

Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

Canada is Concerned About Unreported Exported Goods AND Grants Limited 6 Month Amnesty

By Cyndee Todgham Cherniak on November 26th, 2015

Posted in Controlled Goods Program, Cross-border deals, Cross-border trade, Export Controls & Economic Sanctions, Legal Developments



On November 16, 2015, the Canada Border Services Agency (“CBSA”) issued Customs Notice 15-035 “Voluntary Disclosure of Unreported Goods Transiting Through the United States to a Subsequent Country” in which it starts by stating “It has come to the CBSA’s attention that a large number of businesses have been exporting goods to Mexico and other countries, transiting through the U.S. in the highway mode, without declaring them to the Agency.” The CBSA indicates that it will grant amnesty (grace period) if a voluntary disclosure is made between **December 1, 2015 to June 1, 2016**. Companies that report eligible unreported goods using this process (outlined below) will not be penalized.

There are two scenarios of concern:

- 1) An export declaration has not been filed with respect to certain goods transiting through the United States (the US is not the final destination of the goods) and the value of the goods exceeds \$2000; OR
- 2) An export permit has not been obtained with respect of controlled goods AND the appropriate permit/license/certificate has not been provided to the CBSA prior to export (value of the goods in this case is not relevant).

What is Necessary

If a company has failed to report exported goods that transited through the United States using the CBSA’s voluntary disclosure process, no penalties will be charged. Companies may submit a Voluntary Disclosure application using the process outlined in Memorandum D11-6-4, Relief of Interest and/or Penalties Including Voluntary Disclosure.

The grace period does not apply to exports that did not transit through the United States. A voluntary disclosure could be made with respect to exports that were transported by air export markets that exceeded the \$2000 threshold or did not have an export permit/license/certificate. However, the same level of penalty reduction may not be available.

This is an important development of which Canadian exporters should take advantage. Amnesty is not common in Canada’s customs/exports regime. Any company that has unreported exports should make a voluntary disclosure during the grace period – The sooner the better. If the company waits and is subject to a verification during which the CBSA finds the

problem, the penalties could be significant. This is a rare opportunity to come clean at little cost.

We would be pleased to assist with the voluntary disclosure – call Cyndee Todgham Cherniak at 416-307-4168.

Tags: amnesty, Canada Border Services Agency, CBSA, exports, grace period, transshipment, VDP, voluntary disclosure

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