COMMISSION REGULATION (EEC) No 885/79

of 3 May 1979

on the classification of goods under subheading 75.03 B of the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff (1), as last amended by Regulation (EEC) No 280/77 (2), and in particular Article 3 thereof,

Whereas provisions are necessary to ensure uniform application of the nomenclature of the Common Customs Tariff for the purpose of classification of a product which is obtained from nickel sulphide by calcination at a sintering temperature and by reduction with the aid of hydrogen, and has the following chemical composition :

nickel	95·00 %
oxygen	1·30 %
cobalt	1·30 %
copper	0·40 %
iron	0·40 %
other elements	1·60 %

and is in the form of silver-grey particles of irregular dimensions from 0·2 to 0·4 mm ;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 (3), as last amended by Regulation (EEC) No 882/79 (4), includes under heading No 75.01 *inter alia* intermediate products of nickel metallurgy, including nickel oxide sinters, and under subheading 75.03 B nickel powders and flakes ;

Whereas in the product in question the oxygen content has been reduced to 1·30 % ; whereas because of this degree of reduction the said product has gone beyond the stage of being nickel oxide sinters and has an objective chemical composition such that it must be regarded as nickel in metallic form ;

Whereas nickel in metallic form, other than unwrought, is to be classified, depending on its form, under heading Nos 75.02 to 75.06 of the Common Customs Tariff ;

Whereas the explanatory notes to Customs Cooperation Council nomenclature heading No 75.01, exclusion (b), exclude powders from unwrought nickel ; whereas, according to the same explanatory notes, heading No 75.03, paragraph (2), nickel powders of all types, regardless of their intended use, are classified under heading No 75.03 ;

Whereas, according to the explanatory notes to the Common Customs Tariff, subheading 75.03 B, powdery products, of which at least 90 % pass through a sieve with a mesh opening of 0·5 mm, are regarded as powder ;

Whereas, consequently, the product in question must be classified under subheading 75.03 B of the Common Customs Tariff ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Common Customs Tariff Nomenclature,

HAS ADOPTED THIS REGULATION :

Article 1

The product which is obtained from nickel sulphide by calcination at a sintering temperature and by reduction with the aid of hydrogen, and has the following chemical composition :

nickel	95·00 %
oxygen	1·30 %
cobalt	1·30 %
copper	0·40 %
iron	0·40 %
other elements	1·60 %

and is in the form of silver-grey particles of irregular dimensions from 0·2 to 0·4 mm, shall be classified under the following subheading of the Common Customs Tariff :

75.03 Wrought plates, sheets and strip, of nickel ; nickel foil ; nickel powders and flakes :

B. Powders and flakes.

Article 2

This Regulation shall enter into force on the eighth day following its publication in the *Official Journal of the European Communities.*

(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 40, 11. 2. 1977, p. 1.
(3) OJ No 172, 22. 7. 1968, p. 1.
(4) See page 14 of this Official Journal.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 May 1979.

For the Commission

Étienne DAVIGNON

Member of the Commission