



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0332E2

-
26th Session
-

O. Eng./Fr.

Brussels, 26 September 2002.

DRAFT REPORT OF THE 26TH SESSION OF THE
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

Note :	This Report is divided into two parts : PART I : - Body of the Report and Annexes A to E PART II : - Annexes F/1 to F/14 PART III : - Annexes F/15 to G
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1. The Harmonized System Review Sub-Committee held its 26th Session from 16 to 26 September 2002 at the Headquarters of the World Customs Organization in Brussels. The meeting was chaired by Mr. D. BECK (USA).

2. The following 44 WCO Members and one Customs or Economic Union were represented :

Members

AUSTRALIA	MACAO, CHINA
BANGLADESH	MADAGASCAR
BELGIUM	MALAYSIA
BENIN	NETHERLANDS
BRAZIL	NIGERIA
CAMEROON	NORWAY
CANADA	PHILIPPINES
CHINA (People's Rep.)	POLAND
CONGO (Rep.)	ROMANIA
CÔTE D'IVOIRE	RUSSIAN FEDERATION
EGYPT	SAUDI ARABIA
FRANCE	SENEGAL
GERMANY	SLOVENIA
GHANA	SOUTH AFRICA
INDIA	SWITZERLAND
INDONESIA	THAILAND
IRELAND	TURKEY
ISRAEL	UGANDA
JAPAN	UNITED ARAB EMIRATES
KUWAIT	UNITED KINGDOM
LATVIA	UNITED STATES
LIBYAN ARAB JAMAHIRIYA	VIETNAM

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

II. QUESTIONS EXAMINED BY THE REVIEW SUB-COMMITTEE

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. At the end of the meeting, Mr. H. KAPPLER, the Director of Tariff and Trade Affairs informed the Sub-Committee that the Working Group referred to in Annex D/5 of this Report, devoted to discussing the restructuring of the high technology Chapters of the Harmonized System, will meet from 10 to 12 February 2003.

D. BECK,
Chairperson.

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AGENDA FOR THE 26TH SESSION
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE
(from 16 to 26 September 2002)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
1.	Agenda	A
II.	<u>GENERAL QUESTIONS</u>	
1.	Reports on the meetings of the Policy Commission (47 th Session) and the Council (99 th and 100 th Sessions)	B/1
2.	Decisions taken by the Harmonized System Committee at its 29 th Session affecting the work of the Review Sub-Committee	B/2
3.	Possible deletion of headings/subheadings with a small volume of trade	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, F/7
2.	Possible amendments to the Nomenclature regarding the classification of sauces	C/2
3.	Possible amendment of heading 21.06 to specifically mention "food supplements"	C/3
4.	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24	C/4
5.	Possible amendment of Part (C) of the Explanatory Note to heading 28.04	C/5, F/1
6.	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21	C/6, F/6

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
7.	Possible amendments to the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration)	C/7
8.	Proposal by the US Administration to amend the Nomenclature to Chapter 41	C/8, F/8
9.	Deleted	
10.	Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the European Community)	C/9, F/2
11.	Possible amendments to the structured nomenclature to heading 84.18	C/10, F/3
12.	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42 and related provisions	C/11, F/4
13.	Proposal by the US Administration to amend the structured nomenclature to heading 84.82	C/12
14.	Amendment of the Explanatory Notes to clarify the classification of DVD drives, standalone DVD players and game players	C/13
15.	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items	C/14, F/9
16.	Proposal by the US Administration to amend the Nomenclature to heading 85.19	C/15, F/5
17.	Possible amendments to the Nomenclature regarding the classification of cameras	C/16
18.	Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)	C/17, F/10
19.	Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers	C/18, F/11
20.	Possible amendments to the structured nomenclature to heading 90.30 (Proposal by the US Administration)	C/19

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
21.	Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys	C/20, F/12
22.	Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration)	C/21, F/13
B. <u>NEW QUESTIONS</u>		
1.	Possible amendments to the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the Mexican Administration)	D/1
2.	Possible amendments to the Nomenclature regarding the classification of flash electronic storage cards	D/2, F/15
3.	Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of controller units for anti-lock braking systems (ABS) (Proposal by the Australian Administration)	D/3
4.	Possible amendments to the structured nomenclature to heading 38.24 (Proposal by UNEP)	D/4, F/16
5.	Possible amendments to Chapters 84, 85, 90 and 95 concerning information technology products (Proposal by the EC)	D/5
6.	Possible amendments to the Nomenclature and the Explanatory Notes to correct certain texts and to align the English and French versions (Proposal by the Secretariat)	D/6, F/17 to F/19
7.	Possible creation of a new heading to provide for all apparatus for transmission or reception of voice, data or images (Proposal by the US Administration)	D/7, F/20
8.	Possible modification of heading 85.42 and Note 5 (B) to Chapter 85 (Proposal by the US Administration)	D/8, F/21
9.	Possible amendments to subheadings 2306.10 to 2306.30 (Proposal by the EC)	D/9, F/14
10.	Possible alignment of the French and English texts of Note 9 of Chapter 71 (Proposal by the EC)	D/10

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
C.	<u>COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES</u>	
1.	Possible deletion of certain references to “whales” in the Explanatory Notes	E/1, F/22
2.	Possible amendment of the Explanatory Note to heading 29.37	E/2, F/23
3.	Possible amendment of the Explanatory Note to heading 29.35	E/3, F/24
4.	Possible amendment of the Explanatory Note to heading 29.411	E/4, F/25
5.	Possible amendment of the Explanatory Note to heading 30.02	E/5, F/26
6.	Possible amendment of the Explanatory Notes to Chapter 44	E/6, F/27
7.	Possible amendment of the Explanatory Notes to headings 61.03 and 61.04	E/7
8.	Possible amendment of the Explanatory Note to heading 70.17	E/8, F/28
9.	Possible amendment of the Explanatory Note to heading 84.71	E/9
10.	Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions	E/10, F/29
11.	Possible amendment of the Explanatory Notes to headings 84.01 to 84.31	E/11
12.	Possible amendment of the Explanatory Notes to headings 84.32 to 84.73	E/12
13.	Possible amendment of the Explanatory Notes to headings 84.74 to 84.85	E/13
14.	Possible amendment of the Explanatory Notes to headings 85.01 to 85.09	E/14
15.	Possible amendment of the Explanatory Notes to headings 85.10 to 85.22	E/15

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
16.	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48	E/16
17.	Possible amendment of the Explanatory Notes to Chapter 87	E/17
18.	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10	E/18
19.	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33	E/19

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ANNEX B

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0268E1	Reports on the meetings of the Policy Commission (47 th Session) and the Council (99 th and 100 th Sessions).			

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

Summary of discussion

1. The Director provided a summary of the discussions held at the last sessions of the Policy Commission and the Council. He elaborated on the issues which were of particular relevance to the work of the Review Sub-Committee.
2. He informed the Review Sub-Committee that Cambodia, the United Arab Emirates and Ukraine had become the 107th, 108th and 109th Contracting Parties to the Harmonized System Convention, respectively, and stated that he was looking forward to their active participation in all of the Harmonized System related committees.
3. The Director also highlighted the Secretary General's report that discussions were now underway with the Inter-American Development Bank (IADB) concerning the use of Spanish as a working language for the Harmonized System. Since the IADB had agreed to fund this work, the Secretariat was now in the process of determining priorities and modalities for the use of those funds. The Secretariat hoped to soon establish a similar system for Spanish as that being used for the Russian language.
4. With respect to the question of report reading at the end of the meetings, he informed the Review Sub-Committee that the Council had agreed that reports should only be read at the end of meetings in the case of a limited number of working bodies, including the Harmonized System Committee and its Working Party, but not including the Review Sub-Committee or the Scientific Sub-Committee. Accordingly, beginning with this session, the new report reading procedure for the Review Sub-Committee would come into effect. This would basically mean that the Secretariat would prepare *{only HS texts considered (US)}* during the meeting, which would be made available to the Review Sub-Committee at the end of the two-week session. The meeting would then be suspended until the first day of the

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

next Harmonized System Committee meeting in November, at which time the report would be read.

5. The draft report would be circulated electronically within one week of the end of this session and written electronic comments would be requested within two weeks following the submission of the draft report. The report reading would be based on the written comments received.
6. Finally, with respect to the **Australian** proposal for a fundamental review of the Harmonized System, the Director informed the Review Sub-Committee that the Secretariat had invited comments from all of the regions with regard to this issue and that he had reported to the Policy Commission that the responses from the regions indicated that there was no great enthusiasm for such a review. However, two issues had been identified in the **Australian** proposal, the first relating to the structure of the Harmonized System and the second to procedural matters. While noting that there was no question that certain parts of the Harmonized System needed to be updated, he had indicated that that matter was being addressed by the existing Harmonized System review process.
7. Concerning the procedural matters he had pointed out that many of the issues had been discussed at length in the past, i.e., :
 - the appropriateness of having a four or five year review cycle;
 - the speed of the HS decision-making process, noting that the fast track procedure for re-examination of Harmonized System Committee decisions had not been used often by Contracting Parties; and
 - the low level of acceptance of the Council Recommendation concerning the application of Harmonized System Committee decisions, and the reluctance of Contracting Parties with respect to the establishment of dispute settlement panels.
8. He had, therefore, suggested setting up a High Level Working Group to examine the procedural issues once again, which suggestion had been unanimously supported. The Secretariat was now in the process of contacting the regions to set up this Group, and hoped to have the first meeting later in 2002 (early November). This High Level Working Group should be constituted from among senior executives familiar with (i) the Harmonized System and its operation, and (ii) the needs of Customs and the international trade community as a whole.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Conclusion

9. 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.

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1	2
NR0269E1	Decisions taken by the Harmonized System Committee at its 29 th Session affecting the work of the Review Sub-Committee.

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

1. The Chairperson briefly summarised the decisions taken by the HSC at its 29th Session and the pending questions affecting the work of the RSC.
2. The Sub-Committee took note of the developments in the HSC.

* * *

1	2
NR0270E1	Possible deletion of headings/subheadings with a small volume of trade.

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

1. After the Chairperson introduced the document, a number of delegations indicated that certain subheadings should be retained, due to (i) the particular interest of their respective countries in these subheadings or (ii) the growth in the volume of trade during more recent years. Other delegates informed the Review Sub-Committee that they were still in the process of consulting national agencies and other interested parties with regard to this issue.
2. The Director, while stressing that, in order to keep the Harmonized System manageable, it was important to delete headings and subheadings with a low volume of trade to the extent possible, explained that the current working document was intended for a preliminary discussion. The process of considering the deletion or retention of relevant headings and subheadings was a continuous one, the final decision being taken at the last session of the Review Sub-Committee during this review cycle. This would give the Review Sub-Committee the opportunity to make its decision on the basis of more recent data.
3. With respect to the possible retention of headings or subheadings with a small volume of trade, he invited administrations to submit the necessary information (i.e., which headings or subheadings should be retained together with a justification {*of an international nature (Australia)*} for their retention) to the Secretariat in due time. On the basis of information to be received from administrations or other sources, the Secretariat would prepare an updated version of the document for a future session of the Sub-Committee.
4. The Sub-Committee took note of the information provided.

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ANNEX C
TECHNICAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0271E1	Possible amendments to the Nomenclature regarding the classification of waffles.			<u>See Annex F/7.</u>

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

1. At the outset of the discussion of this agenda item, two clearly different views were expressed as to the usefulness of possible legal text amendments with regard to waffles.
2. Certain delegates were of the opinion that it was not necessary to define waffles in a legal Note or in a subheading text. They pointed out that the water content in waffles varied from region to region of the world and considered that products which were commonly recognised as waffles, and presented and traded as waffles should be classified as waffles in the HS Nomenclature. In this regard attention was also called to the fact that only two kinds of waffles were on the market – dry waffles (or wafers) with a water content below 10 percent, and other waffles with a water content above 10 percent. These waffles should in their minds be classified together in the same subheading, regardless of their water content.
3. Certain other delegates, however, wanted to have a legal definition for waffles in the HS Nomenclature. In their view, in order to achieve a world-wide uniform classification practice for such products, a legal definition based on the water content was needed. The different views expressed by the HS Committee with regard to the classification of a specific product (“Kellogg’s Eggo Frozen Waffles”), had clearly demonstrated this necessity.
4. Notwithstanding the different views that were expressed with regard to this subject, the Sub-Committee managed to find a compromise, which includes separate subheadings for waffles with a water content not exceeding [20] percent and waffles with a water content exceeding [20] percent.
5. The Sub-Committee agreed to return to this question at its next session, after having once more consulted the industry, particularly with regard to the water content proposals in square brackets.
6. The texts in square brackets are set out in Annex F/7 to this Report.

* * *

1	2
NR0169E1 NR0198E1 (RSC/24) NR0212E1 (RSC/25)	Possible amendments to the Nomenclature regarding the classification of sauces.

