



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
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HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
19th Session
-

NR0045E2

O. Eng./Fr.

H2-4

Brussels, 23 March 1999.

REPORT OF THE NINETEENTH SESSION
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

1. The Harmonized System Review Sub-Committee held its 19th Session from 15 March to 23 March 1999 at the Headquarters of the World Customs Organization in Brussels, under the Chairmanship of Mr. P.J. McLESTER (Canada).
2. The following 30 WCO Members, one Customs or Economic Union and 1 organization were represented :

Members

BANGLADESH	NETHERLANDS
BELGIUM	NORWAY
BRAZIL	PAKISTAN
BULGARIA	POLAND
CANADA	ROMANIA
CHINA	RUSSIA (Fed. of)
CONGO (Democratic Rep. of)	SAUDI ARABIA
EGYPT	SLOVAKIA
FIJI	SOUTH AFRICA
FRANCE	SWITZERLAND
JAPAN	THAILAND
MACAO	TURKEY
MADAGASCAR	UNITED KINGDOM
MALAYSIA	UNITED STATES
MOROCCO	YEMEN

Customs or Economic Union

- EUROPEAN COMMUNITY (EC)

Organization

- INTERNATIONAL TRADE CENTRE (ITC)

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

I. AGENDA

4. The Review Sub-Committee adopted the Agenda reproduced below.

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 in Annexes A to D to the present Report.

III. STAFF CHANGES IN THE TARIFF AND TRADE AFFAIRS DIRECTORATE

6. Mr. H. KAPPLER, Director of Tariff and Trade Affairs, informed the Sub-Committee that Mr. T. NAGASE (Japan) had been appointed Deputy Director of Tariff and Trade Affairs (Nomenclature Sub-Directorate) with effect from 1 January 1999.
7. He also announced that Mr. A. GLEMMING (Norway) had been appointed to the Secretariat as a Technical Officer on the 1st of November 1998 and that Mr. N. GOONEWARDENA (Sri Lanka) and Mr. G. VESSAH (Cameroon) had joined the Secretariat as Technical Officers on 1 February 1999.
8. Mr. Kappler further informed the Sub-Committee of the forthcoming departures of Mr. N. SASIDHARAN (former Deputy Director) and Mr. L. FORNSÄTER (Supervisory Technical Officer). Mr. Kappler paid tribute to Mr. Sasidharan's and Mr. Fornsäter's outstanding contributions and devotion to the work of the Sub-Committee and to the WCO Secretariat. They were a source of innovative ideas and their expertise was instrumental in the achievements of the Sub-Committee. He wished them every success upon their return to their home administrations.

IV. DATES OF THE NEXT SESSION

9. Provisionally proposed dates for the next meeting are as follows :

Monday 13 September to
Friday 17 September 1999.

P.J. McLESTER,
Chairman.

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AGENDA FOR THE 19TH SESSION
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

(15 March to 23 March 1999)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
	Draft Agenda	
II.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
	1. Proposal concerning the separate identification of flat panel displays	A/1
	2. Possible separate identification of equipment for the manufacture of semi-conductor devices and flat panel displays	A/2
	3. Possible amendment to the texts of subheadings 3920.41 and 3920.42	A/3, D/12
	4. Possible subdivision of heading 27.10	A/4, D/20
	5. Possible amendments to Chapter 48 : (Proposals by Argentina and the EC)	A/5, D/24
	6. Draft amendments to the Nomenclature to clarify the classification of recorded media	A/6, D/1
	7. Proposal by the Canadian Administration for amendments to the Nomenclature concerning canola seeds, canola oil and canola meal	A/7, D/2
	8. Possible amendments to the Nomenclature and the Explanatory Notes to facilitate CITES controls	A/8, D/3

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
	9. Possible amendment to the Nomenclature to clarify the classification of certain nutritional preparations and related products	A9, D/21
	10. Possible amendment to the Nomenclature to clarify the scope of the expression "orthopaedic appliances" in heading 90.21	A/10, D/4
	11. Possible amendments to the Nomenclature concerning narcotic drugs, psychotropic substances and their precursors controlled by the UN	A/11, D/15
	12. Possible amendment to heading 38.22 to clarify the classification of CRMs	A/12, D/23
	13. Possible amendments to the Nomenclature and the Explanatory Notes concerning belts and belting	A/13, D/16
	14. Proposal by the EC for amendment of the structure of heading 25.19	A/14
	15. Proposed amendments to certain subheadings in Chapter 29	A/15, D/6
	16. Proposed new subheading for "gas condensates" in heading 27.09	A/16
	17. Proposal by China for amendments to the Nomenclature concerning "mushrooms"	A/17, D/22
	18. Proposed amendments to the Nomenclature and the Explanatory Notes concerning polymer names	A/18, D/13
	19. Possible amendments to Chapter 44	A/19, D/7
	20. Possible amendments to Chapter 41	A/20, D/18
	21. Possible amendment to subheading 8480.41	A/21
	22. Possible amendments to heading 42.02	A/22, D/8
	23. Possible amendments to heading 90.09	A/23, D/26
	24. Amendment to the HS in order to group all bitter limes in the same subheading	A/24, D/14
	25. Amendments to Note 3 (a) in Chapter 85 and to the text of subheading 8509.10	A/25, D/10

Agenda
Item
Number

Subject

Annexes

B. NEW QUESTIONS

- | | |
|---|-----------|
| 1. Possible amendment of the Nomenclature to delete references to "heading No." and "subheading No." in the English text and to substitute "heading" or "subheading" as appropriate | B/1, D/9 |
| 2. Proposal by the EC for the simplification of heading 85.42 | B/2, D/5 |
| 3. Alignment of the French version of heading 58.01 on the English version | B/3, D/17 |
| 4. Proposal by China for creating a new heading in Chapter 85 to provide for Internet delivered software | B/4 |
| 5. Proposal by the EC for the simplification of heading 70.10 | B/5, D/19 |

C. OTHER QUESTIONS

- | | |
|--|-----------|
| 1. Harmonized System Review on the basis of trade statistics | C/1, D/11 |
| 2. Possible separate identification of artisanal products : Request from the ITC | C/2, D/25 |

x

x

x

ANNEX A

FURTHER STUDIES

Working Doc.	Subject	Nomenclature amendments	E.N. amendments	Amendments to Compendium of Classification Opinions
1	2	3	4	5
NR0002 E1	Proposal concerning the separate identification of flat panel displays.			

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

1. In view of the many technical difficulties inherent in the original proposals, some delegates expressed their preference for the Secretariat's proposals which were simple and eliminated most of the difficulties. On the other hand, it was pointed out that the Secretariat's proposals would not necessarily reflect the current trade in the products concerned.
2. As regards the proposals by Japan, Canada and the EC, delegates indicated that there remained many questions to be answered, e.g., definitions of the terms "panels", "modules", "active", "passive", "flat", etc. Moreover, there were different opinions as to whether flat panel displays (FPDs) should cover both finished and intermediate products. In summary, many delegates felt that this issue was very complicated and needed more time for consideration.
3. Finally, the Sub-Committee agreed not to pursue this matter in the present review cycle. Administrations were invited to submit new proposals concerning the separate identification of FPDs, in order to permit the Sub-Committee to re-examine this issue during the next review cycle.

x
x x

1	2
NR0003E1 NR0042E1	Possible separate identification of equipment for the manufacture of semiconductor devices and flat panel displays.

