



HARMONIZED SYSTEM
COMMITTEE

-
32nd Session
-

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(+ Annex)

O. Eng.

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CLASSIFICATION OF CERTAIN FLOORING PANELS

(Item VII.9 on Agenda)

I. BACKGROUND

1. On 12 September 2003, the Secretariat received a note from the **European Community** requesting it to submit the HS classification of certain flooring panels to the Harmonized System Committee for consideration. This request was prompted by the fact that the product at issue had been the subject of a dispute between the **EC** and the **United States**, which could not be resolved bilaterally.
2. The **EC** comments are set out below. The Secretariat has numbered the paragraphs of the note for ease of reference.

II. NOTE FROM THE EC

3. "In 2002, the **US** Administration changed the classification of "parquet flooring panels" manufactured in the **EU** and imported into the **United States**. **US** Customs initially accepted classification of the panels in HS subheading 4418.30 ("parquet panels") but in 2002 the classification was changed to subheading 4418.90 ("other").
4. Despite several efforts, the **EC** and the **United States** have not been able to resolve the issue bilaterally in accordance with Article 10.1 of the HS Convention. Consequently, the issue is referred to the HS Committee for consideration in accordance with Article 10.2 of the HS Convention.
5. The main issues to consider are :
 - Whether parquet panels of subheading 4418.30 must have a certain pattern, and

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File No.2611

- The classification of the panels described below.

6. Two samples of the product will be available to delegates for examination during the meeting. Furthermore, if the Committee agrees, the **EC** would provide a short presentation (DVD) on the manufacturing process and the use of the panels.

Product in question

7. The product in question is made from different varieties of wood (e.g., oak, ash, beech and Merbau) and in various sizes. For example :

Type B 3.0 - 14 mm

According to the product information sheet each board is assembled from two rows of staves/strips by a glued double dovetail construction and is provided with a propylene moisture balancer on the underside. The Merbau-type is, however, assembled from two rows of finger-jointed staves/strips that are glued together. The stave lengths are 623.5 mm or 467.5 mm (Merbau: 308.0 mm or 408.0 mm). Each panel (consisting of the two rows of staves/strips) is tongued and grooved on all four sides. The dimensions of the panels are :

Thickness : 13.8 mm (± 0.2 mm)
Width : 129.0 mm (± 0.2 mm)
Length : 1,830.0 mm or 900.0 mm (± 1 mm)

Type B 2.0 - 22 mm

According to the product information sheet each board is assembled from two rows of staves/strips by a glued double dovetail construction and is provided with a propylene moisture balancer on the underside. The Merbau-type is, however, assembled from two rows of finger-jointed staves/strips that are glued together. The stave lengths are 623.5 mm or 467.5 mm (Merbau: 308.0 mm, 408.0 mm or 474.0 mm). Each panel (consisting of the two rows of staves/strips) is tongued and grooved on all four sides. The dimensions of the panels are :

Thickness : 21.8 mm (± 0.2 mm)
Width : 129.0 mm (± 0.2 mm)
Length : 3,700.0 mm, 1830.0 mm or 900.0 mm (± 1 mm)

Classification provisions

8. Heading 44.09 covers (in pertinent part) "...strips and friezes for parquet flooring...".
9. Explanatory Note to heading 44.09 : "The heading also covers strips and friezes for parquet flooring consisting of narrow pieces of boards and provided that they have been continuously shaped, e.g., tongued and grooved".
10. The strips used in the manufacture of the panels are tongued and grooved strips.

11. Excluded from heading 44.09 : "... wood assembled into panels, e.g., parquet flooring panels made up from parquet flooring blocks, strips, etc., whether or not on a support of one or more layers of wood (heading 44.18)." (emphasis added).
12. Heading 44.18 covers (in pertinent) "... assembled parquet panels ...".
13. Explanatory Notes to heading 44.18 : "Parquet strips, etc., assembled into panels or tiles, with or without borders, including parquet panels or tiles consisting of parquet strips on a support of one or more layers of wood" (emphasis added).
14. *Due to the use of the term "including", the EC interprets this to mean that heading 44.18 covers panels made of solid wood and panels on a support of one or more layers of wood ("multi-layer" panels).*
15. Excluded from heading 44.18 : "Plywood panels or veneered panels, used as flooring panels, which have a thin veneer of wood affixed to the surface, so as to simulate a flooring panel made up of parquet strips (44.12)" (*Not the case here - the product at issue consists of solid wood*).

