Canadian International Trade Tribunal | Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2013-027

Maurice Pincoffs Canada Inc.

v.

President of the Canada Border Services Agency

Decision and reasons issued
Thursday, March 13, 2014

Canada

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IN THE MATTER OF an appeal heard on December 5, 2013, pursuant to subsection 67(1) of the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF 10 decisions of the President of the Canada Border Services Agency, dated March 13, 2013, with respect to requests for further re-determinations pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

MAURICE PINCOFFS 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:	December 5, 2013
Tribunal Member:	Serge Fréchette, Presiding Member
Counsel for the Tribunal:	Laura Little
Manager, Registrar Programs and Services:	Sarah MacMillan
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STATEMENT OF REASONS

BACKGROUND

1. This is an appeal filed by Maurice Pincoffs Canada Inc. (Maurice Pincoffs) on June 7, 2013, pursuant to subsection 67(1) of the *Customs Act*,[1] from 10 decisions issued by the President of the Canada Border Services Agency (CBSA), dated March 13, 2013, made pursuant to subsection 60(4), with respect to requests for further re-determinations of tariff classification.

2. Maurice Pincoffs disputed the tariff classification by the CBSA of trampoline enclosures (the goods in issue) under tariff item No. 5608.19.90 of the schedule to the *Customs Tariff*[2] as other made-up nets of textile materials. Maurice Pincoffs submitted that the goods in issue should be classified under tariff item No. 9506.99.90 as other articles and equipment for general physical exercise, gymnastics or athletics.

PROCEDURAL HISTORY

3. Maurice Pincoffs imported the goods in issue under 10 transactions between April 2006 and February 2007. At the time of their importation, the goods in issue were classified under tariff item No. 9506.99.90 as other parts and accessories of articles or equipment for general physical exercise, gymnastics or athletics. In several of these transactions, the goods in issue were imported together with trampolines, which were classified under tariff item No. 9506.91.90 as other articles or equipment for general physical exercise, gymnastics or athletics.

4. Between March 24, 2010, and November 30, 2010, Maurice Pincoffs requested re-determinations of the tariff classification of the goods in issue and the trampolines, pursuant to subsection 74(1) of the *Act*, and requested that they both be classified under tariff item No. 9503.00.90 as other toys, and parts and accessories thereof.

5. The CBSA denied the requests made by Maurice Pincoffs. Between June 16, 2010, and December 15, 2010, pursuant to paragraph 59(1)(*a*) of the *Act*, the CBSA determined that the goods in issue were properly classified under tariff item No. 9506.99.90 and the trampolines under tariff item No. 9506.91.90, as originally accounted for by Maurice Pincoffs.

6. Between June 2010 and March 2011, Maurice Pincoffs requested further re-determinations, pursuant to subsection 60(1) of the *Act*, requesting classification of the goods in issue and the trampolines under tariff item No. 9503.00.90.

7. On August 10, 2011, the CBSA held Maurice Pincoffs' requests for further re-determinations in abeyance pending the Tribunal's decision in *Canadian Tire Corporation Limited v. President of the Canada Border Services Agency*,[3] given that both cases dealt with the proper classification of similar goods, i.e. trampolines with mesh safety enclosures. In that case, the Tribunal determined that the goods were properly classified under tariff item No. 9506.91.90 as other articles and equipment for general physical exercise, gymnastics or athletics.

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1. R.S.C. 1985, c. 1 (2nd Supp.) [*Act*].
2. S.C. 1997, c. 36.
3. (12 April 2012), AP-2011-020 (CITT) [*Canadian Tire*].

