



HARMONIZED SYSTEM
COMMITTEE
-
25th Session
-

NC0180E1
(+ Annex)
O. Eng.

Brussels, 25 February 2000.

DRAFT RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL
ON THE INSERTION IN NATIONAL STATISTICAL NOMENCLATURES
OF SUBHEADINGS TO FACILITATE THE MONITORING AND CONTROL OF PRODUCTS
SPECIFIED IN THE DRAFT PROTOCOL CONCERNING FIREARMS COVERED BY
THE UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

(Item IV.2 on Agenda)

Reference documents :

NC0138E2 (HSC/24)
NC0149E1 (HSC/24)
NC0160E2, Annex D/2 (HSC/24 – Report)

I. BACKGROUND

1. At its 24th Session, the Committee considered a possible draft Recommendation on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the draft protocol concerning firearms covered by the UN Convention against transnational organized crime.
2. The Chairman concluded that the Committee had not yet received an official request from the UN in this regard. He urged delegations to address the questions raised by the Secretariat during the intersession, with a view to preparing a possible Council Recommendation to be presented to the Council in July 2000.

II. SECRETARIAT COMMENTS

3. During the intersession, the Secretariat contacted the Office for Drug Control and Crime Prevention of the UN in Vienna, inviting that office to submit a formal request to the HS Committee that a WCO Council Recommendation should be created to facilitate the monitoring and the control of firearms. The Secretariat had, however, not yet received such a request at the time of preparing this document.

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4. On 20 January, the Secretariat received a Note from the Canadian Administration, addressing the issues raised by the Secretariat in Doc. NC0149E1 (HSC/24). This Note is reproduced in the Annex to this document.
5. At the 19th Session of the Enforcement Committee (February 2000), the Canadian Delegate, being the Chairman of the Informal Working Group on the Firearms Protocol, gave a brief progress report on the work done so far by that group. He concluded that it would be premature to submit draft recommendations to the Permanent Technical Committee in March 2000, given the pace of negotiations in the various UN groups and the deadline set by the UN to have the Protocol completed (i.e., the end of 2000).
6. Given the reported progress at the UN in developing the Firearms Protocol, the Secretariat considers that the Council Sessions in 2001 would be the best opportunity to have a draft Recommendation presented for formal adoption. It has, therefore, refrained from commenting on the Canadian submission as reproduced in the Annex to this document for the time being. If the Committee agrees, the Secretariat will prepare a further working document for the next session, including an amended version of the draft Recommendation, taking into account the comments received.

III. CONCLUSION

7. The Committee is invited to take account of the Secretariat's observations in paragraphs 3 to 6 above, when examining this agenda item.

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Note from the Canadian Administration

Our administration would like to address the Secretariat's observations raised in paragraphs 3 to 8 of document NC0149E1. These observations serve to improve the text of a suggested Council Recommendation on the insertion, in national statistical nomenclatures, of subheadings to facilitate the monitoring and control of certain weapons and their parts specified in the Firearms Protocol. This Protocol is to be part of the United Nations Convention against Transnational Organized Crime (TOC Convention).

In this regard, the Secretariat has raised a number of points and we welcome the opportunity to offer our comments on the aforementioned paragraphs as follows:

DOCUMENT NC0149E1 :

PARAGRAPH 3

Understandably, there is a limitation to the number of subheadings that are possible and that can be managed effectively. To this end, we suggest reducing the number and regrouping the items enumerated in subheadings 9305.10, 9305.29 and 9305.90 (Annex to document NC0149E1) as follows:

9305.10 - Of revolvers or pistols

- - - firing mechanisms**
- - - barrels, barrel extensions and sights (front & back sights)
- - - pistons, locking lugs and gas buffers
- - - magazines
- - - silencers (sound moderators)
- - - frames, butts, grips, and plates
- - - slides (for pistols)
- - - cylinders (for revolvers)
- - - other

9305.29 - - Other

- - - firing mechanisms**
- - - rifle barrels, barrel extensions, sights (front & back sights) and stocks
- - - pistons, locking lugs and gas buffers
- - - magazines
- - - silencers (sound moderators) and flash eliminators
- - - receivers, breeches, bolts (gunlocks) and bolt carriers
- - - slings and tripods/bipods
- - - other

9305.90 - Other

- - - of rifles, machine guns, sub-machine guns, and shotguns of heading 93.01
- - - - firing mechanisms***
- - - - barrels, barrel extensions, sights (front & back sights) and stocks
- - - - pistons, locking lugs and gas buffers
- - - - magazines
- - - - silencers (sound moderators) and flash eliminators

- - - receivers, breeches, bolts (gunlocks) and bolt carriers
- - - slings and tripods/bipods
- - - other

- - parts and accessories of other articles of headings 93.01, 93.03 and 93.04.

