



# Memorandum D10-15-30

Ottawa, June 25, 2020

## “Furniture for domestic purposes”

### In Brief

This new memorandum explains the Canada Border Services Agency’s (CBSA) interpretation of the term “For domestic purposes” under several tariff items in headings 94.01 and 94.03 in the [Customs Tariff](#).

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### Legislation

#### [Customs Tariff](#)

94.01

94.03

## Guidelines and General Information

### Background

1. This memorandum provides guidance on tariff classification of furniture in tariff items of headings 94.01 and 94.03 containing the term “for domestic purposes”. It follows decisions issued by the Canadian International Trade Tribunal (Tribunal) which provides specific guidance on the classification of such goods. See the [Appendix](#) of this memorandum for a list of the Tribunal decisions.
2. The term “for domestic purposes” is not defined in the [Customs Tariff](#) or the Harmonized System (HS) Explanatory Notes to headings 94.01 and 94.03.
3. The Tribunal has established that the **intended use**, rather than the actual use, of furniture is the test to determine whether or not furniture is classified in “for domestic purposes” tariff items. The Tribunal has also established that “for domestic purposes” should be given “a broad enough interpretation to include products that are used primarily in a domestic setting”.
4. The Tribunal has further specified that design, characteristics, marketing and pricing are all factors to consider when determining whether or not furniture is “for domestic purposes”.

#### “For domestic purposes”

5. For purposes of this memorandum, the term “for domestic purposes” as it appears in headings 94.01 and 94.03 means goods primarily intended for use in a domestic setting, i.e. in and around the home (e.g., a single family house, an apartment, a condominium, a cottage or motorhome). For greater certainty “for domestic purposes” does not include goods primarily for business or commercial purposes nor goods primarily intended for any purpose away from the home, e.g. camping, sporting, performances or other recreational events.
6. The tariff items “for domestic purposes” are paired with residual “other” tariff items for furniture that is not primarily intended “for domestic purposes”. Classification of furniture in the “other” tariff items is restricted to goods that are not “for domestic purposes”. Such goods are either equally intended for domestic and other purposes or primarily intended for non-domestic purposes.

7. Examples of settings that are not considered “domestic” include: hospitals, care homes, schools, universities, libraries, religious institutions, offices, factories and workshops, retail stores, warehouses and storage facilities, hotels, bars, restaurants, theatres (movie, stage and musical), arenas and stadiums, bus and train stations, and airports.

8. The fact that furniture is used in non-domestic settings does not disqualify it from being considered “for domestic purposes”. Because the term does not create an “end use” provision, the actual use of the furniture does not have to be primarily in or around domiciles for it to be considered “for domestic purposes”. It is the intended, not the actual use of the furniture that matters.

### **Furniture Equally Intended for Domestic and Other Purposes**

9. The Tribunal has established that when furniture is **equally** intended for both domestic and non-domestic purposes, it is not classified under the “for domestic purposes” tariff items.

10. Such furniture must have been intentionally designed for both domestic and non-domestic purposes for classification in the “other” tariff provisions as opposed to the “for domestic purposes” tariff items.

11. The CBSA requires evidence which clearly demonstrates that the designer, manufacturer or vendor of the goods deliberately intended the dual purpose. Evidence to support a conclusion of dual purposes can take several forms, including business plans, supplier and vendor correspondences or meetings, marketing materials, design documents, financial and sales records, or other relevant contemporaneous documentation.

### **Tariff Classification Guidance**

12. It is the responsibility of the importer to provide complete and accurate information (with no misstatements or omissions of material facts) that establishes that a claim under “other” tariff items is correct.

13. Any evidence that furniture is intended for use in a domestic setting creates a presumption in favour of its classification under “for domestic purposes” tariff items. Importers must refute this presumption for classification of such furniture in “other” tariff items.

14. The CBSA will consider all objective and verifiable forms of evidence about the intended purpose of the furniture (such as the examples listed in paragraph 11).

15. The CBSA will only consider statements that refer to the motivation behind the furniture design if they originate from individuals with direct personal knowledge of the intended use of the furniture (e.g., the designer, the manufacturer or the retail buyer responsible for selecting furniture to be purchased). This demonstrable direct personal knowledge of the furniture’s intended use may arise from the individual’s personal involvement in the design of the furniture, and their relevant corporate responsibilities and professional experience.

### **Factors to Consider**

16. If an importer claims that furniture is not classified in a “for domestic purposes” tariff item, they must provide information that specifies aspects of the design, characteristics, marketing and pricing that support the conclusion that the furniture is equally intended for domestic and other purposes or primarily intended for non-domestic purposes.

17. No single factor is individually decisive as to whether the primary intended purpose is not domestic. The final determination depends on an overall assessment of factors that takes into account all the information.

