



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2016-027

Best Buy Canada Ltd.

v.

President of the Canada Border
Services Agency

*Decision and reasons issued
Wednesday, July 26, 2017*

TABLE OF CONTENTS

DECISION.....	i
STATEMENT OF REASONS	1
INTRODUCTION	1
PROCEDURAL HISTORY	1
DESCRIPTION OF THE GOODS IN ISSUE	1
LEGAL FRAMEWORK	2
ANALYSIS.....	3
Applicability of <i>Bri-Chem</i> Decision	3
Sequence for the Tariff Heading Analysis	4
Are the Goods in Issue Other Parts, Suitable for Use Solely or Principally With Apparatus of Headings No. 85.25 to 85.28?.....	4
DECISION	7
APPENDIX	8

IN THE MATTER OF an appeal heard on April 4, 2017, pursuant to section 67 of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF four decisions of the President of the Canada Border Services Agency, dated July 13, 2016, July 18, 2016, August 26, 2016 and August 30, 2016, with respect to disputes pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

BEST BUY CANADA LTD.

Appellant

AND

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

Respondent

DECISION

The appeal is allowed.

Peter Burn
Peter Burn
Presiding Member

Place of Hearing: Ottawa, Ontario
Date of Hearing: April 4, 2017
Tribunal Panel: Peter Burn, Presiding Member
Support Staff: Rebecca Marshall-Pritchard

PARTICIPANTS:**Appellant**

Best Buy Canada Ltd.

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President of the Canada Border Services Agency

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WITNESSES:Korry Hoglan
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STATEMENT OF REASONS

INTRODUCTION

1. This is an appeal filed by Best Buy Canada Ltd. (Best Buy) on October 6, 2016, pursuant to subsection 67(1) of the *Customs Act*¹ from four decisions made by the President of the Canada Border Services Agency (CBSA) between July and August 2016, pursuant to subsection 60(4) of the *Act*.

2. The issue in this appeal is whether certain “Z-Line Designs” floor stands for flat-panel televisions (the goods in issue) are properly classified under tariff item No. 9403.20.00 as other metal furniture, and tariff item No. 9403.60.10 as other wooden furniture for domestic purposes, as determined by the CBSA, or should be classified under tariff item No. 8529.90.90 as other parts suitable for use solely or principally with the apparatus of headings No. 85.25 to 85.28, as claimed by Best Buy.

PROCEDURAL HISTORY

3. On October 2, 2014, Best Buy filed a request with the CBSA for advance rulings under section 43.1 of the *Act* with respect to the tariff classification of the goods in issue under tariff item No. 8529.90.90.

4. On May 14, 2015, the CBSA classified the goods in issue under tariff item Nos. 9403.20.00 and 9403.60.10 as other metal furniture and other wooden furniture respectively, depending on the specific model. On August 4, 2015, Best Buy requested a review of the rulings under subsection 60(2) of the *Act*. The CBSA denied the requests on four separate dates: July 13, 2016,² July 18, 2016,³ August 26, 2016,⁴ and August 30, 2016.⁵

5. The Tribunal held a public hearing on April 4, 2017. Best Buy called Mr. Korry Hoglan, Design Director at Z-Line Designs, as a lay witness. Best Buy also sought to have Ms. Celeste Irvine-Jones, Interior Designer, Creative Friction, qualified as an expert witness. The Tribunal was satisfied with Ms. Irvine-Jones’ extensive experience in the interior design field and accepted her qualification as an expert in that field for purposes of these proceedings.⁶

DESCRIPTION OF THE GOODS IN ISSUE

6. There are eight models under appeal:

Model	Category	Tariff Classification Argued by CBSA	Tariff Classification Argued by Best Buy
Zen	Mountless	9403.20.00	8529.90.90
Lyle	Mountless	9403.60.10	8529.90.90
Alora	Mountless	9403.60.10	8529.90.90
Barona	Mountless	9403.60.10	8529.90.90

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1. R.S.C., 1985, c. 1 (2nd Supp.) [*Act*].
 2. Zen, Lyle, Alora and Barona models.
 3. Cayman model.
 4. Venetian and Jaguar models.
 5. Makena model.
 6. *Transcript of Public Hearing*, 4 April 2017, at 84.

