

Annex II – Documents related to “impregnated, coated, covered or laminated textile fabrics” definitions (for classification under CN Chapter 59)

Annex II 1

Extract from the report of the **293rd meeting of the Customs Code Committee**, held 28 and 29 **October 2002**

Point 4. Classification of textile fabrics coated with plastics (heading 5407 or 5903)

2 pages

Annex II 2

NR1019E1a

World Customs Organization, Harmonized System Review Sub-Committee, 46th Session
October 2014

Possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03 (request by the EU) (Item III.B.6 on the Agenda)

6 pages

Annex II 3

Annex D/6 to Doc. NR1040E1c

World Customs Organization, Harmonized System Review Sub-Committee, 47th Session
November 2014

Observations of the Harmonized System Review Sub-Committee on Doc. NR1019E1a

2 pages

Annex II 4

NR1049E1a

World Customs Organization, Harmonized System Review Sub-Committee, 48th Session
April 2015

Possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03 (request by the EU) (Item III.A.5 on the Agenda)

4 pages

Annex II 5

Annex C/5 to Doc. NR1066E1c

World Customs Organization, Harmonized System Review Sub-Committee, 48th Session
May 2015

Observations of the Harmonized System Review Sub-Committee on Doc. NR1049E1a

2 pages

**4. Classification of textile fabrics coated with plastics (heading 5407 or 5903)
(TAXUD/1852/2002)**

Divergent Binding Tariff Information has been issued for textile fabrics coated with polyurethane. One Member State (FIN) classifies these fabrics in CN-code 5903 20 90, in accordance with note 2(a) to Chapter 59, since it is of the opinion that the coating is visible to the naked eye. Another Member State (D) classifies these fabrics in CN-code 5407 73 00, arguing that they are excluded from Chapter 59 by rule 2(a)(1) to Chapter 59, since the coating cannot be seen with the naked eye.

The provision " visible to the naked eye " leads to divergent interpretations of the nomenclature. Even if the same article but in different colours is coated in the same way, it might be possible to see the coating with some colours but not with others.

A round-table showed that all Member States, except two, would classify the textile fabrics in question under heading 5407, since the coating is not visible to the naked eye.

The Member State that had issued the BTI for heading 5903 asked the Commission to draft a framework regulation.

As a long term solution for this problem it was suggested to delete items (1) and (5) from Note 2(a) to Chapter 59 (UK) and to submit a proposal to the WCO in the framework of the HS revision 2007. The Member State that had come up with this proposal is asked to submit a working document to the Committee.

In the meantime, Member States should take into consideration the following criteria when classifying impregnated, coated or covered articles :

- if the structure of the textile material, as well as the intersection points of the warp and weft threads, are clearly visible, it can be concluded that the coating, covering or impregnation is not visible to the naked eye ;
- in accordance with European Court decision, **Case 317/81**, instruments, such as magnifying glasses or microscopes, and chemical analysis are not permitted ;
- in the case of a transparent coating, a thread of the textile can be pulled out. If, then, a transparent film can still be seen on the thread, it can be assumed that the coating is visible to the naked eye ;
- a shiny surface should not be taken into consideration.

One Member State (F) drew the attention of the other Member States to a seminar on " impregnation, coating or covering of textile materials " which will be held in France in January. The Committee will be informed about the findings of this seminar.

**5. Classification of a garment, coated, covered or laminated with plastic
(TAXUD/1816/2002)**

The question was how a women's or girls' outdoor garment, coated, covered or laminated with plastic, should be classified. The majority of Member States (B/L, D, E, F, I, NL, A, S, UK) agreed to classify this garment under heading 6202, since the impregnation, coating or covering cannot be seen with the naked eye (see Note 2(a)(1) to Chapter 59 of the Combined Nomenclature). Two Member States (DK, FIN) would prefer to classify this garment under heading 6210, which covers garments made up from fabrics of heading 5903. Two Member States (IRL, P) abstained, one Member State (EL) was absent.