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

1. The Delegate of Japan provided a brief explanation of the Japanese proposal and highlighted the areas where it differed from that of the Secretariat.
2. Several delegates expressed their concerns regarding the proposal for the possible separate identification of equipment for the manufacture of semiconductor devices and flat panel displays. Of particular concern was the last paragraph of proposed new Note 9 to Chapter 84 (and Note 7 to Chapter 90), which stipulated that heading 84.85 shall take precedence over any other heading in the Nomenclature. This wording would result in a transfer of products from several different headings and not only from those which would have to be deleted; therefore, delegates indicated the need to determine what products may be affected and whether the resulting transfer was desirable. Several delegates were concerned with the lack of definitions for some of the terms (e.g., "flat", "panels", "modules", "manufacturing", "processing", etc.). Without these terms being defined, doubt was expressed as to whether the Sub-Committee should be drafting subheading Notes where these terms would be mentioned. A number of these concerns mirrored those of the Secretariat, as expressed in Doc. NR0003E1.
3. Other delegates felt that some of these "problems" were addressed by the present Nomenclature or by either the Secretariat's proposal or the proposal from the United States (introduced during the discussion). The Japanese Delegate indicated that the proposal of the United States seemed to be close to the Japanese proposal. The potential for overlap was addressed by Note 2 to Section XVI and Note 1 to Chapter 85. One delegate said that proposed new Note 9 to Chapter 84 would ensure that products that should not be in the new heading would not be transferred. In addition, it was pointed out that equipment for the manufacture of semiconductor devices was specialized. It was indicated that a distinction could be made between equipment for the manufacture of semiconductor devices and those for flat panel displays; the material to be worked by the former being of circular form and the latter being of rectangular form.
4. Finally, the Sub-Committee decided that it could not complete its work on this issue during the present review cycle. Administrations were invited to continue examining this issue during the next review cycle.

x
x x

1	2	3
NR0004E1	Possible amendment to the texts of subheadings 3920.41 and 3920.42.	<u>See Annex D/12.</u>

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

1. The Sub-Committee approved the draft amendments to the Nomenclature proposed by the Scientific Sub-Committee in Part A of the Annex to Doc. NR0004E1, subject to replacing the term "comprend" by "couvre également" in the French text of the new Subheading Note 2.
2. In this connection, the Delegate of the EC stated that, although the proposed new legal texts were generally acceptable, the EC position in this regard was for the time being preliminary, since the EC wanted to have a final look at the texts, in particular, the advisability of the 6 % criterion.
3. The Sub-Committee also agreed to ask the Scientific Sub-Committee to re-examine the draft text of the proposed new Subheading Explanatory Note and the appropriate test methods for distinguishing the products in question.
4. The texts approved are set out in Annex D/12 to this Report.

x

x x

1	2	3	4
NR0005E1	Possible subdivision of heading 27.10.	<u>See Annex D/20.</u>	<u>See Annex D/20.</u>

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

Proposed new subheadings : “2710.11 -- Light oils and preparations” and “2710.19-- Other”

1. The Delegate of Saudi Arabia reiterated his Administration's view that the most appropriate subdivisions for petroleum products in heading 27.10 would be subdivisions based on the industrial and trade names of the products, as well as their end-use. Classification of petroleum products on the basis of boiling point criteria was inappropriate, since it had certain technical flaws. First, the products in question did not have standard boiling points, but boiling ranges which overlapped frequently. Second, the method did not differentiate between the products used as feedstock and those used as finished products. Third, the method did not take into account continued developments in oil refining technology.
2. However, a large majority of delegates was in favour of subdividing heading 27.10 into the two categories of “light oils and preparations” and “other” on the basis of boiling point criteria. It was noted that, taking into account the pressing demand from the United Nations Statistics Division, the International Union of Railways, industry and trade, a compromise solution to subdivide heading 27.10 had been adopted by the Harmonized System Committee (11th Session), but the amendments could not be implemented due to a reservation entered by an administration under Article 8 of the HS Convention.
3. It was also noted that for the current review cycle, providing at least two subheadings for “light oils and preparations” and “other” oils, other than waste oils, in heading 27.10 was the best possible compromise solution as already agreed by the Review Sub-Committee at its 18th Session. The Sub-Committee had also agreed that boiling point was the only objective way to distinguish between the proposed subheadings.
4. In respect of the Saudi Arabian view that the subdivisions should be based on the industrial and trade names of the products, as well as their end-use, it was pointed out that such an approach would require the establishment of strict definitions for each product (e.g., naphtha, kerosene, gas oil, etc.) falling in different subheadings, making it almost impossible to reach a consensus.
5. In the absence of consensus, however, the Sub-Committee agreed to place the text of the proposed new subheadings in square brackets.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Proposed new Subheading Note (4)

6. As regards the question of using the ISO or ASTM methods in proposed new Subheading Note (4), one delegate expressed the view that ISO 3405 was expected to be the major method which would be applied in the near future. Therefore, the aforementioned new Subheading Note should include a reference to the ISO method.
7. However, a large majority of the delegates preferred the ASTM D86 method, since it was currently used by industry and trade world-wide. In this connection, it was also noted that the ASTM D 86 and ISO 3405 methods were very similar methods, although not identical. In that respect, one delegate informed the Sub-Committee that, according to his Administration, the difference between the two methods was within the range of expected variations in measurement.
8. Due to the divergence of views expressed, the Sub-Committee decided to keep the expressions "210 °C (ASTM D 86 method)" and "200 °C (ISO 3405 method)" in square brackets and to insert "either 210 °C (ASTM D 86 method) or 200 °C (ISO 3405 method)" in the proposed new Subheading Note (4) as a third alternative, it being in square brackets as well.

Waste oils

9. The Sub-Committee noted that the new subheading structure already adopted for "waste oils" (HSC/17) had been taken into account in the draft texts. In this connection, the Sub-Committee felt that clarifying the scope of "waste oils" by drafting a Subheading Explanatory Note would be helpful for the HS users.
10. After discussion, the Sub-Committee agreed to submit the draft texts in the Annex to Doc. NR0005E1, as amended, to the Harmonized System Committee for consideration.
11. The texts concerned are set out in Annex D/20 to this Report.

x

x x

1	2	3
NR0006E1	Possible amendments to Chapter 48 : Proposals by Argentina and the EC.	<u>See Annex D/24.</u>

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

New Note 1 to Chapter 48

1. The EC's intention with regard to proposed new Note 1 to Chapter 48 was to clarify the scope of the term "paper" within Chapter 48, at the same time giving legal status to a corresponding provision in the Explanatory Note to that Chapter. Since other delegates considered that the present situation with regard to the Note was satisfactory, the Sub-Committee was unable to reach a consensus and left it to the Committee to decide. The proposed Note and consequential amendments to other parts of the Nomenclature were placed in square brackets.

