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REVIEW SUB-COMMITTEE

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O. Eng.

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COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES

TO HEADINGS 85.10 TO 85.22

(Item III.C.15 on Agenda)

I. BACKGROUND

1. At its 23rd Session (March 2001), the Review Sub-Committee discussed the issue of the comprehensive review of the HS Explanatory Notes, taking into account the points raised by the Secretariat in Doc. NR0150E1, in particular the scope of the updating of the existing Explanatory Notes, by :
 - Deleting references to obsolete products and technology,
 - Substituting references to current products and technology,
 - Restructuring the Notes to make them easier to understand, and
 - Supplementing the Notes to make them more complete.
2. In accordance with these discussions, amendments to the Explanatory Notes to heading 85.01 to 85.09 have been prepared as a joint proposal from the Secretariat and an officer of the **Australian** Administration.
3. The **Australian** "Explanatory Memorandum" and the Secretariat's own proposals (in bold) are reproduced below.

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II. SECRETARIAT COMMENTS

4. The proposed amendments are set out in the Annex to this document. In this context, the Secretariat would like to clarify that only those parts of the Explanatory Notes (Ens) have been reproduced which are effected by the amendments. Proposed deletions are indicated by “~~strikethrough~~” text, whereas new texts are indicated by underlining. Throughout the recommended amendments to ENs when a new numbered or lettered paragraph was added the remaining paragraphs in the sequence were consequently renumbered or re-lettered.

Heading 85.10

5. No changes are recommended.

Heading 85.11

6. Item (E), “Ignition coils”, was amended to include an explanation of distributor-less ignition systems. The explanation was drawn from the following publications :

McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000;
Gasoline-Engine Management, 1st Edition, Bosch;
Modern Automotive Technology, James E. Duffy.

7. The following were added to the exclusions at the end of the EN :
- new exclusion (d) “Engine immobilisers”. These apparatus function as a switch to prevent the engine from being started. They would be classified in heading 85.36 vide Section XVI Note 2(a);
 - new exclusion (e) “Electronic ignition control modules”. These automatically regulate the ignition operations of an engine and are classified in heading 90.32. They are excluded from Section XVI by Note 1(m) and comply with Chapter 90 Note 6. The reference source was an Australian classification ruling.
8. No other changes are recommended. Advice from industry was that the current EN is satisfactory.

Heading 85.12

9. The order of the examples commencing at item (1) was amended to align with the subheading hierarchy.
10. New item (9) (present item (10)) was amended by the addition of “(of the revolving dome type or the ‘lightbar’ type)” to provide a specific example of the type of “indicators” covered by the Note.
11. New item (11) was added based on Classification Opinion 8512.30/1.

12. New item (12) was added as anti-theft alarms for motor vehicles, which emit visual or audio signals when tripped, are classified in heading 85.12. The ENs, at former items (9) and (13), respectively mention “Other electrical visual signalling apparatus, ...” and “Horns, sirens and other electrical sound signalling appliances.” The visual or audio signals that these anti-theft alarms emit qualify them as substantially similar to the signalling equipment mentioned at former items (9) and (13). The anti-theft alarms are electrical signalling equipment of a kind used for motor vehicles. Heading 85.31 may be considered a viable classification option but the terms of that heading exclude signalling apparatus of heading 85.12. Classification is in heading 85.12 by application of General Interpretative Rule (GIR) 1. The reference source that provided guidance was **United States Ruling HQ 964661**.
13. New item (13) (present item (11)) was amended by the addition of “(including reversing alarms ...)”. These are electrical sound signalling appliances that are similar to horns and sirens and are classified in heading 85.12 by application of GIR 1. The reference source was an **Australian** classification ruling.
14. New item (14) was added as another example of an electrical sound signalling apparatus classified in heading 85.12. These signal to the driver of a motor vehicle, by sound, the proximity of vehicles or other objects when the driver is reversing the vehicle. Classification is by application of GIR 1. The reference source was an **Australian** classification ruling.
15. “Air conditioning machinery ...” was added to the exclusions at the end of the EN, as such apparatus would be classified in heading 84.15 vide Section XVI Note 2(a). It was added because a person attempting to classify air conditioning machinery for a motor vehicle may consider “defrosters and demisters” to be a viable option.
16. No other changes are recommended. Advice from industry was that the current EN is satisfactory.

