



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2009-007

Sanus Systems

v.

President of the Canada Border
Services Agency

*Decision and reasons issued
Thursday, July 8, 2010*

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DECISION 10

IN THE MATTER OF an appeal heard on June 2, 2010, pursuant to 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 February 6, 2009, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

SANUS SYSTEMS

Appellant

AND

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

Respondent

DECISION

The appeal is allowed.

Pasquale Michael Saroli
Pasquale Michael Saroli
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	June 2, 2010
Tribunal Member:	Pasquale Michael Saroli, Presiding Member
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WITNESS:

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STATEMENT OF REASONS

BACKGROUND

1. This is an appeal filed by Sanus Systems (Sanus) with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 67(1) of the *Customs Act*¹ from a decision made by the President of the Canada Border Services Agency (CBSA) pursuant to subsection 60(4).

2. The issue in this appeal is whether certain flat panel television stands (the goods in issue) are properly classified under tariff item No. 9403.20.00 of the schedule to the *Customs Tariff*² as other metal furniture, as determined by the CBSA, or should be classified under tariff item No. 8529.90.90 as other parts suitable for use solely or principally with the apparatus of heading Nos. 85.25 to 85.28, as claimed by Sanus.

PROCEDURAL HISTORY

3. On July 7, 2008, pursuant to subsection 43.1(1) of the *Act*, Sanus applied for an advance ruling on the tariff classification of the goods in issue. Sanus argued that the goods in issue were classifiable under tariff item No. 8529.90.90.³

4. On July 16, 2008, pursuant to paragraph 43.1(1)(c) of the *Act*, the CBSA issued an advance ruling classifying the goods in issue under tariff item No. 9403.20.00.⁴

5. On July 24, 2008, pursuant to subsection 60(2) of the *Act*, Sanus requested a review of the advance ruling with respect to the tariff classification of the goods in issue. In this regard, Sanus requested that they be classified under tariff item No. 8529.90.90.⁵

6. On February 6, 2009, pursuant to paragraph 60(4)(b) of the *Act*, the CBSA upheld its advance ruling.⁶

7. On April 30, 2009, Sanus filed the present appeal with the Tribunal pursuant to subsection 67(1) of the *Act*.⁷

8. On June 2, 2010, the Tribunal held a public hearing in Ottawa, Ontario. Ms. Celeste Irvine-Jones, a registered interior designer for Creative Friction, testified on behalf of Sanus. The Tribunal qualified Ms. Irvine-Jones as an expert in interior design.⁸

GOODS IN ISSUE

9. The goods in issue are unassembled audio/video floor stands for flat panel (plasma and LCD) televisions identified as models PFFP and PFFP2B, with the latter having one additional shelf. Each model has a vertical pillar with a large mounting bracket designed specifically for the bolt attachment of a flat

1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].

2. S.C. 1997, c. 36.

3. Tribunal Exhibit AP-2009-007-07A, tab 1.

4. Tribunal Exhibit AP-2009-007-07A, tab 2.

5. Tribunal Exhibit AP-2009-007-07A, tab 3.

6. Tribunal Exhibit AP-2009-007-07A, tab 4.

7. Tribunal Exhibit AP-2009-007-01.

8. *Transcript of Public Hearing*, 2 June 2010, at 7.

panel television and a centre channel for wire management. The mounting bracket slides up and down the pillar to adjust the height and tilts to adjust the angle of the television. Both models have metal bases that enable their placement on a flat surface. The goods in issue are designed to support 30-in. to 50-in. flat panel televisions weighing up to 130 lbs.⁹

ANALYSIS

Statutory Framework

10. In appeals under section 67 of the *Act* concerning tariff classification matters, the Tribunal determines the proper tariff classification of the goods in accordance with prescribed interpretative rules.

11. The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization.¹⁰ The schedule is divided into sections and chapters, with each chapter containing a list of goods categorized in a number of headings and subheadings and under tariff items. Sections and chapters may include notes concerning their interpretation. Sections 10 and 11 of the *Customs Tariff* prescribe the approach that the Tribunal must follow when interpreting the schedule in order to arrive at the proper tariff classification of goods.

12. Subsection 10(1) of the *Customs Tariff* provides as follows: "... the classification of imported goods under a tariff item shall, unless otherwise provided, be determined in accordance with the General Rules for the Interpretation of the Harmonized System^[11] and the Canadian Rules^[12] set out in the schedule."

