



Ottawa, November 26, 2003

## INTERIM MEMORANDUM D1-16-2

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### **In Brief**

**Interim Administrative Guidelines for the Provision  
to others, Allowing access to others, and  
Use of Customs Information**

**SECTION 107 OF THE *CUSTOMS ACT***

1. This memorandum provides operational guidelines on the sharing and use of customs information, disclosures to other organizations such as federal institutions, provincial, municipal or foreign governments, and disclosures of customs information to businesses and individuals.
2. Amended section 107 of the *Customs Act* became effective on November 29, 2001, replacing sections 107 and 108.
3. This memorandum is divided into four sections: the Guidelines and General Information, followed by three appendices.
4. Appendix A is a chart on where to direct requests for customs information. Appendix B is a chart of the officials authorized to disclose customs information and Appendix C is a summary chart of who may disclose customs information, subject to certain conditions and relevant notes.



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Ottawa, November 26, 2003

# INTERIM MEMORANDUM D1-16-2

## Interim Administrative Guidelines for the Provision to others, Allowing access to others, and Use of Customs Information

### SECTION 107 OF THE *CUSTOMS ACT*

This Memorandum provides interim administrative guidelines for the provision, allowing access to, and use of customs information.

#### TABLE OF CONTENTS

<b>Interim Guidelines and General Information</b>	1
Purpose and scope	1
Introduction	2
Disclosure of Sensitive Customs Information Concerning Individuals	3
Where to Direct Requests for Customs Information	3
Ongoing Provision of Customs Information	3
Specific Requests for Customs Information	4
Statistics Canada (International Trade Division)	5
Request From the Public for Access to Customs Information About a Particular Person	5
Request From Within the CCRA for Access to Customs Information	5
Other Limited use of Data in the FIRM Database	5
Requests From Importers, Exporters or Their Representatives	5
Who may Approve the Disclosure of Customs Information to Others	6
Application of Fees	7
Issues Related to Disclosure of Customs Information About Individuals	7
Advance Passenger Information and Passenger Name Record	7
Offence Provisions and Disciplinary Action	7
Section 160(1) of the <i>Customs Act</i>	8
Roles and Responsibilities	8
Regional Operations	8
Headquarters Operations	9
Appendix A – Where to Direct Requests for Customs Information	
Appendix B – Officials Authorized to Disclose Customs Information	

Appendix C – Summary Tables of Officials who may Disclose Information, subject to Applicable Conditions

## INTERIM GUIDELINES AND GENERAL INFORMATION

### PURPOSE AND SCOPE

1. The purpose of these Interim Guidelines is to provide direction for the provision to others, access to others, and use of customs information. The Interim Guidelines cover the sharing and use of customs information within the Canada Customs and Revenue Agency (CCRA); disclosures to other organizations such as federal institutions, provincial, municipal, or foreign governments; and disclosures to businesses and individuals. These Interim Guidelines apply to all employees of, and persons under contract, with the CCRA.

2. Section 107(1) of the *Customs Act* defines “customs information” as information, of any kind and in any form that, (a) relates to one or more persons and is obtained by, or on behalf of, the Minister for the purposes of this Act or the *Customs Tariff*, or (b) is prepared from information described in paragraph (a). Subsection 107(2) of the *Customs Act* prohibits the knowing provision to others of, allowing access of others to, or use of, customs information, except as authorized in section 107 of the *Customs Act*.

3. For a complete copy of the text of section 107, please refer to the revised and most current version of the *Customs Act* or to Memorandum D1-16-1.

4. Section 107 of the *Customs Act* provides an official with authority to provide to others, allow access to, or use customs information provided conditions set out in the legislation are met. These Interim Guidelines provide guidance to customs officials and in certain cases list conditions that must be met before any customs information may be disclosed. The provision to others, allowing access to others, or use by an official of the CCRA of customs information not authorized by section 107 of the *Customs Act* or not in accordance with these Interim Guidelines may result in disciplinary action (see paragraph 38). In addition, section 160 of the *Customs Act* makes it an offence to knowingly contravene subsection 107(2) or an order referred to in subsection 107(11). For more information about these offences, please refer to subsection 160(1) of the *Customs Act* and paragraphs 38 and 39 of these Interim Guidelines.

5. It is the CCRA's policy:

(a) To protect the confidentiality of customs information and to manage this information in accordance with the authorities in the *Customs Act*, the *Privacy Act*, *Canadian Charter of Rights and Freedoms* (the *Charter*), and the *Access to Information Act* as well as CCRA policies related to the management and security of information.

(b) To enter into written collaborative arrangements, with outside organizations, governing the disclosure of protected client information.

(c) That an official may disclose, allow access to, or use customs information only when authorized to do so by law under section 107 of the *Customs Act* (please consult the most current version of the *Customs Act* or Memorandum D1-16-1 entitled "Explanation of section 107 of the *Customs Act*") after consulting these Interim Guidelines and to the extent permitted by these Interim Guidelines.

(d) To take care to ensure that no more customs information is disclosed to third parties than is absolutely necessary.

(e) To direct the public to information available within the public domain when such information sources will meet their needs.

6. When a program area is considering the disclosure of customs information, it must confirm that the disclosure is authorized by section 107 of the *Customs Act* and is in accordance with the guidance provided by these Interim Guidelines, and that the official disclosing the customs information is authorized to do so under these Interim Guidelines (see paragraph 28). In this regard, advice may be sought from the Director, Strategic Program Analysis and Coordination, Program Strategy Directorate, Customs Branch. Where appropriate, the Director will consult with Legal Services and may provide additional functional guidance to the field. But in all cases, customs information may only be disclosed subject to the following terms and conditions:

(a) The disclosure must be for a specific authorized purpose.

(b) The disclosure must be limited to the minimum customs information required for that purpose.

(c) Customs information may only be provided to or accessed by individuals with an operational need to see it.

(d) Subject to the *Privacy Act* and the *National Archives Act*, the customs information disclosed should be destroyed or returned once it has been used, in accordance with CCRA and Treasury Board information management policy guidelines.

(e) Where practicable, these terms and conditions may be audited periodically by the CCRA and any organization receiving customs information.

## INTRODUCTION

7. These Interim Guidelines fall under the umbrella of several CCRA-wide policies for the protection and management of information collected under the various statutes the CCRA administers. These include the *Information Management Policy*, the *Policy on the Management of Protected Client Information*, and a guide on the *Life Cycle Management of Memoranda of Understanding and Agreements*.

8. Customs information in the possession of the CCRA may be obtained from another government pursuant to a written collaborative arrangement, or it may be subject to an international agreement that restricts the subsequent use or disclosure of the information. In cases when there is reason to suspect that the customs information may have been obtained from a foreign source, the official should confirm that a proposed disclosure of customs information would not be contrary to an international obligation. This may require consultation with the Office of Primary Interest (OPI) for the written collaborative arrangement or with Legal Services. Examples of international agreements restricting the use or disclosure of information include:

(a) GATT obligations contained in Article 10 of the Customs Valuation Agreement, which restrict the subsequent disclosure of valuation information, obtained for customs purposes. The fields in question on Customs documents are: Total Value for Duty, Value for Duty (VFD) and Value for Currency Conversion (VCC) fields on customs documents;

(b) GATT obligations under Article 3(i) of the Agreement on Rules of Origin, which restrict the subsequent disclosure of origin information, obtained for customs purposes. The fields in question on Customs documents relate to the Country of Origin, Tariff Treatment and rate of Customs Duty (when it specifically can be deduced what tariff treatment was according/claimed by the importer);

(c) customs Mutual Assistance Agreements; and

(d) bilateral and multilateral trade agreements.

9. Even when section 107 authorizes the disclosure of customs information, the provisions of section 107 of the *Customs Act* do not require an officer to disclose information. An official or customs officer should be satisfied that the customs information is reasonably required before it is disclosed. Examples of questions that an officer must ask in order to make this determination are:

- (a) Is there an existing written collaborative arrangement, such as a written collaborative agreement, such as a Memorandum of Understanding (MOU), to cover the disclosure? If not, is one needed?
- (b) Is the customs information readily available from another source, such as Statistics Canada?
- (c) Is there a demonstrated need for the customs information requested (such as legal proceedings or the administration of a law relating to imports or exports)?
- (d) If there is a need, will the customs information disclosed be no more than is absolutely necessary?
- (e) Will sharing the customs information adversely impact the interests of the person to whom it relates?
- (f) Will sharing the customs information have a negative effect on an ongoing investigation or customs enforcement activity?
- (g) Is the customs information required on a regular, or an infrequent basis? (If the information is likely to be required on a regular basis, then where practicable the disclosure should be governed by the terms and conditions of a written collaborative arrangement between the requestor and the CCRA.)
- (h) When an official is considering the disclosure of statistics under the authority of paragraph 107(4)(g) can a person, business, or entity be directly or indirectly identified? For example, if statistics are requested on all importers of a good with a particular tariff code, and on checking there are only two or three importers in total of that good, the official must consider the following question: Will the disclosure of the information make it possible for someone to indirectly identify the importers?
- (i) Has the customs information been requested by a police force or an investigative agency external to the CCRA conducting a criminal investigation (not a regulatory use – regulatory uses include administrative enquiries, verification audits and examinations to ensure regulatory compliance) and the information requested is biographical core information (see paragraphs 10 and 11 below) such that, in the ordinary course, a judicial warrant or court order would be required to obtain the customs information?

## **DISCLOSURE OF SENSITIVE CUSTOMS INFORMATION CONCERNING INDIVIDUALS**

10. Any disclosure of biographical core customs information about individuals (for example information about lifestyles and personal preferences), for non-regulatory investigation purposes must take into account the *Charter* and must be reviewed in this context by Legal Services. Individuals have an expectation of privacy in respect of such information, and any breach of that expectation of privacy must be fully justifiable from a *Charter* perspective. The expectation of privacy with respect to personal information must be considered when a police force or another investigative agency external to the CCRA is seeking customs information for non-regulatory purposes. In such circumstances, a judicial warrant or court order should generally be sought by the other agency. The Office of the Privacy Commissioner may conduct an investigation or initiate a complaint regarding the alleged improper collection, use, disclosure, or destruction of personal information.

11. For the purposes of this Memorandum, biographical core information about an individual would include personal identifiers such as income tax, banking and health records, but would not ordinarily include the specific time and date an individual entered or left Canada. Generally, the disclosure of biographical core information by customs to another agency or the police will be in accordance with a written collaborative arrangement that will reflect the specific authority of customs to disclose the information to another agency. The arrangement will provide the details of the privacy protection to be applied to the information.

## **WHERE TO DIRECT REQUESTS FOR CUSTOMS INFORMATION**

12. Requests for customs information should be in writing, or further to a written collaborative arrangement (see paragraphs 13 to 18) and be directed in accordance with Appendix A entitled “Where to direct requests for customs information.”

