



Ottawa, June 22, 2009

# MEMORANDUM D8-2-1

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## In Brief

### CANADIAN GOODS ABROAD PROGRAM

This memorandum has been revised to clarify the administration of the Canadian Goods Abroad provisions contained in sections 101 to 105 of the *Customs Tariff*. The emergency repair provision of subsection 101(2) is now the subject of a separate memorandum, D8-2-4, *Canadian Goods Abroad Program – Emergency Repairs*. Memorandum D8-2-1 has been entirely re-written.



Printed in Canada



Ottawa, June 22, 2009

# MEMORANDUM D8-2-1

## CANADIAN GOODS ABROAD PROGRAM

This memorandum explains the conditions for obtaining partial relief of the duties and taxes, including the Goods and Services Tax/Harmonized Sales Tax (GST/HST), under the Canadian Goods Abroad provisions contained in sections 101 to 105 of the *Customs Tariff*. These provisions apply to Canadian goods returned to Canada after being exported for repairs, equipment additions, or work done outside Canada and are commonly referred to as the “Canadian Goods Abroad Program” (Program).

This Program is one of many legislative provisions that enable goods to return to Canada with full or partial relief of the duties and taxes, including the GST/HST, after they have been repaired, altered, or worked on outside Canada. For additional information on other provisions consult memoranda D8-2-10 *Goods Returning to Canada Having Been Repaired Outside of Canada* and D8-2-11 *Goods Returning to Canada After Being Altered or Worked on Outside Canada*.

For information on the duty and tax treatment of goods that are returning to Canada in exactly the same condition as exported please refer to memorandum D10-14-11 *Canadian Goods and Goods Once Accounted for, Exported and Returned*.

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### LEGISLATION

Relevant portion of the *Customs Act*:

Subsection 12 (3.1) Goods returned to Canada — For greater certainty, for the purposes of the reporting of goods under subsection (1), the return of goods to Canada after

they are taken out of Canada is an importation of those goods.

Relevant portions of the *Customs Tariff*:

#### Section 80 - Definitions

“duties”, other than for the purposes of section 106, means duties or taxes levied or imposed on imported goods under Part 2, the Excise Act, 2001, the Excise Tax Act, the Special Import Measures Act or any other Act of Parliament relating to customs, but for the purposes of sections 89 and 113 does not include the goods and services tax.

#### Canadian Goods Abroad

101.(1) Relief for Canadian goods abroad — Subject to section 104, if an application is made in accordance with section 102, relief shall be granted in accordance with section 105 from payment of the portion of the duties that, but for this section, would be payable in respect of goods returned to Canada within one year or such other time as may be prescribed after their exportation in the prescribed manner if

- (a) the goods were repaired outside Canada after being exported for the declared purpose of being repaired;
- (b) equipment was added to the goods outside Canada; or
- (c) the goods were the product of Canada and work was done outside Canada on the goods.

(2) Emergency repairs — Subject to section 104, if an application is made in accordance with section 102, relief shall be granted from the payment of the whole of the duties that, but for this section, would be payable in respect of aircraft, vehicles or vessels returned to Canada after their exportation if

- (a) the aircraft, vehicles or vessels were repaired outside Canada as a result of an unforeseen contingency that occurred outside Canada; and
- (b) the repairs were necessary to ensure the safe return to Canada of the aircraft, vehicles or vessels.

(3) Regulations — The Governor in Council may make regulations

- (a) on the recommendation of the Minister, prescribing the manner for determining what goods are considered to be a product of Canada for the purposes of subsection (1); and
- (b) on the recommendation of the Minister of Public Safety and Emergency Preparedness, defining the

words “aircraft”, “vehicles” and “vessels” for the purposes of subsection (2).

102. Application — An application for relief under section 101 must be

(a) accompanied by evidence satisfactory to the Minister of Public Safety and Emergency Preparedness that the goods were exported and

(i) in respect of goods referred to in paragraph 101(1)(a), repairs could not have been made in Canada at the place the goods were located before their exportation or within a reasonable distance of that place,

(ii) in respect of equipment referred to in paragraph 101(1)(b), the equipment added could not practicably have been added in Canada, or

(iii) in respect of goods referred to in paragraph 101(1)(c), it would not have been practicable to do the work in Canada; or

(b) if the application is made under subsection 101(2), made in the prescribed form and manner, with the prescribed information, at the time of the return to Canada of the goods in respect of which the application is made.

