



HARMONIZED SYSTEM  
COMMITTEE

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26<sup>th</sup> Session  
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NC0315E1

O. Eng.

Brussels, 1 November 2000.

PROPOSED AMENDMENT OF THE SUBHEADING EXPLANATORY NOTES

CONCERNING SUBHEADINGS 2932.29 AND 2933.79

(Item VIII. 8 on Agenda)

I. BACKGROUND

1. On 23 May 2000, the Secretariat received the following note from Mexico proposing an amendment of the Subheading Explanatory Notes concerning subheadings 2932.29 and 2933.79.

II. COMMENTS FROM THE MEXICAN ADMINISTRATION

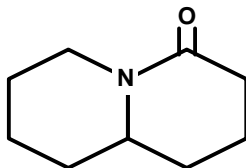
2. "While preparing the translation into Spanish of the 1996 Explanatory Notes, including Amending Supplement No. 7, and during the NAFTA Laboratory Working Group meetings, we found some interpretation problems regarding the wording of the second paragraph of the Subheading Explanatory Notes for subheadings 2932.29 (lactones) and 2933.79 (lactams). In both cases, the actual paragraph reads:

Subheading 2932.29 (and 2933.79).

"If the ester (amide) function **forms part** of two or more rings and if one of these rings does not contain an additional hetero-atom (other than the oxygen (nitrogen) atom of a lactone (lactam) group), then the molecule should be considered as a lactone (lactam)".

3. By the valence rules, the amide function, can not **form part** of three or more rings. The only way to cover this statement is by placing the nitrogen atom of the lactam in the junction of the two rings (see structure below).

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In this case, the "lactam" function forms part of two rings

4. We believe that the spirit of this Note is to reject any structure (like zopiclone) that contains any heterocyclic rings **condensed** (and /or bridged?) to the lactam ring. The case of lactones (2932.29) is completely out of question since the ester group in any case can form part of, even two rings. Instead, the lactone ring can accept any other ring condensations but heterocyclic rings.

5. We suggest the following amendment to this second paragraph for lactones and lactams :

"If the lactone (lactam) ring is condensed with one or more rings and if any of these rings does not contain additional heteroatoms (other than the oxygen (nitrogen) of the lactone (lactam) group), then the molecule should be considered as a lactone (lactam)".

### III. SECRETARIAT COMMENTS

6. The Secretariat would first of all recall that at the 6<sup>th</sup> Session of the Scientific Sub-Committee, it examined the classification of certain chemical products in the context of the HS Commodity Data Base. In respect of dilactams and trilactams, the Sub-Committee made the following observation: "While agreeing to the classification of dilactams and trilactams in subheading 2933.79, the Sub-Committee noted that the Subheading Explanatory Note (to subheading 2933.79) required suitable amendment to clarify the situation. Administrations were invited to submit proposals for the consideration of the Sub-Committee in this connection" (see paragraph 4 (b), Annex A/1 to Doc. 37.900).
7. At its 7<sup>th</sup> Session, the Scientific Sub-Committee held only a preliminary exchange of views on a draft submitted by the EC. One of the comments made by the Sub-Committee was that the Explanatory Note and Subheading Explanatory Note concerning lactones should also be modified along the same lines as lactams.
8. Accordingly, the Scientific Sub-Committee, at its 8<sup>th</sup> Session, examined possible amendments to the Explanatory Notes to Chapter 29 concerning "lactones" and "lactams". With respect to products containing more than one ring, it was agreed that when the lactone group or lactam group formed part of two or more rings and if one of those rings did not contain an additional hetero-atom (other than that of a lactone or lactam group), they should be regarded as lactones or lactams, respectively. The Sub-Committee then approved the draft amendments to the Explanatory Notes including Subheading Explanatory Notes to subheadings 2832.29 and 2933.79 and subsequently, at its 15<sup>th</sup> Session, the Harmonized System Committee adopted these texts agreed by the Scientific Sub-Committee, subject to certain minor editorial modifications in the French version. These texts appear in the present Explanatory Notes.

9. The concerns now expressed by the Mexican Administration are in respect of those Subheading Explanatory Notes adopted by the Harmonized System Committee at its 15<sup>th</sup> Session. However, Mexico is mainly concerned with the expression “ester (amide) function forms part of two or more rings” in the second paragraph of the two Subheading Explanatory Notes.
10. The Secretariat agrees, as explained by the Mexican Administration in paragraph 3 above, that these texts are inappropriate in the light of the valence values, although it believes that no practical problems would occur under the current wording. Mexico, in its proposal, has tried to improve these texts mainly by not using the expression “ester (amide) function forms part of two or more rings”.
11. Mexico has also indicated that the spirit of the Subheading Explanatory Note to subheading 2933.79 is to reject any structure such as that of zopiclone. The Secretariat is of the view that in the case of zopiclone, which contains pyrazine, pyridine, piperazine and lactam rings, it should be classified in subheading 2933.90 by application of GIR 3 (c) and GIR 6 and therefore the second paragraph of the Subheading Explanatory Note to subheading 2933.79 would not be relevant.
12. The Secretariat feels that the second paragraph of the two Subheading Explanatory Notes in question is meant to complement the first paragraph in respect of those compounds where the lactone group or lactam group formed part of two or more rings. Therefore the Secretariat wishes to propose the following alternative amendments.
- (i) Since the lactone group cannot be a part of even two rings, the second paragraph of the Subheading Explanatory Note to subheading 2932.29 could be deleted.
  - (ii) In the case of lactams, since the amide function could be a part of two rings, the words “or more” in the second paragraph of the Subheading Explanatory Note to subheading 2933.79 could be deleted.
13. Given the technical nature of this question, the Committee may wish to refer this question to the Scientific Sub-Committee.

#### IV. CONCLUSIONS

14. The Committee is invited to examine the amendments to the Subheading Explanatory Notes to subheadings 2932.29 and 2933.79 as proposed in paragraphs 2 to 5 above (Mexican proposal) and in paragraphs 6 to 12 above (Secretariat proposal).
15. The Committee is also invited to indicate whether this question should be examined by the Scientific Sub-Committee.
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