



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0205E2

-
24th Session
-

O. Eng./Fr.

Brussels, 25 September 2001.

REPORT OF THE 24th SESSION OF THE
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

1. The Harmonized System Review Sub-Committee held its 24th Session from 17 to 25 September 2001 at the Headquarters of the World Customs Organization in Brussels, under the Chairmanship of Mr. D. BECK (USA).
2. The following 43 WCO Members and one Customs or Economic Union were represented :

Members

ALBANIA
ANGOLA
AUSTRALIA
BANGLADESH
BELGIUM
BENIN
BRAZIL
CANADA
CHINA
CONGO (Dem. Rep. of)
EGYPT
FRANCE
GERMANY
GHANA
HONG KONG, CHINA
INDIA
INDONESIA
IRELAND
JAPAN
JORDAN
LATVIA
LIBYAN ARAB JAMAHIRIYA

MADAGASCAR
MALAYSIA
MEXICO
MOROCCO
NETHERLANDS
NIGERIA
NORWAY
PANAMA
RUSSIA (Fed. of)
SAUDI ARABIA
SENEGAL
SLOVAKIA
SUDAN
SWEDEN
SWITZERLAND
THAILAND
TOGO
TURKEY
UNITED KINGDOM
UNITED STATES
YUGOSLAVIA (Fed. Rep. of)

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

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

I. AGENDA

4. The Review Sub-Committee adopted the Agenda, which is reproduced at Annex A.

II. QUESTIONS EXAMINED BY THE REVIEW SUB-COMMITTEE

5. The comments made during the discussions and the conclusions reached by the Sub-Committee on the various Agenda items are set out at Annexes B to F to this Report.

III. OTHER

6. Mr. Michel DANET, Secretary General, attended the opening of the session in order to express the World Customs Organization's solidarity with and support for the American people following the tragic events that took place in the United States on 11 September 2001. He also thanked all delegates for the importance their respective administrations attached to the work on the Harmonized System, as demonstrated by their presence at the meeting despite the difficult circumstances.

7. Mr. H. KAPPLER, Director of Tariff and Trade Affairs, thanked the Secretary General for joining in the opening session of the Sub-Committee and expressed his appreciation for his comments and support.

8. On behalf of the United States Delegation, Mr. D. BECK thanked the Secretary General for his kind words of sympathy and support.

9. Due to the delay in the arrival of the United States Delegation, Mr. C.E. (Ed) DE JONG (Netherlands), Vice-Chairman, acted as Chairman at the beginning of the meeting. However, Mr. D. BECK (United States), the serving Chairman of the Review Sub-Committee, took the chair once the United States Delegation arrived.

D. BECK,
Chairman

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AGENDA FOR THE 24th SESSION
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

(from 17 to 25 September 2001)

<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.	Report concerning the meetings of the Policy Commission (45 th Session) and the Council (97 th and 98 th Session)	B/1
2.	Decisions taken by the Harmonized System Committee at its 27 ^h Session affecting the work of the Review Sub-Committee	B/2
III.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
1.	Possible amendments to the Nomenclature regarding the classification of sauces	C/1
2.	Proposal by Canada to amend the Nomenclature and Explanatory Notes to Chapter 54	C/2, F/1
3.	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42	C/3, F/2
4.	Possible amendments to the Explanatory Note to heading 84.71	C/4, F/3
5.	Possible amendments to the Nomenclature regarding the classification of cameras	C/5
6.	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24	C/6
7.	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items	C/7

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
8.	Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03	C/8, F/5
9.	Proposal by the US Administration to amend the Nomenclature to Chapter 41	C/9
10.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13	C/10, F/6
11.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82	C/11, F/7
12.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19	C/12, F/4
13.	Proposal by the US Administration to amend certain subheadings of heading 87.08	C/13, F/8
14.	Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers	C/14
B.	<u>NEW QUESTIONS</u>	
1.	Possible amendment of heading 21.03 to include “salsa”	D/1
2.	Study of possible amendments to the Nomenclature with regard to human body parts	D/2
3.	Possible amendment of heading 85.28 to provide separately for satellite receivers (Proposal by the Egyptian Administration)	D/3, F/10
4.	Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)	D/4
5.	Possible amendment of heading 21.06 to include “food supplements”	D/5
6.	Possible amendment of subheading 8311.90 to delete the reference to parts (Proposal by the Egyptian Administration)	D/6, F/9
7.	Possible amendments of the HS Nomenclature and the Explanatory Notes regarding silicones (Proposal by the US Administration)	D/7

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
8.	Proposal by the US Administration to delete Note 6 to Chapter 85	D/8, F/11
9.	Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys	D/9
10.	Editorial amendments to the English text of the Harmonized System	D/10, F/12
C.	<u>SPECIAL WORKING GROUP</u>	
1.	Study of Note 5 to Chapter 84.	E

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ANNEX B

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0190E1	Report on the meetings of the Policy Commission (45 th Session) and the Council (97 th and 98 th Sessions).			

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

Summary of discussion

1. The Director gave a summary of the discussions held at the latest sessions of the Policy Commission and the Council, which were intriguing ones from the standpoint of the Harmonized System. He elaborated on the issues which were of particular relevance to the work of the Review Sub-Committee.
2. The Director informed the Review Sub-Committee that the Council had approved the establishment of a WCO documentation database which would be accessible to the public. The database would cover the historical working documents and reports of the Harmonized System Committee.
3. The Director outlined a simplified set of procedures to be followed in making HS documentation from the database available to the public. In principle, after having deleted any business confidential information and references to specific administrations, the Secretariat would periodically (for example, every six months) circulate a notification for consideration for derestriction of all documents relating to questions which had been (or were deemed to have been) closed by the Council during the past six months. Unless a Member objected to the derestriction of any document in whole or in part within a specified period, all the documents listed would be derestricted after the end of that period and could then be made available to the public. The Secretariat would then circulate a list of all documents that had been derestricted and, in the case of any objections raised, a list of documents that were not derestricted. The latter documents would remain restricted for a period of time (for example, till the end of the first year following the year in which an objection was raised) and would then be reconsidered for derestriction at the end of that time.
4. With regard to the issue of the frequency of amendments to the Harmonized System, the Director reported that the Council had agreed with the Harmonized System Committee that : (i) the length of the current HS review cycle should not be changed; (ii) the length of future review cycles should be determined flexibly before each review cycle began, based on an assessment of the scope of the review; (iii) there was no need to amend the HS Convention in order to shorten the implementation period for Contracting Parties; and (iv) the

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Secretariat should explain the complexities of the HS review process to the trade at the next WCO Open Day for Trade in November 2001.

