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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
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21 February 2025

CUSTOMS MEMORANDUM CIRCULAR NO. 51-2025

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 (TCC DR) No. 24-001 issued on 19 February 2025 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "AgroLogic® Image III," from Israel consigned to Rojun Agro Development Corporation, (Import Entry/ Customs Reference No. C-9528, NAIA), the dispositive portion of which states that:

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

Product	AHTN 2022 Code	2024 MFN Rate
AgroLogic® Image III	9032.89.39	1% *ad valorem*

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

For strict compliance.

BIENVENIDO Y. RUBIO
Commissioner

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REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION DISPUTE RULING ON "AGROLOGIC® IMAGE III", CONSIGNED TO ROJUN AGRO DEVELOPMENT CORPORATION

(Import Entry/Customs Reference No. C-9528, BOC-NAIA)

TCC (DR) NO. 24-001

Issued on: 19 February 2025

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 AgroLogic® Image III, imported by Rojun Agro Development Corporation (Importer/Consignee) from Israel. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 04 April 2024.

The shipment of said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 9032.89.39, with a Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, was processed under Import Entry/Customs Reference No. C-9528 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 8537.10.92, with an MFN rate of duty of 5% *ad valorem*.

Hence, this request for a TCDR.

In the initial assessment of the request for TCDR, the Importer/Consignee committed to submit the user manual of the subject article as well as detailed information about its use and/or function and the electrical diagram of the control system to which the subject article is a part of. The said information were received by this Commission on 30 May, 04 June, and 24 June 2024.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 12 August 2024 for comments on the request for a TCDR on AgroLogic® Image III. Further, Section 7.4 of the same Commission Order states that within 10 working days from the receipt of the notice and the records of the case, the BOC may file a comment or submit any additional explanation or documents to justify its findings. However, to this date, the Commission has not received any response from the BOC-NAIA, hence, it proceeded to evaluate the classification of subject article based on the submissions received from the Importer/Consignee.

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 were

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sufficient to make a correct determination on the tariff classification of subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted technical specifications, operation/user's manual, electrical diagram, and sensor diagram of the product, it is established that subject article is a climate controller device designed primarily for controlling, monitoring, and regulating specific environmental conditions of poultry/livestock houses. It is used to control/manage factors critical to animal welfare and productivity, such as temperature, humidity, ventilation, and other climate-related elements within agricultural structures. This device is equipped with ports for multiple sensors, which measure temperature, humidity, carbon dioxide (CO_2) levels, and pressure, among others. Subject article makes all the calculations using the readings of the sensors and subsequently manages the operation of the fans, air inlets/damper opening, lighting, heating or cooling systems, and other devices connected to it (*i.e.*, adjusts or turns the devices on/off).

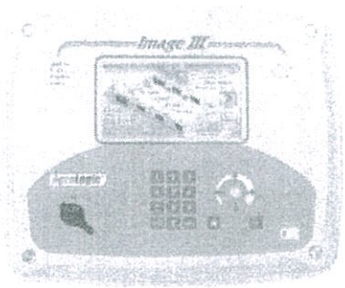
Shown below are the primary control parameters available on the AgroLogic® Image III:

