



Ottawa, Monday, November 27, 1989

Appeal No. 2954

IN THE MATTER OF an application heard May 9, 1989,  
pursuant to section 67 of the *Customs Act*, R.S.C. 1985, c.  
1 (2nd Supp.), as amended;

AND IN THE MATTER OF a decision of the Deputy  
Minister of National Revenue for Customs and Excise dated  
January 25, 1988, with respect to a request for a  
redetermination filed pursuant to section 63 of the *Customs  
Act*.

**BETWEEN**

**SPRINGHOUSE TRAILS LTD.**

**Appellant**

**AND**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

**DECISION OF THE TRIBUNAL**

The appeal is allowed. The Daimler-Benz Unimog 406, as manufactured in the particular configuration purchased by the appellant, is an internal combustion tractor designed for agricultural use and is therefore properly classified under tariff item 40938-1. The pieces of farm equipment imported for use with the Unimog are properly classified under tariff item 40924-1 as, *inter alia*, "Machines and tools for use on tractors ...".

Kathleen Macmillan  
Kathleen Macmillan  
Presiding Member

Sidney A. Fraleigh  
Sidney A. Fraleigh  
Member

W. Roy Hines  
W. Roy Hines  
Member

Robert J. Martin  
Robert J. Martin  
Secretary

UNOFFICIAL SUMMARY

Appeal No. 2954

**SPRINGHOUSE TRAILS LTD.**

**Appellant**

**and**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

*Customs Tariff - Tariff classification - Whether a Daimler-Benz Unimog 406 farm vehicle and related pieces of farm equipment are properly classified under tariff item 43803-1 as "Automobiles and motor vehicles of all kinds, n.o.p.", under tariff item 40938-1 as an internal combustion tractor or under tariff item 40924-1 as " ... agricultural implements or agricultural machinery, n.o.p."*

**DECISION:** *The appeal is allowed. The Daimler-Benz Unimog 406, as manufactured in the particular configuration purchased by the appellant, is an internal combustion tractor designed for agricultural use and is therefore properly classified under tariff item 40938-1. The pieces of farm equipment imported for use with the Unimog are properly classified under tariff item 40924-1 as, inter alia, "Machines and tools for use on tractors ...".*

*Place of Hearing:* Vancouver, British Columbia

*Date of Hearing:* May 10, 1989

*Date of Decision:* November 27, 1989

*Panel Members:* Kathleen Macmillan, Presiding Member

Sidney A. Fraleigh, Member

W. Roy Hines, Member

*Counsel for the Tribunal:* Donna J. Mousley

*Clerk of the Tribunal:* Janet Rumball

*Appearances:* Lothar W. Neweling, for the appellant

Jean Fitzgerald, for the respondent

**Cases Cited:**

*J.H. Ryder Machinery Limited v. The Deputy Minister of National Revenue for Customs and Excise (1975), 6 T.B.R. 278; Major Irrigation (1974) Limited et al. v. The Deputy Minister of National Revenue for Customs and Excise (1982), 8 T.B.R. 446; Hunt Foods Export Corp. of Canada Ltd. et al. v. The Deputy Minister of National Revenue for Customs and Excise (1970), 4 T.B.R. 333; General Supply Company of Canada Limited v. The Deputy Minister of National Revenue et al. (1954), 1 T.B.R. 81; Appeal*

*No. 795, Reference by the Deputy Minister of National Revenue for Customs and Excise, pursuant to section 46 of the Customs Act, for an opinion as to what criteria should be applied in determining whether equipment should be classified as an internal combustion tractor coming within customs tariff item 409m(1) (now numbered 40938-1), 3 T.B.R. 259; John Deere Limited v. The Deputy Minister of National Revenue for Customs and Excise (1988), 13 T.B.R. 33; R.W. Nelson Seed Farms v. The Deputy Minister of National Revenue for Customs and Excise (1987), 12 T.B.R. 566; W.L. Ballentine Company, Limited v. The Deputy Minister of National Revenue for Customs and Excise (1951), 1 T.B.R. 46; Cockshutt Plow Company Limited v. The Deputy Minister of National Revenue for Customs and Excise (1951), 1 T.B.R. 63; W.E.R. Holdings Inc. v. The Deputy Minister of National Revenue for Customs and Excise (1986), 11 T.B.R. 306.*

