



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Appeals

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## DECISION AND REASONS

Appeal No. AP-2010-003

Rui Royal International Corp.

v.

President of the Canada Border  
Services Agency

*Decision and reasons issued  
Wednesday, March 30, 2011*

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IN THE MATTER OF an appeal heard on November 30, 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 January 22, 2010, with respect to a request for review of an advance ruling pursuant to subsection 60(4) of the *Customs Act*.

**BETWEEN**

**RUI ROYAL INTERNATIONAL CORP.**

**Appellant**

**AND**

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

**Respondent**

**DECISION**

The appeal is dismissed.

Diane Vincent  
Diane Vincent  
Presiding Member

Dominique Laporte  
Dominique Laporte  
Secretary

Place of Hearing: Ottawa, Ontario  
Date of Hearing: November 30, 2010

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## STATEMENT OF REASONS

### BACKGROUND

1. This is an appeal filed by Rui Royal International Corp. (Rui Royal) with the Canadian International Trade Tribunal (the Tribunal) pursuant to section 67 of the *Customs Act*<sup>1</sup> from a decision of the President of the Canada Border Services Agency (CBSA), dated January 22, 2010, made pursuant to subsection 60(4). The appeal is in respect of an advance ruling.

2. The issue in this appeal is whether certain 15-ft. (4.5-m) emergency tow straps (the goods in issue) are properly classified under tariff item No. 6307.90.99 of the schedule to the *Customs Tariff*<sup>2</sup> as other made up articles of other textile materials, as determined by the CBSA, or should be classified under tariff item No. 8708.99.99 as other parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05, as claimed by Rui Royal.

### PROCEDURAL HISTORY

3. On January 9, 2009, the CBSA issued an advance ruling pursuant to paragraph 43.1(1)(c) of the *Act* and classified the goods in issue under tariff item No. 6307.90.99 as other made up articles, including dress patterns, of other textile materials.

4. Rui Royal requested a review of the advance ruling pursuant to subsection 60(2) of the *Act*, arguing that the goods in issue should be classified under tariff item No. 8708.99.99 as other parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05.

5. On January 22, 2010, the CBSA affirmed the advance ruling pursuant to subsection 60(4) of the *Act*.

6. On April 19, 2010, Rui Royal filed an appeal with the Tribunal pursuant to section 67 of the *Act*.

7. On November 30, 2010, the Tribunal held a public hearing in Ottawa, Ontario. No witnesses were called upon to testify at the hearing.

### GOODS IN ISSUE

8. The goods in issue are Crawford Cargo Mates emergency tow straps, item No. 6460. The goods in issue are 5.0 cm by 4.5 m yellow straps, which have been woven from yarns of synthetic man-made filaments. There are metal hooks attached at each end of the straps which have been secured by heavy stitching. The goods are packaged for retail sale in a clear plastic resealable package.<sup>3</sup> The Tribunal notes that both parties agree on the description of the goods in issue.

9. Rui Royal submitted that the goods in issue are designed for the towing of a motor vehicle by another motor vehicle.<sup>4</sup>

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

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

3. Tribunal Exhibit AP-2010-003-09.

4. Tribunal Exhibit AP-2010-003-04 at para. 11.

10. The CBSA did not explicitly agree with Rui Royal's characterization of the *design* of the goods in issue, but submitted that the straps are sold to be used for towing motor vehicles.<sup>5</sup>

11. The CBSA filed a physical exhibit of the goods in issue.<sup>6</sup>

## ANALYSIS

### Statutory Framework

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

13. 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.<sup>7</sup> 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.

14. 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<sup>[8]</sup> and the Canadian Rules<sup>[9]</sup> set out in the schedule."

15. 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, then regard must be had to Rule 2, and so on.<sup>10</sup> 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."

16. 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<sup>[11]</sup> and the Explanatory Notes to the Harmonized Commodity Description and Coding System,<sup>[12]</sup> published by the Customs Co-operation Council (also known as the World Customs Organization), as amended from time to time." Accordingly, unlike chapter and section

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5. Tribunal Exhibit AP-2010-003-06A at para. 2.

6. Tribunal Exhibit AP-2010-003-10A.

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

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

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

10. 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).

11. World Customs Organization, 2d ed., Brussels, 2003 [*Classification Opinions*].

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

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 applied, unless there is a sound reason to do otherwise.<sup>13</sup>

17. Thus, the Tribunal must first determine whether the goods in issue can be classified according to Rule 1 of the *General Rules* as per the terms of the headings, any relevant Section or Chapter Notes in the *Customs Tariff*, and having regard to any relevant *Explanatory Notes* or *Classification Opinions*. It is only if the Tribunal is not satisfied that the goods in issue can be properly classified at the heading level through the application of Rule 1 of the *General Rules* that it becomes necessary to consider subsequent rules in order to determine in which tariff heading the goods in issue shall be classified.

18. Once the Tribunal has used this approach to determine the heading in which the goods in issue 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 the *Canadian Rules* in the case of the latter.<sup>14</sup>

19. The Tribunal notes that section 13 of the *Official Languages Act*<sup>15</sup> provides that the English and French versions of any act of Parliament are equally authoritative. Thus, the Tribunal may examine both the English and the French versions of the schedule to the *Customs Tariff* in interpreting the tariff nomenclature.

### **Tariff Classification at Issue**

#### Relevant Classification Provisions Concerning Heading No. 63.07

20. The relevant provisions concerning heading No. 63.07 provide as follows:

#### **Section XI**

#### **TEXTILES AND TEXTILE ARTICLES**

...

#### **Chapter 63**

#### **OTHER MADE UP TEXTILE ARTICLES; SETS; WORN CLOTHING AND WORN TEXTILE ARTICLES; RAGS**

...

#### **I. -OTHER MADE UP TEXTILE ARTICLES**

...

**63.07**      **Other made up articles, including dress patterns.**

...

**6307.90**    **-Other**

...

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

14. Rule 6 of the *General Rules* stipulate that “For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.”

15. R.S.C. 1985 (4th Supp.), c. 31.

---Other:

...

