



02 August 2022 **MASTER COPY** *mm*

**CUSTOMS MEMORANDUM CIRCULAR**  
**NO. 115-2022**

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. 22-008 issued on 19 July 2022 pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification) in Re: Request for Tariff Classification Dispute Ruling on "Matting Agent (React HMA-680)" Consigned to Chemrez Technologies Inc. (Import Entry/Customs Reference No. C-245718-21, MICP) the dispositive portion of which states that:

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

Product	AHTN 2017 Code	2022 MFN Rate	2022 AKFTA Rate
Matting Agent (React HMA-680)	2933.29.00	1%	Zero

For information and guidance.

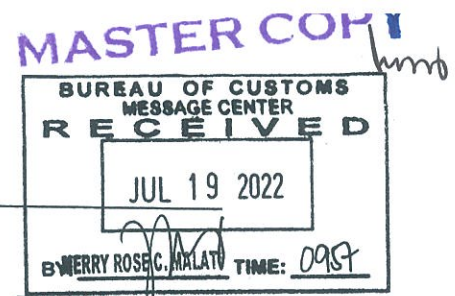
For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

*[Signature]*  
 AUG 10 2022  
**YOGI FILEMON L. RUJIZ**  
 Acting Commissioner





CNC No. 115-2022 p.2



REPUBLIC OF THE PHILIPPINES  
TARIFF COMMISSION

**RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "MATTING AGENT (REACT HMA-680)", CONSIGNED TO CHEMREZ TECHNOLOGIES INC.**

(Import Entry/Customs Reference No. C-245718-21, MICP)



Issued on: 19 July 2022

**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 Matting Agent (REACT HMA-680) imported by Chemrez Technologies Inc. (Importer/Consignee) from Korea. The request of the Bureau of Customs (BOC) for TCDR was received by this Commission on 25-March 2022.

Based on the Disposition Form provided by the BOC dated 16 March 2022, the following relevant information were gleaned:

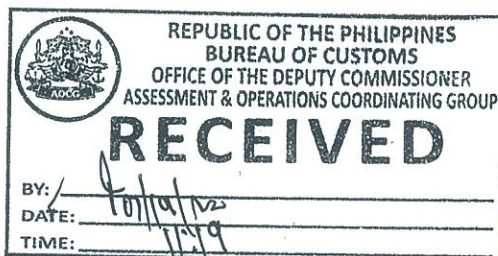
- a. The shipment of the said article, declared under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 2933.29.00, with Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference No. C-245718-21 at BOC, Manila International Container Port (MICP).
- b. The assigned Customs Examiner, Ms. Anita G. Astoveza, contested the declared heading and recommended to classify subject article under AHTN 2017 subheading 3824.99.99, with an MFN rate of duty of 3% *ad valorem*, pursuant to the Material Safety Data Sheet (MSDS) and Explanatory Notes. The basis for the BOC classification were as follows:

"8. Explanatory Notes for heading 2917 provides that this heading covers Benzenedicarboxylic acids (o-, m-, p-) (H 4 (COOH) 2). Ortho-benzenedicarboxylic acid is commonly called phthalic acid (ortho-phthalic). Meta-benzenedicarboxylic acid is commonly called isophthalic acid, and para-benzenedicarboxylic acid is commonly called terephthalic acid. Crystals. They are used for preparing synthetic coloring matter, plastics (alkyd resins) and plasticisers. The esters include dimethyl, diethyl, dibutyl (di-n-butyl, diisobutyl, etc.), dioctyl (di-n-octyl, diisooctyl, bis(2-ethylhexyl), etc.), dinonyl (di-n-nonyl, disononyl, e(c.), didecyl (di-n-decyl, etc.) or dicyclohexyl orthophthalates and other esters of orthophthalic acid, e.g., phthalates of ethylene glycol esters, as terephthalic acid.

9. Based on our review and findings from the Safety Data Sheet, Chapter and Explanatory Notes, MATTING AGENT (REACT HMA-680) is a Matting agent used in Epoxy/Hybrid Powder coatings, chemicals consisting of Benzene-1,2,4,5-tetracarboxylic acid, which is specifically classifiable under heading 2917 being a pureform state of chemical as stated above, with CAS (Chemical Abstracts Service) Registry No: 259-224-4. However, the subject shipment is with compound with 4,5-dihydro-2-phenyl-1 H-imidazole (1:1) with CAS (Chemical Abstracts Service) Registry No: 54553-90-1, hence it is a mixture classifiable under heading 3824, not elsewhere specified as provided in UN Alphabetical Index and not within the purview of declared heading of 2933 being used in Epoxy/Hybrid Powder coatings.