Classification

16. The staves/strips from which the panels are assembled are classified in heading 44.09.
17. In this connection the **EC** would like to refer to the Harmonized System Committee's decision to classify in subheading 4409.10 or 4409.20 (as the case may be) : "*Strips for parquet flooring, not assembled, measuring approximately 40 cm long x 6 cm wide x 2 cm thick, made from a solid piece of wood, with one side (the length) tongued and the opposite side grooved; the ends (the width) are also worked with one end having a tongue and the opposite end a groove*" (See HS Classification Opinion 4409.10 or 4409.20 in the Compendium of Classification Opinions).
18. The staves/strips used for the panels in question are more or less of the same dimensions as those classified by the Harmonized System Committee.
19. As indicated above, "parquet panels" are classified in subheading 4418.30 where they are directly mentioned.
20. The **EC** is of the view that the panels in question fully comply with the description in the above Explanatory Notes, i.e., they consist of assembled staves/strips and they are tongued and grooved on all four sides.
21. Consequently, they should be classified in **subheading 4418.30** (parquet panels).

22. This is also supported by the provisions of the EC's Combined Nomenclature (CN) which makes a distinction between parquet panels "for mosaic floors" and "other" - see below :

4418.30 - **Parquet panels**
4418 30.10 -- For mosaic floors
-- Other
4418 30.91 --- Composed of two or more layers of wood
4418 30.99 --- Other

23. The US Administration, however, is of the view that in order for wood flooring to be classifiable as "parquet panels" under subheading 4418.30, the flooring must bear a mosaic or checker-board design on its face. For this reason, the panels have been classified in **subheading 4418.90**.

"Pattern"

24. The US Administration has concluded that the products are not classifiable in HS subheading 4418.30 as parquet panels because they consist of assembled strips in standard sizes that are ready for installation in the same manner as strip flooring and that there is no indication that this strip flooring is patterned flooring.

25. It seems that the US Administration has interpreted the term "pattern" to mean a kind of "mosaic", such as "simple or double herringbone", "basket" or "Hungarian".

26. While such patterns might have been predominant in the past, the EC would like to point out that nowadays most parquet flooring sold in Europe, in particular the solid wood type, are in the form of parallel laid strips.

27. Furthermore, should the Committee agree with the US Administration that "parquet panels" must be in the form of a specific pattern, the EC would like to point out that according to European definitions prepared by the industry, the panels at issue are also regarded as patterned flooring and the terms used by the industry for this type of flooring are for example :

- "**strip-pattern** parquet flooring" (parquet made up of an assembly of equal width and random length strips) – see Annex to this document.
- "**brick-pattern** parquet flooring" (parquet made up of an assembly of elements of equal width and length, where the end joint is at the centre of the juxtaposed element) – see Annex to this document.

28. These definitions and other wood flooring terminology can be found in the enclosed list "prEN 13756" prepared by CEN (the European Committee for Standardization). It should be noted that Figures 11 to 16 in the list show sketches of different patterns. (The Secretariat has reproduced relevant parts from this list in the Annex to this document. The

entire document will be made available to the delegates during the meeting of the HS Committee – (*Secretariat*)

29. From these illustrations and definitions it is clear that whether wood flooring has a regular (parallel laid) pattern or an irregular (e.g., “mosaic”) pattern, it is still regarded a patterned flooring.
30. In the **EC**'s view, the panels in question are clearly “strip-patterned” parquet flooring.
31. More important is, however, that no provisions in the HS Nomenclature or in the Explanatory Notes require that parquet flooring must have a certain pattern. On the contrary, the Explanatory Note to heading 44.09 clearly indicates that strips made up to form a panel are referred to as a “parquet flooring panel”.
32. Furthermore, it must also be taken into consideration that the product at issue is manufactured, traded, marketed, sold, purchased and used as parquet flooring panels, at least in Europe. It has no other uses.
33. Consequently, the **EC** cannot find any reasons, neither in the legal HS text nor in the Explanatory Notes, why the product at issue should be excluded from classification in subheading 4418.30.
34. The **EC** is therefore of the view that the panels in question are clearly **classifiable in HS subheading 4418 30.**”

