WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL

Conference of the Parties

Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products

Fifth session
Geneva, Switzerland, 29 March – 4 April 2012
Provisional agenda item 3

FCTC/COP/INB-IT/5/INF.DOC./3
25 January 2012

Manufacturing equipment for the manufacture of cigarettes and other tobacco products

Note by the Convention Secretariat

1. At its fourth session (Punta del Este, Uruguay, 15–20 November 2010), the Conference of the Parties (COP) established an informal working group to work prior to the final session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products (INB).[1] During its deliberations, the informal working group requested the Convention Secretariat to provide technical advice regarding manufacturing equipment for the manufacture of tobacco products, and in particular as to whether any manufacturing equipment and/or parts are manufactured and used solely for the manufacture of tobacco products. The present document aims to provide the advice requested by the informal working group. The World Customs Organization (WCO) provided expert advice for this document.

Working group established during the second session of the INB

2. The INB has previously discussed manufacturing equipment and its possible definition. At the second session of the INB, a working group was established to examine the scope of the draft protocol. The group concluded in its report to the INB that: "In principle, there was an agreement to include manufacturing equipment within the scope of the Protocol, which shall include but is not limited to cigarette-making machines, whether or not equipped with an auxiliary packaging device

[1] See decision FCTC/COP4(11).

[and specialized parts thereof]. Manufacturing equipment would not necessarily be addressed in the same way as tobacco products throughout the text of the Protocol".[1]

Expert advice provided during the first meeting of the informal working group[2]

3. The Harmonized Commodity Description and Coding System of the WCO, generally referred to as the Harmonized System, contains a number of references to machinery used in the manufacture of cigarettes and other tobacco products. The Harmonized System is a multipurpose international product nomenclature developed by the WCO. It comprises some 5000 commodity groups, each identified by a six-digit code and arranged in a legal and logical structure, and is supported by rules that enable a uniform classification to be achieved. The system is used by more than 200 countries and economies as a basis for their customs tariffs and for the collection of international trade statistics. More than 98% of the merchandise in international trade is classified in terms of the Harmonized System.[3]

4. The Harmonized System Committee (representing the Contracting Parties to the International Convention on the Harmonized Commodity Description and Coding System) is an international body with the mandate to make classification decisions in order to ensure uniformity in the interpretation and application of the Harmonized System. The Committee considers the classification of articles on a case-by-case basis. Classification of machinery depends on its function and operational principle.

5. Machinery for the manufacture of cigarettes and other tobacco products is found in Chapter 84 of the Harmonized System, while some relevant machine parts are found in Chapter 82.

Chapter 84 of the Harmonized System

6. In Chapter 84, there are three tariff headings under which the equipment listed may be considered to be important for the manufacture of tobacco products.

7. Tariff heading 84.15: "Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated". Air conditioning machines listed under this heading can be used during the curing and processing of tobacco; however, they can also be used for many other purposes.

8. Tariff heading 84.41: "Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds". Machines under this heading can be used for many purposes, including working with cigarette paper. These machines can also be traded and transported in pieces with various functionalities indicated.

9. Tariff heading 84.78: "Machinery for preparing or making up tobacco, not specified or included elsewhere in this Chapter". This is a "basket" heading that would cover any machinery for preparing or making up tobacco that has not already been specified by or included under another heading. Under

[1] The report of the working group was contained in a conference paper of 24 October 2008: document FCTC/COP/INB-IT/2/Conf.Paper No.3.

[2] The information that follows is based on the advice that was provided to the informal working group.

[3] See http://www.wcoomd.org/home_hsoverviewboxes_hsharmonizedsystem.htm

this heading, two specific pieces of machinery are listed that are used in the manufacture of tobacco products:

(i) Tobacco leaf stripping or cutting machines. These machines are produced, traded and transported under heading 84.78 of the Harmonized System. However, machines which can be used for other agricultural products, such as tea, can also be used for tobacco plants. As such, leaf stripping or cutting machines are widely applicable and therefore not unique to the manufacture of tobacco products.

(ii) Cigar- or cigarette-making machines, whether or not equipped with an auxiliary packaging device. These machines are produced, traded and transported in many different types and forms and with many different capabilities. Large industrial manufacturers make use of specifically designed, high-production machines, which are usually composite machines that meet the needs of the manufacturer. Parts of the composite, or integrated, machines include equipment to transport the tobacco, sometimes to cut it, transport the paper and the filter material, fill the tubes, dose the tobacco, glue the paper, cut the filter, transport the cigarettes, and package them in boxes. Printing can be included, as well as other steps, such as the addition of flavours. Similar results at lower speed can be obtained with various small machines. In addition, all such machines can be disassembled, traded and shipped in pieces.

10. Under tariff heading 84.76, “Automatic goods-vending machines (for example, postage stamp, cigarette, food or beverage machines), including money-changing machines”, cigarette vending machines are listed but they are not relevant to the manufacture of tobacco products.

Chapter 82 of the Harmonized System

11. Under tariff heading 82.08, machinery parts are listed. Under item (5)(b) of this heading, reference is made to “Blades and knives for machines for cutting paper, textiles, plastics, etc.; for tobacco shredding machines, etc”. However, the equipment parts listed under this heading are not unique to the manufacture of tobacco products.

Conclusion

12. There is identifiable manufacturing equipment used for the manufacture of tobacco products and/or parts thereof; the Harmonized System contains a number of classifications that include such machinery. Some machinery used for the manufacture of tobacco products can also be used for other purposes; conversely, machinery not identifiable as being for the manufacture of tobacco products may be used for the manufacture of such products. In addition, most of the equipment may be disassembled into smaller components that may be difficult to identify under Harmonized System classifications or with specificity in terms of function. However, the fact that the Harmonized System contains references to machines used for the manufacture of tobacco products may be of assistance in identifying machines that are typically used for this purpose.

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