

## **MEMORANDUM D13-4-2**

Ottawa, May 14, 2001

**In Brief**

**SUBJECT**

**CUSTOMS VALUATION:  
SOLD FOR EXPORT TO CANADA  
(CUSTOMS ACT, SECTION 48)**

1. The references page to this Memorandum, which was issued April 17, 2001, has been amended to reflect the correct information under SUPERSEDED MEMORANDA "D."
2. The correct reference is the following: D13-4-2, August 21, 1989.

# MEMORANDUM D13-4-2

Ottawa, April 17, 2001

## SUBJECT

### CUSTOMS VALUATION: SOLD FOR EXPORT TO CANADA (CUSTOMS ACT, SECTION 48)

This Memorandum explains how the Canada Customs and Revenue Agency interprets the meaning and application of the phrase “sold for export to Canada” and provides examples to illustrate the appropriate basis for appraising the value of imported goods under section 48 of the *Customs Act* (also called the transaction value method) in a variety of situations.

## TABLE OF CONTENTS

	Page
<b>Guidelines and General Information</b>	1
Sale for Export to Canada – Purchaser in Canada	3
Sale for Export to Canada – Purchaser Outside Canada	4
Sale for Export to Canada – Other	5
No Sale for Export to Canada	6
Appendix – Examples of Import Transaction Situations	

---

## GUIDELINES AND GENERAL INFORMATION

1. Subsection 48(1) of the *Customs Act* stipulates the requirements that must be met to value imported goods for duty purposes under the transaction value method. Under this method, the value for duty is based on the actual selling price of the goods (see Memorandum D13-4-1, “*Transaction Value*” Method of Valuation (*Customs Act, Section 48*)).
2. The law states: “. . . the value for duty of goods is the transaction value of the goods if the goods are sold for export to Canada . . . .” This means that, for goods to be appraised under the transaction value method, the importer must be able to show:
  - (a) the goods presented to customs have been “sold” (i.e., the vendor has transferred, or has agreed to transfer, title for a price to the purchaser of the subject goods); and
  - (b) the subject goods were “for export to Canada” as a condition of the sale agreement between the vendor and the purchaser.

3. The Technical Committee on Customs Valuation of the World Customs Organization (WCO), in an advisory opinion entitled *The Concept of "Sale" in the Agreement*, suggests that uniformity in interpreting and applying the International Valuation Agreement of the World Trade Organization (WTO) can be achieved by taking the term "sale" in the widest sense. Since Canada's valuation system is based on the international agreement of the WTO, the term sale is used in the widest sense in the context of a sale for export to Canada, and includes, without limiting the meaning of the word, agreements to sell and contracts for the sale of goods that result in the transfer of ownership as contemplated in the agreement or contract.
4. Section 48 of the *Customs Act* is concerned with a transaction between a purchaser and a vendor. Naming a person as the "importer" on customs accounting documents does not in any way affect the determination of:
  - (a) whether a sale for export to Canada has occurred; or
  - (b) which sale, if more than one sale of the goods imported to Canada has occurred, is the appropriate (relevant) sale to use to determine the transaction value.
5. There are, essentially, two reasons why commercial goods that are intended to be resold by a buyer are imported into Canada:
  - (a) a person in Canada has agreed, before the goods are imported, to purchase the goods (see paragraphs 6, 7, and 8 ); or
  - (b) a person outside Canada, lacking an agreed sale as in (a) above, arranges for the goods to be sent to Canada with the intention of selling them after they have been imported into Canada (see paragraphs 9, 10, and 11).

