



HARMONIZED SYSTEM
COMMITTEE

NC0505E1

-
28th Session
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O. Fr.

Brussels, 23 October 2001.

CLASSIFICATION OF A REINFORCEMENT GRID CALLED "FORTRAC 35/35-40"

(Item VII.12 on Agenda)

Reference documents :

NC0318E1
NC0340E2, Annex H/10 (HSC/26 – Report)
NC0395E1
NC0430E2, Annex H/12 (HSC/27 - Report)
NC0473E1 (HSC/28)

I. BACKGROUND

1. After the publication of Doc. NC0473E1, the Secretariat received, on 18 October 2001, the following note from the US Customs Administration concerning the classification of a reinforcement grid called "Fortrac 35/35-40".

II. NOTE FROM THE US ADMINISTRATION

2. "At its 27th Session, the Harmonized System Committee considered the classification of a reinforcement grid known as the "Fortrac 35/35-40". The Committee voted by 31 votes to 4 to classify the product in Chapter 39 by application of Note 2 (a) (3) to Chapter 39.
3. When the Committee considered in which heading within Chapter 39 to classify the Fortrac 35/35-40, there was a difference of opinion over the application of Note 10 to Chapter 39 and whether the product was classifiable in heading 39.21. Specifically, some delegates differed over whether the Fortrac 35/35-40 could be considered as a plate, sheet, film foil or strip under Note 10 because it has open areas. With respect to this matter, the US delegate was of the view that there was nothing in Note 10 or in the common understanding of the term "sheet" that would preclude classification of a product such as the Fortrac 35/35-40 from being considered a sheet for purposes of classification in heading 39.21. Therefore, in his view, Note 10 to Chapter 39 did not preclude classification of the product in heading 39.21. The US Delegate indicated that his administration would

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submit comments for consideration by the Committee had its next session. Those comments are set forth below.

Classification of the merchandise

4. Legal Note 10 to Harmonized System Chapter 39 provides as follows :

In headings Nos. 39.20 and 39.21, the expression "plates, sheets, film, foil and strip" applies only to plates, sheets, film, foil and strip (other than those of Chapter 54) and to blocks or regular geometric shape, whether or not printed or otherwise surface-worked, uncut or cut into rectangles (including squares) but not further worked (even if when so cut they become articles ready for use).

5. The text to heading 39.21 provides for "other plates, sheets, films, foil and strip, of plastics".

6. Nothing in the text either to Note 10 or to heading 39.21 operates to preclude classification of a flat and broad plastic material with open areas (such as the Fortrac 35/35-40) from classification as a sheet in heading 39.21. A sheet remains a sheet even if it contains open areas, and nothing in the Harmonized System or common understanding of the term "sheet" is inconsistent with this view : a sheet may be generally defined as "a broad thinly expanded portion of metal or other substance," *Webster's Third New International Dictionary of the English Language Unabridged* (1993), page 2091.

7. Finally, we note that no information has been presented for consideration by the Committee that shows that a sheet cannot be classifiable in heading 39.21 simply and merely because it has open areas.

Conclusion

8. In light of the above, the United States believes that the Fortrac 35/35-40 is properly classified in heading 39.21."

III. CONCLUSION

9. The Committee is invited to take account of the above-mentioned comments by the US Administration when examining this Agenda item.
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