WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES
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SCIENTIFIC SUB-COMMITTEE
-
12th Session
-

40.870 E
(SSC/12/Jan. 97)
O. Eng./Fr.
SC-4

Brussels, 24 January 1997.

REPORT OF THE SCIENTIFIC SUB-COMMITTEE

1. The Scientific Sub-Committee held its Twelfth Session from 20 to 24 January 1997 at the Headquarters of the World Customs Organization (established as the Customs Co-operation Council) in Brussels, under the chairmanship of Mr. G.J. SLUIS (Netherlands).

2. The following 35 countries and one organization were represented :

Countries

ARGENTINA	GREECE	NETHERLANDS
AUSTRIA	INDONESIA	NORWAY
BELGIUM	IRELAND	POLAND
BRAZIL	ITALY	PORTUGAL
BULGARIA	JAPAN	SPAIN
CANADA	KENYA	SRI LANKA
CHINA	KOREA (Rep. of)	SWEDEN
CZECH REP.	LATVIA	SWITZERLAND
DENMARK	LIBYAN ARAB	THAILAND
FRANCE	JAMAHIRIYA	UKRAINE
GERMANY	MADAGASCAR	UNITED KINGDOM
GHANA	MEXICO	UNITED STATES

Organization

EUROPEAN COMMUNITY (EC)

3. A list of participants in the meeting is reproduced at Annex D.

I. AGENDA

4. The Agenda of the Scientific Sub-Committee set out below serves as the "Table of Contents".

II. QUESTIONS EXAMINED BY THE SCIENTIFIC SUB-COMMITTEE

5. The comments made during the discussions and the conclusions reached by the Scientific Sub-Committee on the various Agenda items are set out in Annexes A to C.

III. STAFF CHANGES IN THE NOMENCLATURE AND CLASSIFICATION DIRECTORATE

6. Mr. KUSAHARA, Director of Nomenclature and Classification, informed the SSC that Mr. K. OMOTO from Japan had joined the Secretariat as a Technical Attaché in place of Mr. T. AKIEDA who had left the Secretariat in July 1996.

IV. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN OF THE SCIENTIFIC SUB-COMMITTEE

7. On the proposal of the Delegate of Canada, seconded by the Delegate of Kenya, Mr. G.J. SLUIS (Netherlands) was unanimously re-elected Chairman of the Scientific Sub-Committee for a further two-year period.

8. On the proposal of the Delegate of Germany, seconded by the Delegate of Brazil, Mr. Ira. S. REESE (United States) was unanimously elected Vice-Chairman.

G.J. SLUIS,
Chairman

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17.	Possible amendment to EN 39.07 concerning polyethylene terephthalates	A/17, C/6
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x

x x

ANNEX A

TECHNICAL QUESTIONS

Working Doc.	Subject	Classi-fication Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
40.361 (SSC/11)	Classification of certain vitamin-based preparations.			

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

1. On the basis of Doc. 40.361, the Scientific Sub-Committee examined the various questions concerning certain vitamin-based preparations. The Sub-Committee's conclusions with regard to paragraphs 13 and 14 of Doc. 40.361 are set out in order below.

The role of additives (subparagraph 13 (a))

2. Views concerning the role of the additives in the products under examination were divided.

3. On the one hand, it was argued that many vitamins were sensitive to atmospheric oxidation, humidity, heat, light, physical contact, etc., and therefore required additives and/or matrices to ensure their stability during transport, storage, etc. Further, formulation with matrices allowed for conversion of liquid vitamins to homogeneous, free-flowing, dry forms, which did not necessarily alter their character as vitamins of heading 29.36. Further, it was pointed out that the Explanatory Note to heading 29.36 had been closely examined in the past and amended to allow for a wide variety of additives. As products such as "Rovimix AD_3" were not animal feed premixes, but products for the manufacture of such premixes or of medicaments, standardization of these products was not done for a specific end use. According to the Delegate of Switzerland, the commercial forms corresponded to standards which were usual in the industry and that more than 80 percent of vitamins were marketed in these forms. He added that additives could have several functions and that Note 1 (f) to Chapter 29 did not prevent stabilisers from having other functions besides that of a stabiliser.

4. On the other hand, certain other delegates pointed out that some vitamins (e.g., vitamins B_{12}, E and H) were intrinsically stable and, therefore, did not require added stabilisers. In the case of vitamin A, ethoxyquin served as a stabiliser, but it was argued that the role of other additives or matrices was to standardise the active ingredient for specific end use (as animal feed additives or premixes) or to act as excipient. It was also pointed out that different products having the same effective amounts of active ingredient varied widely in the amounts and types of additives or matrices used, depending upon the intended end use of the product.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

5. The Sub-Committee finally agreed that additives could have multiple roles (e.g., as a stabiliser and as an excipient) and that the particular role played by each additive, matrix, etc., would need to be examined on a case-by-case basis.

How much additive necessary for preservation or transport (subparagraph 13 (b))

6. The Sub-Committee agreed that it was not possible to draw a single line of demarcation applicable to all vitamin-based products for determining whether additives were present in amounts exceeding the minimum necessary for preservation or transport for the purposes of Note 1 (f) to Chapter 29 and that the demarcation line should be considered on a case-by-case basis.

Suitable for specific use (subparagraph 13 (c))

7. Opinions were divided as to whether "Rovimix A-500, Type P", "Rovimix E-50 SD" and "Lutavit E-50" had been rendered particularly suitable for specific use. Certain delegates pointed out that each of the products in question could be used either in animal feed or in medicaments. Others expressed the view that all of these products were intended for specific use as animal feed premixes or additives.

Views on classifications (subparagraphs 14 (i) to 14 (iii))

8. In a series of indicative votes, a majority of the Sub-Committee favoured classification of the vitamin-based preparations as follows :

Product	Heading
Rovimix AD_3	29.36 (15 votes to 8 (23.09))
Rovimix A-500, Type P	29.36 (14 votes to 6 (23.09))
Rovimix E-50 SD, Lutavit E-50	29.36 (13 votes to 9 (23.09))
Rovimix A, Type 500 W, Lutavit A-500, Microvit AD_3 SUPRA 500-100	29.36 (15 votes to 6 (23.09))
Microvit B_{12} PROMIX 10000	23.09 (16 votes to 4 (29.36))
Microvit H PROMIX 2000	23.09 (19 votes to 2 (29.36))

In this connection, the Delegate of Austria, supported by the German Delegate, argued that, since the vitamine B_{12} product needed to be diluted to less than one part per million (ppm) before it could be used for the manufacture of capsules, tablets, etc., Chapter 30 could not be ignored for classifying this product.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

Need for amending the Explanatory Note to heading 29.36 (subparagraph 14 (iv))

9. The Delegate of the EC said that it might be desirable to amend the Explanatory Note to heading 29.36 in order to be able to include all these formulations, if that was the industry's wish. In this context, the Delegate of Switzerland noted that a proposal for amending the legal text was already on the Agenda for the next Harmonized System Review Sub-Committee.

x

x x

1	2	4
40.214 (SSC/11)	Possible amendment to the Explanatory Note to heading 29.17 concerning dioctyl phthalates.	See Annex C/1.