#### **Sale for Export to Canada – Purchaser in Canada**

6. Under normal circumstances, where a person in Canada has agreed with another person, who is usually located outside Canada, to purchase goods that are then imported into Canada as a direct result of that agreement, the transaction in which the person in Canada is directly involved constitutes the sale of the goods for export to Canada referred to in paragraph 5(a) of this Memorandum. If all the requirements of subsections 48(1) and 48(6) of the *Customs Act* have been met, the goods will be appraised under section 48 using the price paid or payable in this transaction as the basis for determining the value for duty. Situations D, E, G (first importation), I, and K in the Appendix are examples of sales of goods for export to a purchaser in Canada.
7. Situations can arise where there is more than one sale or agreement to sell before the goods are imported into Canada. This usually happens when a foreign vendor and a Canadian purchaser negotiate terms for the delivery of goods to the purchaser in Canada (as in paragraph 6 of this Memorandum) and the vendor subsequently enters into an agreement with a third person who supplies the goods that are exported to Canada. The relevant sale for customs valuation purposes is the one that sets off this chain of events, i.e., the transaction in which the person in Canada is directly involved. Any sale after, or as a result of that sale, is generally irrelevant. Situations B, C, F, G (second importation), L, M, and N in the Appendix are examples of multiple sales before importation.
8. The situations described in paragraphs 6 and 7 of this Memorandum must not be confused with situation A in the Appendix, in which a customer in Canada orders goods for delivery within Canada from a second person in Canada who subsequently orders the goods from a foreign supplier. The first part in this sequence of events is for the domestic supply and transfer of goods. Even if the customer knows that the goods must be imported, it is not the customer but the second person in Canada from whom the goods are ordered by the customer who is directly involved in the international transfer of the goods to Canada. Customs value is not based on the price prevailing in a domestic supply agreement involving imported goods but only in agreements that directly, not indirectly, cause the arrival of goods in Canada from abroad.

### **Sale for Export to Canada – Purchaser Outside Canada**

9. Importations of goods may also occur when there is no purchaser in Canada at the time of importation but where there is, nevertheless, a sale for export to Canada, as in paragraph 5(b) of this Memorandum, which may be used to determine the value for duty under section 48 of the *Customs Act*.

10. In these circumstances, there is a sale for export to Canada when the purchaser located outside Canada has, at the time of ordering the goods, directed that they be sent to Canada for his or her own account and risk, and has agreed to pay, or has paid, a price for the goods. Such a purchaser should be prepared to demonstrate by way of documentation that at the time of purchase it is clear that the goods were destined for Canada, without the possibility of being diverted. Situation H of the Appendix is an example of such a transaction.

### **Sale for Export to Canada – Other**

11. There will be transactions involving the international transfer of goods from a foreign country to Canada that do not easily fit the circumstances described in paragraph 5 of this Memorandum, or in which it is difficult to identify the particular circumstances with the principles enunciated in this Memorandum. In such cases, the facts will have to be examined and a decision rendered on a case-by-case basis.

12. For example, some foreign corporations conduct their business in Canada on a branch-plant basis, employ on a full-time basis a number of people here, operate from a permanent establishment in Canada, and pay Canadian income tax on their profits arising from the business done in Canada. One or more employees of the Canadian branch would have to have been granted general authority to contract on behalf of the corporation, without needing approval from the foreign headquarters. This general authority would include the authority to contract sales in Canada (including negotiating selling prices) **and** the authority to contract purchases inside and outside Canada (including a purchase in the sale for export to Canada), as well as any other authority consistent with a general authority to contract and legally bind the corporate employer. A business such as this, even though not incorporated as a separate legal entity in Canada, may qualify as a purchaser in Canada. Situation O in the Appendix shows an example of a branch plant that would be regarded as a purchaser in a sale for export to Canada even though an agreement to sell to a customer in Canada pre-dated the order sent abroad. Situation P in the Appendix is an example of a case where the non-resident's operations in Canada would not qualify for treatment as the purchaser in a sale for export to Canada.

13. On the other hand, the fact that a company is incorporated in Canada will not, in itself, qualify that corporation as a purchaser in a sale for export to Canada if minimal operations are conducted in Canada and management and control reside outside Canada to such an extent that the Canadian corporation acts, in fact, as a mere agent for a foreign corporation and is not a true purchaser of the goods in the sale for export to Canada.

