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HARMONIZED SYSTEM
COMMITTEE

-
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(+ Annexes I to IV)
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STUDY WITH A VIEW TO ESTABLISHING GUIDELINES
FOR THE CLASSIFICATION OF DOUBLE-CAB PICK-UP VEHICLES
(Item IX.18 on the Agenda)

Reference documents :

26.642 (NC/45)	39.600, Annex IJ/20 (HSC/16 – Report)
26.800, Annex C/8 (NC/45 – Report)	40.083 (HSC/17)
35.350, Annex G/5 (HSC/3 – Report)	40.260, Annex IJ/9 (HSC/17 – Report)
35.700, Annexes E/11 and F/11 (HSC/4 – Report)	40.454 (HSC/18)
35.840 (HSC/5)	40.625 (HSC/18)
35.841 (HSC/5)	40.600, Annex H/20 (HSC/18 – Report)
35.960, Annexes G/4 and G/5 (HSC/5 – Report)	40.909 (HSC/19)
39.156 (RSC/11)	41.100, Annex G/18 (HSC/19 – Report)
39.200, Annex XI (RSC/11 – Report)	41.313 (HSC/20)
39.282 (RSC/11)	41.600, Annex F/19 (HSC/20 – Report)
39.332 (HSC/15)	42.434 (HSC/22)
39.400, Annex E (HSC/15 – Report)	42.456 (HSC/22)
39.575 (HSC/16)	42.750, Annexes G/9 and G/33 (HSC/22 – Report)

I. BACKGROUND

1. Following a reservation entered by a Contracting Party, the Committee at its 22nd Session re-examined the classification of the “Maxi Pampa” double-cab vehicle.
2. The Committee confirmed its previous decision to classify the “Maxi Pampa” vehicle in heading 87.03 by application of GIR 1 (i.e., the vehicle was principally designed for the transport of persons, given its interior finish, its design and the weight relation criterion).
3. In this connection, the Committee also confirmed its previous decision to classify the “Chevrolet LUV 2300” vehicle in heading 87.04, noting that the earlier classification had not been challenged.

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4. At the request of some delegates, the Committee agreed that the Secretariat should initiate a study with a view to establishing guidelines for the classification of the vehicles concerned.

II. SECRETARIAT'S STUDY

5. Taking into account the fact that the Committee has so far been faced with questions regarding the classification of certain types of vehicles (e.g., "pick-up" vehicles, station wagons and van-type vehicles) which might fall, *prima facie*, either in heading 87.04 or 87.03, on the one hand, or in heading 87.03 or 87.02, on the other, the Secretariat has studied the issues concerning those headings examined by the Nomenclature Committee and the Harmonized System Committee since the preparation of the Harmonized System.
6. Due to its length, the Secretariat found it appropriate to present this study to the Committee in tabular form (see Annex I to this document).
7. The study revealed that the Nomenclature Committee and the Harmonized System Committee considered various criteria based on the exterior and interior structural designs of the vehicles concerned to distinguish between them.
8. These criteria are also presented in tabular form, in Annex II to this document.

III. NOTE FROM ARGENTINA

9. On 22 March 1999, the Secretariat received the following note from Argentina :
10. "...The Directorate General of Customs of the Argentine Republic seeks to establish criteria for distinguishing motor vehicles of heading 87.02 from those of heading 87.03.
11. In this respect, the Harmonized System Committee decided at its 5th Session to classify a "Land Rover 110" of the following different types :
 - (a) with ten seats installed (heading 87.02);
 - (b) with nine seats installed and a storage container between the two front seats but with anchorage mechanisms for an extra seat in this space (heading 87.03);
 - (c) with nine seats installed and an empty space between the two front seats where a storage container or a seat could be installed which would provide extra seating space via anchorage points (heading 87.03); and
 - (d) without seats installed but equipped with anchorage points for ten seats (heading 87.02).

