



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0470E3

-  
28<sup>th</sup> Session  
-

O. Eng./Fr.

Brussels, 17 November 2003.

REPORT OF THE 28<sup>TH</sup> SESSION OF THE  
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

Note :	This Report have been divided into three parts :
	Part I : Body and Annexes A to E/10
	Part II : Annexes F/1 to F/22
	Part III : Annexes F/23 to F/43 and G

1. The HS Review Sub-Committee held its 28<sup>th</sup> Session from 8 to 19 September 2003 at the Headquarters of the World Customs Organization in Brussels. The meeting was chaired by Mr. D. BECK (USA).
2. The following 46 WCO Members and one Customs or Economic Union were represented :

Members

ARMENIA	MADAGASCAR
AUSTRALIA	MALAYSIA
BANGLADESH	MEXICO
BELGIUM	MOLDOVA
BRAZIL	NETHERLANDS
CAMEROON	NORWAY
CANADA	POLAND
CHINA (People's Rep.)	ROMANIA
COLOMBIA	RUSSIAN FEDERATION
COTE D'IVOIRE	SAUDI ARABIA
CZECH REPUBLIC	SENEGAL
EGYPT	SPAIN
FRANCE	SRI LANKA
GEORGIA	SUDAN
GERMANY	SWITZERLAND
GHANA	THAILAND
INDIA	TOGO
INDONESIA	UKRAINE
IRELAND	UNITED KINGDOM
JAPAN	UNITED STATES
KAZAKHSTAN	URUGUAY
LATVIA	VENEZUELA
MACAU, CHINA	ZIMBABWE

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The following international organisations and expert groups were represented by observers :

ICC - INTERNATIONAL CHAMBER OF COMMERCE  
INBAR - INTERNATIONAL NETWORK FOR BAMBOO AND RATTAN  
UNEP BASEL CONVENTION  
UNEP ROTTERDAM CONVENTION

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

I. AGENDA

5. 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. RESULTS OF THE INFORMAL WORKING GROUP ON HI-TECH PRODUCTS

7. Mr. H. KAPPLER, the Director of Tariff and Trade Affairs, informed the Sub-Committee of the most recent discussions by the Informal Working Group that took place on 4 and 5 September at WCO headquarters. Canada, the EC, Japan, the United States and the Secretariat had been represented in the meeting of the Informal Group, which the RSC had agreed would be the most useful way of making progress on the hi-tech products update.

8. He informed the Sub-Committee that the Informal Working Group had looked at :

- (1) Japanese and EC proposals for printing and copying machinery;
- (2) a Japanese proposal covering monitors, projectors and digital cameras;
- (3) a US proposal for apparatus for the transmission or reception of voice, data or images;
- (4) an EC proposal on data input and storage devices;
- (5) an EC proposal on flat panel display devices and modules;
- (6) the Secretariat proposal for the combination of headings 85.19 and 85.20;
- (7) the Secretariat proposal for the combination of headings 85.23 and 85.24;
- (8) the Secretariat proposal for the revision of Note 5 to Chapter 84; and very briefly

- (9) the issue of the location of the new proposed headings.
9. The purpose of the informal meeting had been to examine the outstanding hi-tech proposals, to answer any questions that might exist with regard to those proposals, to determine areas of agreement and disagreement, to identify work that still needs to be done and by whom, and to help set the agenda for the RSC Working Group which would meet at the end of October to consider the hi-tech issues in plenary.
10. As a result of the two days of informal meetings, the Informal Working Group had been able to agree that :
- (1) two alternative proposals would be forwarded to the October Working Group with regard to printing and copying machinery;
  - (2) two proposals would be forwarded to the RSC Working Group with regard to monitors, projectors and digital cameras – a combined **Japanese** proposal and an alternative with separate provisions for monitors and projectors on the one hand and digital cameras on the other;
  - (3) the **US** proposal re apparatus for the transmission or reception of voice, data or images would be slightly modified;
  - (4) the **EC** proposal concerning data input and storage devices would be withdrawn from this review cycle;
  - (5) the **EC** proposal on flat panel display devices and modules would be forwarded to the RSC Working Group;
  - (6) an alternative to the Secretariat proposal re headings 85.19 and 85.20 would be forwarded to the RSC Working Group (a non-paper describing the alternative was distributed);
  - (7) an alternative to the Secretariat proposal re headings 85.23 and 85.24 would be forwarded to the Working Group (another non-paper on that issue had been circulated);
  - (8) the Secretariat proposal re Note 5 to Chapter 84 should be modified as would be explained during the discussion of that agenda item;
  - (9) there would be no proposal re game players from the **EC** for this review cycle, and
  - (10) the Secretariat should be asked to look into the question of the placement of the new provisions for the next meeting of the RSC and draft a proposal in this connection.
11. Based on these informal discussions and the formal discussions that would take place over the coming days, he informed the Sub-Committee that the Secretariat expected to develop an agenda for the October Working Group and to prepare a series of simple working documents for discussion at the end of October.
12. On the basis of the informal discussions that had already taken place and would continue over the coming months, the Director was optimistic that the Sub-Committee would be able to agree on substantial improvements to the hi-tech provisions next year. He was

NR0470E3  
(RSC/28/Sept. 2003)

pleased with the positive atmosphere during the discussions in the informal meeting and the willingness of administrations to compromise with a view to making progress on this very important aspect of the Sub-Committee's work.

IV. OTHER

STAFF CHANGES IN THE NOMENCLATURE AND  
CLASSIFICATION SUB-DIRECTORATE

13. The Director informed the Committee that Mr. J. JOHANNES (Madagascar) and Mr. A. GLEMMING (Norway) would soon be returning to their respective administrations. He thanked both Mr. Johannes and Mr. Glemming for their outstanding service and wished them both all the best in their future endeavours.

D. BECK,  
Chairperson

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AGENDA FOR THE 28<sup>TH</sup> SESSION  
OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

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(from 8 to 19 September 2003)

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
I.	<u>ADOPTION OF THE AGENDA</u>	
	Agenda	A
II.	<u>GENERAL QUESTIONS</u>	
1.	Decisions taken by the Harmonized System Committee at its 31 <sup>st</sup> session affecting the work of the Review Sub-Committee	B/1
2.	Possible deletion of headings/subheadings with a small volume of trade	B/2
III.	<u>TECHNICAL QUESTIONS</u>	
A.	<u>FURTHER STUDIES</u>	
1.	Possible deletion of subheadings 0105.92 and 0105.93 (Proposal by the EC)	C/1, F/1
2.	Study of a possible minimum milk content limit for products of Chapter 4	D/17
3.	Possible amendment of subheading 0406.40 to cover all "blue-veined" and similar cheese	C/2, F/2
4.	Possible amendments to the Nomenclature regarding the classification of waffles	C/3
5.	Possible amendments to the Nomenclature with regard to the Rotterdam Convention	C/4, F/6
6.	Deleted	
7.	Possible grouping of all products covered by the Montreal Protocol and the Rotterdam Convention under one heading (Proposal by the Canadian Administration)	C/5
8.	Possible amendment of heading 28.23 with regard to titanium dioxide (Proposal by the EC)	C/6, F/3, F/4

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
9.	Possible amendment of the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the <b>Mexican</b> Administration)	C/7, F/5
10.	Possible amendment of the structured nomenclature to heading 38.24 (Proposal by UNEP)	C/8, F/34
11.	Possible creation of a new Subheading Note to Chapter 39 with regard to multi-layered sheets of plastics (Proposal by the <b>Canadian</b> Administration)	C/9
12.	Possible amendment of the Nomenclature to Chapter 44 (Proposal by the <b>EC</b> )	C/10, F/7
13.	Possible amendment of the Explanatory Note to heading 44.11	C/11, F/8
14.	Possible amendment of the definition of newsprint (Proposal by the <b>Indian</b> Administration)	C/12, F/20
15.	Revision of Chapters 54 and 55 (Proposal by the <b>EC</b> )	C/13, F/9
16.	Possible amendments to the Nomenclature and Explanatory Note to heading 61.15 (Proposal by the <b>EC</b> )	C/14, F/10
17.	Possible creation of a new heading for all vacuum cleaners	C/15, F/11
18.	Possible amendments to headings 85.35 and 85.36 (Proposal by the <b>EC</b> )	C/16, F/12
19.	Possible creation of a new heading for semiconductor and flat panel display manufacturing equipment (Proposals by the <b>US</b> Administration and the <b>EC</b> )	C/17, F/40
20.	Possible amendments to the structured nomenclature to heading 90.30	C/18, F/13
21.	Possible creation of a new Note 4 to Chapter 95 (Proposal by the <b>US</b> Administration)	C/19, F/14
22.	Possible amendment of Note 5 to Section XVI (Secretariat proposal)	C/20, F/42
23.	Possible amendment of Note 5 to Chapter 84 (Secretariat proposal)	C/21

