



Memorandum D11-6-7

Ottawa, April 1, 2017

Request under Section 60 of the *Customs Act* for a Re-determination, a further Re-determination or a Review by the President of the Canada Border Services Agency

In Brief

This memorandum supersedes Memorandum D11-6-7, *Importers' Dispute Resolution Process for Origin, Tariff Classification, and Value for Duty of Imported Goods*, dated October 9, 2008.

The policy guidance previously found in the cancelled Memorandum D11-4-17 *NAFTA Origin Re-determination Requests Filed by the Person Who Completed and Signed the Certificate of Origin* has been incorporated into [Appendix A](#) of this memorandum.

Procedures related to filing a request for re-determination or further re-determination by letter have been added to this memorandum in [Appendix E](#).

The special procedures to challenge a National Customs Rulings and other forms of CBSA policy using the *Customs Act* by way of a Dual Authority B2 have been removed. The CBSA will no longer be accepting requests using a dual authority on form B2 where one of those authorities is section 60 of the Act. Please consult [Memorandum D11-11-1](#) for more on challenging a National Customs Rulings.

Effective April 1, 2017, requests identified in appendices [A](#), [B](#) and [C](#) are to be directed to a single address in Ottawa. See those appendices for specific details to make your request.

Otherwise this memorandum is revised to eliminate obsolete or duplicated requirements and simplify complex policies.

This memorandum explains the process pursuant to section 60 of the [Customs Act](#) (the Act) for a request to the President of the Canada Border Services Agency (CBSA) for a re-determination, a further re-determination of the origin, the tariff classification, the value for duty or marking in respect of goods or a request to the President of the CBSA for a review of an advance ruling.

In this memorandum, the term “**a Request**” is used to refer to a request under section 60 of the [Customs Act](#) for a re-determination or further re-determination of origin, tariff classification, value for duty or marking, or a request for a review of an advance ruling by the President of the CBSA.

Legislation

[Customs Act](#)

Section 32.2 (Corrections to declarations in particular circumstances)

Section 43.1 (Advance Rulings)

Subsection 57.01(1) (Marking Determination)

Section 58 (Determinations and deemed determinations)

Section 59 (Re-determination or further re-determination)

Section 60 (Re-determination and further re-determination by the President)

Section 74 (Refund)

[Regulations made under the Customs Act](#)

Determination, Re-determination and Further Re-determination of Origin, Tariff Classification and Value for Duty Regulations (SOR/98-44)

[Customs Tariff](#)

Tariff Items 9897.00.00, 9898.00.00, 9899.00.00 of the *Customs Tariff* (the Tariff).

Guidelines and General Information

1. This memorandum only covers requests to the President of the CBSA under section 60 of the Act. This includes requests for a re-determination or a further re-determination for goods concerning the origin, tariff classification (including prohibited or restricted goods), value for duty or marking in respect of those goods. It also includes requests for a review of advance rulings.
2. Other types of reviews not covered by this memorandum include:
 - (a) Initial importer request arising from non-commercial importations (refer to [Memorandum D6-2-6, Refund of Duties and Taxes on Non-Commercial Importations](#));
 - (b) the administration of “subsequent goods” related to appeals before the [Canadian International Trade Tribunal](#) (CITT) or the courts (refer to [Memorandum D11-6-3, Administrative Policy Respecting Re-Determinations or Further Re-Determinations made Pursuant to Paragraph 61\(1\)\(c\) of the Customs Act](#));
 - (c) reviews of National Customs Rulings (NCRs) when goods have not yet been imported (refer to [Memorandum D11-11-1, National Customs Rulings \(NCR\)](#));
 - (d) importer appeals concerning anti-dumping and countervailing duties (refer to [Memorandum D14-1-3, Re-determinations and Appeals Under the Special Import Measures Act](#));
 - (e) applications made pursuant to section 60.1 of the Act to extend the time to file a request (refer to [Memorandum D11-6-9, Applications to the President for an Extension of Time to File a Request under Section 60 of the Customs Act](#));

TYPES OF DECISIONS ELIGIBLE FOR REVIEW

3. Each of the following types of decisions is eligible for review under section 60 of the Act:
 - (a) advance rulings issued pursuant to section 43.1 of the Act; and
 - (b) decisions where an officer has given a notice of determination, re-determination, or further re-determination under subsection 59(2) of the Act .

WHO CAN FILE A REQUEST UNDER SECTION 60 OF THE [CUSTOMS ACT](#)

4. A person, to whom an officer has given a notice of decision under subsections 59(2) of the Act, may file a Request. These persons include:
 - (a) the importer of the goods;
 - (b) the owner of the goods at the time of release;

- (c) any person liable for payment of duties on the goods at the time of release;
 - (d) the person who accounted for the goods under subsection 32(1),(3), or (5) of the Act; or
 - (e) where preferential tariff treatment under a free trade agreement was claimed in respect of those goods, the person who completed and signed the certificate of origin for the goods (i.e. an exporter and/or producer).
5. A person, to whom an officer has given an advanced ruling under section 43.1 of the Act, may file a Request. These persons include:
- (a) importers of goods in Canada;
 - (b) persons who are authorized to account for goods under paragraph 32(6)(a) or subsection 32(7) of the Act; and
 - (c) exporters or producers of those goods outside of Canada.
6. In addition, Requests may be submitted by a third party agent of an eligible person if it is accompanied by a written statement authorizing the third party to act on behalf of the person.