13. The *General Rules* comprise six rules structured in sequence so that, if the classification of the goods cannot be determined in accordance with Rule 1, regard must be had to Rule 2, and so on, until classification is completed.¹³ Classification therefore begins with Rule 1, which provides as follows: "... for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions." According to Rule 2 (a), however, "[a]ny reference in a heading to an article shall be taken to include a reference to... that article complete or finished... presented unassembled or disassembled."

14. Section 11 of the *Customs Tariff* provides as follows: "In interpreting the headings and subheadings, regard shall be had to the Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System^[14] and the Explanatory Notes to the Harmonized Commodity

9. Tribunal Exhibit AP-2009-007-03 at 5; Tribunal Exhibit AP-2009-007-03A, tab 1; Tribunal Exhibit AP-2009-007-07A, tab A at 3, tabs 6, 10.

10. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.

11. S.C. 1997, c. 36, schedule [*General Rules*].

12. S.C. 1997, c. 36, schedule.

13. Rules 1 through 5 of the *General Rules* apply to classification at the heading level (i.e. to four digits). Pursuant to Rule 6 of the *General Rules*, Rules 1 through 5 apply to classification at the subheading level (i.e. to six digits). Similarly, the *Canadian Rules* make Rules 1 through 5 of the *General Rules* applicable to classification at the tariff item level (i.e. to eight digits).

14. World Customs Organization, 2d ed., Brussels, 2003.

Description and Coding System,^[15] published by the Customs Co-operation Council (now known as the World Customs Organization), as amended from time to time.” Accordingly, unlike chapter and section notes, the *Explanatory Notes* are not binding on the Tribunal in its classification of imported goods. However, the Federal Court of Appeal has stated that these notes should be respected, unless there is a sound reason to do otherwise, as they serve as an interpretive guide to tariff classification in Canada.¹⁶

15. Once the Tribunal has used this approach to determine the heading in which the goods should be classified, the next step is to determine the proper subheading and tariff item, applying Rule 6 of the *General Rules* in the case of the former and Rule 1 of the *Canadian Rules* in the case of the latter.

Tariff Classification at Issue

16. The parties’ positions differ as to the heading in which the goods in issue should be classified. Sanus claims that the goods in issue should be classified in heading No. 85.29, whereas the CBSA is of the view that the goods in issue are properly classified in heading No. 94.03.

Relevant Classification Provisions Concerning Heading No. 85.29

17. The relevant provisions concerning heading No. 85.29 provide as follows:

Section XVI

**MACHINERY AND MECHANICAL APPLIANCES;
ELECTRICAL EQUIPMENT; PARTS THEREOF;
SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE
AND SOUND RECORDERS AND REPRODUCERS, AND PARTS
AND ACCESSORIES OF SUCH ARTICLES**

...

Chapter 85

**ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF;
SOUND RECORDERS AND REPRODUCERS,
TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND
PARTS AND ACCESSORIES OF SUCH ARTICLES**

...

85.29 Parts suitable for use solely or principally with the apparatus of headings 85.25 to 85.28.

...

8529.90 -Other

...

8529.90.90 -- -Other

15. World Customs Organization, 4th ed., Brussels, 2007 [*Explanatory Notes*].

16. *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII), paras. 13, 17.

18. The relevant provisions concerning Section XVI provide as follows:
2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:
- (a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;
 - (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17;

...

19. The relevant *Explanatory Notes* to Section XVI provide as follows:

GENERAL

(I) GENERAL CONTENT OF THE SECTION

...

(II) PARTS

(Section Note 2)

In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the **exclusions** mentioned in Part (I) above. Separate headings are, however, provided for:

...

(H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).

20. The relevant *Explanatory Notes* to Chapter 85 provide as follows:

GENERAL

...

(B) PARTS

As regards parts in general, see the General Explanatory Note to Section XVI.

Non-electrical parts of the machines or apparatus of this Chapter are classified as follows:

...

- (ii) Other non-electrical parts suitable for use solely or principally with a particular kind of electrical machine of this Chapter (or with a number of machines falling in the same heading) are to be classified with that machine (or those machines) or, if appropriate, in **heading** 85.03, 85.22, 85.29 or 85.38.

21. The relevant *Explanatory Notes* to heading No. 85.28 provide as follows:

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the apparatus of this heading are classified in **heading 85.29**.

22. The relevant *Explanatory Notes* to heading No. 85.29 provide as follows:

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of the apparatus of the four preceding headings. The range of parts classified here includes:

...

- (3) Cases and cabinets specialised to receive the apparatus of headings 85.25 to 85.28.

