Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2010-065

Beckman Coulter Canada Inc.

v.

President of the Canada Border Services Agency

Decision and reasons issued Tuesday, January 17, 2012

Canada

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IN THE MATTER OF an appeal heard on September 20, 2011, 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 December 16, 2010, with respect to a request for review of an advance ruling on tariff classification, pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

BECKMAN COULTER CANADA INC. **Appellant**

AND

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

DECISION

The appeal is allowed.

Serge Fréchette
Serge Fréchette
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	September 20, 2011
Tribunal Member:	Serge Fréchette, Presiding Member
Counsel for the Tribunal:	Alain Xatruch Ekaterina Pavlova Nick Covelli
Manager, Registrar Office:	Michel Parent
Registrar Officer:	Cheryl Unitt

PARTICIPANTS:

Appellant	**Counsel/Representative**
Beckman Coulter Canada Inc.	Michael Kaylor
Respondent	**Counsel/Representative**
President of the Canada Border Services Agency	Deric MacKenzie Feder

WITNESS:

Albert R. Moser
District Service Manager
Beckman Coulter Canada Inc.

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STATEMENT OF REASONS

BACKGROUND

1. This is an appeal filed by Beckman Coulter Canada Inc. (Beckman Coulter) 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), with respect to a request for review of an advance ruling on tariff classification.

2. The issue in this appeal is whether Polyflex® V-belts, part No. 5M475[2] (the goods in issue), in addition to being classified under tariff item No. 3926.90.90 of the schedule to the *Customs Tariff*,[3] may also be classified under tariff item No. 9977.00.00 as articles for use in appliances used in medical sciences and thereby benefit from duty-free treatment.

PROCEDURAL HISTORY

3. On March 12, 2010, Beckman Coulter submitted a request for an advance ruling with respect to the tariff classification of the goods in issue. On March 17, 2010, the CBSA issued an advance ruling pursuant to paragraph 43.1(1)(*c*) of the *Act*, which classified the goods in issue under tariff item No. 3926.90.90 as other articles of plastics or of other materials of heading Nos. 39.01 to 39.14, without the benefit of duty-free treatment under tariff item No. 9977.00.00.

4. On June 11, 2010, Beckman Coulter requested a review of the advance ruling pursuant to subsection 60(2) of the *Act*. On December 16, 2010, the CBSA affirmed the advance ruling pursuant to subsection 60(4).

5. On March 3, 2011, Beckman Coulter filed the present appeal with the Tribunal pursuant to subsection 67(1) of the *Act*.

6. On September 20, 2011, the Tribunal held a public hearing in Ottawa, Ontario. Mr. Albert R. Moser, District Service Manager at Beckman Coulter, appeared as a witness for Beckman Coulter. The CBSA did not call any witnesses.

GOODS IN ISSUE

7. The goods in issue are manufactured by the Gates Corporation and imported by Beckman Coulter from Beckman Coulter Inc. of Fullerton, California. The product literature on the record indicates that Polyflex® V-belts are composed of a lightweight polyurethane body and polyester tensile cords and are used for various drive applications, including in machine tools, computer peripherals, medical equipment, library equipment, small appliances, blower drives and woodworking machines.[4]

8. According to Beckman Coulter, the goods in issue are imported as replacement drive belts for use in its J6 series of high-capacity centrifuges (J6 centrifuges).

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].
2. The part number indicates that the belts have a top width of 5 mm and a length of 475 mm.
3. S.C. 1997, c. 36.
4. Tribunal Exhibit AP-2010-065-05A, tab 18 at 1, 7.

9. Beckman Coulter filed, as a physical exhibit, a sample of the goods in issue.[5] The CBSA did not file any physical exhibits.

ANALYSIS

Statutory Framework

10. 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.

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.[6] 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.[7] 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[8] and the Canadian Rules[9] 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, then regard must be had to Rule 2, and so on, until classification is completed.[10] 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."

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[11] and the Explanatory Notes to the Harmonized Commodity Description and Coding System,[12] 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. Exhibit A-01.
6. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.
7. The Tribunal notes that section 13 of the *Official Languages Act*, R.S.C. 1985 (4th Supp.), c. 31, provides that the English and French versions of any act of Parliament are equally authoritative. Thus, the Tribunal may examine both the English and French versions of the schedule to the *Customs Tariff* in interpreting the tariff nomenclature.
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 respected, unless there is a sound reason to do otherwise, as they serve as an interpretative guide to tariff classification in Canada.[13]

15. 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.

