



BUREAU OF CUSTOMS

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12 September 2023

CUSTOMS MEMORANDUM CIRCULAR

NO. 153-2023

TO : ASSISTANT COMMISSIONER
 ALL DEPUTY COMMISSIONERS
 ALL DIRECTORS AND DIVISION CHIEF
 ALL DISTRICT AND SUB-PORT COLLECTORS
 ALL OTHERS CONCERNED

SUBJECT : TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling No. 22-037 issued on 31 August 2023 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, on the shipment of "Sodium Lauryl Ether Sulfate (SLES) 70%," consigned to Chemrez Technologies, Inc. (Import Entry/Customs Reference No. C-303976-22, MICP), the dispositive portion of which provides:

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

Product	AHTN 2022 Code	2022 MFN Rate	2022 ACFTA Rate*
SODIUM LAURYL ETHER SULFATE (SLES) 70%	3402.39.90	5% ad valorem	Zero (0) %

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

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

For strict compliance.



BIENVENIDO Y. RUBIO
 Commissioner

SEP 18 2023



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REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "SODIUM LAURYL ETHER
SULFATE (SLES) 70%", CONSIGNED TO
CHEMREZ TECHNOLOGIES, INC.

TCC (DR) NO. 22-037

(Import Entry/Customs Reference No. C-303976-
22, MICP)

Issued on: 31 August 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 Sodium Lauryl Ether Sulfate (SLES) 70%, imported by Chemrez Technologies, Inc. (Importer/Consignee) from China. The request of the Bureau of Customs (BOC) for a TCDR was received by this Commission on 24 October 2022.

Based on the letter request for a TCDR signed by Mr. Arnoldo L. Famor, Acting District Collector of BOC, Manila International Container Port (MICP), dated 20 October 2022, with attached Disposition Form, the following relevant information were gathered:

- a. The TCDR request refers to shipment/importation by the Chemrez Technologies, Inc. under Entry No. C303976-22 arising from the recommendation of Customs Examiner for tariff reclassification, and which constrained it to request for the tentative release thereof pursuant to Section 425 of the RA 10863, otherwise known as CMTA, to wit:

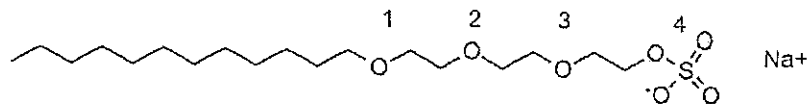
Entry No.	Description	Declared H.S. Code	Recommended H.S. Code
C-303976-22	"SODIUM LAURYL ETHER SULFATE 70%"	2909.40.00 - 0% ACFTA rate of duty	3402.31.90 - 5% MFN rate of duty

- b. The assigned Customs Examiner manifested that the recommended tariff classification of the subject shipment as above-indicated, pursuant to product information sheet, Certificate of Analysis, Material Safety Data Sheet (MSDS), General Rules of Interpretation and Explanatory Notes. As a result, there was a discrepancy on assessment by way of duties and taxes in the amount of P73,437.51.
- c. Approved Disposition Form Re: Request for Tentative Release of Goods Declaration No. C303976-22 dated September 21, 2022, MICP requested the importer to submit their respective Position Papers on the issue at hand, particularly on the tariff reclassification and value of the subject shipment pursuant to CAO 02-2020.



d. Based on its Position Paper, the Importer/Consignee, Chemrez Technologies, Inc., averred that its declared tariff classification under 2909.49.00 - 0% ACFTA rate of duty provides the appropriate heading for "SODIUM LAURYL ETHER SULFATE 70%" based on the following reasons:

i. Under ASEAN Harmonized Tariff Nomenclature (AHTN) 2022 edition, Chapter 29 is the general classification for Organic Chemicals. Sodium lauryl ether sulfate (SLES) is currently under 29.09 or ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ketone peroxides (whether or not chemically defined), and their halogenated, sulphonated, nitrated, or nitrosated derivatives specifically classified in 2909.49.00 as Others.



Sodium Lauryl Ether Sulfate / Sodium Laureth Sulfate (SLES)

Figure 1. Structural Formula of SLES from the Position Paper submitted by the Importer/Consignee

ii. The following are affirmations on the accuracy of this classification:

1. As shown on the Structural Formula with the numbered portion, this organic compound contains the functional group ether (1,2,3) and sulfate (4). A definition of ether and sulfate from Wikipedia was inserted as reference.

iii. The new category wherein it is being re-classified into is under Chapter 34, Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster categorized in 34.02. Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading and further classifying as 3402.31.90 Others.

e. The tariff classification is supported by the following documentary evidence: Single Administrative Document No. C303976-22, Position Paper dated October 4, 2022, and Safety Data Sheet, and Examination Report.

f. The assigned Customs Examiners, Mr. Arvin R. Bundukin, COO III, Section 11-FED; and Ms. Jacqueline F. Lozano, COO V, Section 11-FED, contested the declared heading and recommended to reclassify subject article under AHTN 2022 subheading 3402.31.90, with an MFN rate of duty of 5% *ad valorem*, based on the physical examination of goods, material safety data sheet, General Rules of Interpretation (GIR), and Explanatory Notes. The reasons for the BOC classification were as follows:

i. Upon review of the shipment, based on the physical examination of goods "SODIUM LAURYL ETHER SULFATE 70%" is a white or yellow paste gel mainly used in shampoo, detergent, soap, among others. It is a mixture packed in 170kgs per plastic drum with chemical composition of 70% sodium lauryl ether sulfate and 30% water.

