



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0165E2

-
23rd Session
-

O. Eng./Fr.

Brussels, 23 March 2001.

REPORT OF THE 23rd SESSION OF THE
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

1. The Harmonized System Review Sub-Committee held its 23rd Session from 19 to 23 March 2001 at the Headquarters of the World Customs Organization in Brussels, under the Chairmanship of Mr. D. BECK (USA).
2. The following 37 WCO Members and one Customs or Economic Union were represented :

Members

AUSTRALIA	NETHERLANDS
BANGLADESH	NORWAY
BELGIUM	PANAMA
BRAZIL	POLAND
CANADA	ROMANIA
CHINA	RUSSIA (Fed. of)
COLOMBIA	SAUDI ARABIA
CONGO (Rep. of)	SENEGAL
CONGO (Dem. Rep. of)	SLOVENIA
FRANCE	SOUTH AFRICA
GHANA	SPAIN
INDIA	SUDAN
IRELAND	SWEDEN
JAPAN	SWITZERLAND
LATVIA	THAILAND
MADAGASCAR	UNITED KINGDOM
MALAYSIA	UNITED STATES
MEXICO	VIETNAM
MOROCCO	

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The list of participants in the meeting is reproduced in Annex F.

I. AGENDA

4. The Review Sub-Committee adopted the Agenda, which is reproduced at Annex A.

II. QUESTIONS EXAMINED BY THE REVIEW SUB-COMMITTEE

5. The comments made during the discussions and the conclusions reached by the Sub-Committee on the various Agenda items are set out at Annexes B to E to this Report.

III. OTHER

6. Mr. H. KAPPLER, Director of Tariff and Trade Affairs, informed the Sub-Committee that at the end of this session, delegates would be requested to complete an evaluation form in order to help the Secretariat assess future needs with regard to the preparations for, and conduct of, the meetings of this body.
7. The Director also reported that the WCO had recently issued a publication entitled "Amendments to the Harmonized System Nomenclature Effective from 1 January 2002", containing not only the Correlation Tables between the 2002 and 1996 versions of the HS, and vice versa, but also the reasons for the amendments made to the Nomenclature during the last review cycle.

D. BECK,
Chairman

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AGENDA FOR THE 23rd SESSION
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

(from 19 to 23 March 2001)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
	Draft Agenda	A
II.	<u>GENERAL QUESTIONS</u>	
1.	Decisions taken by the Harmonized System Committee at its 26 th Session concerning the Report of the 22 nd Session of the Review Sub-Committee and pending questions	B/1
2.	Review of the HS Explanatory Notes by the Review Sub-Committee	B/2
III.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
1.	Possible amendments to the Nomenclature regarding the classification of sauces	C/1
2.	Possible amendments to Note 1 (c) to Chapter 41 regarding hides and skins of camels	C/2, E/2
3.	Proposal by Canada to amend the Nomenclature and Explanatory Notes to Chapter 54	C/3, E/3
4.	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42	C/4
5.	Possible amendments to the Explanatory Note to heading 84.71	C/5, E/1
6.	Possible amendment of the text of heading 85.25 to clarify the classification of cameras	C/6
7.	Possible amendment of Note 5 (B) to Chapter 85	C/7

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
8.	Amendment of the text of subheading 9021.10 in order to align the French and English versions	C/8, E/4
9.	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24	C/9
10.	Study with a view to amending the structure of Chapter 87	C/10
11.	Study with a view to amending the structure of heading 73.21	C/11, E/5
 B. <u>NEW QUESTIONS</u>		
1.	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items	D/1, E/6
2.	Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03	D/2
3.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21	D/3
4.	Proposal by the US Administration to amend the Nomenclature to Chapter 41	D/4
5.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13	D/5
6.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82	D/6
7.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19	D/7
8.	Proposal by the US Administration to amend certain subheadings of heading 87.08	D/8
9.	Proposal by the Australian Administration to amend the Nomenclature to heading 70.19 concerning glass fibres.	D/9

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Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0135E1	Decisions taken by the Harmonized System Committee at its 26 th Session concerning the Report of the 22 nd Session of the Review Sub-Committee and pending questions.			

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Chairman began the discussion on this item by explaining the Secretariat's objectives in writing the working document and summarizing its main points. He expressed his appreciation for the usefulness of this document.
2. The Director then informed the Review Sub-Committee that it was merely being asked to take note of the actions of the HSC.
3. Turning to the item in the working document on pending questions, the Director first noted that the HSC had agreed to establish a Working Group to update Note 5 to Chapter 84. This group should meet for the first time in mid-September at the beginning of the next RSC session. The issue of the expansion of the RSC's schedule beginning with the next session was to be dealt with in detail under Agenda Item II.2. He ended his comments by indicating that the remaining pending issues were on the Sub-Committee's agenda for this session under their own Agenda items.
4. The Sub-Committee took note of the developments in the HSC and the Director's remarks.

