



HARMONIZED SYSTEM
COMMITTEE

-
27th Session
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(+ Annex)

O. Fr.

Brussels, 14 March 2001.

CLASSIFICATION OF PLAY TENTS AND PLAY HOUSES

(Item IX.1 on Agenda)

I. BACKGROUND

1. On 23 January 2001, the European Community sent the Secretariat the following note concerning the classification of play tents and play houses. The EC requested the Secretariat to include this question on the agenda of the Harmonized System Committee's 27th Session.
2. The question is whether these products should be classified in heading 63.06 as tents or in heading 95.03 as toys.

II. NOTE BY THE EUROPEAN COMMUNITY CONCERNING THE CLASSIFICATION OF PLAY TENTS AND PLAY HOUSES

3. "The European Community wishes to draw the attention of the HS Committee to a problem it has encountered in connection with the classification of play tents and play houses in the Harmonized System nomenclature.

Description of the product

4. Play tents for use by children, indoors or out, consisting of a sheet of *nylon* cover fabric, a plastic tubular frame and small metal rods for pegging down the tent when used outdoors.
5. Three leaflets advertising various models of these play tents or houses are appended as an annex to this document.

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Classification

6. Some operators consider that these articles are tents and as such are specifically mentioned in the text of heading 63.06. They therefore ask that these tents be classified in subheading 6306.22 under GIR 1 and that classification in Chapter 95 be ruled out. Moreover, in their opinion, Note 1 (u) to Chapter 95 excludes tents from that Chapter, specifically and without qualification.
7. The EC, on the other hand, considers these articles to be toys of subheading 9503.90, under GIRs 1, 3 (b) and 6, Note 1 (t) to Section XI and the texts of heading 95.03 and subheading 9503.90.
8. In design, shape, size, structure and constituent materials, these articles are identifiable as being exclusively intended for the amusement of children and can hardly be regarded as tents or camping goods of heading 63.06.
9. Likewise, as regards the Explanatory Notes, these tents do not seem to correspond to the description of the tents of heading 63.06 in paragraph 4 of the Explanatory Note to that heading (page 948) and, accordingly, they are not affected by exclusion (c) of the Notes to Chapter 95 (page 1710).
10. The EC therefore considers that these products are not what is really meant by “tents, camping goods”. Some additional arguments in support of the view that the articles in question should be classified not with “tents” but with toys in heading 95.03 are offered below :
 - (1) The articles at issue lack a rigid framework and therefore could not withstand bad weather.
 - (2) They are play structures specifically designed as such for children aged 3 to 8. Most of the products have a theme and are intended to stimulate the child’s imagination thanks to their play potential.
 - (3) If these articles were intended for camping, it would be possible to sleep in them, which means that their area or length should be sufficient to allow someone to lie down. In fact, the floor area of most of the articles in the range described in the catalogue is less than one square metre and the average length of the ground sheet can be estimated at about one metre.
 - (4) In compliance with toy safety standards, the design provides enough windows for ventilation and observation. These are usually large pieces of nylon mesh. This system is inconsistent with the idea that the product is intended to serve the same purpose as a normal camping tent, namely to provide protection from the elements, and makes it totally unsuitable for practical use outdoors. It should also be pointed out that, in a number of cases, parts of the roof and sides have been removed to facilitate access and observation, which means that the product would offer no protection if put to normal outdoor use.
 - (5) Similarly, again in compliance with toy safety standards, it should be possible for a child to open all the doors easily by applying an effort of not more than 50 N. In the products in question, this requirement is met by using *velcro* fasteners which do not

provide a tight seal against wind and weather. Hence these play houses and tents are quite unsuitable for practical outdoor use.

