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REVIEW SUB-COMMITTEE

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O. Eng.

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POSSIBLE COMBINATION OF HEADINGS 85.19 AND 85.20

(SECRETARIAT PROPOSAL)

(Item III.A.25 on Agenda)

Reference documents :

NR0149E1 (RSC/23)
NR0158E1 (RSC/23)
NR0165E2, Annexes D/1, paragraphs 5 to 10 and D/7
(RSC/23 - Report)
NR0175E1 (RSC/24)
NC0430E2, Annex F, paragraphs 25 to 33
(HSC/27 - Report)
NR0180E1 (RSC/24)
NR0202E1 (RSC/24)
NR0205E2, Annex C/7 (RSC/24-Report)
NR0205E2, Annexes C/12 and F/4 (RSC/24 - Report)
NR0216E1 (RSC/25)

NR0265E3, Annex C/6 (RSC/25-Report)
NC0497E1 (HSC/28)
NC0452E1, paragraphs 55 to 57 (HSC/28)
NC0510E2, Annexes E, paragraph 2 and H/20
(HSC/28 - Report)
NR0219E1 (RSC/25)
NR0265E3, Annexes C/9 and F/5 (RSC/25 - Report)
NC0531E1, paragraphs 33 and 34 (HSC/29)
NC0550E1 (HSC/29)
NC0590E2, Annex F, paragraph 15 (HSC/29 - Report)
NC0590E2, Annex H/14 (HSC/29-Report)
NR0286E1 (RSC/26)

I. BACKGROUND

1. Following the discussions in the Informal Working Group on restructuring Section XVI held from 12 - 14 May 2003, the Secretariat was requested to prepare a proposal combining headings 85.19 and 85.20, taking into account the outstanding **EC** and **Japanese** proposals, as well as the earlier discussions in the Review Sub-Committee. The pertinent discussions from the 25th and 26th Sessions of the Review Sub-Committee are reproduced below (see Annexes C/6 and C/9 to Doc. NR0265E3 (RSC/25 – Report) and Annexes C/14 and C/15 to Doc. NR0332E3 (RSC/26 – Report)).

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Heading 85.19

Subheading 8519.10

2. The Sub-Committee decided to examine a possible new structured nomenclature for heading 85.19 on the basis of the Secretariat proposal (Option A) put forward in the Annex to Doc. NR0286B1. Since the expression "juke-boxes" appeared to be in common usage in French-speaking trade circles, the Sub-Committee decided not to retain the alternative term "électrophones" in the French text. The Sub-Committee also deleted the word "other" in the phrase "other similar articles" as being redundant.
3. The Sub-Committee then decided to delete the expression "(paper currency)" from the English text of this subheading, on the grounds that the term "banknotes", already used in other parts of the Harmonized System (heading 49.07, in particular), was sufficiently explicit for the articles concerned. In that connection, the **US** Delegate suggested inserting the expression "(paper currency)" after "banknotes" throughout the English version of the Explanatory Notes.

Subheading 8519.5

4. In examining the text of subheading 8519.5, the Sub-Committee began by making a structural amendment to make it clearer that this subheading covered "other sound reproducing apparatus using a laser reading system". The new wording was appropriate both in relation to the previous category, i.e., "juke-boxes" (subheading 8519.10) and with a view to proper alignment on the structured nomenclature provisionally adopted for heading 85.20.
5. While conceding that "pocket-size" apparatus was separately identified in the current structured nomenclature of heading 85.19, and that there was even a legal Note on the subject (Subheading Note 1 to heading 85.19), several delegates were of the opinion that a distinction between sound reproducing apparatus based on size could prove to be obsolete, and that the reference to "pocket" did not in fact reflect the manner in which electrical apparatus was used. Moreover according to one delegate, preliminary studies conducted by his administration tended to suggest that trade circles did not attach great importance to this distinction. These delegates therefore favoured deleting the subdivision for "pocket-size" apparatus under subheading 8519.5.
6. However, other delegates considered that the impact of this subheading on related proposals should be evaluated first. One delegate took the view that if this subheading were deleted, trade statistics would no longer reflect the very significant trade in so-called "pocket-size" apparatus, and that this was an important point where the monitoring of trade was concerned.
7. The Sub-Committee finally decided to maintain the entire structured nomenclature of subheading 8519.5 in square brackets and invited administrations to consult the trade, particularly on the recommended criteria relating to the dimensions of apparatus.

