

MEMORANDUM D11-6-4

Ottawa, June 6, 1995

SUBJECT

LEGISLATIVE AUTHORITIES AND SUPPORTING DOCUMENTATION REQUIREMENTS FOR FORM B 2, CANADA CUSTOMS — ADJUSTMENT REQUEST

1. This Memorandum is a consolidation of the legislative provisions contained in the *Customs Act*, *Excise Tax Act*, *Customs Tariff*, *Special Import Measures Act* and the *Financial Administration Act* under which an importer/owner or other person liable for payment of duties may request an amendment of an accounting record by filing Form B 2, *Canada Customs — Adjustment Request*. Also outlined are the circumstances under which each provision applies, the information that should be indicated in the "Justification for Request" field on Form B 2, and the documentation required to support the completed request.

2. The instructions below are intended to supplement and not replace Memorandum or policy guidelines which provide the explanation or direction respecting the interpretation and administration of the following legislative provisions:

<i>Customs Act</i>	—	sections 32.2, 63 and 92; subsections 32(3), 57.2(3.1), 60(1), 74(1), 76(1), 77(1), 84(1), 88(1) and 89(1)
<i>Customs Tariff</i>	—	subsections 19(1), 77(1), 77(2), 100(1), 100(2), 101(1), 101(2), 101(3) and 103(1)
<i>Financial Administration Act</i>	—	subsection 23(5)
<i>Excise Tax Act</i>	—	section 27, 212 and 261 subsections 23(1), 23(2), 50(1), 216(2), (3) and (4)
<i>Special Import Measures Act</i>	—	sections 3 and 4; subsections 8(1), 8(1.1), 56(1.01), 58(1) and 58(1.1)

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Legislation

CUSTOMS ACT

32. (3) Where goods are released under subsection (2), the person who made the interim accounting thereunder in respect of the goods shall, within the prescribed time, account for the goods in the manner described in paragraph (1)(a).

32.2 (1) An importer or owner of goods for which preferential tariff treatment under NAFTA has been claimed or any person authorized to account for those goods by regulations made pursuant to paragraph 32(6)(a) or under subsection 32(7) shall, within ninety days after the importer, owner or person has reason to believe that a declaration of origin for those goods made under this Act is incorrect,

(a) make a correction to the declaration of origin in the prescribed manner and in the prescribed form containing the prescribed information; and

(b) pay any amount owing as duties as a result of the correction to the declaration of origin and any interest owing or that may become owing on that amount.

(2) A correction to a declaration of origin for goods made under this section is not part of an accounting for the goods under subsection 32(1), (3) or (5).

(3) For greater certainty, this section does not apply where a correction to a declaration of origin would result in a claim for a refund of duties.

57.2 (3.1) Subject to this section, sections 58 to 72 apply, with such modifications as the circumstances require, in respect of a determination of origin under this section as to the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed as if it were a determination of the tariff classification of the goods, and, for greater certainty, any matter that may be prescribed in relation to a request referred to in subsection 60(2) or 63(2) may be prescribed in relation to a request for a re-determination or further re-determination of the origin of the goods.

60. (1) The importer or any person who is liable to pay duties owing on imported goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods) may, after all amounts owing in respect of the goods as duties and interest have been paid or security satisfactory to the Minister has been given in respect of the total amount owing,

- (a) within ninety days, or
- (b) where the Minister deems it advisable, within two years

after the time the determination or appraisal was made in respect of the goods under section 58, request a re-determination of the tariff classification or a re-appraisal of the value for duty.

63. (1) Any person may

- (a) within ninety days after the time the person was given an advance ruling under section 43.1, notice of a marking determination under section 57.01 or notice of a decision under section 60 or 61, or
- (b) where the Minister deems it advisable, within two years after the time an advance ruling was given under section 43.1, a marking determination was made under section 57.01 or a determination or appraisal was made under section 58,

request a review of the advance ruling, a re-determination of the marking determination, a further re-determination of the tariff classification or marking determination or a further re-appraisal of the value for duty re-determined or appraised under section 60 or 61.

(2) A request under this section shall be made to the Deputy Minister in the prescribed manner and in the prescribed form containing the prescribed information.

(3) On receipt of a request under this section, the Deputy Minister shall, with all due dispatch, affirm, revise or reverse the advance ruling, re-determine the marking determination or tariff classification or re-appraise the value for duty, as the case may be, and give notice of that decision to the person who made the request.

74. (1) Subject to this section, section 75 and any regulations made under section 81, the Minister may grant to any person who paid duties on imported goods pursuant to this Act a refund of the whole or part of the duties paid thereon where

- (a) they have suffered damage, deterioration or destruction at any time from the time of shipment to Canada to the time of release;
- (b) the quantity released is less than the quantity in respect of which duties were paid;
- (c) they are of a quality inferior to that in respect of which duties were paid;

(c.1) notwithstanding paragraph (c.2), the goods were imported from a NAFTA country but no claim for preferential tariff treatment under NAFTA was made in respect of those goods at the time they are accounted for under subsection 32(1), (3) or (5);

(c.2) duties have been overpaid or paid in error on the goods for any reason, other than an erroneous determination as to the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed, an erroneous determination of tariff classification or an erroneous appraisal of value for duty; or

(d) duties have been overpaid or paid in error on the goods for any reason, other than an erroneous

determination of tariff classification or erroneous appraisal of value for duty or an erroneous determination as to the origin of goods imported from the United States.

76. (1) Subject to any regulations made under section 81, the Minister may, in such circumstances as may be prescribed, grant to any person by whom duties were paid on imported goods that are defective, are of a quality inferior to that in respect of which duties were paid or are not the goods ordered, a refund of the whole or part of the duties paid thereon if the goods have, subsequently to the importation, been disposed of in a manner acceptable to the Minister at no expense to Her Majesty in right of Canada or exported.

77. (1) Subject to this section, where duties have been paid on imported goods and before any use is made of the goods in Canada other than by their incorporation into other goods the goods or the other goods into which they have been incorporated are

- (a) sold or otherwise disposed of to a person who would have been entitled to obtain release of the goods free of duty or at a reduced rate of duty, or
- (b) diverted to a use that would have entitled a person to obtain release of the goods free of duty or at a reduced rate of duty,

the Minister may make a refund to the person by whom the duties were paid, in an amount equal to the difference between the duties paid thereon and the duties, if any, that would have been payable on the goods if at the time the goods were released they had been released to the person to whom they were sold or otherwise disposed of or released for the use to which they were diverted.

84. (1) Where a drawback has been granted in respect of imported goods by reason of a deemed exportation under subsection 82(2) and the goods are not subsequently exported and are diverted to a use other than a use specified in subsection 82(2), the person who diverted the goods

- (a) shall, within thirty days after the time of the diversion, report the diversion to an officer at a customs office; and
- (b) is, from the time of the diversion, liable to repay the amount of the drawback and the amount of any interest that was granted on the drawback under subsection 87(1) or (2).

88. (1) Subject to any regulations made under section 94, where imported goods have been released free of duty or at a reduced rate of duty and are sold or otherwise disposed of to a person who was not entitled to any or as great an exemption, the person who purchased or otherwise acquired the goods and the person who sold or otherwise disposed of the goods

- (a) shall, within ninety days after the time of the sale or other disposition, report the sale or other disposition to an officer at a customs office and account for the goods in the prescribed manner and in the prescribed form containing the prescribed information; and
- (b) are, from the time of the sale or other disposition, jointly and severally liable to pay as duties or additional duties on the goods an amount equal to the amount of duties that would be payable on like goods imported in like condition at the time of the sale or other disposition at a rate of duty equal to
 - (i) the rate of duty applicable to like goods at the time of the sale or other disposition,

minus

- (ii) the rate of duty applied in calculating the duties, if any, already paid in respect of the goods.

89. (1) Subject to any regulation made under section 94, where imported goods have been released free of duty or at a

reduced rate of duty and are diverted to a use other than that for which they were released, the person who diverted the goods

(a) shall, within ninety days after the time of the diversion, report the diversion to an officer at a customs office and account for the goods in the prescribed manner and in the prescribed form containing the prescribed information; and

(b) is, from time of the diversion, liable to pay as duties or additional duties on the goods an amount equal to the amount of duties that would be payable on like goods imported in like condition at the time of the diversion at a rate of duty equal to

(i) the rate of duty applicable to like goods at the time of the diversion,

minus

(ii) the rate of duty applied in calculating the duties, if any, already paid in respect of the goods.