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
24.	Possible amendment of Note 5 to Chapter 85 (Secretariat proposal)	C/22
25.	Possible combination of headings 85.19 and 85.20 (Secretariat proposal)	C/23, F/41
26.	Possible combination of headings 85.23 and 85.24 (Secretariat proposal)	C/24, F/43
27.	Comprehensive review of the provisionally approved amendments to headings 84.43, 84.69, 85.19, 85.20 and 85.28	C/25
28.	Possible amendment of subheading 8525.40 (Proposal by the <b>US</b> Administration)	C/26
<b>B. <u>NEW QUESTIONS</u></b>		
1.	Alignment of the texts of subheading 0210.11 (Proposal by the <b>Norwegian</b> Administration)	D/1
2.	Possible amendment of Note 4 (c) to Chapter 30 (Proposal by the <b>EC</b> )	D/2, F/15
3.	Possible amendment of the structured nomenclature and Explanatory Note to heading 39.07 regarding poly(lactic acid) (Proposal by the <b>US</b> Administration)	D/3, F/16
4.	Possible amendments of the Nomenclature with respect to bamboo products (Proposal by INBAR)	D/4, F/31
5.	Simplification of the textile Chapters (Secretariat proposal)	D/5, F/17
6.	Deleted	
7.	Possible amendment of Note 1 to Chapter 95 (Proposal by the <b>Canadian</b> Administration)	D/6, F/18
8.	Possible creation of a new Note 8 to Chapter 29 (Proposal by the <b>Canadian</b> Administration)	D/7, F/33
9.	Possible creation of a new Note 4 to Chapter 38 (Proposal by the <b>Canadian</b> Administration)	D/8
10.	Possible amendment of heading 39.24 (Proposal by the <b>US</b> Administration)	D/9, F/35

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
11.	Possible amendment of heading 84.56 (Proposal by the <b>Croatian</b> Administration)	D/10, F/36
12.	Possible amendments to headings 52.05 and 52.06 (Proposal by the <b>Romanian</b> Administration)	D/11
13.	Possible amendment of heading 83.05 (Proposal by the <b>Canadian</b> Administration)	D/12
14.	Possible amendments to the structured nomenclature to headings 68.11 and 68.13 (Proposal by the <b>Swiss</b> Administration)	D/13, F/19
15.	Possible alignment of the French and English texts of heading 02.10, subheading 0210.09, heading 76.02 and Classification Opinion 3207.30.1 (Proposal by the <b>EC</b> )	D/14, F/37
16.	Possible creation of a new Note 4 (I) to Chapter 30 (Proposal by the <b>EC</b> )	D/15, F/38
17.	Possible amendment of the Nomenclature to align the French and English texts of heading 84.27 (Proposal by the <b>EC</b> )	D/16, F/39
<b>C. <u>COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES</u></b>		
1.	Possible amendment of the Explanatory Notes to headings 84.01 to 84.29	E/1, F/21
2.	Possible amendment of the Explanatory Notes to headings 84.30 to 84.40	E/2, F/22
3.	Possible amendment of the Explanatory Notes to headings 84.41 to 84.59	E/3, F/23
4.	Possible amendment of the Explanatory Notes to headings 84.60 to 84.85	E/4, F/24
5.	Possible amendment of the Explanatory Notes to headings 85.01 to 85.16	E/5, F/25
6.	Possible amendment of the Explanatory Notes to headings 85.17 to 85.22	E/6, F/26
7.	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48	E/7, F/27, F/32

<u>Agenda Item Number</u>	<u>Subject</u>	<u>Annexes</u>
8.	Possible amendment of the Explanatory Notes to Chapter 87	E/8, F/28
9.	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10	E/9, F/29
10.	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33	E/10, F/30
IV.	<u>OTHER</u>	
1.	List of Delegates	G

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ANNEX B  
GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0404E1	Decisions taken by the Harmonized System Committee at its 31 <sup>st</sup> Session affecting the work of the Review Sub-Committee.			

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

1. The Chairperson briefly summarised the decisions taken by the HSC at its 31<sup>st</sup> Session and the pending questions affecting the work of the RSC.
2. The Sub-Committee took note of the developments in the HSC.

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1	2
NR0405E1 NR0469E1	Possible deletion of headings/subheadings with a small volume of trade.

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

1. At the outset of the discussion of this agenda item the **US** Delegate recognised that certain headings/subheadings which do not meet the threshold criteria for volume of trade could be retained if a Contracting Party requests such retention. However, it was his view that the Sub-Committee should stick closely to the principles endorsed by the HS Committee at its 19<sup>th</sup> and 21<sup>st</sup> Sessions. He recalled that any HS codes with a low trade volume could be retained provided such a request was duly substantiated. Referring to the reasons for retention given by administrations in the working documents, he believed that the need to monitor international trade alone could not be considered as substantiation for retention, inasmuch as there should always be a reason cited for the need to monitor global trade. He, therefore, invited the administrations requesting the retention of certain HS codes only on that basis to provide additional reasons for retention. He also urged such administrations to re-examine and to reduce to the extent possible their lists of headings and subheadings whose retention was being requested. He suggested that the Sub-Committee should revisit this issue at its next session.
2. The Delegate of **Japan** in explaining his administration's request for retention of certain HS codes clarified that numerous laws and regulations, e.g., GSP, had been established in **Japan** on the basis of the Harmonized System. Therefore, in his opinion, changes in the HS structure would inevitably complicate the use and the administration of such HS-based systems. He admitted that it would be difficult to explain the reasons for the retention of every HS code.
3. He was also concerned over the fact that in certain cases the trade volume changed sharply from one year to another and a significant rise could be expected in the future for certain commodities.
4. Finally, while expressing his willingness to review the list of HS codes whose retention had been requested, he requested the Sub-Committee to show flexibility with regard to his administration's requests.
5. The **EC** Delegate continued the discussion by explaining the reasons for the **EC**'s request for retention of headings 23.05, 26.11 and 76.11. He pointed out that oil-cake of heading 23.05 was an important and highly sensitive product used in animal feeding. In addition, the deletion of this heading might create certain structural problems in heading 23.06. Where tungsten ores of heading 26.11 were concerned, he indicated that the trade in this commodity was highly regulated in some countries. With regard to heading 76.11, he noted that the trade volume in aluminium containers was much higher than the threshold. He also added that this product was important for developing countries. In this connection, he expressed concern that there were no requests for retention from

OBSERVATIONS OF HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

developing countries and assumed that developing countries were not fully aware of the prospects for the deletion of certain HS codes with a small volume of trade.

6. Referring to the subheading list he indicated that he no longer had any objections with regard to the deletion of subheading 1211.10 previously included in the EC's list for retention.
7. The Delegate of India confirmed that more time was needed to consult the industry and, probably, to come up with a proposal to retain certain HS codes that were of interest to the developing world.
8. At this point the Director emphasised that the main objective of the deletion of headings and subheadings with a small volume of trade was to simplify the Harmonized System. He recalled that many problems could be solved at a national level and urged delegates to carefully consider whether or not the HS codes, whose deletion was proposed, were needed at the international level. He suggested that the Sub-Committee should take another look at the matter and invited administrations to give more specific reasons for retention.
9. In order to address the concerns raised, the EC Delegate offered a pragmatic compromise : (1) those HS codes whose retention was requested by more than one administration should be retained; (2) for headings and subheadings whose retention was requested only because of the need to monitor international trade additional justification should be provided; (3) HS codes whose retention was substantiated for other reasons should be retained.
10. Following this discussion, the Sub-Committee agreed to take a final decision on this matter at its next session. The Secretariat was instructed to amend the list of HS codes to be deleted by not including those codes the retention of which was substantiated by reasons other than solely the need to monitor international trade and also those codes whose retention was requested by more than one administration.

