



HARMONIZED SYSTEM
COMMITTEE

NC0104E1

-
24th Session

O. Eng./Fr.

Brussels, 7 October 1999.

MATTERS FOR DECISION BY THE HARMONIZED SYSTEM COMMITTEE

(Item V.2 on Agenda)

Reference document :

NR0072E2 (RSC/20 - Report)

1. At its 20th Session (September 1999), the Review Sub-Committee examined the draft amendments to the Explanatory Notes to the Harmonized System, arising out of the amendments to the legal texts under the Recommendation of 25 June 1999 adopted under the procedure laid down in Article 16, paragraph 1, of the HS Convention. The Harmonized System Committee is invited to consider the conclusions of the Review Sub-Committee, which are summarized below with reference to the relevant Annexes of the Sub-Committee's report (**Doc. NR0072E2**).

Adoption procedure of the proposed amendments

2. At this point, the Secretariat suggests provisionally adopting the amendments approved by the Review Sub-Committee at its 20th Session, noting that certain issues will be re-examined by the Review Sub-Committee at its next session (see for details the relevant paragraphs below). At that next session, the Review Sub-Committee may also consider further amendments to the adopted amendments to the Explanatory Notes consequential upon any objections notified by Contracting Parties to the Secretary General. The results of that session of the Review Sub-Committee will be presented to the HS Committee for adoption at its next session.
3. The Secretariat suggests finally adopting the proposed amendments to the Explanatory Notes at the Committee's Spring Session in 2001 (HSC/27). For the discussions in that session, all the texts will be grouped in a single working document and reproduced in a single Annex to the Report. At the same session, the Committee has also to consider further amendments to be incorporated following amendments of the Explanatory Notes by the corrigendum procedure which may affect those resulting from the Article 16 Recommendation amendments, between now and Spring 2001.
4. **The Committee is invited to take note of this procedure.**

File No. 2151

Annex B – Scope of the Third Harmonized System Review cycle

5. When considering **the length of the next review cycle**, the Sub-Committee agreed that a five-year review cycle would be the most appropriate period, taking into account the interests of the various users of the Harmonized System. Consequently, the next Recommendation to amend the Harmonized System would come into effect as from 1 January 2007.
6. The Sub-Committee also agreed that **items not adopted during the second review cycle**, either because they had been (i) rejected or (ii) postponed, could be taken up if they were supported by an administration.
7. While agreeing that **simplification of the HS structure** might be feasible in the pharmaceutical, information technology and textile sectors (possibly expanded to other sectors suggested by administrations), the Sub-Committee adopted the suggestion to address, at its next session, a proposal to increase the thresholds for the creation or deletion of subheadings, from US\$ 20 million to US\$ 50 million of world level trade, leaving **the other established criteria** used for the deletion or retention of headings or subheadings unchanged.
8. With respect to possible amendments to the HS with a view to **facilitating the application of the proposed Harmonized Rules of Origin**, the Sub-Committee concluded that discussions at this moment would be premature.
9. The Sub-Committee was in favour of another **general review**, in addition to the review of specific sectors (see paragraph 7 above).
10. **The Committee is invited to take note of the conclusions of the Review Sub-Committee.**
11. In the context of the review, one delegate noted that certain parts of the **Explanatory Notes** had not been substantially revised since they were developed in the 1950s. He, therefore, suggested the initiation of a general review of the Explanatory Notes with a view to up-dating them.
12. The Director Tariff and Trade Affairs indicated that a general review of the Explanatory Notes would demand certain resources which might not be available, and that a detailed study could only be undertaken if the WCO received the necessary support of its Members.
13. **The Committee is invited to express its view on whether to overhaul the Explanatory Notes (or parts thereof).**

Annex C, paragraphs 1 to 3, and Annex D/1

14. The Sub-Committee approved the draft amendments to the Explanatory Notes to the General Interpretative Rules and to Section I.
15. **The Committee is invited to provisionally adopt the amendments set out in Annex D/1 to Doc. NR0072B2.**

Annex C, paragraphs 4 to 10, and Annex D/2

16. The Sub-Committee decided to address the proposed amendment to the Explanatory Notes to headings 07.09 and 12.05 once more at its next session, the relevant parts being placed in square brackets (see paragraphs 6 and 7 of Annex C to Doc. NR0072B2).
17. Subject to the above, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section II.
18. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/2 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to headings 07.09 and 12.05.**

Annex C, paragraphs 11 to 13, and Annex D/3

19. The Sub-Committee decided to review the proposed amendment to the Explanatory Notes to heading 15.14 at its next session, the relevant part being placed in square brackets (see paragraph 11 of Annex C to Doc. NR0072B2).
20. Subject to the above, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section III.
21. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/3 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to headings 15.14.**

