



HARMONIZED SYSTEM
COMMITTEE

-
26th Session
-

NC0271E1

O. Eng.

Brussels, 1 November 2000.

MATTERS FOR DECISION BY THE HARMONIZED SYSTEM COMMITTEE

(Item V.2 on Agenda)

Reference documents :

NC0250E2 Paragraphs 49 to 55 and Annexes C/4 and F/1 (HSC/25 – Report)
NR0133E2 (RSC/22 – Report)

1. The Committee is invited to examine the following conclusions reached by the Harmonized System Review Sub-Committee at its 22nd Session in September 2000.

I. General

2. The Secretariat would like to point out that the 22nd Session of the Sub-Committee was a “transition session” between the 2002 and the 2007 versions of the Harmonized System, and the Sub-Committee successfully examined, in addition to certain general questions, various issues regarding :
 - (a) Amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999 (**for final adoption by the Committee to be implemented on 1 January 2002**);
 - (b) Corrigendum Amendments to the Article 16 Recommendation of 25 June 1999 (**for final adoption** (both by Article 16 procedure for HS 2007 and by corrigendum for HS 2002) **by the Committee**);
 - (c) Amendments to the legal texts under the 3rd Review Cycle (**for provisional adoption by the Committee**, by Article 16 procedure, **for HS 2007**); and
 - (d) Amendments to the Explanatory Notes under the 3rd Review Cycle (**for provisional adoption by the Committee**, consequential upon (c) above, **for HS 2007**).

File Nos. 2151 (Legal Texts (2002 and 2007)) and
2152 (Explanatory Notes (2002 and 2007))

3. To facilitate the Committee's examination of the conclusions of the Review Sub-Committee, the Secretariat will endeavour to sort out these conclusions on an "annex by annex" basis. Such an approach is particularly important in respect of the implementation of the HS 2002 legal texts and Explanatory Notes, as well as launching the HS 2007 amendments.
4. As to the corrigendum amendments to the Article 16 Recommendation of 25 June 1999 (see paragraphs 49 to 55 of Doc. NC0250E2, HSC/25 Report), the Committee had invited administrations to submit any minor editorial errors they found in the 25 June 1999 Recommendation to the Secretariat as soon as possible and instructed the Secretariat to combine all such errors in a single document and prepare a draft proposal of amendments for examination and adoption by the Committee at its 26th Session (**see Agenda Item III.3**).
5. **The Secretariat would like to point out that the amendments included in Annex E/8 (and possibly Annex E/9 - see the relevant paragraphs below) to the Report of the Review Sub-Committee have been approved by the Sub-Committee by Article 16 procedure for HS 2007. The assumption of the Sub-Committee was that these amendments would be implemented on 1 January 2002 by corrigendum. Once adopted by the Committee, these amendments will be presented to the Council at its next sessions for adoption, in order to be inserted in the 2002 HS Nomenclature by corrigendum.**
6. Regarding the procedure for adopting the amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999 (see paragraphs 1 to 3 of Annex C/4 to Doc. NC0250E2 , HSC/25 – Report), the Committee had agreed to formally approve all the amendments together at its 26th Session (**see also Agenda Item X**).
7. **The Secretariat would like to point out that the amendments included in Annexes E/1, E/2, E/3 and E/4 to the RSC/22 Report concern amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999. These amendments have already been inserted in the "Comprehensive Text" in the Annex to Doc. NC0325B1 (2002 Explanatory Note Amendments) (Agenda Item X), but placed in square brackets pending the Committee's adoption. The texts in square brackets will be modified in accordance with the decisions of the Committee and the replacement pages to the Annex to Doc. NC0325B1 will be circulated to delegates before the examination of that Annex.**

II. RSC/22

Annex B/1 – Report on the meetings of the Policy Commission (43rd Session) and the Council (95th and 96th Sessions)

8. The Director informed the Sub-Committee about the latest developments regarding the issues that were of particular interest to the Sub-Committee. The Sub-Committee took note of the developments (see also Agenda Item II.2).
9. **The Committee is invited to take note.**

