



HARMONIZED SYSTEM  
COMMITTEE

-  
25<sup>th</sup> Session

NC0238E1  
(+ Annexes I and II)  
O. Eng.

Brussels, 28 February 2000.

## AMENDMENTS TO THE EXPLANATORY NOTES TO CHAPTER 41

(Item VI.5 on Agenda)

### Reference documents :

NR0094E1 (RSC/21)  
NR0101E2, Annexes C/4 and E/10 (RSC/21 – Report)

### I. BACKGROUND

1. At its 21<sup>st</sup> Session the Review Sub-Committee held preliminary discussions vis-à-vis the proposed amendments to the Explanatory Notes to Chapter 41, given the fact that consultations of certain members with industry had not yet been concluded.

### II. NOTE BY THE EC

2. On 17 February 2000, the Secretariat received a note from the EC, presenting observations received from the European federation “COTANCE” concerning the proposed amendments to the Explanatory Notes to Chapter 41 as contained in Doc. NR0094E1. This note, which addresses the French and English versions of the proposals, is reproduced in Annexes I and II to this document.

### III. SECRETARIAT COMMENTS

3. The Secretariat would like to recall first of all that there was consensus within the Sub-Committee concerning the re-structuring of the General Explanatory Note to the Chapter, but that on certain issues, the Sub-Committee could not reach a consensus (see paragraph 2 of Annex C/4 to Doc. NR0101E2 (RSC/21 Report)). The texts still under consideration are reproduced in Annex E/10 to that report. The Secretariat suggests referring to that Annex when considering any of the observations addressed by the EC note.
4. Second, the Secretariat understands that the EC note sets out the view of the European industry, but does not necessarily reflect the EC position.

File No. 2152

5. Third, the Secretariat notes that COTANCE proposes French and English texts which would not be aligned (emphasis added) regarding references to the terms “leather” and “hides and skins”. The Secretariat is concerned about this approach, which may result not only in different texts, but even in different interpretations, and would, therefore, not be in favour of this suggestion. In this context, the Secretariat would like to recall its concern about the US proposal to replace the term “hides and skins” by “leather” in a number of instances (see paragraphs 6 to 9 of Doc. NR0094E1).
6. Fourth, many if not all of the proposals contained in the note vis-à-vis the French version, fall outside the scope of the Article 16 procedure amendments. The Explanatory Notes at issue were reproduced in the working document in the form of complete paragraphs to avoid complex amendment references. Moreover, as reproduced in the working document the texts at issue reflect the wording used in the legal texts. In addition, if the proposed amendments were to be included, consequential amendments should be made to corresponding paragraphs in the Explanatory Notes to other headings (which were so far not reproduced in the working document). This concerns, in particular, (i) the suggestion to replace the expressions “été rendues imputrescibles” by “été conservés provisoirement” in the second paragraph of the Explanatory Notes to headings 41.01 and 41.03, (ii) the insertion of a comma in the first paragraph of the Explanatory Note to heading 41.02, (iii) references to “bastards”, (iv) the distinction between sheep and goat skins and (v) references to the Explanatory Note to heading 41.14. Finally, it would appear that, if the suggestions for the French version were to be adopted, the French and English versions would no longer be aligned. The Secretariat suggests, therefore, that, if the Committee agrees in principle with the COTANCE proposals, a further study would be necessary with a view to aligning the two language versions.
7. Finally, the Secretariat reiterates its concern about the misconception that “pre-tanned hides and skins” should always be regarded as not falling within the scope of new headings 41.04 to 41.06 (which cover tanned or crust hides and skins), as suggested by the US and now (apparently) supported by the European industry. It would simply wish to refer back to its comments in paragraph 5 of Doc. NR0094E1. Furthermore, it would like to draw the Committee’s attention to the fact that pre-tanned hides and skins are currently classified within the category “tanned” (see for example subheadings 4104.21 and 4104.22). The Subheading Explanatory Note to these subheadings refers to “[hides and skins] which have been lightly tanned and which require further tanning before finishing”. This description was taken from the International Glossary of Leather Terms (2<sup>nd</sup> Edition) (item 197 called “pre-tanned leather”, in the English version and item 191 called “cuir prétanné”, in the French version). The same reference book defines pre-tanned leather as a type of tanned leather (item 266 called “Tanning – Types of tannage”, in the English version and item 222 called “Tannage – Types de tannage”, in the French version).
8. The Secretariat believes that new Note 2 (A) to Chapter 41 does not exclude “pre-tanned” hides and skins from new headings 41.04 to 41.06, but simply indicates these headings do not cover “hides and skins which have undergone a tanning (including pre-tanning) process which is reversible”. Given the apparent misconception of the scope of new Note 2 (A) to Chapter 41, the Secretariat, therefore, requests the Committee’s opinion on the question whether or not hides and skins which have undergone a pre-tanning process, could be classified in new headings 41.04 to 41.06.
9. In conclusion, the Secretariat is concerned about a possible non-alignment between the two language versions if the proposals as suggested by COTANCE would be adopted as presented. Furthermore, it invites the Committee to give its view on the question whether headings 41.04 to 41.06 could cover pre-tanned hides and skins.