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ANNEX C  
TECHNICAL QUESTIONS

Working Doc. 1	Subject 2	Classification Opinions 3	E.N. amendments 4	Nomenclature amendments 5
NR0394E1 (RSC/27) NR0406E1	Possible deletion of sub-headings 0105.92 and 0105.93 (Proposal by the EC).		See Annex F/1.	See Annex F/1.

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

1. At the request of one delegate, the EC Delegate informed the Sub-Committee that the background for this proposal was that the weight limit in the subheadings at issue (i.e., 2,000 g) had become irrelevant in international trade and therefore no longer applied.
2. On the basis of this explanation, the Sub-Committee unanimously approved the amendments proposed by the EC in the Annex to Doc. NR0406B1, without modification.
3. The texts approved by the Sub-Committee are reproduced in Annex F/1 to this Report.

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1	2	4	5
NR0352E1 NR0398E1 (RSC/27) NR0407E1	Possible amendment of subheading 0406.40 to cover all "blue-veined" and similar cheese.	<u>See Annex F/2.</u>	<u>See Annex F/2.</u>

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

1. Subject to minor editorial amendments, the Sub-Committee approved the text proposed by the **United States** in paragraph 9 to Doc. NR0407E1.
2. The texts approved by the Sub-Committee are reproduced in Annex F/2 to this Report.

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1	2
NR0341E1 (RSC/27) NR0458E1	Possible amendments to the Nomenclature regarding the classification of waffles.

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

After a short exchange of views, the Sub-Committee agreed to maintain the status quo and not to amend subheading 1905.32.

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1	2	5
NR0440E1 NR0441E1	Possible amendments to the Nomenclature with regard to the Rotterdam Convention.	<u>See Annex F/6.</u>

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

1. When introducing this agenda item, the Chairperson reiterated that the comments forwarded by **Argentina**, as set out in Doc. NR0441E1, had already been addressed by the Scientific Sub-Committee at its 18<sup>th</sup> Session (January 2003) and that the possible amendments to the Nomenclature based on the original proposal forwarded by the **EC** and the Interim Secretariat for the Rotterdam Convention had been modified accordingly (see Annex C/11 to Doc. NS0080E3 (SSC/18 – Report)).
2. The Observer for the Interim Secretariat for the Rotterdam Convention stressed that pesticides containing mercury compounds were the only mercury containing goods covered by the Rotterdam Convention. He, therefore, asked the Sub-Committee to include these types of pesticide in the new separate subheading within heading 38.08 which would be dedicated to products covered by the Rotterdam Convention.
3. The Chairperson pointed out that the proposed separate headings/subheadings for goods of Chapters 32, 33, 34 and 38 containing mercury compounds went beyond the scope of the Rotterdam Convention itself. Since the creation of these headings/subheadings had been recommended by the Scientific Sub-Committee, he questioned to what extent the Review Sub-Committee wanted to follow the scope of the Rotterdam Convention in drafting the proposed amendments.
4. After further discussion and recalling that the intention of this exercise was to accommodate the needs of the Rotterdam Convention, the Sub-Committee agreed to keep the proposed amendments as simple as possible and to omit separate headings/subheadings in Chapters 32, 33, 34 and 38 for goods (other than pesticides) containing mercury compounds from the proposed amendments.
5. Furthermore, the Sub-Committee agreed on the inclusion of pesticides containing mercury compounds in the new separate subheading within heading 38.08 created for products covered by the Rotterdam Convention. The text of new Subheading Note 1 to Chapter 38 was modified accordingly. The Sub-Committee also agreed to adjust the code numbering within heading 38.08.
6. In connection with camphechlor (toxaphene), the Observer for the Interim Secretariat for the Rotterdam Convention explained that during the interim period this chemical was subject to the Prior Informed Consent Procedure although it was not listed in the Rotterdam Convention. It was used as a pesticide only and the Rotterdam Convention recognised it as a pesticide. In his view, it was therefore not necessary to create a separate subdivision in heading 38.24 for products containing toxaphene. The Sub-Committee agreed.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

7. Finally, subject to small editorial modifications and the modifications noted above, the Sub-Committee unanimously approved the proposed amendments to the Nomenclature with regard to the Rotterdam Convention.
8. The texts approved are set out in Annex F/6 to this Report.

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1	2
NR0442E1	Possible grouping of all products covered by the Montreal Protocol and the Rotterdam Convention under one heading (Proposal by the Canadian Administration).

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

1. Opening the discussion, the Chairperson explained that the Canadian proposal would group all products covered by the Montreal Protocol and the Rotterdam Convention in one heading of the Nomenclature, whereas the alternative Scientific Sub-Committee approach comprised two separate sets of amendments, i.e., (i) possible amendments to various headings with regard to commodities covered by the Rotterdam Convention (based on the proposal by the EC) and (ii) possible amendments to the structured nomenclature to heading 38.24 regarding mixtures containing ozone layer depleting substances controlled by the Montreal Protocol (proposal by UNEP).
2. The Delegate of Canada explained his administration's approach, which would result in a simplification of the classification of the substances controlled by the Montreal Protocol and the Rotterdam Convention. This would allow administrations to monitor and control the commodities at issue more easily and could be achieved by grouping all products covered by these two international conventions under one heading (proposed new heading 38.26) of the Nomenclature. He explained that, on the basis of the Secretariat's comments in Doc. NR0442E1, his administration had prepared two alternatives to his administration's initial proposal, which had been distributed during the meeting as a non-paper.
3. The EC Delegate, congratulating the Canadian Administration on their innovative proposal, appreciated the attractiveness of the idea of grouping all of the preparations containing controlled substances in a single heading with the separate chemically defined controlled substances. However, he shared the concerns expressed by the Secretariat that this approach would require a substantial rearrangement of the Nomenclature and questioned whether such a reorganisation would really produce the desired results with regard to the collection of statistical data and the monitoring the goods in question. With regard to the term "containing" proposed by Canada in new Note 7 to Chapter 38 he stated that, from a technical point of view, it would be extremely difficult for Customs to determine whether or not a substance had been intentionally left in a preparation or had been added to the preparation. He also expressed some doubts as to whether any mixtures containing substances controlled by both the Montreal Protocol and the Rotterdam Convention really existed on the market. At this stage of the review cycle, he preferred to rely on the technical expertise and recommendations of the Scientific Sub-Committee and, therefore, opted for the two separate sets of amendments, which had already been reviewed by the Scientific Sub-Committee.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

4. Another delegate, while also appreciating the notable amount of work by the **Canadian** Administration, pointed out that the **Canadian** approach contained some very interesting elements. In his view, two key questions merited consideration by the Sub-Committee, i.e., (i) how many transfers of goods would be involved and (ii) whether the creation of a "cluster" heading for monitored product was needed. He considered, however, that the transfers proposed by **Canada** were radical and would entail the movement of products across HS Sections. He, therefore, preferred the two separate sets of amendments, as revised by the Scientific Sub-Committee.
5. He could support the idea that the tables listing the ozone layer depleting substances, as suggested by **Canada**, would be incorporated in the Explanatory Notes. The understanding of the term "containing" could be addressed at a later stage given the fact that some concentration limits for individual chemicals controlled by the Rotterdam Convention might be developed within the framework of the Prior Informed Consent Procedures.
6. The Observer for the Interim Secretariat for the Rotterdam Convention explained that in accordance with Article 13 of the Rotterdam Convention, the Interim Secretariat had contacted the WCO with the aim of assigning HS codes to the individual products covered by the Convention. In the future, once these HS codes had been assigned, all Members of the Convention would be compelled to use them. He further informed the Sub-Committee that 47 of the necessary 50 instruments of ratification had been deposited to date and that it was expected that the Convention would enter into force later this year or at the beginning of next year. He considered that the Member countries of the Rotterdam Convention could accept any system of amendments to the HS Nomenclature which would serve the needs of the Convention, would be easy to apply and administerable by Customs.
7. In connection with the possible overlap between the goods covered by the Rotterdam Convention and the Montreal Protocol, as indicated by **Canada**, he explained that the Rotterdam Convention grouped chemicals in certain categories on the basis of their specific use. For example, mercury compounds were covered by the Rotterdam Convention only when they were used as pesticides. The Montreal Protocol, on the other hand, covered the listed chemicals regardless of their use. He noted, however, that in future there might be an overlap between the goods covered by the Rotterdam Convention and some other international conventions, e.g., the Stockholm Convention on Persistent Organic Pollutants which had been opened for signature last year.
8. Since there was no support for the **Canadian** approach in the Sub-Committee, the **Canadian** proposal was not further pursued and the Sub-Committee agreed to base the amendments to the Nomenclature with regard to the Rotterdam Convention and the mixtures containing ozone layer depleting substances on the two separate proposals submitted by the **EC** and UNEP, respectively (see Annexes C/4 and C/8 to this Report).

