



HARMONIZED SYSTEM
COMMITTEE

-
32nd Session
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(+ Annexes I and II)

O. Eng.

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POSSIBLE AMENDMENTS TO THE NOMENCLATURE WITH RESPECT TO CERTAIN
CATEGORIES OF WASTE (PROPOSAL BY THE BASEL CONVENTION SECRETARIAT)

(Item VII.7 on Agenda)

I. BACKGROUND

1. On 30 July 2003, the WCO Secretariat received a Note from the Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal regarding possible amendments to the Nomenclature with a view to identifying certain categories of hazardous wastes in the Harmonized System. The Secretariat of the Basel Convention had asked the matter to be submitted for the consideration by the HS Review Sub-Committee during its 28th Session in September 2003. The note is reproduced in Annex I to this document. For ease of reference, the Secretariat has numbered the paragraphs of the text.
2. In its reply, the WCO Secretariat explained that given the late arrival of their submission and the time-frame set for any new proposal during this review cycle, it would not be possible to prepare a working document and to present a concrete proposal on this matter to the 28th Session of the Review Sub-Committee. However, given the importance of the issue, the WCO Secretariat indicated that it was prepared to draft a working document for the consideration by the next session of the HS Committee in November 2003, in co-operation and with the assistance of the Secretariat of the Basel Convention.
3. To do so, the Secretariat of the Basel Convention was asked to provide more information regarding trade data on the commodities concerned as well as a full description of the commodities, their nature and their possible features which would enable Customs to distinguish them technically from the other goods falling in the same headings/subheadings, as the case may be. In addition, the Secretariat of the Basel Convention was asked to illustrate each individual category of waste with some concrete examples of actual products and to provide suggestions regarding their current Customs classification, if possible.

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4. On 27 August 2003, the WCO Secretariat received another letter from the Secretariat of the Basel Convention setting out three proposals from the Parties to the Basel Convention and non-governmental organisations (NGO), regarding the following waste streams :
 - (a) Waste personal computers, including associated hardware, electronic equipment and waste cellular telephones;
 - (b) Coal-fired power plant fly ash;
 - (c) Waste from the production, formulation and use of inks, dyes, paints, lacquers and varnishes.
5. The Secretariat of the Basel Convention had asked that the three proposals be submitted to the 28th Session of the Review Sub-Committee for consideration. However, due to their late arrival, the submissions could not be placed on the agenda of that session and were distributed to delegates during the meeting as a non-paper (in English only).
6. The three respective proposals are set out in Annex II to this document. For ease of reference, the Secretariat has numbered the paragraphs in the text.

II. SECRETARIAT COMMENTS

7. The Secretariat of the Basel Convention has put forward three proposals for the separate identification of the following categories of wastes subject to control under the Basel Convention :
 - (a) waste personal computers, waste electronic equipment with printed circuits and waste cellular telephones, no longer suitable for their original intended purpose;
 - (b) ash from the combustion of coal and oil in power generation plants; and
 - (c) waste of inks, dyes, paints and laquers.
8. The Secretariat would first like to point out that the proposals were received after the cut-off date for the Third HS Review Cycle, set by the Review Sub-Committee at its 27th Session (March/April 2003) as 30 June 2003. However, taking into account the importance and environmental concerns of the issue, it leaves it to the Committee to decide whether or not the three proposals submitted by the Secretariat of the Basel Convention should be taken up during this Review Cycle.
9. In the Secretariat's view, the commodities at issue first need to be identified in the current version of the Nomenclature. Taking into account the character of the commodities and assuming that the issue will be taken up during the current Review Cycle, the identification in the HS 2007 Nomenclature of the goods mentioned in paragraph 7 (a) above should take into account the outcome of the discussions regarding possible amendments to Chapters 84 and 85.
10. The identification of the commodities referred to in paragraphs 7 (b) and (c) above may involve some technical and scientific aspects and the Committee may wish to submit these issues to the Scientific Sub-Committee for examination.

11. IF that is the case, the Committee should indicate whether the Scientific Sub-Committee should address the classification issues only or, due to the limited time available, should also be asked to consider possible amendments to the Nomenclature, to be drafted in the first instance by the Secretariat.
12. Depending on whether the Committee agrees to proceed with the examination of the proposed amendments during this Review Cycle, the matter could be taken up by the Scientific Sub-Committee in January 2004 and by the Review Sub-Committee in Spring 2004.
13. With respect to the possible headings involved and on the basis of the information available, it appears that ash from the combustion of coal and oil in power generation plants is classifiable in heading 26.21 (current subheading 2621.90). However, with regard to the separate identification of waste of inks, dyes, paints and lacquers in heading 38.25, more detailed information might be necessary.
14. Heading 38.25 covers residual products of the chemical and allied industries and certain specific categories of waste. The introduction of a new specific category of waste at subheading level would require that a clear distinction be established between the new category and the existing ones. In the case of waste of inks, dyes, paints and lacquers, there may be an overlap with waste organic solvents as well as other waste of the chemical and allied industries, whether or not containing organic constituents. Consequently, certain guidance/criteria on how to distinguish between the categories of wastes mentioned above would be necessary to establish priorities for classification at subheading level. The Secretariat of the Basel Convention may wish to provide more information in this regard to the Committee.