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1	2
NR0150E1	Review of the HS Explanatory Notes by the Review Sub-Committee.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. In opening discussion of this agenda item, and referring to Part III of the working document (3rd HS Review cycle), the Chairman pointed out that proposals for the new review cycle had already been received from the United States and Australia and they had been placed on the Agenda for the consideration of the Review Sub-Committee at this session.

HS Explanatory Notes work plan

2. Several comments were made regarding the timing of the general review of the HS Explanatory Notes. It was agreed that the Review Sub-Committee should begin its general review of the Explanatory Notes at its next session, which should be a two-week session. That session should also encompass, either at the beginning or the end, the first meeting of the special working group on Note 5 to Chapter 84.
3. With regard to the Secretary General's request to Members asking them to second Technical Attachés to assist the Secretariat in carrying out the work in this area, the Director informed the Sub-Committee that, unfortunately, Members' responses had so far been negative. He urged all delegates to work within their administrations to explain the importance of this work so as to ensure that the needed attachés would be seconded.
4. In response to a question as to whether the five-year period proposed in the HS Explanatory Notes work plan was a firm commitment, the Director explained that, while the review of the HS Explanatory Notes would be on-going, the five-year period had been proposed to the Policy Commission to indicate a degree of urgency, so as to be able to address the priority issues by the end of that period. He further indicated that the Policy Commission had taken note of this suggested time frame.

The 3rd HS review cycle

5. With regard to the possible shortening of the 3rd HS Review Cycle, the Director noted that this question had once again been placed on the agenda of the HSC. This occurred as a result of a discussion in the last Policy Commission meeting stemming from the Council's Open Days for Trade in November of last year. The issue was raised as to whether it might be possible to accelerate the HS review process. The Director indicated that the Secretariat had prepared a document on this question for HSC/27 laying out the pros and cons and asking the HSC to give its views on the matter. This document would also provide the basis for the review of the issue by the Policy Commission. The Secretariat was of the opinion that it was difficult to expedite the review process any more than had been done due to factors such as the time needed for the development of proposals and consultation with industry, as

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (Contd.)

well as concluding the necessary discussions in the RSC and HSC. The Director asked the Sub-Committee to take note of these new developments.

6. One delegate suggested that the Secretariat should contact the United Nations Statistical Divisions (UNSD) in this connection, since the UNSD had in the past complained that the current review cycle of the HS was already too short from the trade statistical standpoint, and had suggested a 10-year review cycle. In response, the Director indicated that the Secretariat had already contacted the UNSD and the WTO and hoped to obtain their views on this issue at the next session of the Committee.
7. Another delegate noted that, although his administration could be flexible if there was a strong desire to shorten the length of the 3rd HS review cycle, many administrations had found it difficult to implement HS changes within the current time frames. He pointed out that, in considering this question, the national legislative process and the need for co-ordination of the changes with the WTO should not be forgotten.
8. Finally, the Director expressed his concern about the delays in receiving Members proposals for the current review cycle. He reminded delegates that there were only six sessions of the Review Sub-Committee after this session to meet the deadline of completing the review work by the Spring of 2004. In particular, he emphasized that it would be too late to receive proposals in this Summer for their consideration at the September session of the Review Sub-Committee and urged administrations to get their proposals to the Secretariat as soon as possible.

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Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0111E1 (RSC/22) NR0136E1	Possible amendments to the Nomenclature regarding the classification of sauces.			

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. In opening discussion of this agenda item one delegate pointed out that the nature of sauces varied from one region of the world to another. Consequently, it was difficult to find a definition of sauces which could be introduced at legal level in an internationally agreed nomenclature. He therefore agreed with the Secretariat's conclusion in paragraph 15 of Doc. NR0136E1 that the new Explanatory Notes would provide sufficient guidance as to the classification of such products.
2. Another delegate indicated that there were no international standards or definitions of what constituted a sauce. Moreover, what constitutes a sauce may vary by country. Therefore, if quantitative criteria were put into the legal texts, a product that may be considered and commercially known as a sauce might be classified as other than a sauce because it did not satisfy the quantitative criteria, which were arbitrary in nature.
3. This same delegate recalled that the HS Committee had twice considered the classification of a product containing a large amount of solid material, and both times had decided to classify the product as a sauce of heading 21.03. He could agree with the Secretariat's conclusion in paragraph 15 of Doc. NR0136E1, that the agreed upon Explanatory Notes will provide sufficient guidance as to the classification of sauces, and legal texts amendments were therefore not necessary.
4. The EC Delegate pointed out that the Harmonized System Committee's various close votes, when the classification of "CHICKEN TONIGHT" – "Oriental Sweet and Sour Sauce" had been discussed, indicated that the classification of such products was not clear. He shared the views expressed by the previous delegates that the definition of sauces differed from one region of the world to another, but strongly felt that the HS classification of sauces could not differ from one country to another. He therefore considered it vital to amend the legal texts to ensure uniform world-wide classification of fruits and vegetables in a sauce classifiable in Chapter 20 and of sauces containing fruits and vegetables classifiable in Chapter 21. He was flexible as to whether these new legal texts had to contain a quantitative criterion. He proposed that the Secretariat should study this matter further, on the basis of the proposals already submitted at an earlier stage, and new proposals to be submitted by Contracting Parties and the industry.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (Contd.)