103. Release of returned goods — Subject to section 104, goods in respect of which relief is granted under section 101 before they are released may be released without any payment of duties.

104. Conditions for relief — Relief shall be granted under section 101 in respect of goods that were returned to Canada after being exported only if

(a) relief, conditional on the exportation of the goods, was not granted in respect of any duties paid or payable; or

(b) if an application for relief under subsection 101(1) is made, the portion of the duties, calculated in accordance with paragraph 105(1)(b), has been paid.

105.(1) Value for duty of work abroad — For the purposes of subsection 101(1), the portion of the duties in respect of which relief is granted under that subsection shall be

(a) the amount that, but for that subsection, would be payable in respect of the returned goods less

(b) the amount obtained by applying the rate that would, but for that subsection, be applied to determine the duties under paragraph (a) to the value of

(i) in respect of goods referred to in paragraph 101(1)(a), the repairs made outside Canada,

(ii) in respect of equipment referred to in paragraph 101(1)(b), the equipment added and related work done outside Canada, or

(iii) in respect of goods referred to in paragraph 101(1)(c), the work done outside Canada.

(2) Regulations — For the purposes of subsection (1), the Governor in Council may, on the recommendation of the Minister of Public Safety and Emergency Preparedness, make regulations prescribing the method of determining the value of repairs made, equipment added and work done outside Canada.

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## GUIDELINES AND GENERAL INFORMATION

### Definitions

1. The term “duties” used in this memorandum means duties as defined in section 80 of the *Customs Tariff*. It includes customs duties imposed under Part 2 of the *Customs Tariff*, duties imposed under the *Special Import Measures Act*, taxes imposed under the *Excise Act, 2001* and the *Excise Tax Act*, and duties or taxes imposed under any other Act of Parliament relating to customs. This includes the goods and services tax (GST) and the harmonized sales tax (HST).

2. The term “value of the processing” used in this memorandum means the value of the repair, addition or work done abroad, and the value of any goods and services provided to the processor free of charge or at a reduced cost. It also includes the cost of freight and associated charges to ship the goods from Canada to the location outside Canada and the cost of insuring the goods from the date of export from Canada to the date the goods begin their return journey to Canada. With regards to owner-supplied equipment that is provided to the processor from Canada, such materials also form part of the value of the processing of the good upon its return to Canada. At the time of export, the importer can request a drawback of any customs duties previously paid on the owner-supplied equipment. Please note that plant equipment and fuel are not subject to drawback. For further information on drawbacks, please consult memorandum D7-4-2 *Duty Drawback Program*.

3. For the purposes of administering the program, the term “repair” is defined as a corrective maintenance activity, which restores an item to its original “as-finished” condition. It includes replacing pieces of the good with new, reconditioned, overhauled or rebuilt components. “Repair” includes, but is not limited to, activities such as restoration, renovation, re-dyeing, cleaning, and re-sterilizing.

4. For the purposes of administering the program, the term “added” means permanently attached or united to the good. The equipment added must be wired into, welded onto, bolted onto, or screwed onto the exported good. If the foreign equipment is only temporarily added, for example, plugged into, strapped onto, or chained onto the good, then the good and the equipment should be accounted for separately. For example a chemical drum attached to a trailer by cords where the trailer is the exported good. The trailer would be accounted for under tariff item 9813.00.00 or 9814.00.00 and the chemical drum would be duty paid.

5. For the purposes of administering the program, the term “work” refers to an operation that changes the shape of a good or imparts new and different characteristics to a good that become an integral part of the good itself and did not exist in the good before the process was applied to it. An operation or process that is part of the production or assembly of an unfinished good into a finished good is also considered to be “work.” For the purposes of the Canadian Goods Abroad Program, an “alteration” is considered to be “work.”

