



Ottawa, August 21, 2009

MEMORANDUM D3-1-3

In Brief

Commercial Importation of Intoxicating Liquors

1. This memorandum has been revised to reflect the *Excise Act, 2001*, and eliminate references to repealed acts, and regulations.
2. All references to *Defined Distilled Spirits Regulations* have been removed from paragraph 1 of this memorandum, as they were repealed on June 5, 2003.
3. Paragraphs 2(b) and 2(c) of this memorandum have been added to reflect import regulations for flavouring and blending of spirits and beer.
4. Paragraph 3 of this memorandum was updated to reflect the *Excise Act, 2001* on spirits. All references to tobacco and tobacco products have been removed.
5. Paragraph 4 was updated by removing references to the Excise Tax levied on intoxicating liquors which were repealed on wine and tobacco.
6. Paragraph 4 was further updated to reflect the *Excise Act, 2001* on required licenses for the importation of intoxicating liquors.
7. Paragraph 5 was updated with respect to importing intoxicating liquors through mail.
8. Paragraph 6 was updated to reflect requirements of paper copies of the excise endorsement upon entry when importing wine.
9. Paragraph 17 of this memorandum was updated to reflect the regulation for importing intoxicating liquors to a custom bonded warehouse.
10. Regulations with respect to importing intoxicating liquors as part of the Courier Low Value Program have been updated in Paragraph 20.
11. Instructions for sending samples for analysis was further amended in Paragraph 21(b) section b of this memorandum.





Ottawa, August 21, 2009

MEMORANDUM D3-1-3

COMMERCIAL IMPORTATION OF INTOXICATING LIQUORS

This memorandum outlines the procedures to be followed for the interprovincial and international transportation and release of intoxicating liquors.

For information related to non-commercial importations of intoxicating liquors by individuals, please see the Memoranda D2 series, International Travel.

For information on provincial liquor mark-ups/fees for non-commercial importations, please contact the appropriate provincial liquor authority.

GUIDELINES AND GENERAL INFORMATION

Legislative and Statutory Basis

1. The *Importation of Intoxicating Liquors Act* outlines who may import, send, take or transport, or cause to be imported, sent, taken or transported, into any province from or out of any place within or outside Canada any intoxicating liquor. To obtain a copy of the Act and/or regulations, please see the Justice Canada Web site.
2. As outlined in the *Importation of Intoxicating Liquors Act*:
 - (a) Liquor, including wine, considered intoxicating by provincial law may be imported only by a board, commission, officer, or governmental agency legally authorized to sell intoxicating liquor.
 - (b) Spirits imported for blending or flavouring with domestic spirits, or for packaging in Canada and entitled to specific tariff treatments, may be imported directly by a distiller.
 - (c) Beer imported for blending or flavouring with domestic beer may be imported directly by a brewer.
 - (d) Intoxicating liquor for sacramental or medicinal purposes or for manufacturing or commercial purposes other than for the manufacture or use thereof as a beverage, is not restricted to importation only by a board, commission, officer, or governmental agency legally authorized to sell intoxicating liquor.

3. Excise duty is imposed, levied, and collected under the *Excise Act* on beer manufactured or produced in Canada. Excise duty is imposed, levied, and collected under the *Excise Act, 2001* on all spirit and wine products manufactured or produced in Canada. For imported goods, a customs duty equivalent to an excise duty is levied under Sections 21.1, 21.2, and 21.3 of the *Customs Tariff Act*.

4. The *Excise Act, 2001* requires an importer to have a particular Excise licence to import and possess bulk and non-duty paid packaged spirits and wine. As well, bulk spirits and wine may only be transported by particular licensees or an alcohol registrant. For further technical information on the *Excise Act, 2001* please see the Canada Revenue Agency Web site at www.cra.gc.ca. Using the search engine, enter the words excise duty.

Importing Intoxicating Liquors Through the Mail

5. Under most circumstances, only intoxicating liquors consigned to Provincial Liquor Control Boards or authorized agents, licensed distilleries and breweries can be sent through the mail stream. For further information, please consult the *Importation of Intoxicating Liquors Act*, which is available through the Justice Canada Web site at laws.justice.gc.ca.

