



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0354E1

-
27th Session
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O. Eng.

Brussels, 28 February 2003.

POSSIBLE AMENDMENT OF HEADING 84.22 WITH REGARD
TO THE USE OF THE TERMS "PACKING" AND "PACKAGING"

(Item III.B.3 on Agenda)

Reference documents :

NC0574E1 (HSC/29)

NC0655E2, Annex H/12 (HSC/30 – Report)

NC0590E2, Annex IJ/13 (HSC/29 – Report)

I. BACKGROUND

1. At its 30th Session the Harmonized System Committee classified the "**NOACK 900**" packing machine in heading 84.22 and, specifically, in subheading 8422.40 as packing machinery by application of GIRs 1 and 6. During its discussion of the question, the Committee considered the meaning of the term "packing" in the English text of heading 84.22 of the Nomenclature.
2. The question was raised whether the term included "packaging". In this respect it was pointed out by one delegate that the terms in the French text, "à emballer" and "à emballer," referred to both packaging and packing. Therefore, it was suggested and agreed that the Review Sub-Committee could be asked to study the meaning of the terms used in the English ("packing or wrapping") and in the French ("à emballer ou à emballer") texts with a view to ensuring that both texts clearly covered packing and packaging.

II. SECRETARIAT COMMENTS

3. The Review Sub-Committee is asked to study the meaning of the terms used in the English and French texts with a view to determining whether or not it is necessary to amend either text in order to clarify that the reference to "packing" in the English and French texts includes "packaging". The texts of heading 84.22 are as follows (the text under consideration is underscored and highlighted in bold type for emphasis) :

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

File No. 2927

French text - heading 84.22	English text - heading 84.22
<p>84.22 Machines à laver la vaisselle; machines et appareils servant à nettoyer ou à sécher les bouteilles ou autres récipients; machines et appareils à remplir, fermer, boucher ou étiqueter les bouteilles, boîtes, sacs ou autres contenants; machines à capsuler les bouteilles, pots, tubes et contenants analogues; autres machines et appareils <u>à emballer</u> les marchandises (y compris les machines et appareils <u>à emballer</u> sous film thermorétractable); machines et appareils à gazéifier les boissons.</p>	<p>84.22 Dish washing machines; machinery for cleaning or drying bottles or other containers; machinery for filling, closing, sealing or labelling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; other packing or wrapping machinery (including heatshrink wrapping machinery); machinery for aerating beverages.</p>

Uses of the English term “packaging” and corresponding French expressions “pour emballageurs”, “emballages”, “à emballer”, and “emballage”

4. As previously noted in Doc. NC0574E1, paragraph 37, the Secretariat points out that the English expression “for...packaging” is used only once at the legal level, in heading 83.05. The corresponding French expression in heading 83.05 is “pour...emballageurs” and appears to refer more specifically to the user than to a material used for packaging. There are some instances within the Explanatory Notes in which the use of the English expression “packaging” corresponds to the French expression “emballages”. In these cases, the reference is to packaging materials or to a process by which goods are packaged. See, for example, the recent amendments in Chapter 2, such as the General Explanatory Note on page 16, last paragraph, in which “emballages” was used to describe the English term “packaging” for purposes of the MAP process. We would also direct the Sub-Committee’s attention to the use of these same terms, “packaging” and “emballages” in the Explanatory Notes to headings 23.09, 34.04, 39.01, 39.02, 39.04 48.11 and 73.17, as well as others.
5. The English term “packaging” is also used several times within the Explanatory Notes where the corresponding French term is “emballage” or “à emballer”. See General Explanatory Note to Section XVI, page 1387, last paragraph; Explanatory Note to heading 84.22, page 1448, second paragraph, last sentence; and Explanatory Note to heading 84.78, page 1596, item (2) of the last paragraph. However, each of the preceding references involves a description of ancillary packaging machinery used with cigarette making machinery.
6. Concerning other instances in which the French terms “emballer” or “emballage” are used in the Explanatory Notes, the Secretariat points out that, with one exception, these terms correspond to the English term “packing” as that term is used in heading 84.22. The one exception is found in two references in the Explanatory Note to heading 84.34, on page 1481, items (A) (4) and (B) (2), in which the term “emballage” corresponds to the English term “wrap”. However, because both of these references are related to an exclusion for certain machinery of heading 84.22, it may be that the reference could be understood as including a reference to “emballer”.