	Type of Control	Description of How the Control Works
1	Temperature Control	• *Setpoints*: Target temperature range can be set and adjusted for different stages of animal growth • *Heating and Cooling*: Automatically manages heaters and coolers to maintain at desired temperatures
2	Humidity Control	• *Humidity Setpoints*: Allows specific relative humidity (RH) settings to prevent overly dry or damp conditions • *Ventilation Adjustment*: Adjusts fan speed or other ventilation elements to control humidity based on ambient conditions
3	Ventilation Control	• *Fan Control*: Controls multiple fans at variable speeds, activating or adjusting them based on temperature and humidity needs • *Inlet/Damper Opening Control*: Manages ventilation inlets/damper opening to ensure proper air distribution and prevent drafts • *Minimum and Maximum Ventilation Settings*: Ensures ventilation remains within safe and effective limits even in changing weather
4	CO_2 Control	• *CO_2 Monitoring*: Allows CO_2 level setpoints to maintain air quality; alerts or adjusts ventilation to decrease high CO_2 levels • *Dynamic Ventilation Control*: Adjusts fan speeds or opens additional inlets when CO_2 levels exceed set thresholds
5	Light Control	• *Photoperiod Settings*: Controls lighting schedules to simulate natural daylight cycles or specific light periods required for animal growth • *Intensity Adjustment*: Allows dimming or intensity adjustments based on time of day or growth phase
6	Alarm and Safety Controls	• *High and Low Thresholds*: Configurable alarm thresholds for temperature, humidity, and CO_2; triggers alarms if conditions fall outside set ranges • *Alarm Notifications*: Visual and audible alerts • *Fan and Heater Fail-Safe*: Automatically engages a fail-safe mode to maintain basic ventilation and heating if critical systems fail
7	Airflow Control	• *Pressure Control*: Adjusts fans and inlets based on static pressure to achieve balanced airflow within the barn

	Type of Control	Description of How the Control Works
		• *Variable Fan Speed*: Adjusts fan speeds based on airflow requirements, supports both efficient air exchange and precise control over indoor conditions
8	Timed Cycles	• *Ventilation Cycles*: Can set ventilation cycles to vary airflow based on the time of day, ambient conditions, or animal needs • *Feeding or Watering Cycles*: Users can program cycles for automated feeding and watering systems
9	Data Logging and Historical Tracking	• *Data Sampling Intervals*: Adjustable data logging intervals to track environmental metrics for future analysis • *Trend Monitoring*: Built-in graphs or trend lines on the display to view historical data on temperature, humidity, and other parameters

Subject article's 7-inch liquid crystal display (LCD) screen displays the real-time data on environmental conditions, such as temperature, humidity, CO_2 level, and other relevant metrics, for easy monitoring, while the buttons/keypad are used for setting thresholds, adjusting settings, and navigating menu options. The controller has a voltage rating of 220 V, 20 digital inputs, 1F to 8F fast analog inputs, six analog outputs (0 to 10 Volt), and seven temperature sensors.

Shown below is a photograph of the subject article submitted by the Importer/Consignee to this Commission:



The Importer/Consignee declared subject article under heading 90.32 of the AHTN 2022, which covers *automatic regulating or controlling instruments and apparatus,* and specifically under subheading 9032.89.39. The said subheading covers electrically operated automatic regulating or controlling instruments and apparatus other than thermostats, manostats, and those instruments and apparatus mentioned in the preceding subheadings.

Note 7 to Chapter 90 of the AHTN 2022 states that:

"7.- *Heading 90.32 applies only to :*

(a) ***Instruments and apparatus for automatically controlling the flow, level, pressure or other variables of liquids or gases, or for automatically controlling temperature****, whether or not their operation depends on an electrical phenomenon which varies according to the factor to be automatically controlled, which are designed to bring this factor to, and maintain it at, a desired value, stabilised against disturbances, by constantly or periodically measuring its actual value; and [emphasis added]*

(b) ***Automatic regulators of electrical quantities, and instruments or apparatus for automatically controlling non-electrical quantities*** *the operation of which depends on an electrical phenomenon varying according to the factor to be controlled, which are designed to bring this factor to, and maintain it at, a desired value, stabilised against disturbances, by constantly or periodically measuring its actual value." [emphasis added]*

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The pertinent Harmonized System (HS) Explanatory Notes (EN) to heading 90.32 further clarifies the definition of "automatic control apparatus," within the meaning of Note 7 to Chapter 90, as follows:

"XXX

(I) INSTRUMENTS AND APPARATUS FOR AUTOMATICALLY CONTROLLING THE FLOW, LEVEL, PRESSURE OR OTHER VARIABLES OF LIQUIDS OR GASES, OR FOR AUTOMATICALLY CONTROLLING TEMPERATURE

