



HARMONIZED SYSTEM
COMMITTEE

-
30th Session
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NC0639E1
(+ Annex)

O. Fr.

Brussels, 2 October 2002.

CLASSIFICATION OF A CELLULAR PLASTICS-COVERED NONWOVEN

(Item VIII.25 on Agenda)

I. BACKGROUND

1. By letter of 12 November 2001, the Customs Administration of **Iran** requested the Secretariat's opinion on the classification of a plastics-covered nonwoven in the Harmonized System.
2. After obtaining the Secretariat's opinion on the classification of this product, in a letter dated 9 June 2002, a copy of which is annexed to this document, the **Iranian** Administration asked for the question to be submitted to the Committee in order that it might rule on the classification and on the possibility of clarifying the situation by means of an amendment to the Explanatory Notes.

II. DESCRIPTION

Nonwoven made of polyester filaments (29 % by weight) coated with a layer of cellular plastics (71 % by weight) consisting of vinyl polychloride covered with a thin film of polyurethane, put up in rolls 120 cm wide and weighing 814 g per square metre.

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3. The above description is essentially based on the results of an analysis carried out by a Member's Customs laboratory, which was asked to comment on the composition of the product, and on information supplied by the Iranian Administration, which also noted that the product was intended for making, for example, shoes, purses, handbags and wallets.

III. CLASSIFICATION

Comments by the Iranian Administration

4. The Iranian Administration considers that the textile material in the sample provided should not be regarded as being present merely for reinforcing purposes within the meaning of Note 3 (c) to Chapter 56 and that, on the contrary, the product at issue should fall in heading 56.03 as a nonwoven laminated with plastics, by application of Interpretative Rule 1 (text of heading 56.03 and Note 3 to Chapter 56).
5. It suggests that to avoid any problems with the classification of such products, "In item (d) of the Explanatory Note to Chapter 39, page 719, under **Plastics and textile combinations**, the explanations concerning nonwovens present for reinforcing purposes should be made more detailed and examples of elaborate working should be added to this part of the Note or to Note 3 to Chapter 56".
6. It also considers that the present Explanatory Notes do not provide a sufficiently clear-cut definition of the term "strip" in Chapter 39, especially in terms of dimensions.

Secretariat comments

7. In this particular case, the Customs laboratory that was asked to comment on the composition of the product and the various materials it contained described the article in question as follows :

"The product at issue is a nonwoven, grey/white in colour, made of polyester coated with a layer of plastics. The cellular plastic coating is made from plasticized polyvinyl chloride, covered with a very thin film polyurethane. The product has a weight per square metre of 814 g and the proportions of textile material and plastics are 29 % and 71 % respectively by weight, with the textile material, in my opinion, serving for reinforcing purposes".
8. The classification of combinations of plastics and nonwovens is essentially governed by Note 1 (h) to Section XI and Note 3 to Chapter 56. As the product in question is a nonwoven covered on one face only with cellular plastics, subparagraph (c) of this latter Note should be taken into consideration.
9. In the light of these considerations and after making a visual examination of the sample, the Secretariat took the view that the nonwoven was neither figured nor worked and was therefore mere reinforcing and informed the requesting administration that, taking into account the plastics used (cellular polyvinyl chloride), it would classify the article in subheading 3921.12 by application of Interpretative Rule 1 (Note 3 (c) to Chapter 56).

10. The Secretariat wishes to point out that the classification of woven fabrics lightly covered with cellular plastics and the scope of the expression “merely for reinforcing purposes” have been examined in the past by the Harmonized System Committee.
11. Initially, as regards textile products combined with cellular plastics or cellular rubber, the expression "merely for reinforcing purposes" – used in the General Notes to Chapter 39 and in Note 3 to Chapter 56 and Note 2 to Chapter 59 – was defined in the Harmonized System only for certain products made from vulcanized rubber combined with textile material.
12. This definition, which was provided in the Explanatory Note to heading 40.08 and is still to be found there, on page 762 (fourth paragraph, item (A), second paragraph), reads as follows :

