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19 August 2022

**CUSTOMS MEMORANDUM CIRCULAR**  
**NO. 131-2022**

To: The Assistant Commissioner  
 All Deputy Commissioners  
 All Directors and Division Chiefs  
 All District/ Port Collectors  
 All Others Concerned

**SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING**

This has reference to the herein attached Tariff Commission Circular Dispute Ruling (TCC DR) No. 21-008 issued on 23 May 2022 pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes Involving Tariff Classification) in re: Request for Tariff Classification Dispute Ruling on "Hyundai H-100 Mini Cargo Trucks (Used)" consigned to Daewoo Engineering & Construction Co. Ltd. (Import Entry/Customs Reference No. C-159-2021, Port of Iloilo) the dispositive portion of which states that:

**WHEREFORE**, premises considered, subject article is hereby classified as follows:

| Product                                      | AHTN 2017 Code | 2021 MFN Rate | 2021 AKFTA Rate |
|--|----------------|---------------|-----------------|
| Hyundai H-100<br>Mini Cargo Trucks<br>(Used) | 8704.21.29     | 30%           | 5%              |

For information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

*[Signature]*  
 SEP 02 2022  
**YOGI FILEMON L. RUIZ**  
 Acting Commissioner *[Signature]*



CMC No. 131-2022 p. 2



REPUBLIC OF THE PHILIPPINES  
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "HYUNDAI H-100 MINI CARGO TRUCKS (USED)", CONSIGNED TO DAEWOO ENGINEERING & CONSTRUCTION CO. LTD.

TCC (DR) NO. 21-008

(Import Entry/Customs Reference No. C-159-2021, Port of Iloilo)

Issued on: 23 May 2022

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for tariff classification dispute ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipment of Hyundai H-100 Mini Cargo Trucks (Used) imported by Daewoo Engineering & Construction Co. Ltd. (Importer/Consignee) from South Korea. The request of the Bureau of Customs (BOC) for TCDR was received by this Commission on 02 November 2021.

Based on the documents provided by the BOC dated 02 November 2021, the following relevant information were gleaned:

- a. The Goods Declaration No. C-159-2021 of Daewoo Engineering & Construction Co. Ltd. was lodged at BOC Port of Iloilo on 31 August 2021.
- b. The two units of Hyundai H-100 Mini Cargo Trucks (Used) were among the 13 imported items under Goods Declaration No. C-159-2021.
- c. The Importer/Consignee declared subject articles under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 8709.19.00, with Most Favoured Nation (MFN) rate of duty of 3% *ad valorem*.
- d. Through a memorandum dated 01 September 2021 addressed to Atty. Yasser Ismail A. Abbas, Director of Import and Assessment Service (IAS), District Collector Ciriano D. Ugay requested for the imported vehicles to be subjected to IAS Value Verification. Per the IAS findings, subject articles are "classified" under AHTN 2017 subheading 8704.22.29, with an MFN rate of duty of 30% *ad valorem*.
- e. In a memorandum for District Collector Ugay dated 14 October 2021, the assigned Customs Examiner, Mr. Arnel I. Yecla, contested the declared heading and recommended to classify subject articles under AHTN 2017 subheading 8704.21.29, with an MFN rate of duty of 30% *ad valorem*.
- f. The basis for the Customs Examiner's classification was as follows:

*"Generally, vehicles found under heading 8709 are not fitted with cabs, approximate speeds not exceeding 35km per hour, and are usually not fit for highway use. On the other hand, vehicles found under 8704 are generally motor vehicles used for the transport of goods fitted with a cab and are fit to be used on highways."*

Hence, in compliance with Customs Administrative Order (CAO) No. 02-2020 (Dispute Settlement and Protest), the BOC Port of Iloilo endorsed to this Commission the case for resolution on the tariff classification of Hyundai H-100 Mini Cargo Trucks (Used).

On 24 November 2021, the Commission wrote to District Collector Ugay informing that the case is being processed and requesting for the contact details of the Importer/Consignee. BOC's response was received on 29 November 2021.



