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HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
28th Session
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NR0445E1
(+ Annex)

O. Fr.

Brussels, 10 July 2003.

POSSIBLE CREATION OF A NEW HEADING FOR ALL VACUUM CLEANERS

(Item III.A.17 on Agenda)

Reference documents :

NC0709E1 (HSC/31)
NC0719E1 (HSC/31)
NC0730E2, Annex IJ/4 (HSC/31 – Report)

I. BACKGROUND

1. At its 31st Session (May 2003), the Harmonized System Committee studied the establishment of certain criteria for the classification of vacuum cleaners as electro-mechanical “domestic” appliances of heading 85.09.
2. The Committee decided, by 20 votes to 13, to instruct the Secretariat to carry out a study on the possibility of creating a new four-digit heading for all vacuum cleaners, taking account therein of the potential statistical problems for the products currently classified in heading 85.09. The results of the study were to be examined, in the first instance, by the Review Sub-Committee at its 28th Session in September 2003.

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II. SECRETARIAT COMMENTS

3. As was pointed out in Doc. NC0709E1, under the current legal provisions vacuum cleaners are classifiable in the following two headings :
 - 84.79 if they are designed for industrial and/or commercial use or, if designed for domestic use, if they are not equipped with a self-contained electric motor (and therefore are not electro-mechanical machines within the meaning of Note 3 to Chapter 85);
 - 85.09 if they have a self-contained electric motor (and therefore are electro-mechanical) and are identifiable, according to type, as being intended for use in the household.
4. However, neither the legal text of, nor the Explanatory Notes to, Section XVI lay down specific criteria for distinguishing vacuum cleaners equipped with a self-contained electric motor intended for industrial and/or commercial use, from those normally used in the household.
5. Leaving aside the specific cases on which the Harmonized System Committee has taken classification decisions in the past and issued Classification Opinions (e.g., Opinions 8479.89/1 and 8509.10/1), there are huge disparities between different administrations' practices in this matter, because the criteria taken into consideration are based either on the technical specifications provided by the manufacturer, or on other factors based, for example, on the appearance and weight of the appliance, constituent material, etc.
6. Against this background, classification is therefore carried out on a case-by-case basis. This is not conducive to the uniform application of the Nomenclature, which is one of the main objectives of the HS Convention; hence the need to lay down precise criteria for distinguishing between the two categories of vacuum cleaners.

III. SECRETARIAT PROPOSALS

7. Given that the Harmonized System Committee has expressed a wish to group all vacuum cleaners together in a single 4-digit heading, the Secretariat considers that there are two possible solutions :
 - (1) group these goods together in a heading of Chapter 84, bearing in mind the fact that the General Explanatory Notes to that Chapter state, on page 1393, that although in general Chapter 85 covers electrical appliances, some appliances powered by an electric motor remain classified in Chapter 84;
 - (2) create a heading for these appliances which are, by definition, electrical, in Chapter 85 which covers electrical machinery and equipment.

8. The Secretariat considers it preferable to group vacuum cleaners together in Chapter 85, by re-utilising heading 85.08 which, prior to the 2002 version of the Harmonized System, covered electro-mechanical hand tools. This is the most appropriate solution because it :
- (1) respects the harmony of this Chapter's structure, by grouping together in headings 85.08 to 85.10 electro-mechanical appliances used in the household; and
 - (2) caters for the need to introduce 1-dash and 2-dash subheadings without using the code numbers from the 1996 version of the Harmonized System, which in theory should not be reused until a 12-year period has elapsed.
9. However, giving separate status to vacuum cleaners in heading 85.08 will involve amending both the legal texts and the Explanatory Notes in order to reflect the transfer of goods from present headings 84.79 and 85.09 to the proposed new heading 85.08.
10. Where the legal text is concerned, the following amendments will be required :
- (1) creation of a new exclusion (e) in Note 1 to Chapter 84, to indicate that vacuum cleaners are also excluded from that Chapter, and renumbering of current exclusions (e) and (f) as (f) and (g);
 - (2) separate identification of the different types of vacuum cleaners on the basis of a number of physical characteristics related, in particular, to the power of the motor, the vacuum pressure and the capacity of the dust bag/tank, as opposed to the manufacturer's indications as to the use for which a vacuum cleaner is intended;
 - (3) exclusion of vacuum cleaners from the list under sub-paragraph (a) of existing Note 3 which, in the future, should refer only to floor polishers, food grinders and mixers ...;
 - (4) creation of a new four-digit heading (85.08) appropriately structured as shown in the draft annexed to this document;
 - (5) amendment of present heading 85.09, in terms of both its text and structure. The new text could read as follows :

“Electro-mechanical domestic appliances, with self-contained electric motor, excluding vacuum cleaners of heading 85.08.”

Similarly the structure of this heading will need to be revised, with the deletion of subheading 8509.10 – the entire contents of which will have been transferred to new heading 85.08.
11. The distinguishing criteria for vacuum cleaners have been specified in the Annex to this document with reference to the criteria laid down in a standard issued by the International Electrotechnical Commission (IEC), a body based in Geneva which works in collaboration with ISO and whose role is to prepare and issue international standards in relation to electricity, electronics and related technologies. The IEC criteria

concerning vacuum cleaners were noted by the Secretariat in Doc. 42.451, which the Harmonized System Committee studied at its 22nd Session.

12. According to paragraph 7 of that document, the criteria for industrial and commercial vacuum cleaners are certified in accordance with IEC International Standard 60335-2-69 (1997-02), which sets out particular requirements for wet and dry vacuum cleaners. These requirements concern, inter alia, the power of the vacuum cleaner (more than 1200 W), the vacuum pressure (more than 160 Mbars) and the capacity of the dustbag/tank, which may range from 38 to 50 litres.
13. After conducting some research into the matter, the Secretariat understands that these criteria have not been modified, even though the Standard concerned was updated in 2000. It is, however, supplemented by another Standard (IEC 60312) concerning specifications for domestic vacuum cleaners, which are characterised by reduced power and capacity.
14. The Secretariat has also proposed conforming changes to the Explanatory Notes.
15. All of the draft texts relating to these amendments to the Nomenclature and the Explanatory Notes have been set out in the Annex to this document.

IV. CONCLUSION

16. The Sub-Committee is invited to rule on :
 - (1) the validity of the distinguishing criteria for vacuum cleaners proposed by the Secretariat in the Annex to this document;
 - (2) the proposed amendments to the Nomenclature and the Explanatory Notes, to be made under the Article 16 procedure, in the light of the Secretariat comments set out above.

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