6307.90.99 --- -Of other textile materials

21. The relevant section notes to Section XI provide as follows:

**Section XI**

**TEXTILES AND TEXTILE ARTICLES**

**Notes.**

...

7. For the purpose of this Section, the expression “made up” means:

...

- (e) Assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded).

22. The relevant chapter notes to Chapter 63 provide as follows:

**Chapter 63**

**OTHER MADE UP TEXTILE ARTICLES; SETS;  
WORN CLOTHING AND WORN TEXTILE ARTICLES; RAGS**

...

1. Sub-Chapter I applies only to made up articles, of any textile fabric.

23. The relevant *Explanatory Notes* to Section XI, Chapter 63 and heading No. 63.07 provide as follows:

**GENERAL**

In general, Section XI covers raw materials of the textile industry (silk, wool, cotton, man-made fibres, etc.), semi-manufactured products (such as yarns and woven fabrics) and the made up articles made from those products. However, it **excludes** a certain number of materials and products such as those mentioned in Note 1 to Section XI, the Notes to certain Chapters or in the following Explanatory Notes on headings in the Section. . . .

...

**(II) CHAPTERS 56 TO 63**

...

**Made up articles**

Under Note 7 to this Section, the expression “made up” in Chapters 56 to 63 means:

...

- (5) **Assembled by sewing, gumming or otherwise.** These articles, which are very numerous, include garments. It should be noted, however, that piece goods consisting of two or more lengths of identical material joined end to end, or composed of two or more textiles assembled in layers, are not regarded as “made-up”. Nor are textile products in the piece composed of one or more layers of textile materials assembled with padding by stitching or otherwise.

...



**Chapter 63**

...

**GENERAL**

This Chapter includes:

- (1) Under headings 63.01 to 63.07 (sub-Chapter I) made up textile articles of any textile fabric (woven or knitted fabric, felt, nonwovens, etc.) which are **not** more specifically described in other Chapters of Section XI or elsewhere in the Nomenclature. (The expression “made up textile articles” means articles made up in the sense defined in Note 7 to Section XI (see also Part (II) of the General Explanatory Note to Section XI.)

...

The classification of articles in this sub-Chapter is not affected by the presence of minor trimmings or accessories of furskin, metal (including precious metal), leather, plastics, etc.

Where, however, the presence of these other materials constitutes **more than** mere trimming or accessories, the articles are classified in accordance with the relative Section or Chapter Notes (General Interpretative Rule 1), or in accordance with the other General Interpretative Rules as the case may be.

...

**SUB-CHAPTER I****OTHER MADE UP TEXTILE ARTICLES**

...

**63.07- Other made up articles, including dress patterns.**

...

This heading covers made up articles of any textile material which are **not included** more specifically in other headings of Section XI or elsewhere in the Nomenclature.

It includes, in particular:

...

- (16) Belts which, although worn around the waist, do not have the character of belts of heading 62.17, e.g., belts for occupational use (electricians', aviators', parachutists', etc.); webbing carrier straps and similar articles. (Straps having the character of articles of saddlery or harness are **excluded -heading** 42.01.)

**Relevant Classification Provisions Concerning Heading No. 87.08**

24. The relevant provisions concerning heading No. 87.08 provide as follows:

**Section XVII****VEHICLES, AIRCRAFT, VESSELS  
AND ASSOCIATED TRANSPORT EQUIPMENT**

...

**Chapter 87****VEHICLES OTHER THAN RAILWAY  
OR TRAMWAY ROLLING-STOCK,  
AND PARTS AND ACCESSORIES THEREOF**

...

**87.08**            **Parts and accessories of the motor vehicles of headings 87.01 to 87.05.**

...

**-Other parts and accessories:**

...

**8708.99**        **--Other**

...

-- -Other:

...

8708.99.99    --- -Other

25. The relevant section notes to Section XVII provide as follows:

**Section XVII**

...

**Notes.**

...

2. The expressions “parts” and “parts and accessories” do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

...

3. References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.

26. The relevant *Explanatory Notes* to Section XVII, Chapter 87 and heading No. 87.08 provide as follows:

**SECTION XVII**

...

**Notes.**

...

**GENERAL**

**(I) GENERAL CONTENT OF THE SECTION**

...

**Subject** to the provisions of Part (III) below, the Section also covers parts and accessories of the vehicles, aircraft, etc., of Chapters 86 to 88.

...

**(III) PARTS AND ACCESSORIES**

...

It should, however, be noted that these headings apply **only** to those parts or accessories which comply with **all three** of the following conditions:

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and

(b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and

(c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

...

**(B) Criterion of sole or principal use.**

**(1) Parts and accessories classifiable both in Section XVII and in another Section.**

Under Section Note 3, parts and accessories which are not suitable for use **solely or principally** with the articles of Chapters 86 to 88 are **excluded** from those Chapters.

The effect of Note 3 is therefore that when a part or accessory can fall in one or more other Sections as well as in Section XVII, its final classification is determined by its **principal use**. Thus the steering gear, braking systems, road wheels, mudguards, etc., used on many of the mobile machines falling in Chapter 84, are virtually identical with those used on the lorries of Chapter 87, and since their principal use is with lorries, such parts and accessories are classified in this Section.

...

**(C) Parts and accessories covered more specifically elsewhere in the Nomenclature.**

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature, e.g.:

...

(6) Towing ropes (**heading** 56.09).

...

## CHAPTER 87

...

### GENERAL

This Chapter covers the following vehicles, with the **exception** of certain mobile machines of Section XVI (see the Explanatory Notes to headings 87.01, 87.05 and 87.16):

...

This Chapter also covers parts and accessories which are identifiable as being suitable for use **solely or principally** with the vehicles included therein, **subject** to the provisions of the Notes to Section XVII (see the General Explanatory Note to the Section).

...

**87.08**

...

This heading covers parts and accessories of the motor vehicles of headings 87.01 to 87.05, **provided** the parts and accessories fulfil **both** the following conditions:

(i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles;

and

(ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

## Positions of the Parties

### Rui Royal

27. Rui Royal submitted that the goods in issue are car accessories that are provided for in heading No. 87.08 as parts and accessories of the motor vehicles of headings 87.01 to 87.05.

