



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0265E2

-  
25<sup>th</sup> Session  
-

O. Eng./Fr.

Brussels, 22 March 2002.

REPORT OF THE 25<sup>TH</sup> SESSION OF THE  
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

1. The Harmonized System Review Sub-Committee held its 25<sup>th</sup> Session from 18 to 22 March 2002 at the Headquarters of the World Customs Organization in Brussels, under the Chairmanship of Mr. D. BECK (USA).
2. The following 37 WCO Members and one Customs or Economic Union were represented :

Members

ANGOLA  
AUSTRALIA  
AZERBAIJAN  
BANGLADESH  
BELGIUM  
BRAZIL  
CANADA  
CHINA  
CÔTE D'IVOIRE  
FRANCE  
GERMANY  
INDIA  
IRELAND  
ISRAEL  
JAPAN  
KENYA  
LATVIA  
LIBYAN ARAB JAMAHIRIYA  
MADAGASCAR

MALAYSIA  
MOROCCO  
NETHERLANDS  
NORWAY  
POLAND  
ROMANIA  
RUSSIA (Fed. of)  
SAUDI ARABIA  
SENEGAL  
SLOVAKIA  
SLOVENIA  
SOUTH AFRICA  
SWEDEN  
SWITZERLAND  
THAILAND  
TURKEY  
UNITED KINGDOM  
UNITED STATES

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

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

I. AGENDA

4. The Review Sub-Committee decided to postpone the examination of Items III.A.2, III.B.5, III.C.4, III.C.7 and III.C.8 until its next session (see Annexes C/2, D/5, E/4, E/7 and E/8) and to delete Item III.C.2 (see Annex E/2).
5. Subject to the above amendments, the Review Sub-Committee adopted the Agenda, which is reproduced at Annex A.

II. QUESTIONS EXAMINED BY THE REVIEW SUB-COMMITTEE

6. 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.

III. OTHER

7. The EC made a presentation set out at Annex G to this Report.
8. The EC informed the Sub-Committee of the work carried out within the EC to modernize the HS Nomenclature, and more specifically Chapters 84, 85 and 90, as part of a study on products using information technology and on the revision of Note 5 to Chapter 84.
9. Mr. H. KAPPLER, Director of Tariff and Trade Affairs, thanked the EC for the highly interesting presentation and for the work being done by the EC regarding Chapters 84, 85 and 90. He invited the EC to present its proposal for modernization of the HS Nomenclature as soon as possible, so that the amendments could be examined in detail with a view to their implementation in 2007.
10. The Sub-Committee was informed of the forthcoming retirement of Mr. L. FORNSÅTER, who had been the Swedish Delegate for many years. The Director and the Chairman cited his remarkable achievements and thanked him for his valuable contribution to the Sub-Committee.
11. As Mr. D. BECK had reached the end of his term as Chairman of the Review Sub-Committee, the Director thanked him sincerely for the competence and commitment he had always shown and for the excellent work done during his chairmanship.

D. BECK,  
Chairman.

\* \* \*

AGENDA FOR THE 25<sup>th</sup> SESSION  
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

---

(from 18 to 22 March 2002)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
	Draft Agenda	A
II.	<u>GENERAL QUESTIONS</u>	
1.	Approval of Review Sub-Committee Reports	B/1
2.	Report on the meeting of the Policy Commission (46 <sup>th</sup> Session)	B/2
3.	Decisions taken by the Harmonized System Committee at its 28 <sup>th</sup> Session affecting the work of the Review Sub-Committee	B/3
III.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
1.	Possible amendments to the Nomenclature regarding the classification of waffles	C/1
2.	Possible amendments to the Nomenclature regarding the classification of sauces	C/2
3.	Possible amendments to the Nomenclature and the Explanatory Note to heading 84.42	C/3, F/3
4.	Possible amendments to the Nomenclature regarding the classification of cameras	C/4
5.	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24	C/5
6.	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items	C/6, F/6

Annex A to Doc. NR0265E2  
(RSC/25/March 2002)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
7.	Proposal by the US Administration to amend the Nomenclature to Chapter 41	C/7
8.	Proposal by the US Administration to amend the Nomenclature to heading 84.82	C/8
9.	Proposal by the US Administration to amend the Nomenclature to heading 85.19	C/9
10.	Proposal by the US Administration to amend certain subheadings of heading 87.08	C/10, F/1
11.	Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers	C/11
12.	Study of possible amendments to heading 30.01 with regard to human organs, tissues, etc	C/12
13.	Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)	C/13
14.	Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)	C/14
15.	Possible amendment of heading 21.06 to specifically mention "food supplements"	C/15
16.	Possible amendment of the Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration)	C/16
17.	Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys	C/17
18.	Deleted	
19.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21	C/18

B. NEW QUESTIONS

- |   |            |
|---|------------|
| 1. Possible amendment of the texts of subheadings 0805.40 and 2009.2 in order to align the French and English versions (Proposal by ALADI)                        | D/1, F/9   |
| 2. Possible amendments to the Nomenclature and the Explanatory Notes concerning heading 26.20 (Proposals by the Australian Administration and the Secretariat)    | D/2, F/2   |
| 3. Possible deletion of subheadings 4823.12 and 4823.19 (Proposal by the Brazilian Administration)  | D/3, F/10  |
| 4. Possible amendments to the structure of heading 84.18 (Proposal by the Secretariat)  | D/4, F/11  |
| 5. Possible amendments to the Nomenclature regarding the classification of flash electronic storage cards   | D/5        |
| 6. Possible amendments to headings 02.03 and 02.10 with regard to hams (Proposal by the Australian Administration)  | D/6        |
| 7. Possible amendments to the text of heading 08.02 to provide for macadamia nuts (Proposal by the Australian Administration)                                     | D/7, F/13  |
| 8. Possible amendments to the structured Nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration) | D/8        |
| 9. Possible creation of a new Note to Chapter 69 to define the term "refractory" (Proposal by the Australian Administration)                                      | D/9        |
| 10. Possible amendments to the text of subheading 9504.20 (Proposal by the Australian Administration)   | D/10       |
| 11. Possible amendments to heading 90.30 (Proposal by the US Administration)  | D/11, F/14 |
| 12. Possible amendments of subheading 8413.20 (Proposal by the EC)  | D/12, F/16 |
| 13. Possible amendments to the structure of headings 73.04 and 73.06 (Proposal by the EC)   | D/15       |

- |   |           |
|---|-----------|
| 14. Possible amendment to the Explanatory Note to heading 84.71 concerning CD drives and DVD drives (Proposal by the US Administration) | D/14      |
| 15. Possible amendments to Note 3 to Chapter 90 and Note 1 (m) to Section XVI (Proposal by the Canadian Administration)                 | D/15      |
| <b>C. <u>COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES</u></b>  |           |
| 1. Possible deletion of the references to “whales”  | E/1       |
| 2. Heading 39.26  | E/2       |
| 3. Heading 40.16  | E/3, F/15 |
| 4. Chapter 44   | E/4       |
| 5. Headings 61.03 and 61.04   | E/5       |
| 6. Heading 70.17  | E/6       |
| 7. Heading 84.71  | E/7       |
| 8. Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions                             | E/8       |

\* \* \*

ANNEX B  
GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0208E1	Approval of Review Sub-Committee Reports.			

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

1. The Director informed the Sub-Committee that the Policy Commission at its last session had approved the report and recommendations of the Ad Hoc Group on Committee Structures and Working Methods, including the recommendation that reports should only be read at the end of a meeting where there was a necessity to do so. The Policy Commission also asked that this recommendation be implemented immediately. The Director explained the new report-reading procedure of the Sub-Committee that was set out in the Annex to the working document, the text of which had been accepted by the HSC at its last session. In connection with the procedure regarding circulation of the draft report to RSC delegates for comment, the Director assured the Sub-Committee that the Secretariat would use the Internet, fax or express mail to ensure that delegates received copies of the draft report as quickly as possible. For that reason he urged delegates to give their e-mail addresses to the Secretariat since the Internet would be the most efficient way to get the draft report to delegates. The Director asked the Sub-Committee to take note of the new procedure and particularly the fact that the new procedure would take effect beginning with this session.
2. Referring to the discussion on this issue at the last HSC session, one delegate stated that the Sub-Committee should not be asked to "take note" only and expressed concerns regarding the legal difficulties that might arise from adopting the new procedure for the approval of reports at this session. He indicated that paragraph 4 of the working document was in contradiction with paragraphs 2 and 3 and thus questioned how the criteria arising out of the recommendations could already be applied during the first six months of 2002 before the Council examined any recommendations to change the procedure in June. He further observed that, while the Sub-Committee should apply the decision of the Council at future sessions, the current Council Decision regarding the reading of reports should be applied at this session and the Sub-Committee should therefore adopt its report at the end of the session.
3. In response, the Director recalled that reference had been made in the past to a Council Decision of June 1986 to the effect that committees shall, to the extent possible, adopt reports at the end of each session. The new recommendation of the Policy Commission was a reversal of that earlier decision. The Director explained that, while the Council was expected to approve the new Policy Commission recommendation in June and

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

thereby modify its 1986 decision, the Secretariat was of the view that it was the prerogative of each committee to decide whether it was necessary to adopt a report at the end of its session since the 1986 Council Decision said "to the extent possible". The Council Decision was therefore not a categorical decision and allowed flexibility for the committees to decide whether to read the report at the end of a session. The Director noted that this question had been discussed at length in different meetings of the WCO. The Policy Commission recommended that the new procedures should be implemented immediately and indeed the Policy Commission and other committees that had met before the Review Sub-Committee did not read their reports at the end of their sessions.