- ii. Heading 3402 of the ASEAN Harmonized Tariff Nomenclature (AHTN) 2022 covers, among others, organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 34.01.
- iii. Washing preparations based on surface active agents are also known as detergents. The pertinent Harmonized System (HS) Explanatory Notes (EN) states that:

“Organic surface-active agents are capable of adsorption at an interface; in this state they display a number of physico-chemical properties, particularly surface activity (e.g., reduction of surface tension, foaming, emulsifying, wetting), which is why they are usually known as “surfactants”.

This group comprises three categories of preparations, which include surface-active preparations. These include, among others, intermixtures of surface-active agents. Surface-active preparations are used for their cleansing, wetting, emulsifying or dispersing properties in many industrial applications, for example, as emulsifying agents used in the preparation of pharmaceutical or cosmetic products.”

- iv. 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:

“(1) The titles of sections, chapters and sub-chapters are provided for easy reference only. For legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require.

(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.”

- v. Therefore, subject article is classified under AHTN 2022 subheading 3402.31.90, with a Most Favoured Nation (MFN) rate of duty of 5% ad valorem.

The BOC deemed that the classification issue involves “a difficult or high technical questions”. Hence, the endorsement to this Commission for a Tariff Classification Dispute Ruling.

To facilitate the evaluation of the disputed product, the Commission wrote the BOC on 02 November 2022 and requested the submission of the contact information (i.e., contact person, position, email address, telephone and/or mobile number, and address) of the Importer/Consignee.

In response, the BOC provided the contact information (i.e., email address and telephone number) of the Importer/Consignee’s contact person, Ms. Maria Silahis C. Victoriano, Manager, Import and Export Services Department of Chemrez Technologies, Inc., via an electronic mail (email) received on 19 December 2022.

Pursuant to Section 6 of Commission Order No. 2018-01, this Commission requested the Importer/Consignee, *via* a letter-request emailed on 21 December 2022 to the email address provided by the BOC, to submit the following information in relation to BOC's request for a TCDR on SLES 70%:

- a. duly certified complete product composition;
- b. function of each component;
- c. detailed manufacturing process;
- d. technical specifications (*i.e.*, color, form);
- e. safety data sheet;
- f. specific product use or application; and
- g. packaging information.

On 31 January 2023, the Commission called the Importer/Consignee (Ms. Victoriano) through the telephone number provided by the BOC to ask for an update on the Commission's request for additional information. During the conversation, Ms. Victoriano informed that the email address provided by the BOC was already inactive. Thus, a new email address was provided by the Importer/Consignee's contact person.

On 10 March 2023, the Commission forwarded its letter-request, that was initially emailed on 21 December 2022 to the BOC-provided email address, to Ms. Victoriano's corrected/updated email address. On 25 April 2023, Ms. Victoriano requested for extension in the submission of the additional information. The requested additional information was provided by the Importer/Consignee on 03 May 2023.

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 technical and material safety data sheets, specification/composition, and manufacturing process flowchart, it is established that subject article is an anionic surfactant composed of sodium lauryl ether sulfate and water. It is in the form of a white or light-yellow gel paste and produced by the ethoxylation of fatty alcohol (to produce polyethoxylated fatty alcohol), followed by sulfonation, and neutralization process. Packed in 170-kg drums, subject article is used as a raw material in the manufacture of hair care and washing/cleaning products (such as dish washing detergents, shampoos, and liquid bubble baths), added at a rate of 5% to 30% of the finished product.

Below are the photographs of the packaging and product label of subject article submitted by the BOC:

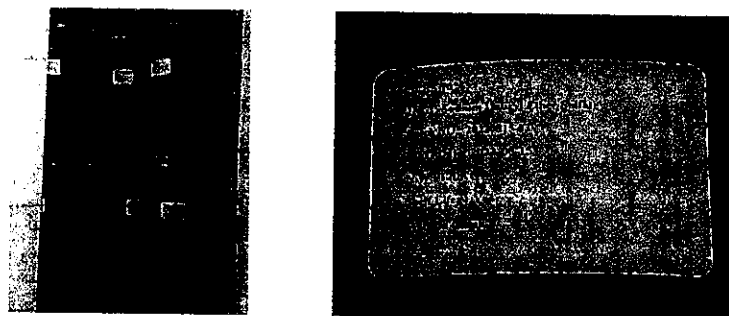


Figure 2. Photographs of packaging and product label submitted by the BOC

The Importer/Consignee classified subject article under Chapter 29 (*organic chemicals*) of the AHTN 2022, specifically under heading 29.09 which covers *ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, acetal and hemiacetal peroxides, ketone peroxides (whether or not chemically defined), and their halogenated, sulphonated, nitrated or nitrosated derivatives.*

