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SCIENTIFIC SUB-COMMITTEE
-
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-

NS0012E1
(+ Annex)
O. Eng.

Brussels, 21 December 1999.

AMENDMENT TO THE EXPLANATORY NOTES CONCERNING AMMONIUM NITRATE FERTILISERS

(Item II.3 on Agenda)

Reference documents :

41.560 (HSC/20)
42.092 (HSC/21)
42.100 Annex IJ/4 (HSC/21 – Report)
42.413 (HSC/22)
42.750 Annexes F/3, H/19 and K/12 (HSC/22 – Report)
42.485 (HSC/22)
NC0068E1 (HSC/23)
NC0090E2, Annex IJ/7 (HSC/23 – Report)
NC0160E2, Annex H/1 (HSC/24 – Report)
NS0004E1 (SSC/15)

I. BACKGROUND

1. Following the publication of Doc. NS0004E1, the Secretariat received on 13 December 1999 a Note from the Canadian Customs Administration, which is reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

2. The Secretariat notes that Canada supports the Venezuelan proposal to introduce a purity limit for the products of subheading 3102.30. It suggests a demarcations on a 98 % or 90 % ammonium nitrate content (on a dry weight) basis, which should be introduced in a legal text (preferably in the subheading text). The former percentage would be in line with the decision taken by the Harmonized System Committee (HSC/22), which classified a product containing 94.16 % ammonium nitrate in subheading 3102.40. The Secretariat had suggested a purity criterion of 95 % (see paragraph 3 of Doc. NS0004E1).

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3. The Secretariat has some difficulty, however, in following the suggestion that the HSC may wish to reconsider its previous decision to avoid, apparently, the emptying of subheading 3102.30 (see paragraph 7 of the Canadian submission). If this subheading would indeed become empty, it would certainly be appropriate to delete it and to transfer the contents to another subheading. However, according to the information available to the Secretariat the volume of trade at world level in commodities classified in subheading 3102.30 is substantial, as can be seen from the following table (in US$ 1,000) :

Year	1996	1997	1998
Volume	931,706	794,317	703,847

4. In any event, the Secretariat takes the view that reclassification in subheading 3102.30 of the product classified by the Committee in subheading 3102.40, would constitute a new classification question, to be considered by the Committee. In addition, the Canadian Administration may wish to clarify this point as the justification of this possible reclassification is not entirely clear to the Secretariat (i.e., whether the legal texts should be amended or not).

III. CONCLUSION

5. The Sub-Committee is invited to take the Canadian comments reproduced in the Annex and the above comments into account when considering this agenda item.

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Annex to Doc. NS0012E1
(SSC/15/Jan. 2000)

COMMENTS FROM THE CANADIAN ADMINISTRATION

I. BACKGROUND

1. At its 21st Session, the Harmonized System Committee considered the classification of the ammonium nitrate fertiliser described in Doc. 41.560 and decided that this material was classified in subheading 3102.40. In view of this decision, the Venezuelan Administration submitted a proposal to establish a parameter for distinguishing the pure and stabilized grades of ammonium nitrate from the blends or mixtures (Docs. 42.485 and NC0068E1). In addition, the Servico Nacional Integrado de Administracion Tributaria (SENIAT) of Venezuela provided technical information concerning criteria for distinguishing between ammonium nitrate products of subheadings 3102.30 and 3102.40. Due to the technical nature of this proposal, the Committee, at its 24th Session, decided to send the matter to the Scientific Sub-Committee for their consideration.

II. DISCUSSION

2. Based on information presented to date, ammonium nitrate products have three different purity levels :

- a "high purity" material, used as a laboratory reagent and in related applications. This material has an ammonium nitrate content in excess of 99 % (on a dry weight basis);

- a "stabilized" grade that contains small amounts of added ingredients for increased safety. This material has a purity of approximately 95 % (on a dry weight basis); and

- a "mixed" grade containing substantial amounts of inorganic non-fertilizing ingredients. This material typically has an ammonium nitrate content of no more than 80 % (on a dry weight basis).

3. Canada supports the Venezuelan proposal to introduce a purity limit for distinguishing between the goods of subheadings 3102.30 and 3102.40. Canada prefers a demarcation that is based on the ammonium nitrate content (on a dry weight basis). Laboratories would first determine the identity of significant additives and impurities and then determine their concentrations using a suitable method. The ammonium nitrate content would be determined as the difference. The nitrogen content can be used to determine ammonium nitrate content in products that do not contain other sources of nitrogen. However, Canada does not recommend using nitrogen content as a demarcation between the two subheadings as it would produce false results for products containing other nitrogen compounds.

4. The analysis and classification of goods of subheadings 3102.30 and 3102.40 can be greatly simplified by the adoption of a criterion that is clearly outside the normal purity range for the three product types described in paragraph 2 above. Such a criterion would remove the requirement for precise measurements on many products. It would also remove the analytical and classification difficulties associated with commercial products having concentration ranges that span the selected cut-off (that is, a commercial product which would sometimes fall in subheading 3102.30 and at other times in subheading 3102.40 because of small variations in the purity level).

5. Two options are possible when dealing with three distinct product types and two subheadings, either:

   1) direct the "high purity" ammonium nitrate to subheading 3102.30 and the other two grades to subheading 3102.40; or

   2) place both the "high purity" and "stabilized" grades of ammonium nitrate in subheading 3102.30 and the "mixed" grade in subheading 3102.40.

   The decision taken by the HSC at its 21st Session corresponds to option 1). In order to support this decision, Canada proposes a demarcation based on a 98 % ammonium nitrate content, on a dry weight basis.

6. Canada has concerns about the consequence of the previous HSC decision. The "high purity" material accounts for a minuscule portion of the world's trade in ammonium nitrate products. Given the very low level of trade in the "high purity" grade, subheading 3102.30 could easily be removed in the next round of legal revisions.

7. In view of the possibility of the eventual removal of subheading 3102.30, the HSC may wish to reconsider their previous decision. Should the HSC reverse their decision, Canada proposes a demarcation based on a 90 % ammonium nitrate content, on a dry weight basis.

8. Both the 98 % and 90 % limits are very similar to the demarcation limits that exist for distinguishing between titanium dioxide pigments and titanium dioxide preparations of heading 32.06. The pigments, with their low levels of surface treatment and other additives, are classified in subheading 3206.11, while colour concentrates, having titanium dioxide levels typically in the range of 20 % to 60 % by weight, are classified in subheading 3206.19.

9. Whichever limit is accepted, the decision should be reflected in a legal text, preferably in the subheading text.