



Ottawa, August 14, 2009

MEMORANDUM D10-17-38

In Brief

ADMINISTRATIVE POLICY - TARIFF CLASSIFICATION OF MARBLE AND GRANITE BLOCKS AND SLABS

1. The revision of this memorandum is to reflect a clarification and amendment to the previous CBSA policy regarding the classification of marble and granite blocks or slabs, as a result of a Canadian International Trade Tribunal decision. Additional information has been added as it relates to the classification of crude stone slabs versus natural worked slabs, as well as commercial marble and granite versus geological marble and granite.
2. This memorandum outlines and explains the tariff classification of marble and granite blocks or slabs of tariff items 2515.12.00, 2516.12.10, 2516.12.90, 6802.21.00, 6802.23.00, 6802.91.00 and 6802.93.00.



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This memorandum outlines and explains the tariff classification of marble and granite blocks or slabs of tariff items 2515.12.00, 2516.12.10, 2516.12.90, 6802.21.00, 6802.23.00, 6802.91.00 and 6802.93.00. It reflects changes to CBSA policy made as a result of a decision of the CITT.

Legislation

Customs Tariff

25.15 Marble, travertine, ecaussine and other calcareous monumental or building stone of an apparent specific gravity of 2.5 or more, and alabaster, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.

-Marble and travertine:

2515.12.00 - - Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape

25.16 Granite, porphyry, basalt, sandstone and other monumental or building stone, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.

-Granite:

2516.12 - - Merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape

68.02 Worked monumental or building stone (except slate) and articles thereof, other than goods of heading 68.01; mosaic cubes and the like, of natural stone (including slate), whether or not on a backing; artificially coloured granules, chippings and powder, of natural stone (including slate).

-Other monumental or building stone and articles thereof, simply cut or sawn, with a flat or even surface:

6802.21.00 - - Marble, travertine and alabaster

6802.23.00 - - Granite

-Other:

6802.91.00 - - Marble, travertine and alabaster

6802.93.00 - - Granite

GUIDELINES AND GENERAL INFORMATION

Administrative Policy

Headings 25.15 and 25.16 versus heading 68.02:

1. In order to be classified in Chapter 25, marble and granite monumental or building stone will be presented in the mass, roughly trimmed, merely cut by sawing, worked with a hammer or chisel, or otherwise, into blocks or slabs of a rectangular including square shape, but not further worked. Huge blocks of stone, some weighing 20 tons, are excavated from the earth and cut into slabs similar to a loaf of bread with the use of primary saws or gang saws for thinner slabs, and radial saws for thicker slabs.
2. According to the Explanatory Note to subheading 2515.12 for marble, or subheading 2516.12 for granite, quarry blocks or slabs which have been merely cut by sawing will bear discernible traces of the sawing (by wire strand or other saws) on their surfaces. In cases where these traces are very slight, it is useful to apply a sheet of thin paper to the stone and to rub it gently and evenly with a pencil held as flat as possible. This should reveal saw marks even on carefully sawn or very granular surfaces.
3. According to the Explanatory Notes to heading 68.02, that heading covers monumental or building stone, which has been further worked beyond the process of shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing. Further working operations, which are beyond the simple processes permitted in Chapter 25 include, but are not limited to, stone which has been bossed, dressed, sand-dressed, ground, polished, chamfered, honed, carved, bevelled, tumbled, furrowed, planed, moulded, turned, ornamented, cut to size, etc.
4. Blocks or slabs, which have been cut to size, are not considered to be merely nor simply cut, as referred to in chapter 25. When cut to size, the slabs are considered specifically cut and thus worked beyond the stage of the normal quarry products of Chapter 25. The Explanatory Notes refer to such products as "roughly sawn blanks" (other than the goods of heading 68.01) and when processed in the forms produced by the stone-mason, sculptor, etc., the blocks or slabs of marble or granite fall in heading 68.02.
5. Bossed "natural" styles of stones that have been specifically worked by a stone-mason or sculptor to have a "raw" rock-faced look are classified in headings 6802.91,

6802.92, 6802.93 and 6802.99, as opposed to crude stones of chapter 25. These stones will have artistically finished rough protuberant faces and smooth edges. Crude or roughly-trimmed block or slab stones which have not been cut to a rectangular (including square) shape remain classified in subheading 2515.11.

6. “Crude” stones of subheading 2515.11 are often uneven or undulating and frequently bear marks of tools used to separate them (crowbars, wedges, picks, etc.). This subheading also covers unshaped stone (quarystone, rubble) obtained by breaking out rocks from the quarry face (using picks, explosives, etc.). They have uneven, broken surfaces and irregular edges. This type of stone often bears the marks of quarrying (blast holes, wedge marks, etc.).