6. For the purposes of the program, the “Canadian value” of the good is calculated as the value for duty (VFD) of the good at the time of importation, determined in accordance with the valuation provisions in sections 45 to 55 of the *Customs Act*, less the value of the processing. The value for duty of repaired goods is generally greater than the value of damaged or broken goods, and while some importers have questioned the methodology for establishing the Canadian value of repaired goods, it is to be calculated in accordance with the instructions above.

## Background

7. As per subsection 12(3.1) of the *Customs Act*, all goods imported into Canada, even goods that have been in Canada prior to the importation at issue, are subject to duties and taxes, including the GST/HST, unless there is a provision in legislation or regulation that relieves or remits the requirement to pay.

8. Goods that are returned to Canada after being exported for repairs, equipment additions, or work done abroad may, under subsection 101(1) of the *Customs Tariff*, qualify for partial relief of the duties owing. Subsection 101(1) relieves the requirement to pay duties on the Canadian value of the imported goods if the goods meet the conditions of section 102 of the *Customs Tariff*.

## Conditions

9. The conditions vary depending on whether the goods are repaired, added to, or worked on while outside Canada. However, in each of these three circumstances the importer must provide proof of export and the goods must return to Canada within one year from the date of exportation.

10. The importer does not have to be the exporter of the Canadian goods. However, for verification purposes, there must be supporting documentation linking the exported goods to the imported goods that clearly details the value of the processing.

## Repair

11. Paragraph 101(1)(a) of the *Customs Tariff* partially relieves the duties on goods exported for repair and re-entered into Canada on condition that there was no Canadian company within a reasonable distance from where the goods were located before export that could have done the repairs. To qualify under the program the goods exported for the purpose of repair must have either been produced in Canada or be foreign goods on which Canadian duties were paid. Duties are paid on the value of the processing.

12. Goods repaired in one of Canada’s free trade partner countries should be re-imported into Canada under the provisions of tariff item Nos. 9992.00.00 or 9971.00.00. Additional information on tariff item No. 9992.00.00 can be found in Memorandum D8-2-26, *Goods Re-entered After Repair or Alteration in the United States, Mexico, Chile, Israel, or Another CIFTA Beneficiary*. Additional information on tariff item No. 9971.00.00 can be found in Memorandum D8-2-25, *Canadian Vessels Repaired or Altered in the United States, Mexico, Chile, Israel, or Another CIFTA Beneficiary*.

13. The importer does not have to obtain authorization from the CBSA prior to exporting the goods to claim the benefits of Paragraph 101(1)(a). However, if asked, the importer must be prepared to provide proof satisfactory to the CBSA that the goods could not have been repaired in Canada within a reasonable distance from the place where the goods were prior to export. A list of Canadian companies contacted (including names, telephone numbers and dates) or rejection letters from Canadian companies are forms of acceptable proof.

14. In determining what constitutes a reasonable distance from where the goods were located before export, the cost and time required to transport the goods to the Canadian location and to the location outside of Canada will be taken into consideration.

## Additions

15. Paragraph 101(1)(b) of the *Customs Tariff* partially relieves the duties on goods returning to Canada that have had foreign equipment added to them while they were outside Canada. To qualify under the program the goods must have either been produced in Canada or be foreign goods on which Canadian duties were paid. The equipment added could not practicably have been added in Canada. Duties are payable on the value of the processing.

16. The equipment added to the good outside Canada, while generally physically smaller than the good, may be physically larger.
17. The importer must obtain authorization from the CBSA prior to exporting the goods to claim the benefits of paragraph 101(1)(b). The application must be submitted at least three months prior to the exportation of the goods. CBSA officials must have sufficient time to review the material provided and, where necessary, contact other government departments. The application is to be submitted to the closest CBSA office.
18. The application consists of:
- (a) authorization to share the information provided with other government departments (for consultation purposes only) (Appendix A),
  - (b) detailed description of the goods and the proposed additions, for example a copy of the contract proposal or bid solicitation (including where the contract or bid solicitation was advertised or posted),
  - (c) copy of the work order or contract with the foreign supplier of the equipment that will be added, and
  - (d) copies of the rejected bids received from Canadian companies or contact information for the Canadian companies consulted by the importer.

