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14 February 2022

**CUSTOMS MEMORANDUM CIRCULAR**  
NO. 21-2022

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

**SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING**

Pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification), attached is the copy of Tariff Classification Circular Dispute Ruling (TCC/DR) No. 21-007 issued on 11 February 2022.

For your information and guidance.

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

  
REY LEONARDO B. GUERRERO  
Commissioner



BOC-09-28198

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BEA B. DE LA CERNA  
BY: Assistant Customs Operations Officer 1463

REPUBLIC OF THE PHILIPPINES  
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION  
DISPUTE RULING ON "EXXSOL™ DSP 80/100",  
CONSIGNED TO PHILIPPINE PROSPERITY  
CHEMICALS, INC.

TCC (DR) NO. 21-007

(Import Entry/Customs Reference No. C-190312-  
21, MICP)



BOC-09-28198

Issued on: 11 February 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 EXXSOL™ DSP 80/100 imported by Philippine Prosperity Chemicals, Inc. (Importer/Consignee) from Singapore. The request of the Bureau of Customs (BOC) for TCDR was received by this Commission on 20 October 2021.

Based on the Disposition Form provided by the BOC dated 18 October 2021, the following information were gleaned:

- The shipment of the said article, declared under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 2710.12.60, with Most Favoured Nation (MFN) and ASEAN Trade in Goods Agreement (ATIGA) rates of duty of zero, was processed under Import Entry/Customs Reference No. C-190312-21 at the BOC, Manila International Container Port (MICP).
- The assigned Customs Examiner, Mr. Arvin R. Bundukin, contested the declared heading and recommended to classify subject article under AHTN 2017 subheading 3814.00.00, with an MFN rate of duty of 5% *ad valorem*, pursuant to the Material Safety Data Sheet (MSDS) and Explanatory Notes for heading 38.14. The basis for the BOC classification were as follows:

"12. Based on our review and findings from the Material Safety Data Sheet, Product Safety Summary and Explanatory Notes, EXXSOL DSP 80/100 FLUID is a dearomatised hydrocarbon used as SOLVENT, with Chemical Identity/ Name, Naphtha (petroleum), hydrotreated light and CAS (Chemical Abstracts Service) Registry No: 64742-49-0.

13. Explanatory Notes for heading 3814 provides that this heading covers solvents and thinners (whether or not containing 70% or more by weight of petroleum oil). Based on the submitted Material Safety Data Sheet (MSDS), Exxsol DSP 80/100 Fluid is defined as a complex substance with Hazardous Substance(s) Contained in Complex Substance(s) required for disclosure:

Hazardous Substance(s) or Complex Substance(s) required for disclosure:

Name	CAS No.	Concentration
Naphtha (Petroleum), Hydrotreated Light	64742-49-0	100%

Hazardous Constituent(s) Contained in Complex Substance(s) required for disclosure:

Name	CAS No.	Concentration
Cyclohexane	110-82-7	20-<30%
Heptane and Isomers	Isomer Mixtures	60-<70%
Methyl Cyclopentane	96-37-7	5-<10%
n-Hexane	110-54-3	2%
Octane and Isomers		5-<10%

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14. Heptane (and isomers) is a non-polar solvent. 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:

(4) Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

15. We referred to the usage of Exxsol DSP 80/100 Fluid, being a solvent used in industrial, professional, and consumer applications such as manufacturing process solvent, metal working, and coatings. It is not sold directly to the public for general consumer uses; however, this product may be an ingredient in consumer and commercial product applications such as metal working solvents and coatings.

16. Exxsol DSP 80/100 Fluid can release vapors that readily form flammable mixtures. It should be handled only with adequate ventilation and in areas without any ignition source present (e.g., no open flames, static electricity sources, or unprotected light switches). Vapor accumulation could flash and/or explode if ignited. The flash point for this product is approximately -18°C/0°F.

17. Exxsol DSP 80/100 Fluid is produced from petroleum-based raw materials which are treated with hydrogen in the presence of a catalyst to produce a low aromatic, low odor solvent. Exxsol DSP 80/100 Fluid is produced from petroleum-based raw materials which are treated with hydrogen in the presence of a catalyst to produce a low aromatic, low odor solvent.

18. Explanatory Notes for Heading for 2710 provides that this heading does not include preparations containing petroleum oils (even exceeding 70% by weight) covered by a more specific heading in the Nomenclature. Also, in the case of "composite solvent and thinner for varnishes (heading 3814).

19. Hence, Exxsol DSP 80/100 Fluid tariff classification should be under 3814.00.00-5% MFN rate of duty."

The Port 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 tariff classification dispute ruling.