7. “Roughly-trimmed” stone of subheading 2515.11 is stone which has been very crudely worked after quarrying to form blocks or slabs, still having some rough, uneven surfaces. This working involves removing superfluous protuberances by means of hammer or chisel-type tools.

Subheadings 6802.21, 6802.23 and 6802.29 versus subheadings 6802.91, 6802.93 and 6802.99:

8. Subheadings 6802.21, 6802.23 and 6802.29 cover other monumental or building stone and articles thereof, simply cut or sawn, with a flat or even surface. Subheadings 6802.91, 6802.93 and 6802.99 cover “other” further processed stones. To determine whether slabs are classified in subheading 6802.21, 6802.23 and 6802.29, or 6802.91, 6802.93 and 6802.99, it must first be determined whether or not the slabs were merely or simply cut or sawn. Secondly, it must be determined whether or not the stone has been worked beyond a flat or even surface.

9. The Canadian International Trade Tribunal (CITT) made a casual comment in AP-90-081 to the effect that classification under tariff item 6802.91.00 would have been the proper classification if the stone slab had been specifically cut or sawn into final products. This resulted in a previous CBSA policy where blocks or slabs of stone of 6802.21.00, 6802.23.00 or 6802.29 required further cutting. However, although consideration can be given to this final stage, the CITT further clarified in AP-2001-017 that a final product is not the sole litmus test for determining whether the product falls into the second subheading group of heading 68.02. It simply inferred that a further process than simple cut or sawn is likely the next step in processed stones of 6802.91, 6802.92, 6802.93 and 6802.99. Therefore, a stone precisely cut to size is no longer necessarily a criteria for classification in the second subheading group of heading 68.02. Furthermore, slabs priced by weight rather than dimension are not a guarantee that they will require further processing.

10. Another clarification resulting from CITT Appeal AP-90-081 is that the whole heading 68.02 refers to “Worked monumental or building stone...”, including each and every subheading. There will be some type of worked

process involved in products of 6802.21, 6802.23 or 6802.29. A worked process, such as honing or polishing, can be used to create a flat or even surface (i.e., a surface that has been smoothed) and still fall within the meaning of the first subheading group of heading 68.02.

11. The CITT Appeal AP-2001-017 also confirms that for the purposes of subheading 6802.21, 6802.23, and 6802.29, stone slabs are not “simply cut or sawn” if they have undergone further processing, such as bevelling, after being cut. According to dictionary definitions, “simply” means in a plain and unadorned way.

12. Slabs of 6802.21, 6802.23 and 6802.29 are slabs which have been simply worked to create a surface that has been flattened and smoothed. The edges will not have been further worked beyond a simple even cut. Furthermore, they may or may not be cut to size as mentioned in paragraph 6. The working processes must remain simple, plain and unadorned, and will be used solely to create flat even surfaces. Further working operations which are beyond the “simple” cut or sawn workings of 6802.21, 6802.23 and 6802.29 are similar to the processes not permitted in chapter 25 and listed in paragraph 3, unless those processes are simply used to create a flat even surface.

13. Slabs of 6802.91, 6802.93 and 6802.99 have been further worked beyond flattening and smoothing operations, and simply cut or sawn edges. Therefore, these subheadings include processes such as bevelling, edge work, carving, moulding, ornamentation or further worked in numerous other ways.

Commercial Marble and Granite versus Geological Marble and Granite:

14. The H.S. tariff classification of stone is based on its mineralogical properties, as well as its physical form (i.e. crude or worked). The commercial, trade or industry names of “marble” and “granite” do not always match the geological definitions and compositions necessary to be classified in subheadings 6802.21 and 6802.91, or 6802.23 and 6802.93 respectively. Granite and Marble may be names applied to other stones with a granite-like look classifiable in 6802.29 or artificial and agglomerated stone of heading 68.10. They include all types of natural and artificial hard stones that can take a polish. The classifications of marble and granite at the subheading levels of heading 68.02 should be cross-referenced with the explanatory notes in headings 25.15 and 25.16 respectively, as well as the scientific composition. If there is any doubt as to the technical composition of a stone, a sample should be sent for laboratory analysis.

Marble:

15. The Explanatory Note to heading 25.15 states that marble is a hard calcareous stone, homogeneous and fine-grained, often crystalline and either opaque or translucent. Marble is usually variously tinted by the presence of

mineral oxides (coloured veined marble, onyx marble, etc.), but there are also pure white varieties.

