

Pet Toys Are Not Classified For Customs Purposes The Same as Humans' Toys in Canada

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Even though I am amused at my puppy playing with her toys, the Canada Border Services Agency (“CBSA”) does not classify pet toys under H.S. Code 95.03 unless there is an identical toy for humans.

In [Pet Valu Canada Inc v D/MNR](#) (CITT File No. AP-97-017 and AP-97-053, AP-97-102, and AP-97-118) (which is an old case), the Canadian International Trade Tribunal (“CITT”) dismissed the appellant’s argument that pet toys were classified under H.S. Code 95.03, which covers “[o]ther toys; reduced-size (“scale”) models and similar recreational models, working or not; puzzles of all kinds.” This is important because humans’ toys are duty free under H.S. Code 95.03 and pet toys may be subject to duties if they are manufactured in a country subject to the MFN rate of duty (depending on the correct tariff classification).

The pet (dogs and cats) toys at issue in the *Pet Valu* case included items such as:

- a “Soft Bite Floppy Disc” designed to be used interactively in play with a dog;
- “Soft Bite” and plush-type toys;
- a “Clutch Ball”;
- certain rope-like articles used for tugging between a pet and a human;
- “Tuff Bite” chew toys; and
- “Feline Flyers,” which consist of a plastic wand attached to a length of string with a feather or fabric attached to the end, and a similar product called a “Kitty Kaster.”

The CITT looked at the World Customs Organization (WCO) Explanatory Notes for Heading 95.03:

“This heading covers toys intended essentially for the amusement of persons (children or adults). However, toys which, on account of their design, shape or constituent material, are identifiable as intended exclusively for animals, e.g., pets, do not fall in this heading, but are classified in their own appropriate heading.

La présente position comprend les jouets destinés essentiellement à l’amusement des personnes (enfants ou adultes). Par contre, les jouets qui, par leur conception, leurs formes ou leurs matières constitutives, sont reconnaissables comme étant exclusivement destinés aux animaux, les jouets pour animaux familiers, par exemple, ne sont pas classés dans la présente position, mais suivent leur régime propre.”

The CITT determined that H.S. Heading 95.03 contemplated toys for humans and not pet toys. It is important to note that the WCO Explanatory Notes continue to state “[t]his group covers toys intended essentially for the amusement of persons (children or adults). However, toys which, on account of their design, shape or constituent material, are identifiable as intended exclusively for animals, e.g., pets, do not fall in this heading, but are classified in their own appropriate heading.”

The CBSA had classified the pet toys under the following HS Classifications:

- 39.26 – Other articles of plastics and articles of other materials of heading Nos. 39.01 to 39.14.
- 3926.90 – Other
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- 4110.00.00 – Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour.
- 5609.00.00 – Articles of yarn, strip or the like of heading No. 54.04 or 54.05, twine, cordage, rope or cables, not elsewhere specified or included.
- 63.07 – Other made up articles, including dress patterns.
- 6307.90 – Other
- 6307.90.99 – Of other textile materials
- 6701.00 – Skins and other parts of birds with their feathers or down, feathers, parts of feathers, down and articles thereof (other than goods of heading No. 05.05 and worked quills and scapes).
- 6701.00.90 – Other

The CITT accepted these classifications, except where it could be shown that an identical toy was available for sale to humans – these items could be classified under H.S. Code 95.03.

It is clear that in Canada, depending on the type of pet toy, one of the above H.S. Codes may apply or another H.S. Code. There isn't a single H.S. Code for pet toys – making tariff classification a complicated task.



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