***Statutes Cited:***

*Customs Tariff, R.S.C. 1985, c. C-54, Schedule II, tariff items 40924-1, 40938-1 and 43803-1.*

***Other References Cited:***

*1986 SAE (Society of Automotive Engineers) Handbook, Vol. 4, c. 36, page 36.01.*

**Appeal No. 2954**

**SPRINGHOUSE TRAILS LTD.**

**Appellant**

**and**

**THE DEPUTY MINISTER OF NATIONAL REVENUE  
FOR CUSTOMS AND EXCISE**

**Respondent**

TRIBUNAL: KATHLEEN MACMILLAN, Presiding Member  
SIDNEY A. FRALEIGH, Member  
W. ROY HINES, Member

**REASONS FOR DECISION**

**SUMMARY**

This appeal concerns the customs tariff classification of a Daimler-Benz Unimog, model 406, four-wheel-drive vehicle (Unimog 406) and several pieces of farm equipment imported from the Federal Republic of Germany. It is an appeal from a decision of the Deputy Minister of National Revenue for Customs and Excise (the Deputy Minister) confirming the classification of the goods under tariff item 43803-1 as, *inter alia*, "Automobiles and motor vehicles of all kinds, n.o.p."

The Daimler-Benz Unimog (Unimog) is manufactured as a multi-concept vehicle adaptable to various uses. At least nine basic models are made, varying in the size of engine, chassis, wheel base, configuration of gear box and load-carrying capacity. The basic models of Unimog may be designed and constructed to produce a variety of vehicles suited to different purposes.

The Unimog 406 owned by the appellant was designed as an agricultural vehicle for use with agricultural implements. It is in the smaller to mid-size range of Unimog, having an 84 horsepower engine, a short wheel base and a load-carrying capacity of approximately one ton.

At the time of customs entry, the farm vehicle and the farm equipment for use with the vehicle were classified together under tariff item 43803-1. However, only periodic references were made to the farm equipment at the appeal hearing and the arguments dealt exclusively with the customs classification of the farm vehicle.

The Tribunal has chosen to deal with the Unimog 406 farm vehicle and the farm equipment as two separate items of import and concludes that the pieces of farm equipment fall squarely within tariff item 40924-1 as, *inter alia*, "Machines and tools for use on tractors ...". The evidence clearly established that the items were designed for use on the vehicle and had no other application.

There can be no doubt that the Unimog is a motor vehicle, as that classification is broadly comprehended in tariff item 43803-1. However, it is the conclusion of the Tribunal that the Unimog 406, in the particular configuration purchased by the appellant, is more specifically classified under tariff item 40938-1, as it meets the criteria set out by the Tariff Board in Appeal No. 795 for establishing that a vehicle is an internal combustion tractor. It also meets the additional criteria of "primacy of function" more recently established by the Tariff Board in the case of *John Deere Limited v. Deputy Minister of National Revenue for Customs and Excise*. The appeal is allowed.

### THE LEGISLATION

The statutory provisions of the *Customs Tariff* relevant to this appeal are as follows:

40924-1        ...  
*Machines and tools for use on tractors, including blades, loaders, rippers, rakes and related operating and controlling gear;*

...  
*All the foregoing for use on the farm for farm purposes only;*

...  
*All other agricultural implements or agricultural machinery, n.o.p.*

40938-1        *Internal combustion tractors other than highway truck-tractors and other than the following integrated self-propelled machines: front-end loaders or tractor shovels, tractor dozers, log skidders, log loaders, fork lift or lift trucks, combination excavating and transporting scraper units, combination excavating and loading machines, street sweepers, mobile compressors, and snow moving machines; accessories, n.o.p., and parts thereof, for tractors entitled to entry under this item; parts of tractors entitled to entry under this item.*

43803-1        *Automobiles and motor vehicles of all kinds, n.o.p.; electric trackless trolley buses; chassis for all the foregoing.*

## THE FACTS

This is an appeal pursuant to section 67 of the *Customs Act*<sup>1</sup> (the Act) from a decision of the Deputy Minister dated January 25, 1988. It concerns the tariff classification of a Unimog 406 and related farm equipment imported into Canada at Vancouver, British Columbia, from the Federal Republic of Germany.

