



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE  
-  
27<sup>th</sup> Session  
-

NR0400E2

O. Eng./Fr.

Brussels, 3 April 2003.

DRAFT REPORT OF THE 27<sup>TH</sup> SESSION OF THE  
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

1. The HS Review Sub-Committee held its 27<sup>th</sup> Session from 24 March to 3 April 2003 which was preceded by the 1<sup>st</sup> Session of the Working Group (19 to 21 March 2003) at the Headquarters of the World Customs Organization in Brussels. The meeting was chaired by Mr. D. BECK (USA).

2. The following 40 WCO Members and one Customs or Economic Union were represented :

Members

AUSTRALIA	JORDAN
BANGLADESH	KAZAKHSTAN
BELGIUM	LIBYAN ARAB JAMAHIRIYA
BENIN	MADAGASCAR
BRAZIL	MALAYSIA
CAMEROON	NETHERLANDS
CANADA	NIGERIA
CHINA (People's Rep.)	NORWAY
COLOMBIA	POLAND
CONGO (Dem. Rep.)	ROMANIA
CZECH Rep.	RUSSIAN FEDERATION
EGYPT	SENEGAL
ETHIOPIA	SLOVAKIA
FRANCE	SOUTH AFRICA
GERMANY	SUDAN
INDIA	SWITZERLAND
INDONESIA	THAILAND
IRELAND	UNITED KINGDOM
ISRAEL	UNITED STATES
JAPAN	VIETNAM

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The following international organisations were represented by observers :

INTERNATIONAL CHAMBER OF COMMERCE  
INTERNATIONAL NETWORK FOR BAMBOO AND RATTAN

4. The list of participants in the meeting is reproduced at Annex H.

I. AGENDA

5. The Review Sub-Committee decided to delete Items III.A.5 and III.C.11 (see Annexes C/5 and E/11), and to postpone the examination of Item III.A.14 until its next session (see Annex C/13).
6. Subject to the above amendment, the Review Sub-Committee adopted the Agenda, which is reproduced at Annex A.

II. QUESTIONS EXAMINED BY THE REVIEW SUB-COMMITTEE

7. The comments made during the discussions and the conclusions reached by the Sub-Committee on the various agenda items are set out at Annexes B to F to this Report.
8. The 1<sup>st</sup> Working Group of the Review Sub-Committee met to discuss the proposals made by the EC, Japan, the United States and the Secretariat with regard to the information technology products provided for in Chapters 84, 85 and 90 of the HS Nomenclature. A summary of the discussions at the 1<sup>st</sup> Session of the Working Group is set out in Annex G to this Report.

III. OTHER

9. Mr. H. KAPPLER, the Director of Tariff and Trade Affairs, informed the Sub-Committee that June 30, 2003, would be the final date for the submission of any comments by administrations for consideration by the 28<sup>th</sup> Session of the Sub-Committee. He stated that it was essential that these comments be submitted no later than that date so that the Secretariat would be able to provide these proposals in a timely manner to the other administrations for the next RSC session.
10. The Sub-Committee also agreed that the final date for new proposals for the current review cycle should be June 30, 2003. As the Director reminded the Sub-Committee, only two more sessions remained in this review cycle to finalise the proposed amendments.

D. BECK,  
Chairperson.

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AGENDA FOR THE 27<sup>TH</sup> SESSION  
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

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(from 24 March to 3 April 2003)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
	Agenda	A
II.	<u>GENERAL QUESTIONS</u>	
1.	Decisions taken by the Harmonized System Committee at its 30 <sup>th</sup> Session affecting the work of the Review Sub-Committee	B/1
2.	Possible deletion of headings/subheadings with a small volume of trade (Comments by the <b>Norwegian</b> Administration and the International Nickel Study Group)	B/2
III.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
1.	Consideration of the work of the 1 <sup>st</sup> Session of the Working Group	C/1, G
2.	Possible amendments to the Nomenclature regarding the classification of waffles	C/2, F/2
3.	Possible amendments to the Nomenclature regarding the classification of sauces	C/3, F/1
4.	Proposal by the <b>US</b> Administration to amend the Nomenclature and Explanatory Note to heading 38.21	C/4, F/3
5.	Possible amendment of the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the <b>Australian</b> Administration)	C/5
6.	Possible amendments to the Explanatory Notes to Chapter 41	C/6, F/4
7.	Possible amendment of the Explanatory Notes to headings	

Annex A to Doc. NR0400E2  
(RSC/27/March 2003)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
	61.03 and 61.04	C/7, F/5
8.	Possible amendments to the Explanatory Notes to correct certain texts and to align the English and French versions	C/8
9.	Possible alignment of the French and English texts of Note 9 to Chapter 71 (Proposal by the <b>EC</b> )	C/9, F/6
10.	Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the <b>EC</b> )	C/10, F/7
11.	Deleted	
12.	Proposal by the <b>US</b> Administration to merge headings 95.01 to 95.03 into a single heading for toys	C/11, F/8
13.	Possible amendment of the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the <b>Mexican</b> Administration)	C/12
14.	Possible amendments to the structured nomenclature to heading 38.24 (Proposal by UNEP)	C/13
15.	Possible creation of a new Note to Chapter 69 to define the term “refractory” (Proposal by the <b>Australian</b> Administration)	C/14
16.	Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of controller units for anti-lock braking systems (ABS) (Proposal by the <b>Australian</b> Administration)	C/15
17.	Possible amendments to the structured nomenclature to heading 90.30 (Proposal by the <b>US</b> Administration)	C/16
<b>B.</b>	<b><u>NEW QUESTIONS</u></b>	
1.	Possible amendment of subheading 0406.40 to cover “blue-veined” and similar cheeses	D/1, F/9
2.	Possible amendment of the Explanatory Notes to clarify the classification of sheet-fed presses (Proposal by the <b>Japanese</b> Administration)	D/2
3.	Possible amendment of heading 84.22 with regard to the use of the terms “packing” and “packaging”	D/3

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
4.	Amendments to the Nomenclature and to the Explanatory Notes to correct certain texts	D/4, F/12
5.	Proposal by the <b>Canadian</b> Administration to create a new Subheading Note to Chapter 39 with regard to multi-layered sheets of plastics	D/5, F/13
6.	Proposal by the <b>EC</b> to create new subheadings for bluefin tuna in heading 03.01 and swordfish and toothfish in headings 03.02, 03.03 and 03.04	D/6, F/14
7.	Possible amendment of the Nomenclature to Chapter 44 (Proposal by the <b>EC</b> )	D/7, F/15
8.	Possible amendment of Note 7 (c) to Section XI (Proposal by the <b>EC</b> )	D/8
9.	Revision of Chapters 54 and 55 (Proposal by the <b>EC</b> )	D/9, F/17
10.	Possible amendments to the Nomenclature and Explanatory Note to heading 61.15 (Proposal by the <b>EC</b> )	D/10, F/18
11.	Possible amendments to headings 85.35 and 85.36 (Proposal by the <b>EC</b> )	D/11, F/24
12.	Possible creation of a new heading for semiconductor and flat panel display manufacturing equipment (Proposals by the <b>US</b> and the <b>EC</b> )	D/12, F/25
13.	Deleted	
14.	Possible amendment of heading 28.23 with regard to titanium dioxide (Proposal by the <b>EC</b> )	D/13
15.	Possible amendments to Subheading 8543.30 and the Explanatory Note to heading 85.43 to align the French on the English texts	D/14 F/19, F/20
16.	Possible deletion of subheadings 0105.92 and 0105.93 (Proposal by the <b>EC</b> )	D/15, F/21
17.	Possible amendment of the Nomenclature and the Explanatory Note to heading 90.21	D/16

Annex A to Doc. NR0400E2  
(RSC/27/March 2003)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
18.	Possible amendments to subheading 2529.10 and the relevant Explanatory Notes with regard to the term "felspar" (Proposal by the <b>EC</b> )	D/18 F/10, F/11
19.	Possible alignment of the French and English texts of Subheading Note 1 to Chapter 16, Subheading Notes 1 and 2 to Chapter 20 and Note 3 to Chapter 21 (Proposal by the <b>EC</b> )	D/18, F/16
<b>C. <u>COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES</u></b>		
1.	Possible amendment of the Explanatory Notes to headings 84.01 to 84.29	E/1, F/26
2.	Possible amendment of the Explanatory Notes to headings 84.30 to 84.40	E/2, F/27
3.	Possible amendment of the Explanatory Notes to headings 84.41 to 84.59	E/3, F/28
4.	Possible amendment of the Explanatory Notes to headings 84.60 to 84.85	E/4, F/29
5.	Possible amendment of the Explanatory Notes to headings 85.01 to 85.16	E/5, F/30
6.	Possible amendment of the Explanatory Notes to headings 85.17 to 85.22	E/6, F/31
7.	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48	E/7, F/32
8.	Possible amendment of the Explanatory Notes to Chapter 87	E/8, F/33
9.	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10	E/9, F/34
10.	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33	E/10, F/35
11.	Possible amendment of the Explanatory Note to heading 29.35	E/11
12.	Possible amendment of the Explanatory Note to heading 29.37	E/12, F/23

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
13.	Possible amendment of the Explanatory Note to heading 29.41	E/13, F/22
14.	Possible amendment of the Explanatory Note to heading 30.02	E/14
15.	Possible amendment of the Explanatory Notes to headings 84.33 and 87.01 to clarify the classification of riding lawnmowers	E/15

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ANNEX B  
GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0340E1	Decisions taken by the Harmonized System Committee at its 30 <sup>th</sup> Session affecting the work of the Review Sub-Committee			

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

1. The Chairperson briefly summarised the decisions taken by the HSC at its 30<sup>th</sup> Session and the pending questions affecting the work of the RSC.
2. The Sub-Committee took note of the developments in the HSC.

\* \* \*



1	2
NR0365E1	Possible deletion of headings/subheadings with a small volume of trade (Comments by the Norwegian Administration and the International Nickel Study Group).

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

1. Opening the discussion of this agenda item, the EC Delegate stated that he was quite supportive of deleting headings/subheadings with a small volume of trade with a view to the simplification of the Harmonized System, but noted that reactions from industry were divided in this respect. *{The EC would provide written comments for the next meeting. (EC)}*
2. Other delegates indicated that they were still in the process of consultation with industry and related agencies. Some delegates observed that, on the basis of more recent data, the volume of trade for certain headings or subheadings might be higher than that shown in Doc. NR0270E1 (RSC/26). Nonetheless, all delegates who spoke indicated that they would submit their observations as soon as possible.
3. The Director informed the Sub-Committee that Doc. NR0365E1 was basically an information document. For the next meeting, during which decisions should be taken with respect to the headings or subheadings to be deleted, the Secretariat would hopefully be able to provide data including the year 2001. This information would be distributed as soon as possible. He also expressed the view that the loss of detail of statistical information should not be a reason to justify the retention of a heading or subheading.
4. In concluding this issue, the Chairperson invited administrations to provide their comments as soon as possible.

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ANNEX C  
TECHNICAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
	Consideration of the work of the 1 <sup>st</sup> Session of the Working Group			

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

1. The Chairperson gave a brief report to the Sub-Committee on the 1<sup>st</sup> Session of the Working Group which was held from 19 to 21 March 2003. He noted that the discussions at the 1<sup>st</sup> Session had been based on Doc. NR0334E1 which provided a synthesis of the proposals made by the EC, Japan, the United States and the Secretariat with regard to the information technology products provided for in Chapters 84, 85 and 90 of the HS Nomenclature. Although the structure for the amendments was different in each of the proposals, the Chairperson noted that the discussions of the various proposals had revealed that there was a growing consensus on amendments for certain categories of goods. He concluded that, despite the substantial amount of work that remained, there was a desire to complete amendments in this area for purposes of the current review cycle. The Chairperson then asked the Sub-Committee to provide its views on what should be the next step in this process.
2. The Director reminded the Sub-Committee that the review by the RSC must be completed by its meeting in the Spring of 2004 in order to present the proposed amendments to the Committee and to the Council in June 2004. In view of this, he stated that certain issues needed to be discussed at this session.
3. First, it was necessary to discuss how progress could be made on the questions related to the information technology provisions of the Harmonized System. In this respect, the "status quo" would be considered a failure because it was apparent that no one was satisfied with the current situation. He was of the view that it was time to clarify the proposals and to look to appropriate solutions. Accordingly, a lot of work would have to be accomplished during the intersession, and the Sub-Committee was going to have to discuss how compromises and consensus could be reached.
4. In order to move forward, the Director stated that the Sub-Committee would have to discuss whether additional meetings of the Working Group or, perhaps, informal meetings of the administrations that had proposed the amendments should be held. He indicated that it would be essential for the RSC to finalise the proposals before submitting them to the Committee.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. He then asked what the Sub-Committee wanted from the Secretariat in order to further this process, such as an updated matrix or a document on the list of items for which there appeared to be consensus. He viewed this next step in the discussions as one that required positive input from all of the major proponents of amendments in order to develop a constructive approach for addressing the most pressing questions. He then indicated that, if substantial progress could be made by agreement on the approach and the identification of the amendments to be made, he could approach the Council in June with a request for additional time to complete the review cycle. However, there would be no point in requesting more time if no such progress had been made.
6. Finally, the Director stated that the Sub-Committee needed to establish a cut-off date for new proposals for the review cycle. If the implementation date for the amendments remains 2007, he suggested that May 2003 should be the cut-off date because of the substantial number of outstanding items currently on the RSC agenda.
7. In response to the Secretariat's comments, delegates were in agreement that progress must be made by September and that informal intersessional meetings among the proponents of the amendments would be necessary and welcome. Delegates agreed that there was a need for change in order to serve the concerns of industry, trade, the administrations and the WCO. Delegates also indicated that, in principle, they wanted to pursue this goal within the time frame for the current review cycle. In order to do this, consensus must be reached by the principal proponents of the amendments, both as to the approach and on the specific texts for the amendments.
8. Although different approaches had been taken by administrations in order to resolve the problems associated with the classification of products in the area of information technology, delegates did indicate that they were familiar with the key problem areas (e.g., printing machines, Note 5 to Chapter 84, communications equipment) and, more importantly, that there was some agreement with regard to specific products. One delegate indicated that it would be necessary to reach agreement on the definition of certain terms, such as "data" and "software", and to reach consensus on the structure for categories of accessories and units, such as monitors and media, as well as printers.
9. One delegate commented that it was necessary to examine the fundamental problems facing the Nomenclature and to clarify why certain proposals were necessary. Another delegate noted that, although we did not have the time to examine proposals from the beginning, we did have a nucleus of proposals that were all directed at resolving these problems. All of the delegates felt that success and consensus could only be achieved if the proponents exercised a willingness to be flexible and to compromise.
10. As a practical method for building consensus, the Sub-Committee agreed that the use of small, informal groups, together with the assistance of the Secretariat in providing documents and venues, if necessary, was necessary and advisable. As one delegate noted, the complexity of the information technology sector did not lend itself to a large meeting, whether formal or informal. Therefore, the initial progress toward consensus would have to come from those administrations that had submitted the major proposals for amendments.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Finally, he suggested that the Secretariat, in addition to assisting and participating in the work of the informal groups, should also take an active role in making the other administrations aware of developments.

