COMMISSION REGULATION (EEC) No 333/81

of 4 February 1981

on the classification of goods under Common Customs Tariff heading No 64.01

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 boots of which the outer sole and the lower part of the upper, which almost entirely covers the foot, are of rubber, and of which the top part of the upper, which covers the lower leg but does not extend beyond mid-calf, is of leather and has metal eyelets for laces ;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 (3), as last amended by Council Regulation (EEC) No 3000/80 (4), includes footwear with outer soles and uppers of rubber or artificial plastic material under heading No 64.01 and footwear (with outer soles of rubber or artificial plastic material) with uppers of leather under subheading 64.02 A ; whereas these headings could be considered in the classification of the abovementioned boots ;

Whereas these boots are worn in very wet and cold conditions, in particular as field boots or for working in refrigerated warehouses ; whereas although the leather represents the major part of the upper in terms of weight, surface area and value, the rubber which almost entirely covers the upper part of the foot must be considered as the material which, because it makes the boots waterproof, gives the upper its essential character ; whereas these boots cannot be classified in subheading 64.02 A but must, in accordance with General Rule 3 (b) for the interpretation of the nomenclature of the Common Customs Tariff, be classified in heading No 64.01 ;

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

Boots of which the outer sole and the lower part of the upper, which almost entirely covers the foot, are of rubber, and of which the top part of the upper, which covers the lower leg but does not extend beyond mid-calf, is of leather and has metal eyelets for laces, shall be classified in the Common Customs Tariff under heading :

64.01 Footwear with outer soles and uppers of rubber or artificial plastic material.

Article 2

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 4 February 1981.

For the Commission

Karl-Heinz NARJES

Member of the Commission

(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 315, 14. 11. 1980, p. 1.