Annex B/2 – Scope of the 3rd HS Review Cycle

10. The Sub-Committee agreed with the Secretariat's proposals that :
- (a) For the 3rd Review Cycle, administrations should submit their proposals, particularly comprehensive proposals for changes, to the Secretariat as soon as possible and preferably no later than the Spring 2001 Session of the Sub-Committee;
 - (b) The following legal notes and headings were in greatest need of attention :
 - Note 3 to Section XVI
 - Note 4 to Section XVI
 - Note 5 to Chapter 84
 - Heading 84.42
 - Heading 84.43
 - Heading 84.71
 - Heading 85.17
 - Heading 85.19
 - Heading 85.24
 - Heading 85.25
 - Heading 85.43
 - Heading 87.02
 - Heading 87.03
 - Heading 87.04
 - Heading 90.09.
 - (c) A general review of the Explanatory Notes should be undertaken by the Sub-Committee and Sub-Committee meetings should be extended, at a minimum, to two weeks each.
 - (d) Those Explanatory Note amendments should, of course, not result in a change in scope of the legal texts - they should merely update the existing Notes by :
 - deleting references to obsolete products and technology,
 - substituting references to current products and technology,
 - restructuring the Notes to make them easier to understand, and
 - supplementing the Notes to make them more complete.
 - (e) The review of the Explanatory Notes would proceed under the Corrigendum Procedure and might be implemented on a flow basis twice a year by the Harmonized System Committee. While the same headings might be reviewed under the new review cycle, that review would proceed under the Article 16 Procedure and any resulting amendments to the legal texts and Explanatory Notes would not be implemented before the year 2007.
11. **The Committee is invited to endorse the conclusions of the Review Sub-Committee.**

Annexes C/1 and E/1 – Amendment of the HS 2002 Explanatory Notes arising from the classification of bitter limes referred to as “*Citrus latifolia*” and “*Citrus aurantifolia*” in subheading 0805.50

12. The Sub-Committee approved, subject to minor editorial amendments, the text proposed by the Secretariat.
13. The Sub-Committee asked the Secretariat to study, with the help of interested administrations, the 6-digit classification of small green oranges and small green lemons of a kind used for preserving and submit the question to the Committee.
14. **The Committee is invited to formally adopt the amendments set out in Annex E/1 to Doc. NR0133B2. These amendments have already been inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X), but placed in square brackets pending the Committee’s adoption. Once the texts are adopted by the Committee, the square brackets will be deleted** (see paragraphs 6 and 7 above).

Annexes C/2 and E/2 – Amendment of the Explanatory Note to heading 40.10

15. In respect of the proposed amendment of the present sixth paragraph of the Explanatory Note to heading 40.10, one delegate expressed the view that this paragraph should refer specifically to V-ribbed belts. He was opposed to the last sentence since it referred only to transverse grooves. He also pointed out that, in the English text, it was only the last sentence that differed from the present sixth paragraph whereas in the French text the word “striées” had also been introduced in place of the word “trapézoïdales” in the first sentence.
16. The Sub-Committee decided to place the word “striées” in the French text of the first sentence and the last sentence, as well as the whole paragraph, in square brackets and asked administrations to study this issue further during the intersession.
17. **The Committee is invited to (1) rule on the texts placed in square brackets and (2) formally adopt the amendments set out in Annex E/2 to Doc. NR0133B2. These amendments have already been inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X), but placed in square brackets pending the Committee’s adoption. The texts in square brackets will be modified in accordance with the decision of the Committee** (see paragraphs 6 and 7 above).

Annexes C/3 and E/3 – Amendment of the Explanatory Notes to Chapter 41

18. The Sub-Committee agreed, for the most part, with the texts proposed by the Secretariat. However :
 - (a) With respect to the text of the second paragraph of the Explanatory Note to heading 41.01 (and similar texts in the Explanatory Notes to headings 41.02 and 41.03), the Sub-Committee was unable to reach consensus on the US proposal to refer to a “light” tanning process, since the term “light” was (i) open to interpretation and (ii) not part of the legal provisions, in particular Note 2 (a) to the Chapter. Therefore, the word “light” was placed in square brackets, leaving the issue to the Committee to decide;
 - (b) The Sub-Committee was unable to reach consensus on the US proposal to insert the words “into leather” after the phrase “which have been tanned or crusted” in the first

paragraph of the Explanatory Notes to heading 41.04, 41.05 and 41.06 (English text only). Therefore the expression “into leather” was placed in square brackets for decision by the Committee;

- (c) The Sub-Committee was unable to adopt the reference to “bastards” in the French version of the first paragraph of the Explanatory Notes to headings 41.05 and 41.12, given the lack of information as to whether the term was correct or not when used in the context of “métis des Indes”. The Secretariat was asked to study the matter and the reference was placed in square brackets, leaving the question to the Committee to decide.

