



HARMONIZED SYSTEM
COMMITTEE

-
26th Session
-

NC0269E1
(+ Annex)
O. Fr.

Brussels, 27 July 2000.

CORRIGENDUM AMENDMENTS TO THE ARTICLE 16

RECOMMENDATION OF 25 JUNE 1999

(Item III.3 on Agenda)

Reference documents :

34.418 (HSC/1)	NG0017B1 Council Recommendation of 25 June 1999
34.700, Annex E/2 (HSC/1 – Report)	NS0014E1, Annexes A/7 and B/4 (SSC/15 – Report)
34.830 85 th /86 th Council Sessions - Report	NCO244E1 (HSC/25)
38.760, Annex H/24 (HSC/13 – Report)	NCO250E2, paragraphs 49 to 55, Annexes L and M
39.606 HS Amendments by corrigendum	(HSC/25 – Report)
39.650 85 th /86 th Council Sessions - Report	NR0120E1 (RSC/22)
NC0090E2, Annex Q (HSC/23 – Report)	NR0121E1 (RSC/22)

I. BACKGROUND

1. At its 25th Session, the Harmonized System Committee examined a Secretariat proposal to make a minor editorial amendment, by corrigendum, to the Council Recommendation of 25 June 1999 amending the HS Nomenclature (entry into force of the amendments on 1 January 2002). By way of reminder, the amendment consisted of deleting the word “glycols” (plural) and substituting “glycol” in the French version of subheading 3404.20.
2. After discussion, the Committee invited administrations to submit any minor editorial errors they found in the above-mentioned Recommendation as soon as possible and instructed the Secretariat to combine the resulting draft amendments in a single document for examination and adoption by the Harmonized System Committee at its 26th Session in November 2000. The amendments adopted by the Committee will be submitted to the Council at its June 2001 Sessions.

File No. 2483

II. SECRETARIAT COMMENTS

History of the procedure

3. The Secretariat felt it worthwhile retracing the history of the corrigendum procedure for implementing minor amendments not affecting the substance of the HS Nomenclature.
4. The aim of the corrigendum procedure was to ensure the equal authenticity of the French and English texts of the HS whilst at the same time ensuring that minor errors were corrected without delays which might bring the Harmonized System into disrepute.
5. In Doc. 34.418 of 10 December 1987 (HSC/1), the Secretariat pointed out that in its opinion, the corrigendum procedure should apply to the following categories of cases:
 - Cases of misalignment between the English and French texts;
 - Improvement of the general presentation of the texts;
 - Other minor amendments not affecting the substance of the Nomenclature, such as those intended to correct grammatical, spelling, punctuation or printing errors.
6. This issue was discussed at the First Session of the HSC in April 1988 (Annex E/2 to Doc. 34.700 – HSC/1, Report), when the Committee unanimously agreed that minor amendments not affecting the substance of the Harmonized System could be implemented in accordance with the corrigendum procedure suggested by the Secretariat, provided that :
 - All amendments by corrigendum are made only with the unanimous agreement of the Committee and subject to the approval of the Council;
 - Countries have no legal obligation to implement amendments adopted under the corrigendum procedure until such time as those amendments enter into force by virtue of a Recommendation made under the Article 16 procedure.
7. At its 71st /72nd Sessions of June 1988, the Council approved the conclusions of the Harmonized System Committee concerning the implementation of minor amendments to the Harmonized System (Doc. 34.830, paragraph 94 – Council Sessions Report).
8. At its 13th Session (April 1994), the Committee unanimously confirmed the principle of amending the Harmonized System by corrigendum (1996 version) and of incorporating such amendments in a future Recommendation to be drawn up in accordance with Article 16 of the HS Convention. In addition to issuing the final report, the Secretariat was also instructed to notify in writing all Members of the Council and Contracting Parties to the HS Convention of the unanimous decisions and texts adopted (Doc. 38.760, Annex H/24, HSC/13 – Report).

Amendments to be made by corrigendum

9. Bearing in mind the procedure mentioned above, the Secretariat suggests that the following editorial amendments be made by corrigendum to the Council Recommendation of 25 June 1999 and inserted in the next Council Recommendation to amend the HS :
 - **Heading 14.03** (English version) : delete “**broom-corn**” and substitute “**broomcorn**”. No amendment would be required in the Explanatory Notes;

- **Subheading 3404.20** (French version): delete “glycols” and substitute “glycol”. Should this amendment be approved, consequential amendments will have to be made to the relevant parts of the draft amendments to the Explanatory Notes and Compendium of Classification Opinions, as presented in Doc. NC0250B2, Annexes L/6, L/7, and M (HSC/25, Report), in which the letter “s” is in square brackets;
- **Subheading Note 1 to Chapter 44** : reverse the terms “Teak” and “Tauari” (to put them in alphabetical order);
- **Subheading 4707.10** (French version) : delete “kraft” and substitute “Kraft” (for uniformity);
- **Heading 48.11** (French version) : delete “nappe des fibres de cellulose” and substitute “nappe de fibres de cellulose” (misprint).

