



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0395E1

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27th Session
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O. Fr.

Brussels, 26 February 2003.

POSSIBLE AMENDMENT OF THE NOMENCLATURE AND
THE EXPLANATORY NOTE TO HEADING 90.21

(Item III.B.17 on Agenda)

I. BACKGROUND

1. On 13 February 2003, the Secretariat received the following note from the **EC**.

II. NOTE FROM THE EC

2. "In the framework of the revision of the HS Nomenclature which is at present being carried out by the WCO, the **EC** proposes, on the one hand, an amendment of the wording of heading 90.21 and of subheading 9021.10 in the framework of the Article 16 procedure of the HS Convention and, on the other hand, an amendment of the Explanatory Notes to heading 90.21 according to the Article 8 procedure of the mentioned Convention :

ARTICLE 16 PROCEDURE OF THE HS CONVENTION

- (1) The proposal aims at providing a new wording for the second part of heading 90.21 and of subheading 9021.10 :

Present text :

90.21 English : "Splints and other fracture appliances;"
French : "Attelles, gouttières et autres articles et appareils pour fractures;"

Proposed new wording :

90.21 English : "Splints and other appliances for the treatment of fractures, dislocations and joint injuries;"

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

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French : "Attelles, gouttières, et autres articles et appareils pour fractures, luxations ou lésions articulaires;"

(2) New wording for the second part of subheading 9021.10 :

Present text :

9021.10 English : " - Orthopaedic or fracture appliances"

French : " - Appareils d'orthopédie ou pour fractures"

Proposed new text :

9021.10 English : "- Orthopaedic appliances or appliances for the treatment of fractures, dislocations or joint injuries;"

French : "- Articles et appareils d'orthopédie ou pour fractures, luxations ou lésions articulaires;"

Motive of the proposal :

3. The technical progress achieved in this field; indeed, it is no longer possible to know whether the appliances in question are used in case of fractures, dislocations or joint injuries.
4. The proposed wording for the French version of subheading 9021.10 takes account of the discussions held at the 23rd Session of the HS Review Sub-Committee (Doc. NR0165E1, Annexes C/8 and E/4) and the 27th Session of the HS Committee (Doc. NC0430E1, Annexes F and P/4).
5. Furthermore, the **EC** is of the opinion that this proposal does not entail an essential change in the present scope of heading 9021.10. In this respect, the present second paragraph of the French version of the Explanatory Note to this heading reading "articles et appareils pour fractures" ("orthopaedic and fracture appliances") already includes this concept in its first line : "les articles et appareils pour fractures, luxations ou lésions articulaires..." ("articles and appliances for the treatment of fractures, dislocations and joint injuries").
6. Therefore, the **EC** does not deem it necessary to change the code of the subheading. Besides, this would also cause a complete change in the rest of the structure of the heading.

ARTICLE 8 PROCEDURE OF THE HS CONVENTION

7. Having said this, the **EC** is of the opinion that there is a lack of alignment between the French and English versions of the first paragraph of Part II of the Explanatory Note to heading 90.21 mentioned above. The **EC** therefore proposes to align the English version on the text of the French version :

Present text :

English : "These may be used either to immobilise injured parts of the body (for extension or protection), or for setting fractures."

French : "Les articles et appareils pour fractures, luxations ou lésions articulaires des membres, de la poitrine, etc., servent soit à immobiliser les organes atteints, à en permettre l'extension ou encore à les protéger des atteintes extérieures, soit à réduire les fractures."

Proposed new wording :

English : "These may be used either to immobilise injured parts of the body (for extension or protection), or for setting fractures, dislocations or joint injuries."

French : Unchanged

Motive of the proposal :

Reasons of practicality and achieving coherence until an amendment of the legal text of the Nomenclature is effected."

II. SECRETARIAT COMMENTS

8. This proposal appears to be a logical follow-up to the previous review cycle. In fact, following the work of the 23rd Session of the Review Sub-Committee, the Harmonized System Committee, at its 27th Session, adopted new legal texts for subheadings 9021.1 to 9021.30. These amendments, entered into force on 1 January 2002 and made it possible to correct the lack of alignment between the English and French texts.
9. In its correspondence, the **EC** requests that the text of heading 90.21 and that of subheading 9021.10 be amended by the Article 16 procedure and that the corresponding Explanatory Notes be amended by the Article 8 procedure.
10. With regard to the proposal aimed at amending the second part of the legal text of this heading, the **EC** points out that with regard to the articles defined by Note 6 to Chapter 90, current technological developments mean that it is no longer possible to formally differentiate between appliances used for fractures and other conditions (i.e., dislocations or joint injuries). The "Encyclopaedia Britannica" defines a fracture as being "a sudden break in a bone", a dislocation as being "displacement of the bones forming a joint" and a joint injury as being "a disorder in a joint". It should nevertheless be pointed out that the last two terms are currently mentioned in the first paragraph of Part II of the Explanatory Notes to heading 90.21 (page 1815) (French text only).
11. The Secretariat would also point out that the above mentioned illnesses, considered to be "injuries", are generally treated by the same practitioner using the same appliances to

support, hold or immobilise parts of the body following an illness, operation or injury, regardless of their cause. The immobilisation of dislocations, joint injuries in the limbs or chest, setting of fractures, etc., is carried out using these same articles and devices.

12. In terms of amending the Explanatory Notes, the Secretariat favours complete alignment of the two texts. A comparison of the two present versions shows that the French text is more explicit and reflects professional use. The Secretariat could consequently support the **EC** proposal aimed at aligning the English on the French. As for the procedure envisaged, this amendment to align an existing text on a version in another language could be carried out under the Article 8 procedure.
13. In the light of the foregoing, the Secretariat leaves it to the Sub-Committee to rule on the appropriateness of the proposed amendments and the action to be taken in respect of this matter.

III. CONCLUSION

14. The Sub-Committee is invited to take account of the note from the **EC** and the Secretariat's comments when examining this Agenda item.
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