Tariff Classification at Issue

16. In the present appeal, the parties agree that the goods in issue are properly classified under tariff item No. 3926.90.90 as other articles of plastics or of other materials of heading Nos. 39.01 to 39.14.[14] The only source of disagreement between the parties—and hence the issue in this appeal—is whether the goods in issue may also be classified under tariff item No. 9977.00.00 and thereby benefit from duty-free treatment.

17. Chapter 99, which includes tariff item No. 9977.00.00, provides special classification provisions that allow certain goods to be imported into Canada duty-free. As none of the headings of Chapter 99 are divided at the subheading or tariff item level, the Tribunal need only consider, as the circumstances may require, Rules 1 through 5 of the *General Rules* in determining whether goods may be classified in that chapter. Moreover, since the Harmonized System reserves Chapter 99 for special classifications (i.e. for the exclusive use of individual countries), there are no *Classification Opinions* or *Explanatory Notes* to consider.

18. There are no notes to Section XXI (which includes Chapter 99). However, the Tribunal considers notes 3 and 4 to Chapter 99 to be relevant to the present appeal. These notes provide as follows:

> 3. Goods may be classified under a tariff item in this Chapter and be entitled to the Most-Favoured-Nation Tariff or a preferential tariff rate of customs duty under this Chapter that applies to those goods according to the tariff treatment applicable to their country of origin only after classification under a tariff item in Chapters 1 to 97 has been determined and the conditions of any Chapter 99 provision and any applicable regulations or orders in relation thereto have been met.
>
> 4. The words and expressions used in this Chapter have the same meaning as in Chapters 1 to 97.

19. In accordance with Note 3 to Chapter 99, the goods in issue may only be classified in Chapter 99 after classification under a tariff item in Chapters 1 to 97 has been determined. As indicated above, the parties agree that the goods in issue are properly classified in Chapter 39, under tariff item No. 3926.90.90. On the basis of the evidence, the Tribunal accepts this classification. Therefore, for the purposes of this appeal, the Tribunal is of the view that the condition set out in Note 3 to Chapter 99 has been met.

20. Consequently, the only remaining issue before the Tribunal is to determine whether the goods in issue meet the conditions of tariff item No. 9977.00.00, which provides as follows:

> **9977.00.00 Articles for use in the following:**
>
> . . .
>
> **Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments;**
>
> . . .

13. *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17.
14. Tribunal Exhibit AP-2010-065-03A, at para. 13; Tribunal Exhibit AP-2010-065-05A, tab A at para. 17; *Transcript of Public Hearing*, 20 September 2011, at 23.

21. Beckman Coulter argued that the goods in issue are articles for use in appliances used in medical sciences. Therefore, in order for the goods in issue to qualify for the benefit of tariff item No. 9977.00.00, they must be (1) articles (2) for use in (3) appliances used in medical sciences.

"Articles"

22. While the term "articles" is not defined for the purposes of tariff item No. 9977.00.00, the CBSA has not taken issue with Beckman Coulter's characterization of the goods in issue as "articles".

23. On the basis of the normal usage of the term,[15] the Tribunal agrees that the goods in issue are articles.

"For use in"

24. Subsection 2(1) of the *Customs Tariff* defines the phrase "for use in" as follows:

> "for use in", wherever it appears in a tariff item, in respect of goods classified in the tariff item, means that the goods must be wrought or incorporated into, or attached to, other goods referred to in that tariff item.

25. Beckman Coulter argued that the goods in issue are "incorporated into" the other goods. In this respect, Beckman Coulter referred to the following definition in *Webster's New World Dictionary of the American Language*: "**Incorporate 1.** to combine or join with something already formed; make part of another thing; include; embody **2.** to bring together into a single whole; merge . . ."[16]

26. The CBSA did not seem to dispute that the goods in issue can be "incorporated into" J6 centrifuges. Rather, it argued that the goods in issue are generic in nature, can serve in several applications and are not specifically designed or sized for, or dedicated to, the centrifuges.

