



HARMONIZED SYSTEM  
COMMITTEE

-  
28<sup>th</sup> Session  
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NC0503E1

O. Eng.

Brussels, 23 October 2001.

POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES  
WITH REGARD TO VARIOUS WOMEN'S AND GIRLS' GARMENTS  
(Item VII.11 on Agenda)

Reference documents :

NC0309E1 (HSC/26)  
NC0340E2, Annex H/5 (HSC/26 – Report)  
NC0393E1 (HSC/27)  
NC0413E1 (HSC/27)  
NC0414E1 (HSC/27)

NC0418E1 (HSC/27)  
NC0429E1 (HSC/27)  
NC0430E2, Annex H/10 (HSC/27 – Report)  
NC0453E1 (HSC/28)

I. BACKGROUND

1. After the publication of Doc. NC0453E1, the Secretariat received, on 16 October 2001, the following note from the US Customs Administration.

II. NOTE FROM THE US ADMINISTRATION

2. "At its 26<sup>th</sup> Session, the Harmonized System Committee decided to classify certain women or girls' articles in heading 61.14 as other garments, knitted or crocheted, while another article was classified in heading 62.12 as a brassiere. Classification opinions for these articles were approved.
3. It was agreed that the Secretariat should carry out a more detailed study on the scope of the headings concerned. In Doc. NC0393E1, the Secretariat set out its thoughts with regard to possible characteristics of the garments concerned. The proposal had two elements. The first was that brassieres are clearly intended to be worn next to the skin as underwear. The second is that brassieres are designed to provide support for the bust.

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Scope of Heading 6212

4. The Explanatory Notes to heading 62.12 provide that the heading covers brassieres of all kinds. There are no legal notes that define the term brassiere. Accordingly, the United States is of the view that the heading includes all garments that are commercially known as brassieres. There are many types of brassieres. Among them are sports bras, which are sometimes worn next to the skin as garments rather than as underwear.
  
5. In our view, the proposal to limit brassieres to garments worn next to the skin as underwear unduly restricts the legal text. As the Secretariat acknowledges in paragraph 7 of Doc.NC0393E1, the drafters of the Harmonized System abolished the distinction between undergarments and outer garments during the conversion from the CCCN to the Harmonized System since "it was found to be extremely difficult to endure the uniform interpretation of these terms on a worldwide basis because of differences in climate and modes of dress and the whims of fashion." Since heading 62.12 contains no limitation with regard to use as underwear, a proposal to limit brassieres of that heading to garments used as underwear could only be achieved by amending the legal text of heading 62.12.
  
6. In addition, a criterion based on the use of garments as underwear is not consistent with the main thrust of the Classification Opinions adopted by the Committee at its 26<sup>th</sup> Session. Rather than identifying their use as underwear, the adopted classification opinions make it clear that the Committee based its decisions on its view as to whether the garments provided support. The U.S. agrees that it is the support function rather than use as underwear that is a proper criterion for brassieres. For all of these reasons the EN should not refer to use as underwear as a criterion for a brassiere.

Various Types of Brassieres

7. The technical literature demonstrates that there are many types of brassieres with different features and characteristics. Fairchild's Dictionary of Fashion 2<sup>nd</sup> Edition, Revised 1998 includes a number of examples and illustrations of brassieres. We have attached the relevant portions for the Committee's attention. They include the following :
  - (a) sport bra, defined as a bra with built-up straps coming over shoulders forming a racer-type back secured by an elastic band around the body; worn for active sports;
  - (b) push-up bra, defined as low-cut front and removable foam bust pads to raise the breasts;
  - (c) leisure bra or lightweight unconstructed bra, often of stretch lace, designed to be worn at home or when sleeping;
  - (d) natural bra, a lightweight, unboned, unpadded, unwired, and unseamed bra;
  - (e) nude bra, made of lightweight nude-coloured fabric with no bones, wires or padding; and
  - (f) tube bra, a strapless circular stretch bra with no closing; must be put on over the head.
  
8. The United States believes that the foregoing definitions demonstrate that it is difficult to specify design characteristics that all brassieres possess. Clearly, certain brassieres may not have straps or cups. Certain soft brassieres feature a continuous tube rather than

individual cups for the bust. Accordingly, it is important that the description of brassieres in the Explanatory Notes be wide enough to encompass articles which are commercially understood as brassieres. Otherwise there will be a conflict between the Explanatory Notes and the legal text. We offer the following text for consideration by the Committee :

Proposed Explanatory Note

Page [937]. Heading 62.12.

Delete item (1) of the second paragraph and insert new item (1) :

“(1) Brassieres of all kinds. Brassieres are worn next to the skin as garments or undergarments to support or shape the breasts. They frequently consist of two cups held in place with shoulder straps and elastic in centre back. The heading also includes sport bras which have built-up straps coming over shoulders forming a racer-type back secured by an elastic band around the body and which are worn in playing active sports.””

III. CONCLUSION

9. The Committee is invited to take account of the comments by the US Administration when examining this Agenda item.

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