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

1. On the basis of Doc. 40.214, the Sub-Committee examined possible amendment of the Explanatory Note to heading 29.17 concerning dioctyl phthalates.

2. The Sub-Committee agreed with the Secretariat that subheading 2917.32 should include all orthophthalic acid esters incorporating organic radicals having the chemical formula "C_8H_{17}" and that this should be clarified in the Explanatory Notes. It was noted that the scope of subheadings 2917.31 (dibutyl orthophthalates) and 2917.33 (dinonyl or didecyl orthophthalates) should also be clarified in a similar way.

3. On the basis of a text suggested by the Delegate of Canada, the Sub-Committee also agreed on the draft amendment to the Explanatory Notes for the above purposes.

4. The text adopted is set out in Annex C/1 to this Report.

x

x x

1	2
40.298 (SSC/11) 40.791	Analytical methods for distinguishing between natural and synthetic ß-carotene.

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

1. On the basis of Docs. 40.298 and 40.791, the Sub-Committee examined the feasibility of distinguishing between natural and synthetic ß-carotene and possible analytical methods that might be used to do so.

2. After a short discussion, the Sub-Committee agreed that it was possible to distinguish between natural and synthetic ß-carotene in the laboratory. In this connection, the Delegate of Canada pointed out that the Color Index provided separate Color Index numbers for these products, i.e., Natural Yellow 26 for the natural product, and Food Orange No. 5 for the synthetic product. It was also indicated that, according to various technical sources, synthetic ß-carotene comprised a high percentage (90 % or higher) of the *trans* isomer, whereas the natural product normally consisted of a mixture containing only about 50 % *trans* isomer and about 23 % *cis* isomer.

3. The Sub-Committee agreed that though isotope ratio (C^{13}/C^{12}) analysis was the most reliable method, other methods such as thin-layer chromatography, UV spectroscopy and high performance liquid chromatography (HPLC) could also be used to differentiate between natural and synthetic ß-carotene in the laboratory.

4. In the light of these conclusions, the Sub-Committee also expressed the view that no amendments to the Explanatory Note to heading 32.04 or to the Nomenclature were necessary in this regard.

x

x x

1	2
40.362 (SSC/11)	Proposal by Argentina for amending the texts of subheadings 2903.1 and 2903.2.

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

1. On the basis of Doc. 40.362, the Sub-Committee examined the proposal by Argentina for amending the texts of subheadings 2903.1 and 2903.2.

2. The Sub-Committee agreed with the Secretariat that the present texts were clear and there was no need for any amendment.

x

x x

1	2	4
40.299 (SSC/11) 40.765	Draft Subheading Explanatory Note for subheading 2937.22.	See Annex C/2.

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

1. On the basis of Doc. 40.299, the Sub-Committee examined two optional texts (set out in the Annex to that document) for a new Subheading Explanatory Note for sub-heading 2937.22, as requested by the Harmonized System Committee. Subject to editorial amendments proposed by Mr. Kusahara and the Delegate of the United Kingdom, the Sub-Committee agreed to the text proposed by the Secretariat. The text agreed to by the Sub-Committee is set forth in Annex C/2 to this Report.

2. There was no support for the proposal (Doc. 40.765) by the Latin American Integration Association (ALADI) to insert the above text as a Legal Note (Subheading Note) to Chapter 29.

3. With regard to the second proposal by ALADI to amend the text of subheading 3004.32 to include hormone derivatives, several delegates pointed out that many important groups of hormones and hormone derivatives were now covered by the residual subheading 3004.39. However, one delegate noted that an important group of anti-inflammatory drugs was excluded from subheading 3004.32 by virtue of their being derivatives of adrenal-cortical hormones. The Sub-Committee agreed that the subheading structures of headings 29.37 and 30.04 were not parallel and unless there was a compelling reason to do so, the status quo should not be changed.

x

x x

1	2
40.753 40.919 40.923	Classification of certain INN products and pharmaceutical intermediates.

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

1. The Sub-Committee examined the classification of certain INN products and pharmaceutical intermediates, on the basis of Docs. 40.753, 40.919 and 40.923.

2. The conclusions of the Sub-Committee are summarized below.

A. Products whose classification was postponed at the last session or included for re-examination by the HSC/18 (Annex I to Doc. 40.753)

Description	**Classification**	**Remarks**
Onapristone	[2922.50 or 2937.99}	Postponed as the classification of this product depended on the scope of hormones of heading 29.37, yet to be agreed.
Macrogols	PEG 200 3824.90 PEG 300 3907.20 PEG 400 3907.20 PEG 600 3907.20 PEG 20000 3907.20 PEG 35000 3907.20 PEG 1000 3404.20 PEG 1500 3404.20 PEG 1540 3404.20 PEG 3000 3404.20 PEG 3350 3404.20 PEG 4000 3404.20 PEG 5000 3404.20 PEG 6000 3404.20	The Delegate of France indicated that these products would no longer be included in the WTO Agreement.
Macrogol ester	[3402.13, 3404.20 or 3907.20]	Further information on specific products is necessary for classification. The Delegate of France indicated that this product would no longer be included in the WTO Agreement.
Polysorbates	Polysorbate 20 3402.13 Polysorbate 60 [3402.13, 3824.90 or 3907.20] Polysorbate 65 [3402.13, 3824.90 or 3907.20] Polysorbate 85 [3402.13, 3824.90 or 3907.20]	Surfactant. Further information needed regarding the surface activity, etc. for the classification of Polysorbates 60, 65 and 85.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