11. As one delegate commented, the role of many developing countries has been somewhat limited. He suggested that the Secretariat try to inform these administrations of the importance of the issues and the nature of the changes that could be made. The Director responded favourably and indicated that the Secretariat would send letters to these administrations and perhaps even open a special page on the discussion forum on the Members Web site to encourage informal discussion of the Hi-Tech proposals.
12. The Delegates of the EC, Japan and the United States indicated that they were committed to seeking a common approach, hopefully by May of this year, and that they fully intended to listen, consider compromises, and make changes in their proposals, where possible, in order to build consensus. Other delegates pledged their best efforts to assist in this process.
13. Finally, the Sub-Committee agreed that the cut-off date for new submissions for the current review cycle would be June 30, 2003.
14. The Sub-Committee concluded that the HS Committee be asked to take note of these discussions and proposals for reaching consensus on the approach and the amendments to be proposed for the information technology products. Further, the Sub-Committee agreed that, for purposes of the report to the Committee, a summary of the technical discussions in the formal Working Group of the Review Sub-Committee should be submitted to the Committee.
15. A summary of the discussions of the 1<sup>st</sup> Session of the Working Group is, accordingly, reproduced in Annex G to this report.

\* \* \*



1	2	4	5
NR0341E1	Possible amendments to the Nomenclature regarding the classification of waffles.	<u>See Annex F/2.</u>	<u>See Annex F/2.</u>

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

1. In opening the discussion of this agenda item, one delegate informed the Sub-Committee that his administration could accept the new proposal, including separate subheadings for waffles with a water content not exceeding 20 percent and for waffles with a water content exceeding 20 percent. As to the comments from **CAOBISCO** (**Association of the Chocolate, Biscuit & Confectionery Industries of the EU**), which had been distributed as a “non-paper” at the beginning of the meeting, he wondered whether the intention of the proposed 10 percent limit was to distinguish between waffles and wafers or between traditional waffles and frozen waffles. If the former was the case, separate subheadings could be introduced for “waffles” and “wafers”, respectively.
2. The **EC** Delegate pointed out that the existing Explanatory Note to heading 19.05 specified a 10 percent water content limit, and after having introduced the comments from **CAOBISCO**, confirmed that he was in favour of the 10 percent demarcation line. However, he could also accept the status quo – entailing no split of present subheading 1905.30.
3. The **US** Delegate could not find any justification for the proposed 10 percent limit proposed by **CAOBISCO**. The six different types of waffles his administration had tested in conjunction with the classification dispute on “**Kellogg’s Eggo Frozen Waffles**” showed that shelf-stable waffles normally had a water content between 10 percent and 13.7 percent. It had always been a basic principle in the HS Nomenclature to establish borderlines where no products existed. A 10 percent limit would create an “overlap”, resulting in the classification of waffles in two different subheadings. The **US** Delegate also questioned the proposed 20 percent limit. He was aware that the intention of this proposal was to distinguish between frozen waffles and other waffles, but wondered whether there was enough trade in frozen waffles to justify the proposed subheadings. The market for such waffles *{was limited (**US**)}* and exporters were not shipping as many as they had anticipated.
4. At this point, the Director emphasised that this item had been on the Agenda for a long time. In his opinion the Sub-Committee had reached a consensus at its last session to introduce the subheadings at issue and the only matter that was left had been to consult the industry with regard to the water content proposals in square brackets before final agreement on the texts. As to the proposal from one administration to introduce names (“waffles” and “wafers”) instead of water content limits, he noted that such names were used differently in different parts of the world and that translation into third languages would cause additional problems.
5. The Director further expressed the view that the non-paper from **CAOBISCO** had shifted the nature of the discussion from using the proposed water content criterion to

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

distinguish between frozen and other waffles to distinguish between waffles and wafers. He felt that administrations would need more time to consider this new proposal and suggested that the Sub-Committee return to this question at its next session after administrations had had the opportunity to consult their industries.

6. After further discussions the Sub-Committee finally agreed to put both the 10% and 20% (by weight) criteria in square brackets in order to give administrations time to once more consult their industries, and to see whether any of the proposed water content limits worked to distinguish significant product groupings.
7. The texts under consideration are set out in Annex F/2 to this Report.

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1	2	4	5
NR0342E1	Possible amendments to the Nomenclature regarding the classification of sauces.	<u>See Annex F/1.</u>	<u>See Annex F/1.</u>

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

1. In opening the discussion of this agenda item, the EC Delegate emphasised that the EC was not searching for a legal definition of sauces. However, in order to decide whether a product should be classified as fruit or vegetables presented or prepared in a sauce (Chapter 20) - or as a (containing pieces of fruit or vegetables) sauce of heading 21.03, some legal certainty was needed in order *{to ensure uniform and equal application of the HS Nomenclature at the international level, legal certainty for traders and (EC)}* to facilitate trade. Under the present situation a given product could be classified in Chapter 20 in the exporting country and in heading 21.03 in the importing country – depending on whether the product was classified on the basis of its composition or its name. ~~*{He underscored that the EC proposal was based on the existing Explanatory Note to heading 21.03, and that the only difference was the introduction of the 40% limit on fruits and vegetables. In this regard, he pointed out that the former 20% limit in the EC Combined Nomenclature had been deleted a long time ago. (EC)}*~~
  
2. Another delegate was clearly opposed to the idea of creating a legal Note for sauces. *{He drew the Sub-Committee’s attention to the non-paper his administration had distributed informally at the request of the trade. The non-paper expressed opposition to any numerical standards that would restrict the scope of heading 21.03, and was based on submissions from the Federation of the Condiment Sauce Industries, Mustard and Fruit and Vegetables Prepared in Oil and Vinegar of the European Union (Fédération des Industries des Sauces Condimentaires, de la Moutarde et des Fruits et Legumes Préparés à l’Huile et au Vinaigre de l’Union Européenne); the Grocery Manufacturers of America; and independent companies in Australia and Canada. (US)}* In his mind it was important to realise that different cultures saw sauces in different ways, and that it was not necessary to create legal definitions for every agricultural product in the HS Nomenclature. Imposing legal limits on the scope of sauces would also be contrary to the views of industry. Moreover, he saw various problems with the EC proposal, e.g., with regard to the expression “visible pieces” of fruit or vegetables. In many sauces such pieces could only be recognised by their orange or green colour, and not whether they constituted bits of, e.g., carrots or broccoli. He also drew the Sub-Committee’s attention to the fact that heading 21.03 covered preparations for sauces and questioned whether any legal definition for sauces would also apply to such products. A third delegate supported this view. He was not in favour of a quantitative criterion and, in addition, pointed out that the term “normally” in the proposed definition would create a loophole which could be challenged in the courts.
  
3. *{In response to the concerns raised, the Delegate of the EC underscored that his proposal was based on the existing Explanatory Note to heading 21.03 (first sentence, third paragraph, page 178) and that the only difference was the introduction of the 40 % limit on fruit and vegetables. He reminded the Sub-Committee that administrations had been invited to submit new ideas in order to make progress on this issue. He was therefore prepared to*

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

*raise the proposed numerical limit from 40 % to 45 % in order to reach consensus. He felt that the new limit of 45 % solid matter would cover most of the products on the market and would give traders legal certainty on the way in which these products would be cleared. Without this he felt that there would be a danger of differing classifications. If the HS Committee could not reach consensus, the EC would not insist on its proposal and would be prepared to abandon it. (EC)}*

4. After further discussion, the Sub-Committee finally agreed *{that there were reasons for placing (EC)}* this new proposal in square brackets (with the "45 %" criterion also in square brackets) and to send it to the HS Committee for final decision. The texts placed in square brackets are reproduced in Annex F/1 to this Report.

\* \* \*

1	2	5
NR0343E1	Proposal by the <b>US</b> Administration to amend the Nomenclature and Explanatory Note to heading 38.21.	<u>See Annex F/3.</u>

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

1. The Review Sub-Committee approved the draft text recommended by the Scientific Sub-Committee without modification. The Sub-Committee also instructed the Secretariat to prepare draft amendments to the Explanatory Notes for examination at its next session, on the basis of the recommendation made by Scientific Sub-Committee as mentioned in paragraph {18 (**EC**)} of Doc. NR0343E1.
2. The text approved by the Sub-Committee is set out in Annex F/3 to this Report.

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1	2
NR0344E1	Possible amendment of the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration).

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

At the request of the Australian Administration, the Sub-Committee agreed to delete this item from the Agenda.

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1	2	4
NR0345E1	Possible amendments to the Explanatory Notes to Chapter 41.	<u>See Annex F/4.</u>

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

1. At the outset of the discussion on this agenda item, the **US** Delegate, while expressing support for the proposed amendments, suggested that the reference to “reversible light tanning” in Part (I) be replaced by “reversible tanning” for the sake of consistency with the terminology used in Note 2 (A) to Chapter 41. The reference to “physical strength” could also be deleted from Part (II) as, according to the industry, tanning did not enhance the physical strength of the resultant leather. With respect to the expression “and will not denature at 100 °C”, he found it difficult to indicate a precise temperature threshold at which fully tanned hides and skins would not denature. He, therefore, suggested that this expression be removed from the last sentence of the proposed new text of the first paragraph in Part (II).
2. The **Canadian** Delegate concurred with the view expressed by the **US** Delegate. Moreover, he suggested deleting the whole last sentence of the proposed new text in part (II), since there *{would no longer be a definition of the term “resistance” with the change proposed by the **US**. (Canada)}*
3. The **EC** Delegate, on the other hand, questioned the purpose of the proposed amendments and regretted that the Secretariat had not prepared several options *{as requested by the Sub-Committee at its 26<sup>th</sup> Session (EC)}*. Although the proposal was basically a redraft of the current texts, he had noted that it contained terminology which was not used in Note 2 to Chapter 41. He considered that the status quo would, therefore, be a better option. Besides the fact that the Committee had not accepted an amendment to the legal text, pretanning was not excluded from headings 41.04 to 41.06. Moreover, in some countries “pretanning” was also called “tanning”. The only criterion to be applied when considering the scope of headings 41.01 to 41.03 on the one hand, and headings 41.04 to 41.06, on the other, was the irreversibility criterion.
4. In his view, there was no need to delete a description of processes prior to tanning from Part (II) and to include this text in Part (I) since there was no actual change to the present wording of this description. *{He was also against the idea of replacing a reference to “light tanning” by a reference to “reversible tanning” as the latter would repeat the wording of Note 2 (A). (EC)}* Besides, he saw no benefit from inserting a reference to “permanent chemical change” in view of the fact that pretanned hides and skins would require further tanning before finishing as mentioned in Part (I). Therefore, in his view, these expressions were vague and unnecessary.
5. Responding to the concerns raised, the **US** Delegate stated that the description of processes prior to tanning should be included in Part (I), as this part dealt with untanned

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

hides and skins and these processes took place when the hides and skins were raw, {i.e., (US)} before undergoing tanning. He further observed that although the criterion of reversibility was included in Note 2 (A), so far no clarification of this criterion had been provided in the Explanatory Notes.

6. At this point it was observed by the Secretariat that there might be a non-alignment between the French and the English versions of the proposed text. In the French version the expression “une opération de tannage réversible (y compris un prétannage)” should read “une opération de tannage (y compris un prétannage) réversible”.
7. Taking into account the lack of consensus on this issue, the Sub-Committee decided to submit two options to the Harmonized System Committee for decision; Option 1 being to maintain the status quo and Option 2 being to amend the General Explanatory Notes to Chapter 41 as proposed {in the Annex to Doc. NR0345E1 (EC)}, subject to the modifications proposed by the Delegates of the US and Canada described in paragraphs 1 and 2 above, as well to the corrections with regard to the French text outlined in paragraph 6 above. The texts with regard to Option 2, which were placed in square brackets, are set out in Annex F/4 to this Report.
8. Finally, the Director invited delegates to provide information on whether or not there were products traded internationally, which would be affected by the amendments in question.

\* \* \*

1	2	4	5
NR0346E1	Possible amendment of the Explanatory Notes to headings 61.03 and 61.04.	<u>See Annex F/5.</u>	<u>See Annex F/5.</u>

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

1. The Sub-Committee unanimously accepted the proposed amendments to the French text of the Explanatory Note to heading 61.03.
2. With regard to the Explanatory Note to heading 61.04, the Sub-Committee agreed to accept Option 1, subject to inserting the expression “women’s or girls” before “suit” in the first sentence of the proposed new second paragraph of the English version, in order to improve the clarity of the text.
3. In terms of the possible amendment to Note 3 (a) to Chapter 61, proposed only for the French version and in the sole interests of aligning both versions, the Sub-Committee decided to retain this proposal in square brackets for examination by the HS Committee at its next session.
4. The texts approved as well as the proposal placed in square brackets are set out in Annex F/5 to this Report.

\* \* \*





1	2
NR0347E1 NR0386E1 NR0393E1	Possible amendments to the Explanatory Notes to correct certain texts and to align the English and French versions.

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

1. After the Chairperson had introduced the working documents, the **EC** Delegate explained his position {*as indicated in Doc. NR0393E1 (EC)*} that the texts at issue should not be amended, since there had never been problems of interpretation with them. Moreover, the two adjectives at issue (i.e., “other” and “similar”) were not contradictory but complementary and could, therefore, be used in both languages without problem. In addition, the proposed amendments might imply a change in scope in some cases. The Delegate of **Senegal** seconded this view.
2. Some English speaking delegates, on the other hand, found that the combination of “other” and “similar” was awkward and might cause confusion. They could accept the proposed amendments, but were prepared to maintain the status quo if these amendments would create a major problem for other delegations.
3. {*The Chairperson, noting that there was no consensus that the Explanatory Notes should be amended, suggested that the Sub-Committee close its discussion of this matter without recommending such amendments. The Sub-Committee agreed. (US)*}

\* \* \*



1	2	5
NR0328E1 (RSC/26) NR0348E1	Possible alignment of the French and English texts of Note 9 to Chapter 71 (Proposal by the EC).	<u>See Annex F/6.</u>

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

1. The EC Delegate introduced this question by stating that, as already pointed out, there was not a problem of a lack of alignment between the two versions of the text, but rather *{that the content of the last paragraph in the French version of this Note did not appear in the English version, neither in this part of the Note nor in the previous paragraphs (EC)}*. This could result in misclassification by administrations using working languages other than those of the Harmonized System. He could also agree with the alternative text proposed by the United States in Doc. NC0348E1, which also allayed his concerns.
2. Another delegate indicated that he could accept the US alternative, as well as the insertion of the expression “boutons de plastron” in the French text, as recommended by the Secretariat.
3. While sharing the above opinions, a third delegate asked for consideration to be given to deleting the penultimate paragraph of the French version of the present Explanatory Note to heading 71.13 (page 1196), should the legal text amendment be accepted by the Sub-Committee, as the Explanatory Note text might duplicate the legal text under examination.
4. The Sub-Committee finally unanimously approved the alternative texts proposed by the United States in the Annex to Doc. NR0348B1 as the new aligned text for Note 9 to Chapter 71.
5. The text approved is reproduced in Annex F/6 to this Report.