REQUIREMENTS TO SUBMIT A VALID REQUEST UNDER SECTION 60 OF THE *CUSTOMS ACT*

7. A request for a re-determination or a further re-determination or a review of an advanced ruling under section 60 of the Act can only be accepted if the following conditions are met:
- (a) the person making the request must be one of those identified in paragraph 4 or 5 of this memorandum;
 - (b) the request must be made within 90 days of the notice given under subsection 59(2) of the Act or an advanced ruling issued under section 43.1 of the Act Please note that when the last day of 90 day-time limit falls on a day the appropriate CBSA office is not open for business, the final day for filing the request is the next business day. An application for an extension of time is available under certain conditions: refer to [Memorandum D11-6-9, Applications to the President for an Extension of Time to File a request under Section 60 of the *Customs Act*](#).
 - (c) the request for a re-determination or a further re-determination may be made only after all amounts owing to the CBSA in respect of the goods are paid or security satisfactory to the Minister is given in respect of the total amount owing (Refer to [Appendix F](#), Security Requirement, for details regarding posting security);

REQUESTING A REVIEW AND THE REVIEW PROCESSES

8. The following appendices provide instructions on how to file a Request made pursuant to section 60 of the Act:
- [Appendix A](#): Requests regarding decisions made on the origin, tariff classification (other than goods classified under tariff items 9898.00.00 or 9899.00.00), value for duty or marking of imported goods.
 - [Appendix B](#): Requests regarding advance rulings on the origin or tariff classification of goods issued pursuant to section 43.1 of the Act.
 - [Appendix C](#): Requests regarding decisions made on goods classified under tariff item No. 9898.00.00 of the Tariff such as prohibited or restricted weapons or devices.
 - [Appendix D](#): Requests regarding decisions made on goods classified under tariff item No. 9899.00.00 of the Tariff such as obscene material or hate propaganda.
9. Other appendices in this document contain the following information:
- [Appendix E](#): Guidelines for clients submitting a Request by letter under section 60 of the *Customs Act*.
 - [Appendix F](#): Requirements for posting Security

- [Appendix G](#): Prescription of Form, Manner and Information to Make a Request for Re-Determination, Further Re-Determination or Review under Section 60 of the *Customs Act*.

SERVICE STANDARDS FOR REQUESTS

10. According to the CBSA Service Standards, decisions for a Request should be rendered within 180 days after it is filed. However, this standard may not be met when, for example:

- (a) the CBSA is waiting for a CITT or court decision on identical goods, or on an issue sufficiently similar which might affect the decision under review;
- (b) the information or arguments submitted by the importer are incomplete or require follow up (such as laboratory analysis; origin verification; industry visits; audits; consultations; or requests to the importer, manufacturer, or vendor for additional information);
- (c) the nature of the request is unusually complex or the amount of information that must be reviewed is exceptionally large; or
- (d) the identification or engagement of suitable external authorities or experts is unusually time consuming.

ADDITIONAL INFORMATION

For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada 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**.

APPENDIX A

REQUESTS REGARDING DECISIONS MADE ON THE ORIGIN, TARIFF CLASSIFICATION, VALUE FOR DUTY OR MARKING OF IMPORTED GOODS (OTHER THAN GOODS CLASSIFIED UNDER TARIFF ITEMS 9898.00.00 OR 9899.00.00.)

REQUESTING A REVIEW

1. A person, identified in paragraph 4 of this memorandum, who received a notice of decision pursuant to subsection 59(2) of the Act (must submit a Request within 90 days after notice is given of the decision that is being contested. Please note that when the last day of the 90 day-time limit falls on a day the appropriate CBSA office is not open for business, the final day for filing the Request is the next business day. In exceptional circumstances, the Act allows a person to make an application to the President for an extension of time within which to submit a Request. For more information consult [Memorandum D11-6-9, Applications to the President for an Extension of Time to File a Request under Section 60 of the Customs Act](#).
2. You may submit your Request by letter; refer to [Appendix E](#), for more information. However, you may also submit your Request using a completed [Form B2, Canada Customs - Adjustment Request](#). For both methods of submissions, you must include the information prescribed in [appendix G](#). It is also recommended that you include the information and documentation listed in this appendix.
3. To ensure efficient processing, please send your Request directly to Recourse. Requests can be submitted to the President of the CBSA:

By regular, by registered mail or by courier:
Recourse Directorate
Canada Border Services Agency
333 North River Rd, 11th floor Tower A
Ottawa ON K1A 0L8

By facsimile to the attention of the Recourse Directorate's Trade Appeals Division:
343-291-7239

For enquiries or assistance with preparing your request, please call one of our Trade Appeals Units Managers:

- If the CBSA decision being contested was issued in the Pacific Region, the Prairie Region or the Greater Toronto Area Region: **416-954-5621**
- If the CBSA decision being contested was issued in the Southern Ontario Region, including Hamilton, Windsor, London and Fort Erie: **905-308-8529**
- If the CBSA decision being contested was issued in the Northern Ontario Region, Quebec Region or Atlantic Region: **514-286-7879 ext. 7105**

THE REVIEW PROCESS

4. After filing your Request, you will receive a letter containing the name and contact details of the Appeals officer responsible for your file. The Appeals officer, who is delegated by the President of the CBSA to make the decision, will conduct a full and impartial review of your request.
5. The Appeals officer will consider your position and the rationale for the decision that is the subject of the Request. The Appeals officer may contact you for additional information and will notify you if the service standard cannot be met (see [paragraph 10](#) of the guidelines) or if the CBSA is unable to process your Request.
6. The Appeals officer will also consider the evidence, arguments provided, the relevant law and policy, and any other additional research that has been conducted. You will be notified by mail when a decision is made.

7. If the Appeals officer agrees with your position, you will receive a notice of decision approving your Request. However, if the Appeals officer's preliminary position does not support your position, he/she will inform you in writing of the preliminary position and rationale. You will have an opportunity to respond before the Appeals officer reaches a final decision. Pursuant to subsection 60(5) of the Act, a notice of decision including a rationale will be sent to you on behalf of the President of the CBSA.

8. In the event that you disagree with the final decision, you may appeal the decision to the [Canadian International Trade Tribunal](#) (CITT) pursuant to section 67 of the Act, within 90 days after the time notice of the decision was given.

INFORMATION THAT MAY BE PROVIDED TO FACILITATE A REQUEST (IN ADDITION TO WHAT IS PRESCRIBED IN [APPENDIX G](#))

9. The name and address of the person making the Request who is one of the persons identified in [paragraph 4](#) of this memorandum and their business number (if applicable).