Automatic control apparatus for liquids or gases and apparatus for automatically controlling temperature *form part of complete automatic control systems and consist essentially of the following devices :*

(A) ***A device for measuring*** *the variable to be controlled (pressure or level in a tank, temperature in a room, etc.); in some cases, a simple device which is sensitive to changes in the variable (metal or bi-metal rod, chamber or bellows containing an expanding liquid, float, etc.) may be used instead of a measuring device.*

(B) ***A control device*** *which compares the measured value with the desired value and actuates the device described in (C) below accordingly.*

(C) ***A starting, stopping or operating device****.*

Apparatus for automatically controlling liquids or gases or temperature, within the meaning of Note 7 (a) to this Chapter, consists of these three devices forming a single entity or in accordance with Note 3 to this Chapter, a functional unit*. [emphasis added]*

Some instruments and apparatus do not incorporate devices which compare the measured value with the desired value. They are directly activated by means of a switch, e.g., when the predetermined value is reached.

XXX

(II) AUTOMATIC REGULATORS OF ELECTRICAL QUANTITIES, AND INSTRUMENTS OR APPARATUS FOR AUTOMATICALLY CONTROLLING NON-ELECTRICAL QUANTITIES THE OPERATION OF WHICH DEPENDS ON AN ELECTRICAL PHENOMENON VARYING ACCORDING TO THE FACTOR TO BE CONTROLLED

The automatic regulators of this heading are intended for use in complete automatic control systems which are designed to bring a quantity, electrical or non-electrical, to, and maintain it at, a desired value, stabilised against any disturbances, by constantly or periodically measuring its actual value. They consist essentially of the following devices :

(A) ***A measuring device*** *(sensing device, converter, resistance probe, thermocouple, etc.) which determines the actual value of the variable to be controlled and converts it into a proportional electrical signal.*

(B) ***An electrical control device*** *which compares the measured value with the desired value and gives a signal (generally in the form of a modulated current).*

(C) ***A starting, stopping or operating device*** *(generally contacts, switches or circuit breakers, reversing switches or, sometimes, relay switches) which supplies current to an actuator in accordance with the signal received from the control device.*

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***An automatic regulator within the meaning of Note 7 (b) to this Chapter consists of the devices described in (A), (B) and (C) above, whether assembled together as a single entity or in accordance with Note 3 to this Chapter, a functional unit**. [emphasis added]*

***If they do not conform to the definitions outlined above, these devices are to be classified as follows**: [emphasis added]*

(1) Electrical measuring devices generally fall in heading 90.25, 90.26 or 90.30.

*(2) **Electrical control devices are to be classified in this heading as incomplete automatically controlling instruments or apparatus**. [emphasis added]*

(3) Starting, stopping or operating devices are generally to be classified in heading 85.36 (switches, relays, etc.).

***Automatic regulators are connected to an electrical, pneumatic or hydraulic actuator, which brings the controlled variable back to the desired value**. This actuator may be the clamps which adjust the gap between the electrodes of an arc furnace, the motorised valve which controls the intake of water or steam in a boiler, a furnace, a pulping machine, etc. [emphasis added]*

The actuators are to be classified in their own appropriate headings (adjustable clamp : heading 84.25; motorised or solenoid valve : heading 84.81; electro-magnetic positioner : heading 85.05; etc.). If the automatic regulator is combined with the actuator, the classification of the whole is to be determined under either Interpretative Rule 1 or Interpretative Rule 3 (b) (see Part (III) of the General Explanatory Note to Section XVI and the Explanatory Note to heading 84.81).

Electronic regulators function on a strictly electrical principle, and not electro-mechanically. Their characteristic features are semiconductors (transistors) or integrated circuits.

