

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150213

Docket: A-286-13

Citation: 2015 FCA 45

**CORAM: DAWSON J.A.
RYER J.A.
BOIVIN J.A.**

BETWEEN:

CYCLES LAMBERT INC.

Appellant

and

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

Respondent

Heard at Ottawa, Ontario, on February 3, 2015.

Judgment delivered at Ottawa, Ontario, on February 13, 2015.

REASONS FOR JUDGMENT BY:

RYER J.A.

CONCURRED IN BY:

**DAWSON J.A.
BOIVIN J.A.**

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REASONS FOR JUDGMENT

RYER J.A.

[1] This is an appeal from a decision of the Canadian International Trade Tribunal (the “CITT”), dated July 10, 2013 (AP-2011-060 and reported at 2013 CanLII 47607 (CA CITT)), dismissing an appeal by Cycles Lambert Inc. under subsection 67(1) of the *Customs Act*, R.S.C. 1985, c.1 (2d Supp.), from a decision of the President of the Canada Border Services Agency (the “CBSA”) with respect to the classification of certain bicycle trainers under the Schedule to

Customs Tariff, SC 1997, c. 36 (the “*Customs Tariff*”), as informed by *The Explanatory Notes to the Harmonized Commodity Description and Coding System*, World Customs Organization, 5th ed., Brussels 2012, (the “*Explanatory Notes*”).

[2] The bicycle trainers, which were imported by the appellant, are training devices, which when used in combination with a bicycle, enable the person to ride a bicycle while remaining stationary.

The CBSA Decision

[3] Upon importation, the CBSA classified the goods under Tariff Item No. 9506.91.90 as “other articles and equipment for general physical exercise”. After several requests from the appellant for a redetermination of the classification of the goods, the CBSA confirmed this classification. In doing so, it rejected the appellant’s assertion that the goods should be classified under either Tariff Item No. 8714.99.90, as “other parts and accessories of vehicles of Heading Nos. 87.11 to 87.13” or under Tariff Item No. 9506.91.10, as “exercise bicycles”.

[4] Unsatisfied with the decision of the CBSA, the appellant filed an appeal to the CITT.

[5] Before the CITT, the appellant put forward two arguments. First, it argued that the goods in question should have been classified under Tariff Item No. 9506.91.10, as “exercise bicycles”, and not under Tariff Item No. 9506.91.90, as “other articles and equipment for general physical exercise”, as held by the CBSA. For the purposes of this argument, the appellant admitted that Heading No. 95.06 applied, and more particularly that Tariff Item No. 9506.91 (under which

both of Tariff Item Nos. 9506.91.10 and 9506.91.90 are found) was applicable. Secondly, the appellant argued, as an alternative, that the goods could be classified under Heading No. 87.14, and more particularly under Tariff Item No. 8714.99.90, as “bicycle accessories”.

[6] With respect to this alternative argument, the appellant’s brief to the CITT asserted that the goods met all three of the conditions in Note III of the *Explanatory Notes* to Section XVII (“Note III”), which are required to be fulfilled as a precondition to a classification of those goods under Heading No. 87.14. Accordingly, the appellant asserted that the goods should be classified under Tariff Item No. 8714.99.90, as “bicycle accessories”. However, the appellant’s brief did not contain any argument with respect to how any of the conditions in Note III should be interpreted or applied.

[7] The CITT undertook a determination of which Heading – No. 95.06 or No. 87.14 – should be used to determine the tariff classification of the goods. It then determined that to be classified under Heading No. 87.14, the goods must be “parts or accessories of vehicles” in Heading No. 87.12 and must also meet all three conditions set out in Note III and the *Explanatory Notes* to Heading No. 87.14.

[8] The CITT concluded that it was “tentatively willing to accept” that the goods were “accessories to bicycles” and then went on to consider whether all of the three conditions in Note III were met.

