



HARMONIZED SYSTEM
COMMITTEE

-
26th Session

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(+ Annex)
O. Fr.

Brussels, 4 October 2000.

CLASSIFICATION OF "FORTRAC 35/35-40" REINFORCEMENT GRIDS

(Item VIII.10 on Agenda)

I. BACKGROUND

1. In a letter of 31 May 2000, the Polish Administration requested the Secretariat's opinion on the Harmonized System classification of "Fortrac 35/35-40" grids used to reinforce earth fill structures (see illustration in the Annex hereto).
2. In its reply, the Secretariat suggested submitting this issue to the Harmonized System Committee in order to fully examine the difficulties involved in classifying this product.

II. DESCRIPTION

Flexible reinforcement grid, in the form of rolls, made of high-strength polyester fibres covered with a protective layer of polymer (polyvinyl chloride), used to reinforce earth fill structures : base courses in road construction, retaining structures and very steep banks, embankments, etc. Each element of the grid takes the form of a narrow fabric made of parallel yarns, with the "weft" inserted at right angles between the yarns of the "warp", forming mesh openings measuring 35 x 40 mm. The polymer coating bonds (reinforces) the grid's elements and protects the yarn from UV and mechanical damage.

3. Having examined the sample and the information received, the product appears to be manufactured in two phases :
 - (a) forming the grid using polyester yarn; and
 - (b) coating the grid with the protective polymer, covering the textile yarns completely.

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4. A sample and trade documentation will be made available to delegates during the meeting.

III. CLASSIFICATION

Comments by the Polish Administration

5. The Polish Administration points out that three headings could be taken into consideration for the classification of this product : heading 39.26, which covers other articles of plastics, heading 59.03 which includes textile fabrics impregnated, coated or covered with plastics and heading 59.11 which covers textile products and articles for technical uses, specified in Note 7 to Chapter 59.
6. According to the Polish Administration, the conditions set out in Note 2 (a) to Chapter 59 seem to be fulfilled and it would therefore classify the product at issue in heading 59.03, especially because of the fact that the product is not rigid and the coating is visible to the naked eye.

Secretariat comments

7. The Secretariat feels that this article cannot be regarded as a plate, sheet, film, foil or strip within the meaning of Note 10 to Chapter 39, thus ruling out the application of heading 39.21. It agrees with the Polish Administration that the headings likely to be taken into consideration are headings 39.26, 59.03 and, to a lesser extent, heading 59.11.
8. Textile products and articles for technical uses covered by heading 59.11 are defined in Note 7 to Chapter 59. They are for use in various types of machinery, apparatus, equipment, or instruments or as tools or parts of tools (see also the Explanatory Note to heading 59.11, page 901, first paragraph, as well as the examples in Parts (A) and (B), pages 901 and 902). The grid at issue clearly does not meet the description of Note 7. The Secretariat therefore feels that heading 59.11 is not applicable in this particular case.
9. Regarding the distinction between products of Chapter 39 and those of Section XI, the Secretariat would point out that classification of plastics and textile combinations is essentially governed by Note 1 (h) to Section XI, Note 3 to Chapter 56 and Note 2 to Chapter 59.
10. As the grid at issue is to be regarded as a textile fabric within the meaning of Note 1 to Chapter 59, its classification has to be determined in the light, inter alia, of Note 2 to that Chapter.
11. In accordance with Item (a) (3) of that Note, products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material are excluded from heading 59.03 and classified in Chapter 39. As the protective polymer covers the textile yarn completely, it could be considered that the grid at issue comes under the provisions of the above-mentioned Item (a) (3) of Note 2 to Chapter 59, thus being classifiable in Chapter 39 (in subheading 3926.90, in the absence of a more specific heading).

12. However, given the specific design of this “textile fabric” and particularly the presence of large “open” parts which are not coated with polymer, it could be argued that the textile fabric is not completely embedded or entirely coated or covered in plastics, and therefore the grid does not correspond to Item (a) (3) of Note 2 to Chapter 59. In that case, it would remain classified in heading 59.03 (5903.10).
13. In this respect, the Secretariat notes that reinforcement grids (mesh scrims) made with textile fabrics covered by Note 9 to Section XI (also see the General Explanatory Note to Section XI, Part (C), pages 783 and 784) are sometimes manufactured by dipping layers of textile yarns in a bath of liquid plastics, yet are still classifiable in Section XI (see Classification Opinion 5903.10/1).
14. It further notes that heading 59.03 also includes textile fabrics made from yarn, strip or the like, impregnated, coated, covered or sheathed with plastics, of heading 56.04 (see the Explanatory Note to heading 59.03, page 894, seventh paragraph).

IV. CONCLUSIONS

15. The Committee is invited to rule on the classification of “Fortrac 35/35-40” reinforcement grids, taking account of the comments and information provided by the Polish Administration and the Secretariat in paragraphs 3 to 6 and 7 to 14 above, respectively.

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