



HARMONIZED SYSTEM  
COMMITTEE

-  
29<sup>th</sup> Session  
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NC0543E1

O. Eng.

Brussels, 4 April 2002.

## CLASSIFICATION OF CERTAIN MODIFIED STARCHES OR SIZING PREPARATIONS

(Item VIII.5 on Agenda)

### Reference documents :

NC0483E1 (HSC/28)  
NC0510E2, Annex H/3 (HSC/28 - Report)  
NS0058E1 (SSC/17)  
NS0060E2, Annex A/14 (SSC/17 - Report)

### I. BACKGROUND

1. At its 28<sup>th</sup> Session, the Harmonized System Committee, on the basis of Doc. NC0483E1, examined the classification of six products referred to as "CATO-SIZE<sup>®</sup> 52 A", "CATO<sup>®</sup> 15A", "ETHYLEX<sup>®</sup> 2040 Gum", "Astro X-101 Starch", "Penford<sup>®</sup> Gum 270" and "STA-LOK<sup>®</sup> 400".
2. One delegate informed the Committee that based on the information received from certain starch manufacturers, the existing Explanatory Notes and the legal texts were clear enough to classify these modified starches. He indicated that it was his understanding that the products in question had been mixed with other substances for specific uses and therefore, as indicated in the Explanatory Note to heading 38.09 (Item B (2)), they should be classified in heading 38.09.
3. Two other delegates were also in favour of classifying these six products in heading 38.09 rather than in heading 35.05.
4. One delegate, however, stated that these modified starch products did not appear to be mixed with other substances and therefore expressed the view that they should be classified in heading 35.05 as modified starches.

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5. Yet another delegate felt that the information provided was not sufficient to decide the classification of these products and proposed to submit this question to the Scientific Sub-Committee in order to obtain its technical views. The Committee agreed that additional information was needed before it could take an informed decision.
6. The Committee finally agreed to study this classification question further on the basis of more information (e.g., whether substances have been added to modify starches) to be provided by the Colombian Administration and/or the manufacturers. The Committee also agreed to request the Scientific Sub-Committee to provide its technical views on the scope of headings 35.05 and 38.09.
7. Acting on the Committee's decision, the Secretariat, by its letter dated 5 December 2001, requested the Colombian Administration to provide further information, as soon as possible, in order to facilitate the preparation of a working document for the next session (May 2002) of the Harmonized System Committee. To date, the Secretariat has not received any additional information from the Colombian Administration.
8. The Scientific Sub-Committee, at its 17<sup>th</sup> Session, examined the scope of headings 35.05 and 38.09 within the context of the classification of, and the technical information available on, the six products at issue. The observations of the Sub-Committee are set out below.

## II. OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE

9. One delegate explained that in view of the low content of defoamer (0.185 % by weight) in "CATO-SIZE® 52 A" and of phosphorus (0.3871 %) and silicon (0.000392 %) in "CATO® 15A" as reflected in paragraphs 3 and 5 of Doc. NC0483E1, these products did not appear to be mixed with other substances for a specific use.
10. He was of the view that in order to exclude these products from heading 35.05 they needed to be preparations for a specific use. In his view none of the six products were preparations as such, but were modified starches of heading 35.05.
11. It was also pointed out that according to Item (4) of the Explanatory Note to heading 35.05, this heading covered etherified or esterified starches used principally in the paper industry and that therefore these products would fall within the scope of heading 35.05.
12. The Sub-Committee agreed with these views.

## III. SECRETARIAT COMMENTS

13. In view of the comments made by delegates at the 28<sup>th</sup> Session of the HS Committee and the 17<sup>th</sup> Session of the Scientific Sub-Committee, it appears that there is agreement to classify modified starches in heading 35.05, even if they are used for a specific purpose, provided that no additional substances have been added to the modified starches.
14. Modified starches are specified in the text of heading 35.05. Certain types of modified starches covered by this heading are described in the Explanatory Note to heading 35.05. There is no statement which implies that the products of this heading should be for

“general use” and, in fact, the expression “used principally in the textile or paper industries” appears in that Explanatory Note. Consequently, the only products that are “of a kind used in paper, textile, leather or like industries” which are specifically excluded from heading 35.05 are “prepared glazings and dressings (based on starches or dextrins)”.

15. According to the information available, most modified starches used in the paper industry, appear to be prepared with a specific end-use in mind.
16. Accordingly the Secretariat could agree with the views expressed by the delegates that such modified starches should fall within the scope of heading 35.05.
17. It should however be noted that the Secretariat has received certain information which indicates that “CATO-SIZE® 52 A” and “CATO® 15A” have been classified in the past in heading 38.09 by at least two Member administrations. This information will be made available to delegates at the meeting.

### III. CONCLUSION

18. Taking account of the observations of the Scientific Sub-Committee and Secretariat's comments above, the Committee is requested to examine the classification of the six products referred to as “CATO-SIZE® 52 A”, “CATO® 15A”, “ETHYLEX® 2040 Gum”, “Astro X-101 Starch”, “Penford ® Gum 270” and “STA-LOK ® 400”.
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