



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0269E1

-
26th Session
-

O. Eng.

Brussels, 11 July 2002.

DECISIONS TAKEN BY THE HARMONIZED SYSTEM COMMITTEE
AT ITS 29TH SESSION AFFECTING THE WORK OF THE REVIEW SUB-COMMITTEE
(Item II.2 on Agenda)

Reference documents :

NR0265E3 (RSC/25 – Report)
NC0590E2 (HSC/29 – Report)

I. SECRETARIAT COMMENTS

1. To facilitate the work of the Review Sub-Committee, the Secretariat, in this document, presents a brief account of the decisions taken by the HS Committee at its 29th Session and pending questions and other issues, affecting the work of the Review Sub-Committee.

II. DECISIONS OF THE HS COMMITTEE (HSC/29)

2. The conclusions reached by the HS Committee at its 29th Session, as set out in Annexes C/5 and F to Doc. NC0590E2, are as follows :

Terms of reference and work plans for the HS Committee, its sub-committees and the Working Party (Annex C/5)

3. The Committee approved, in principle, draft terms of reference and work plans for the HS Committee, its sub-committees (including the Review Sub-Committee) and the Working Party.

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4. The Secretariat was instructed to ensure that the draft terms of reference, to be submitted to the Policy Commission in December 2002 as part of the Strategic Plan report, would follow closely the terms of the HS Convention, especially with regard to Articles 6 and 7.

Technical questions (Annex F)

5. The Director informed the Committee that the Secretariat would prepare a document for its 30th Session setting out correlation tables reflecting all amendments provisionally adopted so far during this Review Cycle. For the future, it was the Secretariat's intention to include correlation tables in the "Matters for decision" documents relating to the Reports of the Review Sub-Committee.

Proposal by the US Administration to amend certain subheadings of heading 87.08

6. The Committee provisionally adopted the texts approved by the Sub-Committee.

Possible amendment of the Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration)

7. The Committee took note of the fact that the Sub-Committee had agreed to delete the texts in square brackets from further consideration. The Committee also took note of the fact the Sub-Committee had agreed to consider a possible amendment of Part (C) to the Explanatory Note to heading 28.04 at its next session. The Committee then provisionally adopted the texts approved by the Sub-Committee (see Item III.A.5 on the Agenda).

Possible amendment of the texts of subheadings 0805.40 and 2009.2 in order to align the French and English versions (Proposal by ALADI)

8. The Committee provisionally adopted the texts approved by the Sub-Committee. The Committee agreed that the alignment of these texts did not entail any transfer of goods.

Possible amendments to the Nomenclature and the Explanatory Notes concerning heading 26.20 (Proposals by the Australian Administration and the Secretariat)

9. The Committee provisionally adopted the texts approved by the Sub-Committee.

Possible deletion of subheadings 4823.12 and 4823.19 (Proposal by the Brazilian Administration)

10. The Committee provisionally adopted the texts approved by the Sub-Committee.

Possible amendments to the structured nomenclature to heading 84.18 (Secretariat proposal)

11. The Committee provisionally adopted the texts approved by the Sub-Committee with regard to items 1 and 3 in Annex F/11 to Doc. NR0265E3. However, since several delegates pointed out that the proposed English and French texts for subheading 8418.50 might be misaligned, it was decided to refer these texts (item 2) back to the Sub-Committee for further consideration (see Item III.A.11 on the Agenda).

Possible amendments to the text of heading 08.02 to provide for macadamia nuts (Proposal by the Australian Administration)

12. The Committee provisionally adopted the texts approved by the Sub-Committee.

Possible amendment of subheading 8413.20 (Proposal by the European Community)

13. The Committee provisionally adopted the texts approved by the Sub-Committee (French text only). The Committee agreed that the alignment of these texts did not entail any transfer of goods.

Possible amendments to the Explanatory Note to heading 40.16

14. The Committee adopted the texts approved by the Sub-Committee after having deleted the reference to "pumicing blocks" (with regard to "pumicing blocks" see Annex IJ/19 to Doc. NC0590E2).

III. PENDING QUESTIONS

15. The Committee's observations with regard to the pending questions arising from the Report of the 25th Session of the Review Sub-Committee, as set out in Annex F to Doc. NC0590E2, are as follows :

Possible amendments to the Nomenclature regarding the classification of waffles

16. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session on the basis of alternative proposals and further comments to be submitted by administrations. See item III.A.1 on the Agenda.

Possible amendments to the Nomenclature regarding the classification of sauces

17. The Committee took note of the fact that the Sub-Committee had decided to postpone the discussion of this issue to the next session. See item III.A.2 on the Agenda.

