



December 10, 2015

The Hon. Ralph Goodale, P.C., M.P.
Minister of Public Safety and Emergency Preparedness
Public Safety Canada
269 Laurier Avenue West
Ottawa, Ontario K1A 0P8
Canada

Dear  Minister:

In October, the Canadian Chamber of Commerce concluded its 86th Annual General Meeting (AGM) in Ottawa. A major highlight of the Canadian Chamber's AGM is the Policy Session. It is during the Policy Session that resolutions submitted by local chambers of commerce and boards of trade from throughout Canada are debated and voted on by accredited delegates. Once approved, these resolutions become policy of the Canadian Chamber for the following three years. In 2015, our delegates issued a clear and decisive national policy mandate that we intend to pursue vigorously with the federal government over the coming months.

Our renewed national policy mandate includes the following issues that fall within your portfolio.

Canada Border Services Agency - Customs & Immigration Programs

There are inequities in the provision and cost of Canadian Border Services at airports across the country. The Canada Border Services Agency (CBSA) considers airport operators to be the sole beneficiaries of Customs Services rather than the public at large and, therefore, subject to cost recovery.

The economic benefits resulting from increased international air traffic can far outweigh the cost of providing Customs services. Direct tax benefits to the federal government alone should justify the additional cost. Where the benefits of this service extend beyond a single user or supplier can be demonstrated, through pre-determined criteria, the system should adjust to accommodate the need for this service without additional cost to the airport operator. Existing services should be reviewed and more appropriately allocated to meet demand.

The Canadian Chamber recommends that the federal government and CBSA:

1. Move immediately to remove the discriminatory cost recovery mechanism for Customs and Immigration services and provide these services on the same basis as they are provided in other areas of the country and at the same cost to Canadians;

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2. Where new or expanded services are required in any region of Canada, the provision of such services should meet a legitimate business case;
3. Add an on-call service component to all airports designated as an Airport of Entry;
4. Post all its fee schedules, including on-call services, on its website; and
5. Revise contract agreements with Airports to allow the proper billing to the plane operator in order to recover all the costs related to on-call services or other services supplied by the CBSA for the user.

I am also bringing the preceding resolution to the attention of Minister Freeland.

Collection of Duty and Taxes at Canada/US Border

Cross-border shopping by Canadians in the United States was an estimated \$4.7 billion in 2006. Since then, annual increases have taken the total to \$8.0 billion in 2012, 72% higher than 2006.¹ The impact on Canadian retailers, particularly in border towns, is costing the economy billions of dollars which could be minimized if duties were enforced at the border. The priorities of personnel include the security and safety of our nation, therefore collection of duties and taxes are by default a lower priority. A consistent pattern of non-collection of taxes and duties at the Canada/US Border creates a further incentive for residents to choose cross border shopping. This puts Canadian Retailers at an unfair disadvantage and results in a significant economic loss to border communities.

The Canadian Chamber recommends that the federal government:

1. Examine current policies and protocols to identify efficiencies or additional resource commitments that would enable the consistent collection of prescribed duties and taxes with no effect on the free flow of commercial traffic.
2. Research implementation of a self-reporting model (similar to Nexus) whereby the reporting onus will be placed on the individual, and Border Personnel will continue to be responsible for performing random checks.
3. Increase penalties and restrictions whereby non-compliant residents will incur penalties that are sufficiently onerous to deter abuse of the process and offset costs of enforcement, and where abusers of a self-reporting model would become ineligible.

I am also bringing the preceding resolution to the attention of Minister Dion.

Renewing the Canada-U.S. Trade Relationship

Canada and the United States (U.S.) have a special relationship built on shared values and a long history of family, friends and visitors living on both sides of the border. Every day, over \$2 billion in goods and services and 300,000 people cross the border. Despite these strong foundations, bilateral trade has stagnated over the past decade, with Canada steadily losing market share in the U.S.,

¹ Stats Canada Study: Cross-border Shopping 2004-2012

especially since the financial crisis. The story is improving as of late, with a lower Canadian dollar, resurgent U.S. economy and expanded cross-border trade in the Great Lakes region. However, there remain a number of policy steps that need to be taken by both governments in order to revitalize the economic relationship.