Heading 85.13

17. Two sentences at the end of the second paragraph were added as an indication of the types of light sources which typically comprise a portable electric lamp and to direct that such light sources presented separately are classified in their respective headings. The reference to LEDs was included after portable electric lamps using LEDs as light sources were found to be traded on the Internet at www.theledlight.com.
18. The word “inspection” and the term “and the like” were deleted from the last sentence of the third paragraph merely to broaden the exclusion to all lamps that are connected to a fixed installation.
19. New item (3) was added by deleting “pens” from present item (6). These lamps in the shape of pens are quite commonly used and warrant separate mention in the list of examples. It was also considered that they were not a “fancy torch” per se, but a lamp with a compact, functional housing. The reason that they were included at new item (3) was because of the commonality of their use compared with the other examples.

20. Present item (6) was amended to new item (7) and the reference to “pens” deleted for the reasons mentioned in the preceding paragraph. A reference to “lipsticks” was included as an indicative example of a fancy torch. Although they have the shape and appearance of a lipstick container their only function is that of a torch. Classification is by application of GIR 1. The reference source was an **Australian** classification ruling. The addition of “radio” in the following sentence was made for the same reasons.
21. New item (8) was added as a further example of the type of lamp that would be classified to the heading. They are portable, lightweight and have a self-contained source of electricity. These goods are designed to be clipped onto a book that is held in the hand for reading, rather than to be carried in the hand or on the person. Classification is by application of GIR 1. These types of lamps were found to be traded on the Internet at www.lampsplus.com.
22. New item (9) was added as ultraviolet hand lamps would be classified to this heading. The terms of the heading are not limited to those lamps that project visible light, therefore those which project radiation within the ultraviolet region of the electromagnetic spectrum can be classified here by application of GIR 1. These types of lamps were found to be traded on the Internet at www.rockpeddler.com and www.theledlight.com. Other information relating to the uses of ultraviolet lamps was taken from the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
23. Portable infra-red lamps may also fall within the heading but were not included in the recommended amendments as such an article could not be specifically identified from research sources and classification of a hypothetical article was not attempted. Other heading considerations for infra-red lamps would be 84.19, 85.16 and possibly 90.18, depending on the relevance of Chapter 90 Note 1(h).
24. The exclusion at the end of the EN was amended by the addition of “laser pointers”. The previous sentence was changed to two subparagraphs (a) and (b). Laser pointers were excluded based on Classification Opinion 9013.20/1.

Heading 85.14

25. The order of items (A), (B), (C), etc., under part (I) were rearranged to reflect the subheading hierarchy.
26. Item (A) was amended by the addition of a new sentence that clarifies the way in which these furnaces operate. This amendment was made on the advice of industry.
27. New item (B), (present item (E)), was slightly amended by the addition of “where the material to be heated serves as the resistor.” This amendment was made for clarification purposes, also on the advice of industry.
28. New item (D) was added to provide another example of a liquid resistance furnace. These are electric furnaces in which heat is achieved by resistance and are classified in heading 85.14 by application of GIR 1. Reference sources were an **Australian** classification ruling for components of these furnaces, McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000 and Encyclopaedia Britannica, 1999.

29. New item (G) (present item (D)) was amended by the addition of “firing ceramics” at the end of the paragraph as a further example of the type of uses for those ovens. This amendment was made on the advice of industry.
30. The paragraph after new item (IJ) (present item (H)) was amended on the advice of industry.
31. New items (5) and (6) were added to expand on the existing examples. They are examples of electric furnaces designed for specific purposes and are classified in heading 85.14 by application of GIR 1. The reference sources were Australian classification rulings.

Heading 85.15

32. The first sentence under part (I) was amended by the addition of “, whether portable or fixed.” for clarification purposes.
33. The second paragraph under item (A) was amended to expand on the existing explanation and to provide a distinguishing explanation between brazing and soldering. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
34. The first paragraph under item (B) was amended to provide more specific explanation of the operation of resistance welding apparatus. The reference source was also the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
35. The exclusions immediately before part (II) were amended by the addition of “fusing presses”. These apparatus, which weld plastic motifs to textiles, are excluded as they are specifically mentioned in the terms of heading 84.51.