## **ONGOING PROVISION OF CUSTOMS INFORMATION**

13. When it becomes evident that a disclosure may lead to a series of similar disclosures to the same client, the Director General of the program area, or a delegate, in consultation with the Program Strategy Directorate of the Customs Branch and the Intergovernmental and International Affairs Directorate (IIAD) of the Policy and Legislation Branch, must enter into discussions with the client and IIAD, Policy and Legislation Branch, to establish a written collaborative arrangement such as an MOU, or

other similar collaborative arrangements. These arrangements are typically signed by the Commissioner, and on some occasions, by an Assistant Commissioner. Such written arrangements will list the specific customs information to be disclosed for limited purposes (with an ability to amend the list by mutual agreement), and will include terms and conditions ensuring security for (including limited access to) and the timely destruction of the information once it has been used. It will also direct that the use of customs information be subject to audit. IIAD, Policy and Legislation Branch has established guidelines concerning standard provisions and references that are normally included in written collaborative arrangements.

14. On occasion, Customs officials participate in Joint Force Operations (JFO) with other law enforcement agencies in order to investigate specific criminal activities. Prior to the commencement of the JFO, the participating agencies must outline the JFO objective and limitations in a written collaborative arrangement. The written collaborative arrangement should identify what customs information is to be disclosed, for what purpose related to the needs of the project or operation, and the legal authority within section 107 of the *Customs Act* to provide, use, or allow access to customs information to or by members of the JFO. The written collaborative arrangement is approved and signed by a director or manager of a customs program area in consultation with the appropriate Headquarters functional authority. This is particularly important given that, in certain cases, the courts have ruled that the provision of information qualifies as a search or seizure for the purposes of the *Charter*. The exercise of the legislative authority to disclose customs information must be consistent with the *Charter*; the risk of a conflict with the *Charter* is increased when the information disclosed is biographical core information. When customs information generated by a JFO will be used to further other criminal investigations outside the objective and scope of the JFO, the appropriate customs program area should be consulted to determine if a judicial warrant or court order will be required.

15. For the sharing of customs information outside of the customs program (within the CCRA), there should be an internal written collaborative arrangement outlining the data to be provided, the purpose for which it will be used, and providing that it will not be used for other purposes or provided to a third party. Such sharing must be authorized by section 107 of the *Customs Act* and is subject to any restrictions outlined in paragraph 8.

16. When a regional office intends to develop or revise a regional written collaborative arrangement to respond to local or regional requirements, the regional office must consult with the appropriate Customs Branch program area and the Policy and Legislation Branch.

17. The Intergovernmental and International Affairs Directorate (IIAD), Policy and Legislation Branch, is responsible for maintaining an inventory of all CCRA written collaborative arrangements (MOUs, Letters of Intent, Agreements, and other arrangements). These documents are sensitive and may only be used by CCRA employees for work related purposes. Information sharing should occur under the authority of these written arrangements by the authorized officials listed in the annexes to the arrangements. Each program area is responsible for keeping track of Headquarters and Regionally initiated arrangements. Except for short term JFO and similar initiatives, IIAD, Policy and Legislation Branch, must be provided with a copy of any new written arrangements.

18. Officials, whether located at Headquarters or within a region must keep track of the details of customs information disclosures, such as name of requestor, date request received, stated purpose for which the customs information is required, the nature of the information disclosed (if any), and the rationale for the decisions taken. The tracking of disclosures includes information shared with other program areas within the CCRA, for audit and other purposes. The tracking records must be kept and stored in accordance with existing CCRA policy and practice on information management. These records must be kept for a minimum of two years, or longer in accordance with information management policy for the program area. CCRA employees can find more details on record retention and disposal under the Information Management Directorate Web page of the Finance and Administration Branch Intranet Web site at: <http://infozone/english/r2822200/FAM/Admin/Info/newtoc.htm>.

#### **SPECIFIC REQUESTS FOR CUSTOMS INFORMATION**

19. Information requests from the public (for example, from industry associations and media representatives) generally are one-time, ad hoc requests, in writing that do not require a written collaborative arrangement.

20. Requests for customs information that are not ongoing and do not fall under the authority of an existing written collaborative arrangement, or other arrangement will be assessed on a case-by-case basis. Responses to requests for customs information must be made in writing, except in extraordinary circumstances.

(a) Requests should specify the information required and the purpose for which it will be used, including legislative references. Requests should be in writing and also contain an undertaking that the information will only be used for the stated purposes, and will not be shared with a third party.

(b) The official assigned to process the request must confirm that no restrictions outlined in these Interim Guidelines apply. Authorizations for disclosure or actual disclosures should be accompanied by a written response to the request that confirms the legal authority to disclose the information and specifies the following: the data elements to be provided; the purposes for which the information may be used; and who may have access to it and how it is to be disposed of after use. Written responses should also be provided if the request is turned down, stating the reason why, and offering alternatives, if applicable.

#### **STATISTICS CANADA (INTERNATIONAL TRADE DIVISION)**

21. Trade data found on Statistics Canada ([www.statcan.ca](http://www.statcan.ca)) and Industry Canada's "Strategis" ([www.strategis.ic.gc.ca](http://www.strategis.ic.gc.ca)) Web sites can be obtained without cost. Individuals seeking trade data should first consult those sites. Public requests for other trade data are to be directed to Statistics Canada (STC), who will provide custom designed reports for that data, which can be disclosed on a cost-recovery basis. Normally, the CCRA will only provide trade data to other Government agencies under the provisions of a written collaborative arrangement, providing authority for the disclosure exists in section 107 of the *Customs Act*.

22. Before responding to a request for customs information other than information available to the public, Statistics Canada will require authorization to disclose the information from the appropriate program area in the Customs Branch. The customs official must ensure the request conforms to the requirements of section 107 of the *Customs Act* and these Interim Guidelines. Statistics Canada's disclosures that are authorized by law and approved by the CCRA are customized services and subject to fees established by that Department. Statistics Canada will also provide an estimate of the cost to provide the information before responding to the request.

#### **REQUEST FROM THE PUBLIC FOR ACCESS TO CUSTOMS INFORMATION ABOUT A PARTICULAR PERSON**

23. When a member of the public requests access to customs information about a particular traveller or importer, that information cannot be disclosed without the written consent of the traveller or importer about whom the information relates. In the absence of such consent, the requestor should be informed of the reason the request has been rejected and advised that they can make a request under the *Access to Information Act* or *Privacy Act*, whichever is applicable. Requests under that legislation are

handled by the Access to Information and Privacy Division, Public Affairs Branch, where analysts review the information to determine if it can be disclosed pursuant to the Access to Information and Privacy (ATIP) legislation. The Customs Branch will provide the ATIP Division with assistance in determining what information is available and can be disclosed under that legislation.

#### **REQUEST FROM WITHIN THE CCRA FOR ACCESS TO CUSTOMS INFORMATION**

24. Customs information may be shared within the CCRA, for reasons relating to the delivery of individual programs, environmental and financial analysis, strategic planning, processing of appeals, etc., provided the information may reasonably be regarded as necessary for a purpose relating to the administration or enforcement of the *Customs Act*, the *Canada Pension Plan*, the *Customs Tariff*, the *Employment Insurance Act*, the *Excise Act*, the *Excise Tax Act*, the *Export and Import Permits Act*, the *Income Tax Act*, the *Special Import Measures Act*, or Part 2 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* by an official of the CCRA. There is an internal data retrieval system called the Facility for Information Retrieval Management (FIRM) that is operated by the CCS Maintenance Division in the Major Project Design and Development Directorate (MPDD) in the Customs Branch, from which small reports may be generated for internal use provided the information meets the test described in the previous sentence.

#### **OTHER LIMITED USE OF DATA IN THE FIRM DATABASE**

25. A FIRM report may be used to disclose customs information to outside clients, when data elements and the volume of information resulting from those elements will not burden machine time and resources in the CCS Maintenance Division, and the proposed disclosure conforms to the provisions of section 107 of the *Customs Act*, as well as the direction provided by these Interim Guidelines.

#### **REQUESTS FROM IMPORTERS, EXPORTERS OR THEIR REPRESENTATIVES**

26. The *Imported Goods Records Regulations*, the *Exporters' and Producers' Records Regulations*, and the *Customs Brokers Licensing Regulations* stipulate the requirements for keeping records relating to the importation, exportation, and production of commercial goods for a period of six years. In keeping with the obligations outlined in these regulations, the CCRA will provide importers and customs brokers with copies of their information only in urgent circumstances.

27. Should an importer/exporter or their representative require import/export information that is not available from their own records (for example, if it has been accidentally destroyed) and this information is required to comply with a CCRA-initiated audit or similar CCRA inquiry, then the CCRA will try to provide the information from its records. These types of requests should be made, in writing, directly to the relevant regional office, which may, once authorized by the Customs Branch, prepare and provide the requested information for a fee.

#### WHO MAY APPROVE THE DISCLOSURE OF CUSTOMS INFORMATION TO OTHERS

28. CCRA officials who are authorized to approve the disclosure of customs information, under the relevant authorities of section 107 of the *Customs Act*, are listed in Appendix B found starting on page 13 of this Memorandum. A reference in Appendix B to an official at a specific level includes any official in a supervisory position, at a level superior to the official at the specified level (for example, a manager or supervisor providing direction or supervision to the official). Appendix C of this memorandum provides summary tables of officials who may authorize the disclosure of customs information. Officials should refer to Appendix B to verify that they are authorized to make the disclosure. When they are not so authorized, they must consult with an official listed in Appendix B who must make the decision on whether to disclose customs information under the relevant authority.

29. However, a customs official at any level may disclose customs information of the following nature, or under the conditions outlined below:

(a) Information that relates to an individual or corporation may be disclosed to that individual or corporation, or to their authorized representative, other than sensitive information relevant to an ongoing investigation customs intelligence or targeting activities. The authorized representative must have written consent from the individual or corporation, and the customs official must be satisfied that a written consent exists. The customs official may request a copy of the consent prior to disclosing the customs information. (Ref: subsection 107(9))

(b) **In urgent circumstances**, information that is obtained or discovered in the course of duty that may reasonably be regarded as imminently necessary to protect the life, health, or safety of an individual or the environment in Canada or any other country, or for the national security or the defense of Canada, may be disclosed to a member of the police or other investigative agencies (under authority of paragraph 107(4)(e) or 107(4)(h) of the *Customs Act*). The officer disclosing the information must have reasonable grounds to believe that there is imminent threat to the life, health,

or safety of an individual, or the environment in Canada or any other country, or a question of national security, prior to the disclosure of customs information. In all other circumstances, the disclosure of customs information under the authority of paragraph 107(4)(e) or 107(4)(h) of the *Customs Act* must be approved by an official identified in paragraph 28 of these Interim Guidelines (see also paragraph 30). Urgent circumstances, do not include ongoing criminal investigations where another agency may request customs information relevant to that investigation unless there is imminent danger to the life or safety of an individual. For more information, see paragraphs 9, 10, and 11 of these Interim Guidelines.

