



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

SCIENTIFIC SUB-COMMITTEE

-
14th Session
-

42.764 E
(+Annex)
O. Eng.

Brussels, 20 January 1999.

POSSIBLE AMENDMENTS TO THE TEXTS OF SUBHEADINGS 3920.41 AND 3920.42

(Item II.11 on Agenda)

Reference documents :

40.040 (RSC/13)
40.180 Annex C/16 (RSC/13 - Report)
40.213 (SSC/11)
40.369 (SSC/11)
40.460 Annex A/11 (SSC/11 - Report)
40.256 (RSC/14)
40.600 Annex D (HSC/18 - Report)
40.805 (SSC/12)
40.870 Annex A/18 (SSC/12 - Report)
40.788 (RSC/15)
40.920 Annex A/2 (RSC/15 - Report)
40.881 HSC/19
41.100 Annex E/1 (HSC/19 - Report)
41.461 (RSC/16)
41.557 (RSC/16)
41.580 Annex A/17 (RSC/16 - Report)
41.676 (SSC/13)
41.690 Annex A/15 (SSC/13 - Report)
41.920 Annex A/7 (RSC/17 - Report)
42.500 Annex A/4 (RSC/18 - Report)

I. BACKGROUND

1. At its 18th Session (October 1998), the Review Sub-Committee re-examined the EC proposal to amend the texts of subheadings 3920.41 and 3920.42 by replacing the expressions "rigid" and "flexible" by the expressions "non-plasticised" and "plasticised", respectively. After discussion, the Sub-Committee arrived at the following conclusions :
 - (a) There was a pressing need to prescribe objective criteria or test methods for distinguishing between "rigid" and "flexible" products of subheading 3920.4.

File No. 2585

For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

- (b) The first preference was to pursue a plasticiser content criterion. For this purpose, a broad definition of plasticisers should be developed and it should cover not only primary plasticisers, but also secondary plasticisers.
 - (c) There was wide support for a 6 % plasticiser content criterion for making such a distinction.
 - (d) The EC and US proposals concerning physical test methods should be kept alive, pending the outcome of efforts to develop a definition of plasticisers as indicated in (b) above.
2. In this context, the Review Sub-Committee decided to request the Scientific Sub-Committee to develop a broad definition of plasticisers which would also include secondary plasticisers, and to evaluate the suitability of a 6% plasticiser content criterion as the line of demarcation between “rigid” and “flexible” products of subheading 3920.4.

II. SECRETARIAT COMMENTS

Definition of plasticisers

3. It may be recalled that, in the course of exhaustive discussions at previous sessions, the Scientific Sub-Committee had recognised the difficulties in defining the scope of plasticisers, given that the distinction between primary plasticisers and secondary plasticisers was not clear. However, it would seem that the problems of defining plasticisers could be overcome if “plasticisers” for the specific purposes of subheading 3920.4 were to cover both primary and secondary plasticisers. This approach would also simplify the laboratory analysis to determine the plasticiser content in the products, since some analytical methods (e.g., the solvent extraction method) would seem to determine the quantity of primary and secondary plasticisers together (see Annex A/18 to Doc. 40.870, SSC/12 – Report).
4. The Kirk-Othmer Encyclopaedia of Chemical Technology (Volume 19, page 258) defines plasticisers as materials which, when added to a polymer, cause an increase in the flexibility and workability, brought about by a decrease in the glass-transition temperature of the polymer. It also indicates that plasticisers in common use are phthalate esters, adipate esters, trimellitate esters, phosphate esters, sebacate esters or azelate esters.
5. Kirk-Othmer also provides information on secondary plasticisers (Volume 19, page 264), also known as extenders, which play a significant role in flexible PVC formulations. It is stated that they do not impart flexibility to the PVC resin alone but, when combined with a primary plasticiser, act in such a way as to add flexibility to the final product. The majority of secondary plasticisers in use are chlorinated paraffins, which also act as fire retardants. Other materials often referred to as secondary plasticisers include epoxidized soybean oil, epoxidized linseed oil and similar materials, which can also act as lubricants.
6. Primary and secondary plasticisers are also described in “Additives for plasticisers” (Volume 1, pages 203 and 205). The primary plasticisers are indicated to be primarily liquids of low volatility, which are added to polymers in order to make them soft and flexible. Most are esters of phthalic, phosphoric, and adipic acids. The secondary plasticisers are

said to be less compatible with polymers, but are used in conjunction with primary plasticisers for providing special characteristics, such as improved low temperature flexibility, to polymers.

7. On the basis of information available (see paragraphs 4 to 6 above), the Secretariat understands plasticisers could be broadly regarded as materials of low volatility added to polymers in order to increase their flexibility and workability. Primary plasticisers can perform their plasticising function directly, while secondary plasticisers act indirectly in conjunction with primary plasticisers to give special properties to polymers or to enhance the plasticising performance of primary plasticisers. On this basis, the Secretariat suggests the following broad definition of “plasticisers” in response to the request of the Review Sub-Committee:

“Plasticisers are low volatile materials which, when added to polymers, increase their flexibility and workability either directly (primary plasticisers) or indirectly (secondary plasticisers).”

