Administrative Appeals Tribunal of Australia

Re Unisys Manufacturing Australia and Collector of Customs [1991] AATA 233 (18 October 1991)

ADMINISTRATIVE APPEALS TRIBUNAL

Re: **UNISYS** MANUFACTURING AUSTRALIA
And: COLLECTOR OF **CUSTOMS**
No. N90/1069
AAT No. 7421
Customs

COURT

ADMINISTRATIVE APPEALS TRIBUNAL
GENERAL ADMINISTRATIVE DIVISION
B.J. McMahon(1) (Deputy President), D. Coffey(1) (Member) and J.P. McAuley(2) (Member)

CATCHWORDS

Customs - classification of goods - insulated **cable**, containing 12 pairs of copper wires and fitted at either end with male plug containing 25 pins - application under **Customs Act 1901** s 273GA - whether classifiable under Item 8544 as "insulated .... wire **cable** .... whether or not fitted with connectors" - whether classifiable under 8473.30 being a part or accessory of a machine classified under 8471 "automatice data processing machines ...." - goods classifiable

under 2 or more headings Interpretation Rule 3(a)

Customs Act 1901 s 273 GA

Items 8471 8473.30 8544

Customs Tariff Act Schedule 3 s XIV N.2

Cody (Collector of **Customs**) v Datacraft (Australia) Pty Limited 19 ALD 145

Deputy Federal Commissioner of Taxation v Polaroid Australia Pty Ltd 71 ATC 4249; (1972) 46 ALJR 32

Federal Commissioner of Taxation v Kentucky Fried Chicken Pty Limited and Anor 88 ATC 4363

Re Gefo Australia Pty Limited and Collector of **Customs** 12 ALD 295

Transaction Australia Pty Limited and Collector of **Customs** (Vic) 4 ALD 489

Re Tubemakers of Australia Pty Limited v Collector of **Customs** 3 ALD 199

Walterscheid Australia Pty Limited v Collector of **Customs** 14 ALD 785

HEARING

SYDNEY
18:10:1991

ORDER

The decision under review is set aside and the matter is remitted to the respondent with the direction that the subject goods should be classified to Item 8473.30 of the Tariff.

DECISION

This is an application under s 273GA of the **Customs Act 1901** to review a decision of the respondent to classify the subject goods to Item 8544 as "insulated ... wire **cable** ... whether or not fitted with connectors". The applicant contends that the goods should be classified to Item

8473.30 being a part or accessory of a machine classified under 8471. That classification deals with "Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included".

2. The goods were described on the invoice accompanying the entry for home consumption as "50 feet RS-232 **cable**". The goods consist of a length of insulated **cable**, containing 12 pairs of copper wires and fitted at either end with a male plug containing 25 pins. A sample that was tendered in evidence bears a label "Listed EDP low voltage interconnecting **cable** assembly". The goods are prepared to a recommended specification (hence the initials RS) for a specific use. The **cable** is used to connect a computer to another computer in order to obtain access to the data stored in that other computer. It can be used as a connector between a screen and keyboard on the one hand and a central processing unit on the other. A typical example of its use is to be found at an airlines desk, where the operator of a screen and keyboard can connect with the central computer.

3. RS-232 **cable** is not used except for communication between computers or for communication between computers and dumb terminals or for communication between various components of computers. The **cable** is not suitable for other forms of telecommunication communications and is not suitable for internal communications within each device in a computer system.

4. Each item of data terminal equipment (loosely called a computer), such as a laptop or personal computer, is complete without a connecting **cable**. The **cable** is by no means necessary for the operation of the computer. The evidence of the applicant was that the **cable** merely enhances the capabilities of such a small computer by enabling it to access a far larger database than would be capable of being stored in a small computer.

5. The inter connecting **cables** within a unit are physically different from an RS-232 **cable**. They are usually ribbon **cables** where the conductors lay side by side. Furthermore they are usable only in a particular machine. An RS-232 connector however is compatible with most other forms or brands of computers. Although the RS-232 **cable** carries or transmits data in the broadest sense of that term, it is nevertheless a specific use **cable** and can not be used for any other purpose. Within a system consisting of separately housed components, **cables** are connected permanently and can plug in to a specific device only. Such **cables** are not transferable between other computers.

6. It is possible to link a smaller computer with a larger one within the same room. It is also possible to connect it with a more distant computer by the use of modems. The RS-232 **cable** can connect a small computer to a modem, which is then connected by telephone line to another modem,

from which another RS-232 **cable** can lead to the large data base.