Wine

6. Importations of wine must comply with the *Importation of Intoxicating Liquors Act*. The invoice(s) must indicate the provincial or territorial liquor authority as the importer of record and identify the winery as the consignee. A paper copy of the approved Excise license does not have to accompany the import documentation at the time of report or release. However, if requested by the CBSA, the client will have a maximum of six hours to provide a valid licence (issued by the Canada Revenue Agency, Excise Duties and Taxes Division).

7. In the manufacture of wine, grape juice concentrate becomes wine following the fermentation process. Grape juice concentrate with an alcoholic content of more than 0.5% is considered to be an intoxicating beverage and is therefore subject to the same importation regulations as those governing intoxicating liquors.

Federal Exemption

8. The provincial or territorial liquor authorities do not control importations of intoxicating liquor by federal departments or agencies for official use. Such shipments may be released upon completion of the necessary CBSA documentation and payment of applicable federal duties and taxes.

Industrial Alcohol

9. The CBSA procedures for imported shipments of non-beverage ethyl alcohol can be found in Memorandum D10-14-19, *Administrative Procedures for the Importation of Non-Beverage Ethyl Alcohol*.

Shipments Reported but Not Released

10. Non-duty and non-tax paid intoxicating liquors that have been reported to the CBSA but that have not been released must be transported by a CBSA bonded carrier. A border services officer may authorize the goods be moved from the office of report under Section 19 of the *Customs Act*, or if goods are carried in transit, through Canada.

11. When the CBSA bonded carrier cannot make direct export in transit through Canada, the goods may be re-manifested (on a new cargo control document) to a connecting CBSA bonded carrier at a licensed sufferance warehouse.

12. Intoxicating liquors imported directly by a distiller must be released at the border or at a licensed sufferance warehouse before shipping to a distillery, as there are no provisions under Section 19 of the *Customs Act* for in-bond movements directly to a distillery.

Sealing Requirements

13. All conveyances, containers, or compartments must be sealed with CBSA seals when an alcohol shipment is moved to an inland destination for release, examination, or for in-transit or export movement out of Canada. Using company seals only is not permitted under any circumstances.

14. Post-audit carriers are not exempt from the sealing requirement. Their conveyances must be sealed with CBSA seals when transporting alcohol products.

15. Any transfer of alcohol from one carrier to another can take place only under CBSA supervision. The seal on the first vehicle must be broken and the second vehicle sealed under CBSA supervision.

16. CBSA seals must be applied by CBSA personnel only.

Customs Bonded or Sufferance Warehouses

17. Shipments of intoxicating liquors may be imported into Canada for storage, transfer, export, ships' stores, and entry into the Canadian market at a sufferance or Bonded Customs Warehouse licensed under the *Customs Act* and the *Customs Tariff*. Imported packaged spirits and wine destined for the Canadian market may be entered into a Customs Bonded Warehouse only if it is imported by an international airline for use on international flights. The imported packaged spirits and wine may also be supplied to domestic flights if they are fully duty and GST/HST paid.

18. The *Customs Bonded Warehouse Regulations* require the warehouse operator, as a pre-condition of licensing, to provide a copy of the Provincial/Territorial Liquor Board authorization to receive, transfer, or sell intoxicating liquor within the province or territory. Shipments received in a Customs Bonded Warehouse are documented on Form B3 type 10, *Canada Customs Coding Form*, and on the corresponding ex-warehouse documents outlined in Memorandum D17-1-10, *Coding of Customs Accounting Documents*.

19. Where goods intended for export are entered into a sufferance warehouse, outward reporting is required as outlined in D3-1-8, *Cargo – Export Movements*. Outward reporting will acquit or cancel the inward waybill (cargo control document). This process applies to all modes of transportation.

Courier Shipments

20. Provincial and territorial liquor authorities may import commercial shipments of intoxicating liquor by courier through the commercial stream and must report and account for these goods using normal commercial processes. Please note that intoxicating liquors cannot be imported under the Courier Low Value Shipment (LVS) Program as they do not qualify. For more information, please refer to Memorandum D17-4-0, *Courier Low Value Shipment Program*.

