

# MEMORANDUM D13-4-11

Ottawa, March 5, 2001

## SUBJECT

### CONFIRMING COMMISSIONS AND CREDIT RISK INSURANCE (CUSTOMS ACT, SECTION 48)

This Memorandum outlines and explains the treatment, under the transaction value method, of payments made by purchasers of imported goods in respect of confirming commissions for letters of credit and insurance against risk of financial loss to the vendor of the goods.

---

### GUIDELINES AND GENERAL INFORMATION

1. The term “confirming commission” applies to a payment made to a financial institution, usually in a country other than Canada, in consideration of that institution guaranteeing payment to the vendor in the event that the letter of credit issued by the purchaser’s bank is not paid.
2. The term “credit risk insurance” applies to a broad range of insurance and credit arrangements wherein the vendor of the goods obtains insurance against non-payment and/or obtains a loan, usually from a financial institution in his own country. Payments for “credit risk insurance” may be called by different names in different countries, but in Canada they are often referred to as “export credit insurance” and “exposure fees.”

#### **Application of the Transaction Value Method**

3. To determine whether such payments by a purchaser are to be included in the value for duty, it is necessary to know whether the payment:
  - (a) is in respect of the goods which have been sold for export to Canada; and
  - (b) is made either directly or indirectly to the vendor of the goods or to a third party for the benefit of the vendor.
4. If the payment is either not in respect of the goods, as in paragraph 3(a), or is not to or for the benefit of the vendor, as in paragraph 3(b), it does not form part of the price paid or payable for the goods and is not dutiable.
5. A confirming commission as described in paragraph 1 will be paid by the purchaser at the request of the vendor and for his benefit. It is therefore part of the price paid or payable for the imported goods and included in the value for duty. However, fees paid by a purchaser to a financial institution for the initial issuance of a letter of credit in favour of the vendor are not dutiable as they are considered usual expenses in establishing the purchaser’s ability to pay for the goods.
6. Export credit insurance charges or premiums, paid by the purchaser to the vendor or to the vendor’s financial institution or insurer, are considered to be part of the price paid or payable and therefore dutiable. They are for the benefit of the vendor because it is the vendor who wishes to be insured against the risk of non-payment of the sale price of the goods.

7. Where a vendor negotiates a loan in advance of the goods being exported, liability for repayment of which is later assumed by the purchaser, any exposure fee (or similar fee by another name) charged by the financial institution in consideration of the risk involved in the sale, is considered to be for the benefit of the vendor. If this fee is paid by the purchaser, it is to be included in the price paid or payable and therefore dutiable. Interest charges applicable to the period commencing on the day the loan is assumed by the purchaser and which are paid to the financial institution are not to be included in the value for duty of the imported goods (see Memorandum D13-3-13, *Customs Valuation: Interest Charges for Deferred Payment for Imported Goods (Customs Act, Sections 48 to 53)*, for a consideration of the treatment of interest payments made by the purchaser to the vendor).

---

## REFERENCES

### ISSUING OFFICE –

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### LEGISLATIVE REFERENCES –

*Customs Act*, sections 48 to 53

### HEADQUARTERS FILE –

N/A

### SUPERSEDED MEMORANDA “D” –

D13-4-11, June 1, 1986

### OTHER REFERENCES –

D13-3-13, D13-4-3

**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.**