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

1. *{In opening the discussions on this agenda item, the EC Delegate underscored that the Sub-Committee had been dealing with this sensitive issue for a long time. He recognised that a product which was considered to be a sauce (heading 21.03) in one part of the world might be regarded as a dish of vegetables presented or prepared in a sauce (heading 20.01 or 20.05) in other parts of the world – and vice versa. He was of the opinion that the present legal situation with regard to such products was not satisfactory. The discussions which had taken place in the HS Committee, and the result of 15 votes to 14 which had been obtained at the HSC’s 24th Session for the classification of the product known as "Chicken Tonight", revealed that products of this type were not being classified uniformly world-wide. This problem could not be solved by classifying such products with reference to their commercial name or use. It was therefore extremely important that the Sub-Committee agree on a criterion or a legal definition for sauces, securing the uniform classification of such products world-wide and thereby ensuring legal stability. The EC was currently studying this matter in collaboration with the trade (EC)}.*

2. *Another delegate was of the opinion that legal amendments were not necessary. In his mind a product which was labelled, marketed and used as a sauce should be classified as a sauce in the HS Nomenclature. He had never seen anything labelled as a sauce which was not a sauce. Introducing a numerical limit for the content of vegetables and fruit in a sauce could in his mind lead to the misclassification of genuine sauces outside of heading 21.03. {In support of his point, he displayed samples of sauces containing over 60% by volume of vegetables and fruit. For some products the fruit and vegetables were homogenised, whereas for others they were in the form of visible pieces. For each product, the particle sizes were specifically chosen by the food processor in order to impart a particular sensory "feel" to the sauce. In his view, the products with visible pieces should not be excluded from heading 21.03 – the HS heading for sauces -- merely because of the difference in the food processor’s choice of particle size, when all other aspects were similar. He was of the opinion that improving the Explanatory Notes was a better idea than imposing legal limits on the scope of the term "sauce" (US)}.*

3. *After this discussion, the Chairperson concluded that these arguments were the same arguments that had been used before at previous sessions. He took note of the fact that discussions with the industry and between administrations were continuing with regard to this matter and invited administrations to submit new ideas to the Secretariat in order to make some progress on this issue at the Sub-Committee’s next session.*

* * *

1	2
NR0273E1 NR0316E1	Possible amendment of heading 21.06 to specifically mention "food supplements".

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

1. Several delegates spoke in favour of the various proposals to insert a separate subheading in heading 21.06 for "food supplements". They believed that the changes would be better than the status quo and would result in more uniform classification of such products worldwide.
2. Other delegates pointed out that the proposed definitions for "food supplements" would lead to additional definitional problems with regard to expressions such as "balanced supplement" and "medicinal properties". In addition, they were of the opinion that the proposals could entail a substantial transfer of goods from other Chapters (Chapters 22, 23, 29 and 30). These delegates were of the view that such products had to be classified on a case by case basis and therefore preferred to maintain the status quo, entailing no legal amendments.
3. The Chairperson called attention to the fact that this item had been on the agenda for several sessions, and that the Sub-Committee had not been able to make any real progress. He therefore asked if the Sub-Committee could indicate whether it was worthwhile to study this issue further. Responding to this question, the Sub-Committee finally reached a consensus not to pursue the study of this issue during this review cycle.

* * *

1	2
NR0274E1	Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24.

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

1. Referring to her administration's comments in Annex I to Doc. NR0274E1, the Delegate of Poland emphasised that the proposal was based on their consultations with an expert on the tobacco manufacturing process and her administration had endeavoured to provide a strict criterion for distinguishing "semi-manufactured" tobacco from unmanufactured tobacco. She was of the view that drying and fermenting were sufficient processes to preserve tobacco during transport and that cased tobacco would fall into the category of "semi-manufactured" tobacco.
2. Another delegate pointed out that although cased tobacco was indicated as one of the examples of "semi-manufactured" tobacco in the Polish proposal, casing was a process intended to avoid drying during transportation and the necessity of casing depended on the distance of transportation of the goods. He was, therefore, of the view that casing would not be a reasonable criterion. A third delegate, supporting the above opinion with respect to the question of casing, expressed his view that the Polish proposal did not clearly define the scope of "semi-manufactured" tobacco and, therefore, his administration could not agree with the proposal and favoured the status quo.
3. The Chairperson called attention to the fact that this item had been on the agenda for several sessions, and that the Sub-Committee had not been able to agree on proper criteria for these products. He therefore asked if the Sub-Committee could indicate whether it was worthwhile to study this item further. Responding to this question, the Sub-Committee finally reached a consensus not to pursue the study of this issue during this review cycle.

* * *

1	2	4
NR0275E1	Possible amendment of Part (C) of the Explanatory Note to heading 28.04.	<u>See Annex F/1.</u>

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

1. In opening discussion of this agenda item, the **EC** Delegate explained that their proposal was a re-arrangement of existing Part (C) of the Explanatory Note to heading 28.04 and of the previous proposal which had already been examined by the Scientific Sub-Committee. The intention was to improve the text without affecting the scope. He therefore felt that re-examination of the proposed text by the Scientific Sub-Committee was not necessary. The Sub-Committee agreed in this regard.
2. One delegate, expressing support for the proposal, suggested to delete the word “technical” in the first sentence of the second paragraph and to reword the reference to the “major use” of silicon in electronics. The Director explained that a reference to “major use” would be in conflict with the third paragraph of the text reproduced in paragraph 4 of Doc. NR0275E1 due to the fact that the quantity of silicon required for use in electronics was relatively small and the major portion of silicon produced was, in fact, consumed in metallurgy and chemistry. As an option he proposed to replace the expression “used, e.g., in electronics” by the expression “used in electronics”.
3. After discussion, the Sub-Committee decided in the first sentence of the second paragraph to delete the word “technical” in both languages and “,e.g.,” in English and “notamment” in French. The Sub-Committee also agreed on minor editorial corrections and the alignment of the French and English texts.
4. Finally, subject to the foregoing, the Sub-Committee approved the texts proposed in the Annex to Doc. NR0275E1. The texts approved are set out in Annex F/1 to this Report.

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1	2	5
NR0276E1	Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21.	<u>See Annex F/6.</u>

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

1. The Chairperson began the discussion on this item by explaining the four options (i.e., the **US** proposal and the Secretariat's three alternative proposals) with respect to the proposed amendments to heading 38.21 set out in Annex II to Doc. NR0276B1, and invited delegates to indicate their preference among the four options.
2. Noting that, although the term "micro-organisms" was defined in differing ways in scientific literature, it was clearly stated in the current Explanatory Note to heading 38.21 that "viruses" were covered by the term "micro-organisms", one delegate was in favour of Option 1. He also indicated that his administration could accept Option 3, taking into account the fact that there was no direct reference to viruses in the current heading text. Another delegate shared this view.
3. A third 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 view expressed by several delegates at the 17th Session of SSC that the expression "prepared culture media" as proposed was extremely vague, he stated that this amendment to heading 38.21 would widen the scope of the heading and entail a transfer of certain goods to the heading. He further noted 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, that is, no amendment of the heading text. In this connection, a fourth delegate asked for a clarification concerning the precise nature of the product of concern in Chapter 4.
4. Concerning the question of viruses, the Director pointed out that although opinions among the experts in the Scientific Sub-Committee were divided as to whether viruses would be covered by the term "micro-organisms", the term "viruses" already appeared in the current Explanatory Note to heading 38.21. He also stressed that although the Scientific Sub-Committee had already recognised that the proposed amendments to heading 38.21 would widen the scope of the heading, it still had not confirmed the exact transfers to heading 38.21 entailed by the amendments. In order to assess the impact of the amendment on heading 38.21, the Director proposed that the Review Sub-Committee should ask the Scientific Sub-Committee to examine what kind of products would be transferred to new heading 38.21 from other headings. Many delegates supported this proposal.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

5. No delegate supported Option 2 and the Sub-Committee finally chose Options 1, 3 and 4 as possible options for the amendment of heading 38.21. It agreed to send this item back to the Scientific Sub-Committee with a view to clarifying the transfers to heading 38.21 under Options 1, 3 and 4, while noting that the status quo (no amendment) still remained as one of the options with regard to this question.
6. The three options which, renumbered as Options 1 to 3, have been placed in square brackets, are set out in Annex F/6 to this Report.

* * *

1	2
NR0245E1 (RSC/25) NR0277E1	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. Beginning the discussion of this agenda item, the Delegate of Australia explained that due to the nature of the product at issue and the associated security considerations, the amount of information available was limited. Referring to the fact that the HS Committee had confirmed its classification in subheading 3920.20, she came back to the original proposal reproduced in the Annex to Doc. NR0245E1 concerning the possible creation of new subheading 3920.21 to provide for banknote substrates of plastics and suggested a simplified wording of a new subheading to read "Banknote substrates".
2. One delegate pointed out that the proposed wording raised some concerns since it was based on end-use criteria and stated that it was not clear whether it would also apply to other types of goods, e.g., lottery tickets or tickets for casinos. To avoid the end-use criteria problem, he would prefer a neutral text for the proposed new subheading. Certain delegates shared the same concerns.
3. Another delegate felt that it would be difficult to amend the Nomenclature based on the production of one manufacturer only. He indicated that in future, substrates of other types of plastics could be developed, which would be classifiable in other subheadings than subheading 3920.20. However, manufacturers were reluctant to provide proprietary information.
4. A third delegate stated that in his country there was also a company manufacturing this type of product and further developments could be expected in this field in the future. Nevertheless, for the time being, he had no supporting information.
5. The Chairperson concluded that more information on the volume of trade with regard to these types of goods would be necessary. The Delegate of Australia informed the Sub-Committee that her administration was prepared to redraft the proposed wording trying to avoid the end-use criteria and to come up with a new text. Finally, the Sub-Committee agreed that it could come back to the issue at its next session on the basis of further information and proposals, if any, from the Australian Administration.

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1	2	4	5
NR0278E1	Proposal by the US Administration to amend the Nomenclature to Chapter 41.	<u>See Annex F/8.</u>	<u>See Annex F/8.</u>

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

1. At the outset of the discussion on this agenda item, the **US** Delegate pointed out that the currently used criterion of the reversibility of the tanning process did not allow a distinction to be made between pre-tanned hides and skins of headings 41.01 to 41.03 and products of headings 41.04 to 41.06, since a tanning or pre-tanning process should be considered irreversible by definition : this process resulted in crosslinking of polypeptides present in raw hides and skins, which was an irreversible process. As a result, pre-tanned hides and skins remained classified in headings 41.04 to 41.06, which would make Note 2 (A) to Chapter 41 meaningless. The aim of the **US** proposal was to introduce the criterion of imputrescibility of hides and skins in the legal text to clarify the dividing line between raw hides and skins and intermediate products of the leather industry. The **US** Delegate also indicated that his administration could accept introducing the criterion of thermal stability in the legal text as a clear physical criterion.
2. Other delegates concurred with the view expressed by the Secretariat and supported the status quo with regard to current Note 2 (A) to Chapter 41, one of them further clarifying that the definitions of pre-tanning and tanning may vary from country to country, while the most important criterion was the irreversibility of the process. He emphasised that the current criteria were based on the proposal of the industry, and that the wording of Note 2 (A) had been unanimously adopted and introduced within the framework of the Second HS Review Cycle. He concluded that if there are any doubts, they should be settled in the Explanatory Notes.
3. Another delegate explained that the term “irreversible” could be interpreted differently by the industry and by scientists. He was therefore of the opinion that a definition of the irreversibility of the tanning process should be inserted in the legal text.
4. After this discussion, the Sub-Committee felt that Note 2 (A) to Chapter 41 should remain unchanged.
5. With regard to the proposal to insert a reference to “leather” in headings 41.04 to 41.06, opinions were divided.
6. Certain delegates expressed the view that insertion of the reference to “leather” in parentheses would not result in any serious misalignment with the French text. They were also willing to replace the reference to “hides and skins” in headings 41.04 to 41.06 by a reference to “leather” in order to replace technical terms by commercial ones.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. Yet another delegate stated that amending the English text only would be dangerous in view of possible consequences with respect to the French version and third language versions. He also pointed out that any explanations of the Nomenclature should be inserted in the relevant parts of the Explanatory Notes and not in the legal text.
8. Taking into account lack of consensus on this issue, the Sub-Committee decided to submit two options to the Harmonized System Committee for decision; Option 1 being to maintain the status quo and Option 2 being to insert the reference to "leather" in parentheses as mentioned in paragraph 18 of Doc. NR0278E1.
9. As for the amendments to the Explanatory Notes to Chapter 41, the Sub-Committee decided to consider this issue at its next session on the basis of a new document, which should reflect several options. The text of the amendments, proposed by the Secretariat, was placed in square brackets and is set out in Annex F/8 to this Report.

* * *

1	2	5
NR0280E1	Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the EC).	<u>See Annex F/2.</u>

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

1. The EC Delegate opened the discussions on this agenda item by stating that the purpose of his proposal was to highlight the distinction between tubes and pipes of stainless steel and other tubes. After describing the proposed amendments in detail, he added that this proposal had been presented in response to a request from the European steel industry to properly identify the types of product for which there was a high volume of trade.
2. The Delegate of Canada pointed out that the EC's concerns in terms of the products classified in present subheading 7306.60 could be resolved by subdividing that heading into two new two-dash subheadings. New subheadings 7306.61 and 7306.69 would replace subheadings 7306.70 and 7306.80 proposed by the EC. In his opinion, this approach would *{minimise changes to the current structure (Canada)}*.
3. The US Delegate supported the Canadian proposal, deeming it to be more suitable, and preventing the loss of statistical data and possible transfers, both for headings 73.04 and 73.06. At this point in the discussion, it was also proposed that this subdivision be extended to heading 73.05. This approach was supported by other delegations.
4. *{Following this discussion, the Sub-Committee expressed its agreement in principle with the basis or purpose of the proposal. Where the proposed texts were concerned, it agreed to place the EC proposal relating (EC)}* to headings 73.04 and 73.06, in square brackets, as well as the variant based on the above Canadian proposal discussed during the meeting, for re-examination at its next session on the basis of a new document to be prepared by the Secretariat. That document should also take account of the subdivision of heading 73.05, as suggested during the meeting.
5. The texts placed in square brackets are set out in Annex F/2 to this Report.

* * *

1	2	5
NR0281E1 NR0318E1	Possible amendments to the structured nomenclature to heading 84.18.	<u>See Annex F/3.</u>

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

1. To better align the two versions of the proposed text for subheading 8418.50, the Sub-Committee decided to make the following three amendments to the English text : (1) deleting the words "refrigerating or freezing" previously placed in square brackets at the start of the description, (2) deleting the terms "for example" as well as "and" within the bracketed text and (3) inserting the expression "and the like" after the list in brackets.
2. Following these amendments, the Sub-Committee approved the text proposed by the Secretariat in the Annex to Doc. NR0281B1.
3. The text approved by the Sub-Committee is reproduced in Annex F/3 to this Report.