Note 4 to Chapter 48

2. The Sub-Committee approved the proposal to insert a reference to "chemi-mechanical" in this Note, since this type of pulp was nowadays also used in the production of paper, in addition to paper made from pulp obtained by a mechanical process. Similar amendments were approved to the relevant subheadings of headings 48.02 and 48.10.
3. In this context, one delegate suggested amending the text of heading 47.05 to read : "Semi-chemical or chemi-mechanical wood pulp" (French : "Pâtes mi-chimiques ou chimico-mécaniques, de bois"). He added that the proposed amendment was intended to clarify the scope of heading 47.05 and would not entail a reclassification of goods. The Secretariat pointed out, however, that this language might no longer cover certain other types of wood pulps obtained by a combination of mechanical and chemical pulping processes, e.g., wood pulps known as screenings. The Secretariat, therefore, suggested to rephrase the text of this heading in accordance with the current Explanatory Note (i.e., "Wood pulp obtained by a combination of mechanical and chemical pulping processes") (French : "Pâtes de bois obtenues par la combinaison d'un traitement mécanique et d'un traitement chimique"). Another delegate suggested to refer to "Semi-chemical wood pulp, chemi-mechanical wood pulp and other wood pulps obtained by a combination of mechanical and chemical pulping processes". The Sub-Committee decided to refer this issue to the Committee, thus giving delegations the possibility to reflect on the proposal during the intersession. Both texts (i.e., the initial proposed text and the one proposed by the Secretariat) were placed in square brackets.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. There was no support in the Sub-Committee for the proposal of the Argentine Administration :
- (i) to delete the reference to “mainly” and to replace it by a quantification (i.e., 50 % by weight of certain fibres);
 - (ii) to increase the brightness criterion from 60 % to about 80 %; or
 - (iii) to add a reference to “multi-ply paper and paperboard” in the last paragraph.
5. Given the absence of the Argentine Delegation, the Sub-Committee agreed to refer the above issues to the Committee. The texts concerned were placed in square brackets.

Note 7 to Chapter 48

6. The Sub-Committee approved the proposal to delete the minimum sizes for paper and paperboard of headings 48.02, 48.10 and 48.11. The texts of Note 7 to Chapter 48 and of the headings concerned were amended accordingly.
7. The proponent indicated that the current dimensions referred to in headings 48.01 and 48.04 to 48.08 were outdated and should be increased. This would also result in a uniform attitude for all headings covered by the provisions of Note 7. Another delegate held the view that there was still a major separation between the paper producing industry and the paper converting industry. The Sub-Committee could, however, not reach a consensus concerning the proposed increase in dimensions for headings 48.01 and 48.04 to 48.08, since it would entail large scale transfers of products from the first part of Chapter 48 to the second part. However, to give delegations the opportunity to check with their national industry, it was decided to place the texts providing for both situations in square brackets, leaving it for the Committee to decide.

Subheading Notes 3 and 4 (new)

8. The Sub-Committee approved the proposed new parameters for these Subheading Notes, which were based on ISO 7263. It also adopted the amendment to the referenced method, as proposed by the Secretariat.
9. In the context of the proposed amendments to heading 47.05, it was suggested to possibly refer to “chemi-mechanical” in addition to “semi-chemical” in the texts of Subheading Notes 3 and 4. It was indicated, however, that this addition appeared not to be necessary, but delegations might take it up at the Committee’s session.
10. Subheading Note 4 was, however, placed in square brackets, pending further information concerning trade volume of proposed subheading 4805.12. This issue was left to the Committee to decide.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Subheading Note 5 (new)

11. The Sub-Committee approved the proposed Subheading Note for subheadings 4805.24 and 4805.25, noting that the reference to “thin” would be deleted and that the term “virgin” would be replaced by “non-recovered”. In this context, one delegate indicated that the second sentence of the Subheading Note might be superfluous, since the term “mainly” in the first sentence already indicated that other pulp could have been used.

Subheadings of heading 48.02

12. The Sub-Committee accepted the proposed new structured nomenclature for heading 48.02 as set out in the Annex to Doc. NR0006E1. It was pointed out that most photocopying paper met the description of amended subheading 4802.5, but that some would no longer be covered by that subheading but by subheading 4802.60. It was, therefore, suggested to further breakout this subheading into three two-dash subheadings. The Sub-Committee approved this suggestion. It left, however, in square brackets the dimensions referred to in proposed subheadings 4802.56, 4802.62 and 4810.14 (i.e., 420 mm (as suggested by the EC) and 435 mm (as suggested by the US), respectively), to give delegations the opportunity to check the dimensions with national industry.

Subheadings of heading 48.05

13. The Sub-Committee accepted the proposed structure. Proposed subheading 4805.12 was, however, left in square brackets, pending further information vis-à-vis the volume of world trade. This issue was left to the Committee to decide (see paragraph 10 above).
14. The Sub-Committee also approved a Subheading Explanatory Note for new subheading 4805.19.
15. The Sub-Committee agreed to retain subheading 4805.50, given the trade volume reported over the past years.

Review of code numbers

16. Finally, given the practical problems encountered by the Secretariat in renumbering all subheadings affected by the amendments approved, the Sub-Committee agreed with the Secretariat’s suggestion in paragraph 31 of Doc. NR0006E1 to restrict the renumbering of code numbers to only those which would significantly be affected by the amendments approved, and to consequential amendments to the Subheading Notes concerned.
17. The texts approved by the Sub-Committee and those placed in square brackets are set out in Annex D/24 to this Report.

x x
x x

1	2	3	4
NR0007E1 NR0033E1 NR0034E1	Draft amendments to the Nomenclature to clarify the classification of recorded media.	<u>See Annex D/1.</u>	<u>See Annex D/1.</u>

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

1. Having decided to use the texts proposed in the Annex to Doc. NR0007E1 as a working basis, the Sub-Committee first agreed that, in the first paragraph of possible new Subheading Note 2 to Chapter 85, the term "computer" should be replaced by "automatic data processing machine" and the terms "similar" and "programmable" should be deleted.
2. With a view to consistency in the above-referenced text, the proposal to explicitly mention digital audio and video discs in the second paragraph was also accepted.
3. However, as it had been pointed out that the designation "DVD" related to other products which could not be identified in a strictly limitative manner, it was decided not to include that designation in the structure of heading 85.24.
4. It was also pointed out that the numbering of subheading 8524.32 had to be amended, in view of the fact that the scope of that subheading was being extended to cover enhanced digital audio discs.
5. To give administrations the time needed to consult their respective industries regarding the creation of a subheading for "digital video discs", the Sub-Committee placed that expression in square brackets both in the draft legal Note and in the proposed structure of subheading 8524.3.
6. In response to a proposal that the definition of the term "software" be extended to apply to the entire HS, the Sub-Committee felt that, in the context of this study, it should be stated that the provisions of the envisaged legal Note were restricted to the subheadings of heading 85.24.
7. Finally, to finalize the texts for submission to the HS Committee, the Sub-Committee also agreed that, in the French version of the draft amendment to the Explanatory Notes, the term "clips" should be replaced by "montages de séquences".
8. The texts approved and those placed in square brackets are set out in Annex D/1 to this Report.

x

x x

1	2	3
NR0008E1 NR0032E1 NR0044E1	Proposal by the Canadian Administration for amendments to the Nomenclature concerning canola seeds, canola oil and canola meal.	<u>See Annex D/2.</u>

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

1. The Sub-Committee recognized that the proposed amendments reflected the compromise to use the expression "low erucic acid rape or colza" (in the Nomenclature) instead of the term "canola" and unanimously agreed to the proposed amendments to Chapters 12, 15 and 23.
2. The Sub-Committee also agreed that the possible insertion of a reference to "canola" and other types of low erucic acid rape or colza in the relevant Explanatory Notes could be examined at a later stage.
3. The texts approved are set out in Annex D/2 to this Report.

x

x x

1	2	3
NR0009E1	Possible amendments to the Nomenclature and the Explanatory Notes to facilitate CITES controls.	<u>See Annex D/3.</u>

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

1. The Sub-Committee unanimously agreed with the CITES Secretariat's suggestions that :
 - (a) The expression "marine [or fresh water] mammals" in the provisionally adopted texts of subheadings 0106.12, 0208.40 and 0210.92 should be replaced by the expression "whales, dolphins, and porpoises (mammals of the order Cetacea); manatees and dugongs (mammals of the order Sirenia)"; and
 - (b) The expression "les tortues de mer" should be used in the French version of the provisionally adopted texts of subheadings 0106.20, 0208.50 and 0210.93 as equivalent to the English term "turtles".
2. The Sub-Committee also agreed to a consequential amendment to exclusion Note 1 (a) to Chapter 3. In this connection, the Sub-Committee agreed that the present text of Note 1 (a) to Chapter 3 should be replaced with the following text, in order to ensure that all marine and fresh water mammals and meat thereof will be excluded from Chapter 3.