5. Referring to the suggestion made at the Council meeting that there should be a fundamental review of the Harmonized System aimed at designing an entirely new tariff and trade statistical nomenclature, the Director indicated that the Secretariat had an open mind in this regard and was seeking some clarification from the delegations concerned as to the nature of the proposal. In this connection, he mentioned that the drafters of the Harmonized System had hoped to avoid the need for a fundamental review of the Harmonized System through the establishment of the review process. He recalled that even the drafting of the Harmonized System did not really involve a fundamental review of the need for Customs tariffs and trade statistical nomenclatures, but involved an elaboration of the existing CCCN or Brussels Tariff Nomenclature which had itself evolved out of the Geneva Nomenclature of the League of Nations. He further stated that a fundamental review of the Harmonized System was also a huge task requiring large commitment of resources and would dramatically affect the entire international trade community from Customs to Finance, from Agriculture to Health and from trade policy to the private sector.
6. The Director advised that, while the Secretariat had intended to have an initial discussion on this issue at this meeting, a request had been received from the delegation concerned to delay any such discussion until that delegation had had a chance to put its ideas forward to the Policy Commission in December. It was felt that it was proper, at this stage, for this issue to remain with the Policy Commission and Council for consideration. The Director suggested that the Review Sub-Committee should accept this request and await further developments in the Policy Commission before taking up this issue.
7. Referring to the Council's approval of the revised WCO Strategic Plan with regard to the Harmonized System, which was set out in the Annex to the working document, the Director strongly recommended that delegates should study the plan closely as an indication of what their Directors General expected from them and the Secretariat over the coming year.
8. The EC Delegate noted that his delegation observed with satisfaction that Harmonized System activities would continue to be a mainstay of the WCO Strategic Plan. However, he stressed that, given the importance of the Harmonized System as the most successful WCO instrument, it would be necessary to accompany the Strategic Plan with required resources for the maintenance of the System. Concerning the issue of a fundamental review of the Harmonized System, he suggested that the HS was a fairly new system since it had only come into being in 1988 and there was a need to look into the implications of an entirely new system. Before looking at detailed proposals, his delegation would first of all like clarification as to whether the proposal for a fundamental review would fall within the current HS Convention or would call for a new convention.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

9. In response to the last point, the Director suggested that, although he understood that the proposal would involve a new convention, the Review Sub-Committee should avoid a discussion on this issue at this stage, since it would be put forward to the Policy Commission in December. Expressing his appreciation of the remarks made regarding making resources available, the Director informed the Review Sub-Committee that several administrations had indicated that they were working toward sending technical attachés to the Secretariat to work on various aspects of the HS work programme, including the review of the HS Explanatory Notes. In addition other administrations had agreed to assign staff to work on the review of the Explanatory Notes in their countries. He expressed appreciation for the generous contributions of these administrations to the work of the Harmonized System.

Conclusion

10. The Review Sub-Committee took note of the report on the meetings of the Policy Commission and the Council in the working document and the Director's oral report.

* * *

1	2
NR0168E1	Decisions taken by the Harmonized System Committee at its 27 th 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 27th Session and the pending questions affecting the work of the RSC.
2. The Sub-Committee took note of the developments in the HSC.

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ANNEX C

TECHNICAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0169E1 NR0198E1	Possible amendments to the Nomenclature regarding the classification of sauces.			

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

1. In opening the discussion of this agenda item one delegate pointed out that this question had been discussed for a long time and opinions were still divided as to whether a legal definition of sauces was needed in the HS Nomenclature. His administration was of the view that a legal definition, based on a quantitative criterion, would cause more problems than the present situation and, therefore, was still against amending the legal texts. A number of delegates agreed with this view.
2. Another delegate emphasized that the concept of sauces varied from one region of the world to another. However, it was vital to retain a world-wide uniform classification criterion which would enable the classification of such products to proceed uniformly in different countries, regardless of local traditions and trade names. From a practical angle, it was therefore very important to introduce a legal definition for sauces which included a quantitative criterion, in order to secure the identical classification of such products in exporting and importing countries, thus facilitating international trade. He also pointed out that the Australian proposal to introduce “salsa” in the legal texts (Agenda Item III.B.1) clearly demonstrated that something had to be done at a legal level. Certain other delegates expressed the same view.
3. The Delegate of Canada informed the Committee that the Canadian International Trade Tribunal had issued a ruling in which it considered a sauce to be, in general terms :

“Any preparation, usually liquid or soft, and often consisting of several ingredients, intended to be eaten as an appetizing accompaniment to some article of food.”
4. He suggested that this definition, in combination with the first part of the Secretariat’s proposal in Doc. NR0169E1 to create a new Note 3 to Chapter 21 (paragraph 15), could be used as a starting point for drawing up a new legal Note defining sauces.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. After further discussion, the Sub-Committee agreed that this question should be re-examined at its next session on the basis of a new document to be prepared by the Secretariat containing two alternative proposals, (i) the Secretariat's proposal in Doc. NR0169E1 (as mentioned in par. 4 above) and (ii) a proposal which Canada was invited to submit on the basis of the Trade Tribunal's ruling mentioned above.

* * *

1	2	5
NR0170E1 NR0196E1	Proposal by Canada to amend the Nomenclature to Chapter 54.	<u>See Annex F/1.</u>

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

1. The Sub-Committee re-examined the draft amendments to the Nomenclature to Chapter 54 set out in the Annex to Doc. NR0170E1, taking account of the additional comments submitted by the Canadian Administration set out in Doc. NR0196E1.
2. The Delegate of Canada began by explaining that the new Canadian note was aimed essentially at clarification and that it was not his administration's intention to change the scope of the texts in force.

Table of contents and text of the Chapter title

3. The Sub-Committee unanimously agreed to the proposal to add a second part to the Chapter title covering "strip and the like of man-made textile materials".

Chapter Note 1

4. With regard to the introductory sentence in the first paragraph, the EC Delegate was against the structure proposed by Canada, as this new presentation was aimed at separately defining the term "man-made" in relation to the same term used in other parts of the Nomenclature. He felt that the present structure was clearer and less restrictive. Certain delegates agreed with this view.
5. Following this discussion, the Sub-Committee agreed to retain the present text of the introductory sentence to the first paragraph. The draft amendments to the last two paragraphs of the Note, as proposed by Canada, were consequently dropped.

Note 1 (a)

6. Given that the two variants were very similar and that Canada could support the Secretariat proposal, the Sub-Committee agreed to retain the second variant as set out in the Annex to Doc. NR0170E1.

Note 1 (b)

7. One delegate pointed out that the draft amendment to Note 1 (b) altered the scope of the Note, given that in addition to the chemical transformation already mentioned in the present Note mention was made also of the dissolution process or chemical treatment in order to cover the manufacturing processes (dissolution using solvents) of certain cellulosic fibres, such as cuprammonium rayon.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

8. He therefore drew the Sub-Committee's attention to the fact that the present text of Note 1 (b) did not appear to be scientifically exact.
9. He also informed the Sub-Committee that, according to the trade circles consulted, "lyocell" was a registered trademark, even though it currently seemed to be accepted as a generic name, and should therefore not be mentioned in the Note.
10. Following these discussions, the Sub-Committee decided to approve the Scientific Sub-Committee's proposal as set out in Doc. NR0170E1, subject to deleting the reference to "lyocell".

