Canada Border Services Agency | Agence des services frontaliers du Canada

Ottawa, October 18, 2006

MEMORANDUM D13-3-6

In Brief

INCOME TAX TRANSFER PRICING AND CUSTOMS VALUATION

1. This new memorandum provides guidance for importers of goods imported to Canada as a consequence of a sale agreement between related parties where an intercompany transfer price has been established.

2. This memorandum provides information on the similarities and differences between customs valuation and income tax transfer prices, and the treatment for customs purposes of costs and charges that may exist as part of transactions between related parties.

3. For further information on the application of the transaction value method of customs valuation where a purchaser and vendor are related, please consult D13-4-5, *Transaction Value Method for Related Person (Customs Act, Section 48)*.

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GUIDELINES AND GENERAL INFORMATION

Introduction

1. The purpose of this memorandum is to address importers' question "Why can't the same transfer price used for income tax purposes be used for customs purposes?"

2. This document outlines the similarities and differences between valuation for customs purposes (customs valuation) and transfer prices for income tax purposes (income tax transfer pricing), specifically in relation to the international transfer of goods between related parties. Customs valuation refers to the determination of the value for duty of imported goods under the *Customs Act*. Income tax transfer pricing refers to the determination of the prices at which services, tangible property, and intangible property are traded across international borders between related parties under the *Income Tax Act*.

3. There are conceptual similarities in the objectives and policies of customs valuation and income tax transfer pricing. The arm's length principle is an important concept applied in both programs, as evidenced by the Organisation for Economic Co-operation and Development (OECD), *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, (the OECD Guidelines) which states:

> *(a)* "The arm's length principle is applied, broadly speaking, by many customs administrations as a principle of comparison between the value attributable to goods imported by associated enterprises and the value for similar goods imported by independent enterprises," and
>
> *(b)* "… the arm's length principle, which is the international transfer pricing standard that OECD Member countries have agreed should be used for tax purposes by multinational enterprise groups and tax administrations."

4. The application of a proper methodology is also an important concept applied in both programs. For customs valuation there is a legislated priority rule for selecting the method to be used in determining the value for duty of the imported goods. The Transaction Value Method is the primary method used when goods have been "sold for export to a purchaser in Canada" and a number of other conditions have been met. When the Transaction Value Method is not appropriate, a series of other methods must be considered in a specific order. For income tax transfer pricing, the Canada Revenue Agency (CRA) is of the view that there is a natural hierarchy, starting with the Comparable Uncontrolled Price Method, then progressing to the remainder of the traditional transaction methods, and finally considering the transactional profit methods. This hierarchy is not legislated, but is established within the guidelines for applying transfer pricing rules set out in the CRA's Information Circular 87-2, *International Transfer Pricing*. Consequently, the methods used for customs purposes and the methods used for income tax purposes can yield different results.

5. Although the underlying principles for establishing inter-company selling prices are the same, this does not necessarily mean that a transfer price that is acceptable for income tax purposes will be suitable for customs purposes, and vice versa. The value for duty for customs purposes can serve as an acceptable starting point for determining a transfer price for income tax purposes. Customs valuations may be useful in evaluating the arm's length nature of a controlled transaction transfer price. In particular, customs

officials may have documentation regarding the transaction that could be relevant for transfer pricing purposes, especially if prepared by the taxpayer. The same would apply where income tax officials have documentation that could be relevant for customs valuation purposes.
The OECD Guidelines set out several methods of pricing goods in order to achieve a price which could reasonably have been expected in similar circumstances had the vendor and the purchaser not been related. The Canada Border Services Agency (CBSA) will accept a price paid or payable for the goods which is derived from one of the methods set out in the OECD Guidelines, unless there is information on prices available which is more directly related to the specific importations (refer to Memorandum D13-4-5, *Transaction Value Method for Related Persons (Customs Act, Section 48)*). The value for duty is then determined by adding and deducting statutory amounts to and from the price paid or payable.

6. While international transfer pricing rules require related parties to establish supportable transfer pricing procedures for income tax purposes, the value for duty for customs purposes may be different. Information Circular 87-2 states:

> "The methods for determining value for duty under the current provisions of the *Customs Act* resemble those outlined in this circular. However, differences do remain. The Department is not obliged to accept the value reported for duty when considering the income tax implications of a non-arm's length importation."

Organization, Applicable Legislation and Guidelines

7. Throughout this document, reference is made to the general terms "income tax" and "customs." The administration of Canada's income tax legislation is the responsibility of the CRA and the administration of Canada's customs legislation is the responsibility of the CBSA. For the purposes of this document, any references to income tax include the CRA branches and tax services offices that administer the transfer pricing legislation for income tax purposes. Similarly, any references to customs include the CBSA branches and regional offices that administer Canada's customs valuation legislation.

8. For transfer pricing purposes, the applicable section of the *Income Tax Act* is section 247. Information Circular 87-2 provides guidance with respect to the application of the transfer pricing rules.

9. For customs valuation purposes, the applicable sections of the *Customs Act* are sections 44 to 56. The D13 series of publications provides additional guidance with respect to the application of the valuation rules.

Factors Contributing to Differences in "Transfer Values"

10. There are many factors that contribute to differences in the values calculated for customs versus income tax purposes. The main factors are listed below.

(a) Legislation versus Guidelines – the calculation of the value for duty for customs purposes is based on adjustments prescribed by the legislation, whereas the transfer price for income tax purposes is determined based on guidelines.

(b) Application of Different Methodologies – Although similar methodologies exist for income tax and customs purposes, if dissimilar methods are applied for the different purposes, there is a greater potential for a difference in the values. For example, if the transaction value method is used for customs purposes, but the cost plus method is used for income tax purposes, the amounts determined as the transfer value may differ.

(c) One Result versus a Range of Results – The methodologies used for customs purposes will arrive at an amount which represents the value, however the most appropriate methodology for tax purposes may produce a range of results.

(d) Bundled transactions – For income tax purposes, it is preferred that taxpayers set prices separately for each transaction they enter into with a non-arm's length party, however in some specific situations, transactions are so closely linked or continuous that they cannot be evaluated adequately on a separate basis and the transactions are priced on an aggregate (or bundled) basis. The issue is whether one can determine the correct transfer price when prices have been either bundled or unbundled. In general it is easier to determine unbundled prices. For customs purposes, an unbundled price may not include costs for items such as royalties, assists, commissions, research and development, etc. These costs may be required by legislation to be added to the price paid or payable to arrive at the transaction value for customs (i.e. a "bundled value").

