



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
28th Session
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NR0434E1
(+ Annex)

O. Eng.

Brussels, 24 July 2003.

COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES

TO HEADINGS 85.17 TO 85.22

(Item III.C.6 on Agenda)

Reference documents :

NR0306E1 (RSC/26)
NR0360E1 (RSC/27)

NR0332E3, Annex E/15 (RSC/26 - Report)
NR0400E3, Annex E/6 (RSC/27 - Report)

I. BACKGROUND

1. At its 27th Session, the Review Sub-Committee continued its discussion on the possible amendment of the Explanatory Notes to headings 85.17 to 85.22.
2. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on an editorial review by the Secretariat. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets.

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

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3. The texts for which there was general agreement and those placed in square brackets are reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

4. At the time of preparing this document, the Secretariat had not received additional proposals or additional technical information from administrations. The texts in square brackets in the Annex call for the following comments.

Heading 85.17.

Page 1651. First paragraph.

5. While the **US** Delegate agreed with this text, he requested that the first and second paragraphs be placed in square brackets pending a submission by the **US** Administration to improve this text.

Page 1652. Part (I) (B) and (C).

6. The Sub-Committee agreed to place this text in square brackets for examination at its next session, since some doubt was expressed by delegates as to what these product descriptions actually described.

Page 1653. Item (E). New third paragraph.

7. As the issue of the classification of digital multifunction machines was to be discussed at the Committee's 32nd Session later this year, the Sub-Committee agreed to place the text in square brackets, pending the Committee's decision. The Sub-Committee also agreed to delete any reference to the term "computer" in the proposed texts and to substitute the expression "automatic data processing machine".

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (D).

8. At the request of the **US** Delegate for further information on these devices, Item (D) was placed in square brackets for examination at the next session. As Item (C) on caller display units was deleted, Item (D) on data compressors/decompressors and Item (E) on pulse to tone converters have become Items (C) and (D), respectively in the present Annex.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (F).

9. Some doubt was expressed as to whether this composite communication device, which was a combination telephone and Internet terminal, was classified in heading 85.17. In addition, concern was expressed regarding the wording "commonly known as Internet telephone" in the English version. Finally, the Sub-Committee agreed to delete this proposal.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (F).

10. The Delegate of the **United Kingdom** suggested that there should be a reference in the Explanatory Note to "video-conferencing equipment". In the ensuing discussion, the following points were raised :

- How is this equipment traded ? Is it individually or as a complete set ?
- What about software which can perform this function ? This highlighted the fact that there were different technologies available on the market.
- Should this equipment be classified first before being included in the Explanatory Notes ?

11. The Sub-Committee agreed to include this new proposal as Item “(F)” and to continue to examine it at the next session on the basis of technical information to be provided to the Secretariat by **United Kingdom** Administration. With the deletion of Items (C) and (F), this proposal is represented by Item (E) in the present Annex. At the time of the preparation of this document, the Secretariat had not received any further information.

Heading 85.18.

Page 1657. Part (D). Last paragraph. New last sentence.

12. Several delegates expressed concern about the reference to “equalisers” in this proposal. If equalisers were properly classified in heading 85.43, then no problem existed. If however they were not properly classified there, then there was a problem. In addition, heading 85.43 made reference to two products but the Explanatory Note only referred to audio-mixers.

13. The Sub-Committee agreed to place the text “and equalisers” in square brackets for examination at the next session.

Page 1657. Exclusion paragraph. Exclusion (c).

14. One delegate indicated that cordless headphones were classified in heading 85.18 and not in heading 85.25, if they were combined with a microphone, since they were then not just reception apparatus but also transmission apparatus.

15. Another delegate indicated that as the text currently stands, the transmission component would give precedence to heading 85.25. He also noted that if there was concern for the classification of headphones, there should also be concern for the classification of cordless microphones.

16. The Sub-Committee concluded its discussions by agreeing to replace the expression “cordless microphones” by “cordless headsets”. It also agreed that the French text should be aligned on the English text by the addition of the phrase “incorporate a transmitter” in the French text. Finally, the Sub-Committee agreed to place exclusion (c) in square brackets for examination at the next session.

Heading 85.20.

Page 1660 to 1661. Part (A). New item (2).

17. The Delegate of **Canada** believed that the reference to “microscopic indentations” was not technically accurate. At his suggestion, the Sub-Committee agreed to place the word “indentations” in square brackets, for examination at the next session.

Page 1660. Part (A). New Item (3).