Annex C, paragraphs 14 to 18, and Annex D/4

22. The Sub-Committee decided to consider a proposal concerning the inclusion of references to "Canola" and to similar types of seed in the Explanatory Note to heading 23.06 at its next session (see paragraph 15 of Annex C to Doc. NR0072B2).
23. Subject to the above, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section IV.
24. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/4 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to headings 23.06.**

Annex C, paragraphs 19 to 26, and Annex D/5

25. The Sub-Committee agreed to examine, at its next session, proposals for a Subheading Explanatory Note concerning waste oils (see paragraphs 22 and 23 of Annex C to Doc. NR0072B2).
26. Subject to certain editorial modifications, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section V.
27. **The Committee is invited to provisionally adopt the amendments set out in Annex D/5 to Doc. NR0072B2 and to take note of the developments with respect to the Subheading Explanatory Note for waste oils.**

Annex C, paragraphs 27 to 36, and Annex D/6

28. The Sub-Committee decided to seek the view of the Scientific Sub-Committee with respect to the proposed amendments to the Explanatory Note to heading 29.15, the relevant part being placed in square brackets (see paragraph 29 of Annex C to Doc. NR0072B2).
29. The Sub-Committee also decided to place the phrase “(which may contain soap in any proportion)” appearing in the Explanatory Notes to headings 33.07, 34.01 and 34.02 in square brackets, pending further discussions at its next session (see paragraphs 32 and 33 of Annex C to Doc. NR0072B2).
30. Subject to the above and to other modifications, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section VI.
31. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/6 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Note to headings 29.15, 33.07, 34.01 and 34.02.**
32. The Committee’s attention is drawn to the approved amendment to the Explanatory Note to heading 35.06, exclusion (b), third line (second line in French) (page 534a), which was adopted by the Committee at its 21st Session (Annex D/6, page D/6/39). Among other amendments, the reference to “**Chapter 40.05**” was replaced by “**Chapter 40**” in the English version. This amendment was, however, not reflected in the French text and would, consequently, result in a non-alignment of the exclusion text at issue. The Secretariat suggests amending the French text of this exclusion accordingly, by replacing the reference “(n° 40.05)” by “(Chapitre 40)” in the third line of the said exclusion.
33. **The Committee is invited to examine the proposed additional amendment.**

Annex C, paragraphs 37 to 43, and Annex D/7

34. In the light of rephrasing polymer names, the Sub-Committee noted that the HS Committee would have to decide whether to delete already approved amendments to the French texts of certain Explanatory Notes in accordance with the Committee’s decision regarding polymer names represented by general terms (see paragraphs 37 and 38 of Annex C to Doc. NR0072B2). The Sub-Committee was informed that this issue would be forwarded to the Scientific Sub-Committee.
35. The Sub-Committee agreed to place the proposed amendment to the antepenultimate paragraph of the Explanatory Note to heading 40.10 in square brackets, pending further discussions at its next session.
36. Subject to the above and to other modifications, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section VII.
37. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/7 to Doc. NR0072B2 and to take note of the developments with respect to polymer names represented by general terms, and to the Explanatory Note to heading 40.10.**

Annex C, paragraphs 44 to 49, and Annex D/8

38. The Sub-Committee agreed to postpone discussions on the proposed Explanatory Notes to headings 41.04 to 41.06 till its next session.
39. The Sub-Committee also agreed to re-consider at its next session whether to retain the reference to “et peaux” in the second line of the first paragraph of the Explanatory Note to heading 41.12 (French text only) (see paragraph 45 of Annex C to Doc. NR0072E2).
40. Subject to the above and to other modifications, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section VIII.
41. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/8 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to headings 41.04 to 41.06, and 41.12.**

Annex C, paragraphs 50 to 53, and Annex D/9

42. The Sub-Committee agreed to examine, at its next session, the question whether to restructure the Explanatory Note to heading 46.01 on the basis of the new structure of the subheadings (see paragraph 50 of Annex C to Doc. NR0072E2).
43. The Sub-Committee approved, without modification, the draft amendments to the Explanatory Notes to Section IX.
44. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/9 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Note to heading 46.01.**