(c) **In urgent** circumstances, a Regional Intelligence Officer or Investigator may provide customs information to a member of the RCMP, CIC, or CSIS under the authority of paragraph 107(4)(h) when the information is reasonably regarded as information relating to the national security or the defence of Canada. Under this authority, the Regional Intelligence Officer or the Investigator must have reasonable grounds to believe there is imminent threat to national security or the defence of Canada before disclosing customs information. In all other circumstances, the disclosure of customs information under the authority of paragraph 107(4)(h) must be approved by an official identified in paragraph 28 and Appendix B of these Interim Guidelines. For more information, see paragraph 30.

30. When a customs official is in the possession of customs information (other than biographical core information described in paragraph 11 of this Memorandum) that can reasonably be regarded as being related to an offence outlined in paragraph 107(5)(a) or subparagraph 107(5)(c)(ii), other than in the circumstances outlined in Appendix B, the official must seek direction from a regional customs manager or a Customs Program Director, and with the approval of that manager or Director, and given consideration of the relevant circumstances of the case, may disclose the required customs information. They may disclose the customs information to the specific persons listed in paragraph 107(5)(a) or subparagraph 107(5)(c)(ii), when those provisions apply. Such disclosure, while requiring management approval, does not require a request from a third party. When additional disclosure is sought by members of an external investigative agency, other than cases when there is an imminent danger to the life or safety of an individual, to biographical core information (see paragraphs 10 and 11 of this Memorandum), for a non-regulatory investigation, while officials may admit to being in possession of such information (see paragraph 31 of this Memorandum), in the ordinary course that agency would be expected to obtain a judicial warrant or court order so that the request can be considered under the authority of paragraph 107(5)(m) or 107(5)(n) of the *Customs Act*.

31. The requirements for a judicial warrant or court order do not prevent customs from responding to general questions posed by members of an external investigative agency concerning whether customs may have biographical core information that will be relevant to a non-regulatory investigation. Such exchanges are to enable members of an external investigative agency to establish grounds to obtain a judicial warrant or court order but must be authorized by section 107 of the *Customs Act*. Should members of an external investigative agency be successful in obtaining a judicial warrant or court order, then the details of the customs information may be disclosed to comply with that warrant or order. As provided for in the appendices to this Memorandum, in certain circumstances, biographical core customs information may be spontaneously disclosed to the police in cases of imminent danger, or if the official has reasonable and probable grounds to believe that a crime described in paragraph 107(5)(a) of the *Customs Act* has been committed and the information relates to that crime.

32. Regional offices may establish a regional coordinator who will be tasked with tracking regional requests for customs information and disclosure decisions. The coordinator will also be tasked with providing advice to other regional officials as well as providing recommendations to the Regional Assistant Commissioner on whether to disclose requested customs information. The regional coordinators will also regularly report to Headquarters Branches and participate in related training activities. The decision to establish a regional coordinator rests with the Regional Assistant Commissioner, who will determine regional requirements.

#### APPLICATION OF FEES

33. Requests for disclosure of customs information that are authorized by section 107 and have been approved will be subject to processing fees in accordance with the relevant regulations and written collaborative arrangement that govern information exchanges with our partner organizations. Please refer to D1-3-1, *Fees for Information and Documents* (under review).

#### ISSUES RELATED TO DISCLOSURE OF CUSTOMS INFORMATION ABOUT INDIVIDUALS

##### Data-Matching and Privacy Impact Assessments

34. Data-matching is an activity that involves comparing personal information (information about an identifiable individual as defined in the *Privacy Act*) obtained from different sources, including personal information banks, for the purpose of making decisions about the individuals to whom the information pertains.

35. When dealing with data-matching of customs information that may include personal information, Chapters 2 through 5 of the Treasury Board Manual on Privacy and Data Protection must be considered. (This is available on the Treasury Board Web site at: [www.tbs-sct.gc.ca/home\\_e.html](http://www.tbs-sct.gc.ca/home_e.html)). Prior to initiating new matching programs, institutions must assess the feasibility of proposed programs by determining their potential impact on the privacy of individuals and analyzing associated costs and benefits. Institutions must notify the Privacy Commissioner of a new matching program at least 60 days before matching is scheduled to begin. Such notification typically involves coordination with the Access to Information and Privacy Division. Only the CCRA Commissioner or a named delegate can approve a data-matching program.

36. Proposed use, disclosure to others, or allowing access to customs information, which is also “personal information,” as defined in section 3 of the *Privacy Act* may require a “Privacy Impact Assessment” as required by Treasury Board policy issued under authority of the *Privacy Act*. This policy will require careful examination of the proposed program. The need for a Privacy Impact Assessment will be assessed in consultation with the Access to Information and Privacy Division before the CCRA will enter into any new program for the use, allowing access to, or disclosure of customs information, which may include personal information.

#### ADVANCE PASSENGER INFORMATION AND PASSENGER NAME RECORD

##### Data-Matching and Privacy Impact Assessments

37. Advance Passenger Information (API) and Passenger Name Record (PNR) is information provided by carriers in advance of the arrival of travellers in Canada. This information is analyzed to identify suspected threats to Canadian security and enables customs to focus on travellers who pose a higher risk. The API and PNR information represents personal information, which will be subject to controlled access and disclosure – see paragraphs 6, 10, 11, 23, 29, 30, and 31, which apply to the disclosure of personal information. **The exceptions in Appendix B limit the API/PNR information that an official may disclose to another Federal agency.** The PNR program is subject to additional guidelines. When any access, use, or sharing of PNR information is contemplated, officials must ensure such activity conforms with the advice provided in D1-16-3, *Interim Administration Guidelines for the Provision to others, Allowing access to others and Use of Passenger Name Record (PNR) Information*.

## Offence Provisions and Disciplinary Action

38. Subsection 107(2) of the *Customs Act* provides that no person shall knowingly provide, or allow to be provided, customs information to a person, or allow a person to have access to customs information, or use customs information, unless authorized by section 107 of that Act to do so. This strict rule applies to any person in the possession of, or having access to, customs information, not just to officials, and not just to customs officers. Therefore, the unauthorized disclosure of customs information by an official of the CCRA may be subject to prosecution (please note the references to section 160(1) of the *Customs Act* in paragraph 40 of this Memorandum). The offence provisions can also be applied to a person who knowingly makes use of customs information that has not been provided via an authorized disclosure.

39. The CCRA's *Code of Ethics and Conduct* provides standards for all employees. Customs information may only be disclosed as authorized under section 107 of the *Customs Act* and in accordance with the direction provided by these Interim Guidelines. The misuse of, the unauthorized provision or allowing access to others of customs information, in contravention of section 107 of these Interim Guidelines, may be subject to disciplinary action up to and including termination of employment. For more information on misconduct, please consult the Finance and Administration Manual, Chapter 27, Internal Investigations into Alleged or Suspected Employee Misconduct.

### SECTION 160(1) OF THE *CUSTOMS ACT*

40. Section 160(1) of the *Customs Act* among other things, makes it unlawful and an offence for any person to knowingly contravene subsection 107(2), or to knowingly contravene an order made under subsection 107(11). The offence regarding subsection 107(2) is for a person to knowingly use, provide, or allow to be provided to others, or allow any person to have access to customs information unless authorized by section 107. This offence is punishable by summary conviction with a maximum fine of \$50,000 or imprisonment of up to six months, or both; or by indictment with a maximum fine of \$500,000 or imprisonment of up to five years, or both. This provision applies to anyone in possession of, or with access to, customs information, including counsel, and officials of the CCRA or other federal or provincial departments and agencies, as well as foreign institutions.

41. Allegations concerning employee misconduct with respect to customs information must be promptly reported to a manager or a security administrator, or when this is not feasible, to the Internal Affairs Division, Security Directorate, and must be thoroughly investigated.

## ROLES AND RESPONSIBILITIES

42. This section summarizes the roles and responsibilities of various officials. It should be read in conjunction with other relevant provisions of the legislation outlined in Memorandum D1-16-1.

### REGIONAL OPERATIONS

#### (a) Regional Coordinator

Subject to operational requirements, the Regional Assistant Commissioner may designate a regional official as the regional coordinator. When a regional coordinator has not been established, the regional Director of Customs may be consulted.

The Regional Coordinator is responsible for:

- providing functional guidance to other regional officers;
- acting as a point of contact for HQ officers;
- ensuring regional requests are tracked and actioned; and
- providing summary customs information for regional management and HQ.

#### (b) Customs Inspectors

Customs Inspectors are responsible for:

- ensuring these Interim Guidelines and the relevant CCRA policies are followed;
- consulting with superiors and receiving approval prior to disclosing customs information, as set out in these Interim Guidelines;
- providing limited customs information to officials of CIC to support the decision of the customs inspector to refer a traveler to CIC secondary (see Appendix B, 107(5)(j)); and keeping a written record of all customs information requested and disclosed.

#### (c) Customs Superintendents and Chiefs

Customs Superintendents and Chiefs are responsible for:

- ensuring compliance with these Interim Guidelines and the relevant CCRA policies;
  - providing advice and guidance to officers working under their direction with respect to the application of the Interim Guidelines;
  - consulting with regional or Headquarters officials and seeking advice and guidance, as required, on the authority to disclose or allow access to customs information;
  - keeping a written record of all customs information requested and disclosed; and
- providing feedback and making recommendations to the Program Strategy Directorate, Customs Branch on the administration/application of these Interim Guidelines.

**(d) Regional Intelligence Officers, Contraband Program Officers (CPO), Customs Investigators, Client Service Officers, Compliance Verification Officers and Regional Officers for Other Government Departments Programs**

Regional Intelligence Officers, Contraband Program Officers, Customs Investigators, Client Service Officers, and Compliance Verification Officers are responsible for:

- ensuring these Interim Guidelines and the relevant CCRA policies are followed;
- assessing requests for the disclosure of customs information, which are forwarded to them;
- working with law enforcement and other government agencies to ensure compliance is maintained with the terms and conditions specified in section 107 of the *Customs Act* and with the terms and conditions set out in written collaborative arrangements respecting the use of customs information, which is disclosed to them;
- keeping a written record of all customs information requested and disclosed; and
- providing feedback and making recommendations to Program Strategy Directorate, Customs Branch on the development and modification of these Interim Guidelines.