Heading 85.16

36. The last paragraph of item (5), under part (A), was amended by the addition of “solar water heaters ...” as an exclusion to heading 84.19. Solar water heaters are mentioned in the 1996 ENs as being included in heading 84.19.
37. Under part (E), items (1), (2), etc., follow the subheading hierarchy, however within this hierarchy the order was rearranged to show examples under common purpose groups, e.g., appliances which would normally be used in the kitchen are grouped together at new items (6) to (14).
38. Examples have been added at new items (6) and (16) to expand on the examples indicative of appliances that fall in the heading because they are commonly traded. They are appliances which supply heat, sourced from electricity, and are designed for specific domestic purposes. In the case of the facial sauna at new item (16), water is vaporised, and it is the vapour that penetrates the skin to remove impurities. The facial sauna is classified as an electro-thermic domestic appliance of heading 85.16 rather than a massage apparatus of heading 90.19 as the water is vaporised; the sauna does not massage the skin. Classification is by application of GIR 1. The reference sources were Australian classification rulings.

39. The paragraph under PARTS has been amended by the addition of various examples, e.g., “grills for space heaters”. These are articles that are designed for use solely as parts for the goods for which they are intended and are classified in heading 85.16 by application of GIR 1 and Section XVI Note 2(b). The reference sources were Australian classification rulings.

Heading 85.17

40. The opening paragraph was amended in an attempt to clarify the definitional explanation of “electrical apparatus for line telephony or line telegraphy” which is the primary test that apparatus must pass to meet the terms of the heading. Much of the former opening paragraph has been retained but expanded upon, based on information from industry of changing technology. An example of this is the reasons given in a 1998 decision handed down by the Federal Court of Australia, *Cray Communications Limited v Collector of Customs*, Judgement No. 122/98, on appeal from the Administrative Appeals Tribunal. The goods in question were multi-function access and backbone switches.
41. Telegraphy essentially means, as the Tribunal found, a message transmitted by electricity. More formally, according to the evidence, it is a field of technology that transmits codes which may represent character-based, graphic or image-based information across a communications medium. (The machines in question can transmit codes across the communications medium constituting a telephonic network).
42. In the reasons for the decision the term “communications medium” was mentioned but as the terms of the heading require that telecommunication be by line, the term “line communications medium” was used for the definitional explanation. The definition of “line communications medium” used was an attempt to cover the concept of multi-mode line communications networks rather than the simpler former definition, which seems outdated.
43. The amended definitional explanation is also an attempt to distinguish between “telephony” and “telegraphy” and is sourced from the above-mentioned Federal Court decision and from the Illustrated Dictionary of Electronics, Seventh Edition, edited by Stan Gibilisco, McGraw-Hill Companies Inc., 1997. The following definitions from that publication are relevant :
- telephony** The branch of electrical communications dealing with the transmission and reception of sounds – especially over wires.
- telegraphy** The branch of electrical communications that deals with the transmission and reception of messages by means of prearranged codes – especially over wires.
44. The final sentence of the amended opening paragraph was included to clarify that transmission can be by analogue or digital means. The comments made at the start of this memorandum regarding the inclusion in the General Explanatory Note to Section XVI of an explanation of “analogue” and “digital” are relevant.
45. The next paragraph was amended by the addition of “or for digital line systems” merely to align the paragraph with the terms of the heading.