92. Subject to any regulations made under section 94, where a total or partial remission of duties has been granted in respect of imported goods subject to a condition and the condition is not complied with, the person who received the remission

(a) shall, within ninety days after the time of the failure to comply with the condition, report the failure to an officer at a customs office and account for the goods in the prescribed manner and in the prescribed form containing the prescribed information; and

(b) is, from the time of the failure to comply with the condition, liable to pay as duties or additional duties on the goods an amount equal to the amount by which

(i) the amount of the duties that would be payable on like goods released in like condition at the rate applicable to such goods at the time of the failure to comply with the condition

exceeds

(ii) the amount of duties, if any, that were paid in respect of the goods and were not subsequently remitted.

CUSTOMS TARIFF

19. (1) Subject to this Act and the *Customs Act* and any regulation or order made thereunder, there shall be levied and collected on all goods enumerated or referred to in Schedule I, when such goods are imported, and paid in accordance with the *Customs Act*, customs duties at the rates set out in Schedule I or section 46 that are applicable to those goods.

77. (1) A refund shall be granted of the portion of the customs duties or excise taxes described in paragraph 76(1)(a) or (b) if

(a) a remission of the portion is made under subsection 76(1);

(b) the portion of the duties was paid; and

(c) an application for refund is made in accordance with subsection (2).

(2) For the purposes of paragraph (1)(c), an application for refund must be

- (a) supported by such evidence as the Minister may require; and
- (b) made in the prescribed manner and in the prescribed form containing the prescribed information within five years, or, where another time is prescribed, within that other time, after the machinery and equipment in respect of which it is made is accounted for under section 32 of the *Customs Act*.

100. (1) A refund shall be granted of the whole or a portion of duties, other than the goods and services tax, if

(a) relief from the payment of the whole or the portion of duties, other than the goods and services tax, is required to be granted by Division III, III.1, IV or V or the duties, other than the goods and services tax, were not payable under section 74 or 75.1;

(b) the whole or the portion of the duties, other than the goods and services tax was paid; and

(c) an application is made in accordance with subsection (2) and section 104.

(2) For the purpose of subsection (1), an application must

(a) be supported by such evidence as the Minister may require;

(b) be made in the prescribed manner and in the prescribed form containing the prescribed information within five years, or, where another time is prescribed, within that other time, after the goods or materials in respect of which it is made are accounted for under section 32 of the *Customs Act* or released under section 86 of this Act; and

(c) be made before the exportation of the goods and disclose the number mentioned in the certificate issued under subsection 82(1), where relief was required to be granted by section 80.

101. (1) The Governor in Council may, on the recommendation of the Minister of Finance or the Minister, by order, remit duties.

(2) Remissions under subsection (1) may be conditional or unconditional, in respect of the whole or any portion of the duties, and may be granted regardless of whether in a particular case any liability to pay the duties has arisen.

(3) Remissions under subsection (1) shall, where the duties have been paid, be made by granting a refund of the whole or such portion of the duties as is remitted.

103. (1) Where relief is granted under subsection 74(1) or 75.1(1) or by releasing goods or materials without the payment in full of duties under subsection 79(3), 79.5(3) or 82(2) or section 86, 90 or 101 and a condition to which the relief is subject is not complied with, the person who fails to comply with the condition

(a) shall, within ninety days after the time of the failure to comply, report the failure to an officer at a customs office; and

(b) is, from the time of the failure to comply, liable to pay to Her Majesty in right of Canada an amount equal to the whole, or to the portion in respect of which the relief was granted, of the duties that would, but for the relief, be payable in respect of the goods or materials, which amount shall, for the purposes of the *Customs Act*, be deemed to be an amount owing to Her Majesty in right of Canada pursuant to that Act.

FINANCIAL ADMINISTRATION ACT

23. (5) Where a remission is granted under this section subject to a condition, and the condition is not fulfilled, the tax, penalty or other debt may be enforced, or all proceedings may be had, as if there had been no remission.

EXCISE TAX ACT

23. (1) Subject to subsections (6) to (8.3) and 23.2(6), whenever goods mentioned in Schedules I and II are imported into Canada or manufactured or produced in Canada and delivered to a purchaser thereof, there shall be imposed, levied and collected, in addition to any other duty or tax that may be payable under this or any other Act or law, an excise tax in respect of those goods at the applicable rate set out in the applicable section in whichever of those Schedules is applicable, computed, where that rate is specified as a percentage, on the duty paid value or the sale price, as the case may be.

(2) Where goods are imported, the excise tax imposed by subsection (1) shall be paid in accordance with the provisions of the *Customs Act* by the importer, owner or other person liable to pay duties under that Act, and where goods are manufactured or produced and sold in Canada, the excise tax shall be payable by the manufacturer or producer at the time of delivery of the goods to the purchaser thereof.

27. There shall be imposed, levied and collected the following excise taxes:

(a) a tax of \$0.0205 per litre on wines of all kinds containing not more than 1.2% of absolute ethyl alcohol by volume;

(b) a tax of \$0.2459 per litre on wines of all kinds containing more than 1.2% of absolute ethyl alcohol by volume but not more than 7% of absolute ethyl alcohol by volume; and

(c) a tax of \$0.5122 per litre on wines of all kinds containing more than 7% of absolute ethyl alcohol by volume.

50. (1) There shall be imposed, levied and collected a consumption or sales tax at the rate prescribed in subsection (1.1) on the sale price or on the volume sold of all goods

(b) imported into Canada, payable in accordance with the provisions of the *Customs Act* by the importer, owner or other person liable to pay duties under that Act;

212. Subject to this Part, every person who is liable under the *Customs Act* to pay duty on imported goods, or who would be so liable if the goods were subject to duty, shall pay to Her Majesty in right of Canada a tax on the goods equal to 7% of the value of the goods.

216. (2) Subject to subsections (4) to (6), the *Customs Act* (other than subsections 67(2) and (3) and sections 68 and 70) and the regulations made under that Act apply, with such modifications as the circumstances require, to the determination of the tax status of goods for the purposes of this Division as if it were the determination, re-determination or further re-determination, as the case requires, of the tariff classification of the goods.

(3) The *Customs Act* and the regulations made under that Act apply, with such modifications as the circumstances require, to the appraisal, re-appraisal or further re-appraisal of the value of goods for the purposes of this Division as if it were the appraisal, re-appraisal or further re-appraisal, as the case requires, of the value for duty of the goods.

(4) In applying the *Customs Act* to a determination of the tax status of goods,

(a) the references in paragraphs 64(d) and (e) and subsection 67(1) of that Act to the "Canadian International Trade Tribunal" shall be read as references to the "Tax Court of Canada"; and

(b) the reference in subsection 67(1) of that Act to the "Secretary of the Canadian International Trade Tribunal" shall be read as a reference to the "Registrar of the Tax Court of Canada".

261. (1) Where a person has paid an amount

(a) as or on account of, or

(b) that was taken into account as, tax, net tax, penalty, interest or other obligation under this Part in circumstances where the amount was not payable or remittable by the person, whether the amount was paid by mistake or otherwise, the Minister shall, subject to subsections (2) and (3), pay a rebate of that amount to the person.

SPECIAL IMPORT MEASURES ACT (SIMA)

3. (1) Subject to section 7.1, there shall be levied, collected and paid on all dumped and subsidized goods imported into Canada in respect of which the Tribunal has made an order or finding, before the release of the goods, that the dumping or subsidizing of goods of the same description has caused injury or retardation or is threatening to cause injury, a duty as follows:

(a) in the case of dumped goods, an anti-dumping duty in an amount equal to the margin of dumping of the imported goods; and

(b) in the case of subsidized goods, a countervailing duty in an amount equal to the amount of the subsidy on the imported goods.

3. (2) Where the Tribunal has made an order or finding referred to in subsection (1) in respect of goods that are subject to an undertaking referred to in section 7.1 and the undertaking is subsequently violated, there shall be levied, collected and paid on all of those goods that were released on or after the day on which the undertaking was violated, a duty as provided under paragraphs (1)(a) and (b).

4. (1) Subject to section 7.1 there shall be levied, collected and paid a duty as set out in subsections (3) and (4) on all dumped and subsidized goods imported into Canada

(a) in respect of which the Tribunal has made an order or finding, after the release of the goods, that the dumping or subsidizing of goods of the same description

(i) has caused injury, or

(ii) would have caused injury except for the fact that provisional duty was applied in respect of the goods; and

(b) that were released during the period beginning on the day on which the preliminary determination is made with respect to the goods and ending on the day on which the Tribunal makes the order or finding.

