



Ottawa, July 14, 2006

MEMORANDUM D10-14-39

In Brief

CANADIAN DIAMONDS EXPORTED AND RETURNED

This Memorandum explains the Canada Border Services Agency administrative policy relating to the provisions of tariff item 9813.00.00 as it relates to Canadian diamonds.



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This Memorandum outlines and explains the provisions of tariff item 9813.00.00 as it relates to Canadian diamonds.

Legislation

Tariff item 9813.00.00 reads as follows:

9813.00.00

Goods, including containers or coverings filled or empty, originating in Canada, after having been exported therefrom, if the goods are returned without having been advanced in value or improved in condition by any process of manufacture or other means, or combined with any other article abroad. For the purpose of this tariff item:

(a) goods on which a refund of customs duty or drawback of customs duty has been made shall not be classified under this tariff item except upon payment of the customs duty equal to the refund or drawback allowed; and

(b) goods manufactured in bond or under excise regulations in Canada and exported shall not be classified under this tariff item except upon payment of the customs duty to which they would have been liable had they not been exported from Canada.

Classification Number 9813.00.00.41 reads as follows:

9813.00.00.41

Diamonds otherwise classifiable to 7102.10, 7102.21 or 7102.31

Classification number 9813.00.00.49 reads as follows:

9813.00.00.49

Other diamonds otherwise classifiable to 7102.29 or 7102.39

GUIDELINES AND GENERAL INFORMATION

1. In order to achieve full compliance in the administration of tariff item 9813.00.00 as it relates to Canadian diamonds that have been exported and returned to Canada, the following information is supplied to assist both importers and Canada Border Services Agency officers in determining eligibility of goods for importation under this tariff item. This information is to be applied in conjunction with the guidelines and general information contained in Memorandum D10-14-11, *Canadian Goods and Goods Once Accounted for, Exported and Returned*.

2. For the purposes of this Memorandum, rough diamonds are limited to unworked stones that while abroad may have undergone grading, sorting and/or cleaning. Since such diamonds have not been physically altered by a process of manufacture, they would be eligible for the benefits of tariff item 9813.00.00.

3. If Canadian diamonds undergo any processing while abroad and are subsequently returned to Canada, these stones would not be eligible for the benefits of tariff item 9813.00.00. Such processing includes the following stages:

- (a) Sawing/cutting/cleaving (splitting or dividing the rough stone into two parts);
- (b) Prebuting (initial attempt to make the stone round in the case of a brilliant cut);
- (c) Table polishing (remove sawing lines and define the final table);
- (d) Blocking (pre-shape the stone on the top side and the bottom side);
- (e) Bruting (final diameter of the stone is given);
- (f) Bottom polishing (final bottom facets are polished);
- (g) Table smoothing (final table is polished); and
- (h) Top polishing (final top facets are polished).

It should be noted that the term “preprocessing” is also used in the diamond industry. This may refer to a diamond, which has undergone some processing but has yet to have the final facets polished (i.e. stages from (a) to (e) only). Such stones are also not eligible for the benefits of tariff item 9813.00.00.

4. Currently, all Canadian diamonds are mined in the Northwest Territories and Nunavut. The vast majority of rough diamonds, which are mined in Canada, undergo final sorting, grading and evaluation in Antwerp, Belgium. Generally, less than 5% of all Canadian rough diamonds are returned to Canada. The remaining 95% are sold without returning to Canada to buyers in other countries.

5. Polished diamonds are stones that have undergone complete manufacturing and are ready to be mounted into jewellery or used in other applications.

6. After cutting and polishing, diamonds that are destined for foreign markets are rarely returned to the originating Canadian cutting and polishing operation. In those instances where they are returned, it is almost always for the purpose

of reprocessing the diamonds to correct manufacturing flaws. Such stones are eligible for the benefits of tariff item 9813.00.00.

7. For insurance reasons, all diamonds are transported by specialized bonded gem forwarders such as Malca-Amit Courier Services of Tel Aviv and Brinks Diamond and Jewellery Security Inc.

8. The Canadian diamond industry maintains very sophisticated internal control systems over their products. Both Canadian mining operations and Canadian cutting and polishing companies maintain extensive in-house computer tracking systems that monitor the processing of diamonds. Within these systems the origin of the diamond and the stage of processing for a particular time frame can normally be ascertained.

9. In Canada the minimum standard, which has been established to validate a Canadian diamond for marketing purposes, is the Competition Bureau's Enforcement Policy on the Marketing of Canadian Diamonds. The policy is based on a paper trail and a chain of warranties. The only issue with this policy from a Canada Border Services Agency perspective, as it relates to tariff item 9813.00.00, is that any diamond mined in Canada maintains its Canadian status, for marketing purposes, even if it has been processed outside the country. As a result there may be a tendency for importers to improperly declare diamonds mined in Canada under 9813.00.00 even when processing or preprocessing has occurred outside of the country.

10. Under the *Export and Import of Rough Diamonds Act*, a Kimberley Process Certificate is required to accompany all exports and imports of rough diamonds. The Certificate certifies that the shipment was processed and shipped in accordance with the requirements of the Kimberley Process as outlined in Memorandum D19-6-4, *Kimberley Process – Export and Import of Rough Diamonds*. A Kimberley Process Certificate specifies the country of mining origin of the diamonds, since its purpose is to prevent conflict (rough) diamonds from entering into the legitimate world markets. However a Kimberley Process Certificate does not provide sufficient evidence to determine whether the diamond qualifies as Canadian goods returned pursuant to tariff item 9813.00.00.

Tariff Classification

11. Diamonds eligible for the benefits of tariff item 9813.00.00 are classified as follows:

- (a) Rough diamonds as defined in paragraph 2 under classification number 9813.00.00.41
- (b) Polished diamonds as defined in paragraph 5 under classification number 9813.00.00.49

Supporting Documentation

12. In addition to Kimberley Process Certificates and documentation required under the Competition Bureau's Diamond Enforcement Policy, importers may also be required to provide one or more of the following types of available documentation that will substantiate the diamonds being imported are of Canadian origin and have not been advanced in value or improved in condition by any process of manufacture or other means, or combined with any other article abroad.

Rough Diamonds

- (a) Unique export parcel number assigned to the diamond shipment at the time the diamond was originally exported from Canada; and
- (b) Copy of the diamond's parcel paper (a folded sheet of paper containing the diamond and processing information – estimated yield, dimensions, inclusions, etc.).

Polished Diamonds

- (a) Government of the Northwest Territories Polished Diamond Certificate, or similar provincial or territorial certification document;
- (b) A commercial certificate containing a unique diamond production number or diamond identification number (e.g. Tiffany Diamond Certificate);
- (c) A DIAMMARX or similar unique gem-print; and
- (d) Copy of the diamond's parcel paper (a folded sheet of paper containing the diamond and processing information – estimated yield, dimensions, inclusions, etc.).

13. Importers are required to maintain such supporting documentation upon request from Canada Border Services Agency officers for such post importation activities such as compliance verification audits and re-determinations of tariff classification.

REFERENCES

<p>ISSUING OFFICE – Tariff Policy Division</p>	<p>HEADQUARTERS FILE – N/A</p>
<p>LEGISLATIVE REFERENCES – <i>Customs Tariff</i>, tariff item 9813.00.00</p>	<p>OTHER REFERENCES – D10-14-11, D19-6-4</p>
<p>SUPERSEDED MEMORANDA “D” – N/A</p>	

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