4. However, in order to address the concerns raised and at the same time to meet the tight agenda of one week for this meeting, which had been prepared on the assumption that there would be no reading of the report on Friday, the Director offered a pragmatic compromise. He suggested that the Sub-Committee work till the end of Friday as suggested in the agenda and then suspend the meeting until 22 May 2002. The Sub-Committee would read its report and then close this session on that day, which would also be the first day of the next session of the HSC. In this connection, the Chairman and the Director stressed that, while the new procedure might not be invoked officially until the Council met in June, from a practical point of view, delegations should submit written comments on the draft report as soon as possible so as to facilitate the reading of the report in May.
5. In response to a question as to who would be the Chairman for the reading of the Sub-Committee's report, the Director confirmed that the Chairman of the Sub-Committee would chair the reading of the report, or in case the Chairman was not available, the Vice Chairman would chair.
6. Another delegate suggested that the new procedure could be awkward from a practical point of view. He indicated that, since the staffing of his administration's delegations to the Sub-Committee and the HSC was different, it was important to allow delegations time for internal consultation regarding the revised report before delegates came to the meeting. Therefore, he sought clarification as to what the new report would look like and how soon it would be circulated to delegations. He also observed that, while the new procedure suggested that the report would be adopted on the basis of written comments only, delegates should not be precluded from suggesting minor amendments at the time of the reading of the report. In response, the Director confirmed that the Secretariat would undertake to incorporate delegations' comments in the revised report and would indicate the changes by shading. The revised report and comments received would be circulated as working documents before the Sub-Committee and the HSC met in May.
7. In conclusion, the Review Sub-Committee accepted the Director's proposal to suspend the meeting after finishing its business on Friday as scheduled and to read its report at the end of this meeting in May as a pragmatic compromise for this session. The Sub-Committee also encouraged delegations to submit proposed changes to the draft report in writing as soon as possible so that the reading of the report would not take too much time away from the next meeting of the HSC.

\* \* \*



1	2
NR0209E1	Report on the meeting of the Policy Commission (46 <sup>th</sup> Session).

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

1. The Director first presented the conclusions of the 46<sup>th</sup> Session of the Policy Commission on the Australian proposal regarding an innovative approach to restructuring and simplifying the Harmonized System. With regard to the Policy Commission's decision that the Secretary General and the Council Vice-Chairmen be asked to solicit papers from the WCO regions, national administrations and the private sector, the Director mentioned that the Secretariat had sent letters to each of the Vice-Chairmen and the International Chamber of Commerce inviting papers with regard to this question. The Secretariat's letters included an extensive list of issues for the consideration of the Vice-Chairmen and administrations and the Vice-Chairmen had been asked to collate the information from their regions into regional papers or proposals. The Director added that the deadline for receipt of comments was mid-April in order to allow the Secretariat to prepare a new document for the consideration of the Policy Commission.
2. The Director also noted that the report on the Policy Commission's examination of the recommendations of the Ad Hoc Group on Committee Structures and Working Methods had been presented and discussed under Agenda Item II.1 (see Annex B/1 to this Report).
3. With regard to a fundamental review of the Harmonized System, one delegate sought clarification on whether the proposal would involve an amendment to the HS Convention or looked toward a new convention. In response, the Delegate of Australia explained that, at this stage, his administration did not have an end-point in mind, apart from its concerns that the structure of the Harmonized System was not coping with the changes in international trade. He indicated that the questions raised should be examined by any working body that might be established and that the impact of the proposal on the HS Convention had to be discussed as discussions evolved.
4. The Review Sub-Committee took note of the Secretariat's report on the developments in the Policy Commission regarding the issue of the innovative approach to the Harmonized System.

\* \* \*



1	2
NR0210E1	Decisions taken by the Harmonized System Committee at its 28 <sup>th</sup> Session affecting the work of the Review Sub-Committee.

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

1. The Chairman briefly summarized the decisions taken by the HSC at its 28<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.

\* \* \*



ANNEX C  
TECHNICAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0211E1	Possible amendments to the Nomenclature regarding the classification of waffles.			

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

1. Opening the discussion of this proposal, one delegate called attention to the fact that the Sub-Committee was not here to classify waffles but to discuss possible amendments to the legal texts which could make it easier to classify such goods in the future. He was of the opinion that the Secretariat's two alternative proposals in paragraph 17 of the working document formed a good basis for discussion. In this connection, he was of the view that a specific subheading for waffles containing 20% or more water could also be incorporated in this proposal. Accordingly, he could agree with the proposed water content limit (20%). He emphasized that bakers' wares were produced all over the world, and that a product which was regarded as a waffle in one part of the world was not necessarily regarded as a waffle in another part of the world. He was therefore of the opinion that an objective criterion, such as water content, should be kept in the definition of waffles, and that this should be provided at legal level.
2. Another delegate preferred to wait for the HS Committee's final decision with regard to the classification of "Kellogg's Eggo Frozen Waffles" before expressing a final view as to whether legal amendments were necessary or not. He recognized the fact that the HS Committee had previously decided to insert new subheadings for specific products in the high-tech area of the Harmonized System before a final classification decision had been taken; however, in his view it was risky to insert specific water-content limits in the legal texts for waffles, since the HSC's reconsideration of the classification issue could make the matter moot, if, in fact, the Committee were to decide that all waffles were currently classifiable in the same subheading.
3. After this preliminary exchange of views, the Chairman concluded that this issue should be discussed at the Sub-Committee's next session on the basis of a new document containing the alternative proposal referred to above and any further comments to be submitted by administrations.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. Referring to paragraph 19 of the working document, the Director pointed out that the Explanatory Note to heading 19.05 also contained other water content limits and provisions for the "base" and "fat content". He wondered whether the Sub-Committee should look into these provisions at this stage or later - after the water content issue with regard to waffles had been resolved.
5. [After a short exchange of views, it was decided that the Sub-Committee should also look into this problem at its next session on the basis of the comments presented at this session and any other comments which the Chairman strongly encouraged administrations to submit.]

o

o o

OBSERVATION

The EC has doubts about this conclusion. According to its notes, the conclusion was that there was no objection to studying this question at a future meeting, but that for the moment, the study should be confined to questions related to "waffles".

\* \* \*

1	2
NR0169E1 NR0198E1 (RSC/24) NR0212E1	Possible amendments to the Nomenclature regarding the classification of sauces.

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

At the request of one delegate, the Sub-Committee decided to postpone the discussion of this issue to the next session, thus leaving administrations time to further consult with their industry concerning the proposed amendments.

\* \* \*





1	2	4	5
NR0213E1	Possible amendments to the Nomenclature and the Explanatory Note to heading 84.42.	<u>See Annex F/3.</u>	<u>See Annex F/3.</u>

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

1. In opening the discussion of this agenda item, one delegate questioned whether the quantity of lithographic stones prepared for printing purposes traded internationally warranted retention of their reference in the legal text. After discussion, the Sub-Committee decided to retain, in square brackets, the reference to lithographic stones pending submission of information on this question by the **US** Administration for the Sub-Committee's next meeting. Annex F/3 to this Report reflects the fact that all references to lithographic stones were placed in square brackets. In some instances, the Secretariat has combined text in the interest of clarity.
2. A delegate questioned whether certain products listed in the Explanatory Note to heading 84.42 were actually classified in that heading. It was suggested that this delegate's administration should present a document to the Harmonized System Committee with regard to this issue.
3. With regard to the issue raised by the Secretariat in paragraph 5 of the working document concerning machines for cutting stencils and duplicators, it was agreed that the Secretariat would include a proposal to address this question in the next working document for RSC/26.
4. Referring to the Annex to Doc. NR0213B1, page 5, the Sub-Committee decided to retain references to Items (15) and (17) in the Explanatory Notes on page 1505. Consequently, references to their deletion were removed from the Annex.
5. The Sub-Committee decided to remove Items 8 and 9 on page 5 of the Annex to Doc. NR0213B1 and instructed the Secretariat to prepare a new working document with regard to the Explanatory Notes texts in question for the Sub-Committee's next meeting. This document would provide for the combination of the last paragraph of page 1505 of the Explanatory Note to heading 84.42 with Item (a) on page 1506 while, at the same time, deleting the reference to Item (b). In addition, the document would address the **German** Delegate's concern with respect to the reference of contact printers and, also, take into account the apparent misalignment between the English and French text for the products listed in Item (a) on page 1506.
6. Referring to the Annex to Doc. NR0213B1, page 7, the Sub-Committee decided to retain Item (1) of paragraph 3 of page 1509 of the Explanatory Notes, i.e., the reference to block printing machines. Consequently, reference to its deletion was removed from the Annex.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. The Sub-Committee also agreed to retain in the Explanatory Notes the current wording of the Subheading Explanatory Notes to subheadings 8443.21 and 8443.29 on page 1511. Consequently, the proposed amendment of this text, found in the Annex to Doc. NR0213B1, page 7, was deleted.
8. The Sub-Committee agreed with the Director's request that the Secretariat make modifications to the Annex in order to simplify the presentation, bearing in mind that no changes of a substantive nature would be made.
9. The Sub-Committee agreed that the text approved would not be submitted to the HS Committee's meeting in May for provisional approval. Furthermore, the Sub-Committee agreed that the Secretariat, in addition to drafting a new working document for the Sub-Committee's next session reflecting the text approved at this meeting and the issues requiring further examination, would also include, for the delegates' convenience, an Annex similar to the Annex found in Doc. NR0139E1, reflecting in bold text the changes approved by the Sub-Committee to date.
10. The texts approved and those placed in square brackets are set out in Annex F/3 to this Report.

\* \* \*

1	2
NR0173E1 (RSC/24) NR0214E1 NR0259E1 NR0260E1	Possible amendments to the Nomenclature regarding the classification of cameras.

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

1. The **Canadian** Delegate began the discussion of this agenda item by reiterating that his administration considered digital cameras to be fundamentally optical goods. The essence of a camera was to take pictures and digital cameras did so by employing optical processes. The medium on which the image was stored and how that image could subsequently be manipulated did not change the essential character, function or nature of a digital camera. The text of current heading 90.06 merely reflected the technology of the day when that text was drafted.
2. He informed the Sub-Committee that the subheadings proposed in Doc. NR0173E1 could fit under either heading 85.25 or 90.06. As such, the Sub-Committee should first consider what heading the goods should fall under. The Legal Notes could be subsequently considered. He believed that if no consensus could be attained, the subheading structure could be addressed and the heading question resolved by the HS Committee. If heading 90.06 was preferred, consideration could be given to the subheading structure proposal from **Senegal** that could, in his opinion, only work within heading 90.06.
3. The Delegate of **Japan** stated that when the Sub-Committee examined amendments to the Harmonized System, it should take the basic nature of the HS into consideration. In this connection, he explained that Chapter 85 covered electrical machines, whereas Chapter 90 covered instruments, inter alia, optical instruments, e.g., photographic apparatus. Therefore, as far as the technical characteristics were concerned, there was a great difference between goods classified in Chapter 85 and those classified in Chapter 90. He urged the Sub-Committee to take this basic nature of the structure of the Harmonized System into account when considering amendments to the HS.
4. He further stated that digital cameras were electronic machines since they captured images by means of light-sensitive integrated circuits such as CCDs or CMOS sensors and converted them into electronic signals. The converted images could be processed in various ways, for instance, displayed, edited, or recorded on a built-in memory or recording media such as flash memory cards, that were used for the cameras themselves or for connected apparatus of Section XVI such as ADP machines. However, cameras of heading 90.06 were photographic instruments that irreversibly changed silver halide film exposed to light by a chemical reaction. Bearing in mind the basic nature of the Harmonized System, i.e., that Chapter 85 was the Chapter for electrical machines and cameras of heading 85.25 were

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

electronic machines, digital cameras should, in his administration's view, remain classified in heading 85.25.

