



Ottawa, September 6, 2007

# MEMORANDUM D10-14-51

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## In Brief

### TARIFF CLASSIFICATION POLICY: TARIFF ITEM 9948.00.00

This memorandum outlines the Canada Border Services Agency's policy as it relates to the tariff classification of goods under tariff item 9948.00.00 of the *Customs Tariff*.



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### Legislation

#### *Customs Tariff*

2.(1) Definitions — The definitions in this subsection apply in this Act.

“for use in”, wherever it appears in a tariff item, in respect of goods classified in the tariff item, means that the goods must be wrought or incorporated into, or attached to, other goods referred to in that tariff item.

#### Tariff item 9948.00.00

Articles for use in the following:

Automatic banknote dispensers;

Automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data;

Automatic word-processing machines;

Chart recorders and other instruments for measuring or checking electrical quantities, designed for use with automatic data processing machines; Electronic calculating machines;

Magnetic discs;

Numerical control panels with built-in automatic data processing machines; Power supplies of automatic data processing machines and units thereof; Process control apparatus, excluding sensors, which converts analog signals from or to digital signals;

Video games used with a television receiver, and other electronic games;

Parts and accessories of the foregoing.

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## GUIDELINES AND GENERAL INFORMATION

### Background

1. Initially, tariff item 9948.00.00 was administered on a very narrow basis. Only goods that were committed by

design to enhance the functioning of computers and other high-tech products cited in tariff item 9948.00.00 were afforded customs duty-free importation under this tariff item. However, with the extremely rapid advances and convergence of technologies, a much broader range of goods are now capable of being for use in computers and the other high-tech products identified in tariff item 9948.00.00.

2. The term “for use in” used in tariff item 9948.00.00 is defined in subsection 2 (1) of the *Customs Tariff*. It means that the goods must be wrought or incorporated into, or attached to, computers and the other high-tech products identified in tariff item 9948.00.00. The Canadian International Trade Tribunal (CITT) has reflected the aforementioned technological advances and convergences in a series of decisions related to tariff item 9948.00.00. The decisions (Appeal AP-99-116, AP-2001-097) have established jurisprudence that defined the interpretation and scope of tariff item 9948.00.00. In particular, the CITT decisions established that the term “attached to” could also be interpreted to mean, “functionally joined”.

### Tariff classification policy

3. To satisfy this “functionally joined” standard, the goods must be physically connected to the host unit and must enhance the function of the host unit.

4. In addition, there is no requirement for the goods seeking the benefits of tariff item 9948.00.00 to remain permanently attached to the host unit.

Example:

A musical CD is inserted into the CPU of a computer. The host unit is the computer and the musical CD is the good seeking the benefits of tariff item 9948.00.00. The CD is physically connected to the computer by means of the CD port in the CPU. The CD enhances the computer by allowing it to play music from the CD, however, the CD does not have to remain in the CD port in the CPU.

### Requirements

5. At the time of importation, to classify their goods under tariff item 9948.00.00, the importer, or their agent, does not have to provide proof that the goods meet the “for use in” requirement. It is sufficient that the potential exists.

6. However, this “potential” must be exercised. In the event of a verification, importers are expected to provide end-use certificates confirming that the goods were solely used for the purpose for which they were imported.

7. If the goods are diverted to a use not covered by the provisions of tariff item 9948.00.00 within four years of their date of accounting, subsection 32.2(6) of the *Customs Act* requires the importer to make a correction to the declaration of tariff classification and pay any applicable duties and taxes.

8. For additional information contact:

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## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Tariff Policy Division Trade Programs Directorate Admissibility Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>HS 9948.00</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Customs Tariff</i> General Rules for the Interpretation of the Harmonized System Explanatory Notes to the Harmonized Commodity Description and Coding System</p>	<p><b>OTHER REFERENCES –</b></p> <p>N/A</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>N/A</p>	

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