(2) There shall be levied, collected and paid a duty as set out in subsections (3) and (4) on all dumped and subsidized goods imported into Canada

(a) that are the subject of an undertaking accepted by the Deputy Minister under subsection 49(1) that was terminated under paragraph 52(1)(d);

(b) in respect of which the Tribunal has made an order or finding, after the release of the goods, that the dumping or subsidizing of goods of the same description

(i) has caused injury, or

(ii) would have caused injury except for the fact that provisional duty has applied in respect of the goods; and

(c) that were released, where paragraph 52(1)(a), (b), or (c) applies, during the period beginning on the day, on which the undertaking was accepted, and

(i) where paragraph 52(1)(a) applies, during the period beginning on the later of

(A) the day on which the undertaking is violated, and

(B) the ninetieth day before the day on which notice of the termination was given under paragraph 52(1)(e),

and ending on the day on which the Tribunal makes the order or finding referred to in paragraph (b), or

(ii) where paragraph 52 (1)(b) or (c) applies, beginning on the day on which notice of termination was given under paragraph 52(1)(e) and ending on the day on which the Tribunal makes the order or finding referred to in paragraph (b).

(3) The duty applicable to goods under subsection (1) or (2) is

(a) in the case of dumped goods, an anti-dumping duty in an amount that is equal to the margin of dumping of the goods; and

(b) in the case of subsidized goods, a countervailing duty in an amount that is equal to the amount of subsidy on the goods.

(4) The duty referred to in subsection (3) shall not exceed the duty, if any, paid or payable in respect of the goods under section 8.

8.(1) Where the Deputy Minister makes a preliminary determination of dumping or subsidizing in an investigation under this Act and considers that the imposition of provisional duty is necessary to prevent injury, retardation or threat of injury, the importer of dumped or subsidized goods that are of the same description as any goods to which the preliminary determination applies and that are released during the period commencing on the day the preliminary determination is made and ending on the earlier of

(a) the day on which the Deputy Minister causes the investigation to be terminated pursuant to subsection 41(1) with respect to goods of that description, and

(b) the day on which the Tribunal makes an order or finding with respect to goods of that description,

shall, on demand of the Deputy Minister for payment of provisional duty on the imported goods,

(c) pay or cause to be paid on the imported goods provisional duty in an amount not greater than the estimated margin of dumping of or the estimated amount of the subsidy on the imported goods, or

(d) post or cause to be posted security in a prescribed form and in an amount or to a value not greater than the estimated margin of dumping of or the estimated amount of the subsidy on the imported goods,

at the option of the importer.

(1.1) Where an order or finding of the Tribunal under subsection 43(1), 76(4.1) respecting a review pursuant to subsection 76(2.1), or 91(3), other than an order or finding described in any of sections 3 to 6, is referred back to the Tribunal under subsection 77.015(3) or (4) or 77.019(5), or under subsection 77.15(3) or (4) or 77.19(4), the importer of dumped or subsidized goods that are of the same description as any goods to which the order or finding applies and that are released during the period commencing on the day on which the preliminary determination is made and ending on the day on which the Tribunal makes an order or finding, on the referral back, with respect to goods of that description, shall, on demand of the Deputy Minister for payment of provisional duty on the imported goods, at the option of the importer,

(a) pay or cause to be paid on the imported goods provisional duty in an amount not greater than the estimated margin of dumping of, or the estimated amount of the subsidy on, the imported goods; or

(b) post or cause to be posted security in the prescribed form and in an amount or to a value not greater than the estimated margin of dumping of, or the estimated amount of the subsidy on, the imported goods.

56. (1.01) Notwithstanding subsection (1),

(a) where a determination referred to in that subsection is made in respect of any goods, including goods of a NAFTA country, the importer of the goods may, within ninety days after the making of the determination, make a written request in the prescribed form and manner and accompanied by the prescribed information to a designated officer for a re-determination, if the importer has paid all duties owing on the goods; and

(b) where a determination referred to in that subsection is made in respect of goods of a NAFTA country, the government of that NAFTA country or, if they are of that NAFTA country, the producer, manufacturer or exporter of the goods may make a request as described in paragraph (a), whether or not the importer of the goods has paid all duties owing on the goods.

58. (1) A determination or re-determination by a designated officer under section 55 or 57 with respect to any imported goods is final and conclusive.

(1.1) Notwithstanding subsection (1),

(a) where a determination or re-determination referred to in that subsection is made in respect of any goods, including goods of a NAFTA country, the importer of the goods may, within ninety days after the date of the determination or re-determination, make a written request in the prescribed form and manner and accompanied by the prescribed information to the Deputy Minister for a re-determination, if the importer has paid all duties owing on the goods; and

(b) where a determination or re-determination referred to in that subsection is made in respect of goods of a NAFTA country, the government of that NAFTA country or, if they are of that NAFTA country, the producer, manufacturer or exporter of the goods may make a request as described in paragraph (a), whether or not the importer has paid all duties owing on the goods.

EFFECTS OF THE GOODS AND SERVICES TAX

1. With the introduction of the Goods and Services Tax legislation (GST), amendments were made to the *Customs Act*, *Excise Tax Act* and the *Customs Tariff* which affect the amount of a refund that may be given to the importer or owner of imported goods. For the purpose of Appendix A, refunds granted under any provision of the noted Acts except for certain provisions respecting non-commercial goods, generally will not include any amount that was paid as goods and services tax.

2. Importers or persons who are eligible for a refund of GST should contact the Revenue Canada district excise tax office nearest them for information regarding benefits available under the Input Tax Credit system.

GUIDELINES AND GENERAL INFORMATION

3. To request a change to the information contained on Form B 3, *Canada Customs Coding Form*, (other than for warehoused goods accounted for on Form B 3, types 10, 11, 12, 13, 14, or 15), Form B 15, *Casual Goods Accounting Document*, Form E 14-1, *Request for Payment — Postal Declaration*, Form E 14-2, *Advice Notice/Postal Declaration*, and Form B 2, *Canada Customs — Adjustment Request*, must be properly completed and presented with the required

supporting information within the time limits specified in the relevant legislation.

4. Form B 2 may be used to:

- (a) request a re-determination of tariff classification;
- (b) request a re-determination of origin respecting goods imported from a NAFTA country for which a NAFTA tariff treatment is claimed;
- (c) request a re-determination of anti-dumping or countervailing duties;
- (d) request a re-appraisal of value for duty;
- (e) request a re-determination of the value of goods made for purposes of assessing the goods and services tax under Part IX of the *Excise Tax Act* made pursuant to section 60 or 63 of the *Customs Act*;
- (f) request a refund of duties, other than the goods and services tax when specific circumstances or conditions exist which qualify the goods for a more favourable rate of duty, duties relief provision, remission or drawback;
- (g) make payment of additional duties, including goods and services tax, or repay monies where a duties relief, remission or drawback was granted and the requirements/conditions were not met; and
- (h) to correct record errors which may have no effect on the amount of duties paid or payable, for example, change of unit of measure and quantity of goods imported.

5. Form B 2 should provide all of the information necessary to support the applicant's claim. Failure to do so may result in an unfavourable decision and/or delay in processing the adjustment request.

6. Adjustments to an accounting record must be requested according to the requirements and/or conditions of the relevant legislation. For example, a request for refund of the whole or a portion of the duties paid on goods damaged during shipment from the country of export must be made within two years after the date the goods were accounted for under subsection 32(1), (3) or (5) of the *Customs Act*. However, a written notice to claim must be provided to an officer within three days after the release of perishable goods or within two years after the release of non-perishable goods.

7. Adjustment requests that split a transaction line or adjust the information contained on more than one line of an accounting document (for example, Form B 3) must be accompanied by a worksheet or revised rated invoices that clearly correlate the B 2 request to the final accounting documentation.

8. When requesting a change to an accounting document, the "Justification for Request" and "Explanation" fields must be completed on the last page of all Forms B 2. Care should be taken to provide accurate and complete information respecting the request. Refer to Appendix A, Memorandum D17-2-1, *Coding of Adjustment Request Forms*, and to Appendices A to I to this Memorandum for complete information to complete these and other fields of Form B 2.

9. Forms B 2 that are incomplete, i.e., all required data fields have not been properly filled in, or that are illegible will be returned to the person filing the request.

10. Requests, except those filed pursuant to sections 56 and 58 of the *Special Import Measures Act* (SIMA) for the re-determination of countervailing or anti-dumping duties, are to be presented by hand or sent by registered mail to a customs office in the region where the goods were released.