Pursuant to Section 6 of Commission Order No. 2018-01, this Commission requested the Importer/Consignee, Daewoo Engineering & Construction Co. Ltd., on 03 March 2022 to submit the following additional information in relation to BOC's request for TCDR on Hyundai H-100 Mini Cargo Trucks (Used):

1. technical brochure/specifications;
2. brand and model;
3. type of engine (e.g., diesel, gasoline, hybrid, etc.);
4. engine displacement/capacity in cc;
5. seating and load carrying capacities in kg;
6. overall dimension (L x W x H) in meter; and
7. gross vehicle weight (GVW) in kg.

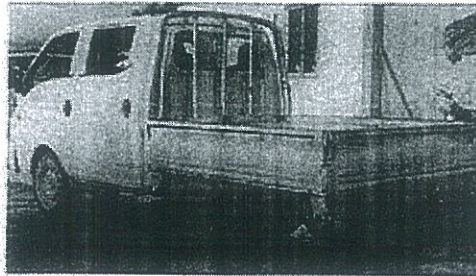
On 11 March and 04 April 2022, the Commission received the requested information (via *electronic mail*) from Mr. Kim Dong-hyung of Daewoo Engineering & Construction Co. Ltd., and Ms. Tita Dimaano Austria (Authorized Representative) of Royal Cargo, Inc., respectively.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending dispute in the tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee are sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted brochure, technical specifications, and picture of the actual product, it is established that subject articles are used, six-wheeled light-duty trucks imported completely built-up (CBU). These are equipped with a double closed cabin and an open rear cargo area for the transport of goods. Subject articles have the following specifications:

|                                       |                    |                  |
|---------------------------------------|--------------------|------------------|
| Engine displacement and fuel type     | 2,607 cc, diesel   |                  |
| Transmission                          | 5-speed manual     |                  |
| Load carrying capacity / payload (kg) | 1,335              |                  |
| Gross vehicle weight (kg)             | 3,015              |                  |
| Tire Size                             | Front              | 195 / 70R15C-8PR |
|                                       | Rear               | 145R13C-8PR      |
| Overall dimensions (L x W x H) (m)    | 4.81 x 1.63 x 1.97 |                  |
| Seating capacity (including driver)   | 5                  |                  |

Below is the picture of the vehicle submitted to the Commission:



The BOC classified subject articles under heading 87.04 of the AHTN 2017. Heading 87.04 covers motor vehicles for the transport of goods. The Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

*"This heading covers in particular, among others, ordinary lorries (trucks) and vans (flat, tarpaulin-covered, closed, etc.); delivery trucks and vans of all kinds, removal vans; lorries (trucks) with automatic discharging devices (tipping lorries (trucks), etc.)."*

On the other hand, the Importer/Consignee declared subject trucks under heading 87.09. Said heading covers, among others, works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods. The HS EN to this heading state that:

*"This heading covers a group of self-propelled vehicles of the types used in factories, warehouses, dock areas or airports for the short distance transport of various loads (goods or containers) or, on railway station platforms, to haul small trailers."*

The main features common to the vehicles of this heading which generally distinguish them from the vehicles of heading 87.01, 87.03 or 87.04 may be summarised as follows:

- (1) Their construction and, as a rule, their special design features, make them unsuitable for the transport of passengers or for the transport of goods by road or other public ways.
- (2) Their top speed when laden is generally not more than 30 to 35 km/h.
- (3) Their turning radius is approximately equal to the length of the vehicle itself.

Vehicles of this heading do not usually have a closed driving cab, the accommodation for the driver often being no more than a platform on which he stands to steer the vehicle. Certain types may be equipped with a protective frame, metal screen, etc., over the driver's seat."

Subject articles, being light-duty trucks equipped with a closed double cabin and rear cargo area, with 5-speed transmission, and capable of transporting goods in public roads and highways, fall under heading 87.04 of the AHTN 2017.

Based on the information from the Importer/Consignee, the BOC, and the foregoing HS EN, subject articles are classified under AHTN 2017 subheading 8704.21.29 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

WHEREFORE, premises considered, subject articles are hereby classified as follows:

| Product                                   | AHTN 2017 Code | 2021 MFN Rate | 2021 AKFTA Rate |
|---|----------------|---------------|-----------------|
| Hyundai H-100<br>Mini Cargo Trucks (Used) | 8704.21.29     | 30%           | 5%              |

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

*MariLou P. Mendoza*  
Digitally signed

MARILOU P. MENDOZA  
Chairperson

CMC

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