



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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HARMONIZED SYSTEM
COMMITTEE

-
23rd Session

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O. Fr.

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H5-12

Brussels, 31 March 1999.

CLASSIFICATION OPINION AND AMENDMENTS TO THE EXPLANATORY NOTES

ARISING FROM THE CLASSIFICATION OF CERTAIN TOILET SETS

(Item VII.20 on Agenda)

Reference documents :

39.366 (HSC/15)
39.400, Annex IJ/34 (HSC/15 – Report)
39.600, Annex IJ/15 (HSC/16)
40.070 (HSC/17)
40.292 (HSC/17)
40.260, Annex H/13 (HSC/17 – Report)
41.317 (HSC/20)
41.346 (HSC/20)
41.584 (HSC/20)
41.600, Annex F/8 (HSC/20 – Report)
42.436 (HSC/22)
42.750, Annex G/11 (HSC/22 – Report)

I. BACKGROUND

1. At its 22nd Session in November 1998, the Harmonized System Committee re-examined the classification of two samples of toilet sets, on the basis of Doc. 42.436, following a reservation entered by the Brazilian Administration.
2. Following this examination, the Committee decided :

File No. 2542

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- (a) on separate classification of each article of sample No.1 (containing, inter alia, unisex pyjamas, consisting of a short-sleeved T-shirt and a pair of shorts) by application of GIR 1 (The Committee decided, by 17 votes to 11, not to classify this set in heading 96.05 by application of GIR 1; it subsequently decided, by 13 votes to 1, against classification in heading 61.08 as a set within the meaning of GIR 3 (b));
 - (b) by 16 votes to 12 (the latter favouring separate classification of the component articles), to classify sample No. 2 in heading 96.05, by application of GIR 1.
3. To implement these decisions, the Committee instructed the Secretariat to prepare the following for examination by the preessional Working Party :
 - (a) a Classification Opinion for sample No. 2;
 - (b) an amendment to the Explanatory Note to heading 96.05, inserting an exclusion clause describing sample No.1.

II. SECRETARIAT COMMENTS

4. In accordance with the Committee's instructions, the Secretariat has prepared a draft Classification Opinion and draft amendment to the Explanatory Notes, set out at the Annex hereto.
5. With regard to the amendment to Explanatory Note 96.05, the Committee did not rule on the individual classification of each article making up the set. No details on this matter are therefore included in the proposed exclusion note.
6. The text proposed by the Secretariat also briefly describes sample No. 1, in accordance with the Committee's instructions. This text could be interpreted as contradicting the text of the Classification Opinion, as no precise dividing line has been drawn between the sets accepted in heading 96.05 and those excluded.
7. The Secretariat also points out that during its study, the Committee treated these samples as toilet sets. However, sample No. 1 contains articles cited in the three categories of sets mentioned in the existing Explanatory Note to heading 96.05 (sets for personal toilet, sewing and shoe cleaning). The Secretariat therefore proposes inserting the exclusion clause at the end of the Explanatory Note to heading 96.05, rather than at the end of Item (1) of the second paragraph.
8. If the Committee were to prefer this exclusion clause at the end of Item (1), drafting changes would have to be made both to the proposed text (deletion of "also"), and to the existing exclusion (see Brazil's proposal hereafter).
9. On 8 December 1998, the Secretariat received the following proposed Explanatory Note from the Brazilian Administration :

"Page 1730. Heading 96.05. Second paragraph. Item (1).

10. Insert the following text at the end of this item :

"The sets of this group may also include articles such as knitted socks, textile blindfolds to rest the eyes, scented handkerchiefs, ear plugs, etc., of the type normally designed for the comfort of passengers during long-distance flights. However, this heading **excludes** sets containing well-made articles of Section XI, intended for repeated use, such as pyjamas, shorts, T-shirts and the like." [Translation]

11. The Secretariat recalls that the Committee instructed the Secretariat to insert in the Explanatory Note to heading 96.05 only an exclusion clause describing sample No. 1. However, the Brazilian proposal contains not only an exclusion clause, but also an inclusion clause describing sample No. 2.

12. This alternative is contained in square brackets in the Annex hereto as Brazil's proposal. The Secretariat could potentially support this approach, but points out that, as proposed, the text could create the same difficulties as those raised in paragraph 6 above in establishing a dividing line between the two types of sets which both contain made up articles of Section XI. The expressions "well-made" and "repeated use" are also not defined and, in the Secretariat's opinion, are likely to give rise to different interpretations. The Secretariat also questions whether the Committee actually employed these two criteria when classifying the sets.