7. The interface function of an RS-232 **cable** is explained by an article in the Penguin Dictionary of Computers in these terms -
"Interface standards In order that computer products made by

> different manufacturers may work together, standards authorities in different countries have produced recommended methods of interconnexion which cover mechanical, electrical, and functional characteristics required in the interface between devices. For example, a common interface standard for communication between a computer and its peripheral units is one known as RS-232-C which is published by the EIA (Electronic Industries Association, Washington DC, USA). This standard embraces certain other standards produced by other organizations including: (i) A function for passing data in serial form between a computer and a modem as published by CCITT under their recommendation known as V24. (ii) Another associated CCITT standard known as V28, which recommends the electrical characteristics of these signals. (iii) A standard for mechanical connexions as published by ISO in standard 2110 for a plug known as a D type.
> In short, RS-232-C defines a standard for passing data between two devices in serial form, including the timing pulses and control signals required through a standard plug connexion in which the significance of each pin is defined."

8. The interface mechnical characteristics are set out in s 3 of the Standard developed by the Electronic Industries Association and tendered as Exhibit B. That section lists the functions of each of the 25 pins in the terminal plugs so that there is a universal practice in selecting pin assignments when constructing the connectors.

9. The parties agree upon the following written statement of facts-

> "The parties agree that the goods, the subject of this application are suitable for use solely or principally with machines of heading 8471 of Schedule 3 to the **Customs Tariff Act 1987** - namely, automatic data processing machines as defined in Note 5 to Chapter that Schedule."

10. While making this concession, the respondent contended that the subject goods were parts. Having so identified them, the respondent then relied upon Note 2 in section XIV of Schedule 3 of

the **Customs Tariff Act** which is in the following terms

> "2.-Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:
> (a) Parts which are goods included in any of the headings of Chapters 84 or 85 (other than 8485 and 8548.00.00) are in all cases to be classified in their respective headings;
> (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of 8479 or 8543) are to be classified with the machines of that kind. However, parts which are equally suitable for use principally with the goods of 8517 and 8525 to 8528 are to be classified in 8517;
> (c) All other parts are to be classified in 8485 or 8548.00.00."

11. The respondent then went on to argue, pursuant to that Note, that the parts should be classified to Item 8544 as **cables** in their own right, as that was the respective heading to be applied.

12. It was not seriously argued by the respondent that the subject goods were a part of any constituent device in the immediate assembly of a computer. It was not a part of a central processing unit, an input unit or an output unit. It was submitted, however, that it was a part because when the connection was made by RS-232 **cable** between immediately interconnected units and a remote data bank, the whole of the assembly became an automatic data processing machine and the **cable**, being the connecting link, was therefore part of that machine.

13. In support of this submission, the respondent relied upon the test applied in Transaction Australia Pty Limited and Collector of **Customs** (Victoria) 4 ALD N89 in that the **cable** was essential to the operation of the ADP machine. Alternatively, the **cable** could be regarded as a constituent or component of a whole entity in the same way that the subject goods were regarded in Re Tubemakers of Australia Pty Limited v Collector of **Customs** 3 ALD 199 at 199.

14. This submission however appears to be at variance with the observations of Davies J in Walterscheid Australia Pty Limited v Collector of **Customs** (inadequately reported at 14 ALD 785) where His Honour said at page 13 of the full text-

> ".....I hardly need state that in ordinary parlance something may be a part of a composite article yet not be essential to the

functioning of that article. Ashtrays and armrests incorporated into motor vehicles during manufacture are examples. This was made clear in Re National Panasonic (Australia) Pty Limited and Collector of **Customs** (NSW) (1985) 7 ALD 647 where the Tribunal said at pp 656-7:-

"Accessory" seems almost by definition to connote something that is additional, or even perhaps optional. And there are many parts of or for articles or entities of various kinds that are clearly not indispensable to their use. A car from which a headlight dipswitch is missing has a disability, and should not pass a roadworthiness test. But the car is not thereby unusable."

