Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2006-005

MRP Retail Inc.

v.

President of the Canada Border Services Agency

Decision and reasons issued
Thursday, September 27, 2007

Canada

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IN THE MATTER OF an appeal heard on November 15, 2006, under subsection 67(1) of the *Customs Act*, R.S.C. 1985 (2d Supp.), c. 1;

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated March 17, 2006, with respect to a request for re-determination under subsection 60(4) of the *Customs Act*.

BETWEEN

MRP RETAIL INC. **Appellant**

AND

THE PRESIDENT OF THE CANADA BORDER SERVICES AGENCY **Respondent**

DECISION

The appeal is allowed.

Elaine Feldman
Elaine Feldman
Presiding Member

Ellen Fry
Ellen Fry
Member

Serge Fréchette
Serge Fréchette
Member

Hélène Nadeau
Hélène Nadeau
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	November 15, 2006
Tribunal Members:	Elaine Feldman, Presiding Member Ellen Fry, Member Serge Fréchette, Member
Counsel for the Tribunal:	Reagan Walker Eric Wildhaber
Registrar Officer:	Valérie Cannavino
Appearances:	Malcolm Perlman, for the appellant Gregory Tzemenakis, for the respondent

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STATEMENT OF REASONS

BACKGROUND

1. This is an appeal under subsection 67(1) of the *Customs Act*[1] from a decision[2] made on March 17, 2006, by the President of the Canada Border Services Agency (CBSA) under subsection 60(4) of the *Act*.

2. The decision concerns women's 100 percent cotton knit T-shirts and tank tops (the goods in issue). MRP Retail Inc.[3] (MRP) imported the goods in issue from California Sunshine Activewear Inc. (California Sunshine) of the United States between April 10 and July 24, 2001.

3. The goods in issue were classified under tariff item No. 6109.10.00 as cotton T-shirts, singlets and other vests, knitted or crocheted. The classification is not in dispute.

4. The issue in this appeal is whether the goods in issue are entitled to preferential tariff treatment (at the Mexico Tariff rate) under the *North American Free Trade Agreement*.[4]

5. These reasons are divided into three parts: the facts of the appeal, the law and the analysis of the issue described in the preceding paragraph.

FACTS OF THE APPEAL

6. Mr. Malcolm Perlman, President of MRP, testified at the hearing on his company's behalf. Ms. France Mowbray, a regional recourse officer familiar with the audit history of the goods in issue, testified for the CBSA, as did Mr. Raymond Thibeault, Deputy Director of the CBSA's Origin and Valuation Audit Unit.

7. The Tribunal admitted Mr. Thibeault as an expert in the CBSA's audit processes for audits of origin of goods.

8. The following paragraphs contain the Tribunal's findings of fact.

9. The goods in issue were produced in Mexico by Alimex Fashion SA de CV (Alimex) for California Sunshine. Alimex sewed and finished blanks for T-shirts and tank tops from precut cotton knit fabric provided by California Sunshine, then sent them back for screen printing and embroidering, either by California Sunshine directly or through the latter's subcontractor. In other instances, California Sunshine contracted with Alimex for a package deal in which the latter bought the fabric and produced the T-shirts and tank tops itself. California Sunshine then sold the finished T-shirts and tank tops to MRP.

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].
2. In reality, there were five separate decisions containing identical reasoning. For the purposes of this appeal, they will be treated as one.
3. Under the business name "Jean Machine", a retail store division.
4. *North American Free Trade Agreement Between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2 (entered into force 1 January 1994) [*NAFTA*].

10. As mentioned above, California Sunshine made a number of shipments to MRP between April 10 and July 24, 2001. In each case, it provided a certificate of origin in which, purporting to be the producer of the goods, it certified that they were of Mexican origin.

11. For reasons unknown to Ms. Mowbray, the CBSA, a year or so later, by letter dated September 16, 2002, asked California Sunshine to complete a verification of origin questionnaire. No response was received at that time.

12. By letter dated October 29, 2002, the CBSA requested information from California Sunshine regarding the manufacturing process and informed California Sunshine of its intent to deny preferential tariff treatment if the information was not provided.

13. By letter dated December 2, 2002, California Sunshine explained the production process and, according to the CBSA, also informed the CBSA that it was *not* the producer of the goods in issue. This letter is not on the record.