27. On its face, the definition of the phrase "for use in" in subsection 2(1) of the *Customs Tariff* does not require that goods be for the sole or exclusive use in the other goods. Therefore, in effect, the CBSA is asking the Tribunal to read into the definition of "for use in" the requirement that the goods must be wrought or incorporated into, or attached to, other goods for which they have been specifically designed. However, if that was Parliament's intention, then it could easily have made that intention express.[17]

28. Furthermore, the CBSA has not shown, nor can the Tribunal see, any reason to imply such an intention. As Beckman Coulter pointed out, the CBSA itself treats some goods as being "for use in" other goods referred to elsewhere in Chapter 99 (i.e. tariff item No. 9948.00.00) even where they can be used with other goods not referred to in the tariff item, as long as the importers show that they are actually used in the other goods which are referred to in the tariff item.[18] The Tribunal has previously found this approach appropriate and, in fact, mandatory when dealing with such provisions. In *Entrelec Inc. v. Commissioner of the Canada Customs and Revenue Agency*,[19] where the record showed 14 percent of the goods in that case, by value, were actually used in process control apparatus, the Tribunal found that they were "for use in" the process control apparatus. The test of "actual use" had been upheld by the Federal Court of Appeal.[20]

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15. The *Canadian Oxford Dictionary*, 2d ed., defines "article" as follows: "1 a particular or separate thing, esp. one of a set . . . ."
16. Tribunal Exhibit AP-2010-065-03A at para. 40.
17. The Tribunal has made this point previously in *Sony of Canada Ltd. v. Commissioner of the Canada Customs and Revenue Agency* (3 February 2004), AP-2001-097 (CITT).
18. Tribunal Exhibit AP-2010-065-08A, tab 1.
19. (17 March 2003), AP-2000-051 (CITT).
20. *Entrelec Inc. v. Canada (Minister of National Revenue)*, 2000 CanLII 16268 (FCA).

29. In the present case, the CBSA admitted that the goods in issue are used to drive the J6 centrifuges.[21]

30. As there is no dispute that the goods in issue are actually used in the J6 centrifuges and no dispute that, when that is the case, the goods in issue are incorporated into or attached to the J6 centrifuges, the Tribunal is satisfied that the goods in issue are "for use in" the J6 centrifuges.

"Appliances used in medical sciences"

31. The CBSA argued that the J6 centrifuges cannot be appliances for use in medical sciences because, for purposes of classification in Chapters 1 to 97, centrifuges are classified in heading No. 84.21, not heading No. 90.18, which, like tariff item No. 9977.00.00, refers to appliances used in medical sciences. Heading No. 84.21 specifically refers to "Centrifuges", and centrifuges are not covered in the illustrative list in Part (I) of the *Explanatory Notes* to heading No. 90.18.[22]

32. Beckman Coulter did not disagree that centrifuges are classified in heading No. 84.21.[23] However, it submitted that, in *Fenwick Automotive Products Limited v. President of the Canada Border Services Agency*,[24] the Tribunal noted that, since Chapter 99 provides special classification provisions that allow certain goods to be imported with tariff relief, there are no *Explanatory Notes* to consider. Beckman Coulter interprets this decision as standing for the proposition that Chapter 99 is to be interpreted without regard to any explanatory notes, including those to heading No. 90.18.[25]

33. The Tribunal reads *Fenwick* more narrowly as a simple recognition of the fact that there are no *Explanatory Notes* to Chapter 99 or to any of the headings therein. This distinction is important, given that, as mentioned, the *Explanatory Notes*, including those to heading No. 90.18, should be respected unless there is a sound reason to do otherwise, and Note 4 to Chapter 99 states that the words and expressions used in this chapter have the same meaning as in Chapters 1 to 97.

34. Therefore, to the extent that the words and expressions used in tariff item No. 9977.00.00 (particularly appliances used in medical sciences) have the same meaning as they do in heading No. 90.18 and that the *Explanatory Notes* to heading No. 90.18 inform the meaning of those same words, the Tribunal ought to have regard to these explanatory notes unless there is a sound reason to do otherwise.

35. That being said, however, explanatory notes or legal notes may direct a particular tariff classification for purposes of Chapters 1 to 97 without informing the meaning of words and expressions used therein. For example, an explanatory note could simply indicate that a particular product is included in or excluded from a particular heading. To the extent that this may be the case, this note would not be relevant for the purposes of Chapter 99.

36. Indeed, that is the case here. Part (I) of the *Explanatory Notes* to heading No. 90.18 provides an illustrative list of specific products that are covered in this heading. In addition, Note (q) of the *Explanatory Notes* to heading No. 90.18 excludes appliances of heading No. 90.27 used in laboratories to test blood, the *Explanatory Notes* to which in turn exclude centrifuges and refers them back to Section XVI (heading No. 84.21). These notes shed light on the scope of goods which Parliament intended to be covered by heading No. 90.18, but they do not define the word "appliances" or the expression "medical sciences" *per se*.

21. Tribunal Exhibit AP-2010-065-05A at para. 2.
22. *Ibid.* at para. 21-30.
23. *Transcript of Public Hearing*, 20 September 2011, at 23.
24. (11 March 2009), AP-2006-063 (CITT) [*Fenwick*].
25. *Transcript of Public Hearing*, 20 September 2011, at 19.