8. On March 13, 2013, the CBSA, pursuant to subsection 60(4) of the *Act*, issued its decisions concerning all 10 import transactions, which reclassified the goods in issue under tariff item No. 5608.19.90 as other made-up nets of textile materials, but maintained the classification of the trampolines under tariff item No. 9506.91.90. The CBSA classified the enclosures and trampolines individually on the basis that they were imported as separate products, unlike the *Canadian Tire* case, in which the enclosure was part of the trampoline product.[4]

9. On June 7, 2013, Maurice Pincoffs filed a notice of appeal with the Tribunal, pursuant to subsection 67(1) of the *Act*, with respect to the goods in issue.[5]

10. A hearing was held in Ottawa, Ontario, on December 5, 2013. No witnesses were called to testify at the hearing.

GOODS IN ISSUE

11. The goods in issue consist of two models of trampoline enclosures (model No. 123-1410, 14-foot trampoline enclosures, and model No. 123-1310, 12- and 13-foot trampoline enclosures).

12. At the time of importation, the goods in issue were complete but unassembled, and consisted of the following components: a woven synthetic mesh netting featuring a full length zipper doorway; galvanized, zinc-coated heavy duty steel frame tubes to hold the netting upright; zinc-coated steel clamps to attach the enclosure to the trampoline frame; and foam tube pieces to cover the steel frame tubes for safety.[6]

13. The parties agreed that the goods in issue, once assembled, are affixed to a trampoline frame for the purpose of preventing injuries caused by landing on the trampoline frame pads or springs, as well as injuries caused by bouncing off the trampoline.[7]

STATUTORY FRAMEWORK

14. 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 (WCO).[8] 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.

15. Subsection 10(1) of the *Customs Tariff* provides that the classification of imported goods shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*[9] and the *Canadian Rules*[10] set out in the schedule.

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4. Exhibit AP-2013-027-06A at 6, 80; *Canadian Tire* at para. 3.
5. In the present appeal, Maurice Pincoffs did not dispute the CBSA's tariff classification of the trampolines under tariff item No. 9506.91.90 as other articles or equipment for general physical exercise, gymnastics or athletics.
6. Exhibit AP-2013-027-04A at 4, 92, 105; Exhibit AP-2013-027-06A at 6.
7. Exhibit AP-2013-027-04A at 4; Exhibit AP-2013-027-06A at 16.
8. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.
9. S.C. 1997, c. 36, schedule [*General Rules*].
10. S.C. 1997, c. 36, schedule.

16. The *General Rules* comprise six rules. Classification begins with Rule 1, which provides that 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 other rules.

17. Section 11 of the *Customs Tariff* provides that, 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 WCO. While the *Classification Opinions* and the *Explanatory Notes* are not binding, the Tribunal will apply them unless there is a sound reason to do otherwise.[13]

18. The Tribunal must therefore first determine whether the goods in issue can be classified at the heading level according to Rule 1 of the *General Rules* as per the terms of the headings and any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory notes. If the goods in issue cannot be classified at the heading level through the application of Rule 1, then the Tribunal must consider the other rules.[14]

19. 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 use a similar approach to determine the proper subheading.[15] The final step is to determine the proper tariff item.[16]

TARIFF CLASSIFICATION AT ISSUE

20. The terms of the relevant tariff nomenclature are as follows:

56.08 **Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials.**

-Of man-made textile materials:

. . .

5608.19 **- -Other**

. . .

5608.19.90 - - -Other

11. World Customs Organization, 2nd ed., Brussels, 2003 [*Classification Opinions*].
12. World Customs Organization, 5th ed., Brussels, 2012 [*Explanatory Notes*].
13. See *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17, where the Federal Court of Appeal interpreted section 11 of the *Customs Tariff* as requiring that the *Explanatory Notes* be respected unless there is a sound reason to do otherwise. The Tribunal is of the view that this interpretation is equally applicable to the *Classification Opinions*.
14. Rules 1 through 5 of the *General Rules* apply to classification at the heading level.
15. Rule 6 of the *General Rules* provides that ". . . 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 [i.e. Rules 1 through 5] . . ." and that ". . . the relative Section and Chapter Notes also apply, unless the context otherwise requires."
16. Rule 1 of the *Canadian Rules* provides that ". . . the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the [*General Rules*] . . ." and that ". . . the relative Section, Chapter and Subheading Notes also apply, unless the context otherwise requires." The *Classification Opinions* and the *Explanatory Notes* do not apply to classification at the tariff item level.

