



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0079E1

-
21st Session
-

O. Eng.

Brussels, 16 December 1999.

AMENDMENT OF THE EXPLANATORY NOTE TO HEADING 46.01

(Item II.A.6 on Agenda)

Reference document :

NR0072E2, Annex C, paragraph 50 (RSC/20 Report)

I. BACKGROUND

1. At the Review Sub-Committee's 20th Session (September 1999) the Delegate of the EC raised the question whether the Explanatory Note to heading 46.01 should be brought in line with the corresponding new structured nomenclature, given the deletion of current subheading 4601.10. The Sub-Committee agreed to re-address this issue at its next session, based on a study to be carried out by the Secretariat.

II. SECRETARIAT COMMENTS

2. The Secretariat would like to clarify firstly that the Council Recommendation of 25 June 1999 to amend the Harmonized System does not affect heading 46.01 and that, consequently, there is no reason for amending the Explanatory Note from that point of view.
3. Secondly, the Explanatory Note to heading 46.01 is subdivided into two parts. Part (A) corresponds to the products mentioned in the first part, whereas part (B) covers the products mentioned in the second part of the heading. The title of part (A) and the wording of the first part of the heading and of subheading 4601.10, are the same. The title of part (B), however, does not correspond to the wording of any of the other subheadings, though it does cover the aggregated contents of subheadings 4601.20, 4601.91 and 4601.99.

File No. 2152

4. In this context, the Secretariat would like to point out that heading 46.01 corresponds to CCCN heading 46.02 (with the exception of straw envelopes for bottles, which were transferred to HS heading 46.02). The lay-out of the Explanatory Note to CCCN heading 46.02, which corresponded to the three parts that constitute the heading text, was copied for the Explanatory Note to HS heading 46.01 (except for item (C), which referred to the straw envelopes). The text of subheading 4601.10 was taken from the first part of CCCN heading 46.02 and, consequently, corresponded to item (A) of the Explanatory Note to CCCN heading 46.02. Thus both the structure of the Explanatory Note to heading 46.01 and the wording of subheading 4601.10 follow the order of the parts of the heading. Given the historical background, it should be clear that the Explanatory Note to heading 46.01 was (and is) intended to clarify part of the scope of the four digit heading and not the scope of any subheading within that heading.
5. Thirdly, the question whether to restructure the Explanatory Note to heading 46.01 according to the structure of the subheadings, cannot be isolated from amendments made to other parts of the Nomenclature. The Secretariat considers that, if the Sub-Committee opts for an amendment of the Explanatory Note to heading 46.01 because of the amendment of the structured nomenclature of that heading, this would have repercussions on the Explanatory Notes to all headings where one or more subheadings were deleted and where the structure of the Explanatory Note incidentally corresponded to the structured nomenclature of that particular heading.
6. Fourthly, if the Sub-Committee decides that the structure of the Explanatory Note should correspond to the structured nomenclature of a heading, the relevant Explanatory Note should, for the sake of consistency, also be amended in the case of new subheadings being introduced.
7. Finally, the Secretariat considers that the Explanatory Note to a heading should clarify the contents of that heading. The structure of the Explanatory Note may coincide with the structured nomenclature, but does not reflect the content of the corresponding subheading. If it is necessary to clarify the scope of a particular subheading, a relevant Subheading Explanatory Note may be introduced.
8. In conclusion, the Secretariat is of the view that the Explanatory Note to heading 46.01, which reflects the contents of the heading, is not linked to any subheading within that heading. Consequently, the deletion of subheading 4601.10 does not affect the structure of the Explanatory Note to that heading. Since the wording and the scope of this heading have not been amended, there is, in the Secretariat's view, no reason to restructure the Explanatory Note at issue.

III. CONCLUSION

9. The Sub-Committee is invited to consider the question whether to restructure the Explanatory Note to heading 46.01, taking into account the comments of the Secretariat set out in paragraphs 2 to 8 above.
