

tradeweek

Your Resource for Global Trade | September 30, 2008 | Vol. 119, No. 18

Anderson Receives Award



Mary Anderson, I.E.Canada president, receives OWIT's JoAnna Townsend Award for an Export Champion.

Can/Am BTA	2
Ship Cartels	3
Canadian Organic Regulations	5
I.E.Canada Conference	6

On September 18, I.E.Canada president Mary Anderson was awarded the JoAnna Townsend Award for an Export Champion by the Organization of Women in International Trade - Toronto.

The award recognizes an outstanding woman in Ontario who, through her business and personal networks, creates opportunities to

actively support women entrepreneurs to succeed in international business. Nominees are women in business, government or organizations who act as a role model and mentor for women entrepreneurs and provide support to women in international business. OWIT - Toronto launched the Award in memory of JoAnna Townsend, a

Award, cont'd on pg. 4

McCallion to Open Conference

Her Worship Mayor Hazel McCallion, Mayor of the City of Mississauga, will be the opening speaker at I.E.Canada's 77th Annual Conference, Tradeshow and Gala. Mayor McCallion is one of Canada's best known and longest-serving

mayors and has overseen the growth of Mississauga from a small collection of towns and villages to one of Canada's largest cities. Today, Mississauga is becoming a key player in the global economy, with

McCallion, cont'd on pg. 5

CFIA Looking for Melamine in Food

Headlines around the globe have reported on the issue of melamine added to the fluid milk collection system in China. The result has been a number of infant deaths and over 53,000 Chinese children falling ill due to the consumption of infant formula containing melamine contaminated milk.

CFIA is concerned that milk powders produced in China and used in the formulation of imported multi-ingredient foods could be contaminated with melamine. Melamine is not approved as a food ingredient or additive in Canada; its consumption has been linked to the formation of kidney stones and kidney failure.

To date, three consumer alerts and recall notices have been issued in Canada. The first is for Nissan Cha Cha Dessert, which was made with Yili Pure Milk in which melamine was detected by the Government of Hong Kong Special Administrative Region's Centre of Food Safety. Imported from Hong Kong, the product was sold in Ontario, Alberta and British Columbia. The second recall is for Mr. Brown 3-in-1 Instant Coffee products imported from Taiwan, which may contain melamine. The third recall is for White Rabbit

Melamine, cont'd on pg. 5

Can/Am Border Trade Alliance Conference

Mary Anderson, president, and Carol Osmond, vice president, policy, I.E.Canada, attended the Can/Am Border Trade Alliance Conference in Washington, DC. The conference provided updates on developments south of the border and opportunities to network with representatives of the trade and government communities from the U.S. and Canada.

A Brokers and Logistics Panel focused on legislative changes contained in the Food, Conservation and Energy Act of 2008, known as the Farm Bill, enacted in June 2008. These changes have significant implications for Canadian exporters to the United States. Following are some highlights from this session:

First Sale Rule Update

Matthew J. Parrott, director northern border operations, A.N. Deringer, Inc. provided an update on the First Sale Rule and changes resulting from the Farm Bill.

On January 24, 2008, U.S. Customs and Border Protection (CBP) published in the Federal Register (73 FR 4254) a notice proposing a new interpretation of the expression "sold for exportation to the United States" for purposes of applying the transaction value method of customs valuation to transactions involving a series of sales prior to importation of goods into the United States.

Generally the transaction value is based on the sale between a foreign seller and a U.S. buyer. Where an import transaction involves a series of sales between multiple parties, however, currently the transaction value may be based on the price paid in the first or earlier sale (e.g., the sale between the foreign manufacturer and a foreign middleman) provided the importer can establish that this was an arm's length sale and that at the time of the sale the goods were clearly destined for exportation to the U.S. This is referred

to as the First Sale Rule.