12. However, the Argentine Administration is having some difficulty in classifying this type of motor vehicle, given that in the text of heading 87.02 the scope of the expression "for the transport of ten or more persons" is not clear, particularly as to whether this refers to adults of normal size (approximately 70 kg in weight and 1.70m in height) or whether the passenger space must meet certain conditions with respect to the space available or to the seat dimensions or form (bucket seats for example). This arises particularly with the following cases :

(A) "TATA" model "SUMO 483"

13. This vehicle has two completely different parts as regards its usage: (1) the first part (the front of the vehicle), is intended for the transport of persons; there are six fixed seats with anchorage points and seat belts, and (2) the other part (the rear of the vehicle) which can be used either for the transport of goods or for the transport of persons, has two fold-away bench seats without anchorage points, stored in lateral (side) panels (longitudinally with respect to the vehicle's transmission shaft).
14. In this case, each of the two folding seats is 78 cm in length and 44 cm in depth (seat width), the height of the seat is 37 cm and there is 50 cm between the two folding bench seats. In this respect, it should be noted that this Administration believes that the 78 cm length measurement for the folding seat is very short for two adults of normal size (approximately 70 kg in weight and 1.70 m in height) to be transported in safe and comfortable conditions, given that a length of at least 90 cm is required for this to be achieved. Furthermore, the height of the seat should be at least 40 cm, but the seats of this vehicle has only 37 cm.
15. Furthermore, climbing into the rear of the vehicle is very difficult for adults of normal height because they must enter by a 120 cm high door while upright and walking.
16. Given all of the above, the Argentine Administration is of the opinion that the "TATA" vehicle, model "SUMO 483" should be classified in heading 87.03 because, its dimensions and environment, the seats for the transport of persons are not suitable for the transport of adults of normal size.

(B) "SSang Yong", models "MUSSO 601" and "MUSSO 602"

17. These vehicles also have two parts which are completely different as regards their use: in the first part (the front of the vehicles) used for the transport of persons, there are two bucket seats with three head-rests and a bench seat behind with two seat backs and two head-rests with the corresponding anchorage points; the other part (the rear of the vehicles), which can be used either for the transport of goods or the transport of persons, has two fold-away bench seats stored in lateral panels (longitudinal in relation to the vehicle's transmission shaft).
18. All the arguments put forward in case (A) are also valid for case (B); however, the Argentine Administration believes that only four places should be counted for the front of the vehicles, given that in the front seat only one person can sit down in the two seats, using their sides; moreover, the front passenger seat is only 77 cm wide according to the company representative, which does not meet the minimal width requirements of Argentine legislation for seating two adults of normal size.

19. However, given that the objective of the Nomenclature is the uniform classification of goods on a world-wide scale, the Argentine Administration requests that you submit this question to the Harmonized System Committee in order to determine its classification and if necessary study an amendment to the Nomenclature to specify the scope to give to the expression "for the transport of ten or more persons" in the text of heading 87.02, and in particular whether the criteria of adults of normal size (approximately 70 kg in weight and 1.70 m) and the seat and passenger space dimensions should be specified in a Chapter Note in order to ensure that national transport regulations do not produce different conclusions in application of the legal texts concerning that heading...".

IV. SECRETARIAT COMMENTS

Study

20. The Secretariat recalls that its intention before the 11th Session of the Harmonized System Review Sub-Committee was to establish guidelines for the classification of "pick-up" vehicles (i.e., dual-purpose or multipurpose vehicles, capable of transporting both persons and goods) (see Doc. 39.156, Areas Subject to Frequent Lawsuits or Disputes : Possible Amendment to Heading 87.04 Concerning the Classification of "Pick-Up" Vehicles – RSC/11).
21. In this respect, the Secretariat in the aforementioned document (paragraph 2) had pointed out that it had received, on several occasions, classification questions concerning such vehicles and that its replies to those questions were based on the Nomenclature Committee's conclusions at its 45th Session (November 1980), when it examined the classification of double cab "pick-up" vehicles with loading platform.
22. Therefore, the Secretariat in Doc. 39.156 (paras. 6 to 13) proposed the following :

Text of heading 87.04.