**(e) Regional Directors, Directors and Managers of Customs Intelligence and Contraband Division and Customs Investigations Division**

Regional Directors, Directors and Managers of Customs Intelligence and Contraband Division and Customs Investigations Division are responsible for:

- ensuring compliance with these Interim Guidelines and the relevant CCRA policies;
- providing advice and guidance to officers working under their direction with respect to the application of these Interim Guidelines;
- consulting with regional or Headquarters officials and seeking advice and guidance, as required, on the authority to disclose or allow access to customs information;
- keeping a written record of all customs information requested and disclosed;
- providing feedback and making recommendations to the Program Strategy Directorate, Customs Branch, on the administration/application of these Interim Guidelines; and
- assessing requests for the disclosure of customs information, which fall within their program responsibilities.

**HEADQUARTERS OPERATIONS**

**(a) Customs Branch**

**(i) Program Strategy Directorate (PSD)**

PSD is the OPI for these Interim Guidelines and is the operational authority for the disclosure of customs information. PSD is responsible for:

- drafting and updating these Interim Guidelines;
- maintaining the disclosure Interim Guidelines on the CCRA Intranet (Infozone);
- developing and providing training to regional coordinators and other designated officials on the application of these Interim Guidelines;
- monitoring compliance with these Interim Guidelines;
- providing functional guidance to the field and HQ, and receiving feedback and addressing concerns;
- acting as coordinator for customs information disclosure inquiries or referrals from the field and public, and referring these to the appropriate Office of Primary Interest;
- considering future changes to the instruments, legislation, and Interim Guidelines on disclosure of customs information;
- identifying and coordinating resolution of new issues relating to disclosure of customs information and keeping representatives in Customs and other Branches informed, as appropriate;
- reviewing and assisting in drafting interdepartmental written collaborative arrangements on the disclosure of customs information; and
- providing the Policy and Legislation Branch with copies of written collaborative arrangements relating to the disclosure of customs information.

**(ii) Program Directorates (Offices of Primary Interest)**

- evaluating impacts of the disclosure of customs information within the context of their mandates, making decisions on the disclosure of customs information, and providing the customs information to the person who requested it, in consultation with PSD where required;
- ensuring appropriate written collaborative arrangements are drafted for ongoing customs information exchanges, or drafting other written collaborative arrangements where required;
- keeping a written record of all customs information requested and disclosed;

- providing additional guidance on the management of requests for customs information that fall within their program mandate;
- ensuring that appropriate security and access is maintained for all customs information under their control; and
- providing the Policy and Legislation Branch with copies of written collaborative arrangements relating to the disclosure of customs information.

**(b) Other CCRA Program Branches (Compliance Programs, Appeals, etc.)**

- evaluating impacts of the disclosure of customs information within the context of their mandates, making decisions on disclosure of customs information, and the provision of customs information, in consultation with Customs Branch;
- ensuring appropriate written collaborative arrangements are drafted for ongoing customs information exchanges under their programs; and
- keeping a written record of all customs information requested and disclosed.

**(c) Legal Services**

- providing legal advice on disclosure policy, related policies, and Interim Guidelines, and how to interpret section 107 of the *Customs Act* in the context of new requests for customs information as required; reviewing new or revised disclosure of customs information written collaborative arrangements; and providing litigation support for section 107 related litigation; and
- assisting in the drafting of modifications to customs confidentiality provisions, including related regulations, as required.

**(d) Policy and Legislation Branch**

- developing, maintaining, and providing advice on CCRA policies on the Management of Protected Client Information;
- drafting, advising on, and otherwise assisting the Program Strategy Directorate and other Customs Program Directorates in the development of written collaborative arrangements with other Federal, Provincial, and Territorial departments and agencies;
- reviewing all agreements that are to be signed by the Commissioner prior to sending them for signature;
- coordinating the regular review of written collaborative arrangements with other Federal, Provincial, and Territorial departments and agencies; and

- maintaining an inventory and reference copies of written collaborative arrangements between the CCRA and other Federal, Provincial, and Territorial departments and agencies.

**(e) Finance and Administration Branch**

**(i) Information Management Directorate**

- developing and providing advice on CCRA and Treasury Board Information Management policies and practices;
- ensuring information in the custodianship of the CCRA is managed effectively and efficiently throughout its life cycle;
- ensuring adherence to approved Records Disposition Authorities;
- ensuring that information management accountability frameworks and terms of reference are in place when information is shared with other departments or agencies of federal, provincial, territorial, local, or foreign governments, international organizations, and private firms; and
- addressing issues related to information management risk assessment.

**(ii) Security Directorate**

- creating policy governing the storage/destruction of customs information;
- providing policy direction on the security of information; and
- providing policy direction on the management of alleged misuse of information.

**(f) Public Affairs Branch**

- administering and ensuring compliance with the *Access to Information Act* and *Privacy Act* for the CCRA;
- ensuring the CCRA adherence to legislative requirements and Treasury Board policies on Access to Information and Privacy and Data Protection.

**(g) Human Resources Branch**

- developing and providing advice on the CCRA Interim Guidelines for Supervision, Evaluation and Discipline of an Employee; and
- developing and providing advice on the CCRA Code of Ethics and Conduct.

## APPENDIX A

## WHERE TO DIRECT REQUESTS FOR CUSTOMS INFORMATION

REQUESTOR	WHERE TO DIRECT THE REQUEST
General requests for statistical trade data.	International Trade Division, Statistics Canada 120 Parkdale Avenue Ottawa, Ontario K1A 0T6 1-800-263-1136 – General enquires
Requests from importers, exporters, or their authorized representatives for Customs-related transaction data.	<b>If related to a CCRA audit or enquiry concerning the importer/exporter:</b> Regional Customs Office, CCRA  <b>Other requests:</b> International Trade Division, Statistics Canada
Requests from other federal government departments and agencies for customs information.	<b>If related to national data:</b> Admissibility Programs, OPCD  <b>If related to regional data:</b> Regional Assistant Commissioner  <b>If related to an ongoing investigation by other government institutions and there is a written collaborative arrangement with the other government department or agency:</b> Directors or Managers of Customs Investigations in the Region Directors or Managers of Intelligence and Contraband in the Region
Requests for customs information from provincial governments.	<b>If related to collection of PST or GST by the CCRA pursuant to a written collaborative arrangement with the province:</b> Operational Policy and Coordination Directorate, Customs Branch  <b>If related to value for duty, origin or tariff classification of goods:</b> Trade Policy and Interpretation Directorate, Customs Branch  <b>If related to an ongoing investigation pursuant to provincial legislation and there is a written collaborative arrangement with the provincial government:</b> Director or Manager of Customs Investigations in the Region Director or Manager of Intelligence and Contraband in the Region  <b>Other requests:</b> Program Strategy Directorate, Customs Branch or the Regional Assistant Commissioner, in consultation, as required, with the above-noted Headquarters Branch, for customs information held locally and pursuant to an established program
Requests for customs information related to Forms E-311, traveller's history files or information within the <i>Advance Passenger Information (API)</i> and <i>Passenger Name Record (PNR)</i> databases.	Director General, Contraband and Intelligence Services Directorate, Customs Branch – see paragraph 37 of this memorandum and Appendix B.
Requests for customs information for a SIMA proceeding.	Director General, Anti-dumping and Countervailing Directorate, Customs Branch
Requests for customs information from another program area within the CCRA.	Program Strategy Directorate, Customs Branch

REQUESTOR	WHERE TO DIRECT THE REQUEST
Requests from investigative agencies, intelligence agencies, or police.	<p>Contraband and Intelligence Services Directorate, Customs Branch (if related to drugs or other contraband matters)</p> <p>Investigations Directorate, Compliance Programs Branch (if related to fraud or other smuggling matters related to Customs Investigations)</p> <p>Regional Assistant Commissioner or a named Delegate (if customs information is held in a regional office)</p> <p>Regional Customs Investigations Division (if related to an ongoing investigation)</p> <p>Regional Customs Intelligence and Contraband Division (if related to an ongoing investigation)</p>
Requests from foreign governments that do not fall under the authority of an international trade agreement or Customs written collaborative arrangement.	Program Strategy Directorate, Customs Branch
Requests from foreign governments that fall under the authority of an international trade agreement or customs written collaborative arrangement.	<p>Specific Program Area, Customs Branch</p> <p>Contraband and Intelligence Services Directorate, Customs Branch (if related to drugs or other contraband matters)</p> <p>Investigations Directorate, Compliance Programs Branch</p>

**Requests for customs information under the *Access to Information Act* or the *Privacy Act* must be sent to Access to the Information and Privacy (ATIP) Division for processing.**

## APPENDIX B

## OFFICIALS AUTHORIZED TO DISCLOSE CUSTOMS INFORMATION

Officials are only authorized to disclose customs information to the extent outlined in these guidelines and section 107 of the *Customs Act*. This Appendix is for ease of reference. Officials considering the disclosure of customs information must refer to the relevant portions of section 107 of the *Customs Act* and also to the restrictions set out in these Interim Guidelines.

A reference in this Appendix to an official at a specific level includes any official at a level superior to that specific level within the named Directorate or Regional Organization (for example, the supervisor of the official referred to in the Appendix).

Unless in the limited circumstances noted in this Appendix, Advance Passenger Information (API), Passenger Name Record (PNR) cannot be disclosed without prior approval from the Director, Contraband and Intelligence Services Directorate, Customs Branch. Information collected under the *Special Import Measures Act* (SIMA) cannot be disclosed without prior approval from the Director General, Anti-dumping and Countervailing Directorate, Customs Branch.