37. To further illustrate this point, the Tribunal notes that tariff item No. 9978.00.00, for example, expressly refers to articles and material for use in the manufacture of instruments, appliances and parts thereof of heading No. 90.18. This implies clearly that, had Parliament intended that appliances used in medical sciences in tariff item No. 9977.00.00 be limited to appliances used in medical sciences of heading No. 90.18, presumably it would have worded the tariff item accordingly. Without such a cross-reference, the Tribunal must take the terms found in the tariff item at face value except, as stated, when these words and expressions are defined elsewhere in the tariff nomenclature.

38. Consequently, the fact that the J6 centrifuges are not classified in heading No. 90.18 does not necessarily mean that J6 centrifuges are not appliances used in medical sciences within the meaning, and for the purposes, of tariff item No. 9977.00.00.

39. The Tribunal must now determine whether the J6 centrifuges are (1) appliances (2) used in medical sciences.

40. In support of its position that the J6 centrifuges are appliances, Beckman Coulter relied on the following definition in *Webster's New World Dictionary of the American Language*: "**Appliance 1.** [Rare], the act of applying; application **2.** a device or machine for performing a specific task, esp. one that is worked mechanically or by electricity [stoves, irons, etc. are household *appliances*]."[26] Beckman Coulter further referred to the Tribunal's decision in *Teledyne Canada Mining Products v. Deputy M.N.R.C.E.*,[27] in which "[a]n 'appliance' is defined, in part, as a 'thing applied as means to an end; utensil, device, equipment.'"[28]

41. The Tribunal also notes that, in *Rona Corporation Inc. v. President of the Canada Border Services Agency*,[29] the meaning of the term "appliance" was defined as follows:

> 35. With respect to the issue of whether the goods in issue are appliances, the Tribunal notes that the *Canadian Oxford Dictionary* defines the term "appliance" as follows:". . . **1** an electrical or gas-powered device or piece of equipment used for a specific task, esp. for domestic tasks such as washing dishes etc. . . ." It also defines the term "device" as follows: ". . . **1 a** a thing made or adapted for a particular purpose, esp. a mechanical contrivance . . . ." In the Tribunal's view, the evidence on the record makes it clear that *the goods in issue are electrical devices, or "things", that are used for a specific task or made for a particular purpose and are therefore appliances*.
>
> [Footnotes omitted, emphasis added]

42. According to Mr. Moser, the J6 centrifuge machine is ". . . a device that's used to separate macromolecules [of] varying particle sizes and densities."[30]

43. Beckman Coulter's submission that the J6 centrifuges are appliances did not seem to be contested by the CBSA.

44. On the basis of the foregoing, the Tribunal considers that the J6 centrifuges meet the definition of the term "appliance".

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26. Tribunal Exhibit AP-2010-065-03A at para. 21.
27. (12 April 1994), AP-93-19 (CITT) [*Teledyne*].
28. *Teledyne* at 3.
29. (15 February 2011), AP-2009-072 (CITT).
30. *Transcript of Public Hearing*, 20 September 20, 2011, at 7-8.

45. Beckman Coulter submitted that the J6 centrifuges are "used in medical sciences". It contends that there is no requirement that the appliances be used "directly", "solely" or "exclusively" in medical sciences.[31] If Parliament intended to impose restrictions on tariff item No. 9977.00.00, it would have done so expressly as, for example, in tariff item No. 9988.00.00: "Apparatus . . . when to be employed: (a) directly in teaching or research by . . . ."

46. Citing the decision in *Erin P. Patton v. Her Majesty The Queen*,[32] Beckman Coulter pointed out that, according to the Tax Court of Canada, the term "medical" may mean either '". . . related to the science of medicine' or 'related to the practice of medicine"'.[33] In the same decision, the word "medicine" was defined according to the *Canadian Oxford Dictionary* as ". . . the science or practice of the diagnosis, treatment, and prevention of disease, ..."[34] Beckman Coulter further submitted that the term "medical" should be interpreted broadly and referred to the following definition in *Webster's New World Dictionary of the American Language*: "**Medical**, physician, to measure, consider, wise counsellor, doctor, whence OE. *metan*, to measure] **1.** of or connected with medicine or the practice or study of medicine **2.** *rare var. of* MEDICINAL."[35]