19. In administering the program, the CBSA does not consider the cost to make the additions or the quality of the additions in determining whether or not it is practicable to do the work in Canada. The cost and time to transport the goods to the Canadian location and the location outside of Canada will not be taken into consideration when determining practicability.

#### **Work Done**

20. Paragraph 101(1)(c) of the *Customs Tariff* partially relieves the duties on goods returning to Canada having been exported to be worked on, whether or not the country where the work was done is a free trade partner country. To qualify under the program the goods to be exported must be a product of Canada and the work to be done, generally a phase of production, cannot practicably have been done in Canada. Duties are paid on the value of the processing.

21. The exported goods must be a product of Canada. This means that:

- (a) the whole of the value of the goods at the time of export is produced in Canada; or
- (b) the goods, the whole or a portion of which are produced outside of Canada, are deemed to be produced in Canada.

22. The goods may be deemed to be produced in Canada if:

- (a) the goods are transformed sufficiently to result in a change in tariff classification; and

- (b) the value of Canadian materials plus the direct cost of processing or assembling performed in Canada is 50% or more of the total value of the goods using the net cost method, or 60% or more using the transaction value method.

Consult Memoranda D11-4-2, *Proof of Origin*, or D11-5-1, *NAFTA Rules of Origin Regulations*, for more information.

23. The importer must obtain authorization from the CBSA prior to exporting the goods to claim the benefits of this provision. The application must be submitted in writing at least three months prior to the exportation of the goods. CBSA officials must have sufficient time to review the material provided in the submission and, where necessary, contact other government departments.

24. Written applications for one time only importations are to be submitted to the CBSA office in the region where the importation will be accounted for. All applications for more than one importation of the goods are to be submitted in writing to Headquarters at the following address:

Manager, Trade Incentives and Refunds  
Trade Programs Directorate  
150 Isabella St, 8th floor  
Ottawa ON  
K1A 0L8

25. The application consists of:

- (a) authorization to share the information provided with other government departments,(for consultation purposes only), Appendix A and
- (b) the completed questionnaire attached as Appendix B to this memorandum.

26. In reviewing applications under paragraph 101(1)(c), the CBSA does not consider the cost or quality of the work in determining whether or not it is practicable to do the work in Canada. Nor does the CBSA take the cost and time to transport the goods to the Canadian location and the location outside of Canada into consideration.

#### **Documentation**

27. Upon importation, the goods must be documented on a *Canada Customs Coding Form*, Form B3-3. The importer, if asked, must have available for review the following:

- (a) any certificates, licenses, permits, invoices, or other documents required under the *Customs Act* or any Act of other government departments (OGDs) or regulations that prohibit, control, or regulate the export and import of goods,
- (b) proof of export sufficiently detailed to enable the reviewing CBSA officer to identify the returned goods such as identifying marks, model numbers, or serial numbers; and

(c) proof satisfactory to the reviewing CBSA officer that the goods could not have been repaired in Canada within a reasonable distance or a copy of the CBSA letter authorizing the equipment additions or work done.

28. In some cases, the goods may be completely transformed by the work done while outside Canada. For example, felt material that is exported from Canada to be cut and sewn into liners for boots. However, it must be possible to audit the movement of the goods exported from Canada to the location outside Canada where the work was done and the return of those goods to Canada. A signed declaration by the manufacturer that the imported goods incorporate the goods exported from Canada may also be required. The signed declaration must include the full name, address, and telephone number of the manufacturer.

29. Supporting documents may include invoices (customs or commercial), price lists, permits, licenses, certificates, and cargo control documents (e.g., manifests, waybills) presented at the time of release as explained in Memorandum D17-1-0, *Accounting for Imported Goods and Payment of Duties Regulations*.

30. The value for duty (VFD) of the imported good must be determined in accordance with the valuation provisions in sections 44 to 55 of the *Customs Act*. Supporting documentation must be provided to enable the reviewing CBSA officer to determine the value of the processing separately from the Canadian value of the good.

31. The tariff treatment code shown in field 14 of the subheader will be the code applicable to the country where the work was done.