* * *

1	2	4	5
NR0282E1 NR0294E1	Possible amendments to the Nomenclature and Explanatory Note to heading 84.42 and related provisions.	<u>See Annex F/4.</u>	<u>See Annex F/4.</u>

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

1. The Review Sub-Committee agreed to retain the reference to lithographic stones in the legal text and Explanatory Note to heading 84.42. The Sub-Committee also agreed to delete the reference to machines for embossing sheets of metal, plastics, etc., for use on addressing machines found in exclusion (k) on page 1506 of the Explanatory Notes.
2. Regarding the **German** Delegate's concern with respect to the reference to contact printers (English version, page 1505, last paragraph), the **EC** Delegate explained that this text was too restrictive. He felt that an alignment of the English text on the French would ensure that all printing apparatus based on photographic principles would be classified in Chapter 90. He was also in agreement with combining the text as mentioned in paragraph 6 of Doc. NR0294E1.
3. The Sub-Committee agreed to the combining of the last sentence of the last paragraph of page 1505 with the first paragraph of page 1506, item (a), while, at the same time, deleting the reference to item (b). In this connection, the Secretariat was instructed to prepare an alignment of the two texts, English on the French and French on the English, for consideration by the Harmonized System Committee under the Article 8 procedure.
4. The Delegate of **Japan** presented his administration's proposal concerning the inclusion in the Explanatory Notes of an explanation of sheet-fed presses. The Sub-Committee invited the **Japanese** Administration to submit a formal proposal to the Secretariat for examination by the RSC.
5. Subject to the foregoing, the Sub-Committee approved the draft texts presented in the Annex to Doc. NR0294B1.
6. The texts approved are set out in Annex F/4 to this Report.

* * *

1	2
NR0283E1	Proposal by the US Administration to amend the structured nomenclature to heading 84.82.

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

1. Opening the discussion of this agenda item, one delegate favoured maintaining the status quo, pointing out that the industry was not in favour of the **US** proposal to split subheading 8482.20 and to create new subdivisions for parts of roller bearings and further noting that his administration was not encountering problems with the current structured Nomenclature.
2. Also supporting the status quo, another delegate stressed that the proposed subdivisions would result in verification and identification problems for Customs officers, not only in terms of the assemblies of subheading 8482.20, but also for the parts. Moreover, splitting the subheading would increase the complexity of the Harmonized System and would run counter to the idea of simplifying the Nomenclature.
3. Noting that there was little support for this proposal, the Sub-Committee decided, with the agreement of the **US** Delegation, not to continue examining this question and not to make any further amendments to the structured nomenclature to heading 84.82.

* * *

1	2
NR0284E1 NR0312E1	Amendment of the Explanatory Notes to clarify the classification of DVD drives, standalone DVD players and game players.

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

1. During the adoption of the Agenda, one delegate asked the Sub-Committee not to examine the part of the Explanatory Notes concerning game players, given that the classification decision taken by the HSC for the said apparatus at its 29th Session was still subject to a reservation.
2. On a proposal by another delegate, the Sub-Committee agreed that to ensure consistency between any possible amendments to be made to the Explanatory Notes and the final decision to be taken by the HSC, all the texts relating to DVD drives, standalone DVD players and game players should be examined together. It was therefore decided to postpone the examination of this item.

* * *

1	2	5
NR0285E1	Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items.	<u>See Annex F/9.</u>

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

1. The Sub-Committee examined the various proposals to amend the structured nomenclature to headings 85.20 and 85.24 in order to update terminology and to delete certain obsolete items.

Heading 85.20

2. In introducing the item the Chairperson asked the Sub-Committee to simplify matters by selecting, for the purposes of the discussion, just one of the three proposals for amendment presented in the Annex I to Doc. NR0285E1. After an exchange of views the Sub-Committee opted for the restructured Secretariat proposal, which was best suited to reflecting technological developments in the field of sound recording.
3. One delegate argued that in the interests of harmonisation, the new structure of heading 85.20 should be aligned on the structures of headings 85.19, 85.23 and 85.24, which used the reading/playing system as the basis for distinguishing between the various types of apparatus at one-dash subheading level, beginning with apparatus based on an optical reading system before moving on to those based on magnetic media.
4. The Sub-Committee then agreed to delete the proposed one-dash subheading covering pocket-size apparatus, *{and to continue to study the possibility of giving separate status to pocket-size apparatus at the two-dash subheading level in order to maintain a balanced structure for this heading. Administrations were invited to send the Secretariat their proposals for the separate identification of pocket-size apparatus within the one-dash subheadings of the new structure, particularly where the recommended size criteria were concerned (EC)}*.
5. The removal of pocket-size apparatus which had occupied new subheading 30, and the desire to harmonise the structures of headings 85.19, 85.20, 85.23 and 85.24, led the Sub-Committee to rearrange the structure of heading 85.20 by creating five one-dash subheadings for :
 - (a) telephone answering machines (8520.20);
 - (b) apparatus for recording sound onto optical media (8520.30);
 - (c) apparatus for recording sound onto magnetic media (8520.4);

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- (d) sound recording apparatus with built-in or interchangeable memory (8520.50);
- (e) other sound recording apparatus.

6. As the members of the Sub-Committee were unable to agree on the texts of subheadings 8520.30, 8520.40 and 8520.50, the various drafting options proposed were placed in square brackets for examination at the next session.

7. In any event, the Sub-Committee agreed to return to this question at the next session on the basis of proposals to be submitted by administrations in writing, both for the texts of the various subheadings and for the subdivision of those subheadings in order to supplement the structured nomenclature of heading 85.20.

Heading 85.24

8. The Sub-Committee held a preliminary exchange of views on the new structure of heading 85.24, on the basis of the **Swiss** Administration's proposals as revised by the Secretariat.

9. The Delegate of **Switzerland** introduced their proposal by indicating that the new structure proposed by his administration was aimed not only at achieving the two-fold objective of deleting obsolete items and catering for new technologies, but also at distinguishing, at one-dash subheading level, between media based on optical reading systems which had already been recorded and could not be rerecorded, and media based on optical reading systems in which the data were recorded on the medium by laser (i.e., by burning or heating), and could be rerecorded.

10. At this stage in the discussions, the Chairperson suggested that for the moment, the Sub-Committee should confine itself to making general remarks aimed at improving the new structure of this heading.

11. The main comments made by delegates can be summarised as follows :

- (1) in the new structure proposed by **Switzerland**, the distinction drawn between media based on an optical reading system and other media based on optical or laser technologies was not clear in technological terms;
- (2) as heading 85.24 was intended to cover recorded media, the reference to software as a means of distinguishing between the various media was inappropriate, since software was a programme, i.e., it was the content recorded onto the media, and it was not possible to define media in terms of their content. Another criterion such as, for example, use, could perhaps be employed for this purpose;

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- (3) similarly, the distinction between game and leisure software and data processing software was not easy to make, as many data processing programmes contained data for games and leisure, in the same way as certain programmes contained drawings or photographs originally intended for leisure purposes, but were also useable for data processing. *{In this context, the US Delegate reminded the Sub-Committee that the broad tendency towards convergence of video entertainment programmes and game software had been the reason for his administration's reservation on the text that had been developed during the last review cycle. In his administration's view, this tendency was continuing and was expected to accelerate in the future; (US)}*
 - (4) the creation of a subheading for integrated circuit modules was not advisable, given that these modules were not generally used as a medium for the distribution of pre-recorded data because of the high cost involved. In this connection, it might be helpful to look at world trade statistics for such goods;
 - (5) cards incorporating a magnetic stripe should also be separately identified in a two-dash subheading within the one-dash subheading for magnetic media of all kinds. Moreover, within that subheading for magnetic media, separate provision should be made for magnetic tape, so that computer hard disks would not be grouped together with other recording media.
12. The Sub-Committee therefore agreed to return to this matter at its next session, and placed in square brackets the entire proposal by Switzerland, as amended by the Secretariat, in the light of the comments reported above and the views which will emerge during the discussions on the restructuring of the "high technology" Chapters.

* * *

1	2	5
NR0286E1 NR0315E1	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 decided to examine the possible new structured nomenclature for heading 85.19 on the basis of the Secretariat proposal (Option A) put forward in the Annex to Doc. NR0286B1.

Subheading 8519.10

2. As the expression "juke-boxes" appeared to be in common usage in French-speaking trade circles, the Sub-Committee decided not to retain the alternative term "électrophones" in the French text of subheading 8519.10. The Sub-Committee also deleted the word "other" in the phrase "other similar articles" as being redundant.

3. The Sub-Committee then decided to delete the term "(paper currency)" from the English text of this subheading, on the grounds that the term "bank notes", already used in other parts of the Harmonized System (heading 49.07, in particular), was sufficiently explicit for the articles concerned. In that connection, the Delegate of the United States suggested inserting the words "(paper currency)" after "bank notes" throughout the English version of the Explanatory Notes.

Subheading 8519.5

4. The Sub-Committee began by making a structural amendment to the text of subheading 8519.5, to make it clearer that this subheading covered "Other sound reproducing apparatus using a laser reading system". The new wording was appropriate firstly in relation to the previous category, i.e., "juke-boxes" (subheading 8519.10), and secondly with a view to proper alignment on the structured nomenclature provisionally adopted for heading 85.20 (see Annex C/14).
5. While conceding that "pocket-size" apparatus was separately identified in the current structured nomenclature of heading 85.19, and that there was even a legal Note on the subject (Subheading Note 1 to heading 85.19), several delegates were of the opinion that a distinction between sound reproducing apparatus based on size could prove to be obsolete, and that the reference to "pocket" did not in fact reflect the manner in which electrical apparatus was used. Moreover according to one delegate, preliminary studies conducted by his administration tended to suggest that trade circles did not attach great importance to this distinction. They therefore favoured deleting the subdivision for "pocket-size" apparatus in subheading 8519.5.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. However, other delegates considered that the impact of this subheading on other related proposals should be evaluated first. One delegate took the view that if this subheading were deleted, trade statistics would no longer reflect the very significant trade in so-called "pocket-size" apparatus, and this was an important point where the monitoring of trade was concerned.
7. At the end of a lengthy discussion, the Sub-Committee decided to maintain the entire structured nomenclature of subheading 8519.5 in square brackets and invited administrations to consult the trade, particularly on the recommended criteria relating to the dimensions of apparatus.

Subheading 8519.60

8. The Sub-Committee decided to delete the term "record-players" from the text of subheading 8519.60. Consequently, it did not adopt the proposal that a new subheading (subheading 8519.80) be created for "combinations of two or more sound reproducing apparatus in a single housing" (see paragraph 14 of Doc. NR0315E1).

Subheading 8519.70

9. After a delegate had stressed the importance – in terms of the usefulness of statistical data - of the correlation between the one-dash subheadings and the functions performed by the apparatus, the Sub-Committee rejected the proposal that subheading 8519.70 be subdivided.
10. At this point, a delegate suggested that the words "magnetic tape players" in subheading 8519.70 be replaced by "magnetic media players".
11. However, while stressing that these proposals remained provisional pending the examination of a comprehensive restructuring of Chapter 85, the Sub-Committee agreed to retain the expression "magnetic tape players" on a provisional basis.
12. The texts provisionally approved by the Sub-Committee are reproduced at Annex F/5 to this Report.

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1	2
NR0173E1 (RSC/24) NR0214E1 NR0259E1 NR0260E1 (RSC/25) NR0287E1	Possible amendments to the Nomenclature regarding the classification of cameras.

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

1. The Delegate of **Japan** opened the discussion by explaining that his administration felt that, due to the major differences in technologies between silver-halide cameras and digital still image cameras, it was inappropriate to group all cameras in one heading. **Japan** was of the opinion that the appropriate grouping of cameras should be studied during the overall review of the information technology Chapters of the HS Nomenclature and not as a separate question.
2. The Director informed the Review Sub-Committee that a large majority of the delegates to the Harmonized System Committee, as expressed by an indicative vote, had been in favour of the RSC continuing to study a possible regrouping of cameras in a single heading. Furthermore, the conclusion of the HS Committee, as noted in its Report, was to have the RSC continue to study the regrouping of all cameras in one heading. This meant, in his view, that the RSC was to draft such a proposal and to submit it to the Committee for consideration. The Committee would then decide if such a regrouping was desirable.
3. *{The **Canadian** Delegate suggested that the RSC should address the original concern, that being the wording of subheading 8524.40; any resulting text could then be incorporated into a re-grouping or used to simply amend the existing Nomenclature. (Canada)}*
4. The Sub-Committee concluded its discussion on this agenda item by agreeing to first discuss the broader scope of the information technology Chapters on the basis of the **EC, US** and other proposals and then to continue its study of the regrouping of all cameras in one heading within the overall context of this question.

* * *

1	2	5
NR0288E1 NR0319E1	Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration).	<u>See Annex F/10.</u>

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

1. The Sub-Committee began the consideration of this question by opting, for discussion purposes, for the amendment proposed by the Secretariat which would have to be examined in relation to the other versions proposed by **Japan**, the **United States** and **Canada**.
2. In order not to upset the entire structure of this heading, the Sub-Committee agreed to cover satellite television receivers in a two-dash subheading under subheading 8528.1, which covers reception apparatus for television.
3. Accordingly, taking into account the Sub-Committee's decision, on the one hand, to cover satellite television receivers and other receivers characterised by the absence of a video display or screen and, on the other hand, to include all other television receivers whatever the technology used, it was decided :
 - (1) to create three two-dash subheadings under subheading 8528.1 to cover, respectively :
 - reception apparatus for television not designed to incorporate a video display or screen;
 - other colour television reception apparatus;
 - other black and white or other monochrome television reception apparatus.

