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DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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28 March 2025

CUSTOMS MEMORANDUM CIRCULAR
NO. 82-2025

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.

BIENVENIDO Y. RUBIO
Commissioner



7 APR 2025



Gate 3, South Harbor, Port Area, Manila 1018

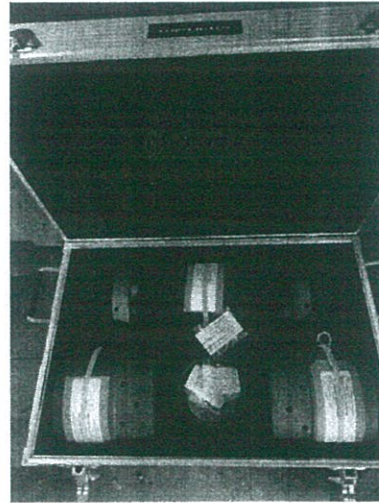
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Cmc no. 82-2025

TCC (DR) NO. 24-017

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"

CMC no. 82-2025

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);
- (l) 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**.

XXX"

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).
- (I) **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% <i>ad valorem</i>

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

Copy-furnished:

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