



HARMONIZED SYSTEM
COMMITTEE

NC0452E1

-
28th Session
-

O. Eng.

Brussels, 10 October 2001.

MATTERS FOR DECISION BY THE HARMONIZED SYSTEM COMMITTEE

(Item V.2 on Agenda)

Reference document :

NR0205E2 (RSC/24 – Report)

1. The Committee is invited to examine the following conclusions reached by the Harmonized System Review Sub-Committee at its 24th Session in September 2001.

Annex B/1 – Report concerning the meetings of the Policy Commission (45th Session) and the Council (97th/98th Sessions)

2. 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.1).

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

Annex B/2 – Decisions taken by the Harmonized System Committee at its 27th Session affecting the work of the Review Sub-Committee

4. The Chairman briefly summarized for the Review Sub-Committee the decisions taken by the HSC at its 27th Session and the pending questions affecting the work of the RSC.

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

Annex C/1 - Possible amendments to the Nomenclature regarding the classification of sauces

6. Certain delegates in the Review Sub-Committee were of the view that the introduction of a legal definition in the Nomenclature for sauces, based on a quantitative criterion, would cause more problems than the present situation and, therefore, were against amending the legal texts. Certain delegates were of the view that it was important to introduce a legal definition for sauces which included a quantitative criterion, in order to secure the identical classification of such products in exporting and importing countries, thus facilitating international trade.

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7. After further discussion, the Sub-Committee agreed that this question should be re-examined at its next session on the basis of a new document to be prepared by the Secretariat containing two alternative proposals, (i) the Secretariat's proposal in Doc. NR0169E1 and (ii) a proposal which Canada was invited to submit on the basis of a Canadian International Trade Tribunal ruling.

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

Annexes C/2 and F/1- Proposal by Canada to amend the Nomenclature to Chapter 54

9. The Sub-Committee re-examined the draft amendments to the Nomenclature to Chapter 54 set out in the Annex to Doc. NR0170E1, taking account of the additional comments submitted by the Canadian Administration set out in Doc. NR0196E1.
10. The Sub-Committee unanimously agreed to the proposal to add a second part to the Table of Contents and Chapter title covering "strip and the like of man-made textile materials".
11. Following some discussion, the Sub-Committee agreed to retain the present text of the introductory sentence to the first paragraph of Chapter Note 1. The draft amendments to the last two paragraphs of the Note, as proposed by Canada, were consequently dropped.
12. Given that the two variants for Note 1 (a) were very similar and that Canada could support the Secretariat proposal, the Sub-Committee agreed to retain the Secretariat variant as set out in the Annex to Doc. NR0170E1.
13. Concerning the proposal for Note 1 (b), the Sub-Committee decided to approve the Scientific Sub-Committee's proposal as set out in Doc. NR4170E1, subject to deleting the reference to "lyocell".
14. With regard to the reference to strip and the like of heading 54.04 or 54.05, specifying that they were not to be considered man-made fibres, the Sub-Committee agreed to include this reference at the end of the second paragraph of present Note 1.
15. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee.**

Annexes C/3 and F/2 - Possible amendments to the Nomenclature and Explanatory Note to heading 84.42

16. The Sub-Committee examined the Secretariat's proposed deletions of obsolete technology. A majority of the Secretariat's proposals were adopted. A number of delegates made proposals during the discussions that were accepted by the Sub-Committee. These were as follows :
- Deletion in the English text only of the words "or set" on page 1334, first paragraph, item 2, second line.
 - Deletion of the words "photogravure or" on page 1334, second paragraph, item III, first line.