<i>CUSTOMS ACT</i>	AUTHORIZATION
<b>107(4)(a)</b> (certain criminal proceedings)	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the Provisions of the <i>Special Import Measures Act</i> (SIMA) – Director General Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director Trade Policy and Interpretation Directorate – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of the <i>Special Import Measures Act</i> (SIMA)) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of the <i>Special Import Measures Act</i> (SIMA)) Manager of Intelligence and Contraband or Manager of Investigations</p> <ul style="list-style-type: none"> <li>– Regional intelligence officer, investigator, superintendent, chief – when providing testimony or materials that will be used in court, when information had been laid, or an indictment has been preferred.</li> </ul> <p><b>Any Customs Official</b> (Excluding information collected under the provisions of the <i>Special Import Measures Act</i> (SIMA))</p> <ul style="list-style-type: none"> <li>– Any customs official when providing evidence or testimony further to, and relevant to, a charge, after an information has been laid, or an indictment has been preferred.</li> </ul>
<b>107(4)(b)</b> (certain legal proceedings)	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of the SIMA – Director General Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director Program Strategy Directorate – any director Trade Policy and Interpretation Directorate – any director</p> <p><b>Appeals Branch</b> (Excluding information collected under the provisions of SIMA) Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any director responsible for customs</p>

<i>CUSTOMS ACT</i>	AUTHORIZATION
	<p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Chief, Intelligence and Contraband Chief, Investigations</p> <p><b>Any Customs Official</b> (Excluding information collected under the provisions of SIMA)</p> <ul style="list-style-type: none"> <li>- Any customs official when providing testimony or evidence at a legal proceeding, as provided for in the paragraph, in consultation with a manager.</li> </ul>
<p><b>107(4)(c)</b>  (administration of named Acts)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General</p> <p>Other Directorates – any director</p> <p><b>Compliance Program Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any director responsible for customs</p> <p><b>Policy and Legislation Branch</b> (Excluding information collected under the provisions of SIMA) – any director</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Chief, Intelligence and Contraband Chief, Investigations</p> <ul style="list-style-type: none"> <li>- A regional intelligence officer or an investigator, with approval of an immediate supervisor, to provide customs information to any person other than a customs official.</li> </ul> <p><b>Any Customs Official</b> (Excluding information collected under the provisions of SIMA)</p> <ul style="list-style-type: none"> <li>- Any customs official, with approval of an immediate supervisor, to provide customs information to any other customs official for the administration or enforcement of the <i>Customs Act, Customs Tariff, Excise Act, Excise Tax Act, Export and Import Permits Act</i>, including requests regarding active criminal investigations.</li> </ul>
<p><b>107(4)(d)</b>  (to the RCMP, in certain circumstances)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General</p> <p>Contraband and Intelligence Services Directorate – any director</p> <ul style="list-style-type: none"> <li>- An intelligence officer, with approval of an immediate supervisor</li> </ul> <p>Operational Policy and Coordination Directorate – any director</p> <p><b>Compliance Program Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any director responsible for customs</p> <ul style="list-style-type: none"> <li>- A customs investigator, with approval of an immediate supervisor.</li> </ul> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Chief, Intelligence and Contraband Chief, Investigations</p> <p>Superintendent or Chief of Operations</p> <ul style="list-style-type: none"> <li>- With the approval of an immediate supervisor, a Regional Intelligence Officer, or an Investigator.</li> </ul>

<i>CUSTOMS ACT</i>	<i>AUTHORIZATION</i>
<p><b>107(4)(e)</b> (life, health or safety)</p>	<p><b>Customs Branch</b> Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director Program Strategy Directorate – any director</p> <p><b>Appeals Branch</b> Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> Chief, Intelligence and Contraband, including API and PNR information other than historical API/PNR information Chief, Investigations</p> <p><b>Any Customs Official</b></p> <ul style="list-style-type: none"> <li>– Any customs official, under the direction of an immediate supervisor, to any other person in urgent circumstances and other requirements set out in paragraph 29</li> </ul>
<p><b>107(4)(f)</b> (supervision, valuation or discipline)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other Directorates - any director</p> <p><b>Appeals Branch</b> (Excluding information collected under the provisions of SIMA) Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Chief of a Customs Program Area</p> <p><b>Any Customs Official</b> (Excluding information collected under the provisions of SIMA)</p> <ul style="list-style-type: none"> <li>– Any customs official, but solely to disclose customs information to an immediate supervisor</li> </ul>
<p><b>107(4)(g)</b> (information that does not directly or indirectly identify any person)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other Directorates – any director</p> <p><b>Appeals Branch</b> (Excluding information collected under the provisions of SIMA) Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Chief, Intelligence and Contraband Chief, Investigations</p> <ul style="list-style-type: none"> <li>– Regional Chief of Operations, when the customs information is related to customs enforcement actions</li> </ul>

<i>CUSTOMS ACT</i>	<b>AUTHORIZATION</b>
<b>107(4)(h)</b> (national security or the defence of Canada)	<p><b>Customs Branch</b></p> <p>Contraband and Intelligence Services Directorate</p> <ul style="list-style-type: none"> <li>- A director to an agency of a foreign government, when the customs information relates to the national security or defence of Canada</li> <li>- A director when API/PNR information is proposed for disclosure</li> <li>- A manager to officials of another federal department or agency</li> <li>- An intelligence officer to officials of another federal department or agency in consultation with an immediate supervisor</li> </ul> <p>Operational Policy and Coordination Directorate – any director</p> <p><b>Compliance Programs Branch</b></p> <ul style="list-style-type: none"> <li>- A director, responsible for customs, of the Investigations Directorate to an agency of a foreign government when the customs information relates to the national security or defence of Canada</li> <li>- A manager, responsible for customs, of the Investigations Directorate to officials of another federal department or agency</li> <li>- A customs investigator to officials of another federal department or agency in consultation with an immediate supervisor</li> </ul> <p><b>Regional Operations</b></p> <ul style="list-style-type: none"> <li>- Chief of Intelligence and Contraband, including API and PNR information other than historical API/PNR information</li> <li>- Chief of Investigations</li> <li>- In urgent circumstances and other requirements set out in paragraph 29, a regional intelligence officer or Investigator to officials of another federal department or agency</li> </ul>
<b>107(5)(a)</b> (to a peace officer investigating certain alleged indictable offences)	<p><b>Customs Branch</b></p> <p>Contraband and Intelligence Services Directorate – any director</p> <p>An intelligence officer, with approval of an immediate supervisor, may provide customs information that relates to an alleged indictable offence, to a peace officer.</p> <p><b>Compliance Programs Branch</b></p> <p>Investigations Directorate – any director responsible for customs</p> <ul style="list-style-type: none"> <li>- A customs investigator, with approval of an immediate supervisor, may provide customs information that relates to an alleged indictable offence, to a peace officer.</li> </ul> <p><b>Regional Operations</b></p> <ul style="list-style-type: none"> <li>- A regional intelligence officer or Investigator, with approval of an immediate supervisor, may provide customs information that relates to an alleged indictable offence, to a peace officer.</li> </ul> <p><b>Any Customs Official</b></p> <ul style="list-style-type: none"> <li>- Any customs official may provide relevant customs information in relation to the arrest or detention of an individual by a customs official, to a peace officer when the intervention of a peace officer is required.</li> </ul>

<i>CUSTOMS ACT</i>	<i>AUTHORIZATION</i>
<p><b>107(5)(b)</b> (legal entitlement under another federal law)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other Directorates – any director</p> <p><b>Compliance Programs Branch</b> (<i>Excluding information collected under the provisions of SIMA</i>) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (<i>Excluding information collected under the provisions of SIMA</i>) Chief of a customs program area may provide information only for the purposes for which legal entitlement exists. see paragraph 24 of D1-16-1. Chief of Operations may provide information only for the purposes for which legal entitlement exists. (see paragraph 24 of D1-16-1).</p>
<p><b>107(5)(c)</b> (prohibited, controlled or regulated goods; offences in respect of imported or exported goods; information on goods as evidence of an offence)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Contraband and Intelligence Services Directorate – any manager</p> <ul style="list-style-type: none"> <li>– An intelligence analyst, with approval of an immediate supervisor, where subparagraph 107(5)(c)(i) applies and the disclosure is the subject matter of a written collaborative arrangement with another federal department or agency.</li> </ul> <p>Operational Policy and Coordination Directorate – any manager Trade Policy and Interpretation Directorate – any manager</p> <p><b>Compliance Programs Branch</b> (<i>Excluding information collected under the provisions of the SIMA</i>) Investigations Directorate – any manager responsible for customs</p> <ul style="list-style-type: none"> <li>– A customs investigator, with approval of an immediate supervisor, where subparagraph 107(5)(c)(i) applies and the disclosure is the subject matter of a written collaborative arrangement with another federal department or agency.</li> </ul> <p><b>Regional Operations</b> (<i>Excluding information collected under the provisions of SIMA</i>) Chief of Intelligence and Contraband Chief of Investigations Chief of Operations</p> <ul style="list-style-type: none"> <li>– A regional commercial analyst, with approval of an immediate supervisor, where subparagraph 107(5)(c)(i) applies, for purposes of providing statistical information to an official of a federal government department or agency.</li> <li>– Intelligence officers, investigators, or regional intelligence analysts, with approval of an immediate supervisor, where subparagraph 107(5)(c)(ii) or (iii) applies and the disclosure is the subject matter of a written collaborative arrangement with another federal department or agency.</li> </ul>
<p><b>107(5)(d)</b> (provincial legislation related to certain goods)</p>	<p><b>Customs Branch</b> Operational Policy and Coordination Directorate – any manager Trade Policy and Interpretation Directorate – any manager</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any manager responsible for customs</p> <p><b>Regional Operations</b> Manager of Intelligence and Contraband Manager of Investigations</p>

<i>CUSTOMS ACT</i>	AUTHORIZATION
<p><b>107(5)(e)</b> (<i>Excise Tax Act</i> administration in the province)</p>	<p><b>Customs Branch</b> Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director Trade Policy and Interpretation Directorate – any director</p> <p><b>Appeals Branch</b> Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any director responsible for customs</p> <p><b>Policy and Legislation Branch</b> Excise and GST/PST Rulings Directorate – any director</p> <p><b>Regional Operations</b> Manager of Intelligence and Contraband Manager of Investigations Manager of Client Services</p>
<p><b>107(5)(f)</b> (formulation or evaluation of fiscal or trade policy; remission orders)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other directorates – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of SIMA) Investigations Directorate – any manager responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Director of a customs program area</p>
<p><b>107(5)(g)</b> (collecting federal debts by way of set-off)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other Directorates – any director</p> <p><b>Assessment And Collections Branch</b> (Excluding information collected under the provisions of SIMA) Revenue Collections Directorate – any director</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of the <i>Special Import Measures Act</i> (SIMA)) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of SIMA) Director of a customs program area</p>
<p><b>107(5)(h)</b> (counsel for certain SIMA purposes)</p>	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate – Director General</p>

<i>CUSTOMS ACT</i>	AUTHORIZATION
<p><b>107(5)(i)</b> (limited information to HRDC for the <i>Employment Insurance Act</i>)</p>	<p><b>Customs Branch</b> Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> Manager of Intelligence and Contraband Manager of Investigations</p>
<p><b>107(5)(j)</b> (certain information to CIC for the <i>Immigration and Refugee Protection Act</i>)</p>	<p><b>Customs Branch</b> Contraband and Intelligence Services Directorate – any manager Operational Policy and Coordination Directorate – any manager</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any manager responsible for customs</p> <p><b>Regional Operations</b> Any Regional Intelligence Officer or Investigator under the direction of an immediate supervisor</p> <p><b>Any Customs Official</b></p> <ul style="list-style-type: none"> <li>– Any customs official, under the direction of an immediate supervisor, to an official of CIC only if the information relates to the movement of people into and out of Canada.</li> </ul>
<p><b>107(5)(k)</b> (certain information to FINTRAC for the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i>)</p>	<p><b>Customs Branch</b> Contraband and Intelligence Services Directorate – any director Operational Policy and Coordination Directorate – any director</p> <p><b>Appeals Branch</b> Customs Appeals Directorate – any director</p> <p><b>Compliance Programs Branch</b> Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> Manager of Intelligence and Contraband Manager of Investigations</p> <p><b>Any Customs Official</b></p> <ul style="list-style-type: none"> <li>– Any customs official, with approval of an immediate supervisor, to an official of the Financial Transactions and Reports Analysis Center of Canada, to administer or enforce <i>The Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i>.</li> </ul>
<p><b>107(5)(l)</b> (determining entitlement under the <i>Customs Act</i> or the <i>Customs Tariff</i>)</p>	<p><b>Customs Branch</b> Operational Policy and Coordination Directorate – any manager Trade Policy and Interpretation Directorate – any manager</p> <p><b>Regional Operations</b> Chief of Client Services</p>