11. Adjustment requests filed under section 56 or 58 of SIMA are to be forwarded directly to:

Director General
Assessment Programs Division
Revenue Canada
19th floor
Sir Richard Scott Building
191 Laurier Avenue West
Ottawa ON K1A 0L5

Attention: Central Index

Note: Requests under SIMA are not to be combined on the same Form B 2 with issues that must be considered under other legislation, for example, re-determinations of tariff classification. Additional information regarding SIMA requests is contained in Memorandum D14-1-3, *Re-determination of Goods under the Special Import Measures Act*.

12. When a Form B 2 request is sent by registered mail to the regional customs office, the mailing date will be accepted as the date the request was filed in instances where the customs office receives Form B 2 beyond the filing time limit. However, if the request is later rejected as having been improperly completed, the importer's rights respecting the appeal will not be protected.

13. Further information regarding requests for re-determination or re-appraisal, refund, drawback or remission may be obtained by contacting your local regional customs office. Information respecting requests for re-determination of anti-dumping or countervailing duties may be obtained from the Assessment Programs Division at the address on the preceding page.

APPENDIX A

JUSTIFICATION FOR REQUEST FIELD INFORMATION

Request Type

Legislative Authority

Reason for Making the Request

Message to be Shown on the B 2 Adjustment Request

Supporting Documents Required

Re-determination of tariff classification, Re-determination of origin of goods imported from a NAFTA country for which a NAFTA tariff treatment was claimed at time of accounting, or Re-appraisal of value for duty by a regional TVA resulting in a refund of duties.

Paragraph 60(1)(a) of the *Customs Act*.

(a) To request a change in tariff classification, tariff treatment of goods imported from a NAFTA country for which a NAFTA tariff treatment was claimed at the time of accounting or value for duty, within 90 days of a determination/appraisal made under subsection 57.2(1) or 58(1) or a deemed determination/appraisal made under subsection 57.2(2) or 58(5) of the *Customs Act*.

- (a) A **re-determination** of tariff classification, or
A **re-appraisal** of value under paragraph **60(1)(a)** of the *Customs Act*.

Note: B 2 requests should not be presented to the customs office until 30 days after the date the goods are accounted for under subsection 32(1), (3) or (5) of the *Customs Act* in order to allow sufficient time for normal customs processing and review of the final accounting documentation.

Refer to Appendix B.

Refer to Appendix D.

- (b) To request a change in tariff classification, tariff treatment of goods imported from a NAFTA country and for which a NAFTA tariff treatment was claimed at time of accounting or value for duty, within 90 days of a deemed determination or appraisal made under subsection 58(5) of the *Customs Act*, where a TVA decision is not required pending the resolution of a previous appeal/claim on identical goods.

- (b) A **re-determination** of tariff classification, or
A **re-determination** of origin, or
A **re-appraisal** of value under paragraph **60(1)(a)** of the *Customs Act*.

Notes: 1. The "Explanation" field must include the notation "pending result of request/appeal numbered XXXX, dated YY/MM/DD" to identify the prior request/appeal to the Deputy Minister, Canadian International Trade Tribunal or Federal Court.

2. Guidelines for filing a request of this type are contained in Memorandum D11-6-1, *Determination/Re-determination and Appraisal/Re-appraisal of Goods*.

Refer to Appendix B.

Refer to Appendix C.

Refer to Appendix D.

Re-determination of tariff classification, Re-determination of origin of goods imported from a NAFTA country for which a NAFTA tariff treatment was claimed at time of accounting, or Re-appraisal of value for duty by a regional TVA resulting in a refund of duties.

- (c) To request a change in tariff classification respecting fruits and vegetables, within 90 days of a determination made under section 58 of the *Customs Act*.

- (c) A **re-determination** of tariff classification under paragraph **60(1)(a)** of the *Customs Act*.

Proof of purchase and shipment, for example purchase order, bill of lading.

- (d) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* within 90 days after a determination is made under section 58 of the *Customs Act* pursuant to subsection 216(1) of Part IX of the *Excise Tax Act*.

- (d) A **re-determination** of GST under paragraph **60(1)(a)** of the *Customs Act*.

Evidence related to the identified issue.

Paragraph 60(1)(b) of the *Customs Act*.

(a) To request a change in tariff classification, tariff treatment of goods imported from a NAFTA country for which a NAFTA tariff treatment was claimed at the time of accounting or value for duty of imported goods, after 90 days but within two years of a determination or an appraisal made under subsection 58(1) or a deemed determination or appraisal made under subsection 58(5) of the *Customs Act*.

(a) A **re-determination** of tariff classification, or
A **re-appraisal** of value under paragraph **60(1)(b)** of the *Customs Act*.

Note: The "Justification for Request" field on Form B 2 must indicate which of the criteria listed in Appendix B to Memorandum D11-6-1 is being claimed in support of the late claim.

Refer to Appendix B.

Refer to Appendix D.

Re-determination of tariff classification, Re-determination of origin of goods imported from a NAFTA country for which a NAFTA tariff treatment was claimed at time of accounting, or Re-appraisal of value for duty by a regional TVA resulting in a refund of duties.

(b) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* after 90 days but within two years of a determination made under section 58 of the *Customs Act*.

(b) A **re-determination** of GST under paragraph **60(1)(b)** of the *Customs Act*.

Note: The "Justification for Request" field on Form B 2 must indicate which of the criteria listed in Appendix B to Memorandum D11-6-1 is being claimed in support of the late claim.

Evidence related to the identified issue.

Re-determination of tariff classification, Re-determination of origin of goods imported from a NAFTA country and for which a NAFTA tariff treatment is claimed or Re-appraisal of value for duty by the Deputy Minister resulting in a refund of duties.

Paragraph 63(1)(a) of the *Customs Act*.

(a) To request a change in tariff classification, tariff treatment of goods imported from a NAFTA country and for which a NAFTA tariff treatment is claimed or value for duty, filed within 90 days of a re-determination or re-appraisal made under section 60 or 61 of the *Customs Act*.

(a) A **re-determination** of tariff classification, or A **re-determination** of origin, or A **re-appraisal** of value under paragraph **63(1)(a)** of the *Customs Act*.

Refer to Appendix B.

Refer to Appendix C.

Refer to Appendix D.

(b) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* filed within 90 days of a re-determination made under section 60 or 61 of the *Customs Act*.

(b) A **re-determination** of GST under paragraph **63(1)(a)** of the *Customs Act*.

Evidence related to the identified issue.

Re-determination of tariff classification, Re-determination of origin of goods imported from a NAFTA country and for which a NAFTA tariff treatment is claimed or Re-appraisal of value for duty by the Deputy Minister resulting in a refund of duties.

Paragraph 63(1)(b) of the *Customs Act*.

(a) To request a change in tariff classification, tariff treatment of goods imported from a NAFTA country and for which a NAFTA tariff treatment is claimed or value for duty of imported goods, beyond 90 days of a TVA decision rendered under section 60 or 61 of the *Customs Act* but within two years of a determination or appraisal made under subsection 57.2(1) or 58(1) or a deemed determination or appraisal made under subsection 57.2(2) or 58(5) of the *Customs Act*.

(a) A **re-determination** of tariff classification, or A **re-determination** of origin, or A **re-appraisal** of value under paragraph **63(1)(b)** of the *Customs Act*.

Note: The "Justification for Request" field on Form B 2 must indicate which of the criteria listed in Appendix D to Memorandum D11-6-1 is being claimed in support of the late claim.

Refer to Appendix B.

Refer to Appendix C.

Refer to Appendix D.

(b) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* filed beyond 90 days of the decision made under section 60 or 61 or within two years of a determination made under section 57.2 or 58 of the *Customs Act*.

(b) A **re-determination** of GST under paragraph **63(1)(b)** of the *Customs Act*.

Note: The "Justification for Request" field on Form B 2 must indicate which of the criteria listed in Appendix D to Memorandum D11-6-1 is being claimed in support of the late claim.

Evidence related to the identified issue.

Re-determination respecting the application of anti-dumping and countervailing duties.

Section 56 of the *Special Import Measures Act* (SIMA).

To request a re-determination by a designated officer respecting certain imported goods within 90 days of a determination or a deemed determination made under section 56 of SIMA.

A **re-determination** of countervailing duties, or A **re-determination** of anti-dumping duties under section **56** of SIMA.

Refer to Appendix I.

Re-determination respecting the application of anti-dumping and countervailing duties.

