



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
COMMITTEE

NC0713E1

-
31st Session

O. Fr.

Brussels, 26 March 2003.

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES
TO HEADINGS 61.01 AND 61.10 (PROPOSAL BY THE EC)

(Item IX.7 on Agenda)

I. BACKGROUND

1. On 5 March 2003, the Secretariat received a Note from the EC comprising comments on the validity of the present Explanatory Notes to headings 61.01 and 61.10. The Note is reproduced below.

II. NOTE FROM THE EC

2. "The EC wishes to ask the HS Committee to consider whether the Explanatory Notes to headings 61.01 (61.02) and 61.10 are inconsistent with the legal description of heading 61.10 of the Nomenclature annexed to the HS Convention.
3. Waistcoats are included without any qualification in the description of heading 61.10, and it could therefore be deduced, by direct application of General Rule 1 for the Interpretation of the Nomenclature that knitted or crocheted waistcoats fall under that heading. However, the last paragraph of the Explanatory Note for this heading states that "The heading also excludes padded waistcoats of heading 61.01 or 61.02." (French version : "sont également exclus les gilets matelassés des n°s 61.01 ou 61.02"). At the same time, the Explanatory Note to heading 61.01 states that the heading includes padded waistcoats. The Explanatory Note to heading 61.01 applies *mutatis mutandis* to articles of heading 61.02.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

File No. 2978

For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

4. One might deduce that these Explanatory Notes conflict with the legal description of the Nomenclature and incorrectly restrict the scope of heading 61.10 and broaden the scope of headings 61.01 and 61.02.
5. If the Committee concurs with this view, the parts of the Explanatory Notes found to be incorrect would be deleted. One might also consider drafting a note to heading 61.10 indicating that “padded waistcoats” are included under that heading and that heading only.
6. However, the Committee may consider that the “padded waistcoats” (“*gilets matelassés*”) to which the existing Explanatory Notes refer are not real waistcoats (“*gilets*”), nor the similar articles referred to in the description of heading 61.10, but rather articles similar to the anoraks, wind-cheaters and wind-jackets referred to in the descriptions of headings 61.01 and 61.02. The word “similar” appears in the description of all three headings.
7. In this connection we would point out that according to the study we have carried out, the French word “*gilets*” includes garments with and without sleeves, whereas the English word “waistcoats” refers only to garments without sleeves.
8. In any case, if the Committee accepts the second hypothesis, the existing Explanatory Notes would be entirely compatible with the present legal description of heading 61.10 and the Committee could simply confirm that the Explanatory Notes are appropriate and/or clarify them by adding a new sentence confirming the characteristics of “padded waistcoats” (“*gilets matelassés*”).
9. The EC would be grateful if the HS Committee would give its views on the issue we have been studying and state whether it considers the present Explanatory Notes, which exclude “padded waistcoats ... knitted or crocheted” (“*gilets matelassés en bonneterie*”) from heading 61.10 and classify them under headings 61.01 and 61.02, to be appropriate.”

III. SECRETARIAT COMMENTS

10. It has to be conceded that the padded waistcoats referred to by the EC in its comments are indeed more similar to the anoraks, wind-cheaters and wind-jackets of headings 61.01 and 61.02 than they are to actual waistcoats, which are classified in heading 61.10.
11. Moreover, as indicated by the EC in its Note (see paragraph 6 above), the term “similar” appears in the texts of the three headings concerned.
12. The Secretariat therefore takes the view that where classification is concerned, the exclusion for padded waistcoats in the Explanatory Note to heading 61.10, and their inclusion in heading 61.01 (or 61.02), appears to be fully justified.
13. Turning to the Nomenclature, the Secretariat wishes to point out that the French term “gilet” (“waistcoat”), used in association with another term – as in the expression “*gilets matelassés*” (“padded waistcoats”) – also appears in headings other than those

currently under consideration : for example, there are the “gilets de sauvetage” (“Life-jackets”) of subheading 6307.20 and the “gilets de corps” (“Singlets and other vests”) of headings 62.07 and 62.08, while “gilets tailleurs” (tailored waistcoats), not knitted or crocheted, separately presented, are cited in the Explanatory Note to heading 62.11 and “gilets spéciaux” (“Bullet-proof jackets”) are excluded from Chapter 93 (see the General Notes to that Chapter, exclusion (b) on page 1891 of the Explanatory Notes).

14. The Secretariat agrees with the **EC** that while the English term “waistcoat” appears to apply only to garments without sleeves, the French term “gilet” does indeed appear to cover, by extension, both garments without sleeves and garments with sleeves. However, this situation does not appear to pose any problems in respect of the Harmonized System classification of the articles at issue, given that they are not separately identified within the 4-digit headings of the HS structured nomenclature.
15. Coincidentally, the Secretariat has noticed that in the English text of heading 61.10, both in the Nomenclature and in the Explanatory Notes, the term “waistcoats” is shown hyphenated (“waist-coats”). It is proposed that this typing error be corrected by Corrigendum.

IV. CONCLUSION

16. The Committee is invited to rule on the advisability of amending the Nomenclature and the Explanatory Notes to headings 61.01 and 61.10, in the light of the comments by the **EC** and the Secretariat’s comments, set out in paragraphs 2 to 9, and 10 to 15 above, respectively.
-