



Ottawa, September 19, 1989

Appeal No. 3085

IN THE MATTER OF an application heard May 23, 1989,
pursuant to section 67 of the *Customs Act*, R.S.C. 1986, c.
1, as amended;

AND IN THE MATTER OF a decision of the Deputy
Minister of National Revenue dated August 31, 1988, with
respect to a Request for a Redetermination filed pursuant to
section 63 of the *Customs Act*.

BETWEEN

INTERNATIONAL CORDAGE SYSTEMS LTD.

Appellant

AND

THE DEPUTY MINISTER OF NATIONAL REVENUE

Respondent

DECISION OF THE TRIBUNAL

The appeal is allowed. The Tribunal declares that braided cord specially designed for parachute suspension lines imported by International Cordage Systems Ltd. should be classified under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair," rather than under tariff item 56510-1 as "Braids of all kinds, n.o.p."

Arthur B. Trudeau

Arthur B. Trudeau
Presiding Member

W. Roy Hines

W. Roy Hines
Member

Sidney A. Fraleigh

Sidney A. Fraleigh
Member

Robert J. Martin

Robert J. Martin
Secretary

UNOFFICIAL SUMMARY

Appeal No. 3085

INTERNATIONAL CORDAGE SYSTEMS LTD.

Appellant

and

THE DEPUTY MINISTER OF NATIONAL REVENUE

Respondent

Customs Tariff - Tariff classification - Whether braided cord imported from the United States on September 17, 1987, should be classified under tariff item 56510-1 as "Braids of all kinds, n.o.p.," or, as claimed by the appellant, under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair."

DECISION: *The appeal is allowed. The Tribunal declares that braided cord specially designed for parachute suspension lines imported by International Cordage Systems Ltd. should be classified under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair," rather than under tariff item 56510-1 as "Braids of all kinds, n.o.p."*

Place of Hearing: Ottawa, Ontario
Date of Hearing: May 23, 1989
Date of Decision: September 19, 1989

Panel Members: Arthur B. Trudeau, Presiding Member
W. Roy Hines, Member
Sidney A. Fraleigh, Member

Counsel for the Tribunal: Donna J. Mousley

Clerk of the Tribunal: Nicole Pelletier

Appearances: J. Warren Mackenzie, for the appellant
Mary Ann McMahon, for the respondent

Statutes Cited: *Customs Tariff, R.S.C. 1985, c. C-54, Schedule II, tariff items 56110-1 and 56510-1; Customs Tariff, S.C. 1987, tariff items 56.07 and 5607.50.10.10.*

Dictionaries Cited: *The Shorter Oxford English Dictionary on Historical Principles, Clarendon Press, Oxford, 1933, Volume I, pages 213 and 394; Encyclopedia of Textiles, Third Edition, Prentice-Hall, 1980; The Oxford English Dictionary, Second Edition, Clarendon Press, Oxford, 1989, Volume III, page 924; The Oxford Reference Dictionary, Clarendon Press, Oxford, 1986, page 103.*

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Appellant

and

THE DEPUTY MINISTER OF NATIONAL REVENUE

Respondent

TRIBUNAL: ARTHUR B. TRUDEAU, Presiding Member
W. ROY HINES, Member
SIDNEY A. FRALEIGH, Member

REASONS FOR DECISION

SUMMARY

The appellant, International Cordage Systems Ltd., imported goods described as "braided cord specially designed for parachute suspension lines," from the United States and which were classified by the respondent under tariff item 56510-1 as "Braids of all kinds, n.o.p." The appellant argues that the goods should have been classified under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair." The issue in this appeal is whether the goods are more accurately described for customs purposes as "braid" or as "cord."

The appeal is allowed. The braided cord which is the subject of this appeal is known in common parlance, as well as within the trade, as "cord" rather than as "braid." The term "cord" is not restricted to a product using twisted fibres only. Rather, cord is defined in well-established dictionaries as a product which may be either twisted or woven. On the other hand, a braid, in the ordinary sense of the word and as it is defined in dictionaries, refers specifically to a band of woven fabric used for decorative purposes or a plaited tress of hair. Thus, while the goods at issue are produced on a braiding machine, they should be classified under tariff item 56110-1, as that tariff item provides for cord.

THE LEGISLATION

The relevant statutory provisions of the Customs Tariff¹ are as follows:

Tariff Item 56110-1 Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair.

Tariff Item 56510-1 Braids of all kinds, n.o.p.