[9] The CITT found that the first two of these conditions were met and then proceeded to consider the third condition, namely, whether the goods were more specifically included elsewhere in the *Customs Tariff*. Specifically, the CITT stated:

67. According to the third condition of Note (III) and Note (III)(c) of the *Explanatory Notes* to Section XVII,⁵¹ if the goods in issue are more specifically described in heading No. 95.06 as articles and equipment for general physical exercise, as argued by the CBSA, then they will be excluded from coverage under heading, No. 87.14, even if they are identifiable as accessories for bicycles.
[footnote not reproduced]

68. In order to determine which heading more specifically describes the goods, the first step is to confirm whether the goods are classifiable in heading No. 95.06.⁵² To be covered by that heading, the goods must be (1) articles or equipment (2) for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games (3) not specified elsewhere in Chapter 95.

Footnote 52. The Tribunal notes Cycles Lambert's admission in support of its alternative argument that it "... does not dispute the applicable chapter (95), heading (95.06) or the subheading (9506.91)", Tribunal Exhibit AP-2011-060-09A at para 25). However, the Tribunal has examined the applicability of heading No. 95.06 for the purposes determining whether it covers the goods more specifically than heading No 87.14.

[Emphasis added]

[10] In paragraphs 87, 93 and 94 of its reasons, the CITT found that the goods fall within the more general meaning of "other exercising apparatus", as contemplated by Note (A) of the *Explanatory Notes* to Heading No. 95.06, and concluded that the goods are "equipment for general physical exercise" under Heading No. 95.06, and more particularly, "cycling or other exercising apparatus", under that Heading.

[11] The final determination made by the CITT was that the goods were classified under Tariff Item 9506.91.90, as "other equipment for general physical exercise", and not under Tariff

Item 9506.91.10, as “exercise bicycles”. Having made that determination, the CITT dismissed the appeal.

Relevant Provisions

[12] The provisions of the *Customs Tariff* and the *Explanatory Notes* that are relevant to this appeal are reproduced in the appendix to these reasons.

Issue

[13] Before this Court, the parties disagreed with respect to the formulation of the issue. The respondent framed the issue as whether the CITT’s classification of the goods under Tariff Item 9506.91.90 was reasonable in light of its reasons and outcome.

[14] In marked contrast, the appellant framed the issue in terms of procedural fairness, alleging that the CITT failed to execute a “duty” to “more specifically decide” that goods were more specifically described in Heading No. 95.06 than in Heading No. 87.14. Additionally, at the hearing, counsel for the appellant argued that the appeal also should be allowed on the basis of another breach of procedural fairness, asserting that the CITT gave no reasons that indicated why the goods were more specifically described in Heading No. 95.06 than in Heading No. 87.14.

Standard of Review

[15] A proper appreciation of the nature of the issues before the Court is important because the nature of an issue is relevant to the determination of the standard of review that must be applied by the Court when it considers that issue.

[16] Issues of procedural fairness are typically reviewed on the standard of correctness. Thus, a failure of a tribunal to execute a “duty” that has been imposed upon it, including a “duty” to issue reasons for its decision could well give rise to issues of procedural fairness. However, in my view, the issues that are raised by the appellant cannot be so characterized.

[17] The appellant has not provided any authority for the assertion that the CITT has a “duty” to undertake a comparative analysis of whether the goods were more specifically described in one or the other of Heading Nos. 87.14 and 95.06. In my view, this issue is more properly characterized as one of determining the appropriate interpretation of the words “more specifically included elsewhere in the Nomenclature” in Note III(C).

[18] So characterized, this issue is simply one of interpretation of the *Customs Tariff* and the *Explanatory Notes*. As such, it should be reviewed on the standard of reasonableness. (See *Canada (Border Services Agency) v. Euro-Line Appliances*, 2014 FCA 208, [2014] F.C.J. No. 981.)

[19] In this appeal, the issue with respect to the CITT's reasons is, in my view, more properly one of the adequacy of those reasons. As stipulated by the Supreme Court of Canada in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at paragraph 22, where there are reasons, there is no issue of a breach of the duty of procedural fairness. In such circumstances, to use the words of Abella, J., at paragraph 16, the issue is whether "[...] the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes [...]". In undertaking our review on this basis, it is my view that the applicable standard of review is reasonableness.