10. In instances where the Request is filed by a third party agent acting on behalf of the eligible person, the Request must be accompanied by a written statement signed by the person on whose behalf the Request is being made granting the agent the authorization to act on their behalf, as well as, the complete contact information for the agent.

11. State in the Request: the issue, the relevant decision from the CBSA with a copy(s) (see [paragraph 3](#) in this memorandum), and your rationale to support your position.

12. In order for the Appeals officer to issue a decision in a timely manner, it is imperative that the CBSA be able to accurately identify the goods. Therefore, all Requests must include sufficient and appropriate information to identify the goods such as:

- (a) a detailed description of the good including the trade name, or its commercial, common or technical designation such as model number, where applicable;
- (b) the composition of the good;
- (c) a description of the process by which the good is manufactured, if applicable;
- (d) the packaging information used to transport the good ;
- (e) the anticipated use of the good; and
- (f) the producer's or manufacturer's product literature, drawings, photographs, and/or schematics for the good.
- (g) A copy of the relevant commercial invoice(s) to support the description of goods.

13. If the person making the Request or their agent has difficulty obtaining proprietary information from the manufacturer or foreign supplier, they may request the manufacturer or foreign supplier to send the information directly to the CBSA. The disclosure of customs information may only be made pursuant to Section 107 of the Act, (*Disclosure of Information*).

14. In some cases, a laboratory analysis may be required; as such samples may be requested by the Appeals officer to assist in the determination of the tariff classification or origin of the goods. Please take note of the instructions below regarding the submission of hazardous samples.

15. It is best to provide as much information as possible to support your position with your Request or upon request by an officer as the determination will be made by considering the basis of the information actually presented before the Appeals officer.

Tariff Classification

16. To facilitate requests concerning the Tariff Classification of goods the Request should be accompanied by the following information, (where applicable):

- (a) Identify the characteristics or attributes of the goods relevant to their tariff classification with respect to the aspects in point. Make appropriate references to accompanying supporting information, documentation or articles.
- (b) Provide a clear and complete explanation of the arguments in support of the tariff classification requested. Indicate how the following are relevant to the tariff classification requested:
 - i. the General Rules for the Interpretation of the Harmonized System and the Canadian Rules set out in the Customs Tariff;
 - ii. the wording of the heading, subheading, and tariff item requested;
 - iii. any relevant legal (section, chapter, subheading, and supplementary) notes;
 - iv. any relevant Harmonized Commodity Description and Coding System (HS) Explanatory Notes or Compendium of Classification Opinions;
 - v. any “ordinary” or “trade” specific definitions related to the goods, the terms of the headings, subheadings, or tariff items which the importer relies upon or disputes;
 - vi. any relevant court or CITT decisions;
 - vii. any and all previously obtained Agency advice concerning the tariff classification of like goods, such as NCRs, previous decisions on the same or related goods, Agency opinion letters;
 - viii. any relevant references in Agency policy, such as Memoranda or Customs Notices
- (c) A physical sample of the good may be submitted **at the request of an officer**. Physical samples can be particularly useful for those goods whose essential character is dependent on knowing the good’s precise composition and/or constituent elements, or when seeing or touching a physical sample will facilitate or expedite the classification of the good. If a physical sample of the good has already been provided please submit a copy of any documentation that may have accompanied the sample.

NOTE: Samples are not to be included with the request if the good is a perishable item, requires special handling, or is a hazardous product. These should only be provided at the request of the CBSA as these products require special handling instructions. In these instances, contact the officer handling your case who will provide instructions on how to safely provide the CBSA your hazardous or perishable samples.

Value for Duty (Valuation)

17. To facilitate Requests concerning the valuation of goods, the Request should be accompanied by the following information, where applicable:

- (a) commercial invoices;
- (b) credit notes;
- (c) purchase order confirmations;
- (d) sale agreements, contracts or bills of sale;
- (e) letters of credit;
- (f) proof of payment;
- (g) quota agreements;
- (h) warranty agreements;
- (i) conditions of sale, for example, information relating to trade-ins;

- (j) agreements or written contracts (for example, transfer price agreements or pricing studies);
- (k) agreements to provide assists and agreements between third parties with information supporting the value and/or apportionment of the assists;
- (l) royalty agreements;
- (m) trademark agreements;
- (n) licence fee agreements;
- (o) copyright agreements;
- (p) evidence of freight costs;
- (q) details of rebates;
- (r) information relating to the identification of the place of direct shipment;
- (s) information which substantiates the transaction value of identical or similar goods; and,
- (t) detailed calculations indicating the applicability of the transaction value of identical goods method, the transaction value of similar goods method, the deductive method, the computed method, or the residual value method, as appropriate.
- (u) any other relevant document that supports the use of the valuation method claimed.

Origin

18. To facilitate Requests concerning the origin or preferential tariff treatment of goods, the Request should be accompanied by the following information, where applicable:

- (a) if originating from a beneficiary country, a list of non-originating materials entering in the production of the good and the criteria by which they meet the requirements of the tariff treatment being applied for (if applicable);
- (b) proof of origin of materials as required by the regulations for the preferential tariff treatment for the goods being claimed;
- (c) the country where the good is finished in the form it is imported into Canada;
- (d) the transportation mode(s) and route used to ship the goods to Canada;
- (e) the identification of a consignee in Canada on a through bill of lading from the country of origin if claiming a regional value content or the net cost value for the goods, a list indicating the value of all costs included in the ex-factory price including materials, labour, factory overhead and reasonable profit, and a calculation of these costs expressed as a percentage of the ex-factory price;
- (f) whether the good was transhipped, and if so, through which countries, and what (if any) operations the good underwent during transhipment;
- (g) the tariff treatment the requester believes to be correct, and the reasons to support its rationale.
- (h) supporting documentation previously requested by the CBSA and that resulted in the denial of preferential tariff treatment; or alternative supporting documentation.