At the time of importation, the goods were invoiced as a Daimler-Benz Unimog 406 farm vehicle with attachments and accessories under customs entry number L180426. This Unimog 406 is a four-wheel-drive vehicle equipped for use with various farming implements. It was imported together with several such farming implements and cumulatively classified under tariff item 43803-1 as "Automobiles and motor vehicles of all kinds, n.o.p."

On April 13, 1987, pursuant to section 60 of the Act, the appellant requested a re-determination of the tariff classification of the goods under tariff item 40938-1 as an internal combustion tractor. On August 17, 1987, the appellant was advised that the original classification under tariff item 43803-1 had been confirmed. The appellant then filed a request for re-determination of the tariff classification under tariff item 40924-1 as " ... agricultural implements or agricultural machinery, n.o.p." On January 25, 1988, the respondent rendered a decision denying the appellant's request for re-determination and thus this appeal was initiated.

When it was purchased in 1987, the Unimog at issue was 15 years old. The appellant paid a lump sum for the vehicle and various pieces of farm equipment which came with it. This particular version of Unimog 406 came equipped with hydraulic coupling attachments and an electric winch at the front of the vehicle, and hydraulic coupling attachments and a three-point hitch at the rear. It has four-wheel drive and front and rear differential locks supplying positive traction to all four wheels. It has power take-off at the front and the rear. The Unimog 406 has a flat deck loading area measuring 80 inches by 77 inches. The appellant's vehicle came equipped with field tires.

The transmission of this Unimog 406 includes two reverse gears and six forward gears, of which two are the crawler and the super crawler gears. The latter has a speed of sixty meters per hour at full throttle. The top driving speed is approximately eighty kilometres per hour.

The equipment which the appellant purchased with the Unimog included a front end loader, snow plow, wood splitter, plow, disk cultivator, harrow and seeding machine.

The Unimog is manufactured by Mercedes-Benz as a multi-concept vehicle adaptable to various uses. At least nine basic models are made varying in the size of engine, chassis, wheel base, configuration of gear box and load-carrying capacity. The Unimog 406 is in the smaller to mid-size range of Unimog, having an 84 horsepower engine, a short wheel base and a load capacity of approximately one ton.

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1. R.S.C. 1985, c. 1 (2nd Supp.).

It was the evidence of the appellant's witness, a Mercedes-Benz dealer in the Vancouver area, that the Unimog 406 was no longer being manufactured and that it had been replaced with the 900 model which was comparable in design and size to the 406 model.

The appellant entered as exhibits a number of brochures describing the various models of Unimog. One of these detailed the different fields of operation for which a Unimog can be specifically designed and constructed.

The Unimog 406 owned by the appellant was designed as an agricultural vehicle or tractor for use with agricultural implements. These are attached to either the front or the rear of the vehicle or both. The three-point hitch at the rear is designed to facilitate the attachment of various farm implements. According to the appellant's witness, the various farming implements are interchangeable within a matter of minutes.

Counsel for the appellant stated that the Unimog had never been licensed for use on public highways and had no practical utility as a highway vehicle. It was the evidence of the appellant's witness that the short wheel base version of the Unimog, such as the one at issue, was neither capable of carrying nor designed to carry loads over distances, as the machine was out of proportion with its load-carrying capacity.

It was also the view of the witness that the load-carrying capacity of the Unimog 406 of approximately one ton was not sufficient for a reasonably sized payload. Moreover, as the vehicle was equipped with field tires, it was not capable of extended highway travel without damaging those tires.

Counsel for the appellant entered as evidence a letter from the Ontario Minister of Transportation (the Minister) to the Chiefs of Police and Regional Managers of the Ministry of Transportation and Communications, which refers to a version of the Unimog described as road building equipment. While the substance of the letter is to the effect that such vehicles do not require to be licenced for on-highway use, the Minister also notes that, while truck-like in appearance, the Unimog is a tractor. The substance of that letter is as follows:

*Re: On-Highway Use of the Mercedes-Benz Unimog Tractor*

*There has been some misunderstanding of the above-noted vehicle's status with regard to the licensing requirements of the Highway Traffic Act resulting from the fact that, although a tractor, the vehicle is truck-like in appearance. The vehicle is designed to perform a variety of tasks through the use of interchangeable equipment mounted on the front, rear or both ends. That equipment includes mowers, post-hole diggers, weed spraying equipment, snow blowers and snow plow, back-hoes, sweepers, etc.*

*I wish to confirm the Ministry's position that, in the configurations in which the vehicle is being marketed in Ontario, it clearly falls within the Highway Traffic Act definition of a "road-building machine" and as such, is not required to be licensed for on-highway use.*

The appellant, Springhouse Trails Ltd., acquired the Unimog 406 for use on a ranch in the Williams Lake area of British Columbia. The ranch is used for cattle grazing and as a guest ranch for horse riding in the summer. Because of the hilly terrain, the appellant claims that the Unimog 406 is particularly well-suited to use on the ranch.

