



HARMONIZED SYSTEM
COMMITTEE

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NC0411E1

O. Eng.

Brussels, 18 April 2001.

AMENDMENTS TO THE EXPLANATORY NOTES TO HEADINGS 87.03 AND 87.04

(Item VIII.8 on Agenda)

Reference documents :

26.642 (NC/45)	40.625 (HSC/18)
26.800, Annex C/8 (NC/45 – Report)	40.600, Annex H/20 (HSC/18 – Report)
35.350, Annex G/5 (HSC/3 – Report)	40.909 (HSC/19)
35.700, Annexes E/11 and F/11 (HSC/4 – Report)	41.100, Annex G/18 (HSC/19 – Report)
35.840 (HSC/5)	41.313 (HSC/20)
35.841 (HSC/5)	41.600, Annex F/19 (HSC/20 – Report)
35.960, Annexes G/4 and G/5 (HSC/5 – Report)	42.434 (HSC/22)
39.156 (RSC/11)	42.456 (HSC/22)
39.200, Annex XI (RSC/11 – Report)	42.750, Annexes G/9 and G/33 (HSC/22 – Report)
39.282 (RSC/11)	NC0056E1 (HSC/23)
39.332 (HSC/15)	NC0145E1 (HSC/24)
39.400, Annex E (HSC/15 – Report)	NC0162E1 (HSC/24)
39.575 (HSC/16)	NC0160E2, Annex H/7 (HSC/24 – Report)
39.600, Annex IJ/20 (HSC/16 – Report)	NC0227E1 (HSC/25)
40.083 (HSC/17)	NC0250E2, Annex IJ/16 (HSC/25 – Report)
40.260, Annex IJ/9 (HSC/17 – Report)	NC0304E1 (HSC/26)
40.454 (HSC/18)	NC0340E2, Annex G/21 (HSC/26 – Report)
	NC0391E1, (HSC/27)

1. On 30 March 2001, the Secretariat received the following note from the United States concerning the amendments to the Explanatory Notes to headings 87.03 and 87.04 :

I. NOTE FROM THE US ADMINISTRATION

2. “...At its 26th Session the Committee discussed proposals for amending the Explanatory Notes to headings 87.03 and 87.04. After consideration of the comments by the Secretariat in Doc. NC0304E1 and the discussion by the Committee, the US Administration offers these comments for consideration by the Secretariat in the preparation of a proposal for the 27th Session of the Harmonized System Committee.

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3. This new text incorporates many of the comments raised by the Secretariat and the Committee. The following points are intended to highlight the underlying rationale for the proposed amendments to the Explanatory Notes to headings 87.03 and 87.04 and the text that could be considered essential to the description of the vehicles in those headings :
- (a) Inclusion of a reference to vehicles with a GVW of 5 tons in EN 87.03 : The reference to vehicles with a GVW of 5 tons or less is important to describe a category of vehicles in EN 87.03 (as well as in EN 87.04) because this describes the size of SUVs, pickups and vans that have typically presented the classification problem. Therefore, the proposed reference is introduced by the words “typically” and would not preclude vehicles having a higher GVW.
 - (b) Description of area behind driver and front passenger seats : For passenger vehicles, it is important to describe, in EN 87.03, the area behind the driver and front passengers as an “area that has permanent seating and that can also be used for transport of goods” because this reflects the type of permanent seating in SUVs and vans that are classified in heading 87.03. This criterion, when read with the criterion for windows in the side panels, provides clear guidance on the classification of these vehicles.
 - (c) Deletion of reference to “dual-use passenger vehicles” in EN 87.03 : The Secretariat’s reference to “dual-use” passenger vehicles in EN 87.03 would be confusing and perhaps inappropriate because passenger vehicles must be principally designed for the transport of persons. A “dual-use” vehicle would properly fall in heading 87.04. Although a “station wagon,” described in the penultimate paragraph to EN 87.03 on page 1547 as a “vehicle which may be used, without structural alteration, for the transport of both persons **and** goods” (emphasis added), it must be recalled that a station wagon is a vehicle that is principally designed for the transport of persons.
 - (d) Deletion of reference to “pick-up vehicles” in EN 87.03 : The reference to “pick-up vehicles” in EN 87.03 is inappropriate and confusing because the term “pick-up vehicles” only applies to a type of vehicle designed principally for the transport of goods. Vehicles which have characteristics that mimic a pick-up vehicle are not considered by the industry or the Nomenclature to be pick-up vehicles.
 - (e) Inclusion of reference to “double-cab pick-up vehicles” in EN 87.04 : It is appropriate and advisable to include a reference to “double-cab pick-up vehicles in EN 87.04 because this type of vehicle has presented many of the recent classification questions for the HSC. All typical dual-cab pick-up vehicles have been classified in heading 87.04 by the Committee. Although there may be exceptions to the rule, the EN should provide the general criteria for classification of these vehicles.
 - (f) Rear seating described as lacking safety restraints and without passenger amenities : The only reference to “seating” in EN 87.04 should be to the type of seating without safety restraints and is typically bench-type seating without the passenger amenities found in vehicles principally designed for the transport of persons. These seats, which usually fold up or down, do not take away the character of the load platform as a platform principally designed for the transport of goods.