32. A two-line entry is required:

The first line will account for the Canadian value of the good. The classification number entered in field 27 is the 10 digit number from Chapters 1 through 97 of the *Customs Tariff*. The VFD declared on this line is the Canadian value of the good calculated by subtracting the value of the processing from the value for duty of the imported good determined in accordance with the valuation provisions in sections 44 to 55 of the *Customs Act*. In order to relieve the duties owing against this line, the appropriate special authorization code from the following table is to be entered in field 26 of the B3-3:

Special Authorization Code	Legislative Reference
98-01-0101	repairs under paragraph 101(1)(a)
98-03-0101	equipment additions under paragraph 101(1)(b)
98-04-0101	work done under paragraph 101(1)(c)

33. The second line will account for the value of the processing done outside Canada. For this line, the same classification number is shown in field 27 as for the first

line. The VFD shown is the value of the processing. Duties, including GST/HST, are calculated and collected on this VFD.

### Proof of Export

34. Any of the following documents may be accepted as proof of exportation:

- (a) an export declaration such as a Form B13A *Export Declaration*, *Canadian Automated Export Declaration* (CAED), G7 EDI Export Report, or a Summary Report
- (b) a consumption entry or landing certificate for the country to which the goods were exported;
- (c) a U.S. *Certificate of Disposition of Imported Merchandise* (C.F. 3227);
- (d) a Form E15;
- (e) a Form A8A, *Customs Cargo Control Document*; IATA Airway bill, master airway bill, or a consist sheet for couriers that do not use IATA waybills; A5, *Train Report* or electronic manifest; or an A6A, *Freight/Cargo Manifest*; or
- (f) other documentation that establishes that the goods were exported, including, but not limited to, purchase orders and invoices, shipping documents, requisitions, inventory reports, processes or production records, stocking records, sales invoices, accounts payable and accounts receivable, carrier contracts, waivers and or reports.

35. An affidavit is not an acceptable proof of export.

### Corrections

36. If the imported goods were eligible for a provision of subsection 101(1) of the *Customs Tariff* but it was not claimed at the time of importation and full duties payable under the *Customs Tariff* were paid at the time of accounting, the importer can obtain a refund of the duties which were eligible under the program. *Canada Customs - Adjustment Request*, Form B2 is used to claim the refund. The authority for the refund is section 113 of the *Customs Tariff*. (Non-commercial importers can request a refund on a *CBSA Informal Adjustment Request*, Form B2G.)

37. On the Form B2, the “as accounted” line is copied from the Form B3-3. The “as claimed” lines are completed as directed in paragraphs 31 to 33.

38. Subsection 32.2(4) of the *Customs Act* allows the applicant four years from the date of accounting under subsection 32(1), (3), or (5) to make such corrections.

### Extension of Time Limits

39. Authorizations for more than one importation of the goods under subsections 101(1)(b) or 101(1)(c) of the *Customs Tariff* are generally granted for a period of two years. Applications for extensions must be submitted at

least three months before the expiry date of the importer's authorization to import the goods.

**Additional Information**

40. Any questions regarding this memorandum should be directed to:

Manager  
Trade Incentives and Refunds Unit  
Tariff Policy Division  
Trade Programs Directorate  
Admissibility Branch  
Canada Border Services Agency  
150 Isabella Street, 8th floor  
Ottawa ON K1A 0L8

Telephone: 613-954-6878  
Facsimile: 613-952-3971

**APPENDIX A****CONSENT TO RELEASE INFORMATION PROVIDED  
FOR CANADA BORDER SERVICES AGENCY PURPOSES**

I, (insert name), (if applicable) as an agent of (insert company name) hereby consent that Canada Border Services Agency (CBSA) release information provided as part of an application under the Canadian Goods Abroad provisions of the *Customs Tariff* to other federal government departments and agencies. I understand this information may not be released by the CBSA to any other third party without my consent. Nor can the other federal government departments and agencies provided with this information share said information with a third party without my written consent and may only use the information for the purpose for which it is provided. The information provided by the CBSA to other federal government departments and agencies pursuant to this consent is provided solely to assist in a determination of eligibility under the Canadian Goods Abroad provisions and for no other purpose. Any unauthorized use of the information received pursuant to this consent will be considered a breach of the disclosure of information authority contained in subsection 107(9) of the *Customs Act*.