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1	2	4	5
NR0409E1	Possible amendment of heading 28.23 with regard to titanium dioxide (Proposal by the EC).	<u>See Annexes F/3 and F/4.</u>	<u>See Annex F/3.</u>

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

1. After the Chairperson had introduced the working document, the EC Delegate explained that the original idea behind the EC proposal was to amend the text of heading 28.23 with a view to clarifying the scope of this heading. However, if the heading text were not amended, creation of a new Note to Chapter 28 would be necessary in order to reach the same objective. Following the preference of the Sub-Committee, he could endorse the Secretariat's proposal to create a new Note 5 to Chapter 28, as set out in Annex I to the working document, and expressed the view that both manufacturing processes for titanium dioxide should be referred to in that Note.
2. He could also support the text proposed by the Secretariat for the amendment of the Explanatory Note to heading 28.23 to be made by corrigendum, as set out in Annex II to the working document. He suggested, however, that the expression "generally transition element oxides" which appeared in brackets should be deleted since it could be difficult to interpret by users not having a detailed knowledge of chemistry.
3. A second delegate referred to the proposed wording of Note 5 to Chapter 28 and was of the view that for the sake of uniformity the two concentration limits should preferably be expressed in the same units of quantity, i.e., percentage by weight.
4. A third delegate, pointing out that the proposal had many technical aspects and details to be considered, suggested that the matter be submitted to the Scientific Sub-Committee for examination.
5. Finally, the Sub-Committee agreed to send the proposed amendments to the Scientific Sub-Committee for response to the following questions :
  - (i) Whether the proposed texts were acceptable from the technical point of view and whether the amendment, if accepted, would require consequential amendments to the Explanatory Notes to headings other than heading 28.23;
  - (ii) Whether new Note 5 to Chapter 28 should refer to particular manufacturing processes for titanium dioxide or whether a reference to manufacturing processes in the Explanatory Notes only would be sufficient;
  - (iii) Whether the proposed concentration limits for additions of inorganic compounds would be acceptable;

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

- (iv) Whether both of the concentration limits could be expressed in terms of a percentage by weight;
  - (v) Whether the texts, as proposed, could be administered by Customs administrations with a view to clarifying the scope of heading 28.23 and enabling a distinction to be made between the products of Chapter 28 and 32.
6. The proposed amendments to the Nomenclature and to the Explanatory Notes, as modified by the Sub-Committee, were placed in square brackets and are set out in Annexes F/3 and F/4 to this Report.

\* \* \*

1	2	4	5
NR0410E1 NR0466E1	Possible amendment of the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the Mexican Administration).	<u>See Annex F/5.</u>	<u>See Annex F/5.</u>

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

1. After a long discussion and taking into account the comments from several administrations reproduced in Annexes I to V to Doc. NR0410E1 and in Doc. NR0466E1, the Sub-Committee was unable to reach agreement on the question whether amendments to the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 with regard to structural analogues of certain types of antibiotics were necessary. Some delegates were in favour of the proposal forwarded by the Mexican Administration while several others preferred the *status quo*. The former group saw the amendments as a means to assure that structural analogues of antibiotics would be classified in a manner consistent with the HSC's decisions on the classification of thiamphenicol and fluorfenicol. The latter group considered that the current legal provisions regarding antibiotics of heading 29.41 provided sufficient basis for uniform interpretation.
  
2. Since the substance of the matter was of a highly technical nature, the Sub-Committee agreed to place the proposed amendments in square brackets and to send them to the Scientific Sub-Committee for response to the following questions :
  - (i) Would the adoption of the amendments proposed by the Mexican Administration ensure greater uniformity in the classification of antibiotics;
  - (ii) If the Mexican proposal were adopted, what transfers of products would occur, considering that there are apparently two different views with regard to the interpretation of the current texts within heading 29.41;
  - (iii) If the Mexican proposal were adopted, would there be a need for any consequential amendments to other parts of the Nomenclature, especially to the texts of subheadings 2941.10, 2941.40, 3003.10 or 3004.10 or to other texts referring to the term "derivatives";
  - (iv) Would it always be possible to identify structural analogues of the products in question; if so, would it be necessary to identify the parent compound of a structural analogue and would that be possible.
  
3. The amendments proposed by the Mexican Administration, placed in square brackets, are set out in Annex F/5 to this Report.

\* \* \*



1	2	5
NR0367E1 (RSC/27) NR0411E1	Possible amendment of the structured nomenclature to heading 38.24 (Proposal by UNEP).	<u>See Annex F/34.</u>

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

1. The Observer for the Ozone Secretariat of UNEP thanked the Sub-Committee for the opportunity to participate in the discussions. He reiterated that UNEP had been in touch with the WCO since 1990 in order to identify chemical substances which depleted the ozone layer (ODS) in the HS Nomenclature. At that time, the dialogue had been concluded by allocating specific HS codes to separate chemically defined ODS listed in the Montreal Protocol. Currently, UNEP was proposing an amendment of the HS Nomenclature with a view to providing specifically for mixtures containing ODS within heading 38.24.
2. In response to the recommendation made by the Scientific Sub-Committee to combine mixtures containing carbon tetrachloride and 1,1,1-trichloroethane in a single subheading, he explained that mixtures containing these chemicals were often used as feedstocks and processing aids. Although the trade in these chemicals was significant, trade data were not properly reported or reflected. The Ozone Secretariat would, therefore, prefer two separate subheadings for mixtures containing these substances within heading 38.24.
3. He further pointed out that substitutes for ODS, such as perhalogenated fluorocarbons (PFCs) and hydrofluorocarbons (HFCs), had become more popular. Since they were not listed in the Montreal Protocol the Ozone Secretariat had no statistical data concerning these substances.
4. Following the intervention of the Observer for the Ozone Secretariat, the Sub-Committee agreed to create separate subheadings for (i) mixtures containing carbon tetrachloride, (ii) mixtures containing 1,1,1-trichloroethane, and (iii) mixtures containing substitutes for the ODS. It also agreed to include a reference to PFCs and HFCs in two other new subheadings.
5. The Sub-Committee took note of the fact that the proposed structure of the two-dash subheadings within subheading 3824.7 would not allow a renumbering without re-using HS code 3824.71. Consequently, the scope of subheading 3824.71 in HS 2007 would differ from that in the HS 2002 edition.
6. Subject to the modifications referred to above, the Sub-Committee approved the proposed amendments.
7. The texts approved are set out in Annex F/34 to this Report.

\* \* \*



1	2
NR0412E1	Possible creation of a new Subheading Note to Chapter 39 with regard to multi-layered sheets of plastics (Proposal by the Canadian Administration).

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

1. Opening the discussion, the Canadian Delegate explained that today, samples of multi-layered sheets of plastics were not uncommon commodities in Customs laboratories. In most cases, their classification at subheading level was governed by application of General Interpretative Rules (GIRs) 2 (b) and 3 (b), i.e., the layer giving the product its essential character had to be determined. To that end, the characteristics, parameters and chemical composition of all of the individual layers forming the multi-layered sheets had to be established, which was not always possible from the technical point of view.
2. The new Subheading Note to Chapter 39 proposed by the Canadian Administration would require only that the proportions of all monomer units in the product as a whole be determined. It would enable a multi-layered sheet of plastics to be treated as a single entity for purposes of chemical analysis, thus simplifying the current situation.
3. Another delegate pointed out that in practice, Customs officers relied on supporting documentation provided by the importer/exporter and it was usually not necessary to send samples of every single shipment to the Customs laboratory. As far as he was aware, multi-layered plastics and combinations of plastics with other materials were manufactured by "secondary" industries which used various types of finished plastic sheets as raw materials for the individual layers and combined them in order to produce multi-layered plastics. Under these circumstances, importers/exporters normally had the technical data and information on the properties and specifications concerning the individual layers in a multi-layered sheet of plastics more easily at their disposal than detailed data regarding all of the monomer units contained in the product. He therefore preferred to maintain the *status quo*.
4. Several other delegates also opted for *status quo*. Since there was no support for the creation of a new Subheading Note to Chapter 39 with regard to multi-layered sheets of plastics, the Sub-Committee agreed not to pursue the Canadian proposal.