III. CONCLUSION

15. The Committee is invited to consider whether or not the proposals submitted by the Secretariat of the Basel Convention should be dealt with during the current Review Cycle and, if so, to decide what further action should be taken with regard to these proposals, taking into account the Secretariat's comments above.

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ANNEX I

Letter from the Secretariat of the Basel Convention

1. I refer to the outcome of the first meeting of the Open-ended Working Group (OEWG) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 28 April to 2 May 2003, which, among others, requested the Parties to submit through the secretariat, proposals for the separate identification of hazardous wastes within the Harmonized System by the end of June 2003 for submission to the World Customs Organization.
2. In relation to the above, please find attached proposals that were received from two Parties and a non-governmental organisation (NGO) for consideration by the next meeting of the HS Review Sub-Committee in September 2003. According to the proponents of these amendments for the inclusion in the Harmonized System codes, the list of wastes satisfy the following criteria :
 - (a) The wastes present potential environmental and/or health problems because of their hazardous characteristics;
 - (b) The wastes are subject to control under the Basel Convention; and
 - (c) The wastes are not classified in the Harmonized System codes; and
 - (d) The wastes are traded and moved across borders in large quantities.
3. In the view of the above, I would be grateful for your advice on how best to proceed, in particular, regarding the preparation, as appropriate, of specific formal proposals to the HS Committee taking into account the time frame for submitting such proposals.

Proposals from the Basel Convention for amendments to the Harmonized Commodity Description and Coding System

4. New sub-section in Chapter 85 of the HS codes
 - (a) Waste personal computer, including peripherals, etc.
 - (b) Waste cellular phones.
5. Heading 38.25. This [sub-]heading should not include hazardous wastes that may have further uses (*The square bracket added by the WCO Secretariat*).
6. New sub-heading for the following wastes :

Basel Codex (Annex VIII)

A1010 – Metal wastes and waste consisting of alloys of the following : antimony, arsenic, beryllium. Cadmium, lead, mercury, selenium, tellurium and thallium;

A2060 – Coal-fired power plant fly ash containing Annex I substances in concentration sufficient to exhibit Annex III characteristics;

A4070 – Waste from production, formulation and use of inks, dyes, pigments, paints, laquers, varnish, excluded any such waste specified on List B.

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ANNEX II

Proposals from Parties to the Basel Convention for the separate identification of certain hazardous wastes in the Harmonized Commodity Description and Coding System

Introduction

1. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted by the plenipotentiaries in Basel in 1989, was developed under the auspices of the United Nations Environment Programme. The Convention entered into force in 1992. As of June 2003, 158 countries and the European Community are Parties to the Convention. In collaboration with the Harmonized System Committee of the World Customs Organization, the Basel Convention is mandated to seek, where necessary, the inclusion of new headings or sub-headings for hazardous waste materials in the Harmonised System Nomenclature with the purpose of enhancing national and international border control over such materials.
2. The first meeting of the Open-ended Working Group (OEWG) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 28 April to 2 May 2003, which among others, requested the Parties to submit through the Secretariat of the Basel Convention, proposals for the separate identification of hazardous wastes within the Harmonised System by the end of June 2003 for submission to the World Customs Organization. Consequently, it is requested that the Harmonised System Sub-Committee considers the following proposals with a view to recommend their adoption by the Harmonised System Committee.

Proposal 1

Waste personal computers including associated hardware, electronic equipment and waste cellular telephones

3. Personal computers, electronic equipment and cellular telephones have a finite life. Principally, either they fail to continue to operate and are uneconomic to repair, or they are superseded by more technically advanced models. Consequently, for whatever reason, at the end of their useful life they are discarded as waste. There has evolved a significant international trade in such goods either for refurbishment or for the recovery of values from components they contain, including precious metals.
4. While personal computers, electronic equipment and cellular telephones, per se, are inherently safe; nevertheless, when dismantled they can expose materials including cadmium, lead, lithium, nickel, and certain organic compounds, which are hazardous to human health and the environment.

Position in the Harmonized System

5. Apart from their physical size, there is no significant difference between personal computers, electronic equipment and cellular telephones in their makeup.
6. In the Harmonized System, because of their individual functions, personal computers are included in Chapter 84 under heading 84.71 (HS code 8471.30), electronic equipment, depending on its function, appears principally in Chapters 84 and 85 and cellular telephones are included in Chapter 85 under heading 85.25 (HS code 8525.20). It is requested that the distinction is maintained for wastes of these goods.

