



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
28th Session
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NR0452E1
(+ Annex)

O. Eng.

Brussels, 24 July 2003.

POSSIBLE CREATION OF A NEW NOTE 8 TO CHAPTER 29

(PROPOSAL BY THE CANADIAN ADMINISTRATION)

(Item III.B.8 on Agenda)

Reference documents :

NC0160E2, Annex H/16 (HSC/24 – Report)	NS0080E2, Annexes A/2 and C/2 (SSC/18 – Report)
NS0060E2, Annexes A/4 and E/3 (SSC/17- Report)	NR0399E1 (RSC/27)
NR0297E1 (RSC/26)	NR0400E3, Annex E/11 (RSC/27 – Report)
NR0332E3, Annexes E/3 and F/24 (RSC/26 – Report)	NC0730E2, Annexes E/1 and M/3 (HSC/31 – Report)
NS0064E1 (SSC/18)	

I. BACKGROUND

1. On 28 May 2002, the Secretariat received a note from the Canadian Administration, concerning a possible amendment of the Explanatory Note to heading 29.35. In the proposed amendment the Canadian Administration suggested the insertion in the Explanatory Note to heading 29.35 of an exclusion for sultams of heading 29.34. The Canadian note and proposal were published in Doc. NR0297E1 and submitted to the 26th Session of the HS Review Sub-Committee for examination.
2. At the 26th Session (September 2002), the Delegate of Canada informed the Sub-Committee that his administration was still studying the matter and would submit further written comments once its study had been concluded. He therefore asked the Sub-Committee to postpone consideration of this agenda item. The Sub-Committee agreed.
3. On 13 March 2003, the Secretariat received a letter from the Canadian Administration. In this letter, based on consultations with the Canadian Customs Laboratory and Scientific Services Division, the Canadian Administration requested that their proposal be withdrawn. Accordingly, at the 27th Session, the Sub-Committee agreed to delete this Canadian proposal from its Agenda.

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4. By its message of 23 June 2003, the **Canadian** Administration presented a note suggesting the introduction of a new Note 8 to Chapter 29 regarding the scope of heading 29.35. As a result of the discussions at the 18th Session of the Scientific Sub-Committee and after further consultation with its Laboratory and Scientific Services Division, the **Canadian** Administration is of the opinion that a change to the existing legal provisions of Chapter 29 is more appropriate than a change to the Explanatory Notes.
5. The latest note submitted by the **Canadian** Administration is reproduced below.

II. NOTE FROM THE **CANADIAN** ADMINISTRATION

6. "The classification of sultams has been discussed at the Harmonized System Committee. During the study of this issue by the **Canadian** Administration, we discovered that the International Union of Pure and Applied Chemists (IUPAC) defines sultams as "sulphonamides in which the S-N bond is part of a ring". IUPAC is the primary authority on chemical nomenclature and is used exclusively within Chapter 29 of the Harmonized System.
7. Given that sultams are both "other heterocyclic compounds" of heading 29.34 and "sulphonamides" of heading 29.35, they should be classified in heading 29.35 by virtue of Note 3 to Chapter 29. Explanatory Note (D) (2) to heading 29.34 on page 459 of the Explanatory Notes provides for sultams but it is in conflict with the legal provisions of Note 3 to the Chapter.

Discussion and proposal

8. We perceive that the majority of administrations would prefer to classify sultams in heading 29.34 for a variety of reasons, including maintaining the present Explanatory Notes, INN classifications and the HS Commodity Database.
9. In order to validate this classification, the existing legal provisions need to be amended.
10. **Canada** proposes the creation of new Note 8 to Chapter 29 and the renumbering of current Note 8 to Note 9. Note 8 would state :

"8.- The compounds of heading 29.35 must contain at least one sulphonamide group in which the S-N bond is not part of a ring. Heading 29.35 does not include compounds in which all of the S-N bonds of the sulphonamide group(s) are part of a ring. These compounds are other heterocyclic compounds (sultams) of heading 29.34."
11. This legal provision could be indicated with the following exclusion Note added to the end of the current Explanatory Note to heading 29.35 :

"The present heading excludes compounds in which all of the S-N bonds of the sulphonamide group(s) are part of a ring. They are other heterocyclic compounds (sultams) of heading 29.34."

III. SECRETARIAT COMMENTS

12. The **Canadian** Administration is suggesting the creation of a new Note 8 to Chapter 29 in order to clarify the scope of heading 29.35 and the classification of sulphonamides and sultams in headings 29.35 and 29.34, respectively. At the same time, an amendment of the Explanatory Note to heading 29.35 has been proposed to exclude sultams to heading 29.34.
13. As pointed out by the **Canadian** Administration, the HS Committee has discussed the classification of sultams in the past. Most recently, it examined the classification of meloxicam and classified it in heading 29.34 by application of GIR 1 (see Annex H/16 to Doc. NC0160E2). Among the supporting arguments for this classification was that meloxicam, as well as other sultams, did not have the functional characteristics of a sulphonamide and should remain classified in heading 29.34. It was also stressed that Item (D) (2) of the Explanatory Note to heading 29.34 specifically referred to sultams.
14. The Secretariat believes that this decision, which was unanimously taken by the HS Committee, is being implemented by all Contracting Parties, since no administration has notified the Secretariat of its non-application.
15. Although no legal definition of the term "sulphonamides" referred to in heading 29.35 exists, the Secretariat is of the view that the previous classification decisions and the Explanatory Note to heading 29.34 (Item (D) (2), page 459) provide precedents and guidance as to how sultams are classified. In addition, the HS Committee, at its 31st Session, adopted a pertinent amendment to the Explanatory Note to heading 29.35 (see Annexes E/1 and M/3 to Doc. NC0730E2). Based on this amendment, the first sentence of the first paragraph of the Explanatory Note in question will read :
- "Sulphonamides have the general formula ($R^1.SO_2.N.R^2.R^3$) where R^1 is an organic radical of varying complexity having a carbon atom directly attached to the SO_2 group and R^2 and R^3 are either : hydrogen, another atom or an inorganic or organic radical of varying complexity (including double bonds or rings)."*
16. Based on the foregoing, the Sub-Committee should consider whether the structural differences between sultams of heading 29.34 and sulphonamides of heading 29.35 need to be further explained. If that is the case, the Sub-Committee should decide whether this clarification should be at the legal level or whether an amendment to the Explanatory Notes would suffice.
17. Due to highly technical nature of the proposal, the Sub-Committee may wish to obtain the opinion of the Scientific Sub-Committee on this issue. If an amendment of the legal texts and/or the Explanatory Notes would be desirable, the Scientific Sub-Committee could also express its views as to whether the proposed texts, as drafted by the **Canadian** Administration, would be acceptable and are technically sound.
18. On the basis of the proposal by the **Canadian** Administration, the Secretariat has prepared possible amendments to the Nomenclature and to the Explanatory Notes, which are set out in the Annex to this document.

IV. CONCLUSION

19. The Sub-Committee is invited to examine the possible creation of a new Note 8 to Chapter 29 and the proposed amendments to the Explanatory Note to heading 29.35, set out in the Annex to this document, taking into account the note from the **Canadian** Administration and the Secretariat's comments above.

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