19. The person who signed the Certificate of Origin (exporter or producer) may also make a Request. However, proof should be provided that all duties and interest owing on the related imported goods has been paid or security satisfactory to the Minister has been given in respect of the total amount owing. The CBSA may reject any Requests if such proof is not provided for the goods at issue and will notify the exporter that those Requests have been rejected. To assist exporters or producers with their Requests, [Form B226](#) or a letter containing the same information should be completed and provided with the Request.

20. The required information (mentioned in [paragraph 19](#)) such as the transaction, adjustment and line number of an importation, could be obtained in the following way:

The exporter may contact the person who imported the goods. The importer of the goods should have a copy of the documentation filed with the original importation and in addition will be informed by way of a Canada Customs Detailed Adjustment Statement (DAS), Form B2-1, that the origin of goods in a

NOTE: For information on additional requirements relating to specific tariff treatments and related origin issues please refer to the appropriate memorandum found in D11 – General Tariff Information Series <http://www.cbsa-asfc.gc.ca/publications/dm-md/d11-eng.html>

particular importation has been re-determined or further re-determined. The importer will therefore know the line number, adjustment number, and the transaction number of the importation.

APPENDIX B

REQUESTS REGARDING ADVANCE RULINGS ON THE ORIGIN OR TARIFF CLASSIFICATION OF GOODS

1. You may request a review if you have received an advance ruling on the origin or tariff classification of goods and you do not agree with the advance ruling. However you are still obliged to apply the advance ruling on all importations until such time as you receive a new decision.

NOTE: This information does not apply to disputes of advance rulings that have classified the goods as obscene material or hate propaganda. See [Appendix D](#) for Advance Rulings related to Tariff Classification item 9899.00.00.

REQUESTING A REVIEW

2. You must file a request for a review of an advance ruling within 90 days after the advance ruling is given. Please note that when the last day of the 90 day-time limit falls on a day the appropriate Agency office is not open for business, the final day for filing the dispute notice is the next business day. In exceptional circumstances, the Act allows a person to make an application to the President for an extension of time within which to make a Request. For more information consult [Memorandum D11-6-9, Applications to the President for an Extension of Time to File a Request under section 60 of the Customs Act](#).

3. You may request a review by submitting a letter with a copy of the advance ruling, a written argument and any supporting information to support your position. Refer to [Appendix G](#) for the prescribed information that you must submit (if applicable) and to [Appendix A](#) for suggested information and documents to support your Request. This material can be submitted by regular or registered mail, by courier, in person or by facsimile.

4. To ensure efficient processing, please send your Request directly to Recourse. Requests can be submitted to the President of the CBSA:

By regular, by registered mail or by courier:
Recourse Directorate
Canada Border Services Agency
333 North River Rd, 11th floor Tower A
Ottawa ON K1A 0L8

By facsimile to the attention of the Recourse Directorate's Trade Appeals Division:
343-291-7239

For enquiries or assistance with preparing your request, please call one of our Trade Appeals Units Managers:

- If the CBSA decision being contested was issued in the Pacific Region, the Prairie Region or the Greater Toronto Area Region: **416-954-5621**
- If the CBSA decision being contested was issued in the Southern Ontario Region, including Hamilton, Windsor, London and Fort Erie: **905-308-8529**
- If the CBSA decision being contested was issued in the Northern Ontario Region, Quebec Region or Atlantic Region: **514-286-7879 ext. 7105**

5. For further details, please consult [Memorandum D11-4-16, Advance Rulings Under Free Trade Agreements](#), or [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#).

THE REVIEW PROCESS

6. After filing your Request, you will receive a letter containing the name and contact details of the Appeals officer responsible for your file. The Appeals officer, who is delegated by the President of the CBSA to make a decision, will conduct a full and impartial review of Requests regarding advance rulings of origin or tariff classification of goods.
7. The Appeals officer will consider your position and the rationale for the decision that is the subject of the Request. The Appeals officer may contact you for additional information and will notify you if the service standard cannot be met (see [paragraph 10](#) of the guidelines) or if the CBSA is unable to process your Request.
8. The Appeals officer will consider the evidence, arguments provided, relevant law and policy, and any other additional research that has been conducted. You will be advised by mail when a decision is made.
9. If the Appeals officer agrees with your position, you will receive a notice of decision reversing or revising the advance ruling. However, if the Appeals officer's preliminary position does not support your position, the Appeals officer will advise you in writing of the preliminary position and reasons. You will have an opportunity to respond before the Appeals officer reaches a final decision.
10. In the event that you disagree with the decision, you can appeal it to the [Canadian International Trade Tribunal](#) under section 67 of the Act within 90 days after the time notice of the decision was given.

RELATED INFORMATION: IMPACT ON IMPORTED GOODS

11. The purpose of the Advance Ruling Program is to provide certainty with respect to the origin or tariff classification of goods at the time of importation to Canada. A subsequent review of the advance ruling does not override the requirements for filing corrections to declarations pursuant to section 32.2 of the Act or for applying for a refund of duties collected on imported goods pursuant to section 74 of the Act. Depending on the situation, you must follow requirements of section 32.2 of the Act and the procedures in [Memorandum D11-6-6, "Reason to Believe" and Self-adjustments to Declarations of Origin, Tariff Classification, and Value for Duty](#), as well as, the requirements for requesting a re-determination or a further re-determination pursuant to section 60 of the Act as identified in this memorandum.

APPENDIX C

REQUESTS REGARDING DECISIONS MADE ON GOODS CLASSIFIED AS PROHIBITED OR RESTRICTED UNDER TARIFF ITEM NO. 9898.00.00 OF THE *CUSTOMS TARIFF*, SUCH AS PROHIBITED OR RESTRICTED WEAPONS OR PROHIBITED DEVICES.

