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**ANALYSIS ON THE ADDITIONAL HARMONIZED SYSTEM CODE PROPOSALS
RECEIVED IN COMMENTS ON THE DRAFT MAC PROTOCOL**

(Prepared by the UNIDROIT Secretariat)

1. Three States submitted comments on the draft MAC Protocol proposing modifications to the Harmonized System (HS) codes listed in the Draft MAC Protocol Annexes : Japan (DCME-MAC – Doc. 11), Germany (DCME-MAC – Doc. 12), and the United Kingdom (DCME-MAC – Doc. 14). In consultation with the MAC Working Group and relevant experts, the Secretariat has prepared further analysis on the relevant HS codes and made preliminary recommendations for consideration at the Diplomatic Conference. This document should be read in conjunction with [DCME-MAC – Doc. 6](#), which contains the Secretariat's analysis on the HS codes currently listed in the draft MAC Protocol and the additional HS codes proposed by States in 2018.

I. PROPOSALS MADE BY THE GOVERNMENT OF JAPAN ([DCME-MAC – Doc. 11](#)):

a) To include 842920, 842951, and 843069, which are already included in Annex 3 (Construction), in Annex 1 (Mining).

Secretariat Recommendation:

- 842920 and 842951 have already been recommended to for inclusion in Annex 1 (Mining) of the Draft MAC Protocol. For more details, see Paragraph 3 of Appendix 1 to DCME-MAC – Doc. 6.
- The Secretariat recommends the inclusion of 843069 in Annex 1 (Mining).

b) To include 843143 in Annex 1 (Mining).

Secretariat Recommendation:

- The Secretariat does not recommend including 843143 in Annex 1 (Mining).

c) To include 870490 in Annex 1 (Mining).

Secretariat Recommendation:

- The Secretariat does not recommend including 870490 in Annex 1 (Mining).

- d) To include 843020 Annex 3 (Construction).

Secretariat Recommendation:

- The Secretariat does not recommend including 843020 in Annex 3 (Construction).

II. PROPOSAL FROM GERMANY ([DCME-MAC – Doc. 12](#)):

- a) To include 843410 in Annex 2 (Agriculture).

Secretariat Recommendation:

- The Secretariat recommends including 843410 in Annex 2 (Agriculture).

III. PROPOSAL FROM THE UNITED KINGDOM ([DCME-MAC – Doc. 14](#)):

- a) To exclude 871620 from Annex 1 (Mining) and Annex 3 (Construction).

Secretariat Recommendation:

- The Secretariat recommends excluding 871620 from Annex 1 (Mining) and Annex 3 (Construction).
- Detailed analysis regarding each of the new (842920 and 842951 were already addressed in *Paragraph 3 of Appendix 1 to [DCME-MAC – Doc. 6](#)*) aforementioned proposals can be found in Appendix 1 of this document.
- This document covers all HS related proposals received in the comments to the Draft MAC Protocol prior to 9 November 2019.

Appendix 1 – Individual Analysis of Received Proposals

Proposal 1 of 6: To include 843069 in Annex 1 (Mining)	
Full Description: Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Other machinery, not self-propelled: -- Other	
Proposed by Japan in October 2019 DCME-MAC – Doc. 11	For Mining Annex
<p>Analysis:</p> <p>This code was originally proposed by the MAC Working Group and approved by the Study Group and the Committee of Governmental Experts for inclusion in the Construction Annex.</p> <p>843069 falls under a subheading of 8430, "Other machinery, not self-propelled," and is a catchall category covering "other" equipment of 8430 that is not covered by any of its other subheadings.</p> <p>With the exception of 843069 and 843020 (snow-ploughs and snow-blowers), all of the subheadings of 8430 have been recommended for inclusion in both Annex 1 (mining) and Annex 3 (construction) of the Draft MAC Protocol. 843020 (re-considered in Proposal 4 of this document) has not been recommended for inclusion in any Annex and 843069 has been recommended for inclusion in Annex 3 only. However, given that 843069 covers "other" equipment used for the same general purposes as the 8430 subheadings recommended for inclusion in both Annex 1 and Annex 3, (i.e. for "attacking" the earth's crust or for preparing the terrain) it can be recommended that 843069 should also be included in Annex 1. Even after excluding the equipment covered by the other subheadings of 8430, there remains a broad range of "machinery, not self-propelled" used for "moving, grading, levelling, scraping, excavating, [and] extracting machinery, for earth, minerals or ores" that might fall under 843069. These are activities common to both the mining and construction sectors in which this type of equipment is predominantly used.</p>	
Recommendation: Include	
HS code 843069 should be included in Annex 1 (Mining) of the future MAC Protocol.	