## THE ISSUES

In its initial request for a redetermination of the customs tariff classification, the appellant submitted that the Unimog 406 be classified under tariff item 40938-1 as an internal combustion tractor. Although the present appeal was brought from a decision of the Deputy Minister refusing the reclassification of the goods under tariff item 40924-1 as, *inter alia*, " ... agricultural implements or agricultural machinery, n.o.p.," the appellant requests that the Tribunal also consider classifying the Unimog 406 under tariff item 40938-1 as an internal combustion tractor.

The appellant states that the vehicle is in fact a tractor and is described in all the literature issued by the manufacturer as a tractor.

In the alternative, the appellant states that the vehicle and equipment should be classified under tariff item 40924-1 as " ... agricultural implements or agricultural machinery, n.o.p.". Whereas the Unimog is manufactured as a multi-concept vehicle, the appellant argues that the design and economic purpose of the particular configuration of Unimog owned by the appellant are solely agricultural. It is this design and primary use of the vehicle, the appellant argues, which should determine its customs tariff classification.

In addition, the appellant states that the vehicle's limited load-carrying capacity and the fact that the vehicle barely reaches highway speeds are indicative that these capabilities are only incidental to the performance of the primary agricultural functions.

Counsel for the respondent maintains, first, that the Unimog 406 has been correctly classified under tariff item 43803-1 as a motor vehicle on the basis that the Unimog 406 meets the common definition of a motor vehicle as well as the tests established in the jurisprudence for classifying goods under that item. Second, the respondent argues that the goods do not meet the tests established in the jurisprudence for classifying goods as agricultural implements or agricultural machinery.

The respondent further contends that it is not open to the appellant to propose a tariff classification, at the time of hearing the appeal, different from the tariff items decided upon by the Deputy Minister, which decision has been appealed to the Tribunal. In view of this position, counsel for the respondent has not presented argument regarding the classification of the Unimog 406 under tariff item 40938-1 as an internal combustion tractor.

On the first ground, the respondent argues that because the Unimog 406 is a four-wheel-drive vehicle with both passenger and load-carrying capabilities and is able to operate at normal highway speeds, it should be classified as a motor vehicle. As authority for this proposition, counsel for the respondent cites the case of *J.H. Ryder Machinery Limited v. The Deputy*



*Minister of National Revenue for Customs and Excise.*<sup>2</sup> In that decision, the Tariff Board stated that in order to classify goods as a motor vehicle, they should have the appearance of a motor vehicle and "be capable of and designed for carrying loads over distances on roads and highways or across country"<sup>3</sup>.

Counsel for the respondent also cites the following definition of "motor vehicle" in the 1986 SAE Handbook<sup>4</sup> to show that the Unimog 406 is properly classified under the tariff item for a motor vehicle:

*Motor vehicle means every device which is self-propelled and equipped with driver controls in, upon, or by which any person or property is or may be transported or drawn upon a highway or upon natural terrain, excepting devices moved by human or animal power or used exclusively upon stationary rails.*

As the descriptive literature provided by the appellant indicates that the Unimog 406 is a four-wheel-drive motor vehicle capable of carrying both passengers and freight and of operating at normal highway speeds, the respondent claims that the vehicle falls within the scope of tariff item 43803-1.

The respondent further states that although the Unimog 406 is capable of performing, and is being used to perform, many agricultural functions, it does not meet the definition of "agricultural implements or agricultural machinery" as established in the jurisprudence. The case of *R.W. Nelson Seed Farms v. The Deputy Minister of National Revenue for Customs and Excise*<sup>5</sup> is cited, at page 574, for its review of the case law on this subject and the various tests which have been established:

*In Ballentine Company, Limited, W.L. v. D.M.N.R. for Customs and Excise (1951) 1 T.B.R. 46, the Board declared that before an implement is deemed to be an agricultural implement it must be "recognizably" agricultural. In Cockshutt Plow Company Limited v. D.M.N.R. for Customs and Excise (1951) 1 T.B.R. 63 the Board found that goods would only be considered agricultural if they were primarily for farm use. This view, consistently held by the Board since then, was recently reaffirmed in W.E.R. Holdings Inc. v. D.M.N.R. for Customs and Excise (1986) 11 T.B.R. 306.*

Whereas the respondent does not contest that the Unimog 406, accessories and attachments fall within the ambit of "implements or machinery," it is submitted that these items cannot be considered "agricultural" machinery or implements, as that phrase has been defined by the Tariff Board in the above-noted cases.

