



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
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NR0160E1
(+ Annexes I, II and III)
O. Eng.

Brussels, 1 March 2001.

POSSIBLE AMENDMENTS TO THE NOMENCLATURE
AND EXPLANATORY NOTES TO CHAPTER 24

(Item III.A.9. on Agenda)

Reference documents :

42.083 (HSC/21)
NC0090E2, Annex IJ/1 (HSC/23 - Report)

NC0284E1 (HSC/26)
NC0340E2, Annex G/2 (HSC/26 – Report)
NR0144E1 (RSC/23)

I. BACKGROUND

1. After the preparation of Doc. NR0144E1, the Secretariat received proposals with regard to possible amendments to the Nomenclature and Explanatory Notes to Chapter 24 from the administrations of Poland, Romania and Cyprus. These proposals are reproduced in Annexes I, II and III, respectively.

II. SECRETARIAT COMMENTS

2. The Polish Administration proposes in Annex I to :
 - insert a new Note 2 concerning unmanufactured tobacco;
 - insert a new Note 3 concerning tobacco ready for consumption;
 - create new subheading 2403.20 for tobacco intermediate products, and
 - amend present subheading 2403.91 to read "Homogenized" tobacco.
3. The Polish Administration also proposes to amend present item (1) of the Explanatory Note to heading 24.01 as reproduced in Annex I.
4. The Romanian Administration proposes to insert a new item (8) concerning tobacco cut into narrow strips in the Explanatory Note to heading 24.03 (see Annex II).
5. The Cypriot Administration proposes to amend the Explanatory Notes to headings 24.01 and 24.03, although no concrete texts were proposed in this regard (see Annex III).

File No. 2653

IV. CONCLUSION

6. The Sub-Committee is invited to examine the proposals of the Polish, Romanian and Cypriot Administrations when taking up this item.

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PROPOSAL BY THE POLISH ADMINISTRATION

"As we pointed out before, the present wording of the texts i.e., the legal texts as well as the Explanatory Notes of headings 24.01 and 24.03 are not precise and clear, but allow a wide classification choice and do not adequately present tobacco processing technology. Technical methods for the production of tobacco have changed since the preparation of the Explanatory Notes, and it is therefore difficult to base the classification of tobacco on the present legal texts and Explanatory Notes.

There are particular problems with the Explanatory Note to heading 24.01, i.e., unmanufactured tobacco.

A clear and precise definition of the terms "unmanufactured tobacco" and "manufactured tobacco" is decisive for classifying tobacco in heading 24.01 and 24.03.

In our opinion, heading 24.01, referring to unmanufactured tobacco, should contain tobacco in the form of :

- whole plants or leaves in the natural state, cured or fermented;
- whole leaves, in pieces, broken, cut
- stemmed leaves;
- stripped leaves;
- blended leaves, subjected only to the processes allowed for in heading 24.01;
- tobacco refuse.

Heading 24.03, covering manufactured tobacco, applies in our opinion to :

- cut tobacco, as an intermediate product in the tobacco manufacturing process, because all non-aromatic cut tobaccos are prepared for production specific brands of cigarettes;
- blended leaves, containing added homogenized tobacco in any quantity;
- tobacco subjected to enriching (improving) processes, such as :
 - casing, including initial casing
 - [aromitization](#)
 - addition of every possible substance to improve the tobacco properties.

The Polish Customs Administration is of the opinion that the only criterion - clearly demarcating headings 24.01 and 24.03 - should be the tobacco processing ratio, thus limiting precisely named stages of tobacco leaf processing. The present text only partially fulfils the requirements and consequently raises classification problems. The processing ratio could always be examined by independent laboratories in such a way as to exclude

these technological operations which are decisive in excluding a product from heading 24.01.

Consequently, for the purposes of uniform tariff classification, the Polish Customs Administration proposes the following text for the Explanatory Notes to heading 24.01 in the part defining the raw tobacco material which is covered by it :

Present item (1) of the Explanatory Note (page 189) to heading 24.01 (instead of paragraphs 1 and 2) will read :

"(1) **Unmanufactured** tobacco in the form of whole plants or leaves in the natural state; cured or fermented leaves, whole or **stemmed/stripped**, trimmed or untrimmed, broken or cut (including pieces cut to shape), "**sauced**" or "**liquored**" with a liquid of appropriate composition only in order to prevent mould and drying, also initially **moistured**, but not subjected to other technological treatment."

Any other treatment found going beyond the above-mentioned stages of technology, such as casing and secondary **moisturising**, eliminating production impurities, cutting in cutting machines, **aromatising** the blends or drying in dryers would be excluded. Cased tobacco is tobacco prepared with solutions based on glycol or glycerol containing mainly **saccharose** and other sugars, changing the chemical composition and properties of natural tobacco leaves. Hence detection in the tobacco mixture of amounts of **propylene** glycol should decide on the tobacco classification in heading 24.03.

