

C00122

Customs classification - Can an accessory to a seat belt be classified as an accessory to a motor vehicle - Commissioners' decision considered, set aside, and replaced by appropriate classification on objective criteria - s.16(5) FA 1994

LONDON TRIBUNAL CENTRE

SAXON INDUSTRIES Appellant

- and -

THE COMMISSIONERS OF CUSTOMS AND EXCISE Respondents

Tribunal: MR PAUL HEIM CMG (Chairman)

MR R SURI

Sitting in public in London on 28 January 2000

Mr Peter Newman, for the Appellant

Mr Jason Coppel, Counsel, instructed by the Solicitor for the Customs and Excise, for the Respondents

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DECISION

These two appeals were heard together. They concern the same issue, and are covered by the same decision. The Appellant appeals against formal departmental reviews by the Commissioners of the classification of a product there described as a "seat belt adjuster", the first decision being dated 26 April 1999, and the second 6 September 1999.

1. At the hearing the Appellant was represented by Mr Peter R Newman of Peter Newman Associates, Customs Consultancy, and the Commissioners by Mr Jason Coppel of Counsel. Each party relied on a bundle of documents.

2. The facts of this appeal are not in dispute. The only issue is the tariff classification of the two products in question, which are agreed to have for the purposes of appeal similar characteristics.

The first is a Metro Safefit Shoulder Belt Adjuster described in the following terms:

"a car seat belt adjuster for use with an adult 3-point seat belt, suitable for children over four years old weighing between 15 and 36 kilos. It keeps the seat belt away from the child's face, is transferable from car to car and is suitable for all cars".

The second product is a Saxon Shoulder Belt Adjuster. It is described as:

"a comfort aid for a child wearing a full adult seat belt".

Its use is explained as follows.

3. To fit, channels are popped open and the belt placed in the channels. The belt is then secured by closing popper studs. The popper studs are an essential part of the product and are not merely ornamental. Like the first product this is a car seat belt adjuster for use with an adult 3-point seat belt. It keeps the seat belt away from the child's face and is suitable for all cars.

4. Technical drawings and diagrams of these products were submitted to the Tribunal, as were extracts from various publications dealing with car seats and accessories and products intended to make car journeys safer and easier.

5. The information given in these documents was complemented by the evidence of Mr Peter White, marketing director of Saxon Industries, whose evidence was not contested. He said that the Metro Shoulder Belt Adjuster was intended for wearing by a child and moved the belt away from the child's shoulder to make it fit better. The Saxon Shoulder Belt Adjuster fulfilled a similar function. In both cases the lap strap and the shoulder strap of the safety belt were fed through the product so that by means of metal poppers these straps were stopped from riding up. The seat belt adjusters fitted over the abdomen. They were for use with 3-point seat belts. They were generally sold in motor car accessory stores but could be bought elsewhere. They were advertised as "child comfort aids for in-car use". Originally they met the regulation for safety equipment but following an amendment they did not fall within that and were sold solely as a comfort aid.

6. The Tribunal accepts these descriptions, and cannot better them. In simple terms the products sit across a child's stomach and hold the safety belts in a position suitable for a person of less than adult height. The way the products are described makes it clear that they have a function both for the comfort and for the safety of the wearer.

7. The simple issue between the parties is where these articles should be classified within the Community Nomenclature established by Council Regulation (EEC) No. 2658/87 of 23 July 1987 (now Regulation (EC) 2086/97) to meet the requirements of the Common Customs Tariff, under Chapter 63 or under Chapter 87. The parties agree that these are the only possibilities for classification.

8. Chapter 63 is headed "Other made-up textile articles; sets; worn clothing and worn textile articles; rags". Under Customs Nomenclature Code Heading 6307 comes the description I "Other made-up textile articles, including dress patterns". Sub-heading 6307 90 99 has the description "Other".

9. Chapter 87 is headed "Vehicles other than railway or tramway rolling stock, and parts and accessories thereof". Heading 8708 has the description:

"8708 Parts and accessories of the motor vehicles of heading Nos 8701 to 8705:

8708 10 - Bumpers and parts thereof:

8708 10 10 - - For the industrial assembly of

Vehicles of heading No.8603

Vehicles of heading No 8704 with either a compression ignition internal

Combustion piston engine (diesel or semi-diesel) of a cylinder capacity

Not exceeding 2500 cm or with a spark-ignition internal combustion

Piston engine of a cylinder capacity not exceeding 2800 cm.