The Member State (EL) who issued a BTI for CN code 6210 50 00 for the garment in question will be asked to revoke the BTI.



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR1019E1a

-
46th Session
-

O. Fr.

Brussels, 20 October 2014.

POSSIBLE AMENDMENT OF NOTE 2 (a) TO CHAPTER 59 AND
THE EXPLANATORY NOTES TO HEADING 59.03
(REQUEST BY THE EU)
(Item III.B.6 on the Agenda)

I. BACKGROUND

1. On 12 December 2013, the Secretariat received the following letter from the EU, asking it to submit for review by the Sub-Committee a possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03. For presentation reasons, this note has been slightly edited. In its note, the EU submitted the proposed amendments marked in red and underlined. Here they are marked in bold and underlined.

II. NOTE FROM THE EU

2. "The European Union would like to present a proposal for an amendment of Note 2 (a) to Chapter 59 as well as the Explanatory Notes to heading 59.03 and requests the proposal be submitted to the Harmonized System Review Sub-Committee for examination.

I - Possible amendment of Note 2 (a) to Chapter 59 :

3. A possible misalignment of the texts of Note 2 (a) to Chapter 59 and heading 59.03 has been detected. Note 2 (a) to Chapter 59 reads as follows :

"2.- Heading 59.03 applies to :

- (a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square metre and whatever the nature of the plastic material (compact or cellular), other than :

File No. 3398

NR1019E1a

- (1) Fabrics in which the impregnation, coating or covering cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;
- (2) ...;
- (3) Products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39);
" (underlining added)

4. Heading 59.03 reads as follows :

59.03 - Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 59.02. (underlining added)

5. This heading covers fabrics which are "impregnated, coated, covered or laminated with plastics".

6. Note 2 (a) to Chapter 59, which defines the scope of heading 59.03 also refers in the first sentence to fabrics, "impregnated, coated, covered or laminated with plastics".

7. However, Note 2 (a), par. (1) and (3) only refer to "impregnated, coated or covered" or "coated or covered" respectively, but do not refer to "laminated with plastics".

8. The EU proposes to align the wording of these paragraphs (1) and (3) to the texts of the first sentence of Note 2 (a) and heading 59.03.

9. The possible amendments of Note 2 (a) to Chapter 59 would read as follows :

2.- Heading 59.03 applies to :

- (a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square metre and whatever the nature of the plastic material (compact or cellular), other than :
 - (1) Fabrics in which the impregnation, coating, ~~or~~ covering **or laminating with plastics** cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;
 - (2) ...;
 - (3) Products in which the textile fabric is either completely embedded in plastics or entirely coated, ~~or~~ covered **or laminated with plastics** on both sides with such material, provided that such coating, ~~or~~ covering or laminating with plastics can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39);
(underlining added)

Comments by the EU :

10. The historic research on the text of Note 2 to Chapter 59 reproduced in the **Annex** to this document does not reveal clear information on the current text of this Note. It seems that the current texts have been kept unchanged since their first drafting and in force since 1.1.1972 (CCCN) (see pages 5/6). The possible misalignment already existed at that time.

2.

11. Nevertheless, some interesting information was retrieved. The definition of the different treatments, i.e. impregnation, coating, covering or lamination is given on page 9. It also seems that some delegations had doubts on the interpretation of the terms "laminated" and "stratifié" which could be interpreted slightly differently (page 10, par. 1 and 2).
12. It seems that this misalignment is due to the introduction of the criterion "cannot be seen with the naked eye" in particular if this is related to the definition of laminated fabrics (superimposing of three or more layers of textile fabrics and other materials (plastics, rubber, etc.) which are agglomerated by gluing, etc.
13. It could be concluded that the authors of the texts considered that the exclusions linked to the non-visibility by the naked eye would not apply to the laminated fabrics which can be clearly distinguished by the naked eye due to thickness and the special appearance of the fabrics.
14. The EU would consider that the identification of fabrics laminated with plastics nowadays might be rather difficult due to modern production techniques and consequently Note 2 (a) to Chapter 59 as well as the Explanatory Notes to heading 59.03 might require an amendment.

