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28 March 2023

CUSTOMS MEMORANDUM CIRCULAR
NO. 61-2023

To: The Assistant Commissioner
 All Deputy Commissioners
 All Directors and Division Chiefs
 All District/ Port Collectors
 All Others Concerned

SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling (TCC DR) No. 22-027 issued on 22 March 2023 pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification) on the shipment of "Chrome Plated Nickel Screen", consigned to Central Azucarera De San Antonio, Inc. (Import Entry/ Customs Reference No. C-112621, NAIA) the dispositive portion of which states that:

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate	2022 AIFTA Rate
Chrome Plated Nickel Screen	7506.10.00	3%	Zero*
*Subject to submission of Certificate of Origin (CO) Form "AI"			

For information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.



BIENVENIDO Y. RUBIO
 Commissioner

APR 05 2023



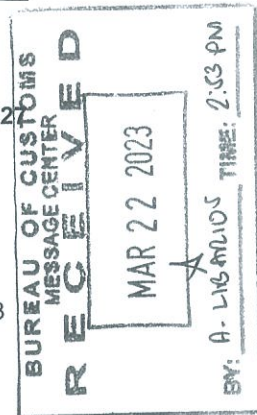
REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "CHROME PLATED NICKEL
SCREEN", CONSIGNED TO CENTRAL
AZUCARERA DE SAN ANTONIO, INC.

TCC (DR) NO. 22-02

(Import Entry/Customs Reference No. C-112621,
NAIA)

Issued on: 22 March 2023



TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the *Customs Modernization and Tariff Act* (CMTA), on the shipment of Chrome Plated Nickel Screen imported by Central Azucarera de San Antonio, Inc. (Importer/Consignee) from India. The request of the Importer/Consignee for TCDR was accepted by this Commission on 10 October 2022.

The shipment of said article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 7506.20.00, with a Most Favoured Nation (MFN) rate of duty of 3% *ad valorem*, was processed under Import Entry/Customs Reference No. C-112621 at the Bureau of Customs (BOC), Ninoy Aquino International Airport (NAIA). The BOC contested the declared heading and reclassified subject article under AHTN 2022 subheading 7508.90.90, with an MFN rate of duty of 5% *ad valorem*.

Hence, this request for Tariff Classification Dispute Ruling.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 24 October 2022 for comments on the request for TCDR on Chrome Plated Nickel Screen. In a letter dated 15 November 2022, Atty. Halleck A. Valdez, Deputy Collector for Assessment, BOC-NAIA, submitted BOC's comment through a memorandum (with supporting documents) from Mr. Norsalem Raymond M. Mama-O, OIC, Paircargo Assessment Composite Division; Ms. Leabel U. Basa, Acting Chief, Formal Entry Unit, Paircargo; Mr. Edward Cruz, Customs Operations Officer (COO) V; and Ms. Maria Sheilla Monina F. Ubay, COO III, stating the reasons why subject article was reclassified from the declared AHTN 2022 subheading 7506.20.00 (with an MFN rate of duty of 3% *ad valorem*) to AHTN 2022 subheading 7508.90.90 (with an MFN rate of duty of 5% *ad valorem*). The reasons for this reclassification decision, as stated in the memorandum, were as follows:

"The consignee/broker classified the above-mentioned goods under HS code 75062000 – 3% (Nickel plates, sheets, strip, and foil) as reflected on the document submitted such as Goods Declaration/Import Entry.

The goods under consideration are pictured and described in the invoice submitted, Method of Production and Material Composition and upon physical examination, it was found to contain chrome plated nickel screen for continuous centrifugal that is cut into specific sizes so that it will fit directly into the machine. As per the brochure submitted, the chrome-plated nickel screen has the following features:

1. Screens are made according to the specifications of the centrifugal manufacturers.
2. The very smooth working surfaces of pure nickel screens are chrome plated for a longer lifetime and for soft travel of sugar crystals.
3. The conical hole shape (cross section) reduces blinding and clogging.
4. Slots are aligned to suit the travel direction of sugar crystals and to obtain maximum capacity and good purity results.

