



Ottawa, November 21, 2013

# MEMORANDUM D13-4-2

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## IN BRIEF

### **Customs Valuation: Goods Sold for Export to Canada**

The editing revisions made in this memorandum do not affect or change any existing policies or procedures with respect to the interpretation of “goods sold for export to Canada” in an application of the transaction value method.



Printed in Canada



Ottawa, November 21, 2013

# MEMORANDUM D13-4-2

## Customs Valuation: Goods Sold for Export to Canada

This memorandum explains how the Canada Border Services Agency (CBSA) interprets the meaning and application of the phrase “goods sold for export to Canada” and provides examples to illustrate the appropriate basis for appraising the value of imported goods under the transaction value method.

### Legislation

Section 48 of the [Customs Act](#).

### Guidelines and General Information

1. Subsection 48(1) of the [Customs Act](#) (the Act) stipulates the requirements that must be met to establish the value for duty of imported goods under the transaction value method. Under this method, the value for duty is based on the actual selling price of the goods (refer to [Memorandum D13-4-1, Transaction Value Method of Valuation](#)).
2. The [Customs Act](#) states: “. . . the value for duty of goods is the transaction value of the goods if the goods are sold for export to Canada . . . .” This means that, for goods to be appraised under the transaction value method, the importer must be able to show:
  - (a) the goods presented to the CBSA have been “sold” (i.e., the vendor has transferred, or has agreed to transfer, title for a price to the purchaser of the subject goods); and
  - (b) the subject goods were “for export to Canada” as a condition of the sale agreement between the vendor and the purchaser.
3. The Technical Committee on Customs Valuation of the World Customs Organization (WCO), in an advisory opinion entitled “The Concept of “Sale” in the Agreement,” states that uniformity in interpreting and applying the [international customs valuation agreement](#) of the World Trade Organization (WTO) can be achieved by taking the term “sale” in the widest sense. Since Canada’s valuation system is based on the international agreement of the WTO, the term “sale” is used in the widest sense in the context of a sale for export to Canada, and includes, without limiting

the meaning of the word, agreements to sell and contracts for the sale of goods that result in the transfer of ownership as contemplated in the agreement or contract.

4. The basis for the application of the transaction value method is a transaction between a purchaser and a vendor. Naming a person as the “importer” on CBSA accounting documents does not in any way affect the determination of:

(a) whether a sale for export to Canada has occurred; or

(b) which sale, if more than one sale of the goods imported to Canada has occurred (a series of sales), is the appropriate (relevant) sale to use to determine the transaction value.

5. A sale for export to Canada occurs in either of the following two scenarios:

(a) a person located in Canada has agreed, before the goods are imported, to purchase the goods; or

(b) a person outside Canada, lacking an agreed sale as in (a) above has agreed, before the goods are imported, to purchase the goods and arranges for the goods to be sent to Canada.

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

6. Where a person in Canada has agreed with another person, who is usually located outside Canada, to purchase goods that are then imported into Canada as a direct result of that agreement, the transaction in which the person in Canada is directly involved constitutes the sale of the goods for export to Canada. If all the requirements of subsection 48(1) of [the Act](#) have been met, the goods will be appraised under the transaction value method using the price paid or payable in this transaction as the basis for determining the value for duty.

7. Situations can arise where there is more than one sale or agreement to sell before the goods are imported into Canada (a series of sales). This usually happens when a foreign vendor and a Canadian purchaser negotiate terms for the delivery of goods to the purchaser in Canada and the vendor subsequently enters into an agreement with a third person who supplies the goods that are exported to Canada. The relevant sale for establishing the value for duty in these circumstances is the one that sets off this chain of events, i.e., the transaction in which the person in Canada is directly involved.

8. In an alternative situation where there is more than one sale or agreement to sell before goods are imported, a customer in Canada orders goods for delivery within Canada from a second person in Canada who subsequently orders the goods from a foreign supplier. The first of these two transactions is for the domestic supply of goods, even if the customer knows that the goods must be imported. The second transaction requires an international transfer of the goods to Canada. In this situation, if all the requirements of the transaction value method are satisfied, a calculation of value for duty is based on the price charged by the foreign supplier, and not on the price in the domestic supply of the goods.

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

9. Importations of goods may also occur when there is no purchaser located in Canada at the time of importation but where there is, nevertheless, a sale for export to Canada which may be used to determine the value for duty under the transaction value method.