Note 1, second paragraph

11. With regard to the reference to strip and the like of heading 54.04 or 54.05, specifying that they were not to be considered man-made fibres, the Sub-Committee agreed to include this reference at the end of the second paragraph of the present Note.
12. The texts approved are set out in Annex F/1 to this Report.

* * *

1	2	4	5
NR0139E1 (RSC/23) NR0171E1 NR0200E1 NR0203E1	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42.	<u>See Annex F/2.</u>	<u>See Annex F/2.</u>

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

1. One delegate began the discussion of this agenda item by indicating his agreement with the Secretariat's proposed deletions of obsolete technology but indicated that the Sub-Committee should look at adding new technology to the Explanatory Notes, either at this session or the next session.
2. The Chairman agreed that references to new technology could be inserted into the Explanatory Notes at a later date. He then indicated that he would go through the Annex to Doc. NR0171E1 point-by-point to determine whether the Sub-Committee was in agreement with the proposed changes.
3. A number of delegates made proposals during the discussions that were accepted by the Sub-Committee and are reflected in Annex F/2 to this Report. These are as follows :
 - Deletion in the English text only of the words "or set" on page 1334, first paragraph, item 2, second line.
 - Deletion of the words "photogravure or" on page 1334, second paragraph, item III, first line.
 - Deletion in the English text only of the word "and" and substitution of the word "or" on page 1337, last paragraph, third line.
 - Deletion of present exclusion (l) on page 1338 and substitution of the text "Moulds (**heading 84.80**)".
 - Replacement of "Du modèle" by "Dans le modèle" in the French text only, page 1340, Part I, first line, of the Secretariat's proposed text.
 - Deletion of exclusion (d) on page 1342.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. A number of delegates made proposals during the discussions and the Sub-Committee agreed to place them in square for reconsideration at its next session. These are reflected in Annex F/2 to this Report and are as follows :
 - Proposed deletion of exclusions (c) and (d) on page 1333.
 - Proposed deletion of items (15), (17) and part of (19), referring to “polishing vats” on page 1337.
 - Proposed deletion of exclusion (b) on page 1337.
 - Proposed deletion of the words “contact printers” and the insertion of the words “printing machines” on page 1337, last paragraph, last five lines. No change is necessary to the French text.
 - Proposed deletion of Item (1) on page 1341, first paragraph.
 - Proposed deletion of the text “type”. The type consists of individual characters, lines or ...all of the same height.” on page 1342, first paragraph of Subheading Explanatory Note 8443.21 and 8443.29. The Secretariat has used the “delete and substitute” method of presentation in the Annex to ensure accuracy.
 - Proposed deletion of exclusion (a) on page 1398.
 - Proposed deletion of the first paragraph after Item (15) on page 1587.
5. The Sub-Committee also agreed with the suggestion of one delegate to a rearrangement of Part A and Part B of the Explanatory Note to heading 84.42 in order to align on the sequence of the heading text.
6. During the discussion on the proposed deletion of exclusion (b) on page 1337, the Sub-Committee had originally accepted its deletion and it was suggested that the introductory paragraph be revised to connect to exclusion (a). At the request of a number of delegates, the Sub-Committee agreed to place the proposed deletion of exclusion (b) in square brackets for reconsideration at its next session.
7. The texts approved and those placed in square brackets are set out at Annex F/2 to this Report.

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1	2	4
NR0172E1	Possible amendments to the Explanatory Note to heading 84.71.	<u>See Annex F/3.</u>

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

1. Views differed on the question whether or not some references in the English version to “storage” should be amended, and if so whether it should refer to “storage units” or to “storage capacity”. The Sub-Committee left it to the Committee to decide. The texts concerned were placed in square brackets.
2. With respect to the eighth paragraph of Part (I) (A) of the Explanatory Note to heading 84.71 (see paragraph 7 of the working document), the Sub-Committee agreed with the Secretariat to rephrase the last sentence of that paragraph and approved the text proposed.
3. The Sub-Committee considered it not useful to refer to “a data processing system, known as a local area network” in the context of interconnected systems (see paragraph 8 of the working document). Consequently, it did not accept the text in square brackets. However, it agreed that the intention of the paragraph at issue could be amplified by saying that a local area network was an example of two or more systems being interconnected.
4. The Sub-Committee agreed (i) to retain the paragraph concerning remote input or output units (see paragraph 9 of the working document) and (ii) to insert a reference to part (E) of Note 5 to Chapter 84 in the last paragraph of Part (I) (A) of the Explanatory Note to heading 84.71 (see paragraph 10 of the working document).
5. The Sub-Committee agreed not to insert the phrase placed in the first set of square brackets of the third paragraph of Part (D) of the Explanatory Note to heading 84.71 and to delete the square brackets around the reference to Note 5 (E). It also agreed that this paragraph should be made part of the foregoing paragraph, by deleting the indentation.
6. The Sub-Committee adopted the new paragraphs suggested by the Secretariat vis-à-vis the classification of apparatus which could be considered as an “accessory”, replacing the term “accessory” in the first sentence by “apparatus”. However, the Sub-Committee could not agree on the proposal to insert references to Note 5 (D) in sub-paragraph (ii) or in the second paragraph. These parts of the text were placed in square brackets, leaving it to the HS Committee to decide.
7. Finally, the Sub-Committee agreed (i) to delete the term “numérique” in the French text of the last paragraph of Part (D), Item (5) and (ii) not to amend the Explanatory Note to heading 84.73.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

8. During the discussions, a number of delegates indicated that their administrations were in the course of preparing proposals to re-write the complete Explanatory Note to heading 84.71. However, consultations with industry had not yet been finalized. The Sub-Committee took note of these statements.
9. The texts approved and those placed in square brackets are reproduced in Annex F/3 to this Report.