[20] To conclude, the employment of the reasonableness standard, as stated in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at paragraph 47, requires this Court to consider the "justification, transparency and intelligibility" of the CITT's reasoning and whether its "[...] decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law".

Analysis

[21] The focal point in the appeal is whether the CITT reasonably interpreted and applied Note III(C) in its classification of the goods in issue under the *Customs Tariff*.

[22] The appellant asserts that the CITT had made findings that the goods were "prima facie" classifiable as "bicycle accessories" under Heading No. 87.14. The appellant also states that the

CITT found that those goods were classifiable as “cycling or other exercising apparatus” under Heading No. 95.06. The appellant then says that having made those findings of equivalence of tariff classification, the CITT was required to balance or weigh them to determine which of the two competing and equivalent classifications “more specifically” (my emphasis) covered the goods. In other words, according to the appellant, a comparative analysis was required.

[23] In my view, those assertions are flawed. First, I am unable to discern anywhere in the reasons of the CITT that it made a finding that the goods were “prima facie” classifiable as “bicycle accessories” under Heading No. 87.14. Contrary to the appellant’s assertion, paragraph 58 of the CITT’s reasons does not say that. In that paragraph, the CITT states that it was “tentatively willing to accept that the goods in issue could be considered as ‘accessories’ to bicycles” (my emphasis). This tentative conclusion was necessary to enable the CITT to then undertake a consideration of the three conditions in Note III, each of which was required to be fulfilled before the goods could be considered to be “bicycle accessories” under Heading No. 87.14.

[24] Having found that the first two of those conditions were met, the CITT then proceeded to deal with the third condition in Note III(C), namely, whether the goods were “more specifically included elsewhere in the Nomenclature”.

[25] The appellant acknowledges that the CITT posed the right question to itself in terms of whether the goods in question are more specifically included elsewhere in the *Customs Tariff*, but says that the CITT erred by not answering the question, or by not undertaking the

comparative analysis that it alleges the CITT was required to undertake. In my view, the CITT made no such error.

[26] The CITT dealt with the application of this condition by asking itself whether the goods were “classifiable in Heading No. 95.06”. The CITT answered this question affirmatively, finding in paragraphs 87, 93 and 94 of its reasons, that the goods were “equipment for general physical exercise” under Heading No. 95.06.

[27] Having made this finding, the CITT went on to determine which Tariff Item under Heading No. 95.06 was applicable. It concluded that the goods fell under Tariff Item No. 9506.91.90, as “other equipment for general physical exercise”, and not under Tariff Item No. 9506.91.10, as “exercise bicycles”. Having made this finding, the CITT dismissed the appeal.

[28] Thus, the appellant says, there was no determination that the goods were more specifically described in Heading No. 95.06 than in Heading No. 87.14. While it is true that the CITT made no express findings as to the superior comparative specificity of Heading No. 95.06 over Heading No. 87.14, in my view, the absence of such an express finding is insufficient to validate the appellant’s argument.

[29] The question that I must address is that which was enunciated in *Newfoundland Nurses*, namely whether the reasons will allow me to understand why the CITT made its decision, so that I can then determine whether that decision is within the range of acceptable outcomes.

[30] In my view, the answer to this question requires me to consider whether the CITT made an interpretation of the words “more specifically included elsewhere in the Nomenclature” in Note III(C), and if so, whether that interpretation was reasonable. I note that the CITT and the appellant used the words “more specifically described” rather than “more specifically included”. In my view, this is a distinction without a difference and I accept the two formulations as interchangeable for the purposes of this appeal.

[31] It is true that the CITT did not specifically enunciate an interpretation of these words and frankly, it would have been preferable if it had done so. However, it is my view that the CITT implicitly interpreted those words as meaning that goods in question will be “more specifically included elsewhere in the Nomenclature” if it determines that those goods are classified in or under another Heading in the *Customs Tariff*.

[32] This interpretation is evident from the fact that the CITT undertook an analysis of whether the goods fell under Heading No. 95.06 and, having found that to be the case, it dismissed the appeal.