Finally, counsel for the respondent refers to the case of *Major Irrigation (1974) Limited*

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2. (1975), 6 T.B.R. 278.

3. Supra at note 2, p. 289.

4. 1986 SAE (Society of Automotive Engineers) Handbook, Vol. 4, c. 36, page 36.01.

5. (1987) 12 T.B.R. 566.

*et al. v. The Deputy Minister of National Revenue for Customs and Excise*<sup>6</sup> where the phrase "for use on the farm for farm purposes only," as found in tariff item 40924-1, was at issue. In that case, bulk beds used to transport potatoes from the field to the storage area to the market were excluded from the ambit of tariff item 40924-1 because they were used on the highway for shipping purposes as well as for general farm use. Counsel for the respondent claims that because the Unimog 406 may also be used "on the highway for shipping purposes," it must be excluded from consideration under tariff item 40924-1.

## DECISION

Although the decision of the Deputy Minister which was appealed to this Tribunal was made on the basis of a request to have the vehicle classified as an agricultural implement or agricultural machinery, it is open to the Tribunal, under section 67 of the Act, to declare the proper classification of imported goods, notwithstanding that it may be under a tariff item not proposed by either of the parties at the time this appeal was instituted.

This matter was decided by the Exchequer Court in the case of *Hunt Foods Export Corp. of Canada Ltd. et al. v. Deputy Minister of National Revenue for Customs and Excise*<sup>7</sup> when Mr. Justice Kerr stated, at page 339:

*... The Tariff Board's jurisdiction was not limited or governed by the agreed statement of facts. The Board had a duty to make such order or findings as the nature of the matter required, and it heard, considered and made an appraisal of the evidence that was adduced, which was part of the case presented by the parties and relevant to the nature of the matter before the Board, i.e., the products and their classification. I have no doubt that the Board has jurisdiction to reject the pleas of the appellants and of the respondent respecting the classification of the products and to declare their proper classification.*

Another matter pertaining to this appeal should be noted at the outset. It was never resolved to the satisfaction of the Tribunal whether one or two separate items of import have been put at issue in this appeal: the Unimog 406 or the vehicle and the various pieces of farm equipment for use with it. While periodic references were made to the pieces of equipment, the arguments presented at this appeal dealt exclusively with the classification of the Unimog 406. In addition, the document registering the appellant's request to the Deputy Minister for a redetermination of the tariff classification refers only to a "Daimler-Benz Unimog 406 Farm Tractor."

Apparently, both the vehicle and the farm equipment for use with the vehicle were classified under tariff item 43803-1 as "motor vehicles of all kinds," at the time of customs entry. The rationale for this combined classification has not been explained satisfactorily and the Tribunal only speculates that this result was caused by the fact that the importer acknowledged paying a lump sum purchase price for both the vehicle and accompanying implements. The

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6. (1982) 8 T.B.R. 446.

7. (1970) 4 T.B.R. 333.

Tribunal has chosen to deal with the Unimog 406 and the farm equipment as two separate items of import.

It is the conclusion of the Tribunal that the pieces of farm equipment fall squarely within tariff item 40924-1 as "Machines and tools for use on tractors ... " and the Tribunal so declares their proper tariff classification. The evidence clearly established that the items were designed for use on the vehicle and have no other application.

The issue, then, is which tariff item best describes the Unimog 406. There can be no doubt that the Unimog 406 is a motor vehicle as that classification is broadly comprehended in tariff item 43803-1 as "Automobiles and motor vehicles of all kinds, n.o.p." or as described in the 1986 SAE Handbook. The Tribunal notes that almost all tractors would fit those descriptions.