* * *

1	2
NR0118E1 NR0141E1 NR0152E1 (RSC/23) NR0173E1 NR0199E1	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 issue by thanking the ICC and JEITA for the technical information provided and indicating that Canada did not dispute any points therein. He explained that the Canadian proposal was based on the underlying HS principle that classification be based on function. Since digital cameras performed the same function as photographic cameras (i.e., taking pictures), they should be classified in the same heading. However, as digital cameras often had some ability to receive video images, Canada felt that video cameras should also be included in the heading. Having included video cameras, Canada felt it logical to include television cameras as well.
2. Canada understood that only three concerns had been raised regarding the Canadian proposal. Although digital cameras were undoubtedly electrical, they would not be the first electrical products to fall in Chapter 90 because of their function. Consequently, this would not be a precedent. As for the possibility of a transfer of goods from Chapters 84 and 85, Canada did not believe that the examples cited would ever be considered cameras and, therefore, no transfer would be likely. Finally, industry seemed to have raised concerns unrelated to the purview of the Sub-Committee on which Canada chose not to comment.
3. Canada noted that Doc. NR0199E1 (the ICC/JEITA submission) referred to shutters and apertures as common elements of digital and photographic cameras. This raised a question as to whether the same goods were now classified in two headings based on end use. Canada would seek to confirm this point.
4. Another delegate informed the Sub-Committee that apparatus classified under Section XVI was uniformly subject to its legal notes, for example, Note 3, so that they could be classified under appropriate headings within Section XVI. Apparatus not classified under Section XVI could not be subject to those notes. As a consequence, if cameras classified under Section XVI were transferred to Chapter 90, difficult classification problems would arise. In this context, he provided the example of the classification of certain telephone sets incorporating a video monitor and a video camera, called videophones. Under the current or 2002 versions of the HS, these videophones should be classified on the basis of function, by application of Note 3 to Section XVI and GIR 1, because telephone sets, video monitors and video cameras were all covered under Section XVI. However, if cameras of heading 85.25 were transferred to Chapter 90, Note 3 to Section XVI would not be applicable to these videophones. In such a situation, these videophones would be classified in heading 90.06 by

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

application of GIR 1 because Note 1 (m) to Section XVI excluded articles of Chapter 90. In his view, these videophones should remain classified in Section XVI. By way of analogy, apparatus of Section XVI incorporating cameras would all be transferred to heading 90.06 by Note I (m) to that Section. For these reasons, his administration could not support the proposal to group all cameras in heading 90.06.

5. A third delegate was not opposed to the Canadian proposal and felt that the Sub-Committee should examine it. He felt that if cameras were grouped in Chapter 90, then the Sub-Committee would have to examine the legal measures that would have to be adopted to effect this decision. In his view, heading 90.07 (cinematographic cameras) should also be considered in the context of such a regrouping. Industry, in his opinion, should not fear any such regrouping.
6. A fourth delegate indicated his administration's preference to maintain the distinction in the HS between electronic and photographic equipment. Electronic plants produced digital cameras and the parts manufacturers considered themselves to be in the electronics industry and not in the photographic industry. The industry considered these parts to be electronics oriented and, for the most part, connectable to an automatic data processing machine. In addition, the output of digital cameras was often manipulated as data by the users. As a consequence, his administration felt that such cameras should be grouped in Chapters 84 and 85 with the products with which they were used.
7. Finally, one delegate indicated that, as these cameras were not optical equipment but, rather, electronic equipment, he felt that the Sub-Committee should look at the possibility of transferring cameras of headings 90.06 and 90.07 to heading 85.25, as the trend in the industry was towards cameras of this type.
8. The US Delegate put the following draft text forward for subheading 9006.80 or 8525.40, depending on which heading the Sub-Committee chose for a regrouping of digital cameras : "Digital cameras, whether or not recording, and digital camcorders; other video cameras, whether or not recording, including camcorders".
9. The Sub-Committee agreed that it would continue to look at the Canadian proposal and the US alternative text would be incorporated in a working document for the next session of the RSC. Administrations were invited to submit further proposals in writing to the Secretariat.

* * *

1	2
NR0174E1 NR0197E1	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24.

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

1. Many delegates informed the Sub-Committee that they had made contact with their tobacco industries to see whether legal amendments to Chapter 24 were necessary. They reported that their industries were of the view that legal amendments were not needed. These delegates therefore favoured the status quo.
2. One delegate indicated that he could also accept the status quo, but in view of the fact that only part of his industry had responded to this question, and because he still needed to consult with his experts on fiscal matters, he proposed to have a preliminary discussion only at this session.
3. The Sub-Committee therefore decided to postpone a full discussion of this agenda item to its next session in March 2002.

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1	2
NR0149E1 (RSC/23) NR0175E1	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items.

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

1. The Sub-Committee examined the Secretariat's proposals to update HS headings 85.20 and 85.24 to reflect technological developments and trade realities.

Heading 85.20

2. Regarding the question of whether or not to retain subheading 8520.20, the Sub-Committee agreed to retain it because there was still an important volume of trade in these products and consequently approved the deletion of the square brackets.
3. During the meeting, Canada submitted an alternative proposal taking account of old technology apparatus as well as so-called advanced technology apparatus, including digital audio tape and MP3 appliances.
4. With regard to subheading 8520.3, the US Delegate expressed the view that an amendment to its structure could be envisaged. For the time being his administration was in favour of maintaining the status quo, but could submit a proposal to the Review Sub-Committee at a later date.
5. The Sub-Committee finally agreed to re-examine the entire question of the amendment of heading 85.20 at its next session, on the basis of the latest trade data and a new document setting out the amended Secretariat proposal, Canada's alternative text and possible proposals by the United States or any other Contracting Party.

Heading 85.24

6. The Sub-Committee agreed to delete the term "records" and substitute "discs" in the English version of the heading text and approved the deletion of subheading 8524.10.
7. One delegate expressed concern about the need to improve the structure of this heading and especially the content of subheadings 8524.31, 8524.32 and 8524.91 which would undoubtedly become obsolete by 2007.
8. In the light of these concerns, the Sub-Committee agreed to review this question at its next session and invited administrations to submit proposals to the Secretariat with a view to preparing a new document.

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1	2	5
NR0153E1 (RSC/23) NR0176E1	Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03.	<u>See Annex F/5.</u>

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

1. After a short exchange of view, the Sub-Committee unanimously agreed to insert separate subheadings in heading 06.03 for carnations, chrysanthemums, roses and orchids, in accordance with the proposals submitted by the US and the Japanese Administrations. Moreover, it was agreed that these cut flowers should be arranged in subheadings according to their importance in international trade, starting with roses, followed by carnations, orchids and chrysanthemums.
2. As to the Secretariat's proposal to insert a reference to "mixed bouquets" in the residual subheading "other", several delegates pointed out that this addition might create a classification problem. It was argued that since "bouquets" were not defined in the HS Nomenclature, importation of unusual "bouquets" consisting e.g., of twelve roses and one orchid could create a classification problem. Thus, the Sub-Committee decided not to include a reference to "mixed bouquets" in subheading 0603.19, which would have to be classified by application of the General Interpretative Rules.
3. The Secretariat's proposal to insert Latin names was also rejected. The Sub-Committee felt that this inclusion was not necessary and could cause a similar classification problem as the HS Committee had encountered in Chapter 8 (classification of bitter limes).
4. The texts approved are reproduced in Annex F/5 to this Report.

* * *

1	2
NR0155E1 (RSC/23) NR0177E1	Proposal by the US Administration to amend the Nomenclature to Chapter 41.