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

### **Purchaser in Canada – Valuation for Duty Regulations**

11. The transaction value method requires that the sale for export to Canada be made to a “purchaser in Canada”. The [Valuation for Duty Regulations](#) indicate how a person located either in or outside of Canada can meet this requirement. Refer to [Memorandum D13-1-1, Value for Duty of Imported Goods](#) and [Memorandum D13-1-3, Customs Valuation – Purchaser in Canada](#) for additional information.

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

12. In situations where no agreement to sell the goods between a purchaser and vendor has been struck between the time the decision was made to export the goods to Canada and the time of importation into Canada, (e.g., a person located outside Canada imports the person’s own goods, or the goods are delivered on consignment to a person located in Canada), there is no sale for export to Canada. In such cases, the value for duty of the goods must be determined under a subsequent valuation methodology.

### **Additional Information**

13. For more information, call contact the [CBSA Border Information Service \(BIS\)](#):

Calls within Canada & the United States (toll free):  
**1-800-461-9999**

Calls outside Canada & the United States (long distance charges apply):  
1-204-983-3550 or 1-506-636-5064

TTY: **1-866-335-3237**

[Contact Us online](#) (webform)

[Contact Us](#) at the CBSA website

## APPENDIX

### Examples of Import Transaction Situations

This appendix provides examples that illustrate the meaning and application of the phrase “goods sold for export to Canada.” These examples were developed with consideration to the information provided in Advisory Opinion 14.1 and Commentary 22.1 issued by the Technical Committee on Customs Valuation of the World Customs Organization (WCO). This advisory opinion and commentary were issued to establish a uniform international application of the phrase “sold for export to the country of importation” that is reflected in the [international customs valuation agreement](#) adopted by the World Trade Organization (WTO), to which Canada’s valuation provisions conform.

All requirements of the transaction value method must be met before imported goods can be valued under section 48 of [the Act](#). Refer to [Memorandum D13-1-3, Customs Valuation – Purchaser in Canada](#) and [Memorandum D13-4-3, Customs Valuation: Price Paid or Payable](#) for additional information on these requirements. Adjustments to the price paid or payable may have to be made in the calculation of value for duty under the transaction value method. Refer to [Memorandum D13-4-7, Adjustments to the Price Paid or Payable](#), for more information.

The examples in this Appendix address only the question of which sale, if any, is the sale for export to Canada upon which the value for duty of imported goods would be based under the transaction value method.

**Situation A** – Speedy Bikes of Victoria, B.C., negotiates a price of \$102 each, for 200 Zippy bicycles with distributor Bikes City of New Westminster, B.C. Bikes City does not stock Zippy bicycles and places an order for the bicycles on manufacturer Zippy Belgium at an agreed price of \$69 each. Bikes City directs Zippy Belgium to ship the bicycles from their Belgian facility to Speedy Bikes in Victoria.

**Conclusion A** – The sale between Speedy Bikes and Bikes City is a domestic sale even though it results in the importation of goods. The sale for export to Canada is the international sale between Bikes City and Zippy Belgium and if Bikes City qualifies as a “purchaser in Canada”, the value for duty will be based on the transaction price of \$69 x 200, or \$13,800.

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

**Conclusion B** – The sale agreement between Canimpco and Usco involves an international transfer of goods to Canada and constitutes the relevant sale for export to Canada. The sale between Usco and Makerco is an event caused by the prior agreement to sell the goods for export to Canada to Canimpco and is not, therefore, the sale that initiated the series of transactions which resulted in the goods being sent to Canada. If Canimpco qualifies as a “purchaser in Canada”, the value for duty will be based on the price paid or payable of \$22.50 x 100, or \$2,250.

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

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

Even if Vimco acted as the importer, the basis for value for duty would still be \$7,200 because the sale to Canimpco is the transaction that initiated the chain of events resulting in the goods being exported to Canada; (i.e., it was the sale for export to Canada).

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

**Conclusion D** – The actual country of export is not a relevant factor in deciding whether or not a sale for export has occurred. The sale agreement between Chinexco and Canimpco does constitute a sale for export to Canada, and if Canimpco qualifies as a “purchaser in Canada”, the value for duty will be based on the selling price of  $\$2.50 \times 10,000$ , or  $\$25,000$ .

**Situation E** – Ukexco of the United Kingdom agrees to sell four transformers at  $\$50,000$  each to Ottco of Ottawa. While the transformers are being shipped across the Atlantic Ocean, Ottco declares bankruptcy and contacts Ukexco that it is unable either to take delivery or to make payment for the transformers. Before the ship docks in Canada, Ukexco is able to find a new purchaser, Halico of Halifax, for all four transformers at a price of  $\$47,000$  each. Halico takes delivery of the transformers at the dock in Halifax, and is the importer of record.