Tyloxapol	[3402.13 or 3907.20]	Additional information needed regarding pharmacological function, etc. The Delegate of France indicated that this product would no longer be included in the WTO Agreement.
Aminoethyl nitrate	2922.50	Based on Note 4 to Chapter 29 and the revised Explanatory Note to heading 29.22. The Sub-Committee also agreed that there was no need to further amend the Explanatory Notes. The Delegate of the EC indicated that the classification of 3 other similar products (trolnitrate phosphate, trolnitrate and itramin tosylate) needed reconsideration and would submit details for examination at a future session.
Aglepristone	[2922.50 or 2937.99]	Postponed as the classification of this product depended on the scope of hormones of heading 29.37, yet to be agreed.
Epoetin epsilon Insulin lispro	[3002.10 or 3504.00] [2937.99]	Additional information needed regarding pharmacological function. Postponed as the classification of this product depended on the scope of hormones of heading 29.37, yet to be agreed.
Teverelix	[2933.39 or 2937.99]	Postponed as the classification of this product depended on the scope of hormones of heading 29.37, yet to be agreed.
Lexacalcitol 1-O-allyl-4,6-O-ethylidene-beta-D-glucopyranose	[2909.49 or 2936.29] 2940.00	Further information needed as to whether this product is used as a vitamin, and whether it is a derivative containing parent structure of vitamine D. Sugar acetal.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

B. EC proposal for amendment to the HS codes for INNs (Annex II to Doc. 40.753)

Description	**Classification**	**Remarks**
Ritodrine	2939.49	The Sub-Committee agreed with the EC and the Secretariat
Thiacetarsamide sodium	2930.90	
Salprotoside	2940.00	
Mebenoside	2940.00	
Filipin	2941.90	
Ramnodigin	2938.90	
Streptozocin	2941.90	
Buticacin	2941.90	
Detorubicin	2941.90	
Benaxibine	2941.90	
Nifenazone	2933.39	
Alcloxa	2933.21	
Aldioxa	2933.21	
Gonadorelin	2937.99	
Fertirelin	2937.99	
Teriparatide	2937.99	
Dolasetron	2933.90	
Bicifadine	2933.90	
Milrinone	2933.79	
Febarbamate	2933.51	
Zopiclone	2933.79	
Piroctone	2933.39	
Hydroxystenozole	2937.99	
Dimemorfan	2933.40	
Lergotrile	2939.69	
Cargutocin	2937.99	
Enviroxime	2935.00	
Zinviroxime	2935.00	
Viroxime	2935.00	
Terguride	2939.69	
Topotecan	2939.90	
Azastene	2937.99	
Flurocitabine	2941.90	
Loteprednol	2937.29	
Polysorbates		See list A above.
Lilopristone	[2922.50 or 2937.99]	Postponed as the classification of this product depended on the scope of hormones of heading 29.37, yet to be agreed.

Granisetron	2939.90	(See Ritodrine, etc.)

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

Calcipotriol	2906.19	Used as antipsoritis, but not as vitamins
Tacalcitol	2906.19	
Nogalamycin	2941.90	(See Ritodrine, etc.)
Sizofiran	3913.90	No evidence regarding use as an antibiotic.

x

x x

1	2
40.754	Possible amendments to the Explanatory Notes concerning “hormones”.

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

In view of (i) the apparent impasse in its efforts to consider possible amendments to the Explanatory Note to present heading 29.37 and (ii) a recent new proposal by the Canadian Administration to amend the text and scope of heading 29.37, the Sub-Committee agreed to postpone further consideration of possible Explanatory Note amendments until the Canadian proposal could be examined (see Annex A/8 to this Report).

x

x x

1	2	5
40.766	Possible amendment of the scope of heading 29.37.	See Annex C/3.

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

1. On the basis of Doc. 40.766, the Sub-Committee examined a new proposal by the Canadian Administration to amend the text of heading 29.37, concerning hormones. In general, delegates were supportive of the proposal, but expressed the following specific points :

(a) Expansion of the scope of heading 29.37 under the Canadian proposal could have consequential effects on the GATT Pharmaceutical Agreement, which specifically dealt, *inter alia*, with heading 29.37.

(b) All prostaglandins, natural or reproduced by synthesis, would be included in the heading under the new proposal, but analogues of prostaglandins would be included only when "used primarily as hormones or hormone antagonists".

(c) The proposed definition of "analogues" would now permit the inclusion in the heading of steroids having a modified gonane structure, as well as of certain other analogues (e.g., etiproston, luprostiol and naxaprostene), which might have been excluded by the present text because they could not be regarded as derivatives. In this context it was agreed that any analogue included in heading 29.37 should be "used primarily as hormones or hormone antagonists".

(d) It was suggested that "analogues" might also be expanded to include functional analogues which did not bear a structural similarity to natural products. It was, however, pointed out that "hormonal activity" had been attributed to certain common chemicals (e.g., bisphenol A and dioxin), but that it was not desirable to include such chemicals in heading 29.37. It was further noted that the Sub-Committee had previously excluded functional analogues (e.g., flutamide) from heading 29.37. The Sub-Committee preferred to restrict analogues of heading 29.37 to structural analogues, which, in any case, had to be "used primarily as hormones or hormone antagonists". One delegate felt that restricting analogues on the basis of structure should be clarified in a Legal Note.

(e) Retention of the expression "natural or reproduced by synthesis" would be important for establishing a base line for determining whether a chemical was a derivative or an analogue for the purposes of the heading.

(f) Two delegates supported the deletion of the term "primarily" from the proposed heading text, but the Sub-Committee generally was not in favour of this deletion. It was pointed out that the proposed text still maintained the phrase "used primarily as hormones or hormone antagonists" and that this implied that products with hormonal activity, but which were used only as intermediates in the production of marketed products, would be excluded from the heading.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

(g) One delegate felt that a positive reference to "hormone-releasing factors" should appear in the proposed heading text. It was, pointed out however, that such releasing factors were already covered by the term "hormones". The Chairman suggested that this might be clarified in the Explanatory Notes.

(h) There was uncertainty as to whether the term "analogues" obviated the need for retaining the expression "other steroids used primarily as hormones" at the end of the proposed heading text. The Sub-Committee provisionally agreed to keep this latter expression in square brackets, both in the proposed heading text and the proposed subheading structure, for reconsideration.

2. Regarding the proposed new subheading structure for heading 29.37, the Sub-Committee supported the alternative based on chemical structure rather than the one based on origin (e.g., brain, glands, etc.) of the hormones. The EC Delegate suggested that the industry be consulted in this regard. In this context, the Chairman indicated a preference for inserting a separate subgroup for "phenol derivatives" to cover thyroid hormones.

3. The Chairman of the Harmonized System Committee, Mr. Robyr, observed that each proposed new subheading would need to be justified by sufficient trade volume (normally US$20 million) before it could be accepted by the Committee. Recognizing this fact, the Sub-Committee nevertheless wished to work on a technical, rather than an economic, basis for the time being and leave it to the Harmonized System Committee to weigh the economic issues once the proposal was finalized.