Vehicles of heading No 8705

8708 10 90 - - Other

- Other parts and accessories of bodies (including cabs)

21 - - Safety seat belts

21 10 - - - For the industrial assembly of

Vehicles of heading No.8703

Vehicles of heading No.8704 with either a compression-ignition internal

Combustion piston engine (diesel) or semi-diesel), of a cylinder capacity

not exceeding 2500 cm or with a spark-ignition internal combustion

piston engine of a cylinder not exceeding 2800 cm

Vehicles of heading No 8705

8708 21 90 - - - Other

8708 29 - - Other: "

10. On the facts the Appellant says that the products in question contain metal poppers which are an essential part of their production and use, and are not trimmings or accessories. The description 'textile products' is therefore not appropriate. The point of the product is to allow a child to wear an adult size seat belt in safety and comfort. While such a product is not an essential piece of equipment it is nevertheless an accessory to a motor vehicle and should be classified as such. No criterion of being essential is expressed in the text to be applied, nor has that criterion been used for things such as window blinds for rear side windows, sunshades fitted to car windows, or for drinks holders which fit between the front seats of motor cars.

11. The Appellant relies on the general rules for the interpretation of the combined nomenclature appearing in Commission Regulation (EC) 2261/98 and in particular the general rules appearing in Section 1 Part A. This includes the passage:

"for legal purposes, classification shall be determined according to the terms of the heading and any relative sections or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.
"

These provisions include:

"3. When by application of rule 2(b) or for any other reason, goods are prima facie classifiable under two or more headings, classification shall be effected as follows:

(a) the heading which provides most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;

(b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character in so far as this criterion is applicable;

(c) when goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

"4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

. . .

"6. For legal purposes, 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, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule the relative section and Chapter Notes also apply, unless the context otherwise requires".

12. The Appellant says that 3, above, requires the most specific description to be preferred, and that a "motor car accessory" is much more specific as a description of the seat belt adjuster than the general reference to "other made-up textile articles". If that interpretation did not prevail rule 3(c) would, in case of doubt, require the later chapter, that relating to motor car accessories, to be applied.

13. The Appellant also relies on the section notes and Chapter Notes, where, under section XVII, "vehicles, aircrafts, vessels and associated transport equipment". Note 3 states that references in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those chapters." It follows, says the Appellant, that those parts or accessories which are suitable for such use do fall within that section. Similar reasoning applies to the Harmonised System Explanatory Notes. Also, the general notes to Chapter 87 state that this chapter covers parts and accessories which are identifiable as being suitable for use solely or principally with the vehicles included therein. This covers the products in issue. The notes to heading 8708 state that this heading covers parts and accessories of the motor vehicles of headings 8701 to 8705 provided the parts and accessories fulfil the conditions that they must be identifiable as being suitable for use solely or principally with those vehicles and that they must not be excluded by the provisions of the notes to section XVI.

Conversely the Appellant says that the general notes to Chapter 63 state:

"The classification of articles in this sub-Chapter is not affected by the presence of minor trimmings or accessories of fur skin, metal (including precious metal), leather, plastics, etc.

Where, however, the presence of these materials constitutes more than trimming or accessories, the articles are classified in accordance with the relative section or chapter notes or the general interpretative rules as the case may be".

The essential element on the product in issue is the poppers or studs, which are more than trimmings or accessories. They are an integral part of the design and are the sole means of enabling it to function.

14. The Appellant says that there are previous decisions by national Customs authorities which require to be considered. They are published by the European Commission only in a restricted format.

15. A Spanish Binding tariff information ("BTI") ruling, relied on by the Commissioners, under reference ES63079000304500147, classified under Chapter 63 items described only in Spanish which appear in English under the key words "covers seat belts of woven fabric". It appears clear from the description that BTI concerns seat belt covers of woven fabric with velcro fastening. The Appellant says that this was an entirely different product having an entirely different purpose.