14. On January 7, 2003, the CBSA requested written confirmation of the production process in the form of certificates or affidavits of origin from the suppliers and contractors involved, i.e. Alimex and the fabric suppliers, United Textiles & Trimmings Knitting Mills (United Textiles), Best Trend Inc. (Best Trend) and Green Orange Designs Inc. (Green Orange). No response was received at that time.

15. By letter dated May 6, 2003, the CBSA advised MRP that, having completed an audit of the goods in issue, it intended to deny the preferential tariff treatment due to insufficient proof of their origin.

16. On May 30, 2003, the CBSA formalized its decision by issuing detailed adjustment statements under section 59 of the *Act*.

17. MRP filed a request[5] under section 60 of the *Act* for a re-determination of the decision and, on or about July 15, 2003, California Sunshine provided the written confirmation requested by the CBSA, as indicated above, i.e. certificates of origin for the fabric from United Textiles, Best Trend and Green Orange.

18. By letter dated August 13, 2003, the CBSA acknowledged the timely receipt of MRP's request and promised that ". . . if my research indicates that your claim should be denied, I will advise you in writing of my proposed decision and reasons. At that time you may provide a further response before I make a final decision."[6]

19. However, with the exception of a letter dated March 10, 2004, advising MRP that a new contact person would be dealing with its request for re-determination from that time forward, MRP did not hear from the CBSA for over two and a half years. By letter dated February 15, 2006, the CBSA advised MRP of its preliminary decision to deny MRP's claim, on the basis that "[t]he exporter could not provide all of the documentation necessary to track the manufacturing process of [the goods in issue] prior to sale and export to Canada." The CBSA gave MRP a mere 20 days to resolve the matter, failing which a final decision would be rendered. (From July 20, 2005, to January 25, 2006, the CBSA had tried unsuccessfully to obtain the missing information from California Sunshine).

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5. The request was filed through its customs broker. Neither the actual request nor any copy of it was filed in evidence.
6. Appellant's Brief, Tab 8; Respondent's Brief, Tab F.

20. By letter dated March 1, 2006, MRP requested a 90-day extension, due to the amount of material involved and ". . . the unusual length of time since these goods were first cleared . . . ."[7]

21. By letter dated March 8, 2006 (after again contacting California Sunshine regarding the missing information but without success), the CBSA denied the request and, under section 60 of the *Act*, confirmed its decision. The CBSA was of the view that regardless of an extension, the missing information would not be produced.

22. On April 7, 2006, MRP appealed the CBSA's decision to the Tribunal.

LAW

23. Subsection 67(1) of the *Act* provides that "[a] person aggrieved by a decision of the President [of the CBSA] made under section 60 . . . may appeal from the decision to the Canadian International Trade Tribunal . . . ."

24. Decisions under section 60 of the *Act* include, among other things, CBSA decisions on the origin and marking of goods. Although it is a condition of entitlement to preferential tariff treatment at the Mexico Tariff rate that goods be eligible to be marked as goods of Mexico[8] in accordance with the prescribed regulations,[9] the marking of the imported goods is not an issue in this appeal. Only the origin of the goods is in issue.

25. The legislation and regulations governing the origin of goods consist of various provisions of the *Customs Tariff*,[10] the *Act*,[11] the *Proof of Origin of Imported Goods Regulations*,[12] the *NAFTA Rules of Origin Regulations*[13] and the *NAFTA and CCFTA*[14] *Verification of Origin Regulations*.[15]

26. Subsection 24(1) of the *Customs Tariff* requires an importer to meet two conditions before imported goods can qualify for preferential tariff treatment. First, the importer must produce *proof of origin*[16] of the goods as prescribed by regulation;[17] and second, the importer must establish that the goods comply with the rules of origin prescribed by regulation for the goods.

7. Appellant's Brief, Tab 11; Respondent's Brief, Tab N.
8. *NAFTA Tariff Preference Regulations*, S.O.R./94-17, para. 4(*b*).
9. *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations*, S.O.R./94-23.
10. S.C. 1997, c. 36, ss. 16 and 24.
11. S. 35.1.
12. S.O.R./98-52.
13. S.O.R./94-14.
14. *Free Trade Agreement between the Government of Canada and the Government of the Republic of Chile*, 4 December 1996, 1997 Can. T.S. No. 50 (entered into force 5 July 1997).
15. S.O.R./97-333.
16. *Customs Act*, s. 35.1.
17. *Proof of Origin of Imported Goods Regulations*, subs. 6(1).