REPUBLIC OF THE PHILIPPINES
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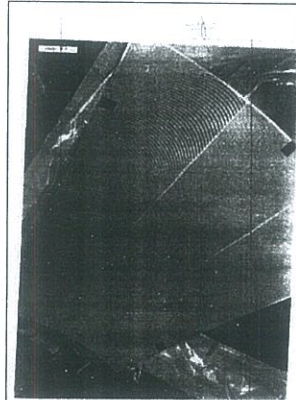
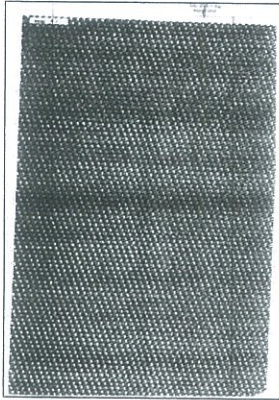
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DATE & TIME: 03-23-23



The Explanatory Notes of Chapter 7506 exclude expanded metal and should be classified under Chapter 7508 (B) (3) "Cloths, grill and netting wire, and expanded metal of nickel. Therefore, classifiable under 75089090 5% (Other articles of nickel).

Attached herewith are the examination pictures and product brochures of Balco Centrifugal Screen for your easy reference, **hereto attached marked as Annex A.**"



While evaluating the submissions from the Importer/Consignee and the BOC, the Commission determined that additional information is needed to properly classify the subject article. Hence, on 05 December 2022, the Commission requested the Importer/Consignee to submit the following additional information:

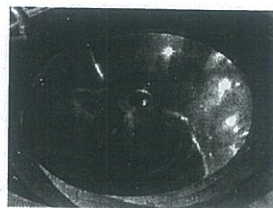
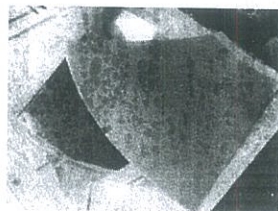
- a) detailed manufacturing process (include processes aside from electroforming);
- b) dimensions of the product (i.e., length, width, and thickness); and
- c) technical brochure of the machine where subject article is intended to be installed.

On 14 December 2022, the Commission received the requested information via email from Mr. Joselito O. Ramos (Authorized Representative of the Importer/Consignee). Further information was submitted to the Commission on 24 January 2023 and 26 January 2023 containing: i) the thickness and hole size of the screen; ii) photograph of the centrifuge machine; and iii) video recordings showing the zoomed-in view of the perforated screen and the installation and replacement of the screen in the centrifuge machine.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee and the BOC were sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted brochure, method of production, material composition, product specifications, photographs of the subject article and the centrifuge machine, video recordings showing the zoomed-in view of the perforated screen and the installation and replacement of the screen in the centrifuge machine, and other technical specifications, it is established that subject article is a flat-surfaced perforated nickel sheet (containing 99.9% nickel) plated with chromium. It is produced by the electroforming process which uses electrodeposition method to form or grow the metal part onto a model or "mandrel". The perforated sheet has an outer arc length of 797.53 mm, maximum width of 732.83 mm, thickness of 0.30 to 0.35 mm, and hole sizes of 0.09 mm. Subject article is intended to be used as a replacement for worn out strainer sheets in a continuous centrifuge machine used in sugar mills.

Below are photographs of the uninstalled screen and the screen installed in the centrifuge machine, respectively, submitted by the Importer/Consignee to this Commission:



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Both the Importer/Consignee and the BOC classified subject article under Chapter 75 of the AHTN 2022 which covers nickels and articles thereof. This Commission concurs with their assessment.

Further, the Importer/Consignee declared subject article under heading 75.06 which specifically covers nickel plates, sheets, strip and foil. The pertinent Harmonized System (HS) Explanatory Notes (EN) for this heading state that:

*"This heading covers **plates, sheets, strip and foil** which are defined in Note 9 (d) to Section XV; these products correspond to the copper products described in the Explanatory Notes to headings 74.09 and 74.10.*

Plates and sheets may be used to clad iron or steel by welding, rolling, etc., and for the construction of equipment used, in particular, in the chemical industry.

