

# MEMORANDUM D13-7-1

Ottawa, March 9, 2001

## SUBJECT

### DETERMINATION OF THE PRICE PER UNIT (CUSTOMS ACT, SECTION 51)

This Memorandum outlines and explains the determination of the price per unit under the deductive method of valuation.

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#### GUIDELINES AND GENERAL INFORMATION

1. The deductive value method is used in those cases where the conditions of the transaction involving the imported goods are such that the importer cannot determine the value for duty under any of the previous methods of valuation. The importer may, under the provisions of subsection 47(3) of the *Customs Act*, reverse the order of application of the valuation methods described in sections 51 and 52.

#### Explanation of Price per Unit

- The price per unit is the price at which the greatest number of units are sold.
- As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale Quantity	Unit Price	Number of Sales	Total Quantity Sold at Each Price
1 to 10 units	\$100	10 sales of 5 units 5 sales of 3 units	65 units
11 to 25 units	95	5 sales of 11 units	55 units
Over 25 units	90	1 sale of 30 units 1 sale of 50 units	80 units

The greatest number of units sold at a particular price is 80; therefore, the price per unit is \$90.

4. As another example, two sales occur. In the first sale, 500 units are sold at a price of \$95 each. In the second sale, 400 units are sold at a price of \$90 each. In this example, the greatest number of units sold at a particular price is 500; therefore, the price per unit is \$95.

5. A third example is the following situation where various quantities are sold at various prices.

**Sales**

Sale Quantity	Unit Price
40 units	\$100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

**Total Sales**

Total Quantity Sold	Unit Price
65 units	\$ 90
50 units	95
60 units	100
25 units	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the price per unit is \$90.

**Requirements**

6. For the purposes of determining the price per unit, the sales used must be made to persons at the first level of trade after importation and who:

(a) are not related to the persons from whom they buy such goods; and

(b) have not supplied, directly or indirectly, free of charge or at a reduced cost, any of the goods or services (assists) referred to in subparagraph 48(5)(a)(iii).

7. “Sales at the first level of trade” means those sales made by the importer to purchasers to whom he is not related and who have not supplied assists (see paragraphs 6(a) and (b)). The “first level of trade” provision is designed to exclude the use of any sales made by those purchasers to whom the importer has sold imported goods. Therefore, in determining the price per unit, no account is to be taken of the trade level, i.e., whether the sale is to a wholesaler, a distributor, or a retailer.

8. The following example illustrates how price per unit is to be determined in cases where an importer sells to various trade levels in Canada.

**Sales to Distributors**

Sale Quantity	Unit Price
6000 units	\$0.95
5700 units	0.98
1000 units	1.00

**Sales to Wholesalers**

Sale Quantity	Unit Price
2000 units	\$1.00
1900 units	1.04

1500 units	1.06
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**Sales to Retailers**

Sale Quantity	Unit Price
4000 units	\$1.00
2500 units	1.08
1500 units	1.10

**Total Sales**

Total Quantity Sold	Unit Price
6000 units	\$0.95
5700 units	0.98
7000 units	1.00
1900 units	1.04
1500 units	1.06
2500 units	1.08
1500 units	1.10

In this example, the greatest number of units, 7000 in total, are sold at \$1.00. The price per unit is therefore \$1.00.

**Sufficient Number of Sales**

9. Subsection 51(3) of the *Customs Act* specifies that, in determining a price per unit, there must have been, in the opinion of the Minister or any person authorized by him, a sufficient number of sales to permit a determination of the price per unit.

10. The decision as to the number of sales which constitutes a sufficient number will be made on a case-by-case basis, depending on the circumstances and the marketing practices surrounding the importation and the sales in Canada.

11. For example, if only a small percentage of the imported goods are sold within the time limits established in subsection 51(2), these sales may be acceptable for the purposes of establishing a price per unit if the price at which they are sold is consistent with the usual selling price of the goods. This usual price may be indicated by a bona fide price list supported by commercial invoices or, where a price list is not used, by examining the recent trading history of the importer.

12. The price per unit at which the greatest number of goods are sold would not be acceptable if the number of goods sold are only a small percentage of the total sales of those goods.

13. However, there will be situations in which a single sale may be a sufficient number to permit determination of a price per unit. For example:

(a) a single unit is imported and the nature of the goods is such that no identical or similar imported goods have been imported, or are likely to be imported, within the time limits established in subsection 51(2). In this case, only one sale can occur on which to base a price per unit and such a sale will be deemed to constitute a sufficient number of sales; and

(b) 1000 units of a particular item are imported and only one sale, consisting of the whole 1000 units, is made in Canada within the time limits established in subsection 51(2). In this case, only one sale has occurred but since this sale constitutes the total amount imported, and no other sales are possible, it will be considered to be a sufficient number of sales.

14. A price per unit determined on a single sale of previously imported goods, as in examples (a) and (b) in paragraph 13, will normally not be acceptable in valuing any future importations of identical or similar goods. The circumstances pertaining to any future importations would have to be reviewed to ensure that the sales in Canada did not significantly differ with respect to the quantities and prices at which the goods

were previously sold. However, if the imported goods are only sold to one trade level and at one price on an ongoing basis, and that price is substantiated by evidence such as a bona fide price list supported by commercial invoices or several previous sales reflecting the usual commercial practices of the importer, the single sale of previously imported goods may be acceptable in determining the price per unit.

### **Goods and Services Tax**

15. The amount, if any, of the goods and services tax or other domestic retail sales tax added to, or included in, the selling price of the goods should be excluded in determining the price per unit (see Memorandum D13-2-5, *Customs Valuation: Effects of the Goods and Services Tax*).

### **Adjustments**

16. Under the deductive method of valuation, the price per unit of the goods sold under the provisions of paragraphs 51(2)(a), (b), or (c) is adjusted by deducting an amount for the elements set out in subsection 51(4) (see Memorandum D13-7-3, *Deductions From the Price per Unit (Customs Act, Section 51)*).

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## REFERENCES

### ISSUING OFFICE –

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### LEGISLATIVE REFERENCES –

*Customs Act*, section 51

### HEADQUARTERS FILE –

N/A

### SUPERSEDED MEMORANDA “D” –

D13-7-1, January 1, 1991

### OTHER REFERENCES –

D13-2-5, D13-7-3

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