As a recognized vendor of equine semen to breeders in Canada, enclosed you will find an Advice Sheet to assist with the valuation of your product.

Canada Border Services Agency
Client Services, Windsor
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ADVICE SHEET

Responsibility of Vendors with Respect to Valuation of Horse Semen

Issue
A recent review of import data has revealed that horse semen imported from the United States (US) is being undervalued. While it is the responsibility of the importer or their authorized agent to declare the correct value for duty, they rely to a great extent on the commercial invoice to support their determination of the value they declare to the Canada Border Services Agency (CBSA). It is the responsibility of the vendor to complete the commercial invoice and it appears that there may be a lack of understanding by the vendor regarding what costs should be included. This “Advice Sheet” is intended to clarify what those costs are with a view to assisting the vendor in issuing a complete and accurate commercial invoice.

Background
• Under the Customs Act, there is a clear obligation to provide true, accurate and complete trade information which includes correct tariff classification, origin and values.
• According to Departmental Memorandum D13-2-1, “importers and/or their authorized agents are responsible for the calculation and declaration of the value for duty of imported goods in accordance with the valuation provisions of the Customs Act”.
• The determination of value for duty must be based upon objective and quantifiable information that establishes the accuracy of the value declared. Most often, this supporting evidence takes the form of the commercial invoice which “is the main document the CBSA relies on to provide this evidence”.
• Per Departmental Memorandum D17-1-1, Document Requirements for Commercial Shipments, “(t)he vendor, exporter, or shipper prepares a sales receipt or an invoice describing the goods in detail and showing the purchase price”.
• The commercial invoice provided to the importer represents the complete record of the business transaction between the vendor and the importer with regard to the goods sold. It is a legal document used by CBSA for control, valuation and duty determination.
• Per Departmental Memorandum D1-4-1, Canada Customs Invoice Requirements, for all commercial shipments entering Canada, CBSA requires one of the following:
  (a) A commercial invoice giving all the required information (as listed in Appendix A);
  (b) An incomplete commercial invoice with Form CI1, Canada Customs Invoice, providing the remaining information (as listed in Appendix A); or
  (c) A fully completed Form CI1.

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Appendix A in D1-4-1 enumerates the 25 required fields that must be completed either on a CI1 or a commercial invoice. Space will not permit the listing of all 25 fields here but they include:

- Vendor; purchaser; consignee
- Date of direct shipment to Canada; country of transhipment; transportation; country of origin
- Conditions of sale and terms of payment; currency of settlement
- Description; quantity; weight
- Invoice total

For a full listing of all 25 fields, please go to the CBSA Web site at www.cbsa-asfc.gc.ca and review the requirements in D1-4-1.

Specific Considerations

- As stated, it is the importer’s responsibility to calculate and declare the proper value for duty (VFD) or “price paid or payable” (PPP) for the imported goods. “The price paid or payable is the aggregate of all payments made or to be made, directly or indirectly, in respect of the goods by the purchaser to or for the benefit of the vendor”. This definition is purposely wide-open in order to ensure that all payments, even those not included in the price shown on the invoice or in the contract are included in the PPP or VFD inasmuch as these payments were made to the vendor by the purchaser. Examples include storage expenses, warranty payments, settlement of a vendor’s debt.

- The nature of the horse breeding industry presents certain challenges to arriving at the correct PPP or VFD of semen importations. The US vendor bears numerous costs in relation to obtaining and transporting equine semen to the Canadian purchaser in a timely manner and these costs can vary between clients (for example, there may be a private treaty).

- Ideally, if the vendor’s commercial invoice itemizes all of the costs included in the purchase price, then the importer’s task of calculating the correct VFD would be much easier. Whether itemized or not, all of the costs and expenses associated with the imported goods must be included in the price charged to the Canadian purchaser. While not an exhaustive list, some of the most common costs are:
  - Stud fees
  - Booking fees, which may include: first collection, semen processing, health certificates, shipping container fee, some shipping fees
  - Semen collection and handling fees
  - Analysis and laboratory fees; DNA testing
  - Veterinary fees which may include charges by the USDA Accredited Veterinarian to collect and complete the US Origin Health Certificate for Export of Equine Semen to Canada (Zoosanitary Export Certificate) at the semen collection premises
  - Trip fee: Expense incurred by the vendor to bring the US Origin Health Certificate to the USDA Veterinarian’s office for signature and seals
  - Health certificate fee: Charged by the USDA Veterinarian for signing and stamping the US Origin Health Certificate

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While the importer must pay the full purchase price to the vendor, the importer does not necessarily have to pay duty and GST on that full purchase price. It is the importer’s responsibility to know which fees should or should not be included in the calculation of the VFD declared to CBSA. For example, some transportation costs must be included in the PPP and others do not require inclusion; if the vendor included Canadian duties and GST in the price on the commercial invoice, then they should be deducted by the importer.