Relevant Classification Provisions Concerning Heading No. 94.03

23. The relevant provisions concerning heading No. 94.03 provide as follows:

Section XX

MISCELLANEOUS MANUFACTURED ARTICLES

Chapter 94

FURNITURE; BEDDING, MATTRESSES, MATTRESS SUPPORTS, CUSHIONS AND SIMILAR STUFFED FURNISHINGS; LAMPS AND LIGHTING FITTINGS, NOT ELSEWHERE SPECIFIED OR INCLUDED; ILLUMINATED SIGNS, ILLUMINATED NAME-PLATES AND THE LIKE; PREFABRICATED BUILDINGS

...

- 94.03 Other furniture and parts thereof.**

...

- 9403.20.00 -Other metal furniture**

24. The relevant provisions concerning Chapter 94 provide as follows:

1. This Chapter does not cover:

...

- (g) Furniture specially designed as parts of apparatus of heading 85.18 (heading 85.18), of headings 85.19 to 85.21, (heading 85.22) or of headings 85.25 to 85.28 (heading 85.29);

...

2. The articles (other than parts) referred to in headings 94.01 to 94.03 are to be classified in those headings only if they are designed for placing on the floor or ground.

25. The relevant *Explanatory Notes* to Chapter 94 provide as follows:

GENERAL

...

For the purposes of this Chapter, the term “furniture” means:

- (A) Any “movable” articles (**not included** under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafés, restaurants, laboratories, hospitals, dentists’ surgeries, etc., or ships, aircraft, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be “movable” furniture even if they are designed for bolting, etc., to the floor, e.g., chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.

26. The relevant *Explanatory Notes* to heading No. 94.03 provide as follows:

This heading covers furniture and parts thereof, **not covered** by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritorios, book-cases, and other shelved furniture, etc.), and also furniture for special uses.

...

The heading **does not include**:

...

- (k) Furniture specially designed as part of apparatus of heading 85.18 (**heading** 85.18) of headings 85.19 to 85.21 (**heading** 85.22) or of headings 85.25 to 85.28 (**heading** 85.29).

27. It is uncontested that televisions themselves are properly classified in heading No. 85.28, as reception apparatus for television. In this respect, the Tribunal agrees that flat panel televisions constitute an apparatus of heading No. 85.28.¹⁷

Are the Goods in Issue Other Metal Furniture of Heading No. 94.03?

28. The CBSA, referring to the definition of “furniture” set forth in the *Explanatory Notes* to Chapter 94, argued that an essential characteristic of the goods in issue was their construction for placement on the floor or ground to serve a utilitarian purpose. In this regard, it is uncontested that the goods in issue have been constructed for placement on the floor or ground and to serve the utilitarian purpose of supporting flat panel televisions.¹⁸

29. The Tribunal agrees that the goods in issue are “furniture” as described in the *Explanatory Notes* to Chapter 94.

17. In this regard, the *Explanatory Notes* to heading No. 85.28 read as follows: “This heading includes: ... (2) Television reception apparatus, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus, for the display of signals (television sets).”

18. *Transcript of Public Hearing*, 2 June 2010, at 10-17.

30. The CBSA argued that, since the goods in issue are clearly intended for placement on the floor or ground, they also meet the requirements of Note 2 to Chapter 94 in its application to articles covered by heading No. 94.03.

31. The CBSA further argued that, while not binding on the Tribunal, U.S. tariff classification rulings are consistent with the CBSA's position that the goods in issue are properly classified in heading No. 94.03.¹⁹

32. As for Sanus's claims, the CBSA submitted that a distinction must be made between "parts" and "accessories". In this regard, the CBSA referred to the definition of "parts" and "accessories" in Memorandum D10-0-1,²⁰ which defines the terms respectively as follows:

A "part" is defined as "an identifiable component of an article, machine, apparatus, equipment, appliance or specific good which is integral to the design and essential to the function of the product in which it is used".

An "accessory" is defined as "an article which performs a secondary or subordinate role, not essential to the function, which could improve the effectiveness of the host machine, equipment, apparatus or appliance".

33. In this regard, the CBSA argued that, because the goods in issue are in no way essential, necessary or integral to the operation of the television and because the television is fully operational without the floor stand, the goods in issue are accessories.²¹

34. While conceding that the goods in issue are committed for use with flat panel televisions, the CBSA argued that this fact alone was not enough to render the goods in issue "parts" of televisions. It contended that the goods in issue remain accessories, if not essential, necessary or integral to the operation of the televisions. That the goods in issue require televisions to fulfill their design function is irrelevant, as the question is whether the stand is essential to the functioning of the television and not vice versa.

35. The Tribunal notes that, by virtue of Note 1(g) to Chapter 94, the goods in issue, as furniture, are not *prima facie* classifiable in both heading No. 85.29 and heading No. 94.03.