Sampling of Suspect Intoxicating Liquor

21. Border services officers who are uncertain whether a beverage is intoxicating, before releasing intoxicating liquor shipments, should submit samples for analysis to the CBSA's Laboratory and Scientific Services Directorate (LSSD), according to the following procedures:

(a) Sampling:

(i) Bottles – If possible, a sample of each type of product in its original container should be sent full and unopened. The sample must be properly labelled and identified.

(ii) Bulk – A sample of approximately 250 milliliters (ml) in volume must be obtained and placed in a suitable sterile container (e.g., a new widemouth glass container with Teflonlined closures). Such containers are available from scientific suppliers. The sample must be properly labelled and identified.

Note: If it is suspected that the sample is fermenting, the fermentation must be stopped before the sample is sent to LSSD for analysis. Please call LSSD – Alcohol and Tobacco Section at 613-954-9944 for further instructions concerning fermenting samples.

(b) Packaging:

Bottles and sample containers of bulk samples

(i) Each bottle and bulk sample container must also be wrapped individually and packed in additional shock absorbent material to minimize the chance of breakage and leakage.

(ii) The box must be of good quality such that it can withstand the normal abrasion of transportation without damage to the contents. It must be packed so that all samples are securely held in an upright position by inert packaging material. The "TOP" of the box shall be indicated on the outside as well as "GLASS" if the bottles or sampling containers are made of glass.

(c) Shipping:

Samples should be sent prepaid by courier to:

Laboratory and Scientific Services Directorate
Canada Border Services Agency
79 Bentley Avenue
Ottawa ON K2E 6T7

(d) Mailing:

Any documents or information not sent with the samples should be sent by regular mail to the above address.

(e) Telephone and fax numbers:

Laboratory and Scientific Services Directorate
Telephone: 613-954-9944
Fax: 613-952-7825

24. In some situations, failure to comply with the CBSA requirements outlined in the *Customs Act*, may result in the seizure and forfeiture of the goods and/or conveyance, and- in serious cases- criminal charges may be applicable.

25. Under sections 36 and 37 of the *Customs Act*, commercial importations of intoxicating liquors that are unclaimed, abandoned, or not removed from a sufferance or bonded warehouse within the prescribed time limits, are forfeited to the Crown.

Additional Information

26. The CBSA's Border Information Service (BIS) line responds to public inquiries related to import requirements of other government departments, including Industry Canada. You can access BIS toll-free throughout Canada by calling **1-800-461-9999**. If you are calling from outside Canada, you can access BIS by calling 204-983-3500 or 506-636-5064 (long-distance charges will apply). To speak directly to an agent, please call during regular business hours from Monday to Friday (except holidays), 8 a.m. to 4 p.m. local time. More BIS information can be found on the CBSA's Web site.

27 For more information on Carrier and Cargo Programs, visit the CBSA Web site.

28. Please direct all correspondence to:

Carrier and Cargo Programs
Commercial Border Policy Division
Admissibility Branch
Canada Border Services Agency
150 Isabella Street, 4th Floor
Ottawa ON K1A 0L8

Fax: 613-957-9717

Penalty and Enforcement

22. For more information on administrative penalties, please refer to Memorandum D22-1-1, *Administrative Monetary Penalty System*. Information on AMPS penalties is also available on the CBSA Web site at www.cbsa.gc.ca.

23. Other administrative sanctions, such as the revocation of program privileges and penalties of Other Government Departments, may also be applicable.

REFERENCES

<p>ISSUING OFFICE –</p> <p>Carrier and Cargo Programs Commercial Border Policy Division Admissibility Branch</p>	<p>HEADQUARTERS FILE –</p> <p>7700-8</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Importation of Intoxicating Liquors Act, Customs Act, Customs Bonded Warehouse Regulations, Customs Tariff, Excise Act, Excise Act, 2001, Excise Tax Act</i></p>	<p>OTHER REFERENCES –</p> <p>D3-1-8, D10-14-19, D17-1-10, D17-4-0, D18-3-1, D22-1-1</p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D3-1-3, September 5, 2008</p>	

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