"(a) Mammals of heading No. 01.06 or meat thereof (heading No. 02.08 or 02.10);"
3. The Sub-Committee emphasized that the intention of the above amendments to the HS was only to specify certain animal species in the HS to facilitate CITES controls, but in no way to alter the scope of the present headings or subheadings of the HS.
4. The texts approved are set out in Annex D/3 to this Report.

x
x x

1	2	3
NR0010E1	Possible amendment to the Nomenclature to clarify the classification of certain nutritional preparations and related products.	<u>See Annex D/21.</u>

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

1. The following views were expressed during the discussion of the questions of grouping certain nutritional preparations and related products in a single heading or subheading.
2. The Delegate of Switzerland explained that the intention of the Swiss proposal was primarily to make it clearer that medicaments based on plants should be classified in Chapter 30. He drew attention to a recent decision of the European Court of Justice which classified a product called "Echinacca" in heading 30.04. He further confirmed that the Swiss proposal would entail a transfer of goods to Chapter 30.
3. One delegate was of the view that it would facilitate the classification of certain nutritional preparations in the HS to group such goods in a single subheading and indicated her support for the Secretariat's proposal in Annex II to Doc. NR0010E1, subject to the addition of references to "fish oils and vegetable oils" and "food supplements in the form of ready-to-drink beverages, including those containing alcohol" in proposed Note 1 (a) to Chapter 30.
4. Another delegate was of the view that according to the Secretariat's proposal for new subheading 2106.20, based on the definition in the CODEX Alimentarius, many products, e.g., low calorie food, would be transferred to the new subheading. He also felt that it would be difficult for the Customs officer to distinguish between ordinary foods and those for special dietary uses. He was therefore opposed to the new subheading and preferred to retain the status quo, entailing no legal amendments.
5. Many other delegates were of the view that the wording of the Swiss proposal for new Note 4 was too vague. It was mentioned that Customs officers would have great difficulties with phrases such as "describing their therapeutic and prophylactic properties" or "intended for acting on organic, physical or psychic functions". With such texts a number of unwanted goods could be classified in Chapter 30.
6. After a lengthy discussion, the Swiss proposal was not supported. It was, however, not possible to reach consensus on any of the other proposed amendments concerning the regrouping of certain nutritional preparations and related products in Chapter 21. It was, therefore, agreed to place the proposed texts in square brackets (i.e., the proposals from the EC and the Secretariat) and to submit them to the Harmonized System Committee for consideration.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. The texts placed in square brackets are set out in Annex D/21 to this Report.

x
x x

1	2	3
NR0011E1	Possible amendment to the Nomenclature to clarify the scope of the expression "orthopaedic appliances" in heading 90.21.	<u>See Annex D/4.</u>

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

1. Following a reminder about the plan to update the scope of heading 90.21 to reflect actual trade, the draft text of the possible new Note 6 to Chapter 90 was approved.
2. However, while stating that he could accept the proposed text, the Delegate of the EC had doubts as to the scope of the term "presented" and reserved the right to bring this matter before the Harmonized System Committee. In contrast, the other delegates were in favour of the term.
3. Having noted the above, the Sub-Committee approved, unchanged, the draft texts prepared by the Secretariat.
4. The texts approved are reproduced in Annex D/4 to this Report.

x
x x

1	2	3	4
42.481 (RSC/18)	Possible amendments to the Nomenclature concerning narcotic drugs, psychotropic substances and their precursors controlled by UN Conventions.	<u>See Annex D/5.</u>	<u>See Annex D/5.</u>

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

1. The Sub-Committee unanimously agreed to the proposal set out in the Annex to Doc. 42.481.
2. The texts approved are set out in Annex D/5 to this Report.

x

x x

1	2	3	4
NR0012E1	Possible amendment to heading 38.22 to clarify the classification of CRMs.	<u>See Annex D/23.</u>	<u>See Annex D/23.</u>

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

1. With regard to new Note 2 (A) to Chapter 38 proposed by the Secretariat in the Annex to Doc. NR0012E1, one delegate suggested to modify it by inserting "and which are utilized primarily for chemical purposes or medical diagnostic purposes" at the end in order to secure the uniform classification of CRMs. The delegate also suggested amending the Explanatory Note to indicate that the certifying authority should be identified. In view of the late arrival of the proposal, the Sub-Committee agreed to place the suggested texts in square brackets and to submit them to the Harmonized System Committee for a final decision.
2. Concerning the proposed new Note 2 (B) to Chapter 38, another delegate suggested to delete the expression "the products of Chapter 28 or 29 and" from that text, since the Sub-Committee had agreed at its last session to classify all CRMs in heading 38.22. However, it was pointed out that this deletion might conflict with the provisions of Note 1 (a) to Section VI. It was also suggested to delete the term "laboratory" since the scope of that term was not clearly defined for the purposes of Chapter 90. In view of the above, the Sub-Committee also agreed to place those terms in square brackets and submit them to the Harmonized System Committee.
3. The Sub-Committee further agreed to replace the last part of new Note 2 (B) by "for the classification of certified reference materials, heading 38.22 shall take precedence over any other heading in the Nomenclature" in order to maintain consistency with similar expressions which appear in other parts of the Nomenclature.
4. Subject to the modifications and reservations mentioned above, as well as other editorial modifications, the Sub-Committee approved the draft amendments to the Nomenclature and the Explanatory Note proposed by the Secretariat in the Annex to Doc. NR0012E1.
5. The texts approved and placed in square brackets are set out in Annex D/23 to this Report.

x

x x

1	2	3
NR0013E1 NR0039E1	Possible amendments to the Nomenclature and the Explanatory Notes concerning belts and belting.	<u>See Annex D/16.</u>

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

1. The Sub-Committee unanimously agreed with the Secretariat's view in paragraph 5 of Doc. NR0013E1 that the insertion of the word "belts" in the English version of Note 6 (a) to Chapter 59 would create a non-alignment vis-à-vis the French version. Consequently, it agreed with the Secretariat's suggestion to drop this proposal.
2. The Sub-Committee also agreed with the Secretariat's view that the current wording of Note 6 (a) to Chapter 59 was clear and that there was no need to delete the reference to "textile material" in this Note. Moreover, since this Note defined the scope of heading 59.10 vis-à-vis Chapters 39 and 40, the status quo was preferred. The Chairman, noting that there was no support for the proposed amendment, concluded that this item should not be pursued.
3. The Sub-Committee noted that the French and English texts of Note 8 to Chapter 40 and Note 6 (b) to Chapter 59 ("textile fabric") were perfectly aligned. It was further pointed out that the amendment as proposed would entail a transfer of goods, since the scope of the headings concerned would be changed. There being no support for the proposed amendment, the Sub-Committee agreed not to pursue this item.
4. With a view to aligning the English version of Note 1 (e) to Section XVI on the French, the Sub-Committee agreed to insert a reference to "belting" in the English version.
5. The text approved is set out in Annex D/16 to this Report.

x
x x

1	2
NR0014E1 NR0040E1	Proposal by the EC for amendment of the structure of heading 25.19.