\* \* \*



1	2	5
NR0349E1	Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the EC).	<u>See Annex F/7.</u>

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

1. One delegate initiated the discussion of this agenda item by expressing his preference for Canada's alternative text, which clearly distinguished products of steel other than stainless steel from those made of stainless steel. However, he considered that tubes and pipes of stainless steel should be referred to before other tubes and pipes, and therefore suggested that the order of presentation of these subheadings be reversed.
2. The EC Delegate, while willing to accept a compromise, considered that the two proposals had the same scope, but the EC text was simpler, whereas the Canadian alternative text created additional subheadings.
3. Another delegate expressed support for the Canadian alternative. He considered that it would be preferable in terms of ensuring the continuity of statistics.
4. The Sub-Committee finally agreed to accept the Canadian text in its entirety for the structure of heading 73.04. On the subject of the order of presentation, the Sub-Committee agreed to leave it to the Committee to decide on this matter on the basis of trade data, to be provided by the Secretariat and/or administrations during the intersession.
5. Where heading 73.06 was concerned, several delegates indicated that they preferred the Canadian alternative, subject to the following amendments :
  - (1) insertion of two new subheadings, namely 7306.12 and 7306.22, to give separate status to stainless steel products (welded, other);
  - (2) amendment of the text of subheading 7306.6, to read " Other, welded, of non-circular cross-section", with the word "welded" being deleted from subheadings 7306.61 and 7306.69 as a consequence.
6. After deciding to make these amendments, the Sub-Committee agreed to accept the Canadian alternative proposal, as amended, for the structure of heading 73.06.
7. Finally, in respect of the recommended subdivision of heading 73.05, which had been suggested at the 26<sup>th</sup> Session, the Sub-Committee unanimously decided that this was no longer of interest and agreed to maintain the status quo.
8. The texts approved are reproduced at Annex F/7 to this Report.

\* \* \*



1	2	5
NR0351E1	Proposal by the <b>US</b> Administration to merge headings 95.01 to 95.03 into a single heading for toys.	<u>See Annex F/8.</u>

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

1. The Review Sub-Committee took up this Agenda item by agreeing to proceed in stages, beginning with an examination of the draft new Note before considering the text of the new merged heading.

**Draft Note**

2. A degree of consensus appeared to emerge in favour of paragraph (c), although its drafting would require improvement. However, there were mixed views about paragraphs (a) and (b).
3. The **US** Delegate, supported by the Delegates of **Canada** and **Switzerland**, supported the draft Note in its entirety as reproduced at Annex B/1 to Doc. NR0351E1; the aim of the Note being to give legal status to the provisions of existing Explanatory Note to heading 95.03 without affecting the GIRs, so as to provide more certainty in respect of the classification of toys in the new merged heading.
4. He recalled that the new Note comprised three paragraphs, each dealing with a particular situation, namely :
  - (a) toys which constituted articles in general use (musical instruments, sewing machines, etc.), but were identifiable as toys because of their size or limited capacity;
  - (b) sets of instructional toys which were classified as toys even if they consisted of articles which, by their nature or given the size or specific nature of their components grouped together, were not toys (for example, chemistry sets, sewing sets);
  - (c) toys which were sold with a promotional article of low value, and which could not be classified as sets put up for retail sale within the meaning of GIR 3 (b).
5. This view was not shared by the **EC** Delegate who, leaving aside the question of paragraph (c) concerning articles of minor importance which might, for promotional purposes, be sold with a toy, put forward the following arguments :
  - (1) the use, in the introductory phrase of this Note, of the qualifier "inter alia" which generally preceded a non-exhaustive list, could be a source of confusion;
  - (2) paragraph (a), which in his view did no more than state an obvious point already covered by the Explanatory Notes, served no purpose in any event because by definition, toys had limited use either time-wise or in terms of their capacity. Moreover, limited capacity was not a characteristic peculiar to toys, as there were many articles

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

on the market which had more limited capacities than others which offered better performance. Similarly, the reference to size could cause toys to be confused with miniatures, which did not fall to be classified in this Chapter. Finally, the word "toy" in the bracketed text was superfluous;

- (3) paragraph (b) presented a typical case calling for the application of GIR 3 (b), which stipulated that sets were to be classified as such provided that they fulfilled all three of the following conditions :
    - they had to consist of at least two different articles, classifiable in different headings;
    - they had to consist of articles put up together to meet a particular need;
    - they had to be put up in a manner suitable for sale directly to users without repacking;
  - (4) only the case dealt with by paragraph (c), concerning toys sold with an article of minor importance for promotional or advertising purposes, and not constituting a set within the meaning of GIR 3 (b), warranted retention, although its drafting would need to be improved. It was true that at present, many administrations were classifying toys separately from articles sold with them, and this did not simplify the application of the Nomenclature for administrations or for the trade.
6. At the end of the discussion, several delegates agreed on the need to improve the drafting of this Note, particularly in the case of the French version which, without referring directly to the Explanatory Notes, was in fact a translation of the English version which itself was based on the English version of the Explanatory Notes.
7. For this purpose, it was agreed that without broadening the scope of this new merged heading, the following corrections could be made :
- (a) retain the expression "inter alia", in the introductory phrase, as it was used in many Notes to the Nomenclature to indicate that the goods referred to formed part of a non-exhaustive list;
  - (b) in the French version of the introductory phrase, delete the words "aux articles suivants" in order to avoid repetition;
  - (c) in paragraph (a), replace the word "use" by "function" and delete the reference to sports equipment.
8. Nevertheless, although there was some convergence of views concerning the products referred to in paragraph (c) of the new Note, opinions remained mixed where the adoption of paragraphs (a) and (b) was concerned. In these circumstances, the Sub-Committee agreed :
- (1) to maintain these two paragraphs in square brackets, for further discussion at the next session;



OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- (2) to improve the drafting of paragraph (c) of this Note by :
- deleting the words “of minor importance”, placed in square brackets, as they were liable to cause confusion;
  - stating clearly that the articles presented together in this case did not constitute a set within the meaning of GIR 3 (b);
  - selecting some more appropriate examples in order to illustrate this case.

9. In conclusion, the Sub-Committee agreed to maintain the entire Note in square brackets for discussion at its next session, and invited administrations to submit written proposals to the Secretariat. The **US** Administration indicated that it might put forward a new version which would take account of all the comments made during the discussions.

**New merged heading**

10. The Sub-Committee unanimously adopted the text proposed at Annex B/1 to Doc. NR0351E1, subject to the following amendments :
- (a) deletion of the words “designed to be ridden by children”, which had been placed in square brackets, partly because it was difficult to define what constituted a child for the purposes of the Nomenclature, and thereby to distinguish between toys designed for children and those designed for adults, and partly to take account of the Classification Opinions (Nos. 1 and 3) already issued by the HS Committee in respect of certain toys of present heading 95.01, which were designed to be ridden by children, teenagers and adults. The deletion of these words was not, however, intended to change the scope of the new heading;
  - (b) deletion of the words “not elsewhere specified or included”, as the new heading was intended to cover all toys without concern for any additional subdivisions at subheading level;
  - (c) maintenance of the word “recreational”, as a means to avoid broadening the scope of this heading by distinguishing the recreational articles it covered from ornamental models, for example, which fell in other headings of the Nomenclature.
11. In conclusion, the Chairperson drew two important additional points to the attention of Sub-Committee and the Secretariat, namely :
- (i) the new Note should be numbered Note 4;
  - (ii) the merger of present headings 95.01 to 95.03 would entail the amendment of Note 4 to Chapter 87, which referred to the cycles of present heading 95.01.
12. Finally, the Sub-Committee agreed that only the text of the new merged heading adopted in the course of the discussions would be submitted to the HS Committee for

Annex C/11 to Doc. NR0400E2  
(RSC/27/March 2003)

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

consideration; as indicated above, the examination of the draft new Note would continue at the Sub-Committee's next session.

\* \* \*

1	2
NR0366E1	Possible amendment of the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the Mexican Administration).

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

1. After introducing the agenda item, the Chairperson informed the Sub-Committee that shortly before the meeting the Mexican Administration had submitted written comments on the matter, which had been distributed to the delegates as a non-paper (English and Spanish only). He noted that the new Mexican comments dealt with possible amendments to subheadings 2941.20, 2941.40 and 2941.50 so as to insert the expression “structural analogues” in those texts. Texts with regard to possible definitions of the terms “derivatives” in the Explanatory Note to heading 29.41 and “structural analogues” in a new Subheading Explanatory Note for subheadings 2941.20, 2941.40 and 2941.50 had also been proposed by the Mexican Administration. The Sub-Committee invited the Mexican Administration to formally submit the proposal to the Secretariat to enable it to publish the proposal in the form of a working document for the RSC's next session.
2. Based on the observations of the 18<sup>th</sup> Session of the Scientific Sub-Committee (see paragraphs 4 to 7 of Doc. NR0366E1), the Review Sub-Committee felt that appropriate definitions of the terms “derivatives” and “structural analogues” at the legal level had to be found. In this connection, the Director stated that input from other administrations, with reference to relevant classification decisions taken in the past, would be helpful. He invited administrations to submit comments and proposals with regard to the scope of the terms “derivatives” and “structural analogues” in relation to heading 29.41 to the Secretariat.
3. Finally, the Sub-Committee, while recognising the sensitivity and highly technical nature of the issue, agreed to pursue this matter at its next session in September 2003.

\* \* \*



1	2
NR0367E1	Possible amendments to the structured nomenclature to heading 38.24 (Proposal by UNEP).

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

Taking into account the fact that the **Canadian** Administration had indicated that it would formally submit a proposal to regroup all products covered by the Montreal Protocol and the Rotterdam Convention under one heading in the Nomenclature, the Sub-Committee agreed to postpone the discussion of this agenda item to its next session in September 2003.

\* \* \*



1	2
NR0368E1	Possible creation of a new Note to Chapter 69 to define the term “refractory” (Proposal by the Australian Administration).

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

1. Opening the discussion on this Item, the Delegate of **Australia** explained his Administration’s proposal by stressing the importance of having a legal Note in order to solve problems relating to the interpretation and application of the Nomenclature encountered by the private sector with respect to the refractoriness criterion of 1,500° C set out in the Explanatory Notes, which were, of course, not legally binding.
2. The Delegate of the **EC** concurred with the Scientific Sub-Committee, which had examined this issue at its 18<sup>th</sup> Session (January 2003) and had recommended maintaining the status quo. Recalling the background to the question, he stated that the discussion within the Scientific Sub-Committee, as well as with all the trade circles consulted, had demonstrated the need to maintain the status quo, since the temperature of use was not a property sufficiently well defined to determine refractoriness, it rather being the softening behaviour inherent in these products under specific conditions. Under these circumstances, the Review Sub-Committee was bound by the Scientific Sub-Committee’s recommendation to maintain the status quo.
3. The Delegate of the **EC** was supported by several other delegates and, at the end of the discussion, the Review Sub-Committee unanimously agreed not to recommend the creation of a new legal Note to Chapter 69 to define the term “refractory”.

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1	2
NR0385E1	Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of controller units for anti-lock braking systems (ABS) (Proposal by the Australian Administration).

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

1. The Delegate of **Australia** opened the discussion of this agenda item by reiterating his administration's belief that, notwithstanding the fact that controller units for anti-lock braking systems (ABS) were more specifically described as control units of heading 90.32, such a classification was problematic. He drew the Sub-Committee's attention to the fact that other parts of motor vehicles having control functions, such as steering wheels, were classified in headings other than heading 90.32. The ABS controller unit was clearly a part of a motor vehicle and should be classified accordingly in heading 87.08.
2. Other delegates, while being sympathetic to **Australia**'s view, were concerned with the idea of moving only one control system to heading 87.08 and not other control systems for motor vehicles. Furthermore, classification in heading 87.08 was not warranted since the ABS controller unit could be classified in heading 90.32 by application of GIR 1. They felt that the proposal to transfer ABS controller units to heading 87.08 could be part of a broadened proposal that could be examined during the next Review Cycle. It was felt that, given the advanced stage of the present Review Cycle, such a comprehensive proposal for the automotive sector could not be examined during this Cycle.
3. The Delegate of **Australia** remained of the view that an ABS controller unit was a part of a braking system for a motor vehicle. That being said, and in the spirit of the comments expressed by the Chairperson on the need to come to conclusions on long-standing issues, he informed the Sub-Committee that **Australia** could accept the majority view of the Sub-Committee on this matter. He was heartened to see that both the **United States** and the **EC** were supportive of a broader review regarding the possible re-classification of automotive controller units in the future.
4. The Chairperson concluded the discussion of this agenda item by expressing the view that there was no consensus in the Sub-Committee at this time for pursuing the individual transfer of products, such as ABS controller units, from heading 90.32 to Chapter 87.

\* \* \*



1	2
NR0382E1	Possible amendments to the structured nomenclature to heading 90.30 (Proposal by the US Administration).

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

1. Several delegates began the discussion on this agenda item by expressing support for the US proposal. In their view, the proposal would result in a transfer of products from a residual subheading to a more specific subheading, thereby improving the usefulness and detail of trade data. There was also support for the US view that the current text placed an undue burden on Customs officers. Finally, it was felt that it was important to identify products by their function and not on the basis of the presence or absence of a recording device.
  
2. Other delegates were in favour of the status quo. One delegate informed the Sub-Committee that his administration felt that maintaining subheadings 9030.3 and 9030.83 was important for developing countries. Another delegate referred to Doc. NR0290E1, which contained trade data supporting the importance of these devices in trade. Considering the trade volume, he could see no reason for deleting those subheadings. There was neither a problem of overlap with other subheadings nor the necessity of having an elaborate inspection regime that would justify the decision to delete them. If the reason for suggesting the deletion was statistical, then he believed that such statistics could be provided for at the national level. Consequently, he preferred the status quo.
  
3. The US Delegate informed the Sub-Committee that the purpose of his administration's proposal was to have goods of the same type provided for in one subheading. This would result in more meaningful data because it would group products by function in one subheading. *{In his administration's view, the gathering of trade data on devices according to whether they had an internal recording device was not meaningful, given that centrally located automatic data processing machines were increasingly used to record measurements of electrical phenomena remotely. (US)}* He referred to subheadings 9030.10 and 9030.20, and pointed out that they captured all products in those categories by their function. Turning to subheading 9030.3, he drew the Sub-Committee's attention to the fact that it covered only certain products without a recording device. The remainder was covered by subheading 9030.83, these devices being grouped with other types of products. His administration therefore believed that it was preferable to group goods of the same type in one subheading.
  
4. A discussion then ensued using as a basis the Director's compromise proposal made at the Sub-Committee's last session, which was set out in paragraph 6 of the working document. From this discussion, some proposals were presented but no agreement was reached in the Sub-Committee. The US Delegate indicated that deleting the phrase "without a recording device" from subheading 9030.3 and leaving subheading 9030.83 unchanged would be good for the industry and also simplify the HS. The EC Delegate indicated that this would be a starting point for further discussions at the next Review Sub-Committee session.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

He was willing to study any other proposal and if a compromise could not be reached, then it would be necessary, at that point, to send the matter to the HS Committee for decision. Other delegates supported this point.