5. It was also pointed out that, according to the 2002 HS, digital projectors were classified in heading 85.28 (Compendium of Classification Opinions, page 39 (d)) whereas analogue projectors were covered by heading 90.08. If the basic nature of Section XVI and Chapter 90 were ignored and digital cameras and photographic cameras were regrouped in one heading by amending the Nomenclature, such amendments would lead to confusion in the classification of other digital and analogue apparatus (e.g., projectors). Such a situation should be avoided.
6. Several delegates expressed support for the Canadian proposal, while one delegation indicated that the Sub-Committee should not ignore the Japanese concerns. This delegate indicated that the camera's method of performing its function was important and that digital cameras were quite different from the cameras of heading 90.06.
7. Several other delegates expressed their administrations' flexibility with regard to a regrouping of cameras in one heading. However, these delegates were concerned that the Sub-Committee had been discussing this issue for a long time without coming to any consensus as to whether such a grouping was desirable. One of these delegates indicated that, from a practical standpoint, he understood the Delegate of Japan's position but, from a legal standpoint, he could not find support for the Japanese position that Chapter 85 was restricted to electronic or electrical apparatus and that Chapter 90 covered optical appliances. In fact, he provided the example of heading 90.10, which covered electronic microscopes, as an example of Chapter 90 also covering electronic apparatus. Finally, this delegate stressed that the Sub-Committee was examining legal amendments for 2007 and if it decided to change the legal texts, it could.
8. After further discussion, and in an effort to advance the discussion with regard to this issue, the Sub-Committee decided that the Harmonized System Committee should be asked at its May meeting to rule on whether or not to regroup all cameras in one heading and, if so, in which heading.
9. The Director agreed with this approach and indicated that the Secretariat would draft the appropriate document. He agreed with the comments from several delegates that a regrouping of all cameras was desirable. In his opinion, to maintain the status quo would run the risk of the Harmonized System becoming outdated.

\* \* \*

1	2
NR0174E1 NR0197E1 (RSC/24) NR0215E1	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24.

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

1. At the outset of the discussion of this agenda item the Delegate of Poland stated that the structure of Chapter 24 should be amended as described below to distinguish between unmanufactured, semi-manufactured and manufactured tobacco and indicated that her administration would submit a written proposal in this connection for the next session of the Sub-Committee in September.  
  
Heading 24.01 : Unmanufactured tobacco; tobacco refuse  
  
Heading 24.02 : Manufactured tobacco (including semi-manufactured tobacco, other than products of heading 24.03); manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences  
  
Heading 24.03 : Cigars, cheroots, cigarillos and cigarettes, of tobacco or tobacco substitutes.
2. One delegate stated that while her administration had previously made a proposal to amend the Nomenclature of Chapter 24, it was flexible on this question and could agree to examine the Polish proposal.
3. Another delegate indicated that he had made contact with his tobacco industry. Since this question involved complicated issues, such as regulatory, environmental and health issues, he favoured the status quo. Many other delegates also favoured the status quo.
4. Noting that there was no enthusiasm for tackling this issue, except within the context of the Polish proposal, the Director suggested that the Review Sub-Committee should focus its consideration on the new Polish proposal at its September session.
5. The Sub-Committee agreed with this suggestion and instructed the Secretariat to prepare a new working document for examination by the Sub-Committee at its next session on the basis of the promised new Polish proposal, which should include information on the background and history of this issue.

\* \* \*



1	2	5
NR0216E1 NR0261B1	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items.	<u>See Annex F/6.</u>

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

1. The Sub-Committee examined the Secretariat's proposals for updating HS headings 85.20 and 85.24 to reflect technological developments and commercial realities.  
  
Heading 85.20
2. As far as heading 85.20 was concerned, the Sub-Committee confirmed its acceptance of the new 4-digit heading text, and agreed that subheading 8520.20 should be retained. The Sub-Committee therefore deleted the relevant square brackets.
3. For the other subheadings, apart from subheading 8520.10 which had been deleted, the Sub-Committee agreed to examine the proposals put forward by Canada and the Secretariat at the next session, in the light of the decision to be taken by the Harmonized System Committee on the classification of MP3 players, and certain comments made during the session to the effect that the new structured nomenclature of heading 85.20 should achieve the dual objectives of deleting obsolete articles, and covering the new technologies by separately identifying products on the basis of the reading mode employed (magnetic readers, optical readers and those with built-in memory).
4. The US Delegate indicated that both proposals involved changing the order to subheadings. Echoing the comments of the Delegate of Japan that the subheadings should be aligned according to the type of media (e.g., magnetic, optical, memory cards), the US Delegate indicated that the Sub-Committee should maintain present subheading 8520.3. He also questioned whether it would be necessary to maintain a distinction between analog and digital apparatus. He further suggested that subheadings 8520.33 and 8520.39 be collapsed into one 2-dash subheading; another delegate supported this suggestion. The US Delegate offered to consult with other administrations and to put this proposal in writing for consideration at the Sub-Committee's next session.
5. The Sub-Committee therefore retained the square brackets for the remaining subheadings, around the alternatives proposed by Canada and the Secretariat, respectively.
6. In conclusion, the Sub-Committee agreed to review the amendments to heading 85.20 at its next session, on the basis of a new document to be prepared by the Secretariat which would include the Secretariat's proposal, Canada's proposal with the two options combined, a possible proposal from the United States, and any other proposals which Contracting Parties might care to submit.
7. In addition to the question of the classification of MP3 players by the Harmonized System Committee, and its repercussions for the new structured nomenclature of heading 85.20, one delegate indicated that pocket-size equipment using the new

OBSERVATIONS BY THE REVIEW SUB-COMMITTEE (contd.)

technologies, which was generating ever-increasing volumes of trade, should be considered for inclusion in the new structured nomenclature for this heading.

Heading 85.24

8. At the request of the Delegate of Switzerland, the Sub-Committee agreed to retain the proposed new text of heading 85.24 in square brackets, for examination at its next session on the basis of a new proposal to be submitted by the Swiss Administration. This proposal would be aimed at improving the structured nomenclature for this heading through the deletion of a number of subheadings, including in particular subheadings 8524.31 and 8524.91, the contents of which were now obsolete.
9. One delegate pointed out that in keeping with what had been said about heading 85.20, the new structured nomenclature for heading 85.24 should also classify articles separately according to the reading mode employed (magnetic readers, optical readers and those with built-in memory).
10. Finally, the EC Delegate argued that the study on the new structured nomenclature for heading 85.24 should also take into account amendments which had been approved by the Council and included in the Recommendation of 25 June 1999, but had not been incorporated in the 2002 version of the Harmonized System because of a reservation entered by a Contracting Party.
11. The Sub-Committee therefore agreed to re-examine the text in square brackets on the basis of a document to be prepared by the Secretariat, which would incorporate the Swiss proposal and any other proposals which might be put forward by Contracting Parties in the light of the comments set out above.

\* \* \*



1	2
NR0177E1 (RSC/24) NR0217E1	Proposal by the US Administration to amend the Nomenclature to Chapter 41.

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

1. Opening the discussion of this agenda item, one delegate reminded the Sub-Committee that the US proposals concerned texts which had only come into force on 1 January 2002 (i.e., Note 2 to Chapter 41 and the texts of headings 41.04 to 41.06). He clarified that the sole criterion laid down in Note 2 to Chapter 41, was whether or not the applied process was reversible, no matter what the process was called. The US proposal with respect to this Note, however, no longer took this criterion into account, but introduced the concept that the hides and skins classifiable in headings 41.04 to 41.06 should be treated so as to make them permanently imputrescible. In his view, this criterion would make it difficult to distinguish between the two groups at issue (i.e., headings 41.01 to 41.03 versus headings 41.04 to 41.06).
2. The US Delegate, on the other hand, argued that the products of headings 41.04 to 41.06 were ready to use by the leather industry, and that the criterion of the reversibility of the process would not provide the necessary dividing line, bearing in mind that some pre-tanned hides and skins were classifiable in these headings, while they should fall within the first group of headings (i.e., headings 41.01 to 41.03). He also questioned whether the criterion of reversibility could be applied in a uniform manner, i.e., views might differ with respect to the point at which it could be said that the process was reversible. Nonetheless, he could accept the suggestions made by the Secretariat in Doc. NR0177E1 with respect to the proposed wording of the texts in question.
3. Yet another delegate agreed with the first speaker that the putrefaction criterion would not provide the necessary clarity. However, he stated that, as described in the third paragraph of the Annex to Doc. NR0155E1, a criterion based on the thermal stability of hides and skins after being treated would be more appropriate.
4. After some further discussion and after it had been explained that the current General Explanatory Note to Chapter 41, on page 777, gave some information vis-à-vis the scope of headings 41.01 to 41.03 on the one hand and that of headings 41.04 to 41.06 on the other, the Sub-Committee agreed to ask the Secretariat to prepare a new document for the next session with a view to improving the relevant parts of the Explanatory Notes, e.g., by clarifying the term "reversible", as used in Note 2 (A) to Chapter 41.
5. With respect to the proposal to replace the expression "hides and skins" in headings 41.04 to 41.06 by the term "leather", some delegates pointed out that this would cause major difficulties. "Leather" would be rendered in the French version as "cuirs", which was a general term used indiscriminately to cover both untanned and tanned hides and skins. A similar observation could be made in respect of many other languages. Therefore, this would not necessarily serve to clarify the scope of headings 41.04 to 41.06.

OBSERVATIONS BY THE REVIEW SUB-COMMITTEE (contd.)