- Deletion in the English text only of the word “and” and substitution of the word “or” on page 1337, last paragraph, third line.
 - Deletion of present exclusion (l) on page 1338 and substitution of the text “Moulds (**heading 84.80**)”.
 - Replacement of “Du modèle” by “Dans le modèle”, in the French text only, page 1340, Part I, first line, of the Secretariat’s proposed text.
 - Deletion of exclusion (d) on page 1342.
17. The Sub-Committee also agreed with the suggestion of one delegate for a rearrangement of Part A and Part B of the Explanatory Note to heading 84.42 in order to align on the sequence of the heading text.
18. A number of delegates made proposals during the discussions and the Sub-Committee agreed to place them in square brackets and re-examine them at its next session. These are as follows :
- Proposed deletion of exclusions (c) and (d) on page 1333.
 - Proposed deletion of items (15), (17) and part of (19), referring to “polishing vats” on page 1337.
 - Proposed deletion of exclusion (b) on page 1337.
 - Proposed deletion of the words “contact printers” and the insertion of the words “printing machines” on page 1337, last paragraph, last five lines. No change is necessary to the French text.
 - Proposed deletion of Item (1) on page 1341, first paragraph.
 - Proposed deletion of the text “type. The type consists of individual characters, lines or ...all of the same height.” on page 1342, first paragraph of Subheading Explanatory Notes 8443.21 and 8443.29.
 - Proposed deletion of exclusion (a) on page 1398.
 - Proposed deletion of the first paragraph after Item (15) on page 1587.
19. **The Committee is invited to take note.**
- Annexes C/4 and F/3 - Possible amendments to the Explanatory Note to heading 84.71
20. Views differed among delegates on the question of whether or not some references in the English version to “storage” should be amended, and if so whether it should refer to “storage units” or to “storage capacity”. The Sub-Committee left it to the Committee to decide. The texts concerned were placed in square brackets.
21. The Sub-Committee could also not agree on the proposal to insert references to Note 5 (D) in sub-paragraph (ii) and in the second paragraph. These parts of the text were placed in square brackets, leaving it to the Committee to decide.
22. With respect to the eighth paragraph of Part (I) (A) of the Explanatory Note to heading 84.71 (see paragraph 7 of Doc. NR0172E1), the Sub-Committee agreed with the Secretariat to rephrase the last sentence of that paragraph and approved the text proposed.

23. The Sub-Committee considered it not useful to refer to “a data processing system, known as a local area network” in the context of interconnected systems (see paragraph 8 of Doc. NR0172E1). Consequently, it did not accept the text in square brackets. However, it agreed that the intention of the paragraph at issue could be amplified by saying that a local area network was an example of two or more systems being interconnected.
24. The Sub-Committee agreed (i) to retain the paragraph concerning remote input or output units (see paragraph 9 of Doc. NR0172E1) and (ii) to insert a reference to part (E) of Note 5 to Chapter 84 in the last paragraph of Part (I) (A) of the Explanatory Note to heading 84.71 (see paragraph 10 of the same document).
25. The Sub-Committee agreed not to insert the phrase placed in the first set of square brackets of the third paragraph of Part (D) of the Explanatory Note to heading 84.71 and to delete the square brackets around the reference to Note 5 (E).
26. The Sub-Committee adopted the new paragraphs suggested by the Secretariat vis-à-vis the classification of apparatus which could be considered as “accessory”, replacing the term “accessory” in the first sentence by “apparatus”.
27. Finally, the Sub-Committee agreed (i) to delete the term “numérique” in the French text of the last paragraph of Part (D), Item (5) and (ii) not to amend the Explanatory Note to heading 84.73.
28. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee, as well as to decide on the texts left in square brackets.**

Annex C/5 - Possible amendments to the Nomenclature regarding the classification of cameras

29. The Sub-Committee had an exchange of views regarding the Canadian proposal to group all cameras in heading 90.06. There was general support for the Sub-Committee to continue examining the Canadian proposal. Several delegates also supported the idea of including cameras of heading 90.07 in any such regrouping. It was emphasized that the Sub-Committee would have to examine the legal measures that would have to be adopted to effect this decision. One delegate indicated his administration’s preference to maintain the distinction in the Harmonized System between electronic and photographic equipment. His administration felt that since digital cameras were produced by electronics plants and the output of digital cameras was often manipulated as data by the users, they should be grouped in Chapter 84 and 85 with the products with which they were used. Another delegate felt that, as these cameras were not optical equipment but, rather, electronic equipment, the Sub-Committee should look at the possibility of transferring cameras of headings 90.06 and 90.07 to heading 85.25, as the trend in the industry was towards cameras of this type.
30. The US Delegate put the following draft text forward for subheading 9006.80 or 8525.40, depending on which heading the Sub-Committee chose for a regrouping of digital cameras : “Digital cameras, whether or not recording, and digital camcorders; other video cameras, whether or not recording, including camcorders”.

31. Finally, the Sub-Committee agreed that it would continue to look at the Canadian proposal and the US alternative text would be incorporated in a working document for the next session of the RSC. Administrations were invited to submit further proposals in writing to the Secretariat.