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

1. At the outset of the discussion on this issue one delegate pointed out that it would be premature to discuss possible amendments to Chapter 41, given the fact that the HS 2002 amendments had not yet been implemented. Nonetheless, for future discussions on the question concerning Note 2 (A), he drew the Sub-Committee's attention to the first sentence of the second paragraph in the Annex to Doc. NR0155E1 (US proposal), reading as follows : "Pre-tanning is a preparatory process that temporarily prevents putrefaction and increases the thermal stability of the hide or skin so that it can be shaved and/or otherwise prepared for tanning", and added that a criterion based on thermal stability would be more appropriate than a criterion based on putrefaction.
2. Other delegates agreed, for various reasons, that no decision should be taken at this session, some of them indicating that further study was necessary, in particular to find out what the exact terminology should be. The Sub-Committee was also informed that some administrations were currently in the process of consulting their industries and that they hoped to submit written comments for the next session.
3. After this preliminary exchange of views, the Chairman concluded that the issue should be discussed at the Sub-Committee's next session, and invited administrations to submit their comments as soon as possible.

* * *

1	2	5
NR0156E1 (RSC/23) NR0178E1 NR0191E1	Proposal by the US Administration to amend the Nomenclature to heading 70.13.	<u>See Annex F/6.</u>

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

1. The US Delegate began the discussion of this issue by explaining his administration's proposal. In particular, he stressed that proposed new subheading 7013.43, which his administration wished to introduce, was aimed at identifying glassware for domestic storage use which differed from the containers of heading 70.10, intended for the conveyance of goods.
2. He further indicated that while his administration had questioned whether other administrations were having problems in administering subheading 7013.42, his administration was prepared to retain it.
3. Another delegate argued against creating subheading 7013.43 (for cannisters, jars and other storage articles, of glass) as proposed by the United States, stressing that there was a risk of an overlap between the products classified in that subheading and those currently classified in heading 70.10.
4. The same delegate also favoured retaining subheading 7013.42 which covered articles of heat-resistant glass. There were internationally accepted (ISO) standards governing these types of product, and the statistics in his possession showed a very high annual volume of trade.
5. Following further discussion, the US Delegate withdrew his administration's proposal with regard to subheading 7013.43, and the Sub-Committee agreed to approve, in full, the alternative text proposed by the Secretariat in Annex II to Doc. NR0178B1.
6. The Sub-committee did not support the US proposal to insert separate subheadings for "drinking glasses, acid-etched or coloured or clear with bubbles, seeds or stones throughout the glass".
7. The text approved is set out in Annex F/6 to this Report.

* * *

1	2	5
NR0179E1	Proposal by the US Administration to amend the Nomenclature to heading 84.82.	<u>See Annex F/7.</u>

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

1. Referring to his administration's comments in Doc. NR0179E1, the US Delegate reiterated his administration's view that cone and tapered roller assemblies presented separately (i.e., without cups) and tapered roller bearings (i.e., complete units) both represented significant articles of international trade and, as a consequence, proposed to modify the structured nomenclature of heading 84.82 to provide additional detail for specified parts of tapered roller bearings. He indicated that his administration could accept the deletion in proposed subheading 8482.21 of the phrase "entered separately", as it seemed that during the Sub-Committee's last meeting, this wording had caused some concern.
2. The Delegate of Japan indicated that, according to the Japanese industry, the outer rings (cups) and cone and tapered roller assemblies were normally traded as single bearings and, therefore, in his administration's view, there was no need to create a new subheading for the assemblies. In order to keep the HS as simple as possible, the Japanese Administration preferred the status quo.
3. Since there were different viewpoints as to whether the outer rings (cups) and cone and tapered roller assemblies were normally traded together, as indicated by Japan or also separately as argued by the United States, the Sub-Committee decided to place the US proposed text for subheadings 8482.21 and 8482.29 in square brackets, to delete the phrase "entered separately" and to forward the text to the HS Committee for decision. This text can be found in Annex F/7 to this report.
4. The Sub-Committee then continued its discussion on the rest of the US Administration's proposals with regard to the structured nomenclature for heading 84.82. One delegate expressed the view that, at the one-dash level, it was not possible to make the proposed break-outs. He pointed out that proposed subheading 8482.9 was a one-dash subdivision for "other parts". This would indicate that in the preceding text, there should also be a reference to "parts". However, in the proposed US text, there was no mention of the word "parts" but, rather, at the one-dash level, reference was made to "balls, needles and rollers" and "inner and outer rings and races". This delegate preferred to leave the text as it currently stood and to have further detail provided at the national level, if necessary.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. The Sub-Committee discussed a number of options to try and provide for a one-dash parts provision and the US break-outs for “parts of tapered roller bearings”. The Sub-Committee concluded its discussion by agreeing to continue the discussion of this issue at its next session, on the basis of a new proposal to be submitted by the US Administration for parts of tapered roller bearings.
6. The text placed into square brackets is set out in Annex F/7 to this Report.

* * *

1	2	5
NR0158E1 (RSC/23) NR0180E1 NR0202E1	Proposal by the US Administration to amend the Nomenclature to heading 85.19.	<u>See Annex F/4.</u>

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

1. The Review Sub-Committee examined two proposed amendments to the structured nomenclature of heading 85.19, namely : (1) a revised text which reflected the Secretariat's initial proposal and various ideas put forward by the US Administration during the 23rd Session in March 2001, and (2) a new text proposed by the Swiss Administration.

Swiss proposal

2. The Delegate of Switzerland explained that the new proposal put forward by his Administration was aimed at revising heading 85.19 in order to adapt its structured nomenclature to the terminology used in trade. He added that if renumbering took place, Subheading Note 1 to this Chapter would have to be amended accordingly.
3. One delegate indicated that MP3s were sound recording apparatus incorporating sound reproducing devices. He therefore expressed some reservation about Switzerland's proposal that MP3s be classified in heading 85.19. He also suggested that it might be useful to obtain some statistical data on these goods.
4. The discussions revealed that there might be different types of MP3 apparatus, some of which incorporated sound reproducing apparatus while others did not. As a result, one delegate considered that it would be interesting to examine the different types of MP3s available on the market.
5. Having noted that a study of the different types of MP3s might clarify the question of what amendments could be made to the structured nomenclature of heading 85.19, the Sub-Committee agreed to submit the classification question to the HSC.