4. Mr. Kusahara asked whether it would be possible to establish a correlation table between the present HS and the proposed new heading, in view of the probable transfer of goods, e.g., from other headings of Chapter 29 and Chapter 35 to new heading 29.37, and of the proposed new subheadings based on chemical structure. The Delegate of Canada noted that it should be possible to prepare the correlation table, though the task might be difficult.

5. The proposed new heading and subheading structure provisionally agreed to by the Sub-Committee are set out in Annex C/3 to this Report. The definition of "analogues", as proposed by Canada and provisionally accepted by the Sub-Committee is as follows :

> "The term "analogue" refers to chemicals having a close structural relationship to the parent compound, but which are not considered to be derivatives. It includes compounds which have a structural resemblance to the natural compounds, but have had one or more atoms in the structure replaced by others. An example is tilsuprost, a prostaglandin analogue which has had an oxygen and a carbon atom replaced by a nitrogen and a sulphur atom with ring closure.
>
> In peptide chemistry, analogues are formed by the changing of certain amino acid residues in the parent hormone. Saralasin is an analogue of angiotensin II used to treat high blood pressure and differs from angiotensin II in that two amino acids in the original chemical have been replaced by two different ones in the analogue."

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

6. Finally, the Sub-Committee agreed that an expert Working Group could be established to finalize the proposed legal texts and to examine a new draft Explanatory Note which would be prepared by the Secretariat using the original EC proposal as a basis and taking into account the discussions by the Sub-Committee during this session. The Working Group meeting could be held in June 1997 and, in this context, administrations were invited to submit any comments on the proposed legal texts and Explanatory Notes to the Secretariat by no later than the end of March 1997.

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x x

1	2
40.755 40.771	Creation of a new heading for biodegradable plastics and articles thereof.

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

1. The Sub-Committee examined the possible definition and distinguishing criteria for biodegradable plastics on the basis of Docs. 40.755 and 40.771.

2. The Delegate of Japan explained that the draft definition and distinguishing criteria submitted for biodegradable plastics were based on draft ISO Standards. He added that, if the proposed definition was not suitable because of the long time needed to conduct the tests, etc., another alternative would be to specify biodegradable plastics by their chemical names (Annex III in Doc. 40.771), although it would necessitate amendments in future to include the newly developed biodegradable plastics. The Delegate of Japan also stressed the need for a new heading for biodegradable plastics and articles thereof, in view of the environmental importance and potential growth of trade in these products.

3. Some delegates expressed their support for the idea of a definitive list of biodegradable plastics for their separate identification in the HS since there were no universally accepted criteria for distinguishing between biodegradable plastics and other plastics. However, since the working document containing information from Japan (Doc. 40.771) had been published only recently and the delegates had not had enough time to study the matter, the Sub-Committee decided to re-examine this issue in the future. In this context, administrations were invited to submit comments to the Secretariat.

4. The Delegate of Japan subsequently requested that the Sub-Committee take up this subject at its next session in June 1997. The Sub-Committee noted that, since the June meeting was scheduled as a Working Group, this subject should be dealt with at the next Scientific Sub-Committee meeting in approximately one year's time.

x

x x

1	2
40.756 40.809	Proposal by the EC for the amendment of heading 25.07.

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

1. On the basis of Docs. 40.756 and 40.809, the Sub-Committee continued to examine the questions posed by the Review Sub-Committee concerning the proposal by the EC for the amendment of heading 25.07.

(a) Criteria for distinguishing between kaolin and other kaolinic clays

2. Based on the results of extensive analysis on kaolin samples carried out by the Canadian Administration (Doc. 40.809), the Sub-Committee came to the conclusion that the term “Kaolin” did not refer to any specific species, but was a general term referring to mixtures of kaolinite, other kaolinic minerals and other materials. Therefore, it was almost impossible to distinguish between kaolin and other kaolinic clays.

3. Concerning the Canadian proposal for amending the text of heading 25.07 (para. 14 of Doc. 40.809), several delegates noted that the term “kaolin” was commonly used in trade. They also agreed with the Secretariat that no difficulty with the existing text had been experienced in the past. The Sub-Committee, therefore, did not pursue the Canadian proposal.

(b) Effect of calcination on kaolin and kaolinic clays

4. On the basis of the analysis reports by the Japanese and Canadian Administrations, the Sub-Committee agreed that calcination changed kaolin and other kaolinic clays into amorphous substances making them distinguishable from non-calcined clays.

5. At the end of the discussion, the Chairman indicated that the term “endellite”, appearing in the existing Explanatory Note to heading 25.07, had become obsolete according to technical literature (Encyclopedia of Chemical Technology, Kirk-Othmer, Vol. 6, pp. 388 and 389) and could be deleted.

x

x x

1	2
40.757	Criteria for distinguishing between concentrates of poppy straw of headings 13.02 and 29.39.

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

1. On the basis of Doc. 40.757, the Sub-Committee examined criteria for distinguishing between concentrates of poppy straw of heading 13.02 and that falling in heading 29.39.

2. The Delegate of Canada first expressed a preference for an 80 % total alkaloid content criterion, as proposed by the EC. He drew the Sub-Committee's attention to the Explanatory Note to heading 29.39 (page 440a), which indicated that the heading included "the total alkaloids of opium"; in his view this meant that heading 29.39 covered a more refined product. However, after hearing other arguments he said he could support a 50 % total alkaloid content criterion.

3. The Delegate of the United States explained that concentrates of poppy straw were usually obtained by extraction of the poppy straw followed by either distillation or crystallisation. In his view, these processes were beyond those permitted in heading 13.02. He also stated that the concentrates encountered by his Administration generally contained a minimum of 25 % by weight of morphine and an equivalent amount of other alkaloids. He therefore suggested that a criterion of 25 % by weight of morphine might be used for distinguishing between headings 13.02 and 29.39 in this regard, adding that the quantitative determination of morphine would be easier and less time-consuming than determining total alkaloid content.

4. The Delegate of the United Kingdom quoted from one source which indicated that the morphine content of concentrates of poppy straw varied from 60 % (with about 11 % of other alkaloids) to 94 % depending upon the country of production. He confirmed that poppy straw concentrates involved extraction, distillation and precipitation, which led to classification outside of heading 13.02. He supported a distinguishing criterion of 50 % by weight of morphine.