4. It should be noted that the US proposal does not include criteria related to the relative allocation of load capacity or interior space. Although the criterion of “load capacity” was discussed by the Committee as relevant to the classification of these vehicles, it is clear that the criterion presents problems with the current classification of certain motor vehicles. Moreover, its inclusion would conflict with the conclusion of the Committee that these amendments “should not entail any change in the classification of the motor vehicles already classified by the Committee” (paragraph 1 of Annex G/21 to NC0340E2).
5. For practical purposes, we believe that the criteria suggested for Explanatory Notes to headings 87.03 and 87.04 are sufficient to guide administrations in the classification of most vehicles, such as the double-cab pick-up vehicles, the SUVs and van-type vehicles.

US PROPOSALS FOR EN 8703

Heading 87.03.

On page 1547 :

Insert the following new paragraph immediately after the current penultimate paragraph :

“The classification of vehicles in this heading is determined by certain features which indicate that the vehicles are principally designed for the transport of persons rather than for the transport of goods (heading 87.04). These design features are especially helpful in determining classification of vehicles which typically have a gross vehicle weight rating of approximately 5 tons or less and which have a single enclosed interior space comprising an area for the driver and passengers and another area that may be used for the transport of both persons and goods. Included in this category of vehicles are those commonly known as “multipurpose” vehicles (e.g., van-type vehicles, sports utility vehicles). The following criteria are indicative of the design characteristics generally applicable to such vehicles which fall in this heading :

- (a) Presence of permanent seats with safety equipment (e.g., safety seat belts or anchor points and fittings for installing safety seat belts) for each person, or the presence of permanent anchor points and fittings for installing seats and safety equipment, in the rear area behind the driver and front passengers; such seats may be fixed, fold-away, removable from anchor points or collapsible;
- (b) Presence of rear windows along the full length of the two side panels;
- (c) Presence of sliding or swing-out doors, with windows, on the side panels;
- (d) Absence of a permanent panel or barrier between the area designed for the driver and passengers and a rear area that is designed for the transport of goods; and
- (e) Presence in the rear area of comfort features and interior finish and fittings, in addition to rear seating, similar to that found in passenger vehicles (e.g., floor carpeting, ventilation, interior lighting, ashtrays, etc.).”

US PROPOSALS FOR EN 8704

Heading 87.04.

On page 1548 :

Insert the following new third paragraph :

“The classification of certain motor vehicles in this heading, typically vehicles having a gross vehicle weight rating of approximately 5 tonnes or less, is determined by features which indicate that the vehicles are principally designed for the transport of goods rather than for the transport of persons (heading 87.03). These design features are especially helpful in determining the classification of motor vehicles which have either a separate closed rear platform or open rear platform normally used for the transport of goods but may have rear bench-type seats that are without safety restraints or passenger amenities, and that typically fold flat against the sides to permit full use of the rear platform for transport of goods. Included in this category of motor vehicles are pick-up vehicles and vehicles sometimes described as “dual-use” vehicles (e.g., van-type vehicles and double-cab pick-up vehicles). The following features are indicative of the design characteristics generally applicable to such vehicles which fall in this heading :

- (a) Presence of a separate cabin for the driver and passengers and a separate, open platform with side panels and a drop-down tailgate (pick-up vehicles, including double-cab pick-up vehicles);
- (b) Absence of rear windows along the two side panels (van-type vehicles);
- (c) Presence of a permanent panel or barrier between the area for the driver and front passengers and the rear area;
- (d) Presence of rear seating that lacks safety restraints for passengers or typical passenger amenities, and that is designed to collapse or fold against the sides in order to allow full use of a flat platform or floor designed for the transport of goods; and
- (e) Absence of windows, comfort features and interior finish and fittings in the area behind the driver and front passengers (van-type vehicles).”

