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DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

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02 February 2024

**CUSTOMS MEMORANDUM CIRCULAR**  
NO. 25-2024

**TO :** ASSISTANT COMMISSIONER  
ALL DEPUTY COMMISSIONERS  
ALL DIRECTORS AND DIVISION CHIEFS  
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. 23-011 issued on 18 January 2024 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 "Ethylene Absorber Styvek GKZ4" from Spain, consigned to Competitive Electronics Zone Corporation (Import Entry/Customs Reference No. C-C-39873, Port of Davao), the dispositive portion of which states that:

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

Product	AHTN 2022 Code	2022 MFN Rate
ETHYLENE ABSORBER STYVEK GKZ4	3824.99.99	3% ad valorem

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



FEB 12 2024



CMC 25-2024



REPUBLIC OF THE PHILIPPINES  
TARIFF COMMISSION

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OFFICE OF THE DEPUTY COMMISSIONER  
ASSESSMENT & OPERATIONS COORDINATING GROUP (AOCG)

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BY: *[Signature]*

DATE & TIME: 01-19-24 3:10

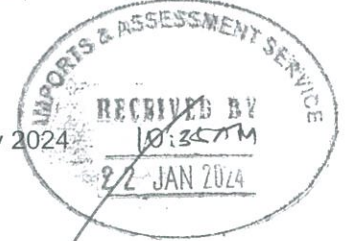
RE: REQUEST FOR TARIFF CLASSIFICATION  
DISPUTE RULING ON "ETHYLENE ABSORBER  
STYVEK GKZ4", CONSIGNED TO COMPETITIVE  
ELECTRONICS ZONE CORPORATION

TCC (DR) NO. 23-011

09-46052

(Import Entry/Customs Reference No. C-39873,  
BOC, Port of Davao)

Issued on: 18 January 2024



TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a 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 Ethylene Absorber Styvek GKZ4, imported by Competitive Electronics Zone Corporation (Importer/Consignee) from Spain. The request of the Bureau of Customs (BOC) for a TCDR was received by this Commission on 09 June 2023.

Based on the BOC's letter-request for a TCDR, dated 05 June 2023, signed by former District Collector Guillermo Pedro A. Francia IV, the following relevant information were gathered:

- a. The shipment of the subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 2839.90.00, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Customs Reference No. C-39873 at BOC, Port of Davao.
- b. The classification dispute arose from the recommendation of the Customs Examiner and Appraiser for tariff reclassification from the abovementioned declared subheading to AHTN 2022 subheading 2841.61.00, with an MFN rate of duty of 3% *ad valorem*.
- c. Attached to BOC's letter-request was a letter from the counsel of Competitive Electronics Zone Corporation, Atty. Charmaine P. Valentin, stating the company's reason for declaring/classifying subject article under AHTN 2022 Code 2839.90.00, as follows:

"XXX

*The dispute is due to the BOC assessment where HS code under Potassium Permanganate (KMNO4) should be used instead of HS CODE: 2839900000. Under HS code of Potassium Permanganate (KMNO4) the duty is computed at 3% while under HS CODE: 2839900000 where the duty is at 1% attached herein as **Annexe "B"**. Our client's broker used this code considering that the main compound is Zeolite or like a Silicate where Potassium Permanganate (KMNO4) is impregnated. It has only a KMNO4 concentration of 2,5 - <10 %. To prove this fact, attached herein as **Annexes "C" to "C-1"** are the Safety Data Sheet and the Certificate of Analysis.*

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JAN 19 2024

BY: A. LIBRADOR TIME: 9:27

Page 1 of 6

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*1/23/24*

19 JAN 2024

*Furthermore, this code has been used by our client's previous broker who handled their importation; this code is also advised to be used by the BOC officials.*

XXX"

The BOC deemed that it is necessary to seek a ruling from the Tariff Commission given the issue's complexity and technical nature. Hence, the endorsement to the Commission for a TCDR.