16. Another such BTI was taken by H M Customs and Excise on 23 July 1996, under reference UK 85331. It covered a shoulder clip designed to fit a conventional 3-point seat belt thus allowing movement to a more comfortable position for a small person. This was classified as an accessory. However, since the decisions the subject of this appeal were issued that ruling had been revoked. The Commissioners said in their letter of 4 March 1999:

"With reference to UK. BTI 85331 issued on 23 July 1996 this case is currently under review as it is divergent with a decision made by the French on 22 March 1996 for similar goods. As the French BTI was issued first I must use it as a precedent to classify your product in 630790000 ...".

17. The Commissioners agree that the two products are not identical but that the purpose of both was to adjust a seat belt for personal comfort and protection. The Appellant says that the description of the goods given in the French decision is not sufficiently precise to make sure that it can relate to the product in issue. Indeed the extracts from that decision submitted to the Tribunal allow room for discussion.

18. The Appellant contests the Commissioners' argument, contained in its statement of case, that the product in issue does not meet the terms of the heading of Chapter 87 because "it is not an essential component of a seat belt, but is an accessory to a seat belt Not being a part or an accessory of a motor vehicle, but a non-essential accessory to a seat belt which provides no enhancement to the motor vehicle itself, the product must be classified according to its constituent material". The Appellant says that the criterion of being essential or providing an enhancement do not appear in the provisions which require to be applied.

19. The Appellant urges on the Tribunal the need to classify the product according to its objective characteristics and properties referring to the European Court of Justice judgment in Bioforce GmbH v Oberfinanzdirektion München (Case 177/91) [1993] ECR 45, where the Court ruled:

"... the decisive criterion for the tariff classification of goods for customs purposes is to be sought, regard being had to the requirements of legal certainty, in their objective characteristics and properties, as defined by the wording of the headings of the Common Customs Tariff."

20. Further, the use to which the goods are to be put is relevant. In the case of Kaffee-Contor Bremen GmbH & Co KG v Hauptzollamt Bremen-Nord (Case 192/82) (1983) ECR 1769 the Court stated:

"... the decisive criteria for making a classification are not only the materials used, but both the external appearance of the article in question and the use to which they are normally put ...".

21. The Appellant further relies on the passage and the conclusions of Advocate General Jacobs in the case of Wiener SI GmbH v Hauptzollamt Emmerich (Case 338/95) [1997] ECR 6495,

"For the purpose of classifying night dresses under the common Customs Tariff, the national court should apply the principle that classification must be based on the objective characteristics and properties of the product in issue, and the principle that the intended use of a product may constitute an objective criterion for classification if it is inherent in the product and if the inherent character can be assessed on the basis of the product objective characteristics."

22. The Appellant says that there is no question, and indeed it is admitted, that the product here is a seat belt adjuster for use in a motor car, having no other conceivable use. That is its primary objective characteristic, and it cannot be classified as anything other than something which is constructed to be, and intended to be, an article to be used with a motor car and to make the equipment of that motor car more comfortably and more safely useable. It is thus an accessory to a motor car.

23. The Appellant relies also on the fact that the Community Customs Tariff is itself based on the Harmonised Commodity Description and Coding System drawn up by the Customs Co-operation Council now known as the World Customs Organisation, to which reference could legitimately be made, The Tribunal had reached this conclusion in the appeal of Higher Nature Ltd (C.00099), referring to the European Court of Justice case Douaneagent der NV Nederlandse Spoorwegen (Case 38/75).

The Commissioners present the matter differently.

24. They refer to their original decision that the product should be classified under "other made-up articles, including dress patterns" in accordance with Customs Nomenclature No.6307909999. On review by the Commissioners under section 14(1)(a) of the Finance Act 1994 the Commissioners held as follows:

"At the time of the application for the BTI, applications for, and issuing of BTIs were governed by article 12 of Council Regulation (EEC) No.92/2913 of 12 October 1992 establishing the Community Customs Code (OJ No.L302, 191092).

