



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Appeals

NOTICE OF APPEAL

CANADIAN INTERNATIONAL TRADE TRIBUNAL
Exhibit No. AP-2019-003-01
Pièce No.
LE TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

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CANADIAN INTERNATIONAL TRADE TRIBUNAL

NOTICE OF APPEAL

Appeals pertain to a decision or re-determination of the President of the Canadian Border Services Agency, or an assessment, reassessment, rejection, decision or determination of the Minister of National Revenue, pursuant to section 67 of the Customs Act, sections 81.19, 81.21, 81.22, 81.23 or 81.33 of the Excise Tax Act, or section 61 of the Special Import Measures Act.

APPELLANT IDENTIFICATION

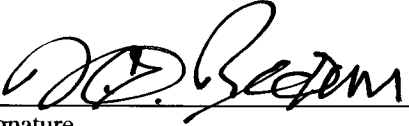
Corporate Information

Individual authorized to file appeal:

Name: Donald G. Regan
Title: President
E-mail: dgregan@ronsco.com
Telephone Number: 416-644-0175

Company:

Company Name: Ronsco Inc.
Doing Business As (dba): _____
Suite Number: _____
Street Address: 75 Industrielle St.
City: Coteau-du-Lac
Province: Québec
Postal Code: J0P 1B0
Telephone Number: 416-644-0175


Signature

2019-04-10
Date (year/month/day)

COUNSEL IDENTIFICATION

Appellants may retain independent counsel. Counsel includes any person who acts in a proceeding on behalf of a party, such as a lawyer or consultant.

**Please note that confidential information is only made available to independent counsel.*

If independent counsel is retained, provide the following information:

Counsel Information

Name of counsel:	Colin S. Baxter, Alyssa Edwards
Name of counsel's firm:	Conway Baxter Wilson LLP/s.r.l.
Suite Number:	400
Street Address:	411 Roosevelt Ave.
City:	Ottawa
Province:	Ontario
Postal Code:	K2A 3X9
Telephone Number:	613-288-0149

Note that, if an oral hearing is held before the Tribunal, Ronsco Inc. may also be represented by the following additional counsel:

Name of counsel:	Peter Clark
Name of counsel's firm:	Grey, Clark, Shih and Associates, Limited
Suite Number:	
Street Address:	571 Blair Road
City:	Ottawa
Province:	Ontario
Postal Code:	K1J 7M3
Telephone Number:	613-238-7743

Forms

Counsel should file the following forms with the appeal:

Form I	Notice of Participation (Party) (to be completed by appellant)
Form II	Notice of Representation (Counsel)
Form III	Declaration and Undertaking (Counsel and Consultant)

These forms are available on the Tribunal's Web site at www.citt-tcce.gc.ca/en/forms

ELIGIBILITY

Check the box that relates to the legislation and subject matter of your appeal:

Customs Act

- ☒ **The tariff classification of imported goods or goods subject to an advance ruling (including matters relative to prohibited weapons/devices)**
- ☐ The value for duty of imported goods
- ☐ The origin of imported goods or goods subject to an advance ruling
- ☐ The marking of imported goods

Excise Tax Act

- ☐ The assessment or determination of excise tax

Special Import Measures Act

- ☐ Whether imported goods are of the same description as dumped or subsidized goods subject to an injury finding made by the Tribunal
- ☐ The normal value or the amount of a subsidy of dumped or subsidized goods subject to an injury finding made by the Tribunal
- ☐ The export price of dumped or subsidized goods subject to an injury finding made by the Tribunal

INFORMATION REGARDING THE APPEAL**Detailed Adjustment Statement (DAS), if applicable**

If you are in possession of one or more DAS issued by the Canada Border Services Agency, indicate the Original Transaction Number(s) and date(s) of the DAS below, and attach a copy of every DAS to this Notice of Appeal.

Date of Transaction/Importation	Original Transaction No. (Importation)	Decision Date (CBSA Verification)	Transaction No. (CBSA Verification)	Description of Goods (Ronsco Inc.)	Tariff Classification (Original)	Description of Goods (CBSA Verification and Re-determination)	Tariff Classification (Verification and Re-determination)
May 15, 2015	13003172664734	Aug. 27, 2018	1004088561	Wheel Bodies	8607.19.21	Wide Flange Wheels	8607.19.29
May 25, 2018	13003172665074	Aug. 27, 2018	1004088572	Wheel Bodies	8607.19.21	Wide Flange Wheels	8607.19.29
Aug. 26, 2015	13003704306035	Aug. 27, 2018	1004088583	Wheel Bodies	8607.19.21	Wide Flange Wheels	8607.19.29
Oct. 23, 2015	13003704475201	Aug. 27, 2018	1004088594	Wheel Bodies	8607.19.21	Wide Flange Wheels	8607.19.29
Nov. 23, 2015	13003705530245	August 27, 2018	1004088607	Wheel Bodies	8607.19.21	Wide Flange Wheels	8607.19.29

See all DASs listed above, attached as **Annex “A”** to this Notice of Appeal.

Other Deciding Document

If you are in possession of one or more deciding document(s), other than a DAS, issued by the Canada Border Services Agency or by the Canada Revenue Agency, indicate the file number(s) and date(s) of the deciding document(s) below, and attach a copy of each deciding document to this Notice of Appeal.

Deciding Document	File Number	Date	Annex to This Notice of Appeal
CBSA Trade Compliance Verification Interim Report	Case No.: C-2016-011118	April 20, 2018	Annex “B”
CBSA Trade Compliance Verification Final Report	Case No.: C-2016-011118	July 24, 2018	Annex “C”
Decision of the President of the CBSA under s. 60(4) of the <i>Customs Act</i>	File No.: 18-501 TRS No: 281819	January 18, 2019	Annex “D”

Date of Decision at Issue

Provide the date of the decision that you are appealing.