Model	Category	Tariff Classification Argued by CBSA	Tariff Classification Argued by Best Buy
Cayman	Mountless	9403.60.10	8529.90.90
Venetian	Mountable	9403.20.00	8529.90.90
Jaguar	Mountable	9403.60.10	8529.90.90
Makena	Mountable	9403.60.10	8529.90.90

7. The goods in issue are imported in a disassembled state, and are designed to be assembled and placed on the floor to display flat-panel televisions. Three of the models include mounting brackets (“mountable”) while the five others do not (“mountless”). The three mountable models are marketed as three-in-ones, as they have three different configurations to display flat-panel televisions: (i) displaying them directly on the cabinet top; (ii) bolting them to an integrated swivel mounting bracket on a pillar which, in turn, is affixed to the base of the stand; and (iii) bolting them directly to the mount, which is detached from the stand and affixed to the wall.⁷ Six of the models have wooden frames, while the other two have metal frames. All models have shelving for peripheral entertainment components and incorporate wire management systems to conceal cables and cords.

LEGAL FRAMEWORK

8. 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.

9. Subsection 10(1) of the *Customs Tariff* provides that, subject to subsection 10(2), 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.

10. 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.

11. 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

7. These include the Venetian, Jaguar, and Makena models. See Exhibit AP-2016-027-06A at Tabs 5 and 6.

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.

11. World Customs Organization, 2nd ed., Brussels, 2003.

12. World Customs Organization, 5th ed., Brussels, 2012.

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

12. 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. It is only where Rule 1 does not conclusively determine the classification of the goods that the other general rules become relevant to the classification process.¹⁴

13. 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. 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 [Rules 1 through 5] . . .” and that “the relative Section and Chapter Notes also apply, unless the context otherwise requires.”

14. Finally, the Tribunal must determine the proper tariff item classification. 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.” Classification opinions and explanatory notes do not apply to classification at the tariff item level.

ANALYSIS

Applicability of *Bri-Chem* Decision

15. Best Buy argued that, by litigating this case, the CBSA is relitigating *Sanus Systems*.¹⁵ According to Best Buy, the CBSA’s actions run counter to the Federal Court of Appeal’s decision in *Bri-Chem* wherein the court held that, “while it is true that later tribunal panels are not bound by the decisions of earlier tribunal panels, it is equally true that later panels should not depart from the decisions of earlier panels unless there is good reason”, save for two circumstances: (i) the facts are different, or (ii) the Tribunal’s previous decision is flawed.¹⁶ In this case, the facts are different, as explained below. The CBSA is therefore entitled to litigate this case before the Tribunal.

16. While it is true that television stands were at issue in *Sanus Systems*, and while it is also true that the CBSA has relied on largely the same arguments in this case as the unsuccessful ones it made in *Sanus Systems*, this is not a situation in which the CBSA is relitigating *Sanus Systems*. The goods at issue in this case, admittedly also television stands, are distinct. In *Sanus Systems*, the goods at issue were three models of television stands that had a fixed mounting bracket. However, the goods at issue in this case consist of eight different models; three of which have three different configurations (described above) and the other five are cabinets upon which a television is designed to rest. The facts are therefore different. In *Bri-Chem*, the CBSA attempted to relitigate a pure question of law under the *Act* which had already been decided and did not fall within either of the exceptions later espoused by the Federal Court of Appeal. Issues of tariff classification, however, are generally characterized as engaging a question of mixed law and fact. As such, the Tribunal disagrees with Best Buy’s assertion that *Bri-Chem* applies in this context.

14. *Canada (Attorney General) v. Igloo Vikski Inc.*, 2016 SCC 38 (CanLII) at para. 21.

15. *Sanus Systems v. President of the Canada Border Services Agency* (8 July 2010) AP-2009-007 (CITT) [*Sanus Systems*].

16. *Canada (Attorney General) v. Bri-Chem Supply Ltd.*, 2016 FCA 257 (CanLII) [*Bri-Chem*] at paras. 44, 46-52.

