

May 17, 2005

Mr. Alain Jolicoeur  
President  
Canada Border Services Agency  
365 Laurier Avenue West, 20<sup>th</sup> Floor  
Ottawa, Ontario K1A 1L1

Dear Mr. Jolicoeur:

I am writing on behalf of I.E.Canada, Canadian Association of Importers and Exporters with respect to recent consultations conducted by the Canada Border Services Agency (CBSA). These consultations were launched to determine the need for modifications to the existing Free and Secure Trade (FAST) program and to provide information and receive feedback with respect to the broader emerging commercial program.

I.E.Canada has over 700 members representing a broad cross-section of the trading community throughout Canada, including service providers. As an association we believe in offering a forum to inform and educate and when necessary to advocate change. I.E.Canada has been an active supporter and facilitator of the current consultation process, which was announced by Mr. Denis Lefebvre, Executive Vice President of the CBSA, at I.E.Canada's annual conference in October 2004.

I would like to emphasize at the outset that I.E.Canada has been a strong partner of the CBSA in supporting the current FAST program and whole-heartedly endorses the objective of FAST to expedite clearance of legitimate low risk shipments in order to re-direct scarce resources to the examination of commerce that is of high or unknown risk.

As an association, I.E.Canada expects the CBSA to:

- Continue to work within Canada and internationally to ensure that expedited clearance processes are available for eligible goods that are imported by pre-authorized importers using approved carriers and drivers;
- Recognize the substantial investment – often involving millions of dollars – made by Canadian companies to comply with expedited clearance initiatives and the economic importance of supporting those who embrace Canada's national security objectives and programs;
- Address the serious infrastructure problems that currently exist at the Canada-U.S. border, which currently represent the most serious impediment to expediting the cross-border movement of goods, including investing in robust information technology (IT) systems, and promoting investment in such systems by other government departments; and
- Continue to consult closely with the trading community with respect to proposed changes to existing customs programs and the creation of any new programs.

In addition to participating in consultations with the CBSA, I.E.Canada has conducted its own internal consultation process through existing committees established to address customs requirements and programs and related legislation. As an association, we are pleased to formalize our recommendations for improvement to the existing FAST program and our suggestions for addressing issues relating to other CBSA programs. These recommendations and suggestions are contained in the attached Annex to this letter.

Our members are particularly concerned that the implementation dates for various phases of the Advance Commercial Information (ACI) initiative have repeatedly been pushed back and that the release requirements are still not known to the trading community. Unfortunately, this not only negatively affects the CBSA's credibility but also makes it more difficult for those responsible within an organization for the implementation of such programs to make the business case in order to obtain the necessary financial and other support from senior management.

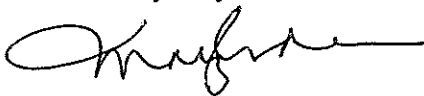
We are not commenting as an association at this time on a proposal to establish an ACI/FAST program for two reasons: first, we understand that this is not a CBSA proposal but one that came from industry during the consultation process; and second, the terms and conditions of such a program, if it were to be implemented, are not yet sufficiently well-defined. If the CBSA is indeed considering such a proposal, we request that sufficient information be provided to the trading community to evaluate the proposal and provide feedback before a decision is taken to proceed with implementation. We understand that CBSA officials will be taking the results of the consultations and making specific recommendations to senior management. We request that before any changes to existing programs are made or new initiatives are implemented, that there be further consultations with the trading community.

Finally, I wish to reiterate that I.E.Canada is committed to working closely with the CBSA to address areas of concern not only to the trading community but also to the CBSA. You will note that a number of our recommendations and suggestions involve closer consultations and dialogue between the trading community and the CBSA through the creation of working groups to address specific issues, such as the inclusion of Other Governmental Departments (OGD) requirements in both the Customs Self-Assessment (CSA) program and the ACI initiative; the accounting requirements under CSA; and release information requirements under ACI.

I also welcome the CBSA's active involvement in a series of events that are being hosted by I.E.Canada in seven cities across Canada during May and June. This series of events is intended to bring together experts from U.S. Customs and Border Protection (CBP) and CBSA to update the trading community with respect to the latest developments in CBP and CBSA cross-border programs.

I wish to thank you for the opportunity to provide input into this consultation process and look forward to an on-going constructive dialogue between the association and our members and the CBSA.