95.06	**Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this Chapter; swimming pools and paddling pools.**
. . .	
9506.91	**- -Articles and equipment for general physical exercise, gymnastics or athletics**
. . .	
9506.91.90	- - -Other
. . .	
9506.99	**- -Other**
. . .	
9506.99.90	- - -Other

21. Chapter 56 falls within Section XI (Textiles and Textile Articles). Note 1(t) to that section specifically excludes "[a]rticles of Chapter 95 (for example, toys, games, sports requisites and nets)."

22. Explanatory note (2) to heading No. 56.08 provides that this heading includes "safety nets" and that "[t]he presence of handles, rings, weights, floats, cords or other accessories does not affect the classification of the goods of this group." The same note also contains a clause restricting heading No. 56.08 to ". . . nets not covered more specifically by other headings of the Nomenclature" and further states that this heading does not cover "[s]ports nets (e.g., goal nets and tennis nets) . . . and other nets of **Chapter 95**."

23. Turning to the relevant legal notes to Chapter 95, note 3 provides that ". . . parts and accessories which are suitable for use solely or principally with articles of this Chapter are to be classified with those articles", subject to a list of exclusions set out in note 1.

24. Explanatory note (d) to heading No. 95.06 exclude "[e]nclosure nets, and net carrying-bags for footballs, tennis balls, etc. (generally **heading 56.08**)."

POSITIONS OF PARTIES

Maurice Pincoffs

25. Maurice Pincoffs submitted that the goods in issue should be classified under tariff item No. 9506.99.90 as accessories to articles and equipment for general physical exercise, pursuant to Rule 1 of the *General Rules*. In support of its position, Maurice Pincoffs relied on two legal notes in particular, namely, note 1(t) to Section XI and note 3 to Chapter 95.

26. Maurice Pincoffs argued that the requirements of note 3 to Chapter 95 are satisfied in this case because the goods in issue are accessories suitable for use solely or principally with trampolines, which are articles of Chapter 95. In this regard, it submitted that the goods in issue play a subordinate role in helping to reduce the risk of injury by trampoline users and are, therefore, accessories. Moreover, they are specifically designed to fit 12-, 13- or 14-foot trampolines, which are classified in tariff item No. 9506.91.90 as articles for general physical exercise, and have no other intended use.

27. Maurice Pincoffs disputed the CBSA's argument that the goods in issue are "enclosure nets" and are, therefore, excluded from heading No. 95.06, pursuant to explanatory note (d). In its view, the net is one of several integral components that make up the trampoline enclosure and classification should be based on

the goods taken as a whole, in accordance with Rule 1 of the *General Rules*. Maurice Pincoffs further asserted that note 3 to Chapter 95 and explanatory note (d) should be given a harmonious interpretation, as follows:[17] if the goods in issue are determined to be enclosure nets which are parts or accessories to an article of Chapter 95, then they are properly classified with that article pursuant to note 3; conversely, enclosure nets that do not satisfy note 3 are excluded from heading No. 95.06 by virtue of explanatory note (d).

28. Even if the exclusion of "enclosure nets" from heading No. 95.06 applied to the goods in issue, which Maurice Pincoffs denied, it argued that they would nevertheless be excluded from classification under heading No. 56.08 by operation of explanatory note (2) to that heading. In this regard, it submitted that the goods in issue are covered more specifically by heading No. 95.06 as accessories to articles and equipment for general physical exercise, as opposed to a more generic description of "other made up nets".

