

O-RINGS

BINDING RULING HQ 950886; ABRIDGED

FACTS: The subject "O"-rings are made from silicone, fluorocarbon (viton), flourosilicone, cast polyurethane, polyacrylate, and teflon. You state that the principle use of the subject "O"- rings is in sealing applications in machines such as pumps, cylinders, valves, and actuators. You are currently classifying the "O"rings under subheading 3926.90.4500, which provides for: "[o]ther articles of plastics: [g]askets, washers and other seals."

ISSUE: Whether the "O"-rings are parts of general use and precluded from classification under section XVI, of the Harmonized Tariff (HS)?

LAW AND ANALYSIS: The first question to be answered is whether the "O"-rings can be considered parts to the various machinery listed. Whether an article is a part of another article depends on the nature of the so-called "part" and its usefulness, function and purpose in relation to the article in which it is designed to serve.

As you have stated, the "O"-rings are used in sealing applications in machinery such as pumps and actuators. This function is important to the operation of the machinery. Therefore, we find that the "O"-rings are parts of machinery.

Section XVI, note 1(g) provides that: [t]his section does not cover:

(g) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39).

The term "parts of general use" is partly defined in section XV, note 2(a), HTSUS, as "[a]rticles of heading . . . 7318 . . ." Heading 7318, HTSUS, provides for: "[s]crews, bolts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel."

The next question is, then, whether the plastic "O"-rings are similar to the washers of heading 7318. In understanding the language of the HS, the Explanatory Notes (EN) may be utilized. EN 73.18 (E) provides that: [w]ashers are usually small, thin discs with a hole in the centre; they are placed between the nut and one of the parts to be fixed to protect the latter. They may be plain, cut, split, curved, cone shaped, etc.

In Webster's II New Riverside University Dictionary (1984), the term "washer" is defined as "[a] small perforated disk placed beneath a nut or at an axle bearing or joint to relieve friction, prevent leakage, or distribute pressure."

HQ 750020, ruled upon the classification of rubber "O"-rings. . . .

[i]t is noted that in dynamic applications, the O-ring may function as a packing, while in static applications, it functions as a conventional gasket. It is conceivable that under the practice today, the same style ring could be classified as a gasket and as a machine part not specifically provided for in item 680.90, TSUS. . . It is

our position that conventional plastic or rubber O-rings which have a general use capability, whether used in dynamic or static applications, are classifiable under the provision for gaskets, of rubber or plastics in item 773.25, TSUS [Tariff Schedules of the United States], .

In *Hancock Gross, Inc. v. U.S.*, C.D. 4555 (1974), faucet washers, designed to seal the flow of water, were held classifiable as gaskets, of rubber or plastics, under item 773.25, TSUS. A gasket was defined as "a deformable material clamped between essentially stationary faces to prevent the passage of matter through an opening or joint." The court decided that "[s]tructurally, the imported articles are, as described by name, rings, and are made of rubber. In structure, and function as well, the merchandise conforms to that commonly understood to be gaskets." The primary function of the faucet washers was to seal, the same function as the subject "O"-rings.

In discussing what the term "essentially stationary" means, the court in *Hancock Gross* states that "I, for one, am not certain what constitutes 'essentially stationary' surfaces and there is, in this record, no adequate proof of what it means. If it means surfaces that are completely stationary with no movement in the joint sealed by the gasket, why say 'essentially' and not just 'stationary' as edited by defendant. The primary function of faucet washers is to seal the flow of water when the valve is shut off. Faucet washers, in my opinion, plausibly perform that function between two faces or surfaces that are essentially stationary." The court, then, intimates that the joint sealed by the gasket does not have to be entirely static for the seal to be classifiable as a gasket. **HQ 750020** supports this proposition by providing that rubber "O"-rings have a general use capability regardless of whether they are used in dynamic or static applications. In *Arthur J. Fritz & Co., Western Oilfields Supply Co. v. U.S.*, 59 CCPA 46, C.A.D. 1036 (1971), rubber sealing rings, used in irrigation equipment, were held classifiable as gaskets under item 773.25, TSUS. The court stated that the structural design of the sealing rings "is geared to what we are constrained to hold to be the primary purpose - sealing." The subject "O"-rings are geared to the same purpose, preventing the leakage of matter.

These cases and our earlier decision indicate to us that certain gaskets, seals, washers, and "O"-rings are similar, and it would be incorrect to hold that "O"-rings are not similar to the washers in heading 7318.

Consequently, it is our position that the subject "O"-rings are similar to the washers in heading 7318, HTSUS. The function of the "O"-rings are to seal in matter contained within a pump or a cylinder, to prevent leakage. The washers in heading 7318, HTSUS, are fixed onto a nut and bolt and are designed, by definition, to both spread force over a wide area in order to protect an object's structure and prevent leakage. Therefore, being similar to washers for tariff classification purposes, the "O"-rings are "parts of general use". Because, under section XVI, note 1(g), HTSUS, the subject "O"-rings are precluded from classification under section XVI, HTSUS;

they are classifiable under subheading 3926.90.45, which provides for: "[o]ther articles of plastics: [o]ther: [g]askets, washers and other seals."