



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
25th Session
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(+ Annex)

O. Fr.

Brussels, 18 January 2002.

COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES
AMENDMENTS TO THE EXPLANATORY NOTES TO CORRECT
SHORTCOMINGS AND TO ALIGN THE ENGLISH AND FRENCH VERSIONS

(Item III.C.8. on the Agenda)

I. BACKGROUND

1. At its 23rd Session, the Review Sub-Committee held a discussion on the timing of the general review of the HS Explanatory Notes and it was agreed that the Sub-Committee should begin this review at its next session.
2. The Secretariat has received, from various administrations, comments to the effect that certain parts of the present Explanatory Notes contain shortcomings or clear misalignments between the English and French versions.

II. SECRETARIAT COMMENTS

3. The Annex to this document contains draft amendments to the Explanatory Notes, to be made by Corrigendum, which have been prepared to take account of various comments received by the Secretariat or proposed by us. The purpose of these amendments is to achieve a closer alignment between the two versions, to correct certain errors, or to reflect the legal texts more accurately.
4. The comments set out below are intended to help the Sub-Committee assess the validity of the proposals made, and decide whether the amendments envisaged are necessary.

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Heading 32.10. Page 604. Part B. Item (3). Last line.

5. Following the insertion of a new exclusion (d) in the Explanatory Note to heading 27.15, page 255 (Doc. 39.960, Annexes G/5 and L/7 - HSC/14, Report), exclusion (d) for bituminous paints and varnishes of heading 32.10 has been re-lettered as exclusion (e). Consequently, the words "exclusion (d)" in Explanatory Note 32.10, Item (3), should be amended to read "exclusion (e)".

Heading 32.14. Page 609. Item (11). Third line.

6. At present the two versions do not have the same meaning, because of the positioning of the adverb "sometimes" ("parfois"). In the French text this adverb qualifies the concept of use (i.e., it indicates that the products concerned are sometimes used, after the addition of a hardener, to ...), whereas in the English it refers to the possible presence of a hardener ("they are used, sometimes after the addition of a hardener, to ...").
7. The text adopted by the Nomenclature Committee at its 52nd Session (Doc. 31.250, Annex A/VII/9 - NC/52, Report) was intended to make it clear that the addition of a hardener is not always necessary. It is therefore proposed to align the French version on the English, to read : "Ils sont utilisés, parfois après adjonction d'un durcisseur".

Heading 38.03. Page 674. Last paragraphe. Exclusion (b).

8. The two versions are not aligned. The English version refers to the soda or sulphate processes, while in the French only the sulphate process is mentioned.
9. It is proposed to align the French version on the English, as this exclusion corresponds to the inclusion clause in the Explanatory Note to heading 38.04, Item (2), in which the soda and sulphate processes are mentioned in both versions.

Heading 50.03. Page 929. Last paragraph. Exclusion (a).

Heading 51.03. Page 934. Last paragraph. Exclusion (b).

Heading 51.04. Page 935. Last paragraph. Exclusion (a).

Heading 51.05. Page 936. Last paragraph. Exclusion (a).

Heading 52.01. Page 941. Last paragraph. Exclusion (a).

Heading 52.02. Page 942. Last paragraph. Exclusion (b).

Heading 55.05. Page 975. Last paragraph. Exclusion (a).

Heading 55.06. Page 976. Last paragraph (exclusion).

10. The Brazilian Administration has proposed that the above-mentioned exclusions be amended to read as follows, in order to specify the cases in which wadding falls to be classified in heading 30.05 :

“(a) Wadding impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes (**heading 30.05**) and other wadding (**heading 56.01**).”

11. The Secretariat wishes to point out that in general, wadding impregnated, coated or covered with products other than pharmaceutical substances is also excluded from heading 56.01 (see Note 1 (a) to Chapter 56). The Secretariat therefore considers that the text proposed could give rise to confusion, and could be interpreted as meaning that all wadding other than that of heading 30.05, including impregnated wadding, falls to be classified in heading 56.01.
12. The Secretariat also notes that in the context of the above-mentioned headings (Section XI), the exclusions relate essentially to the textile material itself, i.e., wadding (not impregnated), which falls either in heading 30.05 or in heading 56.01, depending on how it is put up. The Secretariat therefore considers that the amendments proposed are not essential.
13. If the Sub-Committee decides to adopt the proposed amendments, it is suggested that the word “generally” be inserted before the reference to heading 56.01.
14. The proposed amendments are reproduced in square brackets.

Heading 51.11. Page 939. Last paragraph. Exclusion (a).

Heading 51.12. Page 939. Last paragraph. Exclusion (a).

Heading 52.08. Page 948. Last paragraph. Exclusion (a).

Heading 52.10. Page 950. Last paragraph. Exclusion (a).

Heading 52.12. Page 951. Last paragraph (exclusion).

Heading 53.09. Page 961. Last paragraph (exclusion).

Heading 54.07. Page 971. Last paragraph. Exclusion (a).

Heading 54.08. Page 972. Last paragraph. Exclusion (a).

Heading 55.12. Page 979. Last paragraph (exclusion).

Heading 55.13. Page 980. Last paragraph (exclusion).