### **No Sale for Export to Canada**

14. In circumstances where the goods have not changed ownership between the time the decision was made to export the goods to Canada and the time of importation into Canada, (e.g., the foreign supplier imports goods for his or her own account, or the goods are on consignment to a person in Canada), there is no sale for export to Canada. A section other than section 48 must be used to determine the value for duty. An example of this is contained in situation J of the Appendix.

---

## APPENDIX

### EXAMPLES OF IMPORT TRANSACTION SITUATIONS

This Appendix consists of examples of business situations that illustrate the meaning and application of the phrase “sold for export to Canada.” Some of the examples have been adapted from Advisory Opinion 14.1 issued by the Technical Committee on Customs Valuation of the World Customs Organization. This advisory opinion was issued to establish a uniform international application of the phrase “sold for export to the country of importation,” which is contained in the International Valuation Agreement adopted by the World Trade Organization (WTO) to which the Canadian valuation provisions conform.

The examples in this Appendix address only the question of which sale, if any, is the sale for export to Canada for customs valuation purposes. To determine the value for duty, adjustments may have to be made to the amount mentioned as the basis for determining the value for duty in each example for such items as transportation charges, and duty and taxes. See Memorandum D13-4-7, *Adjustments to the Price Paid or Payable (Customs Act, Section 48)*, for more information. It must also be recognized that the examples do not address the question of whether or not the price between a buyer who is related to the seller has been influenced by the relationship. For information on this aspect of the value for duty, see Memorandum D13-4-5, *Transaction Value Method for Related Persons (Customs Act, Section 48)*.

**Situation A** – Speedy Cycle Retailers Ltd. of Victoria, B.C., negotiate a CIF Victoria price of \$102 each, for 200 model ZPS Zippy bicycles manufactured in Belgium, with Zippy’s unrelated Canadian distributor, Bikes Un Ltd. of New Westminster, B.C. Bikes Un Ltd. do not stock the model ZPS and inform Speedy that delivery will be made to them direct from Belgium. Bikes Un Ltd. place an order from Zippy of Belgium for 200 model ZPS bicycles at an agreed price of \$69 each FOB Brussels, directing that the goods be addressed to Speedy, c/o Bikes Un Ltd.’s customs broker in Victoria, who arranges clearance of the bicycles and payment of the duty and taxes on Bikes Un Ltd.’s behalf.

Conclusion A – The sale between Bikes and Speedy is a domestic sale even though it results in the importation of goods and an international sale between Bikes and Zippy. The sale for export to Canada is between Bikes Un Ltd. and Zippy of Belgium, and the customs value will be based on the transaction price of \$69 per bicycle.

**Situation B** – Canimpco of Toronto enters into an agreement to buy 100 food mixers at a price of \$22.50 each from Usco, a Missouri entrepreneur. Usco negotiates with Makerco of Detroit to manufacture the food mixers for a price of \$20.75 each, and Makerco is responsible for shipping the goods to Canimpco in Toronto.

Conclusion B – The sale agreement between Canimpco and Usco involves an international transfer of goods to Canada and constitutes the relevant sale for export to Canada. The sale between Usco and Makerco is an event caused by the prior agreement to sell the goods for export to Canada to Canimpco and is not, therefore, the sale that initiated the series of transactions which resulted in the goods being sent to Canada. The transaction value for the purposes of section 48 will be based on the price paid or payable of  $\$22.50 \times 100$ , or \$2,250.

**Situation C** – Canimpco of Toronto orders 1,000 shirts from Vimco of Vancouver at a price of \$7.20 each, delivered to Toronto. Vimco has 8,000 shirts in stock in a warehouse in Taiwan, which were originally purchased from a manufacturer for \$4.50 each. Vimco arranges for the goods to be shipped from the warehouse to Canimpco, which imports the goods and pays the customs duty.