II - Possible amendment of the Explanatory Notes to heading 59.03

15. Consequently to a possible legal amendment, the Explanatory Notes to heading 59.03 would have to be amended as well (page XI-5903-1).

"This heading covers textile fabrics which have been impregnated, coated, covered or laminated with plastics (e.g., poly(vinyl chloride)).

Such products are classified here whatever their weight per m² and whatever the nature of the plastic component (compact or cellular), **provided** :

- (1) That, in the case of impregnated, coated, or covered **or laminated with plastics fabrics, the impregnation, coating, or covering or laminating can be seen with the naked eye** otherwise than by a resulting change in colour.

Textile fabrics in which the impregnation, coating, or covering **or laminating with plastics** cannot be seen with the naked eye or can be seen only by reason of a resulting change in colour usually fall in **Chapters 50 to 55, 58 or 60**. Examples of such fabrics are those impregnated with substances designed solely to render them crease-proof, moth-proof, unshrinkable or waterproof (e.g., waterproof gabardines and poplins). Textile fabrics partially coated or partially covered with plastics and bearing designs resulting from these treatments are also classified in **Chapters 50 to 55, 58 or 60**.

- (2) That the products are not rigid, i.e., they can, without fracturing, be bent manually around a cylinder of a diameter of 7 mm, at a temperature between 15 °C and 30 °C.
- (3) That the textile fabric is not completely embedded in, nor coated or covered **or laminated with plastics** on both sides ~~with plastics~~.

Products not meeting the requirements of subparagraph (2) or (3) above usually fall in **Chapter 39**. However, textile fabric coated, or covered **or laminated with plastics** on both sides with plastics where the coating, or covering **or laminating with plastics** cannot be seen with the naked eye, or can be seen only by reason of a resulting change in colour, usually falls in **Chapters 50 to 55, 58 or 60**. Except in the case of textile products of heading **58.11**, textile fabrics combined with plates, sheets or strip of cellular plastics, where the textile fabric is present merely for reinforcing purposes, are also classified in **Chapter 39** (see the General Explanatory Note to Chapter 39, part entitled "**Plastics and textile combinations**", penultimate paragraph).

NR1019E1a

The laminated fabrics of this heading should not be confused with fabrics which are simply assembled in layers by means of a plastic adhesive. These fabrics, which have no plastics showing in cross-section, generally fall in **Chapters 50 to 55.**"

