



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
24th Session
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NR0196E1
(+ Annex)
O. Fr.

Brussels, 17 July 2001.

PROPOSAL BY CANADA TO AMEND THE NOMENCLATURE

TO CHAPTER 54

(Item III.A.2 on Agenda)

Reference documents :

41.904 (RSC/17)	NR0138E1 (RSC/23)
42.239 (RSC/18)	NC0271E1, paragraphs 30 to 32 (HSC/26)
42.476 (RSC/18)	NC0340E2, Annex E/1, para. 20 (HSC/26 – Report)
42.500, Annex B/2 (RSC/18 – Report)	NS0020E1 (SSC/16)
NS0014E2, Annex A/7 (SSC/15 – Report)	NS0034E2, Annex A/5 (SSC/16 – Report)
NR0114E1 (RSC/22)	NC0365E1, paragraphs 15 to 18 (HSC/27)
NR0133E2, Annex D/4 (RSC/22 – Report)	NC0430E2, Annex F, para. 10 (HSC/27 – Report)
NR0165E2, Annex C/3 (RSC/23 – Report)	NR0170E1 (RSC/24)

I. BACKGROUND

1. On 12 July 2001, after the preparation of Doc. NR0170F1, the Secretariat received from the Canadian Administration the following comments.

II. NOTE FROM THE CANADIAN ADMINISTRATION

Proposal to amend the legal texts to Chapter 54

2. "In 1998 the Canadian Administration submitted a proposal to the Secretariat to amend Legal Note 1 and the Explanatory Notes to Chapter 54. The proposal was circulated to Contracting Parties in document 42.239 but was postponed because of heavy Committee involvement in completing its work on the Article 16 amendments for 2002.
3. In the final report of the 23rd Session of the HS Committee (May 99), this issue appeared on the list of questions for possible examination at a future session of the next

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review cycle (Doc. NC0090B2, Annex R) and Canada agreed to submit a new paper for the consideration of the Committee.

4. A revised proposal (Doc. NR0114E1, - RSC/22/Sept. 2000) took into account comments made by the Secretariat and contained refinements to our original proposal. Further progress has been made since then as the Scientific Sub-Committee reviewed proposed new Note 1 to Chapter 54, and subject to minor amendments, approved the text (Doc. NS0034E2, Annex A/5 - SSC/16/Jan. 01).
5. At the 23rd session of the RSC, the EC raised some concerns about the Canadian proposed amendments and indicated they were against the Canadian proposal as the present text did not seem to raise interpretation problems. In Canada's view, the proposed changes are needed in order to remove technical inconsistencies and update the nomenclature. The proposed changes will not have any effect on the proper classification of goods covered by Chapter 54 or elsewhere in the Nomenclature.
6. The term "man-made" is not defined by Note 1 to Chapter 54. A review of the use of the term "man-made" in the HS reveals that the term appears 170 times in the Nomenclature and that in all instances it is used in the context of textile materials (see Annex II). Therefore the Canadian proposal, to define this term, does not give rise to interpretation problems as mentioned by the EC (Doc. NR0165E2, Annex C/3, paragraph 4 - RSC/23/March 01). In our view, defining "man-made" in the legal text will simply provide greater certainty. Furthermore, the proposed legal Note only defines the term "man-made" when used in relation to textile materials.

Title

7. Chapter 54 specifically provides for strip or the like, with subheading 5407.20 dedicated to woven fabrics obtained therefrom. Adding "strip and the like of man-made textile materials" to the Chapter title is for ease of reference only.

Note 1 (a)

8. Legal Note 1 (a) to Chapter 54 is technically incorrect. The examples (i.e. polyamides, polyesters, and polyurethanes) listed in the Note are organic polymers and not organic monomers as indicated by the present text. Furthermore, while the expression "polyvinyl derivatives" relates to vinyl polymers, the terminology is imprecise and subject to interpretation. The word "derivatives" could relate to the chemical modification of the monomers prior to their polymerization or to the chemical modification of a pre-existing polymer. While neither interpretation would affect the classification of products in Chapter 54 the ambiguity may add confusion particularly when translating the text into other languages.
9. With regard to this paragraph of the Note, we can accept the Secretariat's proposal (Doc NR0138B1, Annex). It should be noted that the Scientific Sub-Committee is agreeable in principle and found no substantive difference between the text proposed by Canada and the text proposed by the Secretariat (Doc. NS0034E2, Annex A/5).

