

SCIENTIFIC SUB-COMMITTEE

40.208 E

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11th Session
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O. Eng.

SC-3

Brussels, 6 June 1996.

PROPOSAL BY THE OPCW CONCERNING SUBSTANCES CONTROLLED

BY THE CHEMICAL WEAPONS CONVENTION

(Item II.6 on Agenda)

Reference documents :

29.241 (HSC/15)
39.400, Annex F/5 (HSC/15 - Report)
39.446 (SSC/9)
39.480, Annexes A/10 and C/6 (SSC/9 - Report)
39.543 (HSC/16)
39.600, Annex F/3 (HSC/16 - Report)
39.896 (SSC/10)
39.480, Annexes A/10 and C/6 (SSC/10 - Report)
39.944 (RSC/13)
40.180, Annex D/2 (RSC/13 - Report)

I. BACKGROUND

I. On the basis of Doc. 39.944, the Harmonized System Review Sub-Committee (13th Session in February 1996) held a preliminary discussion on the question of separate identification in the Harmonized System of the toxic chemicals and precursors controlled by the Chemical Weapons Convention (CWC).

File No. 2530

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- II. The Sub-Committee was generally of the view that, as far as possible, separate identification in the HS should be considered for the chemicals in question in order to facilitate their monitoring and control. However a cautious approach was desirable in order to avoid proliferation of subheadings. It was agreed that option (c) combined with option (d) suggested by the Secretariat in paragraph 6 of the working document (Doc. 39.944) was best suited for the purpose, since it would restrict the separate identification to substances which were important from the trade angle or to those requiring detailed monitoring under the Convention.
- III. The Observer for the OPCW (Organization for the Prohibition of Chemical Weapons) said that the above approach would satisfy his Organization's requirements and agreed to submit a short list of important chemicals and necessary data to the WCO Secretariat as soon as possible.
- IV. The Sub-Committee finally instructed the Secretariat to draft suitable legal texts on the basis of details furnished by the OPCW and to submit them to the next session of the Scientific Sub-Committee.

II. COMMENTS BY THE OPCW

- V. The Secretariat received, on 21 March 1996, further comments from the OPCW in this regard. The relevant parts of these comments are excerpted below:
- 5.1. "... With regard to international transfer of Schedule 1 chemicals, the Chemical Weapons Convention (CWC) requires that both States Parties have to notify any transfer of Schedule 1 chemical to another State Party to the Technical Secretariat in advance. In order to meet this requirement, States Parties have established or will have to establish mandatory licensing/permission regulations for imports and exports of Schedule 1 chemicals. Therefore, both States Parties and the Technical Secretariat of the OPCW will attach little, if any, importance to amendments in the HS codes for the monitoring of international trade of Schedule 1 chemicals. There seems, thus, not to be a particular need to provide for the separate identification of Schedule 1 chemicals in the HS codes.
- 5.2. For Schedule 2 and 3 chemicals, however, there is a critical need to have separate identification at the subheading level in the HS codes. The CWC requires each State Party to make initial and annual declarations on activities taken place in relation to those chemicals in the State Party, which include quantities, sources and destinations of individual Schedule 2 and 3 chemicals

that were imported from or exported to other States Parties in the previous calendar year. Therefore, States Parties to the CWC as well as the Technical Secretariat of the OPCW will need to have effective means, like the HS codes, to monitor international trade of those chemicals. It may be worth mentioning that one of the factors which the drafters of the CWC took into account when deciding on the categorization of toxic chemicals and their precursors in those three Schedules was the scale of production of these chemicals on a global basis, as known at the time of the negotiations.

- 5.3. There would be some exceptions, however, in relation to certain Schedule 2 chemicals : for example, item 4 of Schedule 2. Initial studies indicate that there may be more than 8,000 individual chemicals included in this item. For this item, we will attempt to identify as soon as possible those chemicals which are actually commercially produced and traded on any significant scale, and which ought to be separately identified at the subheading level of the HS codes. We will let you have this information as soon as possible.
- 5.4. Regarding the trade or production statistics of Schedule 2 and 3 chemicals which you are requesting from us, we will make further efforts to collect such information as will be available from published sources. We must, however, point out again that current statistical information as collected and published by governments does not allow such data to be generated with any degree of precision or the comprehensiveness that would come close to giving the WCO a clearer picture of the actual trade in these commodities. Thus, it would be prudent to plan on the basis that any such data will be of a preliminary character only, and that only the implementation of the recommendation on the individual subheadings for scheduled chemicals by the WCO Member States will provide reliable statistical data in this respect. We will, however, inform you about any results of our own data collection as soon as more data is available. At the same time, it is pointed out that the chemicals listed in the Schedules of the Chemical Weapons Convention should be viewed as goods and commodities whose international trade needs monitoring, not because of their traded amounts but given their possible hazard to the well-being of the international community, which should be the main reason for the creation of separate identification in the HS codes."