46. The former groupings (I) **TELEPHONIC APPARATUS**, which included switching apparatus, (II) **TELEGRAPHIC APPARATUS**, which did not include any switching apparatus, and (III) **APPARATUS FOR CARRIER-CURRENT OR FOR DIGITAL LINE SYSTEMS** have been amended to align with the subheading hierarchy, given that there is no clear delineation in the terms of the heading, particularly for switching apparatus.
47. The amended groupings are (I) **TELEPHONIC APPARATUS**, which does not include switching apparatus, (II) **TELEGRAPHIC APPARATUS**, (III) **TELEPHONIC OR TELEGRAPHIC SWITCHING APPARATUS**, (IV) **APPARATUS FOR CARRIER-CURRENT OR FOR DIGITAL LINE SYSTEMS**.
48. Under new part (I) (A), item (2) the description has been amended to include combined transmitters and receivers in the form of a “combined headphone and microphone, designed to be worn on the user’s head.”.
49. New item (3) was added to expand on the description of a telephone set. The source of this information was the Modern Dictionary Electronics, Sixth Edition, Rudolf F Graf, 1990.
50. New item (4) amended present item (3) by changing “bell or buzzer” to the broader term “ringer” and provides a brief description of their operation. Call warning devices in telephone sets can also incorporate lights or lamps so these were also included.
51. New item (5) amended former item (4) by including the common term “switchhook” and by providing a brief description of its function.
52. New item (6) amended former item (5) by updating the description of the dialling selector.
53. The former paragraph commencing with “Other devices occasionally fitted...” was deleted and replaced by a new paragraph commencing with “Telephone sets may incorporate or have fitted...”. The new paragraph substantially expands on the previous paragraph to reflect some of the features commonly found in many telephones that are currently commercially produced.
54. The paragraph commencing with “Telephones may be mounted ...” was amended by moving the reference to “videophones” to a new paragraph by itself, under part (I)(C) “Videophones”. A reference to “magnetic card operated”, as well as the existing coin-operated public telephones was added as these are quite common.
55. The following paragraph was deleted as it is covered by the new paragraph commencing with “Telephone sets may incorporate or have fitted ...” mentioned above.
56. The new paragraph commencing with “The heading covers all kinds of telephone sets including :” was added to provide two examples of the types of cordless telephone sets (at new item (i)) and another type of telephone (at item (ii)) which would be classified to the heading. These are cordless telephones that are presented with their base units, which are connected by line to the telephone network. They are classified in heading 85.17, as electrical apparatus for line telephony by application of GIR 1. The reference sources for the first example at item (i) and the example at item (ii) are

Australian classification rulings. The reference source for the second example at (i) was an article in Electronics Australia Magazine, March 2000 edition.

57. As previously mentioned, the present items (B) “**Non-automatic switchboards and exchanges.**” and (C) “**Automatic switchboards and exchanges.**” have been moved to new part (III) **TELEPHONIC OR TELEGRAPHIC SWITCHING APPARATUS** and amended. They will be discussed later.
58. New paragraph (C) “**Videophones**” has previously been discussed.
59. The opening paragraph to part (II) **TELEGRAPHIC APPARATUS** has been changed to reflect the amended definitional explanation at the start of the EN to the heading.
60. Under part (II), former item (A)(1) has been deleted. Advice from industry was that Morse type keys are obsolete and that Morse code for telegraphic purposes is no longer used.
61. New item (1), (present item (2)), was amended by adding the term “(teletypewriter transmitters)” to clarify the existing explanation. The reference source here was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000. The terms “letter, figure or other sign” were simplified by amending them to “character”.
62. No information on the obsolescence or otherwise of “Breguet, Hughes, Baudot, etc., transmitters” could be obtained, so any recommendation as to the relevance of these articles to the heading has not been made.
63. Former items (B) (1) and (2) have been deleted for the same reasons as former item (A)(1) discussed above.
64. New item (B) (2) has been amended to provide an expanded explanation of these apparatus. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
65. No information on the obsolescence or otherwise of item (C) “Picture telegraphic apparatus” and item (D) “Special ‘telecomposing’ apparatus” could be obtained, so any recommendation as to the relevance of these articles to the heading has not been made.
66. The first paragraph of new item (E) was amended by the addition of the commonly known abbreviation of “fax” for facsimile machines. A new paragraph was added after this paragraph to include digital fax machines and to explain their operation. The reference source was the Encyclopaedia Britannica, 1999.
67. A new paragraph was added which excludes digital multifunction machines connected to a telephone line and a computer and which perform a number of functions to Chapter 84 (either heading 84.71 or 84.72). This is consistent with the same machines being excluded from heading 90.09.