<i>CUSTOMS ACT</i>	AUTHORIZATION
<b>107(5)(m)</b> (to comply with court orders issued in Canada)	<p><b>Customs Branch</b> Anti-dumping and Countervailing Directorate for information collected under the provisions of SIMA – Director General Other Directorates – any Director General</p> <p><b>Compliance Programs Branch</b> (For information collected under the provisions of SIMA, consult with the Director General of the Anti-dumping and Countervailing Directorate) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Chief of a customs program area</p> <p><b>Any Customs Official</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Any customs official, to a court of record in Canada or Crown Attorney</p> <ul style="list-style-type: none"> <li>– Any customs official, in consultation with their immediate supervisor and a lawyer with the Department of Justice, in accordance with and as directed by the subpoena or warrant issued or an order made by a court of record in Canada.</li> </ul>
<b>107(5)(n)</b> (to comply with court orders from outside Canada)	<p><b>Customs Branch</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) – any director general</p> <p><b>Compliance Programs Branch</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Investigations Directorate – any director responsible for customs</p> <p><b>Regional Operations</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Manager of a customs program area</p> <p><b>Any customs Official</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate)</p> <ul style="list-style-type: none"> <li>– A customs official, in consultation with their immediate supervisor and a lawyer with the Department of Justice, in accordance with and as directed by the subpoena or warrant issued or an order made by a court of record outside Canada, solely for the purposes of criminal proceedings.</li> </ul>
<b>107(5)(o)</b> (as prescribed by regulations)	Not in effect at time of publication
<b>107(6)(a)</b> (Minister's opinion, public interest)	Minister

<i>CUSTOMS ACT</i>	<b>AUTHORIZATION</b>
<b>107(6)(b)</b>  (Minister's opinion, benefit to the individual to whom the information relates)	Minister
<b>107(8)</b>  (to a foreign government or international organization pursuant to a written collaborative arrangement )	<p><b>Customs Branch</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Anti-dumping and Countervailing Directorate for information collected under the provisions of <i>SIMA</i> – Director General Other directorates – any manager</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of <i>SIMA</i>) Investigations Directorate – any manager responsible for customs</p> <p><b>Regional Operations</b> (Excluding information collected under the provisions of <i>SIMA</i>) Manager of a customs program area</p>
<b>107(9)</b>  (information about a person to that person or their agent)	<p><b>Customs Branch</b> (For information collected under the provisions of <i>SIMA</i>, consult with the Director General of the Anti-dumping and Countervailing Directorate) Anti-dumping and Countervailing Directorate for information collected under the provisions of <i>SIMA</i> – Director General Other directorates – any Director General</p> <p><b>Compliance Programs Branch</b> (Excluding information collected under the provisions of <i>SIMA</i>) Investigations Directorate – any director responsible for customs operations</p> <p><b>Any Customs Official</b> (Excluding information collected under the provisions of <i>SIMA</i>)</p> <ul style="list-style-type: none"> <li>– Any Customs Official, including Customs Inspectors, under the direction of an immediate supervisor</li> </ul>

**APPENDIX C**

**SUMMARY TABLES OF OFFICIALS WHO MAY DISCLOSE INFORMATION, SUBJECT TO APPLICABLE CONDITION(S)**

	(4)								(5)														(6)		(8)	(9)				
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(a)	(b)	(c)(i)	(c)(ii)	(c)(iii)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(a)	(b)				
MIN	1																								D	D				
CB DG	2																													D
CB DIR	3			B		B	B			B						B	B													
CB MGR	4																												B	
ADCD DG	5	D	D	D	D	D	D		D	D	D	D	D			D	D	D					D	D					D	
CISD DIR	6	B	B		B	B		B	B						B				B		B								D	
CISD MGR	7							B		B	B	B							B											
IAHQ	8							A			A																			
IOHQ	9				A				A																					
OPCD DIR	10	B	B		B	B									B				B		B									
OPCD MGR	11										B	B	B	B						B		B		B						
PSD DIR	12		B			B																								
TPI DIR	13	B	B												B															
TPI MGR	14										B	B	B	B															B	
ABCAD DIR	15		B			B	B	B							B															
ACBRCD	16																B													
CPBID DIR	17	B	B	B	B	B	B	B	B	B					B	B			B		B		B	B					B	
CPBID MGR	18							B		B	B	B	B			B				B									B	
CPBID INV	19				A			A	A		A																			
P&L DIR	20			B											B															
MIC R	21	B												B	B				B		B									
CIC R	22		B	B	B	B		B	B	B*	B	B	B																	
RIO	23	A		A	A			A	A			A	A							A										
RIA	24											A	A																	
RCA	25										A																			
MID R	26	B												B	B				B		B									
CINV R	27		B	B	B	B		B	B		B																			
IR	28	A		A	A			A	A			A	A							A										
MCS R	29														B															
CCS R	30																						B							
DCPA R	31								B*							B	B													
MCPAR	32					B																							B	
CCPAR	33									B													B	B						
RSC	34	B			B																									
RCO	35						B			B	B	B	B																	
ACO	36	A	A	A		A	A		A											A	A		C	C					A	

- |   |   |  |
|---|---|--|
| <ul style="list-style-type: none"> <li>1 Minister</li> <li>2 Customs Branch – Director General</li> <li>3 Customs Branch – Director</li> <li>4 Customs Branch – Manager</li> <li>5 Anti-dumping and Countervailing Directorate – Director General</li> <li>6 Contraband and Intelligence Service – Director – for (4)(h) only other federal departments or agencies</li> <li>7 Contraband and Intelligence Service Directorate – Any Manager</li> <li>8 Intelligence Analyst Headquarters</li> <li>9 Intelligence Officer Headquarters</li> <li>10 Operational Policy and Coordination Directorate – Director</li> <li>11 Operational Policy and Coordination Directorate – Manager</li> <li>12 Program Strategy Directorate – Any Director</li> <li>13 Trade Policy and Interpretation – Director</li> <li>14 Trade Policy and Interpretation – Manager</li> <li>15 Appeals Branch, Customs Appeals Directorate – Any Director Any Director at Headquarters</li> <li>16 Assessment and Collections Branch, Revenue Collections Directorate – Any Director</li> <li>17 Compliance Programs Branch, Investigations Directorate – Any Director</li> </ul> | <ul style="list-style-type: none"> <li>18 Compliance Programs Branch, Investigations Directorate – Any Manager</li> <li>19 Compliance Programs, Investigations, Investigator–(4)(c), (5)(e)</li> <li>20 Policy and Legislation – (5)(e) Excise &amp; GST/PST Rulings Directorate</li> <li>21 Manager of Intelligence and Contraband in the Region</li> <li>22 Chief of Intelligence and Contraband in the Region</li> <li>23 Regional Intelligence Officer – for (4)(h) only other federal departments or agencies</li> <li>24 Regional Intelligence Analyst Regional Investigations Division – Manager</li> <li>25 Regional Commercial Analyst</li> <li>26 Manager Investigations Division in the Region</li> <li>27 Chief of Investigations in the Region</li> <li>28 Investigator Region – for (4)(h) only other federal departments or agencies</li> <li>29 Manager of Client Services in the Region</li> <li>30 Any Chief of Client Services in the Region</li> <li>31 Any Director of a Customs Program Area in the Region</li> <li>32 Any Manager of a Customs Program Area in the Region</li> <li>33 Any Chief of a Customs Program Area in the Region</li> <li>34 Regional Superintendent or Chief</li> <li>35 Regional Chief of Operations</li> <li>36 Any Customs Officer</li> </ul> | <ul style="list-style-type: none"> <li>A = with approval of the immediate supervisor</li> <li>B = in consultation with a manager</li> <li>C = in consultation with an immediate supervisor and a lawyer with the Department of Justice</li> <li>D = may disclose customs information without prior approval, subject to the terms of the provision</li> <li>* must consider if a judicial warrant or court order is required.</li> </ul> |
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## APPENDIX C

## OFFICIALS WHO MAY EXERCISE THE AUTHORITY, AND THE CONDITIONS THAT WOULD APPLY

## Summary Table of Customs Officials Authorized to DISCLOSE Customs Information

*Exercise of basic authority, subject to conditions and management approval (as may be required)*

*The following summary table must be used in conjunction with the interim guidelines and appendices A and B.*

**Note: Unless otherwise provided by these guidelines, Advance Passenger Information (API), Passenger Name Record (PNR) and information collected under the *Special Import Measures Act (SIMA)* cannot be disclosed without prior approval from Headquarters.**

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(4)(a)	Information to be used in, or to prepare for, certain criminal proceedings, as described in 107(4)(a)	Usual process; request to be in writing	Under oath in court.	Any Customs official	Any Customs official	Immediate Supervisor	<p>Any customs official when providing evidence or testimony further to a charge, when an information had been laid, or an indictment has been preferred.</p> <p>The customs information must be relevant to, and be used solely in or to prepare for, a criminal proceeding commenced under an Act of Parliament.</p>	<ul style="list-style-type: none"> <li>- Further to a written request, which proves that an information had been laid, or an indictment has been preferred.</li> <li>- In consultation with the immediate supervisor or manager.</li> <li>- When providing testimony in court, an official must respond to questions related to information under the official's control and guidance from an immediate supervisor will not be possible.</li> </ul>
107(4)(b)	Information to be used in, or to prepare for, certain legal proceedings set out in 107(4)(b)	Usual process; request to be in writing	None	Any Customs official	Any Customs official	Immediate Supervisor	<p>The customs information must be used solely in, or to prepare for, legal proceedings described in 107(4)(b). This could include providing testimony or evidence during such a legal proceeding.</p>	<ul style="list-style-type: none"> <li>- Further to a written request, which demonstrates that the information in control of the customs official is relevant to the legal proceeding.</li> <li>- With the approval of the immediate supervisor or manager.</li> <li>- When providing testimony in court, an official must respond to questions related to information under the official's control and guidance from an immediate supervisor will not be possible.</li> <li>- Must consider if a judicial warrant or court order should be obtained before releasing the customs information.</li> </ul>