III. SECRETARIAT COMMENTS

- VI. The Secretariat proposal set out in Doc. 39.944 and endorsed by the Review Sub-Committee was to have no grouping of the CWC chemicals at 4-digit heading level (option (c)) and to restrict separate identification at 6-digit level to those chemicals which were important from the trade angle and/or to those requiring detailed monitoring under the CWC, grouping the rest in appropriate subheadings.
- VII. The OPCW has now indicated (see paragraph 5 above) that Schedule 1 chemicals are subjected to tightly regulated controls and therefore their separate identification in the HS is not needed. As regards Schedules 2 and 3 chemicals, the OPCW prefers to have separate identification for all of them, with a few exceptions. The exception indicated is with reference to item 4 of Schedule 2, which covers a group of chemicals.
- VIII. If all of the Schedules 2 and 3 chemicals are to be separately identified in the HS, a large number of HS codes would be needed. Since it has not been possible to prepare a short list of chemicals important from the trade, the Secretariat suggests to group similar chemicals at six-digit level wherever possible. As regards item 4 of schedule 2, the whole group of chemicals could be included in one subheading obviating the need for the separate identification of individual chemicals.
- IX. The Secretariat has prepared draft amendments to the nomenclature for all of the Schedules 2 and 3 chemicals, and set out in the Annex. Triethanolamine has not been included as it has already a separate subdivision along with its salts (subheading 2922.13). Wherever grouping of products is possible, as suggested in paragraph 8 above, alternative texts have been suggested. The Secretariat has placed the possible group identification of schedule 1 chemicals in square brackets

IV. CONCLUSION

- X. The Sub-Committee is invited to examine the draft amendments to the Nomenclature set out in the Annex.

x

x x

Annexe au
Doc. 40.208
Annex to

(SCS/11/juin 96)
(SSC/11/June 96)

ANNEXE

PROJET DE MODIFICATION DE LA NOMENCLATURE CONCERNANT
LES SUBSTANCES REGLEMENTEES PAR LA
CONVENTION SUR LES ARMES CHIMIQUES
(Point II.6 de l'ordre du jour)

ANNEX

DRAFT AMENDMENTS TO THE NOMENCLATURE CONCERNING SUBSTANCES
CONTROLLED BY THE CHEMICAL WEAPONS CONVENTION
(Item II.6 Agenda)

ARTICLE 16 PROCEDURE
AMENDMENT TO THE NOMENCLATURE

CHAPTER 28.

New subheading 2811.12.

Insert the following new subheading :

"2811.12 -- Hydrogen cyanide" (C)

New subheadings 2812.11 to 2812.19.

Delete and substitute :

" - Other :
2812.11 -- Arsenic trichloride (B)
2812.12 -- Carbonyl dichloride (phosgene) (C)
2812.13 -- Phosphorous oxychloride (C)
2812.14 -- Phosphorous trichloride (C)
2812.15 -- Phosphorous pentachloride (C)
2812.16 -- Sulphur monochloride (C)
2812.17 -- Sulphur dichloride (C)
2812.18 -- Thionyl chloride (C)
2812.19 -- Other"

OR

"2812.11 -- Arsenic trichloride; carbonyl dichloride (phosgene)
.....(B) and
(C) 2812.12 -- Phosphorous oxychloride; phosphorous tri- or
pentachloride
(C)
2812.13 -- Sulphur mono- or dichloride; thionyl chloride ... (C)
2812.19 -- Other".

Notes.

- (A) : Schedule 1 items
- (B) : Schedule 2 items
- (B*) : Chemicals exempted from CWC control (Schedule 2 items)
- (C) : Schedule 3 items

Annex to Doc. 40.208 E
(SSC/11/June 96)

Heading 28.51.

Insert the following new subheadings :

"2851.10 - Cyanogen chloride (C)
2851.90 - Other".

CHAPTER 29.

Subheading 2903.30.

Delete and substitute :

" - Fluorinated, brominated or iodinated derivatives of
acyclic hydrocarbons
2903.31 -- 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene
..... (B)
2903.39 -- Other".

Subheading 2904.90.

Delete and substitute :

" - Other :
2904.91 -- Trichloronitromethane (chloropicrin) (C)
2904.99 -- Other".

New subheading 2905.18.

Insert the following new subheading :

"2905.18 -- 3,3-Dimethylbutane-2-ol (pinacolyl alcohol)". ... (B)

New subheading 2918.18.

Insert the following new subheading :

"2918.18 -- 2,2-Diphenyl-2-hydroxyacetic acid". (B)

New subheadings 2920.20 to 2920.50.