(e) Customs and income tax are governed by international standard setting bodies: the CBSA is a signatory, through the Government of Canada, to the World Trade Organization's *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, (the WTO Valuation Agreement) whereas the CRA follows the OECD

Guidelines. As the WTO Valuation Agreement deals with international rules of trade and the OECD sets out international taxation principles, the objectives of the standards of each are different; therefore the standards themselves are different.

(f) A person may have competing incentives in setting values for customs and income tax purposes. In general, an importer's objective is to have a low price for the transaction for customs purposes so that any customs duty imposed will be low. For income tax purposes, however, a taxpayer may prefer to report a higher price paid for those same goods in order to increase deductible costs and decrease the income taxed in Canada.

(g) Disallowing expenses – for customs purposes, an amount is usually "all in or all out". For example, a royalty or commission is determined to be included in the price paid or payable, and thus form part of the value for duty, or it is not. For income tax purposes, on the other hand, a portion of an expense can be disallowed as being unreasonable. This difference in policies can result in different amounts being attributed to the value for customs purposes than for income tax purposes. For customs purposes, an examination of the functions being performed will be done in order to determine if the royalty is one that should be included in the value for duty. The issue is: "Is the fee one that should be added or not to the value for duty?" – all in or all out. This is determined through an examination of the terms of the royalty agreement rather than an examination of the reasonableness of the royalty rate.

Note
In some cases a portion of an otherwise non-dutiable royalty or buying commission relating to an assist such as design or development may have to be included in the customs value.

(h) Timing of valuation – For customs purposes, goods are valued at the time of importation; for income tax purposes, goods are generally valued at the time the transaction is entered into. This means that it is likely that the goods will be valued at different times.

(i) Timing of exchange rates – For customs purposes, the rate of exchange to be used is the rate prevailing on the date of direct shipment to Canada of the goods whose value in Canadian currency is to be determined (refer to Memorandum D13-2-3, *Exchange Rate for Calculation of Value for Duty under the Customs Act*). For income tax purposes, a method that is in accordance with generally accepted accounting principles will be accepted. Normally, it is the rate of exchange prevailing at the time of the transaction (refer to the CRA's Income Tax Interpretation Bulletin IT-95, *Foreign Exchange Gains or Losses*). This can result in the use of different exchange rates, and therefore result in different values.

(j) Retroactive price adjustments – any downward adjustments in the transfer price charged to Canadian taxpayers resulting from competent authority, audit, appeal or other taxpayer request settlements would not be reflected in the value for duty declared. Paragraph 48(5)*(c)* of the *Customs Act* prohibits, for purposes of determining the value for duty, taking into account any rebate of, or other decrease in the price paid or payable that is effected after importation. This is a common discrepancy between the income tax transfer price and the value for duty of imported goods.

(k) Reassessment period – the reassessment period for customs purposes is four years, whereas the reassessment period for income tax purposes for international transactions is six (or seven) years. This additional two to three year period for income tax reassessments could result in the income tax transfer price being adjusted during this period, while the value for duty would remain as declared. Therefore, there could be discrepancies between the values used for customs purposes versus income tax purposes.

Scope of Analysis

11. As customs duties are levied only on the importation of goods, whereas transfer pricing deals with all business transactions or arrangements between associated enterprises, this analysis applies to their "common ground" which is the international transfer of goods, between related parties. Intangible property and intra-group services are analyzed only from the perspective of how they impact the value for duty calculation for goods. Any Goods and Services Tax/Harmonized Sales Tax implications are not examined in this memorandum.

12. With respect to the analysis of the transfer price for income tax purposes, only the determination of the transfer price of goods will be reviewed. Although any adjustments made to the transfer price under subsection 247(2) of the *Income Tax Act* may have Part I, Part XIII and/or Part XIV tax implications, this analysis focuses on the calculation of the transfer price only.

Transaction Value Versus Comparable Uncontrolled Price

Customs Valuation

13. The primary method of customs valuation for imported goods is the transaction value method (section 47 of the *Customs Act*). It is based on the price actually paid or payable for the goods (section 48 of the *Customs Act*). However, there are specified additions and permitted deductions to the price paid or payable.

14. The *Customs Act* permits the transaction value method to be used when the purchaser and vendor are related, but only in cases where either

(a) their relationship did not influence the price paid or payable for the goods, or

(b) the importer of the goods demonstrates that the transaction value of the goods meets one of the requirements, or "tests", set out in the *Customs Act*. Memorandum D13-4-5 provides guidelines on the transaction value method for related persons. For most importations involving sales between related persons, the transaction value method will be acceptable for customs purposes.

15. The OECD Guidelines set out several methods of pricing goods in order to achieve a price which could reasonably have been expected in similar circumstances had the vendor and the purchaser not been related. CBSA will accept for valuation purposes a price paid or payable which is derived from one of the methods set out in the OECD Guidelines, unless there is information on prices available which is more directly related to the specific importations (refer to Memorandum D13-4-5).

Income Tax

16. The Comparable Uncontrolled Price (CUP) method provides the best evidence of an arm's length price. A CUP may arise where:

(a) the taxpayer or another member of the group sells the particular product, in similar quantities and under similar terms to arm's length parties in similar markets (an internal comparable);

(b) an arm's length party sells the particular product, in similar quantities and under similar terms to another arm's length party in similar markets (an external comparable);

(c) the taxpayer or another member of the group buys the particular product, in similar quantities and under similar terms from arm's length parties in similar markets (an internal comparable); or

(d) an arm's length party buys the particular product, in similar quantities and under similar terms from another arm's length party in similar markets (an external comparable).

17. The CUP method provides the most direct and reliable means of establishing an arm's length price. However, other traditional transaction methods may have to be used where:

(a) there is not enough quality information available with respect to uncontrolled transactions; or

(b) it is not possible to reliably quantify the differences between controlled and uncontrolled transactions and, therefore, the appropriate adjustments cannot be made to eliminate the effects of those differences. Further information on the CUP method can be found in Information Circular 87-2.

Issues

18. Several issues arise out of the comparison of the transaction value method and the CUP method which will be discussed below.