Annex C, paragraphs 54 to 59, and Annex D/10

45. The Sub-Committee placed the proposed amendment of the fifth paragraph of the Explanatory Note to heading 48.17, on page 755, in square brackets, with a view to reconsidering the proposed amendments at the next session (see paragraph 55 of Annex C to Doc. NR0072E2).
46. The Sub-Committee also agreed to have further discussions at its next session, vis-à-vis the proposed deletion of a number of items in the Explanatory Note to heading 48.23. The relevant parts were placed in square brackets (see paragraph 56 of Annex C to Doc. NR0072E2).
47. Subject to the above, the Sub-Committee approved the draft amendments to the Explanatory Notes to Section X.
48. **The Committee is invited to provisionally adopt the approved amendments set out in Annex D/10 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to headings 48.17 and 48.23.**

Annex C, paragraphs 60 to 67 and Annex D/11

49. Referring to Doc. NC0065E1 (HSC/23), Appendix, paragraph 3, the Sub-Committee noted that a number of amendments had already been made by corrigendum.
50. In addition, administrations agreed to consult industry regarding the French text to ensure that heading 58.01 covers no "tissus bouclés par la chaîne" (warp pile fabrics) other than "velours et peluche tissés" (woven pile fabrics).
51. At the request of the Delegate of Switzerland, the examination of Chapter 60 was deferred until the Sub-Committee's next session in February 2000. Accordingly, the Sub-Committee also agreed to put in square brackets the amendments to be made to other headings following the amendment of heading 60.02.
52. Apart from the proposals for Explanatory Notes to Chapter 60, which would be re-examined at the next session, the Sub-Committee approved, without modification, the texts presented in the working document.
53. **The Committee is invited to provisionally adopt the texts approved by the Sub-Committee set out in Annex D/11 to Doc. NR0072B2 and to take note of the developments with respect to the Explanatory Notes to heading 58.01 and Chapter 60.**

Annex C, paragraphs 68 to 70, and Annex D/12

54. Referring to paragraph 3 of the Appendix to Doc. NC0065E1 (HSC/23), the Sub-Committee noted that an amendment had already been made by corrigendum.
55. Subject to the above comment, the Sub-Committee approved, as they stood, the texts presented in the working document.
56. **The Committee is invited to provisionally adopt the texts concerned which appear at Annex D/12 to Doc. NR0072B2.**

Annex C, paragraphs 71 and 72, and Annex D/13

57. The Sub-Committee approved, without amendment, the texts relating to Section XIII.
58. **The Committee is invited to provisionally adopt the texts in question which appear at Annex D/13 to Doc. NR0072B2.**

Annex C, paragraphs 73 and 74 and Annex D/14

59. The Sub-Committee approved, without modification, the texts concerning Section XIV.
60. **The Committee is invited to provisionally adopt the texts in question which appear at Annex D/14 to Doc. NR0072B2.**

Annex C, paragraphs 75 to 78 and Annex D/15

61. Referring to paragraph 3 of the Appendix to Doc. NC0065E1 (HSC/23), the Sub-Committee noted that certain amendments had already been made by corrigendum.

62. The Sub-Committee also agreed to delete the Secretariat's proposed exclusion (f) to heading 82.05 and substitute a new text combining exclusions (e) and (f) of the existing Explanatory Note.
63. Subject to the above comments and amendments the Sub-Committee approved the texts submitted in the working document.
64. **The Committee is invited to provisionally adopt the texts finalized by the Sub-Committee which appear at Annex D/15 to Doc. NR0072B2.**
- Annex C, paragraphs 79 to 96, and Annex D/16
65. Taking into account several factors which could affect exclusion (d) of the Explanatory Note to heading 84.14, page 1262, and also Item (21) of the Explanatory Note proposed for heading 84.67, the Sub-Committee decided to put both these texts in square brackets for the Committee. One delegate emphasized that following the transfer of the goods of heading 85.08 to heading 84.67 it would be necessary to add the term "non electric" to the text of exclusion (d).
66. As regards the Explanatory Note to heading 84.15 (i.e., a new seventh paragraph and exclusion (b) (pages 1263 and 1264)), the Sub-Committee decided to retain the square brackets around the proposed amendments, since these texts were still under consideration by the Committee (Doc. 41.600, Annex D, para. 34 (HSC/23 - Report)). It also decided to insert a variant proposed by the US for consideration by the Committee.
67. Following a comment by the EC Delegate, the Sub-Committee decided to submit to the Committee the question of the classification of "vibrators" and to put in square brackets the corresponding reference in the fourth line of the text proposed for the Explanatory Note to heading 84.67.
68. The Sub-Committee invited the Secretariat to check the list of tools given on pages 1394 and 1395 of the Explanatory Note to heading 84.67 with a view to ensuring their alignment. The list as checked by the Secretariat appears in the Annex to the present document.
69. The Sub-Committee decided that the administrations and the Secretariat would examine the question concerning the reference to "dielectric hysteresis" during the intersession with a view to determining whether this expression is synonymous with "dielectric loss".
70. Having been informed that the term VHF (Very High Frequency) refers, by definition, to frequencies between 30 MHz and 300 MHz and that the microwave ovens examined by the HSC operate at frequencies of 915 MHz and 2450 MHz respectively, the Sub-Committee decided to place "very-high-frequency" in square brackets and to submit the question to the Committee.
71. The Sub-Committee agreed that the text prepared by the Secretariat (Doc. NR0063B1) and a new text submitted by the United States, both referring to Part (C) of the Explanatory Note to heading 85.18 on page 1477, should be placed in square brackets with a view to re-examining them at the next session, since the Sub-Committee had some doubts about the