28. Rui Royal submitted that the goods in issue are encompassed by the terms of heading No. 87.08 as accessories of motor vehicles. It submitted that the term “accessory” can be 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”.<sup>16</sup> Accordingly, it claimed that the goods in issue meet the definition of “accessory”, as they perform a secondary role that improves the effectiveness of the towing vehicle, namely, allowing a vehicle to pull or tow another vehicle.<sup>17</sup>

29. Rui Royal noted that the *Explanatory Notes* to Section XVII establish three conditions that the goods in issue must meet in order to be classified in heading No. 87.08: (i) they must not be excluded by the terms of Note 2 to Section XVII; (ii) they must be suitable for use solely or principally with the articles of Chapters 86 to 88; and (iii) they must not be more specifically included elsewhere in the nomenclature.

30. With respect to the first condition, Rui Royal argued that the goods in issue are not excluded by the terms of Note 2 to Section XVII, as they are not covered by the definition of parts of general use or the specific examples provided for in the *Customs Tariff*. This was not disputed by the CBSA. With respect to the second condition, Rui Royal argued that the goods in issue have no use other than for the towing of vehicles and that they are solely and principally used with vehicles of heading Nos. 87.01 to 87.05. Rui Royal noted that the CBSA acknowledged that the goods in issue are designed for the towing of a motor vehicle by another motor vehicle<sup>18</sup> and that they are sold to be used for towing motor vehicles. Rui Royal further argued that the design and marketing of the goods in issue accentuate their use as automobile accessories.<sup>19</sup>

31. Rui Royal further argued that the third condition does not pose an obstacle to classification in heading No. 87.08. This criterion states as follows:

### (III) Parts and Accessories

...

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16. Tribunal Exhibit AP-2010-003-04, tab 13; Tribunal Exhibit AP-2010-003-06A, tab R.

17. *Transcript of Public Hearing*, 30 November 2010, at 7-8.

18. Tribunal Exhibit No. AP-2010-003-04, tab 3.

19. Tribunal Exhibit AP-2010-003-06A at para. 2.

(C) **Parts and accessories covered more specifically elsewhere in the Nomenclature.**

Parts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature, e.g.:

...

(6) Towing ropes (**heading** 56.09).

32. Rui Royal argued that the goods in issue should not be excluded from classification in heading No. 87.08 because tow straps, or indeed articles of heading No. 63.07, are not included in Note III (C) of the *Explanatory Notes* to Section XVII, which lists examples of goods covered more specifically elsewhere in the nomenclature.<sup>20</sup>

33. Relying upon the Supreme Court of Canada's decision in *Friesen v. Canada*,<sup>21</sup> a case that dealt with the valuation of inventory under the *Income Tax Act*,<sup>22</sup> Rui Royal further argued that including tow straps or goods of heading No. 63.07 among the listed examples in the *Explanatory Notes* would amount to an improper insertion of extra wording into the statute. Quoting *Friesen*, Rui Royal argued that the Tribunal should not accept an interpretation of the *Explanatory Notes* that requires the insertion of extra wording into the statute when there is another interpretation available which does not require that any additional wording be read into the statute. It submitted that to do so would be contrary to the principles of statutory interpretation. It submitted that, if additional words are not read into the *Explanatory Notes*, there is no basis to argue that the goods in issue are more specifically provided for elsewhere in the tariff.<sup>23</sup> When questioned on this point at the hearing, Rui Royal accepted that the list of examples is not exhaustive.<sup>24</sup>

34. Rui Royal submitted that a residual heading, such as heading No. 63.07, cannot be more specific than a non-residual heading.<sup>25</sup> It argued that heading No. 63.07, which includes "[o]ther made up articles, including dress patterns", is a residual heading because it includes the word "other". In addition, Rui Royal argued that the *Explanatory Notes* to heading No. 63.07 provide further evidence that heading No. 63.07 is residual, as the *Explanatory Notes* state the following:

This heading covers made up articles of any textile material which are **not included** more specifically in other headings of Section XI or elsewhere in the Nomenclature.

Rui Royal submitted that to interpret heading No. 63.07 as being more specific than heading No. 87.08 would give no meaning to the inclusion of the word "other" in heading No. 63.07. It further submitted that heading No. 87.08, which includes "[p]arts and accessories of the motor vehicles of headings 87.01 to 87.05", is not a residual heading.<sup>26</sup>

35. In response to the CBSA's position that the goods in issue are classifiable in heading No. 63.07 as other made up articles, Rui Royal argued that Note 7 to Section XI provides for many types of made up articles of textile, but it does not provide for articles combining textiles and components of other materials, such as metal hooks.<sup>27</sup> In support of this argument, it referred to Note (1) of the *Explanatory Notes* to Chapter 63, which provide as follows:

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20. *Transcript of Public Hearing*, 30 November 2010, at 11-12.

21. [1995] 3 S.C.R. 103 [*Friesen*].

22. R.S.C. 1985 (5th Supp.) c. 1.

23. *Transcript of Public Hearing*, 30 November 2010, at 12-14.

24. *Ibid.* at 36.

25. Tribunal Exhibit AP-2010-003-04 at para. 52.

26. *Transcript of Public Hearing*, 30 November 2010, at 15; Tribunal Exhibit AP-2010-003-04 at paras. 50-52.

27. Tribunal Exhibit AP-2010-003-04 at para. 45.

The classification of articles in this sub-Chapter is not affected by the presence of minor trimmings or accessories of furskin, metal (including precious metal), leather, plastics, etc.

Where, however, the presence of these other materials constitutes **more than** mere trimming or accessories, the articles are classified in accordance with the relative Section or Chapter Notes (General Interpretative Rule 1), or in accordance with the other General Interpretative Rules as the case may be.