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Signature

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dated

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Witness (sign name)

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Witness (print name and title)

**APPENDIX B****QUESTIONNAIRE FOR APPLICATION  
UNDER PARAGRAPH 101(1)(C) OF THE CUSTOMS TARIFF****Applicant (Importing Company) Background**

1. Company business number.
2. Full company name, address, contact, title, and telephone number.
3. Nature of applicant's business. For example: furniture manufacturer, beverage producer
4. Application type:  one time,  repetitive request
5. Are you the exporter of the Canadian goods? if yes go to question 10. If not go to question 6.

**Exporting Company Background (if not the Importing Company)**

6. Company business number.
7. Full company name, address, contact, title, and telephone number.
8. Nature of exporter's business. For example: furniture manufacturer, beverage producer.
9. Relationship to Importing Company.

**Goods for Export**

10. Fully describe the goods including tariff classification and where possible include a sample (the sample will be returned).
11. Provide proof that the goods are a product of Canada.
12. Quantity of goods and the anticipated export date(s).
13. Export value of the goods.

**Goods After Foreign Processing**

14. Fully describe the goods including tariff classification and tariff treatment.
15. Provide a copy of the contract proposal or bid solicitation (identify where the contract or bid solicitation was advertised or posted). Describe the work done and to be done on the Canadian product:
  - (a) before export;
  - (b) while outside Canada (fully describe all steps), and
  - (c) after the goods return to Canada.
16. Name and address of foreign processing company. Attach a copy of the work order or contract.
17. Value of the processing abroad. Breakdown by:
  - (a) value of the work done abroad,
  - (b) value of any goods or services provided free of charge or at a reduced cost (Note: includes owner-supplied equipment, which is Canadian-sourced, duty-paid or duty-free); and
  - (c) cost of freight and associated charges incurred prior to or at the place of direct shipment of the goods back to Canada (includes the transportation costs to send the goods to the location outside Canada and the cost of insuring the goods from the date of export to the date the good begins its return journey to Canada)
18. Duties payable annually based on the value of processing times the duty rate.
19. Is there a relationship between the processor and applicant?
20. Does the foreign processor have proprietary rights, for example: patent, trademark, copyright, or license fee agreements.
21. Identify the CBSA port of entry where the goods will be accounted for.

**Canadian Companies**

22. Supply copies of any bids received from Canadian companies that were rejected detailing the reason for the rejection.
23. List Canadian companies approached to do the work including contact names, and telephone numbers (supply copies of any correspondence explaining their ability/inability to do the work.) If no Canadian companies were approached provide an explanation.

**Applicant's Operations**

24. Does your company plan to construct or expand its Canadian facilities to do the work that is the subject of this application? If not, explain why. If yes, include supporting documentation, signed by a responsible company officer, such as:
  - (a) a document from the board of directors or president allocating funds to establish facilities, with the probable start-up date;
  - (b) copies of purchase orders for equipment and machinery; or
  - (c) a business plan of the corporate structure, employees, business environment, competition with current suppliers, market strategies, capital injections, and expenditures with detailed three-year forecasts, risks, and opportunities assessment.

**Labour Disruption**

25. Is there a strike or a work slowdown at the applicant's or (if applicable) the exporter's facility?
26. Is there is a strike or a work slowdown at a Canadian facility that supplies the applicant's or (if applicable) the exporter's facility that is resulting in material deficiencies?
27. What is the relationship between the foreign processing facility and the strikebound Canadian company?

## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Trade Incentives and Refunds Unit          Tariff Policy Division          Trade Programs Directorate          Admissibility Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>6565-0</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Customs Tariff</i>, sections 16, 80, 101 to 105; <i>Customs Tariff</i>, heading Nos. 9813 and 9814; <i>Customs Act</i>, subsection 12(3.1); <i>Excise Tax Act</i>, sections 212-216; Orders in Council P.C. 1990-939, P.C. 1982-1994</p>	<p><b>OTHER REFERENCES –</b></p> <p>D7-4-2, D8-2-10, D8 2-11, D8-2-25, D8-2-26, D10-14-11, D17-1-0, D11-4-2, D11-5-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>D8-2-1, March 22, 1999</p>	

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