Section 58 of the *Special Import Measures Act* (SIMA).

To request a re-determination by the Deputy Minister respecting certain imported goods within 90 days of a determination/re-determination made by a designated officer under section 55 or 57 of SIMA.

A **re-determination** of countervailing duties, or A **re-determination** of anti-dumping duties under section **58** of SIMA.

Refer to Appendix I.

Refunds

Subsection 32(3) of the *Customs Act*.

To perfect a sight accounting (interim accounting document) within 90 days of release of the goods and obtain a refund of the security deposit where there is no change in tariff classification or tariff treatment of the goods.

Perfecting a sight accounting under subsection **32(3)** of the *Customs Act*.

Evidence related to the identified issue.

Paragraph 74(1)(a) of the *Customs Act*.

To request a refund of duties where goods have suffered damage, deterioration or destruction, from time of shipment to time of release, and have **not** been exported or disposed of by the importer.

A **refund** under paragraph **74(1)(a)** of the *Customs Act*. Goods damaged, deteriorated or destroyed (as applicable).

(In the "Explanation" field, reference should be made to **Part 1** of Memorandum **D6-2-2**, *Refund of Duties*.)

(1) written statement from carrier or warehouse operator, describing the damage, destruction or deterioration suffered by the goods; and

(2) an appraisal verifying the extent of the loss or any document showing the amount of compensation for the loss in value. For greater details, see Appendix E.

Refunds

Paragraph 74(1)(b) of the *Customs Act*.

To request a refund of duties where the goods are deficient in quantity (short-shipped).

A **refund** under paragraph **74(1)(b)** of the *Customs Act*. Goods short-shipped.

(In the "Explanation" field, reference should be made to **Part 2** of Memorandum **D6-2-2**.)

Written statement by the carrier confirming deficiency, or any document providing evidence of quantity actually shipped to Canada plus a document that indicates the amount of compensation granted for the goods short-shipped. For greater details, see Appendix E.

Refunds

Paragraph 74(1)(c) of the *Customs Act*.

To request a refund of duties respecting goods that are inferior in quality, and have **not** been exported or destroyed.

A **refund** under paragraph 74(1)(c) of the *Customs Act* respecting inferior goods.

(In the "Explanation" field, reference should be made to **Part 3** of Memorandum **D6-2-2**.)

A copy of any document indicating the amount granted to compensate for the difference in value. For greater details, see Appendix E.

Paragraph 74(1)(c.1) of the *Customs Act*

To request a change to a NAFTA tariff treatment where a non-NAFTA tariff treatment was claimed at the time of the final accounting, within one year of the date of the final accounting under subsection 32(1), (3) or (5) of the *Customs Act*.

A **refund** under paragraph 74(1)(c.1) of the *Customs Act* due to a change from a non-NAFTA tariff treatment to a NAFTA tariff treatment.

Refer to Appendix F

Paragraph 74(1)(c.2) of the *Customs Act*.

(a) To request a refund where duties are overpaid or paid in error.

(a) A **refund** under paragraph 74(1)(c.2) of the *Customs Act*.

(State the reason for the overpayment, for example, mathematical error, incorrect rate of exchange, duplicate payment, goods not released by Revenue Canada. Reference should also be made to **Part 4** of Memorandum **D6-2-2**.)

In most circumstances, sufficient evidence may be presented in the Form B 2 "Explanation" field. For a duplicate payment claim, include a copy of the final accounting documentation. For greater details, see Appendix E.

(b) To request a change in tariff treatment within two years of the date of final accounting made under subsection 32(1), (3) or (5) of the *Customs Act*, other than for goods imported from a NAFTA country for which a NAFTA tariff treatment is claimed, for example, GPT, MFN, LLDC, CARIBCAN.

(b) A **refund** under paragraph 74(1)(c.2) of the *Customs Act* due to a change in tariff treatment.

(In the "Explanation" field, reference should be made to **Part 4** of Memorandum **D6-2-2**.)

Refer to Appendix F.

Refunds

(c) To request a change in the rate of duty within the same tariff treatment (no change in tariff classification involved) within two years of the final accounting made under subsection 32(1), (3) or (5) of the *Customs Act*.

For example, budget changes, reduction orders.

(c) A **refund** under paragraph **74(1)(c.2)** of the *Customs Act* due to a change in rate of duty.

(In the "Explanation" field, reference should be made to **Part 4** of Memorandum **D6-2-2**.)

Evidence related to the identified issue.

Subsection 76(1) of the *Customs Act*.

To request a refund of duties respecting goods that are defective, inferior in quality or are not the goods ordered that **have been** disposed of or exported from Canada.

A **refund** under subsection **76(1)** of the *Customs Act*.

(In the "Explanation" field, reference should be made to **Part 5** of Memorandum **D6-2-2**.)

Also indicate the nature of the goods:

for example: (i) whether defective, inferior quality, not according to order, or damaged;

(ii) whether exported or destroyed.)

(1) written statement from vendor, exporter or manufacturer confirming that goods are defective, inferior or not those ordered;

(2) refund credit note from the vendor;

(3) for goods that are inferior or not those ordered, documentation showing what was actually ordered;

(4) validated Form E 15, *Certificate of Destruction/Exportation*.

For greater details, see Appendix G.

Refunds

Subsection 77(1) of the *Customs Act*.

To request a refund of duties within two years of the final accounting made under subsection 32(1), (3) or (5) of the *Customs Act* respecting goods that are diverted to a user or use which qualifies for a more favourable rate of duty.

A **refund** pursuant to subsection **77(1)** of the *Customs Act*.

Goods diverted to a qualified **user/use**.

Refer to Appendix H.

Subsection 77(1) of the *Customs Tariff*.

To request a refund of duties paid where remission of duty is granted on machinery and equipment under section 76 of the *Customs Tariff*, and no change in the tariff classification, tariff treatment or value for duty of the goods is required.

A **refund** under subsection **77(1)** of the *Customs Tariff* respecting goods entitled to Machinery remission.

The original or photocopy of the Approved Machinery remission application.

Refunds

Subsection 100(1) of the *Customs Tariff*.

(a) To request a refund of duties paid where no change in tariff classification or tariff treatment is required and the goods are listed in Memorandum D8-5-1, *Machinery Program*, as being not available from production in Canada.

(a) A **refund** under subsection **100(1)** of the *Customs Tariff* respecting goods listed in Memorandum **D8-5-1**.

Descriptive/technical literature to enable Revenue Canada to determine that the goods covered by the claim qualify as products listed in Memorandum D8-5-1.

(b) To request a refund of duties paid where no change in tariff classification or tariff treatment is required and relief from payment of the whole or the portion of duties is required to be granted by section 79.2, 80, 84 or 88 of the *Customs Tariff*.

(b) A **refund** under subsection **100(1)** of the *Customs Tariff*.

(Indicate the remission program under which relief is granted

for example: automotive machinery and equipment, inward processing, goods imported and subsequently exported or Canadian goods abroad.)

When claiming entitlement to the Inward Processing Program, the applicant's authorization number must be indicated on Form B 2.

Automotive Machinery and Equipment:

The original or a photocopy of the approved remission application.

Inward Processing:

A complete explanation on Form B 2 is sufficient to support the claim.

Goods Imported and Subsequently Exported, and Canadian Goods Abroad:

(1) Form E 15; and

(2) a letter of authorization by the Regional Chief of Remissions.

For vessels, vehicles, and aircraft that have undergone emergency repairs abroad, evidence that the repairs were the result of an emergency is required, for example, accident report.

Refunds

(c) To request a refund of duties paid where no change in tariff classification or tariff treatment is required and the goods are included on the list of machinery and equipment established under article 401 of the *Canada-United States Free Trade Agreement*.

(c) A **refund** under subsection **100(1)** of the *Customs Tariff*.

Goods entitled to relief granted under section **75.1** of the *Customs Tariff*.

(1) descriptive/technical literature to enable Revenue Canada to determine that the goods covered by the claim qualify as products listed in Memorandum D8-5-2, *Relief for Machinery and Equipment Entitled to the Benefit of the United States Tariff*; and

(2) an *Exporter's Certificate of Origin*.

Subsection 101(3) of the *Customs Tariff*.

To request a refund of the duties paid at time of accounting where duties have been remitted on the goods by an Order in Council made under subsection 101(1) of the *Customs Tariff*.

A **refund** pursuant to subsection **101(3)** of the *Customs Tariff*.

Note: The "Explanation" field must also include the Order in Council P.C. Number under which the remission was granted.

As specified in the Order in Council or related departmental instructions.