In Re Transaction Australia Pty Limited and Collector of **Customs** (Vic) (1981) 4 ALN. N89, to which in the present case the Tribunal referred and from which it drew guidance, I think the Administrative Appeals Tribunal was not questioning that. In that case, the Tribunal was considering whether certain gas cylinders especially designed for use on forklift trucks were parts for those trucks. The Tribunal concluded that the cylinders were parts for the trucks and in doing so took into account the fact that the gas cylinders were essential to the operation of the forklift equipment. In looking at the matter in this way, the Tribunal was not saying that, for a piece of equipment to be a part of a composite entity, it had to be essential to the operation of that entity, the Tribunal was saying that the function which the item played was a matter which could be relevant in a determination as to whether it was or was not a part of an entity. With that proposition there can be no quarrel, as long as it is understood that an item separate from another may not be a part of the other even though it is essential to its functioning. As Gibbs J. said in Deputy Commissioner of Taxation Australia Pty Ltd at p 34:-

"One thing does not become part of another simply because the latter thing cannot be put to proper use without the aid of the former, even if, in use, the two things are fixed together."

See also the remarks of the Tribunal in Re National Panasonic (Australia) Pty Limited and Collector of **Customs** (NSW) at p 657 which are to the same effect.

The proper test in relation to the word "part" was stated by Gibbs J. in Polaroid Australia at p 34:-

"Obviously a part is something which with others makes up a whole ..."

In one sense, therefore, a part is something which is essential to

complete the whole. But that was not the test applied by the Tribunal."

15. It seems to us, however, that whether or not the RS-232 **cable** is to be regarded as a part, depends upon whether the enlarged assemblage is to be regarded as the appropriate unit of which it is to form a part. In order to arrive at this conclusion, the respondent relied upon the definition of automatic data processing machines in Note 5 of Chapter 84 which is in the following terms-

"5.-(A) For the purposes of 8471, "automatic data processing machines" means:
(a)Digital machines, capable of
(1) storing the processing program or programs and at least the data immediately necessary for the execution of the program;
(2) being freely programmed in accordance with the requirements of the user;
(3) performing arithmetical computations specified by the user; and,
(4) executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run;
(b) Analogue machines capable of simulating mathematical models and comprising at least: analogue elements, control elements and programming elements;
(c) Hybrid machines consisting of either a digital machine with analogue elements or an analogue machine with digital elements.
(B) Automatic data processing machines may be in the form of systems consisting of a variable number of separately-housed units. A unit is to be regarded as being a part of the complete system if it meets all the following conditions:
(a) it is connectable to the central processing either or through one or more other units;
(b) it is specifically designed as part of such a system (it must, in particular, unless it is a power supply unit, be able to accept or deliver data in a form (code or signals) which can be used by the system).
Such units presented separately are also to be classified in 8471.
8471 does not cover machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function. Such machines are classified

> in the headings appropriate to their respective functions
> or, failing that, in residual headings."

16. In our view, the respondent has misapplied this definition. Although paragraph (B) refers to a variable number of separately housed units, we consider that this should be read to mean units that are habitually connected and used together and which are connected by some permanent or semi permanent means. Reservoirs of data into which a computer is linked from time to time does not, in our view, bring the reservoir of data into a system with the computer so as to form part of one large automatic data processing machine. This view of the meaning of the chapter note is supported by an extract from the relevant passage in the Brussels nomenclature as follows -

> "Digital data processing machines usually consist of a number of
> separately housed interconnected units. They then form a "system".
> A complete digital data processing must comprise, at least:
> (1) A central processing unit which generally incorporates
> the main storage, the arithmetical and logical elements
> and the control elements; in some cases, however,
> these elements may be in the form of separate units.
> (2) An input unit which received input data and converts
> them into signals which can be processed by the machine.
> (3) An output unit which converts the signals provided by
> the machine into an intelligible form (printed text,
> graphs, displays, etc.) or into coded data for further use
> (processing, control, etc.)
> Two of these units (input and output units, for example) may be
> combined in one single unit.
> These systems may include remote input or output units in the form
> of data terminals.
> Such systems may also include peripheral units, apart from the
> input or output units, designed to increase the capacity of the
> system, for instance by expanding one or more of the functions of
> the central unit (see Part (D) below).
> Such units are inserted between the input or output units (start and
> end of the system), although adapting and converting units (channel

adaptors and signal converters) may occasionally be connected

> before the input unit or after the output unit."

17. Paragraph (B) is intended to cover computers and to define them as single units where the central processing unit, the input unit and the output unit are housed separately, as they commonly are in many simple computer assemblies.

18. Not being of a semi-permanent nature, having no function except to facilitate interface between computer components and playing no part in the internal mechanism of any of those constituents the **cable**, therefore, can not be said to be a part of an automatic data processing machine, even having regard to the expanded terms of the definition of such a machine.

