

MEMORANDUM D13-9-1

Ottawa, March 8, 2001

“RESIDUAL BASIS OF APPRAISAL” METHOD (CUSTOMS ACT, SECTION 53)

This Memorandum outlines and explains the application of the residual basis of appraisal method for determining the value for duty of imported goods (section 53 of the *Customs Act*).

TABLE OF CONTENTS

	Page
Guidelines and General Information	1
Explanation	1
Application	2
Prohibited Methods	3
Verification	3

GUIDELINES AND GENERAL INFORMATION

Explanation

1. If the value for duty of imported goods cannot be determined under sections 48 to 52 of the *Customs Act*, it is to be determined under section 53. The provisions of sections 48 to 52 may, under the authority of section 53, be interpreted or applied in a “flexible manner” in order to arrive at a value for duty. This value is to be derived from whichever method of valuation set out in sections 48 to 52 requires the least amount of adjustment in order to be applied. Within this context, the sequential application of sections 48 to 52 should be maintained.
2. In flexibly applying the provisions of sections 48 to 52, customs will be guided, to the greatest extent possible, by the principles and spirit of the World Customs Organization’s International Agreement on Customs Valuation. These principles state that values should be fair, reasonable, uniform, neutral, and reflect commercial reality. Thus, deriving a value under the provisions of section 53 will, in many cases, require close consultation and cooperation between importers and customs to ensure adherence to the principles inherent in the Agreement.
3. In applying section 53, the value for duty is to be determined on the basis of information available in Canada.

Application

4. The following are examples of how section 53 might be applied:
 - (a) If there were no sales of similar goods produced in the same country as the country in which the goods being appraised were produced but there are sales of similar goods produced in another country, it may be possible to use the latter as the basis for determining the value for duty under section 53 provided the requirements of section 50 were otherwise met.
 - (b) If there are no sales which meet the 90-day requirement under section 51, but there are sales which occurred 100 days after the importation of the goods being appraised, it may be possible to use the latter as the basis for determining the value for duty under section 53 provided the requirements of section 51 are otherwise met.
5. If a value determined under a preceding section is unacceptable because the method of valuation is found to be inapplicable, the provisions of section 53 cannot be used simply to accept that value. Briefly stated, section 53 permits the requirements of previous sections to be flexibly applied but not disregarded completely.
6. In applying the previous sections flexibly, the principles of valuation implicit in those sections must be respected and care taken to ensure that the value derived from the method of valuation is not distorted either upwards or downwards. Thus, for example, if the “sufficient information” required to make an adjustment under subsection 49(3) was not available, it would not be appropriate, under section 53, to accept the transaction value of the identical goods, without the necessary adjustments, as the value for duty of the goods being appraised. In a similar way, if a transaction value was found to be unacceptable under paragraph 48(1)(d) because the vendor and purchaser were related, that transaction value could not then be accepted under section 53.

Prohibited Methods

7. No value for duty shall be determined, under the provisions of section 53, on the basis of:
 - (a) the selling price in Canada of goods produced in Canada;
 - (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
 - (c) the price of goods on the domestic market of the country of exportation;
 - (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of section 52;
 - (e) the price of the goods for export to a country other than Canada;
 - (f) minimum customs values; or
 - (g) arbitrary or fictitious values.

Verification

8. Customs may require the importer to provide documentation to substantiate the value for duty declared. This documentation could include contracts of sale, price lists, financial statements, commercial invoices, bills of lading, etc. The importer should also be prepared to satisfy customs that a value could not have been determined by the application of the valuation methods as outlined in sections 48 to 52.
-

REFERENCES

ISSUING OFFICE –

Origin and Valuation Policy Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act, section 53

HEADQUARTERS FILE –

7034-5-34, 7034-5-41, 7034-5-46, 7034-5-48

SUPERSEDED MEMORANDA “D” –

D13-9-1, June 1, 1986

OTHER REFERENCES –

N/A

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.