

ITEM: Marker for mineral oils, in the form of a coloured liquid, essentially comprising invisible forensic markers (not colouring matters), hydrocarbon fractions (mineral oil) and a trace amount of a dye. The marker is intended to be added in small quantities to fuels or other mineral oils for verification of their authenticity and fiscal compliance without altering their properties. The dye has no forensic marker function and is used to assist with distinguishing the marker at hand from other markers. It is not visually perceptible in the products to which the marker has been added.

Tariff Classification Suggestion

Phase 1

Top 3 candidate chapters

Chapter Justification

- 38** By GRI 1, heading 38.11 covers “other prepared additives for mineral oils (including gasoline),” matching a marker added in small amounts to fuels/oils for verification; as a mixture, GRI 3(b) assigns essential character to the additive function, not the trace dye .
- 27** Heading 27.10 covers petroleum oil preparations $\geq 70\%$ by weight with oils as the basic constituents; however, this is generic versus the specific coverage for prepared additives in 38.11, so per GRI 3(a) the more specific 38 prevails .
- 32** Chapter 32 includes preparations based on coloring matter used to color materials; here the dye is only a trace to distinguish the marker and is not perceptible in the treated fuels, so by GRI 3(b) it does not give the essential character (thus excluded) .

Phase 2

TARIFF CLASSIFICATION OPINION

I. Applicable legal framework

- General Rules for Interpretation (GRI) • “The titles of Sections, Chapters or Subchapters 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...” (GRI 1) • “The heading which provides the most

specific description shall be preferred to headings providing a more general description...” (GRI 3(a)) • “Mixtures... shall be classified as if they consisted of the material or component which gives them their essential character...” (GRI 3(b)) • “For legal purposes, the classification of goods in the subheadings... shall be determined according to the terms of those subheadings... it being understood that only subheadings at the same level are comparable.” (GRI 6)

- Chapter 38 (Miscellaneous products of the chemical industries) • Heading 38.11: “Antiknock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and other prepared additives, for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils.” • Heading 38.24: “Chemical products and preparations of the chemical or allied industries (including mixtures of natural products), not elsewhere specified or included.” • Subheading 3824.99: examples of “Preparations...” not specified (e.g., “Preparations for detecting faults in materials...”) that illustrate its residual character. • Heading 38.22: “Diagnostic or laboratory reagents...; certified reference materials.”
- Chapter 27 (Mineral fuels, mineral oils...) • Heading 27.10: “Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils.”

II. Legal-technical analysis Subject matter: “Marker for mineral oils... coloured liquid... essentially comprising invisible forensic markers (not colouring matters), hydrocarbon fractions (mineral oil) and a trace amount of a dye... intended to be added in small quantities to fuels or other mineral oils for verification of their authenticity and fiscal compliance without altering their properties.”

1) Applicable chapter

- By its nature as a composite chemical preparation, intended to be added in small proportions to mineral oils (fuels or other mineral oils) for a technical purpose (traceability/identification), the analysis focuses on Chapter 38 (miscellaneous chemicals) and, alternatively, Chapter 27 (preparations based on mineral oils).

2) Heading

- Heading 38.11 specifically describes “other prepared additives for mineral oils (including gasoline)” (legal text). The product is presented precisely as a functional additive for mineral oils, whose purpose is not to color or to modify performance properties of the fuel, but to enable forensic identification and fiscal control; this

does not exclude it from the legal concept of “prepared additive,” which heading 38.11 formulates broadly by including “other prepared additives” (GRI 1).

3) Subheading

- Applying GRI 6, within heading 38.11, the good is neither an “antiknock preparation” (3811.11/3811.19) nor an “additive for lubricating oils” (3811.21/3811.29). It corresponds, by exclusion and in line with its purpose, to “Other” (3811.90).

4) Essential character

- As a mixture of hydrocarbon fractions (carrier) and forensic markers (active identification principles), its “essential character” derives from the markers, which confer the marking/identification function; the mineral oil serves merely as a carrier. Under GRI 3(b), this confirms inclusion in the heading that describes the use/function as a “prepared additive for mineral oils,” that is, 38.11, and not in a residual or base-material heading (27.10, 38.24).

III. Exclusion of alternative headings or chapters

- Heading 27.10 (Chap. 27). Although the preparation contains mineral oil fractions, 27.10 covers “preparations... with... 70% or more... in which these oils constitute the basic element,” and only those “not elsewhere specified or included.” In this case: a) There is a specific heading that expresses its function as an additive (38.11); under GRI 1 and 3(a), this specificity prevails over 27.10, which is residual for “preparations not elsewhere specified or included.” b) The mineral oil does not confer the essential character (it is merely a carrier); the determining function is provided by the forensic markers (GRI 3(b)). Conclusion: 27.10 is excluded.
- Heading 38.24 (including 3824.99). Heading 38.24 is a residual heading for “chemical products and preparations... not elsewhere specified or included.” Since 38.11 more specifically describes “prepared additives for mineral oils,” GRI 3(a) applies and 38.11 is preferred. Moreover, examples in 3824.99 (e.g., “Preparations for detecting faults in materials...”) show the residual and heterogeneous nature of 38.24, distinct from a prepared additive for mineral oils. Conclusion: 3824 is excluded, including subheading 3824.99. IMPORTANT NOTE: Subheading 3824.99 is excluded because the product is indeed “specified” in 38.11 as “other prepared additives for mineral oils,” so strictly residual 3824.99 does not apply (GRI 1 and 3(a)).
- Heading 38.22. The product is not a diagnostic or laboratory reagent nor a certified reference material (CRM) per the text of 38.22; it is not used to perform an analysis,

but is incorporated as a marker into oils for subsequent verification. Heading 38.22 does not apply.

IV. Documentary requirements To support the classification upon review, the importer should provide:

- Technical data sheet and safety data sheet (SDS) with qualitative–quantitative composition and the content range of hydrocarbons/mineral oil and markers.
- Functional description: purpose of use as a “marker additive” for mineral oils/fuels; dosage of application; evidence that it does not alter fuel properties.
- Detection/reading procedure for the marker, indicating that the added dye lacks a marking function and does not impart a perceptible color to the final product.
- Batch certificate of analysis and manufacturer specifications.
- Information on commercial presentation and instructions for use (packaging, concentration, destination: fuels or other mineral oils).

V. Conclusion Classification table:

- Chapter: 38
- Heading: 38.11
- Subheading: 3811.90
- Tariff item: Not determined in this opinion (scope requested: subheading level)
- NICO: Not determined

Final ruling: The product “Marker for mineral oils...” is classified in subheading 3811.90, as “other” prepared additives for mineral oils, based on the legal texts of heading 38.11 and the application of GRI 1, 3(a), 3(b) and 6.