19. If we are wrong in that conclusion, we would still be of the view that the respondent misapplied Note 2 of s XVI in his submission. The "respective heading" is, in our view, heading 8473 as it refers specifically to parts suitable for use solely or principally with ADP machines. The procedure outlined in the Note is to be availed of where there is no specific heading covering parts. If it were otherwise, there would be no point in having Item 8473 in the tariff.

20. We consider rather that the subject goods should be regarded as accessories. In Deputy Federal Commissioner of Taxation v Polaroid Australia Pty Limited 71 ATC 4249; (1972) 46 ALJR 32 Gibbs J. (as he then was) had to consider whether Polaroid film packs and picture rolls designed for use in Polaroid cameras to produce finished pictures were either accessories or parts for cameras within the meaning of items 36 and 38 of the Second Schedule to the Sales Tax (Exemptions and Classifications) Act 1935. For present purposes it is sufficient to say that it specified "cameras" and item 38 specified "accessories and parts for goods covered by" item 36. His Honour held that the goods were neither parts nor accessories for cameras. In dealing with the question whether they were accessories his Honour said at ATC p 4253; ALJR whether they were accessories his Honour said at ATC p 4253; ALJR p 35:

> "The final question is whether the goods can be described as accessories for a camera. The ordinary dictionary meaning of accessory is an adjunct, which itself is defined as something joined to another, but subordinate, as auxiliary, or dependent upon it. It was because the Deputy Commissioner regarded the goods as essential to the use of a Polaroid camera that he preferred to submit that they are parts rather than accessories. In my opinion, however, the goods in question cannot be regarded as accessories for a Polaroid camera. An accessory for a camera is an extra and additional part of the equipment of the camera itself, such as a light meter, a filter or a wide angle lens, and in the ordinary course of language a film would not be referred to as an accessory for a conventional camera, nor a film pack or a picture roll as an accessory for a Polaroid camera."

21. The subject goods are not consumables, like films in cameras. They are goods that are attached to computers in order to enhance their capacity or effectiveness. Although it is not necessary that an accessory be attached to the principal article, it is recognisable as an adjunct or accompaniment to the principal article, aiding in that article producing some effect. In Federal Commissioner of Taxation v Kentucky Fried Chicken Pty Limited and Anor 88 ATC 4363 at 4369 Hope JA said -

> "As it seems to me, even without a context which may confirm such a conclusion, the word "accessory" whether used as an adjective or a noun does not necessarily connote that the accessory must be joined to something else. An object that is joined to another may well be an accessory although it will not necessarily be so. However it may still be an accessory even though it is not joined. Adopting as a basis the meaning given in the Macquarie Dictionary, an article will be an accessory if it is a subordinate part or object, added or attached for convenience or effectiveness or other such reason.
> I do not regard the word "added" in this meaning to require conjunction nor do I suggest that this meaning is exhaustive. However it is enough for present purposes. The word thus may apply to a subsidiary article whether joined or not joined to the principal article; it must be subordinate or subsidiary to that principal article and is added or attached for reasons such as convenience or effectiveness."

22. In Walterscheid Davies J confirmed a view of an accessory as "an extra or additional part" which "does not have to relate to the essential function" of the principal article. He specifically approved Re Gefo Australia Pty Limited and Collector of **Customs** 12 ALD 295 which held that car mats specifically designed to fit Mercedes Benz vehicles were "accessories for motor vehicles". The **cable** in question here is, as Gibbs J said in Polaroid, "an extra and additional part of the equipment".

23. The goods therefore are "accessories suitable for use solely or principally with machines of 8471 being automatic data processing machines". They are also capable of being described as "insulated **cables** whether or not fitted with conectors". As the goods are classifiable under 2 or more headings, classification is to be effected by Interpretation Rule 3(a).

24. In Cody (Collector of **Customs**) v Datacraft (Australia) Pty Limited 19 ALD 145 at 149 Northrop and Keely JJ said-

> "....In the context of interpretive rule 3(1)(a), the question to be decided is which item provides "a more specific description" of the subject goods. It is not appropriate to take each word separately, give a meaning to that word, and apply the result of three separate words. The words constitute a composite phrase and must be construed and applied accordingly. Nevertheless, it is helpful to note the meaning to be given to each of the words.