Proposal 2 of 6: To include 843143 in Annex 1 (Mining)

Full Description:

Parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30 - Of machinery of heading 84.26, 84.29 or 84.30: -- Parts for boring or sinking machinery of subheading 8430.41 or 8430.49

Proposed by Japan in October 2019 [DCME-MAC – Doc. 11](#)

For **Mining** Annex

Valuation:

USD 100 – USD 50,000 (source: trade data <https://www.infodriveindia.com/india-import-data/843143-hscode-import/fc-sweden-report.aspx>)

Pictures:



Analysis:

This code was originally proposed by the MAC Working Group (MWG) during Study Group negotiations but was considered unsuitable due to a lack of evidence regarding whether the HS code covered high value objects or objects which were individually serialised. (listed as Item 39 in list of unsuitable codes in Appendix 1 of document [DCME-MAC – Doc. 6](#)).

Codes covering parts only are generally not recommended for inclusion in the MAC Annexes.

Recommendation: Exclude

In lieu of evidence to the contrary, it is recommended that HS code 843143 be excluded from the future MAC Protocol on the basis that it covers equipment which is predominantly low-value parts which are not individually serialised.

Proposal 3 of 6: To include 870490 in Annex 1 (Mining)

Full Description:

Motor vehicles for the transport of goods - Other, with spark-ignition internal combustion piston engine: - Other

Proposed by Japan in October 2019 [DCME-MAC – Doc. 11](#)

For **Mining** Annex

Pictures:



Analysis:

Heading 8704 covers "Motor vehicles for the transport of goods." This, includes vehicles designed for a very broad range of purposes, in particular, but not limited to, "ordinary lorries (trucks) and vans (flat, tarpaulin-covered, closed, etc.); delivery trucks and vans of all kinds, removal vans; lorries (trucks) with automatic discharging devices (tipping lorries (trucks), etc.); tankers (whether or not fitted with pumps); refrigerated or insulated lorries (trucks)."

Subheading 870490 excludes "dumpers designed for off-highway use" (870410) and vehicles powered by internal combustion piston engines, whether compression-ignition (e.g. diesel) (870421-23) or spark-ignition (e.g. gasoline) (870431-32).

870490 is a catchall category that encompasses a very broad range of "motor vehicles for the transport of goods," not powered by an internal combustion piston engine. As a catchall category, 870490 covers equipment commonly used outside the MAC industries.

Recommendation: Exclude

In lieu of evidence to the contrary, it is recommended that HS Code 870490 is not suitable for addition to the future MAC Protocol because it covers equipment commonly used outside the MAC industries.

Proposal 4 of 6: To include 843020 Annex 3 (Construction)

Full Description:

Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers - Snow-ploughs and snow-blowers

Proposed by Japan in October 2017 (CGE2)

For **Construction** Annex

Proposed by Japan in October 2017 (CGE2)

For **Agriculture** Annex

Proposed by Japan in October 2019 [DCME-MAC – Doc. 11](#)

For **Construction** Annex

Pictures:



Analysis:

HS 843020 covers snow ploughs and snow blowers which are typically used to clear snow from roads and walkways. This equipment is commonly used outside the MAC industries (e.g. for maintenance of roads, airports, parking areas, etc. rather than construction).

This code was originally proposed by the MAC Working Group during Study Group negotiations but was considered unsuitable because it covers equipment predominantly outside the MAC sectors (listed at Item 33 in list of Unsuitable codes in Appendix 1 of document [DCME-MAC – Doc. 6](#))

Recommendation: Exclude

In lieu of evidence to the contrary, it is recommended that HS code 843020 be excluded from the future MAC Protocol on the basis that it covers equipment which is predominantly used outside the MAC sectors.

Proposal 5 of 6: To include 843410 in Annex 2 (Agriculture)

Full Description:

Milking machines and dairy machinery - Milking machines

Proposed by Germany in October 2019 [DCME-MAC – Doc. 12](#) For **Agriculture** Annex

Valuation:

USD 150,000 – USD 200,000 (provided by Germany)

Pictures:



Analysis:

843410 covers all types of milking machines of any size and capacity, for milking one animal (e.g. cow, goat, sheep) or more simultaneously, whether robotic or not; 843410 does not include other dairy machinery or parts.

The HS explanatory notes confirm that 843410 includes only equipment used directly for milking (i.e. initial milk production at the farm) and not for post-production processing of dairy products.

The scope of 843410 is confined to milking machines that are individually serialised and of high-value (particularly modern robotic systems), although the HS code does also cover milking machines used on single animals that can be of a lower value.

Recommendation: Include

it is recommended that HS code 843410 be included in Annex 2 of the future MAC Protocol.

Proposal 6 of 6: To exclude 871620 from Annex 1 (Mining) and Annex 3 (Construction)

Full Description:

Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof - Self-loading or self-unloading trailers and semi-trailers for agricultural purposes

Proposed by the United Kingdom [DCME-MAC – Doc. 14](#)

To remove from **Mining** and **Construction** Annexes

Analysis:

Trailers without a specific agricultural purpose or limitation are unlikely to be classified under 871620, therefore 871620 is unlikely to cover objects suitable for inclusion in Annexes 1 and 3.

Recommendation: Exclude (Proposal Accepted)

Based on the additional input from the United Kingdom and the MAC Working Group, it is recommended that HS code 871620 only be included in Annex 2 of the future MAC Protocol and removed from Annexes 1 and 3.