III. SECRETARIAT COMMENTS

16. First of all, the Secretariat wishes to thank the EU for its proposals. It would also inform the Sub-Committee that the Annex referred to in paragraph 10 of this document can be viewed in the Members' area of the WCO Web site, under the heading "Presentations" in connection with the 47th Session of the Review Sub-Committee.
17. The question raised by the EU refers to a possible misalignment of the texts of Note 2 (a) to Chapter 59 and heading 59.03.
18. The first paragraph of Note 2 to Chapter 59 specifies that heading 59.03 applies to textile fabrics impregnated, coated, covered or laminated with plastics. So this first paragraph draws a distinction between, on the one hand, textile fabrics that are impregnated, coated or covered and, on the other hand, laminated textile fabrics. The Secretariat notes in that regard that the HS authors took care to distinguish the group of impregnated, coated and covered textile fabrics from laminated fabrics by the co-ordinating conjunction "or", thereby giving them a status of their own.
19. According to the Secretariat, that distinction is justified if one takes into consideration the definition of the operations of impregnation, coating, covering and laminating. In that regard, the Secretariat wishes to emphasize a point that was set out in the in-depth historic study carried out by the Secretariat and which relates to the technical report drawn up by the Chemists' Committee, the findings of which were recorded at its 11th Session (November 1964).
20. According to that study, a distinction should be drawn between :
- 20.1. impregnated fabric, which is fabric obtained by a process of impregnation in which the product applied penetrates into the fabric and even into the yarn and fibres of which it is composed. A fabric may be impregnated either by applying a liquid or pasty product to the surface or (more usually) by soaking it in a bath.
- 20.2. coated fabric, which is obtained by coating, this being a surface treatment. A liquid or pasty product is applied to the fabric and forms a thin layer or film on the surface. Any penetration into the fabric itself remains superficial.
- 20.3. covered fabric, which is made by the assembly of fabrics and preformed sheets, film, etc., of other materials. A covered fabric consists of a fabric to which a sheet of another material has been fixed.
- 20.4. laminated fabric, which is made by the assembly of fabrics and preformed sheets, film, etc., of other materials. The term laminated is used to describe fabrics produced by superimposing three or more layers of textile fabrics and other materials (plastics, rubber, etc.), which are agglomerated by gluing, hot-rolling, etc..
21. This technical study shows that there are similarities between covered fabric and laminated fabric, since both are obtained by the assembly of fabrics and preformed sheets, film, etc.. In the Secretariat's view, there is, however, a vital distinction between them : laminated fabrics are produced by superimposing three or more layers of textile fabrics and other materials (underlining added).

22. The Secretariat believes the authors of the Harmonized System wanted to draw a distinction between covered fabric and laminated fabric by giving them a separate status. As the Secretariat understands Note 2 to Chapter 59, if a fabric is obtained by superimposing three or more layers of textile fabrics and plastics, it is covered by heading 59.03, whether or not the plastics can be seen with the naked eye.
23. In that context and according to that understanding of the texts, the Secretariat would not note a possible divergence between the various paragraphs and subparagraphs relating to Note 2 to Chapter 59 but would consider that the texts are drafted in a coherent manner. Again, according to that understanding of the texts, the criterion “cannot be seen with the naked eye” relating to plastics would not apply to laminated fabrics.
24. The Secretariat is not, therefore, fully convinced of the need to amend Note 2 to Chapter 59 in the manner suggested by the EU, given that it may not be relevant to apply the criterion “cannot be seen with the naked eye”, which relates to plastics, to laminated fabrics.
25. The Secretariat does, however, concur with the EU that there is still some ambiguity around the definition of laminated fabrics. According to the Chemists’ Committee, laminated fabrics are produced by superimposing three or more layers of textile fabrics and other materials. The Secretariat takes this to mean a “sandwich” structure of various superimposed layers. The Secretariat is unsure how to interpret the composition of a laminated fabric : does the wording of the Chemists’ Committee text, according to which laminated fabrics are obtained by superimposing three or more layers of textile fabrics and other materials, mean that there must be three or more layers of fabrics or can the layers be either fabrics or textiles ?
26. A possible reply to the question raised in the previous paragraph can be found in the fourth paragraph of the Explanatory Notes to heading 59.03, on page XI-5903-1, which stipulates :
- “The laminated fabrics of this heading should not be confused with fabrics which are simply assembled in layers by means of a plastic adhesive. These fabrics, which have no plastics showing in cross-section, generally fall in **Chapters 50 to 55.**”
27. The question that arises, in view of the preceding paragraph, is whether fabrics that have plastics showing in cross-section are to be regarded as laminated fabrics. Contrary to the content of the Explanatory Note set out in the preceding paragraph, the reply to this question would be yes, even in the case of two layers of fabrics. The same question could arise in the case of a “sandwich” structure of two visible layers of plastics. Should it be regarded as a laminated fabric, and how can it be differentiated from a fabric covered with plastics?
28. Since the Secretariat is not aware of specific cases where the classification of this type of fabric has given rise to difficulties and since, as pointed out above, it is not entirely convinced of the need, in this particular case, for a legal amendment, the Secretariat could suggest that the Review Sub-Committee refer this question to the Scientific Sub-Committee for consideration, with a view to defining the concept of laminated fabric more clearly in the light of the earlier deliberations of the Chemists’ Committee. As underlined by EU, the identification of fabrics laminated with plastics nowadays might be rather difficult due to modern production techniques.
29. However, should the Committee wish to consider possibly amending Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03, the Secretariat will prepare drafts to that end for consideration at the next (48th) Review Sub-Committee session.