***These regulators are used not only for electrical quantities**, such as voltage, amperage, frequency and power, **but also for other quantities such as revolutions per minute, torque, traction force, level, pressure, flow or temperature**. [emphasis added]*

XXX"

On the other hand, the BOC classified subject article under heading 85.37 of the AHTN 2022 which covers *boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.*

The pertinent HS EN to this heading state that:

"*These consist of an assembly of apparatus of the kind referred to in the two preceding headings (e.g., switches and fuses) on a board, panel, console, etc., or mounted in a cabinet, desk, etc. They usually also incorporate meters, and sometimes also subsidiary apparatus such as transformers, valves, voltage regulators, rheostats or luminous circuit diagrams.*

The goods of this heading vary from small switchboards with only a few switches, fuses, etc. (e.g., for lighting installations) to complex control panels for machine-tools, rolling mills, power stations, radio stations, etc., including assemblies of several of the articles cited in the text of this heading.

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The heading also covers:

(1) Numerical control panels with built-in automatic data processing machine, which are generally used to control machine-tools.

(2) Programmed switchboards to control apparatus; these permit variations in the choice of operations to be followed. They are normally used in domestic electrical appliances, such as washing machines and dish washers.

***(3) "Programmable controllers" which are digital apparatus using a programmable memory for the storage of instructions for implementing specific functions such as logic, sequencing, timing, counting and arithmetic, to control, through digital or analog input/output modules, various types of machines**. [emphasis added]*

***The heading does not cover automatic controlling apparatus of heading 90.32.**" [emphasis added]*

XXX"

Heading 85.37 falls under Section XVI (*Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles*) of the AHTN 2022. Note 1 to this Section states, in pertinent part, the following:

*"1. **This Section does not cover:***

XXX

***(m) Articles of Chapter 90;**" [emphasis added]*

XXX"

This Commission agrees with the Importer/Consignee and the BOC that headings 90.32 and 85.37 merit consideration in classifying subject article. However, in determining the classification of goods, the General Rules for the Interpretation (GRI) of the HS should be used and applied in hierarchical order. Rule 1 of the GRI provides that "*The titles of Sections, Chapters and sub-Chapters are provided for ease of 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, according to the following provisions.*"

Thus, per Note 1 (m) to Section XVI, if an article is classified in Chapter 90, it should be excluded in any chapter or heading under Section XVI. Consequently, the critical question is whether subject article is covered by Chapter 90, specifically heading 90.32.

In order to meet the terms of heading 90.32, as stipulated in Note 7 to Chapter 90, subject controller must either automatically control the flow, level, pressure or other variables of liquids or gases, or automatically control temperature; or be an automatic regulator of electrical quantities, or an instrument or apparatus for automatically controlling non-electrical quantities, the operation of which depends on an electrical phenomenon varying according to the factor to be controlled.

Based on the above principle and on the explanations in the HS EN to heading 90.32, the Commission considered subject article as an essential part of a complete automatic control system capable of measuring several variables (*i.e.*, temperature, humidity, CO_2 level, pressure level, water flow rate, feed control) for the purpose of bringing those variables to their

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desired values (as specified by the user), which is within the scope of heading 90.32. In addition, due to its function of controlling, monitoring, and regulating specific environmental conditions of poultry/livestock houses by making calculations using the readings of the sensors and subsequently managing the operation of the fans, air inlets, lighting, heating or cooling systems, and other devices connected to it (*i.e.*, adjusts or turns the devices on/off), the Commission also deemed subject article as an electrical control device, an incomplete automatically controlling instrument or apparatus, following the provisions stated in the HS EN to heading 90.32.

By reference to Note 1 (m) to Section XVI, Note 7 to Chapter 90, and pertinent HS EN to headings 85.37 and 90.32, the Commission has determined that subject article, being an incomplete automatically controlling apparatus, is specifically covered under heading 90.32 of the AHTN 2022.

In view of the information received from the Importer/Consignee, and the clarifications provided by the foregoing Section Note, Chapter Note, and HS EN, subject article is properly classified under AHTN 2022 subheading 9032.89.39 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	2024 MFN Rate
AgroLogic® Image III	9032.89.39	1% *ad valorem*

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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