Under CBP's proposed new interpretation, where a transaction involves a series of sales, the price paid in the last sale occurring prior to the introduction of the goods into the United States, instead of an earlier sale, would be the basis for determining the transaction value.

The Farm Bill requires a study of the impact of the First Sale Rule before CBP can consider revoking a number of rulings allowing the transaction to be based on a first or earlier sale.

Interim regulations published on August 25, 2008 mandated the reporting of First Sale when used as a basis of appraisal for entry starting August 20, 2008 for a period of one year. As of August 20, 2008, all entry summaries filed using First Sale must be flagged at the line level.

CBP allowed a 30 day "grace period" for importers and their brokers to program their systems to allow the flagging. CBP requires post summary corrections for all entry summaries filed beginning August 20th if the filer's system was not programmed to submit the flag. Under the Farm Bill, CBP may not change its interpretation of "sold for exportation to the United States" prior to January 1, 2011.

A copy of Matthew's presentation is available at <http://www.iecanada.com/docs/CanAmBTA1stSale091508final.pdf>.

Amendments to the Lacey Act

Leman G. (Chip) Bown, Jr., managing director, regulatory compliance, FedEx Trade Networks Transport & Brokerage, Inc. addressed changes to the Lacey Act brought about by the Farm Bill.

The Lacey Act prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed,

transported or sold. The Farm Bill expanded the Lacey Act to prohibit trade in products made from illegally harvested or traded plants and plant products, including trees. It also established a new import declaration requirement for ALL plants and plant products beginning December 15, 2008.

The import declaration must state the scientific name of any plant used to produce plant products, including the genus and species, and the country of harvest of the plant. If the specific genus and species is not known, the declaration must contain the name of every species of plant that may have been used to produce the product. If the country of harvest is not known, the name of every country from which the plant may have been imported must be stated.

A broad range of products is subject to the law, including furniture, paper, wood flooring, wine with corks, musical instruments, pharmaceutical products, textiles and wearing apparel, lipstick, cigarettes, dried soup, hairspray, umbrellas, boats, chewing gum, pots and pans with wooden handles, maple syrup and any product that comes with an instruction booklet or hang tags. Exclusions include common food crops, scientific specimens for research and incidental packing material. However, there is no de minimus for the amount of plant material included in the product.

CBP is currently working with multiple Participating Government Agencies on implementation. The preliminary plan is expected to provide for implementation in phases. A copy of Chip's presentation is available at http://www.iecanada.com/docs/Updates10_2andLaceyAct92008.pdf

Softwood Lumber Act of 2008

Mary Ann Comstock, USNB broker-

Shipping and Trade Horizons



Leo Ryan

Shipping and Trade Horizons, a Tradeweek column, is produced by Leo Ryan. The column addresses Canadian industry issues and trade developments of interest to our members.

Ship Cartels Dying

For over a century, a virtual cartel system has formed the bedrock of global shipping. These cartels comprise the liner shipping conferences which have benefited from national legislation exempting them from antitrust regulations as they collectively fix ocean freight rates and other terms of service.

This October 18, it's the end of an era, with the European Union (EU) formally implementing the elimination of carrier block exemption from competition laws. Impacted are all operators of shipping services to and from the EU member states. Trans-Pacific trades and intra-Pacific trades can continue under existing regulations. Nevertheless, it seems only a question of time when countries in Asia, North America and elsewhere follow Europe's example.

For years, shippers around the world have felt that ocean shipping should become a deregulated marketplace, much like what has transpired in the air transport, trucking and railway modes.

"Shippers want rivalry," a top

Freight Transport Association official in the United Kingdom declared a few years ago. Robert Ballantyne, President of the Canadian Industrial Transportation Association (CITA) would concur: he has long felt that relations between shippers and carriers should be more balanced and more along the traditional lines of buyer/seller without shipping conferences in place.

