



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Appeals

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## DECISION AND REASONS

Appeal No. AP-2017-028

Motovan Corporation

v.

President of the Canada Border  
Services Agency

*Decision and reasons issued  
Monday, June 3, 2019*

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IN THE MATTER OF an appeal heard on February 26, 2019, pursuant to section 67 of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF 17 decisions of the President of the Canada Border Services Agency, dated June 20, 2017, with respect to a request for review of an advance ruling on tariff classification pursuant to subsection 60(4) of the *Customs Act*.

**BETWEEN**

**MOTOVAN CORPORATION**

**Appellant**

**AND**

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

**Respondent**

**DECISION**

The appeal is allowed in part.

Serge Fréchette  
Serge Fréchette  
Presiding Member

Place of Hearing: Ottawa, Ontario  
Date of Hearing: February 26, 2019  
Tribunal Panel: Serge Fréchette, Presiding Member  
Support Staff: Anja Grabundzija, Counsel  
Heidi Lee, Counsel

**PARTICIPANTS:****Appellant**

Motovan Corporation

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President of the Canada Border Services Agency

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Motovan CorporationMarilynn Bastedo  
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## STATEMENT OF REASONS

### BACKGROUND

1. This appeal was filed by Motovan Corporation (Motovan) with the Canadian International Trade Tribunal pursuant to subsection 67(1) of the *Customs Act*<sup>1</sup> from 17 decisions made by the President of the Canada Border Services Agency (CBSA) in respect of certain helmets certified for use while riding a motorcycle (the goods in issue).

2. The CBSA decisions at issue are 16 advance rulings dated June 20, 2017, and one re-determination dated August 25, 2017, which were made pursuant to subsection 60(4) of the *Act*.

3. The issue in this appeal is whether the goods in issue are properly classified under tariff item No. 6506.10.90 as other safety headgear, as determined by the CBSA, or under tariff item No. 6506.10.10 as “other protective headgear, athletic” as claimed by Motovan.

### PROCEDURAL HISTORY

4. On September 5, 2013, Motovan imported one of the models of the goods in issue, a Zox brand, model Rush motorcycle helmet, in transaction No. 13003-29022210-3.

5. From January 20, 2016, to August 9, 2016, Motovan requested 16 advance rulings for the tariff classifications of various models of motorcycle helmets (altogether with the Zox brand, model Rush helmet, the goods in issue).

6. Between August 19, 2016, and October 14, 2016, the CBSA issued the requested advance rulings, classifying each good in issue under tariff item No. 6506.10.90 as other safety headgear.

7. Motovan requested separate re-determinations of each advance ruling, submitting that all models should be classified under tariff item No. 6506.10.10 as “other protective headgear, athletic”. Motovan also requested a re-determination of the tariff classification for transaction No. 13003-29022210-3

8. On June 20, 2017, the CBSA issued final decisions for all the advance rulings pursuant to subsection 60(4) of the *Act*, maintaining that the subject goods are properly classified under tariff item No. 6506.10.90.

9. On June 28, the CBSA issued a re-determination of transaction No. 13003-29022210-3 pursuant to paragraph 59(1)(a) of the *Act*, affirming that the subject good was also properly classified under tariff item No. 6506.10.90.

10. On August 25, 2017, pursuant to a request for re-determination from Motovan, the CBSA issued a further re-determination of the tariff classification decision in transaction No. 13003-29022210-3, under subsection 60(4) of the *Act*, affirming the previous determination.

11. On September 5, 2017, Motovan filed the present appeal with the Tribunal with respect to the above 17 decisions.

12. The Tribunal held a public hearing in Ottawa, Ontario, on February 26, 2019.

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

13. Mr. Gary Cuzner, Director of Material Management for Motovan, and Ms. Marilyn Bastedo, Chief Executive Officer of the Canadian Motorcycle Association (CMA), testified on behalf of Motovan. The CBSA did not call any witnesses.

### DESCRIPTION OF THE GOODS IN ISSUE

14. The goods in issue are various makes and models of helmets certified for use while riding a motorcycle. While the goods have different features, graphics and colours, and marketed uses, they all meet one or more of three helmet certification standards used in the North American market. All goods meet U.S. Department of Transportation (DOT) certification standards. Most of the models also meet Economic Commission for Europe (ECE) certification standards and a few meet the standards set by the Snell Memorial Foundation (also known as the Snell standard). Of the three certification standards for motorcycle helmets, DOT has the lowest standard for shell rigidity.<sup>2</sup>

### LEGAL FRAMEWORK

15. The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform with the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization (WCO).<sup>3</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.