1. R.S.C. 1985, c. C-54, Schedule II.

THE FACTS

This appeal concerns a shipment of braided parachute cord which was imported into Canada at Stanhope, Quebec, from the United States, under entry No. A345701, dated September 17, 1987, and invoiced by the manufacturer as follows:

NYLON MIL C 5040F TY 3
OLIVE DRAB 2A DYED
SPOOLS
GOVT. CONTRACT W 8463-7-JAOB/2-DF.

Customs officials classified the goods as "nylon braided on spools" and charged duty according to tariff item 56510-1, as "Braids of all kinds, n.o.p." The appellant, International Cordage Systems Ltd., applied for a redetermination of the tariff classification under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair." At that time, the appellant submitted a "corrected invoice" for the goods which included both the original "generic" description, as stated above, and a new "specific" description of the goods as follows:

BRAIDED CORD SPECIALLY DESIGNED FOR PARACHUTE
SUSPENSION LINES, MADE FROM NYLON (MAN-MADE FIBRES) WITH
A RUNNAGE OF 225 FEET PER LB. AND A DIAMETER OF 3.0 MM OR
CIRCUMFERENCE OF 9.43 MM.

The president of International Cordage Systems Ltd. has worked for 35 years in the cordage industry. He represented International Cordage Systems Ltd. and was its key witness. He read a letter addressed to the Tribunal which was received from Hope Webbing Co., the manufacturer of the imported goods. The letter stated, and it was also the witness's testimony, that parachute cord is identified throughout the cordage industry, by governments and industry alike, as "cord."

The witness also filed two documents as exhibits: first, the Canadian Government Specification D-80-001-028/SF-001 which is headed "CORD, PLAITED, SPUN SYNTHETIC FIBRE," and second, the specification MIL-C-5040F for the product known as NATO STOCK NO. 4020-00-246-0688 or "parachute cord." It was noted that the first document, which was issued on authority of the Chief of the Defence Staff, uses the word "cord" 12 times within this government specification for "plaited cord." The NATO specification for "parachute cord" calls the product "cord" a total of 63 times.

The following definition for cord was cited by the appellant's witness as being the accepted definition within the cordage industry:

Any product within a certain diameter size range made from either natural or man-made fibres and which can be tied into knots. The size range for cords bridges the gaps between twine and rope; that is, between one-eighth inch diameter and three-sixteenths inch diameter.

The cordage industry, he further noted, has adopted the word "cordage" because it is a catch-all term for all those products made from either natural or man-made fibres which can be tied into knots, whether twisted, braided or plaited. A braided product can have anywhere from 8 strands to a maximum of 36 strands braided together. The cord at issue measures 0.188 inch in diameter. The outer sheath has 36 strands braided together with 7 to 9 strands of filler yarn, which contributes to the overall strength of the product as well as giving it a round shape.

The witness for the respondent was an employee of Belding-Cordicelli, which is one of the largest producers of braided products in Canada. It was his testimony that anything made on a braiding machine was a braid. Belding-Cordicelli, he said, also manufactured a braided product called "parachute cord." However, he would describe that product as "braid" rather than "cord" and considered that to be the common industry definition.

Also submitted as exhibits were a number of samples of braided products manufactured by Belding-Cordicelli. The first group of products was identified as "twisted cord," the second, "parachute cord," and the third, a general assortment of "braids." The respondent's witness was questioned by counsel and members of the panel on the manufacturing process and uses for these products. When questioned on a specific sample in the third group which was labelled "braided cord," he responded that he considered this product to be cord.

It was also the witness's testimony that the end use of a product often determined what it was called. Shoelaces were mentioned as one example. While these are braided products, they are never referred to as braids, but as shoelaces. The product identified as "braided cord" and manufactured by Belding-Cordicelli was said by the witness to be suitable for use as a starting cord for a motor, and would, in that context, be called a "starter cord."

THE ISSUE

Both parties acknowledge that the issue to be determined is which tariff item best describes the product at issue. Neither party denies that the product is accurately described as "braided cord." However, it is the contention of the appellant that the ordinary description of the product, as well as its definition within the cordage industry, is "cord" rather than "braid." On the other hand, the respondent claims that the product is commonly known within the industry as "braid."

The appellant states that it has been a supplier of parachute cord to the Government of Canada for the past eight years, and that this is the first time the product has been classified under tariff item 56510-1. Therefore, he submits, this appeal results from a mere misunderstanding of the true description of the product, occasioned by the rather cryptic generic description given on the invoice at the time of import.