REQUESTING A REVIEW

1. You may submit a Request regarding a decision made on goods classified as prohibited goods (weapons or devices including firearms) under tariff item No. 9898.00.00 of the Tariff if the following applies:
 - (a) you have been issued a notice on Form K26, *Notice of Detention*, or a non-monetary receipt on Form BSF241, *Non-Monetary General Receipt*, with a decision letter indicating that your goods are classified as prohibited weapons or devices; and
 - (b) you believe that the CBSA has misunderstood the facts or has applied the law incorrectly.
 2. You must submit your Request within 90 days after notice is given of the decision that is being contested. Please note that when the last day of the 90 day-time limit falls on a day the appropriate Agency office is not open for business, the final day for filing the dispute notice is the next business day. In exceptional circumstances, the Act allows a person to make an application to the President for an extension of time within which to make a Request. For more information, consult [Memorandum D11-6-9, *Applications to the President for an Extension of Time to File a Request under Section 60 of the Customs Act*](#).
 3. You can file a Request by submitting a letter, along with a copy of the Form K26, Notice of Detention, or Form BSF241, *Non-Monetary General Receipt*, and the decision letter.
 4. It is important that you clearly articulate your position as it relates to the legislation and the policy of the goods involved. To understand what may be relevant, refer to the definition of a firearm in section 2 and other relevant definitions of section 84 of the [Criminal Code](#).
- Note: Certain factors are not relevant to the definitions in the *Criminal Code* and will not be considered for the review of your Request. For example:
- the article was sent as a gift;
 - the article was purchased solely for collection or decorative purposes;
 - the owner or purchaser plans to use the article only to practice a martial art or sport;
 - the article will be used in a safe and controlled environment;
 - the owner or purchaser believes that similar goods are (or have been) sold in Canada; or
 - the owner or purchaser has or knows of others who have imported similar goods previously.
5. Further details can be found in [Memorandum D19-13-2, *Importing and Exporting Firearms, Weapons, and Devices – Customs Tariff, Criminal Code, Firearms Act, and Export and Import Permits Act*](#).
 6. The Request along with copies of the required supporting information and reasons to support the Request can be submitted by either regular or registered mail, by courier, or by facsimile.

7. To ensure efficient processing, please send your Request directly to Recourse. Requests can be submitted to the President of the CBSA:

**By regular, by registered mail or by courier:
 Recourse Directorate
 Canada Border Services Agency
 333 North River Rd, 11th floor Tower A
 Ottawa ON K1A 0L8**

**By facsimile to the attention of the Recourse Directorate's Trade Appeals Division:
 343-291-7239**

For enquiries or assistance with preparing your request, please call one of our Trade Appeals Units Managers:

- If the CBSA decision being contested was issued in the Pacific Region, the Prairie Region or the Greater Toronto Area Region: **416-954-5621**
- If the CBSA decision being contested was issued in the Southern Ontario Region, including Hamilton, Windsor, London and Fort Erie: **905-308-8529**
- If the CBSA decision being contested was issued in the Northern Ontario Region, Quebec Region or Atlantic Region: **514-286-7879 ext. 7105**

THE REVIEW PROCESS

8. After filing your Request, you will receive a letter containing the name and contact details of the Appeals officer responsible for your file. The Appeals officer, who is delegated by the President of the CBSA to make a decision, will conduct a full and impartial review of Requests on goods classified as prohibited weapons or devices.

9. The Appeals officer will consider your position and the rationale for the decision that is the subject of the Request. The Appeals officer may contact you for additional information and will notify you if the service standard cannot be met (see [paragraph 10](#) of the guidelines) or if the CBSA is unable to process your Request.

10. The Appeals officer will consider the evidence, arguments provided, the relevant law and policy, and any other additional research that has been conducted. You will be notified by mail when a decision is made

11. If the Appeals officer determines that the goods are prohibited weapons or devices (including firearms) and no further review is outstanding, you must either forfeit the goods or, if eligible, export the goods. If the goods are forfeited, the CBSA will dispose of them in a manner consistent with the provisions of the Act.

12. If the prohibited goods are eligible for export, the exportation will occur at the importer or owner's expense. The Appeals officer will send you information about this option with the decision letter.

13. In the event that you disagree with the CBSA's decision, you may appeal the decision to the CITT under section 67 of the Act within 90 days after the time notice of the decision was given.

APPENDIX D

REQUESTS REGARDING DECISIONS MADE ON GOODS CLASSIFIED UNDER TARIFF ITEM no. 9899.00.00 OF THE CUSTOMS TARIFF

1. You may submit a Request regarding a decision made by an officer of the CBSA for goods classified under tariff item No. 9899.00.00 of the Tariff such as obscene material or hate propaganda, if you have received a notice by way of Form K27, *Notice of Detention/Determination*, indicating that your goods are classified under tariff item No. 9899.00.00 and are therefore prohibited entry into Canada.
2. You must submit your Request within 90 days of the date of determination on the notice you are contesting. Please note that when the last day of 90 day-time limit falls on a day the appropriate Agency office is not open for business, the final day for filing the dispute notice is the next business day. In exceptional circumstances, the Act allows a person to make an application to the President for an extension of time within which to make a Request. For more information consult [Memorandum D11-6-9 Applications to the President for an Extension of Time to File a Request under Section 60 of the Customs Act](#).
3. You may file a Request by submitting a letter to the CBSA along with a copy of the Form K27, Notice of Detention/Determination. Your Request should include a list of the item(s) for which you wish to Request a re-determination or a further re-determination, and any arguments to support your position. For material classified as obscenity, you may also wish to include in your Request arguments with regard to the artistic, literary, educational, scientific, or other merit of the material in question. The submission of any additional substantiation information or documentation is voluntary on your part, however, please be advised that the material you provide will not be returned.
4. The Request, along with copies of the required supporting information, can be submitted by regular or registered mail, by courier or by facsimile. To ensure efficient processing, please send your Request directly to the address set out on the reverse of the form K27 provided to you at the time of detention.
5. Further details with respect to the classification of materials under tariff item 9899.00.00 can be found in [Memorandum D9-1-1, Canada Border Services Agency's Policy on the Classification of Obscene Material](#), and [Memorandum D9-1-15, Canada Border Services Agency's Policy on the Classification of Hate Propaganda, Seditious and Treason](#).