\* \* \*



1	2	5
NR0413E1	Possible amendment of the Nomenclature to Chapter 44. (Proposal by the EC)	<u>See Annex F/7.</u>

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

1. The Sub-Committee agreed with many of the proposed amendments. The observations of the Sub-Committee with respect to the individual parts of the proposed amendments are set out below.

Subheading 4407.10

2. Many delegates opposed the idea of inserting a reference to specific kinds of pine, spruce and fir in the text of the two proposed new subheadings. They were of the view that for the sake of consistency with other subheadings of Chapter 44 generic names rather than the names of particular species should be included.
3. The EC Delegate, on the other hand, indicated that based on the information provided by the industry there was sufficient trade mainly in the specific kinds of pine, spruce and fir mentioned in the EC proposal. He further explained that inclusion of a reference to these species would satisfy the needs of the trade world-wide. He urged other delegates to consult their domestic manufacturers and traders in order to obtain more information.
4. The Sub-Committee decided to submit the following two options to the HS Committee for decision : (1) to accept the EC proposal without modification; (2) to amend the text as proposed by the EC, but to include a reference only to generic taxonomic names for pine, spruce and fir.

Subheading 4407.24

5. The US Delegate, while indicating that the volume of trade in mahogany was high enough to create a separate subheading, questioned whether the transfer of virola, imbuia and balsa in the residual subheading was substantiated by the volume of trade. He also sought clarification as to whether these three kinds of tropical wood should be retained for the reason that they were of interest to developing countries.
6. The Delegate of Brazil favoured the *status quo* and requested that a specific provision for virola, imbuia and balsa be maintained in the legal text.
7. The EC Delegate in explaining the rationale behind the proposed amendments indicated that mahogany needed to be separately identified since volumes of trade were large and increasing. But taking account of the request made by the Delegate of Brazil, he suggested that a new subheading 4407.22 be created to provide separately for virola, imbuia and balsa.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

8. The Sub-Committee decided to accept this proposal and to create two new subheadings – 4407.21 - for mahogany and 4407.22 - for virola, imbuia and balsa, taking into account the request from a developing country.

New subheadings 4407.27 and 4407.28

9. The Sub-Committee agreed to insert two new subheadings to provide separately for sapeli and iroko wood. This amendment was substantiated by the needs of developing countries.

New subheadings 4407.93, 4407.94 and 4407.95

10. At the request of the **US** Delegate, taxonomic generic names for maple, cherry and ash were added. Following this suggestion, the proposal was accepted.

Subheadings 4410.2 to 4410.90

11. The **EC** proposal was accepted by the Sub-Committee, subject to a modification with respect to the numbering of the subheadings.

Subheadings 4411.1 to 4411.99

12. The proposal of the Secretariat was supported by the Sub-Committee.

13. The **US** Delegate favoured further simplification of the heading structure and suggested that the two-dash subheadings for MDF (subheadings 4411.12 through 4411.19) be dropped, since, in his view, MDF was a rapidly changing technology and thickness criteria might become obsolete in the near future. He also sought clarification as to the distinction between the three types of MDF separately identified in the proposed text.

14. The **EC** Delegate explained that the three types of MDF were those currently manufactured and traded. He indicated that he would make every effort to provide supplementary information with regard to the nature and the use of each type of MDF mentioned in the proposal.

15. It was decided to place subheadings 4411.12 to 4411.14 in square brackets and to leave it to the Harmonized System Committee to decide. The other proposed subheadings were accepted.

Subheadings 4412.2 to 4412.99

16. The Sub-Committee agreed to amend present subheadings 4412.2 to 4412.99 as proposed by the **EC**.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Heading 44.18. Heading text

17. Concern was expressed by the **US** Delegate that the proposed text included a reference to "solid wood panels" - a brand new product having no specific meaning to Customs officers. He suggested that this reference be removed from the text.
18. The **EC** Delegate clarified the **EC**'s proposal indicating that the intention was not to broaden, but rather to clarify the scope of the heading. He, therefore, preferred to keep this reference in the heading text.
19. It was decided to place square brackets around the proposed new expression "solid wood panels" in the text of heading 44.18, pending further discussions at the Sub-Committee's next session.

Subheading 4418.30

20. The Sub-Committee amended the text of the proposal by inserting, in square brackets, a reference to subheading 4418.30 that would be deleted once the proposed amendments to heading 44.21 with regard to parquet flooring were accepted.

New subheading 4418.60

21. Several delegates sought clarification with respect to the precise meaning of the term "composite posts". Following the clarification given by the **EC** Delegate the Sub-Committee decided to delete "composite" from the proposed text and, subject to this modification, to accept the proposal.

Heading 44.21 and subheadings 4421.10 and 4421.90

22. The **US** Delegate expressed doubts as to the appropriateness of the proposed amendments. He pointed out that present heading 44.18 covered similar kinds of merchandise. In his view, headings should be created to provide for generic categories of products and, given that parquet was currently covered by heading 44.18, there was no need to create a separate heading for this merchandise, even though there was substantial trade in this commodity. He further indicated that parquet panels had been largely replaced by other products, which were more durable and less expensive. He also expressed doubts as to the possible transfer of products. Finally, he noted that adoption of this proposal would force Customs officials to distinguish between strips and friezes for parquet flooring and other strips and friezes; such a distinction was not necessary under present heading 44.09. For these reasons, he saw no point in creating a separate heading for such products.
23. The **EC** Delegate, on the other hand, observed that the aim of the **EC**'s proposal was to regroup products that were currently included in several different headings of Chapter 44. In his view, this would be beneficial for the industry and the trade since this would modernise the legal text and would reflect the current situation in the industry. He also stressed that parquet was a highly traded product and the proposed new heading would cover a specific

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

niche of the market. He urged other delegates to consult their domestic industries with respect to this part of the proposal.

24. After further discussion the Sub-Committee agreed to place the proposed amendments with regard to heading 44.21 and subheadings 4421.10 and 4421.90, as well as the amendments to Note 3 to Chapter 44 and to headings 44.09 and 44.18 in square brackets and to submit this matter for decision to the Harmonized System Committee.
25. The text approved by the Sub-Committee and those placed in square brackets are set out in Annex F/7 to this Report.

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1	2	4
NR0443E1	Possible amendment of the Explanatory Note to heading 44.11.	<u>See Annex F/8.</u>

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

1. In opening the discussion of this agenda item the **EC** Delegate expressed support for the alternative proposal by the Secretariat since it appeared to be more transparent and didactic. He explained that the aim of his administration's proposal was to modernise the current legal text since, according to the industry, the current structure of heading 44.11 was outdated. In addition, he pointed out that the proposed amendments to the Explanatory Notes took account of the 2007 amendments to the Nomenclature. He, however, observed, that the expression "thermosetting phenolic resins" was too restrictive and, therefore, favoured the insertion of a more general expression "thermosetting synthetic resins" in the text.
2. The **US** Delegate observed that the **EC** proposal was more appropriate, taking into account the current structure of heading 44.11, where no distinction was made for products manufactured in the "wet production process" on the one hand and in the "dry production process" on the other. Such a distinction, in his opinion, could be introduced once the HS 2007 version came into force.
3. He concluded by noting that the entire text of the Explanatory Notes to Chapter 44 would have to be brought into conformity with the HS 2007 Nomenclature.
4. In order to address the concerns raised by the **EC** Delegate regarding the term "thermosetting phenolic resins" the ICC Observer clarified that the term "thermosetting" included both phenolic and synthetic resins and favoured the insertion of a reference to this broad category of resins in the text.
5. After further discussion the Sub-Committee agreed to accept the alternative proposal by the Secretariat subject to certain modifications in the first sentence of part (B) which was redrafted to read as follows : "This group includes, in particular, **medium density fibreboard (MDF)**, which is manufactured in a process in which additional thermosetting resins are added to the dried wood fibres in order to assist the bonding process in the press".
6. The texts approved by the Sub-Committee are reproduced in Annex F/8 to this Report.