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(4)(c)	The information is reasonably necessary for a purpose relating to the administration or enforcement of the Acts listed in 107(4)(c)	Usual process; request to be in writing	Primary to Secondary exchanges	Any Customs official	Any Customs official	Immediate Supervisor	The customs information must reasonably be regarded as necessary for a purpose relating to the administration or enforcement of the <i>Customs Act</i> , the <i>Customs Tariff</i> , the <i>Canada Pension Plan</i> , the <i>Excise Act</i> , the <i>Excise Tax Act</i> , the <i>Export and Import Permits Act</i> , the <i>Income Tax Act</i> or <i>Crime (Money Laundering) and Terrorist Financing Act</i> , with the approval of the immediate supervisor.	<ul style="list-style-type: none"> <li>The law enables one customs official to share customs information within the control of the customs official with another customs official when the information is directly relevant to the administration or enforcement of a named Act.</li> <li>The disclosure in this situation is normally spontaneous and performed under the general direction of a supervisor. Customs Inspectors are authorized to communicate pertinent information between the primary and secondary inspection line officials.</li> </ul>
107(4)(d)	To the RCMP for the limited purposes set out in 107(4)(d)	Usual process; request to be in writing	Usual process	Regional Intelligence Officer (RIO) or Customs Investigator, with approval of an immediate supervisor	<p>Any Director, Contraband and Intelligence Services Directorate</p> <p>Any Director, responsible for Customs, Investigations Directorate, Compliance Programs Branch</p>	<p>Immediate supervisor of a Regional Intelligence Officer (or that of the Customs Investigator, Superintendent or Chief of Operations)</p> <p><b>Spontaneous Disclosures:</b> Immediate Supervisor to be advised as soon as possible if urgent circumstances do not permit prior consultation, but the customs information to be disclosed must reasonably be regarded as necessary solely for a purpose relating to the administration or enforcement of the <i>Customs Act</i>, the <i>Excise Act</i>, or the <i>Export and Import Permits Act</i> by a member of the RCMP.</p>	The RIO/Customs Investigator and the immediate supervisor must be satisfied that the customs information may reasonably be regarded as necessary solely for a purpose relating to the administration or enforcement of the <i>Customs Act</i> , the <i>Excise Act</i> , or the <i>Export and Import Permits Act</i> by a member of the RCMP.	<ul style="list-style-type: none"> <li>This authority does not extend to disclosure of customs information to other police agencies other than the RCMP.</li> <li>The RIO/Customs Investigator and the immediate supervisor must be satisfied that the member of the RCMP is responsible for the administration or enforcement of one of the named Acts within the course of officer's usual duties.</li> <li>Spontaneous disclosures of information authorized by 107(4)(d) may occur in urgent circumstances, and in such cases, the immediate supervisor must be advised as soon as possible.</li> </ul>

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(4)(e)	Life, health, or safety of an individual or the environment	Special process	Special process	Any Customs official	Any Customs official	<p><b>Spontaneous Disclosures to a member of the police or other investigative agency:</b> Immediate Supervisor to be advised as soon as possible if the urgent circumstances (see Conditions) do not permit prior consultation.</p> <p><b>Upon Request:</b> Except in urgent circumstances, the immediate supervisor must approve the disclosure.</p>	<p>For spontaneous disclosures, in urgent circumstances, where the officer wishes to disclose customs information to a member of the police or other investigative agency without the approval of an immediate supervisor, the officer must have reasonable grounds to believe that there is imminent threat to the life, health, or safety of a person or the environment. The persons at risk would not otherwise be aware of such risk.</p> <p>In all cases, the customs information must reasonably be regarded as necessary solely for a purpose relating to the life, health, or safety of an individual, or to the environment in Canada or any other country.</p>	<ul style="list-style-type: none"> <li>- <b>Urgent circumstances</b> do not extend to situations where an occupational health and safety matter should be pursued through the provisions of the Canadian Labour Code.</li> <li>- The authorization to perform a spontaneous disclosure, which is the normal process under this authority, must be limited to information lawfully within the control of the customs official.</li> <li>- Care should be exercised not to disclose third-party information that is not relevant to the circumstances.</li> </ul>
107(4)(f)	Information to be used for a purpose relating to the supervision, evaluation, or discipline of customs officials	Usual process; request to be in writing	Exceptional cases only	Any Customs official	Any Customs official	Immediate Supervisor	The authority enables an immediate supervisor to request any customs official to provide customs information within their control that would be relevant to and used solely for the supervision, evaluation, or discipline of a specified person engaged in the administration of the <i>Customs Act</i> , <i>Customs Tariff</i> , the <i>SIMA</i> or Part 2 of the <i>Proceeds of Crime (Money Laundering and Terrorist Financing Act)</i> to the extent that the information is relevant for that purpose.	

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
<b>107(4)(g)</b>	Information that does not directly or indirectly identify any person	Usual process; request to be in writing	Usual process	Regional Chief of Operations	A Director within the Customs Branch  A Director, responsible for Customs, Investigations Directorate, Compliance Programs Branch	Immediate Supervisor	The Regional Chief of Operations is authorized to provide statistical reports and general non-identifying customs information related to customs enforcement actions.  The Regional Chief of Operations can use this authority to discuss local traffic and other operational issues that do not directly or indirectly identify a person with stakeholders such as bridge and tunnel authorities.	<ul style="list-style-type: none"> <li>The authority enables the local Chief of Operations, subject to any additional controls that may be imposed, to provide information on enforcement actions to the local community, providing the information does not directly or indirectly identify a person. When releasing statistics, take careful heed of paragraph 9 of the Interim Guidelines.</li> </ul>
<b>107(4)(h)</b>	The customs information reasonably relates to national security or the defence of Canada	Urgent circumstances	Urgent circumstances	Regional Intelligence Officer or Customs Investigator to officials of another federal department or agency	Manager, Contraband and Intelligence Directorate to officials of another federal department or agency  Manager, responsible for Customs, Investigations Directorate, Compliance Programs Branch	Immediate Supervisor  (Note: In urgent circumstances, if an immediate supervisor is unavailable, spontaneous disclosures can be made by a RIO or Customs Investigator to a member of the RCMP or to CSIS).	The authority to share customs information with officials of another government has been restricted. For additional information, please consult Appendix B.  But, as a minimum, the officer must have reasonable grounds to believe there is imminent threat relating to the national security or defence of Canada.	<ul style="list-style-type: none"> <li>Approval of the immediate supervisor must be sought.</li> <li>In urgent circumstances, the disclosure of information under this authority may be spontaneous. In such cases, the immediate supervisor must be advised as soon as possible.</li> </ul>

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
<b>107(5)(a)</b>	To a peace officer investigating an alleged federal or provincial indictable offence, and to others listed in 107(5)(a)	Usual process; request to be in writing	Urgent circumstances and Officers Powers	A Regional Intelligence Officer or Customs Investigator, or customs inspector with a direct supervisor's approval	Intelligence Officer, with a direct supervisor's approval	Immediate Supervisor	Disclosure is usually upon request of the investigating officer. The customs official must be satisfied on reasonable grounds that the customs information is relevant to the investigation of an indictable federal or provincial offence. The information must be used solely in the investigation or prosecution of the alleged offence. The information may also be provided to the Attorney General of Canada or of the province in which proceedings in respect of the alleged offence may be taken.	<ul style="list-style-type: none"> <li>- Providing information in the absence of a request will likely occur only in rare circumstances.</li> <li>- Customs officials should consult section 107 to determine if another authority is appropriate in circumstances where information should be shared for security purposes (para. 107(4)(h)) or related to the safety of an individual (para. 107(4)(e)).</li> <li>- Spontaneous disclosures of customs information may occur in relation to established officers powers. Information related to "Child Find" or information related to serious criminal activity may be spontaneously disclosed once the immediate supervisor has approved the action.</li> <li>- A judicial warrant or court order may be required should the information be requested by another agency for a purpose related to a criminal investigation leading to prosecution of an offence.</li> </ul>
<b>107(5)(b)</b>	To a person legally entitled under federal legislation	Usual process; request to be in writing	Usual process	Chief of Operations	Director, within the Customs Branch  Director, responsible for Customs, Investigations Directorate, Compliance Programs Branch	Immediate Supervisor	Care must be exercised to ensure that the requestor has legal entitlement to the customs information by way of federal legislation, which authorizes or demands that customs information be shared for the purpose of the program enabled by the legislation. The information is to be used solely for the purposes for which the person is entitled to the information.	<ul style="list-style-type: none"> <li>- Disclosures under this authority are usually subject to the provisions of a written collaborative arrangement.</li> <li>- Chief of operations are named to enable various permits collected by customs on behalf of another agency to be transmitted to that agency.</li> </ul>

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(5)(c)(i)	To an official, if the information relates to goods prohibited, controlled or regulated under a federal Act	Usual process; request to be in writing	Usual process as required to support the enforcement or administration of other Federal Acts	A Regional Commercial Analyst	An Intelligence Analyst or a Manager of a Program Area	Manager / Immediate Supervisor	Solely for the purposes of developing, administering or enforcing the federal Act or developing or implementing policy related to that Act.	<p>The disclosure by the Intelligence Analyst is usually governed by a written collaborative arrangement with the other federal department or agency.</p> <p>Spontaneous disclosure of customs information to support the enforcement or administration of other federal Acts may occur, with the approval of an immediate supervisor providing the terms of the authority are met.</p>
107(5)(c)(ii)	To an official, if information is about a person who may have committed an offence under the Act in respect of imported or exported goods	Usual process; request to be in writing	Urgent Circumstances	Intelligence Officers, Customs Investigators, or Regional Intelligence Analysts	Any Manager, Contraband and Intelligence Services Directorate  Manager of a Program Area	Manager / Immediate Supervisor	<p>Solely for the purposes of developing, administering, or enforcing the federal Act or developing or implementing policy related to that Act.</p> <p>The disclosure should be the subject of a written collaborative arrangement with another federal department or agency.</p> <p>The customs official must have reasonable grounds to believe the person may have committed an offence under the federal Act described in 107(5)(c) in respect of goods imported or exported by that person.</p> <p>This information may be used to provide information related to the importation or exportation or regulated, controlled or prohibited goods, if the test in 107(5)(c)(ii) is met.</p>	