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

1. The majority of delegates supported the views of the Scientific Sub-Committee in paragraph 6 of Doc. NR0014E1 that there were no internationally agreed standard methods for distinguishing between the products in question.
2. In view of this lack of distinguishing criteria, the Sub-Committee agreed that no changes should be recommended to the structured nomenclature of heading 25.19.

x
x x

1	2	3	4
NR0015E1	Proposed amendments to certain subheadings in Chapter 29.	<u>See Annex D/6.</u>	<u>See Annex D/6.</u>

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

1. The Sub-Committee approved, without modification, the texts prepared by the Scientific Sub-Committee at its 14th Session.
2. The texts approved are set out in Annex D/6 to this Report.

x

x x

1	2
NR0016E1 NR0041E1	Proposed new subheading for "gas condensates" in heading 27.09.

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

1. The following views were expressed during the discussion of the question of the establishment of a new subheading for "gas condensates" in heading 27.09.
2. One delegate indicated that, according to the information available so far, the "gas condensates" in question were fractions obtained by processing "wet" natural gases which could not be classified as crude oils of heading 27.09, because they were not natural products as described in the Explanatory Note to heading 27.09. "Gas condensates" were similar to "topped crude" and other fractions which were identified in Part (A) of the Explanatory Note to heading 27.10.
3. Another delegate pointed out that there was almost consensus in the Scientific Sub-Committee that the chemical compositions and physical characteristics of the "gas condensates" in question and similar synthetic products of heading 27.10 were in fact very similar and overlapped in many cases and that there was almost no practical way of distinguishing between the two groups of products. The Scientific Sub-Committee could not reach a satisfactory conclusion in respect of the definition of the "gas condensates" in question and distinguishing them from the similar products of heading 27.10, due to the fact that the information obtained so far was insufficient for those purposes. Moreover, for the above reasons, there was considerable doubt in both the Scientific Sub-Committee and the Review Sub-Committee as to the classification of "gas condensates". Under these circumstances, he believed that the Sub-Committee was not in a position to accept the proposal for a separate subheading for "gas condensates" in heading 27.09 during the current review cycle.
4. However, it was clear that the "gas condensates" under consideration were products actually traded. Therefore, it was suggested that the matter be referred back to the Scientific Sub-Committee, together with the necessary additional information that would enable the Scientific Sub-Committee to come to a conclusion regarding the chemical composition, physical characteristics and definition of the "gas condensates" in question. On the basis of the conclusions of the Scientific Sub-Committee, the question of the separate identification of "gas condensates" could be re-considered during the next review cycle.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. Taking account of the views expressed above, the Delegate of China noted that his Administration would not insist on finalizing the proposal during the present cycle and would leave it to the Sub-Committee whether the question of the classification of "gas condensates" should be submitted to the Harmonized System Committee. He agreed that the question of separate identification could be postponed to the next review cycle.
6. After discussion, the Sub-Committee agreed that the proposal for the creation of a new subheading for "gas condensates" in heading 27.09 should not be further pursued in this review cycle.
7. Nevertheless, the question of the classification of "gas condensates" had to be submitted to the Harmonized System Committee together with the information obtained so far from China, the EC, the US and Canada. Interested administrations were invited to provide the Secretariat, as soon as possible, with further information and comments concerning the chemical composition, physical characteristics and definition of the "gas condensates" under consideration.
8. It was finally agreed that the separate identification of "gas condensates" in the HS, if necessary, could be re-considered during the next review cycle.

x
x x

1	2	3
NR0017E1	Proposal by China for amendments to the Nomenclature concerning "mushrooms".	<u>See Annex D/22.</u>

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

1. The Sub-Committee unanimously agreed that the term "Jew's ears" should not be used in the Harmonized System Nomenclature, and opted for the alternative term "wood ears". It also agreed that the modified proposal for new subheadings in headings 07.09, 07.11, 07.12 and 20.03, distributed by China during the meeting, could serve as a basis for discussions.

White mushrooms

2. Several delegates expressed doubts as to the Chinese proposal which was in their opinion, to insert separate subheadings for only one species of "white mushrooms" (*Agaricus bisporus*) in headings 07.09, 07.11, 07.12 and 20.03, leaving aside other important white mushrooms like *Agaricus campestris*. It was also pointed out that distinguishing *Agaricus bisporus* from other mushrooms might be difficult at the time of importation, even though one delegate pointed out that one distinct characteristic of *Agaricus bisporus* was that each of its basidium usually bore two spores, while other white mushrooms usually bore four spores.
3. The Delegate of China indicated that the expression "White mushrooms" mentioned in the working document referred only to a specific species of mushrooms (*Agaricus bisporus*), and that it did not refer to mushrooms which were white in colour.
4. To overcome these concerns, after discussion, the Sub-Committee agreed to create new subheadings in headings 07.09, 07.11, 07.12 and 20.03, for "mushrooms of the genus *Agaricus*".

Wood ears and jelly fungi

5. Regarding the Secretariat's concern, as mentioned in paragraph 29 of Doc. NR0017E1, the Chinese Delegate explained that the family and genus of wood ears and jelly fungi were completely different. On the basis of that explanation, the Sub-Committee agreed to create new subheadings for these products in heading 07.12. However, since one delegate expressed concern as to whether it would be possible to distinguish these two products, the Sub-Committee agreed to place the texts of the new subheadings in square brackets for consideration by the Harmonized System Committee.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. Concerning the proposed text of subheading 0712.3, one delegate pointed out that the scope of "mushrooms" had not yet been decided by the Harmonized System Committee, since, as pointed out during the last Session of the Sub-Committee, some administrations were of the view that only products with a cap and a stem could be regarded as "mushrooms". It would, therefore, be premature to adopt a text indicating that wood ears and jelly fungi were (or were not) mushrooms. It was consequently agreed that the relevant part of the proposed text be placed in square brackets, and that the HS Committee should decide on the scope of "mushrooms" before the square brackets could be deleted.
7. The texts approved and placed in square brackets are set out in Annex D/22 to this Report.

x

x x

1	2	3	4	5
NR0018E1	Proposed amendments to the Nomenclature, the Explanatory Notes and the Compendium of Classification Opinions concerning polymer names.	<u>See Annex D/13.</u>	<u>See Annex D/13.</u>	<u>See Annex D/13.</u>

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

1. The Review Sub-Committee approved the amendments proposed by the Scientific Sub-Committee to bring certain polymer names into conformity with the chemical nomenclature of IUPAC as set out in the Annex to Doc. NR0018E1, subject to the following comments.
 - (i) Concern was expressed over placing the commercial name in parentheses immediately after the polymer name, as in the proposed text to subheading 3404.20, since this might lead to confusion;
 - (ii) The Delegate of Canada submitted an informal document, during the meeting, containing further comments on the Scientific Sub-Committee's Report (14th Session).
2. It was pointed out that divergent views or comments could be considered at the next session of the Harmonized System Committee. The Sub-Committee, therefore, invited the Canadian Administration to forward its comments to the next Session of the Harmonized System Committee.
3. Finally, Mr. Kappler, Director of Tariff and Trade Affairs, reminded the Sub-Committee that the amendments to subheadings 3905.1, 3905.30 and 3920.91 in the French version had been adopted by the Harmonized System Committee, at its 21st Session, and suggested that these amendments should be incorporated in the draft texts of the amendments.
4. The texts approved are set out in Annex D/13 to this Report.

