



Ottawa, April 2, 2015

# Memorandum D10-15-24

## Tariff Item No. 9979.00.00 – Goods Specifically Designed to Assist Persons With Disabilities

### In Brief

This memorandum has been revised to more fully reflect the Canada Border Services Agency's administration of conditional relief tariff item 9979.00.00.

This memorandum provides the Canada Border Services Agency's administrative policy regarding tariff item 9979.00.00.

### Legislation

#### Customs Tariff

Tariff item No. 9979.00.00 reads as follows:

Goods specifically designed to assist persons with disabilities in alleviating the effects of those disabilities, and articles and materials for use in such goods.

### Guidelines and General Information

#### Eligibility for tariff item 9979.00.00

1. In order for a good to qualify for the duty free benefits of tariff item 9979.00.00, it must satisfy the following two conditions:
  - (a) The good must be specifically designed to assist persons with disabilities; and
  - (b) The good must assist such persons in alleviating the effects of those disabilities
2. These two conditions require that during the research, design and development stages of a qualifying good, the engineer, manufacturer or producer deliberately and consciously incorporated specific design elements that assist persons with disabilities in alleviating the effects of those disabilities.
3. Consult the [World Health Organization](#) for a detailed definition of the word "disability".

#### The scope of "specifically designed"

4. The expression "specifically designed" should not be interpreted to mean "exclusively designed" or "solely designed" for a purpose.
5. The design intent of a good that alleviates the effects of a disability can also be inclusive, successfully meeting the needs of a broad spectrum of the population. The principle of "universal design" (reference: Wolseley Canada In. v. the President of the Canada Border Services Agency: AP-2012-066), whereby products are designed to meet the needs of both persons with and without disabilities, can include specific design elements that qualify goods for the benefits of tariff item 9979.00.00.

6. Care should be taken not to assume that simply because a person with a disability uses a particular good and benefits from use of the particular good, that the two “specifically designed” conditions of tariff item 9979.00.00 have been satisfied.

7. Conversely, that a good is used by persons without a disability does not mean that the good has not been specifically designed to assist person with disabilities in alleviating the effects of those disabilities.

### **Documentation to support a claim for tariff item 9979.00.00**

8. With the exceptions of those goods referred to in paragraph 9 below, importers claiming the benefits of tariff item 9979.00.00 are required to support their claim by providing evidence that a product was specifically designed to assist persons with disabilities in alleviating the effects of those disabilities. Such evidence must be made available to the Canada Border Services Agency (CBSA), upon request of an officer during a post-release verification, or submitted when filing a Form [B2, Canada Customs – Adjustment Request](#). The evidence should include the following information:

- (a) The name of the particular disability(ies) that the subject good was specifically designed to alleviate;
- (b) A detailed description/account of how the subject good was designed to alleviate the effects of the disability(ies); and
- (c) Documentation that clearly identifies that in the research, design and development of the subject good, a deliberate and conscious effort was made by the engineer, manufacture or producer of the goods to incorporate the specific needs of a disabled person in alleviating the effects of their disability. This evidence may include, but is not limited to consumer or industry research studies; technical or engineering drawings; product testing; peer reviews; etc.

9. These information requirements do not apply to those goods that the Canadian International Trade Tribunal (CITT) has previously ruled as qualifying for tariff item 9979.00.00. Nor do they apply to goods identified in GST/HST Memoranda 4.2 “[Medical and Assistive Devices](#)”, which are considered by the CBSA to qualify for the benefit of tariff item 9979.00.00:

### **Third party endorsements and/or approvals**

10. A third party endorsement, approval, certification or compliance with a particular standard, presented in the absence of the above information requirements, are insufficient evidence to support a claim that a good has been specifically designed to assist persons with disabilities in alleviating the effects of those disabilities.

11. Such endorsements or certifications simply confirm that a good satisfies the third party’s particular standard or approval rating and provides no assurance that the engineer, manufacturer or producer of the good made a deliberate and conscious effort to incorporate the needs of a disabled person in alleviating the effects of their disability.

### **Articles and materials for use in such goods**

12. Tariff item 9979.00.00 also includes a distinct provision for articles and materials, used in the manufacture, repair, replacement or maintenance of the qualifying good.

13. This portion of the tariff item is also a conditional relief provision.

14. In order for articles and materials to qualify for tariff item 9979.00.00 the importer must ensure that the host good satisfy the two conditions outlined in paragraph 1 above.

15. When articles and materials, for which tariff item 9979.00.00 is claimed, are diverted to a non-qualifying use, the original accounting document (Form [B3-3](#)) must be adjusted accordingly and any duties and taxes owing paid (refer to [Memorandum D11-8-5, End-use Program](#)).

## Additional Information

16. For certainty regarding the tariff classification of a product, importers may request an advance ruling on tariff classification. Details on how to make a request for a tariff classification advance ruling are found in CBSA [Memorandum D11-11-3, \*Advance Rulings for Tariff Classification\*](#), which is found on the CBSA website.

17. For more information, please call the Border Information Service from within Canada at **1-800-461-9999**. From outside Canada, please call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	HS 9979.00.00
<b>Legislative References</b>	<a href="#"><u>Customs Tariff</u></a>
<b>Other References</b>	CITT Appeal: AP-2007-009, <i>Sigvaris Corporation v. President of the Canada Border Services Agency</i> CITT Appeal: AP-2010-025, <i>Masai Canada Limited v. president of Canada Border Services Agency</i> CITT Appeal: AP-2012-066, <i>Wolseley Canada Inc. v. President of Canada Border Services Agency</i>
<b>Superseded Memorandum D</b>	D10-15-24 dated September 26, 2006