II. SECRETARIAT COMMENTS

6. Regarding the US comments given in paragraph 3 above, the Secretariat has the following views :

Paragraph 3 (a) - Inclusion of a reference to vehicles with a g.v.w. of 5 tons in EN 87.03 : See paragraph 13 of Doc. NC0391E1.

Paragraph 3 (b) - Description of area behind the driver and front passenger seats : This idea has already been reflected in the introductory paragraph and Item (b) of the draft amendments to EN 87.03.

Paragraph 3 (c) - Deletion of reference to “dual-use passenger vehicles” in EN 87.03 : In fact, the purpose of this study is to clarify the classification of certain “multipurpose” or “dual-use” motor vehicles. The Secretariat simply believes that the term “dual-use” is sometimes used as an alternative to the term “multipurpose”. However, if the Committee agrees with the US, the Secretariat would have no objection to this proposal.

Paragraph 3 (d) - Deletion of reference to “pick-up vehicles” in EN 87.03 : See paragraph 21 of Doc. NC0391E1. The Secretariat agrees with the US that the term “pick-up vehicles” only applies to a type of vehicles designed principally for the transport of goods. However, the Secretariat’s preference is to take a “cautious” approach in this regard by inserting the term “certain” before “pick-up vehicles” to take care of exceptional cases. Perhaps a better approach could be to use the expression “certain double-cab pick-up vehicles”.

Paragraph 3 (e) - Inclusion of a reference to “double-cab pick-up vehicles” : If the expression “certain double-cab pick-up vehicles” is used in EN 87.03, the Secretariat would agree with the insertion of the term “double-cab” before “pick-up vehicles” in EN 87.04.

Paragraph 3 (f) - Rear seating described as lacking safety restraints and without passenger amenities : This idea has already been reflected in the Secretariat’s alternative for Item (b) of the draft amendments to EN 87.04 (i.e., presence of bench seats with or without safety equipment...).

7. As regards the US comments concerning “the relative allocation of load capacity or interior space”, see paragraphs 16 to 19 of Doc. NC0391E1.
8. The latest US proposal also entails the following modifications to the draft texts in the Annex to Doc. NC0391E1 :

EN to heading 87.03

- (i) Replacement of the term “their” with the term “certain” in the first line of the introductory paragraph : The Secretariat agrees.
- (ii) Insertion of the expression “the full length of” between “along” and “the two side panels” in Item (c) : The Secretariat feels that a strict interpretation of “the full length” might lead to confusion since a small section might be left without windows on the end of side panels.
- (iii) Deletion of “lift-up doors” from the first line of Item (d) : The Secretariat believes that many multipurpose vehicles have such lift-up doors especially in the rear for loading and unloading goods.
- (iv) Insertion of the term “designed” between “the area” and “for the driver” in the first line of Item (e) : The Secretariat agrees.
- (v) Insertion of the expression “in addition to rear seating” in the first line of item (f) : The Secretariat feels that this is unnecessary, since the “presence of permanent seats or anchor points and fittings for installing seats” is already referred to in Item (b).

EN to heading 87.04

- (i) Replacement of the term “area” in the 6th and 7th line of the introductory paragraph with the term “platform” : The Secretariat prefers the expression “a separate closed rear area or an open rear platform”. Canada uses the term “cargo bed” in Item (a).
- (ii) Insertion of the expression “or passenger amenities” after “safety restraints” in the 8th line of the introductory paragraph : The Secretariat has no objection.
- (iii) Insertion of the expression “Absence of windows” before “comfort features” in the first line of Item (f) : The Secretariat thinks that this would be a repetition, as the “absence of rear windows” has already been referred to in Item (d).

III. CONCLUSION

9. The Committee is invited to take the US Note and the Secretariat comments into account when examining this agenda item.
