



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
27th Session
-

NR0348E1
(+ Annex)
O. Fr.

Brussels, 14 February 2003.

POSSIBLE ALIGNMENT OF THE FRENCH AND ENGLISH TEXTS OF NOTE 9
TO CHAPTER 71 (PROPOSAL BY THE EC)

(Item III.A.9 on Agenda)

Reference documents :

NR0328E1 (RSC/26)

NR0332E3, Annex D/10 (RSC/26 - Report)

I. BACKGROUND

1. At its 26th Session, the Sub-Committee examined the EC proposal to align the French and English versions of Note 9 to Chapter 71. Following this discussion, the matter was deferred until the next session to give administrations an opportunity to carry out further checks and consult their trade.
2. On 26 January 2003, the Secretariat received the following note from the US Administration.

II. NOTE FROM THE US ADMINISTRATION

3. "In Doc. NR0328E1, the EC indicated that Note 9 to Chapter 71 (which defines the scope of heading 71.13) is structured differently in the French and the English, and that the two versions should be aligned. Indeed, the two versions are structured differently, but they do not appear to be misaligned in scope.
4. Examining the text of heading 71.13, we find that the English version provides for "Articles of jewellery", whereas the French version provides for "*Articles de bijouterie ou de joaillerie*". Thus, the broader English term "jewellery" encompasses both "*bijouterie*" and "*joaillerie*" in French.

Note : Shaded parts will be removed when documents are placed in the WCO documentation database available to the public.

File No. 2936

For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

5. In Note 9 to Chapter 71, both the English and French versions have an introductory line indicating that the meaning of the term “articles of jewellery” (“*articles de bijouterie*” in French) is covered by subparagraphs (a) and (b). The texts of the introductory line in each version are, at first glance, basically aligned.
6. However, as already indicated above, the term “jewellery” in English has a broader scope than the term “*bijouterie*” in French. In an apparent attempt to close this gap in scope, the drafters of the BTN added a second paragraph describing “*articles de joaillerie*”.
7. The texts of subparagraph (a) in the two versions are generally aligned, except that the English version includes the expression “(gem-set or not)”, whereas the French text has no such expression. The French term “*bijouterie*” apparently is limited to articles of precious metal or metal clad with precious metals, in the form of rings, bracelets, necklaces, other articles of personal adornment, etc.
8. Further, it would seem that articles of “*bijouterie*” become articles of “*joaillerie*” only after they are combined, or set, with pearls, precious or semi-precious stones, synthetic or reconstructed stones, tortoise shell, mother-of-pearl, ivory, natural or reconstructed amber, jet or coral (see the second paragraph in the French version).
9. Therefore, “*articles de bijouterie*” would seem to cover “articles of jewellery” that are not “gem-set”, whereas “*articles de joaillerie*” would seem to cover “articles of jewellery” that are “gem-set”.
10. As it stands now, the **US** Administration agrees with the Secretariat that there is no apparent misalignment, at least in scope, between the French and English versions of Note 9 to Chapter 71.
11. Further, given that the “misalignment” between the structures of the two versions of the Note seems to have existed since the beginning of the BTN and to have been carried through the CCCN to the HS without causing any classification problems, the **United States** could also accept the Secretariat’s contention that no changes are necessary to the English version, i.e., we could accept the *status quo*.
12. That being said, the **United States** is flexible on this question and could offer a compromise proposal. Close scrutiny of the two versions does point up at least four key differences between them, at present :
 - (1) The English version defines only one term, while the French version defines two separate and distinct terms; however, as already noted, the scope of the English term is apparently the same as the combined scope of the two French terms.
 - (2) The English expression “(gem-set or not)” appears in subparagraph (a), but no corresponding expression appears in subparagraph (a) in the French version. However, this expression in English seems to encompass most of the information presented in greater detail in the second paragraph of the French version. The French version offers what appears to be an exhaustive list of articles or materials that might be combined or set with the articles of precious metal or metal clad with precious metal, of heading 71.13. The insertion of the expression “*par exemple*” (for example), would add a little flexibility in this regard.