Sequence for the Tariff Heading Analysis

17. The Tribunal has previously held that goods are not *prima facie* classifiable in two headings if, by virtue of a relevant section or chapter note, the terms of one heading are expressly excluded from the other.¹⁷ The Tribunal has also held that, if there is such a relevant exclusionary note, the Tribunal should begin its analysis with the heading to which the exclusionary note does not apply.¹⁸

18. In this case, note 1(g) to Chapter 94 expressly excludes articles of Chapter 85. Therefore, the Tribunal will begin its analysis by determining whether the goods in issue are *prima facie* classifiable in heading No. 85.29 as parts of goods in headings No. 85.25 to 85.28. If the Tribunal finds that the goods in issue are classifiable in that heading, it need not determine whether they are classifiable in heading No. 94.03.¹⁹

19. The terms of the relative headings and legal and explanatory notes are set out in the Appendix.

Are the Goods in Issue Other Parts, Suitable for Use Solely or Principally With Apparatus of Headings No. 85.25 to 85.28?

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

21. Similar to the appellant in *Sanus Systems*, in support of its contention that the goods in issue constitute “parts” within the meaning of that term in heading No. 85.29, Best Buy argued that they form part of complete units with the flat-panel televisions, have no alternative function, are necessary for the safe and prudent use of flat-panel televisions and are committed by design for use with such apparatus.²⁰

22. In addition, and also along the lines of what was argued by the appellant in *Sanus Systems*, Best Buy argued the following: (i) the explanatory notes to heading No. 85.29 provide that cases and cabinets specialized to receive the apparatus of headings No. 85.25 to 85.28 are to be classified in heading No. 85.29 as parts; (ii) a case or cabinet which physically supports a television qualifies as a part, and the goods in issue are of the same nature as a case or cabinet which physically supports a flat-panel television; (iii) the range of parts in the explanatory notes to heading No. 85.29 is non-exhaustive; and (iv) furniture parts are not limited to those that enclose or complete a flat-panel television.²¹

23. Regarding the requirement in heading No. 85.29 that parts must be for use solely or principally with the apparatus of heading No. 85.28, Best Buy argued that the goods in issue are dedicated by design for use with flat-panel televisions, as indicated by the following specific design features: (i) specific thicknesses of glass; (ii) specific lengths of metal and wood shelving that are designed to accommodate the size, weight

17. *Sanus Systems* at para. 35; *HBC Imports c/o Zellers Inc. v. President of the Canada Border Services Agency* (6 April 2011), AP-2010-005 (CITT) [*Zellers*] at para. 49.

18. *Costco Wholesale Canada Ltd. v. President of the Canada Border Services Agency* (29 July 2013), AP-2012-041 and AP-2012-042 (CITT) [*Costco*] at para. 46; *Zellers* at paras. 41-74; *Sanus Systems* at para. 35; *Korhani Canada Inc. v. President of the Canada Border Services Agency* (18 November 2008), AP-2007-008 (CITT) [*Korhani*] at paras. 27-28.

19. *Costco* at para. 72; *Korhani* at paras. 28, 44.

20. AP-2016-027-04A at para. 38, Vol. 1.

21. AP-2016-027-04A at para. 38, Vol. 1.

and depth of flat-panel televisions; (iii) open architecture to provide optimal air flow to housed components, such as gaming systems and DVD players; and (iv) a central “spine” that not only provides integral support to the stand, but also wire management.²²

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

25. While conceding that the goods in issue are committed for use with flat-panel televisions, the CBSA argued that this fact alone was not enough to render the goods in issue “parts” of televisions.²³ It contended, as it did in *Sanus Systems*, that since the goods in issue are not essential, necessary or integral to the operation of the televisions, they could not be classified as parts. That the goods in issue require televisions to fulfill their design function is irrelevant, as the question is whether the stand is essential to the functioning of the television and not vice versa.²⁴

26. In *Sanus Systems*, the Tribunal rejected these arguments of the CBSA. It does so again in this case. Echoing its views in *Sanus Systems*, the Tribunal finds that the reference to “parts” in heading No. 85.29 includes furniture committed by design for use solely or principally with flat-screen televisions.²⁵ This conclusion necessarily follows from a reading of that heading in conjunction with, and in light of, note 1(g) to Chapter 94. In this respect, the Tribunal adopts the reasoning in *Sanus Systems* as set out in paragraphs 53 to 55 of that decision where it found that stands designed to support flat-panel televisions clearly fall within the “[c]ases and cabinets specialised to receive the apparatus of headings 85.25 to 85.28” as described in the explanatory notes to heading No. 85.29.