These subdivisions thus make it possible to take into account the technological progress made in the field. *{The specific legal texts to which the Sub-Committee agreed are reproduced in Annex F/10. (US)}*
 - (2) to provide a subheading Explanatory Note clearly and precisely defining satellite television receivers, so as to distinguish them from other receivers.
4. Finally, the Sub-Committee agreed that at its next session it would re-examine the revision of the structured nomenclature to this heading, which was left in square brackets, in the light not only of the comments made during the discussions but also of the views expressed during the February 2003 Working Group on the review of the high technology Chapters.

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1	2	5
NR0221E1 NR0234E1 NR0249E1 NR0250E1 (RSC/25) NR0289E1 NR0320E1	Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers.	<u>See Annex F/11.</u>

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

1. The **Brazilian** Delegate began the discussion of this agenda item by reiterating his administration's preference for its proposal. However, he indicated that his administration could support the Secretariat's amendment of the **Brazilian** text (Annex X/2 to Doc. NR0289E1) subject to a few minor modifications. He also indicated that his administration could support the Secretariat's proposed amendment of Note 3 to Section XVI.
2. The **US** Delegate explained his administration's rationale for its proposed modifications to the Harmonized System, which related to the classification of printers and copiers. He informed the Sub-Committee that these modifications were intended to modernise the Harmonized System and to eliminate classification disputes related to (1) printers connectable to automatic data processing machines and (2) multifunction copiers. The proposal would bring together in a single heading all printers and copiers, other than those of heading 90.09. He also indicated that, in the trade's view, there would still be apparatus of current heading 90.09 in existence in 2007 and, consequently, his administration felt that it would be inappropriate to delete that heading. Furthermore, he expressed his administration's willingness to work to ensure that, from 2007, any changes to the legal text would make clear the classification of multifunction digital copiers and should take account of the problem delineated by the **EC** Delegate.
3. The **EC** Delegate informed the Sub-Committee that the **EC** could not accept the **US** proposal as outlined in Doc. NR0320E1 because, as a starting point, it made the assumption that digital copying was excluded from classification in heading 90.09. This premise was in direct contradiction to a decision made by the **Court of Justice of the EC**, which all **Member States** were obliged to follow. He expressed a willingness to work from the **US** proposal, but it would have to be refined. In that connection, he suggested that the text of Chapter 90 would have to be amended in one form or another, e.g., via a legal note to the effect that heading 90.09 did not cover digital copying. *{In any event, he recalled that the **EC** had already attempted to provide a response to this question in its general proposal for the amendment of Chapters 84, 85 and 90. (EC)}*

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. The Sub-Committee concluded its discussion by agreeing to continue to examine this issue on the basis of the EC and Japanese omnibus proposals, as well as the Secretariat's "Option 2" proposal and the US proposal (both of which are set out in Annex F/11 to this Report). The Sub-Committee also agreed that these proposals would also be examined by the proposed Working Group in February 2003.

* * *

1	2
NR0252E1 (RSC/25) NR0290E1 NR0321E1	Possible amendments to the structured nomenclature to heading 90.30 (Proposal by the US Administration).

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

1. The US Delegate began the discussion on this agenda item by explaining his administration's rationale for its proposal. He acknowledged that the affected categories represented sizeable amounts of trade. However, he stressed that the proposal was not based on trade volumes but, rather, reflected the views of trade and industry representatives who had urged the US Administration to seek this change in the Nomenclature. *{According to industry sources (US)}* the current distinction based on recording ability was becoming less important in an automated environment where measurements were not recorded inside the measuring device but instead were transmitted by the measuring device to a remote computer, where they were recorded and analysed.
2. His administration considered the functional design of the apparatus as being more important to the users of the information than whether it included a recording feature. Furthermore, the continued existence of subheading 9030.83 caused many instruments for measuring or checking voltage, current, resistance or power to be grouped together with instruments for measuring or checking other electrical quantities, merely because they included a recording function. It was the view of both his administration and the trade that complete coverage for all instruments and apparatus for measuring or checking voltage, current, resistance or power should be provided in subheading 9030.3.
3. The EC Delegate expressed the opinion that it was not desirable to delete subheading 9030.83, because the volume of trade warranted its retention. In the EC's view, such a deletion would not lead to a modernisation of the Nomenclature. There were two distinct product categories – those products which recorded information by their own internal memory and those products which did not record at all or used an external device to record. In either case, it was possible to gather relevant statistics and each product category had significant trade volumes.
4. As a compromise, the Chairperson suggested the deletion from subheading 9030.3 of the phrase “without a recording device”, while retaining subheading 9030.83.
5. The Director summarised his understanding of the US proposal by indicating that he felt the US wanted to provide at the one-dash level for all instruments and apparatus for measuring or checking voltage, current, resistance or power. In his view, it would then be possible to subdivide at the two-dash level in order to provide for the presence or absence of a recording device. This proposal received support from one administration.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. The Sub-Committee concluded discussions on this agenda item by agreeing that the **US** Administration, based on the aforementioned discussion, would reconsider its proposal for the next session of the RSC.

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1	2	5
NR0291E1 NR0329E1	Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys.	<u>See Annex F/12.</u>

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

1. One delegate opened the discussion by expressing a preference for the alternative text suggested by the United States, but with the words "other toys" retained after the reference to dolls as in Doc. NR0291E1. In his view these words could create various problems of interpretation if placed at the end of the text.
2. Another delegate expressed concern about this alternative because there was a risk that it would narrow, or at certain points broaden, the scope of the three existing headings, whereas in his opinion the text which had been placed in square brackets at the previous session would have the effect of simplifying the Nomenclature. He requested that the word "recreational" be deleted from the heading text if the Sub-Committee so agreed, as it posed problems of interpretation for some delegates. Finally, he considered it important that the Sub-Committee confirm its willingness to simply combine the three existing headings without changing their scope.
3. The US Delegate indicated that the only differences between the text placed in square brackets at the 25th Session and the alternative text proposed by his administration were that the words "designed to be ridden by children" had been reintroduced from the existing text in order to distinguish the goods of this heading from those intended for adults, the words "not elsewhere specified or included" – which could give rise to problems of interpretation or even broaden the scope of the heading – had been deleted, and the reference to toys had been moved to the end of the heading text.
4. Following this discussion, the Sub-Committee unanimously confirmed that it was not its intention to change the scope of this new heading, and agreed to work on the basis of the latest proposal by the United States. Against that background, the Sub-Committee moved "other toys" back to its original position, and placed the expressions "designed to be ridden by children", "not elsewhere specified or included" and "recreational" in square brackets.
5. With regard to proposed new Note 3, several delegates expressed concern about the conversion of provisions {relating to "limited use" (Canada)} which already existed in the Explanatory Notes into a legal Note. They also considered that this new Note would duplicate GIR 3 (b).
6. Delegates who favoured the establishment of the proposed new legal Note indicated that it was justified by the fact that the Explanatory Notes were not legally binding in many countries, and that proposed new Note 3 (c) would provide for the classification of sets containing articles of minor importance which were not always directly related to the main toy.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. Following these interventions, several delegates suggested that it might be preferable to reduce the length of this new Note so that it would consist only of item 3(c) in the **US** proposal.
8. Finally, as it did not seem possible to reach a consensus on this issue, and in order to provide an opportunity for additional enquiries during the intersession, the Sub-Committee agreed to place proposed Note 3, as presented by the **United States**, in square brackets. Administrations were invited to send the Secretariat their views on the matter so that a new working document could be prepared.
9. The texts placed in square brackets are reproduced at Annex F/12 to this Report.

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1	2	5
NR0292E1	Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration).	<u>See Annex F/13.</u>

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

1. The Sub-Committee agreed that even though the terms used in the French and English versions were not the same, subheading 9504.20 covered billiard tables of various types (with or without legs), and accessories therefor, as indicated on page 1916 of the Explanatory Notes.
2. Moreover, to ensure complete alignment of the two versions of this subheading text, the Sub-Committee approved the new wording proposed by the Secretariat in paragraph 14 of Doc. NR0292E1 subject to a slight amendment of the English text, namely deleting "and similar games" and substituting "of all kinds".
3. The texts approved are reproduced at Annex F/13 to this Report.

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ANNEX D

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0293E1	Possible amendments to the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the Mexican Administration).			

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

1. After the Chairperson had introduced the document, several delegates took the floor, all of them agreeing that the Scientific Sub-Committee should be consulted with respect to the Mexican proposal to amend the structure of heading 29.41 and to insert definitions for “derivatives” and “structural analogues”.
2. One delegate suggested a number of questions to be submitted to the Scientific Sub-Committee, including questions about the possible transfer of commodities from one subheading to another due to the introduction of such definitions. Another delegate argued, however, that there should be no transfer of commodities if there were no amendments to the legal texts. Therefore, this kind of question should not be asked. He also suggested that the Harmonized System Committee should be asked to give its opinion on the classification of structural analogues of heading 29.41 in the current version.
3. Following these discussions, the following questions were addressed to the Scientific Sub-Committee to assist the Review Sub-Committee in its further decision making process :
 - (i) Would it be beneficial to insert a reference to “structural analogues” in the subheadings of heading 29.41, and if so which;
 - (ii) If a reference to structural analogues were added to any of the subheadings of heading 29.41, could a list be drawn up with typical examples of products which would be transferred to the subheading(s) involved;
 - (iii) Should the biological activity of a structural analogue or derivative of a particular antibiotic be the same as, or similar to a certain extent, to that of the parent compound of the same subheading;

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- (iv) Should the terms “derivatives” and “structural analogues” be defined in the Explanatory Notes to sub-Chapter XIII of Chapter 29;
 - (v) If so, should these definitions be introduced at the sub-Chapter level as a general definition or should they be introduced at the heading or subheading level, taking into account the characteristics of the various chemicals;
 - (vi) Should the definition for derivatives be based on current descriptions or should other criteria be added.
4. Finally, the Sub-Committee was informed that paragraph 25 in the French version of Doc. NR0293F1 should be deleted.

* * *

1	2	4	5
NR0229E1 (RSC/25)	Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of flash electronic storage cards.	<u>See Annex F/15.</u>	<u>See Annex F/15.</u>

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

1. Prior to the discussion of this agenda item, one delegate pointed out that in view of the comprehensive proposals concerning the revision of Chapter 85 presented by administrations, the Sub-Committee should limit itself to a preliminary discussion.
2. Considering the terminology proposed for new Note 4 to Chapter 85 to be too restrictive, several delegates recommended improving the wording of this text so as not to exclude future technologies. In this respect, they suggested adding the expression "for example" after the description of technology relating to "solid-state, non-volatile data storage devices ("flash electronic storage cards")".
3. With regard to the wording of that same Note, another delegate referred to the text used in the classification decision regarding flash electronic storage cards by the HSC. He questioned whether the last part of the sentence concerning "discrete passive components" was really necessary.
4. *{The Canadian Delegate questioned if a change in the heading text was necessary as the HSC had ruled the goods to be "prepared media"; the proposed Note 4 could be considered as a subheading Note. (Canada)}*
5. With regard to the Explanatory Notes to headings 85.23 and 85.24, another delegate drew the Sub-Committee's attention to the fact that, in accordance with the HSC decision to classify "flash memory cards" in those headings, other proposed amendments relating to this issue would be examined in parallel under the Article 8 procedure at the next HSC session (Item VII.19 – HSC/30).
6. After this preliminary discussion, the Sub-Committee agreed to place all the proposed texts in square brackets, in order to re-examine them in the light of subsequent developments concerning the revision of Chapter 85.

* * *

1	2
NR0314E1	Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of controller units for anti-lock braking systems (ABS) (Proposal by the Australian Administration).

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

1. The Australian Delegate began the discussion on this agenda item by giving a presentation on the need to amend the legal texts and the Explanatory Notes to give controller units for anti-lock braking systems separate status in heading 87.08 as parts of the motor vehicles of headings 87.01 to 87.05. She informed the Sub-Committee that these goods were part of an emerging motor vehicle technology that will eventually control a broad range of functions central to the operation of motor vehicles. Australia was of the view that controller units for anti-lock braking systems were parts of motor vehicles, and should be grouped accordingly in heading 87.08.
2. The controller unit for an ABS is part of the vehicle braking system and controls the functions of the vehicle's brakes under given conditions. If the ABS controller unit were imported as part of a complete braking package, Australia, and the motor vehicle industry, considered that it would be classified in heading 87.08, as a part of a motor vehicle. She drew the Sub-Committee's attention to paragraph 31 of Doc. NC0314E1 wherein the Secretariat agreed with the Australian position that an argument could be made that ABS controller units be classified in heading 87.08 as parts of motor vehicles. It was the view of both the Australian Administration and the Secretariat that these goods were not presently classified in heading 87.08, when imported as a unit, but were classified in heading 90.32. She concluded by requesting support from the Review Sub-Committee to address this anomaly as part of the present review cycle.
3. The EC Delegate put forward a number of arguments against this proposal. He began by pointing out that the product description given by Australia in paragraph 14 of the working document suggested that the product would satisfy the three conditions stipulated in the Explanatory Notes (page 1859) for defining an automatic regulator within the meaning of Note 7 to Chapter 90. In those circumstances there could be no question of transferring this product to Chapter 87, as Note 2 to Section XVII covering transport equipment provided that the expressions "parts" and "parts and accessories" did not apply to the articles of Chapter 90, whether or not they were identifiable as being for transport equipment.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

4. He added that the controller unit at issue was intended for an ABS system, but under the current legal provisions that system itself fell to be classified in heading 90.32. Bearing that in mind, he wondered how could it be considered possible to classify a part of the ABS system differently, in Chapter 87. The EC Delegate concluded by pointing out that the motor vehicle industry had not, to date, expressed any need for such a transfer, the usefulness of which had yet to be demonstrated.
5. Other delegates agreed, adding that the problem posed by the transfer of controller units for ABS systems raised the more general question of a review of the *{provisions for this genus of goods where used in a vehicle (Australia)}* if the objective was to group together in a single Chapter of the Nomenclature all products intended for transport equipment but classified more specifically in other Chapters, particularly Chapters 84, 85 and 90.
6. Along the same lines, this would raise a question with regard to other automatic regulating or controlling apparatus of Chapter 90 (present heading 90.32) which, according to that logic, should also be transferred to the Chapters corresponding to their specific uses.
7. Finally, a delegate highlighted the view expressed by the Secretariat in paragraph 34 of the working document, by asking why a device designed to fulfil three functions, namely controlling the braking, traction and stability of a vehicle, should be classified with reference to only one of those three functions, namely braking.
8. The Chairman summed up the discussion by recognising that there did not appear to be support for the limited approach of moving only the ABS controller unit to heading 87.08. However, there appeared to be some support within the Sub-Committee for a proposal whose scope provided for the transfer of all automotive controller units from heading 90.32 to heading 87.08. It did not make sense to move only the ABS units to heading 87.08 and leave the rest in heading 90.32.
9. The Sub-Committee concluded its discussion by suggesting that the Australian Administration should re-examine its proposal during the intersession with a view to possibly reworking the proposal to broaden its scope, taking into account the comments made by delegates during the discussion of this agenda item.

