



HARMONIZED SYSTEM
COMMITTEE

-
32nd Session
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NC0764E1
(+ Annexes I and II)

O. Fr.

Brussels, 15 October 2003.

POSSIBLE AMENDMENT OF NOTE 7 (c) TO SECTION XI

(Item VI.13 on Agenda)

Reference documents :

NR0377E1 (RSC/27)
NR0400E3, Annex D/8 (RSC/27 – Report)
NC0671E1, paragraphs 103 to 107 (HSC/31)

NC0722E1 (HSC/31)
NC0730E2, Annex IJ/9 (HSC/31 - Report)

I. BACKGROUND

1. At its 27th Session, the Review Sub-Committee was informed that the **EC** had classified a square, polyester wipe as a made-up article of heading 63.07, because its edges were “heat-sealed”. Although Note 7 (c) to Section XI did not refer specifically to “heat-sealing” as one of the operations conferring the character of “made up” on an article, the **EC** Delegate suggested that heat-sealing could be regarded as a modern form of hemming, which clearly caused an article to be made up. He therefore proposed that the term “heat-sealed” be inserted in Note 7 (c) for the sake of clarification.
2. In the course of the discussions, several delegates expressed concern about a possible amendment of the above-mentioned Note as proposed by the **EC**, as the operation concerned was not explicitly referred to in that Note and its inclusion could cause the products concerned to be classified differently in Section XI.
3. The **US** Delegate expressed the view that a product which had been cut with a hot knife or scissors in order to avoid fraying, this being a simple means of stopping the edges from unravelling, could not be regarded as made up within the meaning of Note 7 (c) to Section XI, and therefore the legal Note should not be amended along the lines proposed, even for the future.

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4. The Delegate of **Canada** also stated that he was not in favour of the **EC** proposal, as an amendment of this kind might have repercussions for the classification of various products of Section XI, although he recognised that Note 7 (c) could perhaps be interpreted more broadly in the French version, which referred to articles whose edges had been hemmed or rolled "par n'importe quel procédé" ("by any procedure") – a qualification which did not appear in the English version.
5. When the question of the classification of these wipes was placed before the Harmonized System Committee at its 31st Session, the Committee agreed to instruct the Secretariat to conduct a study of the terms "hemmed or with rolled edges" and "heat-sealed", in order to establish whether heat-sealing was an operation permitted under present Note 7 (c) to Section XI.
6. Finally, the Committee decided to continue with the examination of this question at its next session, on the basis of a new document which would also contain a possible draft amendment to Note 7 (c) to Section XI, to address the apparent lack of alignment between the French and English texts of that Note; the draft amendment would be for introduction within the framework of the 2007 version of the Harmonized System.

II. SECRETARIAT COMMENTS

7. The **EC** proposes that Note 7 (c) to Section XI be amended in order to clarify its scope and, in particular, to include a specific reference to "heat-sealing" as an operation conferring the character of a made-up article within the meaning of that Note.
8. The **EC**'s Note of 8 May 2003, which was distributed at the Committee's 31st Session as a non-paper made available to delegates, provides some additional information about this matter and the Secretariat, which wishes to make the following comments on the proposal, has appended the Note to this document for ease of reference.
9. The **EC**'s Note gives the following description of the product concerned :

A non-run interlock double-knit wipe, made from 100 % continuous-filament polyester. The wipe is cut to the dimensions of 23cm x 23cm. All four edges of the wipe are heat-sealed. These wipes are used for special cleaning applications in clean-room environments.
10. In its Note, the **EC** indicates that according to the manufacturer, the sealed-edge wipes have thermally bonded borders which seal several rows of loops on the border of the knit. According to the **EC**'s information, the wide border on the sample could not have been obtained by simple hot-cutting. It would probably have been obtained by means of an adhesive or a strip applied to the fabric and then subjected to heat treatment.
11. The **EC** therefore considers that "Note 7(c) to Section XI applies to the wipes in question ... In fact, "heat-sealing" of the borders is a modern way of hemming a fabric of synthetic fibres, sealing several rows of the threads at a time, giving it the same purpose as the traditional hem, i.e., preventing the fabric from unravelling."
12. A visual inspection of the sample does indeed reveal that several rows of thread at the edges of the product have been subjected to heat treatment, and that this is, in all probability, the result of an operation which goes beyond simply cutting the edges with a hot knife or scissors.