47. The CBSA argued that centrifuges are not sufficiently dedicated to medical sciences to qualify as medical appliances, as they have a wide variety of uses. The CBSA referred to the definitions of "centrifuge" provided in the *Canadian Oxford Dictionary*, i.e. "A centrifuge is 'a machine with a rapidly rotating device designed to separate liquids from solids or other liquids (e.g. cream from milk)'", *Taber's Cyclopedic Medical Dictionary*, i.e. "A centrifuge is 'a device that spins test tubes at high speeds. Centrifugal force causes the heavy particles in the liquid to settle to the bottom of the tubes and the lighter liquid to go to the top. When unclotted blood is centrifuged, the plasma goes to the top and the heavy red cells go to the bottom of the tube. The white blood cells are heavier than plasma but lighter than the red blood cells. Therefore they form a thin layer between the red blood cells and the plasma...'", and *Perry's Chemical Engineers' Handbook*, i.e. "'the use of centrifuges covers a broad range of applications, from separation of fine calcium carbonate particles of less than 10 µm to coarse coal of 0.013 m (1/2 in.)'".[36]

48. Mr. Moser testified that the J6 centrifuges are ". . . designed for the market with customers such as Canadian Blood Services, Héma-Québec, hospitals, clinical trials, Charles River-type companies",[37] which provide clinical trials for drug companies. Essentially, the blood or other body fluids are processed in the centrifuge in order to separate their components. The qualified technician removes the samples from the centrifuges and turns on the next step of the process, which is analysis determined by a medical doctor, physician or other trained professional.[38] The results from the test are scrutinized by lead technicians or medical professionals.[39]

49. On the basis of the uncontradicted evidence, the Tribunal is of the view that the J6 centrifuges are sufficiently dedicated to medical sciences.

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31. *Ibid.* at 14; Tribunal Exhibit AP-2010-065 at paras.18, 19.
32. 2005 TCC 704 [*Patton*].
33. *Patton* at para. 23.
34. *Patton* at para. 24.
35. Tribunal Exhibit AP-2010-065-03A at para 30.
36. Tribunal Exhibit AP-2010-065-05A at para. 19.
37. *Transcript of Public Hearing*, 20 September 2011, at 8.
38. *Ibid.* at 10, 11, 12.
39. *Ibid.* at 12, 13.

50. In this respect, the Tribunal accepts Beckman Coulter's argument that, within the wording of tariff item No. 9977.00.00, ". . . appliances used in medical . . . sciences . . .", there is no requirement that the appliances be used directly or exclusively in medical sciences. Had Parliament intended to impose restrictions on tariff item No. 9977.00.00, it would have done so expressly.[40]

51. As noted by Beckman Coulter, the term "medical sciences" is broadly interpreted in the jurisprudence. The Tribunal also notes that the term "medical sciences" is defined as "the science of dealing with the maintenance of health and the prevention and treatment of disease".[41]The term "medical" is defined in the *Shorter Oxford English Dictionary* as follows: "**1** Of or pertaining to the science or practice of medicine in general; of or pertaining to medicine as opp. to surgery. **b** Of or pertaining to conditions requiring medical (esp. as opp. to surgical) treatment or diagnosis."[42] The *Merriam-Webster's Collegiate Dictionary* defines the term "blood test" as follows: "a test of the blood; *esp* : a serologic test for the presence of substances indicative of disease . . . or disease-causing agents . . . ."[43]

52. According to the testimony of Mr. Moser, while the J6 centrifuges are not exclusively used in medical sciences, they are often used in hospitals[44] by qualified technicians in order to analyze the results of blood or other body fluid tests and to determine the diagnosis. It is also clear that the medical analysis of the blood or other body liquids for the purposes of diagnostic or prevention of diseases would be impossible without the use of centrifuges, i.e. J6 centrifuges.

53. For the foregoing reasons, the Tribunal finds, on the basis of the evidence, that the J6 centrifuges are used in "medical sciences".

Conclusion

54. The goods in issue are articles for use in appliances used in medical sciences of tariff item No. 9977.00.00.

55. Therefore, the appeal is allowed.

Serge Fréchette
Serge Fréchette
Presiding Member

40. *Agri-Pack v. Commissioner of the Canada Customs and Revenue Agency* (2 November 2004), AP-2003-010 (CITT), at para 34; *Sony of Canada Ltd. v. Commissioner of the Canada Customs and Revenue Agency* (3 February 2004), AP-2001-097 (CITT).
41. *The Free Dictionary* at http://www.thefreedictionary.com.
42. Fifth ed., s.v. "medical".
43. Eleventh ed., s.v. "blood test".
44. *Transcript of Public Hearing*, 20 September 2011 at 12.