36. Rui Royal submitted that the metal hooks are integral components of the goods in issue, as they are the components that physically attach the goods in issue to the motor vehicle and that, therefore, the metal hooks constitute more than “mere trimmings or accessories”.<sup>28</sup> On the basis of this assertion, Rui Royal submitted that the goods in issue cannot fall within the scope of Chapter 63 as other made up textile articles.<sup>29</sup>

37. Rui Royal also argued that the CBSA misinterpreted the phrase “webbing carrier strap” by failing to define the word “carrier”. Rui Royal submitted the following definition of “carrier” from the *Merriam Webster Online Dictionary*: “**1** : one that carries . . . **3 a**: a container for carrying **3 b**: a device or machine that carries . . .”.<sup>30</sup> On the basis of this definition, it argued that “to carry” means something different from “to tow” and that, thus, the goods in issue cannot be considered webbing carrier straps.

38. Moreover, Rui Royal submitted that, in order for the goods in issue to be similar to webbing carrier straps, they would need to very closely resemble such straps. In support of this argument, it referred to the Federal Court’s decision in *Carm Crupi v. Canada Employment and Immigration Commissioner*<sup>31</sup> where the Federal Court interpreted the word “similar” found in the phrase “inmate of any prison or similar institution” as requiring any “similar institution” to very closely resemble a prison. Relying on this interpretation of the word “similar”, it argued that, since something for carrying cannot very closely resemble something for towing, the goods in issue are not items similar to a webbing carrier strap.<sup>32</sup>

39. In summary, Rui Royal submitted that the goods in issue are covered by the terms of heading No. 87.08, as they are accessories of motor vehicles of heading Nos. 87.01 to 87.05. Rui Royal submitted that they also meet the two conditions stated in the *Explanatory Notes* to heading No. 87.08 by being (i) identifiable as being suitable for use solely or principally with motor vehicles, and (ii) by not being excluded by the provisions of the notes to Section XVII. Therefore, it submitted that the goods in issue are classifiable in heading No. 87.08.

### CBSA

40. The CBSA argued that the goods in issue do not meet Note (III)(C) of the *Explanatory Notes* to Section XVII, because they are more specifically included in heading No. 63.07 which includes “[o]ther made up articles, including dress patterns”.

41. The CBSA submitted that, under Rule 1 of the *General Rules*, the goods in issue should be classified in heading No. 63.07. It submitted that the goods in issue are “. . . made up articles of any textile material which are **not included** more specifically in other headings of Section XI or elsewhere in the Nomenclature”, in accordance with the *Explanatory Notes* to heading No. 63.07. The CBSA submitted that

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28. *Transcript of Public Hearing*, 30 November 2010, at 20; Tribunal Exhibit AP-2010-003-04 at para. 47.

29. Tribunal Exhibit AP-2010-003-04 at para. 48.

30. Tribunal Exhibit AP-2010-003-11A, tab 8; *Transcript of Public Hearing*, 30 November 2010, at 27.

31. [1986] 3 C.F. p. 17.

32. *Transcript of Public Hearing*, 30 November 2010, at 27-28.

the expression “made up” is defined in Note 7 to Section XI to mean, *inter alia*, “[a]ssembled by sewing, gumming or otherwise . . .” It relied upon its laboratory report, which states that the goods in issue have “. . . been constructed by taking a length of yellow strap, threading each end through a large heavy metal hook, then folding each end over on itself and securing the ends by heavy stitching” to show that the goods in issue satisfy the conditions of Note 7(e) to Section XI, as the metal hooks attached at each end of the strap have been attached by stitching or sewing.<sup>33</sup>

42. The CBSA further argued that the tow straps are akin to webbing carrier straps and similar articles, as provided for in the examples of made up textile articles listed in the *Explanatory Notes* to heading No. 63.07, which read as follows:

**63.07 - Other made up articles, including dress patterns.**

...

This heading covers made up articles of any textile material which are **not included** more specifically in other headings of Section XI or elsewhere in the Nomenclature.

It includes, in particular:

...

- (16) Belts which, although worn around the waist, do not have the character of belts of **heading 62.17**, e.g., belts for occupational use (electricians’, aviators’, parachutists’, etc.); webbing carrier straps and similar articles. (Straps having the character of articles of saddlery or harness are excluded -heading 42.01.)

43. In support of this assertion, the CBSA submitted dictionary definitions of the terms “webbing” and “strap”. It relied upon the *Dictionary of Fiber & Textile Technology* which defines “webbing” as “[s]trong, narrow fabric, closely woven in a variety of weaves and principally used for belts and straps that have to withstand strain, e.g., automobile seat belts, cargo slings and tiedowns, and reinforcement of upholstery.”<sup>34</sup> It also relied upon the following definition of “strap” found in the *Canadian Oxford Dictionary*: “**1** a strip of cloth, leather or other flexible material, often with a buckle or other fastening, used for keeping something in place or for fastening, carrying, or holding onto something.”<sup>35</sup> The CBSA submitted that the goods in issue clearly meet the definition of “webbing”, as they are made from narrow woven yarns<sup>36</sup> and are marketed for towing one vehicle by another, which must mean that they are able to withhold strain. It further submitted that the goods in issue meet the definition of “strap” and are therefore similar to webbing carrier straps, which are included in heading No. 63.07 by virtue of Note 16 of the *Explanatory Notes* to that heading.<sup>37</sup>

44. As further support for its position that the goods in issue are articles similar to webbing carrier straps, the CBSA relied upon the Tribunal’s decision in *Canper Industrial Products Ltd. v. Deputy M.N.R.*<sup>38</sup> In *Canper*, the Tribunal determined that ratchet tie-downs were properly classified in heading No. 63.07 because it found that the ratchet tie-downs were articles similar to webbing carrier straps. The CBSA submitted that the goods in issue in *Canper*, namely, textile straps of polyethylene with a simple fastening system, are very similar to the good in issue in the present appeal and that, therefore, the goods in issue should also be classified in heading No. 63.07 as articles similar to webbing carrier straps.<sup>39</sup>

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33. Tribunal Exhibit AP-2010-003-06A, tab Q.

34. *Ibid.*, tab N.

35. *Ibid.*, tab O.

36. *Ibid.*, tab Q. The CBSA laboratory report states that “[t]he yellow strap portion of this product is narrow woven from yarns of synthetic (polyester) man-made filaments.”

37. *Transcript of Public Hearing*, 30 November 2010, at 47-49.

