

1.0 EXPORTING TO THE U.S. DEPARTMENT OF DEFENSE

1.1 General U.S. Requirements

Canadian companies exporting goods for use by the U.S. Department of Defense must:

- a) export directly to a U.S. DoD address; or
 - b) export to a U.S. private sector importer (U.S. DoD contractor).
- Other factors to be considered include:
- a) importing goods that will be exported to U.S. DoD (remission of customs duty paid);
 - b) importing materials or equipment owned by the U.S. government;
 - c) temporary importing; and
 - d) importing goods from the United States for repair, alteration, adjustment or testing.
- Current regulations to know include:
- a) Defence Supplement of the U.S.; Federal Acquisition Regulations (FAR 25.6 — Customs and Duties);
 - b) Revenue Canada, Customs and Excise memorandums, including those on remission and Canadian Commercial Corporation Goods Exported regulations; and
 - c) U.S. Customs Brokers Act.

For more information on duty-free entry regulations, contact the U.S. Defense Contract Administration Service Management Area (DCASMA), Ottawa, at (613) 992-2687.

2.0 ARRANGING DUTY-FREE ENTRY OF CANADIAN DEFENCE SUPPLIES

The U.S. Federal Acquisition Regulations (FAR) establishes uniform Department of Defense policies and procedures on procuring supplies and services. This regulation applies to all purchases and contracts made by the Army, Navy, Air Force and Defense Logistics Agency. Canadian suppliers should know the sections of FAR on foreign purchases and the responsibilities of DoD, U.S. Customs Service and the U.S. industry to ensure quick handling and duty-free entry of defence shipments. Some personnel in these U.S. organizations may not know all the detailed procedures involved in arranging duty-free entry of Canadian defence supplies. In these cases the Canadian supplier must provide advice or assistance.

This section summarizes the sections of FAR on procurement from Canadian sources, and outlines the procedures that DoD, U.S. Customs Service and U.S. industry must follow to arrange duty-free entry of Canadian defence supplies.

2.1 Federal Acquisition Regulations (FAR)

Section 25.600 of FAR outlines the policies and procedures for importing duty-free supplies for defence contracts into the United States. These regulations are also in the *Production Sharing Handbook*.

U.S. policy enhances economic co-operation with Canada in the interests of continental defence, so most Canadian products imported into the United States for defence are duty-free. Federal Supply Class sets out items eligible for duty-free entry. Each military department (Army, Navy, Air Force) and the Defense Logistics Agency has a list of eligible items, and a list is included in the *Production Sharing Handbook*. These lists are sometimes revised. If you are uncertain whether an item is eligible, consult the Defence Programs Division of the Defence Programs and Advanced Technology Bureau, Department of External Affairs. All components of listed items, whether or not they are listed, are also duty-free.

FAR states that one particular contract clause in a prime contract will give duty-free entry to supplies purchased from a foreign supplier. The clause is DFARS 252.225-7008, often called the "Duty-Free Entry — Canadian Supplies" clause. (See Appendix D.)

All contracts for more than \$2 500 (except construction contracts) that include procuring listed duty-free items should include DFARS 252.225-7008.

DFARS 252.225-7008 must be in U.S. military prime contracts before any U.S. military agency, prime contractor or first- or lower-tier subcontractor can purchase supplies from Canada duty-free. Bids to the U.S. defense contractors must state the offer does not include U.S. import duties or taxes.

The two organizations within DoD responsible for obtaining supplies and services and for administering contracts are:

- a) procuring activities of the departments of the Navy, Army, Air Force and Defense Logistics Agency; and