Section 23 of the *Financial Administration Act*.

To request a refund of the duties paid on goods where a remission was granted by an order made pursuant to section 23 of the *Financial Administration Act*.

A **refund** pursuant to section **23** of the *Financial Administration Act*.

Note: The "Explanation" field must also include the Order in Council P.C. Number under which the remission was granted.

As specified in the Order in Council or related departmental instructions.

Section 261 of Part IX of the *Excise Tax Act*

To request a rebate of tax paid pursuant to Part IX of the *Excise Tax Act* other than tax paid under Part IX in respect of the value of goods. A rebate shall be paid only to the extent that it was not otherwise rebated, refunded or remitted under any other provision of the *Excise Tax Act* or any other Act of Parliament.

Record Adjustment and/or **payment** of additional duties.

Subsection 32(3) of the *Customs Act*.

To perfect a sight accounting (interim accounting document) within 90 days of release of the goods where no refund or payment of additional duties is involved, but adjustments other than tariff classification, tariff treatment or value for duty are being requested to the accounting data.

An **amendment** under subsection **32(3)** of the *Customs Act* to perfect a sight accounting document.

Evidence related to the identified issue.

Subsection 32.2(1) of the *Customs Act*

For voluntary payment of additional duty upon discovery that a NAFTA tariff treatment was incorrectly claimed.

Payment of duties pursuant to subsection 32.2(1) of the *Customs Act*. A NAFTA tariff treatment was claimed in error.

Evidence relating to the issue. Copy of original accounting documentation (Form B 3 and invoice and permits).

Paragraph 60(1)(a) of the *Customs Act*.

(a) For voluntary payment of additional duty due to an error in tariff classification, or value for duty of imported goods where the request is filed within 90 days of the determination or appraisal made under subsection 58(1) or 58(5) of the *Customs Act*.

(a) A **re-determination** of tariff classification, or A **re-appraisal** of value under paragraph **60(1)(a)** of the *Customs Act*.

Note: Form B 2 requests may not be presented to the customs office until 30 days after the date the goods are accounted for under subsection 32(1), (3) or (5) of the *Customs Act* in order to allow sufficient time for normal customs processing and review of the final accounting documentation.

Refer to Appendix B.

Refer to Appendix C.

Refer to Appendix D.

Record Adjustment and/or **payment** of additional duties.

(b) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* within 90 days after a determination is made under section 58 of the *Customs Act*.

(b) A **re-determination** of GST under paragraph **60(1)(a)** of the *Customs Act*.

Evidence related to the identified issue.

Paragraph 60(1)(b) of the *Customs Act*.

(a) For voluntary payment of additional duty due to an error in tariff classification, or value for duty of imported goods where the request is filed beyond 90 days but within two years of a determination or appraisal made under subsection 58(1) or 58(3) of the *Customs Act*.

(a) A **re-determination** of tariff classification, or A **re-appraisal** of value under paragraph **60(1)(b)** of the *Customs Act*.

In the "Justification for Request" field, reference must be made to criterion No. 4 contained in Appendix B of Memorandum D11-6-1.

Refer to Appendix B.

Refer to Appendix D.

(b) To request a re-determination of the value for tax as imposed under Part IX of the *Excise Tax Act* after 90 days but within two years of a determination made under section 58 of the *Customs Act*.

(b) A **re-determination** of GST under paragraph **60(1)(b)** of the *Customs Act*.

Note: The "Justification for Request" field on Form B 2 must indicate which of the criteria listed in Appendix B to Memorandum D11-6-1 is being claimed in support of the late claim.

Evidence related to the identified issue.

Subsection 84(1) of the *Customs Act*.

To repay a drawback granted for goods that were exported under subsection 82(2) of the *Customs Act* and were not subsequently exported but diverted to a use other than a use specified.

Repayment of drawback pursuant to subsection **84(1)** of the *Customs Act*. Goods diverted to another use.

Evidence related to the identified issue. Indicate actual or intended use of goods imported.

Record Adjustment and/or **payment** of additional duties.

Subsection 88(1) of the *Customs Act*.

For payment of duties within 90 days of sale or disposition of goods imported under a duty-free or reduced rate of duty tariff item or code of Schedule I or II or of Orders made pursuant to subsection 68(1) of the *Customs Tariff* when the goods are sold or disposed of to a person who was not entitled to any or as great an exemption.

Payment of duties pursuant to subsection **88(1)** of the *Customs Act*. Goods diverted to a non-qualified user.

Evidence related to the identified issue.

Subsection 89(1) of the *Customs Act*.

For payment of duties, within 90 days of diversion of goods released under a duty-free or reduced rate of duty tariff item or code of Schedule I or II or of Orders made pursuant to subsection 68(1) of the *Customs Tariff*, when the goods are diverted to a use other than that for which they were released.

Payment of duties pursuant to subsection **89(1)** of the *Customs Act*. Goods diverted to a non-qualified use.

Evidence related to the identified issue.

Section 92 of the *Customs Act*.

For payment of duties when an importer fails to meet the conditions for relief granted under section 74 or of an Order made under section 101 of the *Customs Tariff* that was applied to the goods at the time of final accounting.

Payment of duties pursuant to section **92** of the *Customs Act*. Goods not entitled to the remission or relief granted.

Evidence related to the identified issue.

Subsection 19(1) of the *Customs Tariff*.

For payment of duties resulting from a clerical error on the original accounting document, for example, error in rate of customs duty, incorrect tariff treatment (other than for goods for which a NAFTA tariff treatment was claimed), incorrect quantity shown on the accounting document.

Payment of duties pursuant to subsection **19(1)** of the *Customs Tariff*.
(Indicate type of error being corrected.)

Evidence related to the identified issue. Copy of original accounting documentation (Form B 3 and invoices and permits).

Record Adjustment and/or **payment** of additional duties.

Subsection 103(1) of the *Customs Tariff*.

To amend an accounting record when goods or materials were released without full payment of duties owing due to relief granted under subsection 74(1), 75.1(1), section 76, 79.2, 80, 84 or 88 of the *Customs Tariff* and the importer has failed to meet a condition under which the relief was granted.

Payment of duties pursuant to subsection **103(1)** of the *Customs Tariff*. Goods no longer qualified for **remission**.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Record Adjustment and/or **payment** of additional duties.

Section 3 of the *Special Import Measures Act* (SIMA).

To amend an accounting record to pay anti-dumping or countervailing duties where the Tribunal made an order or finding before release of the goods respecting goods of the same description.

Payment of countervailing duty, or
Payment of anti-dumping duty pursuant to section **3** of SIMA.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Section 4 of the *Special Import Measures Act* (SIMA).

To amend an accounting record to pay anti-dumping or countervailing duties where the Tribunal made an order or finding after release of the goods respecting goods of the same description.

Payment of countervailing duty, or
Payment of anti-dumping duty pursuant to section **4** of SIMA.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Record Adjustment and/or **payment** of additional duties.

Subsection 8(1) of the *Special Import Measures Act* (SIMA).

To amend an accounting record to pay provisional duties where the Deputy Minister has made a preliminary determination of dumping or subsidizing of goods respecting goods of the same description.

Payment of provisional duty pursuant to subsection **8(1)** of SIMA.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Subsection 23(1) of the *Excise Tax Act*.

To amend the final accounting document to pay excise tax on the goods mentioned in Schedule I or II of the *Excise Tax Act*.

Payment of excise tax pursuant to subsection **23(1)** of the *Excise Tax Act*.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Section 27 of the *Excise Tax Act*.

To pay excise tax on imported wines of all kinds.

Payment of excise tax pursuant to section **27** of the *Excise Tax Act*.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Subsection 50(1) of the *Excise Tax Act*.

To amend the final accounting document to pay sales tax on the goods accounted for under subsection 32(1), (2) or (5) of the *Customs Act* prior to January 1, 1991.

Payment of sales tax pursuant to subsection **50(1)** of the *Excise Tax Act*.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Section 212 of the *Excise Tax Act*.

To pay the goods and services tax on goods accounted for under subsection 32(1), (2) or (5) of the *Customs Act* after December 31, 1990.

Payment of goods and services tax pursuant to section 212 of the *Excise Tax Act*.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

Record Adjustment and/or **payment** of additional duties.

Subsection 23(5) of the *Financial Administration Act*.

For payment of duties on goods that have been entered under an Order made pursuant to section 23 of the *Financial Administration Act* where a condition of the remission has not been met.

Payment of duties pursuant to subsection **23(5)** of the *Financial Administration Act*. Goods not entitled to the remission granted.