68. New part (III) **TELEPHONIC OR TELEGRAPHIC SWITCHING APPARATUS** was created separately to align with the subheadings, as previously discussed, but also because current switching apparatus perform telephonic and telegraphic switching, with no distinction between the switching functions.
69. New item (A) “**Automatic switchboards and exchanges**” was placed first because they are the most prevalent, e.g., private branch exchanges (PBX). The switching operations nowadays are performed electronically with a heavy reliance on microprocessors and integrated circuits and the like. The devices mentioned in the new paragraph are those that typically comprise automatic switchboards and exchanges. Reference sources were the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000 and the Encyclopaedia Britannica, 1999.
70. The next two paragraphs in the EN, which relate to “selectors” in automatic switchboards and exchanges remain unchanged from the former EN. No information was able to be obtained as to whether these paragraphs warrant remaining in the EN, particularly whether they represent obsolete technology.
71. The new penultimate paragraph of item (A) was added merely to provide some information on the type of ancillary features that are commonly incorporated in automatic switchboards and exchanges.
72. The new final paragraph of item (A) was added to explain that automatic switchboards and exchanges form part of the public network or are PBXs, and that although automatic, some operator intervention may occur.
73. New item (B) “**Non-automatic switchboards and exchanges**” was amended from the previous part (I)(B) and considerably shortened, because the technology is obsolete. Although not deleted from the EN it is questionable whether these apparatus are still traded in significant quantities. If they are found not to be traded it is recommended that this paragraph be deleted from the EN.
74. New item (C) “**Least cost routers**” was added as an example of another switching apparatus that falls to the heading. These apparatus select and divert telephonic communications to the appropriate network. They are identified as telephonic switching apparatus and classified in heading 85.17 by application of GIR 1. The reference source was an **Australian** classification ruling.
75. New Part (IV) “**APPARATUS FOR CARRIER-CURRENT LINE SYSTEMS OR FOR DIGITAL LINE SYSTEMS**”. The opening paragraph was amended by changing the types of information to accord with the definitional explanation at the first paragraph of the EN.
76. The next paragraph was deleted and the articles mentioned were included in new items (A) and (B).
77. New items (C) to (F) were added to expand on the examples of the apparatus that fall in the heading. The reference sources were **Australian** classification rulings.

78. Caller number display units are connected to a telephone set. Their function is to display the telephone number of an incoming call. They are classified in heading 85.17, as electrical apparatus for line telephony by application of GIR 1. They are connected to the network via the telephone set in order to perform their intended function. They are classified in subheading 8517.50, as other apparatus for carrier-current line systems or for digital line systems by application of GIR 6.
79. Codecs are devices that have a function that is somewhat similar to modems, which are already included in the EN. Codecs compress digital signals (data), transmit the compressed data and receive and decompress the data. Data is compressed to achieve improved transmission efficiency. Similarly modems convert digital signals to analogue signals, transmit the analogue signals, and receive and revert the analogue signals to digital signals. Broadly speaking the functions of a codec and a modem could be described as the manipulation and transmission/reception of digital signals. As modems are classified in heading 85.17 as apparatus for carrier-current line systems, it is logical that codecs are also classified to the heading, as apparatus for digital line systems by application of GIR 1.
80. Pulse to tone converters are devices which convert the electric pulses generated by a pulse dial telephone to the equivalent audible tones generated by a tone dial telephone. The purpose of these devices is to allow pulse dial telephone users access to telecommunication facilities, which are only receptive to tones. They are apparatus for carrier-current line systems and are classified in heading 85.17 by application of GIR 1.
81. The devices mentioned at item (F) are a composite communications device, which is a combination telephone and internet terminal. It was considered that these devices fell in subheading 8517.50 as they are identified as an article that is more than a telephone set, rather they are a communications device which incorporates a telephone set. A principal function could not be identified as the telephone function and the internet or e-mail function are of equal importance, therefore Note 3 to Section XVI could not be applied. As the device is not a telephone set it doesn't fall in subheading 8517.19 but falls in subheading 8517.50 by application of GIR 1.
82. The exclusions which follow PARTS were amended by the addition of new exclusion (h) "Data encryption devices...", as the devices mentioned are not designed for the transmission of data, they are designed to encrypt data so that it cannot be understood if intercepted. These devices are excluded from heading 84.71 by Chapter 84 Note 5(E). As no other heading describes their function they are classified in heading 85.43 by application of GIR 1. This is based on an **Australian** classification ruling.

Heading 85.18

83. Item (2) of part (A) **MICROPHONES AND STANDS THEREFOR** was amended by adding an example of the use to which piezo-electric microphones are put. This was included after advice from a technical education institution.
84. "Dynamic microphones" was added to item (3), as this is an alternative name for moving coil microphones. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.

85. The inclusion of “condenser” in item (4) was made for the same reasons as those mentioned in the preceding paragraph. The remaining amendments were made for clarification purposes. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.

86. The last paragraph before part (B) was amended on the advice of a technical education institution. Further details about the digital microphone are contained on a brochure relating to the **Beyerdynamic MCD 100 Digital Condenser Microphone**. The brochure is available from the **Australian Administration**.

(B) LOUDSPEAKERS, WHETHER OR NOT MOUNTED IN THEIR ENCLOSURES was amended as follows.

