



Ottawa, September 16, 2008

MEMORANDUM D1-6-1

In Brief

AUTHORITY TO ACT AS AGENT

1. This is a revision to Memorandum D1-6-1 previously published on August 20th, 2004.
2. The Form E639 – *Agency Agreement - Entente de représentation* has been removed; however the content of the form has been incorporated into the present memorandum.
3. Memorandum D1-6-2 – *Agents' Accounting for Imported Goods and Payment of Duties Regulations* has been removed, however the content has been incorporated into the present D memorandum. A complete version of the Regulations can be found on the Department of Justice Canada web site.



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This memorandum explains the policy of the Canada Border Services Agency (CBSA) regarding persons who wish to transact business under the *Customs Act* as the agent of another person.

GUIDELINES AND GENERAL INFORMATION

1. A "person", according to the *Customs Act*, means an individual, a partnership, a corporation, a trust, the estate of a deceased individual or a body that is a society, a union, a club, an association, a commission or other organization of any kind.
2. "Agents" are persons who are authorized to transact business with the CBSA on behalf of another person. The CBSA may refuse to transact business with the agent until the agent produces acceptable written authority.
3. Should a person choose to use the services of an agent and that agent provides incorrect information or fails to remit monies received from the person to the CBSA, the person remains fully liable. That includes responsibility for payment of all duties, taxes, penalties, and interest owing, pursuant to any applicable legislation and regulations that may be amended.

Written Authority to Act as Agent

4. Any person who proposes to transact business with CBSA as the agent of another person is responsible for ensuring that the proper authority has been granted. The written authority is often referred to as an agency agreement or a power of attorney.
5. The CBSA accepts any form of written authority that indicates the agent has been authorized to transact business on behalf of another person (usually the importer or owner), provided that it meets the requirements detailed in paragraph six.
6. The written authority must specify:
 - (a) the names of the person and agent including their business numbers and addresses;
 - (b) a description of the type of business transactions being authorized, e.g. accounting and payment of duties under section 32 of *Customs Act*;
 - (c) whether the authority is continuous or for a specified period;

- (d) whether the agent is authorized to appoint a sub-agent;
- (e) the name, title and signature of the agent;
- (f) the name, title and signature of the person on whose behalf the agent is acting; and
- (g) the effective date;

7. Facsimile copies of the written authority may be accepted.

Authority of Employees to Transact Business

8. It is generally assumed that employees of the importer and employees of the authorized agent have the necessary authority to transact business on behalf of their employers. Should there be any doubt, the CBSA may refuse to transact business with that employee until satisfactory proof of authority has been provided.

9. For the purpose of the *Agents' Accounting for Imported Goods and Payment of Duties Regulations*, an employee of an importer can transact business, including accounting for goods and payment of duties, on behalf of his or her employer without being considered an agent.

Transacting Business Under Section 32 of the Customs Act

10. A person may only account for goods and pay duties as an agent of the importer or owner of the goods where the person :
 - (a) is licensed to transact business as a customs broker; or
 - (b) does so on a casual basis and without benefit of any compensation, fee or charge.

Cancellation of Authority to Act as Agent

11. It is the responsibility of any person who wishes to cancel an authorization previously granted to an agent, to notify that agent accordingly. Unless specifically instructed otherwise, it shall be assumed that an agent retains the authority to finalize transactions that were initiated before the cancellation of the agency agreement.

Fees

12. The CBSA does not exercise control over the fees charged by agents to their clients. Such fees are a private matter between the two contracting parties.

Additional Information

13. The current *Customs Act* and related regulations are available on the Department of Justice Web site. The D series memoranda are available via the CBSA home page.

14. For further information concerning this memorandum, contact:

Brokers Licensing and Account Security Programs
Licensing, Export and Accounting Policy Division
Border and Compliance Programs Directorate
Canada Border Services Agency
150 Isabella Street, 10th floor
Ottawa ON K1A 0L8

Telephone: 613-941-4789

Facsimile: 613-946-0242

REFERENCES

<p>ISSUING OFFICE –</p> <p>Broker Licensing and Account Security Programs Licensing, Export and Accounting Policy Division Border and Compliance Programs Directorate</p>	<p>HEADQUARTERS FILE –</p> <p>7635-2</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Act</i>, subsection 2.(1), section 10, and subsection 32.(6)</p>	<p>OTHER REFERENCES –</p> <p><i>Agents' Accounting for Imported Goods and Payment of Duties Regulations</i></p>
<p>SUPERSEDED MEMORANDA "D" –</p> <p>D1-6-1, August 20, 2004</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