16. 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*<sup>4</sup> and the *Canadian Rules*<sup>5</sup> set out in the schedule.

17. 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.

18. 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*<sup>6</sup> and the *Explanatory Notes to the Harmonized Commodity Description and Coding System*,<sup>7</sup> published by the WCO. While classification opinions and explanatory notes are not binding, the Tribunal will apply them unless there is a sound reason to do otherwise.<sup>8</sup>

19. 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 any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory

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2. Transcript, p. 13-14.

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

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

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

6. World Customs Organization, 4th ed., Brussels, 2017.

7. World Customs Organization, 6th ed., Brussels, 2017.

8. See *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17, and *Canada (Attorney General) v. Best Buy Canada Ltd.*, 2019 FCA 20.

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.<sup>9</sup>

20. Once the Tribunal has determined 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.<sup>10</sup> The final step is to determine the proper tariff item.<sup>11</sup>

21. The tariff classification provisions at issue in this appeal are as follows:

**CHAPTER 65**  
**HEADGEAR AND PARTS THEREOF**

<b>65.06</b>	<b>Other headgear, whether or not lined or trimmed.</b>
<b>6506.10</b>	<b>-Safety headgear</b>
6506.10.10	--Football helmets; For firemen; For mountaineering and climbing; Industrial safety helmets; Lead-impregnated or lead-lined, for X-ray operators; Other protective headgear, athletic
6506.10.90	--Other

22. The explanatory notes to heading 65.06, in relevant part, are as follows:

This heading covers all hats and headgear not classified in the preceding headings of this Chapter or in Chapter 63, 68, or 95. It covers, in particular safety headgear (e.g., for sporting activities, military or firemen's helmets, motor-cyclists', miners' or construction workers' helmets), whether or not fitted with protective padding or, in the case of certain helmets, with microphones or earphones.

23. There are no relevant section or chapter notes.

## **PARTIES' POSITIONS**

24. The parties agree, and the Tribunal accepts, that the goods in issue are properly classified under subheading No. 6506.10 as safety headgear. The issue in dispute is the proper tariff item classification of the goods.

### **Motovan**

25. Motovan submits that the goods in issue are properly classified in tariff item No. 6506.10.10 as "other protective headgear, athletic" because they are used to protect from injury in an athletic activity.

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

10. Rules 1 through 5 of the *General Rules* apply to classification at the heading level. 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."

11. 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.

Motovan submits that motocross and motorcycle racing are sports, and, relying on the Tribunal's jurisprudence, argues that there is no distinction between the terms "sport" and "athletic". Motovan further submits that motocross and motorcycle racing competitors are athletes.

26. The Tribunal notes that Motovan also sought to rely on Advance Ruling TRS #270128, dated November 10, 2015, which classified a Zox brand, model Rush, helmet, with "Star Glossy" graphics, as athletic protective headgear under tariff item No. 6506.10.10. The Tribunal notes that this Advance Ruling expired on June 4, 2018, and was subsequently replaced with National Customs Ruling TRS #280099, which classifies protective safety headgear for motor sport activities under tariff item No. 6506.10.90. Motovan acknowledged the revocation and did not make further arguments in this regard.

## **CBSA**

27. The CBSA submits that the goods are properly classified in tariff item No. 6506.10.90 as other safety headgear, arguing that they are not protective headgear for an athletic use.

28. The CBSA relies on the explanatory notes to heading No. 65.06, which lists "sporting" safety headgear separately from safety headgear for "motorcycling", to argue that motorcycling is not a type of sport. The CBSA also argues that none of the definitions of "athletic" or "athlete" on the record refer to motorized sports. It submits that "athletic" refers to physical, not motorized, activities.

29. The CBSA further submits that the goods in issue are not solely for use in motocross or motorcycle racing, regardless of whether these activities constitute a sport. In support, it argues that the goods meet regulatory standards for non-racing motorcycle helmets – that is, helmets for "street" riding, which Motovan agrees is not a sport or athletic activity – and that nothing prevents the goods from being used as a street motorcycle helmet. The CBSA also submits that the goods are not exclusively marketed for racing use, and that there is no practical way to distinguish helmets for motocross racing from helmets for motorcycle riding.

## **ANALYSIS**

30. For the purposes of this decision, the Tribunal uses the term "motorbike racing" to encompass "motocross racing" and "motorcycle racing", both of which take place "off-road" on closed circuits. Motorbike racing is distinct from motorcycle riding on public streets, also known as "street" riding or "touring". The parties agree that street riding is not a type of sport and does not constitute the practice of an athletic activity.