– Purchaser in Canada versus Taxpayer
– Price Paid or Payable versus Comparable Price
– Adjustments to the Price Paid or Payable for Customs Purposes
– Commissions and Brokerage
– Packing
– Assists
– Royalties and Licence Fees
– Post-Importation Payments or Fees (Subsequent Proceeds)
– Transportation and Associated Costs
– Costs Arising after the Goods Have Been Imported
– Duties and Taxes Paid by Reason of Importation or Sale of the Goods in Canada
– Adjustments to the Comparable Price for Income Tax Purposes
– Price Reduction After Importation

Purchaser in Canada Versus Taxpayer

Customs Valuation

19. One of four requirements that must be met in order to apply the transaction value method is that the purchaser in the sale for export is the purchaser in Canada. "Purchaser in Canada" is defined in subsection 2.1*(a)* of the *Valuation for Duty Regulations* and means *(a)* a resident; *(b)* a person who is not a resident but who has a permanent stablishment in Canada; or *(c)* a person who neither is a resident nor has a permanent establishment in Canada, and who imports the goods for which the value for duty is being determined, (i) for consumption, use or enjoyment by the person in Canada, but not for sale, or (ii) for sale by the person in Canada, if, before the purchase of the goods, the person has not entered into an agreement to sell the goods to a resident.

(a) a resident — The defintion of "resident" in the *Valuation for Duty Regulations* includes a corporation or partnership that carries on business in Canada and of which the management and control is in Canada.

(b) a person who is not a resident but who has a permanent establishment in Canada — If a person is not a resident in Canada but the person has a permanent establishment in Canada, the person may qualify as a purchaser in Canada. As with the definition of resident, the definition of permanent establishment for customs purposes has a requirement that the person be carrying on business in Canada.

(c) a person who neither is a resident nor has a permanent establishment in Canada — Where the person is not resident in Canada and does not maintain a permanent establishment in Canada, the person may qualify as a purchaser in Canada if the person is a non-resident importer who purchases goods either for their own consumption or use, or who purchases goods on speculation for the Canadian market provided that the non-resident importer has not entered into an agreement to sell the goods to a resident in Canada, prior to assuming ownership in the goods, from the foreign vendor. In order to determine when the ownership in the goods transfers, various forms of documentation are examined to ascertain which party possesses title and risk of loss for the goods at a given time.

20. Memorandum D13-1-3, *Customs Valuation Purchaser in Canada Regulations (Customs Act, Section 48)* provides additional guidance on the purchaser in Canada regulations.

Income Tax

21. Transfer pricing specifically relates to transactions or arrangements between a taxpayer and a non-resident person with whom the taxpayer does not deal at arm's length or between a partnership or a member of a partnership and a non-resident person with whom the partnership or member does not deal at arm's length. The term taxpayer includes any person whether or not liable to pay tax. There are no requirements for the application of any of the transfer pricing methodologies similar to the purchaser in Canada requirement for customs valuation.

Result

22. For customs purposes, the party to the transaction in Canada is a "purchaser in Canada"; for income tax purposes, the party to the transaction in Canada is the Canadian taxpayer. This may not be the same party.

23. For customs purposes, in order to apply the transaction value method, the goods must have been sold for export to Canada to a purchaser in Canada. For example, where a Canadian corporation does not qualify as a "purchaser in Canada", imported goods cannot be valued under the transaction value method with a value for duty based on a price for the goods agreed to by the corporation and a related non-resident corporate entity. Rather, it may be determined that the price in a sale to a Canadian purchaser at the next trade level would be the basis for the calculation of value for duty under the transaction value method, and not the transfer price established for income tax purposes. If there is no such Canadian purchaser, CBSA will require the use of an alternate valuation method to determine the value for duty of the imported goods.

24. For income tax purposes, a transfer price can be set using the CUP method for a transaction between a Canadian taxpayer and a related non-resident person. It is accepted that a sale occurred between a non-resident person and a related Canadian taxpayer. In order to determine if the selling price is that which would have been negotiated on an arm's length basis, the most appropriate transfer pricing method would be applied. Provided the price represented an arm's length price, that price would represent the transfer price for income tax purposes.

25. For customs purposes, the terms "resident" and "permanent establishment" are defined in the *Valuation for Duty Regulations*. For income tax purposes, the terms "resident" and "carrying on business" are defined in the *Income Tax Act*, and the term "permanent establishment" is defined in the tax conventions that Canada has entered into with other countries.

26. Although similar terms are used for customs purposes and for income tax purposes, the terms are defined differently in the respective legislation administered by each agency, and are used for different purposes. As well, it is possible that a person who did not qualify as a purchaser in Canada and could not apply the transaction value method for customs purposes, would apply the CUP method for tax purposes.

Price Paid or Payable Versus Comparable Price

Customs Valuation

27. In order to apply the transaction value method, the price paid or payable must be determined.

28. Price paid or payable is defined as the aggregate of all payments made or to be made, directly or indirectly, in respect of the goods by the purchaser to or for the benefit of the vendor. To the extent that certain specified costs are not already included in the price paid or payable, certain amounts are added to it in determining the value for duty. These costs are:

(a) commissions and brokerage;

(b) packing;

(c) assists;

(d) royalties and licence fees;

(e) post-importation payments or fees (subsequent proceeds);

(f) certain transportation and associated costs.

29. To the extent that certain specified costs are included in the price paid or payable, certain amounts are deducted from it in determining the value for duty. These costs are:

(a) certain transportation and associated costs;

(b) costs arising after the goods have been imported; and

(c) import duties and taxes.

Each of these costs will be discussed in more detail below.

Income Tax

30. Regardless of the transfer pricing method used, Canada's transfer pricing legislation applies the arm's length principle. The arm's length principle requires that, for tax purposes, the terms and conditions agreed to between non-arm's length parties in their commercial or financial relations be those that one would have expected had the parties been dealing with each other at arm's length.

31. The CUP method compares the price charged for goods transferred in a controlled transaction to the price charged for goods transferred in a comparable uncontrolled transaction in comparable circumstances. This uncontrolled price would then be adjusted for any differences between the transactions being compared or between the enterprises undertaking those transactions, where reasonably accurate adjustments can be made to eliminate the material effects of such differences to the price. Some examples of factors that determine comparability (and therefore adjustments may be made for them) are:

(a) characteristics of the property (i.e. physical features of the good, its quality and reliability and the availability and volume of supply);

(b) functional analysis (i.e. comparison of the functions taken on by each party taking into account assets used and risks assumed);

(c) contractual terms (i.e. how the responsibilities, risks and benefits are divided among the parties);

(d) economic circumstances (i.e. the markets that each party operates in); and

(e) business strategies (i.e. innovation and new product development, and degree of diversification).