19. With regard to item (c) above, although the term “bastards” appeared in the first edition of the French version of the Explanatory Notes of the CCCN, the Secretariat was unable to find a reference to this term in the context of “métis des Indes”, in French technical literature. Therefore, it would suggest deleting the expression “ou bastards” from the Explanatory Notes to headings 41.05 and 41.12.

20. **The Committee is invited to (1) rule on the texts placed in square brackets and (2) formally adopt the amendments set out in Annex E/3 to Doc. NR0133B2. These amendments have already been inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X), but placed in square brackets pending the Committee’s adoption. The texts in square brackets will be modified in accordance with the decision of the Committee** (see paragraphs 6 and 7 above).

Annexes C/4 and E/4 – Amendment of the Explanatory Note to heading 85.25

21. Subject to certain modifications, the Sub-Committee generally approved the text prepared by the Secretariat. However :

- (a) With regard to “still image video cameras”, the words “or digital” were placed in square brackets in the text of the first paragraph of part (1), there being no consensus as to whether still image video cameras that recorded in digital form existed;
- (b) The Sub-Committee also placed in square brackets other structural information which, even if it did not influence the classification, could, in the opinion of some delegates, contribute to a better understanding of the still image video cameras covered in part (1) of the draft text;
- (c) The Japanese proposal for inclusion of a reference to the existence of internal storage media in digital cameras (part (3)) was also placed in square brackets, as no consensus was reached as to whether such cameras needed a storage medium to record the taken image.

22. **The Committee is invited to (1) rule on the texts placed in square brackets and (2) formally adopt the amendments set out in Annex E/4 to Doc. NR0133B2. These amendments have already been inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X), but placed in square brackets pending the Committee’s adoption. The texts in square brackets will be modified in accordance with the decision of the Committee** (see paragraphs 6 and 7 above).

Annex D/1 – Possible amendments to the Nomenclature regarding the classification of sauces

23. Many delegates agreed with the Secretariat that it would be premature to examine possible legal amendments to Chapter 20 and/or Chapter 21 at this stage – not knowing the outcome of the HS Committee's examination regarding the relevant parts of the Explanatory Notes (see Agenda Item VII.10).
24. The Sub-Committee concluded that this issue should be examined on the basis of the results of the HS Committee's examination of the relevant Explanatory Notes amendments.
25. **The Committee is invited to take note.**

Annexes D/2 and E/5 – Possible amendments to the Nomenclature to clarify the distinction between headings 19.05 and 20.05

26. The Sub-Committee approved, subject to minor editorial amendments, the texts proposed by the Secretariat.
27. **The Committee is invited to provisionally adopt the amendments (HS 2007) set out in Annex E/5 to Doc. NR0133B2.**

Annexes D/3 and E/6 – Possible amendments to Note 1 (c) to Chapter 41 regarding hides and skins of camels

28. Subject to minor drafting changes, the Sub-Committee approved the amendment of the Note at issue, as well as the amendments to the Explanatory Notes to Chapters 41 and 43, proposed by the Secretariat.

Secretariat's Note : The part concerning amendments to page 652 of the Explanatory Notes, "Deuxième" in the French text and "Second" in the English text of Annex E/6 will be replaced by "Premier" and "First", respectively, in the final report (Typing error).

29. **The Committee is invited to provisionally adopt the amendments (HS 2007) set out in Annex E/6 to Doc. NR0133B2.**

Annexes D/4 and E/7 – Proposal by the Canadian Administration to amend the Nomenclature and Explanatory Notes to Chapter 54

30. One delegate wondered whether the proposed amendments would substantially affect other parts of the Nomenclature or whether they would improve and clarify the present texts. He further suggested that the proposed amendments regarding polymer names should be examined by the Scientific Sub-Committee.
31. After a preliminary discussion, the Sub-Committee agreed to place the proposed texts in square brackets for possible examination at its next session.
32. **The Committee is invited to (1) take note of the above developments.**