38. (24 January 1995), AP-94-034 (CITT) [*Canper*].

39. Tribunal Exhibit AP-2010-003-06A at paras. 14-15; *Transcript of Public Hearing*, 30 November 2010, at 49-52.

45. Finally, the CBSA referred to U.S. customs ruling NY 883572 in which 10-ft. nylon woven tow straps fitted with metal hooks on either end were classified in heading No. 63.07 as other made up articles.<sup>40</sup>

### Tribunal's Analysis

46. As outlined above, in this appeal, the Tribunal must determine whether certain emergency tow straps are properly classified under tariff item No. 6307.90.99 as other made up articles of other textile materials, as determined by the CBSA, or should be classified under tariff item No. 8708.99.99 as other parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05, as claimed by Rui Royal.

47. The parties are in agreement that this appeal can be resolved through the application of Rule 1 of the *General Rules*. In accordance with Rules 1 and 6, if goods are described by the terms of one, and only one, heading (having regard to any relevant section or chapter notes, as well as the relevant *Explanatory Notes*), then the next step is to find the appropriate subheading and tariff item. The Tribunal notes that there are no section or chapter notes directing the Tribunal to consider the applicability of one heading before the other. The Tribunal also notes that the *Explanatory Notes* to Section XVII (which includes heading No. 87.08) and the *Explanatory Notes* to heading No. 63.07 each provide that the goods in issue must not be more specifically included elsewhere in the nomenclature. As these notes relate to both headings at issue, the Tribunal finds that there is no particular order in which it must conduct its analysis. Therefore, the Tribunal will determine, on the basis of the evidence before it, whether the goods in issue meet the terms of heading No. 87.08 or those of heading No. 63.07 and are thus classifiable through the application of Rule 1. The Tribunal will first consider whether the goods in issue are classifiable in heading No. 87.08.

Are the goods in issue classifiable in heading No. 87.08 as parts and accessories of the motor vehicles of heading Nos. 87.01 to 87.05?

48. Heading No. 87.08 covers “[p]arts and accessories of the motor vehicles of headings 87.01 to 87.05.”

49. Note 3 to Section XVII (which includes heading No. 87.08) provides as follows:

3. References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters.

50. In addition, the Tribunal notes that the *Explanatory Notes* to Section XVII provide as follows:

**(III) PARTS AND ACCESSORIES**

...

It should, however, be noted that these headings apply **only** to those parts or accessories which comply with all three of the following conditions:

- (a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).
- and
- (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).
- and
- (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

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40. Tribunal Exhibit AP-2010-003-06A, tab L.



51. Therefore, in order for the goods in issue to be classified in heading No. 87.08, the Tribunal must find that the goods in issue (i) are a “part” or an “accessory” of a motor vehicle, (ii) are not excluded by the terms of Note 2 to Section XVII, (iii) are suitable for use solely or principally with the articles of Chapters 86 to 88 and (iv) are not more specifically included elsewhere in the nomenclature.

52. The Tribunal agrees with Rui Royal’s position that the goods in issue are “accessories” within the ordinary meaning of the term. The Tribunal notes that the instructions included with the goods in issue indicate that they are to be attached to the frame of vehicles and used by the towing vehicle to pull and free the towed vehicle (or trailer).<sup>41</sup> The Tribunal is satisfied that “towing” is a subordinate role that improves the effectiveness of the towing vehicle, namely, by allowing it to pull or tow another vehicle.

53. The Tribunal finds that the goods in issue are not excluded by Note 2(b) to Section XVII, as they are not parts of general use, as defined in Note 2 to Section XV, of base metal, or similar goods of plastics. Note 2 to Section XV provides as follows:

2. Throughout the Nomenclature, the expression “parts of general use” means:

(a) Articles of heading 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal.

As noted above, the goods in issue have been woven from yarns of synthetic man-made filaments and are fitted with metal hooks; therefore, they are not articles of heading No. 73.07, 73.12, 73.15, 73.17 or 73.18, which cover various articles made entirely of iron or steel.

54. In addition, the *Explanatory Notes* to Section XVII provide a list of examples of parts of general use, which includes, *inter alia*, cables and chains. The Tribunal is satisfied that the goods in issue are not covered by the specific list of examples provided in the *Explanatory Notes*. In particular, the Tribunal finds that the goods in issue are not cables or chains for use in vehicles, as the goods in issue are straps.<sup>42</sup> The *Canadian Oxford Dictionary* defines “strap” as follows: “1 a strip of cloth . . . or other flexible material . . . used for keeping something in place or for fastening, carrying, or holding onto something.”<sup>43</sup> The same dictionary defines “chain” as “1 a connected flexible series of esp. metal links” and “cable” as “1. a a thick rope of wire of hemp”. The term “rope” is defined in the *Dictionary of Fiber & Textile Technology* as follows: “1. A heavy, strong cord made from natural or manufactured fibers in a wide range of diameters, depending on the demands of the intended use. Ropes are constructed by twisting or braiding in a process called laying.”<sup>44</sup> As the goods in issue can be distinguished from both chains (a series of links) and cables (a thick rope), the Tribunal finds that the exclusion in Note 2 to Section XVII does not apply. The Tribunal notes that this condition was not in dispute between the parties.

55. With respect to the next condition, the Tribunal finds that the goods in issue are suitable for use solely or principally with the articles of Chapters 86 to 88. In support of this finding, the Tribunal notes the instructions on the packaging, which indicate that the goods in issue are to be used by a vehicle to tow another vehicle, trailer, etc. until the disabled vehicle moves freely. The diagram included in the packaging clearly depicts that the goods in issue attach to the vehicle’s frame and the instructions state as follows: “Attach vehicles frame to frame . . .”<sup>45</sup> In addition, the Tribunal notes the CBSA’s re-determination, where it states as follows: “This article is designed for the towing of a motor vehicle by another motor vehicle.”<sup>46</sup> This indicates to the Tribunal that the CBSA agrees with the intended use of the goods.

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41. Exhibit A-01.

42. Tribunal Exhibit AP-2010-003-06 A, tab Q.

43. *Ibid.*, tab O.