THE REVIEW PROCESS

6. After filing your Request, you will receive a letter containing the contact details of the CBSA officer responsible for your file. The officer, who is delegated by the President of the CBSA to make a decision, will conduct a full and impartial review of Requests filed for goods classified under tariff item No. 9899.00.00.
7. The officer will consider your Request and the rationale for the decision that is the subject of the Request, including a full review of the material provided. The officer may contact you for additional information and will notify you if the service standard cannot be met (see [paragraph 10](#) of the guidelines) or if the CBSA is unable to process your Request.
8. The re-determination involving tariff item 9899.00.00 will generally be rendered within 30 days of receipt of your Request and you will be notified of the decision by mail. It should be noted that the size and complexity of the shipment, or the late receipt of the additional information, might have an impact on meeting this service standard.
9. In the event that you disagree with the CBSA's decision, you may appeal the decision to the appropriate court of provincial jurisdiction (*see subsection 71(2) of the [Customs Act](#)*) within 90 days from the date of the decision made by the President of the CBSA.

APPENDIX E

GUIDELINES FOR FILING A REQUEST BY LETTER WITH THE CBSA UNDER SECTION 60 OF THE CUSTOMS ACT

The CBSA encourages requests for re-determination or further re-determination under section 60 of the *Customs Act* to be made by letter. This is a Recourse Program initiative that is meant to improve processing times and reduce the paper burden. This initiative also allows for a better focus on the actual issue under review.

In this process, a single letter will reduce the amount of paperwork necessary to file a Request. The documentation associated with the Request will only address the issue at hand, and the Appeals officers will not need to focus on a specific line of details of an adjustment to a declaration. In many cases, the decision (with rationale) will be rendered in a single letter as well to reduce the administrative burden associated with printing a detailed adjustment statement (DAS). The single decision letter will hold the same validity under section 60 of the *Customs Act* as a decision rendered on a DAS.

Note: These procedures cannot be used where the amounts of duties and taxes owed on the original adjustments are secured by bond; adjustments made on [Form B2, Canada Customs - Adjustment Requests](#), must be filed with the security bond.

Applications for extension of time to make a request pursuant to section 60.1 of the *Act* are to be made under separate cover. Refer to [Memorandum D11-6-9, Applications to the President for an Extension of Time to File a Request under Section 60 of the Customs Act](#).

FILING A REQUEST BY LETTER

1. The legislative requirements under section 60 of the *Act* apply when filing a Request by letter.
2. Only one issue per Request is acceptable (i.e. tariff classification, origin, value for duty or marking).
3. The letter must identify or include:
 - (a) the issue under review;
 - (b) a complete description of the goods under review that are the subject of the Request for re-determination or further re-determination;
 - (c) a clear explanation of the Request and the position taken by the person making the Request, along with any documentation to support the position;
 - (d) the original trade compliance verification case number (if applicable);
 - (e) list (or an annex) of all the related adjustment numbers where a notice under subsection 59(2) of the *Act* was issued with their decision dates;
 - (f) a copy of each subsection 59(2) notice of decision that is the subject of the request;
 - (g) a copy of the final Trade Verification report, if applicable;
 - (h) a list (or an annex) of all importers, if this is an exporter Request for origin;
 - (i) a statement agreeing that if the decision results in a change to the tariff classification, origin, or , the value for duty of the goods, the requester will submit a [Form B2, Canada Customs - Adjustment Request](#), or a blanket form B2 to make the necessary changes; and
 - (j) a contact name, contact phone number and signature of the person submitting the Request.
4. Each letter must be accompanied by the following:

- (a) a signed letter of authorization from the person submitting the Request identifying or appointing a representative, if applicable, to act on their behalf; and,
- (b) all supporting documentation as identified in [Appendix A](#) and as prescribed in [Appendix G](#) of this memorandum.

5. If the Appeals officer has determined that the CBSA position has changed in concurrence with your request (appeal allowed), you will be notified by letter and will be required to submit Form B2, *Canada Customs - Adjustment Request* (or a blanket form B2(s) (blankets) with summary) necessary to make the changes.

Please note: The request does not protect the time limit on other adjustments, and the [Customs Act](#) does not provide a clause allowing for the decision to apply to subsequent goods as a result of a decision under section 60 of the *Customs Act*. Should you have additional adjustments that refer to these same goods and same issue, and you want to request a review under section 60 of the *Customs Act*, you must follow the legislation and submit another request within the legislated time frames.

6. If the Appeals officer has determined that the CBSA position has not changed (appeal denied), the decision and rationale will be issued by letter only. A detailed adjustment statement will not be issued.

7. If the Appeals officer has determined that the CBSA position is different from your request and also different from the original CBSA position, and would result in additional duties owing, the adjustments will be processed accordingly by the Appeals officer. A letter and a DAS will be issued.

APPENDIX F

REQUIREMENTS FOR POSTING SECURITY

1. For the purposes of sections 59 and 65 of the Act, an importer who gives security satisfactory to the Minister for all amounts owing to the CBSA as duties and accrued interest, including the Goods and Services Tax (GST), must present the security with [Form B2, Canada Customs - Adjustment Request](#).
2. Security must be provided in the amount of duties owing plus interest on that amount, if any. [Memorandum D11-6-5, Interest and Penalty Provisions: Determinations/Re-determinations, Appraisals/Re-appraisals, and Duty Relief](#), provides more information on calculating the interest on amounts owing when security is posted. Importers can also obtain details on the amounts owing and any accrued interest from the Canada Revenue Agency Collections Unit responsible for their account.
3. Examples of security include cash, certified cheques, transferable bonds issued by the Government of Canada or a bond from an acceptable financial institution as identified in the Treasury Board of Canada Secretariat's [Guideline on Security for Debts](#), in [Appendix B, Recommended Maximum Values Assigned to Assets Taken as Security and Other Forms of Acceptable Security](#), of those guidelines. Further information about other types of acceptable security is available by contacting the Recourse Directorate's Policy Unit. Importers should note that the CBSA reserves the right to analyze and determine if other types of security such as letters of credit or promissory notes are satisfactory security.
4. An importer who chooses to post a bond as security should do so several days before the end of the 90-day time period for filing a Request to allow the bond to be validated. Bonds must be formulated in accordance with the [bond sample](#) found in this Appendix. If they are not, the CBSA may refuse them.
5. The CBSA will reject any request for re-determination or further re-determination filed under section 60 of the Act if the payment of duties and interest in respect of the goods has not been made or if security satisfactory to the Minister has not been given. If security was posted with a previous request, the person making the request must write "on file" after the security number in Field 11, *Security Number*, on the [Form B2, Canada Customs - Adjustment Request](#).