[33] By this reasoning, the CITT must be taken to have concluded that the comparative analysis urged by the appellant was not necessary. Parenthetically, I observe that the record is not clear that the appellant’s suggested comparative approach was ever put before the CITT.

[34] Having concluded that the reasons reveal that the CITT made its decision based upon the implicit interpretation of Note III(C) referred to above, I must now consider the reasonableness of that interpretation.

[35] Where, as here, this Court concludes that a tribunal has made a decision based upon an implicit interpretation of a provision in formulating its decision, of necessity, the ability of the Court to assess the “justification, transparency and intelligibility” of that implicit interpretation is somewhat curtailed. Nonetheless, this Court is obligated to show deference to the CITT’s decision, which according to paragraph 12 of *Newfoundland Nurses*, “[...] requires ‘a respectful attention to the reasons offered or which could be offered in support of a decision’.” Moreover, the fact that there may be an alternative interpretation of Note III(C) does not inevitably lead to the conclusion that it is to be preferred over the interpretation made by the CITT, albeit implicitly in this instance. (See *Newfoundland Nurses* at paragraph 17 and *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, at paragraph 33, where the majority of the Court confirmed that deference is to be shown to a tribunal’s interpretation of its home statute).

[36] Here, the appellant asserts that “more specifically included elsewhere” must be interpreted as requiring a specific comparative analysis of the potentially competing provisions. In effect, the appellant is asserting that its interpretation of this language is the correct one, and of necessity, no other interpretation is open to the Court. Yet, the appellant offered no authority for its assertion.

[37] In contrast, the CITT implicitly interpreted this language as simply meaning that the goods in question will be “more specifically included elsewhere in the Nomenclature”, for the purposes of Note III(C), if it determines that those goods are classified in or under another Heading in the *Customs Tariff*.

[38] Thus, the Court has two interpretations of Note III(C) that, in my view, without more, can be regarded as reasonable. However, in the circumstances of this appeal, the Court is required to show deference to the interpretation that has been made by the CITT, having regard to its established expertise in the area of *Customs Tariff* classifications. I say “without more” to leave open the possibility of a different outcome if, in future, a court is presented with more fulsome arguments with respect to the interpretation of Note III(C).

[39] It is now necessary for me to consider whether the CITT’s decision to classify the goods in question under Heading No. 95.06, rather than Heading No. 87.14, falls within a range of acceptable outcomes.

[40] In the circumstances, the appellant asserted that the outcome should be a classification of the goods under Heading No. 87.14, rather than Heading No. 95.06, in effect positing that there were two potential outcomes or decisions that the CITT could have reached.

[41] Based upon the interpretation of Note III(C) that was implicitly used by the CITT, and that I have found to be reasonable, the goods in question did not satisfy that condition. Therefore the goods could not be classified under Heading No. 87.14. It follows that the other classification

of the goods – under Heading No. 95.06 – was the only one that the CITT could have made, and therefore, must be an acceptable outcome.

Disposition

[42] For these reasons, I would dismiss the appeal with costs.

“C. Michael Ryer”

J.A.

“I agree.

Eleanor R. Dawson”

“I agree.

Richard Boivin”

Appendix

Rule 1

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; 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:

[...]

Heading No. 87.14

87.12 Bicycles and other cycles (including delivery tricycles), not motorized.

[...]

87.14 Parts and accessories of vehicles of headings 87.11 to 87.13.

- Of motorcycles (including mopeds):

[...]

- Other:

[...]

8714.99 -- Other

8714.99.10 --- Bicycle wheels

8714.99.90 --- Other

Heading No. 95.06

95.06 Articles and equipment for general physical exercise, gymnastics,

Règle 1

1. Le libellé des titres de Sections, de Chapitres ou de Sous-Chapitres est considéré comme n'ayant qu'une valeur indicative, le classement étant déterminé légalement d'après les termes des positions et des Notes de Sections ou de Chapitres et, lorsqu'elles ne sont pas contraires aux termes des dites positions et Notes, d'après les Règles suivantes :

[...]