36. The Tribunal therefore considers it appropriate to consider next whether the goods in issue are excluded from Chapter 94 by virtue of being classifiable in heading No. 85.29 as furniture specially designed as parts of apparatus of heading No. 85.28.

Are the Goods in Issue Other Parts, Suitable for Use Solely or Principally With Apparatus of Heading Nos. 85.25 to 85.28?

37. Heading No. 85.29 covers parts suitable for use solely or principally with the apparatus of heading Nos. 85.25 to 85.28, with the latter covering reception apparatus for television (including flat panel televisions).

19. Tribunal Exhibit AP-2009-007-07A, para. 65.

20. "Classification of Parts and Accessories in the *Customs Tariff*" (24 January 1994).

21. Tribunal Exhibit AP-2009-007-07A, para. 51.

38. In support of its contention that the goods in issue constitute “parts” within the meaning of that term in heading No. 85.29, Sanus argued that, while not shipped as a unit with flat panel televisions, they form part of complete units with the flat panel televisions, have no alternative function, are necessary for the safe and prudent use of flat panel televisions and are committed by design for use with such apparatus.²²

39. In support of its argument that furniture is not excluded from Chapter 85, Sanus further argued that there is no exclusion for goods of Section XX or Chapter 94 in Note (1) to Section XVI and that the only exclusion for goods of Chapter 94 found in Note (1) to Chapter 85 is for electrically heated furniture of Chapter 94.²³

40. Sanus noted that elsewhere in Chapter 85 and the *Explanatory Notes* to Chapter 85, consoles, desks, cabinets and other bases are regarded as “parts” to be classified in their respective headings and that the *Explanatory Notes* to heading No. 85.42 explicitly recognize dedicated stands as “parts”.²⁴

41. Regarding the requirement in heading No. 85.29 that parts must be for use solely or principally with the apparatus of heading No. 85.28, Sanus argued that the goods in issue are dedicated by design for use with flat panel televisions, as indicated by such specific design features as the large mounting brackets for the bolted attachment of flat panel televisions and centre channels for wire management.

42. According to Sanus, that furniture can be “parts” under Section XVI is supported by the *Explanatory Notes* to that section and by Note 1(g) to Chapter 94, which directs that furniture specially designed as parts is to be classified in heading No. 85.29.

43. The CBSA submitted that the term “parts”, when read in light of the reference to “[c]ases and cabinets specialised to receive the apparatus of headings 85.25 and 85.28” [emphasis added] in Note 3 of the *Explanatory Notes* to heading No. 85.29, must be viewed as being limited to items that enclose or complete the apparatus. As the goods in issue cannot properly be considered furniture specially designed as parts of apparatus of heading No. 85.28 (in the sense of enclosing or completing them), the CBSA contended that they were not excluded from the ambit of Chapter 94 by virtue of Note 1(g) thereto. In short, the goods in issue were not properly described as parts of televisions.

44. In the Tribunal’s view, that the reference to “parts” in heading No. 85.29 includes furniture committed by design for use solely or principally with flat screen televisions necessarily follows from a reading of that heading in conjunction with, and in light of, Note 1(g) to Chapter 94.²⁵

45. As previously noted, it is uncontested, and the Tribunal finds, that the goods in issue constitute “furniture”. It is also uncontested that the goods in issue, as furniture, are specifically “. . . designed to support a 30” to 50” flat panel television up to 130 lbs.”²⁶ and are equipped, for that purpose, with large mounting brackets and centre channels for the organization and concealment of television cables.²⁷

22. These correspond to criteria set out in Memorandum D-10-0-1 (referenced above), as referred to in Tribunal Exhibit AP-2009-007-03, para. 40, and Tribunal Exhibit AP-2009-007-07A, tab 9.

23. Tribunal Exhibit AP-2009-007-03, para. 32.

24. Tribunal Exhibit AP-2009-007-03, paras. 36-37.

25. The Tribunal has in the past held that the term “for use solely or principally with” an apparatus of heading Nos. 85.25 to 85.28 refers to goods that are designed to be used solely with such apparatus. See *Nokia Products Limited. v. Deputy M.N.R.* (26 July 2000), AP-99-082 (CITT) at 6.

26. Tribunal Exhibit AP-2009-007-07A, tab 10.

27. Tribunal Exhibit AP-2009-007-07A, tabs 4, 6.

46. Based on the photographic depictions of the goods in issue,²⁸ the Tribunal accepts the testimony of the expert witness that the goods in issue have no independent aesthetic appeal or utilitarian value as furniture beyond the very specific purpose to which they are committed by design.²⁹

47. The Tribunal therefore finds that the goods in issue are furniture specifically designed for use solely with flat panel televisions of heading No. 85.28.