This article was implemented by articles 5-15 of Commission Regulation (EEC) No.2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No.92/2913 (OJ No.L.253, of 11 .10.93, as corrected in corrigendum OJ No.L.268, of 19.10.94. The proper classification of goods entering the community is determined by Council Regulation (EEC) No.2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ No.L256 of 7.9.87), the tariff regulation, and the Combined Nomenclature contained in Annex 1 to it. This regulation was amended by Commission Regulation (EC) No.2261/98 of 26 October 1998. The Commission has adopted explanatory notes to the Combined Nomenclature in accordance with articles 9, paragraph 1(a) second indent and 10 of the tariff regulations. The Combined Nomenclature is based on the international convention on the Harmonised Commodity Description and Coding Systems (OJ No.L198 of 20 July 1987, for which the Customs Co-operation Council, now World Customs Organisation had issued its own Explanatory Notes (HSEN)."

25. The Commissioners say that the product is excluded from the heading 8708 as it does not meet the terms of the heading as a part or accessory of a motor vehicle. It is not an essential component of a seat belt, but is an accessory to a seat belt, and is intended as a comfort aid for children or small adults wearing a full size seat belt. A non-essential accessory to a seat belt which provides no enhancement to the motor vehicle itself must be classified according to the constituent material. The Commissioners say that classification is to be determined according to the terms of the headings and any relevant section or Chapter Notes, according to which the product is correctly classified under the heading 6307, "other made-up articles, including dress patterns" and subheading 6307 90 with CN codes 6307 90 99, and Chapter 63 of the Combined Nomenclature and Notes thereto and the application of the CNENs to heading 6307 and CN Note 6307 90 99 as well as the application of the HSENs to headings 6307 and subheading 6307 90 which states that the heading covers made-up articles of any textile material which are not included more specifically in other headings of section XI or elsewhere in the Nomenclature.

26. The Commissioners further say that the French BTI reference referred to earlier, valid from 22 March 1996, classified a similar article under CN code 6307 90 99. That article was described as:

"Textile article, 100% polyamide, in the form of sleeves comprising two rivets and two press studs intended to position the seat belt in such a way as to protect the person's neck".

The Commissioners agree that this article is not identical to the products here in issue but say that their common function is to adjust a motor car vehicle seat belt for personal comfort and protection. The Commissioners rely also on the Spanish BTI reference classifying under heading 6307 a "seat belt cover of woven fabric ... "

27. The Commissioners also say that the Harmonised System Explanatory Notes (HSEN) to heading 8708, which provides examples of parts and accessories of motor vehicles which are classified in that heading and which includes "safety belts designed to be permanently fixed into motor vehicles for the protection of persons", cannot extend to an accessory to seat belts which is not a part within that heading. The Commissioners say that the rulings by the United States Customs authorities with regard to identical or similar goods are not binding and consider them to be wrong.

28. The Commissioners further say that the Appellant asks the Tribunal to depart from a European approach and to choose instead the approach of the United States authorities when the imperative is the uniform application of the Customs Nomenclature across Europe. While it is necessary for classification under heading 8708 that a product is used solely or principally in conjunction with a motor vehicle, a part or accessory to be so classified must be also integral to the vehicle providing an enhancement to the vehicle itself. It is necessary that there should be some element of industrial assembly or an equivalent thereto. A part or accessory of a part or accessory is not a part or accessory of the vehicle.

29. The parties have put the matter fully before the Tribunal, and it is clear that there is no dispute either as to the facts of the products, or as to the legislation which applies to classification. There is no doubt that the criterion for the tariff classification of goods is to be made on the ascertainment of their objective characteristics and properties, as defined in the headings of the Common Customs Tariff, and that these characteristics are not only the materials used but also the external appearance of the articles and the use to which they are put. Clearly also the requirement of legal certainty obliges the Tribunal to consider other relevant decisions so that the object of uniformity can be reached. The Commissioners have relied, not only in their decision in the present case, but in their withdrawal of an earlier classification made by them, on a French classification decision the text of which is in part reproduced in the Commissioners' statement of case, and in part in Appendix L to the very full set of arguments produced by the Appellant, in the form of a computer printout. It is not easy to see to what extent that description covers the products in issue in the present appeal. Certainly the product the subject of the decision by the French authority, which the Commissioners consider to deal with products which are not materially different from those in issue, although not identical, does in at least one element include a description not present in this appeal, and that is the term in the description "in the form of sleeves". That is the way in which the French expression "en forme de manchons" is translated into English. The parties advance this translation. The Tribunal has no reason to disagree with it. The French expression is not clarified by drawings or photographs which would allow it to be more carefully analysed. That brief description does have similarities with the products the subject of their appeal, but as to the objective characteristics of the articles, the description leaves room for doubt. If, as the Commissioners accept, the French classification is of an article which is "in the form of sleeves", it is not objectively similar in shape to the products under appeal. It seems to be more in the nature of a neck protector made of textile fabric, with press studs, than a central seat belt adjuster controlling the lap and shoulder strap. It would be unsatisfactory, and indeed unfair, if the Appellant's arguments about the classification of the articles according to their objective characteristics were to be met by the answer that such classification was precluded by a decision of another Customs authority, which could not be shown to have dealt with an article having the same objective characteristics.

