA does not issue a "Hold" notice within 24 hours of successful transmission of the cargo report.

Bulk cargo

Details of goods shipped to Canada in bulk must be transmitted electronically 24 hours prior to arrival in Canada. CBSA defines bulk cargo as being "goods that are loose or in mass, such that they are confined only by the permanent structures of a large container or a transport unit, without intermediate containment or intermediate packaging".

Other cargo including breakbulk cargo

For other cargo not shipped in containers or in bulk (eg breakbulk cargo), reporting is a two step process. The cargo data must be transmitted 24 hours prior to loading. If authorisation is granted, the cargo data must be transmitted again 24 hours prior to arrival in Canada. If no authorisation is received, the second report is to be made 96 hours prior to arrival.

Combined bulk and containerised cargo

In the case of a mixed cargo, containers must be reported 24 hours prior to loading at a foreign port and bulk cargo must be reported at least 24 hours prior to arrival in Canada.

Empty containers

Information regarding empty containers carried on board a vessel destined for Canada must be transmitted electronically 96 hours prior to arrival.

Transshipment cargo



If, after a cargo report has been transmitted electronically, cargo is removed from a vessel prior to arrival in Canada and transferred to another vessel for transportation to Canada, the cargo data must be re-transmitted at least 24 hours prior to transshipment.

Changes to cargo

All changes to cargo prior to loading will re-start the clock for reporting purposes.

Freight Remaining on Board (FROB)

Cargo loaded in another country for discharge after the vessel leaves Canada is termed Freight Remaining on Board (FROB). An ACI declaration is to be made for all FROB cargo (other than FROB cargo loaded in the USA) in accordance with the ACI reporting requirements applicable to the type of cargo concerned.

Vessel Reporting

Prior to arrival the Master Carrier must submit an ACI report containing ship identification details, capacities, voyage schedule and routing information. The timing of the submission depends on the type of cargo carried;

Vessels carrying containerised cargo	96 hours prior to arrival
Vessels carrying bulk cargo	24 hours prior to arrival
Empty containers	96 hours prior to arrival
Vessels carrying non-authorized break-bulk cargo	96 hours prior to arrival
Vessels carrying authorized break-bulk cargo	24 hours prior to arrival

In the case of voyages of less than 96 hours, an ACI submission regarding the cargo and the vessel is to be made at the time of departure.

Penalties

At the present time parties who do not comply with ACI reporting requirements are not liable for financial penalties. However, CBSA is currently in the process of reviewing the need for a penalty scheme. In the meantime failure to comply with ACI may result higher levels of scrutiny, delay, refusal to discharge or refusal to enter port.

Further Information

CBSA's website includes a "Frequently Asked Questions" section on ACI which may be found at <http://www.cbsa-asfc.gc.ca/import/advance/faqs-e.html#2c>.

CBSA's point of contact for general enquiries on ACI is Pauline Morris, Tel: +1 613 954 6353, Fax: +1 613 952 9979. Email: Pauline.Morris@ccra-adrc.gc.ca. Questions on "Marine Carrier" issues should be directed to Antoinette Rheaume, Tel: +1 613 954 7196, Fax: +1 613 952 9979, Email: Antoinette.Rheaume@ccra.adrc.gc.ca.

For all other queries please contact Mark Williams, Tel: +44 20 7716 6059, Fax: +44 20 7716 6061, Email: mark.williams@westpandi.com

Yours faithfully

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