Uses of the English term “packing” and the corresponding French terms “à emballer” and “emballage” or “emballages”

7. The term “packing” is used in the Nomenclature as an adjective to describe machinery, materials or containers, and as a noun to describe goods which are containers. Typically, the corresponding terms in French, depending on the context, are “d’emballage”, “emballages”, “à l’emballage”, etc. However, in heading 84.22, the corresponding term in French appears, structurally, to be “à emballer”.

Uses of the English term “wrapping” and the corresponding French term “à emballer”

8. For the same reason that “packing” and “à emballer” appear to be aligned in heading 84.22, so it appears that the English term “wrapping” corresponds to the French term “à emballer” in heading 84.22. This specific French term is used only in reference to the type of machinery in heading 84.22 and, in one instance, to machinery for wrapping coins in heading 84.72 (see General Explanatory Note to Chapter 84, page 1395, second paragraph, item (2)). However, as was previously pointed out, the French term “emballage” or “emballages”, which may be related to the term “emballer”, are used in GIR (5) (b) and in many other descriptions throughout the Nomenclature and the Explanatory Notes to correspond to the English expressions “packing”, “packing materials”, “packaging”, and “packaging materials”. Therefore, it appears that the French term could have the same meaning as the English terms “wrapping”, “packing”, or “packaging”.
9. The Secretariat would point out that, even within Explanatory Note to heading 84.22, on page 1448, in paragraph 2, the English and French terms do not always maintain a clear distinction as would appear from the heading text. The following table indicates (by underscoring) the various instances in which the terms are used.

French text : EN to heading 84.22	English text : EN to heading 84.22
<p>Les machines qui, <u>outre l'emballage</u>, l'<u>emballage</u>, etc., effectuent d'autres opérations, restent classées ici pourvu que ces autres opérations <u>soient accessoires au regard de l'emballage</u>, etc. C'est ainsi que relèvent de la présente position les machines qui <u>effectuent l'emballage ou l'emballage</u> des produits sous les formes ou présentations usuelles de la distribution commerciale, même si ces machines comportent des dispositifs de pesage, dosage, mesurage, etc. De même, sont rangées ici les machines à emballer ou à emballer équipées d'un mécanisme assurant, de surcroît, comme fonction secondaire, par découpage, moulage ou simple compression des produits déjà préparés, une mise en forme sommaire ne visant qu'à la commodité de la présentation (par exemple les machines à mouler le beurre ou la margarine en plaquettes, cubes, etc. et <u>à les emballer</u>). Par contre, la présente position ne couvre pas les machines de fabrication dans lesquelles la</p>	<p>Machines which <u>in addition to packing</u>, <u>wrapping</u>, etc., also perform other operations remain classified in the heading provided the additional operations <u>are incidental to the packing</u>, etc. Thus machines <u>which pack or wrap</u> goods into the forms or presentations in which they are normally distributed and sold in commerce, are classified in this heading, whether or not the machines also contain devices for weighing or measuring. Similarly the heading includes machines incorporating devices which, as a secondary function, cut, mould or press previously prepared products into purely presentational forms without affecting their essential character (e.g., machines for moulding butter or margarine into blocks, etc., and <u>wrapping them</u>). The heading does not, however, cover machines whose primary function <u>is not to pack, wrap</u>, etc., but to manufacture raw or semi-finished materials into finished products</p>

fonction principale <u>n'est pas l'emballage</u> , mais la transformation des produits bruts ou semi-finis en produits finis (par exemple les machines à fabriquer et <u>empaqueter</u> les cigarettes).	(e.g., combined cigarette making and <u>packaging</u> machines).
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10. In other words, the French term “à emballer” describes both “packing” and “wrapping” as the terms are used in heading 84.22. The use of the term “à emballer” is found in the references to “packaging” machinery for cigarettes and in the legal text to heading 84.22 to refer to “packing”. Of course, heading 84.22 is the heading in which packaging machinery for cigarettes would be classified. The Secretariat again points out that an examination of its records did not uncover any deliberations by the relevant Committees concerning the meaning of the terms “packing” and “packaging” at the time that these terms were introduced into the Nomenclature.

