

6.5 Temporary Importation of Goods

6.5.1 United States to Canada

Materials or equipment owned by the U.S. government qualifies for a general duty exemption under Customs Tariff Item 70800-1. The Department of National Revenue will provide details regarding the procedures for claiming exemption in such cases.

There is no general statement of exemption from duty for privately-owned equipment entering Canada from the United States on loan for production, research or test purposes except that of 6.5.1.1 below. Each request for exemption is handled individually. Further information on procedures and regulations may be obtained from the Deputy Minister, Department of National Revenue, Customs and Excise, Ottawa. The Canadian contractor who is borrowing the equipment should write to the Deputy Minister, well in advance of the shipping date, stating the purpose and circumstances under which the proposed loan is to be made. If an urgent situation arises, the Headquarters Operations Directorate of the Department of National Revenue should be asked for assistance.

6.5.1.1 Temporary Importing for Manufacturing Purposes

Canadian firms awarded contracts to manufacture products under the Defence Production Sharing Program may import moulds, patterns, tooling, cutting tools, dies, testing machines and instruments which are committed by design and for use exclusively in the production or testing of goods produced under the terms of the contract. (Refer to paragraphs 2 and 3 of DNR Memorandum D53-11).

6.5.2 Canada to the United States

Schedule 8, Part 5, of the Tariff Schedule of the United States includes a number of tariff items under which articles may be admitted free of duty, under bond. Attention is invited especially to items 864.30 and 864.55 which may be relevant for Canadian companies wishing to bring product samples into the United States. Canadian companies contemplating such activity are urged to obtain specific guidance in advance concerning each individual case from U.S. Customs at the proposed port of entry.

6.6 Defective Goods Returned to Canada

Procedures to be followed for the return to Canada of articles needing rework are outlined in paragraph 3.4.1 of the "Defence Export Shippers' Guide". If the goods originally entered the United States free of duty, nothing further is required, but if, for some reason, duty has been paid upon original entry, the U.S. firm may receive a refund of the duty when the goods are returned.

The U.S. Tariff Act of 1930, Section 313(c), as amended, covers this case as follows:

"Merchandise not Conforming to Sample Specification"

Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from Customs custody, unless the Secretary authorizes in writing a longer time, returned to Customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties."

The rejected merchandise may be returned to U.S. Customs custody at any port of entry and claims for refund filed there. This U.S. Customs Office in turn will contact the original port of entry concerning details of the importation.

Application for an extension of time within which to return the merchandise to Customs custody should be filed with the Collector at the port where the merchandise is to be returned and drawback entry filed.

The Canadian Customs Tariff permits the duty-free re-entry of defective goods into Canada as follows:

- a) The provisions of Order-in-Council, P.C. 1970-1913, (DNR Memorandum 53-11) provide for remission authority in connection with the re-importation of faulty or rejected equipment. Remissions should be claimed in all cases where the rejected equipment contains material or components that had previously entered Canada under the remission provisions of the Order.
- b) Contractors, who have exported defence equipment manufactured exclusively from Canadian supplies or from imported supplies where no previous remission benefits have been claimed, can claim the release of re-imported faulty or rejected equipment under Tariff Item 70905-1 or Tariff Item 70910-1.

When re-importing under the 709 tariff items, the goods would not be eligible for entry under the items unless the amount of duty allowed under any previous refund, drawback, or remission is repaid to the Crown.

Each case should be decided according to its individual circumstances by referring it to the Headquarters Operations Directorate of the Customs and Excise Division of the Department of National Revenue.