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

HARMONIZED SYSTEM COMMITTEE
-
23rd Session
-

NC0043E1
(+ Annex)
O. Eng.

H9-3

Brussels, 17 May 1999.

CLASSIFICATION OPINION CONCERNING A SPECIFIC "VEEGUM" PRODUCT

(Item VIII.5 on Agenda)

Reference documents :

40.720 (HSC/18)
41.600 Annex G/2 (HSC/20 – Report)
41.686 (SSC/13)
41.690 Annex A/18 (SSC/13 – Report)
42.100 Annex E/1 (HSC/21 – Report)
42.443 (HSC/22)
42.502 (HSC/22)
42.750 Annex G/18 (HSC/22 – Report)

I. BACKGROUND

1. The Committee at its 22nd Session examined a Canadian request for the possible reinsertion of the deleted Classification Opinion concerning a specific “Veegum” product.

2. The Delegate of the EC noted that the draft Classification Opinion proposed by the Secretariat in the Annex to Doc. 42.443 contained only a general description of “Veegum” products and that the text was exactly the same as given in the present Item (45) of the Explanatory Note to heading 38.24 (page 585). He wondered whether a separate Classification Opinion based on the same text would be helpful to the Canadian Administration. In his view, the Classification Opinion should refer to specific products and, therefore, the Canadian Administration should first seek the decision of the Committee on the classification of actual products of concern and a Classification Opinion could be considered thereafter.

3. The Committee agreed with the EC suggestion and asked the Canadian Administration to submit a draft text of a Classification Opinion concerning a specific “Veegum” product for examination by the Committee at a future session.

File No. 2657

II. NOTE FROM CANADA

4. On 25 February 1999, the Secretariat received the following note from the Canadian Administration :

5. "… Further to the request of the 22nd Session of the Harmonized System Committee on possible reinsertion of the deleted Classification Opinion concerning "Veegum" products, please find the text describing regular "Veegum" as in the following :

> **Bentonite thickener** which is made from a deliberate blend of two natural bentonite clays from different deposits in pre-determined proportions. The blend is of aluminium and magnesium bentonites. It is sold in flake form and is used in products, such as cosmetics, toothpaste and oven cleaners."

III. SECRETARIAT COMMENTS

6. The Secretariat would like to remind the Committee that the reason behind the Canadian proposal for the reinsertion of the deleted Classification Opinion was to resolve the difference between the Canadian International Trade Tribunal and the Canadian Customs Administration in respect of the classification of deliberately mixed clays.

7. Although the Committee at its 22nd Session asked the Canadian Administration to submit a draft text of a Classification Opinion concerning a specific "Veegum" product, Canada submitted a description of regular "Veegum" (see paragraph 5 above) without any further comment or request.

8. In this connection, the Secretariat referred to Doc. 19.738 (Chemists' Committee/20) (File No. 1482). The following information is excerpted from paragraphs 12 to 20 therein :

8.1. In November 1972 the Israeli Administration reported that it had encountered certain difficulties in classifying a product marketed under the name of "Veegum T".

8.2. …producer has informed the Secretariat that the raw material for "Veegum" is a deliberate mixture of minerals. The basic material is a blend of aluminium and magnesium bentonites. The high aluminium bentonites are usually called montmorillonites. The high magnesium ones are also known as hectorite, saponite, etc.

8.3. It may be … sufficient to learn that, as is indicated by the basic "Veegum" US Patent, "Veegum" is generally obtained by mixing, in pre-determined proportions, three crude minerals, each classifiable in [CCCN] heading 25.07, namely magnesium bentonite having a high gel capacity, aluminium bentonite or montmorillonite with a high gel capacity and aluminium bentonite with medium or low gel capacity.

8.4. …the finished product [is] in the form of flakes, which may be ground to about 16 mesh for distribution.

8.5. "Veegum" is used as a thickener and emulsion stabiliser in, for example, cosmetics, pharmaceuticals, paints, adhesives, insecticidal sprays and lubricants for mould releases.