Result

32. The calculation for the customs transaction value starts with the price paid or payable for the subject goods, which is generally comparable to the transfer price, but this price is adjusted for specifically identified costs that are prescribed by the legislation to arrive at the value for duty.

33. The calculation for the income tax transfer price starts with a comparable price in a comparable uncontrolled transaction and this price is adjusted, based on guidelines, for differences in the transactions.

34. The primary difference is that, in the case of customs valuation, the adjustments are "prescribed" by the legislation, whereas the adjustments to a transfer price for income tax purposes are determined based on guidelines.

Adjustments to Price Paid or Payable for Customs Purposes

Commissions and Brokerage

35. Commissions and brokerage costs incurred in respect of the goods by the purchaser are to be included in determining the transaction value of the goods. If such amounts are not included in the invoiced price for the imported goods they should be added to the price paid or payable when calculating the transaction value.

36. The exception to the above-mentioned requirement is fees paid by the purchaser to his agent for the service of representing him abroad in respect of the purchase of the imported goods. These fees, usually referred to as "buying commissions," need not be included in the transaction value of the goods.

37. For example, if the purchaser engaged the services of a person to locate and purchase, on the purchaser's behalf, certain goods for export to Canada, the buying agent's fee paid for this service may be excluded when determining the transaction value of the goods. When the agent is related to the buyer, the agent will generally qualify as a buying agent, and therefore the service would not be taken into consideration when arriving at the transaction value of the goods.

38. It should be noted that the term "brokerage" does not refer to charges by a customs broker for services rendered in respect of the clearance of the goods through customs. Memorandum D13-4-12, *Commissions and Brokerage (Customs Act, Section 48)* provides additional guidance on the treatment of commissions.

Packing

39. The following costs and charges or expenses, incurred by the purchaser in respect of the imported goods, are to be added to the price paid or payable when determining the transaction value:

(a) packing costs and charges, including the cost of cartons, cases and other containers and coverings that are treated for customs purposes as being part of the imported goods; and

(b) all expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

40. It should be noted that both labour and material costs are to be considered in determining the expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

41. Memorandum D13-3-3, *Transportation and Associated Costs (Customs Act, Sections 48 to 54*) provides additional guidance on packing costs.

Assists

42. The term "assist" does not appear in the *Customs Act*. However, it is a convenient term to describe the value of any of the goods and services, provided free of charge or at reduced cost by a purchaser in Canada to a foreign manufacturer, referred to in subparagraph 48(5)*(a)*(iii), as follows:

(a) materials, components, parts and other goods incorporated in the imported goods;

(b) tools, dies, moulds, and other goods utilized in the production of the imported goods;

(c) any materials consumed in the production of the imported goods; and

(d) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Canada and necessary for the production of the imported goods (see Memorandum D13-3-7, *Engineering, Development Work etc. Undertaken Elsewhere than in Canada*). In determining the transaction value under section 48 of the *Customs Act*, the value of any assist—determined in accordance with section 4 of the *Valuation for Duty Regulations* and apportioned in a reasonable manner and in accordance with generally accepted accounting principles—is to be included in the transaction value to the extent that these costs are not already included in the price paid or payable (see also Memorandum D13-4-8, *Assists (Customs Act, section 48)*, and Memorandum D13-3-12, *Assists (Customs Act, sections 48 to 53)*).

Royalties and Licence Fees

43. The amount of any payment for a royalty or licence fee in respect of the imported goods is to be included in the transaction value provided this payment is a condition of the sale of the goods for export to Canada.

44. Royalty and licence fees are paid for the acquisition of certain rights, such as, the right to use a copyright, a patent, a trademark or design. However, payments for the right to reproduce the imported goods in Canada are not to be added to the price paid or payable in determining the transaction value of the goods (see also Memorandum D13-4-9, *Royalties and Licence Fees (Customs Act, Section 48)*).

Post-Importation Payments or Fees (Subsequent Proceeds)

45. If some portion of the proceeds of the subsequent resale, disposal or use of the imported goods by the purchaser accrues to the vendor, directly or indirectly, then the value of that portion is to be included in determining the transaction value of the goods.

46. CBSA will not consider certain financing transactions as being subsequent proceeds. As the Note to Article 1 of the WTO Valuation Agreement states

> "The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value."

Transportation and Associated Costs

47. Transportation and associated costs are defined as the cost of transportation of, the loading, unloading and handling charges and other related charges and expenses associated with the transportation of, and the cost of insurance relating to the transportation of, the goods.

48. If these costs arise prior to the place of direct shipment (the place from which the goods begin their direct and uninterrupted journey to Canada), they must be included in the transaction value of the goods (see also Memorandum D13-3-4, *Place of Direct Shipment (Customs Act, Sections 48 to 53)*).

49. If these costs arise after the place of direct shipment (the place from which the goods begin their direct and uninterrupted journey to Canada), they would not be included in the transaction value of the goods. Any amounts for Canadian customs brokerage fees which are included in the price paid or payable may be deducted as associated costs and as such are not included in the transaction value of the goods (see also Memorandum D13-3-4).

Costs Arising After the Goods Have Been Imported

50. Any reasonable cost, charge or expense that is incurred for specified services provided after importation, if identified separately from the price paid or payable for the goods, is not to be included in the transaction value of the goods. The specific services are:

(a) construction;

(b) erection;

(c) assembly;

(d) maintenance; and

(e) technical assistance.

It should be noted that a reasonable cost, charge or expense is considered to be the amount which the importer is able to substantiate with documentary evidence.

Duties and Taxes Paid by Reason of Importation or Sale of the Goods in Canada

51. Any duties and taxes paid or payable by reason of importation or sale of the goods in Canada, if identified separately from the price paid or payable for the goods, are not to be included in the transaction value of the goods. The duties and taxes are those levied under the following:

(a) the *Customs Tariff*;

(b) the *Excise Tax Act*;

(c) the *Excise Act*;

(d) the *Excise Act*, 2001

(e) the *Special Import Measures Act*;

(f) any other law relating to customs.

