Are YOU Considering Exporting YOUR Products to Canada with a Portion Going to the USA?

Companies often import goods into Canada, with a portion of those goods remaining in the Canadian marketplace and the rest continuing on to the US.

Below are the questions we frequently answer.

Are there any particular laws in the USA that permit this activity?

Yes, the law that governs these types of activities, which are referred to as de minimis shipments, is [Section 321].

What would Section 321 be of interest to importers?

This regulation is a great option for importers looking to save money and time. For starters, it will help you save money on taxes and duties. Furthermore, there will be less paperwork, and imports will be processed faster, which speeds up the shipping process and eliminates delays from shipments held up at customs. For many B2B businesses, this can make a big difference when shipping to the U.S. from Canada, allowing them to compete in the market more successfully.

How does Section 321 work?

Under this legislation the goods are permitted to enter without formal entry.

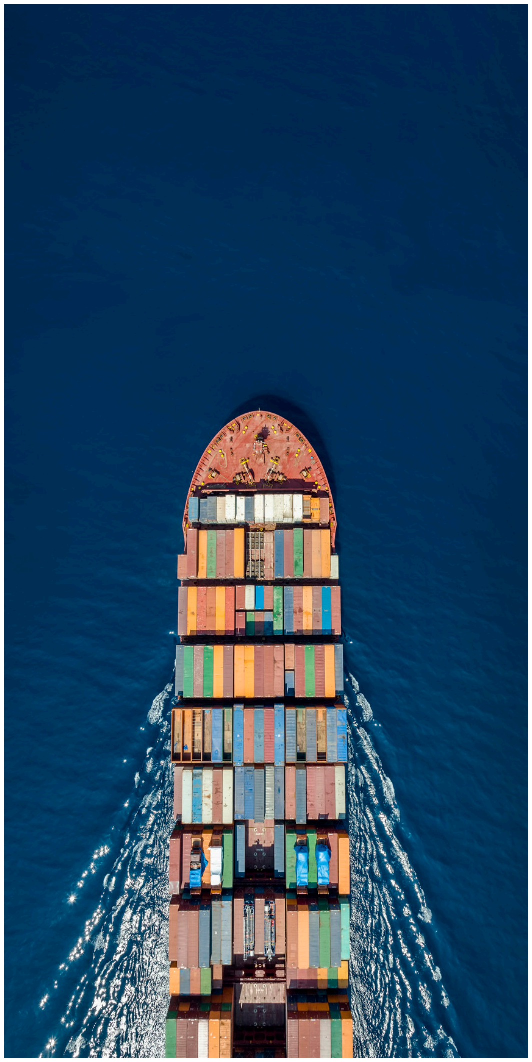
- The “de minimis value” under Section 321 is the allowable value of goods eligible to be shipped into the United States in one day, to one individual, free of duties.
- You can deliver shipments originating OUTSIDE the USA and valued under $800 to the hands of US customers without paying US duties.
- Section 321 applies to goods shipped from and/or manufactured in any international location. However, there are exceptions that apply as a result of special trades and tariffs. These can change abruptly, so it’s important to do due diligence.

Border Brokers is a customs broker that Canadian Alliance will often work with. As their Senior Trade Advisor Connie Neumayer explains, uptake has increased alongside the qualification threshold.

“Section 321 didn’t come into play that often until the threshold was increased from $200 to $800,” explains Neumayer. It’s only worthwhile in cases where the goods attract a higher rate of duty. Apparel and footwear are both attractive markets.”

That threshold applies to an individual buyer, so in cases where a large quantity of products have been sold to a large number of individuals, the program is attractive.

“You can have 1000 shipments in one truck,” she says, “as long as each one of them is valued under $800 US and there is only one import per person. They have to be on route to an individual.”



What do exporters need to know about CUSMA (formerly NAFTA)?

In July 2020, CUSMA, also known as USMCA or T-MEC, was instituted, replacing the previous trade agreement, known as NAFTA (North American Free Trade Agreement). CUSMA makes it easier to ship cross-border with simplified paperwork and provisions -like Section 321- that provide greater access to all North American supply chains.

With CUSMA in place there are other significant changes that exporters must be aware of, including Certification of Origin procedures and specific rules for sectors such as agricultural and automotive. Make sure you understand how the changes impact your business and what it means to be compliant.

What happens to the duties I paid when the goods entered Canada?

- Goods exported from Canada (such as a shipment to a US consumer) qualify for Duty Drawback on export from Canada, and therefore NET duty paid could be brought down to 0%.
- Note that goods being imported INTO Canada that were manufactured elsewhere (i.e. China) would have to pay Canadian duties on import, but it is these duties that would be eligible for drawback once the goods ship out of Canada. There is therefore an initial outlay of cash to pay Canadian duties.

