



HARMONIZED SYSTEM
COMMITTEE

-
27th Session
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(+ Annex)
O. Eng.

Brussels, 18 April 2001.

CLASSIFICATION OF "FOOT PROPELLED SCOOTERS"

(Item IX.6 on Agenda)

I. BACKGROUND

1. On 2 February 2001, the Secretariat received, from the South African Administration, a request for advice on the classification of the following product :

Foot propelled scooter, consisting of a base metal platform fitted with a wheel at its rear and connected to a front piece consisting of a height-adjustable upright handlebar attached to a front wheel. The product is propelled by pushing one foot on the ground, while the other foot remains on the platform, and is steered by the height-adjustable handlebar. The product is capable of being folded for ease of packing and conveyance when not in use.

According to the manufacturer's brochure, the scooter adjusts to accommodate different user heights by moving the locking steering arm over a range of 23 to 36 inches. Its target users are "kids ages 7 and up".

See also the Annex to this document.

2. It is worthwhile to note that the Legal Services Department of the South African Administration was of the opinion that the scooters in question (in summary) :

"... are used for fun (amusement), a way of transport, sport activities on a social as well as on an organized level, where competitions are being held (although the competition activity is, with regard to in South Africa, still in the embryo phase). It is foreseen that as the craze becomes more and more popular, competitions will be held in the not too distant future as was the case with skate boards... They should be classified in heading 95.06 by application of General Interpretative Rule 4 since they were most akin to "skate boards" for the following reasons :

- (i) Both are pushed forward by the rider's foot.
- (ii) Both have wheels in tandem affixed to a platform or blade.

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- (iii) Both are used by the rider for similar, and in some cases identical forms of skating and tricks.
 - (iv) The riders on both articles use the same surface and in competitions the same kind of obstacles to ride and perform tricks.
 - (v) The major difference between the two articles is the stem (which can be hoisted or lowered) in the case of the scooter, whereas the skate board is not fitted with a stem.
 - (vi) The purpose of the two articles is the same...".
3. Nevertheless the South African Administration classified the product in heading 95.01, but a legal dispute arose with the importer, as the importer filed an appeal together with tariff classification rulings from the UK and the US Customs Administrations.
4. For the Committee's information, in the UK ruling of 11 October 2000, foot propelled scooters were classified in heading 87.16. The US ruling (HQ 956485 of August 4, 1994CLA-2 CO:R:C:F 956485 NL) in fact refers to the classification, in heading 95.06, of a product called "Rad Board" Recreational Wheeled Device, consisting of three multi-angled platforms connected by tubular pipe to which is attached eight wheels and four handles". On this basis, the Secretariat is not sure whether this ruling would apply to the scooter in question.
5. At this point, however, the Secretariat should clarify that there is no dispute among administrations. The intention of this document is to provide for uniform classification of the products at issue, as the Secretariat understands that international trade in these products is increasing substantially.
6. South Africa was of the view that the various options for the classification of this product were headings :
 - 87.16 (... other vehicles, not mechanically propelled...);
 - 95.01 (Wheeled toys designed to be ridden by children (for example tricycles, scooters...));
 - 95.03 (Other toys...); and
 - 95.06 (Articles and equipment for general physical exercise, gymnastics, athletics, other sports or outdoor games, not specified or included elsewhere in Chapter 95).
7. Therefore, South Africa sought the Secretariat's advice as to whether the product in question should fall in heading 95.01 or in one of the other possible headings.
8. On the basis of the foregoing, although the Secretariat agreed with South Africa that the scooter at issue should be classifiable in heading 95.01, and taking into account the fact that there was an apparent difference of opinion as to classification among at least three administrations (i.e., South Africa, the UK and the US), the Secretariat informed South Africa that this question would be submitted to the Harmonized System Committee for examination at its 27th Session.
9. By its message of 6 March 2001, South Africa informed the Secretariat that it did not have an objection to submitting this question to the Committee.

II. SECRETARIAT COMMENTS

Heading 87.16

10. This heading covers, *inter alia*, other vehicles, not mechanically propelled. According to the Explanatory Note to heading 87.16 (paragraphs 1 and 2, page 1560), the vehicles of this heading are constructed for the transport of goods or persons and are designed to be towed by other vehicles, to be pushed or pulled by hand or to be drawn by animals.
11. The Secretariat is of the view that the scooter in question should not be regarded as a vehicle constructed for the transport of persons or goods within the meaning of Chapter 87. Also, scooters are propelled by direct pressure of the child's foot against the ground; they are not pushed or pulled by hand or drawn by animals.