Proof of Origin

27. Paragraph 24(1)(*a*) of the *Customs Tariff* provides that goods are entitled to preferential tariff treatment only if "proof of origin of the goods is given in accordance with the *Customs Act*." The *Act* requires ". . . proof of origin, in the prescribed form . . . ."[18] The regulations require a ". . . [c]ertificate of [o]rigin for the goods . . .",[19] although no form for a certificate of origin is prescribed.

Rules of Origin

28. Subsection 4(1) of the *NAFTA Rules of Origin Regulations* provides that "[a] good originates in the territory of a *NAFTA* country where the good is . . . (*b*) a vegetable or other good harvested in the territory of one or more of the *NAFTA* countries . . . or (*j*) a good produced in the territory of one or more of the *NAFTA* countries exclusively from a good referred to in any of paragraphs (*a*) through (*i*), or from the derivatives of such a good, at any stage of production."

29. Thus, if the cotton knit T-shirts and tank tops were cut (or knit to shape) and sewn or otherwise assembled in the United States or Mexico from cotton that was grown in the United States or Mexico, they would be originating goods within the meaning of the definition in the regulations.

30. With regard to the goods in issue, this involves two steps. MRP would have to establish that (a) the cotton from which the fabric was made was grown in the United States or Mexico, and (b) that the fabric was cut and assembled into the finished goods in the United States or Mexico as well.

ANALYSIS

31. The Tribunal must determine whether MRP has provided proof of the origin of the goods in issue and their compliance with the applicable rules of origin.

Proof of Origin

32. Regarding the first requirement, as indicated above, paragraph 24(1)(*a*) of the *Customs Tariff* provides that goods are entitled to preferential tariff treatment only if "proof of origin of the goods is given in accordance with the *Customs Act*."

33. During the hearing, the CBSA made much of the fact that, in its view, the exporter erroneously[20] completed the certificate of origin as "producer" of the goods in issue. It argued that the certificate of origin requirement had not therefore been met and urged the Tribunal to dismiss the appeal on that basis.

34. As indicated above, the only statutory requirement in terms of proof of origin is that it must be in the form of a "certificate of origin". Nowhere do the regulations prescribe the form of certificate itself or indicate that it must be provided by a "producer". It is undisputed that MRP submitted certificates of origin covering the goods in issue.

18. Subs. 35.1(1).
19. *Proof of Origin of Imported Goods Regulations*, subs. 6(1).
20. There was no suggestion that the error was fraudulent or otherwise misleading.

35. Furthermore, contrary to the CBSA's view, California Sunshine could be considered the producer of the goods. The *NAFTA Rules of Origin Regulations* define a "producer" as "a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good."[21] Since it, at all times, commissioned and directed the manufacturing or processing and the assembly and printing of the goods in issue through its contractors, it could be considered that California Sunshine *was* the producer of the goods in issue.

36. In summary, the Tribunal accepts that the certificates of origin tendered in this case met the low threshold imposed by section 24 of the *Act* in terms of formal requirements. In the Tribunal's view, the real issue in the appeal is whether or not MRP has proved that the goods in issue met the prescribed rules of origin.

Rules of Origin

37. As stated above, by virtue of the application of subsection 4(1) of the *NAFTA Rules of Origin Regulations*, a two-step process must be followed in order for the goods in issue to be originating goods within the meaning of the definition in the regulations: first, the cotton from which the fabric was made must be grown in the United States or Mexico, and second, the fabric must be cut or assembled into the finished goods in the United States or Mexico as well.

38. In some instances, the production process involved the following four steps: (a) California Sunshine acquired cotton knit fabric; (b) it sent the fabric to a contractor (KP Cutting) for cutting into blanks for T-shirts and tank tops; (c) it then sent the blanks to Alimex for sewing and finishing; and (d) it (either directly or through a contractor) printed and embroidered the finished goods and prepared them for distribution and sale.

