



WORLD CUSTOMS ORGANIZATION
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SCIENTIFIC SUB-COMMITTEE 41.673 E
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Brussels, 27 November 1997.

POSSIBLE AMENDMENTS TO THE LEGAL TEXTS AND EXPLANATORY NOTES TO
GROUP TOGETHER ALL CONCENTRATES OF POPPY STRAW IN HEADING 29.39
(Item II.12 on Agenda)

Reference documents :

39.240 (HSC/15)	40.258 (RSC/14)
39.400, Annex F/4 (HSC/15 - Report)	40.470, Annex A/14 (RSC/14 - Report)
39.445 (SSC/9)	40.600, Annex E/1 (HSC/18 - Report)
39.480, Annex A/12 (SSC/9 - Report)	40.757 (SSC/12)
39.542 (HSC/16)	40.870, Annex A/11 (SSC/12 - Report)
39.600, Annex F/2 (HSC/16 - Report)	40.878 (HSC/19)
39.900 (SSC/10)	41.100, Annex D/1, para 20 (HSC/19 - Report)
40.080, Annex A/6 (SSC/10 - Report)	41.159 (RSC/16)
39.945 (RSC/13)	41.580, Annex B/4 (RSC/16 Report)
40.180, Annex D/3 (RSC/13 - Report)	
40.209 (SSC/11)	
40.460, Annex A/7 (SSC/11 - Report)	

I. BACKGROUND

1. At its 19th Session (April 1997), while considering possible amendments to the Nomenclature and Explanatory Notes concerning narcotic drugs, psychotropic substances and their precursors, the Harmonized System Committee agreed that, for the future, it may be desirable to have all concentrates of poppy straw fall in one heading, i.e., 29.39. The Secretariat was therefore instructed to prepare a document in this regard for submission to the next session of the Review Sub-Committee. However, the Committee did not explicitly rule on the criteria for distinguishing between such concentrates of heading 13.02 and those of heading 29.39 in the present HS.

File No. 2529/B

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Developments in RSC/16

2. The Secretariat's comments provided to the 16th Session of the Review Sub-Committee on this question are set out in paragraphs 2 to 9 of Doc. 41.159.
3. Given the possible difficulties in distinguishing between opium and concentrates of poppy straw obtained by simple extraction, the Secretariat felt that it would be appropriate to limit the scope of poppy straw concentrates of heading 29.39 to those obtained by a combination of extraction and distillation or precipitation (recrystallisation). Accordingly, the text "obtained by extraction, followed by distillation or precipitation (recrystallisation)" was inserted in square brackets in the new exclusion Note 1 (f) to chapter 13 proposed by the Secretariat (see the Annex to this document).
4. The Delegate of the United States pointed out that concentrates of poppy straw could be obtained by processes other than those mentioned in Doc. 41.159, such as multiple extraction or chromatography. In this respect, he presented an alternative proposal to specify clearly the distinction to be made between the products of Chapter 13 and those of heading 29.39.

(Secretariat note: The texts proposed by the US Delegate are presented in italics in the Annex to this document.)
5. According to the Delegate of Canada, in the possible amendments to the legal texts and the Explanatory Notes (see Annex), the terms "extracts and other", in square brackets, could cause confusion regarding the distinction to be made between Chapters 13 and 29.
6. Given that the Review Sub-Committee was invited to rule on the distinction between opium and concentrates of poppy straw, the Delegate of the EC stated that this task should be left to the chemists and proposed submitting the question to the Scientific Sub-Committee.
7. The Sub-Committee, therefore, decided to submit this question, along with the texts proposed by the Secretariat and the alternative texts presented at the meeting by the US Delegate, to the Scientific Sub-Committee for examination at its next Session in December 1997.

II. SECRETARIAT COMMENTS

8. At its 12th Session the Scientific Sub-Committee agreed that all concentrates of poppy straw should fall in Chapter 29 by virtue of the chemical processes used to obtain them.
9. However, as indicated above (and in Doc. 41.159), it is the Secretariat's understanding that it might be difficult to make a distinction between "opium" and "concentrates of poppy straw obtained by simple extraction" since opium may also be obtained by extraction.
10. If the Sub-Committee takes the same view, it would be appropriate to restrict the scope of concentrates of poppy straw in heading 29.39 to those obtained by processes other than by simple extraction.