27. The Tribunal heard extensive testimony from Mr. Hoglan in respect of the design of each model of stand at issue. It is clear that the stands are specifically designed for the purpose of supporting flat-panel televisions based on a number of considerations: (i) the thickness of the glass;²⁶ (ii) the amount of weight each stand is designed to hold (which range from 130 to 160 pounds); (iii) the thickness of the metal or wood;²⁷ (iv) the 15-inch tilt test each stand undergoes to ensure the television will not easily be knocked off the stand;²⁸ (v) the open architecture of the shelving designed to provide air flow and co-location of assorted components (e.g., a cable box, gaming system, etc.);²⁹ and (vi) the “spine”, which is designed for cable management, but is also integral to the structure of the stand.³⁰ All of these design characteristics are to accommodate flat-panel televisions.

22. Exhibit AP-2016-027-04A at para. 39, Vol. 1; *Transcript of Public Hearing*, 4 April 2017, at 42.

23. *Transcript of Public Hearing*, 4 April 2017, at 58.

24. Exhibit AP-2016-027-06A at paras. 39-42, Vol. 1B.

25. *Sanus Systems* at para. 52.

26. *Transcript of Public Hearing*, 4 April 2017, at 46.

27. *Transcript of Public Hearing*, 4 April 2017, at 45.

28. *Transcript of Public Hearing*, 4 April 2017, at 21.

29. *Transcript of Public Hearing*, 4 April 2017, at 26, 44, 46, 48, 51, 54.

30. *Transcript of Public Hearing*, 4 April 2017, at 26-27, 40.

28. Moreover, Mr. Hoglan testified in great detail regarding the evolution of the design of the support stand in a relatively short time frame, done to reflect the ever-changing reality of televisions becoming lighter, thinner and larger in size.³¹ For example, the length of the stands has increased over time to accommodate 65-inch televisions compared with the 42-inch televisions that they were originally designed to accommodate. This illustrates how the design of these support stands is tailored to the changing market for flat-panel televisions. The goods in issue therefore meet the test of heading No. 85.29 of being “for use solely or principally with goods of heading No. 85.28 to 85.28.”

29. This finding holds true for all the models of the goods at issue, regardless of whether they are mountable or mountless. The fact that a flat-panel television can be mounted to the wall, and thus displayed independently of all eight of the models of the goods in issue does not deny the stands of their purpose.

30. The Tribunal once again echoes its findings in *Sanus Systems* when it concludes that, based on the photographic depictions of the goods in issue³² and the testimony of Ms. Irvine-Jones, which in large part was a duplication of her testimony in *Sanus Systems*, the goods in issue have no independent aesthetic appeal or utilitarian value as furniture beyond the very specific purpose to which they are committed by design.³³ In fact, the Tribunal heard that the design of these stands is limited by the fact that they need to be situated against a wall and provide only limited storage space in comparison to other pieces of furniture. Absent their purpose to support a flat-panel television, Ms. Irvine-Jones indicated she would not recommend them to clients for other use such as storage, as there are more suitable alternatives.³⁴ These facts are indicative of the true nature and purpose of these stands and illustrate their lack of alternative uses.

31. In its alternative argument, the CBSA relied on two recent classification opinions that it argued have overtaken the Tribunal’s decision in *Sanus Systems* and that direct flat-panel television stands to be classified under heading No. 94.03 as furniture. The opinions describe two different television stands/carts. The first is an audio/video floor stand for flat-panel televisions, designed for use in conference rooms, classrooms, boardroom meetings, training rooms, trade shows, and marketing events. The second is an audio/video floor stand for flat-panel televisions, described as a wide body TV cart. Both of these stands have four rolling caster wheels and are not designed for domestic purposes. These opinions clearly apply to goods that are distinct from the goods in issue and are therefore not relevant to this matter.