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1	2	5
NR0444E1 NR0456E1	Possible amendment of the definition of newsprint. (Proposal by the Indian Administration)	<u>See Annex F/20.</u>

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

1. At the outset of the discussion of this agenda item the Chairperson informed the Sub-Committee that no proposal had been submitted by an administration to the Secretariat so far with respect to this issue.
2. The Delegate of India then briefly summarised his administration's major concerns with regard to the current text of Note 4, which stipulates that not less than 65 % of the total fibre content of newsprint must consist of wood fibres obtained by a mechanical or chemi-mechanical process. He informed the Sub-Committee that this provision created difficulties since the content of such fibres in newsprint obtained from de-inked pulp varied from one stock to another depending on the composition of waste paper initially subjected to de-inking. He concurred with the proposal by the Secretariat to amend Note 4 to Chapter 48 to include all newsprint in heading 48.01 regardless of the content of wood fibres obtained by a mechanical or chemi-mechanical process. It was his view that such an amendment would give no unintended benefit to anybody.
3. The ICC Observer continued the discussion by stressing that this was an environmental issue. In his opinion, the possibility of importing or exporting newsprint as writing paper was negligible for economic reasons. He offered another solution to the problem by reducing the 65 % threshold to 45 or 50 %. He further clarified that all kinds of newsprint would then satisfy this threshold and, consequently, all newsprint would fall in heading 48.01.
4. The EC Delegate emphasised that this was a highly sensitive matter since trade in newsprint was regulated on the basis of various international agreements. In order to address the problem he suggested that either the Explanatory Notes to Chapter 48 be amended to stipulate that newsprint could be obtained from used newspapers and magazines or Note 4 to Chapter 48 be amended to include a reference to re-cycled fibres classified in subheading 4706.20. In the latter case the expression "wood fibres obtained by a mechanical or chemi-mechanical process" in Note 4 could be amended to read "re-cycled fibres or wood fibres obtained by a mechanical or chemi-mechanical process".
5. Several delegates indicated that further consultations with the industry were needed since this new proposal had been made from the floor. One delegate wondered whether or not the proposed amendments would result in a transfer of products. It was also indicated that relevant trade statistics would be desirable.
6. The ICC Observer agreed with the proposed amendment to Note 4 since, in his view, amending the Explanatory Note would not solve the problem. He added that he would provide the Harmonized System Committee with the necessary trade statistics.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

7. After further discussion some delegates were in favour of revisiting the issue at the next session of the Sub-Committee. Other delegates suggested that the issue be submitted for decision to the Harmonized System Committee at its 32<sup>nd</sup> Session.
8. Finally, it was decided that during the examination of the Sub-Committee's Report by the Harmonized System Committee the Committee should look into this matter and, if possible, take a decision, provided the Committee deemed it appropriate.
9. The draft amendment to Note 4 to Chapter 48 that was proposed during the meeting is set out in Annex F/20 to this Report.

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1	2	5
NR0414E1	Revision of Chapters 54 and 55 (Proposal by the EC).	<u>See Annex F/9.</u>

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

1. At the request of the Delegates of the United States, Japan and Switzerland, which had expressed a desire to maintain the *status quo* because of the relatively high and ever growing volume of trade in the products covered by subheadings 5402.51 to 5402.69, the Sub-Committee decided not to delete these subheadings.
2. Subject to the above, the Sub-Committee approved the other amendments proposed by the EC in the Annex to Doc. NR0414E1, on the basis of the Secretariat's alternative proposals for new subheadings 5402.44 to 5402.49 and 5404.11 to 5404.19, provided that there only be one reference to "other" in subheading 5402.47.
3. The texts approved by the Sub-Committee are set out in Annex F/9 to this Report.

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1	2	4	5
NR0415E1	Possible amendment of the Nomenclature and the Explanatory Note to heading 61.15 (Proposal by the EC).	<u>See Annex F/10.</u>	<u>See Annex F/10.</u>

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

1. The Sub-Committee agreed that the proposal by the EC to amend the text of heading 61.15 to include a reference to compression hosiery was not intended to broaden the scope of the heading and would not entail any transfer of goods.
2. The principal problem was with the 6-digit subheading and the Explanatory Note, with respect to which the US Delegate expressed concerns as to the name and description of the product.
3. The EC Delegate expressed a preference for using numerical standards to distinguish the compression hosiery of the proposed new subheading from other, traditional hosiery and from orthopaedic hosiery, classifiable elsewhere, whereas the US Delegate desired a more precise description of these products in the heading and subheading texts as well as in the Explanatory Note.
4. The US Delegate also pointed out that numerical standards differed from country to country, and proposed that the scope of the new subheading be clarified by adding the word "graduated" to describe this compression hosiery, and including a description of the products concerned in the Explanatory Note, without numerical criteria.
5. The Sub-Committee finally decided to leave the entire text in square brackets for re-examination at its next session, on the basis of the above comments and in the light of any additional proposals put forward by administrations.
6. The texts, in square brackets, are reproduced at Annex F/10 to this Report.

\* \* \*



1	2	4	5
NR0445E1	Possible creation of a new heading for all vacuum cleaners.	<u>See Annex F/11.</u>	<u>See Annex F/11.</u>

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

1. The Chairperson opened the discussion by drawing attention to the two questions posed in paragraph 16 of Doc. NR0445E1 which concerned, firstly, the validity of the distinguishing criteria for vacuum cleaners with self-contained electric motor, and secondly the amendments to be made to the Explanatory Notes and the legal text.
2. A delegate then took the floor to support the proposal that all vacuum cleaners be grouped together in a single heading, with no distinction being made at subheading level with regard to their use. However, he proposed that the draft be amended in order to :
  - (1) exclude apparatus of the vacuum cleaner type used in medicine or surgery, which would generally fall in Chapter 90; and
  - (2) raise the power ceiling for the vacuum cleaners of new subheading 8508.11 from 1200 W to 1500 W.
3. Another delegate referred to the need for the Sub-Committee to reach a decision on how to deal with the classification of goods which could be used either for domestic purposes or for industrial or professional purposes. In his view, for goods of this kind a distinction based on international standards should not appear in the legal text, as these standards had to be adapted regularly to keep pace with technological developments. He therefore recommended that this distinction be established in the Explanatory Notes.
4. Other delegates disagreed, arguing that a distinction of this kind should be established at the level of the legal texts for greater legal certainty, even if the criteria to be taken into consideration were liable to change.
5. After some discussion, the Sub-Committee agreed to the idea of establishing a new heading for vacuum cleaners, and made the following changes to the text drafted by the Secretariat :
  - (1) creation of a new Note 1 (c) to Chapter 85, to exclude vacuum apparatus of a kind used for medical, surgical, dental or veterinary purposes, which would remain classified in Chapter 90;
  - (2) deletion of the words "of all kinds" from the text of heading 85.08;
  - (3) maintenance, for vacuum cleaners with self-contained electric motor, of a distinction based on precise criteria, for which the Sub-Committee would seek the views of the Harmonized System Committee and the industry.
6. This was necessary because there were mixed views about the relevance of the criteria suggested by the Secretariat, although the Sub-Committee did agree to dispense

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

with the vacuum pressure criterion on the grounds that it was liable to cause confusion. Some delegates considered that there was no point in distinguishing between the different vacuum cleaners with self-contained electric motor, and therefore no criteria were needed. Others, however, considered this distinction to be necessary if it was based on precise criteria related, for example, to the power of the motor (the ceiling for which should, however, be increased from 1200 W to 1500 W) and the volume or capacity of the dustbag or other receptacle.