10. Moreover, the contention that of the importer/consignee that this would fall under 2933 as compounds containing unfused pyrazole ring (whether or not hydrogenated) in the structure is untenable, since MATTING AGENT (REACT HMA-680) is used in Epoxy/Hybrid Powder coatings. Explanatory Notes for heading 2933, the heterocyclic compounds covered by this heading are primarily used as drugs/medicaments used in anti-pyretic and anti-neuralgic agent; solvent for uric acid; used in the treatment of

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tuberculosis; used in medicine for stimulating the circulation and respiration; Used in organic synthesis (e.g. dyes, medicaments).

11. Furthermore, according to Explanatory Notes for heading 2933 provides that the heterocyclic compounds covered by this heading are: (A) Compounds containing an unfused pyrazole ring (whether or not hydrogenated) in the structure; this part includes, inter alia: (1) Phenazone (antipyrin, dimethylphenylpyrazolone), stalline powder or flakes, colourless, odourless used in medicine as an anti-pyretic and anti-neuralgic agent; (2) Aminophenazone (4-dimethylamino-2,3-dimethyl-1-phenyl-5-pyrazolone) (amido pyrin, dimethylaminoanalgesine) and its salts. Colourless, leaf-shaped crystals, it has stronger anti-pyretic and anti-neuralgic properties than analgesine; and (3) 1-Phenyl-3-pyrazolidone.

12. Pursuant to Section 1610 of the CMTA or RA 10863. **General Rules for the Interpretation (GRI).** -The classification of goods and its tariff nomenclature as provided pursuant to this Act shall be governed by the following principles:

(6) For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

13. Therefore, **MATting AGENT (REACT HMA-680)** according to its nature and usage is classifiable under heading 3824.99.99-3% MFN rate of duty, not elsewhere specified as provided in UN Alphabetical Index."

The BOC deemed that the classification issue involves "difficult or highly technical questions" and recommended the same for endorsement to the Tariff Commission. Hence, this request for a tariff classification dispute ruling.

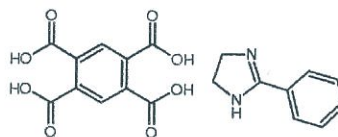
Pursuant to Section 6 of Commission Order No. 2018-01, this Commission requested the Consignee, Chemrez Technologies Inc., on 31 March 2022 to submit the following additional information in relation to BOC's request for TCDR on Matting Agent (REACT HMA-680):

- a. duly certified complete product percentage composition, by weight;
- b. function of each component;
- c. manufacturing process; and
- d. specific product use.

On 27 April 2022, the Commission received an email from Ms. Maria Silahis Victoriano of Chemrez Technologies Inc. containing the screenshot of a draft reply on the Commission's request for the submission of additional information. After subsequent follow-ups to submit the final/official response to the request, the Commission received on 23 June 2022 the requested information from the supplier KSCNT Co., Ltd. via an electronic mail from Ms. Victoriano. }

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 dispute in the 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 document containing the complete product percentage composition, function of each component, manufacturing process, and specific product use, it is established that subject article is a 100% benzene-1,2,4,5-tetracarboxylic acid, compound with 4,5-dihydro-2-phenyl-1H-imidazole (1:1) (also known as pyromellitic acid 2-phenyl-2-imidazoline salt (1:1)). It is a chemically defined compound, with Chemical Abstracts Service (CAS) Registry No. 54553-90-1, produced from the salification of benzene-1,2,4,5-tetracarboxylic acid (Pyromellitic Acid, PMA) and 4,5-dihydro-2-phenyl-1H-imidazole (2-Phenyl-2-imidazoline, 2PI). Subject article is in the form of a white powder and is used as matting agent for epoxy/hybrid powder coatings by reacting with the epoxy resin in coatings to reduce gloss. Its chemical structure, based on available information on the Internet, is as follows:



The Importer/Consignee declared the subject article under AHTN 2017 subheading 2933.29.00 while the BOC assessed the product to be appropriately classified under subheading 3824.99.99 based on the justifications provided in their comment.

Both Chapters 29 and 38 are part of Section VI of the AHTN 2017. Chapter 29 of the AHTN 2017 covers organic chemicals while Chapter 38 covers miscellaneous chemical products.