31. Tariff item No. 6506.10.90, as proposed by the CBSA, is a residual item in the nomenclature which is less specific than the tariff classification proposed by Motovan. Therefore, the Tribunal begins its analysis by considering whether the goods in issue are properly classified under tariff item No. 6506.10.10 as "protective headgear, athletic", as claimed by Motovan.

32. The only interpretive issue before the Tribunal is whether the goods in issue are for athletic uses. In this regard, Motovan submits that 1) motorbike racing is an athletic activity, and 2) that the goods in issue are intended for use in this activity.

33. The Tribunal finds that Rule 1 of the *Canadian Rules* is determinative in this appeal.



**Is motorbike racing an athletic activity?**

34. Tariff item No. 6506.10.10 was amended in 2013 to add a breakout for “protective headgear, athletic” at the three-dash level. As the term “athletic” is not defined in the nomenclature, the parties made submissions on the statutory interpretation of this term.

35. The CBSA submits that the term “athletic” is limited to non-motorized activities, relying on the 2013 Economic Action Plan and Hansard to demonstrate Parliament’s intent, and on dictionary definitions of “athlete” and “athletic”.

36. Based on the evidence, the Tribunal sees no reason to disqualify a motorized activity as an “athletic” activity. The Tribunal finds that the dictionary definitions on the record, which relate to a high level of physical ability, do not preclude the use of motorized equipment. Meanwhile, the Economic Action Plan refers to tariff reductions on sporting and athletic equipment in a number of different tariff classification provisions, and the cited Hansard discusses tariff relief for hockey helmets only. The Tribunal finds that these materials do not function to exclude activities with some element of motorization from the definition of “athletic” for the purposes of tariff item No. 6506.10.10.

37. Motovan relies on *International Imports*, in which the Tribunal held that “the term ‘athletic(s)’ is subsumed under the term ‘sport(s)’ and that, to all intents and purposes, there is no distinction between the terms.”<sup>12</sup> Motovan argues that motorbike racing is a rule-governed sport which can be distinguished from street riding in a number of aspects, including environment, equipment and regulation.

38. In support, Motovan points to evidence establishing that motorbike racing consists of riders racing on closed circuits to compete for the lowest time. Motocross racing is held on a dirt course that involves changes in elevation, obstacles, corners and jumps, and motorcycle racing occurs on a flat, paved course.<sup>13</sup> Motovan further submits that motorbike racing uses bikes purpose-built for racing and do not meet regulations to be ridden on the street (i.e. they are not “street legal”).<sup>14</sup> For example, racing bikes do not have brake lights, horns, turn signals, or the correct type of tires.<sup>15</sup> Racing rules also require the use of a helmet.<sup>16</sup>

39. Motovan also submits evidence that motocross and motorcycle racing are both recognized as sports by the CMA, which is the national governing body for motorcycle sport in Canada.<sup>17</sup> The CMA does not recognize street riding as a sport, nor does it govern any events that take place “on-road” or use street legal bikes.<sup>18</sup> Both motocross and motorcycle racing are also recognized as sports by the Fédération Internationale de Motocycle, which is the international governing body of which CMA is a member.<sup>19</sup> In addition, Motovan submits that motocross is considered to be a sport by organizers of motocross events and equipment manufacturers.

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12. *International Imports for Competitive Shooting Equipment Inc. v. The Deputy Minister of National Revenue* (26 August 1999) AP-98-076 (CITT) [*International Imports*].

13. Transcript, p. 8-9.

14. Transcript, p. 46 and 9-10.

15. Transcript, p. 9-10.

16. Transcript, p. 13 and 23.

17. Transcript, p. 16 and 47-48.

18. Transcript, p. 51.

19. Transcript, p. 47-48.

40. Finally, Motovan led evidence that riders require a high level of athletic ability, including strength, dexterity, and flexibility, which they maintain through intensive cardio and strength training.<sup>20</sup>

41. The CBSA argued that, within the context of heading No. 65.06, motorcycling and sporting activities are mutually exclusive. The CBSA relies on the explanatory note to heading 65.06, which lists safety headgear for sporting activities separately from headgear for motorcycling. The CBSA submits that motorcycling is purposely disassociated from sporting activities, arguing that there is a clear distinction between the two categories. The CBSA also cites *Motovan Motorsports*, in which the Tribunal noted that motorcycle helmets were voluntarily left outside tariff item No. 6506.10.10 and classified in the residual tariff item (i.e. No. 6506.10.90).<sup>21</sup>

42. The Tribunal does not accept the CBSA's arguments in this regard. First, the Tribunal notes that it is well established that the explanatory notes do not apply to classification at the tariff item level.<sup>22</sup> Furthermore, tariff item No. 6506.10.10 as considered in *Motovan Motorsports*, i.e. prior to the 2013 legislative amendment, covered "safety headgear ---football helmets; for firemen; for mountaineering and climbing; industrial safety helmets; lead-impregnated or lead-lined, for x-ray operators". The Tribunal in that case considered whether the motorcycle helmets in issue were "industrial safety helmets", and finding that they were not, determined that the goods were properly classified in the residual tariff item, i.e. No. 6506.10.90. This finding is not determinative in the present appeal, which is based on a newly added breakout in the non-residual tariff item number.