6. Following this clarification, the US Delegate suggested, by way of compromise, to insert the word “leather” in brackets after the word “skins”, in the English version only.
7. Since this proposal had been made from the floor, the Chair suggested considering this matter at the next session, based on a new Secretariat document setting out the various options in this respect.

\* \* \*

1	2	5
NR0218E1 NR0248E1	Proposal by the US Administration to amend the Nomenclature to heading 84.82.	<u>See Annex F/4.</u>

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

1. In opening the discussion of this agenda item, one delegate expressed his preference for maintaining the status quo with respect to the proposed splitting of subheading 8482.20. Splitting subheading 8482.20 would be contrary to the objective of maintaining a simplified HS Nomenclature. Customs officers would be asked to make a distinction between tapered roller bearings and cone and tapered roller assemblies. This would be difficult and result in confusion because cone and tapered roller assemblies were a type of tapered roller bearing. He asked the Sub-Committee to defer a final decision on this proposal until its next meeting in order to allow time for further discussions with the industry.
2. Several delegates supported the maintenance of the status quo as suggested by Japan in its document because, in their opinion, the objective of gathering statistics on the products in question should be accomplished at the national level.
3. The US Delegate, in support of his administration's proposal, stressed that the proposal did not involve a change of scope. In his view, there was significant trade in both tapered roller bearings and cone and tapered roller assemblies and the goal of the proposal was to gather information on this trade. In response to the comments of several delegates who considered this issue to be a national one, he drew the Sub-Committee's attention to the Japanese trade data, which indicated that 25 % of shipments were cone and tapered roller assemblies shipped separately. When added to the US statistics, which showed substantial trade in both categories of goods, this indicated that there was an international need to compile data on the trade in such goods.
4. Another delegate supported the US proposal because of the benefits that would be derived from the resulting increased statistical detail.
5. The Sub-Committee finally decided to defer any decision on this part of the US proposal until its next session in order to give administrations time to complete consultations with their industry.
6. When the Sub-Committee addressed the US proposal concerning the parts provisions, one delegate drew the Sub-Committee's attention to the fact that there was an insufficient volume of trade to justify these new subheadings.
7. In response, the US Delegate pointed out that the US had significant trade in balls, needles and rollers, as well as inner and outer rings and races. In his opinion, this trade, when combined with the trade in other countries, would meet the volume of trade requirements for creating new subdivisions. He informed the Sub-Committee that his

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

administration would attempt to identify additional trade statistics for the Sub-Committee's next session.

8. Several delegates expressed the view that splitting the parts provisions into the detailed structure proposed by the United States would increase the complexity of the Harmonized System, thereby contravening the objective of a simplified HS. In this connection, one delegate suggested that the fact that the trade volume was sufficient to justify the creation of a new subheading was just one of a number of factors that the Sub-Committee should consider when determining if a new subdivision should be created.
9. The Sub-Committee then decided that it would re-visit this issue at its next session. During the intersession, the Secretariat and the US Administration would attempt to find additional trade data relating to the products in the proposed new parts subdivisions.
10. For the convenience of the delegates, the Secretariat has reproduced in square brackets (in Annex F/4 to this Report) the US proposal for subdividing subheading 8482.20, as well as the Secretariat's amended version of the US proposal for the parts provisions.

\* \* \*

1	2	5
NR0219E1	Proposal by the US Administration to amend the Nomenclature to heading 85.19.	<u>See Annex F/5.</u>

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

1. The Sub-Committee examined the draft of a possible new structured nomenclature for heading 85.19, reproduced in the Annex to Doc. NR0219E1, and agreed unanimously that subheading 8519.10 should be maintained. However, it was proposed that the subheading text be supplemented by a reference to means of payment other than coins for operating the apparatus concerned. It was also suggested that "record-players" be replaced by "juke-boxes" in the English text; the French version was then aligned on the English.
2. At the proposal of a delegate, the Sub-Committee agreed to consider splitting subheading 8519.50 to give separate status to "pocket-size" apparatus at two-dash subheading level. However, it was noted that the scope of the term "pocket-size" had yet to be defined and was to be the subject of further industry consultations. Consequently, a new proposal involving two new subheadings ("subheading 8519.51 – Pocket-size" and "subheading 8519.59 -- Other") was placed in square brackets.
3. One delegate indicated that in the light of the Sub-Committee's decision to delete the reference to "records" in the structured nomenclature of heading 85.24, it would be rational to dispense with subheading 8519.60 covering record-players. However the Sub-Committee preferred to retain the subheading concerned.
4. For the text of subheading 8519.70, it was agreed that the two alternatives, namely "cassette" and "magnetic tape", should remain in square brackets. In addition the Sub-Committee agreed to delete the two 2-dash subheadings, while noting that other new subdivisions might emerge subsequently, depending on the further discussions in the Sub-Committee.
5. Finally, a consensus emerged in favour of recognizing that it would be more appropriate to await the Harmonized System Committee's decision on the classification of MP3 players. The Sub-Committee therefore agreed to continue its examination of the possible new structured nomenclature of heading 85.19 at the next session.
6. The texts approved and those placed in square brackets by the Sub-Committee are reproduced at Annex F/5 to this Report.

\* \* \*



1	2	5
NR0220E1	Proposal by the US Administration to amend certain subheadings of heading 87.08.	<u>See Annex F/1.</u>

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

1. The Sub-Committee agreed as follows on the pending issues explained in paragraphs 7 to 15 of the working document :
  - (a) New subheading 8708.40 : The square brackets around “and parts thereof” were deleted.
  - (b) New subheading 8708.50 : Since the US Delegate stated that his administration agreed with the Secretariat’s original alternative proposal, the square brackets around the text of the subheading were deleted.
  - (c) New subheading 8708.95 : Since the Sub-Committee agreed with the Secretariat’s proposal, the square brackets around “Safety” and those around “with inflater system” were deleted and the “and” after the “inflater system” was replaced with a semicolon. However, the Sub-Committee agreed that it would be appropriate to examine the possibility of clarifying the scope of the expression "inflater system". The US Delegate indicated that an "inflater system" in this context should include the igniter and the propellant in a container that directs the expansion of gas into the airbag, but should exclude remote sensors and the electronic controller.
2. Subject to the foregoing, the Sub-Committee approved the draft texts in the Annex to Doc. NR0220B1.
3. The texts approved are set out in Annex F/1 to this Report.

\* \* \*





1	2
NR0221E1 NR0234E1 NR0249E1 NR0250E1	Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers.

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

1. In opening the discussion of this agenda item, the Brazilian Delegate explained the goal of his administration's proposal (Doc. NR0234E1). His administration was not in favour of grouping all multifunctional digital machines in any single heading but, rather, to amend heading 90.09 to enable the classification in that heading of digital copiers and those multifunctional digital machines which had copying as their principal function. He indicated that his administration could accept the Canadian text for heading 90.09 set out in paragraph 8 of Doc. NR0249E1, but amended to read "Copying apparatus, not elsewhere specified or included". Finally, he reiterated his administration's proposal to have Note 3 to Section XVI apply to Chapter 90.
  
2. The Canadian Delegate informed the Sub-Committee that he could support the Brazilian amendment to the text of heading 90.09. Furthermore, while not opposed to specific provisions for multifunctional digital copiers, he was concerned that by so specifically defining the goods, the Sub-Committee might create limitations whereby a technological change could render the provisions unworkable. He also noted that some provision should be made for digital machines that only copy. In reference to the US proposal concerning the subheading structure (Doc. NR0250E1), he indicated that his administration could support it. He finally drew the attention of the Sub-Committee to the Secretariat's comments in paragraph 16 of Doc. NR0249E1 concerning end use. He clarified that his administration was referring to the character of the basic digital copier that made it functionally distinct from the multifunctional digital copier.
  
3. The US Delegate informed the Sub-Committee that his administration's proposal in Doc. NR0250E1 was aimed at simplifying the structured nomenclature to current heading 90.09 and was not to be taken as support for the classification of multifunctional digital copiers in that heading. He indicated that his administration was in favour of maintaining current heading 90.09 with regard to analogue copiers and, in addition, expressed concern about the ramifications of amending Note 3 to Section XVI. He also stated that the United States was currently drafting a proposal to address many of the issues that delegates had brought forward and expected to submit it to the Secretariat sometime in June, in time for consideration at the Sub-Committee's next session. This proposal had, as its basis, the minimalization of classification disputes by grouping in one heading multifunctional digital machines, printers of headings 84.43 and 84.71, digital copiers, fax machines, where the copying function was a subsidiary function, and other office printers of heading 84.72.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. The Delegate of Japan agreed with the Secretariat's proposal to delete heading 90.09 from future consideration for multifunctional digital copiers since the apparatus covered by present heading 90.09 would no longer be manufactured by 2007. He was also in agreement with the Secretariat to discard heading 85.17 from consideration for these goods since the fax function could be considered as a secondary function, being added to the printer and scanner combination. He referred to the latest technological and industry trends and concluded that the digital copying function was added to a network printer as a secondary/additional function. It was one of a number of functions contained in a "Digital Multifunction System" which had, as its components, a printer module and a scanner module with a cable connection which, in the future, could be wireless.
5. In his opinion, it was the printer module which imparted the essential character to a multifunctional digital copier and therefore network printing was the primary function of these machines. Furthermore, it was clear, in his view, that "digital copying" was a secondary function. Because the primary function of these machines (i.e., network printing) would become much clearer in the coming years, classification of multifunctional digital copiers as output units of ADP machines of heading 84.71 should be clarified in the 2007 HS Nomenclature. In this view, it was difficult to agree with the Secretariat's proposal to discard heading 84.71 as a possible option.
6. The EC Delegate thanked the Secretariat for its document, which addressed the problems in applying the current text, and for proposing an option to address those problems. He also thanked all those administrations which had submitted proposals to the Secretariat. He informed the Sub-Committee that, while the EC was in favour of regrouping all of these multifunctional appliances in one heading and to classify them by application of GIR 1, it did not have an agreed or common position at this time. He drew the Sub-Committee's attention to the fact that the EC would address this issue in its upcoming omnibus package of proposed changes to the information technology provisions of the Nomenclature, which it would be submitting to the Secretariat.
7. The Sub-Committee concluded its discussions by agreeing to continue to examine this issue at its next session on the basis of the Secretariat proposal, which had received substantial support within the Sub-Committee and the proposals from the US and the EC which, their respective delegates had informed the Sub-Committee, would be submitted to the Secretariat by the beginning of the summer.