Conclusion C – The sale for export to Canada is the transaction between Canimpcoc and Vimco, the price paid or payable for the shipment being  $\$7.20 \times 1,000$ , or  $\$7,200$ . A sale for export to Canada does not depend on the vendor being resident outside Canada, even though this is the usual case. The residency status of the vendor is not a relevant factor. Vimco's purchase price of  $\$4.50$  per shirt cannot be used because there is no evidence that the transaction between Vimco and the manufacturer was a sale for export to Canada. Vimco was, until the sale to Canimpcoc, free to sell the warehoused shirts to any buyer in any country.

The price of  $\$7,200$  would still apply if Vimco acted as the importer because the sale to Canimpcoc is the transaction that initiated the chain of events resulting in the goods being exported to Canada; (i.e., it was the sale for export to Canada).

**Situation D** – Chinexco of China agrees to sell 10,000 silk ties to Canimpcoc of Montréal for  $\$2.50$  each, but Canimpcoc insists that the ties be individually cello-wrapped by a packing specialist in Hong Kong, the cost of this being included in the  $\$2.50$  selling price. After packing is completed the goods are shipped directly to Canimpcoc's Montréal address.

Conclusion D – The actual country of export is not a relevant factor in deciding whether or not a sale for export has occurred. The sale agreement between Chinexco and Canimpcoc does constitute a sale for export to Canada, and the selling price of  $\$2.50 \times 10,000$ , or  $\$25,000$ , will be the basis for determining the value for duty under section 48.

**Situation E** – Ukexco of the United Kingdom agrees to sell four transformers at  $\$50,000$  each to Upendco of Ottawa. While the transformers are being shipped across the Atlantic Ocean, Upendco declares bankruptcy and faxes Ukexco that it is unable either to take delivery or to make payment for the transformers. Before the ship docks in Canada, Ukexco is able to find a new purchaser, Canimpcoc of Halifax, for all four transformers at a price of  $\$47,000$  each. Ukexco directs the shipping company to divert the goods to Canimpcoc, which takes delivery and pays the customs duty.

Conclusion E – In this case, the sale to Canimpcoc will be the relevant sale for export to Canada, the basis of the transaction value being  $\$47,000 \times 4$ , or  $\$188,000$ . The agreement between Ukexco and Upendco is of no significance because it did not result in an actual international transfer of goods to Canada as contemplated in that agreement.

**Situation F** – Mulnatco is a multinational hotel chain with hotels in several countries, including Canada. Each Canadian hotel is incorporated as a separate limited liability company under provincial legislation. At the beginning of every year, each hotel submits purchase orders to the New York head office for its supply needs for the following twelve months. The head office then submits to various suppliers in the U.S.A. with instructions to send the goods either to each hotel directly or to the New York head office for subsequent shipment to each chain hotel. The suppliers invoice the head office in New York which then bills each hotel in the chain.

Conclusion F – There is a sale for export to Canada between Mulnatco head office and each hotel in Canada. The sale between the U.S. suppliers and the head office in New York is not relevant as it is subsequent to the sale that initiated the series of transactions which resulted in the exportation of the goods. As long as the relationship did not influence the price, the sales between the head office and the Canadian hotels would form the basis for determining the value for duty under section 48.

**Situation G** – Canimpcoc of Charlottetown, which sells furniture world wide, purchases 500 chairs from Frexco in France at a price of  $\$50$  each, instructing Frexco to send 200 chairs to Charlottetown and because Canimpcoc has not decided to which country it will sell them, the balance of 300 chairs are sent to its warehouse in Marseilles. Canimpcoc subsequently agrees to sell the 300 chairs warehoused in France to Furnco of Calgary for  $\$70$  each. Canimpcoc instructs the Marseilles warehouse to send the 300 chairs to Furnco in Calgary, which pays the customs duty.

Conclusion G – In this situation, there are two importations of goods that must be valued separately. In the first case, the transaction between Canimpcoc and Frexco constitutes a sale for export to Canada of 200 chairs at  $\$50$  each, and the  $\$10,000$  price paid or payable would form the basis for determining the transaction value under section 48.