* * *

1	2	5
NR0322E1	Possible amendments to the structured nomenclature to heading 38.24 (Proposal by UNEP).	<u>See Annex F/16.</u>

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

1. There was general agreement in the Sub-Committee that the proposal reproduced in the Annex to Doc. NR0322E1 should be sent to the Scientific Sub-Committee for examination together with the following questions :
 - (i) Whether the chemical nomenclature of the proposed texts was acceptable from the technical point of view;
 - (ii) Whether it would be more beneficial to refer to generic names of chemicals or to abbreviations, or to use both in the proposed text;
 - (iii) Whether the term “derivatives of” should be used in proposed subheadings 3824.71 to 3824.73;
 - (iv) Whether it would be possible to combine certain of the proposed subheadings as one new subheading, based on the phase-out schedule of chemicals in the Montreal Protocol, for the sake of simplicity;
 - (v) Whether the texts, as proposed, could be administered by Customs administrations;
 - (vi) Whether it would be possible to identify and to analyse the commodities covered by proposed separate subheadings in Customs laboratories and to suggest analytical methods suitable for this purpose.
2. One delegate expressed concerns as to whether newly proposed subheading 3824.7 appropriately reflected the needs of the Montreal Protocol since the scope of that subheading would be wider than the present one and certain products would be transferred thereto from present subheading 3824.90. He informed the Sub-Committee that his administration would submit written comments to the Scientific Sub-Committee in this respect.
3. The proposed texts, which were placed in square brackets, are set out in Annex F/16 of this Report.

* * *

1	2
NR0323E1	Possible amendments to Chapters 84, 85, 90 and 95 concerning information technology products (Proposal by the EC).

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

1. The Review Sub-Committee agreed to have only a preliminary discussion on this issue, given the complex and comprehensive nature of the proposals.
2. The EC Delegate, after having explained briefly the ideas behind the proposals, stated that the proposals represented a framework within which items were open for discussion. Several terms, expressions and approaches would have to be discussed and defined, including the question of how to deal with commodities which function according to the software installed.
3. The other delegates who spoke congratulated the EC on the comprehensive proposal, recognising that it represented a new structure and organisation of the Nomenclature for quite a number of commodities. Some delegates indicated that, even if the total package would not be adopted, certain elements could be incorporated into the existing structure of the Chapters involved.
4. The US Delegate considered that the cost/benefit aspect should be taken into account, in other words, would the benefits of this new approach outweigh the costs for administrations and trade circles. Improvements to the nomenclature should be carried out with a minimum of cost for Customs, statistical agencies, trade, etc. His administration had, therefore, submitted proposals for a number of specific headings {, *in areas of the Nomenclature where the texts had resulted in misunderstandings and/or numerous classification disputes (US)*}.
5. The Delegate of Japan informed the Sub-Committee that his administration would submit formally the proposals which were presented at the beginning of the session as a non-paper. In this context he stated that his administration's proposal represented a new concept, which could be incorporated into the EC proposal or any other proposal for an individual heading.
6. Reflecting on a number of questions raised by delegates, the Director noted that substantial time would have to be devoted to discussing the restructuring and the re-organisation of Chapters 84, 85, 90 and 95. In this context he informed the Sub-Committee that the Secretariat was currently examining the possibility of having a meeting of a Working Group in early 2003, on the assumption that a sufficient number of delegates would participate. The agenda for this Working Group would comprise the EC proposal presented in Doc. NR0323E1 and all other proposals which were on the Sub-Committee's agenda and would touch the headings covered by the EC proposal. To that effect, the Secretariat would prepare a comprehensive document, setting up an outline for the discussions.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

7. The Sub-Committee took note.

* * *

1	2	4	5
NR0324E1	Possible amendments to the Nomenclature and the Explanatory Notes to correct certain texts and to align the English and French versions (Proposal by the Secretariat).	<u>See Annexes F/18 and F/19.</u>	<u>See Annexes F/17 and F/19.</u>

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

1. After a short discussion, the Sub-Committee accepted unanimously, the amendments proposed in Annex I to the working document. The provisionally approved texts are reproduced in Annex F/17 to this Report.
2. With respect to the amendments proposed in Annex II to the document (i.e., amendments to the Explanatory Notes only), one delegate expressed doubts whether they would indeed clarify or improve the texts concerned. He indicated that there had been no practical problems with these texts and, therefore, preferred the status quo. Another delegate supported this view.
3. Other delegates indicated that they could accept the proposed amendments, although one of them indicated that his administration had some doubts *{concerning certain amendments, such as for example the amendment proposed for page 1035 of the Explanatory Notes to heading 59.06. (EC)}*. Following a suggestion from the floor, the Chairperson proposed that the Sub-Committee discuss the proposals again at its next session, on the basis of a new document to be prepared by the Secretariat, which would include a clarification or justification of the proposed amendments. He requested interested administrations to submit their comments on the basis of that new document before the start of the next session. The proposed amendments were placed in square brackets and are reproduced in Annex F/18 to this Report.
4. The Sub-Committee agreed unanimously with the proposals set out in Annex III to the working document. The provisionally approved texts are reproduced in Annex F/19 to this Report.

* * *

1	2	5
NR0325E1	Possible amendments to the Nomenclature with regard to the classification of apparatus for transmission or reception of voice, data or images (Proposal by the US Administration).	<u>See Annex F/20.</u>

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

1. After the Chairperson had introduced this item, the Sub-Committee agreed to confine itself to a preliminary exchange of views on the subject { *taking into account the fact that other proposals concerning this heading had been put forward, and would be examined by the February 2003 Working Party. (EC)*}
2. The Delegate of **Japan** requested certain clarifications about the **US** proposals, particularly with regard to the nature of the apparatus covered by new subheadings 8525.70 and 8527.3, and the classification of a cellular telephone with digital display and built-in digital camera. He also wondered whether it would be possible to distinguish clearly between the apparatus covered by new heading 85.49 and the other apparatus of headings 85.25 and 85.27, given the end-use criteria attached to some of the proposed subheadings.
3. The Delegate of the **United Kingdom** wondered why the text of new heading 85.49 referred to apparatus for the transmission or reception of "voice, data or images", when a reference to "data" alone could have sufficed. On the subject of the subdivisions proposed for telephone sets, he questioned the distinction made between cellular telephones and other wireless telephones. Finally he was not sure that it was necessary to provide separate subheadings for facsimile machines (subheading 8549.21) and two way radios (subheading 8549.42). *{In response to the question about terminology, the US Delegate explained that in order to avoid confusion and to maintain consistent practice, the United States had used current HS terminology in the proposal (US)}*
4. The Delegate of **Uganda** raised questions about the subdivisions proposed for "apparatus for providing communications in a network", and about the scope of new subheadings 8549.31 and 8549.32, given that switching and routing apparatus was often incorporated in base stations for cellular telephone systems. *{The US Delegate agreed that the proposed subheadings for base stations would include switching and routing systems. (US)}*
5. After responding to the various questions posed, the Delegate of the **United States** told the Sub-Committee that he had taken careful note of them, and that his administration might put forward a new, revised proposal taking account of the comments expressed, for examination by the Working Group which was scheduled to meet in February 2003.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. For ease of reference, the **US** proposal for a new heading to cover transmission and reception apparatus is reproduced in square brackets at Annex F/20 to this Report.

* * *

1	2	5
NR0326E1	Possible modification of heading 85.42 and Note 5 (B) to Chapter 85 (Proposal by the US Administration).	<u>See Annex F/21.</u>

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

1. The Sub-Committee held a preliminary exchange of views on the US proposal to amend Note 5 (B) to Chapter 85 and heading 85.42 for electronic integrated circuits and microassemblies.
2. *{This proposal was supported in principle. It was (EC) aimed firstly at deleting microassemblies from current subheading 8542.70 as they represented obsolete technology, and secondly at supplementing the definition of monolithic integrated circuits to reflect technological developments, by mentioning the other semiconductor materials currently used to produce these monolithic integrated circuits (gallium arsenide, silicon germanium, indium phosphide).}*
3. Another aim of this proposal was to separately identify these articles, at subheading level, not by reference to the objective characteristics which they derived from their manufacturing process, as was the case in the 2002 version of the Harmonized System, but on the basis of the function they performed, with processors and controllers being distinguished from memories, converters, clock and timing circuits, and other circuits.
4. One delegate pointed out that as this proposal was very closely related to those made by the EC and Canada, which involved a radical restructuring of Chapters 84, 85, 90 and 95 to reflect new technologies; it should therefore form part of the study to be carried out by the Working Group in February 2003.
5. *{The Delegate of Japan proposed that Note 5 (B) (b) to Chapter 85 should be modified by deleting the words "obtained by thin- or thick-film technology" in order to eliminate obsolete manufacturing technologies. (Japan)}*
6. As this was the unanimous view of the Sub-Committee, it was agreed that the entire proposal would be placed in square brackets and forwarded to the Working Group for study.
7. The Director supported this solution, but pointed out that in order for the Secretariat to do its work efficiently, administrations should submit their proposals and other views as rapidly as possible, and in writing.

* * *

1	2	5
NR0327E1	Possible amendments to subheadings 2306.10 to 2306.30 (Proposal by the EC).	<u>See Annex F/14.</u>

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

1. The Sub-Committee unanimously approved the texts set out in the Annex to Doc. NR0327E1.
2. The texts approved are set out in Annex F/14 to this Report.

* * *

1	2
NR0328E1	Possible alignment of the French and English texts of Note 9 to Chapter 71 (Proposal by the EC).

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

1. The EC Delegate introduced the proposal by explaining that its purpose was to address a {possible (EC)} lack of alignment between the English and French versions of Note 9 to Chapter 71. The concern was that {this situation of having a significant paragraph defining "articles de joaillerie" in the French version of a legal Note, but this paragraph being completely absent from the English version, could (EC)} cause problems for administrations which used neither English nor French as their official language, and therefore had to translate the Nomenclature into their language. There could then be differences depending on which of the two official versions these administrations had used as the basis for their translation, because the last paragraph of Note 9 in the French version - which defined the expression "articles de joaillerie" - was missing from the English.
2. The Director explained that this situation dated from 1952 and had never posed any problems for administrations. In his view the two versions were not, in fact, misaligned. When read together, they had the same scope. The situation with the last paragraph was attributable to the fact that the English expression "articles of jewellery" covered both the French expressions "articles de joaillerie" and "articles de bijouterie".
3. The EC Delegate also expressed concern about the fact that the additional paragraph in the French version referred to articles of jewellery which were "plaqués ou doublés" (clad with precious metal), and that this might have an impact on the classification of the articles concerned.
4. In response, the Director indicated that there was no risk of misclassification, insofar as the text of heading 71.13 was concerned; the text was explicit and clearly covered articles of jewellery of metal clad with precious metal.
5. {The EC Delegate explained that he was aware of the existence of heading 71.13 and also of Note 7 to that Chapter, concerning the scope of the expression "clad with precious metal". He was also able to accept the view that the English term "articles of jewellery" covered both "articles de bijouterie" and "articles de joaillerie" in French, but the problem lay not in the wording but in the fact that the content of the French paragraph concerned was missing from the English version, i.e., it had not been incorporated in previous paragraphs in the English. The result was a problem of distortion between the two versions, and this had unfortunate repercussions for administrations and for trade, particularly where it was necessary to translate the nomenclature into a language which was not an official language of the Convention.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. *He went on to point out that in order to deal with this undesirable situation the EC (for which English was also an official language) had proposed a specific text to be added to the English version, so that the legal Note would have the same presentation in the French and English versions. (EC)}*
7. The Sub-Committee finally agreed to defer this matter to its next session, to give administrations an opportunity to carry out further checks and consult their trade.