5. Certain other delegates were also of the view that legal text amendments were needed in order to avoid classifying products simply by taking account of trade names. The Sub-Committee therefore agreed to re-examine the issue at its next session on the basis of a new document to be prepared by the Secretariat (with contributions from Contracting Parties and the industry).

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1	2	4	5
NR0137E1	Possible amendments to Note 1 (c) to Chapter 41 regarding hides and skins of camels.	<u>See Annex E/2.</u>	<u>See Annex E/2.</u>

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Sub-Committee unanimously approved the amendments set out in the Annex to Doc. NR0137E1.
2. The Sub-Committee took note of the Secretariat's observation in paragraph 3 of Doc. NR0137E1, that only raw hides and skins of camels (including dromedaries), with the hair on, had been transferred from heading 43.01 to heading 41.03, which transfer could, in the view of the Secretariat, be presented in the following way :

HS 2007	HS 2002	Observations
4103.90	4103.90 ex 4301.80 ex 4301.90	Raw hides and skins of camels (including dromedaries) have been added to the exclusions in Note 1 (c) to Chapter 41.
4301.80	ex 4301.80	
4301.90	ex 4301.90	

HS 2002	HS 2007
4103.90	ex 4103.90
4301.80	ex 4103.90 ex 4301.80
4301.90	ex 4103.90 ex 4301.90

3. The texts approved are set out in Annex E/2 to this Report.

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1	2	5
NR0114E1 (RSC/22) NR0138E1	Proposal by Canada to amend the Nomenclature and Explanatory Notes to Chapter 54.	<u>See Annex E/3.</u>

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

1. The Sub-Committee began its examination of the draft amendments to the Nomenclature to Chapter 54 proposed by Canada and the Secretariat, as well as a text proposed by the Scientific Sub-Committee set out in the Annex to Doc. NR0138B1.
2. The EC Delegate recalled that the wording of the Chapter title was for information purposes only and therefore had no serious objection to the Canadian proposal to add “strip and the like of man-made textile materials” to the title. However, he questioned the usefulness of such an addition and pointed out that such an amendment could justify the revision of the wording of other Chapters.
3. In this respect, the Delegate of Canada pointed out that his administration’s intention was not to amend the scope of the texts in force, but to clarify the situation by proposing a text that could cover strip and the like.
4. Regarding Note 1 to Chapter 54, and more specifically the introductory sentence of the first paragraph, the EC Delegate was against the Canadian proposal to amend the structure, as the said Note, which did not seem to raise interpretation problems, applied to the whole Nomenclature. However, interpretation problems could arise in the future if, within Section XI, the term "man-made" were defined separately in relation to the same term used in other parts of the Nomenclature.
5. In this context, he wished to maintain the present text of this introductory sentence of the first paragraph, which would therefore leave unchanged the last two paragraphs of this Note.
6. With regard to the variants proposed for Item (a), Canada noted that their proposal was intended in part to facilitate translation by Member administrations for domestic use. Preference for options were divided and the Sub-Committee agreed to leave the two proposals in square brackets for re-examination at its next session.
7. With regard to Item (b) in the Annex to Doc. NR0138E1, the Sub-Committee noted that it was a text proposed by the Scientific Sub-Committee and that the said Sub-Committee had, inter alia, suggested inserting the term “(cupro)” after “cuprammonium rayon” in the interests of precision and alignment on the present Explanatory Notes.
8. Moreover, the Scientific Sub-Committee had also proposed referring to “lyocell” in Item (b) since, although initially a registered trademark, this term was now accepted as a generic name.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (Contd.)

9. With regard to the text of certain subheadings of heading 54.02 and subheading 5407.10 and the use of the term "polyester" in the plural, the Delegate of Canada said that his administration was withdrawing its proposals on the basis of information provided by the Scientific Sub-Committee.
10. The Sub-Committee agreed to maintain the remaining texts in square brackets for re-examination at its next session. The texts in square brackets are reproduced in Annex E/3 to this Report.

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1	2
NR0139E1	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Sub-Committee undertook a preliminary discussion of this agenda item. Delegates supported the purpose of the Secretariat's proposal, which was the modernization of the Explanatory Note and legal text to heading 84.42. They also recognized that, as a consequence of updating heading 84.42, by deleting references to obsolete types of equipment and/or processes and adding new types of equipment and/or processes, other headings in the Nomenclature (e.g., 84.43, 84.71, 84.79, 90.09) would also require examination.
2. The Delegate of Sweden informed the Sub-Committee that, in his view, presses and cylinder printing machines were no longer being manufactured and were recently being replaced by digital printing machines. The Delegate of Sweden provided the Sub-Committee with an explanation of the working processes of these digital machines and the problems inherent in their classification.
3. The Director summed up the discussion by indicating that, in the Secretariat's view, the initial focus of this review should be to remove references to obsolete equipment. After that was accomplished, the Sub-Committee could turn to the task of adding references to new machinery and/or processes and examining the relationship between heading 84.42 and other headings in the Nomenclature. The Director indicated that the Secretariat would produce a concrete proposal for heading 84.42 for the next session of the RSC. In this connection, he emphasized that this undertaking should proceed in partnership with administrations and called on them to submit written proposals.