16. **Commercial marble** is any crystalline rock composed predominantly of calcite, dolomite, or serpentine that is capable of taking a polish. It encompasses true marble in the geological sense as well as many crystalline limestones, travertines, and serpentine, but not other lithologies. Commercial trade names commonly give the quarry location, color, and an adjective describing the pattern or texture of the stone.

17. **Geological marble** is a metamorphosed limestone or dolostone (e.g., dolomite) that is so thoroughly recrystallized that much or all of the sedimentary and biologic textures are obliterated. Impurities present in the original carbonate sediment form a characteristic suite of magnesium and lime silicate accessory minerals. Common accessory minerals are talc, chlorite, amphibole, and pyroxene. Organic material entrapped within the rock forms granite that is commonly accompanied by finely disseminated pyrite. Most true marbles are deformed rocks in which original bedding planes have been folded, crumpled, or otherwise distorted. Geological marble is classified under 6802.21 or 6802.91.

18. Crystalline limestones that take a polish are commercially named as marble. However, such limestones are not considered marble by petrologists. They are excluded as marble in 6802.21 or 6802.91 and are instead classified in 6802.29 or 6802.99 in the Customs Tariff. Serpentine (or ophite), named as marble commercially, is metamorphosed igneous rock and, therefore, not regarded as marble by petrologists or the Customs Tariff. Travertine is a dense, commonly banded and cellular limestone. It is also a hard, dense form of tufa. Crystalline limestones are classified under 6802.29 or 6802.92. Serpentine is classified under 6802.29 or 6802.99. Travertine is distinct from marble but remains classified under 6802.21 or 6802.91.

Granite:

19. The Explanatory Note to heading 25.16 states that granite is a very hard, coarse-grained igneous rock formed by the agglomeration of quartz crystals with feldspar and mica. It varies in colour (grey, green, pink, red, etc.) according to the relative proportions of these three substances and the presence of iron oxide or manganese oxide.

20. **Commercial granite** includes all feldspathic rocks of visibly granular or gneissic texture, including granite family rocks as defined scientifically, plus syenite, gabbro, anorthosite, and other plutonic igneous rocks. In commercial usage, fine-grained igneous rocks such as diabase (or dolerite) or basalt are sometimes called black granite. Commercial granites are commonly named for the quarry or location where they are found, with names modified by adjectives giving color, texture, or some exotic description.

21. **Geological granite** is a visibly crystalline rock with interlocking texture and composed essentially of alkali feldspar and quartz. The granite family consists of granite proper and granodiorite and contain quartz, and most contain minor accessory minerals such as biotite, muscovite, hornblende, and pyroxene. Pophyry is a finely grained, slightly translucent variety of granite. Geological granite is classified under 6802.23 or 6802.93.

22. Geological granite does not include granitoid rocks which contain essential feldspar, but no quartz. Syenite, Diorite and Monzonite are types of granitoid rocks and are not classified as granite for tariff classification purposes. They are classified under 6802.29 or 6802.99. Syenite contains predominately alkali feldspar. Diorite contains predominately calcium feldspar. Monzonite has equal amounts of feldspar. Rocks with approximately equal proportions of calcium feldspar and pyroxene are classed as gabbro or norite and are included in the typical black granites of commercial usage classified under 6802.29 or 6802.99.

23. Rocks with mineral composition of the granite family, but with a texture that show distinct planar or linear properties owing to the parallel alignment of mineral grains, are called gneiss. Gneiss may have originally been granite but heat and pressure have changed it to a unique stone by recrystallization. This new rock is physically very different from geological granite although it has a similar chemical composition. Thus, Gneiss is classified as an "other stone" in 6802.29 or 6802.99 for Customs Tariff purposes.

24. Ecaussine is a geologically distinct stone, and thus not classified as either marble or granite in the Customs Tariff, although it may be named "petit granit", "Belgium granite" or "Flanders granite" commercially. Ecaussine is a bluish-grey stone with an irregular crystalline structure and contains many fossilised shells. For tariff classification purposes, it falls under 6802.29 or 6802.99.

REFERENCES

<p>ISSUING OFFICE –</p> <p>Tariff Policy Division Trade Programs Directorate CBSA</p>	<p>HEADQUARTERS FILE –</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Tariff</i>, Chapters 25 and 68 Legal Notes and Explanatory Notes to the Harmonized Commodity Description and Coding System</p>	<p>OTHER REFERENCES –</p> <p>AP-90-081: Importation/Exportation Y&Y and The Deputy Minister of National Revenue for Customs and Excise AP-2001-017: Active Marble & Tile and The Commissioner of the Canada Customs and Revenue Agency</p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D10-17-38 dated May 13, 1994</p>	

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