



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
23rd Session
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NR0155E1
(+ Annex)
O. Eng.

Brussels, 22 February 2001.

PROPOSAL BY THE US ADMINISTRATION TO AMEND
THE NOMENCLATURE TO CHAPTER 41
(Item III.B.4 on Agenda)

I. INTRODUCTION

1. The Secretariat received, on 16 February 2001, a proposal with regard to Chapter 41 from the US Administration. The proposal is reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

2. Due to the recent arrival of the proposal, the Secretariat considers that it would be appropriate to have a preliminary discussion only at the 23rd Session of the Review Sub-Committee.
3. The Secretariat understands the proposal is intended (i) to clarify the scope of Note 2 (A) to Chapter 41 (and, consequently, the scope of headings 41.04 to 41.06) and (ii) to insert terminology used by the trade. These issues were already discussed when the Explanatory Notes to Chapter 41 were examined in the context of the HS 2002 amendments.
4. Given the recent arrival of the document and the Secretariat's suggestion to have a preliminary discussion only, the Secretariat has refrained from preparing the consequential amendments to the Explanatory Notes to Chapter 41 and to the various headings concerned, and from commenting on the proposed wording. It has, however, rectified some printing errors.
5. Finally, since the proposal concerns, in principle, a clarification of texts, the Secretariat considers that the proposed amendments would not entail a transfer of products.

III. CONCLUSION

6. The Sub-Committee is invited to examine the proposal of the US Administration, taking into account the comments by the Secretariat in paragraphs 2 to 5 above.

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File No. 2745

US proposal to amend the Nomenclature to Chapter 41

The United States Administration proposes several amendments to Chapter 41. These proposals are intended to (1) provide remedies for problems experienced by the trade and government in adopting the Recommendation of 25 June 1999 and (2) bring the Nomenclature up-to-date. The specific proposed changes are summarized below.

Note 2(A)

New Note 2 (A) was added to specify that certain preliminary processes applied to raw hides and skins do not make them into leather and therefore the hides and skins remain in headings 41.01 – 41.03. The original intent of the trade's proposals to the United States Administration and other administrations was to keep pre-tanned hides and skins in the first three headings of the Chapter.

Pre-tanning is a preparatory process that temporarily prevents putrefaction and increases the thermal stability of the hide or skin so that it can be shaved and/or otherwise prepared for tanning. Although pre-tanning usually occurs in the same establishment as the eventual tanning procedure, there has always been a small amount of international trade in vegetable-pre-tanned hides, particularly from Asian countries. Therefore the HS needs to precisely account for the products and ensure that they are classified in headings 41.01-41.03. Unfortunately, the Note added to the Nomenclature in 2002 does not achieve this goal. The Recommendation of June 25, 1999 provides for new Chapter 41 Note 2 (A), which reads,

(Chapter 41 Note 2(A))

(A) Headings 41.04 to 41.06 do not cover hides and skins which have undergone a tanning (including pre-tanning) process which is reversible (headings 41.01 to 41.03, as the case may be).

This Note does not accurately describe the difference between pre-tanning and tanning, which concerns the permanency of the resistance of the hide or skin to decay. Tanned hides and skins are permanently imputrescible regardless of subsequent operations performed on the hide or skins; that is, they are completely resistant to putrefaction. In contrast, pre-tanned hides and skins are only temporarily resistant to putrefaction, either because the chemical or vegetable pre-tanning agent does not provide permanent protection from decay or because the pre-tanning agent may be washed out of the hide or skin, thereby eliminating the decay protection.

Whether or not a pre-tanning process is reversible depends on whether the process can be un-done. This does not necessarily relate to the permanency of the protection from decay. Additionally, the reference to "a tanning (including pre-tanning) process" confuses people in the trade, because it states that tanning (which denotes permanent protection from decay), includes pre-tanning (which does *not* imply permanent protection from decay). Yet it is the trade who must complete customs documentation and who eventually will be trying to understand statistical reports based on the Nomenclature. The new Note therefore does not serve to clearly separate tanned hides and skins (which are permanently imputrescible) from untanned hides and skins (which are *not* permanently imputrescible).

We feel that the best way to distinguish between leather (headings 41.04-41.06) and products that are not yet tanned into leather is by reference to permanence of the protection

from decay that they have undergone. Our proposed text for a revised Note 2 (A) is as follows :

New Note 2 (A).

“(A) Headings 41.01 to 41.03 include hides and skins that have undergone a pre-tanning process that temporarily prevents putrefaction. Hides and skins that have been treated so as to be permanently imputrescible are classified in headings 41.04 to 41.06 or in later headings of the Chapter, as the case may be.”

For our part, determining whether a hide or skin is permanently imputrescible should be easier than determining the reversibility of a process.

Use of the term “Leather” in Chapter 41

The trade always considers the products of headings 41.04 through 41.06 to be “leather” and it is traded by that name -- rather than by reference to the fact that it is a “tanned hide or skin”. To omit the word “leather” from the heading text makes the legal text confusing and difficult to read. Adding the term “leather” to the heading text would make the coverage much clearer to the trade and statistical users without sacrificing legal precision.

The term “hides and skins” implies raw untanned products, and creates a potentially confusing situation in a heading that is intended to cover fully preserved leather. Reports have reached us that a customs official demanded a veterinary certificate for wet blue hides (i.e., chrome-tanned leather of heading 41.04-41.06). Erroneously believing that the product was a raw hide, the customs officer required certification that it was either derived from an animal that was suitable for human consumption or that it was processed in a facility approved for food preparation.

Headings 41.04 to 41.06.

Delete and substitute, respectively :

“41.04 - Leather of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not prepared after tanning or crusting.”

“41.05 - Leather of sheep or lambs, without hair on, whether or not split, but not further prepared after tanning or crusting.”

“41.06 - Leather of other animals, without hair on, whether or not split, but not further prepared after tanning or crusting.”

As a consequence of this change, Note 2 (B) to Chapter 41 should be changed.

Note 2 (B) to Chapter 41.

Delete and substitute :

“(B) For the purposes of headings 41.04 to 41.06, the term 'crusting' refers to processing beyond tanning a hide or skin that includes fat-liquoring and concludes with drying.”
