



Ottawa, Wednesday, November 18, 1992

Appeal No. AP-91-019

IN THE MATTER OF an appeal heard on November 2, 1992, under section 67 of the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.), as amended;

AND IN THE MATTER OF a re-determination of the Deputy Minister of National Revenue for Customs and Excise dated February 28, 1991, under subsection 63(3) of the *Customs Act*.

BETWEEN

PATRICK H. ROCHE

Appellant

AND

**THE DEPUTY MINISTER OF NATIONAL REVENUE
FOR CUSTOMS AND EXCISE**

Respondent

DECISION AND REASONS OF THE TRIBUNAL

On August 31, 1992, the parties filed an Agreed Statement of Facts in which the respondent, on the basis of the Tribunal's decision in *Mark Kemper v. The Deputy Minister of National Revenue for Customs and Excise*, Appeal No. AP-91-113, January 31, 1992, no longer contested the appellant's submission that the Nova XR 5000 electronic stun gun that it imported on July 22, 1988, is not a prohibited weapon under subsection 84(1) of the *Criminal Code* (R.S.C. 1985, c. C-46) and *Prohibited Weapons Order, No. 3* (SOR/78-278), the importation of which is prohibited in Canada under section 114 of the *Customs Tariff* (R.S.C. 1985, c. 41 (3rd Supp.)).

Having examined the facts of this case and the submissions made by the parties, the Tribunal hereby allows the appeal.

Robert C. Coates, Q.C.

Robert C. Coates, Q.C.
Presiding Member

Kathleen E. Macmillan

Kathleen E. Macmillan
Member

Desmond Hallissey

Desmond Hallissey
Member

Michel P. Granger

Michel P. Granger
Secretary