Delete and substitute :

"87.04 - Motor vehicles for the transport of goods, including "pick-up" vehicles".

Explanatory Note to heading 87.04.

Insert the following new paragraph after Item (4) on page 1428 :

"For the purposes of this heading, the expression "pick-up vehicles" means vehicles having a single or double cab with a partition separating the front part, where the driver and passengers are located, from the rear part for the transport of goods. The rear part should not have fixed, folding or removable seats or benches, or specially fitted spaces for them, or anchor points or, in general, an interior finish similar to that found in vehicles for the transport of persons".

Explanatory Note to heading 87.03.

Insert the following texts [taken from the Explanatory Notes to the Combined Nomenclature of the EC (of that time)] in respect of subheadings 8703.21 and 8703.24 :

“Provided that they are principally designed for the transport of persons, these subheadings also include dual-purpose motor cars, i.e., motor cars which can transport persons or goods equally well. Vehicles of this type can be distinguished from motor vehicles for the transport of goods, which are often the same size, by :

- (1) The presence, behind the driver's seat or bench, of fixed folding or removable seats or the specially fitted spaces for them and of side windows; and
- (2) The presence of a side or rear door or a tail-gate and interior finish similar to that of a vehicle for the transport of passengers”.

23. However, the Review Sub-Committee decided to maintain the status quo and invited the administrations having problem in classifying “pick-up” vehicles to submit actual cases for examination by the Harmonized System Committee. The possibility of amending the Explanatory Notes could be studied on the basis of the Committee's classification decision (Doc. 39.200, Annex XI, RSC/11 – Report).
24. It should be noted that the above decision of the Review Sub-Committee was endorsed by the Harmonized System Committee at its 15th Session (Doc. 39.400, Annex E, HSC/15 – Report).
25. Referring to the table in Annex I hereto, the Secretariat would note that the Committee, after almost all of its classification decisions regarding the vehicles concerned, has so far produced Classification Opinions, decided that there was no need to amend the legal texts or the Explanatory Notes, but has requested the Secretariat to carry out a study for the purposes of clarification of the classification of those vehicles.
26. Given the Committee's reluctance to amend the legal texts or Explanatory Notes in the past, the Secretariat feels that clear instructions are needed as to the objectives and scope of the Secretariat's study.
27. Obviously, before giving the necessary instruction to the Secretariat, the Committee is requested to take into account the criteria, presented in Annex II hereto, so far considered by the Nomenclature and the Harmonized System Committee for distinguishing between “pick-up” vehicles, station wagons and van-type vehicles classifiable in headings 87.02, 87.03 and 87.04.
28. In respect of the criteria presented in Annex II, the Secretariat notes that many of these criteria (including the weight criterion and space criterion) were examined by the Committee at its 5th Session. But the Committee decided not to amend the legal texts or the Explanatory Notes at that session either.

Questions posed by Argentina

29. In its note (paragraphs 12 to 19 above), the Argentine Administration, referring to the Committee's decision at its 5th Session on the classification of "Land Rover 110" type vehicles, indicates that it is having difficulty in classifying this type of vehicle. According to Argentina, the scope of the expression "for the transport of ten or more persons" is not clear, particularly as to;

- (a) whether the term "persons" refers to adults of normal size (approximately 70 kg in weight and 1.70 m in height); or
- (b) whether the passenger space must meet certain conditions with respect to the space available or to the seat dimensions or forms (e.g., bucket seats).

30. In this regard, Argentina is of the view that the length and height of the folding rear lateral seats in the "TATA SUMO 483" vehicle are not convenient for two adults of normal size to be transported in safe and comfortable conditions. Furthermore, climbing into the rear of the vehicle is very difficult for adults of normal height, because they must enter via a 120 cm high door while upright and walking.