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1	2	4
NR0140E1	Possible amendments to the Explanatory Note to heading 84.71.	<u>See Annex E/1.</u>

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Sub-Committee agreed with the new layout for the Explanatory Note to heading 84.71, as proposed by the Secretariat.
2. As a general remark, the Chairman suggested replacing the term “storage(s)” as used in the English version of the Note, by “storage unit(s)”. Although the Sub-Committee could accept this suggestion in principle, there was some concern as to whether the reference to “unit(s)” in the English version would be appropriate in all circumstances. It was agreed to re-address this issue at the next session, leaving the relevant texts in square brackets.
3. With respect to the second paragraph on page 2 of the Annex to the working document, the Sub-Committee agreed to rephrase the wording in order to more closely reflect the provisions of Subheading Note 1 to Chapter 84.
4. One delegate proposed an amplification of the text of the fifth paragraph on page 2 to read "... thus constituting a data processing system, known as a local area network (LAN)" (proposed part underlined). Since the Sub-Committee could not reach consensus on this point, the text concerned was placed in square brackets, leaving time for delegates to consider this proposal during the intersession.
5. While questioning the appropriateness of the deletion of the current penultimate paragraph on page 1403 of the Explanatory Note to heading 84.71, which reads “These systems may include remote input or output units in the form of data terminals.”, another delegate suggested reinserting this text as a new sixth paragraph on page 2 of the Annex to the working document. It was agreed that the Sub-Committee would re-address this issue at its next session, leaving the text in square brackets.
6. The same delegate suggested the insertion of a reference to the provisions of Note 5 (E) to Chapter 84 in Part (I) (A) of the Explanatory Note. It was agreed to address this issue at the next session, on the basis of a new proposal.
7. The Sub-Committee agreed to add the current last sentence of the first paragraph of Part (I) (D), on page 1405 of the Explanatory Note to heading 84.71, at the end of the first paragraph of Part (D) (page 3 of the Annex to the working document).
8. It could, however, not agree on a proposal to rephrase the wording of the third paragraph of Part (I) (D) on page 3 of the Annex to the working document. The parts at issue were placed in square brackets, pending discussions at the Sub-Committee’s next session. One delegate also questioned whether this paragraph was appropriate in the

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (Contd.)

context of the work of the Sub-Committee, since this issue was also on the Committee's agenda. Since the Sub-Committee felt that the text proposed by the Secretariat was acceptable, it was agreed to leave the text underlined with a view to drawing the Committee's attention to this particular paragraph.

9. Subject to the modification indicated above and to some minor editorial amendments, the Sub-Committee approved the other texts, as proposed by the Secretariat.
10. The texts approved and those placed in square brackets are set out in Annex E/1 to this Report.

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1	2
NR0141E1 NR0152E1	Possible amendment of the text of heading 85.25 to clarify the classification of cameras.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Sub-Committee examined the Canadian and Secretariat proposals for the future classification of cameras.
2. It was pointed out that there were two questions, the transfer of cameras from heading 85.25 and the wording of subheading 8525.40. Further, the proposals for the subheading text were applicable to the structures being considered under both headings.
3. One delegate indicated his initial support for the Secretariat proposal because it would remove some of the problems that his administration envisaged arising from the text of heading 85.25 under the 2002 version of the HS. The Canadian proposal to group all cameras in one heading (90.06) would, in his administration's view, not take into account the convergence of technology taking place with regard to devices in this area. For example, still image cameras can now take short videos and video cameras can now take still images. In his opinion, it was not advisable to separate digital cameras from other video camera recorders with a semicolon.
4. In this connection, one delegate pointed out that the cameras of present heading 85.25 should be retained in Chapter 85 as electrical machinery, because the technique used in these cameras was completely different from the photographic cameras of heading 90.06.
5. Another delegate indicated that both the Secretariat and the Canadian proposals seemed to be good ones. His administration had a certain preference for the Canadian proposal because it seemed logical to group products that performed the same function together. The only difference was the medium used to capture the image.
6. After further discussion, the Sub-Committee decided to combine the Canadian and Secretariat proposals into one proposal. The Secretariat was asked to draft such a combined proposal for the RSC's next session. Any administration wishing to make a proposal in this connection was invited to do so in writing.

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1	2
NR0142E1	Possible amendment of Note 5 (B) to Chapter 85.

