



HARMONIZED SYSTEM  
COMMITTEE

NC0563E1

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

O. Eng.

Brussels, 9 April 2002.

## CLASSIFICATION OF CERTAIN ACID-ADDED CLAY PRODUCTS

(Item VIII.6 on Agenda)

### Reference documents :

NC0404E1 (HSC/27)  
NC0430E2, Annex IJ/5 (HSC/27 – Report)  
NS0045E1 (SSC/17)  
NS0060E2, Annex A/8 (SSC/17 – Report)

### I. BACKGROUND

1. At its 27<sup>th</sup> Session, the Harmonized System Committee held a preliminary discussion on a question raised by the Colombian Administration concerning the classification of the “Pure-Flo B81”, “Pure-Flo Pro-Active” and “Pure-Flo Color Master” clay products, obtained by the controlled addition of sulfuric acid to natural palygorskite (attapulgitite)-smectite clay through a process patented in the United States (Patent No. 5,783,511, date of patent : July 21, 1998).
2. The HS Committee unanimously concurred with the views expressed by the Secretariat in paragraph 19 of Doc. NC0404E1 that this question should be submitted to the Scientific Sub-Committee at its 17<sup>th</sup> Session (January 2002). In addition to responding to the questions raised by the Secretariat in paragraph 18 of Doc. NC0404E1, the Sub-Committee was asked to give its views as to whether adding acid to these products for the specified purposes was covered by the term “washing” for purposes of Chapter 25. Also, as proposed by the Secretariat (paragraph 20 of Doc. NC0404E1), samples of the products at issue should be obtained and analysed by the Customs laboratories of Contracting Parties, and the results of those analyses submitted to the Sub-Committee as further information.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

File No. 2854

## II. DISCUSSIONS AT THE 17<sup>TH</sup> SESSION OF THE SCIENTIFIC SUB-COMMITTEE

### The scope of Note 1 to Chapter 25

3. There was consensus in the Sub-Committee that, although the washing of mineral substances with chemical substances to eliminate impurities without changing their structure was permitted by Note 1 to Chapter 25, the controlled addition of sulfuric acid to clay products via the patented process mentioned in the working documents went beyond simple washing within the meaning of Note 1.
4. Concerning the question of whether the addition of acid to clay products of Chapter 25 changed the "structure" of the products in question, it was noted that after the addition of sulfuric acid, the resulting bleached clay product had not been washed but rather dried and comminuted. That is, the added sulfuric acid remained in the product. Even though the addition of sulfuric acid to clay products would not necessarily change their crystalline structure, it would certainly change their chemical structure since this process would result in an exchange in which certain ions (e.g., calcium or potassium ions) found in the clay products would be replaced by hydrogen ions. This was clear from the penultimate sentence of paragraph 5.11 of Doc. NS0045E1 which stated that "... the gypsum found in the B81, Color master and Pro-Active products is the result of the reaction between the calcium in the clay and the sulfuric acid". As a result of this treatment, the products under consideration could be used in the bleaching of oils, which was not usual for natural clayey substances. As such, these products were not products of Chapter 25, but rather, similar to the activated natural mineral products of heading 38.02.

### Classification

5. As regards the point made by the importer that the addition of sulfuric acid to the starting clay product resulted in only "marginal" changes in the surface area, it was remarked that, based on Parts (A) (I) and (A) (II) of the Explanatory Note to heading 38.02 (pages 671 and 672), activated natural mineral products could have a very large specific surface or a fairly small surface. When activated by means of an acid, activated clays were mainly used for decolourising animal, vegetable or mineral oils, fats or waxes as explained in Item (b) (3) of the Explanatory Note to heading 38.02 (page 672).
6. With regard to the classification of the "Pure-Flo B81", "Puro-Flo Pro-Active" and "Pure-Flo Color Master" acid-added clay products, one delegate took the view that these products could be classified in heading 38.24, taking into account that their specific surface area values were almost the same as that of the natural product "Pure-Flo B80" and that these products contained gypsum besides clayey substances according to their X-ray diffraction patterns given in Annex II to Doc. NS0045E1. However, the Sub-Committee was of the view that the products in question were classifiable in heading 38.02 (subheading 3802.90) since the terms of this heading were more specific than the terms of heading 38.24.

7. Finally, the Sub-Committee agreed that there was no need to have samples of the products at issue analysed or to amend the relevant legal or Explanatory Notes texts. Nevertheless, the US Delegate indicated that he could obtain samples if needed. The Delegate of France stated that his administration had considerable experience with such products and was ready to analyse the samples if requested.

### III. SECRETARIAT COMMENTS

8. With respect to the scope of Note 1 to Chapter 25, there was consensus in the Sub-Committee that the controlled addition of sulfuric acid to clay products via the patented process mentioned in the working documents went beyond simple washing within the meaning of Note 1. The Secretariat would share the view that the products under consideration should be excluded from Chapter 25.
9. As regards the classification of the products, the Sub-Committee indicated that they would be potentially classifiable in heading 38.02 as activated natural mineral products or in heading 38.24 as chemical products, not elsewhere specified or included. Furthermore, the Sub-Committee was of the view that the products in question were classifiable in heading 38.02 since the terms of this heading were more specific than the terms of heading 38.24. Since the products appear to be classifiable in either heading 38.02 or 38.24 and heading 38.24 is a residual heading, the Committee is invited to consider whether the products are covered by the terms of heading 38.02, in particular, the expression "activated natural mineral substances".
10. As regards future action, in view of the views expressed in paragraph 7 above, the Secretariat would not make any specific proposals.

### III. CONCLUSIONS

11. Taking into account the views expressed by the Scientific Sub-Committee, the Committee is invited to examine the classification of "Pure-Flo B81", "Puro-Flo Pro-Active" and "Pure-Flo Color Master" acid-added clay products. The Committee is also invited to indicate what further action, if any, should be taken in respect of this matter.

Acid-added clay products obtained by controlled addition of sulfuric acid to natural palygorskite (attapulgitite)-smectite clay. After the addition of sulfuric acid, the resulting bleached clay product has not been washed with water but instead dried and comminuted to a desired particle size.