5. At the end of the discussion, the following text was proposed for consideration at the next session :

“ - Other instruments and apparatus, for measuring or checking voltage, current, resistance or power :

9030.31 -- Multimeters without a recording device

9030.32 -- Multimeters with a recording device

9030.33 -- Other, without a recording device

9030.39 -- Other, with a recording device”.

*{Under this proposal subheading 9030.83 would not be deleted, but would change in scope. (US)}*

6. Several delegates indicated their willingness to discuss this new proposal at the Sub-Committee’s next session in September.

7. The Sub-Committee concluded its discussion with the **US** Delegate indicating that his administration would submit an alternative proposal to the Secretariat for the Sub-Committee’s next session in September.

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ANNEX D  
NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0352E1 NR0398E1	Possible amendment of subheading 0406.40 to cover all "blue-veined" and similar cheese.		<u>See Annex F/9.</u>	<u>See Annex F/9.</u>

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

1. In opening the discussion of this Agenda item, the **EC** Delegate informed the Sub-Committee that he agreed with the Secretariat's proposal in Doc. NR0352E1 to insert a new Subheading Note in Chapter 4 defining "Blue-veined cheese"/"Fromages à pâte persillée". He had been in touch both with the French industry and the English industry, respectively, which had agreed to the proposal as long as the subheading texts themselves were not changed.
2. Another delegate agreed. He was of the view that the present texts were fundamentally aligned, although not literally aligned, and believed that the Secretariat's proposal effectively dealt with the problem.
3. The **US** Delegate, however, did not agree with the Secretariat's proposal. He was of the view that the subheading texts themselves needed to be amended. He had never seen a reference to "blue-veined" cheese on a product or on an invoice. "Blue cheese" was the expression normally used in trade. Since the trade in such products was sensitive, he suggested the following alternative text for subheading 0406.40 which, in his opinion, would improve the present situation :  
  
"0406.40 - Roquefort, Gorgonzola and other cheese containing veins obtained by using *Penicillium roqueforti*".
4. The **US** Delegate also apologised for not having had the time to submit an official proposal. However, he promised to forward an official proposal from his administration in sufficient time for the Sub-Committee's next meeting in September.
5. Finally, the Sub-Committee agreed to re-examine this issue at its next session based on the Secretariat proposal as set out in Doc. NR0352E1 and the **US** proposal to be submitted shortly. The Secretariat proposal, which was placed in square brackets, is set out in Annex F/9 to this Report.

\* \* \*



1	2
NR0353E1	Possible amendment of the Explanatory Notes to clarify the classification of sheet-fed presses (Proposal by the Japanese Administration).

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

1. The Delegate of Japan opened the discussion of this agenda item by explaining his administration's proposal. He referred to the present Explanatory Note to heading 84.43 on page 1508, wherein the last part of present Item (C) explained two different methods used by rotary presses to deliver paper. Japan had proposed to identify those two kinds of paper delivery methods separately by creating new items, i.e., (1) for reel-fed presses and (2) for sheet-fed presses, under present part (C) on page 1508, in order to clarify the printing mechanism of rotary presses.
2. Several delegates expressed support for the Japanese proposal. One delegate agreed with the Secretariat that this proposal should be submitted to the Harmonized System Committee for consideration under the Corrigendum procedure, on the basis of a precise description of the machine(s) which the Japanese Administration was trying to cover by this proposed amendment.
3. The Sub-Committee concluded its discussions on this agenda item by agreeing that the issue was, in the first instance, one for the HS Committee to consider on the basis of a revised proposal to be submitted to the Secretariat by the Japanese Administration based on the 2002 version of the Explanatory Notes. In addition, Japan was requested to submit technical literature on the type of machines it wished to cover by its proposal.

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1	2
NR0354E1	Possible amendment of heading 84.22 with regard to the use of the terms “packing” and “packaging”.

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

Several delegates stated that the use of the terms “packing” and “packaging” in the current text of heading 84.22 did not present a problem with regard to the scope or interpretation of the Nomenclature. The Sub-Committee, therefore, agreed, by consensus, that no change to the Nomenclature or the Explanatory Notes was required in connection with this issue.

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1	2	4	5
NR0369E1	Amendments to the Nomenclature and to the Explanatory Notes to correct certain texts.	<u>See Annex F/12.</u>	<u>See Annex F/12.</u>

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

1. The Sub-Committee unanimously approved the amendments proposed by the Secretariat in the Annex to Doc. NR0369B1, without modification.
2. The texts approved by the Sub-Committee are reproduced in Annex F/12 to this Report.

\* \* \*



1	2	5
NR0370E1	Proposal by the <b>Canadian</b> Administration to create a new Subheading Note to Chapter 39 with regard to multi-layered sheets of plastics.	<u>See Annex F/13.</u>

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

1. At the request of the **Canadian** Delegate, the Sub-Committee agreed to undertake a preliminary discussion on the proposed new Subheading Note to Chapter 39.
2. The **Canadian** Delegate indicated that his administration would shortly submit its written responses to the questions put forward by the Secretariat in Doc. NR0370E1. He invited other delegations to provide their views in this connection to his administration, with a view to addressing them in the **Canadian** submission.
3. The **EC** Delegate expressed some doubts with regard to the expression “unless the context otherwise requires”, as used in the proposed Subheading Note 2. He wondered whether the provisions of current Subheading Note 1 to Chapter 39 would be a context which otherwise required.
4. The Chairperson, while wondering whether the expression “single plastics” would also cover a “single copolymer”, concluded that the issue would be further discussed at the Sub-Committee’s next session. Pending these further discussions, the proposed amendment to Chapter 39 was placed in square brackets.
5. The text placed in square brackets is reproduced in Annex F/13 to this Report.

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1	2	4	5
NR0374E1	Proposal by the EC to create new subheadings for bluefin tuna in heading 03.01 and swordfish and toothfish in headings 03.02, 03.03 and 03.04.	<u>See Annex F/14.</u>	<u>See Annex F/14.</u>

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

1. The EC Delegate opened the discussion of this agenda item by pointing out that the purpose of the EC proposal was to provide a small number of subheadings for certain species of fish of interest to FAO, CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources) and other international organisations devoted to monitoring and controlling illegal fishing of these species. He pointed out that certain countries had already introduced national subheadings in their Customs nomenclatures for these species, and that FAO had recommended that countries should endeavour to use the HS Nomenclature to help promote its International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Another delegate expressed his support and thanked the EC for being the “point man” in this respect.
2. The US Delegate also supported the EC proposal. However, he was not entirely in favour of the proposed subheading texts and numbering set out in the Annex to Doc. NR0374E1. In heading 03.01 (subheading 0301.94) he questioned whether “Southern bluefin tunas (*Thunnus maccoyii*)” should be included and, if so, in his opinion the taxonomic reference (*Thunnus thynnus*) could be deleted. He also questioned whether swordfish and toothfish should be combined in proposed subheading 0303.70. He was aware that the present structured nomenclature to heading 03.03 was quite full, but was of the view that there was room for improvement and was prepared to submit a written proposal in this respect.
3. The Director pointed out that there were already specific subheadings for “Southern bluefin tunas” and other tunas with taxonomic references in headings 03.02 and 03.03. He was therefore not in favour of the US proposal to delete these references for tunas in heading 03.01.
4. The EC Delegate informed the Sub-Committee that he would get in touch with the international organisations involved to see whether they wanted other tunas than “Bluefin tunas” to be mentioned in heading 03.01, and whether they wanted to split swordfish and toothfish in heading 03.03.
5. The Delegate of Japan had no objections to the proposals to insert specific subheadings for these species. However, he was somewhat concerned about the number of international conventions (UNDP, CITES, Rotterdam, etc.) which were being reflected in the HS Nomenclature and how to accommodate future requests in this regard. In his opinion,

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

the insertion of new headings - or even a Chapter could be a possible solution to meet such requests.

6. In view of the above, the Sub-Committee agreed to place proposed subheadings 0301.94 and 0303.70 in square brackets and ask the HS Committee to take a decision on this proposal at its May 2003 Session.
7. Finally, subject to the foregoing, the Sub-Committee approved the texts proposed in the Annex to Doc. NR0374E1. The texts approved and those placed in square brackets are set out in Annex F/14 to this Report.

\* \* \*



1	2	5
NR0376E1	Possible amendment of the Nomenclature to Chapter 44 (Proposal by the EC).	<u>See Annex F/15.</u>

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

1. At the request of the Delegate of **Canada**, the Sub-Committee agreed to undertake a preliminary discussion only. The proposals were, therefore, placed in square brackets.
2. Opening the discussion, the **EC** Delegate stated that he could agree with the Secretariat that the Explanatory Notes should be updated, once the amendments of the legal texts had been accepted. He could also accept the Secretariat's proposal to amend Subheading Note 1 to reflect the amendments to the subheadings of heading 44.07.
3. The **US** and **Canadian** Delegates indicated that the creation or deletion of subheadings should take into account world-wide trade in these products and not only regional trade. Statistical data would be necessary to see whether or not the international trade in question was world-wide or regional. Both delegates indicated that they had not yet received feedback on the proposals from their industry and other interested government agencies.
4. The Delegate of **Brazil** informed the Sub-Committee that his administration was also in the process of consultation with industry.
5. The **Swiss** Delegate, while concurring with the view expressed by the **US** and **Canadian** Delegates, wondered why (except for mahogany) the content of current subheading 4407.24 should be transferred to the residual subheading. The **EC** Delegate informed the Sub-Committee that, according to industrial circles, there was insufficient trade for the other types of wood.
6. With respect to heading 44.09, the **EC** Delegate indicated that he could accept the Secretariat's proposal in paragraph 6 of the working document. Noting that the proposal for this heading was closely linked to the creation of heading 44.22, one delegate expressed his concern as to whether the distinction between the products of that new heading, on the one hand, and those remaining in heading 44.09, on the other, would be sufficiently clear.
7. Turning to the proposals for heading 44.10 and its structured nomenclature, the **EC** Delegate argued that oriented strand board (OSB) *{should be considered as (US)}* a distinct type of board, which differed from particle board. While one delegate suggested inserting a subheading Explanatory Note with a view to clarifying the nature of OSB, the Director invited the proponent and other interested parties to provide information on how to distinguish between particle board (of proposed subheading 4410.22) on the one hand and "similar board" (of proposed subheading 4410.29) on the other. It was agreed that the **EC** proposal and the Secretariat's alternative should be reproduced in the report.
8. One delegate, while explaining that his administration was interested in having separately identified medium density fibreboard (MDF) at the subheading level of heading 44.11, informed the Sub-Committee that, so far, he had not received a clear

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

description with a view to identifying these boards. He said that he would endeavour to submit comments to that effect in due time.

9. The **EC** Delegate indicated that he could accept the rewording of the second one-dash subheading, as suggested by the Secretariat in paragraph 14 of the working document. However, as an alternative, a third one-dash subheading could be inserted, reading "Other".
10. With respect to the proposed new structured nomenclature for heading 44.12, the **EC** Delegate informed the Sub-Committee that it was based on proposals from the industry, *{to insert specific references to blockboard, laminboard and battenboard. He also indicated that the relevant statistical data had been presented by the **EC** in a letter dated 20 February 2003 (subheadings 4412 2291, 4412 9291 and 4412 9920 of the **Combined Nomenclature**).* (**EC**)
11. Referring to the Secretariat's suggestion to reword the proposed amendment of heading 44.18, the **EC** Delegate stated that he could accept that suggestion. With respect to the proposed new subheading, he indicated that he would endeavour to find the answers to the questions posed by the Secretariat in paragraph 20 of the working document.
12. With regard to proposed heading 44.22, the **EC** Delegate informed the Sub-Committee that parquet panels were produced by a special industry. That being the case and taking into account the high volume of international trade in these panels, a separate heading covering such panels would be justified. He could agree with the Secretariat's suggestion to insert a reference to "wood" in the heading text, and could also accept, in principle, an amendment to Note 3 to Chapter 44 with a view to including parquet panels, etc. of particle board or similar board, fibreboard, laminated wood or densified wood. He could also accept the insertion of the word "other" at the beginning of proposed subheading 4422.22. With respect to the reference to "components", he indicated that he needed to reflect on this issue. Following a suggestion from the Chairperson, the expression at issue was placed in square brackets in the heading text and in the subheading text.
13. *{Another delegate questioned the need for the creation of a separate heading for a particular product, when the present heading text comprised broad generic groupings of similar products, rather than specific single products. (US)}* He also questioned the need to refer in the heading text to "unassembled" panels, since they might be classifiable in that heading by application of General Interpretative Rule 2 (a). Nonetheless, he would be prepared to look into the issue during the intersession.
14. The **EC** Delegate also informed the Sub-Committee that there had been discussions with other Contracting Parties vis-à-vis the classification of parquet panels in the current Nomenclature. However, the parties involved had tried to solve the problems on a bilateral basis.
15. The texts placed in square brackets are reproduced in Annex F/15 to this Report.

\* \* \*

1	2
NR0377E1	Possible amendment of Note 7 (c) to Section XI (Proposal by the EC).

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

1. The Delegate of the EC informed the Sub-Committee that the EC had classified a square, polyester "wiper" as a made up article of heading 63.07, because its edges were "heat-sealed". Although Note 7 (c) to Section XI did not refer specifically to "heat-sealing" as one of the processes conferring the character of "made up" on an article, he suggested that heat-sealing could be regarded as a modern form of hemming, which clearly caused an article to be made up. He therefore proposed that the term "heat-sealed" be inserted in Note 7 (c) for the sake of clarification.
2. The Delegate of the United States expressed the view that a product which had been cut with a hot knife or scissors in order to prevent fraying, this being a simple means of securing the edges, could not be regarded as made up within the meaning of Note 7 (c) to Section XI; therefore the legal Note should not be amended along the lines proposed, even for the future.
3. The Delegate of Canada also stated that he was not in favour of the EC proposal, as an amendment of this kind might have repercussions for the classification of various products of Section XI, including in particular the narrow fabrics of heading 58.06. At the same time he wondered whether there might be a lack of alignment between the two versions of the above-mentioned Note 7 (c), insofar as it could perhaps be interpreted more broadly in the French version, which referred to articles whose edges had been hemmed or rolled "par n'importe quel procédé" ("by any procedure") – a qualification which did not appear in the English version.
4. The Delegate of China also expressed concern about a possible amendment to Note 7 (c) as proposed by the EC, as this might bring about the transfer of many products within Section XI.
5. The Sub-Committee recognised that there were two questions before it, namely the specific classification issue raised by the EC, and a possible amendment to Note 7 to Section XI in the framework of the 2007 version of the HS; the first step would be to deal with the classification problem raised by the EC.
6. The Sub-Committee therefore agreed to submit the classification of this product to the Harmonized System Committee for decision, on the basis of a sample and additional technical information about the product, which the EC was invited to submit {The EC Delegate then indicated that he was willing to supply samples to the HS Committee along with a note explaining his proposal. He stated that he fully understood the concerns raised by some delegates but explained that the term "heat-sealed" did not refer to a process of

Annex D/8 to Doc. NR0400E2  
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OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

*cutting with a hot knife (EC)*. The Secretariat would prepare a working document containing this information for examination by the Committee, which would also be requested to rule on the interpretation to be given to Note 7 (c) to Section XI and on the advisability of amending that Note.