10. The Secretariat points out that these HS draft amendments will have been examined, under the Article 16 procedure, by the Review Sub-Committee at its 22nd Session in September 2000 (Agenda Item III.B.11). *When examining this issue, the Committee is therefore invited to take account of the arguments presented in the RSC’s working document (Doc. NR0121E1) and in the relevant Annexes to the Report on the RSC’s 22nd Session.*

Subheading 9021.10 (French version)

11. Regarding the use of the phrase “Articles and appareils” in preference to the word “Appareils” in the French version of subheading 9021.10, the question arises as to whether the proposed amendment does in fact fall in one of the categories mentioned in paragraph 5 above, and more particularly in the first one, concerning misalignment between the two versions.
12. In this respect, the Secretariat recalls that the question of alignment of the texts will also have been discussed at the Review Sub-Committee’s 22nd Session (Agenda Item III.B.10). However, it seems worthwhile to repeat below the key points made in the Secretariat’s document Doc. NR0120E1 (RSC/22) as regards the applicability of the corrigendum procedure to this particular case.
13. The Secretariat points out that in various other headings of Chapter 90, as well as in the last part of the text of heading 90.21, the English term “appliances” is translated by the French word “appareils” alone (which seems to be supported by the relevant dictionaries). Hence from a terminological point of view there is strictly speaking no misalignment between the English and French versions of subheading 9021.10. Indeed, the problem is of a different kind, and lies in the fact that the term “appliances” is translated differently in the 4-digit heading (90.21) and in the corresponding subheading of the Structured Nomenclature.
14. The Secretariat would also like to remind the Committee that the HS Convention does not seem to contain any clear and explicit legal basis for making HS amendments by corrigendum, this procedure being more of a practical measure intended to facilitate the rapid entry into force of minor amendments. Moreover, Contracting Parties are under no legal obligation to implement such amendments immediately.
15. However that may be, the Secretariat believes that the present situation could jeopardize the uniform application of the HS, and that it would be detrimental to maintain this contentious situation until 2007. Though not specifically covered by any of the above-

mentioned categories (it could be regarded as an omission in the French version), the proposed amendment could in the Secretariat's view be made by corrigendum subject to the unanimous agreement of the Committee and subsequent approval by the Council.

16. Regarding this particular case, if certain Contracting Parties were reticent as to the use of this procedure, the Secretariat would propose that a Subheading Explanatory Note be inserted at the end of the Explanatory Note to heading 90.21, to clarify matters for administrations and other HS users, on the understanding that such a provision would have no legal force and as such could not prevent a possible legal problem.
17. In case it may be useful, the proposed text is given in square brackets in the Annex hereto.

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18. The various proposed amendments are set out in the Annex hereto. The Annex also includes the consequential amendments to the draft amendments to the Explanatory Notes and Compendium of Classification Opinions arising from the Recommendation of 25 June 1999, with reference to the relevant Annexes (L and M) to the Report on the HSC's 25th Session.

III. CONCLUSION

19. The Committee is invited to decide on the draft amendments to be made by corrigendum to the texts of the Recommendation of the Council of 25 June 1999 and on the consequential amendments to the draft Explanatory Notes, as featured in the Annex hereto, bearing in mind the Secretariat's comments and the relevant Annexes to the Report on the 22nd Session of the Review Sub-Committee.
20. More particularly concerning subheading 9021.10, the Committee is invited to determine whether the corrigendum procedure is applicable, and if not, whether the Explanatory Notes could usefully be amended as suggested by the Secretariat.

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Annexe au Doc. NC0269B1
Annex to

(CSH/26/nov. 2000)
(HSC/26/Nov. 2000)

ANNEXE

AMENDEMENTS PAR VOIE DE CORRIGENDUM A LA
RECOMMANDATION DU 25 JUIN 1999 ELABOREE
CONFORMEMENT A L'ARTICLE 16

(Point III.3 de l'ordre du jour)

ANNEX

CORRIGENDUM AMENDMENTS TO THE ARTICLE 16
RECOMMENDATION OF 25 JUNE 1999

(Item III.3 on Agenda)

A EFFECTUER PAR VOIE DE CORRIGENDUM

I. AMENDEMENTS DE LA NOMENCLATURE

(Doc. NG0017B1 (Recommandation du 25 juin 1999))

CHAPITRE 14.

