



HARMONIZED SYSTEM
COMMITTEE

-
26th Session
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NC0295E1
(+ Annex)

O. Fr.

Brussels, 31 August 2000.

CLASSIFICATION OF POST-OPERATIVE SHOES IN THE 2002 VERSION OF THE HS

(Item VII.13 on Agenda)

Reference documents :

40.075 (HSC/17)	NR0090E1 (RSC/21)
40.260, Annex IJ/14 (HSC/17 – Report)	NC0247E1 (HSC/25)
40.426 (HSC/18)	NC0250E2, Annex F/1, paragraph 79 (HSC/25 – Report)
40.600, Annexes G/11 and L/20 (HSC/18 – Report)	
NG0017B1 – Recommendation of 25 June 1999	

I. BACKGROUND

1. At its 25th Session, the Committee examined the conclusions of the Review Sub-Committee's 21st Session, and particularly the draft amendments to the Compendium of Classification Opinions consequential upon the amendments made to the legal texts included in the HS Article 16 Recommendation of 25 June 1999.
2. With respect to the present Classification Opinion 6402.99/2 on post-operative shoes, the Committee decided to postpone the examination of this matter till its next session to obtain further information to determine the classification of this article in the 2002 version of the HS.

File No. 2584

II. COMMENTS BY CANADA

3. On 3 August 2000, the Secretariat received the following Note from the Canadian Administration.
4. "After reviewing our file I can confirm the following :
 - (a) The shoes are mass-produced, presented separately and not in pairs.
 - (b) The shoe is designed to fit either foot equally.
 - (c) These shoes do not correct a deformity; they appear to be primarily a protective covering or an encasement for the foot."

III. SECRETARIAT COMMENTS

5. The issue is whether these shoes meet the conditions set out by new Note 6 to Chapter 90, which reads as follows :

"6. – For the purposes of heading 90.21, the expression "orthopaedic appliances" means appliances for :

 - Preventing or correcting bodily deformities; or
 - Supporting or holding parts of the body following an illness, operation or injury.

Orthopaedic appliances include footwear and special insoles designed to correct orthopaedic conditions, provided that they are either (1) made to measure or (2) mass-produced, presented singly and not in pairs and designed to fit either foot equally."
6. As stipulated in the Classification Opinion, "Tecnol" post-operative shoes are mass-produced and specially designed for patients recovering from foot surgery or metatarsal injury. The sole has a wooden base to ensure rigidity.
7. However, according to the literature in the file (see Annex hereto), these shoes are made in five different sizes (X-small, small, medium, large, X-large) and are packed individually (packing : one shoe per box, twelve boxes per case). Moreover, examination of the sample shows that these shoes can be worn on either foot.
8. As the Secretariat understands it, these shoes are for temporary use, their main function being to ensure mobility for patients who are unable to wear ordinary shoes. They protect the injured foot : their design, with a rigid sole to stabilize the foot, can help speed up the healing process and allow painless and easier walking.
9. In the light of the foregoing, these shoes could be regarded as corresponding to the articles covered by the second indent to the new Note 6 to Chapter 90, namely articles for supporting or holding parts of the body following an illness, operation or injury.

10. However, the Secretariat points out that the second paragraph of this Note could be read to mean that orthopaedic footwear has to be designed to **correct** orthopaedic conditions of the foot. In which case, the definition of orthopaedic footwear (which does not refer to supporting or holding functions) would be more restrictive than that of other orthopaedic appliances.
11. On the basis of the information provided, "TecnoI" post-operative shoes appear not to correct orthopaedic conditions ("to correct" literally means to put in order, to rectify an ailment). However, they meet the conditions of Item (2) in the second paragraph of Note 6 to Chapter 90 (see paragraph 7 above).
12. The Secretariat therefore leaves it to the Committee to decide whether the function of the shoes at issue is covered by new Note 6 to Chapter 90, or whether this Note is to be interpreted in a restrictive manner, resulting in the exclusion of "Post-Op" shoes from heading 90.21, and their retention in subheading 6402.99, as initially decided.
13. If the Committee opts for classification in heading 90.21, it is also invited to decide whether a Classification Opinion is still required. If so, the Secretariat will prepare an amended text specifying that these shoes meet the conditions set out in new Note 6 to Chapter 90 (presented singly and designed to fit either foot equally).

IV. CONCLUSION

14. The Committee is invited to rule on the classification of "TecnoI" post-operative shoes in the 2002 version of the HS, bearing in mind the comments above and the information in the Annex hereto, and to decide on further action to be taken in respect of this decision.

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