A number of these conferences already disbanded this past July, including the Canada-UK Freight Conference (in operation since 1904) and the Canadian North Atlantic Freight Conference. The few remaining members of the once-powerful Trans-Atlantic Conference Agreement (TACA) for the US-Europe trades held their final meeting this summer in Geneva.

Historical note: European shippers had declared war on the original Trans-Atlantic Agreement soon after its establishment in the early 1990s and later kept up a relentless attack against its successor, TACA, which sought to stop the financial bleeding in the North Atlantic arena.

Although conferences remain legal in many parts of the world, the pressure has mounted for them to vanish in the wake of their disappearance in Europe. The prime targets now are India and China as well as the United States which, like Canada, still retains a carrier block exemption in its anti-trust laws.

In this vein, shipper groups belonging to the Global Shippers Forum (GSF) gathered in Montreal in September to urge all countries, especially in Asia, to follow Europe's example. At these meetings, John Y. Lu, Chairman of the Asian Shippers Council, called the European initiative "a victory for world trade that Asia should emulate."

"GSF members strongly believe that European reforms repealing liner

block exemption as well as changes brought about in North America would provide comparable benefits for Asian countries, resulting in less influence by conferences and discussion agreements over rates," the GSF stated in a joint declaration.

Referring to the need for the introduction in Asia of market-based regulations, the GSF noted: "Competition between suppliers, rather than collusion, will result in efficiencies and customized services for their customers that are not possible where prices are determined by liner carriers in government-sanctioned cartels."

Ted Kawamura, Chairman of the Asian Shippers' Council, suggested that both China and India appeared receptive to soon revising marine regulations so that they fall in line with existing anti-trust laws.

Shipper associations "encouraged" the U.S. to undertake a comprehensive review of its own shipping laws to determine whether an antitrust exemption should continue to exist for liner carriers. While retaining carrier antitrust immunity, the U.S. Ocean Shipping Reform Act of 1998 weakened the conference system by allowing confidential shipper-carrier contracts, but went no further.

For its part, the Canadian government has consistently avoided taking a separate route from the U.S. The 2001 Shipping Conferences Exemption Act in Canada does not contain a sunset clause, as desired by Canadian shippers, that would have removed the anti-trust immunity within five years. "The competitive situation between US and Canadian ports rules out a go-it-alone approach by Canada," underlines CITA's Bob Ballantyne.

In the short term, it's hardly likely that the next administration and Congress in Washington will pay

Ships, cont'd on pg. 4

CAN/AM BTA, cont'd from pg. 2

age compliance manager, UPS Supply Chain Solutions Inc. provided an overview of the new reporting requirements for softwood lumber included in the Farm Bill.

Under the Softwood Lumber Act of 2008, entries of softwood lumber and softwood lumber products from ALL countries - not just Canada - must declare the Export Price and the Export Charges. The definitions of Export Price and Export Charges are contained in the 2008 Act.

The importer must also submit an importer declaration affirming that the importer has made appropriate inquiry and that to the best of the importer's knowledge and belief the export price provided is determined in accordance with the definition provided in the legislation and is consistent with the export price provided on the export permit, if any; and that the Exporter has paid, or is committed to pay, all export charges due and that they are consistent with the export charge determinations by the International Trade Commission.

The new reporting requirements came into effect August 18, 2008 with a 30-day grace period for implementation. The Softwood Lumber Act of 2008 requires that ALL entries of softwood lumber and softwood lumber products be formal entries. There is no de minimus exemption.

Mary Ann's presentation is available at <http://www.icanada.com/docs/2008SoftwoodLumberAct.pdf>.

Questions about the requirements may be sent to: SWL2008@dhs.gov For further information visit www.cbp.gov and the Q & A posted at: http://www.cbp.gov/xp/cgov/trade/trade_programs/cargo_summary/misc_trade_tech_corrections_act/food_energy/softwood/softwood_fa.xml

CBP Eyes Residual Chemicals

The following article was prepared by Jennifer Fox, assistant vice president, operations & education, Ontario Trucking Association.

