



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
28th Session
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NR0454E1
(+ Annexes I and II)

O. Eng.

Brussels, 22 July 2003.

POSSIBLE AMENDMENT OF HEADING 39.24

(PROPOSAL BY THE US ADMINISTRATION)

(Item III.B.10 on Agenda)

Reference documents :

NC0695E1 (HSC/31)

NC0730E2, Annex H/9 (HSC/31 – Report)

I. BACKGROUND

1. On 4 July 2003, the Secretariat received a note from the US Customs Administration with a view to aligning the English text of heading 39.24 on the French version. The note is reproduced at Annex I to this document. The Secretariat has numbered the paragraphs for ease of reference.

II. SECRETARIAT COMMENTS

2. Given the recent arrival of the submission, the Secretariat has refrained from commenting on it.
3. The Secretariat has prepared the normal presentation of the proposed amendment in Annex II to this document.

III. CONCLUSION

4. The Sub-Committee is invited to examine the proposal to align the English text of heading 39.24 on that of the French version, as suggested by the US Administration (see Annex I to this document). The draft amendment is set out in Annex II to this document.

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NOTE FROM THE US ADMINISTRATION

US Proposal to Align the English Version of Heading 39.24 on the French

1. In the course of discussions concerning a proposal by the **Egyptian** Administration to provide separate provisions for hygienic articles of plastics in the Harmonized System, concerns were raised as to the possible misalignment between the English and the French versions of heading 39.24. Though the Review Sub-Committee eventually decided not to pursue the **Egyptian** proposal, there was some sympathy expressed for alignment of heading 39.24.
2. In a note to the Secretariat (see Doc. NC0695E1, paras. 7 through 9), the **EC** indicated the belief that “only the scope of heading 39.24 could cause a problem”, but that it did not consider it appropriate to remove the term “hygiène” from the French wording of heading 39.24”. The **EC** further indicated that, as far as they could gather from the text, the English term “toilet” covered the definitions of the French terms “toilette” and “hygiène” and, therefore, the two versions were aligned.
3. This argument apparently served as the basis for the classification (by 19 votes to 7) by the HSC (at its 31st Session) of certain hygienic articles of plastics (i.e., teats and fingerstalls) in heading 39.24 (see Doc. NC0730E2, Annex H/9). The Committee also instructed the Secretariat to prepare Explanatory Note amendments to reflect this decision.
4. During the HSC’s discussion of this issue, the **US** Delegate argued that the products in question were classifiable in heading 39.26, because heading 39.24 did not cover “hygienic” articles (at least, not in the English version) and that there was a non-alignment between the French and English versions. He requested that the issue be sent to the RSC for consideration.
5. Our administration’s interpretation of the term “toilet” in the English text is rather narrow in scope, similar to that for “toilette” in French. Therefore we can not classify the subject articles in heading 39.24. We do not feel that it is legally sufficient simply to amend the Explanatory Note to heading 39.24 by including references to the articles classified. Although we are not opposed to an amendment of the Explanatory Note, it is necessary that the English text of heading 39.24 be aligned precisely on the French in order to achieve true alignment of the two versions and to remove confusion in the future for other administrations, especially administrations for which neither English nor French are working languages.
6. Given the HSC’s classifications and the reasoning therefore, we would agree with the **EC** contention that the word “hygiene” should not be deleted from the French text of heading 39.24. Instead, we propose that the words “hygienic or” be added to the English version, as follows.

39.24 Tableware, kitchenware, other household articles and hygienic or toilet articles of plastics.

7. A corresponding amendment would also be made to the Explanatory Notes.
8. While this will represent for us a transfer of some products from heading 39.26 to heading 39.24, we believe that this amendment would bring better uniformity to the HS.”

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