IV. CONCLUSION

10. The Committee is invited to take into account the observations contained in the note annexed to this document and the Secretariat's comments in paragraphs 3 to 9 above, when discussing this Agenda item.

\* \* \*



## COTANCE COMMENTS

### General comments

1. The US proposal on the Explanatory Notes is substantially agreeable. The United States is right, notably with regard to the explanation of "pre-tanning". Pre-tanning is a reversible process and pre-tanned hides or skins will be correctly classified in headings 41.01 to 41.03. Only tanning is irreversible and only tanned hides or skins can be called leather. This is in line with the ICT Glossary and with trade and industry practice.
2. The comments made by the FFTM\* (see Annex II) on the distinction between sheep and lamb leather on the one side and goat or kid leather on the other side do not only refer to the French text. Moreover, the English text does not speak about the "epidermis" which is a good thing. But it is not known in the trade that the grain layer of the former can be more easily separated from the flesh layer, nor is it known that goat leather creaks when crumpled. These references do not help for distinguishing the products and it would be wise to remove them altogether just leaving the reference to the texture and grain. These are objective criteria, the others not.
3. Furthermore, it is important to emphasize that the new structure shall not have adverse effects on the application of rules of origin. On the contrary, the new structure makes them more transparent and will allow the correct appreciation of origin since the general rule of the change of 6-digit heading will suffice from now on to clearly establish the origin of products traded within Chapter 41.

### Detailed comments on Annex II to Doc. NR0094B1

#### For the French version

#### Page 651. N° 41.01 Deuxième paragraphe.

Please change the terms in bold :

"Ces cuirs et peaux peuvent être présentés à l'état frais ou avoir été conservés provisoirement par salage ..."

Comment : All materials of headings 41.01 to 41.03 are capable of degrading. They cannot claim to be "imputrescibles". It would be wrong and misleading to use this term which is qualifying tanned hides and skins, i.e., leather. This is consistent with the fact that pretanned hides and skins are not leather and that they can thus be subject to decay.

#### Page 652. 1. N° 41.02. Premier paragraphe. Dernière phrase.

Please add the bold comma ;

"... mais elles ne doivent pas avoir été parcheminées, ni tannées..."

---

\* French Tanning Federation

Page 652. 7. N° 41.03. Deuxième paragraphe.

Same comment as before concerning “conservés provisoirement”.

For the English version :

COTANCE has very much sympathy and would welcome the US proposal (see page II/2 of the document). The Secretariat’s alternative (see II/2 of the document) is equally acceptable since it states substantially the same only avoiding the term “leather”.

COTANCE sees in the US proposal an additional merit since it indicates that pre-tanned is a synonym for any reversible tanning process. This ensures that pre-tanned hides or skins are considered equivalent to other raw materials (which are temporarily stabilized only).

Page 651. Heading 41.01.

COTANCE prefers pre-tanning (a reversible process – see the General Explanatory Note to this Chapter).

Page 652. 1. Heading 41.02. First Paragraph. Last sentence.

Same comment as above.

Page 652. 7. Heading 41.03. Second Paragraph. Last sentence.

Same comment as above.

Pages 652 to 657. Headings 41.04 to 41.11

COTANCE prefers to speak about “hides and skins” not because it is not “leather” but because the wording refers to the original material. It would sound strange to talk about “dehaired leather”.

In the exclusions :

- (b) It makes sense to use the term “leather” here and not “hides and skins” because it is the product that is considered not the animal origin.
- (c) No preference.