- Canada has a relatively friendly Duty Drawback Program, particularly in comparison to that of the USA.
- Canada also has a Duty Relief Program which enables qualified companies to import goods without paying duties, as long as they eventually export the goods.
- Participants of this program are not restricted to a specific geographic site.
- You are not required to post a bond to financially secure your liability.
- If you are the importer, exporter, processor, owner, or producer of the goods, you can apply for duties relief if you are directly or indirectly involved in importing goods that are later exported in the same condition you imported them.
- In most cases, the goods you import under the Duties Relief Program have to be exported no later than four years after you import them. This gives you time to identify your export markets.

How does it work if the goods need to be returned?

Your returns are typically directed back to your original shipping point. When shipping under Section 321 from Canada, your origin point is now in Canada.

You will likely NOT want to direct returns back to origin. The complexities of a consumer shipping an international return can create unnecessary costs as well as a poor consumer experience.

You WILL likely want to direct returns to a domestic USA point. Canadian Alliance Terminals Inc has facilities in the USA to direct returns to. If you have your own USA warehouse you can also consider directing them there.

How can I determine if Section 321 is for my company?

To perform a quick analysis on the opportunity value, there are a few simple calculations to perform that will provide a guideline. A deeper analysis should be done for accuracy.

Understand your current duty cost. Look at your total US duty paid on all imports, or at minimum assess one or two key products in your line. The total US duty paid becomes your opportunity for savings.

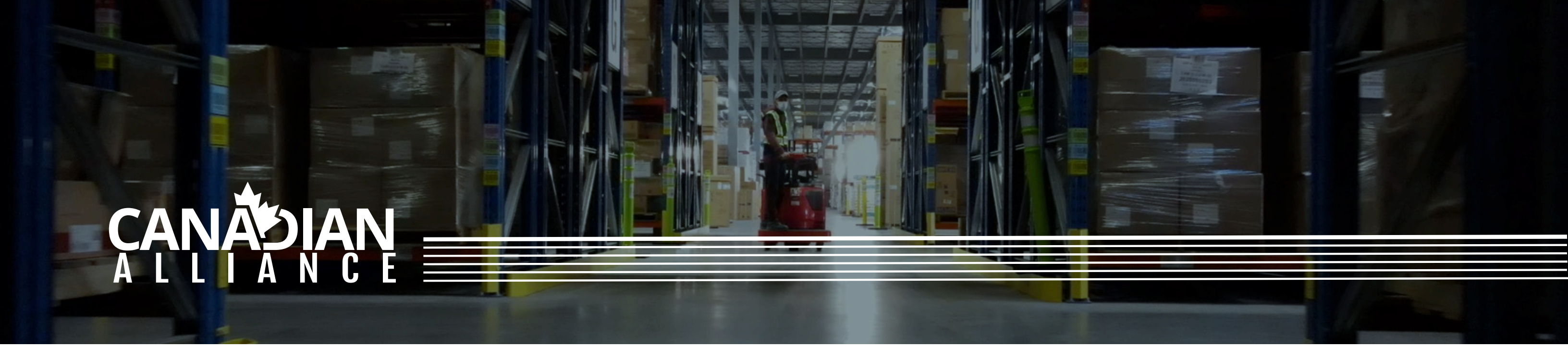
1. Assess your average freight cost for shipping your average-sized e-comm order domestically from within the USA. Compare this to the cost of shipping from Canada. Consider your current packaging and determine if it is the most efficient (i.e. smallest) type of packaging solution possible. This will be important in step 3.
2. Determine the average shipping cost from Canada for a same sized parcel as above. This result may be in Canadian currency, so be sure to convert to USD for proper comparison. The smaller the difference between Canada and USA shipping costs, the more the value in step 1 above becomes your total saving opportunity.
3. Consider volumes currently shipping to the USA for e-commerce and supplement Canadian inventory with similar SKUs/quantities.
4. Utilize Canadian Alliance Terminals' favorable cross-border freight rates with key carriers, either express or ground.
5. Consider how the Duty Deferral Program would potentially benefit your company.

What are the best steps for me to take prior to exporting to USA via Canada?

Do your research first!

Reach out to Canadian Alliance Terminals. We have customs broker/trade professionals available to help you understand if your products can be imported into Canada and what duty rates apply.

Determine which participating government agencies may be involved and any other requirements that may be necessary.



Knowing the costing and regulations involved will help you develop the best pricing structure and market approach, allowing you to avoid last-minute surprises.

As Neumayer explains, it's important that importers and exporters understand that the onus is on them to understand laws and regulations. For this reason, it's essential that they work with trusted partners like Canadian Alliance and Border Brokers.

"Compliance with all regulations is critical," says Neumayer. "It's important to work with people that will be true partners. Your broker should be informative, help you manage compliance, and be easy to communicate with, otherwise you're leaving yourself exposed to liability going forward."

In cases where 321 is a fit, Canadian Alliance and our partners will help our customers navigate the system to their advantage. In other cases, we'll take care of Canadian 3PL needs and refer clients to trusted partners who will handle import to the US.

We can help you find a licensed professional to assist you.