This reorganization remains an effective enumeration for a more detailed firearms nomenclature that would serve to monitor and control the international trade in these strategic goods.

PARAGRAPH 4

First, in paragraph 4 of document NC0149E1, the Secretariat raises a classification issue that needs to be addressed; the classification of *fully automatic sporting rifles*. It is the opinion of the Canadian Administration that the use of the term *fully automatic sporting rifle* is a misnomer and that fully automatic weapons are in reality military weapons, and not for private persons. Indeed, the laws of Canada prohibit a private person from owning a fully automatic (continuous-fire) weapon.

While we can understand the Secretariat's view that fully automatic sporting rifles may be classified in heading 93.03, in our view, the terms "**continuous-fire**" and "**fully automatic**" are synonymous. Therefore, *fully automatic sporting rifles* seem to be more appropriately classified in heading 93.01 as military weapons.

Our rationale for placing *fully automatic sporting rifles* (military weapons) in heading 93.01 appears to be supported by the Explanatory Notes to heading 93.01 and 93.03:

93.01

" The heading includes:

- (2) **Arms** capable of continuous and very rapid fire; some are suitable for handling by one man.

This group includes machine-guns, sub-machine guns (machine-pistols) *and other continuous-fire weapons.*" (emphasis added).

93.03

" The heading includes:

- (1) Sporting, hunting and target shooting guns, rifles and carbines of all calibres, smooth-bored or rifled...

These guns may fire only one round at a time and be required to be reloaded manually after each shot, or they may be fitted with a magazine and capable of repetition firing, or they may have a mechanism for *rapid semi-automatic fire.*" (emphasis added)

The Explanatory Notes to heading 93.03 appear somewhat restrictive; while allowing for repetition fire or semi-automatic firing weapons, they are silent on continuous-fire weapons. On the other hand, the Explanatory Notes to heading 93.01 specifically allow for very rapid fire (semi-automatic) and continuous-fire weapons (fully automatic).

One way to clearly distinguish between these two headings is whether or not the weapon is fully automatic. If fully automatic weapons are considered *prima facie* military weapons, then perhaps fully automatic “sporting rifles” should be classified in heading 93.01.

Second, in view of our position and the potential for confusion, we can agree to eliminate the reference to *fully automatic sporting rifles* from the proposed footnote to subheading 9301.00.

PARAGRAPH 5

With respect to the first point raised by the Secretariat, as Canada proposes to drop the term *automatic sporting rifles* from the footnote to subheading 9301.00, the alignment of this term with the French no longer poses a problem. To address the Secretariat’s point on the alignment of the English and French terms for shotgun and rifle, it is indeed preferable to align this proposal on the present HS nomenclature as follows:

Shotguns	Fusils et carabines comportant au moins un canon lisse
Rifles	Fusils et carabines

PARAGRAPH 6

(i) Heading 93.02 : We agree with the Secretariat that another sub-category is necessary to clarify whether the sub-category “multi barrel” includes the sub-categories “single shot” and “semi-automatic”. To accomplish this we need to amend the proposed text as follows:

Subheading 9302.00 of the Harmonized System

- - - Pistols, single barrel
 - - - - Single-shot
 - - - - Semi-automatic
 - - - - Other
- - - Pistols, multiple barrel
 - - - - Single-shot
 - - - - Semi-automatic
 - - - - Other

(ii) To address the possible overlap between the sub-category “multiple barrel” and “combination guns” in subheading 9303.20, we include the term “combination guns” with the proposed breakout for multiple barrel as follows:

Subheading 9303.20 of the Harmonized System

- - - shotguns, single barrel
 - - - - pump-action
 - - - - single-shot bolt action
 - - - - single-shot break action
 - - - - other bolt-action
 - - - - semi-automatic

- - - - other

- - - shotguns, multiple barrel including combination guns

- - - - break action

- - - - other

(iii) Subheading 9303.20 no longer poses the difficulties regarding the subheadings “multi barrel shotguns” and “combination guns”. To clarify subheading 9303.30 we can agree to remove the subcategory “multiple barrel”.

PARAGRAPH 7.

We agree with the Secretariat that it is not necessary to repeat the term “shotguns” and “rifles”, and their French equivalents in our proposed breakouts for 9302.20 and 9302.30; we need only to refer to the types of action.

PARAGRAPH 8.

We can also agree with the Secretariat’s proposal to replace “bolts” by “bolts (gunlocks)”.

We recognize that this enumeration of certain firearms and their parts is a starting point for discussions and we welcome the assistance of other administrations in creating an effective nomenclature that facilitates the monitoring of certain weapons and their parts.