13. As already indicated in paragraph 13 of Doc. NC0722E1, according to the “Dictionnaire des Industries”, *heat-sealing* is “a process for bonding two or more products in thin layers, at least one of which is thermoplastic and of small thickness, by heating the surfaces in contact to the melting point of the thermoplastic material, the bond being generally completed by the application of pressure”.
14. The Secretariat also wishes to point out that the first part of Note 7 (c) to Section XI indicates, in the French version at least, that products, the edges of which have been hemmed or rolled by any process, are to be regarded as made up.
15. A hem is made by folding over the edge of a piece of fabric, whereas a rolled edge, encountered in very fine fabrics in particular, is produced by rolling the edge of the fabric.
16. The Secretariat considers that if the legal Note states, in the French version, that edges may be hemmed or rolled by any process, this is because of the wide variety of different hems or methods of producing them : for example, hems may be straight-stitched, fancy-stitched, blanket-stitched, bordered or rolled.
17. Although a hem generally consists of a fold which has been stitched down along the edge of a fabric, it is the Secretariat’s understanding that stitching is neither necessary nor obligatory in order for a fabric to be regarded as made up within the meaning of Note 7 (c) to Section XI.
18. Thus, a fabric with edges finished by folding them over and simply heat-sealing them, rather than stitching them by hemming or oversewing, for example, would in the Secretariat’s view be regarded as made up, as such a fabric would be “hemmed” irrespective of how the hem was obtained.
19. Conversely, a fabric the edges of which had simply been heat-sealed, without any other working, solely in order to prevent them from unravelling, would not be regarded as made up and would fall into the category cited in the second part of Note 7 (c), i.e., “fabrics the cut edges of which have been prevented from unravelling by whipping or by other simple means”.
20. The Secretariat therefore takes the view that strictly speaking, there is no lack of alignment between the two versions of the text concerned, apart from the fact that the English text could specify, as does the French, that the hemming or rolling could be carried out by any process.
21. There remains the question of whether a false hem, i.e., a hem formed by adding a strip of fabric, or adding a strip and folding it over the stitching, should be regarded as a hem within the meaning of Note 7 (c) to Section XI. The Secretariat would be somewhat inclined to regard a product of this kind, with a false hem, as being made up within the meaning of Note 7 (c).
22. In any event, the Secretariat has appended hereto the proposed amendment to the Nomenclature and the Explanatory Notes to Section XI formulated by the **EC**, which involves citing heat-sealing alongside traditional hemming as an operation conferring the character of “made up”; the alternatives proposed by the Secretariat, in which heat-sealing is mentioned as one of the operations which can be performed in order to produce a hem, are also reproduced in the Annex II.

III. CONCLUSION

23. The Committee is invited to rule on the interpretation to be given to Note 7 (c) to Section XI, and to examine the EC's proposed amendment to the Note, which is reproduced at Annex II hereto, in the light of the Secretariat comments set out above.

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NOTE FROM THE EUROPEAN COMMUNITY
(Letter of 8 May 2003)

Subject : Possible amendment to Note 7(c) to Section XI of the Harmonized System

Ref. : NR0400, annex D/8 Report 27th HS Review Sub-Committee session.

BACKGROUND:

At its 27th Session, the HS Review Subcommittee examined an EU proposal to include the term “heat-sealing”, as a modern form of hemming, in the wording of Note 7(c) to Section XI.

Following the discussions, and in order to reply to the concerns of certain of the delegations, the EC undertook to submit a detailed note to clarify its position, and to provide a sample of the wipes.¹

The EC considers that, though Note 7(c) to Section XI does not specifically mention “heat-sealing” as an operation conferring the character of a “made-up” article, such a process is nonetheless a modern form of hemming. Consequently, it classified the wipers in heading 63.07. For the sake of consistency, the EC proposes that the term “heat-sealed” be inserted in Note 7(c).

Description of the product:

A non-run interlock double-knit wipe (²), made from 100 % continuous-filament polyester. The wipe is cut to the dimensions of 23cm x 23cm. All four edges of the wipe are heat-sealed.

Polyester wipes with sealed edges, for special cleaning applications in clean-room environments.

The EC's CLASSIFICATION:

6307 10 – in accordance with General Rules 1 and 6, Note 7(c) to Section XI(³), Note 1 to Chapter 63, and by the wording of CN codes 6307, 6307 10.

