



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
26th Session
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NR0309E1
(+ Annex)

O. Eng.

Brussels, 1 August 2002.

COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES

TO HEADINGS 90.01 TO 90.10

(Item III.C.18 on Agenda)

I. BACKGROUND

1. At its 23rd Session (March 2001), the Review Sub-Committee discussed the issue of the comprehensive review of the HS Explanatory Notes, taking into account the points raised by the Secretariat in Doc. NR0150E1, in particular the scope of the updating of the existing Explanatory Notes, by :
 - Deleting references to obsolete products and technology,
 - Substituting references to current products and technology,
 - Restructuring the Notes to make them easier to understand, and
 - Supplementing the Notes to make them more complete.
2. In accordance with these discussions, amendments to the Explanatory Notes to headings 90.01 to 90.10 have been prepared as a joint proposal from the Secretariat and an officer of the Australian Administration.
3. The Australian “Explanatory Memorandum” and the Secretariat’s own observations (in bold) are reproduced below.

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

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II. SECRETARIAT COMMENTS

4. The proposed amendments are set out in the Annex to this document. In this context, the Secretariat would like to clarify that only those parts of the Explanatory Notes have been reproduced which are affected by the amendments. Proposed deletions are indicated by “strikethrough” text, whereas new texts are indicated by underlining.

Explanatory comments for each heading

Heading 90.01

5. A new paragraph was added after part (D) to provide a definition of “optical element”. The reference source was an Australian classification ruling.
6. At new item (10) a further example was included of the type of traded goods to fall in this heading. These articles meet the definition of optical elements and are classified in heading 90.01 by application of General Interpretative Rule (GIR) 1. The reference source was an Australian classification ruling.

Heading 90.04

7. Under “PARTS” a reference is made to “optical elements”, an addition was made referring the reader to the definition in the Explanatory Note to heading 90.01.

Heading 90.05

8. “Cardboard box shaped binoculars” was added to item (1) as another type of traded binoculars that would fall to the heading. These binoculars do not have the same quality standards as other binoculars that are more durable, but nevertheless they are binoculars and are classified in heading 90.05 by Application of GIR 1. The reference source was an Australian classification ruling.
9. The paragraph after item (13) was amended to include telescopes etc. that utilise light amplifiers. These are similar in principle to those that utilise infra-red already mentioned in the paragraph. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
10. “Door eyes” were added at new exclusion (d) as these are mentioned in the Explanatory Note to heading 90.13.

Heading 90.06

11. The first paragraph under part (I) was amended to include a definition of photographic cameras. The source document was Harmonized System Review Sub-Committee Doc. NR0199E1.
12. A new paragraph was added after (D) to include features commonly found on some of the cameras mentioned at (A) to (D).
13. Item (4) was amended by the addition of a sentence directing that coin-, token-, etc. operated cabinet type instant print cameras are classified in this heading and not in heading 84.76. This is by application of Note 1 (m) to Section XVI.

14. A sentence briefly explaining the operation of extreme wide-angle cameras was added to item (5). The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
15. New item (6) was added as these disposable cameras are widely traded.
16. View cameras were added at new item (7) as a further example. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
17. New item (8), formerly item (6), was amended to expand on the explanation of underwater cameras. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
18. New item (13), formerly item (11), was amended to direct that video cameras are excluded, **and classifiable in heading 85.25**.
19. New item (14), formerly item (12), was amended for clarification purposes. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
20. New items (15) and (16) were added as such cameras would fall to the heading provided they met the new definition at the opening paragraph to the Explanatory Note. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
21. New item (19), formerly item (15), was amended at (iv) by the deletion of the last two sentences. The technology is obsolete, **although item (15) (iv) was introduced in the year 2000, following the HSC's decision on the classification of the "FIRE 9000" and "FIRE 1000" apparatus in heading 90.06 (Doc. NC0250B2, Annex P/21 – HSC/25 Report)**.
22. The paragraph "PARTS AND ACCESSORIES" was amended by the addition of "film motor drive boosters" which are a common accessory, and "specialised stands or bases for forensic photography". These are articles that enhance the use of the photographic apparatus for which they are suitable for use solely with. Classification in heading 90.06 is by application of GIR 1 and Note 2 (b) to Chapter 90. The reference source for the specialised stands or bases for forensic photography was an Australian classification ruling. **The Secretariat is, however, not sure about the exact nature of "film motor drive boosters", and, consequently, their classification, taking into account that parts and accessories which in themselves constitute articles falling in any particular heading of Chapters 84, 85, 90 or 91, are excluded from being classified as parts or accessories by virtue of Note 2 (a) to Chapter 90. It has, therefore, placed the reference to "film motor drive boosters" in square brackets, pending further clarification.**
23. New exclusions at (b) and (c) are digital cameras and digital camera backs. Digital camera backs replace the film holder in photographic cameras and essentially convert a photographic camera to a digital camera. Digital camera backs incorporate a charge-coupled device and film is not used to capture an image. As they do not use film they do not fall within the new definition of photographic cameras included in the opening paragraph of the amended Explanatory Note. The Australian Administration's view is that digital camera backs are seen as a part of a digital camera. They are classified in heading 85.29 by Application of GIR 1 and Note 2 (b) to Section XVI.