III. SECRETARIAT COMMENTS

35. From the **EC** observations, it appears that the administrations involved classify the product at issue in heading 44.18. While the **EC** classifies the panels under that heading as “assembled parquet panels” (see paragraph 12 above), the basis for classification used by the **United States** is not known, but it is assumed that it is on the basis of the panels being “joinery”.
36. The first paragraph of the Explanatory Note to heading 44.18 describes the content of that heading as “woodwork, including that of wood marquetry or inlaid wood, used in the construction of any kind of building, etc., in the form of assembled goods or as recognisable unassembled pieces (e.g., prepared with tenons, mortises, dovetails or other similar joints for assembly), whether or not with their metal fittings such as hinges, locks, etc.”. Since the individual staves or stripes of the panels have been prepared with dovetails in order to assemble them, they could be considered as falling within the scope of heading 44.18. This is supported by the Explanatory Note to heading 44.09, which excludes from that heading wood which has been dovetailed. Such wood is referred to heading 44.18. Assembling two or more of the pieces of heading 44.18 would, in the view of the Secretariat, result in a classification within that heading. The Secretariat, therefore, believes that the classification of the panels under heading 44.18 is appropriate.
37. However, if the staves have simply been glued together without a dovetail construction (see the **EC** description in paragraph 7 above), classification under heading 44.18 might be questionable, given the Committee’s decision to classify rectangular panels of wood obtained by gluing edge-to-edge a number of strips, in heading 44.21 (see Classification Opinion 4421.90/2).

38. Having said this, it appears that the two parties involved agree on the appropriate heading (i.e., heading 44.18), but have different views with respect to the appropriate subheading within that heading. This stems from (i) the fact that, apparently, one of the parties takes the view that parquet flooring must be arranged in a pattern and (ii) differences with regard to the scope of the term "pattern" in definitions related to "parquet flooring".

Parquet flooring

39. Many definitions of parquet flooring found by the Secretariat suggest that parquet flooring must be laid in a pattern :

"Parquet flooring – wood flooring made of strips laid in a pattern to form designs" (*McGraw-Hill, Dictionary of science and technical terms, Fifth edition*).

"Parquet flooring – a flooring, esp. one composed of blocks of various woods arranged in a geometric pattern" (*The New Shorter Oxford English Dictionary of Historical Principles, 1993*).

40. However, there are other definitions of parquet that make no reference to a pattern, for example :

"Parquet – an assembly of wooden strips and/or friezes, laid out in a regular, juxtaposed style, forming or intended to form an interior floor" (*Larousse Encyclopaedic Dictionary, 1995 – translation by the Secretariat*).

(Original text in French : "Parquet – ensemble de frises ou de lamelles de bois, disposées régulièrement et jointives, formant ou destiné à former un revêtement de sol intérieur").

41. Moreover, the Larousse Dictionary makes a distinction between a parquet flooring made of parquet panels (Fr. - *parquet par panneaux*) on the one hand and a mosaic parquet flooring (Fr. - *parquet mosaïque*) – on the other :

"Modern parquet flooring is available in a very wide variety of styles, and is constantly changing. *Parquet panels* are prefabricated : they consist of strips of wood assembled into rectangles measuring approximately 100 x 25 cm, and are laid on battens or bitumen. In *mosaic parquet*, the laying unit is a square consisting of strips of oak, chestnut wood or, more rarely, maritime pine or tropical wood, 5 to 8 mm thick, laid side by side and glued onto a paper backing. (...) They are glued onto the carefully levelled floor slab or onto a cement screed, using a special glue" (*Larousse Encyclopaedic Dictionary, 1995 – translation by the Secretariat*).

(Original text in French : "Les *parquets modernes* sont très diverse et évoluent constamment. Le *parquet par panneaux* est préfabriqué : il est constitué de lames assemblées en un rectangle d'environ 100 x 25 cm et se pose sur lambourde ou sur bitume. Dans le *parquet mosaïque*, l'élément de pose est un carreau constitué par des lamelles de 5 à 8 mm d'épaisseur en chêne, châtaignier, plus rarement pin maritime ou bois tropicaux, disposées, côte à côte, collées sur un papier. (...) Ils sont collés sur la dalle soigneusement ragréée ou sur chape de ciment avec une colle spéciale").

42. As can be seen from these examples, definitions of parquet flooring vary from one source to another, some of them making no reference to the pattern in which parquet flooring must be arranged.

Pattern

43. Where the term "pattern" is concerned the Secretariat has found the following definitions :

"Pattern – an arrangement of form; disposition of parts of elements; design" (*Webster's New World Dictionary Of The American Language, Second College Edition, 1970*).

"Pattern – a (repeated) decorative design, esp. on or in china, carpets, cloth, wall paper, etc.; a style or type of decoration" (*The New Shorter Oxford English Dictionary of Historical Principles, 1993*).

"Pattern – an arrangement of lines, shapes, colours, etc., esp. as a decorative design on clothes, carpets or wallpaper" (*Oxford Advanced Learner's Dictionary Of Current English, Fifth Edition*). See also a picture illustrating various kinds of patterns in the Annex to this document (Figure 8).