41.05.

No preference for the first paragraph. But COTANCE prefers for the second paragraph “leather”, i.e., “Sheep or lamb leather is somewhat similar...”

For the exclusion see our comment above.

- (c) Sheep or lamb leather, tanned or crusted...

41.06.

First par. : COTANCE prefers “skins”.  
Third par. : COTANCE prefers “leather”.  
Fourth par. : COTANCE prefers “hides and skins”.  
Fifth par. : COTANCE prefers “leather”.

Exclusions :

Same comment as above.  
(c) COTANCE prefers “leather”.

41.07.

First par. : COTANCE prefers “hides and skins”.  
Fourth par. : COTANCE prefers “hides”.

Exclusions :

(c) COTANCE prefers “Leather”.

41.12.

First par. : COTANCE prefers “leather”.  
Second par. : COTANCE prefers “leather”.

Exclusions :

(c) COTANCE prefers “leather”.

NOTE : The COTANCE preferences indicated above with regard to “leather” or “hides and skins” are justified by the context. Sometimes the text refers to the origin of the material and then it makes sense to speak of “hides and skins”. Otherwise, when the product is concerned, COTANCE understands that it should be called by what it is “leather”.

The comments regarding “leather” and “hides and skins” refers only to the English text. The French version is OK in this respect and should not be aligned on any change made in the English version. This is important because the terminology is not identical in French and English.

\* \* \*





COMMENTS BY FFTM\*

CHAPTER 41.

Page 649. General. Item (II). Second paragraph. Last sentence.

**Comment**

Alum tanned hides and skins are also widely used in the manufacture of leather garments.

Page 650. General.

Item (II). Part (B). First paragraph. First line. (See item (III) Annex II to Doc. NR0094B1)

**Comment**

In French, the term "dessèchement" is not used in this industry; the term "séchage" is used instead.

Page 652.

1. Heading 41.02. First paragraph. Last sentence.

**Comment**

The French term "raclée" is not used in the industry; the term "écharnage" is used instead, i.e., "écharnée" in this particular case.

7. Heading 41.03. Second paragraph.

**Comment**

Same comment as above regarding the French term "raclé".

Pages 652 to 657. Headings 41.04 to 41.11.

Heading 41.05.

**Comment**

The French version of the first paragraph of this Note refers to "peaux de métis des Indes ou *bastards*". This is either a spelling mistake, in which case the term should read "bâtards", or it is a mistranslation.

\* Fédération française de la tannerie et de la mégisserie (French Tanning Federation)

The second paragraph of this Explanatory Note provides some rather surprising criteria for identifying and distinguishing between sheep or lamb skin on the one hand, and goat or kid skin on the other : the industry does not consider that the skins creak when crumpled. The industry considers that separating the flesh side from the grain side in sheep or lamb skins is impossible, as it is moreover for all tanned skins. The flesh side (epidermis) is removed during the preparation of the skin for tanning, and the material which is tanned is merely the corium (dermis). This is a fibrous structure which is denser on the outer surface than on the inner surface. The separation operation referred to in the Explanatory Note is not known.

Heading 41.06.

**Comment**

Same comment as for heading 41.05.

Heading 41.07.

**Comment**

The French version of the first paragraph refers to "dessèchement" ("crusting" in English). We would prefer that the term "mise en croûte" be used or, if not, possibly even "séchage".

The third paragraph referring to "sole leather" states that such leather is brown in colour and, if chrome-tanned, it is of a greenish-blue colour. It is pointed out that sole leather tends to be beige in colour and it is rare for it to be chrome-tanned. It is possible that a minimal amount of trivalent chromium salts may be added during production, but this should not change its substance which is based on vegetable tanning. It is unusual for sole leather to be greenish-blue in colour, that being the characteristic colour of "Wet Blue" which is covered by another heading. Finally, sole leather can be presented in a wide variety of colours if it is dyed.

Headings 41.12 and 41.13.

**Comment**

Same comment for the French text regarding "bastards" and "dessèchement", and for the question of the epidermis (flesh side).

Heading 41.14. Part (II).

**Comment**

Is it necessary to refer to "plastics" for the covering of patent leather and patent laminated leather ?

It is stated that metallised leather is leather coated with metal powder or "*metal leaf*". It would be more appropriate to refer to "a film giving a metallised appearance".

---