"goods" « marchandises »	« marchandises » " goods "
"goods", for greater certainty, includes conveyances, animals and any document in any form;	« marchandises » Leur sont assimilés, selon le contexte, les moyens de transport et les animaux, ainsi que tout document, quel que soit son support.

CUSTOMS TARIFF **(1997, C. 36)**	**TARIF DES DOUANES** **(1997, C. 36)**
PART 1 **INTERPRETATION AND GENERAL**	**PARTIE 1** **DÉFINITIONS ET DISPOSITIONS GÉNÉRALES**
INTERPRETATION **[...]**	**DÉFINITIONS** **...**
Words and expressions in Act	Termes de la *Loi sur les douanes*
4. Unless otherwise provided, words and expressions used in this Act and defined in subsection 2(1) of the *Customs Act* have the same meaning as in that subsection.	**4.** Sauf indication contraire, les termes et expressions utilisés dans la présente loi et définis au paragraphe 2(1) de la *Loi sur les douanes* s'entendent au sens de ce paragraphe.

[5] When examining the *Customs Tariff*, one must start from the premise that the word "goods" ("marchandises" in French) refers to "items in circulation on the commercial market and destined to be sold; goods offered for sale" (see *Enterprises Kato Inc. v. Canada (Deputy Minister of National Revenue, Customs and Excise – M.N.R.)* (F.C.A.), November 21, 1983, A-481-82, by Marceau J.A.). The need to resort to an authoritative jurisprudential definition arises because even though section 4 of the *Customs Tariff* imports the definition contained in subsection 2(1) of the *Customs Act*, the definition of "goods" in that subsection is of no help in the case at bar. We appreciate that *Enterprises Kato* dealt with the *Excise Tax Act*, R.S.C. 1970, c.E-13, but since "duties" is defined in the *Customs Act* as "any duties or taxes

levied on imported goods under the *Customs Tariff*, the *Excise Tax Act* …", it is fair to say that the ordinary and accepted meaning of "goods" applies to both statutes.

[6] Read in that context, the clear meaning of paragraph 110(b) of the *Customs Tariff* is that a refund shall be granted with respect to goods, i.e. to merchantable items which result from the processing and become obsolete or surplus goods. The dresses clearly fall within the contemplation of the paragraph: they come into existence as a result of the processing, they are merchantable items and they can be found by their importer to have become obsolete or surplus. (We need not, in the circumstances of this case, deal with the requirements (b), (c) and (d) of section 109).

[7] The solution with respect to the leftover material is not as evident. It may be that the leftover material comes into existence as a result of the processing. But if so, is it a merchantable item, in other words, is it "goods"?

[8] The evidence indicates that the leftover material is not usable for dresses, which does not mean that it is not usable for something else, like scrap or waste. But only merchantable scrap or waste would qualify as "goods" within the meaning of the *Customs Tariff*. As we understand counsel for the Appellant's argument, the leftover material is merchantable scrap, merchantable scrap qualifies as « goods » and therefore paragraph 110(b) of the *Customs Tariff* applies. It may well be, as suggested by counsel, that Division 3 of Part 3 (i.e. articles 109 to 111) is a code of its own in which the word "goods" must be given the wide meaning given to it in *Enterprises Kato* and could include merchantable scrap. It may well be, also, as suggested by both counsel, that articles 120 to 122, in Division 5 of the *Customs Tariff*, which provide for a reduction of the drawback or refund in cases where merchantable scrap or waste is sold, are not applicable in the case at bar. We need not, however, decide these issues because there is no evidence before us that the leftover material is merchantable scrap, let alone that it is obsolete or surplus goods. Counsel for the appellant, who was not