87. The phrase “from an amplifier” was added to the opening paragraph for clarification purposes.

88. The amendments to item (3) were made because “condenser-type loudspeakers” is an alternate name used for these loudspeakers. The addition of “(or electrodes)” was made for clarification purposes. The reference source for these amendments was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.

89. The amendments to the paragraph after item (3) were made on advice from a technical education institution.

90. The addition of a paragraph before part (C) was to direct that loudspeakers for a computer, when presented separately, remain in this heading. Such loudspeakers may be considered an accessory for a computer and heading 84.73 would be a viable option. These types of loudspeakers are classified in heading 85.18 by application of GIR 3(a). The reference source was an **Australian** classification ruling.

91. **(C) HEADPHONES AND EARPHONES, etc.**, was amended by the addition of “or computers” to the end of the second paragraph. This was added as headphones and earphones are now commonly used with computers.

(D) AUDIO-FREQUENCY ELECTRIC AMPLIFIERS was amended as follows :

92. The second paragraph was amended by the addition of “a laser optical disc reader” because this is also a common source of audio-frequency electric signals.

93. The last paragraph was amended by directing that “audio mixers and equalizers” are classified in heading 85.43 as these devices are not audio-frequency amplifiers, they are devices which manipulate signals or frequency responses by blending or modifying. Mixers are mentioned in the 1996 ENs as falling in heading 85.43.

94. **(E) ELECTRIC SOUND AMPLIFIER SETS** was subjected to only minor amendments simply to improve the way it reads.

95. The exclusions at the end of the EN were amended by the addition of “and cordless headphones” to item (c). As cordless microphones are excluded it follows that cordless headphones which operate in the same way should also be excluded.

Heading 85.19

96. Many of the apparatus mentioned in the terms of the heading are declining in trading prevalence, namely turntables, record players and to a lesser degree, cassette players. Conversely laser optical disc players and MP3 players are increasing in trading volume. Classification of MP3 players is a matter currently under consideration by the HS Committee. Given the rapid advances in sound recording and reproduction technology it is recommended that the terms of the heading be changed to "SOUND REPRODUCING APPARATUS, NOT INCORPORATING A SOUND RECORDING DEVICE".
97. The third paragraph of the ENs was deleted because it is old technology and doesn't apply in particular to laser optical disc players, which are currently the most widely traded sound reproducer. It will also not apply to MP3 players.
98. Items (1), (2) and (3) were not changed because they remain in the terms of the heading.
99. New item (4) was added to expand on the explanation of the operation of laser optical disc players. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000. The former last paragraph **before PARTS AND ACCESSORIES** was deleted.
100. The second paragraph of item (4) was added to explain that small portable players presented with headphones or the like and coin-operated "jukeboxes" are included in the heading. These apparatus are quite commonly traded.
101. New item (7) was added as another example of a sound reproducing apparatus that would fall to the heading. These are devices that reproduce the sound, which has been recorded on the integrated circuit, and are classified in heading 85.19 by application of GIR 1. The reference source was an Australian classification ruling.
102. Exclusion (b) after **PARTS AND ACCESSORIES** was amended merely to broaden the exclusion from just telephone answering machines. These answering machines remain as an example. The Secretariat would draw the Sub-Committee's attention to the fact that in the present French text, this exclusion contains a reference to "sound reproducing", which is not found in the English text.

Heading 85.20

103. A new sentence relating to digital recording was added to the second paragraph of the EN. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000. Digital recording, regardless of the recording medium, involves either :

the conversion of an analogue signal which represents a sound-wave to a digital signal;
or

a digital signal which is produced directly by an instrument e.g. certain electronic keyboards. Once connected to an appropriate recording device or even a computer, the output from such instruments can be recorded directly as a digital signal. Sound is

produced from the instrument because the digital signal output is converted to an analogue signal, which can then be heard by the human ear.