> The word "more" has many different meanings but in the context of interpretive rule 3(1)(a) it is appropriate to adopt the meaning "qualifying a predicate or a predicative adjunct as being more applicable in a greater degree than another"."

25. Burchett J adopted a functional test, when examining the extent to which the tariff description reduces the area within which the thing described is to be identified.

26. In our view, "accessories ... suitable for use solely or principally with machines of 8469 to 8472" is more specific than "**cables** with or without connectors". RS-232 **cable** is a specific accessory which, it has been agreed, is suitable for use solely or principally with machines of heading 8471. It has no general use as a **cable** in any other circumstances. The classification of 8544 indeed indicates that, notwithstanding its inclusion of optical fibre **cables**, (which of course the subject goods are not) it is directly concerned with **cables** intended for the transmission of electricity as such and not with telecommunications. It was submitted that the **cables** could be regarded in the same way as the motor vehicle carpets were viewed in Gefo because they were cut to size and had connectors added. As the classification deals with **cables** "with or without connectors" it seems to us that this is an irrelevant consideration.

27. For these reasons the decision under review is set aside and the matter is remitted to the respondent with the direction that the subject goods should be classified to Item 8473.30 of the tariff.

I have read the reasons of the majority but in my view the classification of 8544 is more appropriate for the subject goods than classification 8473 for reasons outlined below.

2. It is to be noted that the word "**cable**" is common to the description of the subject goods and heading 8544. As there is no explicit instruction in this case that the respective heading should not apply, prima facie the respective heading must be taken to be appropriate.

3. The reasons of the majority rely upon 8544 and 8473 as being equally applicable to invoke the Rule of Specificity, 3(a), concluding that 8473 is more specific.

4. The parties did not dispute that the goods were used with 8471, though disputed whether they were "accessories". They did not dispute that the goods were "prima facie" classifiable to heading 8544 as "insulated **cable**...." (point 8 of applicant's outline).

5. However, not all **cables** are necessarily "accessories" applicable to 8471 (and classifiable under 8473) nor are all accessories applicable to 8471, necessarily "**cables**". The terms may be mutually exclusive, so the specificity is a question of fact in each instance. On the other hand, the

RS232 cables are indisputably "insulated . . . wire, **cable** and other insulated electric conductors . . . made up of individually sheathed fibres...", the required common element in 8544. On this basis, the specificity of the goods relating to 8544 seems superior to the relevancy of 8473.

6. On this reasoning, the **RS232** are primarily a **cable** (as a contrary is not explicit), and only secondarily an apparatus for use with computers.

7. Heading 8473 could be interpreted in this instance as being in the nature of a "residual" heading of the type referred to in the last line of rule 5 of schedule 3, receiving an "inferior" status by virtue of being applicable only where goods have not been first "classified in the headings appropriate to their respective functions".

8. Rule 5 "legitimises" describing automatic data processing (ADP) units and systems, ie computers, as "machines" (ADP and machines are archaic terms in the computer industry). It could equally be argued that the sophisticated **RS232** is such a "machine" and therefore that the last paragraph of rule 5 applies, requiring **RS232 cables** to be "classified to their respective functions: "insulated ... **cable** ... made up of individually sheathed fibres" (ie 8544) "or, failing that, in residual headings" (8473).

9. The logical consequence of treating a "residual heading" of type 8473, as being of equal status in specificity to a "respective" heading, 8544, would be that the latter would fall into disuse. It is unlikely that this was the intention of the tariff.

10. In the present state of technology, it is often difficult to apply the legal distinctions between "part" and "accessory". Computer trade journals often split products into: accessories, peripherals, consumables, hardware, furniture, software (eg "Computer News", Winter 1989). "Parts" usually don't rate a mention. Moreover, the distinction between 8471 and 8473 is often blurred to the point where the former is as applicable as the latter.

11. Neither "part" nor "accessory" is function-specific. "Insulated ... **cable** ... and other insulated electric conductors" (8544) on the other hand are quite specific. On a functional test of specificity, heading 8544 is to be preferred.

12. **RS232 cables** commonly link a computer with a modem for telecommunications purposes, completing the necessary circuit and supporting the definition of a "part" of a system of "separately housed units" described in rule 5B, rather than being "an extra and additional part of the equipment" as in the Polaroid case (para 22).

13. Though "car mats specifically designed to fit Mercedes Benz vehicles" were "accessories for motor vehicles" "in the Gefo case, **RS232 cables** are not brand-confined, being as suitable for

IBM-compatible as much as non-IBM-compatible equipment such as **Unisys**.

