

**COMMENTS FROM THE CANADIAN SOCIETY OF CUSTOMS BROKERS  
TO THE STANDING COMMITTEE ON INDUSTRY, SCIENCE AND TECHNOLOGY  
ON THE DEFERRAL OF PAYMENT OF DUTY AND TAX DURING THE COVID-19 PANDEMIC**

Customs brokers are licensed by the federal government (Canada Border Services Agency) and can be considered government's original "trusted traders". They act with legal authority on behalf of Canadian importers and exporters. Through this pandemic and beyond, customs brokers want to stay in business, customs brokers want importers to stay in business and importers want customs brokers to stay in



business. Business interests are aligned and linked. Although some large global companies are licensed customs brokers, many CSCB members and their clients are small business.

Canada's customs brokers contribute to the security of our borders while facilitating the movement of goods across those borders, at the same time ensuring compliance with regulatory requirements. Customs brokers have played an essential role to ensure that goods required to meet the

challenges of the COVID-19 pandemic moved efficiently across our borders, whether emergency medical equipment or food for grocery store shelves. In addition, and for many years, facilitation by customs brokers has included the efficient collection and payment of billions of dollars in duty and tax each year secured by release prior to payment (RPP) bonds.

On March 27, the Prime Minister announced the deferral until June 30 of duties and taxes owed on imports, saying:

*"We're going to give you more time. It will also allow you to keep the money that you would have sent to the government and use it instead for your immediate needs".*

Those duties and taxes would normally be secured, collected and remitted on a monthly basis. CSCB members welcomed the deferral decision because, as early as March, they were experiencing difficulties connecting with and collecting from their clients, many of whom were working from home, or, in some cases, had already closed their doors due to the COVID-19 pandemic. However, as much as the deferral decision was a welcome one, we recognized that it exposed customs brokers to four times their usual financial risk (four months' liability – from March through June - rather than a single month).

This was unacceptable and has created a significant problem for customs brokers and importers. Customs brokers have had to mitigate their financial risk by requesting that importer clients pay duties and taxes under standard payment terms and/or by requesting deposits. The result of this is that importers have not benefitted from the decision to defer duty and tax payments. The only possible

solution to this was to waive customs broker liability for the deferral period, and we first proposed this to government on March 31, followed by additional written representations and responses to questions, as well as several virtual meetings. No one in government has put another potential solution on the table for us to consider, nor has anyone made a decision on what was and still is an important question for Canadian cross-border business. Because no decision has been made, liability has increased every day for customs brokers, and importers were not able to benefit from deferral as intended. It should be noted that at no time did we advocate for the waiver of payment, our proposal has always related to a waiver of the unanticipated potential liability of customs brokers which was imposed as a result of the deferral decision.

At the time of writing, the end of the deferral period and the payment due date is less than two weeks away. The opportunity for importers to benefit from deferral has expired. What remains is the question of liability of customs brokers. Because the government has not waived liability, as requested, further uncertainty has been created for the Canadian customs brokerage community. Businesses are at risk. We are currently requesting:

**Can CBSA confirm in writing that customs brokers will not be held liable for payment of duties and taxes owing on their June 30 SOAs in cases where payment has not been received from the importer?**

This question must be answered before customs brokers make their business decisions to do one of the following two things.

1. Brokers will pay 100% of their SOA, regardless of whether they have collected in full. Because many importers will not be in a position to make payment, or may not be re-opening at all, this leaves customs brokers with a potentially significant financial outlay which has no chance of being recovered.
2. Brokers will short pay their SOAs, paying only the amounts that have been received from their clients. This leaves brokers open to sanctions for short payment, which may include notice of arrears, interest, penalties, action against a broker's license and possible claim against the broker's surety bond.