7. At the end of the discussion the Sub-Committee provisionally approved the draft text prepared by the Secretariat, placing new subheadings 8508.11 and 8508.19 in square brackets for decision at the next session, in the light of the views to be expressed by the Harmonized System Committee. The Secretariat was instructed to prepare a new document, which would reflect the fact that, among those delegations supporting new subheadings 8508.11 and 8508.19, there was a consensus to raise the ceiling for the power of the motor and to refer to the volume or capacity of the dustbag or other receptacle.
8. As for the Explanatory Notes, the Sub-Committee agreed to delete the sixth paragraph of the draft prepared by the Secretariat, it having been recognised that vacuum apparatus of a kind used for medical, surgical, dental or veterinary purposes generally fell to be classified in Chapter 90 by application of proposed new Note 1 (c) to Chapter 85. The remainder of the draft Explanatory Note was also placed in square brackets for examination at the next session, on the basis of whatever opinions the Committee might express about the draft legal texts.

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1	2	4
NR0416E1	Possible amendments to headings 85.35 and 85.36 (Proposal by the EC).	<u>See Annex F/12.</u>

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

1. The EC Delegate began the discussion of this agenda item by explaining that the EC proposal was aimed at grouping all “optical” connectors not currently classified in heading 85.36 (e.g., those classified in heading 90.01 or 85.44) in heading 85.36. Transceivers and repeaters for optical cables were not intended to be covered by the proposed wording. It was then suggested that exclusion notes to this effect should be drafted.
2. One delegate was concerned that the lack of a legal Note explaining the scope of “connectors for optical fibres, optical fibre bundles or cables” would lead to the misclassification of merchandise that performed functions beyond the “simple” connection of optical fibres, etc., for example, goods that connect optical fibres and also refresh optical signals.
3. A legal Note would ensure that the classification of goods to be classified in the proposed heading and subheading would be limited to simple connectors, that is, connectors that mechanically align optical fibres end-to-end, and perform no other function. Adoption of such a legal Note would be a necessary prerequisite to the adoption of the new text. Another delegate supported this position.
4. Concern was also expressed as to whether connectors for optical fibre bundles or optical fibre cables existed. After some discussion on this point, it was suggested that the ICC be contacted to assist in clarifying this point.
5. The Sub-Committee then agreed to the Director’s suggested amendment for the heading text which was placed in square brackets. Consequential amendments were made to the text of subheading 8536.70 and Note 1 (h) to Chapter 90. The Sub-Committee then agreed to forward the texts in square brackets to the Harmonized System Committee for examination. The Sub-Committee also requested that the delegation referred to in paragraph 2, above, submit a text for a possible legal Note for the Committee’s consideration at the same time.
6. The text under consideration is set out in Annex F/12 to this Report.

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1	2	5
NR0417E1 NR0468E1	Possible creation of a new heading for semiconductor and flat panel display manufacturing equipment (Proposals by the <b>US</b> Administration and the <b>EC</b> ).	<u>See Annex F/40.</u>

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

1. Introducing the document, the Chairperson suggested dealing with the proposed heading first, followed by the structured nomenclature and the proposed new Note 9. The Sub-Committee agreed to that approach.

**New heading 84.86**

2. The Sub-Committee agreed to use the Secretariat's proposal as the basis for its discussions.
3. The **US** Delegate, while referring to his administration's proposal for new Note 9 to Chapter 84, suggested inserting a reference to "parts and accessories" in the heading text, as specified in the **Canadian** proposal. He explained that new heading 84.86 would also cover equipment currently classified in heading 84.56 to 84.65, the parts and accessories of the machines of these headings being classified in heading 84.66. Consequently, parts and accessories of the equipment transferred from these headings to new heading 84.86 should also be transferred to that heading. The Sub-Committee agreed to discuss this issue at a later stage and to place this part of the heading text in square brackets.
4. The **Canadian** Delegate reiterated his administration's proposal to refer to "repair" in the heading and subheading texts, since the terms "manufacturing" and "repair" were regarded as distinct. The Sub-Committee decided to place "repair" in square brackets pending further discussion in the forthcoming Working Group.

**Structured Nomenclature**

5. A number of delegates preferred a simple structure rather than a detailed one as suggested by the **United States** and could, therefore, accept the one suggested by the Secretariat in Doc. NR0417B1. The **US** Delegate, however, indicated that his administration's proposal simply reflected the transposed subheadings currently existing in the Harmonized System in Chapters 84, 85 and 90. He further indicated that since these six-digit subheadings had not been marked for deletion as low trade items, they should be maintained within the new heading.
6. Another delegate pointed out that in some trade segments there were only a few producers, who might not wish to have their trade data exposed. Moreover, the machines at issue were often presented as complete systems, hence difficulties might arise with respect to their classification if the detailed structure were to be adopted. Consequently, he was not in favour of the structure proposed by the **United States**. This view was supported by other delegates.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

7. Some delegates also pointed out that the equipment specified in the **US** proposal, might be covered by two or more of the subheadings as suggested by the Secretariat. The **US** Delegate indicated that he would look into this issue and that he might come back to this point during the forthcoming Working Group, during which the proposed new heading would be further discussed.

**New Note 9**

8. With respect to the question of where to place the proposed new Note, the Sub-Committee agreed to place it at Chapter level, if such a Note was needed.
9. The **EC** Delegate, while expressing support for the Secretariat's proposal, indicated that it would be necessary to stipulate in the Note itself that classification in heading 84.86 should have priority. The **EC** proposal with respect to this Note could, therefore, be deleted. At the same time, he felt that the Note proposed by the **United States** was too detailed and might be too restrictive.
10. The **Canadian** Delegate requested that his administration's proposal set out in Doc. NR0468E1 be placed in square brackets in the Report, thus giving delegates more time to reflect on it. He also noted that, given the preference of a number of delegates for a simple structure for the subheadings, the **United States** might reconsider its proposal since it was apparently based on the structured nomenclature.
11. The **Canadian** Delegate noted that while **Canada** agreed the products to be captured in the proposed heading were dedicated to the production of semiconductors and flat panel displays, that heading may be perceived as a "use" oriented provision and thereby set a precedent for future Nomenclature proposals. However, he further noted that this was neither a reason to support or oppose the proposal, simply something of which the Sub-Committee should take note.
12. The Sub-Committee agreed to place the three proposals in square brackets, pending further discussion in the Working Group.
13. The proposal, which will be further discussed at the Review Sub-Committee's Working Group in October, was placed in square brackets and is reproduced in Annex F/40 to this Report.

\* \* \*

1	2	5
NR0418E1	Possible amendments to the structured nomenclature to heading 90.30.	<u>See Annex F/13.</u>

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

1. The **US** Delegate began the discussion of this agenda item by explaining that the purpose of the **US** proposal was to eliminate the recording distinction for measuring apparatus. The reason for this request was that the industry's interest in separate trade data for self-recording apparatus had declined as more and more of these apparatus were manufactured with the ability to send digital or analogue signals to central monitoring and recording stations. The current subheadings for self-recording apparatus did not include the important, growing class of devices that are part of a system that records measurements over time.
2. While still being in favour of removing subheading 9030.83, the **US** Delegate indicated that if the Sub-Committee could not reach a consensus to do so, his administration offered the following in the nature of a compromise. Subheadings 9030.31 and 9030.39 covered apparatus for measuring voltage, current, resistance or power, that do not have a self-recording capability. Apparatus of this type that are equipped for internal recording are classified in subheading 9030.83, a residual subheading that includes many kinds of measuring apparatus with self-recording ability. Consequently, the Harmonized System does not provide aggregate information on all apparatus for measuring voltage, current, resistance or power. His administration proposed to include in subheadings 9030.31 and 9030.39 any apparatus for measuring voltage, current, resistance or power that has self-recording ability. This could be done by removing the text, “, without a recording ability” from subheading 9030.3. The remaining text would read :
 

“- Other instruments and apparatus, for measuring or checking voltage, current, resistance or power :”.
3. In his administration's view, this modification would involve the transfer of some self-recording apparatus from subheading 9030.83 to the subheadings of 9030.3. Current subheading 9030.83 encompasses a wide range of measuring and checking apparatus and its scope would be decreased only slightly by this action. As a consequence of this, he recommended changing the subheading number from 9030.83 to 9030.84 to reflect this slight change in scope.
4. The Secretariat's proposal in paragraph 5 of Doc. NR0418E1 did not, in his opinion, resolve the problem. It still maintained the requirement to distinguish between apparatus which recorded and apparatus which did not and merely moved the decision down to the two dash subheading level.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

