



Ottawa, November 6, 2002

MEMORANDUM D10-14-31

ADMINISTRATIVE POLICY FOR THE CLASSIFICATION OF MULTI-COMPONENT PLASTIC PRODUCTS OF CHAPTER 39

This Memorandum outlines and explains the administrative policy concerning the classification of multi-component plastic products of Chapter 39 (products composed of two or more plastic components based on different polymers). These types of products include multi-layered plastic sheets in the subheadings and tariff items of heading 39.18 to 39.21.

This Memorandum deals with the classification of these products effective January 1, 1998. There are no concessionary codes in effect for this time period.

Legislation

General Rules for the Interpretation of the Harmonized System

Canadian Rule 1

Note 1 to Chapter 39

Note 3 to Chapter 39

Note 4 to Chapter 39

Note 5 to Chapter 39

Note 6 to Chapter 39

Subheading Note 1 to Chapter 39

Supplementary Note 1 to Chapter 39

Headings 39.01 to 39.26

GUIDELINES AND GENERAL INFORMATION

1. This Memorandum deals with the guidelines for the classification of multi-component plastic products composed of two or more plastic components based on different polymers. These products of Chapter 39 may be combined with non-plastic materials such as fabric or paper.
2. The Memorandum does **not** deal with multi-component plastic products based on **only** one polymer, such as two sheets of polystyrene laminated together. Nor does the Memorandum deal with multi-component plastic products composed of **only** one component of plastics combined with another material other than plastics; for example, laminates of a single layer of plastics with a layer of paper.

3. As a result of recent Canadian International Trade Tribunal (CITT) and Federal Court decisions¹, the classification of the subject plastic products must follow General Interpretative Rule 3(b). However, several essential character measures are available under this rule.

Accordingly, to maintain consistency in the classification of multi-component plastic products, this Memorandum specifies the use of only one essential character measure. The essential character shall be determined by the plastic component that predominates by weight over every other plastic component.

4. The provisions of this Memorandum apply, with the necessary changes, to monofilaments, profile shapes, tubes, pipes, hoses, plates, sheets, film, foil, strip and the other plastic products of Sub-Chapter II.

5. In order to determine whether a product is covered as an exclusionary provision in a tariff item such as 3921.90.91, the following two-step process must be applied:

5.1 Determine whether the product is classified in the inclusion naming provision (e.g., "of polymers of heading 39.06"), using the classification principles indicated in paragraph 3, above. Reference to Note 4 to the Chapter may be required.

5.2 If the product is classifiable in the inclusion provision, then determine whether the product is covered by the wording of the exclusionary provision by applying the classification principles as indicated in paragraph 3, above. Again, reference to Note 4 to the Chapter may be required.

6. Examples of the classification of multi-component plastic products are given in the Appendix (examples 1 to 4).

7. **Exception:** Multi-component plastic products in which various prepolymers in the different layers have reacted together (for example, in the Formica products², the prepolymers were brought together under heat and pressure) do not comply with the process described above.

¹ CITT Appeal Nos. AP-93-274 and AP-93-294 (Continuous Colour Coat Limited), August 31, 1994.

Federal Court of Appeal No. A-854-97 (Continuous Colour Coat Limited), May 11, 2000.

CITT Appeal No. AP-2000-026 (Continuous Colour Coat Limited), November 17, 2000.

CITT Appeal No. AP-2000-018 (Transilwrap of Canada, Ltd), September 11, 2001.

² CITT Appeal No. AP-2000-041 (Formica Canada Inc.), March 7, 2002.

7.1 Since the polymer components in the different layers react to form true copolymers, the copolymer definition in Note 4 to Chapter 39 applies. That is, products in which the polymer components react together are not to be classified by General Interpretative Rule 3(b). They are to be classified by General Interpretative Rule 1 by using:

Subheading Note 1 at the subheading level;
Supplementary Note 1 (invoking Chapter Notes 4 and 5) at the tariff item level; and
Statistical Note 1 (invoking Chapter Notes 4 and 5) at the statistical item level.

7.2 In these instances, classification is based on the comonomer units in the **total polymer content** of the product.

7.3 Note that there are very few products of this type. If there are any questions of whether polymer layers have reacted, regional officers should consult the Laboratory and Scientific Services Directorate.

7.4 An example of the classification of this type of multi-component plastic product is given in the Appendix (example 5).

Additional Information

8. Importers and their agents may be requested to provide samples and literature, such as product specification information and Material Safety Data Sheets (MSDS), on the multi-component plastic products.

9. Any questions concerning this policy should be directed to:

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APPENDIX

Classification Examples

In each example, the end use aspects of tariff items have not been considered. All of the relative amounts are by weight.

1. Product: Profile shape composed of two co-extruded plastic components:

- (a) 40%; composed entirely of polyethylene
- (b) 60%; composed entirely of polypropylene

Analysis: Layer (b) is the predominant plastic component by weight.

Classification:

Heading: The product is a plastic profile shape of heading 39.16.

Subheading: Based on the relative weights of the plastics components, the essential character is determined by layer (b). Classification is determined by the application of Subheading Note 1(b)(1) on layer (b) **alone**. Propylene is a monomer unit of polymers described in "Of other plastics." The propylene monomer unit predominates. Subheading 3916.90 applies.

Tariff item: Two classifications are required at the tariff item level:

- 1. At the 3 dash level, the product is covered by suppressed tariff item 3916.90.(90) - - - Other.
- 2. At the 4 dash level, the component that determines the essential character by weight is of plastics of a polymer of heading 39.02 (Polymers of propylene or of other olefins). However, the polymer is a polymer of propylene and is therefore excluded from tariff item 3916.90.91; it is classified under tariff item 3916.90.99.