Heading 55.15. Page 982. Last paragraph (exclusion).

Heading 55.16. Page 983. Last paragraph (exclusion).

Heading 56.03. Page 991. Last paragraph. Exclusion (a).

Heading 58.06. Page 1021. Last paragraph. Exclusion (a).

Heading 60.02. Page 1046. Last paragraph. Exclusion (a).

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Heading 60.03. Page 1046. Last paragraph. Exclusion (a).

Heading 60.04. Page 1047. Last paragraph. Exclusion (a).

Heading 60.05. Page 1048. Last paragraph. Exclusion (a).

Heading 60.06. Page 1049. Last paragraph. Exclusion (a).

15. The Brazilian Administration has pointed out that the fact of being put up for retail sale does not of itself cause bandages to be classified in heading 30.05 – they must be put up in that form for specific purposes. The administration concerned therefore proposes that the words "for medical, surgical, dental or veterinary purposes" be added at the end of the above-mentioned exclusions.
16. Although the Secretariat does not object to this proposal, it does consider that the term "pansements" in the French text of these exclusions already implies use for the above-mentioned purposes. It therefore considers this addition to be superfluous in the French version. On the other hand, the English dictionaries consulted (Oxford and Collins) suggest that while the English term "bandages" primarily has medical connotations, it can also be used in a broader sense to mean "a strip of any soft material used for binding". The proposed amendment may therefore be warranted, at least where the English text is concerned.
17. The proposed new texts have therefore been placed in square brackets, it being left to the Sub-Committee to decide whether this amendment would be appropriate and, if so, whether both versions should be amended.

Heading 59.10. Page 1039. Last paragraph. Exclusion (a).

18. At the end of this exclusion, the French version refers to Section XVI as an example of where machinery and apparatus might be classified, whereas the English text contains no references of this kind.
19. The reference concerned is somewhat vague and is not, in the Secretariat's opinion, particularly helpful to the reader. Nevertheless, it is left to the Sub-Committee to decide whether it would be preferable to delete it from the French version or insert it in the English. Both alternatives have been given, in square brackets.

Chapter 63. Page 1083. General. Item (1). Fourth paragraph.

20. As worded, this paragraph appears to suggest that there is no relationship between the Section or Chapter Notes and the General Interpretative Rules. The Brazilian Administration has correctly pointed out that a classification made in accordance with a Section or Chapter Note constitutes an application of GIR 1. It has therefore proposed that this paragraph be amended accordingly.

Heading 85.14. Page 1641. Part (1). First paragraph.

21. When translating the Explanatory Notes into its own language. The Croatian Administration noticed that there appeared to be a lack of alignment between the French and English versions of this paragraph in respect of the processes referred to in the third line – the English term "welding" and the French term "émailage" do not have the same meaning.

22. The Secretariat agrees, but wishes to point out that these are merely examples of possible uses, rather than an exhaustive list. The Secretariat proposes that alignment be achieved by amending both texts, i.e., adding the word "enamelling" to the English version and "soudage" to the French.

Heading 95.05. Page 1917. Part (A). Item (2).

23. The Japanese Administration has drawn attention to a clear lack of alignment between the French and English versions of this item. For example, the English term "Christmas crackers" does not figure in the French text, but the latter includes a great many other examples and details concerning articles used at Christmas festivities, which are missing from the English version. Thus, the French text refers to Father Christmases and Christmas angels, as well as listing various materials from which artificial Christmas trees and nativity scenes may be made. The French text also adds that some decorative articles for Christmas trees may also be used to decorate nativity scenes.
24. The Secretariat agrees that there is a lack of alignment, but considers that it may be attributable at least in part to differences between Anglo-Saxon customs and traditions, and those of French-speaking countries. Thus, there appears to be no equivalent in French to the English term "Christmas crackers", defined in the "New Shorter Oxford" as : "A cylindrical paper structure made so as to break with a bang when its ends are pulled, used on festive occasions, and often containing a paper hat, a motto or joke, a small toy or novelty, etc.". In the "Harrap's Shorter – English/French", "Christmas cracker" is translated as "diablotin" (a firecracker), but this is not the exact equivalent of the article defined above.
25. In the absence of a specific proposal, the Secretariat has not prepared a draft amendment to the Explanatory Note concerned. It is up to the Sub-Committee to decide how this issue should be dealt with, and to indicate whether a study should be carried out in order to improve the alignment of the two versions of this item.

Chapter 97. Page 1943. Note 5.

26. The Secretariat's attention has been drawn to the fact that the French text of the above-mentioned Note 5, as reproduced in the Explanatory Notes, is not exactly the same as the text adopted by the Council. In the last sentence, the word "objets" has been used instead of the word "articles" which appears in the official text. The Secretariat agrees that this amendment to the Explanatory Notes should be made, by *Corrigendum*.

III. CONCLUSIONS

27. The Sub-Committee is invited to :
- examine, in the light of the Secretariat comments reproduced above, the draft amendments to the Explanatory Notes - to be made by *Corrigendum* - which are appended hereto;
 - rule on the possibility of aligning the two versions of the Explanatory Note to heading 95.05.

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