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

1. Presenting the working document, the Chairman noted that the Secretariat was offering the Sub-Committee a possible new approach aimed at deleting any reference to processes for obtaining hybrid integrated circuits in Note 5 (B) (b) to Chapter 85.
2. The EC Delegate pointed out that after having consulted European trade circles, the EC was of the view that an amendment to the scope of heading 85.42, as recommended by the Secretariat, could result in the transfer of numerous products to this heading. In this respect, he referred to the uncertainties expressed in the EICTA information document distributed to delegates during the present Session, stating that he was against the direction suggested by the Secretariat in paragraph 13 of Doc. NR0142E1. He also felt that the Secretariat should carry out a study on the repercussions of the recommended amendments on the rest of the Nomenclature.
3. The Delegate of South Africa pointed out that at the Sub-Committee's request, his administration had sent a note concerning certain electronic memory modules to the Secretariat. Although the classification of the **SIMM** and **DIMM** modules at issue was not really the basis for the proposal to revise Note 5 (B) to Chapter 85, he felt that the clarifications that may result could help to resolve certain differences between the HS and the terminology used in trade circles.
4. The Chairman informed the Sub-Committee that the above mentioned classification issue was included in the Agenda for the HSC's 27th Session.
5. Among the other points of view expressed, note was also taken of the following contributions :
 - Given their interconnection, Note 4 and Note 5 to Chapter 85 should be examined together;
 - Within the present structure, the translation of "microstructures" (French version) by "microcircuits" (English version) should be closely examined to avoid any ambiguity regarding the classification of products corresponding to the latter name which, as the texts currently stood, should still fall in heading 85.42.

Finally, the Sub-Committee agreed to await the results of the examination of the classification of **SIMM** and **DIMM** modules by the HSC before continuing this study.

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1	2	5
NR0143E1	Amendment of the text of subheading 9021.10 in order to align the French and English versions.	<u>See Annex E/4.</u>

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

1. The Sub-Committee recognized that there was a lack of alignment between the English and French versions of the present text of subheading 9021.1 (subheading 9021.10 in the 2002 version of the HS) and agreed on the need to amend the subheading text in the French version, by adding “Article et”, in order to align it on the heading text.
2. Given that this amendment could result in a broadening the scope of the subheading, it was agreed that it should be carried out under the Article 16 procedure.
3. With regard to the English version and referring to part (I) of the present Explanatory Note to heading 90.21, several delegates pointed out that certain goods mentioned therein were not appliances, but rather articles, whereas the term “articles” was not included in the English text of heading 90.21.
4. Most delegates were in favour of a strict alignment of the English and French versions, thus opting for the second alternative proposed by the Secretariat in the Annex to Doc. NR0143B1.
5. One delegate nevertheless noted that the term “articles” was very general and that its insertion could result in an unintended transfer of products. In his opinion, the present English text raised no interpretation problems and should therefore not be amended.
6. Finally, the Sub-Committee decided to place the proposed texts in square brackets, for examination by the Harmonized System Committee at its next session in May 2001. The Harmonized System Committee was requested to rule, in particular, on the need for a strict alignment of the English version on the French version and the insertion of the terms “articles and” before “appliances” in the text of heading 90.21 and of subheading 9021.10.
7. The texts approved and those placed in square brackets are reproduced in Annex E/4 to this Report.

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1	2
NR0144E1 NR0160E1 NR0161E1 NR0164E1	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Delegate of Poland emphasized that her administration's written proposal to amend the legal texts and the Explanatory Notes to Chapter 24 was intended to make the demarcation line between headings 24.01 and 24.03 more clear. In her mind, the current texts did not reflect present technology with regard to the production of semi-manufactured tobacco. Furthermore, she reminded the Sub-Committee that the recent reservations concerning the classification of "Non-aromatic cut tobacco" and "Basic Blended Strip (BBS)" clearly indicated that legal text amendments were necessary.
2. Another delegate was of the view that legal text amendments were not necessary and therefore favoured the status quo, as proposed by the Secretariat and the Australian Administration in Doc. NR0144E1.
3. The EC Delegate indicated that he could also accept the status quo, but in his mind it was first necessary to determine whether the present situation could be improved. He agreed that the classification of intermediate tobacco products in the present Nomenclature created some problems. On the other hand, he had doubts as to certain elements in the Polish proposal, in particular with regard to new Notes 2 and 3 to Chapter 24 and the text of new subheading 2403.20. However, he agreed that this proposal could be used as a starting point to examine possible amendments to the legal texts. He therefore proposed that administrations should get in touch with their industry to find out whether the classification of intermediate tobacco products created problems and eventually to see whether legal text amendments were really necessary.
4. The Director pointed out that a possible solution to this problem might be to create one heading for unmanufactured products (with a limited coverage), another heading for finished products and a third heading for "other" products, including intermediate products. He also urged all administrations which were against legal amendments to inform the Secretariat, in view of the fact that such amendments might involve important tax consequences in many countries.
5. After this exchange of views, the Sub-Committee decided to return to this question at its next session. In the meantime, all administrations were asked to look into this question more carefully and to seek the views of their tobacco industry.