Yours very truly,



Mary Anderson  
President

cc. Caron Wilson, CBSA  
Paul Truant, CBSA

## Annex

### Improving Access to FAST

- *Other Government Departments (OGDs):* It is recognized that some OGD requirements, such as those relating to security and health and safety, must be addressed at the border. However, many can be dealt with post release without risk to the security and health and safety of Canadians. This matter affects many industries and both the CSA and ACI programs, and should be reviewed soon. Accordingly, I.E.Canada requests that a working group be established by end-June at the latest with representatives from the importing community and the CBSA (including those responsible for OGD requirements within the CBSA and from other government departments and agencies) to identify OGD requirements that can be moved to the back end of the clearance process.
- *Drivers:* A key concern is the shortage of FAST approved drivers. To address this issue, it is recommended that the CBSA consider the following:
  - Relaxing the requirements for FAST approval for drivers so that minor infractions that do not indicate a security risk do not prevent drivers from obtaining approval;
  - Establishing additional enrolment centres away from the border, given the inconvenience to drivers of accessing existing enrolment centres;
  - Working with CBP towards mutual recognition of FAST approvals for drivers, and if the U.S. is not prepared to accept Canadian approvals, unilaterally accepting U.S. approvals;
  - Facilitating the approval process for drivers, for example, by allowing drivers to undergo fingerprinting and criminal checks at local police stations;
  - Providing information to the importing community regarding how many drivers have applied for FAST, how many have been approved, and how many applications are pending, as well as the reasons drivers are not receiving approval; and
  - Phasing out the Commercial Driver Registration Program (CDRP).
- *Mexican Origin Goods:* All goods imported from Mexico (except those categories of goods that are otherwise ineligible) should qualify for CSA and therefore FAST, not just automotive goods.
- *Examinations:* Once Compliance Managers have conducted the compliance review of CSA Part II obligations, the CBSA should not be inspecting CSA importers except on a random basis. CBSA resources should be directed at high-risk importers, which was one of the key reasons for creating the CSA and FAST programs. Front line officers and especially students must also be properly trained with respect to the nature of the examinations that may be conducted in respect of shipments that are processed through the FAST lane.

## **Other Programs**

### ***General***

- *Tax Credit:* Implementation of security-related programs, such as CSA, ACI, PIP and C-TPAT, by companies involves a significant IT component including new hardware, software, network, communication upgrades, and programming labour costs. There are also on-going investments as systems change within an organization. Companies would be more inclined to make the investment in such programs if a tax credit similar to the research and development tax credit were available relating to the IT and the associated component of the investment. While it is recognized that the creation of a new tax credit falls within the purview of the Department of Finance, it is requested that the CBSA actively support such a proposal.

### ***Customs Self-Assessment***

- *Offshore Clearance Option:* Marine shipments should be immediately incorporated into the CSA program and air shipments on or before the implementation date for ACI for air mode (December 2005).
- *Late Accounting Waiver:* The experience of importers is that it is taking them 12 months to fully adjust to the CSA accounting system. It is also noted that while CBSA Compliance Managers are supposed to visit the importer to review compliance with CSA Part II obligations during the current six-month waiver period, in practice it is taking up to a year. It is therefore recommended that the late accounting waiver under CSA be extended from six to 12 months. The current late accounting tolerance level of 0.5 per cent is also considered to be unreasonable and should be raised to 5 per cent. It is further recommended that there should be a tolerance period while importers are moving towards implementation of CSA during which they are not audited.
- *Accounting:* Participants in the CSA program and those planning to implement the program wish to see the establishment of a working group with the CBSA to specifically address issues relating to the accounting aspect of the CSA program.

### ***Advance Commercial Information (ACI)***

One of the key concerns with ACI is that the implementation dates for various phases of ACI keep getting pushed out, which makes it difficult to impress upon upper management the need to make the investment. Another major concern is the lack of information being provided with respect to admissibility requirements, including information that will be required from the importer and OGD requirements. It is requested that the CBSA commit to firm dates for implementation of all phases of ACI and provide detailed information, as well as enter into consultations with the private sector, to flush out and finalize ACI requirements.

### ***Partners in Protection (PIP)***

While it is recognized that changes to PIP may be necessary and desirable, there is concern that if Canada were to harmonize PIP with C-TPAT that Canada might follow the approach that appears to have been adopted in the United States of Customs unilaterally imposing security requirements. There is also uncertainty whether the CBSA would have sufficient human and other resources to support the program. It is therefore requested that if any changes are made to

PIP in future, they involve a business-Customs partnership rather than being dictated unilaterally by Customs.

### ***Partners in Compliance (PIC)***

The pilot for PIC needs to be completed and opened up to other CSA importers. It is requested that CBSA release information to the trading community and seek input about the PIC program and the requirements that will have to be met.

### ***WCO Framework of Standards***

Questions have been raised with respect to the implications of the WCO Framework for ACI and CSA and whether it could lead to the creation of further programs. If any changes are made in order to comply with the WCO Framework, adequate notice must be provided to members of the trading community so that they have sufficient time to prepare. It is requested that the CBSA outline its position with respect to the WCO Framework and how it anticipates the WCO Framework will impact CBSA programs and the Canadian trading community.