31. Argentina therefore requests that the Harmonized System Committee to determine whether it is necessary to study :

- (a) whether the Nomenclature should be amended to clarify the scope of the expression "for the transport of ten or more persons" in the text of heading 87.02, and
- (b) in particular, whether the criteria of adults of normal size (approximately 70 kg in weight and 1.70 m in height) and the seat and passenger space dimensions should be specified in a Chapter Note,

in order to ensure that national transport regulations do not produce different conclusions in application of the legal text concerning heading 87.02.

32. Due to late arrival of the note from Argentina, the Secretariat had no time to study the implications of the questions posed therein. For the present, the Secretariat is not in a position to express its views in this respect. The Committee is requested give its views.

33. However, the Secretariat would remind the Committee that, when it classified the "Maxi Pampa", "Chevrolet LUV 2300" and "Toyota Hilux Surf 4WD" at its 22nd Session, a weight criterion (i.e., the relation between the weight of the passengers and that of the cargo) was among the criteria used. In the context of this criterion, the weight of a passenger had been taken to be 70 kg, as the standard weight of an adult.

34. Therefore, it should be pointed out that decisions of the Committee in respect of the questions posed by Argentina might have some implications on its previous classification decisions.

Classification of "TATA" model "SUMO 483" and "SSang Yong" models "MUSSO 601" and "MUSSO 602"

35. Brief descriptions of the "TATA SUMO 483" and "SSang Yong MUSSO" provided by Argentine Administration are set out in paragraphs 13 and 17, respectively.
36. According to the documentation provided by Argentina (which will be made available for consultation by delegates during the session), the seating capacity of the "TATA SUMO 483" is "9 + the driver". In the driver's section, there is a passenger seat, called a "double seat" by the manufacturer, of 77 cm in length according to Argentine Administration, to provide space for an additional passenger (see Annex III to this document).
37. The Documentation concerning "SSang Yong MUSSO" indicates that seats could be arranged to accommodate 5 to 12 passengers (see Annex IV to this document).
38. Both the "TATA SUMO 483" and "SSang Yong MUSSO" have interior finishes and fittings similar to those found in passenger vehicles.
39. Argentina has not specified the engine types of the vehicles concerned. According to the brochure on the "SSang Yong MUSSO", this vehicle may come equipped with either "petrol" (spark-ignition internal combustion reciprocating piston) type or "diesel" (compression-ignition internal combustion piston) type engine.
40. Therefore, the Committee may be able to consider the classification of the vehicles concerned at heading level at this session.
41. However, the Committee may wish to postpone the classification of the aforementioned vehicles until after the settlement of the questions posed by Argentina (see paras. 29 to 31 above).

IV. CONCLUSIONS

42. Taking into account the study carried out by the Secretariat to date (see Annexes I and II hereto), the note from Argentina and the Secretariat's comments thereon (see paragraphs 20 to 41 above), the Committee is requested to :
- (a) give the Secretariat clear instructions as to whether the Secretariat's study should proceed with a view to amending the legal texts and/or the Explanatory Notes to clarify the classification of "pick-up" vehicles, station wagons and van-type vehicles which, *prima facie*, might fall in heading 87.02, 87.03 or 87.04 of the present Harmonized System. If so, the Committee should invite administrations to provide the Secretariat with their comments and, if any, with their proposals;
 - (b) express its opinion as to the questions posed by Argentina in paragraph 31 above; and
 - (c) rule on the classification of "TATA SUMO 483" and "SSang Yong MUSSO" vehicles, as requested by Argentina.