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1	2
NR0145E1 NR0151E1 NR0162E1	Study with a view to amending the structure of Chapter 87.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. As regards the proposal for the possible insertion of a Legal Note to Chapter 87 specifying that the passenger space and seats of motor vehicles should have dimensions sufficient to accommodate adults of "normal" height and weight (1.70 m and 70 kg, respectively), the Delegate of Brazil explained that his administration had made this proposal in connection with the reservation it had entered on the classification of the "TATA SUMO 483" type motor vehicles by the Harmonized System Committee. Brazil, like Argentina and other Members, had difficulty in classifying the "TATA SUMO 483" and "Ssang Yong Musso" type motor vehicles in heading 87.02, since this heading was intended to cover public transportation type motor vehicles. Therefore, his administration came up with the idea of the possibility of establishing concrete criteria in the legal texts, hoping that this would help solve the present problem. However, since there was little support for this idea in the Harmonized System Committee and the Review Sub-Committee, Brazil would not insist on the proposal and could accept the status quo. Another option considered by Brazil was the possibility of identifying public transportation type motor vehicles in a separate subheading, but this option also had the difficulty of finding an acceptable definition.

2. A number of delegates indicated that it was not feasible to define the term "person" for the purposes of the HS and therefore it was almost impossible to set a criterion referring to "adults of normal height and weight". They agreed with the Brazilian Administration that the original idea behind heading 87.02 was the classification of public transportation type motor vehicles such as motor coaches and buses, trolleybuses, etc. They agreed that the "TATA SUMO 483" and "Ssang Yong Musso" type motor vehicles had smaller spaces for installing seats and smaller seat sizes than e.g., motor coaches, but they noted that these vehicles were still capable of transporting ten persons (the legal criterion established by heading 87.02). They also accepted that some administrations had difficulties in classifying such motor vehicles in heading 87.02 and indicated that they were ready to examine more concrete proposals from those administrations aiming to overcome these difficulties. For the time being, however, they were against the amendments proposed by Brazil for the reasons noted above.

3. On this basis, the Sub-Committee agreed to maintain the status quo in respect of Chapter 87. However, if, in the future, any interested administrations submitted new and more concrete proposals, they would certainly be examined by the Sub-Committee.

* * *

1	2	3	4
NR0146E1	Study with a view to amending the structure of heading 73.21.	<u>See Annex E/5.</u>	<u>See Annex E/5.</u>

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

1. The EC Delegate began the discussions by specifying that his administration's proposal had not been aimed at giving separate status to apparatus using solar energy, but was essentially aimed at avoiding using GIR 4 in the future when classifying apparatus using an energy source other than those mentioned in the subheadings of heading 73.21.
2. While thanking the Secretariat for its very relevant alternative, he could not support it as he had serious doubts about the extent of trade in this type of apparatus.
3. Following this contribution and while stressing that the Secretariat proposal made sense from a Nomenclature perspective, the Director withdrew the Secretariat's alternative given that the Secretariat had no estimation of the volume of trade.
4. Finally, the Sub-Committee agreed to approve the EC's proposals set out in the working document. It also agreed to have the Secretariat include the relevant correlation tables in the summary document prepared for the Harmonized System Committee.
5. The texts approved are reproduced at Annex E/5 to this Report.

* * *

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0149E1	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items.			<u>See Annex E/6.</u>

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. The Sub-Committee examined four Secretariat proposals to update the HS Nomenclature to reflect trade realities.
 - (1) Heading 84.69
2. The Sub-Committee approved the deletion of subheadings 8469.1 to 8469.30 as proposed by the Secretariat, due to the low volume of trade in the machines concerned.
3. Given that the Explanatory Notes were currently being reworked for the 2002 version of the HS, the corresponding required amendments would be presented at a later date.
4. The text approved is reproduced in Annex E/6 to this Report.
 - (2) Heading 85.19
5. The Sub-Committee agreed to look at a related proposal by the United States when examining this issue (see Annex D/7).
6. There was substantial support in the Sub-Committee for the Secretariat's proposals. As regards the US proposals it was noted that supporting statistical data was needed to retain subheadings for coin-operated sound reproducing apparatus and record players and turntables.
7. Moreover, certain parts of the US proposal had to be checked, especially with regard to the expressions "or other similar articles" (in subheading 8519.50) and "platines tourne-disques" (in the French version of subheading 8519.60). It was also proposed to potentially add a reference to bank cards for operating the apparatus of the new subheading 8519.50 proposed by the United States.
8. In response to the question regarding the wording of the US proposal of subheading 8519.50, the US Delegate noted that the proposed text followed the 2002 amendments to subheading 9504.30.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (Contd.)

9. However, there was consensus to delete the term "optical" in the expression "with a laser reading optical system" in the Secretariat's proposed subheading 8519.50.
10. Finally, the Sub-Committee decided to continue examining these proposals on the basis of trade data to be provided by the US Administration and a new revised text or alternative texts to be prepared by the Secretariat for the next session, taking account of the Secretariat's proposal and the ideas put forward by the United States (see also Annex D/7).