7. **HS code 8471.95 "Waste personal computers no longer suitable for their original intended purpose"** is suggested as a suitable entry for such equipment.

8. It is suggested that a Chapter Note stating that the entry does not include "Individual components or parts segregated from the waste such as batteries, keyboards, plastic cases, LCD screens, etc., which fall to their appropriate headings elsewhere in the Nomenclature" would be appropriate.

HS code 8534.10 "Waste electronic equipment containing printed circuits no longer suitable for their original intended purpose".

9. Similarly, a Chapter Note stating that "Waste electronic equipment can consist a variety of components and materials such as metal, plastics, transformers, printed circuit boards, LCD screens, etc., which when segregated from the waste will fall to their appropriate headings elsewhere in the Nomenclature" would be appropriate.

10. Likewise, **HS code 8525.90 "Waste cellular telephones no longer suitable for their original intended purpose"** is suggested as a suitable entry with a similar Chapter Note to that given above but referring to plastics, printed circuit boards, LCD screens and batteries only.

Proposal 2

Coal-fired power plant fly ash

11. The burning of coal in electricity generating power stations produces an inorganic waste ash by-product variously known as fly ash, pulverised fuel ash (PFA), coal combustion by-products (CCBs), coal fly ash. At the same time, boiler slag and bottom ash, which are heavier and more coarse coal combustion by-products are produced. Worldwide, the production of fly ash for the year 2000 was approaching 200 million tons. This comprised some 57 million tons in the USA, 10 million tons in the UK, 8 million tons in Australia, 37 thousand tonnes in Europe (ACCA and ECOBA)¹ and 90 million tons in India (TERI).²

12. The presence of concentrations of mineral and toxic metal impurities in the ash, as produced, derived from their presence in the original coal, means that the ash is regarded as a hazardous waste. This is further compounded by minerals and toxic metals concentrated in the ash from the combustion of oil where both coal and oil are used for electricity production. Usually the same off-gas clean-up plant serves both types of furnace. In many instances the fly ash is lagooned and can contaminate ground water, otherwise it is landfilled. The pozzolanic properties of fly ash can be utilised as a constituent in the manufacture of lightweight building blocks, stabilising embankments and road construction. Building blocks are already included in Chapter 68 of the Harmonized System in HS code 6810.11.

Position in the Harmonized System

13. Fly ash can be regarded as already being included in the Harmonised System as a general entry under "other slag and ash" in heading 26.21 (HS code 2621.90). Because fly ash is regarded internationally as a hazardous waste, which is traded internationally in significant quantities, principally for disposal or use in the construction industry, it is requested that it should be included in the Harmonized System as a separate entry.

¹ ACAA = American Coal Ash Association

ECOBA = European Association for Use of By-Products of Coal Fired Power Stations

² TERI = The Energy and Resource Institute, India

14. It is suggested that **HS code 2621.20 “Ash from the combustion of coal and oil in power generation plants”** could be a suitable form of entry.
15. A Chapter Note or Explanatory Note stating that the product includes:
 - (a) **Fly Ash – finely divided particles entrained in flue gases and removed from the gas stream by bag or electrostatic filters;**
 - (b) **Bottom Ash – more coarse ash removed from the gas stream immediately after leaving the furnace;**
 - (c) **Boiler Slag – coarse residues removed from the bottom of the furnace.**

Proposal 3

Waste from the production, formulation and use of inks, dyes, paints, lacquers and varnishes

16. There is a need to be able to identify these wastes. They comprise a miscellany of mixtures of individual materials some of which are harmful to man and the environment. For example, depending on their application they can contain chromium, copper, lead, mercury and zinc as well as pesticides, fungicides, antifouling agents and the like. Also included is, for example, lead based paint waste chippings arising from the refurbishment of ships hulls.

Position in the Harmonized System

17. The products appear under various headings in Chapter 32. Constituents of the waste appear in the Harmonized System at a variety of locations. For example, certain mineral products from Chapter 25, oils and solvents from Chapter 27, inorganic chemicals from Chapter 28, organic chemicals from Chapter 29, a range of products from Chapters 32 and 38 and certain plastics in primary form from Chapter 39. At the present time the wastes would be regarded as being contained within heading 38.25 as “other wastes from chemical or allied industries” (HS code 3825.61 “Mainly containing organic constituents” or HS code 3825.69 “Other”).
18. In order that these wastes can be identified separately, it is suggested that an appropriate position for them could be as:

HS code 3825.60 “Waste of inks, dyes, paints and lacquers”.
19. This would require an addition to Chapter Note 6. A suggested form of words could be :

“(d) Waste of inks, dyes, paints, lacquers and varnishes;”

Existing (d) could then become (e).
20. In heading 38.25 “Other wastes from chemical or allied industries” could become HS codes 3825.71 and 3825.79, respectively.