44. *Ibid.*, tab N.

45. Exhibit A-01.

46. Tribunal Exhibit AP-2010-003-04, tab 2.

56. The last condition that the Tribunal must consider with regard to heading No. 87.08 is whether the goods in issue are “more specifically included elsewhere in the Nomenclature”. In particular, Note (III)(C) of the *Explanatory Notes* to Section XVII stipulate that “[p]arts and accessories, even if identifiable as for the articles of this Section, are **excluded** if they are covered more specifically by another heading elsewhere in the Nomenclature . . .”. The *Explanatory Notes* also provide a list of examples of goods that are covered more specifically by another heading (and are thus excluded from classification in heading No. 87.08), such as towing ropes (heading No. 56.09).

57. The Tribunal is satisfied that the goods in issue are not towing ropes. The CBSA’s laboratory report clearly indicates that the strap portion of the product is woven and that it is not made from either rope or cord.<sup>47</sup>

58. The Tribunal is of the view that the goods in issue are not specifically mentioned in the list of examples provided in Note (III)(C) of the General *Explanatory Notes* to Section XVII and, in particular, that the goods in issue are not towing ropes. However, the Tribunal notes that the inclusion of the term “e.g.” in the *Explanatory Notes* suggests that the list of examples is not exhaustive.

59. As noted above, the CBSA argued that the goods in issue are more specifically included in Section XI, specifically, heading No. 63.07 as “[o]ther made up articles”.<sup>48</sup> Therefore, the Tribunal will proceed to analyze heading No. 63.07 to determine whether the goods in issue are more specifically included in that heading.

Are the goods in issue classifiable in heading No. 63.07 as other made up articles?

60. Heading No. 63.07 covers made up articles of any textile material which are not included more specifically in other headings of Section XI or elsewhere in the nomenclature. Note 1 to Chapter 63 states that sub-chapter I (which includes heading No. 63.07) covers made up articles of any textile fabric.

61. Moreover, the *Explanatory Notes* to heading No. 63.07 provide that the heading covers made up articles of any textile material which are *not included* more specifically in other headings of Section XI or elsewhere in the nomenclature. The *Explanatory Notes* include a list of articles that are included, in particular, in heading No. 63.07.

62. Therefore, the terms of heading No. 63.07 and the related chapter note and *Explanatory Notes* indicate to the Tribunal that four conditions must be met in order for the goods in issue to be classified in heading No. 63.07: (i) they must be articles; (ii) they must meet the definition of “made up”; (iii) they must be of any textile fabric; and (iv) they must satisfy the proviso that they not be more specifically described in other chapters of Section XI or elsewhere in the nomenclature.

63. It was not disputed by the parties that the goods in issue are considered articles within the meaning of Chapter 63. The Tribunal notes that the term “article” is not defined for purposes of heading No. 63.07. However, in *P.L. Light Systems Canada Inc. v. President of the Canada Border Services Agency*, the Tribunal accepted the Canadian Oxford Dictionary definition of “article” as “1 a particular or separate thing, esp. one of a set . . .”<sup>49</sup> The Tribunal is satisfied that the ordinary meaning of the word “article” is sufficiently broad to encompass the goods in issue.

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47. Tribunal Exhibit AP-2010-003-06A, tab Q.

48. *Ibid.* at para. 17.

49. (16 September 2009), AP-2008-012 (CIIT) at para. 28.

64. With respect to the second condition, Note 7 to Section XI provides the meaning of “made up”. The Tribunal notes that there are six possible definitions provided for “made up” and that goods must meet only one of the possible definitions to be considered “made up”. A similar approach has been adopted by the Tribunal in previous cases.<sup>50</sup> After reviewing the six possibilities, the Tribunal considers that Note 7(e) is the most relevant to the goods in issue. It provides as follows:

7. For the purpose of this Section, the expression “made up” means:

...

- (e) Assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded)

65. The Tribunal finds that the goods in issue meet the definition of “made up” found in Note 7(e) to Section XI (which includes heading No. 63.07), as the goods in issue have been assembled by stitching, as indicated in the CBSA’s laboratory report. In this regard, it bears repeating that the CBSA’s laboratory analysis states the goods in issue have “. . . been constructed by taking a length of yellow strap, threading each end through a large heavy metal hook, then folding each end over on itself and securing the ends by heavy stitching.”

66. Finally, the Tribunal is satisfied that the goods in issue meet the third condition, as they are of a textile material. The laboratory report filed by the CBSA, which was accepted by Rui Royal, indicates that “[t]he yellow strap portion of this product is narrow woven from yarns of synthetic (polyester) man-made filaments.”<sup>51</sup>

67. One additional argument that the Tribunal must consider with respect to heading No. 63.07 is whether the goods in issue should be excluded from classification in that heading because of the presence of the metal hooks attached to the strap, as raised by Rui Royal. In that regard, the Tribunal notes the *Explanatory Notes* to Chapter 63, which provide as follows:

The classification of articles in this sub-Chapter is not affected by the presence of minor trimmings or accessories of . . . metal . . . .

Where, however, the presence of these other materials constitutes **more than** mere trimmings or accessories, the articles are classified in accordance with the relative Section or Chapter Notes (General Interpretative Rule 1), or in accordance with the other General Interpretative Rules as the case may be.

68. The Tribunal finds that, on the basis of the grammatical and ordinary sense of the words, the hooks are not minor trimmings or accessories of metal. The *Canadian Oxford Dictionary* defines “trimming” as follows: “**1.** ornamentation or decoration, esp. for a hat or other articles of clothing.” It defines “accessory” as follows: “**2 a** a small attachment or fitting.”<sup>52</sup> The evidence on record indicates that the hooks attach to vehicles. For example, the instructions provided with the goods in issue indicate that the “[a]rea of attachment to vehicles, trailers, etc. must be of sufficient strength.” In addition, the instructions provide that a user must “[m]ake sure to attach straps to frame where it will not slip from side to side” and that “[f]or

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50. See, for example, *BMC Coaters Inc. v. President of the Canada Border Services Agency* (6 December, 2010), AP-2009-071 (CITT); *Sher-Wood Hockey Inc. v. President of the Canada Border Services Agency* (10 February 2011), AP-2009-045 (CITT) [*Sher-Wood Hockey*].

