



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

-  
26<sup>th</sup> Session  
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NR0324E1  
(+ Annexes I to III)

O. Eng.

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POSSIBLE AMENDMENTS TO THE LEGAL TEXTS AND THE EXPLANATORY NOTES  
TO CORRECT CERTAIN TEXTS AND TO ALIGN THE ENGLISH AND  
FRENCH VERSIONS (PROPOSAL BY THE SECRETARIAT)

(Item III.B.6 on Agenda)

Reference document :

NR0265E3, Annexes C/9 and F/5 (RSC/25 – Report)

I. BACKGROUND

1. Following the examination of a proposal to amend subheading 8519.10 (Doc. NR0265E3, Annexes C/9 and F/5), the Secretariat has reviewed the legal texts and the Explanatory Notes vis-à-vis the use of the expression “other similar” (in French : “autres [. . .] similaires” or “autres [. . .] analogues”), as suggested in the new wording of subheading 8519.10 set out in Annex F/5.
2. It has also reviewed the presentation of Section, Chapter and Subheading Notes with respect to the use of uppercase or lower case when identifying a paragraph or a sub-paragraph.

II. SECRETARIAT COMMENTS

“Other similar”

3. The attributive adjunct “other similar” (French : “autres [. . .] similaires”) is used in two places in the Nomenclature, i.e., in heading 44.08 and in subheading 9504.30. The combination of the two adjectives in one and the same expression is in the view of the Secretariat incorrect, since the word “similar” implies that the article or commodity at issue is of the same kind or appearance, without being identical as the listed commodity or commodities, whereas the word “other” is described as “used to refer to a person or thing that is different from one already mentioned or known” (*Concise Oxford Dictionary*). From this description, it appears that the combination of the two words could even be considered

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as contradicting, since a commodity which is “other” (= different) cannot be at the same time “similar”.

4. The same expression (i.e., “other similar”) is found in a number of places in the Explanatory Notes, although the relevant legal texts may refer to “similar articles”, rather than to “other similar articles”. In addition, the French version may also use the term “analogue” in stead of the word “similaire”.
5. The Secretariat suggests replacing the expression “other similar” (French : “autres [. . .] similaires”) by “similar” (French : “similaire(s)”) in the texts of heading 44.08 and of subheading 9504.30, and in the relevant Explanatory Notes. To that effect, the Secretariat has prepared draft amendments of the legal texts and of the relevant Explanatory Notes, which are set out in Annex I to this document.
6. With respect to the use of the expression at issue in other places in the Explanatory Notes, the Secretariat suggests replacing the expression “other similar” by “similar” or by “other”, depending on the situation. These proposed draft amendments are reproduced in Annex II to this document.

#### **Presentation of Section, Chapter and Subheading Notes**

7. Section, Chapter and Subheading Notes may be subdivided into paragraphs or subparagraphs, which are frequently identified by a character (“(A)”, “(B)”, “(C)”, etc. or “(a)”, “(b)”, “(c)”, etc.). The Secretariat has noticed that the presentation using the uppercase (“(A)”) or the lower case (“(a)”) is, however, not always consistent throughout the Harmonized System, as is shown below.

#### **Examples with an introductory part**

Note 1 to Chapter 1 :

- “1.- This Chapter covers all live animals except :
- (a) Fish and crustaceans, molluscs and other aquatic invertebrates, of heading 03.01,, 03.06 or 03.07;
  - (b) Cultures of micro-organisms and other products of heading 30.02; and
  - (c) Animals of heading 95.08.”

Note 4 to Chapter 31 :

- “4.- Heading 31.04 applies only to the following goods, provided that they are not put up in the forms or packages described in heading 31.05 :
- (A) Goods which answer to one or other of the descriptions given below :
    - (i) Crude natural potassium salts (for example, carnallite, kainite and sylvite);
    - (ii) Potassium chloride, whether or not pure, except as provided in Note 1 (c) above;
    - (iii) Potassium sulphate, whether or not pure;
    - (iv) Magnesium potassium sulphate, whether or not pure.
  - (B) Fertilisers consisting of any of the goods described in (A) above mixed together.”

Examples without an introductory part

Note 1 to Chapter 10 :

- “1.- (a) The products specified in the headings of this Chapter are to be classified in those headings only if grains are present, whether or not in the ear or on the stalk.  
 (b) The Chapter does not cover grains which have been hulled or otherwise worked. However, rice, husked, milled, polished, glazed, parboiled or broken remains classified in heading 10.06.”

Note 2 to Chapter 38 :

- “2.- (A) For the purpose of heading 38.22, the expression “certified reference materials” means reference materials which are accompanied by a certificate which indicates the values of the certified properties, the methods used to determine these values and the degree of certainty associated with each value and which are suitable for analytical, calibrating or referencing purposes.  
 (B) With the exception of the products of Chapter 28 or 29, for the classification of certified reference materials, heading 38.22 shall take precedence over any other heading in the Nomenclature.”

8. For the sake of consistency in presentation, the Secretariat suggests the following principles to identify (sub-)paragraphs of Section, Chapter and Subheading Notes, thereby making a distinction between those Notes having an introductory phrase or paragraph and those which don't have, as follows :
- (i) Notes without an introductory part : the paragraphs should be indicated by using uppercase (“(A)”, “(B)”, etc.); and
  - (ii) Notes with an introductory part : the paragraph should be indicated by using lower case (“(a)”, “(b)”, etc.).
9. Taking into account the suggested references, the Secretariat has prepared draft amendments to the Nomenclature and to the relevant Explanatory Notes, which are set out in Annex III to this document.

### III. CONCLUSION

10. The Sub-Committee is invited to examine the proposed draft editorial amendments to the Nomenclature and to the Explanatory Notes suggested by the Secretariat, as set out in Annexes I to III to this document.

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