



Ottawa, August 22, 2013

# MEMORANDUM D13-3-7

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## **In Brief**

### **Engineering, Development Work, etc., Undertaken Elsewhere Than in Canada**

The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.





Ottawa, August 22, 2013

# MEMORANDUM D13-3-7

## Engineering, Development Work, etc., Undertaken Elsewhere Than in Canada

This memorandum explains the meaning and application of the term “undertaken elsewhere than in Canada” as it relates to certain goods and services provided by the purchaser free of charge, at a reduced cost, or paid to the vendor in connection with the production and sale for export of imported goods.

### Legislation

Sections 45 to 53 of the *Customs Act*: <http://laws-lois.justice.gc.ca/eng/acts/C-52.6/index.html>.

### GUIDELINES AND GENERAL INFORMATION

1. The term “undertaken elsewhere than in Canada” is introduced in subparagraph 48(5)(a)(iii) of the *Customs Act*, which provides for the treatment of “assists”. Refer to Memorandum D13-3-12, *Treatment of Assists in the Determination of the Value for Duty*.
2. Clause (D) of subparagraph 48(5)(a)(iii) states that the value of engineering, development work, art work, design work, plans and sketches “undertaken elsewhere than in Canada” and necessary for the production of the imported goods is to be added to the price paid or payable in determining the value for duty.
3. The implication in paragraph 2 is that the value of engineering, development work, etc., “undertaken in Canada” is not to be added to the price paid or payable in determining the value for duty under the transaction value method even when the conditions of subparagraph 48(5)(a)(iii) are met.
4. Payments for engineering, development work, art work, design work, plans and sketches that are made to the vendor are “in respect of the goods” pursuant to the definition of the price paid or payable in subsection 45(1). Such activities for which payment is made to the vendor by a purchaser, regardless of the stage of design or production at which they occur, are considered necessary for the production of imported goods and cannot be excluded in whole or in part from the price paid or payable for the goods. Such payments are not assists pursuant to paragraph 48(5)(a).

5. “Undertaken in Canada” means that the above goods and services must be carried out within the geographical boundaries of Canada.
6. Subsection 45(1) in defining “identical goods” and “similar goods” states that imported goods for which engineering, development work, art work, design work, plans and sketches undertaken in Canada were supplied by the purchaser free of charge or at a reduced cost for use in connection with the production of the imported goods cannot be considered “identical” or “similar” goods to other imported goods. Therefore such goods cannot be used in applying the following provisions:
  - (a) subsection 48(3), in which the transaction value of identical or similar goods is used to establish the acceptability of a transaction value in a sale between related persons (refer to Memorandum D13-4-5, *Transaction Value Method for Related Persons*);
  - (b) sections 49 and 50, in which the value for duty is determined on the basis of the transaction value of identical or similar goods (refer to Memorandum D13-5-1, *Application of Sections 49 and 50 of the Customs Act*); and
  - (c) subsection 51(3), in which the value for duty may be derived from the price per unit drawn from sales in Canada of identical or similar goods (refer to Memorandum D13-7-1, *Deductive Value Method – Determination of the Price Per Unit*).
7. Paragraph 52(3)(c) states that only the costs, charges, or expenses actually incurred by the producer for engineering, development work, etc., undertaken in Canada and supplied for use in the production of the goods being appraised is to be included in the value for duty determined under the computed value method (section 52). Refer to Memorandum D13-8-1, *Computed Value Method*.

### Additional Information

8. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

**REFERENCES**

<p><b>ISSUING OFFICE –</b> Trade Programs Directorate</p>	<p><b>HEADQUARTERS FILE –</b> 79070-4-3</p>
<p><b>LEGISLATIVE REFERENCES –</b> <i>Customs Act</i></p>	<p><b>OTHER REFERENCES –</b> D13-3-12, D13-4-5, D13-5-1, D13-7-1, D13-8-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b> D13-3-7, March 27, 2001</p>	

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

