



HARMONIZED SYSTEM
COMMITTEE

-
27th Session
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NC0393E1

O. Fr.

Brussels, 6 April 2001.

POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES
WITH REGARD TO VARIOUS WOMEN'S OR GIRLS' GARMENTS

(Item VIII.10 on Agenda)

Reference documents

NC0309E1 (HSC/26)
NC0340E2, Annex H/5 (HSC/26 – Report)
NC0344E1 (HSC/27)

I. BACKGROUND

1. At its 26th Session, the Harmonized System Committee examined the question of the classification of various women's and girls' garments.
2. The Committee decided that, by application of GIR 1, the first of these garments should be classified in subheading 6114.20 with "other garments, knitted or crocheted, of cotton", the second in subheading 6212.10 as a brassière, knitted or crocheted, the third in subheading 6114.30 with "other garments, knitted or crocheted, of man-made fibres", and the last in subheading 6307.90 as a nonwoven article.
3. Further to these decisions, the Secretariat was instructed to prepare four Classification Opinions and, moreover, to carry out a study on the scope of the headings concerned with a view to the possible amendment of the corresponding Explanatory Notes.

II. SECRETARIAT COMMENTS

4. The proposals for amendments to the Compendium of Classification Opinions form the subject of item VII.6 on the Agenda of the present session (Doc. NC0344E1).

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5. With respect to the possible amendment of the Explanatory Notes, in accordance with the Committee's instructions, the Secretariat has carried out a study to determine the scope of the headings concerned.
6. To begin with, it should be noted that, apart from a letter from the German Administration, dated 15 February 2001, informing it of the existence of national provisions which are still to be examined within the European Community, at the time this document was prepared the Secretariat had not received any additional information.
7. Further, it should be recalled that, although there were two different headings for undergarments (e.g., heading 60.04) and outergarments (e.g., heading 60.05) in the CCCN, 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 worldwide basis because of differences in climate and modes of dress and the whims of fashion.
8. Nevertheless, the Secretariat is of the opinion that, basically, heading 62.12 covers garments of a kind designed to support the body and generally intended to be worn next to the skin as underwear.
9. More particularly as regards articles of the kind examined by the Committee, heading 62.12 should be wholly reserved for feminine lingerie used to support the bust, to the exclusion of articles that could also be worn as outer garments.
10. In other words, articles which, although they fit tightly over the bust, have no real support function and can be worn as outer garments should not, in any circumstances, be classified with articles similar to the brassières of heading 62.12.
11. Moreover, the provisions of Note 13 to Section XI appear to justify this view in as much as, for the application of this Note and the classification of textile garments put up in sets, the articles of heading 62.12 are not regarded as garments.
12. The garments in question should therefore be classified in one of the appropriate headings of Chapter 61 or 62, according to the type of garment and the nature of the constituent material (knitted or crocheted or woven fabric). The headings which could apply are headings 61.06, 61.09, 61.10 and 61.14 in Chapter 61 and headings 62.06 and 62.11 in Chapter 62. However, it should be noted that, as they have a certain elasticity and provide support, almost all these garments are knitted or crocheted and will be classified in Chapter 61 and, more particularly, in heading 61.14.
13. The problem is how to draw a dividing line and establish criteria for distinguishing between the brassières of heading 62.12 and the other garments of heading 61.14.
14. The French subheading 6212.10 refers to "soutiens-gorge" and "bustiers", whereas the English subheading uses the single word "brassières".
15. The French encyclopaedia Grand Larousse universel defines the French terms "soutien-gorge" and "bustier" as follows :

"1. *Soutien-gorge* :

Item of feminine lingerie consisting of two cups that serve to support the breasts.

2. *Bustier* :

- A strapless brassière fitted with flexible stays and incorporated in a bodice providing support for the stomach.
 - Close-fitting bodice which holds the bust like a brassière, but leaves the shoulders bare.”
16. According to The New Shorter Oxford Dictionary, the English term “brassière” denotes “A woman’s undergarment worn to support the breasts”.
17. Clearly, the “bustiers” mentioned in French subheading 6212.10 are undergarments of the brassière type and not other articles of women’s apparel.
18. As far as distinguishing criteria are concerned, the Secretariat considers that classification depends mainly on the general appearance, together with the cut, the nature of the material and the finish.
19. Nevertheless, the composition and constituent materials of the various products do not provide a sufficiently reliable basis for distinguishing between them, since they are all made from the same textile materials. According to the catalogues of manufacturers, although a relatively high proportion of elastothane (more than 10 %) may be an indication, it should be noted that some brassières contain a lower percentage of that material or even none at all, whereas short sleeveless, stretch bandeau-type and other tops may have varying proportions of elastothane.
20. In general, brassières can be said to have the following characteristics :
- they must be suitable for wear next to the skin, with cups that are generally pinched at the tip so as to hug the bust and provide good support;
 - although they may be strapless, they usually have straps which are sometimes adjustable (extensible);
 - they may have boning or stays or be stiffened at the base to provide better support or have an elastic strip beneath the bust to ensure a perfect fit;
 - some parts, such as the top of the cups, may be in lace or tulle or have designs, decorative motifs or applied trimmings.
21. The “bustiers” of subheading 6212.10 are strapless brassières fitted with flexible stays and incorporated in a bodice providing support for the stomach. These articles are generally stiffened or boned on the front and sides to ensure perfect support for the bust.
22. Characteristically, the other garments sometimes known as short, sleeveless, stretch bandeau-type or other tops all hug the bust. However, the function or main purpose of these garments is not to hold or support the bust but rather to “clothe” the body.

23. There are various ways in which the Explanatory Notes might be amended :

Amendment of the Explanatory Note to heading 61.14

24. A new paragraph mentioning the garments at issue could be inserted in the Explanatory Note to heading 61.14 to make it clear that they have no real support function and belong in that heading, in so far as they cannot be classified in other headings of Chapter 61.

Amendment of the Explanatory Note to heading 62.12

25. A definition of brassières giving their main characteristics could be inserted in the Explanatory Note to heading 62.12 to make it clear that these are articles whose general appearance, cut, constituent materials and finish clearly indicate that they are intended to be worn next to the skin as underwear and are designed to provide support for the bust.
26. An exclusion could also be inserted in this Explanatory Note for knitted or crocheted garments which can be worn next to the skin as outer garments or underwear but have no real support function and are generally classifiable in heading 61.14.

Subheading Explanatory Note

27. Another way of clarifying the situation might be to create a subheading Explanatory Note defining the notion of brassières for the purposes of subheading 6212.10.

III. CONCLUSION

28. In the light of the Secretariat's comments, the Committee is invited to :

- (a) indicate whether the Explanatory Notes should be amended;
- (b) give its opinion on the proposals made in paragraphs 24 to 27 above and indicate what action should be taken.