x

x x

1	2	3
NR0019E1	Possible amendments to Chapter 44.	<u>See Annex D/7.</u>

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

Subheading Note 1 to Chapter 44

1. The Sub-Committee did not support the proposed insertion of “Curupixá” (or one of its alternatives “Balata Blanc” and “Grumixava”) in Subheading Note 1 to Chapter 44, as suggested by the Brazilian Administration. Consequently, the references in square brackets were deleted from the proposed text.
2. The Sub-Committee approved, however, the insertion of the references to “Mandioqueira”, “Pau Amarelo”, “Quaruba” and “Tauari” in Subheading Note 1 to Chapter 44.

Subheadings 4407.27 and 4408.32

3. Due to lack of statistical information, the Sub-Committee did not accept the proposed separate identification of “Pau Amarelo” in headings 44.07 and 44.08.
4. The texts approved are set out in Annex D/7 to this Report.

x

x x

1	2	3
NR0020E1 NR0038E1	Possible amendments to Chapter 41.	<u>See Annex D/18.</u>

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

1. The Sub-Committee agreed with the EC proposal to restructure Chapter 41, basing its considerations on the texts prepared by the Secretariat in Annex III to Doc. NR0020E1.
2. The Sub-Committee specifically agreed to insert a new Note, as suggested by the Secretariat in paragraph 22 of Doc. NR0020E1, which indicated that certain provisionally tanned hides and skins were to be excluded from headings 41.04 to 41.06 and were directed to headings 41.01 to 41.03, as the case may be.
3. The Sub-Committee also adopted additional amendments submitted by the US Administration during the session. However, the suggested replacement of the term "composition leather" by "bonded (composition) leather" in the English version of proposed heading 41.15, could not be finalized, due to the late arrival of this proposal. While it was indicated by one delegate that the term "bonded" should be included in the Explanatory Notes (whether or not this term would be included in the legal texts), the Sub-Committee needed further time to reflect on this proposal and, therefore, referred this issue to the Committee for final consideration. The relevant texts were placed in square brackets.
4. The Delegate of the US pointed out that the term "tanned" was used in trade circles to describe merely tanned (wet) leather, whereas the term "crust" was used for dried tanned leather. Since the "crusting" process was applied after the actual tanning process, he suggested referring to "tanned or crust hides and skins" and deleting the expression "after tanning", in the texts of proposed headings 41.04 to 41.06. The Sub-Committee agreed with the proposed rewording.
5. In this context he also proposed to include a description of the term "crust" in a legal Note to Chapter 41, in order to clarify that this term also includes hides and skins that have been retanned, coloured or fat-liquored prior to the drying process. The Delegate of Japan, while basically agreeing with the new structure proposed by the EC, stated that he wanted to reserve Japan's position vis-à-vis the envisaged classification of pre-tanned hides and skins and the description of "crust" as suggested by the US, since he opposed the view that the latter term included a reference to "coloured". The Sub-Committee agreed to refer this issue to the Committee and placed the relevant paragraph of the Chapter Note in square brackets.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. After discussion, the Sub-Committee arrived at the following conclusions vis-à-vis the proposed headings and subheadings of Chapter 41 :
 - (a) To delete the square brackets around “(including buffalo)” in headings 41.01, 41.04 and 41.07;
 - (b) To refer to “tanned or crust hides or skins” and to delete the phrase “after tanning” in headings 41.04, 41.05 and 41.06;
 - (c) To refer to “full grains, unsplit” and “grain splits”, respectively, in the structured nomenclature of headings 41.04 and 41.07;
 - (d) To replace the proposed phrase “other (including crust)” by “in the dry state (crust)” in the structured nomenclature of headings 41.04 to 41.06 and to renumber the relevant code numbers; and
 - (e) To refer to “leather further prepared after tanning or crusting” in headings 41.07, 41.12 and 41.13.
7. Finally, the Sub-Committee indicated that, following the renumbering of the headings, consequential amendments in other parts of the Nomenclature should also be reflected in the Report.
8. The texts approved and those placed in square brackets are set out in Annex D/18 to this Report.

x

x x

1	2
NR0021E1 NR0036E1	Possible amendment of subheading 8480.41.

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

1. The Review Sub-Committee examined the proposal to amend subheading 8480.41, with respect to certain moulds for metal or metal carbides, i.e., to replace the current text "Injection or compression types" by "Compression types (die-casting)", as suggested by the EC, or by "Compaction types, including injection", as proposed by Canada.
2. Information provided to the Sub-Committee showed, however, that technology for using injection type moulds for moulding metals did exist. Consequently, the EC Delegate withdrew the EC's proposal.
3. The Canadian proposal was then examined. The Sub-Committee was advised that injection moulding was not a type of compaction moulding.
4. In the light of the foregoing, the Review Sub-Committee agreed to maintain the status quo.

x

x x

1	2	3
NR0022E1	Possible amendments to heading 42.02.	<u>See Annex D/8.</u>

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

Heading text

1. The Review Sub-Committee agreed to insert the term “insulated food or beverage bags” in heading 42.02 and approved, without modification, the draft text of the amendments to heading 42.02 set out in the Annex to Doc. NR0022E1.

Explanatory Notes

New paragraph 8

2. The Review Sub-Committee agreed to insert the term “reusable” before “insulated bags”, since it would be in conformity with the provisions of Note 2 (A) (a) to Chapter 42. However, a proposal to insert the term “portable” before “insulated bags” was not accepted.
3. As regards the use of the expression “storage”, although a concern was expressed as to the possible change of the scope of headings 39.23 and 42.02, the Review Sub-Committee preferred to retain that term given the temporary storage aspect of the bags. As a compromise, the term “temporary” was added before “storage”.
4. The Review Sub-Committee approved the proposed new paragraph 8 of the Explanatory Notes to heading 42.02 with appropriate modifications.