\* \* \*

1	2
NR0222E1	Study of possible amendments to heading 30.01 with regard to human organs, tissues, etc.

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

1. In explaining the background of this proposal the Chairman drew the attention of the Sub-Committee to the Secretariat's proposed amendment of heading 30.01, as mentioned in paragraph 30 of the working document. He indicated that the proposed amendment to the heading text was based on Item D (3) of the Explanatory Note to heading 30.01.
2. The Director noted that the Sub-Committee at its last session had asked the Secretariat to continue its study of possible amendments to heading 30.01 with regard to human organs, tissues, etc., taking into account the comments made by delegates during that meeting. He further explained that, at present, human substances prepared for therapeutic or prophylactic uses were specified in heading 30.01 and human blood was specified in heading 30.02. He felt that the proposed amendments to the heading text of 30.01, to specify human organs, etc., would be useful for control purposes rather than for revenue or statistical purposes.
3. One delegate thanked the Secretariat for its efforts in studying this delicate issue. However, he questioned whether there was a real need to classify human organs, etc., in the Harmonized System. He recalled the views expressed by other administrations, as reflected in the working document, and indicated that legislation in certain countries prohibited such trade. He stressed that, in the interest of human dignity, human organs, etc., recovered for transplant should not be considered to be "goods" covered by the Harmonized System. He was therefore of the view that the status quo should be maintained. Other delegates also supported this view.
4. Since there was no strong support for the proposed amendment, the Sub-Committee finally decided to terminate this study and to propose no amendments to the Harmonized System with regard to trade in human organs, tissues, etc., prepared for therapeutic, prophylactic or research purposes.

\* \* \*



1	2
NR0223E1 NR0253E1 NR0262B1	Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration).

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

1. After examining all of the proposals made by the Secretariat and by the Administrations of Egypt, Japan and Canada, the Sub-Committee focussed its attention on the issues raised below :
  - (a) the principle of providing separately for satellite television receivers in a subheading within heading 85.28;
  - (b) whether this separate identification should be based on a one-dash or a two-dash subheading;
  - (c) whether to do away with the distinction between colour, and black and white television receivers.
2. The Sub-Committee agreed that the current text of heading 85.28 should be maintained, as it covered all the relevant apparatus (television receivers of all kinds, video monitors and video projectors). However, with regard to the separate identification of satellite television receivers in subheading 8528.1, the main concerns related to the difficulty of arriving at a precise definition of the apparatus to be covered by this new subheading, and the question of whether or not to include other types of television receivers, such as those which receive cable television.
3. A delegate suggested creating a legal Note, not only with a view to establishing definitions, but also in order to establish a distinction between the various types of apparatus, for example on the basis of whether or not they incorporated a video display. In this connection the US delegation offered a new proposal from the floor for four two-dash subheadings under the one-dash subheading 85.28 :
  - Apparatus incorporating, or designed to incorporate, a colour video display
  - Apparatus incorporating, or designed to incorporate, a black and white or other monochrome video display
  - Satellite receivers, not incorporating, or designed to incorporate, a video display
  - Other.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

The proposed text included a residual provision, "other", in order to provide for cable boxes, microwave types and other future technologies.

4. On another matter, the Sub-Committee agreed that the 2007 version of the Harmonized System should include subheadings for black and white television receivers and video monitors because, although less important in trade terms than colour apparatus, they did generate significant trade worldwide.
5. In conclusion, the Sub-Committee decided to return to this matter at its next session, on the basis of a new written proposal by the US Administration, which would be based on Alternative (1) in the proposal put forward by the Secretariat in the Annex to Doc. NR0223E1, but would also take into account the discussion reported above.

\* \* \*

1	2
NR0224E1	Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration).

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

1. While appreciating the contributions made by several administrations to the working document, the Chairman drew the attention of the Sub-Committee to the Secretariat's comments in the working document and invited delegates to express their views in order to decide on how to proceed with this issue.
2. One delegate stressed that it would be important to know precisely which goods should be specified at subheading level within heading 39.26. He explained that, depending on the goods to be specified, the scope of headings 39.22 and 39.24 should also be examined.
3. He also indicated that there was a possible misalignment between the French and English texts, in respect of terms such as hygienic, toilet, sanitary and household in headings 39.22, 39.24, etc. He noted that this was not a new issue and, due to a certain overlap between these terms, the Harmonized System Committee had in the past discussed related questions. He felt that this was a complicated question and it should be addressed separately, by studying other relevant headings.
4. However, with regard to the Egyptian proposal, in the absence of information as to precise goods which needed to be specified and also in the context of the possible classification of certain hygienic articles of plastics in headings 39.22 and 39.24, he preferred to maintain the status quo.
5. The Sub-Committee finally agreed to first request the Harmonized System Committee to clarify the scope of headings 39.22, 39.24 and 39.26, in the context of the possible misalignment of the relevant English and French texts with regard to the use of the terms "hygienic", "toilet" and "sanitary". In this respect, the Chairman requested administrations to submit comments to the Secretariat. The Sub-Committee also agreed, depending on the decision of the Harmonized System Committee, to come back to the Egyptian proposal at a later stage.

\* \* \*





1	2
NR0225E1 NR0257E1 NR0263E1	Possible amendment of heading 21.06 to specifically mention "food supplements".

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

1. Explaining her administration's proposal, the Delegate of the Russian Federation pointed out that there were two descriptions of food supplements in the HS Explanatory Notes, i.e., preparations based on extracts of plants and containing added vitamins described in the Explanatory Note to heading 21.06 and food supplements containing vitamins or mineral salts mentioned in the Explanatory Note to heading 30.04 as an exclusion. She stressed that vitamins and mineral salts should be considered as food supplements to be consumed daily and not as medicaments intended for the treatment of specific diseases or ailments. Therefore, it would be appropriate to classify all preparations containing vitamins and mineral salts in heading 21.06 regardless of the quantity of these substances in such preparations, unless they contained pharmaceutical substances.
2. Several delegates expressed their thanks to the Russian Administration for its efforts to amend the HS Nomenclature and its Explanatory Notes in order to facilitate the classification of "food supplements". These delegates were of the opinion that this proposal was a good starting point for further discussion with regard to the definition and classification of "food supplements". They would therefore take this proposal back to their administrations for further consideration.
3. Other delegates favoured the status quo, entailing no legal amendments. In this regard several possible difficulties with regard to the Secretariat's proposal and the proposals submitted by administrations were pointed out. These difficulties included regulations covering "food supplements" from other authorities, e.g., national health authorities or agricultural authorities, which could be affected by a possible definition for "food supplements" in the HS Nomenclature. It was also emphasized that expressions such as "normal diet", "nutritive value", etc., in the proposals needed further clarification before a definition at legal level could be agreed upon. Finally, great concern was expressed as to the possible transfer of goods, not only within Section IV, but also from headings 30.03 and 30.04 to heading 21.06. Since headings 30.03 and 30.04 were covered by the WTO Agreement to eliminate Customs duties on pharmaceutical products, it was very important to study this possibility further. However, these delegates also assured the Sub-Committee that they would take the various proposals presented in the working documents, and any other proposals to be submitted by other administrations, back to their administrations for further consideration.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. The Director emphasised that this was a serious question. The number of administrations wanting to change the HS Nomenclature and the number of enquiries received by the Secretariat each year with regard to "food supplements" clearly indicated that something had to be done. He drew the Committee's attention to the fact that both the legal text (Note 1 (a) to Chapter 30) and the Explanatory Notes already had references to "food supplements," meaning that such products were not totally unknown to Customs administrations.
5. Winding up the discussion, the Chairman concluded that all proposals were left open for the next meeting of the Sub-Committee. He also invited administrations to look into this matter with their health authorities to see whether there were definitions of "food supplements" outside Customs and to make these definitions available to the Secretariat for possible inclusion in a new document.

\* \* \*

1	2	4	5
NR0226E1	Possible amendment of the Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration).	<u>See Annex F/7.</u>	<u>See Annex F/7.</u>

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

1. Opening the discussion of this agenda item, the US Delegate referred to the texts placed in square brackets at the request of the US Delegate to the Scientific Sub-Committee (SSC) and indicated that the United States could now accept the views of the majority of the SSC.
2. The Sub-Committee therefore agreed to delete the texts placed in square brackets from further consideration.
3. [The Sub-Committee also agreed, as suggested by the Secretariat in paragraph 21 of Doc. NR0226E1, not to amend Part (C) of the Explanatory Note to heading 28.04.]
4. The EC Delegate agreed with the Sub-Committee's above decisions but indicated that he might come back with a new proposal to improve Part (C) of the Explanatory Note to heading 28.04 as well as the quantitative criteria for various fillers (up to 80%) as reflected in the Explanatory Note to heading 32.14 at the next session of the Harmonized System Committee.
5. The texts approved are set out in Annex F/7 to this Report.

o

o o

OBSERVATION (EC)

Paragraph 3

Delete this paragraph.

Reasons : (i) it contradicts paragraph 4, which follows it,  
(ii) the Committee has not yet decided not to amend Part (C) of the EN.

\* \* \*



1	2	5
NR0227E1	Proposal by the US 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 Sub-Committee unanimously agreed with the US proposal that the first three headings of Chapter 95 be merged to form a single heading for toys.
2. Where the proposed new Chapter Note was concerned, some delegates indicated that it might duplicate GIR 3 (b). They suggested that this draft Note be maintained in square brackets, to provide an opportunity to study both the need for it and how it could be worded. The Sub-Committee finally agreed to leave proposed new Chapter Note 3 in square brackets, for re-examination at its next session.
3. With regard to the text of the new heading for toys, during the session the EC put forward an alternative to the text which had been proposed by the United States. This new alternative involved deleting the first part of the text, which would then begin with the types of toys classified in the heading ("Tricycles..."), and the order of the description would be reversed.
4. The Sub-Committee recognized the advantages of this proposal and accepted it, subsequently improving the text further following a suggestion by the Director.
5. The proposed new text is reproduced below, with the amendments underlined :  
  
"95.XX Tricycles, scooters, pedal cars, and other similar wheeled toys; dolls' carriages; dolls; other toys not elsewhere specified or included; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds."
6. Following an intervention by the Delegate of Senegal, who agreed with the Sub-Committee that the subheadings his administration had proposed could be deleted, the Sub-Committee decided to place this new text in square brackets to give delegations an opportunity for consultations during the intersession.
7. In conclusion, the Sub-Committee decided to return to this question at its next session, and invited Contracting Parties to send the Secretariat their comments as soon as possible so that a new document could be prepared.