43. On the basis of the evidence, the Tribunal finds that Motovan has established that street motorcycle riding and motorbike racing are distinct activities, the latter of which is considered to be a sport. The Tribunal therefore finds that motorbike racing constitutes an athletic activity for the purposes of tariff item No. 6506.10.10.

#### **Are the goods in issue intended for use in motorbike racing?**

44. As noted above, both parties agree, and the Tribunal accepts, that street motorcycle riding is not a sport and does not constitute an athletic activity. Accordingly, if the goods in issue are intended for motorbike racing, they are properly classified as athletic safety headgear, as argued by Motovan. If the goods are for use in street riding, they remain properly classified as determined by the CBSA.

45. The CBSA argues that the goods in issue are not solely for use in an athletic activity. It argues that there is nothing preventing a motocross helmet from being used as a street riding helmet,<sup>23</sup> noting that helmets used for racing are subject to the same certifications under provincial regulations as helmets for street riding.<sup>24</sup> The CBSA also submits that the goods in issue are not marketed for off-road use only. The Tribunal notes that Motovan does not contest these points.

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20. Transcript, p. 22 and 47.

21. *Motovan Motorsports Inc. and Steen Hansen Motorcycles Ltd. v. The Deputy Minister of National Revenue* (21 January 2000) AP-98-058 and AP-98-082 (CITT) [*Motovan Motorsports*].

22. The explanatory notes constitute the official interpretation of the Harmonized System at the international level only, which comprise the section, chapter, heading and subheading levels. The tariff item level of countries' tariff schedules is determined by each country, i.e. at the domestic level. This is reflected in section 11 of the *Customs Tariff*, which directs that regard shall be had to the explanatory notes for the classification at the heading and subheading levels only.

23. Transcript, p. 32.

24. Exhibit AP-2017-028-26A, Vol. 1A at para. 91.

46. The Federal Court of Appeal has held that the fact that goods may be put to more than one use does not preclude a finding by the Tribunal that they are nonetheless properly classified under one such use based on the evidence.<sup>25</sup>

47. When considering goods with multiple uses, the Tribunal has held that physical product and market characteristics – i.e. appearance, design, best use, marketing and distribution of goods – are individual factors that may be helpful to consider in classifying goods.<sup>26</sup> No one factor is decisive and the importance of each varies according to the product in issue.<sup>27</sup> The Tribunal will therefore consider the evidence on record in respect of such factors.

48. Motovan argues that the goods in issue are *designed* for the purpose of being used in motorbike racing. With respect to motorcycle racing, Mr. Cuzner testified that riders are likely to experience a crash at some point in their careers.<sup>28</sup> He testified that the average crash speed in motorcycle racing is in excess of 150 to 200 kilometres per hour, whereas the average collision while riding on the street occurs at a speed of approximately 30 to 40 kilometres per hour. Mr. Cuzner testified that the equipment needed to survive each scenario is different; Mr. Cuzner testified that while recreational riding helmets are designed for the ride, motorcycle racing helmets are designed for the “inevitable” crash.

49. Mr. Cuzner further testified that the principal difference between a motorcycle racing helmet and a street riding helmet is that a racing helmet will have an ECE or SNELL certification in addition to the DOT certification.<sup>29</sup> On this point, he noted that about 70 to 80 per cent of street helmets sold by Motovan are only DOT-certified.<sup>30</sup> In comparison, all the goods in issue except one model are certified under DOT standards as well as either ECE or SNELL.

50. With respect to motocross, Mr. Cuzner testified that motocross helmets have extended eye portals for goggles and different jaw bar design. Furthermore, the helmet is designed to protect the rider from dirt and rocks flying up in front of him or her,<sup>31</sup> and it must have “aero stability” to maximize the rider’s performance.<sup>32</sup> Furthermore, motocross helmets are manufactured in multiple shell sizes to allow smaller and lighter shells, whereas street helmets are typically manufactured in a single shell size and the thickness of the inner lining is adjusted to control sizing.<sup>33</sup>

51. Mr. Cuzner also testified that racing helmets place significant focus on the inner lining of the helmet, also called the comfort liner, which ensures the helmet fits correctly to protect against impact.<sup>34</sup> Mr. Cuzner noted that a racing helmet comfort liner is much more restrictive than a street helmet, adding significant pressure to the face (causing “chewing on the inside of the cheek”), and as a result racing helmets

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25. *Partylite Gifts Ltd. v. Canada (Customs & Revenue Agency)*, 2005 FCA 157 (CanLII), at para. 3.