To facilitate the evaluation of the disputed product, the Commission wrote the BOC on 09 August 2023 requesting 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 of the Importer/Consignee's President, Ms. Ruby Gallemmit Chua, and Customs Broker, Mr. Engelbert Gallego, received via electronic mail (email) on 15 August 2023 and the printed copy via courier on 31 August 2023.

Pursuant to Section 6 of Commission Order No. 2018-01, this Commission sent an email to Ms. Chua on 14 September 2023 requesting the submission of the following information in relation to BOC's request for a TCDR on Ethylene Absorber Styvek GKZ4:

- a. duly certified complete product composition;
- b. function of each component;
- c. detailed manufacturing process;
- d. technical specifications (*e.g.*, color, form);
- e. specific product use or application;
- f. packaging information;
- g. photograph of actual product, if available; and
- h. authorization letter for their authorized representative.

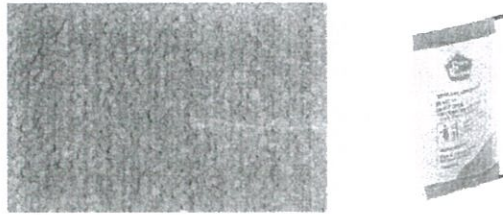
The Commission received the additional information from Ms. Chua on 21 September 2023. On 22 September 2023, the Commission sent another email requesting an authorization letter that the Customs Broker, Mr. Gallego, has been given the authority to act on the company's behalf. The Importer/Consignee sent the said document on 06 October 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 material safety data sheet, product information sheet, and certificate of product composition from GreenKeeper Iberia SL (supplier/manufacturer), it is established that subject article is a 5-g sachet containing purple granules, produced by impregnation of zeolite with diluted potassium permanganate (active ingredient), followed by drying to the desired final moisture level. It is placed inside boxes containing fruits and/or vegetables to absorb ethylene (known as "ripening hormone"), delaying the ripening process and thereby extending the postharvest life of fresh produce. Subject article is packed in thermo-sealed vacuum bags containing 250 sachets and placed inside cardboard boxes, with each box containing eight bags.

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Below are photographs of the product submitted by the Importer/Consignee to the Commission:



Ethylene is a gaseous plant hormone that plays an important role in inducing the ripening process for many fruits, together with other hormones and signals. An unripe fruit generally has low levels of ethylene. As the fruit matures, ethylene is produced as a signal to induce fruit ripening. Ethylene production continues to increase after harvest, thus decreasing fruit shelf-life and storability capacity, while increasing susceptibility to pathogen attacks.<sup>1</sup> To limit ethylene accumulation, ethylene scavenger (*i.e.*, potassium permanganate reinforced on inert matrices, such as zeolite or silica gel) are added to boxes of fresh produce where it reacts with ethylene through oxidation reaction thereby reducing ethylene concentration.<sup>2</sup>

Both the Importer/Consignee and the BOC classified the subject article under Chapter 28 of the AHTN 2022 which covers, among others, *inorganic chemicals*. Note 1 to this Chapter states that:

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

- (a) **Separate chemical elements and separate chemically defined compounds, whether or not containing impurities** [emphasis added];
- (b) The products mentioned in (a) above dissolved in water;
- (c) The products mentioned in (a) above dissolved in other solvents provided that the solution constitutes a normal and necessary method of putting up these products adopted solely for reasons of safety or for transport and that the solvent does not render the product particularly suitable for specific use rather than for general use;
- (d) **The products mentioned in (a), (b) or (c) above with an added stabiliser (including an anti-caking agent) necessary for their preservation or transport** [emphasis added];
- (e) The products mentioned in (a), (b), (c) or (d) above with an added anti-dusting agent or a colouring substance added to facilitate their identification or for safety reasons, provided that the additions do not render the product particularly suitable for specific use rather than for general use.”