Adjustments to Comparable Price for Income Tax Purposes

52. When a transfer price is being established for a transaction for goods, whether resulting from an individual transaction or as a result of an unbundled transaction, the arm's length principle is applied. For tax purposes, the adjustments to cost required by CBSA and described above are not normally made to an arm's length price. However, if during the comparison of the price charged for goods transferred in a controlled transaction to the price charged for goods transferred in a comparable uncontrolled transaction, it is determined that one of the transactions did take into consideration any of the costs described above when establishing the price, an adjustment would be made to eliminate the effect on the price.

53. As discussed above, for income tax transfer pricing purposes it is preferred that each transaction is priced separately, therefore, transactions for goods are expected to be priced separately from transactions for intangible property and/or services. When a transfer price is being established for a transaction for intangible property or intra-group services, whether resulting from an individual transaction, or as a result of an unbundled transaction, the arm's length principle is applied. It is possible that the CUP method would also be used to determine the arm's length price for the intangible property. This will not be evaluated in detail, as the transfer of intangible property or services is not the focus of this memorandum. Further guidance can be found in Information Circular 87-2.

54. However, where the normal industry practice is to set one price for a combination of transactions (e.g. goods and the associated intangible property), it may not be reasonable to expect to find quality data available to set the price for separate transactions and it may be necessary to price the transactions on an aggregate basis. In these situations, whether the transactions should be unbundled to verify the arm's length character of the transfer is evaluated on a case-by-case basis.

55. Assists, as defined by the *Customs Act*, can take the form of tangible assists (i.e. materials, parts, moulds and tools) or intangible assists (i.e. services for engineering, development work, design work, plans and sketches). With respect to tangible assists, when evaluating the transfer price of goods, there is no additional adjustment required to the arm's length price of the goods for materials, parts, moulds and tools provided by a Canadian purchaser free or at a reduced charge with respect to the manufacture of those goods. These assists would be dealt with as a separate transaction for tangible goods because it is preferred that each transaction is priced separately, and the tangible assists are viewed as a transaction different from the purchase of the goods. As noted above, transactions for goods are expected to be priced separately from intangible property or intra-group services, therefore the intangible assists would be dealt with as a separate transaction when transactions are priced on an individual or unbundled basis, but this will not be evaluated in detail in this memorandum.

56. If a transaction involving goods is bundled with elements such as patents, know-how, designs and models, the transfer price could be determined by reference to a package price based on the best comparable data available. This is also the case when a transaction for goods is combined with elements such as the right to use intangible property, for which royalties or licence fees are being charged. For income tax purposes, a royalty is a periodic recurrent payment for the use of an intangible property covered by license, and is based on the user's output, sales, or profit related to the goods into which the intangible property has been incorporated.

Adjustments – Summary

57. For the calculation of a customs transaction value, adjustments would be made to the price paid or payable for the costs specified above. However, for the calculation of an income tax transfer price, generally, these adjustments would not be made to the comparable uncontrolled price. This is either because the cost does not affect the comparability of the controlled transaction with an uncontrolled transaction, or because income tax prefers that taxpayers set prices separately for each transaction they enter into with a non-arm's length party, so transactions for intangible property and intra-group services should have transfer prices calculated separately from the transfer price of the goods. As a result, there will be a difference between the customs transaction value and the income tax transfer price.

58. There are circumstances when it is possible these specified costs might be reflected in the same way in both the calculation of the customs transaction value and the income tax transfer price. For example, if packing costs are included in the income tax transfer price, rather than invoiced as a separate charge, then there will be no difference in respect of how this particular cost impacts on the "value" (for customs purposes or for income tax purposes) of the imported goods. Similarly, with transportation costs, for income tax transfer pricing purposes, it is possible that all, or a portion of transportation costs could be accounted for in the transfer price, and, for customs valuation purposes, the portion of the freight incurred up to and including the place of direct shipment will be included in the transaction value of the goods.

59. As well, when for the purposes of calculating an income tax transfer price, the transaction for the good is so closely linked or continuous to a transaction for an intangible assist, or a royalty or licence fee, or a post-importation fee, or cost arising after the goods have been imported, that they cannot be evaluated adequately on a separate basis, it is possible that the specified costs may be treated the same way in both the calculation of the customs transaction value and the income tax transfer price.

60. However, it is recognized that there are differences in how royalties are valued for income tax purposes versus how they are valued for customs purposes. Income tax would determine the reasonableness of any amounts paid by the Canadian taxpayer. The portion that is unreasonable will be disallowed under subsection 247(2) of the *Income Tax Act*. CBSA, on the other hand, has not, in the past, adjusted a royalty rate for reasonableness. CBSA determines whether or not the royalty is to be included in the calculation of the value for duty, in its entirety or not at all. This can lead to differences in the income tax transfer price versus the customs transaction value. For example, a Canadian subsidiary pays a $250,000 royalty to their U.S. parent. The "reasonable" amount of the royalty for income tax purposes is determined to be $150,000. Assume that this amount is reflected in the transfer price. CBSA determines that this royalty should be taken into consideration when arriving at the value for duty, and the full value of $250,000 is reflected in the transaction value. Therefore, when dealing with a bundled transaction, the treatment of the valuation of royalties for income tax versus customs purposes can lead to differences in the value attributed to the goods.

61. There are also differences in how post-importation payments or fees are valued for income tax purposes versus how these costs are valued for customs purposes. Similar to royalties, income tax will review the value of the payments or fees to ensure that they are reasonable, and will disallow any portion that is in excess of a reasonable amount. CBSA will examine any payment based on subsequent resale, disposal, or use of imported goods to verify whether it relates to reasonable identifiable services. All amounts not relating to reasonable identifiable services will be added to the price paid or payable to determine the transaction value of the goods. Therefore, when dealing with bundled transactions, the treatment of the valuation of post-importation payments or fees for income tax versus customs purposes can lead to differences in the value attributed to the goods.

62. It is also possible, when dealing with post-importation fees, that for customs purposes, similar to the preferred approach for income tax transfer prices, payments for services would be valued separately when a service is separate from the sale of the goods, and therefore, that cost may be treated in the same way in both the calculation of the customs transaction value and the income tax transfer price of the associated goods.