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(5)(c)(iii)	To an official, if the information may be evidence of an offence under the Federal Act	Usual process; request to be in writing	Urgent Circumstances	Intelligence Officers, Customs Investigators, or Regional Intelligence Analysts	Any Manager, Contraband and Intelligence Services Directorate	Manager / Immediate Supervisor	<p>Solely for the purposes of developing, administering or enforcing the federal Act or developing or implementing policy related to that Act.</p> <p>The information must relate to goods that may be evidence of an offence under the Federal Act described in 107(5)(c).</p> <p>The disclosure should be the subject of a written collaborative arrangement with another federal department or agency.</p> <p>This provision may be used to provide information related to the importation or exportation of regulated, controlled, or prohibited goods, provided the information meets the test in subparagraph 107(5)(c)(iii).</p>	
107(5)(d)	To an official for certain provincial legislation related to certain goods	Usual process; request to be in writing	Usual process when an information sharing written collaborative arrangement is in place with the province	<p>Manager of Intelligence and Contraband</p> <p>Manager of Customs Investigations</p>	Any Manager, Trade Policy and Interpretation Directorate	Immediate Supervisor	<p>The customs official must be satisfied that the information relates to goods that are subject to import, in transit or export controls, or taxation upon importation into the province under a provincial Act.</p> <p>The customs official must also be satisfied the information will be used solely for the purpose of administering or enforcing that provincial law.</p>	<ul style="list-style-type: none"> <li>- Additional care must be exercised when considering the disclosure of customs information related to the value or origin of goods (see paragraph 8 of the Interim Guidelines).</li> <li>- For example, this authority is used to disclose information to provincial officials for game export permits, sales tax collection purposes, or to support provincial regulatory and licensing regimes, subject to the terms of the relevant legislation and any written collaborative arrangement with the province.</li> </ul>
107(5)(e)	To a provincial official listed in 107(5)(e) for Part IX of the <i>Excise Tax Act</i> (GST) administration in the province	Usual process; request to be in writing	Usual process	<p>Manager of Intelligence and Contraband</p> <p>Manager of Customs Investigations</p> <p>Manager of Client Services</p>	Any Director, Operational Policy and Coordination Directorate	Immediate Supervisor	<p>The recipient official must be from Quebec or a participating province, as defined in subsection 123(1) of the <i>Excise Tax Act</i>.</p> <p>The customs information must relate to the administration or enforcement of Part IX of the <i>Excise Tax Act</i> (GST) in the province and must be used solely for that purpose.</p>	

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(5)(f)	To an official for fiscal or trade policy and remission orders	Usual process; request to be in writing	Rare	Director of a Customs Program Area	Any Director, Customs Branch  Any Director, responsible for Customs, within the Investigations Directorate, Compliance Programs Branch	Immediate Supervisor	The customs official must ensure that the information will be provided solely for the purpose of the formulation or evaluation of fiscal or trade policy, or the development of a remission order under a federal Act.	<ul style="list-style-type: none"> <li>Generally, the required customs information is requested by a limited number of officials working in the Department of Finance or the Department of Foreign Affairs and International Trade. Occasional requests related to trade policy or the development of remission orders can be made by Industry Canada or another agency.</li> <li>Officials considering the request should enquire why the information cannot be obtained from Statistics Canada or other public sources.</li> </ul>
107(5)(g)	To an official, to collect amounts of federal and certain provincial debts owed by a person by set-off against federal amounts owing to the person	Usual process; request to be in writing	Occasional process	Director of a Customs Program Area	Any Director	Immediate Supervisor	The information is to be used solely for the purposes of the set-off described in paragraph 107(5)(g). The provincial debts that may be the subject of collection by set-off are listed in that paragraph.	
107(5)(h)	To certain counsel for certain SIMA purposes	Usual process; request to be in writing	Occasional process	N/A	Director General, Anti-dumping and Countervailing Directorate	N/A	The information can only be provided to counsel defined in subsection 84(4) of the SIMA.  There are limitations described in paragraph 107(5)(h).	
107(5)(i)	To HRDC officials for <i>Employment Insurance Act</i> purposes		Subject to a written collaborative arrangement	Manager of Intelligence and Contraband  Manager of Investigations	Any Director, Contraband and Intelligence Services Directorate or the Director Operational Policy and Coordination Directorate, Customs Branch  Any Director, responsible for Customs, within the Investigations Directorate, Compliance Programs Branch	Immediate Supervisor	The disclosure of customs information to HRDC is subject to a written collaborative arrangement.  The information is provided solely for the purpose of administering or enforcing the <i>Employment Insurance Act</i> ; the customs information provided must relate to the movement of people in to and out of Canada.	<ul style="list-style-type: none"> <li>Customs information to be provided to HRDC does not include information about the customs valuation or origin of goods.</li> </ul>

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(5)(j)	CIC and the <i>Immigration and Refugee Protection Act</i>	Usual process	Subject to a written collaborative arrangement  To provide information from customs operations to immigration secondary	Any customs official, for the purposes of determining the admissibility of a person into Canada at the time of presentation of the person.	Any Manager, Contraband and Intelligence Services Directorate or the Operational Policy and Coordination Directorate, Customs Branch.  Any Director, responsible for Customs, within the Investigations Directorate, Compliance Programs Branch	Under the direction of an immediate supervisor	The information is provided solely for the purposes of the administration or enforcement of the <i>Immigration and Refugee Protection Act</i> ; the information must relate to the movement of people into and out of Canada.  This is the authority for customs officials to provide information to officials of CIC is to enable effective interaction between primary and secondary processes.  For other circumstances, the Regional Intelligence Officers and Investigator have been designated to provide information under this authority.	– Customs Inspectors may use this authority to spontaneously disclose customs information related to travellers to officials of CIC without seeking case-by-case approval of an immediate supervisor. Such disclosure of information is performed under the general direction of a supervisor.
107(5)(k)	To an official of FINTRAC regarding money laundering	Occasional	Usual process	Any customs official	Any Director, Contraband and Intelligence Services Directorate, or the Operational Policy and Coordination Directorate, Customs Branch.  Any Director, responsible for Customs, within the Investigations Directorate, Compliance Programs Branch	Immediate supervisor	The recipient must be an official of the Financial Transactions and Reports Analysis Center of Canada.  The information is provided solely for the purposes of administering or enforcing Part 2 of the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i> .  Typically, the customs information is reasonably believed to be information related to possible money laundering or terrorist financing.	
107(5)(l)	To a person to determine entitlement under the <i>Customs Act</i> or the <i>Customs Tariff</i>	Usual process; request to be in writing	Usual process	Any Chief, Client Services	Any Manager, Trade Policy and Interpretation Directorate or the Operational Policy and Coordination Directorate, Customs Branch	Under the general direction of an immediate supervisor	The information is provided to a person solely for the purpose of determining any entitlement, liability, or obligation of the person under the <i>Customs Act</i> or the <i>Customs Tariff</i> .	The legislation lists examples of entitlements. They are the person's entitlement to any refund, relief, drawback, or abatement under those two Acts. The list is not exclusive; there may be other examples besides these.

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(5)(m)	To any person if required by a subpoena, warrant or order of a Court of record in Canada	Usual process; delivery of court order or subpoena	Urgent circumstances related to court orders	Any customs official	Any Director General, Customs Branch	In consultation with an immediate Supervisor, and Justice counsel	<p>Customs information can be provided to any person, if the information is required to comply with a subpoena or warrant issued or an order made by a court of record in Canada.</p> <p>The subpoena, warrant, or order must be delivered to the CCRA for review. Once delivered, it must be handled expeditiously. The Interim Guidelines require consultation with an immediate supervisor and a lawyer with the Department of Justice.</p>	<ul style="list-style-type: none"> <li>Headquarters areas are to be consulted when the customs information in question relates to SIMA, API, PNR, the origin or valuation of goods.</li> <li>The subpoena, warrant, or court order may order the disclosure of customs information to third parties.</li> </ul>
107(5)(n)	To any person if required by a subpoena, warrant or order of a court of record from outside Canada, in certain circumstances	Usual process; delivery of the subpoena, warrant or court order is required	None	A customs official, in consultation with their immediate supervisor, and only following consultation with a lawyer with the Department of Justice.	Other than SIMA information, Any Director, Custom Branch	Immediate Supervisor / Manager	<p>Customs information can be provided to any person, if the information is required to comply with a subpoena or warrant issued or an order made by a Court of Record outside Canada, solely for the purposes of criminal proceedings.</p> <p>Due to trade, treaty, and other issues, subpoenas from foreign jurisdictions are to be discussed with a lawyer with the Department of Justice, without delay.</p>	
107(5)(o)	To prescribed persons or classes of persons, as prescribed by regulations	N/A	None	Not in effect at time of publication	Not in effect at time of publication	N/A		<ul style="list-style-type: none"> <li>No new classes of disclosure have been developed by way of regulations.</li> </ul>
107(6)(a)	To any person if in the Minister's opinion, the test in 107(6)(a) is met	Extremely Rare	Extremely Rare	N/A	Minister	There is no delegation of authority, at this time	There must be no other authority in section 107 to provide the information. The Minister must weigh the public interest against any invasion of privacy, as directed in paragraph 107(6)(a). Other tests are also set out in that paragraph.	

AUTHORITY	SHORT DESCRIPTION	UPON REQUEST	SPONTANEOUS DISCLOSURE	REGIONAL AUTHORIZED OFFICIAL	HEADQUARTERS AUTHORIZED OFFICIALS	DESIGNATED AUTHORITY TO APPROVE DISCLOSURE	CONDITIONS	NOTES
107(6)(b)	To any person, if in the Minister's opinion, there would be benefit to the individual to whom the information relates	Extremely rare	Extremely rare	N/A	Minister	There is no delegation of authority, at this time	The Minister must form the opinion that the information would clearly benefit the individual to whom the information relates.	
107(8)	To an official employed by a foreign government or international organization, if a written collaborative arrangement is in place	Usual Process; request in accordance with the written collaborative arrangement	Subject to the terms and conditions of a treaty, a written collaborative arrangement	Manager of a Customs program area	Director General, Anti-dumping and Countervailing Directorate for information collected under the provisions of the <i>Special Import Measures Act</i> (SIMA)  Any Manager, Other Directorates, Customs Branch	Immediate supervisor	A written collaborative arrangement must be signed before any information may be disclosed under this authority, and any information disclosed must be used solely for the purposes set out in the arrangement.	Customs mutual assistance treaties and other written collaborative arrangements that govern the disclosure of customs information by way of this authority.
107(9)	To a particular person or their agent, or any other person with the consent of the particular person	Usual process; request to be in writing	Usual process when disclosing information to a client about benefits, entitlements or obligations	Any Customs official	Any Customs official	There is no need for the approval of the immediate supervisor	This authority enables customs officials to provide the client, or their agent, or someone else appointed by the client, with customs information about the client, including a copy of their own information.	<ul style="list-style-type: none"> <li>- There are regulatory requirements of importers, brokers and exporters to maintain records. It is not usual practice to provide commercial importers with copies of their documents.</li> <li>- Care should be taken not to disclose to the client customs information about another client, unless this other client consents to the disclosure.</li> </ul>

## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Strategic Program Analysis, Direction and Coordination Division Program Strategy Directorate</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>74400-7-2</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Custom Act</i>, Section 107</p>	<p><b>OTHER REFERENCES –</b></p> <p>D1-16-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>N/A</p>	

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.