The Polish Customs Administration also proposes deleting from item (1) on page 189 of HS Explanatory Notes the existing wording "**tobacco** ready for smoking", because it raised many doubts of interpretation and in the new text it would be obvious that such tobacco should not be included in heading 24.01.

On the other hand, the expression "**tobacco** for smoking" is obviously covered by heading 24.03, as it defines a finished product that is ready tobacco filler (for cigarettes or pipes), suitable for smoking without additional treatment.

However, all intermediate tobacco products going beyond those described in heading 24.01, also including mixtures of **unmanufactured** tobacco with manufactured tobacco such as expanded tobacco stems or homogenized tobacco, should be classified in subheading 2403.99, in contrast to ready cut tobacco of heading 2403.10, even if **GIR 2(a) has to be applied**. In other words, such intermediate products should be taken as having the essential character of the finished product.

Moreover, the HS Nomenclature for Chapter 24 does not comprise specific headings for intermediate tobacco products and unfinished articles having the essential character of the finished article of heading 24.03.

In the light of above, the Central Board of Customs proposes the following amendments to the legal texts of Chapter 24 :

After the present Note 1 to Chapter 24, we propose inserting the following legal Notes 2 and 3 :

"2.- In this Chapter, the expression "unmanufactured tobacco" means tobacco in the form of whole plants or leaves in the natural state; cured or fermented leaves whole or stemmed/stripped, trimmed or untrimmed, broken or cut (including pieces cut to shape), "sauced" or "liquored" with a liquid only in order to prevent mould and drying, also initially moistured, but not subjected to other technological treatment.

3.- In this Chapter, the expression "**tobacco ready for smoking**" means **tobacco completely processed, for use in pipes or for making cigarettes, suitable for smoking without additional treatment.**"

However, in heading 24.03 we propose creating a new subheading 2403.20 referring to intermediate tobacco products which reads as follows :

"2403.20 - Mixtures of unmanufactured tobacco with manufactured tobacco, independently of the form of unmanufactured tobacco and irrespective of the quantity of the manufactured tobacco in the mixture, which are not the mixtures ready for smoking."

Moreover, we propose changing the text of subheading 2403.91 as follows :

"2403.91 - - "Homogenized" tobacco"

as the expressions "reconstituted tobacco" and "homogenized tobacco" have an identical meaning."

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PROPOSAL FROM THE ROMANIAN ADMINISTRATION

"The Romanian Customs Administration considers that the Explanatory Notes are not very clear as regards the intermediate products of the tobacco industry.

Accordingly, we believe it would be very useful to prepare a Classification Opinion and, moreover, an amendment to the Explanatory Notes with the addition of a new eighth paragraph to the Note to heading 24.03 to make it clear that this heading includes tobacco cut into narrow strips."

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PROPOSAL FROM THE CYPRIOT ADMINISTRATION

"The classification of "non aromatic cut tobacco" has been reconfirmed by the 26th Session of the Harmonized System Committee in heading 24.03 - subheading 2403. 10 as other manufactured tobacco.

The product at issue though not ready for direct consumption yet due to its manufacturing process which goes beyond the one provided in heading 24.01 is considered to be an intermediate product having the characteristics of the finished product and is therefore classified under heading 24.03.

- Heading 24.01 applies to unmanufactured tobacco subjected to some manufacturing process (fermentation - cutting - casing).
- According to the Explanatory Notes this type of tobacco though processed yet is definitely a tobacco not ready for smoking.
- Heading 24.02 is restricted to finished products.
- Heading 24.03 applies to other manufactured tobacco.

Therefore, "non aromatic cut tobacco" is covered by the legal text of heading 24.03.

However, subheading 2403.10, according to the Explanatory Notes, refers to smoking tobacco, e.g., for pipes, for making cigarettes, chewing tobacco, snuff, etc. In a few words, tobacco ready for smoking.

There are considerable differences between "non aromatic cut tobacco" and manufactured tobacco ready for smoking and neither tobacco type can be used for other than its own purposes. For instance, if we compare **C.R.T.** (Cut Rag Tobacco) with **R.Y.O.** (Roll Your Own) we will find differences in the moisture content, the fibre length, the presentation of the product.

Cut tobacco is an intermediate product which requires **further** manufacturing and has to be of short fibre length and free flowing in order to enable the cigarette making machine to **function** correctly. It must also be of a low moisture content to ensure good storage avoiding microbiological attacks. Roll your own tobacco is a finished product and is ready for use by the consumer. It must be of long fibre length and moist enabling the consumer to roll or fold the cigarette properly around the small amount of tobacco used in each cigarette. Normal moisture content to R.Y.O. tobacco is essential to keep the tobacco flexible for long periods.

In our opinion the Explanatory Notes to headings 24.01 and 24.03 should be amended in order to correspond with the relevant legal texts by reflecting the various stages and the differences in the manufacturing process allowed in each one.

Additionally, we are referring to the Explanatory Notes of the **European Union** (Information and notices) where it is specifically mentioned that "cut cigarette rag" being a finished mixture of tobacco for the manufacture of cigarettes, is included in heading 24.03."