Price Reduction After Importation

Customs Valuation

63. For customs purposes, reductions in the price paid or payable by the Canadian purchaser to the foreign vendor will not be allowed. This is so because paragraph 48(5)*(c)* of the *Customs Act* provides that the price paid or payable in the sale for export to Canada shall be adjusted "by disregarding any rebate of, or other decrease in, the price paid or payable for the goods that is effected after the goods are imported".

Income Tax

64. When a transfer price is being established for a transaction for goods, the arm's length principle is applied. Price reductions would be acceptable to the degree that they are consistent with the terms and conditions that would have been agreed to had the parties dealt with each other at arm's length. However, under the arm's length principle, an agreement that is, in substance, the same as the one into which arm's length parties would have entered, would not usually be subject to adjustment by a tax administration as a result of subsequent events. In addition, the use of hindsight is not considered an appropriate way of determining a transfer price. However, the CRA may consider factors that a reasonable person with knowledge of the industry would have taken into account at the time the price was set.

Result

65. It is possible that price reductions after importation would be taken into consideration for income tax purposes but not for customs purposes. This can result in discrepancies between the income tax transfer price and the value for duty of imported goods.

Conclusion – Transaction Value Versus Comparable Uncontrolled Price

66. Although there are similarities in the comparable uncontrolled price method used by income tax to determine transfer prices and the transaction value method used by CBSA to determine the value for duty, differences do remain.

67. The starting point for the calculation is different: income tax uses comparable prices, while CBSA uses the price paid or payable.

68. As well, for the purposes of calculating the transfer price, income tax only makes adjustments to the comparable prices for the purpose of eliminating the effect of any differences between the controlled and uncontrolled transactions on the transfer price. These differences are determined on a case-by-case basis. However, CBSA has specific additions and deductions that must be considered when determining the transaction value of the good. These specific additions and deductions are not required to be taken into consideration when establishing an income tax transfer price unless they are a difference between the controlled transaction and the uncontrolled transaction that is being used as a comparable.

69. Furthermore, due to the fact that CBSA is unable to make adjustments for price reductions that occur after importation, whereas income tax can make such adjustments, additional differences could arise.

Transaction Value of Identical or Similar Goods Versus Comparable Uncontrolled Price

Customs Valuation

70. If section 48 of the *Customs Act* (transaction value of the goods) cannot be applied, consideration must then be given to the method of valuation set out in section 49. In section 49, value for duty is based upon the transaction value (that is, a value determined in accordance with section 48) of goods which are identical to the goods being appraised. The transaction value of the identical goods can be adjusted if there are differences in trade level, quantities or transportation costs between the identical goods and the goods being appraised. The value for duty of the goods being appraised would be the transaction value of the identical goods adjusted to account for the differences mentioned above.

71. Where section 48 (transaction value) and section 49 (transaction value of identical goods) of the *Customs Act* cannot be used to determine the value for duty, the method of valuation set out in section 50 must then be considered. The method of valuation provided in section 50 is essentially the same as that contained in section 49 except that the basis of value for duty is the transaction value of goods which are similar to the goods being appraised. This transaction value, subject to the same adjustments as identified in section 49, would be the value for duty of the goods being appraised.

Income Tax

72. As discussed above, the CUP method compares the price charged for goods transferred in a controlled transaction to the price charged for goods transferred in a comparable uncontrolled transaction in comparable circumstances. This price would then be adjusted for any differences between the transactions being compared or between the enterprises undertaking those transactions where reasonably accurate adjustments can be made to eliminate the material effects of such differences to the price. In effect, identical or sufficiently similar uncontrolled transactions are being compared to the controlled transaction.

Conclusion – Transaction Value of Identical or Similar Goods versus Comparable Uncontrolled Price

73. As determined above, although there are similarities in the comparable uncontrolled price method used by income tax to determine transfer prices and the transaction value method used by CBSA to determine the value for duty, differences do remain.

74. The starting points are more alike in this situation, that is, looking at the comparable price versus the transaction value of identical or similar goods. As well, the adjustments being made to the transaction value of the identical or similar goods are more alike to the adjustments that tend to be made to the comparable price. However, adjustments to the transaction value for customs purposes are of a mandatory nature versus the adjustments that may be made in determining a transfer price for income tax purposes are of a non-mandatory nature, and this could lead to two different outcomes.

Deductive Value Versus Resale Price

Customs Valuation

75. If a value for duty cannot be determined under any of sections 48 to 50 of the *Customs Act*, section 51, Deductive Value, must then be applied, unless the importer has requested that the order of application of sections 51 and 52 be reversed. The value for duty is determined under section 51 by looking to sales in Canada of the goods being appraised or of identical or similar imported goods. A “price per unit” is established on the basis of these sales, from which amounts are deducted to account for profit earned and general expenses incurred on sales in Canada, certain transportation costs, and Canadian duties and taxes. The remainder would be the value for duty of the goods being appraised.

76. To determine value for duty under the deductive value method, one of the following requirements must be met:

(a) the goods being appraised must be sold in Canada at the same or substantially the same time as the time of importation, in the condition in which they were imported. The value for duty would be based on the price per unit at which the greatest number of units of these goods are sold;

(b) the identical or similar goods must be sold in Canada in the condition in which they were imported, within 90 days after time of importation of goods being appraised. The value for duty would be based on the price per unit at which the greatest number of units of these goods are sold at the earliest date after the time of importation of the goods being appraised; or

(c) the goods being appraised or identical or similar goods are not sold in the condition in which they were imported, but are sold in Canada after being assembled, packaged or further processed in Canada, within 180 days after time of importation. The value for duty would be based on the price per unit at which the greatest number of units of these goods are sold.

77. Criteria for the price per unit:

(a) unit price at first trade level after importation;

(b) to unrelated parties;

(c) no assists were supplied; and

(d) sufficient number of sales.

78. Adjustment of price per unit:

Deduct:

(a) for goods of the same class or kind sold in Canada:

(i) commission generally earned on a unit basis; or

(ii) profit and general expenses, including all costs of marketing the goods on a unit basis;

(b) to the extent not in general expenses, amounts for:

(i) transportation and insurance within Canada;

(ii) transportation and associated costs from place ofdirect shipment; and

(iii) duties and taxes;

(c) assembly, packaging, further processing costs.

For section 51, **time of importation** is defined as the date on which an officer authorizes release of the goods.