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QUESTIONS EXAMINED BY THE NOMENCLATURE COMMITTEE, REVIEW SUB-COMMITTEE AND THE HARMONIZED SYSTEM COMMITTEE
IN RESPECT OF "PICK-UP" VEHICLES, STATION WAGONS AND VAN-TYPE VEHICLES CLASSIFIABLE
HS HEADINGS 87.02, 87.03 AND 87.04

SESSION	QUESTION	CLASSIFICATION DECISION	ACTION TAKEN			REMARKS
			CO	EN	HS	
NC/45	Classification of Jeep, Land Rover and VW Combi	87.02-if 10 or more seats 87.03-if less than 10 seats	-	No need	No need	Vehicles designed specifically for the transport of persons
NC/45	Classification of Toyota Dyna, Datsun and Toyota Delivery Van double cab "pick-ups"	87.04	-	No need	No need	"Pick-up" vehicles (double cab with loading platform) are not station wagons
HSC/3	Classification of "multipurpose vehicles" : Nissan Pathfinder	Preliminary discussion	-	-	-	Examine the criteria for distinguishing vehicles of 87.03 from those of 87.04
HSC/4	Continued	-	-	-	-	Secretariat to prepare a summary list of criteria (see Annex II hereafter)
HSC/5	Continued	87.03	Yes 8703.23/1	No need	No need	
HSC/4	Distinguishing between the vehicle of 87.02 and those of 87.03 : Land Rover 110	-	-	-	-	Examine criteria for distinguishing
HSC/5	Continued	87.02-10 seating places 87.03-9 seating places plus anchor points for a 10 th seat 87.02-No seating places but anchor points for 10 seating places	-	No need	No need	(see Annex II for the criteria examined by the HSC/5)
RSC/11	Secretariat proposal : Possible amendment to heading 87.04 concerning "pick-up" vehicles	Not applicable	Not applicable	(*)	No need	(*) Administrations should submit actual cases. EN amendments could be studied on basis of HSC decision
HSC/17	Classification of double cab "pick-up" vehicles: Maxi Pampa and Chevrolet LUV 2300	-	-	-	-	Re-examine
HSC/18	Continued	-	-	(*)	-	Secretariat to carry out a study on the classification of "pick-up" vehicles.

Annex I to Doc. NC0056E1

SESSION	QUESTION	CLASSIFICATION DECISION	ACTION TAKEN			REMARKS
			CO	EN	HS	
HSC/19	Continued	87.03-Maxi Pampa 87.04-LUV 2300	Yes -	(*)	No need	Secretariat to prepare draft amendments to the ENs on the basis of proposals from administrations
HSC/20	Reservation on the classification of Maxi Pampa	-	-	-	-	-
HSC/22	Re-examination of the classification of Maxi Pampa and LUV 2300	87.03-Maxi Pampa 87.04-LUV 2300	Yes Yes	No need	-	Classification by application of GIR 1 (vehicle principally designed for the transport of persons, given its interior, its design and weigh relation criterion); Secretariat to initiate a study
HSC/22	Classification of Toyota Hilux Surf 4WD double cab "pick-up" with a bench fixed on PVC board placed in the loading platform	87.04	Yes	-	-	Classification on the basis of vehicles design, its interior and the weight criterion; Secretariat to carry out a study
HSC/20	Classification of van type vehicles	-	-	-	-	Not to take any decision until the reservation on the classification of "pick-up" vehicles is settled
HSC/21	Continued	87.02-Isuzu WFR Microbus 87.03-Isuzu WFR Wagon and Window V 87.04-Isuzu WFR Panel Van 87.03-Mercedes Benz Vito 110 D 87.03-Toyota Hiace with one ore more benches 87.04-Toyota Hiace without bench and anchor points 87.03-Nissan Caravan 87.03-Ssangyong Korando 602EL Van	Yes - - Yes Yes - - Yes	-	-	Mercedes-Benz Vito has a panel of plywood covering cargo area and the rear part of the passenger area. This panel has openings for mounting a transversal bench.
	Situation after HSC/22			No need	No need	Secretariat to study the classification of "pick-up" vehicles and vehicles with removable seats