It is not only customs brokers and importers who have been at risk, there is also a risk for the Government of Canada. As we have pointed out in numerous submissions to the Department of Finance and the Canada Border Services Agency, importers who do not hold their own release prior to payment

bonds and who want to continue importing could not receive the benefits of deferral unless customs brokers assumed levels of risk that would endanger their own businesses. Unfortunately, as we previously observed, this has proven to be the case.

Customs brokers will be critical to economic and trade recovery. We know that government intended that the deferral measure make a positive difference and did not intend that customs brokers would fail as a result of it. Unfortunately, without the confirmation requested above, there is a real risk that failures will happen. Hardship already has.

Uncertainty is never good for business and we must all focus on what happens after June 30. Customs brokers will be essential to the recovery of trade and businesses engaged in trade. At any time and especially after June 30, without customs brokers the movement of goods and facilitation of cross border trade would come to an abrupt halt creating total disruption in the supply chain. Supply Chain Canada, which has appeared before this Committee, recognized this when we first discussed our concerns. As Christian Buhagiar, President & CEO of Supply Chain Canada, has written in support of our proposal:

*"We know that the CSCB and its member firms are at the front lines of helping maintain the effective international supply chains that Canada relies upon. . . While these might seem like smaller issues within the overall complexity of Canada's supply chains, I would want you to understand that, in fact, it is often these types of pain points that run the risk of creating broader fractures in our supply chains. . . At this crucial time for Canada, as everyone across the supply chain sector is doing their best to protect and maintain supply chains for the country, we believe that the recommendations from CSCB are appropriate. We ask that you consider and support their request."*

Also supporting our analysis of the problem, and our concerns, are a number of key Canadian associations, including the Surety Association of Canada (SAC), the Canadian Chamber of Commerce, the Canadian Federation of Independent Business (CFIB), the Canadian Produce Marketing Association (CPMA), the Canadian Vehicle Manufacturers' Association (CVMA), the Association of International Customs and Border Agencies (AICBA), the Canadian International Freight Forwarders Association (CIFFA) and the Canadian Apparel Federation (CAF).

The deferral decision was intended to benefit business and certainly to do no harm. The reality is that it quadrupled the financial exposure and risk of Canada's customs brokers, which left them with no option but to mitigate that risk through normal business practices related to payment/collection. However, these are not normal times and those collection practices increased the likelihood that importers would not receive the benefits of deferral of payment to June 30. In fact, that is what has happened. Since the initial deferral decision did not contemplate this consequence, an early decision to waive the liability of customs brokers would have given importers the best chance of benefitting from this policy.

The CSCB has asked for this for weeks and yet that decision was never made. Although there are only days left before June 30, it is not too late to take positive action by making the decision we have requested above, in support of Canada's customs brokers and importers, as well as Canadian economic and trade recovery in the months ahead.

June 19, 2020

Carol West  
President & CEO  
Canadian Society of Customs Brokers

## **ABOUT THE CSCB**

Canada's customs brokers contribute to the security of our borders while facilitating the movement of low-risk goods across those borders. We act with legal authority on behalf of Canadian importers and exporters, and our companies are licensed by the Canada Border Services Agency. We are constructive participants in consultative bodies which inform CBSA and other agencies' policies and processes, including the Border Commercial Consultative Committee. We are committed to building the knowledge base of those involved in customs and border management, with more than 1,000 people each year involved in our e-learning programs, and about 5,00 people holding our professional designations.

The CSCB is also well positioned globally. We act as the Secretariat for the International Federation of Customs Brokers Associations (IFCBA) with members in all regions of the world, and have engaged in capacity building projects on customs modernization in Asia and Africa on behalf of the World Bank, the World Customs Organization and the Global Alliance for Trade Facilitation. We have a very close relationship with our United States and Mexican counterparts, with our three associations forming the North American Customs Brokers Alliance (NACBA). We were invited to join the Private Sector Consultative Group (PSCG) at the World Customs Organization when it was formed, and have continued to contribute to its work for the last decade, including as chair of the PSCG for three terms.

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