Position N° 87.14

87.12 Bicyclettes et autres cycles (y compris les triporteurs), sans moteur.

[...]

87.14 Parties et accessoires des véhicules des nos 87.11 à 87.13.

- De motorcycles (y compris les cyclomoteurs) :

[...]

- Autres :

[...]

8714.99 -- Autres

8714.99.10 --- Roues de bicyclettes

8714.99.90 --- Autres

Position N° 95.06

95.06 Articles et matériel pour la culture physique, la gymnastique,

athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this Chapter; swimming pools and paddling pools.

-Snow-skis and other snow-ski equipment:

[...]

- Other:

9506.91 - -Articles and equipment for general physical exercise, gymnastics or Athletics

9506.91.10 - - -Exercise bicycles; Parts for use in the manufacture of physical exercise machines; Stair climbing machines

[...]

9506.91.90 - - -Other:

Note (III) of the Explanatory Notes to Section XVII

It should be noted that Chapter 89 makes no provision for parts (other than hulls) or accessories of ships, boats or floating structures. Such parts and accessories, even if identifiable as being for ships, etc., are therefore classified in other Chapters in their respective headings. The other Chapters of this Section each provide for the classification of parts and accessories of the vehicles, aircraft or equipment concerned.

It should, however, be noted that these headings apply only to those parts or accessories which comply with all three of the following conditions:

l'athlétisme, les autres sports (y compris le tennis de table) ou les jeux de plein air, non dénommés ni compris ailleurs dans le présent Chapitre; piscines et pataugeoires.

-Skis de neige et autre matériel pour la pratique du ski de neige :

[...]

- Autres :

9506.91 - -Articles et matériel pour la culture physique, la gymnastique ou l'athlétisme

9506.91.10 - - -Bicyclettes d'exercices; Parties devant servir à la fabrication des appareils d'exercice physique; Appareils d'escaliers d'exercice

[...]

9506.91.90 - - -Autres :

Note (III) des Notes Explicatives de la Section VXII

Il est à noter que le Chapitre 89 ne prévoit pas de dispositions pour les parties (autres que les coques) et accessoires pour bateaux ou engins flottants. De tels parties et accessoires, même s'ils sont reconnaissables comme tels, sont par conséquent classés dans d'autres Chapitres suivant leur régime propre. Tous les autres Chapitres de la présente Section permettent le classement des parties et accessoires des véhicules ou articles qu'ils comprennent.

Il est à noter, à cet égard, que ne relèvent des positions consacrées aux parties et accessoires que ceux qui répondent aux trois conditions

(a) They must not be excluded by the terms of Note 2 to this Section (see paragraph (A) below).

and (b) They must be suitable for use solely or principally with the articles of Chapters 86 to 88 (see paragraph (B) below).

and (c) They must not be more specifically included elsewhere in the Nomenclature (see paragraph (C) below).

Note (A) of the Explanatory Notes to Heading No. 95.06

This heading covers :

(A) Articles and equipment for general physical exercise, gymnastics or athletics, e.g.,:

Trapeze bars and rings; horizontal and parallel bars; balance beams, vaulting horses; pommel horses; spring boards; climbing ropes and ladders; wall bars; Indian clubs; dumb-bells and bar-bells; medicine balls; rowing, cycling and other exercising apparatus; chest expanders; hand grips; starting-blocks; hurdles; jumping stands and standards; vaulting poles; landing pit pads; javelins, discuses, throwing hammers and putting shots; punch balls (speed bags) and punch bags (punching bags); boxing or wrestling rings; assault course climbing walls.

Explanatory Notes to Heading No. 87.14

87.14 · PARTS AND ACCESSORIES OF VEHICLES OF HEADINGS Nos.

suivantes:

a) Ne pas être exclus en vertu de la Note 2 de la présente Section (voir paragraphe A) ci-après)

b) Etre reconnaissables comme étant exclusivement ou principalement conçus pour les articles des Chapitres 86 à 88 (voir paragraphe 8) ci-après).

c) Ne pas être repris plus spécifiquement dans d'autres Chapitres de la Nomenclature (voir paragraphe C) ci-après).