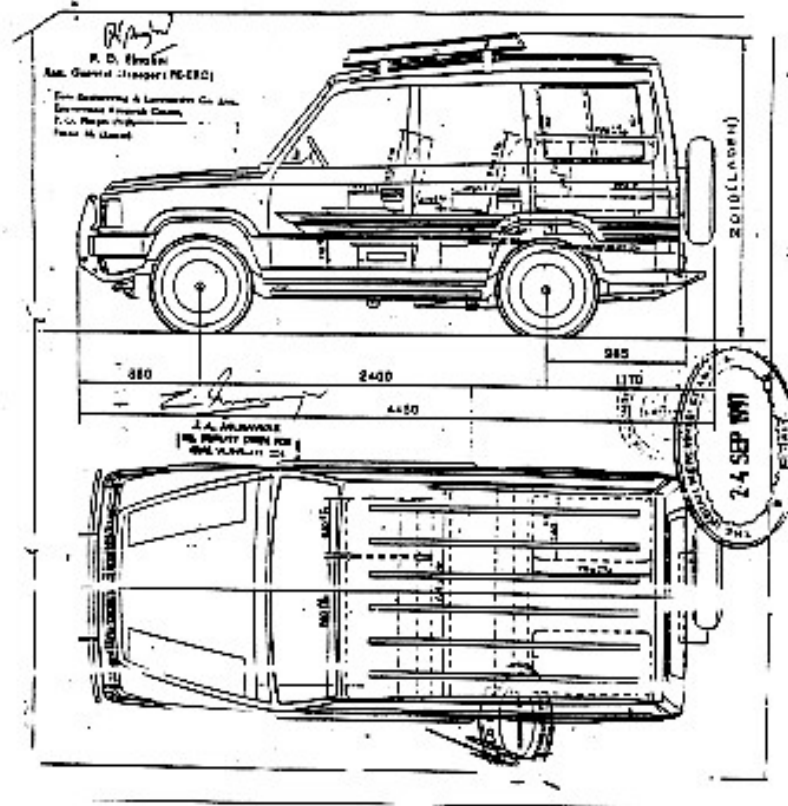
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CRITERIA CONSIDERED BY THE NOMENCLATURE COMMITTEE AND THE HARMONIZED SYSTEM COMMITTEE
FOR DISTINGUISHING BETWEEN "PICK-UP" VEHICLES, STATION WAGONS AND VAN-TYPE VEHICLES CLASSIFIABLE
HS HEADINGS 87.02, 87.03 AND 87.04

CRITERIA	87.02	87.03	87.04
1. SEATING CAPACITY Number of seating places Presence of permanently installed or removable rear seats behind the driver's section - Relation between the space occupied by the passengers/the goods - Relation between the weight of the passengers/the goods	10 or more Yes	Less than 10 Yes	Less than 10 possible
2. FOLD-AWAY REAR SEATS Presence of fold-away or collapsible rear seats or benches behind the driver's section	possible	possible	No
3. ANCHOR POINTS Presence of anchor points and fittings for installing rear seats or benches, or an additional seat between the two front seats	possible	possible	No
4. SIDE WINDOWS Presence of rear windows along the two side panels	Yes	Yes	No
5. SIDE DOORS Presence of rear doors on the two side panels	Yes (one side)	Yes	Possible
6. DIVISION BETWEEN DRIVER/PASSENGER SECTION AND REAR SECTION FOR THE TRANSPORT OF GOODS - Part of the vehicles body - Removable	No No	No Possible	Yes
7. TAILGATE	No	Possible	Yes
8. LOAD PLATFORM WITH SIDE PANELS - Covered - Uncovered	No No	Possible Possible	Yes Yes
9. FLOOR PANEL COVERING LOADING PLATFORM	No	Possible	Possible
10. INTERIOR FINISH AND FITTINGS SIMILAR TO THOSE FOUND IN PASSENGER VEHICLES (e.g., floor carpeting, ventilation, interior lighting, ashtrays, etc.)	Yes	Yes	No
11. MECHANICAL AND STRUCTURAL FEATURES - frame (chassis), axle and suspension; - engine and transmission; - body design (aerodynamic features); - other significant design features which indicate the use	This group of criteria were proposed by one administration, but not considered by the Committee as a whole.		

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" TATA SUMO 483 "



"Ssang Yong MUSSO"