30. If that were to have been the case it would also be, in the Tribunal's view, an unreasonable exercise of the discretion inherent in the classification decision, because it would have applied to one set of objective characteristics a reasoning which could not be shown to have been applicable, as it emanated from another decision taken on characteristics which were, or were apparently, dissimilar.

31. The Tribunal therefore proceeds to consider the general rules for the interpretation of the Combined Nomenclature and in particular rule 3 that where goods are prima facie classifiable under two or more headings "the heading which

provides the more specific description shall be preferred to headings providing a more general description ...".

32. It is clear that the Commissioners' reasoning was that if the products could not be classified under the apparently more specific rules of Chapter 87 as "parts and accessories" of vehicles, then recourse was to be had to the more general heading "other made-up textile articles".

33. It is necessary therefore to consider first what is the extent of the concepts "parts and accessories".

34. The parties have not referred the Tribunal to any authority on the meaning of the words "parts" and "accessories". The Tribunal takes each of them to have a meaning, and to cover different categories. Those categories may overlap, but they are different. The Commissioners say that a part of a part cannot be a part and an accessory of an accessory cannot be an accessory. The Tribunal does not consider that this is an argument which can be decisive for classification. The argument is more semantic than substantial. The question is not whether an object is a part of a part, or an accessory to an accessory; it is simply whether by its objective characteristics it is a part or an accessory. A part is not precluded from being a part because it is attached to another part or an accessory from being an accessory because it is attached to an accessory. Support for that conclusion comes from heading 8708 10 which has the text "bumpers and parts thereof", under the main heading "parts and accessories of the motor vehicles of heading Nos 8701 to 8705". If "bumpers and parts thereof" come underneath the heading "parts and accessories" then it follows that a bumper is within the heading "parts and accessories" and a part of a bumper is similarly within that heading.

35. The structure of Chapter 87 whereby sufficiently precise descriptions are given in the subheadings, complemented by the very wide expression repeatedly used, "other", obliges the Tribunal to consider not only the specific terms used, but the extent of the term "other". Thus the Tribunal does not follow the Commissioners in their argument that if in relation to "safety seat belts" appearing under Code 8708 21 10 there appears a reference to "industrial assembly", products not the subject of industrial assembly are to be excluded. 'Other' is too wide a term to be so interpreted.

36. The Tribunal examines the Commissioners' argument that a part or accessory must be integral to the vehicle providing an enhancement to the vehicle itself, before it can be classified under heading numbers 8701 to 8705 "other parts and accessories - other - other - other - other", but finds no foundation sufficient to allow it to be accepted. In normal usage a part is or becomes a part of a whole, but an accessory is something which is added thereto. If that is the case an accessory can be added to a part and be classified accordingly.

37. Similarly, the Tribunal thinks that the Appellant is right in contesting the Commissioners' interpretation, set out in paragraph 6 of the statement of case that "not being a part or an accessory of a motor vehicle but a non-essential accessory to a seat belt which provides no enhancement to the motor vehicle itself, the product must be classified according to its constituent material". The argument that if the seat belt adjuster is not a part or an accessory it cannot be classified as a part or an accessory is logically correct. However, insofar as the reasoning is that it is not a part or an accessory because it is non-essential, that introduces a criterion for which there is no foundation in the legislation. There is no reason given in the classification why an optional or non-essential accessory

cannot be an accessory. The same argument covers the proposition that to be an accessory there must be an enhancement of the vehicle. One may suppose that a spare wheel is an accessory, but not an enhancement or that two spare wheels if two were fitted, would be accessories but not enhancements.

