



REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FINANCE BUREAU OF CUSTOMS

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28 March 2025

CUSTOMS MEMORANDUM CIRCULAR NO. ____ § 2 - 2025

TO

ASSISTANT COMMISSIONER

ALL DEPUTY COMMISSIONERS

ALL DIRECTORS AND DIVISION CHIEFS

ALL DISTRICT AND SUB-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. 24-017 issued on 27 March 2025 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "Kit10060 UJ Armour Protection Kit," from the United Kingdom consigned to Infinivan Incorporated, (Import Entry/ Customs Reference No. C-69860, NAIA), the dispositive portion of which states that:

"WHEREFORE, premises considered, subject article is hereby

classified as follows:

Product	AHTN 2017 Code	2022 MFN Rate
Kit10060 UJ Armour Protection Kit	8538.90.19	1% ad valorem

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

For strict compliance.







REPUBLIC OF THE PHILIPPINES

TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "KIT10060 UJ ARMOUR PROTECTION KIT", CONSIGNED TO INFINIVAN INCORPORATED

TCC (DR) NO. 24-017

(Import Entry/Customs Reference No. C-69860, BOC-NAIA)

Issued on: 27 March 2025

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a 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 KIT10060 UJ Armour Protection Kit imported by Infinivan Incorporated (Importer/Consignee) from the United Kingdom. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 10 September 2024.

The shipment of said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2017 subheading 8536.90.94, with a Most Favoured Nation (MFN) rate of duty of zero, was processed under Import Entry/Customs Reference No. C-69860 at the Bureau of Customs (BOC) - Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified subject article under AHTN 2017 subheading 3926.90.59, with an MFN rate of duty of 15% ad valorem.

Hence, this request for a TCDR.

On 11 September 2024, the Commission received a *Letter* (dated 06 September 2024) from Ms. Melanie Q. Germentil, the Importer/Consignee's Chief Procurement & Logistics Officer. In the said *Letter*, Ms. Germentil invited the Commission to conduct a physical verification/inspection of the subject article at the company's warehouse at the PNOC Energy Supply Base in Mabini, Batangas, where it is currently stored. The *Letter* also stated that the physical verification *is for complete technical specification and actual evaluation of sample for proper evaluation* that will assist the Commission in determining the appropriate tariff classification of the product.

Thus, on 01 October 2024, the Commission conducted the physical verification/inspection of subject article. During the verification, the Importer/Consignee and the Commission discussed the parts, components, material composition, and use of subject article. A mock assembly of the item was also carried out by the representatives of the Importer/Consignee to help the Commission visualize the actual installation process and the final product. The Importer/Consignee also mentioned that subject article will be used to repair submarine cables throughout the country.

Pursuant to Section 7.3 of Commission Order (CO) No. 2018-01, this Commission requested the concerned BOC District Collector on 14 October 2024 for comments on the request for a TCDR on KIT10060 UJ Armour Protection Kit. Section 7.4 of the said CO further states that within 10 working days from the receipt of the notice and the records of the case, the BOC may file a comment or submit any additional explanation or documents to justify its findings. However, to this date, the Commission has not received any response from the BOC-NAIA, hence, it proceeded to evaluate the classification of subject article based on the submissions received from the Importer/Consignee and the information obtained/gathered from the physical verification/inspection conducted.

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

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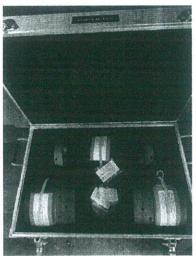
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After due examination of the submitted technical information and the information obtained from the physical verification/inspection conducted, it is established that subject article is a repair kit and a segment/component of a submarine cable jointing system. It is designed as the third or outer layer of a submarine cable jointing system (capable of operating at a voltage of less than 1,000 V), and serves as protection for the jointed submarine cables. The kit primarily consists of cast iron nut caps (used to lock the joint), armor assembly grease (used as a lubricant), sleeve armor, and steel screws. These components work together to shield submarine cables from potential threats, including physical damage, corrosive elements, and external pressures.

Shown below are photographs of the product taken by the Commission during the aforementioned physical verification/inspection:





Based on the kit's function, the Importer/Consignee classified subject article under Chapter 85 of the AHTN 2017 which covers electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles, and specifically under heading 85.36 which covers, among others, connectors for optical fibres, optical fibre bundles or cables.

Note 7 of Chapter 85 of the AHTN 2017 states that:

"7.- 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."

This definition/description is also reiterated in the Harmonized System (HS) Explanatory Notes (EN) to heading 85.36, which state that:

"XXX

(IV) CONNECTORS FOR OPTICAL FIBRES, OPTICAL FIBRE BUNDLES OR CABLES

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. Connectors for optical fibres, without cables, remain classified in this heading but those connectors for optical fibres with cables are **excluded** (heading 85.44 or 90.01).