* * *

ANNEX E

COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

Working doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0295E1	Possible deletion of certain references to "whales" in the Explanatory Notes.		<u>See Annex F/22.</u>	

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

1. In opening the discussion of this agenda item the Chairperson, referring to paragraphs 7 to 13 of the working document, noted that all of the references to whales and whale products could be categorised into three types, i.e., Types I to III, and asked the Sub-Committee for its views on the possible deletion of the three types of references from the Explanatory Notes.
2. With respect to Types I to III, since not all of the species of whales and whale products were prohibited from trade by the CITES and IWC conventions, the Delegate of Japan preferred the status quo, that is, no change to the Explanatory Notes. Noting that CITES and IWC were different conventions from the HS Convention, the Delegate of Norway also preferred the status quo since there was no general ban against whaling. However, she indicated that the Type III references could be deleted since the use of whalebone in these cases could be considered to be obsolete. *{Several delegates supported the status quo and it was also pointed out that there were some Explanatory Note references to goods such as chemicals of narcotics drugs which were also controlled by other International Conventions. (Japan)}*
3. A third delegate, however, was of a view that all of the references to whale and whale products in the Explanatory Notes without corresponding references in the legal texts should be reviewed, in order to be consistent with the CITES and IWC conventions.
4. Following these general discussions, the Chairperson asked the Sub-Committee to discuss the draft amendments item by item.
5. First of all, with respect to the Type I references, the Sub-Committee reaffirmed that if references to whales or whale products in the Explanatory Notes related to products mentioned in the corresponding legal texts, these references should be retained.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

6. Secondly, with respect to Type III references, the Sub-Committee agreed to delete the reference to whalebone in headings 62.12 (English only) and 96.03 since the use of whalebone was obsolete with regard to the products falling into these headings.
7. As regards Type II references, the Delegate of **Japan** stated that {, *having regard to the fact that (i) all the references to Type II were useful to define the scope of the corresponding headings; (ii) the scope of those headings had not been changed at all; and (iii) there was no problem keeping those references in the Explanatory Notes for the purpose of clarifying the classification of goods which were referred to in the certain International Conventions, (Japan)*} there was no justification for deleting those references and therefore argued that they should be retained in the Explanatory Notes. With respect to whale catchers of heading 89.02, he noted that such vessels did exist in world trade. The Delegate of **Norway** also stated that her industry had been manufacturing the vessels and exporting them and she preferred to retain the reference. Two other delegates also supported these views and favoured the status quo with respect to all the products listed as Type II.
8. On the other hand, noting that the references with respect to Type II products had no corresponding references in the legal texts, one delegate was of a view that it was logical to take a consistent approach with the CITES and IWC conventions and proposed to delete the references to whales, subject to certain modifications with regard to the relevant parts of the Explanatory Notes.
9. Since opinions were divided, the Sub-Committee agreed to place the Type II texts in square brackets and asked the HS Committee to rule on this issue at the next session.
10. The texts approved as well as those placed in square brackets are reproduced in Annex F/22 to this Report.

* * *

1	2	4
NR0296E1	Possible amendment of the Explanatory Note to heading 29.37.	<u>See Annex F/23.</u>

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

1. Taking into account the fact that the proposal was drafted in line with previous conclusions of the Scientific Sub-Committee and given the technical nature of the matter, the Review Sub-Committee unanimously agreed to refer this question to the Scientific Sub-Committee, asking it to examine whether the proposed amendments are technically correct.
2. The proposed amendments, which were placed in square brackets, are set out in Annex F/23 to this Report.

* * *

1	2	4
NR0297E1	Possible amendment of the Explanatory Note to heading 29.35.	<u>See Annex F/24.</u>

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

1. The Delegate of **Canada** informed the Sub-Committee that his administration was still studying the matter and it would submit further written comments once its study had been concluded. He therefore asked to postpone consideration of this agenda item. The Sub-Committee agreed to postpone a full examination of this agenda item until the next session.
2. The proposed alternative texts, which were placed in square brackets, are set out in Annex F/24 to this Report.

* * *

1	2	4
NR0298E1	Possible amendment of the Explanatory Note to heading 29.41.	<u>See Annex F/25.</u>

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

1. Opening discussion on the possible amendment of Item (7) of the Explanatory Note to heading 29.41, the Delegate of Canada informed the Sub-Committee that his administration was studying possible amendments to another part of the same Explanatory Note and would submit a written proposal in this respect to the Scientific Sub-Committee.
2. There was consensus in the Sub-Committee that aztreonam appearing in the proposed amendment was classified in subheading 2941.90, as suggested by the Secretariat in paragraph 7 of Doc. NR0298E1. Nevertheless, the Scientific Sub-Committee should be asked to express its views on the classification of this product since it has not yet been examined in the past.
3. One delegate shared the concerns of the Secretariat mentioned in paragraph 10 of Doc. NR0298E1 regarding the word “penem”, since it was a suffix developed to specify a group of INN products having certain characteristics. He felt that it was not necessary to mention it in the proposed text and suggested an alternative text referring only to examples of specific antibiotics : “doripenem (INN) and monobactams (e.g., aztreonam (INN))”.
4. Another delegate pointed out that according to his knowledge, the term “penem” was an accepted and recognised term used in technical literature and in medical circles and was therefore against its deletion from the proposed text, for the time being. His administration would consult with experts regarding this question and would submit additional information in this respect.
5. A third delegate drew the attention of the Sub-Committee to the possible misalignment in the proposed texts between “penem” used in English and “antibiotiques des types “penem”” in French and suggested referring to “the penem type” in both versions.
6. He also expressed his concern as to whether these products were important enough in world trade to be reflected in the Explanatory Notes. The Chairperson explained that the idea was to provide a guideline on how to classify similar types of products which might become important in the future.
7. Finally, given the technical nature of the proposal, the Sub-Committee agreed to submit the matter to the Scientific Sub-Committee for examination, addressing to it all concerns expressed above.
8. The proposed texts, which were placed in square brackets, are set out in Annex F/25 to this Report.

* * *

1	2	4
NR0299E1	Possible amendment of the Explanatory Note to heading 30.02.	<u>See Annex F/26.</u>

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

1. One delegate informed the Sub-Committee that according to the information available to his administration, leridistim suggested as an example to be inserted in the proposed exclusion in the Explanatory Note to heading 30.02 was an INN product on which research would no longer be pursued and it could not be expected to be produced or marketed. His administration would therefore suggest finding another example for insertion in the Explanatory Notes and, for the time being, preferred the status quo.
2. Another delegate stated that in his view, leridistim could be mentioned in the Explanatory Notes since it was included in a list of INN products. In principle, he supported the proposal put forward by the Secretariat in the Annex to Doc. NR0299E1 and was of the view that the Scientific Sub-Committee should be consulted as regards the proposed wording. This suggestion was supported by another delegate.
3. Finally, the Chairperson proposed to ask the Scientific Sub-Committee, in addition to the above, whether it could recommend any other substance suitable to be used as an example in connection with the proposed text. The Sub-Committee agreed with this approach.
4. The proposed text, which was placed in square brackets, is set out in Annex F/26 to this Report.

* * *

1	2	4
NR0238E1 (RSC/25)	Possible amendment of the Explanatory Notes to Chapter 44.	<u>See Annex F/27.</u>

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

1. At the suggestion of one delegate, the Review Sub-Committee agreed not to insert the proposed new second paragraph of the Explanatory Note to heading 44.16, given the nature of the goods of that heading *{(i.e., they are never produced from particle board or similar board, fibreboard, laminated wood or densified wood). (US)}*.
2. Following this deletion, the Sub-Committee unanimously accepted the other proposed amendments, subject to some minor corrections to align both language versions.
3. The texts approved are set out in Annex F/27 to this Report.

* * *

1	2
NR0300E1 NR0330E1	Possible amendment of the Explanatory Notes to headings 61.03 and 61.04.

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

1. The Sub-Committee agreed to begin the discussion of this agenda item on the basis of the alternative proposed by the Secretariat.
2. The Sub-Committee agreed to accept the proposed amendments to heading 61.03, subject to the addition in the third paragraph of Part (A) of the French version of a reference to “two pairs of trousers”, which, moreover, constituted an alignment on the English version.
3. One delegate had certain doubts about the Secretariat’s proposal concerning the new second and third paragraphs to be inserted in the Explanatory Note to heading 61.04 and suggested that it might be appropriate to return to this question at the next session, on the basis of a new document.
4. The Director also referred to the apparent lack of alignment between the two versions of the texts proposed by the Secretariat and informed the Sub-Committee that a new document would be prepared for examination at the next session. This document would meet the concerns expressed regarding the new paragraphs proposed for heading 61.04 and would also take into account the apparent lack of alignment between the English and French versions.

* * *

1	2	4
NR0301E1	Possible amendment of the Explanatory Note to heading 70.17.	<u>See Annex F/28.</u>

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

1. In opening the discussion on this agenda item, one delegate, supported by several other delegations, stated that his administration supported the Secretariat proposal and was in favour of deleting the square brackets around the terms “spools and reels”.
2. The Sub-Committee unanimously agreed to approve the draft texts reproduced in the Annex to Doc. NR0301B1.
3. The texts approved are set out in Annex F/28 to this Report.

* * *

1	2
NR0251E1 (RSC/25)	Possible amendment of the Explanatory Note to heading 84.71.

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

1. The discussion on this agenda item began by several delegates expressing concern that there were some inconsistencies between the Secretariat's text, on the one hand, and some legal texts and a Committee decision, on the other hand. In addition, there was some reluctance on the part of administrations to accept the Secretariat text because of the radical nature of the proposal. These administrations felt that it was not necessary to make major changes to this Explanatory Note, considering that it had only recently been the subject of an amendment (effective February 2002).
2. The Director pointed out that he understood that the aim of the Comprehensive Review of the Explanatory Notes was to make substantial changes to the Explanatory Notes. In this connection, a number of administrations had provided staff to work on this project; the Council was in agreement and several administrations had provided Technical Attachés to the Secretariat. Therefore, he failed to see the problem with the Secretariat's approach and asked the Sub-Committee to clearly define what it wanted the Secretariat to do.
3. *{The Sub-Committee concluded its discussions on this agenda item by agreeing that (1) the Secretariat's draft did not have sufficient support to warrant its use as the basis for a rewrite, but (2) the issue could be revisited in a future session if written proposals were received from interested administrations. (US)}*

* * *

1	2	4
NR0242E1 (RSC/25)	Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions.	<u>See Annex F/29.</u>

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

1. The Sub-Committee examined the draft amendments to the Explanatory Notes to correct shortcomings and to align the two versions, reproduced in the Annex to Doc. NR0242E1, and approved the proposed amendments relating to headings 32.10, 32.14, 38.03 and 85.14 as well as to the General Explanatory Note to Chapter 63 and the text of Note 5 to Chapter 97 reproduced in the Explanatory Notes to that Chapter.
2. With regard to the proposed amendment of heading 59.10, the Sub-Committee decided to align the English text on the French by adding a reference to Section XVI in the English version.
3. The Sub-Committee did not retain the proposed amendments to the exclusion clauses relating to wadding and bandages, the **Brazilian** Delegate stating that these amendments were not indispensable and that his administration could accept the status quo.
4. As for the apparent lack of alignment between the English and French versions of heading 95.05, Part (A), Item (2), the Secretariat pointed out that this question could be discussed in the Harmonized System Committee which would examine an **EC** proposal to amend the Explanatory Note to that heading at its next session.
5. The texts approved are reproduced at Annex F/29 to this Report.

* * *

1	2
NR0302E1	Possible amendment of the Explanatory Notes to headings 84.01 to 84.31.

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

1. Before beginning its examination of Agenda Items C/11 to C/19, the Sub-Committee held a general exchange of views on the approach to be adopted for the examination of the proposed amendments to the Explanatory Notes. The Director told the Sub-Committee that Member administrations had sent the Secretariat a considerable number of proposals for the comprehensive review of the Explanatory Notes, and he thanked the administrations concerned for their contributions to this work. The proposals submitted would have to be examined, and the Sub-Committee would need to begin by deciding what would be the best way of accomplishing that task. The Director stressed that the Sub-Committee was now engaged in two separate exercises, namely examining proposals for the 2007 review of the legal texts under the Article 16 procedure, and at the same time examining proposals for the review of the existing Explanatory Notes – which would be in use until 2007 – under the Article 8 “Corrigendum” procedure. He considered it necessary for the Sub-Committee to examine the general approach to be adopted where the latter exercise was concerned. He also explained that in the documents submitted to the Sub-Committee for examination, strikethrough had been used to identify texts proposed for deletion, and underlining for texts to be inserted.
2. Following an exchange of views, the Sub-Committee agreed that the method of work to be employed should include the following in particular :
 - Continuing to use the presentation involving strikethrough and underlining which the Director had described.
 - Implementing a proposal by the EC Delegate that the body of the working documents should include a reference to whichever page in the Annex related to a given question.
 - Discussing each question sequentially, so that all the observations could be grouped together.
 - Not preparing any bilingual annexes for the purposes of the present session, but instead reproducing, in the annexes concerned, the delegates’ observations on each proposed change.
 - Excluding from the comprehensive review process *{any texts that raised classification questions. However, classification questions that arose during the course of discussion could be sent to the HS Committee (US)}* for decision, provided that the administration *{raising the concern (Australia)}* send the Secretariat a note setting out its views on the classification questions or problems it had identified.
 - Administrations could send their questions about a given proposal directly to the administration which had made the proposal. In this connection, the Director also urged Members to make use of the WCO Web site Discussion Forum.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

- Administrations which had prepared proposals should, on request, provide information about the goods concerned. At the same time, administrations which made such requests for information were invited to conduct their own research into the matter.
3. Administrations agreed that any changes of substance should be sent to the Secretariat in writing, as soon as possible.
 4. The Director drew the Sub-Committee's attention to the fact that while no formal deadline had been fixed for the comprehensive review of the Explanatory Notes, administrations should nevertheless make every effort to finalise their proposals as soon as possible. The Sub-Committee should make sure that it completed its work on the comprehensive review of the 2002 version of the Explanatory Notes by Spring 2004 at the latest, in order to avoid any confusion between this exercise and the review of the Explanatory Notes which would be necessitated by the amendments to the legal texts which were due to enter into force in 2007. He shared the view, expressed by a number of delegates, that the sooner the amendments resulting from this comprehensive review of the Explanatory Notes were implemented, the better. Finally, the Sub-Committee agreed that in Spring 2003 it should start submitting the finalised proposals, Chapter by Chapter, to the HS Committee for approval.

