



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

NC0144E1

-  
24th Session

O. Eng.

H9-3

Brussels, 30 September 1999.

CLASSIFICATION OPINION CONCERNING A SPECIFIC "VEEGUM" PRODUCT

(Item VII.15 on Agenda)

Reference documents :

42.750 (HSC/18)  
42.750 Annex G/2 (HSC/20 – Report)  
42.750 (SSC/13)  
42.750 Annex A/18 (SSC/13 – Report)  
42.750 Annex E/1 (HSC/21 – Report)  
42.750 (HSC/22)  
42.750 (HSC/22)  
42.750 Annex G/18 (HSC/22 – Report)  
NC0043E1 (HSC/23)  
NC0090E2 Annex H/3 (HSC/23 – Report)

1. On 11 August 1999, the Secretariat received the following comments from the Canadian Administration concerning the classification of "Veegum".

I. NOTE FROM THE CANADIAN ADMINISTRATION

2. "The Canadian Administration would like clarification on the Secretariat's comments outlined in paragraphs 15 to 20 to Doc. NC0043E1 concerning "Veegum". It is our understanding that the Secretariat believes the processing of Veegum causes a change to the chemical composition and crystalline structure of the product, and for this reason, Veegum should be excluded from Chapter 25. We are concerned this viewpoint is not technically accurate and therefore provide the following information for the Committee to consider :

File No. 2657

3. Paragraph 16 outlines the purification steps involved in the processing of Veegum. All of these steps are physical processes : the blending of the clays in predetermined ratios, the addition of water to create a slurry and the action in the ball mill to disintegrate the clays in order to remove some impurities, centrifugation to remove additional impurities (such as quartz and carbonates) and then drum-drying the mixture before it is packaged for sale. None of these processes alter the chemical composition or crystalline structure of the individual components of the bentonite clays.
4. In paragraph 17, the Secretariat refers to paragraphs 11.3 and 11.4 and the Annex to show that the crystalline structure and the chemical composition of the final product, "Veegum", is different from those of the input materials. We would like to clarify that paragraph 11 is only describing the physical characteristics of the two types of clays involved prior to mixing. As noted in paragraph 11.2, Veegum is produced primarily from magnesium bentonite, which has a rolled-up tube or rod-like structure, rather than aluminum bentonite which has a platy structure. Paragraph 11.3 is only describing the desirable property of the magnesium bentonite component, while paragraph 11.4 describes how this rolled-up tube or rod-like structure is created in nature prior to mining. This paragraph is not describing any changes to the individual components of the clays involved during the production of Veegum.
5. With respect to the Annex, the chemical composition (based on % oxides) of the end product as a whole will be different from the individual inputs as you are mixing two different types of clays together. However, the individual components of the clays are not chemically changed.
6. As noted above, the processes involved in producing Veegum do not alter the chemical composition or crystalline structure of the individual components of the bentonite clays. However, the deliberate mixing of two or more bentonite clays does create a product that has properties that do not exist in the natural state. Different types of bentonite from separate sources are used to make Veegum because the clays from each source impart, in combination, different functional properties to the end product, such as viscosity and acid demand, which do not exist in the originating materials. As such, the end product, Veegum, is not considered a natural clayey substance of heading 25.08.
7. Further, Note 1 to Chapter 25 specifically excludes these types of products obtained by mixing, whereby the deliberate mixing creates an end product with properties that are different from the originating materials.
8. The Canadian Administration maintains that Veegum is excluded from Chapter 25 by Note 1 on the principle that it is obtained by mixing two or more different clays which create an end product with specific properties not found in nature. Hence, it is not a natural clayey substance of heading 25.08, but rather a deliberate mixture with desirable properties for the product's end-use. Thus, Veegum should fall in heading 38.24 due to its similarity to the products described in Item (45) of the present Explanatory Note to heading 38.24.
9. Some confusion may exist with our reference to two clays in the proposed wording for the Classification Opinion outlined in paragraph 5 to Doc. NC0043E1 compared with the US patent and information discussed by NC/31 which described three clays - a high gel magnesium bentonite, a high gel aluminum bentonite and a low gel aluminum bentonite. We are basing our proposed wording on the information provided in 1992 by the company

R.T. Vanderbilt Company, Inc. for our court (CITT) case concerning the classification of regular Veegum. It is quite possible that since the granting of the US patent and the information available during the NC discussions, the company is now only using two different components instead of three. Our administration does not have a concern as to which reference is used for the present discussions since we are still dealing with a deliberate mixture of at least two types of clay - a magnesium bentonite and an aluminum bentonite.

10. As an additional comment, the Canadian administration would like the HSC to confirm the classification for regular Veegum, a deliberate blend of two or more types of bentonite clays, specifically a magnesium bentonite (or saponite) and an aluminum bentonite(s) (or montmorillonite) mined from different deposits. Although the initial request from the Israeli Administration refers to "Veegum T" (November 1972), the technical information examined by the Nomenclature Committee was for "regular" Veegum. Our court case also dealt with "regular" grade Veegum, not "Veegum T". As noted by the Secretariat in paragraph 8.6 to Doc. NC0043E1, there are several grades of "Veegum" available with varying properties for different applications. Therefore, our administration requests the HSC examine the classification of regular Veegum only.

## II. SECRETARIAT COMMENTS

11. In summary, the Canadian Administration in its comments points out that :
- (a) The processes involved in the production of "Veegum" do not change the chemical composition or the crystalline structure of the individual input bentonite clays deliberately mixed to obtain "Veegum";
  - (b) The deliberate mixing of two or more bentonite clays create a final product that has properties that do not exist in the natural state;
  - (c) The individual input clays impart, in combination, different functional properties to the end product, such as viscosity and acid demand, which do not exist in the originating materials;
  - (d) The chemical composition (based on % oxides) of the end products as a whole will be different from those of the individual inputs;
  - (e) Therefore, the end product, "Veegum" is not considered a natural clayey substance of heading 25.08.
12. As such, the Secretariat would like to clarify that there is no difference between its views and the views expressed by Canada.
13. The Secretariat in paragraphs 11 to 18 of Doc. NC0043E1 explains the processes involved in the production of "Veegum" and indicates that, as the final product, chemical and crystalline properties of "Veegum" are different from those of individual input clays. First of all, products obtained by "mixing" or subjected to processing beyond that mentioned in each heading are excluded from Chapter 25 according to Note 1 to this Chapter. This is the simple reason at the first degree for the exclusion of "Veegum" from Chapter 25. Secondly, however, a further reason for such exclusion is that the final product "Veegum" is not a natural clayey substance. It should, therefore, fall in heading 38.24, since it is similar

NC0144E1

to the products described in Item (45) of the present Explanatory Note to this heading (page 585).

14. Canada further notes that it requests the Harmonized System Committee to classify regular "Veegum" only. The description of regular "Veegum" has already been given in paragraph 5 of Doc. NC0043E1.

### III. CONCLUSION

15. The Committee is requested to take the above comments into account when examining this agenda item.
-