



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0393E1

-
27th Session
-

O. Eng.

Brussels, 27 February 2003.

POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES TO CORRECT CERTAIN
TEXTS AND TO ALIGN THE ENGLISH AND FRENCH VERSIONS

(Item III.A.8 on Agenda)

Reference documents :

NR0265E3, Annexes C/9 and F/5 (RSC/25 – Report) NR0347E1 (RSC/27)
NR0324E1 (RSC/26) NR0386E1 (RSC/27)
NR0332E3, Annexes D/6 and F/18 (RSC/26 – Report)

I. BACKGROUND

1. After the preparation of Doc. NR0347E1, which was published on 10 January 2003, the Secretariat received a note from the **EC** dated 11 February 2003, providing its view on this agenda item. The note is reproduced below. The Secretariat has numbered the paragraphs for ease of reference.

II. NOTE FROM THE **EC**

“Subject : Possible amendments to the legal texts and Explanatory Notes to correct certain texts and to align the English and French versions of the Harmonized System Nomenclature

Ref : WCO documents : NR0324E1, Annexes D/6 and F/18 to doc. NR0332E3

2. The **EC** has given thorough consideration to the documents cited above, which are to be further studied at the 27th Session of the Review Sub-Committee.

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

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3. As stated in the Annex to the Report on the 26th Session of the RSC, the **EC** Delegation cannot accept some of the proposed amendments.
4. We do not agree with some of the arguments set out in paragraphs 3 to 6 to Doc. NR0324E1 concerning the use of the words “**other similar**” in the Nomenclature.
5. Paragraph 3 states that the words “other” and “similar” in the French version of the Explanatory Notes could be considered contradictory.
6. On the basis of this analysis, the following amendments are proposed :
 - replace “*autres contenantants similaires*” with “*autres contenantants*” [French text only] (Item D, page 13, heading 01.06);
 - replace “or other similar sweetening substances” with “or other sweetening substances” (Item (I), page 201, heading 23.09);
 - replace “and other similar fabric” with “and other fabric” (exclusion (h), page 989, last paragraph, heading 56.02);
 - replace “*un autre travail similaire*” with “*un autre travail*” [French text only] (penultimate paragraph of page 1019, heading 58.05);
 - replace “or other similar articles” with “or other articles” (exclusion (g), last paragraph, page 1035, heading 59.06);
 - replace “*et autres dispositifs similaires*” with “*et autres dispositifs*” [French text only] (Item 1, eleventh line, second paragraph, page 1280, heading 73.26);
 - replace “*ou autre liant similaire*” with “*ou autre liant*” [French text only] (last paragraph, exclusion (a), page 1293, heading 74.10);
 - replace “*et autres outils similaires*” with “*et autres outils*” [French text only] (exclusion (c), first paragraph, page 1472, heading 84.30);
 - replace “*ou autres canalisations similaires*” with “*ou autres canalisations*” [French text only] (item 12, first line, page 1602, heading 84.79);
 - replace “other similar vacuum vessels” with “other vacuum vessels” (first paragraph, Item 1, page 1942, heading 96.17).
7. However, the assertion that the adjectives “other” and “similar” are contradictory is mistaken. The adjective “other”, in the contexts set out above, is used to signify that the items it qualifies are different or distinct, while “similar” signifies that those items are of the same nature, analogous or equivalent.
8. But the two words are not contradictory, since they describe the articles in question in a complementary fashion, indicating that they are different from those referred to previously but have like characteristics.
9. Eliminating the reference to the similarity of the articles concerned would thus change the scope of the Explanatory Note, which would then cover all the articles, whatever their nature. This point can be illustrated with reference to the Note to heading 84.30 (item (c), page 1472), which covers “*picks, paving-breakers, tampers, drills and **other similar tools** for*

*working in the hand of heading 84.67.” *) If one deleted the word “similar”, the Note would cover all tools for working in the hand of heading 84.67, without reference to their similarity to the tools listed in the first part of the Note (picks, tampers, drills). This would increase the scope of the present Explanatory Note and make it barely comprehensible.*

10. This applies to all the Notes cited above.
11. The EC therefore strongly advises the Sub-Committee not to accept the amendments to the Explanatory Notes that would eliminate the reference contained in the existing notes to the similarity or analogous nature of articles.
12. Elsewhere, also for the reasons set out in paragraph 3 of the working paper, the Secretariat has proposed deleting the adjective “other” where it is used in conjunction with the word “similar” to describe goods or articles.
13. The EC considers that the existing wording is correct. It reaffirms its view that the words “other” and “similar” are not contradictory, that they have two different meanings and, when used in conjunction with one another are simply complementary.
14. The EC therefore recommends retaining the existing versions of the texts concerned, and advises the Sub-Committee against following the Secretariat's recommendation to delete the word “other”. Such a deletion, thought it might be syntactically acceptable, would remove a shade of meaning from the notes and could lead to confusion; the existing French version of the notes has never caused any problems.”

II. SECRETARIAT COMMENTS

15. The Secretariat would first like to clarify that it did not have the intention to change the scope of any heading when it proposed the alignment of the English and French versions of the Explanatory Notes, as set out initially in Doc. NR0324E1 and reproduced in the Annex to Doc. NR0347E1.
16. With respect to the EC observations, the Secretariat would simply like to refer to its comments and observations in paragraphs 5 and 6 of Doc. NR0347E1. The scheme in paragraph 6 of that document reveals that out of the 37 proposed amendments, 22 concern a possible non-alignment with legal provisions (either in one language version or in both versions), 11 concern a non-alignment of one version with the other version and only four amendments were suggested for semantic reasons, i.e., to delete either “similar” or “other” in cases where both terms appear.

III. CONCLUSION

17. The Review Sub-Committee is invited to take into account the observations presented by the EC as set out in paragraphs 2 to 14 above, and the comments of the Secretariat in paragraph 15 and 16 above, when considering this agenda item.

*) EC translator's note : this is a literal translation from the French, not a quotation of the equivalent English note, since the amendment concerns the French text only; the English text as it stands contains neither the word “similar” nor “other”.