U.S. CBP recently proposed modifications to a ruling that currently allows containers with residual chemicals to enter the U.S. as empty containers, also known as Instruments of International Traffic (IIT's).

The proposed modification would no longer allow chemical residue within a container to be entered as part of the empty container; it would require a customs entry. Discussions with CBP indicate the change to the ruling may also be extended to all liquid residuals.

Empty containers with residue currently enter the U.S. as IIT's, requiring only a manifest for entry. The change in interpretation from residue as a component of the IIT (no entry required) to a commodity will require the carrier to submit a complete electronic manifest, including quantity and value. Customs Brokers will also be required to file an entry, which must be on file with customs prior to the truck entering the U.S. Residue is of little value and is difficult to quantify. While the residue may be entered as U.S. goods being returned, it is not clear who will be responsible for costs associated with the entry filing. There are also concerns related to the impact of this change on programs such as FAST and C-TPAT.

Should CBP proceed with the change, carriers may also be required to submit manifest discrepancy reports to CBP based on the actual quantity once determined at destination, if different from the manifested quantity. A manifest discrepancy introduces the possibility of penalty if not completed accu-

rately and in a timely fashion. The health and safety risks of accurately measuring residue, along with the difficulty in gauging quantity render this option unviable.

The comment period on CBP's proposal ended on September 19th, 2008. It is anticipated that a decision could be issued in a Customs Bulletin as early as mid-October.

Award, cont'd from pg. 1

champion of women exporters.

Mary is well known throughout the international trade community as a committed and compassionate leader. She is a long time supporter and mentor of women in international business, launching trade missions for women entrepreneurs, frequently addressing students about international business, and sharing her expertise and time with numerous trade-related boards.

The Award Ceremony was supported by Foreign Affairs & International Trade Canada; Award sponsors include Export Development Canada, Hodgson Russ LLP, Ministry of Economic Development and Trade International Trade Branch, and Ann Wylie-Toal Designs.

I.E.Canada is thrilled for Mary and proudly acknowledges her hard work and dedication to the cause of women in export and trade. Congratulations, Mary!

Ships, cont'd from pg. 3

much attention to regulatory reform in shipping, given the huge financial turmoil in the United States.

Meanwhile, shippers in Europe are hoping that the abolition of the cartels will translate into consistently "fair" rates by individual shipping lines and no collusion over fuel, currency or congestion surcharges.

Leo.ryan@bellnet.ca

Implementation of Organic Regulations Delayed

The Canadian Food Inspection Agency (CFIA) has delayed the implementation of the Canadian Organic Products Regulations, originally due to come into effect on December 14, 2008, to June 30, 2009.

The Regulations form the basis for federal oversight of the organic food production industry via the Canada Organic Regime (COR). The regulations relate primarily to the verification of the integrity of organic foods, as well as to their labeling and marketing. The implementation delay will allow Canada to fulfill its international notification requirements under the WTO and allow the global organic community to be better prepared to comply with Canada's new Organic Regime.

While the delay will provide organic food importers additional time to comply, the regulations, along with a pending regulatory amendment, will be coming into force and importers need to be prepared. I.E.Canada has led a coalition of national trade associations that have influenced the implementation of the Canadian Organic Regime, as well as the regulatory amendments.

For more on the Canadian Organic Regime, the regulatory amendments and the Canadian Organic Production Standards, contact Keith Mussar at kmussar@iecanada.com, or join I.E.Canada's Food Committee.

Melamine, cont'd from pg. 1

brand candy, usually imported from China. The most recent information and recall list can be found at: <http://www.inspection.gc.ca/english/fssa/concen/2008melamine.shtml>

CFIA has initiated a "border look out" for the following dried milk powders (all shipments will be detained and tested for melamine):

HS Code/Product Description

210690 Infant formula

040210 Powdered milk-fat content not exceeding 1.5%

040221 Powdered milk-fat content exceeding 1.5%

040410 Whey

350110 Casein

350220 Milk albumin

CFIA has also initiated sampling and testing of milk-based products in Canada including food products from companies currently under investigation in China.