N° 14.03.

Texte anglais seulement.

CHAPITRE 34.

N° 3404.20.

Remplacer "glycols" par "glycol".

CHAPITRE 44.

Note 1 de sous-positions.

Remplacer "Teak, Tauari," par "Tauari, Teak,".

CHAPITRE 47.

N° 4707.10.

Remplacer "kraft" par "Kraft".

CHAPITRE 48.

N° 48.11.

Remplacer "**nappes des fibres de cellulose**" par "**nappes de fibres de cellulose**".

[CHAPITRE 90.

N° 9021.10.

Remplacer "Appareils" par "Articles et appareils".]

II. MODIFICATIONS DES NOTES EXPLICATIVES

(Doc. NC0250B2 - CSH/25, rapport)

Annexe L/6.

1. Page L/6/59/rév. "Page 523. N° 34.03. Premier paragraphe".
2. Page L/6/59/rév. "Page 524. N° 3404.20".
3. Page L/6/59/rév. "Page 525. N° 34.04. Quatrième paragraphe".
4. Page L/6/59/rév. "Page 526. N° 34.04. Exclusion h)".
5. Page L/6/63/rév. "Page 572. N° 38.11. Alinéa B) b) 2°)".
6. Page L/6/65/rév. "Page 582. N° 38.24. Alinéa 10) (deux fois)".

Supprimer "[s]" après le mot "glycol".

Annexe L/7.

1. Page L/7/2/rév. "Page 595. Considérations générales".
2. Page L/7/6/rév. "Page 607. N° 39.07. Alinéa 2). Cinquième ligne".

Supprimer "[s]" après le mot "glycol".

Annexe L/9. Page L/9/1. "Page 670. Note 1 de sous-positions. Avant-dernière ligne".

Remplacer "Teak, Tauari," par "Tauari, Teak,".

Annexe L/10. Page L/10/12. "Page 749. N° 48.11. Libellé".

Remplacer "**NAPPES DES FIBRES DE CELLULOSE**" par "**NAPPES DE FIBRES DE CELLULOSE**".

[Annexe L/18. Page L/18/5. "Page 1620. N°s 9021.1 à 9021.30".

En regard du n° 9021.10, remplacer "**Appareils**" par "**Articles et appareils**".]

III. MODIFICATIONS DU RECUEIL DES AVIS DE CLASSEMENT

(doc. NC0250B2 - CSH/25, rapport)

Annexe M. Page M/2/rév. "Page 13a. Avis 3907.20/1".

Supprimer "[s]" après le mot "glycol".

TO BE MADE BY CORRIGENDUM

I. AMENDMENTS TO THE NOMENCLATURE

(Doc. NG0017B1 (Recommendation of 25 June 1999))

CHAPTER 14.

Heading 14.03.

Delete "**broom-corn**" and substitute "**broomcorn**".

CHAPTER 34.

Subheading 3404.20.

French text only.

CHAPTER 44.

Subheading Note 1.

Delete "Teak, Tauari," and substitute "Tauari, Teak,".

CHAPTER 47.

Subheading 4707.10.

French text only.

CHAPTER 48.

Heading 48.11.

French text only.

[CHAPTER 90.

Subheading 9021.10.

French text only.]

II. AMENDMENTS TO THE EXPLANATORY NOTES

(Doc. NC0250B2 - HSC/25, report)

Annex L/6.

1. Page L/6/59. "Page 523. Heading 34.03. First paragraph".
2. Page L/6/59. "Page 524. Subheading 3404.20".
3. Page L/6/59. "Page 525. Heading 34.04. Fourth paragraph".
4. Page L/6/59. "Page 526. Heading 34.04. Exclusion (h)".
5. Page L/6/63. "Page 572. Heading 38.11. Item (B) (b) (2)".
6. Page L/6/65. "Page 582. Heading 38.24. Item (10)".

French text only.

Annex L/7.

1. Page L/7/2. "Page 595. General".
2. Page L/7/6. "Page 607. Heading 39.07. Item (2). Fifth line".

French text only.

Annex L/9. Page L/9/1. "Page 670. Subheading Note 1. Penultimate line".

Delete "Teak, Tauari," and substitute "Tauari, Teak,".

Annex L/10. Page L/10/12. "Page 749. Heading 48.11. Heading text".

French text only.

[Annex L/18. Page L/18/5. "Page 1620. Subheadings 9021.1 to 9021.30".

French text only.]

III. AMENDMENTS TO THE COMPENDIUM OF CLASSIFICATION OPINIONS

(Doc. NC0250B2 - HSC/25, report)

Annex M. Page M/2. "Page 13a. Opinion 3907.20/1".

French text only.