Insert the following new subheadings :

"2920.20 - Trimethyl phosphite (C)
2920.30 - Triethyl phosphite (C)
2920.40 - Dimethyl phosphite (C)
2920.50 - Diethyl phosphite" (C)

OR

"2920.20 - Di- or trimethyl phosphite; di- or triethyl
phosphite" (C)

New subheading 2921.13.

Insert the following new subheading :

"2921.13--N,N-Dialkyl(methyl, ethyl, n-propyl or isopropyl)
2-chloroethylamines and their protonated salts .. (C)
[2921.14--Bis(2-chloroethyl)ethylamine, chlormethine (INN)
(Bis(2-chloroethyl)methylamine) and trichlormethine
(INN) (tris(2-chloroethyl)amine)]". (A)

New subheadings 2922.14 to 2922.18.

Insert the following new subheadings :

"2922.14--N,N-Diethyl-2-aminoethanol and its protonated salts
.....
(B*)
2922.15--N,N-Dimethyl-2-aminoethanol and its protonated salts
.....
(B*)
2922.16--Other N,N-Dialkyl(methyl, ethyl, n-propyl or
isopropyl)-2-aminoethanols and their protonated
salts
(B)
2922.17--Ethyl-diethanolamine (C)
2922.18--Methyl-diethanolamine" (C)

OR

"2922.14--Methyl or ethyl-diethanolamine (C)

2922.15--N,N-Diethyl-2-aminoethanol and N,N-Dimethyl-2-aminoethanol; protonated salts thereof
(B*)

2922.16--Other N,N-Dialkyl(methyl, ethyl, n-propyl or isopropyl)-2-aminoethanols and their protonated salts".

(B)

New subheadings 2929.20 and 2929.30.

Insert the following new subheadings :

"2929.20 - N,N-Dialkyl(methyl, ethyl, n-propyl or isopropyl) phosphoramidic dihalides (B)

2929.30 - Dialkyl(methyl, ethyl, n-propyl or isopropyl) N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl) phosphoramidates". (B)

New subheadings 2930.50 to 2930.80.

Insert the following new subheadings :

"2930.50--O,O-Diethyl S-[2-(diethylamino)ethyl]phosphorothioate and its alkylated or protonated salts
(B)

2930.60--N,N-Dialkyl(methyl, ethyl, n-propyl or isopropyl) aminoethane-2-thiols and their protonated salts . (B)

2930.70--Thiodiglycol (INN) (Bis(2-hydroxyethyl)sulphide) (B)

2930.80--O-Ethyl S-phenyl ethylphosphonothiolothionate (fonofos)".
(B*)

Subheading 2930.90.

Delete and substitute :

" - Other :

[2930.91--[S-2-dialkyl(methyl, ethyl, n-propyl or isopropyl) aminoethyl]hydrogen alkyl (methyl, ethyl, n-propyl or isopropyl) phosphonothioates and their O-alkyl (< C10, including cycloalkyl) esters;alkylated or protonated salts thereof; 2-chloroethylchloromethyl- sulphide (Sulphur mustard), bis(2-chloroethyl) sulphide; bis(2-chloroethylthio)methane; 1,2-bis(2-chloroethylthio)ethane; 1,3-bis(2-chloroethylthio)-n-propane; 1,4-bis(2-chloroethylthio)-n-butane; 1,5-bis(2-chloroethylthio)-n-pentane;

bis(2-chloroethylthiomethyl)ether;
bis(2-chloroethylthioethyl)ether] (A)
2930.92--[Other compounds] Containing a phosphorus atom to which
is bonded one methyl, ethyl, n-propyl or isopropyl
group but not further carbon
atoms
..... (B)
2930.99 -- Other".

Heading 29.31.

Delete and substitute :

"29.310Other organo-inorganic compounds

[2931.10--O-Alkyl (\leq C10, including cycloalkyl) alkyl(methyl, ethyl, n-propyl or isopropyl) phosphonofluoridates; O-alkyl (\leq C10, including cycloalkyl) N,N-dialkyl (methyl, ethyl, n-propyl or isopropyl) phosphoramidocyanidates; 2-chlorovinyl dichloroarsine; bis(2-chlorovinyl) chloroarsine; tris(2-chlorovinyl)arsine; alkyl (methyl, ethyl, n-propyl or isopropyl) phosphonyl difluorides; [O-2-dialkyl (methyl, ethyl, n-propyl or isopropyl) aminoethyl hydrogen alkyl (methyl, ethyl, n-propyl or isopropyl) phosphonites and their O-alkyl (\leq C10, including cycloalkyl) esters and alkylated or protonated salts thereof; O-isopropyl methylphosphonochloridate; O-pinacolyl methylphosphonochloridate]
(A)

2931.20-[Other] Compounds containing a phosphorus atom to which is bonded one methyl, ethyl, n-propyl or isopropyl group but not further carbon atoms
.... (B)

2931.90--Other".