11. On the other hand, if the Sub-Committee feels that all concentrates of poppy straw should be classified in heading 29.39, it is invited to indicate criteria (e.g., percentage of alkaloid content) for distinguishing between opium and concentrate of poppy straw obtained by simple extraction. Since it is difficult to find such criteria, the Secretariat does not support this approach.
12. The Secretariat has no objection to dropping the text "extracts and other" in square brackets, as proposed by the Canadian Administration (see paragraph 5 above)
13. As regards the alternative text proposed by the US Administration (see paragraph 4 above), the Secretariat has the following comments:
 - The intention is to describe "concentrates of poppy straw". Therefore the expression "concentrates of poppy plant" could cause confusion.
 - What is meant by the "resulting product" and how its composition substantially differs is not very clear and need clarification.
14. Finally, regarding the additional US proposal to insert a reference to concentrates of poppy straw under heading 29.39 on page 452 of the Explanatory Notes (see page 2 of the Annex), the Secretariat would point out that such a reference already exists there.

III. CONCLUSION

15. Taking into account the Secretariat comments above and in Doc. 41.159, the Sub-Committee is invited to examine how to distinguish between "opium" and "concentrates of poppy straw".
16. Depending on the Sub-Committee's conclusion on the above question, it is also requested to examine the proposed amendments to the legal texts and Explanatory Notes as set out in the Annex (Secretariat's proposal and the alternative US proposal).

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ANNEXE

PROJET DE REMANIEMENT DE LA NOMENCLATURE ET DES NOTES EXPLICATIVES
CONCERNANT LES CONCENTRES DE PAILLE DE PAVOT

(Point II.12 de l'ordre du jour)

ANNEX

POSSIBLE AMENDMENTS TO THE NOMENCLATURE AND EXPLANATORY NOTES
CONCERNING CONCENTRATES OF POPPY STRAW

(Item II.12 on Agenda)

PROCEDURE DE L'ARTICLE 16

A. PROJET D'AMENDEMENT DE LA NOMENCLATURE

CHAPITRE 13.

Notes de Chapitre. Nouvelle Note 1 f) du Chapitre.

Ajouter la nouvelle Note 1 f) du Chapitre suivante :

“f) les [extraits et autres] concentrés de paille de pavot [obtenus par épuisement au moyen de solvants, suivi de distillation ou précipitation (recristallisation)] (n° 29.39);”.

Variante proposée par les Etats-Unis

“f) Les [extraits et autres] concentrés de plante de pavot (à savoir Papaver somniferum) qui ont été fractionnés ou modifiés autrement que par simple épuisement au moyen de solvants, de sorte que la composition du produit obtenu est sensiblement différente de celle du produit initial (n° 29.39);”.

Les Notes 1 f) à 1 ij) du Chapitre actuelles deviennent 1 g) à 1 k), respectivement.

B. PROJET DE MODIFICATION DES NOTES EXPLICATIVES

CHAPITRE 13.

Page 95. Notes de Chapitre. Nouvelle Note 1 f) du Chapitre.

Ajouter la nouvelle Note 1 f) du Chapitre suivante :

“f) les [extraits et autres] concentrés de paille de pavot [obtenus par épuisement au moyen de solvants, suivi de distillation ou précipitation (recristallisation)] (n° 29.39);”.

Variante proposée par les Etats-Unis

“f) Les [extraits et autres] concentrés de plante de pavot (à savoir Papaver somniferum) qui ont été fractionnés ou modifiés autrement que par simple épuisement au moyen de solvants, de sorte que la composition du produit obtenu est sensiblement différente de celle du produit initial (n° 29.39);”.

Les Notes 1 f) à 1 ij) du Chapitre actuelles deviennent 1 g) à 1 k), respectivement.

ARTICLE 16 PROCEDURE

A. AMENDMENT TO THE NOMENCLATURE

CHAPTER 13.

Chapter Notes. New Note 1 (f).

Insert the following new Chapter Note 1 (f) :

“(f) [extracts and other] concentrates of poppy straw [obtained by extraction, followed by distillation or precipitation (recrystallisation)] (heading No. 29.39);”.

alternative US proposal

“(f) [extracts and other] concentrates of the poppy plant (i.e., Papaver somniferum) which have been fractionated or otherwise modified (other than by a single solvent extraction) so that the composition of the resulting product is significantly different from that of the original product (heading No. 29.39);”.