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

Annex C/6 - Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

33. Many delegates informed the Sub-Committee that they had made contact with their tobacco industries to see whether legal amendments to Chapter 24 were necessary. They reported that their industries were of the view that legal amendments were not needed. These delegates therefore favoured the status quo.

34. One delegate indicated that he could also accept the status quo, but in view of the fact that only part of his industry had responded to this question, and because he still needed to consult with his experts on fiscal matters, he proposed to have a preliminary discussion only at this session.

35. The Sub-Committee therefore decided to postpone a full discussion of this agenda item to its next session in March 2002.

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

Annex C/7 - Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

37. The Sub-Committee examined the Secretariat's proposal to update headings 85.20 and 85.24 to reflect technological developments and trade realities. It decided to retain subheading 8520.20. Canada submitted an alternative proposal, which took into account old technology apparatus as well as the inclusion of new technology, including digital audio tape and MP3 appliances.

38. The Sub-Committee agreed to examine the entire question of the amendment of heading 85.20 at its next session on the basis of the latest trade data and a new document setting out the amended Secretariat proposal, Canada's alternative text and possible proposals by the United States or any other Contracting Party.

39. Regarding heading 85.24, the Sub-Committee agreed to delete the term "records" and substitute "discs" in the English version of the heading text and approved the deletion of subheading 8524.10.

40. One delegate expressed concern about the need to improve the structure of this heading and especially the content of subheadings 8524.31, 8524.32 and 8524.91 which would undoubtedly become obsolete by 2007.

41. In the light of these concerns, the Sub-Committee agreed to review this question at its next session and invited administrations to submit proposals to the Secretariat with a view to preparing a new document.

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

Annexes C/8 and F/5 - Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03

43. The Sub-Committee unanimously agreed to insert separate subheadings in heading 06.03 for carnations, chrysanthemums, roses and orchids, in accordance with the proposals submitted by the US and Japanese Administrations. Moreover, it was agreed that these cut flowers should be arranged in subheadings according to their importance in international trade, starting with roses, followed by carnations, orchids and chrysanthemums.

44. As to the Secretariat's proposal to insert a reference to "mixed bouquets" in the residual subheading "other", several delegates pointed out that this addition might create a classification problem. It was argued that since "bouquets" were not defined in the HS Nomenclature, importation of unusual "bouquets" consisting, e.g., of 12 roses and one orchid could create a classification problem. Thus, the Sub-Committee decided not to include a reference to "mixed bouquets" in subheading 0603.19, which would have to be classified by application of the General Interpretative Rules.

45. The Secretariat's proposal to insert Latin names was also rejected. The Sub-Committee felt that this inclusion was not necessary and could cause a similar classification problem as the HS Committee had encountered in Chapter 8 (classification of bitter limes).

46. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee.**

Annex C/9 - Proposal by the US Administration to amend the Nomenclature to Chapter 41

47. The Sub-Committee agreed that no decision should be taken at its 24th Session concerning possible amendments to Chapter 41, as it was felt that further study was necessary, in particular to find out what the exact terminology should be.

48. After this preliminary exchange of views, the Chairman concluded that the issue should be discussed at the Sub-Committee's next session, and invited administrations to submit their comments as soon as possible.

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

Annexes C/10 and F/6 - Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13

50. The Sub-Committee did not support the US proposal to insert separate subheadings for "drinking glasses, acid-etched or coloured or clear with bubbles, seeds or stones throughout the glass". The Sub-Committee agreed to approve, in full, the alternative proposed by the Secretariat set out in Annex II to Doc. NR0178B1.

51. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee.**

Annexes C/11 and F/7 - Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82

52. Since there were different viewpoints as to whether the outer rings (cups) and cone and tapered roller assemblies were normally traded together, as indicated by Japan or also separately as argued by the United States, the Sub-Committee decided to place the US proposed text for subheadings 8482.21 and 8482.29 in square brackets, to delete the phrase "entered separately" and to forward the text to the HS Committee for decision.
53. The Sub-Committee discussed a number of options to try and provide for a one-dash parts provision and the US proposed break-outs for "parts of tapered roller bearings". The Sub-Committee concluded its discussion by agreeing to continue the discussion of this issue at its next session, on the basis of a new proposal to be submitted by the US Administration for parts of tapered roller bearings.
54. **The Committee is invited to rule on the text placed in square brackets and take note of the continuing discussions on the rest of the US proposal.**