CBSA

29. The CBSA's position is that the goods in issue should be classified in heading No. 56.08 as other made-up nets of textile materials. Relying on explanatory note (d) to heading No. 95.06, it argued that the goods in issue are "enclosure nets", which ought to be excluded from that heading regardless of whether or not they are accessories used exclusively with trampolines.[18] In the CBSA's view, note 3 to Chapter 95 is a ". . . general rule [that] should be interpreted in such a way that it does not conflict with the more specific provision in *Explanatory Note* (d) . . . ."[19]

30. The CBSA submitted that Rule 3(b) of the *General Rules* applies to the classification of the goods in issue.[20] Specifically, it argued that the goods in issue are composite goods whose essential character is derived from the enclosure net component, which should direct the classification of the entire article in heading No. 56.08.[21] To support its characterization of the goods in issue as enclosure nets, the CBSA referred to the dictionary definition of the words "net" and "enclosure", as well as product information and marketing materials describing the goods in issue as a "netting enclosure".[22]

31. The CBSA further submitted that, as enclosure nets, the goods in issue fall within the meaning of "safety nets", which are expressly listed in the explanatory notes to heading No. 56.08 as "made up nets" included in that heading. In the alternative, if the Tribunal does not consider the goods in issue to be "safety nets" per se, the CBSA argued that enclosure nets are similar to the other types of nets found in this non-exhaustive list and, therefore, should still be covered.[23]

ANALYSIS

32. The principal issue in this appeal is whether the goods in issue are classifiable in heading No. 95.06 as articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table tennis) or outdoor games, or in heading No. 56.08 as other made-up nets of textile materials.[24]

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17. *Transcript of Public Hearing*, 5 December 2013, at 32, 34.
18. *Ibid.* at 24, 38.
19. Exhibit AP-2013-027-06A at 23; *Transcript of Public Hearing*, 5 December 2013, at 25, 26.
20. *Ibid.* at 28.
21. *Ibid.* at 29, 38.
22. Exhibit AP-2013-027-04A at 92.
23. *Transcript of Public Hearing*, 5 December 2013, at 30.
24. At the hearing, the parties agreed that it was not necessary for the Tribunal to address the issue of tariff treatment, which had been raised by Maurice Pincoffs in its brief. The parties agreed that the appropriate tariff treatment of the goods in issue would flow from the Tribunal's determination of tariff classification. See *Transcript of Public Hearing*, 5 December 2013, at 4.

33. Note 1 to Section XI excludes articles of Chapter 95 from classification in that section, which includes Chapter 56. It is well established in Tribunal jurisprudence that when there is a single relevant exclusionary note precluding the *prima facie* classification of goods in both of the headings at issue in an appeal, the Tribunal should begin its analysis with the heading to which the exclusionary note does not apply.[25] In the present case, the parties agreed,[26] and the Tribunal accepts, that it is appropriate to begin the tariff classification exercise with heading No. 95.06.

34. As stated above, it is only when the goods in issue cannot be classified through the application of Rule 1 of the *General Rules* that the Tribunal will consider the other rules. Contrary to the submissions made by counsel for the CBSA, the Tribunal finds that the proper classification of the goods in issue can be determined pursuant to Rule 1, and recourse to the other rules is not necessary in this case. Furthermore, in light of the exclusions listed in note 1 to Section XI, the goods in issue are not, *prima facie*, classifiable under both headings No. 56.08 and 95.06; therefore, Rule 3(b) is not applicable.[27]

35. Accordingly, the Tribunal will first consider whether the goods in issue are, *prima facie*, classifiable in heading No. 95.06, pursuant to Rule 1 as per the terms of the headings and legal notes, and having regard to the relevant explanatory notes.

Are the Goods in Issue Properly Classified in Heading No. 95.06?

36. Given the nature of the goods in issue as articles for use with trampolines, the appropriate starting point for the Tribunal's analysis concerning heading No. 95.06 is found in note 3 to Chapter 95, which states that "parts and accessories which are suitable for use solely or principally" with articles of Chapter 95 are to be classified with those articles, subject to the exclusions listed in note 1.

37. The Tribunal agrees with Maurice Pincoffs that, if the goods in issue satisfy the conditions in note 3, then they would be properly classified with the host article, regardless of whether or not they are "enclosure nets". Should the goods in issue fail to meet the terms of note 3 and found to be "enclosure nets", then they would be excluded from heading No. 95.06 by virtue of explanatory note (d). In that case, the Tribunal would continue to assess the classification of the goods in issue under heading No. 56.08.