\* \* \*

1	2	5
NR0378E1	Revision of Chapters 54 and 55 (Proposal by the EC).	<u>See Annex F/17.</u>

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

1. As this was a preliminary discussion, the Delegate of the EC explained that the amendments proposed for Chapters 54 and 55 were aimed primarily at modernising the HS Nomenclature. Essentially, their purpose was to give separate status to aramids within the high tenacity yarn of heading 54.02 and the staple fibres of heading 55.03, as well as to polypropylene and elastomeric yarn within headings 54.02 and 54.04, and to synthetic filament tow of polypropylene in heading 55.01. He added that to offset these additions, the deletion of subheadings 5402.51 to 5402.69 could be envisaged at the request of the industry.
2. There were mixed opinions about the creation of these new subheadings, and several delegates asked for more time to consider the proposals and consult industry before taking any decision. Where the proposal concerning elastomers was concerned, the possibility of an overlap with other subheadings at the same level was also raised.
3. It was also emphasised that if subheadings 5402.51 to 5402.69 were deleted, trade statistics would no longer reflect the relatively significant volume of trade in the polyamides and polyesters of these subheadings.
4. The Sub-Committee therefore agreed to place the entire proposal in square brackets and invited administrations to consult industry. It would return to this question at its next session, on the basis of the comments made during the discussions and any additional information which might be submitted.
5. The texts in square brackets are reproduced at Annex F/17 to this Report.

\* \* \*



1	2	4	5
NR0379E1	Possible amendments to the Nomenclature and Explanatory Note to heading 61.15 (Proposal by the EC).	<u>See Annex F/18.</u>	<u>See Annex F/18.</u>

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

1. The Delegate of **Canada** opened the discussion of this agenda item by expressing his support for the **EC** proposal to amend the text of heading 61.15, but pointed out that the compression at ankle accepted by his administration for the compression hosiery at issue was 20 mm Hg instead of 15 mm Hg. The new proposed item (4) for the Explanatory Note to heading 61.15 should consequently be amended to that end.
2. Several other delegates favoured this proposal in principle, but wished to consult trade circles before making a final decision.
3. *{The **US** Delegate stressed that the **US** tariff contained a similar national subheading, but that the scope of that subheading was governed by the standard cited by the **Canadian** Delegate, as well as additional criteria. (**US**)}* He requested additional time in order to compare the two standards and look into any potential differences.
4. Following this discussion, the Sub-Committee agreed to place the **EC** proposal in square brackets and to return to this question at its next session, on the basis of the comments made during the meeting and any additional information submitted by administrations.
5. The texts placed in square brackets are reproduced in Annex F/18 to this Report.

\* \* \*





1	2	5
NR0380E1	Possible amendments to headings 85.35 and 85.36 (Proposal by the EC).	<u>See Annex F/24.</u>

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

1. Opening the discussion, the EC Delegate informed the Sub-Committee that the references to "Euros" and "Europe" in Annex I to the working document should not be shaded. While explaining the purpose of the proposal, he said that he could also accept the Secretariat's alternative texts proposed in Annex II of the same document.
2. The Swiss Delegate could accept the reference to "connectors" in heading 85.35 and in the first part of heading 85.36, considered that the connectors for optical fibres, optical fibre bundles or optical fibre cables, were accessories to commodities classified in Chapter 90, and that they should remain classified in that heading.
3. Responding to an observation made by one delegate, the EC Delegate clarified that transceivers and repeaters for optical cables were not intended to be covered by the proposed wording. That being the case, some delegates suggested excluding them in the Explanatory Note to be prepared. The EC Delegate informed the Sub-Committee that he would endeavour to obtain more technical literature with a view to identifying the commodities at issue in a better way.
4. The Chairperson concluded that there was consensus on the proposal to insert a reference to "connectors" in heading 85.35 and in the first part of heading 85.36. *{One administration raised concerns that the proposed subheading 8536.70 may expand the scope of the heading and that further information was needed as to the type of products to be included and the headings from which they would be transferred. (US)}* The other proposals, which were placed in square brackets, would be further discussed at the Sub-Committee's next session, on the basis of the Secretariat's alternative text proposal and taking into account any information which might be received from administrations.
5. The accepted texts and those placed in square brackets are reproduced in Annex F/24 to this Report.

\* \* \*



1	2	5
NR0381E1	Possible creation of a new heading for semiconductor and flat panel display manufacturing equipment (Proposals by the <b>United States</b> and the <b>EC</b> ).	<u>See Annex F/25.</u>

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

1. At the request of one delegate, the Sub-Committee held a preliminary discussion on the **US** and **EC** proposals, while other delegations indicated that they had not yet completed their consultations with industry and other agencies.
2. With respect to the classification of parts and accessories, the **EC** Delegate pointed out that no provisions had been made for these commodities in the **EC** proposal, pending the outcome of the discussion on the proposals for Chapters 84, 85 and 90, which also provided for an amendment of Note 2 to Section XVI. The **US** Delegate informed the Sub-Committee that the **US** proposal to include parts (and accessories) of ceramics and of glass would take into account the fact that a number of specific parts and accessories for the machines at issue were made of these materials. A reference to "accessories" had been incorporated in his administration's proposal with a view to avoiding disputes on the question whether a particular commodity was to be regarded as a part or as an accessory.
3. Concerning the proposed priority for classification in new heading 84.85, the **EC** Delegate clarified that a Section Note would be preferable to a Chapter Note, thus ensuring that a potential classification in Chapter 85 would also be included in this provision. He shared the doubts expressed by the Secretariat vis-à-vis the use of the appropriateness of the term "repair" in proposed subheading 8485.30 (**US** proposal). However, he was prepared to reflect on it.
4. The **US** Delegate clarified that the term "transport" in his administration's proposal did not refer to commodities of Section XVII, but to handling and loading equipment of current heading 84.28, and that the expression "machines used for storage" referred to the temporary storage of the wafers between two processing stages. Having said that, he indicated that he was prepared to have another look into the wording proposed.
5. The **EC** Delegate agreed with the Secretariat that any amendment to Note 5 to Chapter 85 might influence the scope of new heading 84.85. In this connection, he drew the Sub-Committee's attention to the ongoing discussion with regard to the restructuring of Chapters 84, 85 and 90, which also included a possible amendment to Note 5 to Chapter 85.
6. The **US** Delegate was of the view that machines for inspection, measuring and checking, should continue to be classified in Chapter 90, possibly in a separate heading, since they could be used for the inspection, measuring and checking of other products as well. The **Japanese** Delegate agreed with the **United States** that these machines and apparatus should stay in Chapter 90.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. With respect to the terminology proposed by the Secretariat, the **EC** Delegate indicated that, in principle, he could accept the reference to “machines and apparatus”.
8. The Chairperson concluded that the proposals should be re-addressed at the Sub-Committee’s next session, on the basis of further information to be provided by the interested parties. Pending those discussions, the texts would be placed in square brackets.
9. The texts placed in square brackets are reproduced in Annex F/25 to this Report.

\* \* \*

1	2
NR0388E1	Possible amendment of heading 28.23 with regard to titanium dioxide (Proposal by the EC).

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

- The EC Delegate began the discussion of this agenda item by noting that titanium dioxide was not specifically mentioned in the text of heading 28.23, despite the fact that it was almost the only commodity of that heading which was of any significance in trade. About 90 % of its world production was used for making pigments. To this end it had to be specially treated, as mentioned in paragraph 2 of Doc. NR0388E1 and this treatment should be reflected in the HS Nomenclature in order to clarify the classification of these products. He noted in this context that the proposal of the EC was simply aimed at clarifying the scope of heading 28.23, without changing it.
- He further stated that in order to provide greater legal security for the trade, the EC was of the view that an amendment should be introduced at legal level, together with Explanatory Notes amendments. He was open to considering the possibilities envisaged by the Secretariat, including a new legal Note. He agreed with the Secretariat's comments in paragraphs 16 to 18 of Doc. NR0388E1 and preferred the insertion of a concentration limit for substances by which titanium dioxide could be treated in the text of heading 28.23, rather than to use the expression "very small amounts", which could be difficult to interpret.
- Consequently, he modified the proposed EC text for heading 28.23 to read "Titanium oxides, including titanium dioxide treated by adding not more than [3 % by weight] of calcination salts". He noted that this text could serve as a basis for further discussion at the next session.
- Certain other delegates supported the proposal, in principle, and were also in favour of an amendment at legal level. They expressed the wish to continue to study the matter during the intersession and to consult with industry and their technical services, especially with regard to the proposed concentration limit for calcination salts, their function in the product and to whether the expression "whether or not" should be inserted before the word "treated" in the new text of heading 28.23.
- The Director explained that in order to achieve the stated objective of clarifying the scope of heading 28.23, the Secretariat had a preference to create a new legal Note and could prepare a draft during the intersession. At the same time, as an interim measure, an Explanatory Notes amendment could be put forward by corrigendum. In view of the technical nature of the matter and the fact that the Scientific Sub-Committee would not meet before January 2004, the Sub-Committee should re-examine this issue at its next session and decide at that time whether to obtain the views of the Scientific Sub-Committee with regard to technical aspects of the issue.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. The Sub-Committee agreed with this approach. There was also general agreement in the Sub-Committee to maintain the EC proposal regarding the possible amendment of the text of heading 28.23 (as modified by the EC during the meeting) and to discuss it further at the next session. The Secretariat was also instructed to prepare a draft of a new legal Note clarifying the scope of heading 28.23 and new Explanatory Notes, for examination by the Sub-Committee at its next session.

\* \* \*

1	2	4	5
NR0392E1	Possible amendments to Subheading 8543.30 and the Explanatory Note to heading 85.43 to align the French on the English texts.	<u>See Annex F/20.</u>	<u>See Annex F/19.</u>

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

1. The Sub-Committee agreed unanimously with the proposals to amend the text of subheading 8543.30 to align the French on the English. The delegates thanked **Croatia** for bringing the problem to the attention of the Secretariat. The approved text is reproduced in Annex F/19 to this Report.
2. Concerning the amendment to the Explanatory Note to heading 85.43, one delegate suggested that the amendment could be implemented under the Article 8 procedure. The Sub-Committee unanimously agreed. The approved text is reproduced in Annex F/20 to this Report.

\* \* \*





1	2	4	5
NR0394E1	Possible deletion of subheadings 0105.92 and 0105.93 (Proposal by the EC).	<u>See Annex F/21.</u>	<u>See Annex F/21.</u>

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

1. The EC Delegate explained that the intention of this proposal was to simplify the HS Nomenclature. These subheadings had been adopted at the 10<sup>th</sup> Session of the HS Committee in 1992 and, according to the EC's industrial and agricultural sectors, these subdivisions were no longer economically or commercially relevant. His proposal was supported by two other delegates.
2. Another delegate pointed out that the EC proposal had been received only a short time ago, and because of that he had not yet been able to obtain any feedback from his Agriculture Department. He therefore asked for a preliminary discussion only at this session. He recalled that the intention of these provisions had been to distinguish between "broiler chickens" and "spent hens" and, therefore, it might still be of interest to retain these subheadings in the HS Nomenclature.
3. The Sub-Committee therefore agreed to place the proposed texts in square brackets and to return to this question at its next session.
4. The texts placed in square brackets are set out in Annex F/21 to this report.

\* \* \*



1	2
NR0395E1	Possible amendment of the structured nomenclature and the Explanatory Note to heading 90.21.

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

1. The Sub-Committee held a preliminary exchange of views on the possible amendment of the structured nomenclature and the Explanatory Note to heading 90.21.
2. The EC Delegate initiated the discussion, by explaining the substance of the **EC** proposal which was aimed at bringing the structured nomenclature into line with technological developments regarding appliances for the treatment of fractures, dislocations and joint injuries. He indicated that the objective of the proposal was :
  - (1) to supplement the legal text of heading 90.21 and subheading 9021.10 by inserting a reference to “dislocations and joint injuries”, to accompany the reference to “fractures”;
  - (2) to align the English version of the Explanatory Notes on the French, using the Corrigendum procedure provided for by Article 8 of the HS Convention.
3. In the EC’s opinion, the proposed amendment to the legal text was in no way intended to broaden the scope of the heading, but would simply make it easier to understand by specifying that the appliances concerned could also be used to treat dislocations and joint injuries – a point which was, in fact, already made in the French version of the existing Explanatory Notes.
4. Where the Explanatory Notes were concerned, the alignment would involve supplementing the list reproduced in the first paragraph of Part II of the Explanatory Note to heading 90.21 (page 1815), by inserting the words “dislocations or joint injuries” in the English version, in order to bring the two versions into better alignment with each other.
5. The Delegate of **Canada** was against amending the legal text, for reasons which would be made clear in the comments which his administration would be sending the Secretariat on this subject. Moreover, while he agreed with the alignment of the English and French versions of the Explanatory Notes, he considered that for the sake of simplification, the French text should be aligned on the English by deleting the reference to “luxations ou lésions articulaires”.
6. He also pointed out that the French text used the term “organes” (“organs”), the meaning of which should be clarified in order to prevent any confusion *{and possibly giving the French text a broader scope than the English. This will also be addressed in the **Canadian** submission. (**Canada**)}*

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. The **US** Delegate supported the views expressed by the Delegate of **Canada**, emphasising that the expression “joint injuries” was ambiguous, as in its strict sense it could be understood as calling for the services of a specialist surgeon, while in general terms it could cover any kind of muscular injury, even including those which might be treated simply by applying an elastic bandage of Section XI. In his view, this meant that the French version had a broader scope, which needed to be corrected.
8. Reacting to these various statements, the Director pointed out that while the text of the French version of the Explanatory Note to heading 90.21 was more detailed than the English, the scope of the two versions remained the same. Where the legal text was concerned, the question should be studied in more detail in order to establish the meaning of the expression “fracture appliances”, which had to be distinguished from the orthopaedic appliances defined by Note 6 to Chapter 90.
9. Following these discussions, the Sub-Committee agreed to deal with this issue in stages :
  - (i) To submit the problem of the alignment of the English and French versions of the Explanatory Note to the HS Committee at its 31<sup>st</sup> Session in May, on the basis that the Explanatory Notes should be understood in such a way as not to broaden the scope of the heading text;
  - (ii) To study the possibility of amending the legal text at the Sub-Committee’s next session in September, *{in the light of the outcome of discussions to be held in the HS Committee in May 2003. (US)}*

\* \* \*

1	2	4	5
NR0396E1	Possible amendments to subheading 2529.10 and the relevant Explanatory Notes with regard to the term "felspar" (Proposal by the EC).	<u>See Annexes F/10 and F/11.</u>	<u>See Annex F/10.</u>

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

1. The Sub-Committee unanimously approved the amendments to subheading 2529.10 and the relevant Explanatory Notes with regard to the term "felspar", without modification.
2. The texts approved are set out in Annexes F/10 and F/11 to this Report.