expression "fitted together to form a whole". Administrations were invited to submit proposals in writing for examination at the Review Sub-Committee's next meeting.

72. The Sub-Committee agreed with the proposal that the meaning of Note 6 to Chapter 85, as amended, should be made clearer, by inserting examples at the beginning of the Explanatory Notes to headings 85.23 and 85.24. It also considered adding the phrase "in accordance with the provisions of Note 6 to Chapter 85" in the last paragraph of the Explanatory Notes to headings 85.23 and 85.24. This issue will be further discussed at the Sub-Committee's next session.

73. The Sub-Committee agreed that an amendment to the EN to heading 85.42 concerning the classification of certain "smart cards" could be considered under the Article 8 procedure. Interested administrations were invited to submit their proposals to the Secretariat.

74. The Sub-Committee agreed that a reference could be inserted under the Article 16 procedure concerning "fetal monitors" in the Explanatory Note to heading 85.18, given that this type of apparatus was different from the others covered by this heading. This issue will be further discussed at the Sub-Committee's next session.

75. Likewise, the Sub-Committee noted the proposal to insert a reference to digital cameras that would make explicit the difference between digital cameras and normal cameras. Thus, a new Item (E) could be inserted in the Explanatory Note to heading 85.25 under the Article 16 procedure.

76. **The Committee is invited to examine the texts reproduced in Annex D/16 to Doc. NR0072B2 and, as appropriate :**

- **take note of the developments outlined above (paragraphs 68, 69, 71, 72, 73, 74 and 75),**
- **decide on the texts in square brackets (referred to in paragraphs 65, 66 and 70),**
- **decide on the classification of "vibrators" (paragraph 67), and**
- **provisionally adopt the texts approved by the Sub-Committee.**

77. Lastly, the Sub-Committee noted that the Secretariat had received no proposals from administrations concerning the new Subheading Explanatory Note which might be added to define the scope of the expression "digital audio discs" of subheading 8524.34. The examination of this question was deferred until the Sub-Committee's next session.

78. **The Committee is also invited to take note of the deferral of this question.**

Annex C, paragraphs 97 and 98, and Annex D/17

79. The Sub-Committee approved, without modification, the texts concerning Section XVII.

80. **The Committee is invited to provisionally adopt the texts reproduced at Annex D/17 to Doc. NR0072B2.**

Annex C, paragraphs 103 to 104, and Annex D/19

81. The Sub-Committee recognized that the first paragraph of the Explanatory Note to heading 19.21 required adapting to take account of the text of new Note 6. The Secretariat was instructed to draft a text for the Review Sub-Committee's next session.
82. Subject to the above comment, the Sub-Committee approved, without amendment, the texts concerning Section XVIII.
83. **The Committee is invited to provisionally adopt the texts reproduced at Annex D/18 to Doc. NR0072B2.**

Annex C, paragraphs 103 and 104, and Annex D/19

84. The Sub-Committee approved, without amendment, the texts for Section XIX.
85. **The Committee is invited to adopt provisionally the texts reproduced at Annex D/19 to Doc. NR0072B2.**

Annex C, paragraphs 105 to 107, and Annex D/20

86. The Sub-Committee agreed to align exclusion (c) of the Explanatory Note to heading 95.08 (page 1719) on the legal text of heading 95.04. Subject to that amendment, the Sub-Committee approved the texts for Section XX.
87. **The Committee is invited to provisionally adopt the texts reproduced at Annex D/20 to Doc. NR0072B2.**

Annex C, paragraphs 108 to 110, and Annex D/21

88. The Committee agreed to amend the first line of the Explanatory Note to heading 97.04, to take account of the deletion of the paragraph in Part (E) of that Explanatory Note containing sub-paragraphs (1) and (2).
89. Subject to the foregoing the Sub-Committee approved, without modification, the other texts concerning Section XXI.
90. **The Committee is invited to provisionally adopt the texts reproduced at Annex D/21 to Doc. NR0072B2.**
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