



HARMONIZED SYSTEM
COMMITTEE

-
25th Session

NC0240E1

O. Eng.

Brussels, 9 March 2000.

PROCEDURE FOR ADOPTING THE AMENDMENTS TO THE EXPLANATORY NOTES
AND THE COMPENDIUM OF CLASSIFICATION OPINIONS CONSEQUENTIAL
UPON THE ARTICLE 16 RECOMMENDATION

(Item III.4 on Agenda)

Reference documents :

NC0104E1 (HSC/24)
NC0160E2 Annex E (HSC/24-Report)

I. BACKGROUND

1. At its 24th Session (October 1999), the Harmonized System Committee examined the adoption procedure for the amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999 (Annex E to Doc. NC0160E2). After a lengthy discussion, the Committee decided not to provisionally adopt at that session the amendments to the Explanatory Notes as set out in Annexes D/1 to D/21 to Doc. NR0072E2 (RSC/20 Report, September 1999), taking into account the fact that a number of issues were still pending in the Review Sub-Committee (RSC) and that there had been too little time for a thorough review between the RSC's 20th Session and the Committee's 24th Session, and also that, as regards the June 1999 Recommendation, the reservation procedure provided for in Article 16 of the HS Convention had not been completed. It was agreed that the RSC/20 results would be discussed at the 25th Session of the Committee (March 2000) together with the RSC/21 (February 2000) results, accompanied by a synthesis document to be prepared by the Secretariat.

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2. With respect to the final adoption of the amendments, the Committee agreed with the procedure suggested by the Secretariat in paragraph 3 of Doc. NC0104E1, i.e., finally adopting the proposed amendments to the Explanatory Notes at the Committee's Spring Session in 2001 (HSC/27), on the basis of a single working document. At the same session, the Committee would also consider further amendments to be incorporated following amendments of the Explanatory Notes by the corrigendum procedure which might affect those resulting from the Article 16 Recommendation amendments, between the 24th Session and Spring 2001.

II. SECRETARIAT COMMENTS

Amendments to the Explanatory Notes

Article 16 procedure

3. At its 20th and 21st Sessions, the Review Sub-Committee examined the amendments to the Explanatory Notes as mentioned above. The Secretariat believes that in view of the progress made at these two sessions of the Sub-Committee, except for a few Chapters, e.g., Chapters 41 and 60, most amendments can be finalized at the 25th Session of the HS Committee. The remaining issues should be finalized at the 26th Session (Autumn 2000). Therefore, as noted by the Secretariat at the 21st Session of the RSC (paragraph 7 of Doc. NR0101E2) the Explanatory Notes amendments can be completed in Autumn 2000 instead of Spring 2001 as mentioned in paragraph 2 above. This new schedule will give sufficient time to have the 2002 version of the Explanatory Notes printed and to enable administrations to prepare translations, transpositions, etc. The Secretariat hopes that the printed version will be available in the first half of 2001.
4. As mentioned in paragraph 2 above, the Secretariat had suggested to finally adopt the proposed amendments to the Explanatory Notes, on the basis of a single working document. This suggestion is based on the approach taken during the last review (1996 version) of the HS. At that time, the Committee approved the texts "provisionally" (i.e., "final" in substance but "provisional" from a procedural standpoint only) at the Spring 1994 Session and to adopt them "formally", together with the results of the Autumn 1994 Session at that session (see Annex D/2 to Doc. 38.960 (HSC/14, Nov. 94)). Accordingly, the Secretariat would propose that the Committee should provisionally adopt the amendments to the Explanatory Notes at its 25th Session and formally approve all the amendments together at its 26th Session.
5. The amendments made by corrigendum up to the 23rd Session of the HS Committee have already been examined in terms of whether or not the Article 16 Recommendation would affect them. As regards the amendments made by corrigendum at the 24th Session of the HS Committee, there has been no possible influence on the Article 16 Recommendation except for Annex K/1 to Doc. NC0160B2, which will be examined at the 25th Session since the Canadian Administration has entered a reservation.
6. Any other amendments to the Explanatory Notes adopted by the Committee, whether by Article 16 procedure or Corrigendum procedure, up to and including the 26th Session of the Committee, will also be incorporated in the formally approved version of the Explanatory Notes at the 26th Session.

Corrigendum procedure

7. As regards the amendments to be made at the 27th Session (Spring 2001) and 28th Session (Autumn 2001) by corrigendum procedure, the Secretariat would like to draw the attention of the Committee to the procedure used when the 1996 version of the HS was adopted. The Committee at its 15th Session (Spring 1995) provisionally adopted the text amending the Explanatory Notes by corrigendum and definitively adopted the texts together with the amendments made at the 16th Session of the Committee (Autumn 1995). The publication of these texts in printed form was postponed until 1996.
8. The Secretariat would like to propose the same procedure this time, namely the amendments to be made at the 27th Session should be provisional and they should be formally adopted at the 28th Session. Then, these amendments will be published early January 2002. Needless to say the amendments will reflect the 2002 version of the HS and the Secretariat will indicate that effect if any when preparing working documents.

Compendium of Classification Opinions

9. The Committee will examine the Article 16 amendments to the Classification Opinions at its 25th Session in the context of Agenda item V.2. This includes the examination of Classification Opinions adopted up to the 23rd Session of the Committee.
10. As regards the amendments made at the 24th Session, the Secretariat finds that there has been no possible influence on the Article 16 Recommendation. This will also be the case for the amendments to be made at the 25th Session of the Committee.
11. Thereafter, the Secretariat will prepare the amendments on the basis of both the 1996 and 2002 versions of the HS wherever necessary and take appropriate action for publishing them.

III. CONCLUSION

12. The Committee is invited to express its views regarding the above comments of the Secretariat and, in particular, the following issues regarding the amendments to the Explanatory Notes :
- 12.1. Whether the amendments to the Explanatory Notes by Article 16 procedure should be completed at the 26th Session of the Committee (paragraph 3 above);
- 12.2. Whether the Article 16 amendments to the Explanatory Notes should be finally approved at the 26th Session of the Committee, after having been provisionally adopted at the 25th Session (paragraph 4 above); and
- 12.3. Whether the amendments to the Explanatory Notes to be made by Corrigendum procedure at the 27th Session of the Committee should be provisionally adopted, followed by definitive adoption at the 28th Session (paragraph 7 above).
13. The Committee is invited to take note of the proposed procedure for amending the Compendium of Classification Opinions as mentioned in paragraphs 9 to 11 above.