44. The above definitions suggest that a striped pattern should also be considered to be a pattern. Consequently, flooring panels producing a striped pattern when laid as parquet could be considered to be parquet flooring.
45. Having said this and having examined the samples provided by the **EC**, the Secretariat has noticed that there is no chamfer on the face of the panels at issue. Such panels, when laid as flooring, constitute an even surface with almost no visible gaps between the panels. Apparently, flooring of such kind features the natural grain and colour of the wood, rather than a striped pattern, especially in cases where two or more juxtaposed strips are of similar grain and colour. It could, therefore, be questioned whether such flooring could be considered as having a regular striped pattern. The **EC** may wish to clarify this point.
46. On the other hand, when parquet panels have chamfers on the face, the resulting flooring would have an evenly arranged striped pattern, regardless of the grain and colour of the wood. Parquet panels of this kind could be considered to be classifiable in subheading 4418.30. (See Figure 7 in the Annex to this document.)
47. Having said this, the Secretariat leaves it to the Committee to make a decision with regard to the flooring panels under consideration.

III. CONCLUSION

48. The Committee is invited to rule on the classification of the flooring panels at issue, on the basis of the information provided by the **EC** and the Secretariat's comments set out above.

49. The Committee is also invited to instruct the Secretariat as to what further action should be taken in this regard.

Flooring panels (thickness 13.8 mm or 21.8 mm, width 129 mm, length 3,700 mm, 1,830 mm or 900 mm) assembled from two rows of staves/strips which have been assembled in the length with a tongue/groove construction, the rows being assembled by a glued double dovetail construction. The panels are provided with a polypropylene film (moisture balancer) on the underside and are tongued and grooved on the edges and ends. The stave lengths are 308 mm, 408 mm, 467.5 mm, 474 mm or 623.5 mm.

* * *

EXTRACT FROM THE LIST prEN 13756

DEFINITIONS

Parquet – wood flooring with a top layer thickness of minimum 2,5 mm prior to installation (conventional definition).

Parquet panel – pre-assembled laying unit made up from parquet elements.

French flooring – flooring made up of elements which have a random length and a series of widths, arranged in a parallel direction (see example in Figure 1).

Strip-pattern parquet flooring – parquet made up of an assembly of equal width and random length strips (see Figure 2).

Brick-pattern parquet flooring – Parquet made up of elements of equal length and width, where the end joint is at the centre of the juxtaposed element (see Figure 3).

"Herringbone" parquet flooring – parquet made up of elements of the same dimensions, having the ends cut at a right angle, laid perpendicular one to another, at an angle of 45° relative to the directions of the walls and/or of battens (see Figure 4).

"Hungarian-pattern" parquet flooring - parquet made up of elements of the same dimensions, having the ends cut at an angle of between 45° and 60°, that are laid end to end at a right angle or at an angle of 120°, forming parallel patterns (see Figure 5).

Basket pattern parquet flooring – assembly of fingers, blocks or strips placed edge to edge, making up a square, the side of which is equal to the length of the finger, block or strip (see Figure 6).

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Figure 1.

Figure 2.

Figure 3.

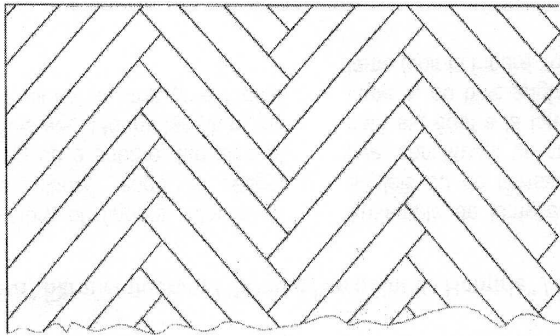


Figure 4.

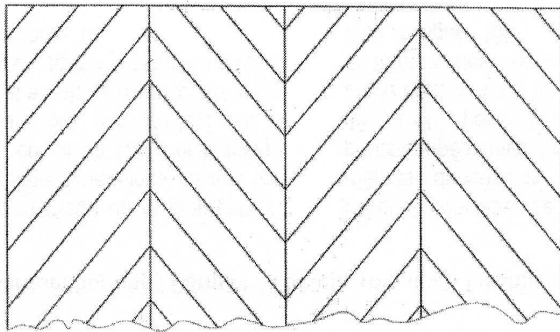


Figure 5.