Exclusion (a)

5. The Delegate of the United States suggested amendments to the Secretariat's proposal to draw a clearer distinction between food and beverage bags of heading 42.02 and packing of heading 39.23. To that end, he proposed adding the expression “unreinforced sheeting” to emphasize that packing was composed of insubstantial materials.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. He also proposed adding a sentence which stated that shopping bags were classified as packing only when not designed for repetitive use. This was intended to clarify the meaning of Note 2 (A)(a) to Chapter 42, which referred to bags "not designed for prolonged use".
7. However, the majority of the delegates preferred the Secretariat's proposal. Some delegates felt that shopping bags might be composed of reinforced plastics. Other delegates felt that the term "repetitive" was open to interpretation.
8. Finally, the Sub-Committee agreed to put the two texts in square brackets and to submit them to the HSC for a final decision.
9. The texts approved and those placed in square brackets are set out in Annex D/8 to this Report.

x

x x

1	2	3
NR0023E1 NR0037E1	Possible amendments to heading 90.09.	<u>See Annex D/26.</u>

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

1. The Sub-Committee examined a new proposal from Brazil which eliminated the reference to “digital system” at the heading level in the original Brazilian proposal and therefore limited the proposal to four breakouts at sub-heading level. The Sub-Committee also took note of the trade figures on multifunctional photo-copiers given by Brazil. The total world trade in photo-copiers for 1997 was US\$ 18 billion, of which multifunctional photo-copiers represented 40 %.
2. Given the time limit to take this question on board during the current review cycle, the Sub-Committee agreed to place the new Brazilian proposal in square brackets and to submit it to the Harmonized System Committee for consideration and to leave, if necessary, the classification issue of the goods in question to the HSC. The Sub-Committee agreed with an EC proposal that it would be necessary to introduce a legal Note to Chapter 90 to enable these types of machines to be classified in that Chapter. The Sub-Committee also favoured the elimination of the distinction between monochromatic and polychromatic apparatus and consequently to group these machines in two subheadings instead of four.
3. Some delegations expressed, however, concerns over the practice of submitting the text of legal amendments to the HSC before the classification issue was resolved by that body, and observed that it could only be accepted as an exception.
4. The Brazilian Administration was requested to submit a draft legal Note to Chapter 90 and to indicate the source of the technical information which was the subject of Doc. NROO37E1 in order to help the Secretariat verify that information from different sources.
5. The text of the new Brazilian proposal, as modified, is set out in square brackets in Annex D/26 to this Report.

x

x x

1	2	3
NR0024E1 NR0035E1	Amendment to the HS in order to group all bitter limes in the same subheading.	<u>See Annex D/14.</u>

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

1. A number of views were expressed by delegations with regard to the proposal to group all bitter limes in subheading 0805.50.
2. Several delegates stated that Latin names (scientific names) should not be used as there was no agreement in the scientific community that there existed a species *latifolia* that covers limes. Furthermore, some delegates felt that using scientific names was confusing and had been the source of classification differences. Instead, the use of the expression "acid limes" or "bitter limes" was suggested.
3. Another view expressed was that the Latin names *Citrus aurantifolia* and *Citrus latifolia* should be used in the subheading text. In this connection, a question was raised as to whether acid or bitter limes bearing Latin names other than *Citrus aurantifolia* or *Citrus latifolia* existed. It was also pointed out that "acid" or "bitter" taste was rather subjective and would not constitute objective criteria.
4. There was no support to simply refer to "limes" in the subheading since this reference would cover both acid or bitter limes and sweet limes.
5. The Sub-Committee finally agreed to put the three options, "acid limes", "bitter limes" and "limes (*Citrus aurantifolia*, *Citrus latifolia*)", in square brackets and to submit them to the Harmonized System Committee for a final decision.
6. The texts placed in square brackets are set out in Annex D/14 to this Report.

x
x x

1	2	3
NR0025E1	Amendments to Note 3 (a) to Chapter 85 and to the text of subheading 8509.10.	<u>See Annex D/10.</u>

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

1. At the suggestion of three delegates, the Sub-Committee decided in favour of the second option put forward by the Secretariat, namely "Vacuum cleaners, including dry and wet vacuum cleaners".
2. It also agreed that these amendments were intended solely to clarify the texts and to align the English and French versions; they did not alter the scope of these legal provisions. Consequently, the amendments did not entail the transfer to subheading 8509.10 of cleaning appliances for sucking up water only.
3. The texts approved are set out in Annex D/10 to this Report.

x x
x x

ANNEX B

NEW QUESTIONS

Working Doc.	Subject	Nomenclature amendments	E.N. amendments
1	2	3	4
NR0026E1	Possible amendment to the Nomenclature to delete references to "heading No." and "subheading No." in the English text and to substitute "heading" or "subheading" as appropriate.	<u>See Annex D/9.</u>	<u>See Annex D/9.</u>

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

1. The Sub-Committee unanimously accepted the Secretariat's proposal and approved the draft amendments to the Nomenclature and the Explanatory Notes proposed in the Annex to Doc. NR0026E1.
2. The texts approved are set out in Annex D/9 to this Report.

x

x

x

1	2	3	4
NR0029E1	Proposal by the EC for the simplification of heading 85.42.	<u>See Annex D/15.</u>	<u>See Annex D/15.</u>

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

1. Several delegates agreed that the EC's proposal concerning subheading 8542.10 would lead to an expansion of the scope of "smart cards" to include not only "smart cards" incorporating a monolithic digital integrated circuit but also those which incorporated a hybrid integrated circuit, an electronic microassembly or analogue circuitry.
2. One delegate, preferring the Secretariat's proposal, expressed doubt whether it was possible that a "smart card" could incorporate a hybrid integrated circuit or an electronic microassembly. As it was indicated by the EC Delegate that, according to information from the European Electronic Component Manufacturers Association, "smart cards" could incorporate any electronic integrated circuit, the Sub-Committee, after a brief discussion, agreed to adopt the EC proposal. However, delegates requested that the Explanatory Notes be amended so as to reflect the fact that there are some "smart cards" that are still classified in other headings (e.g., 85.43). They also requested that the Explanatory Notes to headings 85.42 and 85.43 be amended to identify the different types of "smart cards" on the market.
3. The Sub-Committee instructed the Secretariat to study the implications this change in scope for "smart cards" would have on the legal Notes and to report its findings to the HSC.
4. Finally, the Secretariat took into account the need for renumbering of the subheadings, as well as the deletion of the term "monolithic integrated circuits" in subheadings 8542.21 and 8542.29 in the EC proposal.
5. The texts approved are set out in Annex D/15 to this Report.

x
x x

1	2	3
NR0030E1	Alignment of the French version of heading 58.01 on the English version.	<u>See Annex D/17.</u>

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

1. The Sub-Committee agreed that it would be useful to align the French version of heading 58.01 on the corresponding English version as a legal safeguard and to ensure uniform application of the texts.
2. Regarding the amendment to be made to the French version, it was decided not to retain the Secretariat's alternative which involved adding, over and above the reference to heading 58.02, a reference to "tissus bouclés" since it did not seem necessary as it could not be established whether such fabrics actually existed.
3. The texts approved are set out in Annex D/17 to this Report.

x x
x x

1	2
NR0031E1	Proposal by China for creating a new heading in Chapter 85 to provide for Internet delivered software.

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

1. The Sub-Committee began its discussion by noting that this question had been submitted late. Nevertheless, it held a brief exchange of views aimed at identifying the aspects of electronic commerce relevant to international trade.
2. The Sub-Committee finally agreed that (1) this was a very complex issue; and (2) noted that the question was the subject of ongoing discussions at the WTO and other international organizations.
3. It therefore felt that any study at this time would be premature.
4. However, the Chairman thanked the Chinese Administration for having taken the initiative to submit this matter to the Review Sub-Committee, in view of its importance for several areas of work.
5. The Sub-Committee therefore decided to leave it for the Harmonized System Committee to determine what action to take in respect of this matter.

x
x x

1	2	3	4
NR0043E1	Proposal by the EC for the simplification of heading 70.10.	<u>See Annex D/19.</u>	<u>See Annex D/19.</u>

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

1. Given the late submission of the EC's proposal to simplify the structured Nomenclature of heading 70.10, the Sub-Committee agreed to leave administrations enough time to consult industrial circles in their respective countries.
2. Nevertheless, the Sub-Committee decided to place the draft text in square brackets and to submit it to the Harmonized System Committee.
3. The texts placed in square brackets are set out in Annex D/19 to this Report.

x

x x

ANNEX C

OTHER QUESTIONS

Working Doc.	Subject	Nomenclature amendments	E.N. amendments
1	2	3	4
NR0027E1	Harmonized System Review on the basis of trade statistics.	<u>See Annex D/11.</u>	

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

1. The delegates of administrations which had asked for certain codes to be retained (indicated in column 2 of Annexes I and II to Doc. NR0027E1 – except for Australia which was not represented) stated that their respective administrations agreed to withdraw their objection to the deletion of the relevant codes.