18. The **EC** Delegate expressed concern regarding new item (3) on “electronic type”. Some MP3’s had their own memory and the HSC had classified those in heading 85.20 while others had external memory and had been classified in heading 85.19. Therefore, he had some doubts regarding the second sentence of item (3) and felt that account had to be taken of the HSC decisions described by the Secretariat in paragraph 121 of Doc. NR0306E1. In addition, he pointed out that the **Australian** proposals should be redrafted taking into account the Committee’s decision regarding the classification of MP3 players and the resulting Explanatory Notes amendment that was approved by the Committee at its 30th Session in November 2002 (new fourth paragraph on page 1660 of the present Explanatory Note). The Committee classified MP3s in two separate headings depending on whether they had their own memory or an external memory. Consequently, the last part of this new paragraph regarding the reference to downloading from the Internet onto internal memory (e.g., flash memory) might have consequences on the proposed new item (3) from **Australia**.
19. The Secretariat has examined the Australian text in relation to the text in the Explanatory Notes approved at HSC/30. The Secretariat is not clear as to the exact nature of the problem to which the **EC** made reference and wonders whether the **EC** could clarify the point for the next session, at which time the Secretariat would be in a position to complete its task.
20. Another delegate also disagreed with the Secretariat’s comments in paragraph 111 of Doc. NR0306E1, as to whether the second sentence of the proposed text should be retained, given the fact that flash memory is used for various applications, including digital cameras.
21. A third delegate also indicated concerns with the proposed text for the Explanatory Note to heading 85.20 and, in particular, the fact that, as written, some products in Part (A) might belong in Part (B). He suggested that the whole text of the Explanatory Note to heading 85.20 be placed in square brackets for examination at the next session.
22. The Secretariat understands the concerns expressed by the **US** Delegate with regard to item (3) of Part (A) to be that 90% of the trade in these machines are of the type that are capable of recording and reproducing sound. As a consequence, they would be more appropriately described in Part (B) rather than Part (A). With this in mind, the Secretariat suggests adding a new last sentence to item (3) to indicate that these machines are capable of reproducing sound. With regard to item (2), the Secretariat wonders whether it is necessary to go into such detail with regard to how it is printed. What is most important is how it is read. Consequently, the Secretariat would suggest deleting the text “which are burnt onto the surface of the recording medium by a laser. The recording medium is generally a disc made of glass, metal or plastic with a light-sensitive lacquer coating (a photoresist).” and substituting the phrase “or areas of variable reflectivity”. The Secretariat leaves it to the Sub-Committee to determine whether this change improves the text.
23. Finally, the Sub-Committee decided to place the whole text of the Explanatory Note to heading 85.20 in square brackets for examination at the next session. The Secretariat was instructed to compare the proposed text with the present text in the Explanatory Notes and to look at the advisability of inserting exclusion Notes in heading 85.20 for some products of heading 85.19.

24. With reference to the advisability of inserting exclusion Notes in heading 85.20 for some products of heading 85.19, the Secretariat wonders whether this is really necessary, as the terms of the heading would seem to be specific enough to make the necessary distinction.
25. Finally, with regard to Part (B), second paragraph, new item (4), upon reflection, the Secretariat wonders whether it is advisable to insert the reference to MP3 players in the text. MP3 is a type of format and if new formats are developed, this may lead to some confusion as to their classification, notwithstanding the fact that MP3 has been inserted only as an example. However, the Secretariat leaves it to the Sub-Committee to express its views on this matter.

Heading 85.21.

Part (A).

26. The Delegate of **Canada** felt that the text proposed for Part (A) was too detailed. In his view, if the product performed a video function, it was not necessary to know how this video function was performed. He indicated that his administration would submit a proposal to reword this text for the next session.
27. The Delegate of **Canada** also believed that the reference to “microscopic indentations” was not technically accurate. At his suggestion, the Sub-Committee agreed to place in square brackets the word “indentations”, for examination at the next session.
28. The Sub-Committee then agreed to place the whole text of Part (A) in square brackets for examination at the next session, pending the **Canadian** submission.

Page 1662. Part (B). Item (1).

29. The **US** Delegate was of the view that the objective of the **Australian** Administration’s proposal was to classify DVD players which played movies, as well as audio CDs, in heading 85.21. In his view, it was unclear whether the proposed text accomplished this objective.

III. CONCLUSION

30. The Review Sub-Committee is invited to examine the draft amendments placed in square brackets in the Annex to this document, taking into account the Secretariat’s comments in paragraphs 4 to 29 above.

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