The appellant further states that the current tariff classification for the goods under the Harmonized Commodity Description and Coding System,² which came into effect in Canada in 1988, includes "cordage ... whether or not plaited or braided," and that this is evidence that the product is more accurately described for customs purposes as "cord" rather than "braid." Tariff item 56.07 of the new Customs Tariff which incorporates the Harmonized System is as follows:

56.07 Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics.

5607.50.10.10 Of nylon.

Finally, the appellant argues that, as tariff item 56510-1 is an "n.o.p." classification, the goods are better classified under the tariff item which specifically names the product as "cord."

The respondent, on the other hand, argues that the goods at issue should not be classified as cords, as they are provided for by name in tariff item 56510-1 as braids. Cord, as that term is defined in dictionaries, is simply strands of fibre or filament twisted together, and a braid, any product which is braided. In support of this argument, counsel for the respondent cites The Shorter Oxford English Dictionary on Historical Principles³ as follows:

braid ... 4. To twist in and out, interweave, plait; to embroider, to make by plaiting ...

cord1. A string, or (small) rope, composed of several strands twisted together ...

Counsel also provided the following definition for braid from the Encyclopedia of Textiles:⁴

a narrow textile band or tape formed by plaiting together or crossing diagonally and lengthwise several threads of any of the major textile fibres to obtain a certain width, effect, pattern or style. Used for binding coat edges and for decoration in military uniforms.

The respondent further submits that the tariff items in question must be read as a whole. Tariff item 56110-1, which includes cords, also contains yarns, rovings, threads and twines. None of these items, argues counsel, is characterized by the type of patterned interweaving required to form a braid or to form the item in issue, and therefore, "braided cord" is more accurately described under the tariff item for "Braids of all kinds, n.o.p."

2. Customs Tariff, S.C. 1987.

3. Volume I, pages 213 and 394.

4. Third edition.

DECISION

The appeal is allowed. The Tribunal finds, on the basis of the evidence presented, that the braided cord, which is the subject of this appeal, is commonly known within the trade as "cord," rather than "braid," and thus should be classified under tariff item 56110-1.

While the respondent states that the definition of cord is restricted to a product where the fibres or filaments are twisted rather than braided or plaited, this argument is not supported by definitions provided in well-established dictionaries, or by the evidence heard on the appeal. The Oxford English Dictionary⁵ defines cord as a product which may be either twisted or woven:

1.a. A string composed of several strands twisted or woven together; in ordinary popular use, now restricted to small ropes, and thick or stout strings; but formerly applied more widely ... Also applied to strands of wire twisted or woven together.

On the other hand, a braid, in the ordinary sense of the word, and as it is defined in the dictionary, refers to a band of woven fabric used for decorative purposes or a plait of hair. For example, The Oxford Reference Dictionary⁶ defines braid in the following manner.

1. a woven band of silk or thread used for trimming. 2. a plaited tress of hair.

Braiding is a specific style of weaving, as suggested by the Oxford dictionary definition for braid provided by the appellant. Thus, according to the above definition, cord may be made either by a process of twisting or braiding.

The Tribunal is particularly persuaded by the evidence provided by both the witness for the appellant and the respondent, that whether or not the product is manufactured by a weaving or braiding process, it is nonetheless regarded in common parlance as "cord." The term "cord" is not restricted to twisted strands only. Two braided products, which the witness for the respondent affirmed were called "cord," despite the fact that they were produced on a braiding machine, were starter cords and venetian blind or awning cord. Similarly, the parachute cord at issue, as evidenced at this hearing and in the literature of the purchasing public, is clearly regarded as cord. The fact that a product is made on a braiding machine does not necessarily make it a product referred to as "braid." Indeed a number of products made on braiding machines are products referred to as "cord."

While the new Customs Tariff using the Harmonized System was not in force at the time the facts in this appeal arose, the Tribunal considers that it is often useful to refer to this coding system to aid in the interpretation of ambiguous language in the Customs Tariff.

As noted by the appellant, the Harmonized System identifies cord as being either plaited or

5. Second edition, Volume III, page 924.

6. Page 103.

braided. In this case, the Tribunal considers that this classification is merely confirmation with common understanding that cordage is a distinct class of goods which includes both twisted and braided varieties.

CONCLUSION

The appeal is allowed. The Tribunal declares that braided cord specially designed for parachute suspension lines imported by International Cordage Systems Ltd. should be classified under tariff item 56110-1 as "Yarns and rovings, wholly or in part of man-made fibres or filaments, including threads, cords or twines, not containing wool or hair," rather than under tariff item 56510-1 as "Braids of all kinds, n.o.p."

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