Secretariat proposal

6. Taking as a basis for its work the draft text appended to Doc. NR0180B1, the Sub-Committee began by approving the new text proposed for heading 85.19.
7. Then, bearing in mind the proposal to delete subheading 8519.10 for "coin- or disc-operated record-players", which the Secretariat believed had become obsolete, the Sub-Committee agreed to place this subheading in square brackets. The decision as to whether to delete or modify this subheading would be taken after the HSC's ruling on the classification question referred to in paragraph 5 above.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

8. The Sub-Committee agreed to keep subheading 8519.60 for "record-players and turntables (record decks)". However, following a comment by a delegate, the Sub-Committee decided to use the term "platines tourne-disques" instead of "tourne-disques" in the French text of subheading 8519.60.
9. At the proposal of another delegate, the Sub-Committee agreed that two alternative texts for subheading 8519.7, namely "cassette-players" and "magnetic tape players", would be placed in square brackets.
10. However, the Sub-Committee wished it to be noted that all the texts it had provisionally approved remained subject to the decision to be taken by the HSC concerning the classification of MP3s.
11. New ideas were put forward during the discussion, including for example a suggestion that separate status be given to "pocket-size" sound reproducing apparatus with a laser reading system (subheading 8519.5).
12. Finally, the Sub-Committee indicated that it would be willing to examine other suggestions provided that they were submitted in writing to the Secretariat in a timely fashion. The Sub-Committee decided that it would re-examine the entire question of the structured nomenclature of heading 85.19, including the Swiss proposal, after it had received the HSC's advice on the classification of MP3 players.
13. The texts under consideration by the Sub-Committee are set out in Annex F/4 to this Report.

* * *

1	2	5
NR0159E1 (RSC/23) NR0181E1	Proposal by the US Administration to amend certain subheadings of heading 87.08.	<u>See Annex F/8.</u>

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

1. On the question posed by the Secretariat in paragraph 13 (a) of Doc. NR0181E1, the Sub-Committee did not see any particular problem with using the present subheading number 8708.50 for the purpose of re-grouping present subheadings 8708.50 and 8708.60 in HS 2007, taking into account the fact that all 5-digit level subheadings under heading 87.08 have already been occupied by separate groups of parts and accessories for the motor vehicles of headings 87.01 to 87.05.
2. As to the second question raised by the Secretariat in paragraph 13 (b) of Doc. NR0181E1, the US Delegate explained that it was not his administration's intention to leave out the expression "whether or not provided with other transmission components" presently used in the text of subheading 8708.50. He withdrew the original text proposed by the United States since he agreed with the Secretariat's alternative text in principle, but pointed out that, during the intersession, his administration could check whether this text was acceptable. Another delegate found the text drafted by the Secretariat quite acceptable since he felt that the text proposed by the United States might change the scope of the two present subheadings after re-grouping.
3. In order to avoid any misunderstanding of the Secretariat's alternative text, the Director proposed to modify it so as to read "[Drive-axles with differential, whether or not provided with other transmission components, and non-driving axles; parts thereof]". It was also pointed out that the expression "et leurs parties" in the French version should be replaced with "; leurs parties" for alignment with the English version ("; parts thereof"). The Sub-Committee agreed to keep the Secretariat's alternative (as modified) in square brackets for re-examination at its next session.
4. In the text of subheading 8708.30, the term "and" after "servo-brakes" was replaced with a semicolon to reflect the fact that the expression "parts thereof" referred not only to the parts of "servo-brakes" but also to those of "brakes".
5. Referring to the proposed new subheading "8708.40 – Gear boxes and parts thereof", another delegate expressed his concern, from the statistical point of view, that gear boxes for the motor vehicles of headings 87.01 to 87.05 were presently classified in subheading 8708.40, while parts of gear boxes therefore fell in subheading 8708.99 by application of Note 1 (l) to Section XVI and Note 2 (e) to Section XVII. He believed that grouping gear boxes and parts thereof in subheading 8708.40 would result in a substantial transfer of trade from subheading 8708.99 to subheading 8708.40. Although the Sub-Committee considered, as a solution to this potential problem, the identification of "gear

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

boxes” and “parts thereof” in two separate 6-digit subheadings (i.e., “8708.41” and “8708.49”, respectively), it was noted that the same concern was valid for almost all of the proposed new subheadings as well. Further, it was not clear how much trade volume would be transferred from the present subheading 8708.99 to new subheading 8708.40. In order to give administrations and the Secretariat an opportunity to consider this issue during the intersession, the Sub-Committee agreed to place the expression “and parts thereof” in square brackets in the text of proposed new subheading 8708.40 and to re-consider it at its next session.

6. The term “organes” in the French version of subheading 8708.80 was replaced by the term “parties” for alignment on the English version.
7. The expression “et leurs parties” at the end of the French text of proposed new subheading 8708.92 was also replaced with “; leurs parties” for alignment on the English version (i.e., “; parts thereof”).
8. Finally, for the text of new subheading 8708.95, one delegate proposed to replace, in the French text, the term “de sécurité” by the expression “avec système de gonflage” and accordingly to delete, in the English text, the term “safety” and insert the expression “with inflater system” after the term “airbags”. Several administrations indicated that they needed to examine the possible consequences of these proposed modifications. The Sub-Committee therefore agreed to place these expressions in square brackets and to reconsider them at its next session.
9. Subject to the foregoing, the Sub-Committee approved the draft texts appended to Doc. NR0181E1. The texts approved and those in square brackets are set out in Annex F/8 to this Report.

* * *

1	2
NR0182E1	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. The Chairman began the discussions of this agenda item by drawing the Sub-Committee's attention to Item III.C.1 on the agenda, under which a Working Group would have an informal discussion on Note 5 to Chapter 84. In this context, he referred the Sub-Committee to paragraph 8 of Doc. NR0188E1, which referred to digital technologies, such as the multifunctional machines under discussion. He wondered whether the Sub-Committee would like to combine discussion of Item III.A.14 with Item III.C.1, as there was some obvious overlap. The consensus of the Sub-Committee was to discuss the items separately.
2. The Director indicated that the Secretariat was in favour of moving ahead with proposals for amending the Nomenclature for these multifunctional machines. He saw no reason to await the outcome of the reservations entered on the classification of these machines at HSC/27. In fact, he was concerned that if the Sub-Committee waited for a final decision by the HS Committee, it would not be in a position to complete its work on amendments to the Nomenclature for 2007.
3. One delegate saw merit in the proposal to group these multifunctional machines in one heading. However, he stressed that there would have to be careful drafting of the wording with regard to the scope of the heading. His administration was preparing a submission on this issue, in consultation with its industry. He informed the Sub-Committee that in discussions with the industry, the general feeling was that these machines were not photocopiers of heading 90.09 and that this heading should only cover true photocopiers.
4. Another delegate agreed with the idea that the Sub-Committee did not have to await the outcome of the final decision by the HSC on the classification of these multifunctional machines before starting work on proposals for amending the Nomenclature for 2007. He referred to Doc. NR0182E1, paragraph 34 (ii), and indicated that heading 84.72 should also be added for consideration. In reference to the original Brazilian proposal during the last Review Cycle, he indicated that, while he had some sympathy for the proposal, he would not insist on it. In this context, he indicated that he was also not opposed to the idea of studying the possibility of grouping these machines in one heading. In any event, he informed the Sub-Committee that in order to ensure the uniform application of the HS with regard to these goods, a legal amendment would have to be made.
5. A third delegate indicated a number of options that could be followed. The first option would be to group all these machines in one heading. A second, and more modest option, in his opinion, would be to add first a new legal Note to Chapter 90 that would say that Note 3 to Section XVI did apply to machines of Chapter 90, and subsequently to amend the legal

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

text of heading 90.09 to specifically cover digital copying. As the HSC was still examining the classification of these products, this option could be put on hold until a final decision was reached by the Committee.