Please note: Although the legislation allows for 90 days to request an appeal, interest begins to accrue 30 days after the day the determination or re-determination under section 59 is rendered and posting security does not stop the interest from accruing (please see [Memorandum D11-6-5, Interest and Penalty Provisions: Determinations/Re-determinations, Appraisals/Re-appraisals, and Duty Relief](#), for more details on interest regarding security).

BOND SAMPLE

Bond to Secure the Payment of Duties Owing to the Canada Border Services Agency on Goods and Any Interest Owing Thereon in Respect of Which the Tariff Classification, the Value for Duty or the Origin of Those Goods is the subject of a request for re-determination or further re-determination Under section 60 of the Customs Act.

Security No. _____

Amount \$ _____

KNOW ALL PERSONS BY THESE PRESENTS: that we, _____ of _____ in the Province of _____ hereinafter called the "Principal," and _____ hereinafter called the "Surety," are jointly and severally bound unto Her Majesty in right of Canada, her heirs and successors, as represented by the President of the Canada Border Services Agency, herein after called the "Obligee," in the sum of _____ dollars (\$ _____), to be paid to the said Obligee, for which payments well and faithfully to be made, we jointly and severally bind ourselves and our respective heirs, executors, administrators, successors, and assigns firmly by these presents, sealed with our respective seals this _____ day of _____ two thousand and _____.

WHEREAS the Principal is requesting a re-determination or further re-determination of origin respecting goods imported into Canada, or tariff classification, or the value for duty of imported goods, or any combination thereof, of the following goods [please attach an appendix if required]:

Description of Goods	Transaction Number on Form B3	Line on Form B3	Adjustment Number on Form B2	Amount of line to be secured in CAD\$
e.g., pencils, etc.	A12345	4	B56789	\$1000.00

And whereas the Principal is required to give security in respect of the amount owing as duties on the said goods and any interest owing or that may become owing on that amount.

NOW the condition of the above-written obligation is such that, if the Principal shall pay all the duties and interest owing under the *Customs Act* on the said goods, in accordance with the final decision made in respect of their tariff classification, origin, and value for duty, then this obligation shall be void and of no effect, but otherwise shall be and remain in full force and effect.

PROVIDED THAT, if the Surety at any time gives 30 days' prior written notice of its intention to terminate the obligation hereby undertaken, by registered mail addressed to, or by personal service made on, the Manager for the Trade Program Appeals office of _____ (name of specific Recourse office), and if the Principal, before the proposed termination date, either pays the amount owing as duties and any interest thereon, as determined pursuant to the most recent decision made in respect of the tariff classification, origin, and value for duty of the said goods, or gives other security satisfactory to the Minister, then this obligation and all liability of the Surety hereunder shall cease in respect of any amount owing as duties and interest on the said goods subsequent to the termination of the obligation hereby undertaken, but otherwise shall remain in full force and effect in accordance with the obligation hereby undertaken.

NOTICE of any claim hereunder shall be given to the Surety by registered mail or by personal service within 90 days of the date of the decision notice issued by the President of the CBSA pursuant to which the amount of duties owing and any interest owing on that amount has been fully determined.

IN WITNESS WHEREOF the principal has hereunto set his hand and seal, if the Principal is an individual, or has caused these presents to be sealed with its corporate seal, attested to by the signatures of its duly authorized officials, if the Principal is a corporation, and the Surety has caused these presents to be sealed with its corporate seal, attested to by the signature of its duly authorized official(s), the day and year first above written.

Signed and sealed in the presence of:

1. _____ 1. _____ Seal
Witness to individual's signature Principal (individual)

OR

Principal's corporate seal (company)

Principal (Duly Authorized Official(s) and Title(s))

2. Surety's corporate seal

Duly Authorized Official(s) (title)

APPENDIX G

PRESCRIPTION OF FORM, MANNER AND INFORMATION TO MAKE A REQUEST FOR RE-DETERMINATION, FURTHER RE-DETERMINATION OR REVIEW UNDER SECTION 60 OF THE CUSTOMS ACT

Authority

Pursuant to the Authorization¹ signed by the President of the Canada Border Services Agency on April 1st, 2010, under subsection 2(4) of the *Customs Act* and subsections 12(1) and (2) of the [Canada Border Services Agency Act](#), as amended, and for the purpose of section 8 and subsection 60(3) of the *Customs Act*, I hereby authorize the following forms and manners of filing the forms and specify the following information to be provided on or with the forms for submitting the following requests under section 60 of the *Customs Act*:

- A review of an advance ruling issued on or after January 1, 1998; or,
- A re-determination or further re-determination of origin, tariff classification, value for duty, or marking for goods accounted for on or after January 1, 1998.

Prescribed Form and Manner

1. The appropriate form listed below, a letter, or an approved form of electronic filing may be submitted to request a re-determination or further re-determination of origin, tariff classification, value for duty or marking under subsection 60(1) of the *Customs Act* in the case of;

- (a) A request for re-determination or further re-determination of origin by an exporter or producer; [Form B226](#), Request for Re-determination of Origin of Goods Imported from the Territory of a Trading Partner;
- (b) A request for re-determination or further re-determination of marking; [Form B236](#), *Request(s) for a Marking Re-determination of Goods Imported from a NAFTA Country*;
- (c) A request for re-determination or further re-determination of tariff classification, value for duty or origin pertaining to goods imported into Canada other than for sale or for any commercial, industrial, occupational, institutional or other like use; [Form B2G](#), *CBSA Informal Adjustment Request*; or,
- (d) A request for re-determination or further re-determination of tariff classification of goods determined to be classified under tariff items 9897.00.00, 9898.00.00 or 9899.00.00 of the Schedule to the *Customs Tariff*
- (e) All other requests for a re-determination or further re-determination of origin, tariff classification, or value for duty under subsection 60(1) of the *Customs Act*; [Form B2](#), *Canada Customs – Adjustment Request*.