2. Product: Non-cellular sheet composed of three layers of plastics, laminated together:

- (a) 30%; composed entirely of polyethylene
- (b) 40%; composed entirely of polypropylene
- (c) 30%; composed entirely of polyethylene

Analysis: Layer (b) is the predominant single layer of plastics by weight.

Classification:

Heading: The plastic sheet is not cellular, reinforced, laminated, supported or similarly combined with materials other than plastics. Heading 39.20 applies.

Subheading: Based on the relative weights of the plastics components, the essential character is determined by layer (b). Classification is determined by the application of Subheading Note 1(b)(1) on layer (b) **alone**. Propylene is a monomer unit of polymers described in "Of polymers of propylene." The propylene monomer unit predominates. Subheading 3920.20 applies.

Tariff item: In the absence of specific end use information, the product is classified under tariff item 3920.20.90.

3. Product: 0.05 mm thick sheet composed of two layers:

- (a) 40%; composed entirely of poly(ethylene terephthalate) (PET)
- (b) 60%; composed of poly(vinyl chloride) (55% of the layer), plasticiser (20% of layer) and filler (25% of the layer). This layer has been coated onto layer (a).

Analysis: Layer (b) is the predominant layer by weight. Poly(vinyl chloride) is also a polymer of vinyl chloride.

Classification:

Heading: The plastic sheet is not cellular, reinforced, laminated, supported or similarly combined with materials other than plastics. Heading 39.20 applies.

Subheading: Two classifications are required at the subheading level:

1. Based on the relative weights of the plastics components, the essential character is determined by layer (b). Classification is determined by the application of Subheading Note 1(b)(1) on layer (b) **alone**. At the single dash level, the product is classified under suppressed subheading 3920.(40).
2. Layer (b) contains not less than 6% by weight of plasticizer. Subheading 3920.43 applies.

Tariff item: In the absence of specific end use information, the product is classified under tariff item 3920.43.90.

Note: The classification is not based on the relative amounts of polymers; it is based on the relative amounts of the plastics components.

4. Product: Sheet composed of two layers:

- (a) 40%; composed entirely of polyethylene
- (b) 60%; composed entirely of an ethylene-propylene copolymer (35% ethylene and 65% propylene)

Analysis: Layer (b) is the predominant layer by weight.

Classification:

Heading: The plastic sheet is not cellular, reinforced, laminated, supported or similarly combined with materials other than plastics. Heading 39.20 applies.

Subheading: Based on the relative weights of the plastics components, the essential character is determined by layer (b). Classification is determined by the application of Subheading Note 1(b)(1) on layer (b) **alone**. Propylene is a monomer unit of polymers described in "Of polymers of propylene". The propylene monomer unit predominates. Subheading 3920.20 applies.

Tariff item: in the absence of specific end use information, the product is classified under tariff item 3920.20.90.

5. Product: 1.5 mm thick sheet made by assembling two layers of paper impregnated with melamine-formaldehyde prepolymer resin and six layers of paper impregnated with phenol-formaldehyde prepolymer resin. Each layer is composed of 30% resin and 70% paper. The stack of 8 layers was compressed under heat and high pressure, causing the prepolymers to flow and react to form a copolymer.

Analysis: The product is a sheet of plastics reinforced with multiple layers of paper. The polymer is a melamine-formaldehyde-phenol-formaldehyde copolymer. In the total polymer content, the monomer units of phenol-formaldehyde predominate over the monomer units of melamine-formaldehyde.

Classification:

Heading: The product is a "paper-reinforced stratified sheeting of plastics" specifically excluded from classification in Chapter 48 by Note 2(g) to the Chapter. The product is reinforced with materials other than plastics. Heading 39.21 applies.

Subheading: The product is not cellular. Consequently, subheading 3921.90 is appropriate.

Tariff item: Two classifications are required at the tariff item level:

1. At the 3 dash level, the product is covered by suppressed tariff item 3921.90.(90) - - - Other.
2. At the 4 dash level, the question is whether the product is of polymers specified in tariff items 3921.90.91 (a very long list), 3921.90.92 or 3921.90.99. The monomer units of the copolymer are the same as the monomer units of melamine-formaldehyde resin and phenol-formaldehyde resin, both of heading 39.09. Note 4 to the Chapter states that the monomer units of polymers of the same heading are to be added. The polymer component in the product is a copolymer of heading 39.09. The product therefore meets the first part (underlined below) of the sixth tariff item provision under 3921.90.91:

"Of polymers of heading 39.09, excluding of urea-formaldehyde resins, of melamine-formaldehyde resins, of phenol-formaldehyde resins or of polyurethanes;"

An additional classification process is required to determine whether the product is described by the exclusion provisions within this tariff item provision. Using Supplementary Note 1 to Chapter 39, Note 4 – suitably modified – classifies the copolymer in the product as a phenol-formaldehyde resin. The product is therefore excluded from tariff item 3921.90.91 and is classified under tariff item 3921.90.99.

Note: The two polymer components have reacted to form a copolymer. Consequently, the product cannot be considered as a composite good of different plastics. Classification is governed by the Chapter and Supplementary Notes.

Classification of the plastic article at the tariff item level is based on the polymer component in the good. The paper component, which represents 70% by weight of the product, is not a consideration.

REFERENCES

<p>ISSUING OFFICE – Tariff Classification and International Nomenclature Division</p>	<p>HEADQUARTERS FILE – N/A</p>
<p>LEGISLATIVE REFERENCES – <i>Customs Tariff</i></p>	<p>OTHER REFERENCES – N/A</p>
<p>SUPERSEDED MEMORANDA “D” – N/A</p>	

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