



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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HARMONIZED SYSTEM
COMMITTEE
-
24th Session
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NC0163E1
(+ Annex)
O. Eng.

Brussels, 11 October 1999.

CLASSIFICATION OF "ROUGHER HEADED LUMBER"

(Item VIII.22 on Agenda)

Reference documents :

NC0140E1 (HSC/24)
NC0157E1 (HSC/24)

I. BACKGROUND

1. Following the publication of Docs. NC0140E1 and NC0157E1, the Secretariat received on 8 October 1999 a Note from the Canadian Customs Administration concerning the classification of "rougher headed lumber". This Note is reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

2. Given the late arrival of the Note, the Secretariat has reproduced it without comments.

III. CONCLUSION

3. The Committee is invited to take into account the Note of the Canadian Administration reproduced in the Annex to this document when considering the classification of rougher headed lumber.

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File No. 2780

Clarification of Canada's position on Rougher Headed Lumber

Background

1. On August 3, 1999, Canada submitted a paper requesting the guidance of the Harmonized System Committee in the classification of "Rougher Headed Lumber" which Canada proposed classifying in heading 44.18. The Secretariat published our paper adding its commentary.

Reply to the Secretariat

2. In paragraph 2 of the Secretariat's comments, the Secretariat invites Canada to clarify who issued the classification opinion that differs with the classification applied by Canada, what classification was given in the contrary opinion and, if that opinion was one issued by another contracting party, whether the Canadian Administration has tried to settle the question under Article 10 of the convention.
3. In response to the Secretariat's invitation and in order to assist the Committee, Canada would like to clarify that:
 - The contrary opinion was issued by the US Administration,
 - The classification expressed in that opinion was that the goods at issue are classified under subheading 4407.10, and
 - Although Canada had provided a rebuttal to the US Administration prior to their issuance of their final opinion, no consultation had been made pursuant to Article 10 of the Convention (*Settlement of Disputes*), nor had Canada formally requested consultations under Article 10.
4. The US Administration had previously classified the product at issue under heading 44.18 and subsequently proposed to revoke that opinion and re-classify the product under heading 44.07. Canada submitted detailed classification arguments against this action and urged US Customs not to implement the proposed change. It was only after the US proceeded to reclassify the goods, that Canada decided to approach the WCO on this matter.
5. In accordance with the Convention, one of the functions of the Committee is to provide guidance on any matters concerning the classification of goods in the HS. Canada maintains that our request is in accordance with this provision.

Further Clarification of Technical Issues

6. Canada would like to take this opportunity to clarify certain points with respect to our technical arguments and, for the benefit of the Secretariat and members of the Committee, provide a greater understanding of the product at issue, in particular, how and why the roughened texture is applied to the product.
7. Rougher headed lumber is not lumber that has merely been sawn, planed (as that term is properly understood), or sanded; it is further processed to give the final product a rough finish texture for use as finish carpentry; as exterior trim, fascia and the like in the construction of buildings.

8. The processing involved to turn lumber into rougher headed lumber involves more than the mere “notching” of wood. The manufacturing of rougher headed lumber requires the use of a woodworking machine to impart a rough surface in order to make the article aesthetically and structurally appropriate for use as exposed fascia board or trim board in the construction of buildings. This additional processing allows for greater absorption of paint or stain, increases the durability of the product and minimizes warping and dimensional changes in the lumber. It also adds significant value compared to typical S4S lumber (lumber sawn or planed to a particular dimension and surfaced on four sides).

Heading 44.07

9. Canada concurs with the Secretariat’s interpretation that the term “planed”, in the context of this heading, means planing for smoothness.
10. As noted by the Secretariat, there are several processes or operations to which products of heading 44.07 (and wood generally speaking throughout the Nomenclature) may be subjected even though they are not expressly enumerated in the heading text. . It is Canada’s view, however, that those additional processes are limited to the two categories of processes enumerated in the General Explanatory Note to the Chapter 44, second paragraph, page 671, (“treatment necessary for its preservation” and “painted, stained or varnished.”). Although the General Explanatory Note provides examples of processes within those two categories (“such as seasoning,...”), the two categories themselves are presented in the Notes as exclusive. In addition, Canada notes that the two categories of possible additional processes discussed in the Note are mere treatments of wood; they are not woodworking processes, and it is the woodworking processes enumerated in heading 44.07 that define and limit the scope.
11. It is our administration’s view that the function of machining the surface of the wood to impart a specific texture characteristic, other than smoothness, is not an operation or process that was contemplated by the authors of the Nomenclature. Such a woodworking process goes beyond the processes allowed for products of this heading. Moreover, such process or operation renders the wood suitable for a dedicated purpose or function described more specifically in a subsequent heading.

Heading 44.18

12. As the Secretariat notes, this heading covers builders’ joinery and carpentry of wood, and the Explanatory Notes to the heading describe “woodwork,...used in the construction of any kind of building, etc., in the form of assembled goods or recognizable unassembled pieces”. That same note goes on to suggest examples of “recognizable unassembled pieces” as “prepared with tenons, mortises, dovetails or other similar joints for assembly”. Canada notes that particular surface working to create finish carpentry such as trim and fascia is but another example of a process that makes the wood recognizable as being dedicated for use in construction.
13. It should also be noted that the terms of the heading further include “cellular wood panels, assembled parquet panels, shingles and shakes.”. Shingles and shakes are therefore defined by the terms of the heading to be builders’ joinery or carpentry. The reason that Canada put forth the example of shingles and shakes was to illustrate that not all products of the heading need to be “prepared with tenons, mortises, dovetails or

other similar joints for assembly". Shingles and shakes are not so prepared yet remain as articles of carpentry.

14. In fact, many definitions and descriptions of carpentry found in trade references distinguish 'rough' carpentry (dealing with structural framing) and 'finish' carpentry which applies to the installation of doors, windows, interior and exterior trim, and other construction applications.
15. Canada agrees with the Secretariat that the reason shingles and shakes are classified in heading 44.18 is because they are named in the text of the heading. The deeper question is: Why are they named in the heading? What characteristic do they possess that caused the authors of the Nomenclature to include them in the terms of the heading, not separated by a semi-colon, but rather, included in the terms of the heading as builders' joinery and carpentry? It is Canada's position that they were included for the reason that they clearly fall under the description of builders' carpentry of wood. As indicated above, carpentry is defined as including construction applications. The shingles are finished products dedicated for use in, and only in construction, and in this case, for exterior application in the construction of buildings. They are recognizable as such, and therefore qualify as builders' carpentry of wood.
16. Similarly, the rougher headed lumber at issue, like shingles and shakes, is prepared and dedicated for use as an exterior decorative building material, is recognizable as such, and so meets the terms of heading 44.18.

Heading 44.21

17. Canada concurs with the Secretariat, that if the Committee considers rougher headed lumber does not meet the terms of either heading 44.07 or 44.18, then classification in heading 44.21 would be the logical alternative.

Conclusion

18. Canada hopes this additional information assists the Committee in discussing the issue further at the 24th Session.
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