14. In applying the "Rule of Specificity" (rule 3a of schedule 3) the "specificity" of heading 8473 is that this heading relates to (parts and accessories ... with) machines of 8469 to 8472 (ie 8471 relating to computers); on the other hand, with heading 8544, the specificity relates to the inclusion in this heading of the word: "**cable**". I consider the latter specificity is superior but one could be forced to the "Last Heading Rule, rule 3(c), which reads -

> "(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.".

On this interpretation, heading 8544 would be appropriate.

15. Considerations of a more detailed technical nature to be outlined, lend more conclusive support to heading 8544, stemming from the important role of **RS232 cables** in Data Communications Equipment (DCE), a technology comprising the **cables**, modems and telephone (or dedicated) lines for on-line distance data transmission. Data "transmission" is not one of the four specified functions of ADP machines listed in rule 5A of schedule 3 and rightly deserves to be therefore excluded from heading 8471 as "working in conjunction with an ADP machine and performing a specific function. Such machines are classified to their respective headings ...". Such a heading would be 8544.

16. "On-line" (long) distance transmission of data on an economical basis which enables previously existing telephone lines to be used without corruption of data, is sina qua non to the advantages of high speed computers at the present time. It is not 'technology' which is a limiting factor. Alternative means of long distant transmission of data are indeed technically available but are not economic, ranging from all forms of transport, to satellite channels; to date the latter are of restricted availability and therefore not presently feasible for much commercial usage. It would not be apt to describe the benefits from on-line data transmission facilitated through **RS232 cables** as the mere enhancement of an accessory.

17. Transmission of data in volume over short distances on the other hand, is not a problem technically nor economically. This may be conveniently handled via "parallel transfers" whereas this method is inferior in economic feasibility and physical convenience to "serial transfers" when long distances are involved. Exhibit A: "the **RS232** Solution" extract from Campbell's book, explained (pages 5-6) that whilst parallel (side-by-side) transmission is speedier than serial (one bit at a time) transmission, "this saving is offset by a decrease in efficiency" over long distances as it is neither physically convenient nor economically feasible to use the increased number of wires necessary under parallel transmission.

18. Thus whilst over short distance transmissions, the **RS232 cables** may take on some of the characteristics of enhancements or peripherals, as they may be described in marketing or even as "accessories" in a legal sense, this is trivial relative to the fundamental function of **RS232 cables** in on-line distance telecommunication, as defined in Exhibit A page 9: (**RS232 cables** provide the) "Interface between Data Terminal Equipment (DTE) and Data Communications Equipment (DCE) employing Serial Binary Data Exchange". This "describes the interface between a terminal (DTE) to a modem (DCE) for the transfer of serial data". When **RS232 cables** enable such a system, it is scarcely as an enhancement but a sina qua non component of transmission technology. This fundamental role of **RS232 cables** in data transmission and DCE is distinct from the association with computers and DTE and represents a lowering of the specificity of heading 8473 (derived from 8471 relating to computers) relative to heading 8544.

19. Reference to parallel and serial transmission of data was made in the evidence of Mr Gigier. He replied "yes" to the question posed by the respondent's counsel: when two computers are connected (by **RS232 cables**), are the **cables** part of the system?". Likewise Dr Cartmell, a witness for the applicant, agreed that when separate units are inter-connected by **RS232 cables**, the **cables** are "needed" and are not an enhancement. Devoid of the **cables** the "system" is inoperative; it is quite a different "system" when the separate units are working independently. In this sense the **cables** form a "part" of, rather than "accessories" to the system.

20. The advent some years ago, of on-line data transmission technology created revolutionary benefits to branch networks in commerce and industry, facilitating virtually simultaneous recording of transactions initiated in far distant locations and eliminating total dependence on conventional forms of tranport of the information to central accounting centres. Though associated with and enhancing centralised computer accounting, the on-line technology conferred transmission benefits independent of computer benefits, diminishing for **RS232 cables** (as well as for the modem and telephone lines), the specificity necessarily and alone with computing, and thus with heading 8473. This conclusion recognises nevertheless that **RS232 cables** are expressly manufactured for physical attachment to computers. The **RS232 cables** are transmitting, not computing data, a distinction recognised in the computing functions listed in rule 5 of schedule 3.

21. For all of these reasons, I would affirm the decision under review.