2. A letter or an approved form of electronic filing is the prescribed form to request a review of an advance ruling for tariff classification under subsection 60(2) of the *Customs Act*.

¹ Delegation – Authorization to Exercise Powers or Perform Duties and Functions of the Minister of Public Safety and Emergency Preparedness under the *Customs Act*, April 1, 2010.

3. Notwithstanding paragraph 1(e), a “Blanket Form B2” that pertains to multiple accounting documents may be used if all requests:
- (a) cover exactly the same issue;
 - (b) pertain to shipments of goods from the same exporter to the same importer; and,
 - (c) have dates of final accounting that fall within the same calendar quarter unless instructed otherwise by the CBSA.
4. Subject to exceptions under the [Proof of Origin of Imported Goods Regulations](#), all information must be submitted in English or French.
5. When using Forms [B226](#), or [B2G](#), one copy of the form and of supporting documentation is required. Additional documentation to a form must be attached to it
6. When using Forms [B2](#) and [B236](#) two copies of the form and one copy of all supporting documentation are required. Any supporting documentation must be attached to one of the copies of the submitted forms. A third copy of the form is requested where security is given in lieu of the full payment of duty and interest owed.
7. When an appeal is filed by letter, a detailed worksheet of all the adjustments in dispute related to the appeal with their decision dates along with a specific description of the goods under dispute and a full rationale explaining the reason for appeal must be submitted with the letter.
8. An exporter or producer may file one copy of Form [B226](#) pertaining to multiple accounting documents filed by different importers if the request involves identical goods or sufficiently similar goods, provided that one decision is applicable to all the goods for which the request is made.
9. Requests may be delivered in person, or sent by regular or registered mail, by courier, by facsimile or submitted by an approved form of electronic filing. The burden of proof that a request was made under section 60 of the Customs Act lies on the person claiming to have made the request.
10. Where an application for an extension of time to file a request under section 60 of the *Customs Act* is granted under sections 60.1 or 60.2 of the *Customs Act*, the request must be made in the above prescribed form and filed in the manner prescribed in this document and within ninety days from the date of the decision or order granting the application.

Prescribed Information

11. All requests made on Forms [B226](#), [B236](#) or [B2G](#) must contain the information required by the form, including additional information such as letters.
12. The coding and content of requests made on [Form B2](#) must be in accordance with the instructions set out in [Memorandum D17-2-1, The Coding, Submission and Processing of Form B2 Canada Customs Adjustment Request](#).
13. The expression “section 60 of the *Customs Act*” must be stated in the explanation field of Form B2 or clearly identified in the letter as its object.
14. Each request must include the following information:
- (a) A copy of the notice containing the contested decision issued under sections 43.1, 57.01, 58 or 59 of the *Customs Act*, and where applicable, a copy of:
 - i. Forms K-26 (entitled “*Notice of Detention*”)K-27 or any other detention form;
 - ii. The notice of the decision issued under subsection 60.1(4) or the order rendered under subsection 60.2(3) of the *Customs Act*.
 - (b) If not otherwise provided on the prescribed forms:

- i.* The name, address and contact information of the importer, exporter or producer, including the name, title and telephone number of the contact person;
 - ii.* The description of the goods and for goods of tariff item 9899.00.00, include their title if any.
 - (c)* The justification to make the request for a re-determination, further re-determination or review of advance ruling that contains a rationale supported by facts and evidence.
15. When a “Blanket Form B2” of paragraph 4 is used, a detailed worksheet must be attached to it. The worksheet must list and identify:
- (a)* The original transaction numbers in chronological order by date of final accounting; and
 - (b)* The line(s) of the adjusted accounting document for which the request is being made.
16. If the explanation field of Form B2 or Form B2G is insufficient to provide the prescribed information, the field must indicate: “see attachments”
17. When the prescribed information has been submitted and remains available with another request in the same region by the same importer for identical goods or issue(s), the explanation field of the prescribed form must contain a statement indicating “see information filed with request # [insert transaction number]”.
18. When the person making a request under section 60 of the *Customs Act* requests to hold the re-determination or further re-determination pending a decision on an earlier request filed by that person for an identical or sufficiently similar good or the same issue, the explanation field of the prescribed form must indicate: “Put on hold until [adjustment number, CITT appeal number, or other identifiable reference] is decided”, and provide sufficient information to link the request to the referenced matter.

Dated at Ottawa, Province of Ontario, this 13th day of June, 2013.

Originally signed by Georges Rioux
Vice-President
Corporate Affairs Branch
Canada Border Services Agency

References	
Issuing Office	Recourse Policy Unit Recourse Directorate Corporate Affairs Branch Canada Border Services Agency Ottawa, ON K1A 0L8
Headquarters File	4502-10-3
Legislative References	<u>Canada Border Services Agency Act</u> <u>Criminal Code</u> <u>Customs Act</u> <u>Customs Tariff</u> <u>Export and Import Permits Act</u> <u>Firearms Act</u> <u>Proof of Origin of Imported Goods Regulations</u>
Other References	<u>D6-2-6</u> , <u>D14-1-3</u> , <u>D11-11-1</u> , <u>D11-11-3</u> , <u>D11-4-16</u> , <u>D11-6-5</u> , <u>D11-6-9</u>
Superseded Memorandum D	D-11-6-7 dated October 9, 2008 (Known as <i>Importers' Dispute Resolution Process for Origin, Tariff Classification, and Value for Duty of Imported Goods</i>)