6. A fourth delegate informed the Sub-Committee that, in whatever manner it proceeded, due care should be taken to provide for legal text which would not be in conflict with current legal text. In this regard, he stated that any action by the Sub-Committee should have due regard to Note 3 to Section XVI.
7. One delegate suggested that the Secretariat should prepare its own proposal for the future classification of multifunctional digital copiers for the next session of the Sub-Committee. The Director agreed that the Secretariat would endeavour to put forward a working document for the next meeting.
8. The Sub-Committee then agreed to continue to examine this item at its next session, on the basis of a new working document to be prepared by the Secretariat. Administrations were also encouraged to submit their own proposals.

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ANNEX D

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0183E1	Possible amendment of heading 21.03 to include "salsa".			

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

1. Referring to his administration's comments in Doc. NR0183E1, the Delegate of Australia explained that the classification of "salsa" had been a problem for numerous years in his country. Originally such products had been classified in heading 20.01, but currently the Australian Administration classified such products in heading 21.03 in accordance with the decision of the Harmonized System Committee to classify "Chicken Tonight" in heading 21.03 as a sauce. However, to clarify the legal situation, Australia wanted to add a reference to "salsa" in the heading text. He was aware that "salsa" was the Spanish word for "sauce" and could therefore accept a decision to include those products in the Explanatory Notes only, notwithstanding his preference to have "salsa" included in the legal texts.
2. One delegate called attention to the fact that, since "salsa" meant "sauce" in Spanish, this word already existed in all Spanish versions of the HS Nomenclature. Moreover, he reminded the Sub-Committee that Spanish was an official language of the WTO and the Technical Committee on Rules of Origin of the WCO. In his mind it would lead to tremendous confusion to use the word "salsa" in a specific and not in a general fashion, not only in the Nomenclature, but also in the Explanatory Notes. He could therefore not support this idea.
3. Other delegates were of the same view. In this regard it was also mentioned that, since "salsa" was also used as a brand name in some countries, it should not be used in the HS Nomenclature.
4. The Sub-Committee therefore finally agreed that the Australian proposal could not be supported and decided not to examine this matter further.

* * *

1	2
NR0184E1	Study of possible amendments to the Nomenclature with regard to human body parts.

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

1. The Director began the discussion by explaining that during the HS seminars conducted by the Secretariat several administrations had indicated that there was international trade in human cadavers and body parts (organs, tissues, etc.) and had raised questions as to their classification. He also noted that research in stem cells to develop new therapies for certain diseases was growing. He was therefore of the view that it was important to determine whether the Nomenclature should be amended to clarify the classification of these products, which were legitimately conveyed internationally.
2. With regard to human cadavers, many delegates indicated that they were not objects of trade and, in the interest of human dignity, they should not be considered as goods covered by the Harmonized System. They therefore preferred the status quo and to make no reference to human cadavers in the Harmonized System.
3. One delegate indicated that, even for transplant purposes, cadavers were not transported as such but that only tissues, organs, etc., that were recovered immediately after death, were transported under very specific means and conditions. He also explained that, in view of Item (D) (3) of the Explanatory Note to heading 30.01, human organs, etc., recovered from cadavers, for transplant, should be classified in heading 30.01.
4. With regard to organs, tissues, etc. meant for research and medical studies, two delegates expressed the view that they should also be covered by heading 30.01, and agreed that the text of the heading may need to be changed in this regard.
5. The Sub-Committee finally agreed to maintain the status quo with regard to human cadavers and therefore directed that no further action should be taken. With regard to human organs, tissues, stem cells, etc., it agreed that the Secretariat should continue its study of possible amendments to heading 30.01, taking into account the comments made by delegates during the meeting.

* * *

1	2	5
NR0185E1	Possible amendment of heading 85.28 to provide separately for satellite receivers (Proposal by the Egyptian Administration).	<u>See Annex F/10.</u>

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

1. The Delegate of Japan opened the discussion of this question by stating that television receivers able to receive both satellite signals and so-called conventional signals were available on the market, and the proposal to create a new subheading for "satellite television receivers" would not resolve the question of their classification, but would pose serious problems in respect of the classification of, and the distinction between, the various types of television receivers. In this connection, he recalled that similar classification questions, such as the classification of motor vehicles with hybrid power systems and certain INN products, were being discussed by the HS Committee.
2. A second delegate, while expressing his support for the inclusion of satellite television receivers in a subheading of heading 85.28, preferred that the alternative text proposed by the Secretariat in paragraph 5 of the working document be taken as the basis for studying this question. In addition, in view of the concerns voiced by the previous delegate he suggested that the text of proposed new subheading 8528.11 be amended to read "Satellite or cable television receivers", although he questioned whether hybrid or mixed television receivers were in fact available on the market. Finally, he proposed that this question be carried forward to the Sub-Committee's next session, so that administrations could consult industrial circles and perhaps elicit further information.
3. The US Delegate also supported the proposal that satellite receivers be referred to in the structured nomenclature of heading 85.28, but expressed a preference for the text proposed in paragraph 4 of the working document. He indicated that US trade in the year 2000 amounted to US\$ 1.2 billion.
4. The question was also raised whether subheadings for black and white receivers and monitors of heading 85.28 were still necessary.
5. In the light of the views expressed, the Sub-Committee agreed to place the two alternative texts in square brackets, and invited the Secretariat to investigate the characteristics of the receivers referred to by the Japanese Administration, and their significance in international trade. Administrations were also invited to send the Secretariat their views on this question, so that a new working document could be prepared for examination at the next session.
6. The proposals in square brackets are set out in Annex F/10 to this Report.

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1	2
NR0186E1	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. The Sub-Committee undertook a preliminary discussion on this agenda item. Certain delegates supported the Egyptian proposal, in principle, but indicated their concerns with regard to the specific goods that needed to be specified at heading or subheading level and their trade volume.
2. The US Delegate indicated that “nursing nipples and pacifiers of plastics” were specified as a national subheading in the US tariff and that the trade statistics for this item reflected a substantial increase in trade, from US\$ 48 million in 1996 to US\$ 120 million in 1998. The Delegate of Canada also informed the Sub-Committee that “hygienic or pharmaceutical articles of plastics” were specified in the Canadian tariff and offered to provide trade statistics to the Secretariat.
3. One delegate stressed that it would be important to know precisely which goods should be specified and whether they should be specified at heading level or subheading level. He explained that, depending on the goods to be specified, the scope of headings 39.22 and 39.24 should also be examined in addition to heading 39.26. He also stressed the importance of obtaining the relevant trade data.
4. Finally, the Sub-Committee agreed to re-examine this question at its next session, on the basis of more specific information as to the articles covered by the proposal and trade statistics to be submitted by administrations.