26. *Wal-Mart Canada Corporation v. President of the Canada Border Services Agency* (13 June 2011), AP-2010-035 (CITT) at para. 74.

27. *Partylite Gifts Ltd. v. The Commissioner of the Canada Customs and Revenue Agency* (16 February 2004), AP-2003-008 (CITT).

28. Transcript, p. 5-6.

29. Transcript, p. 34.

30. Transcript, p. 37.

31. Transcript, p. 7.

32. Transcript, p. 6.

33. Transcript, p. 7 and 16.

34. Transcript, p. 6.

can feel uncomfortable when worn by street motorcycle riders.<sup>35</sup> In comparison, a street helmet is not designed to place pressure points on the rider's face.<sup>36</sup>

52. On the basis of the evidence, the Tribunal accepts that there are physical differences between racing and street helmets, which primarily result from the different uses for which they are intended. The Tribunal also notes that the CBSA does not contest that the goods are *designed* for racing. Furthermore, the evidence indicates that the construction and design is intended to meet specific requirements for the security and protection of the rider. The goods also meet the standards of the various national and international bodies that govern motorcycle helmet safety certifications.

53. The CBSA argues that the goods in issue are not used exclusively for racing purposes, but that a portion of goods are purchased and used for street riding. In this respect, Motovan acknowledges that a certain percentage of the sales of the goods in issue go to the street riding segment. Specifically, Mr. Cuzner testified that while nearly 100 per cent of sales of motocross helmets go to the racing segment of the market,<sup>37</sup> about 70 per cent of sales of motorcycle racing helmets go to the racing segment.<sup>38</sup> As noted above, the fact that goods may be used for something other than their intended use does not prevent them from being classified in accordance with that use. In this case, the Tribunal is satisfied that the evidence regarding the concentration of sales generally confirms that the goods are intended for use in motorbike racing, i.e. in an athletic activity.

54. The CBSA also argues that marketing materials by the manufacturer for some of the goods indicate that they are intended for a non-athletic use, i.e. street riding. Specifically, the CBSA identifies the Scorpion brand, model EXO-T1200 helmet (Model T1200), and the Scorpion brand, model EXO-R710 (Model R710). This material describes the Model T1200 as a "premium touring helmet" and the Model R710 as being "equally at home when used for daily commuting, carving in the canyons, or during closed course competition".<sup>39</sup> This material also gives an indication that the two models are priced between \$200 and \$350. Although Motovan's evidence indicates that helmets used in street riding are generally sold between \$100 and \$150, the Tribunal finds that the price range for the T1200 and R710 is nevertheless reasonably below the price range of racing helmets, which Motovan submits are generally priced between \$500 and \$1,500.<sup>40</sup> The Tribunal also notes that Model T1200 is only DOT-certified. Despite their physical characteristics and potential use for off-road racing, these factors suggest that the T1200 and R710 are for use in street riding.

55. Accordingly, for these two models, the Tribunal concludes that they are not primarily used in the practice of an athletic activity and that Motovan has not discharged its burden with respect to these goods.

56. Finally, while it may be difficult to distinguish helmets for one application from helmets for another, this is not a relevant consideration for the tariff classification of goods.<sup>41</sup>

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35. Transcript, p. 8.

36. Transcript, p. 15.

37. Transcript, p. 33.

38. Transcript, p. 38.

39. Exhibit AP-2017-028-26A, Vol. 1A at p. 130-133.

40. Transcript, p. 34.

41. For similar examples, see *Grodan Inc. v. President of the Canada Border Services Agency* (1 June 2012) AP-2011-031 (CITT), at para. 32; and *BalanceCo v. President of the Canada Border Services Agency* (3 May 2013) AP-2012-036, at para. 57.

**CONCLUSION**

57. The goods in issue are properly classified under tariff item No. 6506.10.10 as athletic safety headgear, with the exception of the goods subject to Advance Ruling TRS #278380 and to Advance Ruling TRS #278381, which were properly classified by the CBSA under tariff item No. 6506.10.90 as other safety headgear.

**DECISION**

58. The appeal is allowed in part.

Serge Fréchette  
Serge Fréchette  
Presiding Member