

# COURT OF INTERNATIONAL TRADE:

## Parts of articles qualify for duty free treatment under Nairobi Protocol.

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*Starkey Laboratories Inc. v United States (Slip op 98-44 Apr 10, 1998)*

On cross-motions for summary judgement, Starkey argued that its merchandise, including potentiometers, trimmers, variable resistors, coils, microphones, receivers, hearing aid body parts and hearing aid sub assemblies which house microphones or receivers qualified for entry under the provisions of the Nairobi Protocol as articles specially designed or adapted for the use or benefit of physically handicapped persons. Customs contended that the parts and subassemblies were not 'articles', instead they are parts of articles specially designed for the use or benefit of physically handicapped persons. Because there are no provision for parts, they are not to be classified under the Nairobi Protocol provisions.

The court noted that Congress adapted headnotes waiving application of the rule of specificity, which otherwise could have caused certain goods to be classified under more specific headings. The court further noted that "Congress has opted for 'more liberalized treatment' in its enactments based on the Nairobi Protocol." Therefore, given the liberal treatment of goods entered under the Protocol, the fact that there was not a competing parts provision applicable, and the fact that the goods were indeed specially designed or adapted from the use of benefit of deaf person, the court denied customs' motions for summary judgement

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