39. California Sunshine provided certificates of origin from the textile fabricators for the fabric that it sent to Alimex in Mexico. United Textiles, of Los Angeles, California, certified that its fabric was 100 percent ring-spun combed cotton milled from *NAFTA*-compliant Mexican yarn. Green Orange, of Los Angeles, California, certified that its fabric was *NAFTA*-compliant 100 percent French terry cotton, 100 percent 2 x 1 rib cotton and 100 percent 1 x 1 rib cotton.

40. In other instances, California Sunshine contracted with Alimex for a package deal in which the latter bought the fabric and produced the T-shirts and tank tops itself. Under this alternative arrangement, Alimex bought its fabric directly from Best Trend, of Compton, California. California Sunshine provided a certificate of origin from Best Trend certifying that its fabric was *NAFTA*-compliant 100 percent circular knitted cotton fabric.

41. The certificate of origin from Best Trend was dated December 31, 2001, and specifically covered the blanket period from January 1 to December 31, 2001. The certificate from United Textiles was dated December 9, 2002, and was silent as to the period that it covered. The certificates from Green Orange were dated July 10, 2003, and were also silent as to the period that they covered.

42. During the hearing, the CBSA made much of the fact that the certificates of origin from United Textiles and Green Orange did not expressly stipulate that they covered the period of manufacture, very probably early 2001, and urged the Tribunal to dismiss the appeal on account of the "discrepancy".

21. Subs. 2(1).

43. The Tribunal does not accept that the absence of dates in the blanket certificates of origin from the above two companies should have the effect argued by the CBSA. As indicated above, there is no prescribed form for certificates of origin. Accordingly, there is no legal requirement stipulating that specific dates or periods must be indicated on a certificate of origin. The certificate of origin from Best Trend expressly covers the period in question. Given the blanket wording of the United Textiles and Green Orange certificates, it is reasonable to interpret those certificates as covering all relevant shipments that occurred on or before the dates of the certificates. There is no evidence on the record to contradict this interpretation.

44. Therefore, the Tribunal accepts that blanks for the T-shirts and tank tops were cut from cotton that was grown in the United States or Mexico. The next question is whether the blanks were sewn and processed into finished goods in the United States or Mexico.

45. The CBSA did not challenge the contention that Alimex sewed and finished the blanks at its factory in Mexico. The National Sales Manager for California Sunshine wrote as follows: "We gave purchase orders to Alimex to supply us with blanks sewn in Mexico and not to use any other country for their manufacture. . . . All of our T-shirts had RN numbers for distribution in the United States and Canada which qualified as Nafta product."[22]

46. However, the CBSA takes the position that Alimex's goods were commingled in California Sunshine's warehouse with other goods that were not of *NAFTA* origin. If that were the case, the evidence would not allow the Tribunal to determine whether the goods exported by California Sunshine to MRP were goods of *NAFTA* or non-*NAFTA* origin. Therefore, the Tribunal must weigh whether the CBSA's evidence that the goods in issue were commingled in California Sunshine's warehouse is more persuasive than MRP's evidence that they were not.

47. The CBSA's evidence consists of Ms. Mowbray's records of her understanding of telephone conversations with employees of California Sunshine. MRP's evidence consists of an e-mail from the employee of California Sunshine who was the National Sales Manager during the period of the shipments of the goods in issue.

48. In a letter to the Tribunal dated November 14, 2006, the CBSA objected to the admission of Mr. Paloger's statement on the basis, among other things, that it ". . . raises a number of questions which cannot be addressed in cross-examination due to the lack of a witness from California Sunshine . . . ."

49. It is a well-settled principle of common law that tribunals are masters of their own procedure and not bound by the rules of evidence, provided they follow the rules of natural justice.[23] "Parliament has seen fit to give administrative tribunals a very wide latitude when they are called on to hear and admit evidence so they will not be paralyzed by objections and procedural manoeuvres. This makes it possible to hold a less formal hearing in which all the relevant points may be put to the tribunal for expeditious review."[24]

50. Section 35 of the *Canadian International Trade Tribunal Act*[25] provides as follows: "Hearings before the Tribunal shall be conducted as informally and expeditiously as the circumstances and considerations of fairness permit." Rule 34 of the *Canadian International Trade Tribunal Rules*[26] allows an

