



Ottawa, August 15, 2003

# CUSTOMS NOTICE N-532

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## Clarification on the Meaning of “Other Like Goods,” the Eligibility and Filing Time Frames for Providing a Submission Under Paragraph 61(1)(c) of the *Customs Act*

1. The purpose of this notice is to clarify the following:
  - (a) the scope and meaning of the term “other like goods” with respect to paragraph 61(1)(c) of the *Customs Act*, commonly referred to as the “subsequent goods” provision;
  - (b) the eligibility period to qualify as subsequent goods; and
  - (c) the time frame during which the Commissioner of the Canada Customs and Revenue Agency (CCRA) will re-determine or further re-determine the origin, tariff classification, or value for duty of imported goods giving effect to the decision of the Canadian International Trade Tribunal (CITT), the Federal Court of Appeal, or the Supreme Court of Canada.

### What are “other like goods”?

2. Paragraph 61(1)(c) of the *Customs Act* states that the Commissioner **may** re-determine or further re-determine subsequent goods if such action would give effect to a higher-level (CITT, Federal Court of Appeal, or Supreme Court of Canada) decision or a decision of the Commissioner that relates to subparagraph 61(1)(a)(i) of the *Customs Act* that relates to “other like goods” imported by the same importer or owner on or before the date the subsequent goods are imported.
3. For the purposes of this provision, the CCRA has defined the term “subsequent goods” as being goods that are **identical** to those that were the subject of the higher-level decision (“other like goods”). Identical goods means “goods that are the same in all respects, including physical characteristics, quality, and reputation.” Minor differences in appearance (e.g., colour) do not prevent goods from otherwise meeting the definition and being considered identical.

### Eligibility period to qualify as subsequent goods

4. To be considered subsequent goods, the imported goods must have been imported by the same importer or owner between the date of the first entry that was appealed to the CITT, the Federal Court of Appeal, or the Supreme Court of Canada and the date that the Commissioner issued the detailed adjustment statement (DAS) that gives effect to the related CITT or court decision.
5. When the CCRA re-determines or further re-determines the origin, tariff classification, or value for duty of imported goods under subparagraph 61(1)(a)(i) of the *Customs Act*, the eligibility period to qualify as subsequent goods is between the date of the first entry that was appealed to the higher level and the date that the Commissioner issued the DAS giving effect to the recommendation of the Attorney General of Canada.

### Parts

6. When a complete good qualifies as a “subsequent good,” the parts of that good do not qualify as a subsequent good in their own right unless they have also been subject to a higher-level decision. Accordingly, requests under the subsequent goods provision will be returned to the claimant without consideration if the parts themselves have not been subject to a higher-level decision.

### Time frame for providing a submission

7. Paragraph 14 of Memorandum D11-6-3, *Administrative Policy Respecting Re-determinations or Further Re-determinations Made Pursuant to Paragraph 61(1)(c) of the Customs Act* indicates that importers should provide a submission to Canadian customs concerning the subsequent goods provisions “**as soon as possible**” after the decision of the Commissioner that gives effect to the higher-level decision. For the purposes of this provision, “as soon as possible” means no more than 90 days after the Commissioner issues the detailed adjustment statement (DAS) giving effect to the related higher-level decision. Submissions received after this timeframe will be returned to the claimant without consideration.

8. When the Attorney General of Canada makes a recommendation under subparagraph 61(1)(a)(i) of the *Customs Act*, importers must make a submission concerning the use of the subsequent goods provision to the CCRA within 90 days of the date the Commissioner issues the DAS giving effect to that decision.

9. We will revise Memorandum D11-6-3, *Administrative Policy Respecting Re-determinations or Further Re-determinations Made Pursuant to Paragraph 61(1)(c) of the Customs Act*, according to the information outlined in this notice.

10. For more information, please contact Ian Yearwood, Senior Appeals Policy Officer, at the following address, telephone number, and fax number:

Trade Dispute Policy Section  
Customs Appeals Directorate  
Appeals Branch  
20th floor  
25 Nicholas Street  
Ottawa ON K1A 0L5

Telephone: (613) 941-4416  
Fax: (613) 946-1442

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