- (6) As regards the material specifications, the *nylon* used in these play houses and tents is different from that which would be used for camping goods. In the latter, the *nylon* must be waterproof, i.e., water should not be able to penetrate it, which needs to be demonstrated in order to comply with marketing standards. The method is believed to consist in coating the bare material and then carrying out a water penetration test. The *nylon* used in the play houses and tents marketed by *Worlds Apart* is not sufficiently waterproof : it is shower-resistant but not impermeable. Thus, it is unsuitable as a tent material.
- (7) The *nylon* used for camping goods must be colour-fast, withstand exposure to light (UV) and friction and not soil easily. Once again, the materials of the *Worlds Apart* range are not rugged enough to withstand long periods of use in the open air.
- (8) In general, the quality of the constituent materials is suited to the purpose, namely ordinary play activity. It should be stressed that these materials (sewing thread, *velcro* fasteners, *nylon* ties) are not strong enough to withstand prolonged outdoor use.
- (9) All outdoor camping articles have a completely waterproof ground sheet, probably polypropylene-based. None of the play houses or tents includes this feature.
- (10) In general, camping tents, i.e., those that fall in heading 63.06, are equipped with fastenings, guy ropes and pegs that provide suitable and sufficient stability for outdoor use. None of the articles at issue is provided with accessories of this type. The *Worlds Apart* product range is not designed to ensure the stability of the structure under extreme outdoor conditions.
- (11) Most articles of the "igloo" type have a sprung steel frame. Nevertheless, although it is coated to prevent rusting and metal fatigue, the protection is inadequate for continuous outdoor use. To the best of our knowledge, camping articles normally have a fibreglass tubular frame.
- (12) Most camping tents are assembled with waterproof seams to prevent water penetration and leaks where the panels are stitched together. The *Worlds Apart* products do not have waterproof seams or joints; they have the standard stitching suitable for toys and domestic articles.
- (13) As shown by the brochure which accompanied the two samples, some articles of the *Worlds Apart* range are designed for use with tunnels which allow the child to crawl from one play house or tent to another. Such a system is unlikely to be encountered in the category "tents, camping goods, etc."
- (14) *Worlds Apart* is a toy manufacturer and the articles in question were designed, produced, marketed and sold as toys. It is clear that they are not intended for camping and would be completely unsuitable for that use. There would be no guarantee of their safety and, in fact, it is specifically indicated on the packaging that the articles should not be used for camping purposes.

Conclusion

11. The EC considers that in design, shape, size, structure and constituent materials, these articles are identifiable as being exclusively intended for the amusement of children and can hardly be regarded as tents or camping goods of heading 63.06. Consequently, it is classifying these articles in subheading 9503.90 under GIRs 1 and 3 (b) and Note 1 (t) to Section XI.
12. The EC requests the Committee to confirm this classification."

III. SECRETARIAT COMMENTS

13. The Secretariat points out that tents are specifically mentioned in the text of heading 63.06 and it is conceivable that the products submitted by the EC could be classified there. However, when the size, shape, design, sturdiness and structure of the play houses and play tents at issue are compared with those of articles that currently fall within heading 63.06, it seems difficult to accept their classification in that heading.
14. The New Shorter Oxford Dictionary (page 3354) defines a toy as an "object to play with, often a model or miniature replica of something and especially for a child; something intended for amusement rather than for practical use". The Secretariat is of the opinion that this definition describes the articles in question. Clearly, these articles cannot be used for normal camping activities, especially where prolonged exposure to bad weather is involved. As they are mainly intended for children, the Secretariat regards them essentially as toys. This interpretation is confirmed by the manufacturer's leaflets, appended to this document, which, as well as indicating that they are for children aged 3 to 8, recommend that they should not be used for camping purposes.
15. The Secretariat considers that the play houses and play tents at issue, which are small and fragile, are different from the articles of heading 63.06 and that their classification cannot be based on Note 1 (u) to Chapter 95. On the other hand, Note 1 (t) to Section XI, which states that this Section does not cover "Articles of Chapter 95 (for example, toys, games, ...)", could apply to the products submitted by the EC, which appear to be children's toys rather than tents. In the Secretariat's view, once it is agreed that these articles should be treated as toys and, as such, excluded from Section XI, it would not be necessary to justify their classification under General Rule 3 (b), as suggested by the EC in paragraph 11 above.
16. In the light of the conclusions set out in paragraphs 13 to 15 above, the Secretariat would be inclined to classify the play tents and play houses at issue in subheading 9503.90 under Rules 1 (text of heading 95.03 and Note 1 (t) to Section XI) and 6 (text of subheading 9503.90).

IV. CONCLUSION

17. The Committee is invited to rule on the classification of the play houses and play tents in question, taking into account the Note submitted by the European Community and the Secretariat's comments, reproduced in paragraphs 3 to 12 and 13 to 16 above, respectively, and to indicate the action to be taken.

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