XXX"

On the other hand, the BOC considered classification of the product, based on its constituent materials, under Chapter 39 of the AHTN 2017, which covers plastics and articles thereof, particularly under the residual heading of the Chapter, heading 39.26, which covers other articles of plastics and articles of other materials of headings 39.01 to 39.14. The pertinent HS EN to this heading state that:

"This heading covers articles, not elsewhere specified or included, of plastics (as defined in Note 1 to the Chapter) or of other materials of headings 39.01 to 39.14.

XXX"

Note 2 to Chapter 39 states that:

"2. This Chapter does not cover:

- (a) Lubricating preparations of heading 27.10 or 34.03;
- (b) Waxes of heading 27.12 or 34.04;
- (c) Separate chemically defined organic compounds (Chapter 29);
- (d) Heparin or its salts (heading 30.01);
- (e) Solutions (other than collodions) consisting of any of the products specified in headings 39.01 to 39.13 in volatile organic solvents when the weight of the solvent exceeds 50% of the weight of the solution (heading 32.08); stamping foils of heading 32.12;
- (f) Organic surface-active agents or preparations of heading 34.02;
- (g) Run gums or ester gums (heading 38.06);
- (h) Prepared additives for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils (heading 38.11);
- (ij) Prepared hydraulic fluids based on polyglycols, silicones or other polymers of Chapter 39 (heading 38.19);
- (k) Diagnostic or laboratory reagents on a backing of plastics (heading 38.22);
- (I) Synthetic rubber, as defined for the purposes of Chapter 40, or articles thereof;
- (m) Saddlery or harness (heading 42.01) or trunks, suitcases, handbags or other containers of heading 42.02;
- (n) Plaits, wickerwork or other articles of Chapter 46;
- (o) Wall coverings of heading 48.14;
- (p) Goods of Section XI (textiles and textile articles);
- (q) Articles of Section XII (for example, footwear, headgear, umbrellas, sun umbrellas, walking-sticks, whips, riding-crops or parts thereof);
- (r) Imitation jewellery of heading 71.17;
- (s) Articles of Section XVI (machines and mechanical or electrical appliances) [emphasis added];

XXX"

The above Chapter Note clearly indicates that the machinery, mechanical appliances and electrical goods of Section XVI (which include articles of Chapter 85) are excluded under Chapter 39.

Based on the information provided/gathered on the other components of the submarine cable jointing system, the Commission has determined that the complete (or essentially complete) system, composed of various kits, including subject article, is classified under AHTN 2017 subheading 8536.70. Hence, subject article should be evaluated as a part/component of the said system and classified as such.

The HS EN for parts of heading 85.36 state that:

"XXX

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), parts of the apparatus of this heading are classified in **heading** 85.38.

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XXX"

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Note 2 to Section XVI of the AHTN 2017, which governs the classification of parts for the products falling in this Section, states that:

- "2.- Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:
- (a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;
- (b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17;
- (c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or **85.38** as appropriate or, failing that, in heading 84.87 or 85.48.[emphasis added]"

The HS General EN to the Section regarding the classification of parts state that:

"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for:

- (A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).
- (B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).
- (C) Parts of the textile machines of headings 84.44 to 84.47 (heading 84.48).
- (D) Parts of the machines of headings 84.56 to 84.65 (heading 84.66).
- (E) Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).
- (F) Parts of the machines of heading 85.01 or 85.02 (heading 85.03).
- (G) Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).
- (H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).
- (IJ) Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38) [emphasis added].

XXX"

As stated in the above HS General EN, parts of apparatus of heading 85.36 fall under heading 85.38 of the AHTN 2017 (parts suitable for use solely or principally with the apparatus of heading 85.35, 85.36 or 85.37). The pertinent HS EN to this heading state that:

"Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), this heading covers parts of the goods of the three preceding headings [emphasis added].

XXX"

By reference to Note 7 to Chapter 85, Note 2 to Chapter 39, Note 2 to Section XVI, the HS General EN to Section XVI, and the HS EN to headings 39.26, 85.36, and 85.38, the Commission has determined that the submarine cable jointing system designed for submarine cables, of which subject article is a part of, is classifiable under heading 85.36. Hence, subject KIT10060 UJ Armour Protection Kit, a part solely designed for the cable jointing system, is specifically covered under heading 85.38 of the AHTN 2017.

Based on the information received/obtained from the Importer/Consignee, and the clarifications provided by the foregoing Section Note, Chapter Notes, HS General EN, and HS EN, subject article is properly classified under AHTN 2017 subheading 8538.90.19 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA). In view of the Philippines' adoption and implementation of the 2022 version of the AHTN on 01 July 2022, subject article is classifiable under the same subheading in AHTN 2022.

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

Product	AHTN 2017 Code	2022 MFN Rate
KIT10060 UJ Armour Protection Kit	8538.90.19	1% ad valorem

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

So Ordered.

FOR THE COMMISSION

MARILOU P. MENDOZA

Chairperson

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TCC (DR) NO. 24-017

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