Note 7(c) to Section XI , in particular in the French version, allows for new hemming processes, other than traditional, to be used.

Information on the manufacture of heat-sealed wipes:

The wipes start off as polyester extruded into continuous filament bundles that are then textured to create finished yarn. The yarn is knitted into a tubular fabric which is cut into wipes measuring 23cm x 23cm. All four edges of the wipes are sealed to prevent the release of fibres and particles. The sealing is done thermally using patented sealed-edged technology. The wipes are then laundered, inspected and stacked, before being packaged in a solvent-resistant multiple-ply bag and labelled with an individual lot code.

¹ Square polyester wipe with heat-sealed edges.

² A sample is enclosed with this note.

³ There is a difference between the English and the French versions of Note 7(c) to Section XI and to the HS Explanatory Note to Section XI, General (II)(3). The French version contains the expression “par n'importe quel procédé” (“by whatever means”), which allows for new manufacturing processes.

The wipes are made in a modular mini-environment, to protect them from external contamination. The amount of particles and fibres that the wipe generates is reduced through a continuous cleaning process that eliminates inter-wipe abrasion and contamination re-deposition. In addition, there is a coating on the fabric, in the form of a proprietary chemical: The wipe material as such is hydrophobic. In order to make the wipes hydrophilic, they are passed through a chemical process which imparts a hydrophilic coating to the polyester fibres and makes the wipers capable of attracting and absorbing water.

The article represents the state of the art in wiper technology and provides maximum performance in cleanroom environments. The wipers undergo statistical quality control/six sigma quality assurance.

Applications

According to the producer, the wipes are intended for use in cleanroom environments (class 1-10), particularly in the electronics sector, and for process chamber maintenance where strict reduction in particle contamination is paramount, for example for wiping the interior of process tools and other equipment.

Benefits

According to the producer, the wipes

- assure cleanliness with ultralow levels of particles, ions and extractables;
- resist abrasion under rigorous use or when wiping rough surfaces;
- help prevent product and cleanroom contamination by minimizing fiber and particle release.

Difference between a "sealed-edge wipe" and a "hot-cut edge wipe":

According to the producer, the sealed-edge wipes have thermally bonded borders which seal several rows of loops on the border of the knit, which produces durable and consistent fibre control, suitable for clean rooms (class 1-10).

According to our information, the wide border on the sample could not have been obtained by simple hot-cutting. It would likely have been obtained by means of an adhesive or a strip applied to the fabric and, then, subjected to heat treatment.

According to the producer, a hot-cut edge would leave exposed loops of yarn which could break free during use and result in contamination from polyester fibre.

According to our information, the process of hot-cutting is simple. The cutters are heated to around 600 °C. Any thermoplastic fabric coming into contact with the cutter-edge would melt. The individual threads would fuse together, to form a - fine - sealed edge.

CONCLUSION :

The EC believes that Note 7(c) to Section XI applies to the wipes in question: "**Hemmed** or with rolled **edges**, or with a knotted fringe at any of the edges, but excluding fabrics the cut edges of which have been prevented from unravelling by whipping or by other simple means".

In fact, "heat-sealing" of the borders is a modern way of hemming a fabric of synthetic fibres, sealing several rows of the threads at a time, giving it the same purpose as the traditional hem, i.e., preventing the fabric from unravelling.

Therefore, the EC is of the opinion that the word “heat-sealed” should be inserted in Note 7(c) to Section XI of the HS, as “heat-sealing” is regarded as a modern way of “hemming” within the meaning of Note 7(c) to Section XI.

The EC confirms its proposal given in doc. NR0377E1, i.e. that the word “heat-sealed” (FR: “thermoscellés”) be inserted, as a modern form of “hemming”, in the wording of Note 7(c) to Section XI:

“7. For the purposes of this Section, the expression “made up” means :

[...]

- (c) Hemmed or with rolled *or heat-sealed* edges, or with a knotted fringe at any of the edges, but excluding fabrics the cut edges of which have been prevented from unravelling by whipping or other simple means;

[...].”

In addition, the HS Explanatory Notes (p. 925) to Section XI, under General, (II), “Made-up articles”, (3), should be amended accordingly.

The Community asks the HS Committee :

- to express its opinion on the classification in subheading 6307.10 of the article in question, particularly in application of Note 7(c) to Section XI, and
- to ask the HS Review Subcommittee to examine the possible amendment of Note 7(c) taking into account the classification decision by the Committee.

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