



HARMONIZED SYSTEM
COMMITTEE

-
28th Session
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NC0465E1

O. Eng.

Brussels, 10 September 2001.

GUIDELINES WITH REGARD TO THE POSSIBLE APPLICATION OF GIRs 3 (a) AND 3 (c)
IN THE CONTEXT OF THE CLASSIFICATION OF CERTAIN CHEMICAL PRODUCTS
(Item VII.4 on Agenda)

Reference documents :

NS0034E2, Annex A/7, paragraph 7 (SSC/16 – Report) NC0430E2, Annex E/2 (HSC/27 – Report)
NC0366E1 (HSC/27)

I. BACKGROUND

1. At its 27th Session, the Harmonized System Committee discussed the application of General Interpretative Rules 3 (a) and 3 (c) in the context of the classification of two chemical products, raised during the 16th Session of the Scientific Sub-Committee.
2. There was general agreement among the delegates that the issue should be discussed on the basis of specific products rather than on a general basis. The Committee, therefore, agreed to re-address the classification of the two products at issue at its next session, on the basis of full descriptions of the products.

II. SECRETARIAT COMMENTS

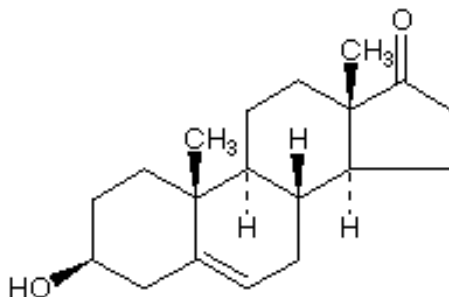
3. The Secretariat would like to recall first that the question at issue was raised with respect to the classification of two chemical products (i.e., Prasterone and Tibolone) in one of the subheadings of heading 29.37. Both products have oestrogen- and androgen-like functions, covered by subheadings 2937.23 and 2937.29, respectively. The relevant part of the structure of heading 29.37 (HS 2002) reads as follows :
 - Steroidal hormones, their derivatives and structural analogues :
 - 2937.21 -- Cortisone, hydrocortisone, prednisone (dehydrocortisone) and prednisolone (dehydrohydrocortisone)
 - 2937.22 -- Halogenated derivatives of corticosteroidal hormones
 - 2937.23 -- Oestrogens and progestogens
 - 2937.29 -- Other

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4. In the case at issue, the question is whether subheading 2937.23 is more specific than subheading 2937.29.
5. An excerpt of technical information on the above-mentioned products taken from the Merck Index, is set out below.

(i) Prasterone

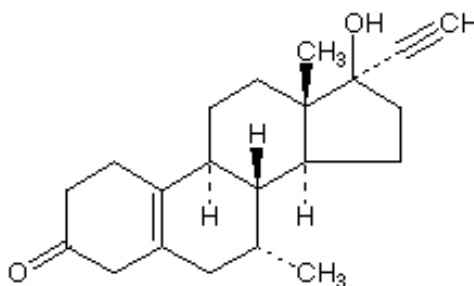
Structure :



(3 β)-3-Hydroxyandrost-5-en-17-one. Major secretory steroidal product of the adrenal gland; secretion progressively declines with ageing. Occurs in serum unconjugated or as the sulphate. May have oestrogen- or androgen-like effects depending on the hormonal milieu. Isolation from male urine. In treatment of menopausal syndrome.

(ii) Tibolone

Structure :



(7 a ,17 a)-17-Hydroxy-7-methyl-19-norpregn-5(10)-en-20-yn-3-one. Synthetic steroid with weak oestrogenic, androgenic and progestogenic activity. In treatment of menopausal syndrome.

6. The Secretariat would like to reiterate its observations and conclusions set out in paragraphs 4 to 7 of Doc. NC0366E1, which read as follows :
- “4. In the case at issue, the question is whether the subheading reading “Oestrogens and progestogens” (i.e., subheading 2937.92 (HS 1996) or 2937.23 (HS 2002), respectively) is more specific than subheading 2937.99 (HS 1996) or 2937.29 (HS 2002), which reads “Other”, and which would cover the androgen function of the hormones in question.

5. *Whenever the term “Other” is used in a subheading (either at the one-dash or at the two-dash level), it captures all products not referred to or included in any of the subheadings (at the same level) before. It also avoids a (long) listing of all the commodities thus covered, although the term (theoretically) could be replaced by a list mentioning all the products (or functions) covered.*
6. *In this context, the Secretariat would like to refer to the Explanatory Note to GIR 3 (a), Part (V), on page 4, which stipulates that : “when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description than the others. In such cases, the classification of the goods shall be determined by Rule 3 (b) or 3 (c)”. Although the products at issue are in fact not mixed or composite goods, as required by GIR 3 (a), the Secretariat can see a certain similarity in connection with their functions (i.e., a combination of the oestrogen and androgen functions).*
7. *That being the case and taking into account its observation in paragraph 5 above, the Secretariat considers that the term “Other” does not provide a more general description than a description given in another subheading at the same level (e.g., by mentioning one of the two (or more) functions of the commodity). Consequently, GIR 3 (a) would not apply, thus leaving the product to be classified in the subheading “Other” by application of GIR 3 (c).”*
7. At this point the Secretariat would like to stress that the sole reference to the application of GIR 2 (b) would not be sufficient to classify the products, since the purpose of this rule is to increase the scope of a (sub)heading. Classification of goods consisting of more than one material or substance shall be in accordance with GIR 3.
8. Once the Committee has decided on the classification rationales to be applied for products of heading 29.37 having two or more functions covered by two or more subheadings, the Secretariat would suggest inserting a Subheading Explanatory Note to subheadings 2937.21 to 2937.29 clarifying the scope of the various subheadings in respect of the products at issue.

III. CONCLUSION

9. The Committee is invited :
- (i) To decide on the classification of Prasterone and Tibolone at subheading level within heading 29.37, taking into account the Secretariat’s observations in paragraphs 3 to 8 above;
 - (ii) To indicate the specific classification rationale; and
 - (iii) To indicate what further action should be taken in this regard.