However, the shipment of 300 chairs to Furnco cannot be valued on the basis of \$50 each because the goods were not sold by Frexco to Canimpco for export to Canada and this sale is thus not relevant for customs valuation purposes. The sale between Furnco and Canimpco does represent an international transfer of goods to Canada and the selling price of  $\$70 \times 300$ , or \$21 000, would form the basis for determining the value for duty under section 48.

**Situation H** – Constructco, an international contractor based in Germany, obtains a contract from Oilco to build an oil refinery in Newfoundland on a fixed price, fully installed, and erected basis. Constructco negotiates with various suppliers in different countries to supply off-the-shelf parts for the refinery, such as steel beams and electric motors. The foreign suppliers ship the goods to Constructco in Canada, which acts as a non-resident importer and pays the customs duty.

Conclusion H – The price paid or payable by Constructco to the foreign suppliers will form the basis for determining the value for duty. The suppliers' agreements to sell the goods to Constructco will identify Canada as the country of destination, and the goods will thus have been sold for export to Canada. The contract between Oilco and Constructco is for the supply and erection of an oil refinery, not for the sale of the individual items comprising the refinery. As such, it is not an agreement to sell goods for export to Canada. Special consideration may apply to goods fabricated abroad to Constructco's specification. See Memorandum D13-3-11, *Valuation of Goods Imported Into Canada to Be Used in the Assembly, Construction, or Fabrication of a Facility or a Machine Sold on an Installed Contract Basis*, for details.

**Situation I** – Vacco, a U.S. manufacturer of vacuum cleaners based in Chicago, employs sales representatives who obtain orders from Canadian households for its JETVAC III model cleaner. The price to the householder is \$600 delivered to the door direct from Chicago. The sales representatives earn a 20% commission on each sale, and Vacco acts as the (non-resident) importer of the cleaners and pays the resulting customs duty.

Conclusion I – In this case, there is only one sale for export to Canada, the one negotiated by the sales representatives with the Canadian householder. The fact that Vacco acts as the importer of the vacuum cleaners does not alter the fact that a sale for export to Canada has occurred. The selling price of \$600 will be the basis for determining the transaction value of the goods under section 48.

**Situation J** – Vacco, a U.S. manufacturer of vacuum cleaners based in Chicago, changes the method of shipping its products to Canada and sends 200 JETVAC III vacuum cleaners, valued by the exporter at \$200 U.S. each, to a warehouse the company has rented in Saskatoon. The 200 vacuum cleaners are placed in inventory, from which future orders from Canadian householders will be filled. Vacco is the (non-resident) importer and pays the customs duty.

Conclusion J – There is no sale for export to Canada in the circumstances outlined in this example. In fact, there is no sale at all because it is not possible, from a legal point of view, for a company to sell goods to itself since there is no change in ownership. This is so even though a cheque in payment may be issued on a bank account in one country and deposited to a different bank account in another country. Since section 48 of the *Customs Act* cannot be used to determine the value for duty, one of the other methods of valuation will have to be used (see Memorandum D13-3-1, *Methods of Determining Value for Duty*).

**Situation K** – Vacco of Chicago again changes its method of shipping vacuum cleaners to Canada. Vaccan Ltd., a wholly-owned subsidiary of Vacco, Chicago, is incorporated in Canada with its head office and warehouse located in Winnipeg. Vaccan established an inventory of JETVAC III vacuum cleaners and maintains this inventory by periodically ordering more cleaners from Vacco. Sales representatives travel throughout Canada selling the vacuum cleaners to householders for \$600, delivered to the buyer's house. The sales representatives relay orders to Winnipeg and the cleaners are sent freight prepaid to the householder from Vaccan's Winnipeg warehouse. Vacco charges Vaccan \$200 U.S. for each JETVAC III cleaner, FOB Chicago.