Evidence related to the identified issue. A full explanation on Form B 2 may be sufficient.

APPENDIX B

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR RE-DETERMINATION OF TARIFF CLASSIFICATION FILED UNDER SECTIONS 60 AND 63 OF THE CUSTOMS ACT

A request for re-determination of tariff classification filed under the above noted sections of the *Customs Act* should be accompanied by the following information:

(a) descriptive illustrations, literature, samples, drawings, or catalogues specifically relating to the goods that are the subject of the request;

Note: When hazardous or corrosive samples are submitted to the Department, detailed handling and disposal instructions must be either written on the outside of the shipping container or in a document attached thereto. An information sheet giving the chemical breakdown of the sample should also be provided.

(b) supporting documentation such as end-use certificates, National Customs Rulings, Certificates of Origin, special authority applications and relevant file numbers, information on the end product into which the commodity in question is to be incorporated when end use of goods is a factor;

(c) requests concerning agricultural goods subject to tariff rate quotas must, where appropriate, be accompanied by a valid permit issued by Foreign Affairs and International Trade Canada; and

(d) nature and/or condition of the goods, when a factor.

APPENDIX C

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR RE-DETERMINATION OF ORIGIN OF GOODS IMPORTED FROM A NAFTA COUNTRY AND FOR WHICH A NAFTA TARIFF TREATMENT IS CLAIMED FILED UNDER SECTIONS 60 AND 63 OF THE CUSTOMS ACT

1. Requests for redetermination of origin of goods imported from a NAFTA country for which a NAFTA tariff treatment is claimed must be accompanied by the following:

(a) a properly completed Form B 232, *North American Free Trade Agreement — Certificate of Origin*; or

(b) if the value for duty of the goods is less than CAN\$1600, a *Statement of Origin for Commercial Importations of Less Than \$1600 Cdn* may be presented in place of the *Certificate of Origin*.

2. Refer to Memorandum D11-4-14, *Certificate of Origin*, for further information and instructions concerning certificate completion.

3. Other documentation, while not mandatory, can be helpful, such as advance rulings, a completed origin verification questionnaire, and a detailed explanation of the production process and the origin of materials.

APPENDIX D

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR RE-APPRAISAL OF THE VALUE FOR DUTY OF IMPORTED GOODS, FILED UNDER SECTIONS 60 AND 63 OF THE CUSTOMS ACT

The following list of documentation outlines some of the evidence that should be supplied to justify a change in the value for duty. This list is by no means exhaustive and will vary from case to case. The list is not intended to limit the extent of the additional information provided by the importer/broker which supports their contention. Revenue Canada may, as well, request other additional information which it believes is required to support a decision on the value for duty.

Please note that, in all cases, a revised customs invoice, by itself, does not constitute supporting documentation.

1. Section 48, "Transaction Value":

In all cases, some form of written evidence must be submitted which substantiates the request for re-appraisal. This

written evidence may take many forms. Some of the most common examples of specific information are:

- commercial invoices,
- credit notes,
- purchase order confirmations,
- agreements of sale,
- bills of sale,
- contracts of sale,
- letters of credit,
- cancelled cheques,
- supplier statements of account,
- other forms of proof of payment.

In certain cases other specific information may be required. Examples of this specific information as it relates to specific subsections of section 48 are as follows:

(a) Subsection 48(1), "Price Paid or Payable/Sale for Export/Discounts":

- quota (licensing) agreements,
- warranty agreements,
- information relating to non-resident importers, for example, evidence that would establish whether or not there has been a sale for export to Canada,
- conditions of sale, for example, information relating to trade-ins.

For all types of discounts, including trade and cash discounts, other specific information might consist of proofs of payment and, with the exception of cash discounts, a written statement by the purchaser as to why the discount was effected prior to importation, along with supporting evidence.

(b) Paragraph 48(5)(a), "Buying/Selling Commissions":

- agreements or written contracts between the purchaser and the agent,
- copies of commercial invoices from the actual vendors of the goods **when a buying commission has been indicated**, and
- copies of letters of credit.

(c) Paragraph 48(5)(a), "Assists":

- agreements to provide assists and agreements between third parties with information supporting the value and/or apportionment of the assist.

Consult Memorandum D13-4-8, *Assists (Customs Act, Section 48)*, regarding the determination of the value of the assist.

(d) Paragraph 48(5)(a), "Royalty Payments":

- royalty agreements,
- trade mark agreements,
- license fee agreements,
- copyright agreements,
- over-riding agreements between third parties
- production agreements between the manufacturer and other parties.

(e) Paragraphs 48(5)(a) and 48(5)(b), "Transportation Charges":

- freight invoices,
- bills of lading,
- details of rebates,

- refunds or credits,
- information related to the point of direct shipment
- copies of contracts, periodic billings, or other information sufficient to verify the reasonableness of freight charges when freight bills are not available on a per transaction basis.

(f) Paragraph 48(5)(b), "Duties and Taxes":

- proof that the purchaser was reimbursed by the vendor, or
- proof that the vendor paid the duties and taxes, for example, evidence that the broker paid the duties and taxes and invoiced the vendor.

2. Section 49, "Transaction Value of Identical Goods" and Section 50, "Transaction Value of Similar Goods":

- information that substantiates the value of the identical/similar goods.

3. Section 51, "Deductive Value Method":

- detailed calculations used to determine the deductive value. Background data supporting all elements of the calculation should be kept on file as it may be requested of the importer at some future date.

4. Section 52, "Computed Value Method":

- detailed calculations used to determine the computed value. Background data supporting all elements of the calculation should be kept on file as it may be requested of the importer at some future date.

5. Section 53, "Residual Value Method":

- information to support the residual value claimed. Background data supporting all elements of the residual value should be kept on file as it may be requested of the importer at some future date.

In all cases, copies of departmental rulings should also be provided.

For further information regarding the various methods of calculating the value for duty, please consult the Memoranda D13 series.

APPENDIX E

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR REFUND FILED UNDER SECTION 74 OF THE CUSTOMS ACT

PART I

GOODS THAT HAVE SUFFERED DAMAGE, DETERIORATION OR DESTRUCTION

1. This Part applies to the granting of a refund, under paragraph 74(1)(a) of the Act, of duties paid on goods that have suffered damage, deterioration, or destruction from the time of shipment to Canada to the time of release.
2. An application for a refund of duties in the prescribed form containing the prescribed information shall be made to an officer at any customs office in the region where the goods were released under the Act.
3. An application for a refund of duties shall be supported by:
 - (a) a written statement by any carrier, any operator of a sufferance warehouse, bonded warehouse or duty-free shop or any competent authority having knowledge of the circumstances, time and place of the damage, deterioration or

destruction suffered by the goods, giving the particulars thereof or, where such a statement cannot be obtained, a written statement by a competent authority certifying that the goods suffered damage, deterioration or destruction before they were released; and

(b) documentation in the form of:

(i) an appraisal by a qualified appraiser verifying the loss in value of the goods as a result of the damage, deterioration or destruction of the goods,

(ii) a copy of any document, including a credit note from the vendor, indicating the amount granted to compensate for the damage, deterioration or destruction of the goods, or

(iii) a commitment of payment from the carrier or the carrier's insurers given to the importer or owner of the goods and showing the amount of compensation given for the loss in value of the goods.

PART II

GOODS DEFICIENT IN QUANTITY

1. This Part applies to the granting of a refund, under paragraph 74(1)(b) of the Act, of duties paid on goods where the quantity of goods released is less than the quantity in respect of which duties were paid.

2. An application for a refund of duties shall be supported by:

(a) a copy of any document providing evidence of the actual quantity of the goods shipped to Canada with a copy of any document, including a credit note from the vendor, indicating the amount granted to compensate for the value of the goods short-shipped;

(b) a written statement by the carrier of the goods verifying the deficiency in quantity of the goods, where the deficiency occurred because the goods were lost or went astray while in the course of transit outside Canada, and explaining the circumstances under which the goods were lost or went astray; or

(c) a written statement by the carrier or operator of a sufferance warehouse, bonded warehouse or duty-free shop verifying the deficiency in quantity of the goods, where the goods were lost or stolen after the goods were reported to an officer under section 12 of the Act and while the goods were in the custody of the carrier or operator, as the case may be.

PART III

GOODS OF INFERIOR QUALITY

1. This Part applies to the granting of a refund, under paragraph 74(1)(c) of the Act, of duties paid on goods that are of a quality inferior to that in respect of which the duties were paid.