5. Finally, the Sub-Committee agreed that all concentrates of poppy straw should fall in Chapter 29 by virtue of the chemical processes used to obtain them and the significant amounts of alkaloids present even in the least concentrated forms. The Delegate of Germany noted, however, that it would be preferable to have a specific exclusion in the Explanatory Note to heading 13.02 for concentrates of poppy straw, given that solvent extraction was permitted by the Explanatory Note to this heading (page 97, Item (A), first paragraph). The Sub-Committee agreed to leave it to the Harmonized System Committee or the Review Sub-Committee to decide on the need for amending the legal texts or Explanatory Notes to clarify the classification of concentrates of poppy straw in heading 29.39.

x

x x

1	2	4
40.211 (SSC/11) 40.758	Proposal by the EC to amend the Explanatory Note of heading 38.22.	See Annex C/4.

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

1. On the basis of Docs. 40.758 and 40.211 (SSC/11), the Sub-Committee examined a proposed draft Explanatory Note to heading 38.22. The discussion was carried out for each proposed paragraph, as set out below. (The following references to "Proposed first paragraph", etc., relate to Annex D to Doc. 40.758).

Proposed first paragraph

2. The Sub-Committee agreed that an exclusionary reference to synthetic colouring matter of heading 32.04 could be deleted from the proposed first paragraph, since the same reference was listed with other exclusions at the end of the Explanatory Note.

Proposed second paragraph

3. The Delegate of France suggested three amendments to the second paragraph of the proposal. First, he noted that backings or supports could be impregnated with one or more diagnostic or laboratory reagents. Second, he wanted to make it clear that kits based on enzyme products were included in the heading. Though it was argued that only prepared enzymes could be included, the Sub-Committee agreed that any enzyme put up in kit form for diagnostic or laboratory purposes could be regarded as "prepared". Third, he felt it would be useful to cite kits based on monoclonal and polyclonal antibodies as an example of kits excluded from heading 38.22 by virtue of their being products of heading 30.02 or 30.06.

4. In response to a question by Mr. Kusahara concerning the legal basis for including "kits" in heading 38.22, certain delegates expressed doubts in this regard, emphasizing the need to apply GIR 3 (b), but others agreed that the expression "prepared diagnostic or laboratory reagents" in the heading text could be taken to include "kits" (i.e., application of GIR 1). The Sub-Committee agreed to leave it to the HSC to decide whether any legal text was needed in this regard.

Proposed third paragraph

5. The third paragraph of the proposal was accepted without comment.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

Proposed fourth paragraph

6. Though the working document (40.758) presented two alternatives for the fourth paragraph (one by the EC and another by the Secretariat) of the proposed text, the EC circulated a third alternative during the meeting which effectively combined the original EC and Secretariat texts. The Sub-Committee agreed to use this third alternative as a basis for discussion.

7. Mr. Kusahara asked for clarification on the legal basis for including "certified reference materials" in heading 38.22. The Delegate of Sweden expressed her view that the expression "prepared ... laboratory reagents" in the heading text covered such reference materials. The Canadian Delegate added that "reagents" of heading 38.22 did not necessarily need to "react" chemically. Taking account of these comments, the Sub-Committee agreed to amend the proposed text to read that certified reference materials were "regarded as reagents, even though they do not normally react chemically with substances being tested".

8. Mr. Kusahara again asked whether the expression "prepared ... reagents" in heading 38.22 covered certified reference materials (listed in proposed subparagraph (c)) which were not involved in chemical reactions or similar processes but were used for testing physical properties (e.g., tensile strength). The Delegate of the United States expressed doubts about the appropriateness of this subparagraph covering non-chemical products (e.g., steel samples) which were presently classifiable in other parts of the Nomenclature. The Delegate of Belgium also mentioned certified reference weights and thermometers as potential classification problems. The Delegates of the United Kingdom and France confirmed that it had been the EC's intention to provide for all certified reference materials, whether or not chemicals, in heading 38.22. The Delegate of France also acknowledged that a legal amendment might be needed to effect this regrouping. The Sub-Committee took note of the legal problems which could arise in this regard and agreed to place Item (c) of this paragraph in square brackets, leaving it to the Harmonized System Committee to take a decision.

9. Regarding the last sentence of the proposed fourth paragraph, the Sub-Committee agreed with the Delegate of Germany that reference to "buffers, solutions for filling electrodes" should be deleted, since these products were not normally regarded as certified reference materials. The Sub-Committee also agreed, after some discussion, that the source of the certificate required for certified reference materials was not crucial and need not be inserted.

10. With regard to certified reference materials, the Delegate of Canada expressed concern that the description in the proposed Explanatory Note might lead to reclassification of general purpose chemicals of Chapter 28 or 29 which were accompanied by a certificate attesting to their composition, but which would not be regarded as certified reference materials. There was also some concern as to whether certified reference materials of heading 38.22 could include a solution of a single chemical in water (e.g., hydrochloric acid, certain lead-containing compounds certified for their lead content, etc.).

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

"Inclusions" paragraph

11. The Sub-Committee agreed with the Delegate of Austria that the list of "inclusions" following the proposed fourth paragraph could be deleted, since all such inclusion references were already covered in the preceding paragraphs.

Exclusions

12. Several delegates supported a proposal by the Delegate of Argentina to provide a separate exclusion for "prepared culture media for development of micro-organisms". The Sub-Committee also agreed to delete exclusionary references for "general purpose chemicals" and "preparations not used in chemical testing, for example, preparations for cleaning glassware", because they were considered unnecessary, and for "prepared enzymes", because these could be included when in kit or other prepared forms.

13. With regard to proposed exclusion (b) (i.e., products covered by Note 1 to Chapter 28 or Note 1 to Chapter 29), a question was raised as to whether products being classifiable in Chapter 28 or 29 and at the same time being certified reference materials were excluded from heading 38.22. The Sub-Committee noted that such certified materials could not be classified at present in heading 38.22, because Note 1 Chapter 38 excluded products of Chapter 28 or 29 from the Chapter, and agreed that, if the classification of such materials in this heading was needed, an appropriate legal amendment was required.

14. The texts provisionally accepted by the Sub-Committee are set forth in Annex C/4.

x

x x

1	2
40.759	Proposal by the EC concerning the classification of co-ordination compounds.

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

1. On the basis of Doc. 40.759, the Sub-Committee continued its examination of a proposal by the EC concerning rules for classifying co-ordination compounds.