°
° °
 5. Having reached agreement on the working principles outlined above, the Sub-Committee decided to carry out a preliminary examination of Agenda item III.C.11. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

SECTION XVI.

Page 1386. General. Part (III).

United States

- General study currently being carried out by this administration on "automatic data processing machines". Consequently, the **US** Delegate asked the RSC to postpone the discussion of the amendment of the General Notes to Section XVI.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 84.05.

Page 1405. Exclusions.

Switzerland

- Editorial amendment to the French version :
Exclusion (c) : insert ", par exemple," after "servant à la production".

Canada

- Need additional information about the "electrolytic gas generators" referred to in exclusion (c).

US

- Need additional information about the need for exclusions (b) and (c).

Heading 84.12.

Page 1417. Part (F).

Canada and **Switzerland**

- Supported deletion of Part (F) of the Explanatory Note to heading 84.12, as indicated in paragraph 14 of the working document.

Heading 84.13.

Page 1421. Exclusions.

Japan

- Need additional information on the machines referred to in the two new exclusions (f) and (g).

Brazil

- Submit the question of where to classify pumps designed to be worn, carried or implanted in the human body, for dispensing medicine to the HS Committee.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 84.14.

Page 1422. Part (A). Fifth paragraph.

United States

- Comments about the proposed new second sentence may be submitted subsequently.

Heading 84.18.

United States

- May submit a proposal for the creation of a subheading Explanatory Note to govern the classification of household-type, combined {*refrigerator/freezers (US)*} with separate outer doors.

6. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0303E1	Possible amendment of the Explanatory Notes to headings 84.32 to 84.73.

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

1. The Sub-Committee agreed to hold a preliminary discussion on this agenda item. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

Heading 84.34.

Page 1480. Heading 84.34. Part (I). Third paragraph.

Brazil

- Had doubts as to the classification and suggested sending the product to the HSC for a classification decision.

Japan

- Requested additional technical information.

Heading 84.36.

Page 1485. Heading 84.36. New exclusion paragraph.

EC

- Had doubts as to the classification proposed in the new exclusion paragraph (i.e., perhaps heading 84.22 and not heading 84.28 as suggested).
- Agreed with the Secretariat's comments in paragraph 12 of Doc. NR0303E1.

Canada

- Had some general concerns and will attempt to find further information.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 84.39.

Page 1497. Heading 84.39. Part (III). Item (A).

Canada

- Did not share the Secretariat's concerns regarding "reeling machines". Will study the issue and provide a written submission, if necessary.

Heading 84.53.

Page 1534. Heading 84.53. Part (I). First paragraph. New last sentence.

US

- Agreed with the Secretariat that "chrome recovery plants" should be classified by the HSC before a reference to them is inserted in the Explanatory Notes.

Canada

- Agreed with the Secretariat and the **US** on the previous point.

Heading 84.54.

Page 1537. Heading 84.54. Part (A). First two paragraphs.

EC

- Questioned whether only the reference to Kaldo converters should be deleted and not the entire text in parentheses.

Heading 84.58.

Page 1546. Heading 84.58. Subheading Explanatory Note. Subheading 8458.11 and 8458.91.

EC

- The Sub-Committee agreed with the **EC** that the references to "computer" should be deleted.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 84.72.

Page 1585. Heading 84.72. New Item 22.

EC

- Requested that a new exclusion note be added to heading 84.72 at the top of page 1586 to the effect that sorters for photocopying machines of heading 90.09 should be classified in heading 90.09. The wording of the legal text of {*subheading 9009.93 (EC)*} could be used to draft this exclusion.

US

- Wondered whether the **EC**'s request for a new exclusion for sorters in heading 84.72 raised a classification question. Suggested that the **EC** should send the classification of these sorters to the HSC with appropriate product literature.

Japan

- Requested that two additional exclusions be added to heading 84.72; the first for sorters for ADP machines (heading 84.73) and the second for sorters for printing machines (heading 84.43).

2. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0304E1	Possible amendment of the Explanatory Notes to headings 84.74 to 84.85.

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

1. The Sub-Committee decided to carry out a preliminary examination of this agenda item. The Sub-Committee also agreed that instead of drafting a bilingual annex, the delegates' observations on the proposed amendments to the Explanatory Notes would be reproduced in the Report itself. Only those observations which revealed problems with certain proposed amendments are reported below.

Heading 84.79.

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

United States

- New item (32) concerning "chrome recovery plants" should be deleted.

Heading 84.81.

Pages 1607 and 1608. Heading 84.81. Third paragraph.

Canada

- *{Preferred the amendment proposed to the option of placing it in a Subheading Explanatory Note. (Canada)}*

2. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0305E1	Possible amendment of the Explanatory Notes to headings 85.01 to 85.09.

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

1. The Sub-Committee agreed to have a preliminary discussion on this agenda item. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

Heading 85.04.

Page 1627. Heading 85.04. Part (II). Penultimate paragraph.

UK

- Wanted to maintain the reference to “machines of heading 84.71”.

Heading 85.05.

Page 1628. Heading 85.05. Item (3). First sentence.

Canada

- Referring to the Secretariat’s comment in paragraph 15 of Doc. NR0305E1, the **Canadian** Delegate felt that this point could remain on the Sub-Committee’s agenda until at least its next meeting, as the HSC may resolve the issue at its November meeting.

Heading 85.06.

Page 1631. Heading 85.06. Exclusion (a).

Switzerland

- Suggested the addition of the words “cosse, borne and barettes” in the French text after the word “(terminaux)”.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 85.07.

Page 1632. Heading 85.07. Exclusion (a).

Switzerland

- Suggested the addition of the words “cosse, borne and barettes” in the French text after the word “(terminaux)”.

Page 1632. Heading 85.07. Paragraph 2.

US

- Questioned whether it was really necessary to have a reference to “a specific size and shape” when referring to alkaline accumulators.

Heading 85.09.

Page 1633. Heading 85.09.

EC

- Asked for additional information on “ice shavers”.

2. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0306E1	Possible amendment of the Explanatory Notes to headings 85.10 to 85.22.

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

1. The Sub-Committee agreed to hold a preliminary discussion on this agenda item. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

Heading 85.11.

Page 1637. Heading 85.11. New Exclusion (e).

EC

- Had some doubts about the reference to the classification of these “electronic ignition control modules or units” in heading 90.32 and felt that the exclusion reference should read “(generally heading 85.36 or heading 90.32)”.

Canada

- Had concerns with both new exclusions (d) and (e).

Heading 85.12.

Page 1638. Heading 85.12. New Item (11).

EC

- Used for radar detection and this is banned in many countries. Consequently, questioned the need to put it in the Explanatory Notes.

UK

- Based on the “Whistler 1120”, item (14) on the same page already covers speed detection devices. Therefore, it was a duplication.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 85.13.

Page 1639. Heading 85.13.

EC

- Heading 85.13 includes only lamps producing “visible light”. “Laser light” and “ultraviolet light” are visible light. Drew the attention of the Sub-Committee to the fact that the Committee classified laser pointers in heading 90.13.
- *{Light emitting diodes (LEDs) are classified in heading 85.13 only when they constitute single units. Multiple diodes in a single housing, or LEDs with series resistors, might fall to be classified in heading 85.43. (EC)}*

Page 1640. Heading 85.13. First paragraph. New Item (3).

Switzerland

- Indicated that the wording in French concerning “clip” was clumsy.

Page 1640. Heading 85.13. Present Item (6), renumbered as Item (7).

EC

- Suggested deleting *{the example of a lamp or torch and a radio (EC)}* as it could be misinterpreted and have the potential of overwhelming the concept of “principal function”.

US

- There is a misalignment of text. In the last line of the English, it reads “main function”, while the French reads “principal function”. The English should be aligned on the French.

Page 1640. Heading 85.13. New Item (9).

Chairperson

- Alignment needed between the English and French text concerning the phrase “not normally [in]visible to the naked eye”.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 85.16.

Page 1649. Part (E). Item (16).

UK

- Suggested the addition of a reference to “home sauna apparatus” in the Explanatory Notes because of the significant volume of trade (refer to CO 8516.79/1).

Heading 85.17.

Pages 1651 to 1654. Heading 85.17. Part (I) (A). Item (2).

Japan

- Doubted the classification of the product described in paragraph 48 of Doc. NR0306E1. Consequently, requested more information.

Pages 1651 to 1654. Heading 85.17. Part (I) (A). Items (i) and (ii).

Canada

- Had concerns concerning the references to cordless telephone sets and telephone sets which comprise a combined dialling selector and switching key unit. If necessary, will make a submission.

Pages 1651 to 1654. Heading 85.17. Part (I) (C).

Japan

- In the description of these videophones, replace the word “essentially” by the word “principally” because classification was based on GIR 1.

Pages 1651 to 1654. Heading 85.17. Part (II). Last paragraph.

Canada

- This reference to digital multifunction machines should be retained, as the HSC may take a decision at its November session, thereby providing some guidance to the RSC.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

EC

- Agreed with **Canada** that the RSC would have to await the decision of the HSC. Pointed out that the Committee's original decision was to classify some multifunction digital machines in heading 84.71 and some others in heading 85.17. Pointed out that the reasoning in paragraph 67 of Doc. NR0306E1 was not necessarily correct.

Pages 1651 to 1654. Heading 85.17. Part (III). New Item (C).

EC

- Raised the point that the routers classified by the HS Committee in heading 84.71 were not included in the new text.

Switzerland

- Suggested the creation of an exclusion for ADP routers because the reference to routers on page 13 of the Annex may cause some confusion.

Canada

- Is there an alternative to the term "least cost routers" ?

Pages 1651 to 1654. Heading 85.17. Part (IV). Item (C).

EC

- Informed the Sub-Committee that caller number display units would be classified in heading 85.31 and not, as suggested, in subheading 8517.50 (paragraph 78 of Doc. NR0306E1).

Pages 1651 to 1654. Heading 85.17. New Part (IV). Item (F).

- Wanted more information on this composite communication device, which is a combination telephone and internet terminal (paragraph 81 of Doc. NR0306E1).

Pages 1651 to 1654. Heading 85.17. Part (IV). New Exclusion (h).

EC

- Informed the Sub-Committee that data encryption devices had been classified by the HS Committee in heading 84.71 and not in heading 85.43.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

UK

- Suggested that there should be a reference in the Explanatory Note to video-conferencing equipment.

Heading 85.18.

Page 1656. Heading 85.18. Part (B). First paragraph. Introductory part.

Canada

- Had some concerns regarding the phrase “from an amplifier” and, if necessary, will make a submission.

Page 1656. Heading 85.18. Part (C). Second paragraph.

EC

- Reminded the Sub-Committee of a decision by the HS Committee concerning airmen’s headgear (exclusion (a) on page 1657).
- Requested the removal of the word “computer” wherever it appears in the text.
- Referenced the incorrect French translation of the expression “automatic data processing machine”.

Page 1657. Heading 85.18. Part (D). Last paragraph.

Canada

- Had some concerns about the reference to “equalisers” and, if necessary, will make a submission.

EC

- *{Expressed doubts about paragraph 95 of Doc. NR0306E1 and the new wording of exclusion (c) concerning “cordless headphones”. At present these headphones might in fact fall in heading 85.18 and not heading 85.25. (EC)}*

Heading 85.19.

Page 1658. Heading 85.19. New Item (7).

US

- Concerned with the wording. May submit comments.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Canada

- Agreed with the US.

Page 1658. Heading 85.19. New Item (4).

Canada

- Concerned with the wording. Informed the Sub-Committee that “microscopic pits” referred only to CD-ROM technology. Also suggested the insertion of “e.g.,” in the brackets on the first line of the text in order to avoid the appearance of an exhaustive list.

Heading 85.20.

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

Canada

- Did not share the Secretariat’s concerns outlined in paragraph 111 of Doc. NR0306E1.

EC

- Agreed with paragraph 105 of Doc. NR0306E1, but expressed concern regarding new item (3) on page 19 of the Annex concerning “electronic type”. Some MP3’s have their own memory and the HSC classified those in heading 85.20 while others had external memory and those were classified in heading 85.19. Therefore, had some doubts regarding the second sentence of Item (3) and felt that account had to be taken of the HSC decisions described by the Secretariat in paragraph 121 of Doc. NR0306E1.

US

- Agreed with the EC that account had to be taken of HSC decisions. *{Pointed out that the MP3-compatible apparatus classified by the HS Committee in heading 85.19 was actually a CD-Audio disc player that had MP3 decoding capability and was designed for installation in an automobile. (US)}*

Canada

- Flash memory usually is capable of accepting data from ADP machines. Will reconfirm with the trade in this regard.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 85.21.

Page 1662. Heading 85.21. Part (A). New Paragraph 2.

US

- Felt that this should not be limited to only a computer, as signals could be transferred to a disk via a television receiver. Will look at improving the text.

Page 1662. Heading 85.21. Part (B). Item (1). New last sentence.

Australia

- Agreed with the Secretariat's comments concerning this addition in paragraph 124 of Doc. NR0306E1.

US

- Will examine both the **Australian** and **Secretariat's** proposals.

2. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0307E1	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48.

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

1. The Sub-Committee decided to carry out a preliminary examination of this agenda item. The Sub-Committee also agreed that instead of drafting a bilingual annex, the delegates' observations on the proposed amendments to the Explanatory Notes would be reproduced in the Report itself. Only those observations which revealed problems with certain proposed amendments are reported below.

Heading 85.23.

Pages 1664 and 1665.

1. First paragraph :

Japan

- The proposed amendments {*such as inserting "Formatting of discs is not considered as a recording process and formatted discs are classified under this heading (Japan)"*} need to be studied in more depth.