8. The Secretariat considers that the proposed definition of plasticisers should be provided in a legal Note, as this concept is not exactly in line with the information in technical literature, which distinguishes between primary plasticisers and secondary plasticisers. There could be two options for this purpose, as indicated below :
- (i) Provide the proposed definition of “plasticisers” in a new Note (subheading Note) to Chapter 39; or
 - (ii) Provide a legal Note to simply say that the term “plasticisers”, for the purposes of the subheadings concerned, include secondary plasticisers. This should be supplemented by a subheading Explanatory Note explaining the scope of plasticisers based on the meaning given in technical literature.
9. The Secretariat has prepared draft texts for amending the Nomenclature and the Explanatory Notes on the basis of both the options explained in paragraph 8 above. The draft texts are set out in the Annex to this document.

Suitability of a 6% plasticiser content criterion

10. On the question of whether a 6% plasticiser content is appropriate for distinguishing between products of subheadings 3920.41 and 3920.42, it should be recalled that there was wide support for this criterion at the Review Sub-Committee’s last session (see paragraph 1 above). The Secretariat would simply point out that such a criterion should be established on the basis of industry practice and should be supported by reliable test methods for identification.
11. The Sub-Committee is, therefore, requested to evaluate the suitability of a 6% plasticiser content criterion as the line of demarcation between “rigid” and “flexible” products of subheading 3920.4. The Sub-Committee is also requested to indicate the appropriate test methods to distinguish products based on this criterion.

12. Pending decision by the Sub-Committee, the Secretariat has placed the figure 6 % in square brackets in the draft texts proposed at the Annex. In this connection, it is recalled that the EC, in its original proposal, termed the new subheadings as “plasticised” and “non-plasticised”. The Secretariat has suggested the expression “containing by weight not less than 6% of plasticisers”, and a residual subheading “other” in lieu of “non-plasticised” proposed by the EC. The Secretariat also has proposed new HS codes as the scope of the new subheadings will be substantially different compared to the present subheadings due to mutual transfer of products (see paragraph 21 of Doc. 41.787).

III. CONCLUSIONS

13. The Sub-Committee is requested to:
- (i) draft a broad definition of “plasticisers” as requested by the Review Sub-Committee, and to express its views as to whether such a definition should be incorporated in the legal texts or in the Explanatory Notes (see paragraphs 7 and 8 above);
 - (ii) evaluate the suitability of a 6% by weight plasticiser content criterion as the line of demarcation between “plasticised” and other products of subheading 3920.4, and to prescribe a standard test method therefor.
14. Depending on its conclusions on questions in paragraph 13 above, the Sub-Committee is also invited to examine the draft amendments to the Nomenclature and the Explanatory Notes set out in the Annex.

x

x x

ANNEXE

AMENDEMENTS A APPORTER EVENTUELLEMENT AUX N^os 3920.41 ET 3920.42

(Point II.11 de l' ordre du jour)

ANNEX

POSSIBLE AMENDMENTS TO SUBHEADINGS 3920.41 AND 3920.42

(Item II.11 on Agenda)

[OPTION 1]

ARTICLE 16 PROCEDURE

A. AMENDMENTS TO THE NOMENCLATURE

CHAPTER 39.

New Subheading Note 2.

Insert the following new Subheading Note 2 :

- “2. For the purposes of subheading 3920.43, the term “plasticisers” means low volatile materials which, when added to polymers, increase their flexibility and workability either directly (primary plasticisers) or indirectly (secondary plasticisers).”

Subheadings 3920.41 and 3920.42. Subheading texts.

Delete and substitute :

“3920.43 - - Containing by weight not less than [6 %] of plasticisers

3920.49 - - Other”.

B. AMENDMENTS TO THE EXPLANATORY NOTES

CHAPTER 39.

Page 591. New Subheading Note 2.

Insert the following new Subheading Note 2 :

- “2. For the purposes of subheading 3920.43, the term “plasticisers” means low volatile materials which, when added to polymers, increase their flexibility and workability either directly (primary plasticisers) or indirectly (secondary plasticisers).”

Page 617. Subheadings 3920.41 and 3920.42. Subheading texts.

Delete and substitute :

“**3920.43 - - Containing by weight not less than [6 %] of plasticisers**

3920.49 - - Other”.

o

o o

[SOLUTION 1]

PROCÉDURE DE L'ARTICLE 16

A. AMENDEMENT DE LA NOMENCLATURE

CHAPITRE 39.

Nouvelle Note de sous-position 2.

Insérer la nouvelle Note 2 de sous-position suivante :

“2. Aux fins du n° 3920.43, on entend par “plastifiants” les substances peu volatiles qui, lorsqu’elles sont ajoutées à des polymères, les rendent plus souples et plus faciles à travailler, soit directement (plastifiants primaires), soit indirectement (plastifiants secondaires).”

N°s 3920.41 et 3920.42. Libellés de sous-position.