Conclusion K – Although there are two sales transactions in this case, there is only one sale involving the international transfer of goods to Canada. The sale between Vaccan and the householder is not relevant as it is a domestic market sale involving previously imported goods. The value for duty can be based on the transaction between Vacco and Vaccan, under section 48, as long as the relationship between the two companies did not influence the selling price of \$200 U.S. per vacuum cleaner.

**Situation L** – During a visit to Thailand, the President of Canimpco of Moncton is offered a “close-out” deal on 10,000 metres of assorted silk fabrics at a job lot price of \$20,000, FOB Bangkok. Believing the opportunity is too good to miss, the President purchases the whole 10,000 metres and arranges for the fabric to be sent to Canada by ship on April 4. While attending a convention on April 8, the President meets the President of Bloucan, a silk blouse manufacturer from Edmonton, who agrees to buy the 10,000 metres of silk now en route to Canada for \$39,000, delivered to Edmonton, with Bloucan being responsible for paying the customs duty.

Conclusion L – In this example, there are two sales, and each one is a valid sale for export to Canada. The purchase by Canimpco was a sale for export to Canada, and this transaction, unlike the agreement between Upendco and Ukexco in situation E, was completed as contemplated. As a result, as long as Canimpco is willing to provide full details of the original sale for export to Canada, Bloucan can declare Canimpco’s purchase price of \$20,000 as the basis for determining the value for duty under section 48. See Memorandum D1-4-1, *Canada Customs Invoice Requirements*, for details on the special documentation requirements in the event the sale to Canimpco is used by Bloucan for customs valuation purposes.

If Canimpco had originally arranged for the silk to be sent to San Francisco for use in its factory there, Bloucan would have to use the \$39,000 purchase price as the basis for determining value for duty, even if Canimpco provided details of the previous transaction, because Canimpco’s purchase would not have been a sale for export to Canada but a sale for export to the U.S.

**Situation M** – Japexco is a Japanese trading company with a wholly-owned subsidiary Canadian sales company in the city of Québec by the name of Japimpco, which purchases all of its imported goods from its parent company. Japexco sends an order to Toyco of Yokohama for 50,000 stuffed toy bears at 600 yen each, FOB Yokohama. The purchase order from Japexco directs Toyco to send the bears to Japimpco by collect sea freight. Japexco advises Japimpco that the bears have been ordered to satisfy the estimated needs of the Canadian subsidiary, and that the price to Japimpco is \$8 per bear, or \$400,000 for the shipment.

Conclusion M – The relevant sale for export to Canada is the one between Japexco and Japimpco. The sale between Japexco and Toyco is not considered to be the event that initiated the series of transactions which resulted in the goods being sent to Canada. In this case, Japimpco does, in fact, purchase and resell all of Japexco’s exports to Canada and, even though no written purchase order or sales agreement between Japexco and Japimpco may exist, the transaction value will be based on the selling price to Japimpco of \$400,000, as long as the relationship did not influence the price, because there is an understood or implied agreement or arrangement in effect. It is not reasonable to believe that this transaction would have occurred without Japimpco’s implied agreement to purchase the goods.

**Situation N** – Indexco buys hand-carved wooden coffee tables in India and stores them in a Bombay warehouse awaiting orders. After a visit to Canada, Indexco’s sales manager believes that there is a market in Canada for his company’s products and ships ten samples of eight types of table on speculation to Montréal via sea freight. The eight types of table cost Indexco an average of 500 rupees each. While the ship is crossing the Atlantic Ocean, Indexco sells all 80 coffee tables to Montabco of Sherbrooke for \$6,400, FOB Bombay.

Conclusion N – The only sale involving the international transfer of goods to Canada is the one between Indexco and Montabco. The sales between the maker of the coffee tables and Indexco are domestic sales because the vendor was not selling under directions to send the goods to Canada but to a location within India. Value for duty will, therefore, be based on the \$6,400 price agreed to be paid by Montabco.