The BOC considered the product as a mixture of benzene-1,2,4,5-tetracarboxylic acid (classifiable under heading 29.17) and 4,5-dihydro-2-phenyl-1H-imidazole. Hence, they concluded that it is classifiable under heading 38.24 (*Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included*).

Heading 29.17 of the AHTN 2017 covers, among others, polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids. The Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

*"This heading covers polycarboxylic acids and their anhydrides, halides, peroxides, peroxyacids, esters and salts, as well as the halogenated, sulphonated, nitrated or nitrosated derivatives (including compound derivatives) of any of these products.*

**(C) AROMATIC POLYCARBOXYLIC ACIDS AND THEIR ESTERS, SALTS AND OTHER DERIVATIVES"**

On the other hand, heading 29.33 of the AHTN 2017 covers heterocyclic compounds with nitrogen hetero-atom(s) only. The HS EN to this heading state that:

*"The heterocyclic compounds covered by this heading are:*

**(B) Compounds containing an unfused imidazole ring (whether or not hydrogenated) in the structure."**

This Commission agrees with the BOC that benzene-1,2,4,5-tetracarboxylic acid, if imported alone, is classifiable under heading 29.17. In the same manner, 4,5-dihydro-2-phenyl-1H-imidazole, if imported separately, can be considered under heading 29.33. However, the salification reaction of benzene-1,2,4,5-tetracarboxylic acid with 4,5-dihydro-2-phenyl-1H-imidazole (i.e., the base) produced a salt which cannot be considered as a mixture of the two components, but a chemically defined compound falling under Chapter 29.

Note 3 to Chapter 29 states that goods which could be included in two or more of the headings of this Chapter are to be classified in that one of those headings which occurs last in numerical order.

Moreover, Note 5 (C) (2) to Chapter 29 states that:

**"5. (C) Subject to Note 1 to Section VI and Note 2 to Chapter 28:**

**(2) Salts formed between organic compounds of sub-Chapters I to X or heading 29.42 are to be classified in the heading appropriate to the base or to the acid (including phenol- or enol-function compounds) from which they are formed, whichever occurs last in numerical order in the Chapter."**

On the other hand, heading 38.24 covers, among others, chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included. The HS EN to this heading state that:



"This heading covers:

**(B) CHEMICAL PRODUCTS AND CHEMICAL OR OTHER PREPARATIONS**

The chemical or other preparations are either mixtures (of which emulsions and dispersions are special forms) or occasionally solutions. Aqueous solutions of the chemical products of Chapter 28 or 29 remain classified within those Chapters, but solutions of these products in solvents other than water are, apart from a few exceptions, excluded therefrom and accordingly fall to be treated as preparations of this heading.

The preparations classified here may be either wholly or partly of chemical products (this is generally the case) or wholly of natural constituents."

It should be noted that heading 38.24 is a residual heading for the chemical products and preparations of the chemical or allied industries which should only be considered if a product is not specified or included elsewhere in the Nomenclature. As presented and based on its composition, use, and manufacturing process, subject article is classifiable under a heading more specific than 38.24. The Commission agrees with the Importer/Consignee that heading 29.33 (heterocyclic compounds with nitrogen hetero-atom(s) only) merits consideration as the product is a chemically defined compound.

Subject article, being a salt formed from a reaction of benzene-1,2,4,5-tetracarboxylic acid (Pyromellitic Acid, PMA) (covered under AHTN 2017 heading 29.17) and 4,5-dihydro-2-phenyl-1H-imidazole (2-phenyl-2-imidazoline, 2PI) (covered under AHTN 2017 heading 29.33) (in a ratio of 1:1), is a chemically defined compound falling under Chapter 29 of the AHTN 2017 and not a mixture of chemicals or a chemical preparation of Chapter 38.

By application of Note 5 (C) 2, subject article falls under AHTN 2017 heading 29.33.

Based on the information received from the Importer/Consignee, the BOC, and the clarifications provided by the foregoing Legal Notes and HS EN, subject article is properly classified under AHTN 2017 subheading 2933.29.00 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

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

Product	AHTN 2017 Code	2022 MFN Rate	2022 AKFTA Rate
Matting Agent (REACT HMA-680)	2933.29.00	1%	Zero

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

So Ordered.

FOR THE COMMISSION

*MariLou P. Mendoza*  
Digitally signed

**MARILOU P. MENDOZA**  
Chairperson

Copy furnished:

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