



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0210E1

-
25th Session
-

O. Eng.

Brussels, 31 January 2002.

DECISIONS TAKEN BY THE HARMONIZED SYSTEM COMMITTEE
AT ITS 28TH SESSION AFFECTING THE WORK OF THE REVIEW SUB-COMMITTEE
(Item II.3 on Agenda)

Reference documents :

NR0205E2 (RSC/24 – Report)
NC0510E2 (HSC/28 – Report)

I. SECRETARIAT COMMENTS

1. To facilitate the work of the Review Sub-Committee, the Secretariat, in this document, presents a brief account of the decisions taken by the Committee at its 28th Session and pending questions, affecting the work of the Review Sub-Committee.

II. DECISIONS OF THE COMMITTEE (HSC/28)

2. The conclusions reached by the Committee at its 28th Session, as set out in paragraphs 50 to 64 of and Annexes C/5, E and G/5 to Doc. NC0510E2, are as follows :
WCO policy with regard to the publication of late documents (paragraphs 50 to 56)
3. The Director introduced the new WCO policy with regard to the publication of late documents, which, starting from this session, would only be reproduced as “non-papers” in the language(s) received and would not be published as official WCO documents in the two official languages. He explained that the Secretariat had had to take a critical look at the way in which it approached its work, in response to the re-organization of its internal mechanisms, including a move to “out-source” various services that had traditionally been handled in-house.

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

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For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

4. Although the difficulties of the Secretariat were appreciated, several delegates expressed their concerns over strict compliance with the timeframes for submissions.
5. It was felt that, while best efforts would be made by Members to submit papers in a timely manner, a certain flexibility would be required with regard to late submissions, as Members needed time for co-ordination with other agencies and industries. It was remarked that "non-papers" were not official documents and would create difficulties with regard to their presentation and reference. One delegate requested that a distinction be made between the late submission of new questions and comments on basic working documents. It was indicated that best efforts should be made to publish late submissions of comments as official documents in both official languages, especially when they were not lengthy and contained useful technical information. Furthermore, it was stated that one consequence of publishing late submissions as "non-papers" only might be to delay the consideration of questions by the Committee and might thus affect the decision-making process of the Committee.
6. In response, the Director assured that the views of the Committee would be communicated to management. He explained, however, that it was necessary to impose a certain degree of discipline on both the Secretariat and Members. He noted that comments submitted later than eight weeks before the opening of the Committee session would be published as official documents as far as possible in cases where the Secretariat's documents were not published on a timely basis. He added that late submissions would also be reproduced in both WCO official languages if so provided by administrations. Finally, he pointed out that "non-papers" were not new to the Committee and should not result in greater delays in the consideration of questions by the Committee than the past practice of publishing late submissions as official documents in both WCO official languages.

Approval of the Review Sub-Committee Reports (paragraphs 57 to 64)

7. See Item II.1 on Agenda.

Russian working language version of the HS 2002 Explanatory Notes (Annex C/5)

8. The Director informed the Committee that a Special Working Group had finalized the Russian working language version of the HS 2002 Explanatory Notes, which had been submitted to the Committee for acceptance.
9. The Chairman expressed his gratitude to the Russian-speaking Member administrations for their contribution in finalizing the Russian version of the HS 2002 Explanatory Notes and invited the Committee to accept it.
10. The EC Delegate congratulated Member administrations interested in the use of Russian as a working language for HS matters in supporting the acceptance of the Russian working language version of the HS 2002 Explanatory Notes by the Committee.
11. The Delegate of Russia thanked the participants in the Special Working Group and the WCO Secretariat for their support and co-operation in introducing Russian as a working language for the Harmonized System.
12. The Committee finally accepted the Russian version of the HS 2002 Explanatory Notes, the next step being to publish this version as a WCO publication.

Technical questions (Annex E)Proposal by Canada to amend the Nomenclature to Chapter 54

13. The Committee provisionally adopted the texts approved by the Review Sub-Committee.
14. The texts provisionally adopted are set out in Annex L/1 to Doc. NC0510E2.