NR1019E1a

IV. CONCLUSION

30. The Sub-Committee is invited to :
- (1) consider the EU proposal for the possible amendment of Note 2 to Chapter 59 and the Explanatory Notes to heading 59.03, taking account of the Secretariat's comments.
 - (2) specify the action it intends to take in respect of this question, especially regarding its possible referral to the Scientific Sub-Committee.
-

1	2
NR1019E1a	Possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03 (Request by the EU).

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (O. Fr.)

1. After the Chairperson had presented the working document, the EU Delegate opened the discussion by thanking the WCO's documentation service for the historical research it had conducted on this subject. He summarized the Note submitted by his Administration for examination by the Sub-Committee, drawing attention to the EU's question as to why paragraphs (1) and (3) of Note 2 (a) to Chapter 59 referred only to fabrics "impregnated, coated or covered", or "coated or covered", respectively, but did not refer to fabrics "laminated with plastics". The historical research conducted by the Secretariat had not provided a clear answer to this question. The delegate said that because of modern production techniques, fabrics laminated with plastics might be difficult to identify and the current legal texts might be obsolete. Like the Secretariat, he was not aware of any specific cases where the classification of this type of fabric had given rise to difficulties, but the question raised by his Administration was of a general nature, the aim being to establish whether the existing legal texts should be revised and canvas the views of other administrations on this subject.
2. The Delegate of Canada said he could agree with the speculation in paragraph 13 of the working document that the authors of the texts considered that the exclusions regarding "non-visibility to the naked eye" would not apply to laminated fabrics. In his view, it was anticipated that laminated fabrics would be clearly distinguishable by the naked eye due to their thickness and special appearance. This was demonstrated by the text of Note 2 (a) (3), in which the term "laminated" did not appear. It must have been presumed that a laminated textile fabric would not require the "visible to the naked eye" test. Therefore, it was not necessary to include the term "laminated" alongside "entirely coated or covered" in Note 2 (a) (3).
3. The delegate noted that he did not agree with the EU's suggestion that this was a misalignment issue. Laminated fabrics (i.e., more than one layer of textile fabric) of textile and plastic sheets were not the same as a fabric (one layer) that had been coated or covered with a plastic sheet. He viewed laminated textiles as a different commodity in trade. In his view, this would be changing the scope of the legal Note rather than simply aligning the text.
4. It was his opinion that a textile fabric could, for example, be coated or covered with plastics on one or both sides. Such coatings might or might not be visible to the naked eye. A textile fabric coated or covered on one or both sides was not a laminated fabric. In his view, a laminated textile fabric was a fabric composed of two or more textile layers which had been combined with, for example, sheets of plastics, where the thickness of a sheet would be visible.
5. He said that, as pointed out by the Secretariat, the assumption that a laminated fabric had visible sheets was consistent with the fourth paragraph of the Explanatory Notes to heading 59.03, on page XI-5903-1, which read :

"The laminated fabrics of this heading should not be confused with fabrics which are simply assembled in layers by means of a plastic adhesive. These fabrics, which have no plastics showing in cross-section, generally fall in Chapters 50 to 55."