* * *

1	2
NR0187E1	Possible amendment of heading 21.06 to include "food supplements".

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

1. At the outset the Director informed the Sub-Committee that the reason for this proposal was that the Secretariat every year received numerous questions from administrations as to the classification of "food supplements". In his view, the legal situation with regard to the classification of such goods should be improved. He was aware that the Secretariat's proposal might involve the transfer of goods from other headings, and that this possibility had to be further studied. As a starting point, he wanted to see whether there was some support for the Secretariat's proposal in the Sub-Committee before elaborating further on this issue.
2. Several delegates pointed out that the Secretariat's proposal involved a huge definitional problem as to what "food supplements" were. These delegates were of the view that "food supplements" had to be defined in a legal Note. Without a precise definition, the Secretariat's proposal could certainly entail an enormous transfer of goods from other headings.
3. One delegate indicated that the Explanatory Note to heading 21.06, Item (16), might serve as a basis for a legal definition.
4. Certain other delegates mentioned that their administrations had also had classification problems with regard to "food supplements". These delegates therefore supported the Secretariat's approach to insert a legal provision for such goods in heading 21.06. In this regard it was pointed out that the Secretariat's proposal implied that heading 21.06 was also a residual heading for "food supplements". It was therefore proposed to change the text to read :

"21.06 Food supplements; food preparations not elsewhere specified or included."
5. The Delegate of Brazil informed the Sub-Committee that the Mercosur countries, in their external common tariff, had inserted a subheading for "food-supplements" under heading 21.06, and that these countries had encountered no problems in this respect. The Delegate of Ghana also stated that the tariff of his country had a national subheading for "food supplements".
6. After further discussion, the Sub-Committee agreed that this question should be re-examined at its next session on the basis of a new document to be prepared by the Secretariat, with possible contributions from Contracting Parties, containing a proposal to define "food supplements".

* * *

1	2	5
NR0189E1	Possible amendment of subheading 8311.90 to delete the reference to parts (Proposal by the Egyptian Administration).	<u>See Annex F/9.</u>

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

1. One delegate began the discussion of this issue by stating that enquiries among the relevant trade circles in his country showed that there was no production of parts of articles of subheading 8311.90.
2. A second delegate, in favour of deleting the reference to “parts” in subheading 8311.90, agreed with this statement and supported the removal of this reference from the Nomenclature.
3. The Delegate of Egypt pointed out that his administration felt that since flux for soldering or brazing as well as wire, rods and electrodes, not coated or cored with flux material, were classifiable in Chapters 38 and 72, respectively, the reference to parts in subheading 8311.90 should be deleted as it no longer served any purpose.
4. Following these discussions, the Sub-Committee unanimously approved the Egyptian proposal and agreed to delete the expression “including parts” from the legal text of subheading 8311.90.
5. The text approved is set out in Annex F/9 to this Report.

* * *

1	2
NR0192E1	Possible amendment of the HS Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration).

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

1. In opening this agenda item the US Delegate explained that the intention of the US proposal was to clarify the classification of silicone products in various Chapters of the Harmonized System and not to change the scope of relevant headings. He pointed out that there was an error in the Annex to the working document (NR0192E1) in respect of the proposed general structural formula for silicones. He stated that the correct structural formula would be provided to the Secretariat as soon as possible.
2. Given the technical nature of the proposal, the Sub-Committee unanimously decided to refer this question to the Scientific Sub-Committee (with the above-mentioned corrections to be submitted by the US Administration), asking it to examine and comment on whether the proposed modifications are technically correct and whether these modifications would clarify the classification of silicone products.

* * *

1	2	5
NR0193E1	Proposal by the US Administration to delete Note 6 to Chapter 85.	<u>See Annex F/11.</u>

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

1. Following interventions by the Delegates of Canada, Japan and the EC supporting the US proposal in Doc. NR0193E1, the Sub-Committee unanimously agreed to the deletion of Note 6 to Chapter 85.
2. The text approved is set out in Annex F/11 to this Report.

* * *

1	2
NR0194E1	Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys.

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

1. One delegate began the discussion of this issue by supporting the proposal aimed at simplifying the Harmonized System. However, he felt that the text proposed ought to be amended to ensure that the terminology was adequate. He felt that it would be hasty to approve the draft at issue, which merged all of the present texts of headings 95.01, 95.02 and 95.03, at this session.
2. Other delegates were supportive of the principle set out in the United States proposal. However, some of them felt that the new proposed Note 3 (b) might simply be a reproduction of the provisions of the GIRs and would therefore be superfluous. These delegates generally agreed to the principle of simplifying the provisions relating to "toys".
3. In reply to a question by one delegation as to whether the proposal was already complete or whether new subheadings were still to be proposed, the US Delegate replied that his administration did not intend to add subheadings to the proposal at issue, but that improvements to the text were always possible.
4. Following these discussions, the Sub-Committee noted that there was a consensus in favour of the proposal. It invited the Secretariat to prepare a new document for the next Review Sub-Committee session, based on proposals that Contracting Parties were invited to submit as soon as possible.

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1	2	5
NR0195E1	Editorial amendments to the English text of the Harmonized System.	<u>See Annex F/12.</u>

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

1. Subject to deletion of the comma after “i.e.” in the proposed amendment for Subheading Note 1 to Chapter 4, the Sub-Committee approved the texts drafted by the Secretariat.
2. The texts approved are set out in Annex F/12 to this Report.

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ANNEX E

SPECIAL WORKING GROUP

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0188E1 NR0201E1	Study of Note 5 to Chapter 84.			

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

1. The Sub-Committee informally discussed the possible amendment of Note 5 to Chapter 84 and associated headings. During the exchange of thoughts, the following issues were addressed :
 - (i) possible deletion of the references to analogue and hybrid apparatus;
 - (ii) grouping together in a single Chapter "IT – related" commodities;
 - (iii) the concept of being "freely programmable" and the user related requirements;
 - (iv) possible substitution of the text "performing arithmetical computations" specified by the user "by a reference to binary operations in the last part of the Note 5 (A) (a) to Chapter 84;
 - (v) possible deletion of the provisions for systems; and
 - (vi) step by step approach (i.e., discussion on separate headings or group of headings, rather than a comprehensive proposal dealing with all issues at the same time).

2. In summing up the discussions, the Director invited administrations to come up, before the end of the year, with the first set of proposals, taking into account that only five sessions were left to actually prepare the amendments for 2007.

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