

MEMORANDUM D13-2-4

Ottawa, March 20, 2001

SUBJECT

VALUATION OF GOODS IMPORTED INTO CANADA THAT ARE NOT IN ACCORDANCE WITH CONTRACT

This Memorandum outlines and explains the application of the valuation provisions of the *Customs Act* to imported goods that are not in accordance with contract.

GUIDELINES AND GENERAL INFORMATION

1. Goods not in accordance with contract are goods that have been damaged in transit or are inferior, defective, or not of the class or description of goods ordered.
2. Two situations may result from goods not in accordance with contract being shipped to the importer:
 - (a) the goods, although damaged in transit, or of inferior quality, are retained by the importer and the importer subsequently receives a refund or credit for a portion of the original price;
 - (b) the goods are exported from Canada or destroyed under customs supervision.
3. In both situations, value for duty should be determined in accordance with one of the methods of valuation specified in sections 48 to 53 of the *Customs Act*, based on the value of the goods as if they were in accordance with contract. The question of a possible refund of duties and taxes resulting from a refund or credit given to the purchaser, by the vendor, because the goods are not in accordance with contract, is dealt with in Memoranda D6-2-2 to D6-2-6.

Valuation of Replacement Goods

4. Provided that the importer supplies sufficient evidence to demonstrate that the replacement goods are identical in all respects to the goods that should have been shipped under the terms of the original contract and provided the terms and conditions of the new contract are identical with the terms and conditions of the original contract, the value for duty of the replacement goods shall be the value for duty of the goods shipped originally.
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REFERENCES

ISSUING OFFICE –

Origin and Valuation Policy Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act, sections 48 to 53

HEADQUARTERS FILE –

7034-5-9

SUPERSEDED MEMORANDA “D” –

D13-2-4, June 1, 1986

OTHER REFERENCES –

D6-2-2 to D6-2-6

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.