Annex D/5 – General study of Note 5 to Chapter 84

33. After a brief discussion, the Sub-Committee agreed that a separate Working Group outside the Sub-Committee should be set up with a view to updating and clarifying Note 5 to Chapter 84, given the rapid development in the application of digital technologies in various apparatus.
34. The Director explained that the Working Group should meet outside the RSC schedule just before or after the Sub-Committee's regular sessions and that membership in the Working Group would be open to all HS Members. The Secretariat intended to write to Contracting Parties to identify those administrations that wished to participate in the Working Group.
35. **Pursuant to the provisions of paragraph 8 of Article 6 of the HS Convention, the Committee is invited to rule on the Sub-Committee's proposal for the establishment of the above-mentioned Working Group.**

Annex D/6 – Possible amendments to the Nomenclature and Explanatory Note to heading 84.42

36. While expressing support for the Secretariat's initiative in presenting its proposal, delegates were in agreement that these proposals would have to be carefully considered, in consultation with the trade.
37. A number of delegates also indicated that, after the HS 2002 legal amendments come to effect, headings 84.42 and 84.43 would be more closely linked. Consequently, heading 84.43 would also have to be examined, in light of any changes made to heading 84.42.
38. The Sub-Committee agreed to continue discussion of this item at its next session.
39. **The Committee is invited to take note.**

Annex D/7 – Possible amendments to the Nomenclature and Explanatory Note to heading 84.71

40. The Sub-Committee took note of the developments with regard to the Agenda item, bearing in mind that the Committee had not yet concluded its discussions on the classification of all products concerned.
41. **The Committee is invited to take note.**

Annex D/8 – Possible amendment of the text of heading 85.25 to clarify the classification of cameras

42. Supporting the thrust of the Secretariat's proposal, the Delegate of Canada indicated that his administration might be in a position to submit a proposal for the next meeting of the Sub-Committee to regroup all digital still image cameras in heading 90.06.
43. Another delegate noted that the reservation on the classification of the Color QuickCam would be re-examined by the HS Committee at its upcoming session. The Sub-

Committee should wait for the Committee's decision before taking any position on proposals to amend the Nomenclature for the year 2007.

44. The Sub-Committee agreed to continue to examine possible amendments to the legal text of heading 85.25 and possibly heading 90.06, taking into account the HS Committee's decision on the above-mentioned reservation and the likely proposal from Canada.

45. **The Committee is invited to take note.**

Annex D/9 – Possible amendment of Note 5 (B) to Chapter 85

46. It was pointed out that no concrete proposal had come yet from an administration or from the Secretariat with regard to this issue.

47. Referring to the South African comments which mentioned SIMM (*Single Inline Memory Module*) and DIMM (*Dual Inline Memory Module*) memory modules, it was proposed that the classification of these articles be examined by the HS Committee, provided that the administration concerned could send the Secretariat the necessary information.

48. The Sub-Committee finally agreed to return to this question on the basis of the information arising from the examination classification question to be submitted by South Africa. Administrations were also invited to submit specific proposals concerning the possible amendment of Note 5 (B) to Chapter 85.

49. **The Committee is invited to take note.**

Annex D/10 – Amendment of the text of subheading 9021.10 in order to align the French and English versions

50. The Delegate of the EC agreed that the French version of the text of HS 2002 subheading 9021.10, i.e., "Appareils d'orthopédie ou pour fractures" would appear to be more restrictive than the text of the 4-digit heading, i.e., "Articles et appareils d'orthopédie...; ...et articles et appareils pour fractures;...", while the English version used the term "appliances" both in heading 90.21 and in subheading 9021.1. As proposed by the Secretariat, the alignment in the French version of the texts of the heading and subheading concerned could be achieved by inserting "Articles et" in the French version of the text of HS 2002 subheading 9021.10.

51. However, he expressed concern as to whether this would widen the scope of the French version of the text of HS 2002 subheading 9021.10 vis-a-vis the English version, since he felt that the English term "appliance" did not cover both "article" and "appareil" in French. From the legal point of view, this might lead to the possibility of a small margin of difference between the scope of the French and English versions of HS 2002 subheading 9021.10. Therefore, he suggested that the Sub-Committee should consider whether the English version of the texts of both heading 90.21 and HS 2002 subheading 9021.10 should also be amended. He added that the scope of HS 2002 subheading 9021.10 could possibly be clarified by establishing a new Subheading Explanatory Note.