Annexes C/12 and F/4 - Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19

55. During the discussions, it was revealed that there might be different types of MP3 apparatus, some of which incorporated sound reproducing apparatus while others did not. As a result, one delegate considered that it would be interesting to examine the different types of MP3s available on the market.
56. Having noted that a study of the different types of MP3s might clarify the question of what amendments could be made to the structured nomenclature of heading 85.19, the Sub-Committee agreed to submit the classification question to the HSC.
57. Taking as a basis for its work the draft text appended to Doc. NR0180B1, the Sub-Committee began by approving the new text proposed for heading 85.19.
58. Then, bearing in mind the proposal to delete subheading 8519.10 for "coin- or disc-operated record-players", which the Secretariat believed had become obsolete, the Sub-Committee agreed to place this subheading in square brackets. The decision as to whether to delete or modify this subheading would be taken after the HSC's ruling on the classification question referred to in paragraph 56 above.
59. The Sub-Committee agreed to keep subheading 8519.60 for "record-players and turntables (record decks)". However, following a comment by a delegate, the Sub-Committee decided to use the term "platines tourne-disques" instead of "tourne-disques" in the French text of subheading 8519.60.
60. At the proposal of another delegate, the Sub-Committee agreed that two alternative texts for subheading 8519.7, namely "cassette-players" and "magnetic tape players", would be placed in square brackets.
61. However, the Sub-Committee wished it to be noted that all the texts it had provisionally approved remained subject to the decision to be taken by the HSC concerning the classification of MP3s.

62. New ideas were put forward during the discussion, including for example, a suggestion that separate status be given to "pocket-size" sound reproducing apparatus with a laser reading system (subheading 8519.5).
63. Finally, the Sub-Committee indicated that it would be willing to examine other suggestions provided that they were submitted in writing to the Secretariat in a timely fashion. The Sub-Committee decided that it would re-examine the entire question of the structured nomenclature of heading 85.19, including the Swiss proposal, after it had received the HSC's advice on the classification of MP3 players.
64. **The Committee is invited to take note of the discussions, including the classification question on the MP3 apparatus, which will be forwarded to the Committee for decision (see Agenda Item VIII. 21).**

Annexes C/13 and F/8 - Proposal by the US Administration to amend certain subheadings of heading 87.08

65. The Sub-Committee did not see any particular problem with using the present subheading number 8708.50 for the purpose of regrouping present subheadings 8708.50 and 8708.60 in HS 2007.
66. The Sub-Committee approved the Secretariat's version of the text after amending it to read : "[Drive-axles with differential, whether or not provided with other transmission components, and non-driving axles ; parts thereof]". In the French version, the words "et leurs parties" were replaced by "; leurs parties", for the sake of alignment on the English ("; parts thereof").
67. In the text of subheading 8708.30, the word ",and" after "servo-brakes" was replaced by a semi-colon, in order to make it quite clear that "parts thereof" applies not only to parts of servo-brakes, but also to parts of brakes.
68. With regard to proposed new subheading " 8708.40 – Gear boxes and parts thereof", the Sub-Committee recognized that classifying gear boxes and their parts together in subheading 8708.40 might cause a transfer of goods from subheading 8708.99 to subheading 8708.40. The Sub-Committee decided to place the words "and parts thereof" in square brackets in the text of new subheading 8708.40, to give administrations and the Secretariat an opportunity to study this matter during the intersession.
69. The word "organes" in the French text of subheading 8708.80 was replaced by "parties", in order to align the French version on the English.
70. The words "et leurs parties" at the end of the French text proposed for new subheading 8708.92 were replaced by "; leurs parties", again for the sake of alignment on the English ("; parts thereof").
71. Finally, in new subheading 8708.95 the Sub-Committee agreed to place in square brackets the words "safety" in the English version, and "de sécurité" in the French and to insert the expression "[with inflater system]" in square brackets.

72. **The Committee is invited to take note of the fact that this proposal will be rediscussed at the RSC's next session after administrations have had time to consider the texts placed in square brackets.**

Annexes C/14 - Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers

73. The Secretariat expressed concern that the Sub-Committee would not be able to complete its work on amendments to the Nomenclature for 2007 if it had to await the outcome of the reservations entered at HSC/27 on the classification of multifunctional digital copiers.