Note 1 (b)

10. At present Note 1 (b) lists "cupro" as one of the natural organic polymers. The suggestion to change this term to "cuprammonium rayon" was accepted by the Secretariat (Doc. 42.239, paragraph 13) and the Scientific Sub-Committee (Doc. NS0034B2, Annex C/3)

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as being more precise. In addition, it was confirmed at the 16th session of the Scientific Sub-Committee that cuprammonium rayon involved a dissolution process and not chemical transformation. In our view this poses some difficulties as cuprammonium rayon, while provided for in the Explanatory Notes to Chapter 54 (II) Artificial Fibres (A)(2), page 826), is not produced by a chemical transformation as required by Note 1(b).

11. In examining the proposed changes to legal Note 1 to Chapter 54, the Sub-Committee was invited to take account of the information concerning lyocell (Doc. 42.476, Annex). The Secretariat noted that both cuprammonium rayon and lyocell are produced by dissolving a natural organic polymer (cellulose) and not by the chemical transformation of a polymer (Doc. 42.476, para. 7). This is a technical problem. In our opinion, present Note 1 does not adequately provide for these or other solvent-produced cellulosic fibres.
12. It should be noted that the General Explanatory Notes to Chapter 54, page 826, indicate that organic polymers are extracted from natural raw materials by processes which *may* involve chemical modification. These Explanatory Notes support the position that not all transformations of natural organic polymers are made by a chemical process. In the opinion of the Canadian Customs Laboratory and supported by the Explanatory Notes and the findings of the Scientific Sub-Committee, there is a valid and compelling reason to update the Nomenclature.
13. The proposed text has passed the scrutiny of the Scientific Sub-Committee and while these issues may not have given rise to any problems to date, this is not a reason to maintain the status quo.

Third paragraph

14. Canada and the Secretariat have made different suggestions to amend the text of the last paragraph of the proposed new legal Note. The Secretariat proposes to include certain references to monofilaments and multifilaments whereas Canada proposes to include a reference to the cross-sectional dimension of the filament.
15. In considering the Secretariat's proposal we felt that an improvement to the Canadian proposal would be a good compromise :

The term "man-made fibres" means only staple fibres and filaments produced from the above polymers. Strip and the like of heading 54.04 or 54.05 are not considered to be man-made fibres.
16. This suggestion is modeled on the first paragraph of present Note 1 to Chapter 54. Observe that Section XI Legal Note 1 (g) excludes monofilament of which any cross-sectional dimension exceeds 1 mm. A monofilament, where the cross-sectional dimension exceeds 1 mm, and filament yarn (multifilament yarn) made from such monofilaments, are not considered to be of a textile material and is thus excluded from Section XI. Therefore, to reproduce the limitation on cross-sectional dimension in the third paragraph, as previously proposed by Canada, may be redundant and has therefore been removed. Lastly, only staple fibres and filaments (monofilaments) are "fibres" and to include "multifilament" as suggested by the Secretariat may not be necessary in view of Canada's proposed revised text. Indeed, a multifilament is properly a yarn and it may not be helpful to include it in the definition of "man-made fibres".

17. With regards to adding "strip and the like" to the third paragraph of the legal Note, we feel this would add greater certainty to the classification of these special textile products. The Secretariat recognized that the reference to "strip and the like" reflects the present situation stemming from the introductory sentence of Note 1 to Chapter 54 (Doc. NR0114E1, paragraph 28).
18. Canada leaves it to the Sub-Committee to decide whether or not these proposed amendments to the Nomenclature are desirable.
19. For ease of reference, the text under consideration has been reproduced in Annex I."

III. CONCLUSION

20. The Committee is invited to take account of the above comments of the Canadian Administration when examining this Agenda item.

* * *

CHAPTER 54.

Title.

Delete and substitute :

“Man-made filaments; strip and the like of man-made textile materials”.

Note 1.

Delete and substitute :

“1. - Throughout the Nomenclature, the term “man-made”, when used in relation to textile materials, means organic polymers produced either :

Item (a).

[Option 1.

(a) By polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes. The polymers produced by this process may be further chemically modified (for example, poly(vinyl acetate) is hydrolysed to produce poly(vinyl alcohol)); or]

(Canadian proposal)

[Option 2.

(a) By polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process (for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)); or]

(Secretariat proposal)

Item (b).

(b) By dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro), lyocell or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates.

(SSC proposal)

Second paragraph.

When used in relation to textile materials, the term “synthetic” refers to polymers defined by (a) above and the term “artificial” refers to polymers defined by (b) above.

(Canadian proposal)

Third paragraph.

[New Option

The term “man-made fibres” means only staple fibres and filaments produced from the above polymers. Strip and the like of heading No. 54.04 or 54.05 are not considered to be man-made fibres.]

(new Canadian proposal)

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