The Harmonized System (HS) General Explanatory Notes (EN) to Chapter 28 state that:

“Products added to certain chemicals to keep them in their original physical state are also to be regarded as stabilisers, **provided** that the quantity added in no case exceeds that necessary to achieve the desired result and that the addition does not alter the character of

<sup>1</sup> University of Maryland Extension. Ethylene and the Regulation of Fruit Ripening. Retrieved from <https://extension.umd.edu/resource/ethylene-and-regulation-fruit-ripening>. (Accessed 07 October 2023)

<sup>2</sup> ResearchGate. Ethylene scavengers for active packaging of fresh food produce. Retrieved from [https://www.researchgate.net/publication/336750465\\_Ethylene\\_scavengers\\_for\\_active\\_packaging\\_of\\_fresh\\_food\\_produce#pf3](https://www.researchgate.net/publication/336750465_Ethylene_scavengers_for_active_packaging_of_fresh_food_produce#pf3). (Accessed 07 October 2023)

the basic product and **render it particularly suitable for specific use rather than for general use** [emphasis added].”

The Importer/Consignee declared subject article under AHTN 2022 subheading 2839.90.00 which covers *commercial alkali metal silicates and silicates other than of sodium*. However, the main carrier, zeolite, is not an alkali metal silicate under heading 28.39 but a complex silicate under heading 28.42.

Heading 28.42 of the AHTN 2022 covers *other salts of inorganic acids or peroxyacids (including aluminosilicates whether or not chemically defined), other than azides*. The HS Explanatory Notes (EN) to this heading state that:

**“(II) DOUBLE OR COMPLEX SALTS**

*This group covers double or complex salts other than those specifically included elsewhere.*

*The principal double or complex salts classified in this heading include :*

XXX

**(L) Double or complex silicates.**

*This group includes aluminosilicates, whether or not they are separate chemically defined compounds. Aluminosilicates are used in the glass industry and as insulators, ion-exchangers, catalysts, molecular sieves, etc.*

*Included in this category are synthetic zeolites with the generic formula  $M_{2/n}O \cdot Al_2O_3 \cdot ySiO_2 \cdot wH_2O$ , where M is a cation of valency n (usually sodium, potassium, magnesium or calcium), y is two or more and w is the number of water molecules.*

*Aluminosilicates containing binders (e.g., zeolites containing silica-based clay) are, however, excluded (heading 38.24). Particle size can usually be used to identify zeolites containing binders (usually above 5 microns).*

XXX”

On the other hand, the BOC assessed the product to be appropriately classified under subheading 2841.61.00 which specifically covers *potassium permanganate*.

The Commission agrees with the BOC that heading 28.41 merits consideration since the product's active ingredient is potassium permanganate. However, potassium permanganate used as an impregnation to zeolite renders the resulting product suitable for specific use, particularly as an ethylene absorber. Thus, by virtue of Note 1 to Chapter 28, subject article is no longer covered by said Chapter and another heading should be considered.

Heading 38.24 of the AHTN 2022 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 pertinent HS EN to this heading state that:

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

XXX

*The chemical products classified here are therefore products whose composition is not chemically defined, whether they are obtained as by-products of the manufacture of other*

substances (this applies, for example, to naphthenic acids) or **prepared directly** [emphasis added].

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** [emphasis added] (this is generally the case) or wholly of natural constituents.

XXX

**Subject** to the above conditions, the preparations and chemical products falling here include:

XXX

(27) **Soda-lime**, prepared by impregnating pure lime with sodium hydroxide and used to absorb carbon dioxide in re-breathing anaesthesia systems, in submarines, etc.

XXX”

Subject article, being granules produced by impregnation of zeolite with diluted potassium permanganate and specifically for use as an ethylene absorber, is more appropriately covered under heading 38.24 of the AHTN 2022.

Based on the information received from the Importer/Consignee and the BOC, and the clarifications provided by the foregoing Chapter Notes and HS EN, subject article is properly classified under AHTN 2022 subheading 3824.99.99 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
Ethylene Absorber Styvek GKZ4	3824.99.99	3% <i>ad valorem</i>

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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