Annex D/6 to Doc. NR1040E1c
(RSC/47/Nov. 2014)

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

6. The term “laminated” did not refer to a process like “coating or covering”. “Laminated” referred to a different product altogether. In his view, this was why Note 2 (a) (3) to Chapter 59 began with the word “Products” and not “Fabrics”, as two or more textile fabrics combined with plastic sheets no longer simply constituted a fabric, coated or covered; rather it was a “product” comprised of more than one layer of textile fabric combined with sheets of plastics, for example.
7. Thus, he continued, the introduction of other materials, along with two or more textile fabrics, changed the nature of the product from that of a coated or covered fabric (single) to a laminated fabric product (multiple layers of textiles).
8. Canada wanted the Committee to consider this line of reasoning before moving forward.
9. Therefore, Canada could agree with the Secretariat’s comment in paragraph 28 of the working document, in which the Secretariat suggested that the Review Sub-Committee refer this question to the Scientific Sub-Committee for consideration, with a view to defining the concept of laminated fabric more clearly in the light of the earlier deliberations of the Chemists’ Committee.
10. Following an exchange of views, the Sub-Committee agreed to refer this question to the Scientific Sub-Committee so that the latter could answer the following five questions, set out by the United States :
 - (i) What is a laminated fabric?
 - (ii) How is it different from a covered fabric?
 - (iii) Does it always consist of three or more layers of fabric?
 - (iv) Can a laminated fabric be fabric sandwiched between two outer layers of plastics?
 - (v) Does a laminated fabric always have plastics (or another bonding agent) visible in its cross-section?
11. After noting that there would be no bilingual Annex for this Agenda item, the Sub-Committee also agreed to return to this matter at its next session in the light of the discussions to be held within the Scientific Sub-Committee (30th Session).

* * *



HARMONIZED SYSTEM
 REVIEW SUB-COMMITTEE

NR1049E1a

-
 48th Session
 -

O. Fr.

Brussels, 16 April 2015.

POSSIBLE AMENDMENT OF NOTE 2 (a) TO CHAPTER 59
AND THE EXPLANATORY NOTES TO HEADING 59.03

(REQUEST BY THE EU)

(Item III.A.5 on the Agenda)

Reference documents :

NR1019E1a (RSC/47)
 NS0323E1a (SSC/30)

NR1040E1c, Annex D/6 (RSC/47 – Report)
 NS0332E1b, Annex A/18 (SSC/30 – Report)

SUMMARY

Purpose of document

The purpose of this document is to convey to the Review Sub-Committee the comments of the Scientific Sub-Committee concerning laminated fabrics.

Action required of the Review Sub-Committee

In the light of the Scientific Sub-Committee's deliberations, the Sub-Committee is invited to examine the request by the EU for a possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03.

I. BACKGROUND

1. At its 47th Session, the Review Sub-Committee examined the question of a possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03.

File No. 3398

For reasons of economy, documents are printed in limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

Copyright© 2015 World Customs Organization. All rights reserved. Requests and inquiries concerning translation, reproduction and adaptation rights should be addressed to copyright@wcoomd.org.

NR1049E1a

2. Following an exchange of views, the Sub-Committee agreed to refer this question to the Scientific Sub-Committee so that the latter could answer the following five questions, suggested by the United States :

- (i) What is a laminated fabric ?
- (ii) How is it different from a covered fabric ?
- (iii) Does it always consist of three or more layers of fabric ?
- (iv) Can a laminated fabric be sandwiched between two outer layers of plastics ?
- (v) Does a laminated fabric always have plastics (or another bonding agent) visible in its cross-section ?

II. OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE

3. The Scientific Sub-Committee replied as follows to the five questions set out in the previous paragraph :

What is a laminated fabric ?

4. Most of the delegates who took the floor expressed the view that a laminated fabric was composed of at least two textile layers which had been combined with, for example, sheets of plastics (or other materials) by heat treatment, by pressure or by a combination of these two processes (or other processes).
5. However, one delegate said that, according to the specialized literature he had consulted, there were different definitions of "laminated fabric", and a laminated fabric could consist of only two layers, one of which was of preformed fabric. In this connection, he said that the definitions were old, and may not have stood the test of time; therefore, they should be revised.