Remplacer par :

“3920.43 - - Contenant en poids au moins [6 %] de plastifiants

3920.49 - - Autres”.

B. MODIFICATION DES NOTES EXPLICATIVES

CHAPITRE 39.

Page 591. Nouvelle Note 2 de sous-position.

Insérer la nouvelle Note 2 de sous-position suivante :

“2. Aux fins du n° 3920.43, on entend par “plastifiants” les substances peu volatiles qui, lorsqu’elles sont ajoutées à des polymères, les rendent plus souples et plus faciles à travailler, soit directement (plastifiants primaires), soit indirectement (plastifiants secondaires).”

Page 617. N°s 3920.41 et 3920.42. Libellés de sous-position.

Remplacer par :

“**3920.43 - - Contenant en poids au moins [6 %] de plastifiants**

3920.49 - - Autres”.

°
° °

[OPTION 2]

ARTICLE 16 PROCEDURE

A. AMENDMENTS TO THE NOMENCLATURE

CHAPTER 39.

New Subheading Note 2.

Insert the following new Subheading Note 2 :

“2. For the purposes of subheadings 3920.43, the term “plasticisers” includes secondary plasticisers.”

Subheadings 3920.41 and 3920.42. Subheading texts.

Delete and substitute :

“3920.43 - - Containing by weight not less than [6 %] of plasticisers

3920.49 - - Other”.

B. AMENDMENTS TO THE EXPLANATORY NOTES

CHAPTER 39.

Page 591. New Subheading Note 2.

Insert the following new Subheading Note 2 :

“2. For the purposes of subheadings 3920.43, the term “plasticisers” includes secondary plasticisers.”

Page 617. Subheadings 3920.41 and 3920.42. Subheading texts.

Delete and substitute :

“**3920.43 - - Containing by weight not less than [6 %] of plasticisers**

3920.49 - - Other”.

[SOLUTION 2]

PROCÉDURE DE L'ARTICLE 16

A. AMENDEMENT DE LA NOMENCLATURE

CHAPITRE 39.

Nouvelle Note de sous-position 2.

Insérer la nouvelle Note de sous-position 2 suivante :

“2. Aux fins du n° 3920.43, le terme “plastifiants” comprend les plastifiants secondaires.”

N°s 3920.41 et 3920.42. Libellés de sous-position.

Remplacer par :

“3920.43 - - Contenant en poids au moins [6 %] de plastifiants

3920.49 - - Autres”.

B. MODIFICATION DES NOTES EXPLICATIVES

CHAPITRE 39.

Page 591. Nouvelle Note de sous-position 2.

Insérer la nouvelle Note de sous-position 2 suivante :

“2. Aux fins du n° 3920.43, le terme “plastifiants” comprend les plastifiants secondaires.”

Page 617. N°s 3920.41 et 3920.42. Libellés de sous-position.

Remplacer par :

“**3920.43 - - Contenant au moins [6 %] de plastifiants**

3920.49 - - Autres”.

Page 619. Heading 39.20. Last paragraph. New Subheading Explanatory Notes.

Insert the following New Subheading Explanatory Note :

**"Subheading Explanatory Note.
Subheadings 3920.43 and 3920.49.**

Products of these subheadings are distinguished on the basis of their content of plasticisers. For this purpose, primary plasticisers and secondary plasticisers should be taken together (see subheading Note 2 to this Chapter).

Primary plasticisers are low volatile materials which, when added to a polymer, cause an increase in its flexibility and workability (e.g., phthalate esters, adipate esters, trimellitate esters, phosphate esters, sebacate esters, azelate esters).

Secondary plasticisers, also known as extenders, are less compatible with polymers. When combined with primary plasticisers, they act in such a way as to enhance the flexibility of the final product; they also act as fire retardants, (e.g. chlorinated paraffins) or lubricants (e.g. epoxidized linseed oil)."

Page 619. N° 39.20. Dernier paragraphe. Nouvelle Note explicative de sous-position.

Insérer la nouvelle Note explicative de sous-position suivante :

**" Note explicative de sous-position.
N°s 3920.43 et 3920.49.**

On distingue les produits de ces sous-positions en fonction de leur teneur en plastifiant. A cet effet, les plastifiants primaires et les plastifiants secondaires doivent être pris en compte ensemble (voir la Note 2 de sous-position du présent chapitre).

Les plastifiants primaires sont des substances peu volatiles qui, lorsqu'elles sont ajoutées à un polymère, le rendent plus souple et plus facile à travailler (esters phtaliques, esters adipiques, esters trimellitiques, esters phosphoriques, esters sébaciques et esters azélaïques, par exemple).

Les plastifiants secondaires, également connus sous le nom d'allonge, sont moins compatibles avec les polymères. Lorsqu'ils sont combinés à des plastifiants primaires, ils permettent par leur action d'augmenter la souplesse du produit final; ils agissent également comme ignifugeant (paraffines chlorées, par exemple) ou comme lubrifiants (huile de lin époxydique, par exemple)."