\* \* \*



1	2	5
NR0397E1	Possible alignment of the French and English texts of Subheading Note 1 to Chapter 16, Subheading Notes 1 and 2 to Chapter 20 and Note 3 to Chapter 21 (Proposal by the EC).	<u>See Annex F/16.</u>

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

1. Many delegates were in favour of the EC proposal to align the French texts on the English texts as suggested in Doc. NR0397E1.
2. The Delegate of Switzerland stated that it would be more appropriate to use the expression "masse nette" rather than the expression "poids net" in the proposed French texts, noting that "masse nette" was being used in Customs declaration forms in Europe.
3. In this regard, one delegate pointed out that during the last review cycle a proposal to use the term "mass" instead of "weight" had been examined based on the ISO standard, but this proposal was not adopted. He explained that although the term "mass" was scientifically more accurate than "weight", in the field of Customs, as well as in trade circles, the term "weight" was more familiar than "mass".
4. It was further pointed out that the English text of heading 35.06 referred to "a net weight" and the corresponding French text referred to "d'un poids net", while "masse" was used in the context of "masse volumique" in the French text of heading 44.11, which corresponded to "density" in English. If the term "masse" were to be introduced in the French text instead of "poids", modifications would have to be made throughout the Nomenclature in the French version. English version of the Nomenclature would also have to be modified by introducing "masse" instead of "weight".
5. Finally, the Committee agreed to put the expression "d'un poids net" of the proposed French texts in square brackets and asked the HS Committee to take a decision on this matter at its May 2003 Session.
6. The texts under consideration are set out in Annex F/16 to this Report.

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ANNEX E  
COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0355E1	Possible amendment of the Explanatory Notes to headings 84.01 to 84.29.		<u>See Annex F/26.</u>	

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.
2. Before discussing the texts of Annex I to Doc. NC0355E1, the Sub-Committee agreed on the procedure with regard to the proposals to insert a reference to a specific article in the Explanatory Notes. It was agreed that, if an administration had an unresolved question as to the classification of the specific article, the Sub-Committee would delete the reference or, on request, would ask an administration to submit the question to the HS Committee for a decision.

**Section XVI.**

**Page 1386. General. Part (III). First sentence.**

3. There was a lengthy discussion concerning the proposal to insert a reference to “automatic data processing machines” in the General Explanatory Note to Section XVI, Part (III) ACCESSORY APPARATUS. Several delegates were of the opinion that ADP machines were not accessory apparatus and that the text should be deleted because it presented classification questions which conflicted with existing Nomenclature, Explanatory Notes and Opinions in the Compendium (see, for example, Note 5 (E) to Chapter 84 and Item (2) of the corresponding Explanatory Note on page 1395, Opinion 9027.30/2, paragraph 2 of the Explanatory Note on page 1388 to Part (VII) on functional units).

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. Several other delegates were of the opposite opinion and indicated that existing Explanatory Notes and Opinions supported the inclusion of the article in the list of articles that were accessory apparatus classifiable with a machine or apparatus when presented with the machine or apparatus (see, for example, Note 4 to Section XVI, Note 5 (E) to Chapter 84 and the corresponding Explanatory Note on page 1395, Opinions 8517.30/1 and 8517.50/2 of the Compendium of Opinions).
5. One delegate agreed with the insertion of the reference and stated his opinion that this type of reference to an article was not the type of specific article for which the Sub-Committee had agreed to delete if it raised classification questions for an administration. Therefore, in view of the conflicting interpretations, he agreed with putting the text in square brackets.
6. The Sub-Committee agreed to place the text in square brackets. This text, to be addressed by the Sub-Committee at its next session, is set out in Annex F/26 to this Report. The Chairperson and the Secretariat strongly encouraged the proponents to submit written comments on their position for the next session.

**Heading 84.05.**

Page 1405. Exclusion paragraph.

7. Concerning new exclusion (b), delegates agreed to redraft the text, as set out in Annex F/26 to this Report, and to examine the relevancy of the term "town gas generators" at the next session. One delegate indicated that the exclusion of ozone generating and diffusing apparatus from heading 84.05 may be incorrect because the current Explanatory Note, page 1404, refers to self-contained apparatus for producing "any kind of gas". *{Some administrations suggested that the exclusion refer only to the term "coking ovens". (US)}* The Sub-Committee agreed to place both proposed exclusion texts in square brackets for further consideration at its next session.

**Heading 84.12.**

Page 1417. Part (F).

8. In response to the question raised by the Secretariat in paragraph 14 of Doc. NR0355E1, the Sub-Committee agreed to retain Part (F) because these machines were still in use.

**Heading 84.13.**

Page 1421. New exclusions (f) and (g).

9. The proposals to exclude certain types of medical pumps from heading 84.13, which were based on a classification position taken by one administration, presented classification concerns for other administrations. The Sub-Committee agreed, in the absence of additional information or samples, to delete the proposed exclusions.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 84.26.**

Page 1458. Sixth paragraph. New Item (6).

**Heading 84.28.**

Page 1463. Part (II). Item (A).

**Heading 84.28.**

Page 1464. Part (III). New item (M).

10. The **US** Delegate requested that these proposed texts be placed in square brackets and indicated that his administration would submit comments on these texts for the next Session. The Sub-Committee agreed.
11. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/26 to this Report.

\* \* \*



1	2	4
NR0356E1	Possible amendment of the Explanatory Notes to headings 84.30 to 84.40.	<u>See Annex F/27.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 84.34.**

Page 1480. Part (I). Third paragraph.

2. Although some delegates could accept the text because it described a type of milking system that would fall in heading 84.34, other delegates expressed concerns. One delegate indicated that it was uncertain as to whether Note 3 or Note 4 to Section XVI applied. In response to this, one delegate pointed out that perhaps the text could be added to the third paragraph in Part (I) because that paragraph referred to the classification of milking systems that {*comprised (US)*} separate components. The Secretariat agreed to examine the text in light of these comments.
3. Another delegate asked for more information on the various types of apparatus presented with the system. The **Japanese** Delegate indicated that, if his administration still had doubts, they would provide comments. The Sub-Committee agreed to place the text in square brackets.

**Heading 84.36.**

Page 1485. Part (II). New exclusion paragraph.

4. The Sub-Committee agreed that the reference to “heading 84.28” was incorrect and changed to the reference to “heading 84.22” in the proposed exclusion paragraph.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 84.39.**

Page 1495. Part (I). Item (A). New item (7).

Page 1496. Part (I). Item (E).

5. The **US** Delegate asked that the Secretariat review the proposed texts for new item (7) to Part (I) (A), heading 84.39, and revised item (E) to Part (I) of the same heading. He indicated that these appeared to be redundant. The Sub-Committee agreed to place these texts in square brackets for further review by the Secretariat.

Page 1496. Part (II). Item (A).

6. Concern was raised as to the meaning of the second sentence in the proposed revision of item (A). The Sub-Committee agreed to place the text of item (A) in square brackets so that the Secretariat could review the text in order to make it clearer.

Page 1497. Part (II). Item (D).

7. The **US** Delegate indicated that the proposed revision for the text of item (D) appeared to be redundant. The Sub-Committee agreed to place the text of item (D) in square brackets so that the Secretariat could review the text.

Page 1497. Part (III). Item (A).

8. After a discussion as to the use of the terms “reeling machines” and “winders and rewinders” in the Explanatory Notes, the Sub-Committee agreed to retain the status quo with regard to the current text of item (A) to Part (III) in order to prevent confusion between machines of headings 84.39 and 84.41.

9. These texts, to be addressed by the Sub-Committee at its next session, are set out in Annex F/27 to this Report.

10. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/27 to this Report.

\* \* \*

1	2	4
NR0357E1	Possible amendment of the Explanatory Notes to headings 84.41 to 84.59.	<u>See Annex F/28.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 84.53.**

Page 1534. Part (I). First paragraph. New last sentence.

2. The Sub-committee agreed to delete the proposed exclusion for certain chrome recovery plants because the proposed reference presented a classification question.

**Heading 84.55.**

Pages 1539 to 1540.

3. The **US** Delegate stated that his administration would submit comments for a new proposal to amend the Explanatory Notes concerning welded tube mill machinery of heading 84.55.

**Heading 84.58.**

Page 1546. Subheading Note. First two paragraphs.

4. The Chairperson noted that the term "computer" would be removed from the text. After several comments concerning the structure of the proposed amendments, the Sub-Committee agreed that the texts should be placed in square brackets and that the Secretariat should review the text in order to prepare a revised text for the consideration at the next RSC session.
5. All the other proposals were agreed upon and would be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/28 to this Report.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. These texts, to be addressed by the Sub-committee at its next session, are set out in Annex F/28 to this report.

\* \* \*



1	2	4
NR0358E1	Possible amendment of the Explanatory Notes to headings 84.60 to 84.85.	<u>See Annex F/29.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 84.67.**

Pages 1566 to 1567.

2. The **US** Delegate stated that his administration will submit comments for a new proposal to amend the Explanatory Notes concerning certain tools for working in the hand of heading 84.67.

**Heading 84.72.**

Page 1585. New item (22).

3. Comments were made by three delegates at the previous session of the RSC with regard to the proposal to insert new item (22). The **EC** Delegate again noted that, if the text of new item (22) were added, it would be appropriate to insert a corresponding exclusion in the Explanatory Notes to heading 84.72 for sorters of heading 90.09. One delegate proposed the insertion of the term “stand-alone” at the beginning of the text and deletion of the phrase “after duplication” at the end of the text. The Delegate of **Japan** agreed and indicated that this would satisfy the concerns of his administration.
4. However, the **EC** Delegate was not certain as to the meaning of the term “stand-alone” and, furthermore, he noted that it was appropriate to balance the new inclusion with an exclusion for sorters that were specified in heading 90.09. He suggested that new exclusion (c) for “sorters of heading 90.09 should be inserted. The **US** Delegate did not agree with the exclusion, but, as an alternative, suggested that the text should read as “sorters, which are parts or accessories solely or principally used with machines of heading 90.09”.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. The Sub-Committee agreed to place the amended proposal for new item (22) and the proposal for a new exclusion (c) in square brackets for consideration at its next session.

**Heading 84.79.**

Page 1603. Part (III). New item (32).

6. The Sub-Committee agreed to delete proposed new item (32). This deletion was consequential on the deletion of a related proposal (see paragraph 2 of Annex F/28 to this Report).
7. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/26 to this Report.
8. These texts, to be addressed by the Sub-committee at its next session, are set out in Annex F/29 to this report.

\* \* \*

1	2	4
NR0359E1 NR0384E1	Possible amendment of the Explanatory Notes to headings 85.01 to 85.16.	<u>See Annex F/30.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 85.04.**

Page 1627. Part (II). Penultimate paragraph.

2. The Sub-Committee discussed the **United Kingdom's** proposal to maintain the reference to "machines of heading 84.71" in the text. The Sub-Committee decided to place this text in square brackets pending the receipt of written comments from the **Canadian** Administration.

**Heading 85.05.**

Page 1628. Item (3). First sentence.

3. This proposal was deleted as a consequence of the decision at HSC/30 to classify electrostatic chucks in heading 84.66.

**Heading 85.06.**

Page 1631. Exclusion paragraph. New exclusions (a) and (b).

4. The Sub-Committee accepted the **Swiss** proposal to add the expression "borne, cosse et barettes, par exemple" in the French text to exclusion (a) after the term "terminaux".
5. Subject to this amendment, the proposed new exclusions (a) and (b) were accepted.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 85.07.**

Page 1632. Second paragraph. Last sentence.

6. The **United States** withdrew its comment regarding alkaline accumulators.

Page 1632. New third paragraph.

7. The term “computers” was replaced by the expression “automatic data processing machines”.

Page 1632. New exclusion paragraph.

8. The Sub-Committee accepted the **Swiss** proposal to add the expression “borne, cosse et barettes” in the French text to exclusion (a) after the term “terminaux”.

**Heading 85.09.**

Page 1633. New item (B) (7).

9. Since it was the view of some administrations that this proposal might lead to confusion, it was dropped by the Sub-Committee.

**Heading 85.11.**

Page 1637. Exclusion paragraph. New exclusions (d) and (e).

10. Since several administrations felt that the proposals as drafted raised classification issues, both proposals were dropped by the Sub-Committee.

**Heading 85.12.**

Page 1638. Present item (10).

11. The Sub-Committee accepted this proposal subject to the editorial amendment suggested by the Delegate of **France** to delete and substitute a comma for the current semi-colon after the word “trailers”.

Page 1639. New item (11).

12. This proposal basically only provided a different way of presenting item (14). Consequently, the proposal was dropped by the Sub-Committee.

Page 1639. Present item (11) (renumbered as 12).

13. There was some doubt as to both the necessity of this proposal, as well as the classification of “reversing alarms which are activated when the vehicle’s reverse gear is engaged”. Consequently, the proposal was dropped by the Sub-Committee.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1639. Present item (14).

14. The proposal to delete this item was not accepted.

**Heading 85.13.**

Page 1639. Second paragraph. New two last sentences.

15. Since several administrations expressed doubts as to the classification of the products referred to in these exclusions, the proposal was dropped by the Sub-Committee.

Page 1640. New item (3).

16. The Sub-Committee agreed to insert the term ("clip") in the French text after the expression "un système de fixation".

17. Subject to this amendment, the proposal was accepted by the Sub-Committee.

Page 1646. Item (6).

18. The Sub-Committee agreed to delete the term "radio" and to replace the expression "main function" by "principal function".

19. Subject to these amendments, the proposal was accepted by the Sub-Committee.

Page 1640. New item (9).

20. The proposal was dropped by the Sub-Committee.

**Heading 85.16.**

Page 1649. Part (E).

21. The Sub-Committee discussed a proposal by the **United Kingdom** to include a reference to "home sauna apparatus" in the Explanatory Notes because of the significant volume of trade (see also Classification Opinion 8516.79/1). The Sub-Committee agreed to continue its discussion of this matter at the next session, on the basis of a document to be submitted by the **Canadian** Administration.

22. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/30 to this Report.

\* \* \*



1	2	4
NR0360E1 NR0384E1	Possible amendment of the Explanatory Notes to headings 85.17 to 85.22.	<u>See Annex F/31.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 85.17.**

Page 1651. First paragraph.

2. While the **US** Delegate agreed with this text, he requested that the first and second paragraphs be placed in square brackets pending a submission by the **US** Administration to reword this text to make it read better.

Page 1651. Part (I) (A). Item (2).

3. The Delegate of **Japan** withdrew his comment concerning the classification of the product described in paragraph 48 of Doc. NR0306E1.

Page 1651. Part (I) (A). New items (i) and (ii).