How is a laminated fabric different from a covered fabric ?

6. A delegate said that there was no reference to covered fabrics in the technical literature, and that their description was not based on a manufacturing process. In his view, a covered fabric was a backing of textile fabrics, to which another material (plastics, for example) was affixed, and which did not satisfy the condition of impregnated, coated or laminated textile fabric.
7. The other delegates who spoke considered that a covered fabric was a fabric consisting of two layers, one of which was of textile material, and the other of a material other than textiles, such as plastics or rubber, for example.
8. The general feeling of the Sub-Committee was that a laminated fabric consisted of at least two textile layers combined with other materials, whereas a covered fabric had only two layers.
9. However, one delegate reiterated his opinion that a laminated fabric could consist of only two layers.

2.

NR1049E1a

10. Finally, the Chairperson concluded the discussions on this question by indicating that the Sub-Committee perhaps lacked the up-to-date information needed to define the fabric types clearly, and suggesting that delegates contact the industry concerned to gather any additional information that might be available.

Does a laminated fabric always consist of three or more layers of fabric ?

11. The Chairperson drew attention to an error in the wording of the question, which referred to three layers of fabric. The question was whether a laminated fabric consisted of at least three layers, and the Sub-Committee replied in the affirmative. With the exception of one delegate, the Sub-Committee agreed that a laminated fabric was composed of at least three layers, including two outer layers of fabric.

Can a laminated fabric be sandwiched between two outer layers of plastics ?

12. The Sub-Committee's response was that it could not, because in that case the fabric would be held within the plastics, and therefore could not be regarded as laminated.

Does a laminated fabric always have plastics (or another bonding agent) visible in its cross-section ?

13. The Sub-Committee responded to this question in the affirmative.

14. The Chairperson concluded the discussion by saying that the Sub-Committee wished to make it clear that it had answered the questions put to it without reference to specialized literature, and was available to the Review Sub-Committee for any additional study that might be required.

III. SECRETARIAT COMMENTS

15. The initial question raised by the European Union was prompted by a query as to why paragraphs (1) and (3) of Note 2 (a) to Chapter 59 referred only to textile fabrics "impregnated, coated or covered" or "coated or covered" respectively, but did not refer to "textile fabric laminated with plastics". The general aim of this question is to determine whether it is necessary to review the current legal text.
16. The Secretariat's comments on this matter are set out in paragraphs 16 to 29 in Doc. NR1019E1a. The technical and legal arguments on this issue put forward by the Review Sub-Committee can be found in Annex D/6 to Doc. NR1040E1c – Report of the RSC/47.
17. If the Sub-Committee wishes to pursue the possibility of an amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03, the Secretariat will prepare the relevant drafts for consideration at the next (49th) session of the Review Sub-Committee.

IV. CONCLUSION

18. In the light of the Scientific Sub-Committee's deliberations, the Sub-Committee is invited to :

- (1) examine the request by the EU for a possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03.

NR1049E1a

- (2) specify the action it intends to take in respect of this question, especially regarding a possible new referral to the Scientific Sub-Committee, taking into account the remark of its Chairperson, set out in paragraph 14 of the current document.
-

1	2
NR1049E1a	Possible amendment of Note 2 (a) to Chapter 59 and the Explanatory Notes to heading 59.03 (Request by the EU).

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (O. Fr.)

1. After the Chairperson had presented the working document, the EU Delegate opened the discussion by again drawing attention to the difficulty of distinguishing between laminated fabrics and other fabrics, particularly in the light of modern technologies. In his view, a clear definition of laminated fabrics had not emerged from the Scientific Sub-Committee's examination of this question. Online research had revealed that a laminated fabric could be composed of two layers (plastics and textile fabric), rather than three layers as indicated by the Scientific Sub-Committee. He still believed that Note 2 to Chapter 59 and the Explanatory Note to heading 59.03 required amendment, and did not consider it necessary to consult the Scientific Committee again on this matter.

