



Ottawa, August 20, 2004

MEMORANDUM D1-6-1

In Brief

AUTHORITY TO ACT AS AGENT

Paragraph 5 of the Guidelines and General Information has been revised to state that when completing an Agency Agreement, the authorized officer must affix his or her initials beside each type of operation for which representation is being allowed.

The appendix, Form E639, *Agency Agreement*, has been amended to include “Appealed enforcement actions” as a type of business for which an agent may act on behalf of a principal.





Ottawa, August 20, 2004

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AUTHORITY TO ACT AS AGENT

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.

Legislation

Customs Act

Person

“person”, 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;

Agents

10(1) Subject to the regulations, any person who is duly authorized to do so may transact business under this Act as the agent of another person, but an officer may refuse to transact business with any such person unless that person, on the request of the officer, produces a written authority, in a form approved by the Minister, from the person on whose behalf he is acting.

GUIDELINES AND GENERAL INFORMATION

1. An “Agent” is considered in law to represent the principal, in such a way as to affect the principal’s legal position. However, the principal remains liable for any transactions completed on its behalf by its agent.
2. Therefore, should an importer choose to use the services of an agent and that agent provides incorrect information or fails to remit monies received from the importer to the CBSA, the importer remains fully liable to the CBSA. That includes responsibility for payment of all duties, taxes, penalties, and interest owing, pursuant to any applicable legislation and regulations that may be amended from time to time.

Written Authority to Act as Agent

3. Any person who proposes to transact business with customs as the agent of another person is responsible for ensuring that the proper authority has been granted.

4. 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). Form E639, *Agency Agreement*, may be used for this purpose. You will find the form in the appendix or on our Web site at www.cbsa.gc.ca.

5. Whether or not you use Form E639, the agreement must specify the name of the principal, including the Business Number and address, the name of the agent, including the Business Number and address, a description of the type of business transactions being authorized, the effective date, and whether the authority is continuous or for a specified period. The agreement must also have the signature and title of a duly authorized officer of the principal. The authorized officer must affix his or her initials beside each type of operation for which representation is being allowed.

Presentation of Agency Agreements

6. Agents are expected to produce their client’s agency agreement when asked by an employee of CBSA. The frequency with which agents will be asked to present the agency agreement and the actual wording required on the agreement may vary with different operational areas of the CBSA.

7. Facsimile copies of the written authorization or Form E639 may be accepted.

Authority of Agent’s Employees to Transact Business

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

Transacting Business Under Section 32 of the *Customs Act*

9. While any agent may represent a client when transacting business with customs, it is important to note that, under most circumstances, only a licensed customs broker may account for goods and pay duties under section 32 of the *Customs Act* as an agent of the importer or owner of the goods. This is outlined in Memorandum D1-6-2, *Agents’ Accounting for Imported Goods and Payment of Duties Regulations*.

Cancellation of Authority to Act as Agent

10. 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

11. 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

12. For further information concerning this Memorandum, contact:


Brokers Licensing and Account Security Programs
Import Process Division
Canada Border Services Agency
8th floor, Sir Richard Scott Building
191 Laurier Avenue West
Ottawa ON K1A 0L5

Telephone: (613) 941-4789

Facsimile: (613) 946-0242

APPENDIX

FORM E639, AGENCY AGREEMENT

 Canada Border Services Agency / Agence des services frontaliers du Canada		AGENCY AGREEMENT – ENTENTE DE REPRÉSENTATION	
The purpose of this form is to authorize: – La raison d'être de ce formulaire est d'autoriser:			
1. Agent identification – Identification du mandataire			
Name – Nom _____			
Address – Adresse _____			

City/Province – Ville/Province _____		Postal code – Code postal _____	
Business Number – Numéro d'entreprise _____			
2. To transact business on my behalf with the Canada Border Services Agency. Such business may include the following. Check and initial beside each type of operation for which representation is allowed. Afin de transiger à ma place avec l'Agence des services frontaliers du Canada. Ces transactions peuvent inclure. Cochez et apposez les initiales à côté de chaque type d'opération pour laquelle une représentation est autorisée:			
a) <input type="checkbox"/> Accounting and payment of duties in respect of imported goods released under section 32 of the Customs Act. Note: Only a licensed customs broker can be authorized to act as the agent of an importer to account and pay duties under section 32 of the Customs Act. La déclaration en détail et le paiement des droits relativement aux marchandises dédouanées en vertu de l'article 32 de la Loi sur les douanes. Nota: Seul un courtier en douane agréé est autorisé à agir à titre de mandataire d'un importateur pour la déclaration en détail et le paiement des droits en vertu de l'article 32 de la Loi sur les douanes.			
<input type="checkbox"/> At the customs office(s) located in _____, in Canada. Au(x) bureau(x) de douane situé(s) à _____ au Canada.			
<input type="checkbox"/> This authorization allows for the appointment of sub-agents. La présente autorisation permet la nomination de sous-mandataires.			
b) <input type="checkbox"/> Processing of refunds and other adjustments. Le traitement des remboursements et d'autres rajustements.			
c) <input type="checkbox"/> Accessing Business Number import/export account(s) information. L'accès aux renseignements liés au(x) compte(s) des importations-exportations du numéro d'entreprise.			
d) <input type="checkbox"/> Appealed enforcement actions. Les mesures d'exécution qui font l'objet des appels.			
e) <input type="checkbox"/> Other (please specify) _____ Autres (veuillez préciser) _____			
<ul style="list-style-type: none"> An agent is considered in law to represent the principal, in such a way as to be able to affect the principal's legal position. However, the principal remains liable for any transactions completed on its behalf by its agent. Un mandataire est considéré en droit de représenter le mandant, de manière à être capable d'influencer la situation juridique de ce dernier. Cependant, le mandant demeure responsable de toute transaction effectuée en son nom par son mandataire. 			
3. This agreement shall be valid – Cette entente sera en vigueur			
<input type="checkbox"/> Continuously - Effective on the _____ en tout temps - à compter du _____			
<input type="checkbox"/> For a specified period - Commencing on the _____ and terminating on the _____ pour une période déterminée, commençant le _____ et se terminant le _____			
4. Principal identification (Importer/owner, or customs broker if this form is being used as a sub-agency agreement) Identification du mandant (importateur/propriétaire ou courtier en douane, si ce formulaire est utilisé comme un accord relatif à la nomination d'un sous-mandataire)			
Name – Nom _____			
Address – Adresse _____			

City/Province – Ville/Province _____		Postal code – Code postal _____	
Business Number – Numéro d'entreprise _____			
5. Duly authorized officer of the principal – Représentant dûment autorisé du mandant			
Signature – Signature _____			
Name – Nom _____			
Title or position – Titre ou poste _____			

Signed this _____ day of _____, 20 _____.			
Fait le _____ jour de _____, 20 _____.			
E639 (04)			

REFERENCES

ISSUING OFFICE – Broker Licensing and Account Security Programs Import Process Division	HEADQUARTERS FILE – 7635-2
LEGISLATIVE REFERENCES – <i>Customs Act</i> , subsection 10(1), subsection 32(6)	OTHER REFERENCES – D1-6-2
SUPERSEDED MEMORANDA “D” – D1-6-1, March 30, 2001	

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