January 18, 2019 (Decision of the President of the CBSA under s. 60 of the *Customs Act*;
CBSA File #: 18-0501; TRS #: 281819)

Good(s) at Issue

Provide a brief description of the good(s) subject to this appeal.

The goods at issue are **wheel bodies for use in the manufacturing of finished forged wheels for application to rail cars in the form of wheel and axle combinations (known as “wheelsets” or “wheelset assemblies”).** Upon importation, a “wheel boring” process must be applied to wheel bodies in order further to manufacture them into finished wheels. The finished wheels are then mounted onto axles and bearings are attached to produce “wheelsets”. Wheelsets are then incorporated into “truck assemblies” (“bogies”), which are installed on rail cars that travel throughout North America.

Question(s) at Issue

Provide a brief description of your argument, as well as that of the Canada Border Services Agency or the Canada Revenue Agency, if known. Please cite provisions of the relevant legislation or regulations that you intend to rely on. Indicate the remedy sought from the Tribunal.

The issue in this case is the tariff classification of the wheel bodies imported by Ronsco Inc. (“Ronsco”). In the transactions at issue, these goods were imported under tariff item 8607.19.21 (“wheel blanks”, duty-free).¹ (The full text of the tariff items indicated here are reproduced in the footnotes below.) In selecting tariff item 8607.19.21, Ronsco relied on tariff classification advice received from its customs broker, FedEx Trade Networks Canada Inc., as well as Ronsco’s commercial knowledge that other importers of these goods were importing them under tariff item 8607.19.21 for the same end use.

However, upon receiving the Canada Border Services Agency (“CBSA”)’s interim report issued in the course of its trade compliance verification (the “Reports”), Ronsco conducted an in-depth review of the goods and tariff items at issue. On this basis, Ronsco now does not dispute that tariff item 8607.19.21 is not the most accurate classification of the goods at issue. Instead, Ronsco will argue that these goods constitute “parts of wheels”, properly classified under tariff item 8607.19.30 (duty-free).²

Based on the CBSA’s Reports, and on the decision of the CBSA President under s. 60(4) of the *Customs Act*, Ronsco expects that the CBSA will argue that the goods are “wheels – other” because they have the “essential character” of a finished wheel, and that they are properly classified under tariff item 8607.19.29 (9.5% duty) as a result.³ **Ronsco therefore seeks an order reversing the decision of the CBSA President, and finding that the goods at issue are “parts of wheels”, properly classified under tariff item 8607.19.30.**

¹ Schedule to the *Customs Tariff*, SC 1997, c 36 [*Customs Tariff Schedule*]. Tariff item 8607.19.21 is “Wheels, whether or not fitted with axles: - Blanks for use in the manufacture of wheel and axle combinations for railway and tramway (including subway cars) passenger coaches; For self-propelled railway vehicles for the transport of passengers, baggage, mail or express traffic; For use in the repair of tramway vehicles (excluding subway cars) with magnetic track brakes”.

² *Customs Tariff Schedule*, *supra* note 1. Tariff item 8607.19.30 is “Parts of axles or wheels”.

In making its arguments, Ronsco intends to rely, *inter alia*, on the text of the tariff items at issue, based on the Schedule to the *Customs Tariff*⁴, the “General Rules for the Interpretation of the Harmonized System” and the “Canadian Rules” contained therein;⁵ the World Customs Organization (“WCO”)’s “Explanatory Notes”,⁶ particularly the Explanatory Notes to Heading 86.07 of the Harmonized System; CBSA policies, including *Memorandum D10-0-1*;⁷ and CITT or other case law interpreting the foregoing.

³ *Customs Tariff Schedule*, *supra* note 1. Tariff item 8607.19.29 is “Wheels, whether or not fitted with axles: - Other”.

⁴ *Customs Tariff Schedule*, *supra* note 1.

⁵ *Ibid* at i.

⁶ World Customs Organization (“WCO”), *Explanatory Notes to the Harmonized Commodity Description and Coding System*, 6th ed (2017). See especially “86.07 – Parts of railway or tramway locomotives or rolling-stock” (EN) and “86.07 – Parties de véhicules pour voies ferrées ou similaires” (FR).

⁷ CBSA, *Memorandum D10-0-1*, “Classification of Parts and Accessories in the *Customs Tariff*”, 13 May 2014.

CONFIDENTIAL INFORMATION

- ☒ I confirm that this Notice of Appeal **DOES NOT** contain any confidential information. I hereby advise the Canadian International Trade Tribunal that, should the appeal proceed, government officials involved in the appeal may be granted access to any future confidential documents that may be filed by the appellant in these proceedings, including the appellant's brief.

OR

- ☐ I confirm that this Notice of Appeal **DOES** contain confidential information. I hereby advise the Canadian International Trade Tribunal that, should the appeal proceed, government officials involved in the appeal may be granted access to the following: (a) the confidential version of this Notice of Appeal, including any documents appended thereto; and (b) any confidential documents that may be filed by the appellant in these proceedings, including the appellant's brief.

D.G. Regan

Name (Print)

[Signature]

Signature

2019-4-10

Date (year/month/day)

Note: If this Notice of Appeal contains confidential information, you are required to produce a **public version** of the information by **blacking out or deleting** the information you wish to protect. This public version must be filed along with the Notice of Appeal. *Blanket confidentiality cannot be applied to the entirety of your Notice of Appeal.* Please see the *Confidentiality Guidelines*, available on the Tribunal's Web site at http://www.citt.gc.ca/en/Confidentiality_guidelines_e