4. **Canada** withdrew its comments concerning the references to cordless telephone sets and telephone sets which comprise a combined dialling selector and switching key unit.

Page 1651. Part (I) (C).

5. The Sub-Committee agreed with the suggestion made by the Delegate of **Japan** that in the description of videophones, to replace the word "essentially" by the word "principally".

Page 1652. Part (I) (B) and (C).

6. The Sub-Committee agreed to place this text in square brackets for examination at its next session, as some doubt was expressed by delegates as to what these product descriptions actually described.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1653. Item (E). New third paragraph.

7. As the issue of the classification of digital multifunction machines was to be discussed at the Committee's 32<sup>nd</sup> Session later this year, the Sub-Committee agreed to place the text in square brackets, pending the Committee's decision. The Sub-Committee also agreed to delete any reference to the word "computer" in the proposed texts and to substitute the term "automatic data processing machine".

Page 1654. New part (III). Item (C).

8. The Delegate of **Switzerland** suggested the creation of an exclusion for ADP routers because the reference to routers might cause some confusion. Other delegates agreed pointing out that the routers classified by the HS Committee in heading 84.71 were not included in the new text. Following these points, the Sub-Committee had a discussion on the necessity of including the term "least cost routers", as the term itself was unclear.
9. Finally, the Sub-Committee agreed to delete this proposal.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (C).

10. Some delegates felt that "caller number display units" mentioned here were not classified in heading 85.17 but instead were classified in heading 85.31.
11. The Sub-Committee agreed to delete this proposal.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (F).

12. Some doubt was expressed as to whether this composite communication device, which was a combination telephone and Internet terminal, was classified in heading 85.17. In addition, concern was expressed regarding the wording "commonly known as Internet telephone" in the English version.
13. Finally, the Sub-Committee agreed to delete this proposal.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (D).

14. At the request of the **US** Delegate *{for further information on these devices, (**US**)}* item (D) was placed in square brackets for examination at the next session.

Page 1654. Present Part III (Proposed New Part IV). Second paragraph. Item (F).

15. The Delegate of the **United Kingdom** suggested that there should be a reference in the Explanatory Note to "video-conferencing equipment". In the ensuing discussion, the following points were raised :
- How is this equipment traded? Is it individually or as a complete set?



OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- What about software which can perform this function? This highlighted the fact that there were different technologies available on the market.
- Should this equipment be classified first before being included in the Explanatory Notes?

16. The Sub-Committee agreed to include this new proposal as item “(F)” and to continue to examine it at the next session on the basis of technical information to be provided to the Secretariat by **United Kingdom** Administration.

Page 1654. New exclusion (h).

17. Some doubt was expressed as to the classification of these “data encryption devices”. One delegate informed the Sub-Committee that data encryption devices had been classified by the HS Committee in heading 84.71. Another delegate felt that there was not sufficient information available to give a specific classification and, as a result, his administration preferred to delete this proposal.

18. Finally, the Sub-Committee agreed to delete this proposal.

**Heading 85.18.**

Page 1656. Part (B). First paragraph. Introductory part.

19. The Delegate of **Canada** withdrew his concerns regarding the phrase “from an amplifier”.

Page 1656. Part (C). Second paragraph.

20. The **EC** Delegate informed the Sub-Committee of a decision by the HS Committee concerning airmen’s headgear (exclusion (a) on page 1657). He felt that this proposal conflicted with the current Explanatory Note.

21. After some discussion, the Sub-Committee concluded that there was no contradiction and, therefore, no change to the current text was required.

Page 1657. Part (D). Last paragraph. New last sentence.

22. Several delegates expressed concern with the reference to “equalisers” in this proposal. If equalisers were properly classified in heading 85.43, then no problem existed. If however they were not properly classified there, then there was a problem. In addition, heading 85.43 made reference to two products but the Explanatory Note only referred to audio-mixers.

23. The Sub-Committee agreed to place the text “and equalisers” in square brackets for examination at the next session.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1657. Exclusion paragraph. Exclusion (c).

24. One delegate indicated that cordless headphones were classified in heading 85.18 and not in heading 85.25, if they were combined with a microphone, as they were then not just reception apparatus but also transmission apparatus.
25. Another delegate indicated that as it currently stands, the transmission component directs by precedence to heading 85.25. He also noted that if there was concern for the classification of headphones, then there should also be concern for the classification of cordless microphones.
26. The Sub-Committee concluded its discussions by agreeing to replace the words "cordless microphones" by the words "cordless headsets". It also agreed that the French text should be aligned on the English text by the addition of the phrase "incorporate a transmitter" in the French text. *{The Sub-Committee agreed with the Delegate of **Canada** to insert "e.g.," in the brackets on the first line of the text in order to avoid the appearance of an exhaustive list. In addition, the Sub-Committee also agreed to delete the phrase "in the form of microscopic pits on" and to replace it by the word "from". This was at the suggestion of the Delegate of **Canada** who informed the Sub-Committee that "microscopic pits" referred only to CD-ROM technology and he questioned whether such technology was still being employed and was not relevant to recordable or re-writable CDs. (**Canada**)}* Finally, the Sub-Committee agreed to place Exclusion (c) in square brackets for examination at the next session.

**Heading 85.19.**

Page 1658. Fourth paragraph. New Item (4). First paragraph.

27. The Sub-Committee agreed with the Delegate of **Canada** to the insert "e.g.," in the brackets on the first line of the text in order to avoid the appearance of an exhaustive list. In addition, the Sub-Committee also agreed to delete the phrase "in the form of microscopic pits on" and replace it by the word "from". This was at the suggestion of the Delegate of **Canada** who informed the Sub-Committee that "microscopic pits" referred only to CD-ROM technology and he questioned whether such technology was still being employed.

Page 1658. Fourth paragraph. New item (4). Second paragraph.

28. The Delegate of **Canada** suggested that the phrase "are presented" should be replaced by "may be presented" because it gave the impression that they had to be presented with earphones or headphones and this was not the case.
29. The Sub-Committee agreed with this proposal.
30. The Sub-Committee also agreed with rewording the text concerning "jukeboxes" so that it was in alignment with the text already provisionally adopted by the HS Committee for 2007.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1658. New Item (7).

31. Concern was expressed by delegates that the product referred in this new item was similar to item (13) on page 1703 of the present Explanatory Note. It was felt that this new item might result in classification problems.
32. The Sub-Committee accepted these concerns and agreed to delete this proposal.

**Heading 85.20.**

Page 1660. Part (A). New Item (3).

33. The **EC** Delegate expressed concern regarding new item (3) on “electronic type”. Some MP3’s had their own memory and the HSC classified those in heading 85.20 while others had external memory and those were classified in heading 85.19. Therefore, he had some doubts regarding the second sentence of item (3) and felt that account had to be taken of the HSC decisions described by the Secretariat in paragraph 121 of Doc. NR0306E1. In addition, he pointed out that the **Australian** proposals should be redrafted taking into account the Committee’s decision regarding the classification of MP3 players and the resulting Explanatory Note amendment that was approved by the Committee at its 30<sup>th</sup> Session in November 2002 (new fourth paragraph on page 1660 of present Explanatory Note). The Committee classified MP3s in two separate headings depending on whether they had their own memory or an external memory. Consequently, the last part of this new paragraph regarding the reference to downloading from the Internet onto internal memory (e.g., flash memory) might have consequences on the proposed new item (3) from **Australia**.
34. Another delegate also disagreed with the Secretariat’s comments in paragraph 111 of Doc. NR0306E1, regarding whether the second sentence of the proposed text should be retained, given the fact that flash memory is used for various applications, including digital cameras.
35. A third delegate also indicated concerns with the proposed text for heading 85.20 and, in particular, that, as written, some products in Part (A) might belong in Part (B). He suggested that the whole text of heading 85.20 be placed in square brackets for examination at the next session.

Page 1660 to 1661. Part (A). New item (2).

36. The Delegate of **Canada** believed that the reference to “microscopic indentations” was not technically accurate. At his suggestion, the Sub-Committee agreed to place in square brackets the word “indentations”, for examination at the next Session.
37. Finally, the Sub-Committee decided to place the whole text of heading 85.20 in square brackets for examination at the next session. The Secretariat was instructed to compare the proposed text with the present text in the Explanatory Notes and to look at the advisability of inserting exclusion notes in heading 85.20 for some products of heading 85.19.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 85.21.**

Part (A).

38. The Delegate of **Canada** felt that the text proposed for Part (A) was too detailed. In his view, if the product performed the function of video, it was not necessary to know how this video function was performed. He indicated that his administration would submit a proposal to reword this text for the next session.
39. The Delegate of **Canada** also believed that the reference to “microscopic indentations” was not technically accurate. At his suggestion, the Sub-Committee agreed to place in square brackets the word “indentations”, for examination at the next session.
40. The Sub-Committee then agreed to place the whole text to Part (A) in square brackets for examination at the next Session, pending the **Canadian** submission.

Page 1662. Part (B). Item (1).

41. The **US** Delegate was of the view that the objective of the **Australian** Administration’s proposal was to have classified in heading 85.21 DVD players which played movies, as well as audio CDs. In his view, it was unclear whether the proposed text accomplished this objective.
42. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/31 to this Report.
43. The Sub-Committee agreed to place this text in square brackets for examination at the next Session. The Chairman invited administrations to make submissions.

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1	2	4
NR0361E1	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48.	<u>See Annex F/32.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 85.23.**

Page 1665. Second paragraph.

2. The **US** Delegate asked that this text be placed in square brackets for examination by the Sub-Committee after the HS Committee had finished its examination of the scope of Note 6 to Chapter 85, particularly in connection with the classification of the **Palm V** presented with its software.
3. The **EC** Delegate informed the Sub-Committee that while he could accept the text being placed in square brackets, the Committee would be interpreting the scope of Note 6 but not the text of the Note. This proposal would merely take the text of Note 6 to Chapter 85 and add it to the Explanatory Note.

**Heading 85.24.**

Page 1666. Second paragraph.

4. The **US** Delegate asked that this text be placed in square brackets for examination at the next session. This text was related to the text of heading 85.23, item (5), second paragraph, which had already been placed in square brackets.

**Heading 85.25.**

Page 1667. Part (A). Second paragraph. Item (3).

5. The proposed text was modified by the addition of “or base-stations” and the deletion of the first sentence. The **US** Delegate asked that the proposal be placed in square brackets

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

and indicated that the **US** Administration would be submitting a revised text for examination at the next session.

Page 1668. Part (C). New second and third paragraphs.

6. There was doubt as to the use of the term "video-conferencing". This term was deleted and the text redrafted. The Sub-Committee then accepted the revised text.

Page 1669. Part (D).

7. The Delegate of **Switzerland** indicated that the **Swiss** Administration would submit a proposal concerning the recording speed of digital camcorders for examination at the next session.
8. The **US** Delegate indicated that his administration would also be submitting a proposal for Part (D) for examination at the next session.

**Heading 85.27.**

Page 1673. Part (B). First paragraph. New item (5).

9. The **US** Delegate indicated that his administration would be submitting new proposals in respect of the stereo systems (hi-fi systems) referred to in proposed new item (5), in order to assure that the text included a reference to speakers.

**Heading 85.28.**

Page 1673. Second paragraph. Item (1). New second and third sentences

10. The **US** Delegate had doubts about the classification of these products and asked that the proposal be put in square brackets for examination at the next session.

Page 1674. First paragraph. Item (3).

11. The **EC** Delegate pointed out that, while he could accept the proposal to delete this item, the industry has indicated that this would leave a void in the Explanatory Notes with regard to video tuners. Consequently, this text should be re-drafted.
12. The Sub-Committee agreed to put this proposal in square brackets for examination at the next session, pending the submission of comments by the **EC**.

Page 1674. First paragraph. Item (4).

13. The **US** Delegate had doubts about the classification of these products and asked that the proposal be placed in square brackets for examination at the next session.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1674. Exclusion paragraph. New exclusion (d).

14. Several administrations expressed doubt as to the classification of this product in heading 85.17. Consequently, the proposal was dropped by the Sub-Committee.

**Heading 85.29.**

Page 1675. Exclusion paragraph. Exclusion (c).

15. The Delegate of **Canada** withdrew his comment. The Sub-Committee then accepted the proposed text.

**Heading 85.31.**

Page 1679. Exclusion paragraph. New exclusion (c).

16. The **US** Delegate indicated that, while his administration could agree to insert new exclusion (c), it did not agree with the rationale provided in paragraph 29 of Doc. NR0361E1.

**Heading 85.36.**

Page 1687. Part III. New item (A)(3).

17. The **US** Delegate had some doubts as to the classification of these "contact pads" *{and requested further information on them. (US)}* Consequently, he requested that the proposal be placed in square brackets for examination at the next session.

**Heading 85.37.**

Page 1689. Second paragraph. New item (4).

18. This proposal was placed in square brackets pending technical information to be provided by the **UK** Administration.

Page 1689. Exclusion paragraph. New exclusion (d).

19. The **United States** could not accept the proposed new exclusion because cordless *{infrared (US)}* remote control devices had been the subject of a court ruling in the **United States**, directing them to heading 85.37.

20. The Delegate of **Canada** also had some doubts concerning the classification of cordless *{infrared (US)}* remote control devices.

21. Accordingly the text in question was placed in square brackets for re-examination at the next session.

**Heading 85.39.**

Page 1690. Part (A).

22. The Delegate of **Canada** indicated that sealed beam lamp units were still being manufactured in North America.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

23. The **UK** Delegate then withdrew his administration's comment in paragraph 35 of Doc. NR0361E1.

**Heading 85.40.**

24. The Secretariat informed the Sub-Committee that it would report on the findings of its study to clarify the distinction between monitors for ADP machines and other cathode-ray television picture tubes at a future session.
25. The **EC** Delegate pointed out that this study was intended to focus on the distinctions between different kinds of cathode-ray tubes and not monitors.

**Heading 85.42.**

Page 1700. Item (I) (1). New last paragraph.

26. Doubt was expressed by delegates concerning the wording of the proposed text. The view was expressed that not all circuits were classified in heading 85.42, but only monolithic integrated circuits. This should be reflected in the text. It was proposed to insert the term "certain circuits" but there was some reluctance to use the term "certain" without specifying where the others were classified. The Sub-Committee agreed to place the text in square brackets for examination at its next session.
27. The Secretariat was instructed to study the use of the terms "EEPROM" and "E<sup>2</sup>PROM".

**Heading 85.43.**

Page 1702. New items (18) to (20).

28. The Sub-Committee placed these proposals in square brackets pending the submission of technical literature as to the nature of these products.

Page 1702. New Item (21).

29. The Sub-Committee agreed to drop this item from consideration.
30. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/32 to this Report.

\* \* \*



1	2
NR0362E1 NR0390E1 NR0391E1	Possible amendment of the Explanatory Notes to Chapter 87.

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 87.01.**

Page 1730. Fourth paragraph.