The CFIA is asking food importers to:

1. Confirm whether or not the multi-ingredient foods that you import into Canada contain or are produced using a dried milk protein concentrate or fluid milk. Dried milk protein concentrates include: milk powder, skim milk powder, whey powder, casein, milk albumin and lactose powder.
2. Confirm whether any of the multi-ingredient foods contain milk powder protein concentrate or fluid milk originating from China.
3. Notify Carla Barry, CFIA at cbarry@inspection.gc.ca if any of the foods that you import contain milk protein concentrate or fluid milk originating from China.

I.E.Canada has been and will continue to work with food importers to help them meet their responsibility of ensuring that the food and food ingredients being imported into Canada are safe, properly labelled and do not put at risk the health and safety of Canadian and international consumers. I.E.Canada urges food importers to familiarize themselves with the CFIA Good Importing Practices for Food (<http://www.inspection.gc.ca/english/fssa/imp/goodbonne.shtml>). To assist importers, I.E.Canada offers a number of tools to help reduce the risk of importing unsafe food including The Importer's Food Safety Workbook, membership on the I.E.Canada Food Committee and the annual I.E.Canada Food Forum (to

be held February 18, 2009).

I.E.Canada will continue to monitor and inform members of any developments. If you have any questions, please contact Keith Mussar at kmussar@iecanada.com.

McCallion, cont'd from pg. 1



Mayor Hazel McCallion will open I.E.Canada's 77th Annual Conference.

the third largest finance, insurance and real estate sector in Canada.

In 2005, McCallion was ranked second in the World Mayor Poll. In November 2006, at the age of 86, she won her 11th consecutive term, holding a 91% majority of the votes.

Mayor McCallion has a wealth of knowledge to share with Canadian importers and exporters. Learn from her experiences in Canadian politics and in representing Canadian businesses abroad and hear the key success factors to doing business globally. Be sure to join Mayor McCallion on Monday, October 27, at the Delta Meadowvale Conference Centre.

For a copy of the brochure and the latest information on the annual conference please visit <http://www.iecanada.com/2008-77th-Annual-Conference.html>.



Canadian Association of
Importers and Exporters

Association canadienne des
importateurs et exportateurs

77th Annual Conference, Trade Show & Gala

Maximizing the Value in Your Supply Chain

High Profile Speakers Include:

Her Worship Mayor Hazel McCallion
City of Mississauga

**Carlos Obrador, Head of Economics and Business
Section, Embassy of Mexico**

**Cathy Munroe, VP, Admissibility Branch
Canada Border Services Agency (CBSA)**

**Thomas Ferriter, President & COO
Bush Brother and Company**

**Peter Hall, Chief Economist
Export Development Canada**

**Rory McAlpine, VP, Government & Industry Rela-
tions, Maple Leaf Foods**

**Dennis DesRosiers, President
DesRosiers Automotive Consultants**

October 27-29, 2008

Delta Meadowvale Conference Centre, 6750 Mississauga Road, Toronto Airport

I.E.Canada thanks the following sponsors to date for their support of the conference:



Canadian Association of Importers and Exporters Inc.
Association canadienne des importateurs et exportateurs inc.

Editor: Andrea MacDonald
Assistant: Maggie Weaver

160 Eglinton Avenue East, Suite 300
Toronto, Ontario M4P 3B5
Telephone 416 595-5333
Fax 416 595-8226
www.iecanada.com

Tradeweek is published twice each month for and on behalf of the Canadian Association of Importers and Exporters Inc. / Association canadienne des importateurs et exportateurs inc. It is circulated by first class mail to members only. Reproduction of any of the contents of *Tradeweek* is encouraged provided that appropriate source credit is given.