Heading 95.01

History

12. Item 974 under Chapter 84 (Toys, Games and Articles for Amusement and Sports) of the Explanatory Notes to the 1937 Draft Customs Nomenclature of the League of Nations states, amongst other things, "...The first sub-item includes more particularly children's sporting objects, such as the child propels by his own force...".
13. The Explanatory Note to heading 97.01 (Wheeled toys designed to be ridden by children (for example, toy bicycles and tricycles and pedal motor cars); etc.) of the Brussels Nomenclature (as well as the CCCN) reads as follows :

This heading covers :

- (A) **Wheeled toys designed to be ridden by children.** These articles are usually designed for propulsion by the child itself either by means of pedals, hand levers or other simple devices which transmit power to the wheels through a chain or rod or, as in the case of certain scooters, by direct pressure of the child's foot against the ground...
...
(2) Scooters, with or without pedals, and whether or not fitted with ball bearings...".

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14. Scooters are specifically mentioned and included in the text of heading 95.01 as an example of toys designed to be ridden by children.
15. The Explanatory Note to this heading (Item (A), page 1710) points out that "wheeled toys designed to be ridden by children are usually designed for propulsion, as in the case of certain scooters, by direct pressure of the child's foot against the ground".
16. Webster's Third New International Dictionary (Volume III, 1976 Edition) defines a scooter as "a child's vehicle that consists typically of a narrow footboard mounted between two wheels in tandem with an upright handle attached to the front wheel and that is operated by the child placing one foot on the footboard, pushing with the other foot, and steering with the handle". From this, the Secretariat understand that the descriptions given by South

Africa and in the Explanatory Note to heading 95.01 are in full compliance with the Webster's definition.

17. Therefore, the Secretariat is of the view that the scooters in question are by definition toys designed to be ridden by children. Their extendable handle is intended to accommodate taller children and youngsters and the fact that they can also be ridden by adults should not control classification. It should also be noted that the General Explanatory Note to Chapter 95 (first paragraph, page 1709) states that "this Chapter covers toys of all kinds whether designed for the amusement of children or adults...".

Heading 95.03

18. This heading includes, *inter alia*, all toys not included in headings 95.01 and 95.02. It should, therefore, be applicable if the scooters in question are not considered a vehicle (heading 87.16), a wheeled toy for children (heading 95.01) or an article or equipment of sports, etc. (heading 95.06). As noted in paragraph 14 above, scooters are cited in the text of heading 95.01.

Heading 95.06

19. Heading 95.06 covers articles and equipment for sports, etc. if not specified or included elsewhere in Chapter 95. The Secretariat disagrees with the argument put forward by the South African Legal Services Department that scooters are most akin to skateboards in that :

- (i) In respect of their design; while a skateboard is made of a single piece, a blade fitted with wheels at the both ends, a scooter consists of two pieces - a blade fitted with a wheel at its rear end, mounted to a front piece consisting of an upright handle attached to a front wheel.
- (ii) In respect of their use; while a skateboard is steered with the foot, a scooter is steered with the hands. Scooters are not used with "similar forms of skating and tricks" to those of skateboards.
- (iii) So far, there is no internationally available information that scooters are used for sports activities on a social as well as on an organized level. It should be noted that the Legal Services Department's opinion in this regard is only an assumption as it just "foresees that, as the craze becomes more and more popular, competitions will be held in the not too distant future as was the case with skateboards" (see paragraph 2 above).

20. On the basis of the foregoing, the Secretariat would classify the "foot propelled scooter" at issue in heading 95.01 by application of General Interpretative Rule 1.

III. CONCLUSIONS

21. Taking into account the above information and comments, the Committee is invited to examine the classification of "foot propelled scooters".

22. The Committee is also invited to express its views as to whether the Compendium of Classification Opinions and/or the Explanatory Notes or even the Nomenclature should be amended consequential upon its classification decision.

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Razor



Weight (lbs):	7
Load (lbs):	150
Brake:	Rear fender brake
Foldable (y/n):	Yes
Price (\$):	\$129.99
Target User:	Kids ages 7 and up

The Razor is aluminum and steel. The scooter adjusts to accommodate different heights by moving the locking steering arm over a range of 23" to 36." The Razor uses in-line skate wheels and has a compact deck allowing the rider to fit one foot on it. Made in China.

Detailed technical specifications:

- The deck is made of aluminum.
- The wheels are 100mm in-line skate wheels with performance bearings.
- The handlebar is steel and aluminum