22. Tribunal Exhibit AP-2006-005-25.
23. *Canadian National Railways Company v. The Bell Telephone Company of Canada and the Montreal Light, Heat and Power Consolidated*, [1939] S.C.R. 308.
24. *Rhéaume v. Canada (Attorney General)*, 2002 FCT 98.
25. R.S.C. 1985 (4th Supp.), c. 47.
26. S.O.R./91-499 [*CITT Rules*].

appellant to rely on documentary evidence at a hearing, provided it was either contained in the appellant's brief or served on the other parties not less than 10 days before the hearing. Rule 6 of the *CITT Rules* states as follows: "The Tribunal may dispense with, vary or supplement any of these Rules if it is fair and equitable to do so *or* to provide for a more expeditious or informal process, as the circumstances and considerations of fairness permit." (Emphasis added)

51. Based on the above authority, the Tribunal's normal practice is to admit evidence liberally, but only to give each item of evidence the weight that it deserves.[27] This is the practice that was followed in this case. The evidence from *both* parties was hearsay and could not be tested by cross-examination. Because Mr. Paloger was not present at the hearing so as to be cross-examined on his letter, his evidence was hearsay. Ms. Mowbray's testimony concerned her conversation with Messrs. Sinh Trinh and Pierre Serror. Since the latter were not present at the hearing either, Ms. Mowbray could not be cross-examined on her version of their statements and, therefore, Ms. Mowbray's evidence was also hearsay. In order for the fullest picture of the facts be made available while still preserving the expediency of the appeal proceedings, the Tribunal admitted both Mr. Paloger's letter and Ms. Mowbray's testimony into evidence.

52. The Tribunal now turns to the question of what weight to give to the conflicting evidence described in the preceding paragraph. The Tribunal is not persuaded by the CBSA's evidence, which consists essentially of Ms. Mowbray's notes of three telephone conversations. The first was held in January 2006 with Mr. Trinh, an employee of California Sunshine whose responsibilities were not in evidence, who stated, according to Ms. Mowbray's recollection, that "[t]he problem occurs when goods are shipped back to California Sunshine from Alimex—all goods received are commingled."

53. The second telephone conversation took place, again with Mr. Trinh, on March 1, 2006. Ms. Mowbray recorded the following: "Spoke to Sinh [Trinh] regarding my interpretation of their manufacturing process. We both agreed that my interpretation, as outlined in my letter, was indeed accurate."

54. The third telephone conversation took place on March 6, 2006, with Mr. Serror, President of the company. Ms. Mowbray noted the following: "Mr. Serror agreed that I had interpreted their manufacturing processes correctly. He understands that under these circumstances that goods exported by California Sunshine Activewear to Canada are not entitled to the benefits of the Mexican Tariff Treatment as claimed by [MRP]. All finished garments, regardless of the suppliers, are commingled once received into inventory."

55. Ms. Mowbray made an effort to ensure that her understanding of the conversations with Mr. Trinh and Mr. Serror was accurate by sending Mr. Trinh a letter on January 25, 2006, confirming their initial conversation. However, the fact remains that there is no evidence before the Tribunal—other than Ms. Mowbray's assumption,—proving that either of these individuals was familiar with the details of the manufacturing process and its concomitant contractual arrangements. As alluded to above, the evidence does not indicate Mr. Trinh's position in the company.

56. Moreover, the Tribunal is of the view that, in his role as President, Mr. Serror would not ordinarily be expected to be familiar with details of the company's day-to-day operations. In addition, the Tribunal took into account that this evidence does not consist of the actual communications from Messrs Trinh and Serror; rather, it is Ms. Mowbray's understanding and recollection of these communications. Although

27. Consistent with the decision of the Supreme Court of Canada in *Université du Québec à Trois-Rivières v. Larocque*, [1993] 1 S.C.R. 471.

Ms. Mowbray undoubtedly acted in good faith, it is possible that she did not fully understand or recollect what Messrs Trinh and Serror intended to communicate. Furthermore, while Ms. Mowbray could be cross-examined on *her* memory, Messrs Trinh and Serror could not.