\* \* \*



1	2	5
NR0256E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21.	<u>See Annex F/12.</u>

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

1. Opening the discussion of this agenda item, the US Delegate stated that the original US proposal was aimed at covering culture media used for the development and maintenance of all living cells and viruses. As regards the question whether viruses were covered by the term “micro-organisms”, he stated that the term “micro-organisms” was defined in differing ways in scientific literature and did not appear to be a scientific term.
2. Since the term “viruses” already appeared in the current Explanatory Note to heading 38.21, and in view of the foregoing, he proposed the following new text for heading 38.21 : “Prepared culture media for development of micro-organisms (including viruses and the like) or for the development or maintenance of plant or animal cells”. One delegate supported this new proposal.
3. Another delegate was of the view that, even among the experts in the Scientific Sub-Committee, opinions were divided as to whether viruses would be covered by the term “micro-organisms”. Referring to the consensus of the Scientific Sub-Committee that the original US proposal and the modified Canadian proposal would widen the scope of present heading 38.21, he questioned whether the new US proposal would also widen the scope of heading 38.21, entailing a transfer of certain goods to this heading. He further stated that other media, such as those used for preparing yogurt which would fall in Chapter 4, might be transferred to heading 38.21. This would cause serious problems and, therefore, he preferred the status quo. In this connection, one delegate asked for a clarification concerning the precise nature of the product currently classified in Chapter 4.
4. Finally, the Sub-Committee agreed to re-consider this issue at its next session on the basis of the new US proposal, taking into account, in particular, information from administrations on whether the proposal would widen the scope of heading 38.21 and, if so, how.
5. The proposed US text, which was placed in square brackets, is set out in Annex F/12 to this Report.

\* \* \*





ANNEX D  
NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0230E1	Possible amendment of the texts of subheadings 0805.40 and 2009.2 in order to align the French and English versions (Proposal by ALADI).			<u>See Annex F/9.</u>

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

1. Many delegates were of the view that, since subheadings 0805.40 and 2009.2 had the same scope in English and French under the current wording, there was no need to amend the texts of these subheadings. Furthermore, they were against the idea of inserting scientific names in the subheadings.
2. They were, however, in favour of the Secretariat's proposal to insert the expression "including pomelo" in the English text after "grapefruit" and "grapefruit juice" in these subheadings, as mentioned in paragraph 15 of the working document. The Sub-Committee agreed that there was not a misalignment between the English and French texts, but decided that amending the subheading would help some countries to more easily translate the subheading texts in question into other languages.
3. Following these discussions, the Sub-Committee unanimously approved the Secretariat's proposals.
4. The texts approved are set out in Annex F/9 to this Report.

\* \* \*



1	2	4	5
NR0231E1	Possible amendments to the Nomenclature and the Explanatory Notes concerning heading 26.20 (Proposals by the Australian Administration and the Secretariat).	<u>See Annex F/2.</u>	<u>See Annex F/2.</u>

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

1. Agreeing with the proposals submitted by the Australian Administration and by the Secretariat, the Sub-Committee preferred the Secretariat's proposal set out in paragraph 9 of the working document for the amendment of the text of heading 26.20.
2. The Sub-Committee also agreed that the comma after the bracketed phrase in the English version of the text of heading 26.20 should be deleted and that exclusion (a) in the English version of the Explanatory Note to heading 75.03 be modified, as proposed by the Secretariat in paragraphs 10 and 11 of the working document, respectively.
3. Subject to the correction of a few punctuation errors, the Sub-Committee approved the draft texts presented in the Annex to Doc. NR0231B1.
4. The texts approved are set out in Annex F/2 to this Report.

\* \* \*



1	2	5
NR0232E1	Possible deletion of subheadings 4823.12 and 4823.19 (Proposal by the Brazilian Administration).	<u>See Annex F/10.</u>

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

1. The Sub-Committee agreed unanimously with the proposal of the Brazilian Administration to delete subheadings 4823.12 and 4823.19. It also agreed with the suggestion of the Secretariat not to insert a reference to these subheadings in the correlation tables.
2. The texts approved are reproduced in Annex F/10 to this Report.

\* \* \*



1	2	5
NR0233E2	Possible amendments to the structured nomenclature to heading 84.18 (Secretariat proposal).	<u>See Annex F/11.</u>

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

1. Opening the discussion of this agenda item, the US Delegate expressed concern that there might be a risk of overlap between subheading 8418.10 (combined refrigerator-freezers) and subheading 8418.20 (household type refrigerators), and proposed that the words "other than those of subheading 8418.10" be inserted at the end of the draft text of subheading 8418.20.
2. In this connection, other delegates pointed out that no amendments had been made to either text since the first edition of the Nomenclature, and that their interpretation had posed no particular problems. The US proposal was therefore not supported.
3. In addition, several delegates requested that subheading 8418.21 be retained in view of the large volume of trade in "compression-type household refrigerators", stressing that these appliances were not at all difficult to identify.
4. On the subject of the deletion of subheading 8418.22, a delegate drew the Sub-Committee's attention to the fact that certain kinds of absorption-type refrigerators were still being manufactured, and that thanks to new technologies, fully electrical refrigerators were now appearing on the market.
5. At the proposal of another delegate, the Sub-Committee agreed to delete the word "food" from the text recommended for subheading 8418.50.
6. Where subheading 8418.61 was concerned, the proposed new text was accepted unanimously.
7. In the light of the foregoing, the Sub-Committee adopted the draft amendments reproduced in the Annex to Doc. NR0233E2, with the exception of those concerning subheading 8418.2, for which a new draft was placed in square brackets. The text agreed upon were to be submitted to the HS Committee at its next session, so that the HSC could rule, in particular, on the question of whether or not subheading 8418.22 should be maintained.
8. At that stage in the discussions, the US Delegate took the floor to let it be known that his administration might ask the Sub-Committee to subsequently examine further proposals with regard to the structured nomenclature to heading 84.18 within the framework of the Third Review Cycle. The Sub-Committee took note.
9. The text approved by the Sub-Committee is reproduced at Annex F/11 to this Report.

\* \* \*





1	2
NR0229E1	Possible amendments to the Nomenclature regarding the classification of flash electronic storage cards.

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

Due to lack of time, it was agreed that consideration of this item should be postponed to the Sub-Committee's next session.

\* \* \*



1	2
NR0243E1	Possible amendments to headings 02.03 and 02.10 with regard to hams (Proposal by the Australian Administration).

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

1. Several delegates agreed with the Australian Administration that the expression “hams”, according to the interpretation found in dictionaries, could have various meanings. However, they were of the view that the legal situation in the HS Nomenclature was quite clear for the reasons given in paragraph 16 of the working document, and therefore saw no need to amend the legal texts.
2. The Sub-Committee therefore agreed not to support the Australian proposal and decided not to examine this matter further.

\* \* \*



1	2	5
NR0244E1	Possible amendments to the text of heading 08.02 to provide for macadamia nuts (Proposal by the Australian Administration).	<u>See Annex F/13.</u>

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

1. The Delegates of Australia and the United States stated that macadamia nuts were broadly traded across the world. The Delegate of Australia informed the Sub-Committee that the international trade volume in macadamia nuts had reached US\$ 190 million. The US Delegate added that imports of these nuts into the United States for the last three years had exceeded US\$ 31 million. The EC indicated that the combined Nomenclature already gave separate status to this kind of nut, under the name "Macamadia nuts".
2. Following this discussion, the Sub-Committee agreed to create a new subheading 0802.60 for macadamia nuts.
3. The text approved is set out in Annex F/13 to this Report.

\* \* \*



1	2
NR0245E1	Possible amendments to 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.)

1. Opening the discussion of this agenda item, the Australian Delegate clarified his administration's proposal to provide for certain substrates of plastics, indicating that the actual product was a bi-axially oriented polypropylene (BOPP) film which had undergone some further processing (such as a coating process which would not allow the coating to be removed without damaging the basic material). He informed the Sub-Committee that he was prepared to provide further technical information and to review the proposed wording to describe the product at issue.
2. Another delegate indicated that the information available in the working document was not sufficient to support the idea of creating separate provisions for these commodities. He further expressed doubts as to whether the suggested classification (i.e., heading 39.20) was appropriate, and suggested, asking for the HS Committee's view on this point.
3. The suggestion to refer the classification question to the Committee was supported by the EC Delegate. However, he favoured, at least for the time being, the status quo, given the fact that (i) the necessary technical information was not available and (ii) the volume of trade was apparently not sufficient to warrant a separate provision for these products. He informed the Sub-Committee that the EC Combined Nomenclature included a separate subdivision for BOPP film, though without any reference to its possible use.
4. The above views were supported by yet another delegate, who stated that the product at issue might be used for other purposes as well, in the near future. The end-use indication might, therefore, be too restrictive, although he could accept a flexible approach vis-à-vis the description. He also questioned whether polypropylene was the only polymer used in this respect.
5. In conclusion, the Chairman invited the Australian Administration to provide the Secretariat with the necessary technical information with a view to sending the classification question to the Committee for consideration. Based on the Committee's decision on the appropriate classification and on the technical information to be provided by Australia, the Sub-Committee could take up the issue again at its next session. The Sub-Committee agreed with this approach.