51. Tribunal Exhibit AP-2010-003-06A, tab Q; Tribunal Exhibit AP-2010-003-09.

52. Second Edition.

maximum strength, hooks and buckles must be in line with direction of pull.”<sup>53</sup> From this evidence, the Tribunal concludes that the hooks need to be attached to the frames of two vehicles and clearly play an important role in the towing function of the goods in issue. The hooks are not ornamentation or decoration, and they are not small attachments or fittings. Therefore, the Tribunal finds that they are more than minor trimmings or accessories of metal.

69. In the Tribunal’s opinion, the *Explanatory Notes* to Chapter 63 do not state that goods are necessarily excluded from classification in Chapter 63 (and thus in heading No. 63.07) where the presence of non-textile materials constitutes more than minor trimmings or accessories. In such situations, the *Explanatory Notes* provide that the classification of goods be determined “. . . in accordance with the relative Section or Chapter Notes (General Interpretative Rule 1), or in accordance with the other General Interpretative Rules . . . .” The Tribunal has taken a similar approach in previous cases.<sup>54</sup>

70. The Tribunal finds that the wording of the *Explanatory Notes* to Chapter 63 does not preclude classification of the articles referred to in the *Explanatory Notes* to heading No. 63.07 in that heading, under Rule 1 of the *General Rules*, when they contain components of metal that are more than minor trimmings or accessories.

71. On the contrary, the *Explanatory Notes* to Chapter 63 expressly reaffirm that, where such articles consist of materials that are more than minor trimmings or accessories, classification shall be “. . . determined according to the terms of the headings and any relative Section or Chapter Notes . . .”, as contemplated by Rule 1 of the *General Rules*, or in accordance with other rules if applicable.

72. This approach is similar to the one taken by the Tribunal in *Canadian Tire*, where the Tribunal found that personal flotation devices were classifiable in heading No. 63.07 as “other made up articles”, under Rule 1 of the *General Rules*, despite the fact that the goods in issue in that case contained elements of plastic, because life-jackets and life-belts were specifically provided for in the *Explanatory Notes* to that heading.<sup>55</sup>

73. The Tribunal has reviewed the notes to Section XI and Chapter 63. The Tribunal does not consider that there are any relative notes to heading No. 63.07 which preclude a textile article with a metal component from classification in heading No. 63.07.

74. In addition, the Tribunal has reviewed the terms of heading No. 63.07, which provides for the classification of “[o]ther made up articles, including dress patterns.” The Tribunal notes that the *Explanatory Notes* to heading No. 63.07 expressly include within this heading, *inter alia*, “. . . webbing carrier straps and similar articles . . . .” Therefore, the Tribunal needs to determine if the goods in issue are articles similar to

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53. Exhibit A-01.

54. See, for example, *Canadian Tire Corporation Limited v. President of the Canada Border Services Agency* (6 August 2010), AP-2009- 019 (CITT) [*Canadian Tire*] and *Sher-Wood Hockey*.

55. Although not addressed by either party, the Tribunal is aware that this analysis departs slightly from the Tribunal’s decision in *Sher-Wood Hockey*. The Tribunal notes that, in *Sher-Wood Hockey*, the goods in issue were not specifically listed in the heading or the *Explanatory Notes* to the heading under consideration. Thus, the Tribunal had to consider whether Rule 2 (b) of the *General Rules* was applicable. In the present appeal, as in *Canadian Tire*, there are *Explanatory Notes* which clarify that heading No. 63.07 specifically includes the goods in issue, namely, webbing carrier straps and similar articles. As a result, the Tribunal finds that it is not necessary to have recourse to Rule 2 (b) in this instance, as classification can be resolved under Rule 1.

webbing carrier straps. If it determines that they are articles similar to webbing carrier straps, the goods in issue may be classified in heading No. 63.07, under Rule 1 of the *General Rules*, regardless of the metal components, as they have been specifically provided for in the *Explanatory Notes* to that heading.

75. The Tribunal will now consider whether the goods in issue are webbing carrier straps or similar articles. As noted above, the *Explanatory Notes* to heading No. 63.07 state that the heading covers made up articles of any textile material and that the heading includes, in particular: “. . . webbing carrier straps and similar articles . . .” In French, the goods covered by the heading include “. . . *sangles pour porte-bagages et les articles similaires* . . .”

76. In an attempt to define webbing carrier straps, the CBSA submitted a definition of webbing found in the *Dictionary of Fiber & Textile Technology*, which defines “webbing” as follows: “Strong, narrow fabric, closely woven in a variety of weaves and principally used for belts and straps that have to withstand strain . . .”<sup>56</sup> Counsel argued that the goods in issue are made of narrow fabric, closely woven, and that they are able to withstand the strain of towing another vehicle. The CBSA also argued that the goods in issue clearly meet the definition of a strap. Counsel also made reference to the Tribunal’s decision in *Canper*, where the Tribunal found that ratchet tie-downs were fastening devices that were similar to webbing carrier straps.

77. Rui Royal submitted a definition of “carrier” which states as follows: “**3 b** : a device or machine that carries . . .”<sup>57</sup> It argued that the word “carrier” has to mean to carry something.<sup>58</sup> Rui Royal argued that “to carry” must mean something different from “to tow” and that, therefore, the goods in issue are not similar to webbing carrier straps.

78. The parties are in agreement that the goods in issue are straps made of woven fabric,<sup>59</sup> which the Tribunal finds consistent with dictionary definitions. The *Canadian Oxford Dictionary* defines a “strap” as follows: “**1** a strip of cloth, leather, or other flexible material, often with a buckle or other fastening, used for keeping something in place or for fastening, carrying, or holding onto something.”<sup>60</sup> *Le Petit Larousse Illustré* defines the word “*sangle*” as follows: “. . . *Bande de cuir ou de toile large et plate qui sert à entourer, à serrer, etc. . . .*”<sup>61</sup>

79. The goods in issue are straps for towing. The definition of “tow” found in the *Canadian Oxford Dictionary* is as follows: “**1** (of a motor vehicle, horse, or person controlling it) pull (a boat, another motor vehicle, a trailer, etc.) along by a rope, tow-bar, etc.”<sup>62</sup> The *Larousse Advanced Dictionary* translates “tow” as “. . . *tirer . . . remorquer*”,<sup>63</sup> and *Le Petit Larousse Illustré* gives the following definition of “*remorquer*”: “. . . *tirer un véhicule, un bateau derrière soi . . .*”<sup>64</sup>

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56. Tribunal Exhibit AP-2010-003-06A at para. 12, tab N.