While the Unimog 406 is capable of carrying loads over distances on highways, this capability is limited and only incidental to the primary field of operation of the vehicle. As stated by the appellant's witness, the vehicle's load-carrying capacity of approximately one ton is not enough for a reasonably sized payload. Rather, the load-carrying capacity of the Unimog 406 is designed to facilitate the agricultural functions of the vehicle, such as carrying seed for use with the spreader attachment.

It is the further conclusion of the Tribunal that the Unimog 406, in the particular configuration purchased by the appellant, is properly classified under tariff item 40938-1 as it meets the criteria set out by the Tariff Board in Appeal No. 795<sup>8</sup> for establishing that a vehicle is an internal combustion tractor. It also meets the additional criteria of "primacy of function" more recently established by the Tariff Board in *John Deere Limited v. The Deputy Minister of National Revenue for Customs and Excise*.<sup>9</sup>

The criteria, as laid down in Appeal No. 795, are as follows:

1. *Its source of power must be an internal combustion engine which forms an integral part of it.*
2. *It must be self-propelled when performing its function.*
3. *Its function must be performed - in whole or in part - by the traction or pulsion of vehicles, devices or objects by its own locomotion.*
4. *Where there is addition to a machine, otherwise classifiable as a tractor, of equipment or devices not so essentially constitutive as to form an integral mechanical unit, the machine itself - the tractor unit - remains classifiable as a*

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8. (1966), Reference by the Deputy Minister of National Revenue for Customs and Excise, pursuant to section 46 of the *Customs Act*, for an opinion as to what criteria should be applied in determining whether equipment should be classified as an internal combustion tractor coming within customs tariff item 409m(1) (now numbered 40938-1), 3 T.B.R. 259.

9. (1988), 13 T.B.R. 33.

*tractor in tariff item 409m(1), though the equipment or devices as "machines or tools ... for use on ... tractors", may be classified elsewhere in the Customs Tariff, for example, tariff items 409f or 427m.*

5. *Where there is addition to a machine, otherwise classifiable as a tractor, of equipment or devices which function otherwise than by traction or pulsion only,*
  - A - *the machine remains classifiable as a tractor in tariff item 409m(1) if the additional equipment or devices*
    - (i) *are removable, or*
    - (ii) *are so essentially constitutive as to form an integral mechanical unit but, nevertheless, function - in whole or in part - through traction or pulsion by locomotion of the entire unit.*
  - B - *the machine ceases to be classifiable as a tractor in tariff item 409m(1) if the additional equipment or devices*
    - (i) *are not removable, and*
    - (ii) *are so essentially constitutive as to form an integral unmechanical unit which does not function - in whole or in part - through traction or pulsion by locomotion of the entire unit.*
6. *Where the machine has only two wheels mounted at the opposite ends of a powered axle it remains subject to the foregoing criteria to determine whether or not it should be classified as a tractor in tariff item 409m(1).*

With regard to the first criterion, the Unimog 406 is powered by a diesel engine which is mounted on a chassis and attached to a transmission, making it an integral part of the unit. As required by criteria two and three, it is self-propelled while performing its function, and that function is performed by the traction or pulsion of the vehicle.

Regarding the fourth criterion, while the tractor unit is classifiable under tariff item 40938-1, the agricultural equipment for use with the tractor (which is not so essentially constitutive as to form an integral mechanical unit) is properly classified under tariff item 40924-1 as "Machines and tools for use on tractors ...".

Under the terms of the fifth criterion, the accessories and attachments, such as the drawbar, three-point hitch and hydraulic couplings, which are attached to the vehicle and function otherwise than by traction or pulsion only, are an integral part of the mechanical unit. As the Unimog 406 has four wheels, the sixth criterion does not apply.

In the John Deere case, the Tariff Board endorsed a seventh criterion, "primary purpose," which resulted in the classification of the goods at issue as self-propelled power lawn mowers

rather than internal combustion tractors. While Parliament has excepted numerous varieties of tractor from the general category of internal combustion tractor provided under tariff item 40938-1, tractors designed primarily for agricultural use, such as the vehicle at issue in this appeal, are clearly embraced by this tariff item.

CONCLUSION

The appeal is allowed. The Unimog 406, as manufactured in the particular configuration purchased by the appellant, is an internal combustion tractor designed for agricultural use and is therefore properly classified under tariff item 40938-1. The pieces of farm equipment imported for use with the Unimog 406 are properly classified under tariff item 40924-1 as, *inter alia*, "Machines and tools for use on tractors ...".

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