The Canadian Chamber recommends that the federal government:

1. Improve the movement of people and goods across all modes by fully resourcing and implementing programs identified by the Beyond the Border initiative.
2. Improve stakeholder consultation throughout the agenda-setting and tracking process of the Canada-U.S. Regulatory Cooperation Council.
3. Work with the U.S. to realize an ambitious and comprehensive TPP agreement that lays the foundation for the North American trade with Asia, including high standards of market access and intellectual property protection, as well as new disciplines related to cross-border data flows and state-owned enterprises.
4. Through the TPP or parallel bilateral arrangements, address Buy America rules and expand the list of qualified professionals eligible temporary entry and business visas under the North American Free Trade Agreement.
5. Restore and institutionalize the annual North American Leadership Summit, creating issue or sector-based working groups on topics such as energy and trade policy.

I am also bringing the preceding resolution to the attention of Minister Dion and Minister Freeland.

A copy of the complete text of these resolutions is attached.

Sincerely,



Perrin Beatty
President and Chief Executive Officer

Attachments

Canada Border Services Agency - Customs & Immigration Programs

There are inequities in the provision and cost of Canadian Border Services at airports across the country. The Canada Border Services Agency (CBSA) considers airport operators to be the sole beneficiaries of Customs Services rather than the public at large and, therefore, subject to cost recovery.

As a result of the strict implementation of the Treasury Board Cost Recovery and Charging Policy of 1997, which was subsequently replaced by the External Charging Policy in August, 2003, border services were "frozen" at existing levels. Any requests subsequent to that policy are treated on a direct cost recovery basis or not provided at all. This was further exacerbated by requirements following 9/11, which put additional operational pressures and financial strain on the CBSA budget.

The CBSA has worked with other stakeholders, such as Amtrak, to provide service for passengers entering Canada. It is this kind of flexibility in CBSA's approach to other requests for increased levels of service that would be helpful, instead of treating every application from airports as strictly a cost recovery issue. Smaller airports are being unfairly penalized by this policy since service levels are not adjusted to reflect current demand. Where airports are obliged to contract with CBSA for additional scheduled service, they either lose a large portion of the benefit from the new trans-border and international traffic, or must increase aeronautical fees to cover the cost. Carriers and passengers both suffer from this inequitable treatment as the costs are passed on to users and the ability to attract new service for the community suffers.

The economic benefits resulting from increased international air traffic can far outweigh the cost of providing Customs services. Direct tax benefits to the federal government alone should justify the additional cost. Where the benefits of this service extend beyond a single user or supplier can be demonstrated, through pre-determined criteria, , the system should adjust to accommodate the need for this service without additional cost to the airport operator. Existing services should be reviewed and more appropriately allocated to meet demand.

As an example, the Kamloops airport is listed as an AOE (30) Airport of Entry. Custom services are offered Monday to Friday 08:30am to 4:30pm. Aircraft can arrive directly in Kamloops during those times and CBSA officers are on hand to attend to the aircraft and facilitate arrival to Canada. After hours cross border aircraft (with 30 passengers or less) are diverted to other points of entry. More often than not, the pilot is cleared by telephone in an alternate entry point and directed to proceed onto Kamloops for landing.

Under the current agreement with CBSA, the Kamloops Airport Authority has the responsibility to collect the custom fees from the passengers, often at a later date. Because the fees are not posted on the CBSA website, up to 30% of inbound passengers refuse to pay and the Kamloops Airport is forced to take a loss. CBSA agreement should allow airports to recover the cost for the airline operator in a transparent, efficient manner and not from arriving passengers during or after arrival. Ironically the CBSA does provide after-hours customs service in Kamloops for aircraft with animals or insects on board.

