



HARMONIZED SYSTEM
COMMITTEE

-
29th Session
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NC0572E1

O. Fr.

Brussels, 4 April 2002.

PROPOSAL TO AMEND THE EXPLANATORY NOTES WITH REGARD
TO VARIOUS WOMEN'S AND GIRLS' UNDERGARMENTS

(Item VIII.8 on Agenda)

Reference documents :

NC0309E1 (HSC/26)	NC0429E1 (HSC/27)
NC0340E2, Annex H/5 (HSC/26 – rapport)	NC0430E2, Annex H/10 (HSC/27 – Report)
NC0393E1 (HSC/27)	NC0453E1 (HSC/28)
NC0413E1 (HSC/27)	NC0503E1 (HSC/28)
NC0414E1 (HSC/27)	NC0510E2, Annex G/10 (HSC/28 – Report)
NC0418E1 (HSC/27)	

I. BACKGROUND

1. At its 26th Session, the Harmonized System Committee decided to classify certain women's and girls' garments in heading 61.14 as knitted or crocheted garments not covered by the other headings of Chapter 61. At the same time, the Committee classified another garment in heading 62.12 as a brassière (see Annex H/5 to Doc. NC0340E2 – Report).
2. At the end of the discussions, it was agreed that the Secretariat would carry out a more detailed study on the scope of the headings concerned, with a view to the possible amendment of the corresponding Explanatory Notes.
3. At the request of various delegates, the Secretariat's proposals and comments, contained in Doc. NC0393E1 of 6 April 2001, and those received from various administrations (published in Docs. NC0413E1, NC0414E1, NC0418E1, NC0429E1, NC0453E1 and NC0503E1) were not examined at the 27th or 28th Sessions (see Annexes H/10 to Doc. NC0430E2 and G/10 to Doc. NC0510E2 - Reports).

Note : Text highlighted in grey will be deleted when documents are inserted in the WCO's public-access document data base.

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4. On 7 March 2002 the Philippines Administration sent the Secretariat a Note, the relevant parts of which are reproduced below, concerning the amendments to be made to the Explanatory Note to heading 62.12.

II. NOTE BY THE PHILIPPINES ADMINISTRATION

5. "...It is the view of this delegation that the Explanatory Notes should not contain the limitation that brassières are exclusively worn as underwear. In paragraph 7 of Doc. NC0393E1, the Secretariat observes that in the Harmonized System "the distinction between undergarments and outer garments was abandoned, since it was found to be extremely difficult to ensure the uniform interpretation of these terms on a world wide basis because of the differences in climate and modes of dress and the whims of fashion." This observation should apply in the case of brassières.
6. Sports bras, for instance, provide support, which is significantly more than that afforded by a typical bra. However, sports bras are designed in such a way that they can not be worn with other underwear. Instead, they can be worn with or without another outerwear garment. The option to wear another outerwear garment is at the discretion of the consumer. Hence, the distinction between underwear and outerwear is not valid, and should not be written into the Explanatory Notes as this would restrict the scope of the heading.
7. In addition, there are many other types of brassières for various uses. Such garments, namely training bras and certain other bras for younger women are designed for purposes of modesty. Classifying them outside heading 62.12, such as for instance in heading 61.14, would have the illogical, even if unintended consequence of classifying such garments as knit tops. This will cause confusion in the trade. To avoid this result, which could cause trade disruption heading 62.12 should accommodate all items commercially understood as brassières. The support function, while indicative of a garment classified under heading 62.12 should not be a prerequisite for classification therein."

III. SECRETARIAT COMMENTS

8. The Philippines Administration considers that the Explanatory Note to heading 62.12 should not include the criterion that brassières must be used as undergarments.
9. It also considers that heading 62.12 should cover brassières of all kinds, i.e., all garments commercially recognized as being brassieres, and that a garment should not necessarily be required to provide support in order to be classified in that heading.
10. The Secretariat wishes to point out that subheading 6212.10 reads "Brassières" in English, and "Soutiens-gorge et bustiers" in French. Although definitions vary depending on the reference works consulted, it can be said that the terms concerned refer to undergarments worn by women and girls to support the bosom.
11. It is also important to note that the Classification Opinions on the various garments examined by the Committee were adopted with particular reference to the question of whether or not those garments fulfilled the function of providing support. After all, the essential characteristic of the garments of heading 62.12 is that they are designed for wear as body-supporting garments or as supports for certain other articles of apparel.

IV. CONCLUSION

12. When examining this Agenda item, the Committee is invited to take account of the above-mentioned additional comments by the Philippines Administration and the Secretariat's comments thereon, as well as the comments contained in Docs. NC0393E1, NC0413E1, NC0414E1, NC0418E1, NC0429E1, NC0453E1 and NC0503E1.