**Conclusion E** – In this case, the sale to Halico will be the relevant sale for export to Canada. The agreement between Ukexco and Ottco is of no significance because it did not result in an actual international transfer of goods to Canada as contemplated in that agreement. If Halico qualifies as a “purchaser in Canada”, the value for duty will be based on the selling price of  $\$47,000 \times 4$ , or  $\$188,000$ .

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

**Conclusion F** – There is a sale for export to Canada between the Mulnatco head office and each hotel in Canada. The sales between the U.S. suppliers and the head office in New York are not relevant as they are subsequent to the individual sales that initiated the series of transactions which resulted in the exportation of the goods to Canada. If the individual hotels can each qualify as a “purchaser in Canada”, and their relationship with Mulnatco did not influence the price, the sales between the head office and the individual Canadian hotels would form the basis for determining the value for duty under the transaction value method.

**Situation G** – Charlotteco of Charlottetown, which sells furniture world-wide, purchases 500 chairs from Frexco in France at a price of  $\$50$  each and instructs Frexco to deliver 200 chairs to Charlottetown. Charlotteco has not decided to whom it will sell the remaining 300 chairs, and instructs Frexco to deliver them to Charlotteco’s rented warehouse in Marseilles. Charlotteco subsequently sells the 300 chairs to Furnco of Calgary for  $\$70$  each. Charlotteco instructs the warehouse to arrange delivery of the chairs to Furnco, which acts as the importer of the goods.

**Conclusion G** – In this situation, there are two importations of goods that must be valued separately. In the first case, the transaction between Charlotteco and Frexco constitutes a sale for export to Canada of 200 chairs at  $\$50$  each. If Charlotteco qualifies as a “purchaser in Canada”, the value for duty will be based on the selling price of  $\$50 \times 200$ , or  $\$10,000$ .

However, the shipment of 300 chairs to Furnco cannot be valued on the basis of  $\$50$  each because these goods were not sold by Frexco to Charlotteco for export to Canada and this sale is thus not relevant for establishing their value for duty. The international transfer of the 300 chairs results from a sale for export to Canada between Charlotteco and Furnco, and if Furnco qualifies as a “purchaser in Canada”, the value for duty will be based on the selling price of  $\$70 \times 300$ , or  $\$21,000$ .

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

**Conclusion H** – The price paid or payable by Constructco to the foreign suppliers will form the basis for determining the value for duty provided that Constructco qualifies as a “purchaser in Canada”. The suppliers’ agreements to sell the goods to Constructco will identify Canada as the country of destination, and the goods will thus have been sold for export to Canada. The contract between Oilco and Constructco is for the supply and erection of an oil refinery, not for the sale of the individual items comprising the refinery. As such, it is not an agreement to sell goods for export to Canada.

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

**Conclusion I** – In this case, there is only one sale for export to Canada, the one negotiated by the sales representative with the Canadian householder. The fact that Vacco acts as the importer of the vacuum cleaners does not alter the fact that a sale for export to Canada has occurred. If the householder qualifies as a “purchaser in Canada”, the value for duty will be based on the selling price of \$600.

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

**Conclusion J** – There is no sale for export to Canada in the circumstances outlined in this example. In fact, there is no sale at all because it is not possible, from a legal point of view, for a company to sell goods to itself since there is no change in ownership. Since the transaction value method cannot be used to determine the value for duty, one of the other methods of valuation will apply (refer to [Memorandum D13-3-1, Methods of Determining Value for Duty](#)).

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

**Conclusion K** – Although there are two sales transactions in this case, there is only one sale involving the international transfer of goods to Canada. The sale between Vaccan and the householder is not relevant as it is a domestic market sale involving previously imported goods. If Vaccan qualifies as a “purchaser in Canada”, and the relationship between Vacco and Vaccan did not influence the price, the value for duty of one vacuum cleaner will be based on its selling price of \$200 U.S.

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

**Conclusion L** – In this example, there are two sales, and each one is a valid sale for export to Canada. Unlike the agreement between Ottco and Ukexco in situation E, the purchase by Canimpc was completed as contemplated. As a result, if Canimpc qualifies as a “purchaser in Canada”, the value for duty can be based on Canimpc’s purchase price of \$20,000. Refer to [Memorandum D1-4-1, CBSA Invoice Requirements](#), for details on the documentation requirements in the event Edcan uses the sale to Canimpc as the basis for the calculation of the value for duty. If Canimpc will not share information concerning its purchase of the goods with Edcan, the value for duty can be based on Edcan’s purchase price of \$39,000 if Edcan qualifies as a “purchaser in Canada”.