2. An application for a refund of duties shall be supported by a copy of any document, including a credit note from the vendor, indicating the amount granted to compensate for the difference between the value of the goods in respect of which duties were paid and the value of the goods of inferior quality.

3. Where a person who paid duties is unable to provide the document referred to in paragraph 2 because of circumstances beyond the person's control and evidence of those circumstances is supplied, the application for a refund of duties shall be supported by

(a) a written statement of the importer indicating that the goods are of a quality inferior to that in respect of which duties were paid and identifying the respect in which the quality is inferior; and

- (b) an appraisal by a qualified appraiser showing the difference between the value of the goods in respect of which duties were paid and the value of the goods of inferior quality.

PART IV

DUTIES OVERPAID OR PAID IN ERROR

1. This Part applies to the granting of a refund, under paragraph 74(1)(c.2) of the Act, of duties that have been overpaid or paid in error on the goods for any reason other than an erroneous determination of tariff classification or appraisal of value for duty, or an erroneous determination as to the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed.
2. For corrections to mathematical calculations, exchange rate and currency conversion errors, a full explanation in the "Justification for Request" field on Form B 2 will generally be sufficient.
3. For a change in the rate of duties without changes in the tariff classification or tariff treatment, a full explanation in the "Justification for Request" field on Form B 2 will generally be sufficient.
4. Where a duplicate payment situation arises, the accounting document on which the goods were actually received will stand as the accounting document upon which the goods are properly accounted for. The refund claim on Form B 2 is to be filed against the second accounting document. A copy of the accounting document that properly accounts for customs duties should accompany Form B 2 as supporting documentation.

APPENDIX F

SUPPORTING DOCUMENTATION REQUIREMENTS FOR A CHANGE OF TARIFF TREATMENT PURSUANT TO PARAGRAPH 74(1)(c.1) OR (c.2) OF THE CUSTOMS ACT

Documentation Requirements for NAFTA Tariff Treatments under Paragraph 74(1)(c.1) of the *Customs Act*

1. Where a refund claim is submitted requesting a change to a NAFTA tariff treatment in instances where a non-NAFTA tariff treatment was claimed at the time of final accounting, the request must be accompanied by the following:
 - (a) a properly completed Form B 232, *North American Free Trade Agreement — Certificate of Origin*; or
 - (b) if the value for duty of the goods is less than CAN\$1600, a *Statement of Origin for Commercial Importations of Less Than \$1600 Cdn* may be presented in place of the *Certificate of Origin*.

2. Refer to Memorandum Record Adjustment and/or **payment** of additional duties. D11-4-14, *Certificate of Origin*, for further information and instructions concerning certificate completion.

Documentation Requirements for Non-NAFTA Tariff Treatments under Paragraph 74(1)(c.2) of the *Customs Act*.

1. Where a refund claim is submitted requesting the *General Preferential Tariff* (GPT) treatment or *Least Developed Developing Country Tariff* (LDDC) treatment, a properly completed Form A, *Certificate of Origin*, and a through bill of lading are required. (Refer to Memoranda D11-4-2, *Proof of Origin*, and D11-4-4, *Rules of Origin Respecting the General Preferential Tariff and Least Developed Developing Country Tariff*, for information on Form A and through bill of lading requirements.)

2. Where the GPT is requested for goods which originate in the People's Republic of China and were shipped through Hong Kong, a through bill of lading as described in Memorandum D11-4-10, *China Direct Shipment Condition Exemption Order*, and documentation as described in section 4(4) of Memorandum D11-4-2 are required.
3. Where the GPT is requested for goods which originate in Mexico and are shipped overland to Canada, through bills of lading and other documentation as described in Memorandum D11-4-9, *Mexico Direct Shipment Condition Exemption Order*, may be presented in place of a through bill of lading showing direct shipment from Mexico to Canada.
4. Where a refund claim is submitted requesting the *Commonwealth Caribbean Countries Tariff* (CARIBCAN) treatment, a properly completed Form A, *Certificate of Origin*, is required as well as a through bill of lading. (Refer to Memoranda D11-4-2 and D11-4-5, *Rules of Origin Respecting Caribcan*, for information on Form A and through bill of lading requirements.)
5. The through bill of lading as described in Memorandum D11-4-10 is a single document which accompanies the goods and states clearly the transportation routes from the shipper in the producing country to the consignee in Canada.

APPENDIX G

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR REFUND FILED UNDER SECTION 76 OF THE CUSTOMS ACT

1. This Part applies to the granting of a refund, under subsection 76(1) of the Act, of duties paid on goods that are defective, are of a quality inferior to that in respect of which duties were paid or are not the goods ordered and that have, subsequent to their importation, been disposed of in a manner acceptable to the Minister at no expense to Her Majesty in right of Canada or exported.
2. An application for refund of duties shall be supported by:
 - (a) a written statement from the foreign supplier, exporter or vendor which clearly indicates the defect, why the goods are of inferior quality or are not the goods ordered;
 - (b) a document (credit note, statement, invoice, etc.) from the foreign supplier which sets out the amount of refund or credit given;
 - (c) in the case of goods of inferior quality or that are not the goods ordered, a copy of the invoice, purchase order, contract or other document that shows the goods that were actually ordered; and
 - (d) in all instances, by a validated Form E 15, *Certificate of Destruction/Exportation*.
3. It will be the responsibility of the claimant to describe the goods in such a manner on Form E 15 so that they can be related to a specific customs accounting document and the relative refund claim with supporting documentation.

APPENDIX H

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FOR REFUND FILED UNDER SECTION 77 OF THE CUSTOMS ACT

1. When imported goods have been diverted, the following supporting documentation must accompany B 2 adjustment requests submitted pursuant to section 77 of the Act:
 - (a) end-use certificates,

(b) purchase orders,

(c) sales invoices, or

(d) other similar documents clearly relating to the goods entered.

2. Originals of the above documents should be retained by the importer/owner and legible copies presented with the B 2 adjustment request.

3. When it is impracticable for an importer/owner who does not sell directly to users, to obtain individual end-use certificates from dealers due to clientele and pricing confidentiality, or in cases where the risk of diversion is minimal, alternate means of proving end use may be approved by the Regional Manager of Trade Administration Services. Such alternate arrangements must be made prior to the submission of the B 2 adjustment request.

4. For more information, please consult Memoranda D11-8-1, *Administrative Policy — End-use Program*, and D6-2-2, *Refund of Duties*.

Note: An end-use certificate is a written attestation affirming the use of imported goods according to the provisions of the end-use tariff item or tariff code claimed on the relevant accounting document. It must specify the applicable tariff item or code, provide a brief description of the manner in which the goods contained in the consignment will be used in Canada, and be signed by the end-user.

APPENDIX I

SUPPORTING DOCUMENTATION REQUIREMENTS FOR REQUESTS FILED UNDER THE SPECIAL IMPORT MEASURES ACT

1. Form B 2 must be filed along with the following information:

(a) a statement setting out the grounds on which the decision is contested;

(b) a statement setting out the facts on which the rationale for making the request is based;

(c) evidence in support of the facts referred to in (b) above; and

(d) the final accounting documentation and the interim accounting documentation if different than the final accounting documentation.

2. Appellants from NAFTA countries need not submit the documents in subparagraph (d) above, and may file Form B 2 whether or not the importer has paid all duties owing.

3. Form B 2 must include the appropriate legislative reference to the *Special Import Measures Act* and a brief explanation of the request. Form B 2 must be filed within 90 days of the decision being appealed.

4. For more information, please consult Memorandum D14-1-3, *Redetermination of Goods under the Special Import Measures Act*.

REFERENCES

ISSUING OFFICE

Tariff Policy and Nomenclature Development

Tariff Programs

LEGISLATIVE REFERENCES

Customs Act, sections 32, 57.2, 60, 63, 74, 76, 77, 84, 88, 89 and 92

Customs Tariff, sections 19, 77, 100, 101 and 103

Financial Administration Act, section 23

Excise Tax Act, sections 23, 27, 50, 212, 216 and 261

Special Import Measures Act, sections 3, 4, 8, 56 and 58

HEADQUARTERS FILE

4502-0

4560-0

SUPERSEDED MEMORANDUM "D"

D11-6-4, January 1, 1991

OTHER REFERENCES

D6-2-2, D8-5-1, D8-5-2, D11-4-2, D11-4-4, D11-4-5, D11-4-9, D11-4-14,
D11-6-1, D11-8-1, D13-4-8, D14-1-3, D17-2-1