Note (A) des Notes explicatives à la Position N°. 95.06

Parmi les articles relevant de la présente position, on peut citer:

A) Les articles et matériel pour la culture physique, la gymnastique ou l'athlétisme, par exemple:

Trapèzes et anneaux, barres fixes et barres parallèles, poutres, chevaux de bois, chevaux d'arçon, tremplins d'appel, cordes lisses ou à nœuds et échelles de corde, espaliers, massues, gueuses et haltères, medicine-balls, machines à ramer, bicyclettes ergométriques (cyclettes) et autres appareils d'exercices, extenseurs, poignées de crispation, blocs de départ, haies de saut, portiques, perches, matelas de réception, javelots, disques, poids et marteaux à lancer, punching-balls, rings pour combat de boxe ou de lutte, murs d'assaut.

Notes Explicatives à la Position N°. 87.14

87.14 – Parties et accessoires des véhicules des Nos. 87.11 à 87.13.

87.11 TO 87.13.

Of motorcycles (including mopeds):

De motocycles (y compris les cyclomoteurs) :

8714.11 --Saddles

8714.11 – Selles

8714.19 --Other

8714.19 – Autres

8714.20 - Of carriages for disabled persons

8714.20 – De fauteuils roulants ou d'autres véhicules pour invalides

Other:

Autres

8714.91 -- Frames and forks, and parts thereof

8714.91 -- Cadres et fourches, et leurs parties

8714.92 -- Wheel rims and spokes

8714.92 -- Jantes et rayons

8714.93 -- Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels

8714.93 -- Moyeux (autres que les moyeux à freins) et pignons de roues libres

8714.94 -- Brakes, including coaster braking hubs and hub brakes, and parts thereof

8714.94 -- Freins, y compris les moyeux à freins, et leurs parties

8714.95 – Saddles

8714.95 – Selles

8714.96 -- Pedals and crank-gear, and parts thereof

8714.96 -- Pédales et pédaliers, et leurs parties

8714.99 – Other

8714.99 -- Autres

This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, provided the parts and accessories fulfill both the following conditions:

La présente position comprend l'ensemble des parties et accessoires du genre de ceux destinés aux motocycles (y compris les cyclomoteurs), cycles équipés d'un moteur auxiliaire, side-cars, cycles sans moteur, fauteuils roulants et autres véhicules pour invalides, sous réserve toutefois que ces parties et accessoires satisfassent aux deux conditions suivantes :

(1) They must be identifiable as being suitable for use solely or principally

1°) Être reconnaissables comme étant exclusivement ou principalement

with the abovementioned vehicles;

destinés aux véhicules visés ci-dessus.

and (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

2°) Ne pas être exclus en vertu des Notes de la Section XVII (voir les Considérations générales de cette Section).

Parts and accessories of this heading include:

Parmi ces parties et accessoires, on peut citer :

(1) Bodies and parts thereof for delivery tricycles, side-cars or carriages for disabled persons (hoods, doors, floors, etc.).

(1) Les carrosseries de triporteurs, de side-cars, de voitures pour invalides, et leurs parties (capotes, portières, planchers, etc.).

(2) Chassis and frames, and parts thereof.

(2) Les châssis et cadres complets et leurs parties.

(3) Gearing, gear boxes, clutches and other transmission equipment, and parts thereof, for motorcycles.

(3) Les engrenages, boîtes de vitesses, embrayages et autres dispositifs de transmission, et leur [sic] parties, pour motocycles

(4) Wheels and parts thereof (hubs, rims, spokes, etc.).

(4) Les roues et parties de roues (moyeux, jantes, rayons, etc.).

(5) Free-wheel sprocket-wheels.

(5) Les pignons de roues libres.

(6) Derailleurs and other mechanisms, and parts thereof.

(6) Les dérailleurs et changements de vitesse de cycles or leurs parties.

(7) Crank-gear and parts thereof (crank-wheels, cranks, axles, etc.), pedals and parts thereof (axles, etc.); toe-clips.

