



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

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O. Eng.

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STUDY OF POSSIBLE AMENDMENTS TO THE NOMENCLATURE

WITH REGARD TO HUMAN BODY PARTS

(Item III.B.2 on Agenda)

I. BACKGROUND

1. The Secretariat has been informed by several administrations that there is international trade in human cadavers and body parts (organs, tissues, etc.) to be used in transplants and for other purposes and has been asked their classification under the Harmonized System. Although such transactions may not be significant in international trade, the Secretariat feels it preferable to consider whether their classification should be clarified legally in the context of the Harmonized System.

II. SECRETARIAT COMMENTS

2. The Secretariat wishes to recall first of all, that the Nomenclature Committee at its 47th Session in September 1981 (Doc. 27.836) examined a similar proposal of the Secretariat concerning international trade in dead human bodies and parts thereof, intended for medical purposes (e.g., dissection for medical studies). However, at that time, the Committee did not endorse the proposal to specify in Chapter 5 cadavers and human body parts not elsewhere specified or included, for the following reasons (Annex D/3 to Doc. 28.100) :
 - The Nomenclature was a system for the classification of goods.
 - The international transfer of cadavers was not normally considered as trade; in the interest of human dignity cadavers should not be mentioned as goods, since they were not considered legally as such in many countries.
3. In addition to the above, it must be noted that the demand for transplantable human organs is presently growing. It is true that a transplant from a related donor is less likely to be rejected by the body and transplants from living relatives are more successful than those from human cadavers. Nevertheless, it appears that human cadavers are today the most common source for transplants because of their greater availability and because they obviate

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the risk to living donors. This has resulted from the growing demand for transplantable human organs, etc. and the question of their trade.

4. The Secretariat is aware that certain countries have legislation which outlaws the buying and selling of human organs for transplantation. However, it appears that in most countries the law on organ transplantation is poorly defined, as legislation has not yet been created to cope with this advance in surgery. With regard to the trade, the Secretariat has not received any clear information on such legitimate trade.
5. In view of the concerns indicated by certain administrations, the Secretariat feels that it would be appropriate to study this question again in the context of the advance in surgery and the growing demand for transplantable human organs, human tissues, etc.

Current classification

6. The Secretariat considers that it would be appropriate first of all, to examine the classification of human cadavers and body parts under the present Harmonized System.
7. Chapter 5 covers “products of animal origin, not elsewhere specified or included.” Although it might be argued that there is a distinction between “animals” and “humans”, it can be seen from the text of heading 05.01 that at least some products of human origin (in this case, human hair) are classifiable in Chapter 5.
8. On that basis, given that there is no specific heading which covers these products, heading 05.11, the first part of which reads “animal products not elsewhere specified or included”, merits consideration.
9. The last part of heading 30.01 reads “other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included”. The Explanatory Note to heading 30.01 (page 464) indicates that bone, organs and other human or animal tissue, whether living or preserved, suitable for permanent grafting or implantation, put up in sterile packing which may bear indications as to method of use, etc., are classifiable in heading 30.01.
10. In view of the above, the Secretariat feels that certain human body parts (organs, tissues, etc.) prepared and put up as described above, would fall in heading 30.01. However, cadavers and other human body parts, including those intended for medical studies and human tissues to be used in the manufacture of cosmetics, would appear to be classifiable in heading 05.11.

Future amendments

11. The classifications remain the same under the HS 2002 since there has been no change in the relevant parts of the Nomenclature. The question for consideration is whether the texts of both headings 05.11 and 30.01 are not clear enough and whether it would be appropriate to clarify the classification of these products by amending the relevant parts of the Nomenclature in the future.
12. If the Sub-Committee considers that the Nomenclature should be amended, one option would be to create a new heading to cover human cadavers and body parts in Chapter 30.

Another option would be to specifically exclude human cadavers from classification in the Harmonized System by legal note.

III. CONCLUSION

13. The Sub-Committee is invited to consider this issue and to determine whether the Nomenclature should be amended to clarify the classification of human cadavers and body parts.