United States

- The redrafting of item (5) in order to align it on the wording of Note 6, adopted for the 2002 version of the Harmonized System, should be postponed until such time as the HS Committee has ruled on the scope of that Note {; *particularly with respect to the Palm V presented along with its software. (US)*}

2. Second paragraph.

Canada

- Deletion of the term "separately" needs to be discussed.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 85.24.

Page 1666. Second paragraph.

EC

- It should be made clear that this is merely transposing new Note 6 to Chapter 85 into the Explanatory Notes.

United States

- Scope of Note 6 to Chapter 85 remains to be defined by the HS Committee.

United Kingdom

- It should be made clear that the term "cartridges", used in exclusion (d), refers to game cartridges only and not to "flash storage cards".

Heading 85.25.

Page 1667. Part (A). Second paragraph.

EC

- May propose new wording for the amendments to item (3) {, *which would involve inserting, after "designed to be used in motor vehicles", the words "and base-stations".* (EC).}

United Kingdom

- It should be made clear that the text proposed in item (3) refers solely to "cellular telephones".

Page 1669. Part (D).

Japan

- A more detailed study is needed to define the scope of the term "cameras", in order to avoid any confusion between the various apparatus referred to in the proposed text.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Switzerland

- Recording speed of digital camcorders should be shown as 25 images per second, rather than 15 as in the proposal. (°)

Heading 85.27.

Page 1673. Part (B). Second paragraph.

United States

- May put forward new proposals in respect of the stereo systems (hi-fi systems) referred to in proposed new item (5) {, *in order to assure that the text includes a reference to speakers. (US)*}

Heading 85.28.

Page 1673. Second paragraph.

United States

- Need additional information {*from the drafter (US)*} on television receivers incorporating a modem for connection to the Internet.

Heading 85.29.

Page 1681. Exclusions.

EC and Canada

- Observation that some accumulators for telephones are sometimes presented as specific parts of apparatus. Therefore, the apparatus referred to may not all be classifiable in heading 85.07.

United States

- Information needed {*from the drafter (US)*} about the types of products referred to above.

(°) Standards vary from one country to another. Examples : NTSC 15 images
PAL : 20 images.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

United Kingdom

- Observation that the classification of accumulators for cellular telephones will be examined by HSC/30.

Heading 85.31.

Page 1683.

United States

- Need additional information {*from the drafter (US)*} on the LCD displays referred to in exclusion (c).

United Kingdom

- It was intended that the texts proposed be aligned on the terminology adopted for the ITA Agreements.
- Classification of display panels incorporating LCD devices is on the Agenda for HSC/30.

Heading 85.37.

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

Canada

- Need additional information about electrical control devices for automatic vending machines.

United States

- Opposed to the insertion of proposed new exclusion (d), because cordless remote control devices have been the subject of a court ruling in the United States, directing them to heading 85.37.

United Kingdom

- Referred to Classification Opinion 8543.89/3 concerning infra-red remote control devices.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Canada

- Expressed concerns about the classification of cordless remote control devices.

Heading 85.39.

Page 1690. Part (A).

Canada

- Time needed for reflection, as sealed beam lamp units are still being manufactured in North America.

United States

- Significant volume of trade represented by subheading 8539.10.

Heading 85.40.

United States

- Observation that even when presented separately, monitors for ADP machines remain classified in heading 84.71 and not in heading 85.28.

The Sub-Committee instructed the Secretariat to carry out a study aimed at clarifying the distinction between monitors for ADP machines and other cathode-ray television picture tubes.

Heading 85.43.

Page 1710. Third paragraph.

United States

- Need more detailed description *{from the drafter (US)}* of the apparatus referred to in items (18), (19) and (20) in the working document.

Japan

- Considered that the digital flight-data recorders referred to in item (22) could fall in heading 90.29.

2. The Sub-Committee agreed to continue with the examination of this agenda item at its next session.

* * *

1	2
NR0308E1	Possible amendment of the Explanatory Notes to Chapter 87.

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

1. The Sub-Committee decided to carry out a preliminary examination of this agenda item. The Sub-Committee also agreed that instead of drafting a bilingual annex, the delegates' observations on the proposed amendments to the Explanatory Notes would be reproduced in the Report itself. Only those observations which revealed problems with certain proposed amendments are reported below.

Heading 87.01.

Page 1730. Fourth paragraph.

1. First line.

Canada

- Could accept the Secretariat's proposal that the words "(a body)" be inserted after "coachwork".

United States

- Questioned whether it was correct to say that "the tractors of this heading are not fitted with coachwork", given that modern tractors did have coachwork and generally offered every comfort.

2. Fourth line.

EC

- Expressed some doubts about the possible replacement of "mechanical horses" by "road tractors", and preferred to maintain this text unchanged.

United Kingdom

- Noted that tractors of the type used on railway station platforms were mentioned in the Explanatory Note to heading 87.09, and wondered whether there might be a contradiction between the two headings where the classification of these vehicles was concerned.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 87.02.

Page 1732. First paragraph.

EC

- Considered that the term "persons" should not be defined in the Harmonized System.

Heading 87.03.

Page 1733.

1. First paragraph.
 - Same comment as above.
2. Fourth paragraph. Item (1).

United Kingdom

- Could accept the deletion of the terms "saloon cars" and "hackney carriages".

Heading 87.04.

Page 1734. First paragraph.

Canada

- Indicated that the term "trucks" was clearly defined and already appeared three times in heading 87.09, and that its insertion here should not pose a problem.

United Kingdom

- Indicated that the term "lorries" also covered "trucks", and could be defined in an Explanatory Note or in the General Explanatory Notes to the Chapter.

Page 1734a. Second paragraph. Item (4).

- See the above remarks about the term "trucks".

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 87.05.

Page 1735. Second paragraph. Item (1). First line.

- See the above remarks about the term "trucks".

Page 1736. Items (3), (4), (6), (7), (8), (9), (10), (11), (14) and (19).

- See the above remarks about the term "trucks".

Page 1737. Part concerning MOTOR VEHICLE CHASSIS OR LORRIES COMBINED WITH WORKING MACHINES.

Title and first paragraph. First line.

- See the above remarks about the term "trucks".

Heading 87.06.

Page 1737. First paragraph.

Switzerland

- Indicated that it would not be advisable to insert the term "(unibody construction)", as there was a risk of confusion with integral body construction.

Heading 87.07.

Page 1738. Third paragraph. Second line and fifth paragraph.

- See the above remarks about the term "trucks".

Heading 87.10.

Page 1742. Second paragraph.

1. First line.

EC

- Would prefer to maintain the existing text, as the terms "heavy, medium or light" were used in common parlance.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

India

- Informed the Sub-Committee that the main battle tank was a modern tank familiar to any weapons expert.

2. Third line.

EC

- Preferred the status quo, as there was a risk that the proposed amendment might restrict the scope of the Explanatory Note.

Page 1742. Fourth paragraph.

1. First line.

Switzerland

- Proposed that the words "and **armoured personnel carriers**" be inserted after "**armoured cars**".

United States

- Considered that the question should be studied in more depth, and suggested that his administration might present a new proposal in this regard.

2. Fourth line.

EC

- Wondered whether the proposed change was in fact an improvement, and whether there was a risk that it might restrict the scope of the Explanatory Note.

Canada

- Informed the Sub-Committee that his administration would conduct additional research into this matter and, in fact, into all the questions raised in relation to heading 87.10.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 87.13.

Page 1744. First paragraph. Second line.
Second paragraph. Third line.
Exclusion (a). First line.

EC

- Stressed that if the proposed changes were adopted, then it would be necessary to amend both versions of the legal texts.
- Referred to the difficulties sometimes encountered in distinguishing between the vehicles of heading 87.13 and those of heading 87.03.

The Secretariat was asked to study this matter, for examination at the next session.

Heading 87.14.

Page 1745. Second paragraph. Item (11).

United Kingdom

- Wondered what was the exact meaning of the term "seat-covers".

Heading 87.16.

Page 1747. Item (A) (1).

EC

- Wondered what was meant by "travel trailers", and whether this was in fact the correct term to use.

Page 1748.

1. Item (A) (4) (I).

EC

- Questioned the need for and the correctness of replacing "triqueballes" by "remorques à billes" in the French version.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

2. Item (B) (1). First line.

EC

- Questioned the need for and the correctness of the proposed replacement in the French version, given that the current Explanatory Notes already pointed out that these were carts "de tous types" (of all kinds).

Page 1749. Item (C) (7).

EC

- Questioned the need for and the correctness of inserting a reference to "multi-purpose" sleighs.

2. The Sub-Committee agreed to continue with its examination of this agenda item at the next session.

* * *

1	2
NR0309E1	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10.

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

1. The Sub-Committee agreed to hold a preliminary discussion on this agenda item. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

Heading 90.01.

Page 1771. Heading 90.01. First paragraph. New Item (10).

EC

- Reference to reflecting signs which could fall in heading 86.08, to be inserted.

Heading 90.05.

Page 1774. Heading 90.05. First paragraph. Item (1).

EC

- More information needed on “cardboard box shaped binoculars”; could they be toys ?

Heading 90.06.

Page 1777. Heading 90.06. Part (I).

1. First paragraph. New last sentence.

Canada

- The word “usually” to be replaced by “e.g.,”.

EC

- The words “or thermal” to be inserted after “chemical”.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

2. Current third paragraph. Items (4) to (6).

Canada

- Disposable cameras might be reused. More information needed.
- Are air- or watertight cases traded separately ?

Page 1778. Heading 90.06. First paragraph.

1. Item (13).

Canada

- Are cameras for medical or surgical purposes a distinct group ?

EC

- {*Certain video cameras used solely for (EC)*} medical or surgical purposes might be covered by heading 90.18.

2. Item (14).

Canada

- The word "taking" might be more appropriate than the word "making" ?

3. Item (16).

EC

- The words "à rayon" should be added before "ultra-violette" in the French version.

Page 1779. Heading 90.06. Last paragraph (Parts and accessories)

EC

- {*Shared the Secretariat's reservations, expressed in paragraph 22, about the classification of "film motor drive boosters". (EC)*}

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 90.08.

Page 1782. Heading 90.08. Part (A). Fifth paragraph.

Canada

- Does the volume of trade warrant the inclusion of this commodity ?

Page 1783. Heading 90.08.

1. Second paragraph.

Canada

- Does the volume of trade warrant the inclusion of this commodity ?

2. Third paragraph (exclusions). New Exclusion (ij).

EC and Canada

- More information needed on these devices.

Heading 90.09.

EC

- The scope of this heading is currently being examined by the Harmonized System Committee. Results of the HSC/30 Session might influence future discussions in the Review Sub-Committee.

Page 1784. Heading 90.09. Part (A). Second paragraph. Item (1). Third subparagraph.

EC

- It should be clarified whether the photoreceptor is indeed classifiable in heading 90.09.

Page 1785. Heading 90.09. Fourth paragraph (Parts and accessories).

EC

- It should be clarified whether the various added examples are indeed classifiable in heading 90.09.

2. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

* * *

1	2
NR0310E1	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33.

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

1. The Sub-Committee agreed to hold a preliminary discussion on this agenda item. In lieu of producing a bilingual annex, the Sub-Committee agreed that the comments by delegates on suggested changes to the Explanatory Notes would be reproduced in the Report. Only those comments by delegates on suggested changes to the Explanatory Notes where difficulties were expressed are noted below.

Heading 90.11.

Page 1789. Heading 90.11. Last paragraph before the three asterisks. New Item (4).

EC

- Further study to see whether this reference would not be in conflict with the Explanatory Note to heading 90.18, Part (C), Item (2), on page 1804.

US

- The term “compound” could be added before “microscopes”.

Heading 90.13.

Page 1793. First paragraph. New Item (3).

Canada

- The word “only” should be inserted between “lamp” and “enhances”.

Heading 90.15.

Page 1796. Heading 90.15. Part (I). Second paragraph. Item (1).

EC

- The term “total stations” should be clarified.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 90.17.

Page 1801. Heading 90.17. Part (D). Third paragraph. New Item (5).

EC

- Extensometers {referred to in this item, which are used to measure the strain or torque applied to bolts (EC)} might be classifiable in heading 90.24. Need more information about the commodity.

Heading 90.18.

Page 1805. Heading 90.18. Part (I). First paragraph. New Part (Q).

Canada

- Still studying this proposal.

Page 1805. Heading 90.18. Part (II). First paragraph. Item (3).

Canada

- The term “endodontic” might widen the scope; needs further study.

Page 1805. Heading 90.18. Part (II). First paragraph. Item (5).

EC

- It should be stated that these instruments are of a kind used {in dental surgeries (EC)}.

Page 1806. Heading 90.18. Part (II). Second paragraph.

Canada

- Need more information on “dental trimmers”.

Page 1807. Heading 90.18. New Part (IV).

EC

- This new part needs further study.

OBSERVATIONS OF THE REVIEW SUB-COMMITTEE (contd.)

Heading 90.19.

Page 1810. Heading 90.19. Part (II). Second paragraph.

Switzerland

- Last (new) sentence should be deleted. Agree with Secretariat that it might not be correct to exclude them.

Page 1812. Heading 90.19. Part (V). New Item (D).

EC

- Need more information about the nature of these commodities.

Heading 90.20.

Page 1813. Heading 90.20. Second paragraph (exclusions). New Exclusion (d).

EC

- Need clarification in connection with heading 90.19, since heading 90.20 does not exclude respiration masks for protection against diseases.

2. The Director informed the Sub-Committee that no proposals had been received for headings 90.21 to 90.33. Interested administrations could, however, still submit suggestions for the next session of the Sub-Committee.
3. The Sub-Committee agreed to continue discussions on this agenda item at its next session.

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