38. The provisions under which this appeal is brought derive from Article 239 of Regulation (EEC) No.2913/92, which states in its first sentence: -

"1. Any person shall have the right to appeal against decisions taken by the Customs authorities which relate to the application of Customs legislation, and which concern him directly and individually."

39. The latter condition is satisfied in the case of the Appellant, which was the subject of decisions addressed to it.

40. This right of appeal is brought into national legislation by sections 14, 15 and 16 of the Finance Act 1994, and by paragraph 3 of the Customs Review and Appeals (Tariff and Origin) Regulations 1997 (SI 1997/534), in the following terms: -

"3-(1) Section 14 of the Act, as it applies to the decisions mentioned in section 14(1) of the Act, shall apply to the following decisions of the Commissioners, so far as they are made for the purposes of the Community provisions relating to binding tariff information or the Community provisions relating to binding origin information -

(a) any decision as to the tariff classification or determination of the origin of any goods;

(b) any decision as to whether or not binding tariff information or binding origin information is to be supplied;

(c) any decision as to whether or not any binding tariff information or binding origin information is to be annulled, withdrawn or revoked.

(2) In this regulation -

"binding tariff information" and "tariff classification" have the same meaning as in the Community provisions relating to binding tariff information;

"binding origin information" and "determination of the origin" have the same meanings as in the Community provisions relating to binding origin information;

"the Community provisions relating to binding tariff information" and "the Community provisions relating to binding origin information" mean Article 12 of Council Regulation (EEC) No.2913/92 establishing the Community Customs Code and Title II of Part 1 of Commission Regulation (EEC) No.2454/93 laying down provisions for the implementation of Council Regulation (EEC) No.2913/92.

4. Section 16(4) of the Act (review jurisdiction) shall have effect as if decisions (b) and (c) mentioned in regulation 3(1) above were of a description specified in paragraph 1 of Schedule 5 to the Act."

The Tribunal's powers are expressed in section 16(5) of the Finance Act 1994 in these terms: -

"(5) In relation to other decisions [that is, other than or ancillary matters,] the powers of an appeal tribunal or an appeal under this section shall also include power to quash or vary any decision and power to substitute their own decision for any decision quashed on appeal.

..."

41. The Tribunal decides that the Commissioners' decision cannot stand, first, because it is to a large extent based on a French decision which has not been shown to be applicable in all respects to the products in issue, and to which the Appellant or indeed the Tribunal has not sufficient access. It is not possible to rely on it without considering the differences in the products. The Appellant should be able to contest under fair conditions the alleged correspondence between its articles and those the subject of the French decision. Second, and subsidiarily, the Commissioners could not rely on the Spanish decision taken about an article which in the terms of that decision was different to those here in issue, although composed of similar material. Third, the Commissioners considered, in the Tribunal's view wrongly, that a non-essential accessory could not be an accessory; the criterion of "essentiality" is not shown to exist, nor is that of "enhancement". One cannot import conditions which do not figure in the text. Fourth, the Commissioners' proceeded on the basis that an accessory to an accessory cannot be an accessory. The European Court has, in the cases cited earlier, required an evaluation of the objective characteristics of the products.

42. The Commissioners say that if their approach were not adopted sub-heading 8708 99 98 would be very broad, covering a whole range of disparate products. It appears to the Tribunal that this is an ineluctable conclusion which has to be drawn from the repeated use of the very wide term "other".

43. In the Tribunal's view, the headings under Chapter 63 and in particular 6307 90 99 are less specific in their application to the products in issue than those to which the Appellant refers in Chapter 87. The objective characteristics of these products, and their use, show that they are accessories to that part of the vehicle which is the seat belt, having a use similar to a seat belt, and no other.

44. It follows that the Commissioners' classification of these products now under appeal must be set aside, and their earlier decision restored, classifying such products under Chapter 87, as an accessory to a motor vehicle specifically sub-heading 8708 21 90, that being the position under which their objective characteristics require them to be classified, in accordance with the general rules for interpretation quoted earlier.

45. The Appellant raised the issue of costs, and the parties have liberty to apply to the Tribunal on this question within 21 days of the date of release of this decision.

PAUL HEIM CMG

CHAIRMAN

Date Released: 7th August 2000

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