



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



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14 January 2021

CUSTOMS MEMORANDUM CIRCULAR
NO. 16-2021

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

SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING

Pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification), attached is the copy of Tariff Classification Circular Dispute Ruling (TCC/DR) No. 20-009 issued on 11 January 2021.

For your information and guidance.

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

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REY LEONARDO B. GUERRERO
Commissioner

JAN 19 2021



BOC-09-17916A



CMC No. 16-2021
p. 2.

REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION



BOC-09-17916

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TCC (DR) NO. 20-009
BY: [Signature] TIME: 10:23

RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "COMMSCOPE® FIBER DISTRIBUTION CABINET" CONSIGNED TO COMMSCOPE TECHNOLOGIES PHILIPPINES INC.

(Import Entry/Customs Reference No. C-1046394, NAIA)

Issued on: 11 January 2021

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 CommScope® Fiber Distribution Cabinet imported by CommScope Technologies Philippines Inc. (Importer/Consignee) from India. The request of the Importer/Consignee for TCDR was received by this Commission on 21 October 2020.

The shipment of the said article, declared under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 8517.69.00, with Most Favoured Nation (MFN) rate of duty of zero, was processed under Import Entry/Customs Reference No. C-1046394 at the Bureau of Customs (BOC), NAIA. The BOC contested the declared heading and reclassified the subject article under AHTN 2017 subheading 8537.10.20 with an MFN rate of 5% *ad valorem*.

Hence, this request for tariff classification dispute ruling.

With information deemed sufficient to classify subject article and pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 04 November 2020 for comments on the request for TCDR on CommScope® Fiber Distribution Cabinet. In a memorandum dated 17 November 2020 (received by this Commission on 18 November 2020), Ms. Divina B. Garrido, Acting Deputy Collector for Assessment of BOC NAIA, submitted a copy of a memorandum from the Customs Operations Officers concerned stating the basis for BOC's classification, as follows:

"As per physical examination and product literature, the FDC is designed for housing optical splitters with connectorized Input fibers, output spliced to distribution medium or a splice patch distribution box for FTTX applications.

Heading 8537 is for cabinets equipped with two or more apparatus of heading 8536 and the FDC has patch panels, optical splitters, splice tray and cable clamps. While subheading 8537.10.20 is for distribution boards and panels for use solely or principally with goods of heading 8517 (apparatus for communications in a wired or wireless network)."

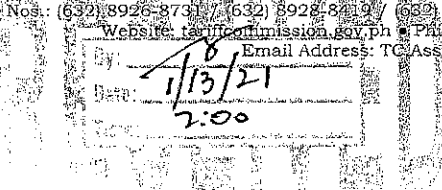
A scanned copy of the actual photograph of subject article and the product literature/brochure were attached to the memorandum submitted to the Commission.

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.

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Handwritten signature and date: 1/13/21 2:00

REPUBLIC OF THE PHILIPPINES
BUREAU OF CUSTOMS
OFFICE OF THE DEPUTY COMMISSIONER
ASSESSMENT OPERATIONS COORDINATING GROUP
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After due examination of all information received from both the BOC and the Importer/Consignee, i.e., submitted brochure, technical information, and photograph of the actual product, it is established that subject article is a kit consisting of plastic splice trays, fiber connectors, splitter, input and output fiber cables, and mid-span and drop ports housed in a plastic enclosure measuring 380 mm x 320 mm x 95 mm (LxWxD). It allows the connection (i.e., mechanical alignment) of optical fibers from a telecommunications network to multiple end-user premises by splitting input light signals into a greater number of outputs. Designed for pole- or wall-mounting, subject article is used in line telecommunications to provide a protected local convergence point in fiber-to-the-x (FTTX) applications.

The Importer/Consignee declared subject article under AHTN 2017 heading 85.17 which covers, among others, other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 84.43, 85.25, 85.27 or 85.28. The pertinent Harmonized System (HS) Explanatory Notes (EN) state that:

"This heading covers apparatus for the transmission or reception of speech or other sounds, images or other data between two points by variation of an electric current or optical wave flowing in a wired network or by electro-magnetic waves in a wireless network. The signal may be analogue or digital. The networks, which may be interconnected, include telephony, telegraphy, radio-telephony, radio-telegraphy, local and wide area networks.

Other apparatus for transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network) includes, among others, other communication apparatus. This group includes apparatus which allows for the connection to a wired or wireless communication network or the transmission or reception of speech or other sounds, images or other data within such a network.

Communication networks include, inter alia, carrier-current line systems, digital-line systems and combinations thereof. They may be configured, for example, as public switched telephone networks, Local Area Networks (LAN), Metropolitan Area Networks (MAN) and Wide Area Networks (WAN), whether proprietary or open architecture.

This group includes:

- 1) Network interface cards (e.g., Ethernet interface cards).*
- (2) Modems (combined modulators-demodulators).*
- (3) Routers, bridges, hubs, repeaters and channel to channel adaptors.*
- (4) Multiplexers and related line equipment (e.g., transmitters, receivers or electro-optical converters).*
- (5) Codecs (data compressors/decompressors) which have the capability of transmission and reception of digital information.*
- (6) Pulse to tone converters which convert pulse dialled signals to tone signals."*

On the other hand, BOC NAIA classified subject Fiber Distribution Cabinet under AHTN 2017 heading 85.37 which covers boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17. The pertinent HS EN state that:

"These consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc., or mounted in a cabinet, desk, etc. They usually also incorporate meters, and sometimes also subsidiary apparatus such as transformers, valves, voltage regulators, rheostats or luminous circuit diagrams.

The goods of this heading vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations) to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading.

The heading also covers:

- (1) Numerical control panels with built-in automatic data processing machine, which are generally used to control machine-tools.*

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- (2) Programmed switchboards to control apparatus; these permit variations in the choice of operations to be followed. They are normally used in domestic electrical appliances, such as washing machines and dish washers.
- (3) "Programmable controllers" which are digital apparatus using a programmable memory for the storage of instructions for implementing specific functions such as logic, sequencing, timing, counting and arithmetic, to control, through digital or analog input/output modules, various types of machines."

While subject article is designed for use in telecommunications and consists of elements classifiable under heading 85.36 contained in a cabinet, the Commission considered in its evaluation AHTN 2017 heading 85.36 which covers, among others, connectors for optical fibres, optical fibre bundles or cables. Note 7 to Chapter 85 states that:

"For the purpose of heading 85.36, "connectors for optical fibres, optical fibre bundles or cables" means connectors that simply mechanically align optical fibres end to end in a digital line system. They perform no other function, such as the amplification, regeneration or modification of a signal."

The Commission agrees with the Importer/Consignee that subject article is not used for electric control or for the distribution of electricity, as specified by AHTN 2017 heading 85.37, and thus, does not meet the requirements of said heading. Nor is subject Fiber Distribution Cabinet a transmission or reception apparatus under the purview of heading 85.17 as it has no other function aside from connecting optical fibre cables (i.e., simply mechanically aligning optical fibres end to end) and splitting or separating light signals, with the plastic base merely serving as protection.

Based on the totality of the information received and the foregoing HS EN, subject article is classified under AHTN 2017 subheading 8536.70.90 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 article is hereby classified as follows:

Product	AHTN 2017 Code	2020 MFN Rate	2020 AIFTA Rate*
CommScope® Fiber Distribution Cabinet	8536.70.90	15%	12.05%

*Subject to submission of Certificate of Origin (CO) Form "AI"

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

So Ordered.

FOR THE COMMISSION

 Digitally signed

MARILOU P. MENDOZA
Chairperson

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