



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0451E1

-
28th Session
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O. Fr.

Brussels, 10 July 2003.

POSSIBLE AMENDMENT OF NOTE 1 TO CHAPTER 95
(PROPOSAL BY THE CANADIAN ADMINISTRATION)

(Item III.B.7 on Agenda)

I. BACKGROUND

1. On 19 June 2003, the Secretariat received the following note from the Canadian Administration concerning a possible amendment to Note 1 to Chapter 95.

II. NOTE FROM THE CANADIAN ADMINISTRATION

2. "The Canadian Administration would like to submit, for the consideration of the Review Sub-Committee, the following amendment to the legal Notes to Chapter 95 of the Harmonized System Nomenclature.

Amendments to Note 1 to Chapter 95 :

- (1) Delete Note 1 (a) and substitute the following :

"(a) Candles (heading 34.06);".

- (2) Insert the following after Note 1 (u) :

"(v) Tableware, kitchenware, toilet articles, carpets and other textile floor coverings, apparel, bed linen, toilet linen, and similar articles having a utilitarian function (classified according to their constituent material).".

3. The proposed amendment to legal Note 1 (a) will ensure that it is properly aligned with exclusion Note (b) on page 1918 of the Explanatory Notes. The amendment to Explanatory Note exclusion (b), as approved at the 31st Session, excludes all candles of heading 34.06 from classification in heading 95.05.

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

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4. With respect to the proposed new legal Note, **Canada** believes that it has been argued that the scope of the phrase “festive articles” should be interpreted broadly enough to include any article incorporating a Christmas or other holiday design or motif, and that there are no grounds to exclude goods of a utilitarian nature such as table-cloths and carpets if they have such a design. The **Canadian** proposal will maintain the current scope of the heading and provide legal backing for the Explanatory Notes.”

III. SECRETARIAT COMMENTS

5. The adoption of the proposed amendment to Note 1 (a) to Chapter 95 would transfer the information in present exclusion (b) to the Explanatory Note to heading 95.05 (page 1918) to a legal Note. In this respect, the Committee has already decided, for reasons of clarity, to delete the expressions “Christmas” and “Christmas tree candles” from the Explanatory Note exclusion. It was felt that these references could be confusing. The new text of the Explanatory Note in question clearly indicates that only candles used as “festive articles” – such as candles for birthday cakes – are to be classified in heading 95.05 and that all other candles should be classified on the basis of their constituent material (heading 34.06). The adoption of the new text of Note 1 to Chapter 95, as proposed by **Canada**, would give legal force to the text of the Explanatory Note to heading 95.05.
6. The second proposal would make the present text of the Explanatory Note to heading 95.05, page 1917, adopted by the Committee at its 31st Session, into a legal Note. This new text would clarify the scope of heading 95.05. At its last session the Committee had, in fact, decided to add a new paragraph after the exclusion Note under paragraph 4 of the Explanatory Note to heading 95.05, to give priority, for classification purposes, to the constituent material for certain products of general use such as tableware and kitchenware. Based on this decision, the Secretariat could agree with the text proposed by **Canada**.

IV. CONCLUSION

7. The Committee is invited to examine the **Canadian** proposals to amend Note 1 to Chapter 95, taking into consideration the Secretariat’s comments in paragraphs 5 and 6 above.
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