- (3) The lists of articles in subparagraphs (a) and (b) are not aligned, in that the French version lists some articles that do not appear in the English version and *vice versa*. These could be better aligned, though our research has not come up with a French equivalent for the English term “dress studs”.
- (4) The French version refers to “*en métaux précieux ou en plaqués ou doublés de métaux précieux*” (of precious metal or of metal clad with precious metal), whereas the English version does not include this reference. Since that language already appears in both versions of the text of heading 71.13, it does not seem necessary to include it in Note 9 to Chapter 71.

13. Taking into account the information above, the **United States** would propose that both versions of Note 9 to Chapter 71 be amended to bring them into closer alignment as set out below :

ENGLISH VERSION

Chapter 71. Note 9.

Delete and substitute :

- “9.- For the purposes of heading 71.13, the expression “articles of jewellery” means :
- (a) Any small objects of personal adornment (for example, rings, bracelets, necklaces, brooches, ear-rings, watch-chains, fobs, pendants, tie-pins, cuff-links, dress-studs, religious or other medals and insignia); and
 - (b) Articles of personal use of a kind normally carried in the pocket, in the handbag or on the person (for example, cigar or cigarette cases, snuff boxes, cachou or pill boxes, powder boxes, chain purses or prayer beads).

These articles may be combined or set, for example, with natural or cultured pearls, precious or semiprecious stones, synthetic or reconstructed precious or semi-precious stones, tortoise shell, mother-of-pearl, ivory, natural or reconstituted amber, jet or coral.

FRENCH VERSION

Chapitre 71. Note 9.

Nouvelle rédaction :

- “9.- Au sens du n° 71.13, on entend par *articles de bijouterie ou de joaillerie* :
- a) les petits objets servant à la parure (bagues, bracelets, colliers, broches, boucles d’oreilles, chaînes de montres, breloques, pendentifs, épingles de cravates, boutons de manchettes, médailles ou insignes religieux ou autres, par exemple);
 - b) les articles à usage personnel destinés à être portés sur la personne, ainsi que les articles de poche ou de sac à main (étuis à cigares ou à

cigarettes, tabatières, bonbonnières et poudriers, bourses en cote de maille, chapelets, par exemple).

Ces articles peuvent comporter des perles fines, de culture ou fausses, des pierres gemmes ou fausses, des pierres synthétiques ou reconstituées ou bien des parties en écaille, nacre, ivoire ambre naturel ou reconstitué, jais ou corail, par exemple."

III. SECRETARIAT COMMENTS

14. With regard to this question, the Secretariat takes the view that there does not appear to be a lack of alignment between the two versions because, when read together, they have the same scope. Moreover, in relation to the concerns expressed by certain delegates at the 26th Session, the Secretariat considers that the text of the additional paragraph in the French version, which refers to articles of jewellery which are "plaqués ou doublés" (clad), is not in any way misleading. Thus, any possibility of incorrect classification can be ruled out. This interpretation is supported by the clarity of the text of heading 71.13 which covers articles of jewellery ("articles de bijouterie" and "articles de joallerie"), clad with precious metal.
15. In any event, the Secretariat does not consider the addition of this paragraph in the English text of Note 9 to Chapter 71 to be strictly necessary. Nevertheless, for the sake of clarity the Secretariat can support the **US** proposal, which represents a very good compromise. This proposal in fact serves two purposes. Firstly, it clarifies the content of sub-paragraphs (a) and (b), and secondly it provides for a strict alignment of the two versions.
16. Consequently, the Secretariat has reproduced in the Annex to this document a draft which includes both the initial proposal by the **EC** and the alternative put forward by the **United States**. This should enable the Sub-Committee to finalize this matter by ruling on the advisability of such an amendment and, if appropriate, choosing a suitable text. The Secretariat has also inserted the expression "boutons de plastron" in square brackets in the French text as the equivalent of the English expression "dress-studs".

IV. CONCLUSION

17. The Sub-Committee is invited to examine the texts reproduced in the Annex to this document, in the light of the points raised by the **EC** in Doc. NR0328E1 and by the **United States** in the present document, as well as the Secretariat's comments.

* * *