38. In the Tribunal's view, the above approach allows for an interpretation of note 3 to Chapter 95 that is consistent with the interpretation of explanatory note (d). For instance, if another type of enclosure net did not meet the conditions for a part or accessory suitable for use solely or principally with an article of Chapter 95, then it would fall to be excluded from heading No. 95.06, in accordance with explanatory note (d). Possible examples include spectator safety netting, gymnasium divider netting and netting used in golf ranges and batting cages. While the Tribunal is not opining on the actual classification of these other types of nets, such examples demonstrate that the exclusion can be applied in such a way that is not in conflict with the meaning of note 3 to Chapter 95. The Tribunal is not persuaded by the CBSA's argument that note 3 is simply a general rule that is overridden by the specific exclusion of enclosure nets in explanatory note (d).

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25. *Costco Wholesale Canada Ltd. v. President of the Canada Border Services Agency* (29 July 2013), AP-2012-041 and AP-2012-042 (CITT) at para 46.
26. Exhibit AP-2013-027-04A at 7; Exhibit AP-2013-027-06A at 13.
27. Explanatory note (I) to Rule 3 of the *General Rules* states as follows: "*This Rule provides three methods of classifying goods which, prima facie, fall under two or more headings*, either under the terms of Rule 2 (b) or for any other reason. These methods operate in the order in which they are set out in the Rule. Thus Rule 3 (b) operates only if Rule 3 (a) fails in classification, and if both Rules 3 (a) and (b) fail, Rule 3 (c) will apply. . . ." [emphasis added].

39. The Tribunal finds that the first condition under note 3 is met, given that none of the exclusions listed in note 1 apply to the goods in issue. It also notes that this point was not contested by the CBSA. The Tribunal will next consider whether the remaining conditions of note 3 are satisfied, namely, whether the goods in issue are parts or accessories for use solely or principally with articles of Chapter 95.

"Parts and Accessories"

40. Since neither party argued that the goods are parts, the Tribunal will limit its analysis to whether the goods in issue are accessories for classification purposes.

41. As the word "accessory" is not defined in the tariff nomenclature, the Tribunal may have recourse to dictionary definitions in order to determine its ordinary meaning. The Tribunal has previously recognized the ordinary meaning of "accessory" as "an additional or extra thing . . . a small attachment or fitting"[28] or as "something contributing in a subordinate degree to a general result or effect; an adjunct, or accompaniment."[29]

42. Tribunal jurisprudence has established that an accessory must perform a function that supports the primary function of the object; however, unlike parts, there is no need for an accessory to be necessary to the operation of the product to which it relates.[30]

43. These definitions are generally consistent with the CBSA's interpretation of the term "accessory", which is set out in Memorandum D10-0-1, as relied on by Maurice Pincoffs.[31] That memorandum defines "accessory" 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."

44. Considering the ordinary meaning of the word "accessory" and having reviewed the documentary evidence before it, the Tribunal finds that the goods in issue are accessories of trampolines. In particular, the marketing materials and owner's manuals for the two models of the goods in issue show that the trampoline enclosures are attached to trampolines using bolts, locknuts and buckles, and are intended to prevent jumpers from falling off the trampoline, as well as preventing landings on the trampoline frame pads and springs.[32] Therefore, while the goods in issue are not essential for the use of trampolines, they perform a secondary or subordinate safety function that supports the primary function of the trampoline, which is to allow people to jump or bounce on a trampoline.

"For Use Solely or Principally With Articles of Chapter 95"

45. The evidence clearly shows that the goods in issue are designed to be used with specific models of trampolines.[33] This was undisputed by the CBSA and, since there is no evidence before the Tribunal to suggest any alternative use for the goods in issue other than with trampolines, the Tribunal is persuaded that the goods in issue are for use principally (if not solely) with trampolines.