\* \* \*





1	2
NR0246E1	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. In beginning the discussion of this agenda item, the Australian Delegate explained his administration's proposal by stressing the importance of having standards established by the legal texts rather than the Explanatory Notes. He indicated that his administration could accept the 1,200°C threshold to define the term "refractory", as proposed by the Secretariat in the working document.
2. The Sub-Committee then unanimously agreed, in principle, to create a legal Note in Chapter 69 in order to define the temperature limits that could be reached by ceramic products of headings 69.02 and 69.03.
3. One delegate expressed concern over the 1,200°C threshold which appeared to contradict the 1,500°C criterion mentioned in the General Explanatory Notes to Chapter 69. He therefore asked that this question be reconsidered at the next session of the Sub-Committee thus enabling administrations to consult further with trade circles and to check standard practices in the ceramics industry.
4. Another delegate suggested that the Secretariat undertake a study on the possible relationship between the quantitative criteria in question and the various ISO Standards relating to ceramic products. This study should result in the establishment of a threshold precisely defining the term "refractory". The Nomenclature should continue to keep pace with technical developments and commercial practice. The delegate therefore asked the Secretariat to check whether the ISO Standards mentioned in the working document were still in force.
5. On the basis of this suggestion, the Sub-Committee requested that the Secretariat conduct a study aimed at proposing an appropriate threshold for "refractory" products. This criterion should reconcile commercial practice, technological developments and ISO Standards for ceramic products.
6. In the light of the above, the Sub-Committee agreed to re-examine this question at its next meeting on the basis of a new working document. The Secretariat should therefore conduct an in-depth study of the question during the intersession, and Contracting Parties were invited to consult their national industries and submit their written views as soon as possible.

\* \* \*



1	2
NR0247E1	Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration).

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

1. After the Chairman introduced this agenda item, the Director explained that the Secretariat wished to put forward an alternative to its proposal reproduced in paragraph 16 of the working document. This alternative would read : “9504.20 – Articles and accessories for billiards and similar games” (“Articles et accessoires pour billards et jeux similaires”). In his opinion, this new proposal would provide a solution to the problems raised by Australia and would enable the English and French versions to be perfectly aligned.
2. The EC Delegate expressed some reservations about this alternative text, which might not cover the game known as “billards” in the French version. The problem was that in French, the word “billards” covered both the game and the table it was played on. In terms of content he preferred the version suggested in the working document, subject to the deletion of the reference to “similar games” (“jeux analogues”) from both the English and the French texts.
3. The Delegate of Canada also pointed out that the French term “billards” referred to a billiards table, adding that this had caused his administration some concern with regard to the French text proposed by the Secretariat in the working document. However, these concerns had led his administration to conclusions which were quite different from those presented by the EC. Given that billiards could not be played without balls or cues, Canada questioned whether they could be regarded as mere “accessories”. In conclusion he indicated that his administration had intended to propose exactly the same text for this subheading as the Director had read out, since it would have the advantage of covering balls, cues and any other articles which were essential for playing the game.
4. Several delegates expressed concern about a possible lack of alignment between the French and English texts of this subheading, and suggested that it should be possible to correct this anomaly.
5. At this point in the discussions, the Chairman said that there seemed to be general agreement that the names and descriptions used could result in different classifications, depending on which version of the structured nomenclature (English or French) was being used. In order to resolve this problem, it would be helpful if the Sub-Committee could consult linguistic experts in order to arrive at a text which would have the same scope in both versions, with the two versions being perfectly aligned.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. In the light of the foregoing, the Sub-Committee agreed to re-examine this question at its next session, on the basis of a new working document. Therefore, during the intersession the Secretariat would need to study the matter in detail, both from the linguistic standpoint and in respect of the scope of subheading 9504.20.
7. Contracting Parties were invited to consult their domestic industries, and then submit their views to the Secretariat as soon as possible.

\* \* \*

1	2	5
NR0252E1	Possible amendment to the structured nomenclature to heading 90.30 (Proposal by the US Administration).	<u>See Annex F/14.</u>

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

1. After a brief discussion, the Sub-Committee unanimously agreed to the proposal to delete the reference to cathode-ray technology in subheading 9030.20. In agreeing with this amendment, one delegate indicated that the Secretariat, at the time of examining the consequential amendments to the Explanatory Notes, may wish to look at adding technologies such as flat panel display to the Explanatory Notes rather than just deleting the reference to cathode-ray technology.
2. Several delegates expressed concern with the proposal to remove "without a recording device" from the description of subheading 9030.3 and to delete subheading 9030.83 (provisions based on the presence and absence of a recording device) from the Nomenclature, as there were no statistics presented to support this amendment. In the view of one of these delegates, the current situation did not present any problems and the statistics provided by these subheadings were useful. He preferred the status quo but, if the Sub-Committee were to pursue this proposal then, additional statistical justification would be necessary.
3. Another delegate indicated that his administration supported the deletions because there was no benefit to a distinction based on recording ability.
4. In support of his administration's proposal, the US Delegate explained that what was important, in his administration's opinion, was for the statistics to reflect the trade in the various measuring and checking instruments and not whether these instruments had a recording device.
5. The Sub-Committee concluded its discussion by agreeing to re-examine the proposal to remove "without a recording device" from the description of subheading 9030.3 and to delete subheading 9030.83 at its next session on the basis of additional statistical information to be supplied by the US Administration.
6. The text approved to date is set out in Annex F/14 to this Report.

\* \* \*



1	2	3
NR0254E1	Possible amendment of subheading 8413.20 (Proposal by the EC).	<u>See Annex F/16.</u>

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

1. After a brief discussion enabling the Sub-Committee to confirm that deleting the expression “pompes à bras” and substituting “pompes actionnées à la main” in the French version would not change the scope of subheading 8413.20, the amendment proposed by the EC to align the French text of this subheading on the corresponding English text was approved unchanged.
2. The text approved by the Sub-Committee is set out in Annex F/16 to this Report.

\* \* \*





1	2
NR0255E1	Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the EC).

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

1. The EC Delegate opened the discussions by pointing out that the purpose of the EC proposal was to provide, in the structured nomenclature of heading 73.04, for seamless line pipe and seamless casing, tubing and drill pipe of stainless steel, and to combine them with other pipes of stainless steel under the same one dash subheading. The same logic was been applied to the structured nomenclature of heading 73.06. He added that the term "iron" had deliberately been removed from the proposed text at the request of the industry, which no longer used iron for these products. For this reason the EC Delegate saw no reason to reintroduce references to "iron" as proposed by the Secretariat.
2. The US Delegate stated that in his view, given the importance of this question, it would seem preferable that the Sub-Committee confine itself to a preliminary examination. He added that the subdivisions proposed by the EC posed certain problems, primarily where subheading 7304.43 was concerned. He was also in favour of maintaining subheading 7304.10. He regarded this EC proposal as a good starting-point, and agreed that iron should not be mentioned, as pipes made of iron were no longer significant in world trade.
3. In this connection, one delegate stated that trade data based on the proposed new subheadings was required in order to discuss this proposal. He added that, according to the industries in his country, line pipe of iron and stainless steel, of a kind used for oil or gas pipeline, were important and, therefore, if the proposed amendments were accepted, a new subheading for those articles should also be created.
4. The Sub-Committee agreed to return to this question at its next session, on the basis of a new working document which would reflect the EC position and the discussions which had taken place. In this connection, Contracting Parties were invited to consult their industries and submit their views to the Secretariat as soon as possible.

\* \* \*



1	2
NR0258E1	Possible amendment of the Explanatory Note to heading 84.71 concerning CD drives and DVD drives (Proposal by the US Administration).

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

1. The Delegate of Canada noted that his administration had been studying this question and felt the proposal either needed more detail or should be further simplified. He hoped that Canada would be able to present an alternative text at the next session of the Sub-Committee.
2. The EC Delegate agreed with the Secretariat that it would be appropriate to wait for final classification decisions from the HS Committee before considering the text submitted by the United States in detail, particularly in respect of the products to be excluded from heading 84.71. He also wondered whether it would be possible to obtain data on the volume of trade in the products at issue and in that connection why the “R” (Recordable) and “RW” (Rewritable) drives had been included in the proposal.
3. The US Delegate explained that the rationale for the proposal was simply to carry a Classification Opinion (8471.70/1 **CD-ROM drives**) forward into the Explanatory Notes as an example of storage units covered by heading 84.71. Type “R” and “RW” drives were also good examples of such storage units. Further, he pointed out that the proposal was simply for amendments to the Explanatory Notes, not the legal text, and therefore questioned the need to provide trade data on the drives concerned.
4. [The EC Delegate responded that trade volume was relevant in justifying the reference of these products in the Explanatory Notes.]
5. After this preliminary discussion, the Chairman expressed the view that the question should be re-addressed after the HS Committee had concluded its examination of the DVD drives question and invited interested administrations to provide further information to the Secretariat on the basis of the discussions summarised above. He instructed the Secretariat to prepare a new document on this question for examination by the Sub-Committee at its next session.

o

o o

OBSERVATION (EC)

Paragraph 4

Delete this paragraph.

Reasons : contradiction with the preceding paragraph 2.

\* \* \*



1	2
NR0228E1	Possible amendments to Note 3 to Chapter 90 and Note 1 (m) to Section XVI (Proposal by the Canadian Administration).

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

1. During the discussions on the timetable, the Japanese Delegate requested that this item be discussed at the same time as Item III.A.4 since, in his opinion, they were linked. The Sub-Committee agreed to this proposal. During the discussions on Item III.A.4, the Canadian Delegate suggested that once the Sub-Committee decided on the heading for the regrouping of cameras, it could then turn its attention to the relevant Legal Notes. The Sub-Committee could not agree on whether to regroup all cameras in one heading and, as a result, decided to ask the Harmonized System Committee for a decision on that point. The Chairman then suggested that, as Item III.B.15 was also linked to Item III.A.11, the discussions on Note 3 to Chapter 90 and Note 1 (m) to Section XVI be deferred. The Sub-Committee agreed to this course of action.
2. The Sub-Committee held a preliminary discussion on Item III.A.11. The Chairman, in his closing remarks on that item, advised the Sub-Committee that it could revisit Item III.B.15 should the Sub-Committee decide that there was a need to classify the products in question in Chapter 90.

\* \* \*



ANNEX E

COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0235E1	Possible deletion of certain references to "whales" in the Explanatory Notes.			