2. The Delegate of Canada expressed several concerns about the proposed rules. First, he noted that it would be difficult to determine which functional groups in the "cleaved" molecules to apply for classification purposes; by looking at the structure of the parent compound, one could not always tell what starting materials were used to make the parent compound. Second, taking budotitane as an example, he could not accept that the proposed rules would lead to the classification of this product in heading 29.14, since there was no ketone function evident in the parent compound. Third, he took the view that there was no legal basis for using "cleavage" products for the purposes of classifying co-ordination compounds. Though he could support the establishment, in principle, of a rule or rules for classifying these compounds, he could not support the rules proposed by the EC.

3. The Delegate of the United States shared the Canadian Delegate's views, noting that the proposed rules only seemed to complicate the classification of co-ordination compounds; the proposed rules seemed to solve some problems but to create others. He also expressed the opinion that legal amendments would be necessary in any case.

4. The Delegate of the EC explained that the EC proposal had been developed on the understanding that Note 5 (c) to Chapter 29 was applicable to the classification of some co-ordination compounds. She stated further that the EC had encountered numerous problems in classifying co-ordination compounds and had proposed rules to bring objectivity and uniformity to such classifications. The Delegate of Switzerland supported the EC's views in this regard.

5. The Delegate of France added that Note 5 (c), by itself, was not sufficient for classifying co-ordination compounds, so he favoured the new proposed rules to complement that Note.

6. The Sub-Committee then turned its attention to the classification of the examples cited by the Secretariat to illustrate the proposed rules. With regard to budotitane (proposed rule (a)), the Canadian Delegate reiterated that he could not accept classification in heading 29.14, given the structure of the parent compound. The Delegate of the United Kingdom noted that the real question was whether a co-ordination compound could be considered sufficiently close to being a "salt" for Note 5 (c) to apply. In his view, it was the case and this Note did apply, so heading 29.14 was appropriate. He also noted that, under the proposed rules, it was not necessary to know the original starting materials for making the co-ordination compound, but only to examine the portions remaining after "cleavage". The Delegate of Canada disagreed that these compounds were salts for the purposes of Note 5 (c) and favoured classification of budotitane in heading 29.34, on the basis of its heterocyclic

structure. The Delegate of the United States supported Canada's views in this regard. The Delegate of Germany agreed that budotitane could not be regarded as a salt for the purposes

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

of Note 5 (c) and expressed the view that some other approach should be pursued in classifying co-ordination compounds.

7. In examining the classification of ferrocene (proposed rule (b)), Canada took the view that this chemical was classifiable in heading 29.31, because a real bond existed between the iron atom and the cyclopentadiene rings. In his opinion, if "cleavage" were applied consistently, ferrocene might end up being classified in heading 29.02 (as cyclopentadiene), rather than under heading 29.31, as envisioned by the proposed rules. The Delegate of the United States favoured heading 29.31, according to the terms of the heading text (GRI 1). The Delegates of Germany and the United Kingdom noted that such classifications hinged on the type of bonding involved.

8. As for the classification of hematin (proposed rule (c)), the Delegate of Canada would classify it as a heterocyclic compound. In this context, the Delegate of Switzerland offered an alternative rule to replace proposed rules (a) and (c). This proposal would be to ignore, for purposes of classification, metal-oxygen, metal-sulphur, metal-halogen or metal-nitrogen bonds contained in co-ordination compounds involving a metal atom and one or more ligands. However, the Delegates of Canada and the United States took the position that bonds could not be simply ignored for classification purposes.

9. As regards the classification of ethyl ether-boron trifluoride complex (proposed rule (d)), the Delegate of Ireland considered that it would fall in heading 29.42, but he wondered whether rule (d) would need to be adjusted to ensure that tetrahydrofuran-boron trifluoride complex did not fall in heading 29.33.

10. As there was no consensus for establishing rules in the Explanatory Notes for the classification of co-ordination compounds, the Delegate of Canada stated that the simplest approach would be to establish a legal provision which would lead to the classification of all co-ordination compounds in one heading, preferably heading 29.42. Following further discussion on this point, pro and con, the Sub-Committee finally agreed that legal amendments to this effect could be supported and that a definition of "co-ordination" compounds should be included in the revised Explanatory Notes.

11. Using the Secretariat's proposal (paragraph 13 of Doc. 40.759) as a basis for the proposed definition of "co-ordination compounds", the Sub-Committee agreed that the first sentence (subject to the stipulation of "one or more" ligands) and the last sentence taken together would be sufficient. The text agreed to would read as follows :

> "Co-ordination (complex) compounds of Chapter 29 comprise a central atom or ion (usually a transition metal) and one or more organic ligands, which together form a complex with bonding that is neither covalent nor ionic, but intermediate between the two types. The complex may be cationic, anionic or nonionic, depending on the sum of the charges of the central atom and the ligand."

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

12. The Sub-Committee agreed that the Explanatory Notes should also provide, *inter alia*, for (i) inclusion of polytopal cage compounds; (ii) exclusion of co-ordination compounds containing precious, rare-earth or radioactive metals, pursuant to Note 1 to Section VI; and (iii) exclusion of vitamin B_{12}, a co-ordination compound which should remain in heading 29.36.

13. Finally, the Secretariat informed the Sub-Committee that classification of co-ordination compounds in heading 29.42 could be effected by amendment of the text of heading 29.42 to read as follows :

"Co-ordination compounds; other organic compounds".

With this amendment, present Note 3 to Chapter 29 would lead to classification of all co-ordination compounds to heading 29.42. It should be noted, however, that an appropriate text would have to be inserted either in heading 29.42 or in a Legal Note to ensure the exclusion of such co-ordination compounds as vitamin B_{12} from the heading. One delegate noted that the effect of this amendment might be the transfer of transition metal salts of organic acids to the proposed new heading 29.42, because they could be regarded as possessing some co-ordinate bonds.

14. The Sub-Committee agreed to study, at its next session, the necessary legal changes and consequent amendments to the Explanatory Notes on the above basis.

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x x

1	2
40.760 40.808 40.924 41.007	Possible inclusion of chemical structures in the Explanatory Notes to Chapter 29.

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

1. On the basis of Docs. 40.760, 40.808, 40.924 and 41.007, the Sub-Committee examined the possible inclusion of chemical structures in the Explanatory Notes to Chapter 29.

2. The Delegate of Canada said that it would be helpful to HS users if the chemical structures were included directly in the Explanatory Notes. He suggested that the structures relating to products referred to in the HS headings or subheadings be included, it being understood that this would be limited to cases where the structure could not be deduced from the product name and where the inclusion of a chemical structure would clarify the scope of the heading or subheading. His Administration's proposal in the Annex to Doc. 40.808 had been made with this in mind.