Income Tax

79. When the differences between the controlled and uncontrolled transactions become so significant that the CUP method will no longer produce the most reliable measure of an arm’s length price, or where there is not enough quality information available with respect to uncontrolled transactions, consideration must be given to applying either the resale price method or the cost plus method. The choice between these two methods depends on the comparability of quality data available for each of the parties to the transaction. Quality comparable information is generally more readily available for the least complex party. For example, the resale price method may be the most appropriate choice if the least complex party is a distributor. The resale price method is most appropriate in a situation where the seller adds relatively little value to the goods. The greater the value added to the goods by the functions performed by the seller, the more difficult it will be to determine an appropriate resale margin.

80. The resale price method begins with the resale price to arm’s length parties (of a product purchased from a non-arm’s length enterprise), reduced by a comparable gross margin. This comparable gross margin is determined by reference to either

(a) the resale price margin earned by a member of the group in comparable uncontrolled transactions (internal comparable); or

(b) the resale price margin earned by an arm’s length enterprise in comparable uncontrolled transactions (external comparable).

81. Under this method, the arm’s length price of goods acquired by a taxpayer in a non-arm’s length transaction is determined by reducing the price realized on the resale of the goods by the taxpayer to an arm’s length party by an appropriate gross margin. This gross margin should allow the seller to recover its operating costs and earn an arm’s length profit based on the functions performed, assets used, and the risks assumed.

82. Where the transactions are not comparable in all ways and the differences have a material effect on price, the taxpayer must make adjustments to eliminate the effect of those differences. For example, an exclusive right to resell goods will usually be reflected in the gross margin. Further information on the resale price method can be found in Information Circular 87-2.

Conclusion – Deductive Value versus Resale Price

83. The resale price method is used to determine a transfer price when the CUP method would not produce a reliable measure of an arm's length price and when the seller adds relatively little value to the goods. The deductive value is used to determine the value for duty as part of the priority rule set out in the *Customs Act.*

84. There are several similarities among these methods. The first is that the starting point for each calculation is the resale price to an unrelated party. As well, an amount meant to cover profit and operating costs is deducted from the resale price.

85. There are also several differences among these methods. First, the *Customs Act* has specific criteria to be followed when establishing the price per unit—it is set based on the greatest number of units sold. Income tax, on the other hand, does not have this requirement when establishing the price per unit. This could lead to differences in the unit prices assigned to the same goods.

86. Second, for customs purposes the time of the sale of the goods in Canada is legislated and can have an impact on the applicability of the deductive value method.

87. Third, income tax refers to deducting profit and operating expenses such as selling, general and administrative expenses; however, the *Customs Act* refers to deducting profit and general expenses, including all costs of marketing the goods. It is likely that differences will exist with the cost pool considered operating expenses for income tax and the cost pool considered general expenses for customs. As well, the *Customs Act* requires the deduction of specific expenses. If not included in operating costs, these deductions are not required to be taken into consideration when establishing a transfer price for income tax purposes, unless they represent a difference between the controlled transaction and the uncontrolled transaction that is being used as a comparable, and have a material impact on the price.

Computed Value Versus Cost Plus

Customs Valuation

88. Under section 52 of the *Customs Act* (Computed Value) the determination of value for duty begins with the cost of production of the goods being appraised. Amounts are added to this figure to account for profit earned and general expenses incurred, in relation to goods of the same class or kind made by producers in the country of export, on sales for export to Canada. The sum of these figures is the value for duty of the imported goods.

89. Specifically included in the cost of production of the goods are the costs, charges and expenses or the value of the following:

(a) materials employed in producing the goods being appraised;

(b) the production or other processing of the goods being appraised;

(c) packing costs and charges;

(d) assists, whether or not supplied free of charge or at reduced cost; and

(e) any costs, charges and expenses incurred by the producer in respect of engineering, development work, art work, design work, plans or sketches undertaken in Canada and supplied by the purchaser for use in the production and sale for export of the goods. For the purposes of this section, "general expenses" means the direct and indirect costs, charges and expenses of producing and selling goods for export, other than the costs included in the cost of production.

Income Tax

90. When the differences between the controlled and uncontrolled transactions become so significant that the CUP method will no longer produce the most reliable measure of an arm's length price, consideration must be given to applying either the resale price method or the cost plus method. The cost plus method generally is most useful where semi-finished goods are sold between related parties, or where related parties have concluded joint facility agreements or long-term buy-and-supply arrangements.

91. The cost plus method begins with the costs incurred by the supplier of a product provided to a non-arm's length enterprise, and a comparable gross mark-up is then added to those costs. This comparable gross mark-up is determined in two ways, by reference to

(a) the cost plus mark-up earned by a member of the group in comparable uncontrolled transactions (internal); or

(b) the cost plus mark-up earned by an arm's length enterprise in comparable uncontrolled transactions (external comparable).

92. When the transactions are not comparable in all ways and the differences have a material effect on price, taxpayers must make adjustments to eliminate the effect of those differences, such as differences in the relative efficiency of the supplier and any advantage that the activity creates for the group. It is important that the cost base of the transaction of the tested party to which a mark-up is to be applied be calculated in the same manner as the cost base of the comparable transactions.

93. In general, for the purposes of applying a cost-based method, costs are divided into three categories:

(a) direct costs such as raw materials;

(*b*) indirect costs such as repair and maintenance which may be allocated among several products; and

(*c*) operating expenses such as selling, general and administrative expenses. The cost plus method uses margins calculated after direct and indirect costs of production.

94. Further information on the cost plus method can be found in Information Circular 87-2.

Conclusion – Computed Value Versus Cost Plus

95. The cost plus method is used to determine a transfer price when the CUP method would not produce a reliable measure of an arm's length price and where semi-finished goods are sold between related parties, or where related parties have concluded joint facility agreements or long-term buy-and-supply arrangements. The computed value is used to determine the value for duty as part of the priority rule set out in the *Customs Act*.

96. There are similarities among these methods. First, the starting point for both calculations is the cost of production. As well, an amount for profit is added to that cost of production.

97. There are also several differences between these methods. The mark-up is calculated in different manners and consists of different components. Income tax calculates a mark-up using a margin calculated after direct and indirect costs (not operating expenses) and the mark-up is then added to the direct and indirect costs. Customs adds amounts for profit earned and general expenses incurred, identifying specific costs to be considered part of general expenses to the cost of production as the mark-up. The mark-up used by customs will include an amount for general expenses that may consist of expenses beyond what would be considered direct and indirect costs for income tax purposes. Since the mark-up is calculated differently (i.e. the value used by customs will cover expenses that would not be covered in the income tax transfer price), there will be different results as well.