2. The Delegate of Canada considered that in trade terms, a laminated textile fabric was a fabric composed of two or more textile layers which had been combined with, for example, sheets of plastics, where some thickness of the sheets was visible. This position had been supported by the Scientific Sub-Committee. She considered that the distinction between impregnated, coated or covered fabrics on the one hand, and laminated fabrics on the other, was intentional, and the fourth paragraph of the Explanatory Notes to heading 59.03 appeared to confirm this. Unlike impregnation, coating or covering (which might or might not be visible), lamination had to be visible. The Sub-Committee might wish to conduct a more detailed examination of how laminated products (combining layers of textiles with one or more layers of other materials) were classified in the HS. It might also be desirable to look at how the term "laminated" was used in other parts of the HS, with a view to maintaining consistency in the use of this term where appropriate. Therefore, Canada suggested that a further study be conducted before any amendment to Note 2 (a) to Chapter 59 was envisaged.

3. Regarding paragraphs (1) and (3) of Note 2 (a) to Chapter 59, and with reference to the question posed by the EU as to why these paragraphs did not refer to "textile fabric laminated with plastics", the Delegate of Egypt pointed out that paragraph (1) of Note 2 (a) excluded from heading 59.03 fabrics in which the impregnation, coating or covering could not be seen with the naked eye (usually Chapters 50 to 55, 58 or 60). Consequently, heading 59.03 covered products specified in Note 1 to Chapter 59 in which the impregnation, coating or covering could be seen with the naked eye. Despite the absence of a reference to laminated products in paragraphs (1) and (3) of Note 2 (a), there was no doubt that in the case of a product consisting of two textile layers with a layer of cellular or non-cellular plastics sandwiched between them, as a result of the laminating process employed the middle layer could be seen with the naked eye. This was confirmed by the Explanatory Notes to heading 59.03. Therefore, the lamination process produced a fabric in which the middle layer could be seen with the naked eye. In the case of fabrics which were covered, the covering might be a film which could be separated from the textile layer. For coated fabrics, the presence of a coating could be verified by scraping the fabric. In the case of impregnated fabrics, it was possible to determine whether yarn had been impregnated with plastics by examining it through a magnifying glass or by blowing air on the fabric. The delegate showed a sample of a laminated product to illustrate the points made in her intervention.

Annex C/5 to Doc. NRF1066E1c
(RSC/48/May 2015)

OBSERVATIONS of the HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

4. A delegate said that she could not discern any lack of alignment between the existing texts, and was in favour of maintaining the status quo. However, she suggested that a classification question concerning a laminated product be submitted to the Committee. If the product proved difficult to classify, the Sub-Committee could then consider the advisability of amending the current texts.
5. Another delegate said there was some confusion surrounding the technical sources and the standards used for the definition of laminated fabrics. She suggested contacting the industry in order to arrive at a consensus on the definition of the terms employed, as well as on the classification of laminated products.
6. The Sub-Committee agreed to continue its examination of this question, with a view to establishing a better definition of laminated fabrics. It encouraged the Egyptian Administration to ask the Committee to consider the classification of the sample it had presented during the session.
7. The Deputy Director said that the Secretariat would require contributions from administrations in order to progress with the work on this question, adding that the classification request regarding a specific product would need to be submitted to the Secretariat before the end of June if it was to be placed on the Agenda for the Harmonized System Committee's next session.
8. The Delegate of Egypt also proposed that the definition of the expression "reinforcing purposes", which appeared in paragraph (d) of the "Plastics and textile combinations" part of the General Considerations in Chapter 39, as well as in the Explanatory Note to heading 40.08, be inserted in paragraph 5 of Note 2 (a). As this was a separate issue from the one currently being examined by the Sub-Committee, the Chairperson suggested that the Delegate of Egypt forward her proposal to the Secretariat with a view to be considered subsequently.

* * *