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

1. The Chairman began the discussion of this issue by asking the Sub-Committee to give its guidance as to the future direction of this issue.
2. The Delegate of Norway indicated that in her administration's view the working document gave a somewhat misleading interpretation of the facts concerning the ban on international commercial trade in whales and whale products. She noted that Norway had entered a reservation against the moratorium on whaling in accordance with the relevant provisions of the International Whaling Convention (IWC) and therefore there was no general ban against whaling. With regard to the CITES, Norway had entered a reservation against some species of whales mentioned in Appendix I to the CITES and they were treated in Norway as if they were mentioned in Appendix II to the CITES. Therefore, these products could be traded under the CITES controls. Given these facts, the Delegate of Norway favoured the status quo with regard to the possible amendment of the HS Explanatory Notes concerning references to whales and whale products.
3. Supporting her view, the Delegate of Japan pointed out that not all of the species of whales and whale products were prohibited from trade by the CITES or the IWC and, therefore, disagreed with this proposal and favoured the status quo.
4. Another delegate agreed with the Secretariat's view that although the references to whale and whale products in the Explanatory Notes having corresponding references in the legal texts should be retained, the references to whale products in the Explanatory Notes without corresponding references in the legal texts could be reviewed in terms of the volume of trade in such products. In this context, certain delegates pointed out that the Explanatory Notes contained references to narcotics, for example, for monitoring purposes regardless of their volume of trade.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. The Delegate of Japan pointed out again that the relevant scope of the headings had not been changed and therefore the concerned Explanatory Notes should be maintained. Therefore, he suggested that this Item should be deleted from the Agenda.
6. Finally, the Sub-Committee agreed to examine this issue at its next session on the basis of a document to be prepared by the Secretariat which would include trade information and a bilingual annex setting out possible amendments for the consideration of the Sub-Committee.

\* \* \*



1	2
NR0236E1	Possible amendments to the Explanatory Note to heading 39.26.

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

At the Director's suggestion, the Sub-Committee agreed to delete this item from the agenda.

\* \* \*



1	2	4
NR0237E1	Possible amendments to the Explanatory Note to heading 40.16.	<u>See Annex F/15.</u>

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

1. Some delegates expressed concern about the exact scope of the reference to “pumicing blocks” in proposed new Item (13), since such blocks might be covered by heading 40.08. It was agreed to refer this question to the HS Committee for clarification. The other Secretariat proposals were unanimously approved by the Sub-Committee.
2. The texts approved and the part in square brackets are reproduced in Annex F/15 to this Report.

\* \* \*



1	2
NR0238E1	Possible amendments to the Explanatory Notes to Chapter 44.

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

The Sub-Committee agreed to postpone discussions on this item till the next session, following the clarification of one delegate that consultations with industry had not yet been concluded.

\* \* \*



1	2
NR0239E1	Possible amendments of the Explanatory Notes to headings 61.03 and 61.04.

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

1. A delegate opened the discussion on this agenda item by indicating that he was willing to accept the proposed revision of the Explanatory Notes to headings 61.03 and 61.04 as put forward by the Secretariat. However, in the English version of the new second paragraph which was to be inserted in the Explanatory Note to heading 61.04, page 1058, the words "With regard to women's or girls' suits" should be inserted at the beginning of the sentence, to avoid any confusion as to the applicability of that paragraph.
2. Other delegations expressed some reservations about the proposed changes and preferred to maintain the status quo. At the very least, they wanted an opportunity to examine the texts in more detail before giving their final views on the subject.
3. The Sub-Committee therefore decided to postpone a full examination of this agenda item until the next session.

\* \* \*





1	2
NR0241E1	Possible amendment of the Explanatory Note to heading 70.17.

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

1. In opening the discussion on this agenda item, the Delegate of Canada stated that his administration supported the Secretariat's proposal for the amendment of the Explanatory Note to heading 70.17, provided that the term "bocks" mentioned in the French version was deleted. He felt that the French term "irrigateurs" (in brackets) fully covered the English term "irrigators".
2. Another delegate questioned whether at the end of this exercise the two texts, which appeared to be aligned, would have the same scope. He suggested that in future, for ease of understanding, any amendments be clearly indicated in the new proposed texts.
3. In response to these concerns, the Director informed the Sub-Committee that the Secretariat would revise its proposal and the working document and that the proposed amendments would be clearly highlighted in the new document to be prepared.
4. The Sub-Committee agreed to re-examine this question at its next meeting, on the basis of a new working document. Contracting Parties were invited to submit their written views to the Secretariat as soon as possible.

\* \* \*



1	2
NR0251E1	Possible amendments to the Explanatory Note to heading 84.71.

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

Due to lack of time, it was agreed that this item should be postponed to the Sub-Committee's next session.

\* \* \*



1	2
NR0242E1	Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions.

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

Due to lack of time, it was agreed that this item should be postponed to the Sub-Committee's next session.

\* \* \*



**STATEMENT BY THE EC WITH REGARD TO A PROPOSAL TO BE PRESENTED BY  
THE EUROPEAN COMMUNITY CONCERNING CERTAIN PRODUCTS USING  
INFORMATION TECHNOLOGY (IT) OF CHAPTERS 84, 85 AND 90**

The EC would like to provide the following information on their intentions concerning the HS 2007 review with regard to certain products using information technology of Chapters 84, 85 and 90.

First, let me explain the **background** :

As you may be aware a WCO-document - entitled "Innovative approach to the Harmonized System" - was issued in November 2001 (Doc. SP0088E1). This document contained an Australian proposal for a radical approach for rewriting the HS Nomenclature outside the framework of the HS 2007 review - starting, in principle, with having a clean sheet of paper in front of you.

Let me also mention the alternative approach taken by this Committee (the HS Review Sub-Committee) in September 2000 when it was agreed to set up a Working Group with a view to updating and clarifying Note 5 to Chapter 84 (Doc. NR0188E1).

Both the Australian proposal and the approach by the RSC reflect the concerns amongst users of the HS Nomenclature and its usefulness. In fact one of the main group of users – tariff negotiators in Geneva – has recognised that there is scope for improving the Nomenclature. Take, for example, the Information Technology Agreement. The ITA is an agreement concluded in Singapore in 1996 and it deals with tariffs on certain IT products. It includes a provision, which implies that the ITA participants themselves as a group may suggest updates to the HS Nomenclature.

Within the EC a process was initiated amongst customs nomenclature experts in 2000 on how to modernise Note 5 to Chapter 84 and other relevant legal notes. We found that an update of various relevant legal Notes would not address the fundamental issue being that the Nomenclature itself is outdated and indeed based on a situation which dates back some 50 years. Hence, the EC has been working on how to modernise the HS Nomenclature with regard products using information technology, in particular products currently classified in headings in Chapters 84, 85 and 90.

Now to **the challenge** : I would like to recall that when a nomenclature remains unchanged - not taking into account the evolution of technology and changes of "consumer" habits - there is a serious risk of having difficulties, if not disputes, when classifying products. The convergence of certain industries - traditionally referred the information technology, consumer electronics and telecommunications industries - has made it difficult (and is likely to continue to do so) to classify products manufactured by these industries.

For example, automatic data processing (ADP) machines were initially large office machines. They have over the last 20 years become much smaller, more powerful, more affordable and, more importantly, also for use by the ordinary consumer. An ADP machine is nowadays considered to be synonymous with a personal computer (PC).

The challenge is, therefore, to construct a nomenclature which takes into account technological development, the evolution of trade and, most of all, an efficient tool providing the best balance between trade facilitation and the need to apply correctly various measures using as a reference base the HS Nomenclature.

This brings me to **the objectives, principles and options** in revising the HS Nomenclature for products using information technology.

First, **objectives** : We would like to see the creation of a revised nomenclature :

- which has a logical structure;
- which consists of headings meeting the requirements of users of the HS Nomenclature respecting the need for a balance between simplicity and specificity;
- which will be applied in a uniform manner by contracting parties irrespective of economic or cultural diversities.

Until now Chapters 84, 85 and 90 have been based on criteria such as technology and use. In view of the convergence of industries and the risk of use-criteria being subjective we would suggest applying the following **principles** when dealing with products using information technology :

- the Nomenclature structure should – for the first 4 digits - be based on function;
- the Nomenclature structure should take into account degree of processing, value added and the degree of specificity;
- the descriptions in the Nomenclature should be clear and concise so that products to be covered by that nomenclature are identifiable or recognisable;
- whenever necessary, the Nomenclature should be supported by legal and Explanatory Notes with a view to ensure uniform classification of products;
- of course, one should not forget the principle that products are to be classified in their condition at the time of importation and that classification decisions must be based on objective and quantifiable data.

In the EC we have considered various **options** for a revision of the HS Nomenclature. Such options fall within the following categories :

- one option would be "**radical rewrite**" of the Nomenclature : this would imply a new structure at Chapter level;
- another option would be the creation of a "**sub-Chapter**" in the appropriate place in the nomenclature;
- the last option would be the presentation of "**individualised**" proposals: this is the current approach where individual proposals tend to cover one area of particular interest.

Although we find a "**radical rewrite**" desirable, the EC acknowledges that it is not realistic – for the time being – to launch such an exercise and complete it within the time-limits for the 3<sup>rd</sup> Review Cycle (1.1.2007).

We are aware that a number of "**individualised**" proposals are already under consideration and more may come. Some of these relate to existing HS headings also covered by the proposal we intend to submit. Our main concern is that such proposals as such will not address the fundamental issue – an outdated nomenclature with dissatisfied "customers".



Consequently, our preferred option is creating a "**sub-Chapter**" for information technology products. This does not exclude the examination of "**individualised**" proposals. Indeed, the various parts of the "sub-Chapter" proposal have to be examined individually and current proposal may fit into the final solution, that is a new sub-chapter.

I would like to conclude by saying :

With a view to modernise the HS Nomenclature in a manner, which would facilitate its use, the EC is currently focused on preparing a proposal for the creation of a new "**sub-Chapter**" for information technology products, a proposal we intend to submit later this year. We are – on an informal basis – willing to share our ideas with others and listen to their comments. Even with this less radical solution there will be a lot of work beyond finalising a legal text : there will be a need for submitting proposals for replacing current HS Explanatory Notes with new ones.

Finally, let me indicate by way of an example how a proposal for a new sub-Chapter for products using information technology based on function and added value might look like :

#### **Legal Notes**

- Deletions or modification of existing ones or creation of new ones (e.g., define what is meant by data)

#### **Nomenclature structure**

##### **Components**

- Circuit elements
- Integrated circuits
- Printed circuits
- Other circuits, including printed circuit assemblies

##### **Finished products**

- Carrier media for the storage of data
- Machines having a principal function of capture of data
- Machines having a principal function of recording of data
- Machines having a principal function of reproduction of data
- Machines having a principal function of transmission or reception of data
- Other machines for the processing of data, not elsewhere specified or included

Thank you for listening.

\* \* \*