Possible amendments to the Explanatory Note to heading 84.71

15. The Committee examined the texts presented by the Sub-Committee aimed at amending the Explanatory Note to heading 84.71. By a vote of 15 to 13, the Committee decided not to use the references to “storage units” or “storage capacity”, as presented in square brackets on pages F/3/1 and F/3/2 in Annex F/3 to Doc. NR0205B2. However, at the suggestion of the Delegate of Cyprus, the Committee unanimously agreed to use the expression “storage capability”.
 16. The Committee, by a vote of 18 to 11, decided not to include a reference to Note 5 (D) in sub-paragraph (ii) and in the following paragraph, as presented in square brackets on page F/3/4 in Annex F/3 to Doc. NR0205B2. The US Delegate argued for inclusion of the reference because it was not apparent that the new Explanatory Note was drafted to distinguish between units and accessories only. Also with reference to the fourth paragraph on page F/3/4, the Committee agreed, at the suggestion of the Director, to replace the word “it” with the term “an apparatus” in the first line in order to clarify the text and to move the beginning of the text to the left margin in order to make it clear that this text was part of the foregoing paragraph.
 17. With regard to the second item (3), in Part (D) on page F/3/5 of Annex F/3, following the Committee’s discussion on Item VII.19 on its Agenda, the Committee decided to replace this item with Option 1 in the Annex to Doc. NC0480B1, having also agreed to delete the exclusion paragraph therein. For a discussion on this point, see Annex G/18 to Doc. NC0510E2.
 18. The Committee further agreed to delete the term “numérique” in the French text of the last paragraph of Part (D), Item (5).
 19. Subject to the foregoing, the Committee adopted the texts as approved by the Review Sub-Committee.
 20. The texts adopted are set out in Annex M/10 to Doc. NC0510E2.
- Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03
21. The Committee provisionally adopted the texts approved by the Review Sub-Committee.
 22. The texts provisionally adopted are set out in Annex L/2 to Doc. NC0510E2.

Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13

23. The Committee provisionally adopted the texts approved by the Review Sub-Committee.

24. The texts provisionally adopted are set out in Annex L/3 to Doc. NC0510E2.

Possible amendment of subheading 8311.90 to delete the reference to parts (Proposal by the Egyptian Administration)

25. The Committee provisionally adopted the texts approved by the Review Sub-Committee.

26. The texts provisionally adopted are set out in Annex L/4 to Doc. NC0510E2.

Proposal by the US Administration to delete Note 6 to Chapter 85

27. The Committee provisionally adopted the texts approved by the Review Sub-Committee.

28. The texts provisionally adopted are set out in Annex L/5 to Doc. NC0510E2.

Editorial Amendments to the English text of the Harmonized System

29. The Committee provisionally adopted the texts approved by the Review Sub-Committee.

30. The texts provisionally adopted are set out in Annex L/6 to Doc. NC0510E2.

III. PENDING QUESTIONS

31. The Committee's observations with regard to the pending questions arising from the Report of the 24th Session of the Review Sub-Committee, as set out in Annex E to Doc. NC0510E2, are as follows :

Possible amendments to the Nomenclature regarding the classification of sauces

32. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session on the basis of a new document to be prepared by the Secretariat containing two alternative proposals, (i) the Secretariat's proposal in Doc. NR0169E1 and (ii) a proposal which Canada was invited to submit on the basis of a Canadian International Trade Tribunal ruling. See Item III.A.2 on the Agenda.

Possible amendments to the Nomenclature and Explanatory Note to heading 84.42

33. The Committee took note of the developments in regard to this issue. See Item III.A.3 on the Agenda.

Possible amendments to the Nomenclature regarding the classification of cameras

34. The Committee took note of the developments in regard to this issue. See Item III.A.4 on the Agenda.

Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

35. The Committee took note of the fact that the Sub-Committee had held a preliminary discussion only on this matter so as to enable Contracting Parties to finish consulting with their industry and other experts. The Sub-Committee would be re-examining this issue at its next session. See Item III.A.5 on the Agenda.

Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

36. The Committee took note of the fact that the Secretariat's proposal to update headings 85.20 and 85.24 to reflect technological developments and trade realities would be re-examined by the Sub-Committee at its next session. See Item III.A.6 on the Agenda.

Proposal by the US Administration to amend the Nomenclature to Chapter 41

37. The Committee took note of the fact that the Sub-Committee had agreed that no decision should be taken at its 24th Session concerning possible amendments to Chapter 41, as it was felt that further study was necessary, in particular to find out what the exact terminology should be. The Committee also took note of the fact that the Sub-Committee would re-examine this issue at its next session and invited administrations to submit their comments as soon as possible. See Item III.A.7 on the Agenda.

Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82

38. After an exchange of views on the US proposal, the Delegate of Japan informed the Committee that his administration wanted to supply more information on this issue before the Committee would take a decision. This information would be forwarded to the Review Sub-Committee which would, at its next session, also continue to discuss options to try and provide for a one-dash parts provision and the US proposed break-outs for "parts of tapered roller bearings", on the basis of a new proposal to be submitted by the US Administration. The Committee accepted the Japanese offer to provide additional information. See Item III.A.8 on the Agenda.

Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19

39. The Committee took note of the developments in regard to this issue. See Item III.A.9 on the Agenda.

Proposal by the US Administration to amend certain subheadings of heading 87.08

40. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session, after administrations have had time to consider the texts placed in square brackets. See Item III.A.10 on the Agenda.

Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers

41. The Committee took note of the fact that this matter would be examined by the Sub-Committee at its next session on the basis of a proposal to be prepared by the Secretariat. See Item III.A.11 on the Agenda.

Possible amendment of heading 21.03 to include "salsa"

42. The Committee took note of the fact that the Sub-Committee had decided not to examine this matter further.

Study of possible amendments to the Nomenclature with regard to human body parts

43. The Committee took note of the fact that the Sub-Committee had decided to maintain the status quo with regard to human cadavers, and had therefore agreed that no further measures should be taken in this respect.

44. The Committee also took note that, with regard to human organs, tissues, stem cells, etc., the Secretariat had been invited to continue its study of possible amendments to heading 30.01. See Item III.A.12 on the Agenda.

Possible amendment of heading 85.28 to provide separately for satellite receivers (Proposal by the Egyptian Administration)

45. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session, on the basis of two alternative texts in square brackets and the results of the Secretariat's study on the characteristics of the apparatus referred to by the Japanese Administration, and its significance in international trade. Administrations were also invited to send the Secretariat their views on the matter. See Item III.A.13 on the Agenda.

Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)

46. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session, on the basis of more precise information and trade statistics relating to the articles concerned, which administrations were invited to submit. See Item III.A.14 on the Agenda.

Possible amendment of heading 21.06 to include "food supplements"

47. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session on the basis of a new working document which the Secretariat had been asked to prepare, with the participation of Contracting Parties, and

which would include a proposed definition of “food supplements”. See Item III.A.15 on the Agenda.

Possible amendments of the HS Nomenclature and the Explanatory Notes regarding silicones (Proposal by the US Administration)

48. The Committee took note of the fact that the Sub-Committee had unanimously decided to refer this question to the Scientific Sub-Committee, which was to examine the proposed amendments and to comment on whether they were technically correct and whether they would clarify the classification of silicone products. See Item III.A.16 on the Agenda.

Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys

49. The Committee took note of the fact that this matter would be examined further by the Review Sub-Committee at its next session, on the basis of proposals which Contracting Parties were invited to submit to the Secretariat. See Item III.A.17 on the Agenda.

Study of Note 5 to Chapter 84 – Special Working Group

50. The Committee took note of the fact that the Sub-Committee had informally examined the possible amendment of Note 5 to Chapter 84 and the associated headings and noted the various points which had been addressed.

Classification of bakers' wares (waffles) (Annex G/5)

51. The Committee decided to classify “Kellogg's Eggo Frozen Waffles” in subheading 1905.90, by 17 votes to 15. It was agreed that the basis for this decision was GIR 1 and the composition of the product (including the 45 % water content).

52. In order to reflect this decision, the Committee instructed the Secretariat to prepare the following for examination by the next pre-session Working Party :

- (a) a draft Classification Opinion;
- (b) a draft amendment to the Explanatory Note to heading 19.05, on the basis of the EC proposal in paragraph 34 to Doc. NC0283E1, that would ensure that the products mentioned in paragraph 25 to Doc. NC0466E1 would be classified as waffles. Contracting Parties were invited to submit their proposals in this connection.

53. The Committee also instructed the Secretariat to prepare a document for the next session of the Review Sub-Committee with regard to possible legal text amendments. These amendments should be based on proposals from Contracting Parties to be submitted as early as possible. See Item III.A.1 on the Agenda.

V. CONCLUSION

54. The Sub-Committee is invited to take note of the decisions taken by the HSC at its 28th Session and pending questions affecting the work of the Review Sub-Committee.