104. The digital signal is the data that is actually recorded on the recording medium, whether that signal was converted from an analogue signal or not. It is important to bear in mind that the digital signal, whether converted or not, is always intended to be converted to an analogue signal at some stage in order to produce a sound-wave, which was the reason why it was created in the first place.
105. Many recording apparatus, which record digital data from a computer, may not be considered to fall to the heading as sound recording apparatus. It is important to note that the digital data being recorded either represents a sound-wave or is intended to represent a sound-wave. Regardless of the compression format used or the number of networks through which the digital data has been transmitted, it is still data dedicated for eventual conversion to an analogue signal and thence as a sound-wave. It cannot, for example, be read as text or graphics, nor printed as such. It will only be intelligible to humans once converted to an analogue signal to reproduce the sound-wave represented by the recorded data, using apparatus designed for this function.
106. The third paragraph was amended by deleting “, and a mechanism which moves...”, because it is not seen as necessary to cover the increasing changes in sound recording technology.
107. A new opening paragraph has been added to part (A) **SOUND RECORDING APPARATUS** to define the characteristics common to such apparatus.
108. The order of items (1), (2), (3), etc., under part (A) was changed to align, firstly with the terms of the heading, and secondly to align with anticipated trading volume.
109. A new paragraph at the end of new item (1) was added to cover digital magnetic recording e.g., digital audio tape (DAT).
110. New item (2) was added to cover laser optical disc recorders, regardless of the digital compression format e.g., MP3. The reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000.
111. New item (3) was added to cover solid-state sound recorders that record digitalised sound electronically, e.g., on flash memory, once again regardless of the compression format (MP3). **The Secretariat wonders whether the second sentence of the text should be retained, given the fact that flash memory is used for various applications, including digital cameras.**
112. New item (4) is the present item (1).
113. New item (6), presently item (4), was amended to broaden the re-recording apparatus of the heading to include digital re-recording and to expand the means of recording sound for which will be used in cinematography.

(B) **COMBINED SOUND RECORDING AND REPRODUCING APPARATUS** has been amended as follows.

114. The first paragraph was amended to include the various recording media. A sentence was also added to explain the requirement that a digital sound recording apparatus must be able to convert the digital code to an analogue signal. Digital code cannot by itself reproduce a sound-wave.
115. The examples given at new items (1), (2), etc. are prefaced by a sentence which states that any of those examples may use any of the means of recording sound mentioned in the first paragraph. This was done to save on space yet sufficiently broaden the ENs to cover similar apparatus that use different recording means. The order of the items follows the subheading hierarchy.
116. Amendments made to present item (1), now new item (3) were added for clarification purposes.
117. New item (4) was added to cover other combined sound recorders and reproducers, e.g., MP3 players.
118. New item (5) was another example of a device that would fall to the heading. These are combined sound recording and reproducing apparatus, which are classified in heading 85.20 by GIR 1. These apparatus were found to be traded at www.tag.au.com.
119. New item (6) is present item (4).
120. A new exclusion (a) was added after **PARTS AND ACCESSORIES**. This directs that presses or injection moulding machinery for replicating discs are not sound recording apparatus.
121. **The Secretariat would draw the Review Sub-Committee's attention to the fact that during the Committee's examination on the classification of MP3 players (at its 29th Session), 32 delegates supported the view that the expression "sound recording" as used in heading 85.20 should be interpreted in a broad sense, i.e., that it also covered the transcription of data files onto a flash memory. Two delegates were of the view that transcription could not be considered to be sound recording. The Committee also instructed the Secretariat to draft appropriate amendments to the Explanatory Notes, taking into account the proposal submitted by the EC, as set out in Annex III to Doc. NC0550E1, to be examined by the Committee at its next session.**

Heading 85.21

122. The opening paragraph under part (A) has been deleted and replaced by five paragraphs that expand on the operations and functions of video recording and reproducing apparatus. With the exception of the new second paragraph the reference source was the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000. The **MPEG 2** video player was found to be traded at www.alcorn.com.
123. The last paragraph before part (B) was amended by deleting the reference to "magnetic patterns on tape", as the preceding paragraphs had sufficiently covered the different methods of recording.

124. A new sentence was added to part (B)(1) to cover apparatus that are capable of playing both DVDs and CD-ROMs. **The Secretariat would suggest the following amendments to this text : “Subject to Note 3 to Section XVI, apparatus which are capable of reproducing ~~image and sound data~~ video (both image and sound) from digital versatile disks and sound data from compact discs only are classified in this heading.” This presentation eliminates any possible confusion as to what medium the “sound data only” refers.**
125. “Video cameras” were added to the exclusions (at new exclusion (b)) as they are specifically mentioned in the text of heading 85.25.

Heading 85.22

126. The only additions recommended for this heading are those at new item (4), and exclusion (c). These are self-explanatory.

III. CONCLUSION

127. The Sub-Committee is invited to examine the draft amendments to the Explanatory Notes to headings 85.10 to 85.22, as set out in the Annex to this document.

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