



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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HARMONIZED SYSTEM
COMMITTEE
-
23rd Session
-

NC0053E1
(+ Annex)
O. Fr.

H2-1

Brussels, 15 April 1999.

AMENDMENT OF NOTE 6 TO CHAPTER 85

(Item VIII.16 on Agenda)

Reference documents :

30.000, Annex E/B/38 (NC/50 - Report)
40.465 (HSC/18)
40.600, Annex IJ/10 (HSC/18 - Report)
40.903 (HSC/19)
41.130 (HSC/19)
41.100, Annex G/12 (HSC/19 - Report)
41.310 (HSC/20)

41.600, Annex F/17 (HSC/20 - Report)
42.052 (HSC/21)
42.100, Annex H/13 (HSC/21 - Report)
42.230 (RSC/18)
42.500, Annexes B/5 and D/5 (RSC/18 - Report)
42.429 (HSC/22)
42.750, Annex E, paragraphs 34 and 35 (HSC/22 - Report)

I. BACKGROUND

1. At its 22nd Session in November 1998, the Committee re-examined the classification of the "Children's Bible Book (Look, Listen, Read)" following a reservation entered in respect of the classification of that article (comprising audio cassettes presented together with books) in heading 49.01.

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2. After discussion, the Committee decided that Note 6 to Chapter 85 was applicable in all cases and it revised its previous decision with the following result :
 - the books should be classified in their own heading 49.01;
 - the recorded media should be classified separately in heading 85.24 by application of Note 6 to Chapter 85.
3. In the light of that classification decision, the Committee decided to re-examine the texts adopted by the Review Sub-Committee for amendment of Note 6 to Chapter 85. It should be noted in this connection that when the Committee examined the RSC/18 Report, it decided to place the texts at issue in square brackets (see Doc. 42.750, Annex E, paragraphs 34 and 35 – HSC/22 – Report).
4. On 5 April 1999, the Secretariat received a Note from the Brazilian Administration concerning this question.

II. NOTE BY BRAZIL

5. "The reasons for Brazil's appended proposal stem from the fact that if magnetic media of heading 85.23 or 85.24 have to be classified separately from the apparatus for which they are intended, even if presented with that apparatus, it is all the more true that such magnetic media have to be classified separately (in heading 85.23 or 85.24) when presented with articles other than the apparatus for which they are intended.
6. Brazil is in favour of maintaining the *status quo*, but feels that the variant it is proposing for present Note 6 to Chapter 85 would help significantly to clarify the classification of these media in the future".

III. SECRETARIAT COMMENTS

7. Firstly, the Secretariat points out that the texts to be considered are set out in the Annex to this document, namely (A) the text arising from the Review Sub-Committee's work; and (B) the text proposed by Brazil.
8. The Secretariat notes that it does not seem very clear whether the envisaged amendment to Note 6 to Chapter 85 is intended to clarify the classification of recorded media presented with other articles as discussed in the context of the present texts, or whether it relates to their future classification to be decided by the Committee.

9. Notwithstanding the special case of the classification of audio cassettes presented with other articles, which is the basis for the envisaged amendment to Note 6 to Chapter 85, the Secretariat notes that two differing decisions have been taken during the examination of this matter with regard to the future classification of recorded media of headings 85.23 and 85.24.
10. At its 21st Session, the Committee agreed that, in the future, recorded media should be classified with apparatus other than the apparatus for which they are intended if, together, they form a set (see Doc. 42.100, Annex H/13, paragraph 7 – HSC/21 – Report). The Secretariat feels that the text arising from the work of the Review Sub-Committee is consistent with this first decision.
11. However, the Committee's revised decision at its 22nd Session for the classification of the "Children's Bible Book (Look, Listen, Read)" calls into question the very basis for the text provisionally adopted by the Review Sub-Committee (see paragraphs 2 and 4 above).
12. If the Committee maintains that, even in the future, Note 6 to Chapter 85 will be applicable in all cases, the Secretariat could accept the text proposed by the Brazilian Administration.
13. Consequently, the Secretariat considers that the choice between the two texts proposed in the Annex hereto will depend on the Committee's final decision concerning the principles governing the classification of recorded media in the future. The Secretariat leaves it for the Committee to clarify this.
14. Finally, the Secretariat would merely wish to point out that today many products are sold with instructional material on their use in the form of media of heading 85.24. Depending on the decision of the Committee such media would have to be separately classified in the future. The Secretariat doubts whether such instructional materials are separately classified at present.

IV. CONCLUSION

15. The Committee is invited to examine the texts set out in the Annex to this document, taking account of the above comments by the Brazilian Administration and the Secretariat.

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Annexe au
Doc. NC0053B1
Annex to

(CSH/23/mai 99)
(HSC/23/May 99)

ANNEXE

AMENDEMENT DE LA NOTE 6 DU CHAPITRE 85
(Point VIII.16 de l'ordre du jour)

ANNEX

AMENDMENT OF NOTE 6 TO CHAPTER 85
(Item VIII.16 on Agenda)

PROCEDURE DE L'ARTICLE 16
AMENDEMENT DE LA NOMENCLATURE

A. PROPOSITION DECOULANT DES TRAVAUX
DU SOUS-COMITE DE REVISION

[CHAPITRE 85.

Note 6.

Nouvelle rédaction :

"6.- Les disques, bandes et autres supports des n°s 85.23 ou 85.24 restent classés dans ces positions lorsqu'ils sont présentés avec les appareils auxquels ils sont destinés.

Cette Note ne s'applique pas à ces supports lorsqu'ils sont présentés avec d'autres articles que les appareils auxquels ils sont destinés."]

B. PROPOSITION DU BRESIL

CHAPITRE 85.

Note 6.

Nouvelle rédaction :

"6.- Les disques, bandes et autres supports des n°s 85.23 ou 85.24 restent classés dans ces positions lorsqu'ils sont présentés avec les appareils auxquels ils sont destinés.

Cette Note s'applique à ces supports même s'ils sont présentés avec d'autres articles que les appareils auxquels ils sont destinés."

ARTICLE 16 PROCEDURE
AMENDMENT TO THE NOMENCLATURE

A. PROPOSAL ARISING FROM THE WORK OF
THE REVIEW SUB-COMMITTEE

[CHAPTER 85.

Note 6.

Delete and substitute :

"6.- Records, tapes and other media of heading No. 85.23 or 85.24 remain classified in those headings, when presented with the apparatus for which they are intended.

This Note does not apply to such media when they are presented with articles other than the apparatus for which they are intended."]

B. PROPOSAL FROM BRAZIL

CHAPTER 85.

Note 6.

Delete and substitute :

"6.- Records, tapes and other media of heading No. 85.23 or 85.24 remain classified in those headings, when presented with the apparatus for which they are intended.

This Note applies to such media even when they are presented with articles other than the apparatus for which they are intended."