8.6. There are several grades of "Veegum", two of which should no doubt fall within [CCCN] heading 38.19, namely "Veegum PRO" which is amine treated and "Veegum CER" which consists of a blend of regular grade of "Veegum" and carboxymethylcellulose.

9. At its 31st Session, the Nomenclature Committee (NC) classified the "Veegum" products, as well as certain other products consisting of mixtures of clays, feldspar, borax, etc., in CCCN heading 38.19 (HS heading 38.24) and issued a Classification Opinion (CCCN 38.19/28) in this connection at its 32nd Session (Doc. 20.180, Annex C/E/2, NC/31 - Report and Doc. 20.700, Annex E/10, NC/32 – Report, respectively).

10. At the very beginning of drafting the HS Explanatory Notes, the wording of this Opinion was incorporated in the HS Explanatory Notes to heading 38.23 (presently, Item (45) of the Explanatory Note to heading 38.24, page 585). The Explanatory Notes to Chapter 38 were approved at the Joint Session of the Nomenclature Committee (54th Session) and the Interim Harmonized System Committee (4th Session) (Doc. 32.550/32.551, Annex D/26 to the Report). Consequently, the Opinion was deleted from the Compendium of Classification Opinions for the Harmonized System at the Joint Session of the Nomenclature Committee (56th Session) and the Interim Harmonized System Committee (6th Session) (Doc. 33.250/33.251, Annex H/3 to the Report).

11. Furthermore, the following information was found in the catalogue submitted by the producer of "Veegum" :

Composition :

11.1. "…Veegum, a highly refined product in its commercial form, is derived from mineral bases that are members of a series of isomorphous silicates formed by the weathering of glassy volcanic ash.

11.2. This series includes silicates showing variable substitution of magnesium for aluminium. Veegum, however, is produced primarily from a blend of the silicates showing high magnesium content (saponites).

11.3. The desirable properties of Veegum are probably related to its unusual tube or rod-like structure in contrast to the familiar platy structure of high aluminium silicates (montmorillonites).

11.4. The distortion of the plate to a rolled up tube or rod takes place wherever magnesium has substantially replaced aluminium in the crystal lattice. The greater size of the magnesium ion causes a crystal strain resulting in this unusual structure.

Uses :

11.5. Stabilizes emulsions
Suspends powders and pigments
Reduces the stringiness and tackiness of organic gum solutions
Binds inorganic powders and pigments
Functions as a disintegrated agent in tablets
Thickens emulsions, suspensions, solutions
Modifies the viscosity of liquids, creams and pastes
Imparts thixotropy to cosmetics, pharmaceuticals, paints, textile finishes
Disperses pigments for maximum color value
Improves the spreadability and imparts cosmetic elegance to lotions, creams and ointments
Combines with organic gums to form useful, unusual mixtures
Disperses in water readily to form colloidal sols and gels
Forms reversible gels (the flake can undergo hydration and drying any number of times)…".

12. The average chemical analysis of "Veegum" found in the aforementioned catalogue has been reproduced in Part A of the Annex to this document.

13. The Secretariat's further research in the same file also revealed that the production process of "Veegum" had been patented by the United States Patent Office in 1950 as "Colloidal Silicate Emulsifying Composition" with patent number 2,523,204. According to paragraphs 3 to 5 in page 3 of the patent;

13.1. "…In preparing the new products of the invention, the three types of clay selected, …, are admixed in the selected ratio with water, and the resulting admixture is disintegrated rapidly in a ball mill or the like, which may be a batch or continuous mill… Treatment of the product for about 30 minutes in the ball mill gives optimum results… The product from the ball mill consists of a suspension or dispersion of the clay in water, the dispersion containing all the materials present in the three clays used.

13.2. This suspension or slurry is then subjected to centrifuging,… which may be batch of continuous centrifuge, to separate the coarse particles, such as the coarse silica and carbonate particles present in the mixture, from the fine product which constitutes the product of invention…in the form of a smooth, white paste.

13.3. This smooth white paste may be used as such, but advantageously is dried so that the product may be distributed in dry form…".