*This heading **excludes** expanded metal (**heading 75.08**)."*

Note 9 (d) to Section XV mentioned above, states that:

"For the purposes of Chapters 74 to 76 and 78 to 81, the following expressions have the meanings hereby assigned to them :

XXX

(d) Plates, sheets, strip and foil

Flat-surfaced products (other than the unwrought products), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel) of a uniform thickness, which are :

- of rectangular (including square) shape with a thickness not exceeding one-tenth of the width;
- of a shape other than rectangular or square, of any size, provided that they do not assume the character of articles or products of other headings.

Headings for plates, sheets, strip, and foil apply, inter alia, to plates, sheets, strip, and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) **and to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings [emphasis added]."**

Moreover, Subheading Note 1 to Chapter 75 states that:

"In this Chapter the following expressions have the meanings hereby assigned to them :

(a) Nickel, not alloyed

Metal containing by weight at least 99 % of nickel plus cobalt, provided that :

- (i) the cobalt content by weight does not exceed 1.5 %, and
- (ii) the content by weight of any other element does not exceed the limit specified in the following table :

TABLE - Other elements

Element		Limiting content % by weight
Fe	Iron	0.5
O	Oxygen	0.4
	Other elements, each	0.3

(b) Nickel alloys

Metallic substances in which nickel predominates by weight over each of the other elements provided that :

- (i) the content by weight of cobalt exceeds 1.5 %,

(ii) the content by weight of at least one of the other elements is greater than the limit specified in the foregoing table, or

(iii) the total content by weight of elements other than nickel plus cobalt exceeds 1 %.”

On the other hand, the BOC considered classification of the product under heading 75.08 of the AHTN 2022 which covers other articles of nickel. The BOC's comment mentioned that the HS EN to "Chapter 7506" exclude expanded metal and hence, subject article should be classified under "Chapter 7508". The HS EN to heading 75.08 state that:

"XXX

(B) OTHER

This group covers all articles of nickel other than those covered by the preceding group or by the preceding headings of this Chapter or by Note 1 to Section XV, or articles specified or included in Chapter 82 or 83, or more specifically covered elsewhere in the Nomenclature.

The group covers, inter alia :

- (1) Structures such as window frames, and fabricated parts of structures.
- (2) Reservoirs, vats and similar containers, of any capacity, not fitted with mechanical or thermal equipment.
- (3) Cloth, grill and netting of nickel wire, and **expanded metal, of nickel** [emphasis added].
- (4) Nickel nails, tacks, nuts, bolts, screws and other articles of the types described in the Explanatory Notes to headings 73.17 and 73.18.
- (5) Springs other than clock or watch springs of heading 91.14.
- (6) Household articles and sanitary ware, and parts thereof.
- (7) Blanks for coinage, in the form of nickel discs with raised edges.
- (8) Nickel articles corresponding to the iron or steel articles referred to in the Explanatory Notes to headings 73.25 and 73.26.”

To guide the users of the HS on what **expanded metal** means, the HS EN to heading 73.14 provides the following description/definition:

“(B) EXPANDED METAL

Expanded metal is a network of diamond shaped meshes formed by stretching sheet or strip metal in which parallel incisions have been cut.

The material is fairly rigid and strong, and is used instead of wire grill or perforated sheets for fencing, safety guards for machines, flooring of foot-bridges or crane runways, reinforcement of various building materials (e.g., concrete, cement, plaster, glass), etc.”

As described and based on the method of production submitted, subject article is an electroformed screen, i.e., produced by electroforming process. Hence, it is not an expanded metal and should not be classified under heading 75.08.

Considering the material composition, physical characteristics (e.g., dimension, shape), and the method of producing subject article, the Commission has determined that subject chrome-plated perforated nickel screen complies with the requirements of products covered under Section XV of the AHTN 2022, specifically those mentioned in Note 9 (d) to Section XV. Thus, subject article is classified under heading 75.06 of the AHTN 2022.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Section Note, Subheading Note, and HS EN, subject article is properly classified under AHTN 2022 subheading 7506.10.00 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

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WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2022 MFN Rate	2022 AIFTA Rate*
Chrome Plated Nickel Screen	7506.10.00	3%	Zero

*Subject to submission of Certificate of Origin (CO) Form "A1"

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION


Digitally signed

MARILOU P. MENDOZA
Chairperson

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