

**President**  
Mary Anderson

**Board of Directors**  
2007/2008

**Chair**  
Isabel Alexander  
*President*  
Phancorp Inc.

**Vice Chair**  
Clifford Sosnow  
*Partner*  
Blake, Cassels & Graydon LLP

**Treasurer**  
Robert Riddell  
*President*  
TFB & Associates Limited

**Corporate Secretary**  
Carol Buckton  
*Director, Trade Logistics*  
Siemens Canada Limited

Bob Armstrong  
*President and CEO*  
Armstrong Trade and Logistics  
Advisory Services (ATLAS)

David Adams  
*President*  
Association of International Automobile  
Manufacturers of Canada (AIAMC)

Elaine Holmes  
*Director, International*  
Canadian Pacific Railway Company

David Bosse  
*Director of Consulting*  
Cole Group/Cole Trade Consulting

Jerry Mancini  
*President*  
Dole Foods of Canada Ltd.

Robert Chicoine  
*Director – Global Trade Compliance*  
Future Electronics Inc.

Darrel Pearson  
*Senior Partner*  
Gottlieb & Pearson

Ron Laitar  
*Vice-President, Strategic Product Sourcing*  
Hercules Tire International

Jason Fraser  
*Compliance Manager*  
J.D. Irving Ltd.

John Bescec  
*Senior Regional Trade Manager, Americas*  
Microsoft Canada

Allen Barabas  
*Vice-President, Global Transaction Solutions*  
Royal Bank of Canada

Glen Millard  
*Senior Account Manager*  
Export Development Canada

John O'Reilly  
*Director, Customs and Traffic, EQL*  
Toshiba of Canada Limited

Jaime Seidner  
*Principal, Tradewin Canada - A Division of*  
Expeditors Canada Inc

Tracey Speares  
*Manager of Inbound, Regulatory*  
Compliance and Logistics Customer Support  
Winners Merchants International, LP

April 7, 2008

VIA E-MAIL AND REGULAR POST

Mr. Claude St. Denis  
Program Development Section  
Canada Border Services Agency  
191 Laurier Ave  
Ottawa, Ontario  
K1A 0L8

Re: Proposed PIP Suspension and Cancellation Criteria

Dear Claude:

I am writing on behalf of I.E.Canada, Canadian Association of Importers and Exporters to provide comments on the proposed Suspension and Cancellation Criteria for the Modernized Partners in Protection (PIP) Program.

Having reviewed Appendix D – Suspension/Cancellation Criteria and Appendix E – Infractions under the Customs Act, we are afraid that the approach to suspension and cancellation that is being proposed by the Canada Border Services Agency (CBSA) is inappropriate. The PIP program is a voluntary program, the purpose of which is to promote supply chain security. The goal should be to keep companies on the program and to help them improve their supply chain security programs. Suspension or cancellation of the PIP program should only occur where there has been a serious security-related breach or there are systemic deficiencies. Suspensions should not be for fixed periods of time but for the amount of time required to identify and correct the problem(s) that led to the breach. We are concerned that an overly aggressive approach to suspension and cancellation will discourage companies from participating in the program and will not foster the type of information sharing and cooperation that the CBSA is seeking. There need to be some assurances (similar to a voluntary disclosure situation) that if a PIP participant comes forward, for example, to report an illegal or suspected illegal activity, the participant will not be penalized. In addition, the PIP program should not be used as a means of enforcing trade compliance.

In general, we found the descriptions of the violations to be too vague and open-ended, and the penalties severe. The relationship between Appendices D and E is also not clear. We also did not understand the rationale for some of the violations and why they should lead to the suspension or cancellation of the PIP program, which is aimed at supply chain security. Following are some specific comments and questions:

- For purposes of Violations 1 and 11, what would be considered “faulty on-site security practices”? Why should removal of “non-sensitive information” lead to suspension or cancellation of the program? An automatic 5 year cancellation for a security breach leading to the removal of “sensitive information” is draconian. Some of the types of information identified, such as trade secrets, would also not appear to be relevant to CBSA’s interest in protecting supply chain security.
- In Violation 2, are the changes referred to only changes that would result in the participant no longer qualifying for the program? If so, then the suspension should be for the length of time the participant would require to correct the problem. If the change is such that the participant would still qualify for the program, there should be no suspension or cancellation.
- In the case of Violation 3, a participant that is failing to cooperate should not be a member of the PIP program. In such a case, the participant should be given 30 days to rectify the situation and then the program should be cancelled. However, before cancelling the program, it is important to ensure that the senior management in the company is aware of this lack of cooperation and given the opportunity to correct the situation. A three year cancellation period is too severe. It should not exceed one year.
- For Violation 4, it is not clear why insolvency would necessarily lead to suspension or cancellation of the program or what the rationale would be for a five year cancellation period. A company may, for example, apply for protection from its creditors under applicable legislation and continue on with its business while attempting to restructure its operations in order to become financially viable. Why should a company have its PIP program suspended or cancelled in such circumstances?
- With regard to Violation 5, where is the requirement to maintain a security bond?
- In Violation 6, what is meant by “displays a lack of interest”? This is too vague.
- In the case of Violation 7, the questions are essentially the same as for Violation 2: is the information referred to information that would result in the participant not qualifying for the program?
- In the case of Violation 8, are the infractions under the Customs Act referred to only those included in Appendix E? If a participant receives an AMPS penalty, will the participant be considered to have committed an infraction and be subject to suspension or cancellation? Infractions relating to trade compliance should not lead to suspension or cancellation of the PIP program unless there is a clear link to a serious security risk or breach. Some companies are involved in many different CBSA, federal, provincial and international programs? They may have nothing to do with supply chain security. What types of programs are being referred to? This linkage to other programs does not appear to be appropriate unless referring to supply chain security programs. In the case of international programs, they should only be programs that are mutually recognized and that have similar criteria for suspension and cancellation. Finally the terms for suspension or cancellation should not exceed those under the other program.
- With regard to Violation 9, what does “good character” mean? We raised this concern in our comments to the MOU and draft Security Profile. This is the first time we have seen “good character” in reference to “Participant organization.”
- Violation 12 is too broad and too vague.

As mentioned above, in our view the CBSA's proposed approach to suspension and cancellation of the PIP program is simply not appropriate given the voluntary nature of the program and the goal of enhancing supply chain security. We strongly urge CBSA to reconsider this approach.

It is also difficult to comment on the criteria for suspension and cancellation of the PIP program with no information regarding the process that will be followed before a participant's program is suspended or cancelled. As under the C-TPAT program, an analysis should be conducted and a report prepared on the security deficiency or breach, which should be shared with the participant. Only the highest level officers within CBSA should have the authority to suspend or cancel the program. In the case of suspensions, the participant should be given the opportunity to develop within a specified period of time (eg. 30 days), a corrective action plan for the approval of CBSA and once the plan has been implemented to CBSA's satisfaction, the PIP program should be fully reinstated.

An expeditious appeal process must also be available to the participant in the event of suspension or cancellation. As we have stated in prior submissions, because of the serious implications that suspension or cancellation of the PIP program could have for a participant and its supply chain partners, the program should not be suspended or cancelled until the appeal process has been exhausted. In the meantime, the company could be subject to higher scrutiny by CBSA.

We appreciate this opportunity to comment on the proposed PIP Suspension and Cancellation Criteria. We would welcome the opportunity to meet with you to discuss these issues further.

Yours truly,



Mary Anderson  
President

cc. Ms Kimber Johnston, Vice President, Enforcement Branch, CBSA  
Anie Pulsifer, CBSA  
Fred Lemay, CBSA  
Grace Gregoire, CBSA