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

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

31. *Transcript of Public Hearing*, 4 April 2017, at 46-47, 49.

32. Exhibit AP-2016-027-04A at Tabs 2-9, Vol. 1.

33. *Transcript of Public Hearing*, 4 April 2017, at 91-92, 94-95.

34. *Transcript of Public Hearing*, 4 April 2017, at 100.

DECISION

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

35. The appeal is allowed.

Peter Burn
Peter Burn
Presiding Member

APPENDIX**TERMS OF RELATIVE HEADINGS AND LEGAL AND EXPLANATORY NOTES****Relevant Classification Provisions Concerning Heading No. 85.29****Section XVI****MACHINERY AND MECHANICAL APPLIANCES; ELECTRICAL EQUIPMENT;
PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION
IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND
ACCESSORIES OF SUCH ARTICLES****Chapter 85****ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF; SOUND
RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND
RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH
ARTICLES**

- 85.29** **Parts suitable for use solely or principally with the apparatus of headings 85.25 to 85.28.**
- 8529.90** **-Other**
- 8529.90.90 -- -Other

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

2. The relevant explanatory notes to Section XVI provide as follows:

GENERAL**(II) PARTS**

(Section Note 2)

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

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

3. The relevant explanatory notes to Chapter 85 provide as follows:

GENERAL

(B) PARTS

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

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

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

4. The relevant explanatory notes to heading No. 85.28 provide as follows:

PARTS

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

5. The relevant explanatory notes for heading No. 85.29 are as follows:

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

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

Relevant Classification Provisions Concerning Heading No. 94.03

Section XX

MISCELLANEOUS MANUFACTURED ARTICLES

Chapter 94

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

94.03 Other furniture and parts thereof.

9403.20.00 -Other metal furniture

9403.60 -Other wooden furniture

9403.60.10 - -For domestic purposes

1. The relevant legal notes to Chapter 94 read as follows:

1. This Chapter does not cover:

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

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

The following are, however, to be classified in the above-mentioned headings even if they are designed to be hung, to be fixed to the wall or to stand one on the other:

- (a) Cupboards, bookcases, other shelved furniture (including single shelves presented with supports for fixing them to the wall) and unit furniture;

2. The relevant explanatory notes to Chapter 94 are as follows:

GENERAL

This Chapter covers, **subject** to the exclusions listed in the Explanatory Notes to this Chapter:

- (1) All furniture and parts thereof (headings 94.01 to 94.03).

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

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

Articles of furniture presented **disassembled** or **unassembled** are to be treated as assembled articles of furniture, **provided** the parts are presented together. This applies whether or not the furniture incorporates sheets, fittings or other parts of glass, marble or other materials (e.g., a wooden table with a glass top, a wooden wardrobe with a mirror, a sideboard with a marble top).

PARTS

This Chapter only covers parts, whether or not in the rough, of the goods of headings 94.01 to 94.03 and 94.05 when identifiable by their shape or other specific features as parts designed solely or principally for an article of those headings. They are classified in this Chapter when not more specifically covered elsewhere.

3. The relevant explanatory notes to heading No. 94.03 are the following:

This heading covers furniture and parts thereof, **not covered** by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture (including single shelves presented with supports for fixing them to the wall), etc.), and also furniture for special uses.

4. The classification opinions on flat-panel television stands provide the following:

- 9403.20 5. Audio/video floor stand made of aluminum** (dimensions (H x W x D): 195 cm x 89 cm x 69 cm) on castors, also known as a “conference TV cart”.

The stand is presented unassembled. It is designed to be used in conference rooms, classrooms, meeting rooms, training rooms, trade shows, marketing events, etc.

- 6. Audio/video floor stand** (overall height: 180 cm) on castors, also known as a “wide body TV cart”, constructed mainly of steel. The stand is presented unassembled and without the flat panel display. It is built to accommodate up to a 42-inch (106.7 cm) flat panel display weighing 68 kg.