Put succinctly, the vendor must declare, via the commercial invoice, the total purchase price between the vendor and the purchaser, include all the costs and expenses used to calculate that purchase price, and provide as much detail as possible to assist the importer with the calculation of the proper value for duty.

It appears that U.S. horse semen is sold for export to Canada under three common scenarios wherein the price is based upon:

1. Total contract price
2. Per shipment price
3. Payment is made after a foal is born

For these three scenarios, the value that should be declared to CBSA is as follows:

1. Where a firm contract exists, the **total contract price** should appear on the invoice and the importer should declare this price.
2. When the goods are entered on a per shipment basis, the **total price of that particular shipment** should appear on the invoice and the importer should declare this price.
3. When final payment is not made until the mare foals, the **full price** has already been established and this is the price that should appear on the invoice and that the importer should declare to CBSA.

For all three scenarios: **A price has been agreed to; the price is known at the time of importation; that price is what should appear on the commercial invoice and is what the importer should declare to CBSA.**

**Inaccurate or Incomplete Information**

- The submission of incorrect or non-compliant documentation can have unwanted consequences, namely: 1) delays at time of release; 2) suspension of privileges for the importer; and 3) monetary penalties assessed against the importer under the Administrative Monetary Penalty System (AMPS).
- It is the importer’s responsibility to submit correct and complete import documentation to CBSA. When there is insufficient information available from the vendor to substantiate an importer’s declared value, this can lead to delays at the border. For a highly perishable commodity such as horse semen, delays can mean a total loss of the product. It is always in the vendor’s best interest to supply a fully completed commercial invoice and to have available any other

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documentation that the importer may require to substantiate the value declared to CBSA (i.e., receipts for fees paid, transportation company documents, etc.).

- The vendor should be cautioned not to cite a lower-than-contracted price on the commercial invoice. Lower than industry-average prices can lead to increased scrutiny by CBSA and can again lead to delays in release times.
- Additionally, CBSA can re-determine the value for duty of any imported goods within four years after they are accounted for on the basis of an examination, audit, or verification. If a review of the importer's accounts payables files reveals a discrepancy with what the importer paid to the vendor and what the importer declared to CBSA for the imported horse semen, a monetary penalty may be assessed against the importer.
- Ultimately, delays and penalties can place a strain on the importer-vendor relationship.

Summary

- The importer is responsible for calculating and declaring the proper value for duty to CBSA.
- The importer relies heavily on the commercial invoice supplied by the vendor to calculate the proper value for duty.
- The commercial invoice must be complete and accurate and must indicate the total price agreed upon by the purchaser and the vendor; all of the vendor's costs and expenses should be reflected in the total price.
- Insufficient or inaccurate information cited on the commercial invoice can lead to delays at the border which can have a detrimental effect on highly perishable horse semen importations.
- Reliance by the importer on incorrect or conflicting data supplied by the vendor can lead to audit and possible AMPS.
- A complete, accurate and itemized commercial invoice can greatly assist the importer in making an accurate and correct declaration of value for duty.

Assistance and References

- CBSA, Client Services, is available to discuss the responsibilities of the vendor and the correct completion of the commercial invoice. In Windsor, contact Rina Antinucci at (519) 967-4189 or e-mail her at Rina.Antinucci@cbsa-asfc.gc.ca.

- The CBSA Web site offers access to all of the Departmental Memoranda cited as well as numerous brochures on importing goods into Canada. Go to www.cbsa-asfc.gc.ca and choose "Publications and Forms" from the menu.

- For any inquiries related to classification, valuation, duty rates, application of the Customs Tariff, permit requirements for certain goods, or other CBSA programs, contact the Border Information Service at 1-800-461-9999. From outside Canada, call (204) 983-3500 or (506) 636-5064 (long distance charges will apply). TTY within Canada is also available at 1-866-335-3237.

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