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28. See *Accessoires SportRacks Inc. de Thule Canada Inc. v. President of the Canada Border Services Agency* (13 January 2012), AP-2010-036 (CITT) at para. 28 [*Accessoires SportRacks*], in which the Tribunal accepted the definition of "accessory" in the Canadian Oxford Dictionary, 2nd ed.
29. See *Fastco Canada v. Deputy M.N.R.* (29 April 1997), AP-96-078 (CITT) at 3; *Rlogistics Limited Partnership v. President of the Canada Border Services Agency* (25 October 2011), AP-2010-057 (CITT) at para. 56.
30. *Accessoires SportRacks* at para. 28; *Bureau de relations d'affaires internationales Inc. (Busrel Inc.) v. Deputy M.N.R.* (24 August 1999), AP-97-139 and AP-98-042 (CITT).
31. Exhibit AP-2013-027-10A at 135.
32. Exhibit AP-2013-027-04A at 92, 101-103, 105, 107.
33. Exhibit AP-2013-027-04A at 92, 93, 105, 106.

46. The Tribunal has previously determined that trampolines are properly classified in heading No. 95.06 as articles for general physical exercise, gymnastics, athletics, other sports (including table tennis) or outdoor games. In *Canadian Tire*, it stated that, "[w]hether the activity of jumping and bouncing on the good in issue is viewed as general physical exercise or, under the appropriate circumstances, as a kind of outdoor game, it is an activity encompassed by the wording of heading No. 95.06."[34] The Tribunal adopts the same reasoning in this case.

47. In the present appeal, the Tribunal does not see any reason to deviate from its previous finding with respect to the general classification of trampolines in heading No. 95.06. In fact, the CBSA did not even take issue with the classification of trampolines as "articles of Chapter 95" in this case; rather, it sought to distinguish the Tribunal's decision in *Canadian Tire* by arguing that the importation of the goods in issue as a separate product (as opposed to an enclosure included with the trampoline product at the time of importation) necessitates a different approach to the tariff classification of the goods in issue.[35]

48. The Tribunal rejects this argument. The conditions set out in note 3 to Chapter 95 do not require the importation of parts and accessories together with the host articles of Chapter 95 in order to be classified with those articles in a heading under Chapter 95, so long as they are "suitable for use solely or principally" with the host articles.

49. In light of the above, the Tribunal finds that the goods in issue are accessories and are clearly identifiable as being suitable for use solely or principally with articles of Chapter 95, namely, trampolines. Accordingly, the conditions of note 3 to Chapter 95 are met, and the goods in issue are properly classified in heading No. 95.06 in accordance with Rule 1 of the *General Rules*. For the reasons stated above, the exclusions contained in explanatory note (d) to heading No. 95.06 do not apply in this instance, since the goods in issue are properly classified with the host article.

50. Given that note 1(t) to Section XI excludes "articles of Chapter 95" from the coverage of that chapter, the Tribunal does not consider it necessary to address whether the goods in issue are classifiable in heading No. 56.08.

Classification at the Subheading and Tariff Item Levels

51. Having determined that the goods in issue are properly classified in heading No. 95.06, the Tribunal must next determine the proper classification at the subheading and tariff item levels.

52. Note 3 to Chapter 95 directs that parts and accessories which are suitable for use solely or principally with articles of that chapter are to be classified with those articles. Accordingly, pursuant to Rule 6 of the *General Rules* and Rule 1 of the *Canadian Rules*, the Tribunal finds that the goods in issue are properly classified with trampolines under tariff item No. 9506.91.90 as other articles and equipment for general physical exercise, gymnastics or athletics, and not under tariff item No. 9506.99.90, as claimed by Maurice Pincoffs.

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34. *Canadian Tire* at para. 36.
35. Exhibit AP-2013-027-06A at 6, 80.

DECISION

53. For the foregoing reasons, the Tribunal concludes that the goods in issue are accessories which are suitable for use solely or principally with articles of Chapter 95 and are therefore properly classified with those articles under tariff item No. 9506.91.90 as other articles and equipment for general physical exercise, gymnastics or athletics.

54. The appeal is allowed.

Serge Fréchette
Serge Fréchette
Presiding Member