18. The following factors must be considered to determine the intended purpose of a particular article of furniture, and therefore its classification as either “for domestic purposes” or “other”.

#### **A) Design and Characteristics of the Furniture**

19. Design is the planning of the characteristics of the furniture and the incorporation of any related specifications.

20. Characteristics are the prominent attributes of the furniture.

21. A specification is a requirement about the necessary functional attributes of the furniture.

22. Durability, strength, stability, dimensions/size, maintenance requirements, weight, portability, comfort, ergonomics, appearance, style and function are aspects of the design and characteristics of furniture.

### **B) Marketing and Sales**

23. A claim that furniture is equally or primarily marketed to the non-domestic market must be compared with the marketing efforts directed at domestic consumers.

24. Marketing directed to the non-domestic market must be demonstrated over a period of time and a sequence of marketing activities, not in isolation or as a single occurrence.

25. While the “for domestic purposes” and “other” tariff items are not “end use” provisions, the non-domestic market must be more than merely potential, incidental or occasional for classification in the “other” tariff items.

26. Sales reports to substantiate that sales to non-domestic consumers are significant relative to sales to domestic consumers must be provided to the CBSA upon request.

### **C) Pricing**

27. Pricing at the low end of the comparative scale is evidence of personal, domestic and residential pricing, not commercial, institutional, office or hospitality pricing.

28. In order for higher pricing to be accepted as evidence that furniture is not “for domestic purposes”, it must be associated with conformity to the specifications, the standards and/or the requirements of non-domestic purposes.

29. Higher pricing is not indicative of tariff classification when it reflects the furniture’s quality (i.e. whether it is free of defects, and the degree of excellence or superiority of its features).

### **D) Standards**

30. “Standards” are design and construction requirements that are either: established and/or approved by a recognized body and expressed in documents establishing rules, procedures, specifications and guidelines; required by law in a given jurisdiction; or, de facto industry norms.

31. Proof that furniture meets specific domestic or residential standards is evidence that it is “for domestic purposes”.

32. Proof that furniture meets commercial, institutional, office or hospitality standards is evidence that it is not “for domestic purposes”.

33. Proof that furniture meets general standards when considered alone is evidence of product quality, safety etc., or value or worthiness for money, not evidence of intended purpose.

34. A statement that furniture meets domestic or general standards to appeal to non-domestic consumers can only be evidence that the furniture is not “for domestic purposes” if the statement originates from an individual with direct personal knowledge of the furniture.

### **E) Warranties**

35. A warranty available to the domestic wholesalers, distributors, retailers or consumers that excludes or omits commercial, institutional, industrial, office, hospitality or any other non-domestic use is evidence the furniture is “for domestic purposes”.

### **Additional Information**

36. Importers may request an Advance Ruling should there be any uncertainty in regards to the tariff classification of a good to be imported. Information on how to obtain an Advance Ruling may be found in [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#).

37. For more information on CBSA programs, 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**

CITT Appeal: [AP-2017-052](#) Jardin de Ville v. President of the Canada Border Services Agency

CITT Appeal: [AP-2017-004](#), Nouveau Americana DBA Nuevo Americana v. President of Canada Border Services Agency

CITT Appeal: [AP-2016-005](#), Canac Marquis Grenier Ltée v. President of the Canada Border Services Agency

CITT Appeal: [AP-2013-021](#), [AP 2013-022](#), [AP-2013-023](#) and [AP-2013-024](#), Stylus Sofas Inc., Stylus Atlantic, Stylus Ltd. And Terravest (Sf Subco) Limited Partnership v. President of Canada Border Services Agency

CITT Appeal: [AP-2013-053](#), Ikea Supply AG v. President of Canada Border Services Agency

CITT Appeal: [AP-2010-068](#), 6572243 Canada Ltd. O/A Kwality Imports v. President of Canada Border Services Agency

CITT Appeal: [AP-2009-049](#), Evenflo Canada Inc. v. President of Canada Border Services Agency

CITT Appeal: [AP-2003-020](#), Alliance Ro-Na Home Inc. v. Commissioner of the Canada Customs And Revenue Agency

CITT Appeal: [AP-2001-065](#), Alliance Ro-Na Home Inc. v. Commissioner of the Canada Customs And Revenue Agency

CITT Appeal: [AP-2000-015](#), Costco Canada Inc. v. Commissioner of the Canada Customs And Revenue Agency

<b>References</b>	
<b>Issuing Office</b>	Trade Policy Division Trade and Anti-dumping Programs Directorate Commercial and Trade Branch
<b>Headquarters File</b>	
<b>Legislative References</b>	<a href="#"><i>Customs Tariff</i></a>
<b>Other References</b>	<a href="#">D11-11-3</a>
<b>Superseded Memorandum D</b>	N/A