Annex I to Doc. NR0027E1

2. The Sub-Committee agreed to delete the heading and subheadings whose codes were listed in Annex I to the above document, except for the following subheadings :
 - 1102.10 and 1209.26 : Given that during the meeting two delegates asked for these codes to be retained;
 - 5210.22 and 5210.52 : To keep a uniform structure in the headings of the textile sector;
 - 8606.20 : Given that these articles were a completely separate category of wagon and that deletion of this code could create a classification problem.
3. It was also agreed, for subheading 7415.31, to opt for the alternative of regrouping all screws in one subheading with the wording "7415.33 -- Screws; bolts and nuts".

Annex II to Doc. NR0027E1

4. After discussion, the Sub-Committee decided to delete the codes which the Secretariat had envisaged deleting (indicated by "**RSC**" in column 3 of Annex II to Doc. NR0027E1), except the following codes :

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- 1106.10 and 1106.20 : Following the increase in the volume of trade and the fact that the products covered by these subheadings were the subject of international agreements;
 - 1108.20 : Given the heading's text and the structure (different types of product);
 - 2302.50 : The volume of trade was greater than the threshold criterion for 1996 (figures confirmed by the UNSD);
 - 2826.20, 3001.10 and 7415.21 : Given the ever-increasing trade;
 - 4301.90 : Given the nature of the products, which belonged to a specific branch of the fur industry;
 - 6812.50 and 6812.60 : Two Contracting Parties had requested that these subheadings be retained (though the Sub-Committee approved the deletion of subheadings 6812.10 to 6812.40);
 - 7110.49 : To maintain a uniform structure in heading 71.10.
5. The codes that the Secretariat had proposed retaining should also be retained (indicated by "**RETAIN**" in column 3 of Annex II to Doc. NR0027E1), for the reasons given by the Secretariat, except for subheading 2805.22 for which the administration concerned had withdrawn its request.
6. The Sub-Committee then approved the list of amendments to be made to HS Nomenclature following its conclusions on possible deletions, as summarized above.
7. The texts approved are reproduced at Annex D/11 to this Report.

x
x x

1	2	3
NR0028E1	Possible separate identification of artisanal products : Request from the ITC.	<u>See Annex D/25.</u>

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

1. Thanking the Review Sub-Committee and the WCO Secretariat for their efforts to find a satisfactory response to the ITC request for the separate identification of artisanal products in the HS, the Observer for the ITC indicated that the ITC had recently received further information from the Secretariats of the Latin American Integration Association (ALADI) and the ASEAN Handicraft Promotion and Development Association, as well as some other countries in support of this request. She explained that ALADI had already started to study the possibility of providing separate status by identifying artisanal products in the Customs tariffs of its Member States in an effort to establish an interregional free trade agreement for artisanal products. She also noted that the ITC's contact with some private bodies dealing with certification issues, towards the establishment of a possible international certification scheme, proved to be positive.
2. The Sub-Committee recognized the importance of the ITC proposal, noting that it was in fact beneficial to the economies of not only developing countries but also developed countries.

Proposed HS breakouts

3. Regarding the breakouts proposed by the ITC, the Sub-Committee did not find the amount of added detail to be excessively burdensome. However, acceptance of the proposed breakouts was contingent upon development of internationally acceptable solutions to the following questions :
 - (a) the definition of "hand-made" products for HS purposes;
 - (b) criteria for distinguishing such products from their "machine-made" counterparts; and
 - (c) establishment of a certification scheme.
4. Therefore, the Sub-Committee agreed that the draft nomenclature amendments in Annex II to the working document (Doc. NR0028E1) should be placed in square brackets and be submitted to the Harmonized System Committee for a final decision subject to the following considerations. Administrations were requested to submit to the Secretariat their comments in respect of the sufficiency and technical appropriateness of the breakouts during the intersession.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Definition of "hand-made" products

5. In respect of the definition of "hand-made" products for HS purposes, it was noted that the text drafted by the Secretariat in paragraph 49 of the working document for insertion in the General Explanatory Notes to each of the relevant Sections or Chapters was perhaps the best definition possible on the basis of the information available so far, but many elements of that definition (e.g., "tools" permitted to be used, "sophisticated" machines, "moulding", "traditional or aboriginal" techniques, etc.) were in need of further clarification.
6. It was therefore agreed that the definition should be submitted to the Harmonized System Committee in square brackets so as to allow administrations to study it carefully and submit further comments and proposals to the Secretariat.

Product-specific criteria

7. The Sub-Committee noted that the question of finding technical product-specific criteria for distinguishing "hand-made" products from "machine-made" products had not yet been solved.

Certification

8. It was also pointed out that any step towards the separate identification of "hand-made" products for Customs purposes had to be supported by a certification scheme. However, it was not yet clear enough whether such a certification scheme should be left to the discretion of individual administrations or be based on an internationally accepted procedure.

Possible WCO Recommendation

9. Finally, there was considerable support in respect of the Secretariat proposal for drafting a WCO Recommendation inviting Members to structure their national tariff/statistical nomenclatures so that they could establish separate subdivisions for "hand-made" products, since such a recommendation had several advantages :
 - (a) It could be implemented before the entry into force of the next HS amendments;
 - (b) it might be made broad enough to cover not only the products covered by the break-outs drafted (in Annex II to Doc. NR0028E1) but also other hand-made products covered by the original ITC proposal;
 - (c) it might provide justification to the administrations which had already provided national subheadings for "hand-made" products in their Customs tariff/statistical nomenclatures; and

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- (d) it might be a sound first step for collecting data on "hand-made" products before taking any further action in respect of their separate identification in the HS in the next review cycle.
10. It was also pointed out that the definition of "hand-made" products and the certification procedure concerning such products could be made part of such a WCO Recommendation or might be dealt with separately.
11. The texts referred to in paragraph 4 above (amendments to the Nomenclature) are set out, in square brackets, in Annex D/25 to this Report.
12. The text referred to in paragraph 6 above (definition of "hand-made" products to be inserted in the General Explanatory Notes to the Sections or Chapters involved) is reproduced below :

["Hand-made" products of this [Section] [Chapter] are produced by craftsmen either entirely by hand or by using tools held in the hand or by machines powered by hand or foot or any combination thereof, but not by sophisticated machines or by moulding. Such products have forms or decorations that are traditionally used by the indigenous people of the country of manufacture and may be utilitarian, but obtain their essential characteristics from their artistic, cultural or religious features. They have general distinguishing features such as an irregular, imperfect or non-uniform appearance in terms of size, dimension, shape, pattern, texture, thickness, motif, colour, shade, etc., as compared to their "machine-made" counterparts, and may reveal certain traditional or aboriginal techniques of manufacture on visual examination. Hand-made products are normally accompanied by documentary evidence regarding their hand-made nature, certified by competent authorities of the exporting country.]

x
x x

Annex C/2 to Doc. NR0045E2
(RSC/19/March 99)

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)