Subheadings 2933.33 and 2933.34.

Insert the following new subheadings :

"2933.33 -- 3-Quinuclidinyl benzilate (B)
2933.34 -- Quinuclidine-3-ol".
(B)

OR

"2933.33 -- Quinuclidine-3-ol and 3-quinuclidinyl benzilate". (B)

[CHAPTER 30

Subheading 3002.90

Delete and substitute :

- Other
- 3002.91 -- Saxitoxin and Ricin (A)
- 3002.99 -- Other].

CHAPTER 38

Subheading 3824.90

Delete and substitute :

- " - Other
- 3824.91 -- Mixtures consisting mainly of N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl) phosphoramidic dihalides (B)
- 3824.92 -- Mixtures consisting mainly of dialkyl(methyl, ethyl, n-propyl or isopropyl) N,N-dialkyl (methyl, ethyl, n-propyl or isopropyl) phosphoramidates (B)
- 3824.93 -- Mixtures consisting mainly of N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl)-2-chloroethylamines or their protonated salts (B)
- 3824.94 -- Mixtures consisting mainly of N,N-diethyl-2-aminoethanols or N,N-dimethyl-2-aminoethanols or their protonated salts (B*)
- 3824.95 -- Mixtures consisting mainly of other N,N-dialkyl (methyl, ethyl, n-propyl or isopropyl)-2-aminoethanols or their protonated salts (B)
- 3824.96 -- Mixtures consisting mainly of N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl) aminoethane-2-thiols or their protonated salts (B)
- [3824.97--[Mixtures consisting mainly of O-alkyl (\leq C10, including cycloalkyl) alkyl (methyl, ethyl, n-propyl or isopropyl) phosphonofluoridates, of O-alkyl (\leq C10, including cycloalkyl) N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl) phosphoramidocyanidates, of [S-2-dialkyl(methyl, ethyl, n-propyl or isopropyl) aminoethyl] hydrogen

alkyl (methyl, ethyl, n-propyl or isopropyl)
phosphonothioates and their O-alkyl (\leq C10, including
cycloalkyl) esters and alkylated or protonated salts
thereof, of alkyl (methyl, ethyl, n-propyl or isopropyl)
phosphonyldifluorides or of
[O-2-dialkyl(methyl, ethyl, n-propyl or isopropyl) aminoethyl]
hydrogen alkyl (methyl, ethyl, n-propyl or isopropyl)
phosphonites and their O-alkyl
(\leq C10, including cycloalkyl) esters and alkylated or protonated
salts thereof].....(A)

3824.98 -- Other mixtures consisting mainly of chemicals
containing a phosphorus atom to which is bonded
one methyl, ethyl, n-propyl or isopropyl group but
not further carbon atoms
(B)
3824.99 -- Other".

OR

"3824.91--Mixtures consisting mainly of N,N-dialkyl(methyl,
ethyl, n-propyl or isopropyl) phosphoramidic
dihalides of dialkyl(methyl, ethyl, n-propyl or
isopropyl) N,N-dialkyl(methyl, ethyl, n-propyl or
isopropyl) phosphoramidates, of N,N-dialkyl(methyl,
ethyl, n-propyl or isopropyl)-2-chloroethylamines or
their protonated salts, of N,N-dialkyl(methyl, ethyl,
n-propyl or isopropyl)-2-aminoethanols or their
protonated salts, or of N,N-dialkyl(methyl, ethyl,
n-propyl or isopropyl) aminoethane-2-thiols or their protonated
salts (B)

[3824.92--[Mixtures consisting mainly of O-alkyl (\leq C10,
including cycloalkyl) alkyl (methyl, ethyl,
n-propyl or isopropyl) phosphonofluoridates, of
O-alkyl (\leq C10, including cycloalkyl)
N,N-dialkyl(methyl, ethyl, n-propyl or isopropyl)
phosphoramidocyanidates, of [S-2-dialkyl(methyl,
ethyl, n-propyl or isopropyl) aminoethyl]

hydrogen alkyl (methyl, ethyl, n-propyl or isopropyl)

phosphonothioates and their
O-alkyl (\leq C10, including cycloalkyl)
esters and alkylated or protonated salts thereof, of
alkyl (methyl, ethyl, n-propyl or isopropyl)
phosphonyldifluorides, mixture of
[O-2-dialkyl(methyl, ethyl, n-propyl or isopropyl)
aminoethyl] hydrogen alkyl (methyl, ethyl, n-propyl
or isopropyl) phosphonites and their O-alkyl (\leq C10,
including cycloalkyl) esters and alkylated or
protonated salts thereof].....

(A)

3824.93 -- Other mixtures consisting mainly of chemicals
containing a phosphorus atom to which is bonded
one methyl, ethyl, n-propyl or isopropyl group but
not further carbon atoms

(B)

3824.99 -- Other".