(3) Heading 85.20
11. The Sub-Committee agreed to delete the terms "Magnetic tape recorders and other" at the beginning of the heading text as well, as substituting "sound recording apparatus" in lieu of "other magnetic tape recorders" in subheading 8520.3.
12. One delegate proposed separate identification for laser reading apparatus at one or two-dash subheading level.
13. Finally, the Sub-Committee decided to review all the possibilities on the basis of statistics to be submitted by administrations and the Secretariat was requested to draft a new proposal on the basis of the comments made during the meeting.

(4) Heading 85.24
14. The US Delegate stated that his administration was endeavouring to develop a proposal for this heading, which might include the continued need to reference "records" in the English text of the heading and to maintain subheading 8524.10. In this respect, he added that it would be useful to check whether the production of discs for laser reading systems still required "masters" and "matrices".
15. Finally, the Sub-Committee decided to review this proposal at its next session, on the basis of statistics and further information to be submitted by administrations.

* * *

1	2
NR0153E1	Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. Due to the recent arrival of the US proposal, the Sub-Committee agreed to have only a preliminary discussion on this agenda item.
2. Several delegates pointed out that their countries had already introduced national subheadings for certain cut flowers, including carnations, chrysanthemums and roses, in their tariffs. They could therefore endorse the US proposal to insert subheadings for these cut flowers in the HS Nomenclature. No objections were voiced as to the US proposal and there appeared to be a broad consensus in favour of it.
3. One delegate pointed out that the classification of different cut flowers, presented as mixed bouquets, had created a problem in her administration. Her administration might therefore submit a new proposal in this regard.
4. Another delegate indicated his administration's desire to consider whether other flowers should be specifically identified.
5. Subject to the above, the Sub-Committee agreed to continue discussion of this agenda item at its next session.

* * *

1	2
NR0154E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. In opening the discussion of this agenda item the Delegate of Canada explained that although culture media for the development of micro-organisms are used in a similar manner as those for higher organisms (eukaryotic cells), and may contain some of the same ingredients, there are differences due to the nutritional and environmental requirements of the two types of cells. Although the US proposal would therefore broaden the scope of heading 38.21, Canada felt that the proposal was logical and supported it in principle.
2. However, he felt that further review would be required. In Canada's view, the proposed amendment to the Explanatory Note to heading 38.21 should include a reference to media for the development of plant cells. Furthermore, as prokaryotes and eukaryotes together encompassed all living cells, the heading text could be modified to read "Prepared culture media for the development of living cells".
3. He also pointed out that present heading 38.21 included media for the development of viruses. However, since viruses were not cellular, the proposed text would not be appropriate. Furthermore, the use of the word "development" in the proposed heading text would be restrictive and would not cover culture media used to preserve living cells for later study. The inclusion of the word "maintenance" in the proposed Explanatory Note recognised that such media should also be covered.
4. Accordingly, the Delegate of Canada suggested the amendment of the heading text to read simply "Prepared culture media" in order to cover all culture media used for the development and preservation of all living cells and viruses.
5. Another delegate suggested that, in view of the technical nature of the proposal, it would be appropriate to refer this issue to the Scientific Sub-Committee to clarify whether the scope of the heading would be widened and the nature of transfers, if any. He also suggested that the Scientific Sub-Committee should provide its views on the text of the proposed Explanatory Note and the definitions of eukaryotic and prokaryotic cells.
6. The Sub-Committee agreed to this suggestion and decided to refer the US proposal and the above-mentioned Canadian comments to the Scientific Sub-Committee for advice on the points raised in paragraph 5 above.

* * *

1	2
NR0155E1	Proposal by the US Administration to amend the Nomenclature to Chapter 41.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. Given the recent arrival of the proposal, the Sub-Committee had a preliminary discussion on the US proposal to amend certain parts of Chapter 41.
2. Since the proposal was closely linked to the HS 2002 amendments, one delegate indicated that the issue should not be discussed before the implementation of these amendments. However, the Sub-Committee agreed to continue discussions at its next session, thus allowing administrations to consult with their industry during the intersession.
3. Another delegate raised the question of whether or not the proposed amendment would entail a transfer of products. He requested the Secretariat to look into this question.
4. The Chairman invited administrations to submit their comments in good time, to enable the Secretariat to prepare a new working document for the next session.

* * *

1	2
NR0156E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13.