57. Tribunal Exhibit AP-2010-003-11A, tab 8.

58. *Transcript of Public Hearing*, 30 November 2010, at 73.

59. Tribunal Exhibit AP-2010-003-09.

60. Tribunal Exhibit AP-2010-003-06A, tab O.

61. 2004, s.v. “*sangle*”.

62. Second Edition.

63. 2007, s.v. “*tow*”.

64. 2004, s.v. “*remorquer*”.

80. The Tribunal has also reviewed the meaning of “carrier”, which is defined in Webster’s New World Dictionary as “. . . a person or thing that carries . . . .”<sup>65</sup> The same dictionary defines the verb “carry” as follows: “. . . to hold or support while moving . . .” and “. . . to take from one place to another, transport, as in vehicle . . . .”<sup>66</sup> The translation of “carry” in Le Robert & Collins is as follows: “. . . porter; [vehicle] transporter; [+ goods, heavy loads] transporter . . .”, and the verb “hold up” is translated as follows: “. . . lever, élever . . . soutenir . . . .”<sup>67</sup>

81. The evidence is clear that the goods in issue are straps and that their function is the pulling of another vehicle, in order to free that vehicle, up to a work load limit of 3,333 lbs.<sup>68</sup> The Tribunal finds that pulling another vehicle in order to free it up is an action similar to holding or supporting that vehicle while it is moving and to taking it from one place to another.

82. In determining whether the goods in issue are similar to webbing carrier straps, the Tribunal finds that the test for determining a “similar article” is not a strict one. In the Tribunal’s decision *Ivan Hoza v. President of the Canada Border Services Agency*,<sup>69</sup> the Tribunal was of the opinion that similar goods had to share important characteristics and have common features but that “similar” did not mean “identical”.<sup>70</sup> In *Nailor Industries Inc. v. Deputy M.N.R.*, the Tribunal was of the opinion that similar appliances would have to possess the same general attributes.<sup>71</sup>

83. On the basis of the evidence and the test described above, the Tribunal finds that the goods in issue share sufficient characteristics with webbing carrier straps in both make and functionality to allow them to be classified in heading No. 63.07. The goods in issue closely resemble webbing carrier straps in that both products are made of strong, narrow woven fabric and both are capable of withstanding strain.<sup>72</sup> In addition, the goods in issue and webbing carrier straps perform similar functions, as mentioned above.

84. The Tribunal also notes that, in *Canper*, it found that goods similar to the goods at issue in that appeal, namely, straps used for fastening, were similar articles to webbing carrier straps, even though there was no evidence that the ratchet tie downs were used “to carry”, regardless of the fact that the straps included a metal fastening component.

85. Therefore, the Tribunal finds that the goods in issue are articles similar to webbing carrier straps. Accordingly, the Tribunal is of the view that the goods in issue are included in heading No. 63.07 as “articles similar to webbing carrier straps”, unless the Tribunal finds that they are more specifically included in heading No. 87.08.

86. The Tribunal notes that in *Fastco Canada v. Deputy M.N.R.*, it found that covers used to protect motor vehicles were more specifically included in heading No. 63.07, as loose covers for motor vehicles, than in heading No. 87.08, as accessories to motor vehicles.<sup>73</sup>

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65. Third College Edition, s.v. “carrier”.

66. *Ibid.*, s.v. “carry”.

67. 2006, s.v. “carry” and “hold up”.

68. Exhibit AP-2010-003-04, tab 1.

69. (6 January 2010), AP-2009-002 (CITT) [*Ivan Hoza*].

70. *Ivan Hoza* at paras. 25-26.

71. (13 July 1998), AP-97-083 and AP-97-101 (CITT) at 5.

72. Tribunal Exhibit AP-2010-003-06A, tab Q. The *Dictionary of Fiber & Textile Technology* defines the word “webbing” as follows: “Strong, narrow fabric, closely woven in a variety of weaves and principally used for best and straps that have to withstand strain, e.g., automobile seat belts, cargo slings and tiedowns, and reinforcement of upholstery.”

73. (29 April 1997), AP-96-078 (CITT).

87. Similarly, the Tribunal is of the view that the goods in issue are more specifically included in heading No. 63.07 as “articles similar to webbing carrier straps”, as they are specifically included in the list of articles found in the *Explanatory Notes* to heading No. 63.07, which describe the goods that are classified in that heading. The Tribunal is of the view that this description more precisely identifies the goods in issue than “accessories to motor vehicles”. It describes the textile composition of the goods in issue (namely, webbing) and specifically describes the goods in issue as straps. By contrast, heading No. 87.08 refers to accessories, which is a less complete description of the goods in issue. Heading No. 87.08 merely describes the use of the goods in issue in a very general way, as articles which perform a secondary function to a motor vehicle.

88. Therefore, the Tribunal concludes that heading No. 63.07 more specifically describes the goods in issue than heading No. 87.08 and that, by virtue of Note (III)(C) of the *Explanatory Note* to Section XVII, they are not classifiable in heading No. 87.08

89. For the foregoing reasons, in accordance with Rule 1 of the *General Rules* and the applicable tariff nomenclature identified above, the goods in issue are properly classified in heading No. 63.07. Pursuant to Rule 6 of the *General Rules* and Rule 1 of the *Canadian Rules*, it follows that the goods in issue should be classified under tariff item No. 6307.90.99 as other made up articles of other textile materials.

## DECISION

90. The appeal is dismissed.

Diane Vincent  
Diane Vincent  
Presiding Member