COMMISSION REGULATION (EEC) No 3224/84
of 16 November 1984
on the classification of goods falling within subheading 38.19 X 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 2055/84 (2), and in particular Article 3 thereof,

Whereas, in order to ensure uniform application of the nomenclature of the Common Customs Tariff, it is desirable to adopt provisions concerning the classification of a product having the appearance of a fine powder and consisting of a mixture of manganous oxide (MnO — about 70 %) and other substances (notably the oxides of iron, silicon and aluminium), obtained from pyrolusite (manganese dioxide) by crushing, subjecting it to thermal reduction with fuel oil and recrushing the final product;

Whereas heading No 38.19 of the Common Customs Tariff, annexed to Council Regulation (EEC) No 950/68 (3), as last amended by Regulation (EEC) No 1018/84 (4) refers *inter alia* to chemical products and chemical properties of the chemical and allied industries not elsewhere specified or included;

Whereas, the product in question, by reference to Note 1 to Chapter 25 and Note 2 to Chapter 26 cannot be classified under heading No 25.32 nor under heading No 26.01;

Whereas, moreover, having been obtained without undergoing a chemical process to isolate the manganous oxide, this product cannot be considered to be a separate chemically defined compound; whereas, since the product does not comply with the provisions of Note 1 to Chapter 28, heading No 28.22 cannot be taken into consideration;

Whereas, in the absence of a more specific heading, this product must therefore be regarded as a 'chemical product or a preparation of the chemical or allied industries not elsewhere specified or included', falling within heading No 38.19; whereas, within that heading, it is desirable to choose subheading 38.19 X;

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

HAS ADOPTED THIS REGULATION:

Article 1

The product having the appearance of a fine powder and consisting of a mixture of manganous oxide (MnO — about 70 %) and other substances (notably the oxides of iron, silicon and aluminium), obtained from pyrolusite (manganese dioxide) by crushing this one, subjecting it to thermal reduction with fuel oil and recrushing the final product, shall fall within Common Customs Tariff subheading:

38.19 Chemical products and preparation of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:

X. Other.

Article 2

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

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

Done at Brussels, 16 November 1984.

For the Commission

Karl-Heinz NARJES

Member of the Commission

(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 191, 19. 7. 1984, p. 1.
(3) OJ No L 172, 22. 7. 1968, p. 1.
(4) OJ No L 107, 19. 4. 1984, p. 1.