2. With regard to the possible replacement of "tractors" by "road tractors", the delegate of the **EC** indicated that he preferred to maintain the status quo. As a compromise, the delegate of the **United States** proposed that the examples in parentheses be deleted.
3. With respect to the first sentence, which reads "The tractors of this heading are not fitted with coachwork", and assuming that the present formulation were to be retained, the delegate of the **EC** proposed the addition of the word "generally" after "not".
4. While accepting the insertion of the term "(a body)" after the word "coachwork", the delegate of **Canada** recalled his administration's proposal to amend this sentence, in the English version only, as follows : "The tractors of this heading may be fitted with coachwork (a body) providing varying amenities and levels of comfort."
5. During the discussion, it was also pointed out that the present Explanatory Notes might not make it sufficiently clear that modern tractors, in which, incidentally, there was a great deal of trade, might be fitted with coachwork and generally provided a certain degree of comfort.
6. The Sub-Committee therefore agreed to place the entire text in square brackets in order that it might be examined more closely during the intersession with a view to possible reworking.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Headings 87.02 and 87.03.**

7. After an exchange of views, the Sub-Committee agreed that the term "persons" should not be defined or explained in the Harmonized System.

**Heading 87.03.**

Page 1733.

English version only.

8. With respect to the fourth paragraph, item (1) of the Explanatory Note to heading 87.03, the Sub-Committee decided that, in the English version, the expressions "saloon cars" and "hackney carriages" should be replaced by "limousines" and "taxis", respectively.

**Headings 87.04, 87.05 and 87.07.**

9. With regard to the Canadian proposal to insert the word "trucks" in parentheses after "lorries", the United Kingdom delegate questioned the desirability of such an insertion, since the word "trucks" appeared to cover vehicles with an open body whereas the word "lorries" was more often used to designate vehicles with a closed body.
10. The Sub-Committee agreed to place these words in square brackets, pending additional information from Canada.

**Heading 87.06.**

Page 1737. First paragraph.

11. In connection with the proposal to insert the term "unibody construction" ("structure monocoque") after "combined chassis-body framework" ("chassis-carrosseries"), the United States delegate pointed out that the word "monocoque" was also used in English and therefore proposed that it be mentioned in the English version.

**Heading 87.10.**

Page 1742. Second paragraph.

12. The Sub-Committee decided to delete the examples of tanks -- "(heavy, medium or light)" -- contained in parentheses in the present Explanatory Note and not to insert the term "main combat" as proposed by Canada. At the same time, the Sub-Committee approved the proposal to make it clear that tanks had only one traversing turret.

Page 1742. Fourth paragraph.

13. The EC delegate questioned whether it was really necessary to mention "armoured personnel carriers" in the first sentence. As this possible addition also posed problems of

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

alignment between the two versions, the Sub-Committee agreed to place the texts in square brackets so that they could be examined more closely during the intersession.

**Heading 87.12.**

Page 1744. Exclusion paragraph.

14. The Sub-Committee decided to approve the deletion of the reference to "rail-cycles for track inspection purposes" in exclusion (a) of the present Explanatory Notes.

**Heading 87.13.**

Page 1744.

15. The Sub-Committee examined the **Canadian** proposal to replace the expression "disabled persons" ("invalides") by "persons with disabilities" ("personnes handicapées"), taking into account the Secretariat's comments in Doc. NR0391E1.
16. After an exchange of views, the Sub-Committee agreed that the scope of heading 87.13 was very restrictive and considered that the proposed amendment could have implications for the classification of the products of heading 87.13. It therefore decided not to make the change proposed.

**Heading 87.14.**

Page 1745. Item 11.

English version only.

17. The Sub-Committee approved the proposed changes, but decided to place the term "(seat-covers)", which appeared to have different interpretations, in square brackets.

Page 1746. Item 15.

English version only.

18. The Sub-Committee decided to place the proposal to insert the term "(fenders)" after "Mudguards" in square brackets for examination during the intersession, as the word was also used elsewhere in the Nomenclature with a different meaning.

**Heading 87.16.**

Page 1747. Part (A). Item 1.

19. The delegate of the **EC** said that the addition of the expression "roulottes de tourisme" was unnecessary and that this term was not used in **Europe**.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

20. The Sub-Committee decided to place these words in square brackets, in the French version, pending additional information from Canada.
- Page 1747. Part (A). Item 4 (b).
21. The Sub-Committee decided not to approve the proposal to insert the word "utility" after "public works".
- Page 1748. Part (A). Item (4) (l).
22. The Sub-Committee decided not to approve the proposal to replace "Trailers" by "Logging trailers" in the English version, the French version remaining unchanged.
- Page 1748. Part (B). First paragraph. Item (1).
23. The Sub-Committee decided not to approve the proposal to replace the words "trucks and trolleys" by "multipurpose trucks and trolleys".
- Page 1749. Part (C). Item (7).
24. The Sub-Committee decided to add the word "sleighs" after "Sledges" in the English version, the French version remaining unchanged.
25. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/33 to this Report.
26. The texts approved and those placed in square brackets are reproduced in Annex F/33 to this report.

\* \* \*

1	2	4
NR0363E1 NR0384E1	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10.	<u>See Annex F/34.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 90.01.**

New second paragraph.

2. Following the statement of the **US** Delegate informing the Sub-Committee that his administration would submit an alternative proposal during the intersession, the Sub-Committee placed the proposal in square brackets.

New item (10).

3. The **EC** Delegate informed the Sub-Committee that he might submit a proposal to clarify the distinction between the articles of heading 86.08 and those of heading 90.01.

**Heading 90.04.**

4. The Sub-Committee felt that there was no reason to insert the reference as proposed. The proposed amendment was, therefore, deleted.

**Heading 90.05.**

5. The Sub-Committee shared the concerns expressed by the **EC** Delegate that cardboard box shaped binoculars could constitute toys. The proposed amendment was, therefore, deleted.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 90.06.**

Part (I). First paragraph. New two last sentences.

6. The Sub-Committee could accept the **Canadian** suggestion to replace the term “usually” by “e.g.,”. It was, however, not in a position to accept the **EC** suggestion to refer to a thermal process in the proposed last sentence, due to lack of information on the exact nature of this process. In this connection, the Delegate of **Japan** drew the Sub-Committee’s attention on the existing wording in the General Explanatory Note to Chapter 37. **Australia** was asked to provide more information on this issue. The proposed amendment was, therefore, placed in square brackets.

New items (6) and (7) and present item (6).

7. Following the observation of the Delegate of **Canada** that there might not be sufficient trade in the articles referred to in proposed new items (6) and (7), the Sub-Committee decided to place the two proposed items in square brackets. The proposed amendment to present item (6) was also placed in square brackets, pending a new text proposal to be submitted by the **Canadian** Administration.

Item (11). New last sentence.

8. The Delegate of **Canada** questioned whether there might be sufficient trade in the article referred to in the proposed new last sentence of item (11). Pending further information on this issue, the Sub-Committee decided to place the proposed amendment in square brackets.

Item (12).

9. The Sub-Committee agreed to delete the proposed amendment.

New items (15) and (16).

10. The **EC** Delegate expressed doubts as to whether the reference to these articles in heading 90.06 would be appropriate, since they might be covered by the terms of heading 85.25. Pending further information, the proposal was placed in square brackets.

Present item (15).

11. The Sub-Committee agreed to delete the proposed amendment.

PARTS AND ACCESSORIES.

12. The Sub-Committee agreed to delete the reference to “film motor drive boosters” in the proposed new wording, since these commodities might be classified elsewhere. The duly modified proposed amendment was accepted.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

**Heading 90.08.**

Item (A).

13. The Delegate of **Australia** agreed to try to obtain more information concerning the proposed additional reference. Pending receipt of further information, the proposal was placed in square brackets.

PARTS AND ACCESSORIES.

14. Following the statement of the Delegate of **Canada** that his administration no longer had a concern about the proposed amendment, the Sub-Committee accepted the amendment.

Exclusion paragraph.

15. The Sub-Committee decided to delete proposed exclusion (ij), pending the outcome of discussions to be held in the HS Committee as to where to classify the articles referred to in that exclusion. The Delegate of **Australia** stated that he would submit the necessary information for the Committee's consideration.

**Heading 90.09.**

Part (A).

16. Following doubts expressed by one delegate concerning the appropriateness of the proposed reference to photoreceptors, the Sub-Committee agreed not to amend this part of the Explanatory Note.

PARTS AND ACCESSORIES.

17. After some discussion and after having deleted the last part ("provided they are . . .") of the proposed sentence, the Sub-Committee accepted the proposed amendment.

Exclusion paragraph.

18. The Sub-Committee agreed not to amend this paragraph and consequently to drop the proposed amendment.
19. The texts in square brackets are reproduced in Annex F/34 to this Report.
20. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/34 to this Report.

\* \* \*





1	2	4
NR0364E1 NR0384E1	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33.	<u>See Annex F/35.</u>

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

1. The Sub-Committee agreed that square brackets should be placed around the entire text of the possible amendments proposed by the Secretariat in its comprehensive review of the Explanatory Notes. Although there was general agreement with many of the proposed amendments, the Sub-Committee felt that certain remaining questions should be resolved before the amendments were approved. The observations of the Sub-Committee with respect to the individual proposals are set out below. In order to identify the remaining questions, the Sub-Committee agreed to place square brackets around those texts for which further discussion was necessary. The Sub-Committee agreed to address these texts at its next session on the basis of additional proposals from administrations, review of additional technical information by administrations, and, where appropriate, redrafted language based on editorial review by the Secretariat.

**Heading 90.15.**

Page 1796. Part (I). Second paragraph. Item (1).

2. The Sub-Committee agreed not to amend this item.

Page 1796. Part (I). Exclusion paragraph. New exclusion (a).

3. The Sub-Committee agreed that in the French version the same text would be used as was accepted for the corresponding text for heading 85.26.

**Heading 90.16.**

Page 1799. First paragraph.

4. Concerns were expressed vis-à-vis the presentation. The Sub-Committee agreed not to redraft the last sentence, but to amend the first sentence only.

**Heading 90.17.**

Page 1801. Part (B). First paragraph. New exclusion paragraph.

5. Following the comments of some delegates that the classification reference to machines for line marking roads, etc. might not be correct, the Sub-Committee agreed to delete that part of the proposed new exclusion paragraph. It did accept, however, the other part of the proposed exclusion, subject to editorial amendments with respect to the presentation.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1801. Part (D). Third paragraph. New item (5).

6. The **EC** Delegate requested more information, since the article might be classifiable in heading 90.24. The Sub-Committee agreed to place the proposed amendment in square brackets, pending the receipt of that information.

Page 1801. Part (D). Third paragraph. Present item (5).

7. The Sub-Committee agreed with the Secretariat that the proposed wording would contradict the remaining part of item (5) and, therefore, deleted the proposed amendment.

**Heading 90.18.**

Page 1803. Part (I). First paragraph. Item (A) (1).

8. Following an intervention by the Delegate of **Switzerland** wondering whether there was a definition of “blanks”, the Sub-Committee decided to place the proposed amendment in square brackets, pending receipt of further information.

Page 1805. Part (I). New item (Q). Part (II). First paragraph. Item (3). Part (II). Second paragraph. New second sentence.

9. Responding to a question of the Chairperson, the Delegate of **Canada** informed the Sub-Committee that he could now accept (i) the proposed new item (Q) in part (I), (ii) the term “endodontic” in item (3) of Part (II), and (iii) the reference to “trimmers” in the new second sentence of the second paragraph of part (II).

Page 1805. Part (II). First paragraph. Item (5).

10. The Sub-Committee agreed not to insert the proposed new text for item (5), since it was felt that the current text was more descriptive.

Page 1807. New part (IV).

11. The **US** Delegate informed the Sub-Committee that he would submit a new proposal with a view to clarifying the structure of this part and present part (IV) (renumbered part (V)). The Sub-Committee agreed to put the proposal in square brackets pending the receipt of this proposal.

**Heading 90.19.**

Page 1810. Part (II). Second paragraph.

12. The Sub-Committee agreed with the Secretariat that the last sentence of the proposed text might not reflect the situation appropriately. It was, therefore, decided to delete that sentence from the proposed amendment.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Page 1812. Part (V). New item (D).

13. The **EC** Delegate explained that, since heading 90.19 covered therapeutic respiration apparatus, it was difficult to state that respiration masks were also classified in that heading. He wondered whether the proposed description was accurate. The Delegate of **Australia** said that he would endeavour to provide more information on this issue. Following this discussion, the Sub-Committee placed proposed new item (D) in square brackets.

Page 1812. Part (VI). Second paragraph.

14. Following the suggestion from the **US** Delegate that the Secretariat should have a further look into the proposed wording, the Sub-Committee agreed to place this proposal in square brackets.

**Heading 90.20.**

Page 1813. Exclusion paragraph. New exclusion (d).

15. Following the decision of the Sub-Committee to place proposed new item (D) of heading 90.19 in square brackets, proposed new exclusion (d) to heading 90.20 was also placed in square brackets.
16. All the other proposals were agreed upon and will be reviewed, if necessary, when the Sub-Committee considers the specific texts that remain in square brackets. The proposed text is set out in Annex F/35 to this Report.
17. The texts in square brackets are reproduced in Annex F/35 to this Report.

\* \* \*



1	2
NR0297E1 (RSC/26) NR0399E1	Possible amendment of the Explanatory Note to heading 29.35.

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

At the request of the **Canadian** Administration, the Sub-Committee agreed to delete this **Canadian** proposal from the Agenda.

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1	2	4
NR0371E1	Possible amendment of the Explanatory Note to heading 29.37.	<u>See Annex F/23.</u>

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

1. The Sub-Committee unanimously approved the texts set out in the Annex to Doc. NR0371B1, subject to several editorial modifications.
2. The texts approved are set out in Annex F/23 to this Report.

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1	2	4
NR0372E1	Possible amendment of the Explanatory Note to heading 29.41.	<u>See Annex F/22.</u>

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

1. The Sub-Committee unanimously approved the texts set out in the Annex to Doc. NR0372B1, subject to several editorial modifications.
2. The texts approved are set out in Annex F/22 to this Report.

\* \* \*



1	2
NR0373E1	Possible amendment of the Explanatory Note to heading 30.02.

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

On the basis of the observations of the Scientific Sub-Committee set out in Doc. NR0373E1, the Review Sub-Committee shared the view of the Scientific Sub-Committee that no amendment of the Explanatory Note to heading 30.02 was needed and agreed to maintain the status quo.

\* \* \*



1	2
NR0375E1	Possible amendment of the Explanatory Note to headings 84.33 and 87.01 to clarify the classification of riding lawn-motors.

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

1. Recognising that the decisions of other administrations have indicated that there was a lack of uniformity in the classification of these machines, the Delegate of **South Africa** suggested that her administration could submit detailed information for the purpose of pursuing further clarification of the question. She also suggested that it might be necessary to make amendments to the legal text.
2. Another delegate pointed out that there was no desire or intent to change the scope of the current legal texts. He suggested that the classification of a specific machine, such as the machine that was the basis for the proposals by **South Africa**, should be addressed by the HS Committee prior to consideration of an amendment to the Explanatory Notes.
3. The Sub-Committee agreed and invited the **South African** Administration to submit the classification question directly to the HS Committee.

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