74. The Sub-Committee was informed of consultations currently taking place with the industry.

75. In the light of the various views expressed about the future classification of multifunctional digital copiers, the Secretariat was instructed to prepare its own proposal for the next session.

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

Annex D/1 - Possible amendment of heading 21.03 to include "salsa"

77. During the discussions, the Sub-Committee's attention was drawn to the fact that "salsa" is in fact the Spanish word for sauce, and that the use of the word "salsa" - not only in the Nomenclature but also in the Explanatory Notes - could cause great confusion, particularly as Spanish was an official working language of the WTO and of the WCO's Technical Committee on Rules of Origin.

78. The Sub-Committee agreed that there was no support for the Australian proposal and decided not to examine the matter further.

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

Annex D/2 - Study of possible amendments to the Nomenclature with regard to human body parts

80. The Sub-Committee decided to maintain the status quo with regard to human cadavers, and therefore agreed that no further measures should be taken in this respect.

81. Where human organs, tissues, stem cells, etc. were concerned, the Secretariat was invited to continue its study of possible amendments to heading 30.01, taking into account the comments made by delegates during the meeting.

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

Annexes D/3 and F/10 - Possible amendment of heading 85.28 to provide separately for satellite receivers (Proposal by the Egyptian Administration)

83. As delegates' views remained divided on this issue, the Sub-Committee agreed to place two alternative texts in square brackets and invite the Secretariat to investigate the characteristics of the apparatus referred to by the Japanese Administration, and its significance in international trade. Administrations were also invited to send the Secretariat their views on the matter, so that a new working document could be prepared for examination at the next meeting.

84. The proposals in square brackets are set out in Annex F/10 to Doc. NR0205E2.

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

Annex D/4 - Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)

86. Following a preliminary examination, the Sub-Committee agreed to look at this question again at its next session on the basis of more precise information and trade statistics relating to the articles concerned, which administrations were invited to submit.

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

Annex D/5 - Possible amendment of heading 21.06 to include "food supplements"

88. The Sub-Committee decided to re-examine this question at its next session in the light of a new working document which the Secretariat was invited to prepare, possibly with the participation of Contracting Parties, and which would include a proposed definition of "food supplements".

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

Annexes D/6 and F/9 - Possible amendment of subheading 8311.90 to delete the reference to parts (Proposal by the Egyptian Administration)

90. There were several interventions suggesting that parts of the articles of subheading 8311.90 were no longer manufactured.

91. The Sub-Committee, therefore, unanimously approved Egypt's proposal that the words "including parts" be deleted from the legal text of subheading 8311.90.

92. **The Committee is invited to provisionally adopt the text approved by the Sub-Committee.**

Annex D/7 - Possible amendments of the HS Nomenclature and the Explanatory Notes regarding silicones (Proposal by the US Administration)

93. Given the technical nature of the proposal, the Review Sub-Committee unanimously decided to refer this question to the Scientific Sub-Committee, which is to examine the proposed amendments and comment on whether they are technically correct and whether they would clarify the classification of silicone products.

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

Annexes D/8 and F/11 - Proposal by the US Administration to delete Note 6 to Chapter 85

95. The Sub-Committee unanimously decided to delete Note 6 to Chapter 85.

96. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee.**

Annex D/9 - Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys

97. The Sub-Committee noted that there was a consensus in favour of this proposal, but decided to examine it further at the next session on the basis of proposals which Contracting Parties were invited to transmit to the Secretariat.

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

Annexes D/10 and F/12 – Editorial Amendments to the English text of the Harmonized System

99. The Sub-Committee approved the texts prepared by the Secretariat, subject to the deletion of the comma after “i.e.” in the proposed amendment to Subheading Note 1 to Chapter 4.

100. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee.**

Annex E - Study of Note 5 to Chapter 84

101. The Sub-Committee informally examined the possible amendment of Note 5 to Chapter 84 and the associated headings. The following points were addressed during the exchange of views :

- i) possible deletion of the references to analogue and hybrid apparatus;
- ii) grouping “IT – related” goods together in a single Chapter;
- iii) the concept of being “freely programmable” and user-related requirements;
- iv) possible replacement of the words “performing arithmetical computations specified by the user”, in the last part of Note 5 (A) (a) to Chapter 84, by a reference to binary operations;
- v) possible deletion of the provisions for systems; and
- vi) step by step approach (i.e., discussions on separate headings or group of headings, rather than a comprehensive proposal dealing with all issues at the same time).

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