Subheading 8519.60

8. The Sub-Committee decided to delete the term "record-players" from the text of subheading 8519.60. Consequently, it did not accept the proposal that a new subheading (8519.80) be created for "combinations of two or more sound reproducing apparatus in a single housing" (see paragraph 14 of Doc. NR0315E1).

Subheading 8519.70

9. After a delegate had stressed the importance – in terms of the usefulness of statistical data – of the correlation between the one-dash subheadings and the functions performed by the apparatus, the Sub-Committee rejected the proposal that subheading 8519.70 be subdivided.
10. At this point, a delegate suggested that the words “magnetic tape players” in subheading 8519.70 be replaced by “magnetic media players”.
11. However, while stressing that these proposals remained provisional pending the examination of a comprehensive restructuring of Chapter 85, the Sub-Committee agreed to retain the expression “magnetic tape players” on a provisional basis.
12. The Sub-Committee agreed to place the entire text of heading 85.19 in square brackets and to continue its discussions. The following provisionally approved texts, as well as the texts placed in square brackets, are reproduced from Annex F/5 to Doc. NR0332E3, RSC/26 – Report.

[Heading 85.19.

Delete and substitute :

"85.19 Sound reproducing apparatus, not incorporating a sound recording device.

- 8519.10 - Juke-boxes operated by coins, banknotes, discs or similar articles
- Other sound reproducing apparatus using a laser reading system :

[8519.51 -- Pocket-size

8519.59 -- Other]

8519.60 - Turntables (record-decks)

8519.70 - Magnetic tape players

8519.90 - Other".]

Heading 85.20

13. At its 25th Session, the Sub-Committee examined the Secretariat's proposals for updating heading 85.20 to reflect technological developments and commercial realities. The Sub-Committee confirmed its acceptance of the new 4-digit heading text, and agreed that subheading 8520.20 should be retained. For the other subheadings, apart from subheading 8520.10 which had been deleted, the Sub-Committee agreed to examine the proposals put forward by **Canada** and the Secretariat at the next session, in the light of the decision to be taken by the Harmonized System Committee on the classification of MP3 players, and certain comments made during the session to the effect that the new structured nomenclature of heading 85.20 should achieve the dual objectives of deleting obsolete articles, and covering the new technologies by separately identifying products on the basis of the reading mode employed (magnetic readers, optical readers and those with built-in memory).
14. The Sub-Committee agreed to review the amendments to heading 85.20 at its next session, on the basis of a new document to be prepared by the Secretariat which would include the Secretariat's proposal, **Canada's** proposal with the two options combined, a possible proposal from the **United States**, and any other proposals which Contracting Parties might care to submit.
15. In addition to the question of the classification of MP3 players by the Harmonized System Committee, and its repercussions on the new structured nomenclature of heading 85.20, one delegate indicated that pocket-size equipment using the new technologies, which was generating ever-increasing volumes of trade, should be considered for inclusion in the new structured nomenclature for this heading.
16. At its 26th Session, the Sub-Committee opted for the restructured Secretariat proposal, which was best suited to reflecting technological developments in the field of sound recording. One delegate argued that in the interests of harmonisation, the new structure of heading 85.20 should be aligned on the structures of headings 85.19, 85.23 and 85.24, which used the reading/playing system as the basis for distinguishing between the various types of apparatus at one-dash subheading level, beginning with apparatus based on an optical reading system before moving on to those based on magnetic media.
17. The Sub-Committee then agreed to delete the proposed one-dash subheading covering pocket-size apparatus, and to continue to study the possibility of giving separate status to pocket-size apparatus at the two-dash subheading level in order to maintain a balanced structure for this heading. The removal of pocket-size apparatus which had occupied new subheading 30, and the desire to harmonise the structures of headings 85.19, 85.20, 85.23 and 85.24, led the Sub-Committee to rearrange the structure of heading 85.20 by creating five one-dash subheadings for :
 - (a) telephone answering machines (8520.20);
 - (b) apparatus for recording sound onto optical media (8520.30);
 - (c) apparatus for recording sound onto magnetic media (8520.4);
 - (d) sound recording apparatus with built-in or interchangeable memory (8520.50);
 - (e) other sound recording apparatus.