Note 1 (a) to Chapter 29 states that:

"1.- Except where the context otherwise requires, the headings of this Chapter apply only to :

- (a) **Separate chemically defined organic compounds, whether or not containing impurities [emphasis added];**

XXX"

The Importer/Consignee considered subject article to be specifically covered under AHTN 2022 subheading 2909.49.00 as a sulfonated ether alcohol. Their reasoning, as stated in their Position Paper submitted to BOC, is that sodium lauryl ether sulfate *contains both ether and sulfate groups which are formed through ethoxylation and sulfonation process.* However, in addition to the ethoxylation and sulfonation processes, the manufacturing process also included acid-base neutralization process to produce the sodium salt.^{1 2} Furthermore, based on the technical data sheet submitted, subject article consists of sodium salts of heterogeneous ethoxyl groups of laureth sulfate with CAS Nos. 68585-34-2 and 9004-82-4. Thus, subject article can no longer be considered as a separate chemically defined organic compound under Chapter 29.

On the other hand, the BOC assessed the product to be appropriately classified under AHTN 2022 subheading 3402.31.90 based on the justifications provided in their Disposition Form.

Heading 34.02 of the AHTN 2022 covers, among others, *organic surface-active agents (other than soap).* The Harmonized System (HS) Explanatory Notes (EN) to heading 34.02 state that:

"Organic surface-active agents may be:

- (1) *Anionic, in which case they ionise in aqueous solution to produce negatively charged organic ions responsible for the surface activity. Examples are : sulphates and sulphonates of fats, vegetable oils (triglycerides) or resin acids; sulphates and sulphonates derived from fatty alcohols; petroleum sulphonates, e.g., of alkali metals (including those containing a proportion of mineral oils), of ammonium or of ethanolamines; alkylpolyethersulphates; alkylsulphonates or alkylphenylethersulphonates; alkylsulphates, alkylarylsulphonates (e.g., technical dodecylbenzenesulphonates).*

These surface-active agents may contain, as impurities resulting from the manufacturing process, small quantities of fatty alcohols, alkylates or other hydrophobic raw materials which have escaped sulphation or sulphonation. They may also contain sodium sulphate or other residual inorganic salts in a proportion generally not exceeding 15 %, when expressed as the anhydrous salts."

The Commission agrees with the BOC that subject article, being an anionic surfactant composed of sodium lauryl ether sulfate and water, can be considered under heading 34.02, and being an organic surface-active agent, specifically under the one-dash subheading 3402.30 series with the description *anionic organic surface-active agents, whether or not put*

¹ STPP Group. Sodium Lauryl Ether Sulfate. Retrieved from <https://shorturl.at/gqtXB>. (Accessed 28 July 2023)

² Bansal Trading Company. What is SLES: Uses and Manufacturing Process. Retrieved from <https://www.bansaltrading.com/sles-chemical-uses>. (Accessed 28 July 2023)

up for retail sale. However, the BOC classified subject article under AHTN 2022 subheading 3402.31.90 which covers *linear alkylbenzene sulphonic acid and their salts other than sulphonated alkylbenzenes*. Since subject article does not contain any alkylbenzene components, it cannot be classified under said subheading and therefore, another subheading should be considered.

Thus, subject article, being an anionic surfactant composed of sodium lauryl ether sulfate and water and used in the manufacture of hair care and hair wash products, falls under AHTN 2022 subheading 3402.39.90 which specifically covers anionic organic surface-active agents, whether or not put up for retail sale, other than linear alkylbenzene sulphonic and their salts and other than sulphated fatty alcohols.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Chapter Note and HS EN, subject article is properly classified under AHTN 2022 subheading 3402.39.90 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 2022 Code	2022 MFN Rate	2022 ACFTA Rate*
SODIUM LAURYL ETHER SULFATE (SLES) 70%	3402.39.90	5% <i>ad valorem</i>	Zero

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

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:

The Secretary

Department of Finance (DOF)
DOF Building, BSP Complex
Roxas Boulevard Metro Manila
Email: secfin@dof.gov.ph

The Commissioner

Bureau of Customs (BOC)
Office of the Commissioner
G/F OCOM Building, 16th Street
South Harbor, Port Area, Manila
Email: boc.ocom@customs.gov.ph
comm.boc@gmail.com

Mr. Romeo Allan R. Rosales

District Collector
Bureau of Customs (BOC)
Collection District II-B
Manila International Container Port (MICP), Manila
Email: romeoallan.rosales@yahoo.com
micp@customs.gov.ph
section11fedmicp@gmail.com

Ms. María Silahis C. Victoriano

Manager, Import and Export Services Department
Chemrez Technologies, Inc.
65 Calle Industria, Bagumbayan
Quezon City
Email: bcvictoriano@dnl.com.ph