Other Methods

Customs Valuation

98. 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 Residual Method. 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.

99. In flexibly applying the provisions of sections 48 to 52 of the *Customs Act*, CBSA will be guided, to the greatest extent possible, by the principles and spirit of the WTO Valuation Agreement. 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 CBSA to ensure adherence to the principles inherent in the WTO Valuation Agreement.

100. In applying section 53 of the *Customs Act*, the value for duty is to be determined on the basis of information available in Canada.

Income Tax

101. Taxpayers will consider the transactional profit methods if no quality data is available to apply the CUP, cost plus or resale price methods or if the available data to apply the CUP, cost plus or resale price methods have material differences that cannot reliably be adjusted.

102. The CRA and the OECD Guidelines endorse the use of two transactional profit methods:

(*a*) the profit split method; and

(*b*) the transactional net margin method (TNMM).

103. The profit split method will generally provide a more reliable estimate of an arm's length result than the TNMM unless a high degree of comparability between transactions, including the comparability of intangible assets, can be established.

104. Under the profit split method, the first step is to determine the total profit earned by the parties from a controlled transaction. The profit split method allocates the total integrated profits related to a controlled transaction, not the total profits of the group as a whole. The second step is to split the profit between the parties based on the relative value of their contributions to the non-arm's length transactions, in relation to what arm's length parties would have received.

105. The TNMM compares the net profit margin of a taxpayer arising from a non-arm's length transaction with the net profit margins realized by arm's length parties from similar transactions; and examines the net profit margin relative to an appropriate base such as costs, sales, or assets.

Conclusion – Other Methods

106. The Profit Split Method used by income tax does not resemble any of the methods used for customs purposes.

107. The TNMM could be compared to the computed value method (which was compared to the cost plus method above) as it adds a profit margin to the cost of production. The difference between the TNMM and the cost plus

method is that the cost plus method compares gross profit margins and the TNMM compares net profit margins. The net profit margin is calculated after direct, indirect, and operating expenses are deducted. Again, the mark-up is calculated differently, which will lead to different results.

Administrative Issues

Advance Pricing Arrangements

108. The CRA has an Advance Pricing Arrangement (APA) program to help taxpayers determine appropriate transfer pricing methodologies for transactions or arrangements that they participate in with non-resident persons with whom they do not deal at arm's length. An APA is an arrangement between the taxpayer and the CRA. An APA stipulates a mutually acceptable transfer pricing method to be used on specified international transactions for a future period, with a provision to renew. A bilateral APA under which a treaty partner also agrees to the same transfer pricing methodology provides assurance that potential double taxation will be avoided. A multilateral APA involves the taxpayer, Canada and two or more treaty partners. An APA may be revised if there is a failure to meet a critical assumption, if there is a change in law, or if circumstances have changed. For further information on this program, refer to Information Circular 94-4, *International Transfer Pricing: Advance Pricing Arrangements (APAs).*

109. CBSA will accept transfer prices established through an APA negotiated between income tax and the taxpayer as a price paid or payable, but will adjust for subsection 48(5) of the *Customs Act* additions and deductions, as required.

110. Compliance with the terms and conditions of an APA may require compensating adjustments. A compensating adjustment would bring recorded amounts of the transactions into agreement with the amounts as determined by the application of the transfer pricing method set out in the APA. These may occur throughout the taxation year, at year end, or after year end. For customs purposes, as previously noted, reductions in the price paid or payable by the Canadian purchaser to the foreign vendor made after goods are imported will not be allowed. This is so because paragraph 48(5)*(c)* of the *Customs Act* provides that the price paid or payable in the sale for export to Canada shall be adjusted "by disregarding any rebate of, or other decrease in, the price paid or payable for the goods that is effected after the goods are imported."

Result

111. The CRA has put in place an APA program to assist Canadian taxpayers in determining transfer prices acceptable for the purposes of the *Income Tax Act,* and when applicable, the various international tax conventions Canada has with foreign governments. CBSA will normally accept these arrangements in determining the price paid or payable, prior to legislative adjustments. Given the differences in calculating a transfer price for income tax purposes versus a value for duty for customs purposes, as described throughout this memorandum, an APA could not be accepted without the mandatory adjustments being performed. Based on this, the potential exists for further CBSA participation in the APA process with a view to providing a ruling concerning the valuation of future importations.

Conclusion

112. Although CBSA officials and tax administrators may have a similar purpose in examining the reported values of cross-border transactions between related parties, a person may have competing incentives in setting values for customs and tax purposes.

113. In the circumstance where an importer wants to use a transfer price for customs purposes or a value for duty for tax purposes, as this memorandum has demonstrated, there are differences in the calculation of the two values, and therefore CBSA officials and tax administrators alike are not obliged to accept a value that was calculated in accordance with different legislative requirements.

114. Canada's income tax and customs administrations are working to resolve client transfer pricing concerns. Where the differences in the calculation of these two values are due to factors that are not legislative requirements, attempts will be made to reduce the number of cases where customs valuations are found unacceptable for tax purposes or vice versa.

Further Assistance

115. CRA Information Circulars and CBSA D-Memoranda referred to in this document can be accessed electronically at no charge at **www.cra.gc.ca** and **www.cbsa.gc.ca** respectively.

116. For more information on income tax transfer pricing, contact your local tax services offices. The location of all CRA tax services offices is identified at **www.cra.gc.ca/contact/tso-e.html**.

117. For more information on customs valuation, telephone the CBSA's Border Information Service at **1-800-461-9999** toll free from anywhere in Canada or from outside Canada at 204-983-3500 or 506-636-5064 (long distance charges apply), or contact your regional CBSA Client Services Office. A list of these offices is identified at **www.cbsa.gc.ca/general/amps/cservices-e.html**.

REFERENCES

ISSUING OFFICE –	HEADQUARTERS FILE –
Origin & Valuation Division Trade Programs Directorate	79070-4-3
LEGISLATIVE REFERENCES –	**OTHER REFERENCES –**
Customs Act, Sections 48 to 54	Canada Revenue Agency Information Circular IC06-1 "*Income Tax Transfer Pricing & Custom Valuation*"
SUPERSEDED MEMORANDA "D" –	

Services provided by the Canada Border Services Agency are available in both official languages.