18. As the members of the Sub-Committee were unable to agree on the texts of subheadings 8520.30, 8520.40 and 8520.50, the various drafting options proposed were placed in square brackets for examination at the next session. The following provisionally approved texts, as well as those texts placed in square brackets, are reproduced from Annex F/9 to Doc. NR0332E3, RSC/26 - Report.

[Heading 85.20.

Delete and substitute :

- "85.20 Sound recording apparatus, whether or not incorporating a sound reproducing device.**
- 8520.20 - Telephone answering machines
- 8520.30 - Other sound recording apparatus, whether or not incorporating a sound reproducing device, for recording sound [using a laser reading/writing system] [onto optical media]
- Other sound recording apparatus, whether or not incorporating a sound reproducing device, for recording sound onto magnetic [media] [tape] :
- 8520.41 -- Digital
- 8520.49 -- Other
- 8520.50 - Other sound recording apparatus, whether or not incorporating a sound reproducing device [, with built-in or interchangeable memory]
- 8520.90 - Other".]

II. SECRETARIAT COMMENTS

19. Taking into consideration the **EC** and **Japanese** proposals and the above-mentioned discussions in the Review Sub-Committee, the Secretariat presents the following proposal for combining headings 85.19 and 85.20. The Secretariat has maintained the Sub-Committee's provisionally approved text for juke-boxes, turntables (record-decks), magnetic tape players and telephone answering machines. The Secretariat has also maintained the reference to "pocket-size" in square brackets. Referring to the discussion on "pocket-size" (paragraphs 5 to 7 above), the Secretariat would encourage administrations to consult their trade, as well as other interested parties, in order to determine the impact of the deletion of such break-outs.
20. The Secretariat, while maintaining the principles outlined in paragraph 17 above, has made three 2-dash break-outs for the apparatus described in items (b), (d) and (e) in order to facilitate the drafting of the combined text of the two headings. Since the members of the Sub-Committee were unable to agree on the wording of these texts, the Secretariat would encourage administrations to re-examine them and, if necessary, to submit alternative texts for examination at the next session. The Secretariat has also had regard to the numbering of the subheadings with respect to prior usage of code numbers.

SECRETARIAT PROPOSAL

[CHAPTER 85.

Headings 85.19 and 85.20.

Delete and substitute :

"85.19 Sound reproducing or recording apparatus.

- 8519.20 - Juke-boxes operated by coins, banknotes, discs or similar articles
- [8519.30] - Other sound reproducing machines, using a laser reading system, whether or not incorporating one or more loudspeakers, but not incorporating other sound reproducing devices [:
- 8519.31 -- Pocket-size
- 8519.39 -- Other]
- 8519.40 - Turntables (record-decks)
- 8519.50 - Magnetic tape players
- 8519.60 - Telephone answering machines
 - Other sound recording apparatus, whether or not incorporating a sound reproducing device :
- 8519.71 -- [Using a laser reading/writing system] [For recording sound onto optical media]
- 8519.72 -- For recording sound onto magnetic [media] [tape]
- 8519.73 -- Other, with built-in or interchangeable memory
- 8519.79 -- Other
- 8519.90 - Other".]

III. CONCLUSION

21. The Sub-Committee is invited to examine the Secretariat's proposal for the possible combination of headings 85.19 and 85.20.
