

ANALYSIS OF TRACTORS SUITABLE FOR AGRICULTURAL USE

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FACTS: Log Skidders

One model comes in cable skidder or grapple skidder configuration. It is a wheeled tractor with front-mounted dozer and either a rear-mounted grapple or a cable winch. It has a steel plate articulated frame with enclosed cab and substantial ground clearance. It is equipped with 95 hp. diesel engine, and 3-speed forward/reverse power shift countershaft transmission and steering bar that permits 45 degree machine articulation in each direction. It has a turning radius approximately equal to its length and independent suspension front axle oscillation for maximum maneuverability.

Another model is a cable skidder only. It is otherwise similar to the other two models except for higher hp. engine and more line pull winch capacity.

ISSUE: Are the tractors of a type suitable for agricultural use?

LAW AND ANALYSIS: In accordance with General Rule of Interpretation (GRI) 1, HTSUS, for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes. GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, by substitution of terms, to Rules 1 through 5, on the understanding that only subheadings at the same level are comparable.

Heading 8701 provides for tractors other than tractors of the type used on railway station platforms. Noting that Chapter 87, Legal Note 2, HTSUS, defines the term "tractors" as vehicles constructed essentially for hauling or pushing another vehicle, appliance or load, whether or not they contain subsidiary provision for the transport of tools, seeds, fertilizers or other goods, we conclude that the CAT models in issue are tractors classifiable in heading 8701. Within heading 8701 subheading 8701.30 provides for track-laying tractors while subheading 8701.90 provides for other tractors. In accordance with GRI 6, we conclude that the CAT models in issue are provided for in subheading 8701.90 inasmuch as subheading 8701.30 does not describe them.

To be suitable for agricultural use, the record must show that the tractors are actually, practically, and commercially fit for such use. Actual use is not required, but there must be more than casual, incidental or possible use in a recognized agricultural pursuit. The skidding of logs as part of the harvesting of a timber crop has been held to be such a pursuit. The tractor models under consideration show both the grapple and winch moving felled logs. Further, the dozer blade configuration suggests an implement designed to push logs on the ground, rather than to lift and carry them. The overall design features of these tractor models in issue lead us to conclude that they are tractors suitable for agricultural use.

HOLDING: These models are classifiable as log skidding tractors suitable for agricultural use, in subheading 8701.90-1001, HTSUSA, subject to entry free of duty.