"In this respect, unfigured, unbleached, bleached or uniformly dyed textile fabrics, when applied to one face only of these plates, sheets or strip, are regarded as serving merely for reinforcing purposes. Figured, printed or more elaborately worked textiles and special products, such as pile fabrics, tulle and lace, are regarded as having a function beyond that of mere reinforcement."
13. It was at its 9th Session, in April 1992, that the Committee confirmed a decision taken at its 6th Session to establish, in principle, the same distinguishing criteria for woven fabrics combined with cellular plastics as for woven fabrics combined with cellular rubber.
14. The corresponding amendments to the Explanatory Notes to Chapter 39 (General Notes), heading 56.02 (felt), heading 56.03 (nonwovens) and heading 59.03 (textile fabric impregnated, coated or covered with plastics) were adopted by the Committee at its 11th Session in June 1993.
15. This means that the expression "merely for reinforcing purposes" applies equally to all products of this kind, no matter whether the cellular material is combined with a woven fabric, a felt or a nonwoven, and that if the product concerned meets the terms of the definition, it must be classified in Chapter 39.
16. In this respect, the Secretariat considers that the French term "produits textiles" mentioned in the General Notes to Chapter 39, under the heading "Plastics and textile combinations", indent (d), second paragraph, covers not only woven fabrics but also felts and nonwovens and that the working and operations mentioned there apply de facto to felts and nonwovens.
17. The Secretariat also notes that the working and operations that can be performed on nonwovens are listed in the Explanatory Note to heading 56.03, on page 990, under item III, Finishing, first paragraph. This part of the Explanatory Note also mentions the criteria for classifying nonwovens combined with other materials (see also page 991, first paragraph, subparagraphs (a) and (b)).
18. However, the Secretariat agrees with the Iranian Administration that the English term “textile fabrics” corresponding to the French term “produits textiles” mentioned in paragraph 16 above could be interpreted as covering only woven fabrics, to the exclusion of felts and nonwovens, given that it is the same term as used in subparagraph (d), first line, which, for its part, covers only woven fabrics.

19. At the same time, it has to be admitted that in combinations of felt/nonwovens and cellular plastics, the felt or nonwoven is almost always unfigured, unbleached, bleached or uniformly dyed. This means that most of these combinations will fall in Chapter 39.
20. Moreover, under the current legal provisions of the Harmonized System and the Explanatory Notes, the same article made from the same textile material coated with plastics in the same proportions on one face will be classified differently depending on whether or not the plastics are cellular.
21. Finally, as far as the word “strip” is concerned, although it is not precisely defined in Chapter 39 in terms of its dimensions, Note 10 to the Chapter does give a definition of the term and the Explanatory Note to heading 39.20 indicates that this heading does not include strip of plastic materials of an apparent width not exceeding 5 mm, which fall to be classified in Chapter 54.

IV. CONCLUSIONS

22. The Committee is invited to rule on the classification of the nonwoven covered with cellular plastics, in the light of the comments and information provided by the Iranian Administration and the Secretariat comments above, and to decide whether the relevant Explanatory Notes should be amended.

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NOTE BY THE ADMINISTRATION OF IRAN

"Thank you for your letter No. 02NL0042 – Cas/DM of 22 January 2002 advising us on the classification of the plastic-covered nonwoven.

However, further to our letter No. 18/250/10/3346-17/63, 64 and with reference to your above-mentioned letter, while enclosing a sample of the disputed product, I beg to inform you that:

The (sample of the) product with plastic and nonwoven layers is believed to be a nonwoven textile covered by a layer of plastic material (cellular, as indicated) and is imported in rolls 120 cm wide for manufacturing shoes, purses, handbags, wallets, etc. Considering the thickness, burst resistance, flexibility, moisture absorption, and the chamois state of the nonwoven textile and given the Secretariat's letter No. 00NL0331 – BO/id regarding textiles that have been elaborately worked (e.g. by embossing or raising) the Iran Customs Administration is of the opinion that the textile material in the enclosed sample is not to be regarded as merely for reinforcing purposes, as explained in item (h) of Section XI Exclusions and item (c) of Note 3 to Chapter 56. According to GIR 1, Note 3 to Chapter 56 and the text of heading 56.03 (and especially item III. Finishing of the Explanatory Note to heading 56.03) the product at issue could fall in heading 56.03 as a nonwoven laminated with plastic material. Moreover, as the Notes to Chapter 39 and Section XI appear to be unclear, the following observations are offered for consideration :

1. The term "strip" in Chapter 39 is not provided with a clear-cut definition, especially in terms of dimensions.
2. In item (d) of the Explanatory Notes to this Chapter, under "Plastics and textile combinations", page 719, the explanations provided raise problems, since in the first paragraph "plates, sheets, strip of cellular plastic combined with textile fabrics..., nonwovens" are mentioned, whereas in the second paragraph "In this respect unfigured ...", which serves to explain the concept of reinforcing, only textile fabrics are mentioned and there is no reference to nonwovens.
3. In the Explanatory Notes, page 923, several operations, including "raising, napping, goffering", which can be performed on woven fabrics of Chapters 50 to 55 are mentioned, but there is no reference in the General Notes to Section XI to the elaborate working of nonwovens.
4. Since the explanations in the Explanatory Note to heading 56.03, under III. Finishing, are not taken into consideration in the classification of nonwovens, the Secretariat is kindly requested to provide examples of articles likely to undergo the working mentioned in this Part III of the Explanatory Note.

Taking into account the points mentioned above and in order to avoid problems in classifying such products, may I suggest that :

In item (d) of the Explanatory Note to Chapter 39, page 719, under "Plastics and textile combinations", the explanations concerning nonwovens present for reinforcing purposes

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should be made more detailed and examples of elaborate working should be added to this part of the Note or to Note 3 to Chapter 56.

Thank you for your valuable cooperation. I look forward to hearing from you soon.”