Definitions from lexicons

11. The following definitions are taken from the Petit Larousse illustré (1974) :

Emballer v.t. Mettre en balle, en caisse. ...

Emballage n. m. Action d'emballer. Ce qui sert à emballer (papier, toile, caisse). ...

Empaqueter v. t. (conj. 4). Mettre en paquet. ...

Paquet n. m. Réunion de plusieurs choses attachées ou enveloppées ensemble : *un paquet de linge*. Objet enveloppé, attaché pour être transporté plus facilement : *expédier un paquet par la poste*. ...

12. The following definitions are taken from the New Shorter Oxford English Dictionary, Volume 2 (Edition 1993) :

Pack 1. v.t. ... Put together into a pack or package, or compactly into a receptacle, esp. for transport, storage, or subsequent sale 2. v.t. Fill (a receptacle or space) with something packed in; fill (any space) as full as possible ...

Package n. 1. The action of packing goods etc.; the mode in which goods are packed 2. A bundle of things packed up or tied up together; esp. one of small or moderate size, as an item of luggage; a packet, a parcel. ...

Package v.t. [f. the n.] Make into or enclose in a package; ...

Packaging n. The action, process, or manner of making something up into a package; the material in which something is packaged, esp. for sale. ...

Wrap ... 2. v.t. Cover (an object) by winding or folding something round it, esp. so as to protect from injury, loss, etc., ...

Wrapping n. ... 2a A thing used for wrapping up an object; a wrap, a covering. ...

13. From the above references in the Nomenclature and the Explanatory Notes, together with the lexicographic definitions, the Secretariat would conclude that the English term “packing” could refer to a process, type of material used to contain goods, container for goods, or material used to surround and protect goods. The English term “packaging” could refer to the process of putting goods into a container, the container or enclosure for goods, or the materials used to wrap or enclose goods. Finally, the English term “wrapping” appears to be narrower and would, in the Secretariat’s opinion, refer to a material that is wound or folded or otherwise wound around or used to cover a good for protection.
14. Therefore, for purposes of the Nomenclature, it would appear that the term “packing” could reasonably be interpreted as covering the process, the materials or the containers that are used, whether the term is “packing” or “packaging”. The term “wrapping” has a somewhat narrower meaning, although it is a form of packing or packaging. Therefore, the Secretariat would conclude that it is not necessary to amend the English terms in the legal text of heading 84.22. In fact, if the term “packaging” were added to the legal text, it would then appear to limit the meaning of the term “packing”. There is no apparent basis for such a limitation.
15. The terms used in the French text do not appear to expand heading 84.22 beyond the meaning of the English text. As noted above, the term “à emballer” could be understood to apply to both the packing and wrapping machinery. We again point out that the French term “emballage” is used throughout the Nomenclature and Explanatory Notes to correspond to the English expressions for wrapping, packing and packaging, packing materials, and packing containers. Whether or not the use of “à empaqueter” with “à emballer” in heading 84.22 is necessary, there does not appear to be any problem with the use.
16. The Secretariat is aware of the fact that usage of terms over the years may have developed specific meanings within the Nomenclature. There are approximately 28 Explanatory Notes that refer to “packaging” as a type of individual container, material or process, and approximately 130 Explanatory Notes that refer to “packing” as a container, material, or process.
17. Therefore, in light of the above discussion, the Sub-Committee is asked to consider whether amendments to heading 84.22 are necessary and whether any amendments to the Explanatory Notes are necessary. For example, with respect to the Explanatory Note to heading 84.22, it may be helpful to delete the reference to “packaging” in the English text and insert the term “packing”. However, if this were done, it would also be advisable to delete the other references to “packaging” when the term is used to describe the type of machinery used in packing cigarettes (French term is “empaqueter”). (See paragraph 5 above).

III. CONCLUSION

18. The Sub-Committee is asked to consider the above information and determine what amendments, if any, should be made to the Nomenclature or the Explanatory Notes, and, if so, to indicate what amendments are to be made in order to clarify the nuances of meaning between the English terms “packing” and “packaging” and the French terms “à empaqueter” and “à emballer”.
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