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 **NY 892934**  **Dec 29, 1993**

Type : Classification • HTSUS : 5603.00.9070

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CLA-2-56:S:N:N6:350 892934

Mr. Leslie Alan Glick  
Porter, Wright, Morris & Arthur  
1233 20th Street N.W.  
Washington, D.C. 20036-2395

RE: The tariff classification of nonwoven spunbonded polypropylene material for agricultural use and the manufacture of other disposable products such as diapers, from Mexico.

Dear Mr. Glick:

In your letter dated December 3, 1993, on behalf of Bonlam, S.A. de C.V. (Bonlam), you requested a tariff classification ruling. Bonlam is the Mexican manufacturer and exporter of these goods.

A sample and descriptive literature were provided. The data on the subject material, referenced as AGRIBON 17, lists a weight of 17 g/m2 and indicates that the material will come in rolls that vary from 1.05 mts to 4.40 mts in width and in roll lengths from 250 to 1,000 mts.

You request classification consideration under HTS subheading 3920.20.00, which covers plates, sheets and film of plastic of polymers of propylene, and believe that this classification is warranted, in part, because: the material is plastic; is extruded like other plastics and not textile; marketed to different markets than textiles and has completely different uses than textiles. You further cite General Rule Of Interpretation (GRI) 1 and GRI 3(a) for your position. Based on your presentation and the belief that Bonlam's product is more like a plastic than a textile, you conclude that classification, as a textile, under subheading 5603.00.9070 is inappropriate.

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As Factual Background, you write that the nonwoven spunbonded polypropylene is a nonwoven product made of artificial synthetic filaments. In actuality the filaments are "synthetic" filaments whereas "artificial" filaments are derived from cellulosic polymers. This distinction is made in the tariff. You go on to state that the method is called "Spunbond" and give a very detailed and accurate description of the manufacturing process. Briefly, polypropylene pellets are melted and extruded through a plate (spinneret) of very fine openings forming a web of continuous filaments that are laid down on a moving collection belt. The filaments, upon cooling, bond together forming a random web, which may be further heat bonded. This web may be produced in various thicknesses. The thickness of the subject material is given as 0.14 mm.

A telephone conference call was held, in lieu of the requested meeting, between yourself, Mr. Richard Burke, of your firm and National Import Specialist (NIS) George Barth, of my staff, because of our adverse position.

In the conversation it was noted, apropos of GRI 1, that the heading of 5603 is for Nonwovens, whether or not impregnated, coated, covered or laminated (emphasis added). The word "textile" is not used. The NIS further discussed that the in situ web formation was of a kind described in the Explanatory Notes to heading 56.03, also, it was clarified that a material is classified by its components and construction and not necessarily how it is used, in this case for agriculture. Textiles are not just limited for use in clothing and furnishings. It was mentioned that nonwovens have an important roll in the building trades and in civil engineering applications. There is a whole geotextile industry.

In accordance with the phone conversation, the applicable subheading for the subject material, as well as like produced materials, unless there is context to the contrary, will be 5603.00.9070, Harmonized Tariff Schedule of the United States (HTS), which provides for nonwovens, whether or not impregnated, coated, covered or laminated, of filaments. The rate of duty will be 12.5 percent ad valorem.

This merchandise falls within textile category designation 223. Based upon international textile trade agreements, products of Mexico are subject to a visa requirement.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report On Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs Office.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

Sincerely,

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Jean F. Maguire  
Area Director  
New York Seaport

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