If Canimpc had originally sourced the silk for delivery to San Francisco for use in its factory there, but en route sold the silk to Edcan, there is only one sale for export to Canada. The sale between the Thai vendor and Canimpc would have been a sale for export to the U.S. and not an acceptable basis for the application of the transaction value method.

**Situation M** – Japexco is a Japanese trading company with a wholly-owned subsidiary in the city of Québec by the name of Nordco, which purchases all of its imported goods from its parent company. In response to a re-order signal from Nordco’s inventory system, Japexco sends a purchase order for 50,000 stuffed toy bears at 600 yen each to manufacturer Toyco of Yokohama, Japan. The purchase order directs Toyco to send the bears to Nordco’s Québec City warehouse. Japexco advises Nordco of the anticipated delivery date and generates a sales invoice to Nordco for 50,000 bears at \$8 per unit, a total of \$400,000 for the shipment.

**Conclusion M** – The relevant sale for export to Canada is the one between Japexco and Nordco. Even though there is no written purchase order or sale agreement between them, their re-order arrangement is the event that initiates the series of international transactions which results in the goods being sent to Canada. If Nordco qualifies as a “purchaser in Canada” and the relationship between Japexco and Nordco did not influence the price, the value for duty will be based on Japexco’s selling price of \$400,000.

**Situation N** – Indexco buys hand-carved wooden coffee tables in India and stores them in a Bombay warehouse awaiting orders. After a visit to Canada, Indexco’s sales manager believes that there is a market in Canada for his company’s products and ships ten samples of eight types of table on speculation to Montréal via sea freight. The eight types of table cost Indexco

an average of 500 rupees each. While the ship is crossing the Atlantic Ocean, Indexco sells all 80 coffee tables to Montabco of Sherbrooke for \$6,400.

**Conclusion N** – The only sale involving the international transfer of goods to Canada is the one between Indexco and Montabco. The sales between the maker of the coffee tables and Indexco are domestic sales because the vendor was not selling under directions to send the goods to Canada but to a location within India. If Montabco qualifies as a “purchaser in Canada” the value for duty of the imported tables will be based on Montabco’s purchase price of \$6,400.

**Situation O** – Cosmetics Inc. is a U.S. company engaged in marketing various types of perfumes, cosmetics, creams, etc., which it sources from various manufacturers throughout the world. Its Canadian operations are directed from Cosmetics head office in Syracuse, New York. Canadian sales persons visit the purchasing offices of Canadian drug stores, negotiate prices, take orders, and send them to Syracuse for processing. Goods are sold to Canadian customers on a delivered, duty-paid basis. The Canadian sales persons are paid a commission amount for each sale based on the selling price. The Syracuse office submits purchase orders to their foreign suppliers with instructions to ship the goods directly to the individual Canadian drug stores. Cosmetics Inc. acts as non-resident importer, and pays the applicable duties and taxes on importation of the goods to Canada.

**Conclusion O** – The sales for export to Canada are the sales between Cosmetics Inc. and the Canadian drug store to which the products are sold. The fact that Cosmetics Inc. will act as non-resident importer to pay the applicable Canadian duty and taxes is irrelevant. If the Canadian drug stores can each qualify as a “purchaser in Canada”, the value for duty of imported goods will be based on the price paid or payable by the drug store. Deductions from the price paid or payable for the goods for transportation, duty, and taxes included in that price can be made under paragraph 48(5)(b) of [the Act](#). No deduction from the price paid or payable can be made for commissions paid to Canadian sales persons.

## REFERENCES

<p><b>ISSUING OFFICE –</b> Trade Programs Directorate</p>	<p><b>HEADQUARTERS FILE –</b> 79070-4-4</p>
<p><b>LEGISLATIVE REFERENCES –</b> <a href="#">Customs Act</a></p>	<p><b>OTHER REFERENCES –</b> <a href="#">D1-4-1</a>, <a href="#">D13-1-1</a>, <a href="#">D13-1-3</a>, <a href="#">D13-3-1</a>, <a href="#">D13-4-1</a>, <a href="#">D13-4-3</a>, <a href="#">D13-4-7</a> <a href="#">International customs valuation agreement</a> adopted by the World Trade Organization (WTO) “The Concept of “Sale” in the Agreement” advisory opinion issued by the Technical Committee on Customs Valuation of the World Customs Organization (WCO)</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b> D13-4-2, April 17, 2001</p>	

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