**Situation O** – Compon Inc. is a U.S. manufacturer of radios with the head office and factory in Buffalo. Compon also has an assembly plant and sales force in Hamilton, Ontario, and conducts the Canadian operations as a branch of the U.S. company, not a separately incorporated Canadian legal entity.



Compon Hamilton assembles parts imported from Compon Buffalo and Radsing of Singapore (an unrelated manufacturer) for two models of radio and also imports four complete, ready-to-sell models, three from Radsing and one from Compon Buffalo. Compon's Hamilton branch's sales force sells all models of radios to department and specialty stores throughout Canada. When a large order for Singapore-origin models is received from a Canadian department store, Compton Hamilton telexes the order to Radsing for delivery to the Canadian department store, care of Compon Hamilton's customs broker, who pays the duty and taxes on Compon's behalf and arranges delivery of the radios to the department store. Books and records of the Canadian branch's activities are maintained in Hamilton and several employees of this branch have been granted general authority to contract on behalf of Compon Inc.

**Conclusion O** – Customs will regard Compon Hamilton as a purchaser in Canada for all of its importations that are legally capable of qualifying as a “sale for export to Canada.” The importations of assembly parts and the complete radio from Compon Buffalo cannot be regarded as sales, even if an intra-company charge is recorded, because no sale for export has occurred (for the reasoning, see the conclusion of situation J). A method of valuation other than the transaction value (section 48) will have to be used. However, there will be a valid sale for export to Canada from Radsing of Singapore of both assembly parts and complete radios. If the radios have been ordered from Compon Hamilton by the department stores and are sent to either the Hamilton warehouse of Compon or direct to the stores in Canada, customs will treat the price in the sale between Radsing and Compon as the basis for determining the transaction value and the sale between Compon and the Canadian department stores as a domestic sale of imported goods in the same way as the conclusion of situation A.

**Situation P** – Cosmetics Inc. is a U.S. company engaged in marketing various types of perfumes, cosmetics, creams, etc., which it sources from various manufacturers throughout the world. The Canadian operations are directed from Cosmetics head office in Syracuse, New York, and consist of rented offices in Cornwall, Ontario, out of which sales persons visit the purchasing offices of Canadian drug stores, negotiate prices, take orders, and send them for processing (shipping products, invoicing and collection of accounts) to Syracuse. Products are sold to Canadian customers on a delivered, duty-paid basis. Although the sales persons have the authority to negotiate prices and sales contracts, they do not have a general authority to contract on behalf of Cosmetics Inc. (see paragraph 13 of this Memorandum).

**Conclusion P** – The sale for export to Canada is the sale between Cosmetics Inc. and the drug store to which the products are sold. The fact that Cosmetics Inc. will act as non-resident importer to pay the applicable Canadian duty and taxes is irrelevant. The transaction value will be based on the price paid or payable by the drug stores because Cosmetics Inc. is the vendor in the sale for export to Canada, not the purchaser. Deductions for transportation, duty, and taxes included in that price are allowed under paragraph 48(5)(b) of the *Customs Act*. No deduction is allowed for commissions paid to Cosmetics Inc. sales persons. The same result would be obtained if Cosmetics Inc., after receiving the orders from its sales persons, ordered the goods from its suppliers and had them sent to Canada direct from the suppliers.

---

## REFERENCES

### ISSUING OFFICE –

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### LEGISLATIVE REFERENCES –

*Customs Act*, sections 45 and 48

### HEADQUARTERS FILE –

7034-5-1

### SUPERSEDED MEMORANDA “D” –

D13-4-2, August 21, 1989

### OTHER REFERENCES –

D13-2-5, D13-3-1, D13-3-11, D13-3-14, D13-4-5,  
D13-4-7, D13-4-10, D13-4-11

International Valuation Agreement adopted by the World Trade Organization (WTO)

*The Concept of “Sale” in the Agreement*, advisory opinion issued by the Technical Committee on Customs  
Valuation of the World Customs Organization (WCO)

**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.**