

# MEMORANDUM D13-3-7

Ottawa, March 27, 2001

## SUBJECT

### **ENGINEERING, DEVELOPMENT WORK, ETC., UNDERTAKEN ELSEWHERE THAN IN CANADA (CUSTOMS ACT, SECTIONS 48 TO 53)**

This Memorandum explains the meaning and application of the term “undertaken elsewhere than in Canada” as it relates to certain goods and services provided by the purchaser free of charge or at a reduced cost for use in connection with the production and sale for export of imported goods.

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## **GUIDELINES AND GENERAL INFORMATION**

1. The term “undertaken elsewhere than in Canada” is introduced in subparagraph 48(5)(a)(iii) which provides for the treatment of “assists.” Refer to Memorandum D13-3-12, *Assists (Customs Act, Sections 48 to 53)*.
2. Clause (D) of subparagraph 48(5)(a)(iii) states that (the value of) engineering, development work, art work, design work, plans and sketches “undertaken elsewhere than in Canada” and necessary for the production of the imported goods is to be added to the price paid or payable in determining value for duty.
3. The implication in paragraph 2 is that the value of engineering, development work, etc., “undertaken in Canada” is not to be added to the price paid or payable in determining the value for duty under the transaction value method (section 48 of the *Customs Act*) even when the conditions of subparagraph 48(5)(a)(iii) are met.
4. “Undertaken in Canada” means that the above goods and services must be carried out within the geographical boundaries of Canada.
5. Subsection 45(1) in defining “identical goods” and “similar goods” states that imported goods for which engineering, development work, art work, design work, plans and sketches undertaken in Canada were supplied by the purchaser free of charge or at a reduced cost for use in connection with the production of the imported goods cannot be considered “identical” or “similar” goods to other imported goods. Therefore such goods cannot be used in applying the following provisions:
  - (a) subsection 48(3), in which the transaction value of identical or similar goods is used to establish the acceptability of a transaction value in a sale between related persons (see also Memorandum D13-4-5, *Transaction Value Method for Related Persons (Customs Act, Section 48)*);
  - (b) sections 49 and 50, in which the value for duty is determined on the basis of the transaction value of identical or similar goods (see Memorandum D13-5-1, *Application of Sections 49 and 50 of the Customs Act*); and
  - (c) subsection 51(3), in which the value for duty may be derived from the price per unit drawn from sales in Canada of identical or similar goods (see also Memorandum D13-7-1, *Determination of the Price Per Unit (Customs Act, Section 51)*).
6. Subparagraph 52(2)(a)(v) states that only the costs, charges, or expenses actually incurred by the producer for engineering, development work, etc., undertaken in Canada and supplied by the purchaser for

use in the production of the goods being appraised is to be included in the value for duty determined under the computed value method (section 52). Refer to Memorandum D13-8-1, "*Computed Value*" Method (*Customs Act, Section 52*).

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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 –

N/A

### SUPERSEDED MEMORANDA “D” –

D13-3-7, June 1, 1986

### OTHER REFERENCES –

D13-3-12, D13-4-5, D13-5-1, D13-7-1, D13-8-1

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