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

1. Given recent arrival of the United States proposal, the Sub-Committee agreed merely to have a preliminary discussion on this issue.
2. One delegate was concerned by the difficulties that this proposal could create in terms of identifying certain products, especially etched drinking glasses of proposed new subheadings 7013.23 and 7013.34. He regretted the absence of statistics making it possible to estimate the volume of trade in such products, and requested additional information.
3. He continued by stressing that the reference to the coefficient of expansion in square brackets in the United States proposal raised no problem for his administration. This reference was also mentioned in subheading 7017.20.
4. Another delegate was concerned by the confusion that could be created between the classification of certain products in heading 70.10 and the canisters and jars proposed to be mentioned in subheading 7013.43.
5. The US Delegate began by informing the Sub-Committee that the reference to subheading 7013.38 in the US proposal should be deleted as it was a one-dash subdivision. Then, in response to the various concerns expressed above, his administration suggested deleting subheading 7013.42 because it was cumbersome and difficult to administer. In order to verify that a product would be covered by this provision, laboratory analysis using specialized equipment would be necessary.
6. In the light of the foregoing, in particular the requests for additional information, the Sub-Committee agreed to continue its examination of this issue at its next session.

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1	2
NR0157E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. Due to the recent arrival of the US proposal, the Sub-Committee agreed to have only a preliminary discussion on this agenda item.
2. The Director began the discussion by suggesting that the word “entered” in proposed subheading 8482.21 should be replaced by the word “presented”.
3. Referring to subheading 8482.21, one delegate questioned the need for the phrase “entered separately” in the two-dash subheading when it did not occur in the one-dash subheading. In his opinion, this reference might have a limiting effect on the subheading which may not be intended. In addition, he invited delegates to examine for the Sub-Committee’s next session, the new proposed text as it related to the “parts” break-outs. In his opinion, the new subheading 8482.7 series gave the impression that these “parts” were no longer parts but something more. In addition, subheading 8482.81 suggested an end-use criterion which, while appropriate at the national level for statistical purposes, may not be appropriate at the international level.
4. In response to the question concerning the need for the phrase "entered separately", the US Delegate explained that the intention of the proposed legal text amendments was to ensure that this subheading covered only the part of the whole bearing assembly which was frequently shipped separately.
5. Another delegate indicated the need for the Sub-Committee to receive further technical literature on the subject goods, including pictures. The US Delegate stated that such information was available. His administration would forward the requested information to the Secretariat, in hard copy and electronic format, if available.
6. Subject to the above, the Sub-Committee agreed to continue discussion of this agenda item at its next session.

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1	2
NR0158E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. Having initially envisaged limiting itself to a preliminary examination of this proposal, due to its recent arrival, the Sub-Committee nevertheless agreed to link the amendments recommended by the United States concerning heading 85.19 with the Secretariat proposal to update the structure of this heading (see Annex D/1).
2. In this respect, the Delegate of the United States stated that he would try to provide statistical data on certain sound reproducing apparatus considered somewhat obsolete (e.g., juke-boxes), but which were nevertheless enjoying renewed commercial success.
3. Finally, the Sub-Committee decided that at its next session the US ideas presented in the working document would be incorporated in a revised text or alternative texts by the Secretariat for the consideration of the Sub-Committee (see also Annex D/1).

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1	2
NR0159E1	Proposal by the US Administration to amend certain subheadings of heading 87.08.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (O. Eng.)

1. Due to the recent arrival of the US proposal, the Sub-Committee agreed to have only a preliminary discussion on this agenda item.
2. In principle, there was no objection to the proposal.
3. Subject to certain editorial comments (i.e., replacement of the term “mufflers” in the English version of the proposed text of subheading 8708.92 with the expression “silencers (mufflers)”; insertion of the term “(airbags)” in the French version of the proposed text of new subheading 8708.95), the Sub-Committee agreed to continue discussion of this agenda item at its next session.

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1	2
NR0163E1	Proposal by the Australian Administration to amend the Nomenclature to heading 70.19 concerning glass fibres.

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

1. Due to the recent arrival of Australia's proposal, the Sub-Committee agreed to have only a preliminary discussion on this issue.
2. The Delegate of Australia began the discussion by stressing that his administration had presented this question because it wished to have the Sub-Committee's opinion on a possible transfer of products (samples of which had been circulated during the meeting and which were described in the Annex to the working document), from heading 70.19 to Section XI (Chapter 56 or 58).
3. In response, one delegate expressed concern that this proposal might upset the HS structure.
4. The Director questioned whether the issue related to the classification of the above-mentioned samples or to a proposal to amend the Nomenclature with a view to transferring the products of heading 70.19 to Section XI. If it were a classification issue, this would not be a suitable forum given the mandate of the Sub-Committee.
5. The Delegate of Australia clarified that Australia was merely seeking the Sub-Committee's views on the viability of a proposed amendment with a view to transferring products from heading 70.19 to Section XI.
6. In response to this clarification, several delegates stated their concerns about the potential legal and trade repercussions of such a transfer. Thus, apart from the problems involved in the incorporation of the scope of heading 70.19 in Section XI, Notes 1 (r) to Section XI and 1 (c) and 4 to Chapter 70 would require revision. It was also noted that textile products were excluded from Section XVI.
7. Given the impact of this proposal on other Nomenclature provisions, the Sub-Committee felt that it would be more appropriate for Australia to refine its proposal, taking account of the comments from various delegates, before resubmitting it to the Sub-Committee.

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