Heading 90.07

24. Part (C) was amended by changing words in the second last sentence of the first paragraph to reflect the fact that not all projectors are equipped with a device to rewind the film. A sentence at the end of the first paragraph was added as some projectors are equipped with a water cooling system. This was amended on advice from industry.
25. The third and fourth paragraphs of part (C) were amended to explain the latest types of cinematographic sound reproduction technology, on the advice of industry.
26. The paragraph "PARTS AND ACCESSORIES" was amended to include multi-storey film cycling spools, which are designed for use solely with projectors of this heading and are classified in heading 90.07 by application of GIR 1 and Note 2 (b) to Chapter 90. The reference source was an **Australian** classification ruling.
27. The exclusions were amended at new (f) and (g). Video projectors are classified to heading 85.28 as they do not operate by cinematography and are specifically mentioned in the terms of heading 85.28. The reference source was an **Australian** classification ruling. Apparatus for cinematographic laboratories are classified in heading 90.10 by the terms of that heading.

Heading 90.08

28. The fifth paragraph of part (A) was amended by the addition of "slide projectors used for pointing an image onto an embroidery frame". These are another example of the type of slide projectors that would fall in this heading. These are classified in heading 90.08 by application of GIR 1. The reference source was an **Australian** classification ruling.
29. A reference to "Microfilm or microfiche feeders" was added to the paragraph "PARTS AND ACCESSORIES", as these devices are designed for use solely with the apparatus for which they are intended and are classified in heading 90.08 by application of GIR 1 and Note 2 (b) to Chapter 90. The reference source was an **Australian** classification ruling.
30. New exclusion (b) was added in the exclusion paragraph. The reference to projectors, etc., for automatic data processing (ADP) machines was based on Classification Opinion 8471.60/1; such apparatus for video are specifically mentioned in the terms of heading 85.28.
31. The devices at new exclusion (ij) are identified as special effects lighting apparatus. They are not image projectors and are classified in heading 94.05 by application of GIR 1. The reference source was an **Australian** classification ruling. **If the Sub-Committee agrees, it is suggested to incorporate a positive reference to this apparatus in the Explanatory Note to heading 94.05.**

Heading 90.09

32. The third paragraph of part (A) (1) was amended by the addition of "photoreceptor, being a" to include the correct terminology for the coated drum. The reference source was a document from the **Japanese** Administration titled : "Classification of Digital Multifunction Machines".

33. The paragraph "PARTS AND ACCESSORIES" was amended by the addition of "guide rollers, staplers, automatic paper feeders, etc." These devices are designed to be fitted to the photocopier and depending on the characteristics of the specific model of photocopier would be either a part or an accessory. For example, heading 84.72 would be a consideration for the classification of staplers vide Note 2 (a) to Chapter 90, however the 1996 Explanatory Notes state that the machines of that heading must have a base for fixing or placing the machine on a table or desk. Staplers designed for fitting to a photocopier do not have such a base, therefore they do not fall in heading 84.72. The staplers are suitable for use solely with photocopiers and would be classified in heading 90.09 under GIR 1 by application of Note 2 (b) to Chapter 90. **The Secretariat has replaced the wording "designed to be fitted to", as suggested by the author, by the expression "suitable for use solely or principally with", to align the text on Note 2 (b) to Chapter 90.**
34. Automatic paper feeders are devices that feed blank sheets of paper into a photocopier by means of rollers. Heading 84.28 would be a consideration for the classification of these devices vide Notes 1 (g) and 2 (a) to Chapter 90.
35. The Macquarie Dictionary gives the meaning of the word "handling" as follows : "3. the process of packing, moving, carrying or transporting something." The same dictionary gives the meaning of the word "feeder" as follows : "3. a person or device that feeds a machine, printing press, etc."
36. The New Oxford Dictionary of English gives the meaning of the word "feeder" as follows : "3 a person or thing that supplies something, in particular : a device supplying material to a machine : *the automatic sheet feeder holds up to 10 sheets of paper*".
37. These dictionary meanings indicate that "handling" is a function that is distinct from that of a "feeder". An automatic paper feeder performs the function of a feeder as it supplies paper to a photocopier. Although the sheets of paper move when being fed into the photocopier it is a different function to that of handling machinery. The automatic paper feeder therefore does not meet the terms of heading 84.28 and Notes 1 (g) and 2 (a) to Chapter 90 do not apply. The feeders are suitable for use solely with photocopiers and would be classified to heading 90.09 under GIR 1 by application of Note 2 (b) to Chapter 90. **Moreover, they are specifically mentioned in subheading 9009.92.**
38. New exclusion (a) was added based on the classification issue before the Harmonized System Committee.

Heading 90.10

39. New part (A) was added to cover automatic machines mentioned in subheading 9010.10.

III. CONCLUSION

40. The Sub-Committee is invited to examine the draft amendments to the Explanatory Notes to headings 90.01 to 90.10, as set out in the Annex to this document.

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