Recommendations

That the federal government and CBSA:

1. Move immediately to remove the discriminatory cost recovery mechanism for Customs and Immigration services and provide these services on the same basis as they are provided in other areas of the country and at the same cost to Canadians;

2. Where new or expanded services are required in any region of Canada, the provision of such services should meet a legitimate business case;
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Approximately three-quarters of Canadians live within 160 kilometres of the Canada-US border. Therefore, many consumers use their relatively easy access to the United States as a shopping option. According to Statistics Canada, cross-border shopping has increased by 53% over the past 10 years. A study conducted by the Business Council of BC indicated same-day trips to the U.S. increased by more than 143 percent in BC between 2009 and 2012. Under the laws, there are no personal exemptions permitted for same day cross border shoppers. Assuming 95% of day-trippers return with a full tank of gas, at an average of \$70, and \$80 worth of goods, there is a significant impact on B.C.'s economy due to lost profits and tax collections (GST, PST, gas taxes, etc.).

The federal government has clearly acknowledged that day trips should not be exempted from taxes, as stated by Jim Flaherty "Our government has no plans to create an exemption for day trips under 24 hours as it would disadvantage retailers in border communities and elsewhere in Canada," but Border Services Officers continue to routinely waive taxes and duties on goods bought by travellers in the U.S. According to a briefing note for the Prime Minister prepared in June 2014, the border agency waives taxes when the value is below a certain threshold.³ The threshold was established by considering the cost for CBSA to process a traveller through the collection process, but the threshold is not publicly available. Collections may also be waived where the volume in collections results in unacceptable border processing delays, as determined by local management. If the reduction in border processing times is an overriding priority for Canadian business, there also needs to be consideration for the significant impact these exemptions have on the local economy.

A key barrier to consistent collection of duties and taxes are the conflicting responsibilities of the border personnel. The border personnel are managing revenue collection, service to the public (wait times), interdiction of inadmissible persons and goods, and the facilitation of legitimate trade and travel. Local management have the authority to adjust priorities and have several options available to them in order to meet these objectives, including opening more lanes, planning shift schedules, scheduling overtime, etc., but many of these options require increased resources and costs.

² Stats Canada Study: Cross-border Shopping 2004-2012

³ According to the briefing note obtained by the Canadian Press under the Freedom To Information Act

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3. Increase penalties and restrictions whereby non-compliant residents will incur penalties that are sufficiently onerous to deter abuse of the process and offset costs of enforcement, and where abusers of a self-reporting model would become ineligible.

Renewing the Canada-U.S. Trade Relationship

Canada and the United States (U.S.) have a special relationship built on shared values and a long history of family, friends and visitors living on both sides of the border. Every day, over \$2 billion in goods and services and 300,000 people cross the border. Despite these strong foundations, bilateral trade has stagnated over the past decade, with Canada steadily losing market share in the U.S., especially since the financial crisis. The story is improving as of late, with a lower Canadian dollar, resurgent U.S. economy and expanded cross-border trade in the Great Lakes region. However, there remain a number of policy steps that need to be taken by both governments in order to revitalize the economic relationship.

The barriers

There are several factors holding back bilateral business: inefficiencies at the border, regulatory divergence, failure to approve the Keystone XL pipeline, country of origin labeling requirements, and the revival of 'Buy America' rules for local government procurement. These trade irritants and protectionist measures continue to impede trade flows and hurt the competitiveness of North American supply chains.

At the same time, bilateral cooperation has not kept up with emerging issues and opportunities in areas such as trade, energy and environment. Canada did not join the Trans-Pacific Partnership (TPP) talks until late in the process. The so-called shale revolution in the U.S. and reform of the energy sector in Mexico has fundamentally transformed the continental energy market. At the same time, approaches to greenhouse gas regulation and the development of renewable energy are poorly aligned.

Part of the problem has been the slow decline in the frequency of engagement between political leaders. The North American Leadership Summit scheduled for early 2015 in Ottawa was cancelled. Canada has not hosted the occasion since 2007.

The way forward

The long-standing challenges and new realities facing Canada and the U.S. suggest that business as usual will not be enough to realize the full benefits of the bilateral relationship.

Canada and the United States will need to take additional steps to facilitate the movement of goods, services and people across the border in all modes of transportation. Since announcing the Shared Vision for Perimeter Security and Economic Competitiveness Action Plan in 2011, Canada and the U.S. have been working together through the Regulatory Cooperation Council and Beyond the Border initiatives in an effort to improve the efficiency of the border and reduce unnecessary regulatory divergence. However, these initiatives have not lived up to their ambition and are in need of new energy and attention.