3. After Mr. Kusahara had provided an estimate of the cost of this project, the Chairman drew attention to the fact that, in Japan, a separate brochure had been published containing the structures for most of the chemicals mentioned in the Explanatory Notes to Chapter 29, and that the use of this publication would provide a satisfactory solution.

4. The Delegate of Canada reiterated his view that the chemical structures should be included in the Explanatory Notes, via the Amending Supplements thereto. He proposed that some 150 chemical structures be included, taking account of the list of products put forward by his Administration and by the EC (Annex II to Doc. 41.007).

5. The Sub-Committee having approved the proposal to include approximately 150 chemical structures, Mr. Kusahara suggested that the list be prepared by combining the proposals from Canada, the United States and the EC.

6. Two delegates felt that it would be very useful if the list could include the basic chemical structures of parent products in order to help clarify the classification of certain derivatives of products cited in the HS. They gave as examples the structures of morphine (alkaloids) and gonane (steroids).

7. In conclusion, the Sub-Committee decided that approximately 150 chemical structures, based on the proposals put forward by Canada, the United States and the EC, should be included in the Explanatory Notes to Chapter 29, under the relevant headings. The Secretariat was instructed to prepare appropriate draft amendments to the Explanatory Notes for examination at the next session in a year's time. Before preparing those draft amendments for submission to the Scientific Sub-Committee, the Secretariat would present

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

the Sub-Committee's present conclusions for approval by the Harmonized System Committee; it would then send administrations the list of chemical names of the products whose chemical structure it proposed including in the Explanatory Notes, and ask for their comments (deletions or additions).

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x x

1	2
40.802	Possible amendment of heading 25.18.

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

1. On the basis of Doc. 40.802, the Sub-Committee examined questions posed by the Harmonized System Committee concerning the possible alignment of the English and French texts of heading 25.07 and its subheadings.

2. As regards the question of whether the expression “pisé de dolomie” should be replaced by “dolomie agglomérée (y compris la dolomie goudronnée)” in the French texts of heading 25.18 and subheading 2518.30 as the equivalent of “agglomerated dolomite (including tarred dolomite)” in the English version, the Delegate of France indicated that he had received the working document shortly before the session and therefore had not had the opportunity to consult the experts in industry regarding the scope of the above terms. He explained that, from a linguistic point of view, the term “pisé” referred to construction materials in agglomerated form, but that binder material was not necessarily tar. If this was correct then the expression “pisé de dolomie” in the French version could have a more restricted scope than the expression “agglomerated dolomite” in the English version. He preferred however, to consult with the industry before expressing a firm opinion.

3. The Delegates of Switzerland, Canada and the United States pointed out that they could not find a precise definition of the expression “pisé de dolomie” in technical literature. They agreed, however, with the original Secretariat proposal to replace this expression by “dolomie agglomérée (y compris la dolomie goudronnée)” for aligning the French texts on the English version.

4. Concerning the question of whether the term “calcinée” only should be used in the French texts of heading 25.18 and subheadings 2518.10 and 2518.20 as the equivalent of “calcined” in the English version, many Delegates agreed that the term “frittée” was a process related to the partial vitrification of inorganic materials involving much higher temperature than the two kinds of calcination processes (at about 900 °C and 1400 °C) applied to dolomite in industry. They therefore preferred to delete the term “frittée” from the French texts.

5. The Delegate of France suggested that, in order not to create any problem to industry, both the above questions should be studied further in detail. He added that, depending on the results of that study, a solution might be found by amending the Explanatory Notes to heading 25.18 before changing the legal texts. The Delegate of Germany noted in this connection that the Explanatory Note to heading 25.19 contained similar wording (e.g., dead-burned (sintered) magnesia : magnésie calcinée à mort (frittée)) to that used in the Explanatory Note to heading 25.18. It would be useful to examine the meanings of these terms as well in the framework of the study proposed by France.

6. After discussion, the Sub-Committee agreed to examine the question further at its next session. Administrations (especially the French Administration) were requested to provide the

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

Secretariat with their comments and proposals, and the Secretariat was instructed to prepare a new document on that basis.

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x x

1	2	4
40.562 (HSC/18) 40.803	Classification of blood enzymes.	See Annex C/5.

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

1. On the basis of Docs. 40.562 (HSC/18) and 40.803, the Sub-Committee examined the classification of certain blood enzymes.

2. Several delegates noted that "prothrombinase" was referred to in the literature as "thromboplastin", "active thromboplastin" or "thrombokinase" or as blood coagulating factor III or X. The Delegate of Germany noted that thrombokinase was normally found in the blood in a concentration of about 10 mg/100 ml. (For purposes of this Report, the term "thromboplastin" is used from this point on).

3. The Delegate of Ireland explained that extrinsic thromboplastin (blood coagulating factor III) was normally extracted from brain or lung tissues, never from blood, and was marketed as prepared diagnostic reagents or enzymes. Intrinsic thromboplastin (blood coagulating factor X) was found in the blood and was marketed usually in combination with other blood fractions.

4. The Sub-Committee agreed with the Delegates of Sweden and Austria that thrombin could be regarded as blood fractions of heading 30.02. In this context, the Irish Delegate noted that thrombin was found only in clotted blood, but that fractions of clotted blood could be included in heading 30.02.

5. Opinions were divided on whether thromboplastin could be regarded as a blood fraction. The Delegate of the United States argued that, since extrinsic thromboplastin was obtained from tissues and not from blood, it could not be considered as a blood fraction. In any event, his Administration would treat all thromboplastin as enzymes of heading 35.07.

6. The Irish Delegate agreed that extrinsic thromboplastin should fall in heading 35.07, but he stated that intrinsic thromboplastin could go to heading 30.02.

7. The Delegate of Austria noted that extrinsic thromboplastin might fall in heading 30.01, as an extract of "other organs" (i.e., brain, lungs).

8. The Delegate of Canada stated that, while it was true that extrinsic thromboplastin was produced in the brain and lungs, the fact remained that it was an integral part of the blood coagulation process and should be treated as a blood fraction of heading 30.02. In his view, it did not make sense to isolate the extrinsic from the intrinsic product for purposes of classification. The Delegate of Sweden also argued that "blood fractions" was a more specific description of thromboplastin than "enzyme".

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

9. Finally, the Sub-Committee agreed to delete the square brackets around a reference to "thrombin" in the proposed Explanatory Note to heading 30.02, with the understanding that thromboplastin would be covered by the proposed expression "other blood coagulation factors" in that Explanatory Note. In this connection, the Delegate of the United States registered his Administration's reservation with regard to the inclusion of thromboplastin in heading 30.02.