57. On the other hand, the fact that the evidence from Mr. Paloger is a communication by him, rather than another party's understanding and recollection of such a communication, makes it inherently more reliable. Mr. Paloger committed his statement to writing, which indicates to the Tribunal that he must have expected that it might be publicized at some point and, therefore, would be more likely to be diligent in confining his remarks to factual observations of which he was certain. As the company's National Sales Manager, Mr. Paloger would have been very familiar with the transactions in question, since he ". . . over saw sales, production and shipping . . ." for the company from 1997 through 2006, when it was dissolved, and personally handled the MRP account.[28]

58. Furthermore, the Tribunal notes that it would have been a risky business practice for California Sunshine to commingle goods of *NAFTA* and non-*NAFTA* origin in its warehouse, given that the company's competitive advantage would depend, in part, on the ability to ship goods to its Canadian customers at a preferential tariff rate; otherwise, the cost to the customers could well become too great for continued patronage.

59. Mr. Paloger indicated that, "[a]t the time [of the transactions under appeal,] Cal. Sun. only did t-shirts with Alimex and did not import ANY t-shirts or blanks from China, India, Macau or Myan[n]mar." The Tribunal finds this to be a credible statement, given that Article 9 of the World Trade Organization *Agreement on Clothing and Textiles* allowed for the imposition of comparatively high tariffs on imports of textile inputs and was still in effect at the time of the transactions under appeal. *NAFTA*, in contrast, allowed for the imposition of low tariffs on imports into Canada of Mexican-origin textiles.

60. Under the circumstances, the Tribunal finds that Mr. Paloger's e-mail is the best evidence available, on both sides, and gives it greater weight than Ms. Mowbray's account of her telephone conversations with Messrs Trinh and Serror. The Tribunal therefore accepts Mr. Paloger's statement that "[o]ur t-shirts came in from Mexico and were shelved in our warehouse in Los Angeles. They were not commingled with any other t-shirts."

61. The CBSA argued that, since MRP could not produce evidence of an unbroken chain of custody for the goods in the form of purchase orders, sales invoices or production records demonstrating the manufacture of the goods in issue in the *NAFTA* territories, the Tribunal should dismiss the appeal.

62. The Tribunal does not accept the CBSA's argument. In the first place, the context of this appeal is that the CBSA's audit-related attempts to secure detailed, supporting business information were untimely from the perspective of the *actual* record-keeping practices of the businesses involved (irrespective of what the ideal practices suitable for *NAFTA* may have been). As alluded to above, California Sunshine was dissolved in 2006.

63. In the second place, to accept the argument would be tantamount to imposing the comprehensiveness and exacting certainty sought in an audit of the origin of goods as the standard of proof for an appeal under section 67 of the *Act*.

28. Tribunal Exhibit AP-2006-005-25.

64. The *Act* does not indicate that this is the standard of proof that is to be applied by the Tribunal, and the Tribunal is of the view that it should be possible for an importer to adduce evidence on appeal that would satisfy the Tribunal of the origin of the goods without necessarily meeting the CBSA's auditing standards.[29] If this were not the case, the Tribunal would merely serve as a "rubber stamp" for the CBSA's decisions, and there would be little point in including a right of appeal to an independent, quasi-judicial Tribunal in the legislation.

65. Accordingly, in the Tribunal's view, MRP must prove by a preponderance of evidence, but not beyond all possible doubt as the CBSA suggests, that the goods in issue were originating goods. To hold an appellant to such a high standard of proof would be to impose an even heavier burden than that placed upon a prosecutor in a criminal case, where the accused's liberty is often potentially at stake. The Tribunal is of the view that such an onerous requirement could only be imposed by express language, and nothing in the legislation under consideration leads to the conclusion that Parliament intended a burden of this nature.

CONCLUSION

66. Based on the evidence before it, the Tribunal is satisfied that the goods in issue were made in Mexico from originating materials within the meaning of the *NAFTA Rules of Origin Regulations* and that, therefore, the specific rules of origin do not apply to the goods.

67. For all the above reasons, the appeal is allowed.

Elaine Feldman
Elaine Feldman
Presiding Member

Ellen Fry
Ellen Fry
Member

Serge Fréchette
Serge Fréchette
Member

29. *Buffalo Inc. v. The Commissioner of the Canada Customs and Revenue Agency* (11 March 2004), AP-2002-023 (CITT).