48. There remains the question of whether the goods in issue, as furniture specifically designed for use solely with flat panel televisions, constitute “parts” of such apparatus for the purposes of heading No. 85.29.

49. The CBSA relied on four criteria that have been applied in past decisions to determine whether an article was a “part” of an apparatus.³⁰ However, both parties agree that not all criteria, as found in the cited jurisprudence or in published CBSA policy, need to be met in order for goods to qualify as parts.³¹

50. While past decisions provide useful guidance on factors that, alone or in combination, may be relevant to such determinations, there is no universal test for determining whether goods are parts, with each case requiring a determination on its own merits.³²

51. In this instance, the fact that the goods in issue are committed for use with flat panel televisions, form complete units with such televisions (with the televisions being bolted to the mounting brackets), have no practical alternative function and are intended for the safe and prudent use of flat panel televisions is, in the Tribunal’s view, sufficient to render them “parts”.

52. The Tribunal also finds the *Explanatory Notes* to heading No. 85.29 particularly relevant to its consideration of whether the goods in issue, as furniture specifically designed for use solely with flat panel televisions, constitute “parts” within the meaning of that tariff heading. As noted above, the *Explanatory Notes* to heading No. 85.29 provide that “[c]ases and cabinets specialised to receive the apparatus of headings 85.25 to 85.28” [emphasis added] are to be classified in heading No. 85.29 as parts.

53. Clearly, a case or cabinet, while physically supporting a flat panel television of heading No. 85.28, does not contribute to the technical functionality of the apparatus itself. Accordingly, and contrary to the CBSA’s submission, the Tribunal is of the view that, in order to constitute “parts”, the goods in issue would not necessarily have to be essential to the functionality of flat panel televisions in receiving incoming electrical signals and converting them into television pictures and sound.

54. Moreover, the phrase “The range of parts classified here includes” indicates that the ensuing list is illustrative rather than exhaustive, thereby admitting into that range other parts of the same nature. In this regard, it is uncontested, and the Tribunal accepts, that the goods in issue, being equipped with large mounting brackets for the bolted attachment of flat panel televisions, as well as centre channels for wire management, are specifically designed to “receive” the apparatus of heading No. 85.28. In the Tribunal’s view, this makes the goods in issue of the same nature as the goods explicitly described in the above-referenced *Explanatory Notes*.

28. Tribunal Exhibit AP-2009-007-07A, tabs 6, 10.

29. *Transcript of Public Hearing*, 2 June 2010, at 12-13.

30. *York Barbell Company Limited v. Deputy M.N.R.C.E.* (19 August 1991), AP-90-161 (CITT) [York]; *C.L. Blue Systems Ltd. v. Deputy M.N.R.* (24 November 1999), AP-97-074 (CITT); *GL&V/Black Clawson-Kennedy v. Deputy M.N.R.* (27 September 2000), AP-99-063 (CITT).

31. Tribunal Exhibit AP-2009-007-03, para. 40; Tribunal Exhibit AP-2009-007-07A, para. 45.

32. *Snydergeneral Canada Inc. v. Deputy M.N.R.* (19 September 1994), AP-92-091 (CITT); *Winners Only (Canada) Ltd. v. Deputy M.N.R.* (13 May 1996), AP-94-142 (CITT); *York*.

55. In this regard, the Tribunal does not accept the CBSA's contention that the reference to "cases and cabinets" suggests that the range of furniture parts falling within the range is limited to items that enclose or complete goods, as it is neither self-evident from the *Explanatory Notes* nor based on any of the rules of tariff classification relevant to this case.

56. On the basis of the above considerations and applying Rule 2 (a) of the *General Rules* to the unassembled goods in issue, the Tribunal is of the view that the goods in issue are "parts" within the meaning of that term in heading No. 85.29 and, by virtue of Note 1(g) to Chapter 94, are not classifiable in heading No. 94.03.

57. There are two subheadings at the same level under heading No. 85.29. Subheading No. 8529.10 covers aerials, aerial reflectors or parts thereof. As the goods in issue obviously do not meet the terms of this subheading, the Tribunal finds that the goods in issue should be classified in residual subheading No. 8529.90 as other parts and, in particular, under residual tariff item No. 8529.90.90 as other parts.

Conclusion

58. For the foregoing reasons, in accordance with Rule 2 (a) of the *General Rules*, the goods in issue should be classified under tariff item No. 8529.90.90.

DECISION

59. The appeal is allowed.

Pasquale Michaele Saroli
Pasquale Michaele Saroli
Presiding Member