Possible amendments to the Nomenclature and the Explanatory Note to heading 84.42

18. The Committee took note of the fact that the Sub-Committee had decided that the text approved would not yet be submitted to the HSC for provisional adoption. See item III.A.12 on the Agenda.

Possible amendments to the Nomenclature regarding the classification of cameras

19. The Committee was asked to rule on whether or not to regroup all cameras in one heading and, if so, in which heading. The Committee took an indicative vote and a large majority of delegates were in favour of the RSC continuing to study a possible regrouping of cameras in a single heading. The Committee therefore concluded its examination of this agenda item by agreeing to instruct the RSC to continue to study the regrouping of all cameras in one heading. See item III.A.17 on the Agenda.

Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

20. The Committee took note of the fact that the Sub-Committee would re-examine this issue at its next session on the basis of a new **Polish** proposal. See item III.A.4 on the Agenda.

Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

21. The Committee took note of the fact the Sub-Committee had agreed to review these amendments at its next session on the basis of a new document to be prepared by the Secretariat setting out its new proposals and proposals to be submitted by several administrations. See item III.A.15 on the Agenda.

Proposal by the **US** Administration to amend the Nomenclature to Chapter 41

22. The Committee took note of the fact the Sub-Committee had decided to reconsider this matter at the next session, based on a new Secretariat document setting out various options with regard to the term “reversible” and the expression “hides and skins”. See item III.A.8 on the Agenda.

Proposal by the **US** Administration to amend the Nomenclature to heading 84.82

23. The Committee took note of the fact the Sub-Committee had decided to defer this issue to its next session. See item III.A.13 on the Agenda.

Proposal by the **US** Administration to amend the Nomenclature to heading 85.19

24. The Committee took note of the fact the Sub-Committee had recognized that it would be more appropriate to await the Harmonized System Committee’s decision on the classification of MP3 players and therefore had agreed to continue its examination at its next session (see item III.A.16 on the Agenda).
25. During the Committee’s discussions with regard to the classification of MP3 players, different opinions were expressed by delegates as to whether the transcription of data files was sound recording in the sense of heading 85.20. When the question was put to a vote, 32 delegates supported the view that the expression “sound recording” as used in heading 85.20 should be interpreted in a broad sense, i.e., that it also covered the transcription of data files onto flash memory. Two delegates were of the view that transcription could not be considered to be sound recording.
26. Following this vote, the Committee unanimously classified the apparatus described in paragraph 7 of Doc. NC0550E1 as follows :

- paragraph 7 (i), (ii), (iii), (v) and (vi) : subheading 8520.90;
- paragraph 7 (iv) : subheading 8527.13;
- paragraph 7 (vii) : subheading 8521.90; and
- paragraph 7 (viii) : subheading 8519.99.

Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers

27. The Committee took note of the fact the Sub-Committee had decided to continue to examine this issue at its next session on the basis of new proposals. See item III.A.19 on the Agenda.

Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)

28. The Committee took note of the fact the Sub-Committee had decided to return to this matter at its next session, on the basis of a new written proposal by the US Administration. See item III.A.18 on the Agenda.

Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)

29. The EC Delegate requested that this issue be postponed to the next session (HSC/30), since consultations with linguistic experts had not yet been concluded. The Committee agreed to this request.

Possible amendment of heading 21.06 to specifically mention "food supplements"

30. The Committee took note of the fact the Sub-Committee had decided to leave all proposals open for consideration at its next meeting. See item III.A.3 on the Agenda.

Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys

31. The Committee took note of the fact that the Sub-Committee had decided to return to this question at its next session. See item III.A.21 on the Agenda.

Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21

32. The Committee took note of the fact that the Sub-Committee had agreed to re-consider this issue at its next session on the basis of a new US proposal. See item III.A.6 on the Agenda.

Possible amendments to the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration)

33. The Committee took note of the fact the Sub-Committee had agreed that the Committee should first decide on the appropriate classification of the product before taking up this issue again at its next session (see item III.A.7 on the Agenda).

34. During the Committee's discussions with regard to the classification of the product, the Chairman summarized that the threshold question was whether the printing on the substrate in question was merely incidental to the primary use of the substrate (i.e., in the production of banknotes). When the question was put to a vote, the Committee decided, by 20 votes to 19, that the printing was merely incidental. Consequently, the Committee classified the

banknote substrate of plastics in subheading 3920.20, in accordance with Note 10 to Chapter 39.

Possible creation of a new Note to Chapter 69 to define the term “refractory” (Proposal by the Australian Administration)

35. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting on the basis of new proposals. See item III.A.9 on the Agenda.

Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration)

36. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting, both from a linguistic standpoint and in respect of the subheading concerned. See item III.A.22 on the Agenda.