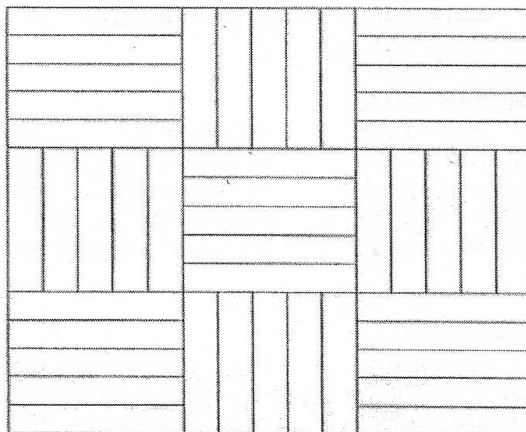
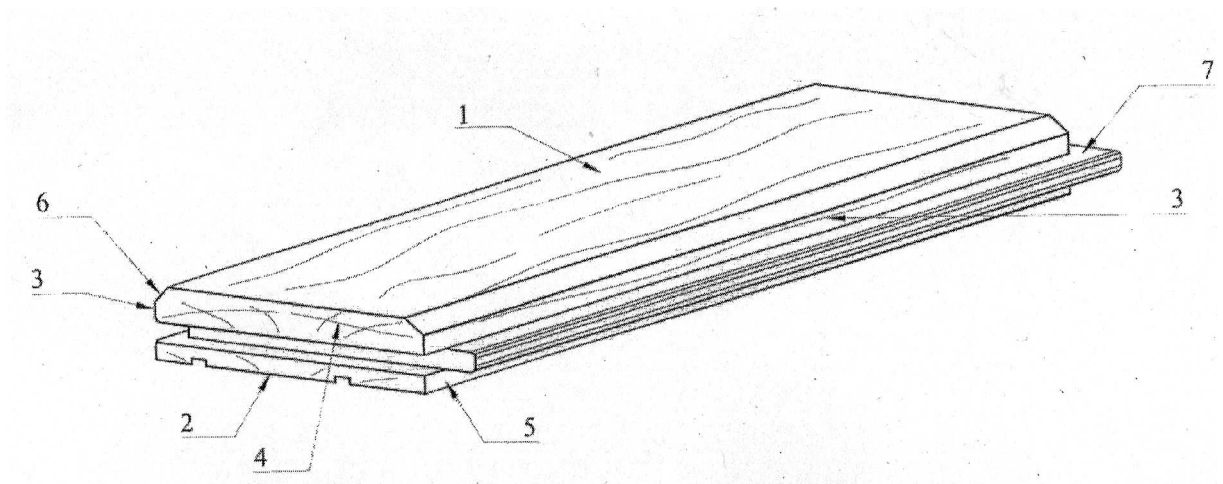


Figure 6.



- | | | | |
|----------|----------|-------------|------------|
| 1 - Face | 3 - Edge | 5 - Arriis | 7 - Tongue |
| 2 - Back | 4 - End | 6 - Chamfer | |

Figure 7.

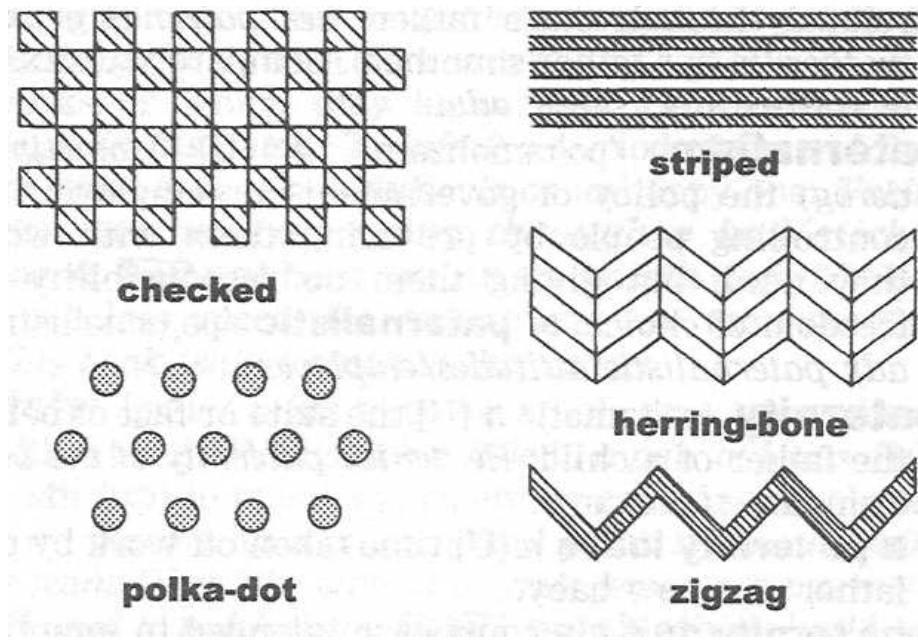


Figure 8.