Present Notes 1 (f) to 1 (ij) are renumbered as 1 (g) to 1 (k), respectively.

B. POSSIBLE AMENDMENTS TO THE EXPLANATORY NOTES

CHAPTER 13.

Page 95. Chapter Notes. New Note 1 (f).

Insert the following new Note 1 (f) :

“(f) [extracts and other] concentrates of poppy straw [obtained by extraction, followed by distillation or precipitation (recrystallisation)] (heading No. 29.39);”.

alternative US proposal

“(f) [extracts and other] concentrates of the poppy plant (i.e., Papaver somniferum) which have been fractionated or otherwise modified (other than by a single solvent extraction) so that the composition of the resulting product is significantly different from that of the original product (heading No. 29.39);”.

Present Notes 1 (f) to 1 (ij) are renumbered as 1 (g) to 1 (k), respectively.

Page 97. N° 13.02. Alinéa A) 1). Nouvelle dernière phrase.

Ajouter la nouvelle dernière phrase suivante :

“Par contre, les [extraits et autres] concentrés de paille de pavot [obtenus par épuisement au moyen de solvants, suivi de distillation ou précipitation (recristallisation)] sont exclus de cette position (voir la Note 1 f) du présent Chapitre).”.

Variante proposée par les Etats-Unis

“En revanche, les [extraits et autres] concentrés de plantes de pavot qui ont été fractionnés ou modifiés (autrement que par simple épuisement au moyen de solvants), de sorte que la teneur en alcaloïde ou la composition du produit obtenu diffère sensiblement de celle du produit initial, sont **exclus** de la présente position (voir la note 1 f) du présent chapitre).”.

Variante proposée par les Etats-Unis

CHAPITRE 29

Page 441. N° 29.39. Partie A). Nouvel alinéa 13).

Ajouter le nouvel alinéa 13) suivant :

“13) **Les concentrés de paille de pavot.** Un mélange naturel d'alcaloïdes obtenus à partir des parties du pavot (*Papaver somniferum*) autres que les capsules [par épuisement au moyen de solvants, suivi de distillation ou de précipitation (recristallisation)].”.

Variante proposée par les Etats-Unis

“13) **Les concentrés de paille de pavot.** Un mélange naturel d'alcaloïde obtenu à partir de différentes parties de la plante de pavot (*Papaver somniferum*), par épuisement au moyen de solvants, suivi d'un fractionnement ou d'une purification afin de modifier ou d'augmenter la teneur en alcaloïde ou l'extrait.”.

Page 447. Liste des stupéfiants et des substances psychotropes.

Dans le n° 13.02, supprimer “**Concentré de paille de pavot** Stupéfiant”.

Proposition complémentaire des Etats-Unis

Page 452. Liste des stupéfiants et des substances psychotropes.

Dans le libellé du n° 29.39, ajouter “**concentré de paille de pavot**” *Stupéfiant*”.

Page 97. Heading 13.02. Item (A) (1). New last sentence.

Insert the following new last sentence :

“However, [extracts and other] concentrates of poppy straw [obtained by extraction, followed by distillation or precipitation (recrystallisation)] are **excluded** from this heading (see Note 1 (f) to this Chapter).”.

alternative US proposal

*“However, [extracts and other] concentrates of the poppy plant which have been fractionated or otherwise modified (other than by a single solvent extraction) so that the alkaloid content or composition of the resulting product is significantly different from that of the original product are **excluded** from this heading (see Note 1 (f) to this Chapter).”.*

CHAPTER 29.

Page 441. Heading 29.39. Part (A). New Item (13).

Insert the following new Item (13) :

“13) **Concentrate of poppy straw.** A natural mixture of alkaloids obtained from parts, other than capsules, of the poppy (*Papaver somniferum*) [by extraction, followed by distillation or precipitation (recrystallisation)].”.

alternative US proposal

*“13) **Concentrate of poppy straw.** A natural mixture of alkaloids obtained from various parts of the poppy plant (*Papaver somniferum*) by extraction, followed by fractionation or purification in order to modify or increase the alkaloid content or extract.”.*

Page 447. List of narcotic drugs and psychotropic substances.

Under heading 13.02, delete “**Concentrate of poppy straw** Narcotic drug”.

additional US proposal

Page 452. List of narcotic drugs and psychotropic substances.

Under heading 29.39, add “**Concentrate of poppy straw** Narcotic drug”.