Possible amendment to the structured nomenclature to heading 90.30 (Proposal by the US Administration)

37. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting on the basis of new statistical information to be provided by the US Administration. See item III.A.20 on the Agenda.

Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the European Community)

38. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting. See item III.A.10 on the Agenda.

Possible amendment of the Explanatory Note to heading 84.71 concerning CD drives and DVD drives (Proposal by the US Administration)

39. The Committee took note of the fact the Sub-Committee had decided that this question should be re-addressed after the HS Committee had concluded its examination of the classification of DVD drives.

40. The Committee unanimously decided that :

- (a) DVD drives exclusively used in conjunction with ADP machines were classifiable in heading 84.71 (subheading 8471.70) by application of GIR 1 (Note 5 (B) to Chapter 84) and GIR 6; and
- (b) Standalone DVD players designed to be used for video reproduction (both image and sound) on television receivers or video monitors were classifiable in heading 85.21 (subheading 8521.90) by application of GIR 1 and GIR 6.

41. The Committee also decided to classify the “Sony PlayStation® 2” in heading 95.04 (subheading 9504.10) as a “video game of a kind used with a television receiver”, by 39 votes to 5 (heading 84.71), by application of GIR 1 (Note 1 (p) to Section XVI) and GIR 6.

42. The Committee further decided to draft amendments to the Explanatory Notes pertinent to the classification of “DVD drives”, “standalone DVD players” and the “PS2”. In this connection, the Secretariat was also requested to consider whether or not there was a contradiction between the legal texts and exclusion (b) in the Explanatory Note to heading 95.04 (page 1917), and to consider whether it would be possible to clarify the text of that exclusion.
43. Referring to the instruction regarding the amendments to the Explanatory Notes, the Director clarified that this matter was pending on the agenda of the HS Review Sub-Committee and proposed that the draft texts be submitted to the RSC for consideration at its next session. See item III.A.14 on the Agenda.

Possible deletion of certain references to “whales” in the Explanatory Notes

44. The Committee took note of the fact the Sub-Committee had agreed to examine this issue at its next session on the basis of a new document. See item III.C.1 on the Agenda.

Possible amendments to the Explanatory Notes to Chapter 44

45. The Committee took note of the fact the Sub-Committee had agreed to postpone discussions of this item until its next session. See item III.C.6 on the Agenda.

Possible amendments of the Explanatory Notes to headings 61.03 and 61.04

46. The Committee took note of the fact the Sub-Committee had agreed to postpone a full discussion of this item until its next session. See item III.C.7 on the Agenda.

Possible amendment of the Explanatory Note to heading 70.17

47. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next session. See item III.C.8 on the Agenda.

Possible amendments to the Explanatory Note to heading 84.71

48. The Committee took note of the fact the Sub-Committee, due to lack of time, had agreed to postpone this item to the Sub-Committee’s next session. See item III.C.9 on the Agenda.

Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions

49. The Committee took note of the fact the Sub-Committee, due to lack of time, had agreed to postpone this item to the Sub-Committee’s next session. See item III.C.10 on the Agenda.

IV. OTHER

50. Other issues discussed by the Committee, which will affect the work of the Review Sub-Committee, are as follows :

Rotterdam Convention

51. The **EC** Delegate informed the Committee that the **EC** was presently studying a proposal from international organisations to consider certain amendments to the Nomenclature concerning the chemicals listed in the Annexes to the Rotterdam Convention. He felt that this would be difficult but important work and the proposal would be submitted, as soon as possible, in order to enable the Secretariat to prepare a working document in time for the next Review Sub-Committee session (paragraph 38 of Doc. NC0590E2).

Possible amendments to the Explanatory Notes with regard to various women's or girls' garments (Annex H/8 to Doc. NC0590E2)

52. The Committee agreed that the current situation was sufficiently clear to enable the articles at issue to be classified, and that it would therefore not be necessary to amend the Explanatory Notes.
53. The Committee also decided not to take up the **Moroccan** proposal to amend the text of subheading 6212.10, which had been reproduced in paragraph 3 of Doc. NC0413E1. The **Moroccan** Administration was invited to submit a new request, for examination by the Review Sub-Committee, if they so wished.

Classification of flash electronic storage cards (Annex H/13 to Doc. NC0590E2)

54. The Committee decided, by 31 votes to 13, to classify flash electronic storage cards in heading 85.23 (subheading 8523.90), rather than in heading 85.43. This decision by the Committee may have some relevance to the discussions under item III.B.2 on the RSC Agenda.

V. CONCLUSION

55. The Sub-Committee is invited to take note of the decisions taken by the HSC at its 29th Session and pending questions and other issues affecting the work of the Review Sub-Committee.
