COMMISSION REGULATION (EEC) No 1074/80

of 29 April 1980

on the classification of goods under subheading 64.02 B of the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff (1), as last amended by Regulation (EEC) No 280/77 (2), and in particular Article 3 thereof,

Whereas, in order to ensure uniform application of the nomenclature of the Common Customs Tariff, provision must be made for the classification of sports shoes (training shoes) the outer soles of which are of coarsely patterned rubber or artificial plastic material, with uppers consisting of textile fabric on which strips or pieces of leather and/or plastic-coated textile fabric are sewn externally in various combinations, covering the surface to a greater or lesser extent;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 (3), as last amended by Council Regulation (EEC) No 3000/79 (4), includes footwear with outer soles and uppers of rubber or artificial plastic material under heading No 64.01, footwear (with outer soles of rubber or artificial plastic material) with uppers of leather under subheading 64.02 A and other footwear (with outer soles of rubber or artificial plastic material) under subheading 64.02 B; whereas these headings should be considered in the classification of the above-mentioned sports shoes;

Whereas in the case of sports shoes of this kind it is normally the textile material which gives the uppers their essential character, as it gives them the flexibility and lightness together required for sports use, while the strips or pieces of leather and/or plastic-coated textile fabric are to be considered merely as accessories or reinforcements; whereas such shoes cannot therefore be classified in heading No 64.01 or subheading 64.02 A but must be classified, in accordance with Rules 3 (b) and 5 for the interpretation of the nomenclature of the Common Customs Tariff, in subheading 64.02 B;

Whereas, however, in some cases the uppers of sports shoes of this kind are covered with strips or pieces of leather and/or plastic-coated textile fabric in such a way that the strips or pieces given their importance, must be considered, not merely as accessories or reinforcements, but rather as one of the constituent materials of the uppers; whereas it is therefore impossible in such cases to decide in accordance with objective criteria which of these constituent materials gives the upper of the shoes their essential character; whereas such shoes must consequently be classified in accordance with Rules 3 (c) and 5 for the interpretation of the nomenclature of the Common Customs Tariff under the heading or subheading which occurs latest among those which equally merit consideration, and must therefore be classified under subheading 64.02 B;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Common Customs Tariff Nomenclature,

HAS ADOPTED THIS REGULATION:

Article 1

Sports shoes (training shoes) the outer soles of which are of coarsely patterned rubber or plastic material with uppers consisting of textile fabric on which strips or pieces of leather and/or plastic-coated textile fabric are sewn externally in various combinations covering the surface to a greater or lesser extent shall be classified in the Common Customs Tariff under subheading:

64.02 Footwear with outer soles of leather or composition leather; footwear (other than footwear falling within heading No 64.01) with outer soles of rubber or artificial plastic material:

B. Other

Article 2

This Regulation shall enter into force on the 42nd day following its publication in the *Official Journal of the European Communities.*

(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 40, 11. 2. 1977, p. 1.
(3) OJ No L 172, 22. 7. 1968, p. 1.
(4) OJ No L 342, 31. 12. 1979, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 April 1980.

For the Commission

Étienne DAVIGNON

Member of the Commission