(7) Les pédaaliers et leurs parties (plateaux, manivelles, axes, etc.) ; les pédales et leurs parties (axes etc.) ; les cale-pieds.

(8) Kickstarters, levers and other control gear.

(8) Les pédales de démarrage, les leviers et autres dispositifs de commande.

(9) Brakes of all kinds (cantilever brakes, caliper brakes, drum brakes, hub brakes, disc brakes, coaster braking hubs, etc.), and parts thereof (levers, block-holder levers, drums and shoes for hub brakes, yokes for cantilever brakes).

(9) Les freins de tous genres (à mâchoires, cantilever, à tambour, à disque, moyeu-frein à contre-pédalage, etc.) et leurs parties telles que leviers, basculeurs porte-patins, tambours, segments pour freins à tambour, chapes de freins.

- | | |
|---|---|
| (10) Handle-bars, handle-bar stems, and handle-bar grips (of cork, plastics, etc.). | (10) Les guidons, potences de guidons et poignées (en liège, matières plastiques, etc.). |
| (11) Saddles (seats) and saddle-pillars (seat-posts); saddle-covers. | (11) Les selles, tiges de selles, couvre-selles. |
| (12) Forks, including telescopic forks and parts thereof (fork crowns and blades, etc.). | (12) Les fourches, y compris les fourches télescopiques et leurs parties (têtes, tiges, etc.). |
| (13) Tubes and lugs for cycle frames. | (13) Les tubes préparés et raccords pour cadres. |
| (14). Hydraulic shock-absorbers and parts thereof. | (14) Les amortisseurs hydrauliques et leurs parties. |
| (15) Mudguards and their supports (stays, fastening rods, etc.). | (15) Les garde-boue et leurs dispositifs de fixation (supports, tringles). |
| (16) Reflectors (mounted). | (16) Les catadioptres montés sur boîtiers (dispositifs réfléchissants). |
| (17) Clothes protectors (other than nets of heading 56.08); transmission-chain covers; foot-rests and leg-protectors. | (17) Les protège-vêtements autres que les filets du n° 56.08, les carters garde-chaîne, les repose-pieds et les protège-jambes. |
| (18) Stands for motorcycles. | (18) Les béquilles-support pour motocycles. |
| (19) Tilting cowls and spare-wheel covers, for scooters. | (19) Les capots de scooter, les couvercles cache-roue pour roues de rechange de scooter. |
| (20) Silencers (mufflers) and parts thereof. | (20) Les pots d'échappement (silencieux) et leurs parties. |
| (21) Fuel tanks. | (21) Les réservoirs à carburant. |
| (22) Windscreens (windshields). | (22) Les pare-brise. |
| (23) Luggage racks; lamp brackets; water-bottle brackets. | (23) Les porte-bagages, porte-lanternes, porte-phares et porte-bidons. |
| (24) Propelling levers and crank-handles, back-rests and back-rest | (24) Les leviers et manivelles de propulsion, les dossiers et colonnes de |

steering columns, foot-rests, leg-supports, armrests, etc., for carriages for disabled persons.

(25) Clutch cables, brake cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.

direction à dossier, les repose-pieds et appuie-jambes, les accoudoirs, etc., pour voitures d'invalides.

(25) Les câbles d'embrayages, les câbles de freins, les câbles d'accélérateurs et les câbles similaires constitués par une gaine extérieure flexible et un câble interne mobile. Ils se présentent coupés de longueur et munis de leurs parties terminales.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-286-13

**APPEAL FROM A DECISION OF THE CANADIAN INTERNATIONAL TRADE
TRIBUNAL DATED JULY 10, 2013, NO. AP-2011-060.**

STYLE OF CAUSE: CYCLES LAMBERT INC. v. THE
PRESIDENT OF THE CANADA
BORDER SERVICES AGENCY

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: FEBRUARY 3, 2015

REASONS FOR JUDGMENT BY: RYER J.A.

CONCURRED IN BY: DAWSON J.
BOIVIN J.

DATED: FEBRUARY 13, 2015

APPEARANCES:

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