10. The Sub-Committee also agreed to delete the inclusionary reference to thrombin and prothrombinase from the Explanatory Note to heading 35.07 (page 537, Item (6)) and to insert an exclusionary reference to "blood enzymes (e.g., thrombin)" in exclusion (d) on page 538 of the Explanatory Notes.

11. The texts accepted by the Sub-Committee are set forth in Annex C/5 to this Report.

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1	2	4
40.804	Possible amendment to Explanatory Note 39.07 concerning polyethylene terephthalate.	See Annex C/6.

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

1. On the basis of Doc. 40.804, the Sub-Committee examined the draft amendment to Explanatory Note 39.07 concerning polyethylene terephthalate.

2. The Delegates of the EC and France said that they preferred the Secretariat's initial proposal in paragraph 5 of Doc. 40.804, subject to deleting the word "direct" before "esterification".

3. The Delegate of the United States felt that the text was too restrictive and would not cover other production methods that might be used in the future; he could, however, accept this proposal if the word "generally" were introduced.

4. After a short discussion, the Sub-Committee adopted the draft amendment to the Explanatory Notes set out in paragraph 5 of Doc. 40.804, subject to the above modifications and an additional drafting change to align the English and French versions.

5. The text adopted by the Sub-Committee is reproduced in Annex C/6 to this Report.

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1	2
40.256 (RSC/14) 40.805	Possible amendments to subheadings 3920.41 and 3920.42

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

1. On the basis of Doc. 40.805, the Sub-Committee examined the questions posed by the Harmonized System Committee (18th Session) concerning the criteria and test methods for distinguishing between "plasticised" and "non-plasticised" PVC plates, sheets, film, foil and strip with regard to the EC proposal to amend the texts of subheadings 3920.41 and 3920.42.

2. At the outset, the Delegate of Switzerland pointed out that subheadings 3920.41 and 3920.42 included products based not only on PVC, but also on copolymers and polymer blends containing PVC. He sought clarification whether the questions under examination covered both types of products. The Chairman, acknowledging that these subheadings covered both categories, indicated that the questions referred to the Sub-Committee concerned only the PVC based products.

3. On the question of an appropriate dividing line between "plasticised" and "non-plasticised" PVC based products, the Delegate of Canada suggested a demarcation of 10 % by weight of plasticiser, but had no objection to the 15 % criterion suggested by the Secretariat. According to him, the solvent extraction method could be used to determine the plasticiser content in PVC based products. However, this would include secondary plasticisers as well.

4. Some delegates, however, pointed out that it was necessary to have a clear definition for "plasticisers" before considering any demarcation line or testing methods. According to them, this would be very difficult because the differences between primary plasticisers and secondary plasticisers were not clear. Therefore, it would become necessary to prepare an exhaustive list of such plasticisers, as indicated by the Secretariat. In this context, it was suggested that the list of plasticisers given in the ISO Standard 1043/78 could be taken as the basis. Though this list included both primary and secondary plasticisers, the information given in the Kirk-Othmer Encyclopedia of Chemical Technology could be used to segregate both the categories. The Sub-Committee was, however, generally of the view that this task would prove extremely difficult.

5. As regards the role of dispersants and flame retardants in plasticised PVC products, it was noted that no further information was available, except that some flame retardants were based on chlorinated paraffins and could also be regarded as secondary plasticisers.

OBSERVATIONS OF THE SCIENTIFIC SUB-COMMITTEE (contd.)

6. Finally, it was noted that the problem of distinguishing between "plasticised" and "non-plasticised" products in the broader context would become more complicated, given the fact that subheadings 3920.41 and 3920.42 covered not only PVC products, but also vinyl copolymers and polymer blends. In this connection, the Delegate of the United States reiterated his Administration's hesitation to delete the terms "rigid" and "flexible" which had been in use for a long time and for which appropriate definitions and distinguishing criteria existed in ASTM standards. He added that his Administration intended to submit a proposal to define these terms on the basis of engineering criteria, not only with reference to subheadings 3920.41 and 3920.42, but also for other products of Chapter 39.

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ANNEX B

GENERAL QUESTIONS

Working Doc.	Subject
1	2
40.763	Technical assistance for the establishment or improvement of Customs laboratories.

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

1. The Sub-Committee took note of the information provided in Doc. 40.763 concerning technical assistance for the establishment or improvement of Customs laboratories.

2. Mr. Kusahara said that the Secretariat had received requests for technical assistance from more than 50 developing countries, mainly in four categories : (i) planning of Customs laboratories, (ii) carrying out laboratory analysis, (iii) training of laboratory personnel and (iv) supply of materials and equipment. He added that, while the Secretariat could provide some guidance in the first two categories of requests, it had no resources to assist in training matters or supply of materials and equipment. He requested developed country member administrations to consider extending such assistance to needy administrations on a bilateral basis. He noted that the Secretariat had received information on such assistance provided by four administrations. He requested all administrations providing technical assistance on a bilateral basis to provide details to the Secretariat so that these could be published to facilitate such programmes to be carried out on a bilateral basis in future. He added that the Secretariat would, if possible, also carry out the analysis of requests for technical assistance which it received, in order to further promote international co-operation between Members.

3. Mr. Kusahara also informed the Sub-Committee that the Secretariat had assisted the Polish Customs Administration by making arrangements for the visit of its laboratory staff to the Netherlands Customs laboratory. The Secretariat had also assisted the Malaysia Customs Administration to get some standard reference materials from the Japanese Customs Laboratory . He thanked those laboratories for their assistance and expressed the Secretariat's intention to continue to act as an intermediary between Members.

4. The Delegate of Poland thanked the WCO Secretariat and Netherlands Customs laboratory for the assistance which was very useful and informative. She said that her Administration had already decided to establish a Customs laboratory.

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1	2
40.764	Customs Laboratory Guide.

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

1. The Sub-Committee took note of the information provided in Doc. 40.764 concerning Customs Laboratory Guide.

2. Mr. Kusahara expressed the WCO' s sincere thanks to Member administrations for providing information and assistance for preparing the first edition of the Customs Laboratory Guide. He informed the Sub-Committee that the Guide had already been published and a copy was, and would be, made, available to each administration upon request.

3. Concerning the future programme in this field, Mr. Kusahara said that, since the information given in the first edition of the Customs Laboratory Guide was rather basic, the Secretariat intended to collect details concerning typical examples or cases of analysis actually carried out by Customs laboratories and other relevant details for inclusion in a future edition. He requested continued co-operation of Member administrations in this regard.

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