Pursuant to Section 6 of Commission Order No. 2018-01, this Commission requested the Consignee, Philippine Prosperity Chemicals, Inc., on 21 November 2021 to submit the following additional information in relation to BOC's request for TCDR on EXXSOL™ DSP 80/100:

- a. duly certified complete product percentage composition;
- b. manufacturing process;
- c. percentage (%) by volume of the product that distills at 210 °C according to ISO 3405 (ASTM D86); and
- d. specific product use.

On 07 December 2021, the Commission received the requested information via email from Ms. Carol C. Tacadena of Philippine Prosperity Chemicals, Inc.

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 are 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 sales specification, product safety summary, safety data sheet, certificate of quality, and percent (%) by volume that distills at 210 °C, it is established that subject article is not a preparation, but a complex combination of hydrocarbons obtained by treating a petroleum fraction with hydrogen in the presence of a catalyst to produce a low aromatic, low odor solvent. It is in the form of a clear liquid consisting of naphtha (petroleum), hydrotreated light (CAS No. 64742-49-0), with an aromatic content of less than 0.01% by weight, which distills completely (100% by volume) at 210 °C. Subject article is used in industrial, professional, and consumer applications such as adhesives, cleaning, coatings, consumer products, and rubber applications.

Heading 27.10 of the AHTN 2017 covers, among others, petroleum oils and oils obtained from bituminous minerals, other than crude. The Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

*"The heading includes, among others, similar oils in which the weight of the non-aromatic constituents exceeds that of the aromatic constituents. They may be obtained by the low temperature distillation of coal, by hydrogenation or by any other process (e.g., by cracking, reforming, etc.)."*

Furthermore, Note 2 to Chapter 27 states that:

*"References in heading 27.10 to "petroleum oils and oils obtained from bituminous minerals" include not only petroleum oils and oils obtained from bituminous minerals but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents."*

*However, the references do not include liquid synthetic polyolefins of which less than 60 % by volume distils at 300 °C, after conversion to 1,013 millibars when a reduced-pressure distillation method is used (Chapter 39)."*

Additionally, Subheading Note 4 to Chapter 27 states that:

*"For the purposes of subheading 2710.12, "light oils and preparations" are those of which 90 % or more by volume (including losses) distil at 210 °C according to the ISO 3405 method (equivalent to the ASTM D 86 method)."*

On the other hand, heading 38.14 of the AHTN 2017 (which the BOC considered) covers, among others, organic composite solvents and thinners, not elsewhere specified or included. The HS EN to this heading states that:

*"This heading covers organic solvents and thinners (whether or not containing 70 % or more by weight of petroleum oil) provided that they are not separate chemically defined compounds and are **not covered by a more specific heading**. They are more or less volatile liquids which are used, inter alia, in the preparation of varnishes and paints or as degreasing preparations for machinery parts, etc."*

Examples of the products classified in this heading are:

- (1) Mixtures of acetone, methyl acetate and methanol, and mixtures of ethyl acetate, butyl alcohol and toluene.
- (2) Degreasing preparations for machinery parts, etc., consisting of a mixture of:
  - (i) white spirit with trichloroethylene; or
  - (ii) petroleum spirit with chlorinated products and xylene.

*The heading also covers paint or varnish removers consisting of the above mixtures with the addition of small quantities of paraffin wax (to retard evaporation of the solvents), emulsifiers, gelling agents, etc.*

The heading **does not cover**:

- (a) Separate chemically defined solvent or thinning compounds (**Chapter 29** generally) and products of complex constitution used as solvents or thinners but covered by more specific headings of the Nomenclature, e.g., solvent naphtha (**heading 27.07**), white spirit (**heading 27.10**), gum, wood or sulphate turpentine (**heading 38.05**); wood tar oils (**heading 38.07**), inorganic composite solvents (generally **heading 38.24**).
- (b) Solvents for removing nail varnishes, put up for retail sale (**heading 33.04**)."

Subject article, being a product of atmospheric distillation of crude oil and subjected to further treatments (i.e., desulfurization, dearomatization, and fractionation), in which the non-aromatic constituent exceeds that of the aromatic constituent, falls under heading 27.10 of the AHTN 2017.

Based on the information from the Importer/Consignee, the BOC, and the foregoing HS EN, subject article is classified under AHTN 2017 subheading 2710.12.60 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

TCC (DR) NO. 21-007

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

Product	AHTN 2017 Code	2021 MFN Rate	2021 ATIGA Rate
EXXSOL™ DSP 80/100	2710.12.60	Zero	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

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TCC (DR) No. 21-007 Final

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