III. CONCLUSION

13. The Committee is invited to :

- (a) rule on the alternative to be chosen for amending the Explanatory Note to heading 96.05 (the Secretariat's proposal formulated in accordance with the Committee's instructions or Brazil's alternative);
- (b) approve the amendments to be made to the Compendium of Classification Opinions and to the Explanatory Notes (on the basis of the alternative chosen), set out at the Annex hereto, once the presessional Working Party has finalized the texts.

x

x x

ANNEXE

MODIFICATIONS DU RECUEIL DES AVIS DE CLASSEMENT ET
DES NOTES EXPLICATIVES DECOULANT DU CLASSEMENT
DE CERTAINS NECESSAIRES DE TOILETTE

(Point VII.20 de l'ordre du jour)

ANNEX

AMENDMENTS TO THE COMPENDIUM OF CLASSIFICATION OPINIONS
AND THE EXPLANATORY NOTES ARISING FROM THE CLASSIFICATION OF
CERTAIN TOILET SETS

(Item VII.20 on Agenda)

A. MODIFICATIONS DU RECUEIL DES AVIS DE CLASSEMENT

Page 46.

Insérer l'avis ci-après :

- "**9605.00** 1. **Nécessaires de toilette** distribués par les compagnies de transport aérien aux passagers (durant le voyage ou au lieu de destination pour ceux dont les bagages ne sont pas disponibles), consistant en un sac rectangulaire d'environ 20 x 12 x 5 cm en tissu contenant :
- 1 rasoir jetable monté sur une boîte aérosol de mousse à raser,
 - 1 brosse à dents et un tube de pâte dentifrice,
 - 1 mouchoir parfumé,
 - 1 paire de chaussettes en bonneterie,
 - 1 bandeau en matières textiles pour se protéger de la lumière,
 - 1 paire de tampons auriculaires.

Application de la RGI 1."

Page 69.

Insérer les références suivantes :

Colonne 1	Colonne 2	Colonne 3
" 9605.00	1	(*)".

B. MODIFICATIONS DES NOTES EXPLICATIVES

A EFFECTUER PAR VOIE DE CORRIGENDUM

Page 1730. N° 96.05. Nouveau dernier paragraphe.

"Sont également **exclus** de la présente position, les nécessaires distribués par les compagnies de transport aérien aux passagers (durant le voyage ou au lieu de destination pour ceux dont les bagages ne sont pas disponibles), consistant en un sac en tissu contenant des articles des types énumérés aux alinéas 1) à 3) ci-dessus, des produits cosmétiques, de parfumerie ou de toilette, des mouchoirs en ouate de cellulose, mais également des articles confectionnés en matières textiles tels qu'un pyjama, par exemple. Les articles constituant ces nécessaires suivent leur **régime propre**."

(*) Insérer le numéro de document du rapport correspondant.

A. AMENDMENTS TO THE COMPENDIUM OF CLASSIFICATION OPINIONS

Page 46.

Insert the following Classification Opinion :

- "**9605.00** 1. **Toilet sets** distributed by airlines to passengers (during their flight or at their destination if their baggage is not available), consisting of a rectangular fabric bag, measuring 20 x 12 x 5 cm and containing :
- 1 disposable razor mounted on an aerosol can of shaving foam,
 - 1 toothbrush and tube of toothpaste,
 - 1 scented handkerchief,
 - 1 pair of knitted socks,
 - 1 textile blindfold to rest the eyes,
 - 1 pair of ear plugs.

Application of GIR 1."

Page 69.

Insert the following references :

Column 1	Column 2	Column 3
" 9605.00	1	(*)".

B. AMENDMENT TO THE EXPLANATORY NOTES

TO BE MADE BY CORRIGENDUM

Page 1730. Heading 96.05. New last paragraph.

"This heading also **excludes** sets distributed by airlines to passengers (during their flight or at their destination if their baggage is not available), consisting of fabric bags containing articles of the type listed in Items (1) to (3) above, cosmetics, perfumery or toilet articles, cellulose-wadding handkerchiefs, but also made up textile articles such as pyjamas. The articles of these sets are classifiable according to their **own appropriate heading.**"

(*) Insert the appropriate Report reference.

[Page 1730. N° 96.05.

1. Deuxième paragraphe. Alinéa 1).

Insérer le texte suivant à la fin de cet alinéa :

" Les nécessaires de ce groupe peuvent également contenir des articles tels que les chaussettes en bonneterie, les bandeaux en matières textiles utilisés pour se protéger de la lumière, les mouchoirs parfumés, les tampons auriculaires, etc., des types normalement conçus pour le confort des passagers lors de longs voyages en avion. Sont par contre **exclus** de cette position, les nécessaires contenant des articles de la Section XI d'une confection soignée, destinés à des usages répétés, tels que les pyjamas, les shorts, les T-shirts et similaires."

2. Dernier paragraphe.

Nouvelle rédaction :

"Sont également **exclus** de la présente position, les trousse de manucure (n° 82.14)."]

[Page 1730. Heading 96.05.

1. Second paragraph. Item (1).

Insert the following text at the end of this Item :

" The sets of this group may also include articles such as knitted socks, textile blindfolds to rest the eyes, scented handkerchiefs, ear plugs, etc., of the type normally designed for the comfort of passengers during long-distance flights. However, this heading **excludes** sets containing well-made articles of Section XI, intended for repeated use, such as pyjamas, shorts, T-shirts and the like."

2. Last paragraph.

New wording :

"This heading also **excludes** manicure sets (**heading 82.14**)."]