52. The Director explained that the proposed amendments would have to be made by Article 16 procedure for the year 2007. He invited the Sub-Committee to accept the texts proposed and give its view as to whether the corrigendum procedure might be applied in this

particular case, in addition to the Article 16 procedure, so that the amendment could be implemented on 1 January 2002 to provide for uniform application of the HS.

53. The Sub-Committee agreed on the text proposed by the Secretariat, but decided to re-examine the entire question at its next session on the basis of a new document to be prepared by the Secretariat.

54. **The Committee is invited to take note of the above conclusions.**

Annexes D/11 and E/8 – Amendments to the legal texts consequential upon the amendments to the Recommendation of 25 June 1999 to be made by corrigendum

55. The Sub-Committee unanimously agreed to the proposed amendments.

56. **In connection with this issue, the Committee is also requested to refer to Doc. NC0269E1 (Agenda Item III.3 – Corrigendum Amendments to the Article 16 Recommendation of 25 June 1999) (see also paragraphs 4 and 5 above). The Committee is requested to take note of the fact that these amendments will be presented to the Council at its next sessions for adoption, in order to be inserted in the HS 2002 by corrigendum.**

57. **The Committee is invited to formally adopt the amendments (by Article 16 procedure) set out in Annex E/8 to Doc. NR0133B2.**

58. **Corresponding amendments to the Explanatory Notes have already been inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X), but placed in square brackets pending the Committee’s adoption. The texts in square brackets will be modified in accordance with the decision of the Committee (see paragraphs 6 and 7 above).**

Annexes D/12 and E/9 – Amendment of the text of heading 83.09 in order to align the French and English versions

59. The Sub-Committee approved, without modification, the Secretariat’s proposed amendment to the French text of heading 83.09.

60. The Delegate of the EC felt that it might be possible for this type of amendment to also be made under the Article 8 (corrigendum) procedure, given the English equivalent of reference to “couvertures” already appeared in the English text.

61. **The Committee is invited to (1) decide whether the amendment set out in Annex E/9 to Doc. NR0133B2 could be implemented by corrigendum as suggested by the EC and if so (2) formally adopt the amendment, both by Article 16 procedure and by corrigendum (see paragraphs 4 and 5 above).**

62. **The Committee is requested to take note that, if adopted by the Committee by corrigendum, this amendment will be presented to the Council at its next sessions for adoption, in order to be inserted in the HS 2002.**

63. **Once the above amendment is adopted by the Committee, a corresponding amendment in the French text of heading 83.09 in the Explanatory Notes will be**

inserted in the “Comprehensive Text” in the Annex to Doc. NC0325B1 (Agenda Item X)
(see also paragraphs 6 and 7 above).

Annexes D/13 and E/10 – Possible amendments to Note 2 (n) to Chapter 48, Note 1 (e) to Chapter 56 and Note 5 (h) to Chapter 59

64. The Sub-Committee approved the draft amendments to the Nomenclature and the Explanatory Notes proposed by the Secretariat, subject to adding the word “generally”.

65. **The Committee is invited to provisionally adopt the amendments (HS 2007) set out in Annex E/10 to Doc. NR0133B2.**

Annexes D/14 and E/11 – Possible amendment of Note 3 (a) to Chapter 64

66. The Sub-Committee agreed that the second part of the French version of Note 3 (a) to Chapter 64 should be amended, choosing the third option proposed by the Secretariat, namely replacing the expression “par ces opérations” with “par les opérations d’obtention de cette couche extérieure”.

Secretariat’s Note : “CHAPTER 83” in the English version of Annex E/11 will be replaced with “CHAPTER 64” in the final report (Typing error).

67. **The Committee is invited to provisionally adopt the amendments (HS 2007) set out in Annex E/11 to Doc. NR0133B2.**

Annexes D/15 and E/12 – Possible replacement of Subheading Note 1 (a) to Section XI regarding elastomeric yarn by a new Note to Section XI

68. Subject to a drafting amendment, the Sub-Committee unanimously adopted the Secretariat’s proposal and approved the draft amendments to the Nomenclature.

69. **The Committee is invited to provisionally adopt the amendments (HS 2007) set out in Annex E/12 to Doc. NR0133B2.**