Facilitating temporary entry and business travel

By harmonizing and coordinating customs and security rules and procedures, the Beyond the Border Action Plan seeks to improve border efficiency, reduce delays and increase the mobility of people and goods across the Canada-U.S. border. Despite some recent milestones – e.g. Integrated Cargo Security Strategy (including air cargo), piloting the concept of ‘cleared once, accepted twice’ and the recently announced Preclearance Agreement that would cover multiple transportation modes – a lot of work remains.

Better training of border agents and more clarity around temporary entry requirements would make it easier for Canadians and Americans to conduct legitimate business across the border. TN and L applicants (i.e. for temporary entry as business visitors) to the U.S. are often subject to different treatment depending on the port of entry. Clarification is needed on new measures allowing specialized maintenance and repair personnel to conduct maintenance and emergency work on critical industrial machinery and operational systems. Likewise, there is a lack of guidance for visitors entering to provide after-leasing services. The rules should be applied in an equal fashion as they are for those doing after-sales services.

The application process itself should also be improved. The new U.S. guideline allowing TN applicants to process their applications at United States Citizenship and Immigration Services (USCIS) centres is a welcome development, but they should also be able to apply through U.S. Consulates in Canada. Minor application errors should be treated with leniency. The NEXUS trusted-traveler program, for instance, should move away from a zero tolerance approach to violations in favour of the approach used by the Free and Secure Trade for Commercial Vehicles program. It should also be possible to appeal denials and revocations.

Customs agencies must have uniform and speedy mechanisms to deal with wrongfully denied business entry and mis-adjudications. In some cases, Canadian business visitors have been put through Expedited Removal proceedings at the border, despite the fact that Department of Homeland Security regulations mandate that non-immigrant Canadians be exempt. Administrative remedies should be made available for such abuses of the process.

The recent Pre-Clearance Agreement could significantly speed up border crossings for individuals and cargo. However, the enacting legislation may be politically challenging due to extra-territoriality and immunity issues. In the meantime, efforts should be made to reduce situations of multiple inspections, as in the case of rail passengers from Vancouver to the U.S. being inspected once in Vancouver and again when they cross the border.

Improving importer programs

Canada's trusted trader programs, which offer expedited and simplified customs procedures to low-risk shippers, remain underdeveloped and poorly integrated with those of the U.S. as well as other Canadian federal agencies (e.g. Canadian Food Inspection Agency). Growth of company membership in these programs has slowed as a result and remains limited. Significant investments in technology and operations are needed.

After long delays, Canada is set to implement key elements of the Single Window Initiative. By allowing importers to submit documents and information electronically to customs and nine other relevant government agencies all in one location, it is expected to cut red tape and lower trade costs. However, with the challenges faced getting the program to this point, close attention is needed to ensure that the roll-out meets expectations.

Cooperating on energy and the environment

A truly continental approach to energy and the environment would help Canada and the U.S. reduce greenhouse gas emissions and provide economies of scale to stimulate joint innovation and the growth of the green economy. Selling an additional 2,500MW of Canadian hydro power to the U.S., for instance, could lower CO2 emissions by an amount equivalent to taking 2.3 million cars off the road. Cooperating on environmental regulations could also improve the reputation of Canadian oil and gas products in the American market.

Pursuing a North American trade policy

Although Canada was late to the table, the TPP is platform for the two countries to work together to establish new trade rules that will govern Pacific trade. North American trade interest are aligned in a number of sectors and by pooling its market size with the U.S., Canada can increase its bargaining power. As a living agreement, TPP will be an instrument for future trade liberalization with countries such as China and India. Canada should also be using TPP as an opportunity to find bilateral compromises on government procurement and the movement of business people – if not within the agreement itself, then through side arrangements.

Recommendations

That the federal government:

1. Improve the movement of people and goods across all modes by fully resourcing and implementing programs identified by the Beyond the Border initiative.
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