14. Typical chemical analyses of (i) magnesium bentonite (or saponite), (ii) aluminium bentonite (or montmorillonite) of high gel character and (iii) aluminium bentonite of medium or low gel character, used in the production of "Veegum" have been reproduced in Part B of the Annex to this document.

15. As provided by Note 1 to Chapter 25, unless their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter include products obtained by processes allowed under that Note. Products which have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading are excluded. However, the processes listed (even, e.g., washing with chemicals) or other mechanical or physical processes allowed therein (except crystallisation) should, as a principle, not lead a change in the chemical or crystalline structure of the products.

16. The only process which the text of heading 25.08 allows beyond those admissible under Chapter Note 1 is calcination. The Explanatory Note to heading 25.08 (first paragraph, page 198) further states that this heading covers "natural" clayey substances. However, the information given above indicates that "Veegum" products are obtained, not by simple mixing of natural clays, but through a process, other than those allowed by Note 1 to Chapter 25 and by heading 25.08, during which;

(a) three types of bentonite clay are admixed in a pre-determined ratio with water;

(b) processed in a ball mill;

(c) centrifuged; and

(d) dried.

17. It should be noted that the crystalline structure and the chemical composition of the final product, "Veegum", is different from those of the input materials (see paragraph 13 for the processing technique, paragraph 11.3 for crystalline structure and paragraph 11.4 and the Annex to this document for chemical composition, respectively).

18. Therefore, the Secretariat is of the view that , since they are no longer natural clayey substances, the "Veegum" type products should be excluded from heading 25.08 and should fall in heading 38.24 due to their similarity to the products described in Item (45) of the present Explanatory Note to heading 38.24 (page 585).

19. In this connection, the Secretariat would like to draw the attention of the Committee to the interpretation by the Canadian Tribunal of the expression "obtained by mixing" used in Note 1 to Chapter 25. According to the information provided by the Canadian Administration, the Canadian Tribunal considered regular "Veegum" still a bentonite that was specially named at the subheading level (subheading 2508.10), although it was made from a deliberate blend of two types of bentonite clay. Bentonite from two sources was still "bentonite" and was not considered a "mixture" for the purposes of Note 1 to Chapter 25 and was therefore not excluded by the expression "obtained by mixing" (see Doc. 42.502, paragraph 8).

20. However, it is clear that the Canadian Tribunal had not taken into account the general principle laid down in Note 1 to Chapter 25 that any process allowed therein should not lead a change in the chemical composition or crystalline structure of the natural mineral products falling in the Chapter, unless otherwise is provided by its headings.

IV. CONCLUSION

21. The Committee is requested to rule on the classification of “Veegum” taking into account the information provided by the Canadian Administration (see paragraph 5 above) and the additional information and comments provided by the Secretariat (see paragraphs 7 to 20 above). The Committee is also requested to indicate whether a Classification Opinion should be issued to reflect its decision.

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Annex to
Doc. NC0043E1

	PART A	PART B		
	"Veegum"	High gel magnesium bentonite (saponite)	Aluminium bentonite (montmorillonite)	Medium or low gel aluminium bentonite
Silicon Dioxide	61.1 %	30.0 %	70.0 %	70.0 %
Magnesium Oxide	13.7	15.0	5.0	8.0
Aluminium Oxide	9.3	0.5	20.0	16.0
Titanium Dioxide	0.1	Tr.	Tr.	Tr.
Ferric Oxide	0.9	Tr.	2.0	Tr.
Calcium Oxide	2.7	28.0	Tr.	Tr.
Sodium Oxide	2.9	2.0	1.0	2.0
Potassium Oxide	0.3	Tr.	Tr.	Tr.
Carbon Dioxide	1.8			
Water of Combination Ignition loss	7.2	21.5	2.0	4.0

SOURCE :

PART A – "VEEGUM", Catalogue published by the producer "R.T. Vanderbilt Company, Inc."

PART B – United States Patent Office, Patent No. 2,523,204, date Sept. 19,1950.