5. The **US** position was supported by one delegate who informed the Sub-Committee that it was the measurement function which was important because the recording function was not the reason for which the goods were traded. He felt that, in the future, as the use of remote storage increased, the maintenance of the distinction between apparatus which recorded and apparatus which did not, might cause problems. He concluded that if the **US** proposal in paragraph 13 of Doc. NR0418E1 was not accepted, then his administration could accept the Secretariat's text in paragraph 5 since, at least, all multimeters would then be classified in a single heading.
6. One delegate expressed the opinion that it was not desirable to delete subheading 9030.83 because the trade volumes warranted its retention. In support of this point, he referred to the Annex to Doc. NRO290E1, wherein statistics from both the European Community and UNSD reflected the huge and ever-increasing volume of trade in this subheading. Furthermore, 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 data. He stated that it was not difficult to distinguish between the two. Finally, he indicated that maintaining subheadings 9030.3 and 9030.83 was important for developing countries.
7. The **ICC** Observer noted that the **US** proposal had originated from industry and was intended to simplify the structured nomenclature. He indicated that the distinction between measuring and checking apparatus with a self-contained recording device and apparatus without such a device was no longer important to the trade. While agreeing that the Secretariat's proposal would improve the presentation of the structured nomenclature, it did not respond to the trade's needs because the recording distinction would be retained.
8. The Delegate of **India** confirmed that his administration would prefer that the distinction between apparatus which recorded and those which did not be maintained, as this distinction was important for developing countries.
9. The Sub-Committee concluded the discussion on this agenda item by agreeing to send to the Harmonized System Committee, in square brackets, the Secretariat's compromise text in paragraph 5 and the **US** proposal in paragraph 13, both found in Doc. NR0418E1, as well as the option of maintaining the status quo.
10. The Secretariat and **US** texts are set out in Annex F/13 to this Report.

\* \* \*

1	2	5
NR0419E1	Possible creation of a new Note 4 to Chapter 95 (Proposal by the <b>US</b> Administration).	<u>See Annex F/14.</u>

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

1. The **US** Delegate recalled that the proposed new Note comprised three paragraphs, each dealing with a specific situation, namely : (1) articles which are identifiable as toys because of their size or limited capacity; (2) sets of instructional toys which are classified as toys even if they consist of articles which, by their nature or given the size of their components, or given the specific combination in which they are presented, are not toys, and (3) toys which are sold with a promotional article of low value, and which cannot be classified as sets put up for retail sale within the meaning of GIR 3(b).
2. The **EC** Delegate considered that new Note 4 should consist only of paragraph (c) of the proposed text, subject to improvements in the drafting of that paragraph. There was no need for paragraphs (a) and (b), given that they merely restated points which were already made clear in both GIR 3(b) and the Explanatory Notes. He went on to suggest that the two language versions of the last paragraph of the existing Explanatory Note to heading 95.03 (on page 1914) be aligned. In his view the French text was more comprehensive than the English, and the alignment of the English text on the French could solve the problem.
3. Another delegate considered that as the decisive factors in paragraph (a) were the size and the limited capacity of the articles, a compromise solution might be to delete the words "as toys" and to insert, after "limited capacity", the phrase "as being clearly intended for use as toys". Other delegates expressed their support for this approach.
4. Although there was a degree of agreement about the scope of the products referred to in paragraph (c) of the proposed new Note, the delegates agreed to delete the examples in square brackets at the end of the paragraph. They questioned the appropriateness of the examples to illustrate this Note.
5. As there were still divided opinions with regard to the adoption of paragraphs (a) and (b), the Sub-Committee agreed that paragraph (a) (amended during the session) and the whole of paragraph (b) should remain in square brackets, for consideration by the Committee. The draft proposed for paragraph (c) was approved, subject to the deletion of the examples in square brackets.
6. Finally, a delegate suggested that if the Committee did not maintain paragraphs (a) and (b) in the draft text under examination, it would be logical to replace the term "*inter alia*" in the introductory phrase by "also".

Annex C/19 to Doc. NR0470E3  
(RSC/28/Sept. 2003)

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

7. The texts approved, and those placed in square brackets, are reproduced in Annex F/14 to this Report.

\* \* \*

1	2	5
NR0420E1	Possible amendment of Note 5 to Section XVI (Secretariat proposal).	<u>See Annex F/42.</u>

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

1. Opening the discussion, the **Canadian** Delegate stated that he could accept the inclusion of references to Chapters 90, 91 and 95 in a revised Note 5 to Section XVI, as set out in the Secretariat's proposal. The **EC** Delegate, while indicating that the Secretariat's proposal was acceptable, wondered whether conforming amendments should be made in Chapters 90, 91 and 95 as well. In this respect he also requested that the initial **EC** proposal be reproduced in the Report, since the Secretariat's proposal was only part of the overall **EC** proposal.
2. The **US** Delegate, supported by the **Japanese** Delegate, expressed his administration's misgivings vis-à-vis the principle involved in the proposed amendment, since there had been no explanations given as to what the underlying problem was or what the possible consequences were.
3. The Sub-Committee agreed to send this item to the Working Group meeting in October, placing the **EC** and Secretariat proposals in square brackets.
4. The proposals placed in square brackets are reproduced in Annex F/42 to this Report.

\* \* \*



1	2
NR0421E1 NR0461E1	Possible amendment of Note 5 to Chapter 84 (Secretariat proposal).
NR0422E1 NR0461E1	Possible amendment of Note 5 to Chapter 85 (Secretariat proposal).

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

Due to lack of time, the Sub-Committee did not discuss these items. They will be discussed at the forthcoming session of the Sub-Committee's Working Group in October 2003.

\* \* \*



1	2	5
NR0423E1	Possible combination of headings 85.19 and 85.20 (Secretariat proposal).	<u>See Annexes F/41 and F/43.</u>
NR0424E1	Possible combination of headings 85.23 and 85.24 (Secretariat proposal).	

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

1. The Sub-Committee undertook a discussion concerning the methodology by which to move forward with regard to these proposals. After some discussion, it was decided to examine only the Informal Group's draft texts and to forward those texts to the Working Group of the Review Sub-Committee as the basis for future discussions. Any administration having specific concerns and wishing to add anything to those texts was invited to do so.
2. In response to a question concerning the origins of the proposals to combine these headings, one delegate from the Informal Group informed the Sub-Committee that these proposals had come out of the examination of the **EC** and **Japan** omnibus proposals. In reviewing these proposals, it had become evident that there was a consensus to combine these headings and the Secretariat had been requested to draft such proposals. In examining the Secretariat's text, the Informal Group had merely reorganised them and, in the end, was able to agree on even simpler texts.
3. With specific reference to the proposal to combine headings 85.19 and 85.20, one delegate from the Informal Group indicated that there had been a suggestion within the Group to combine subheadings .53 and .59 and noted that industry would have to be consulted on this idea.
4. With respect to the proposal to combine headings 85.23 and 85.24, one delegate from the Informal Group drew the attention of the Sub-Committee to the fact that the square brackets within the text were not meant to signify disagreement with the proposal but, rather, that additional thought needed to be given to choosing the best method of formulating the text.
5. The Sub-Committee concluded its discussion on these agenda items by agreeing to use the texts drafted by the Informal Group as a basis and to forward these texts to the Working Group of the Review Sub-Committee for its meeting at the end of October 2003.
6. The Informal Group's texts are set out in Annexes F/41 and F/43 to this Report.

\* \* \*



1	2
NR0425E1	Comprehensive review of the provisionally approved amendments to headings 84.43, 84.69, 85.19, 85.20 and 85.28.

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

1. The Chairperson first drew the attention of the Review Sub-Committee to the provisionally approved amendments to headings 84.43, 84.69, 85.19 and 85.20. He then invited delegates to indicate their views regarding the proposed amendment of the structured nomenclature to heading 85.28, which was found in square brackets in Doc. NR0425E1.
2. The **EC** Delegate indicated his preference to discuss this issue at the same time as the question of the proposals with respect to monitors and reception apparatus for televisions. As the latter issue was to be discussed at the end of October in the Working Group of the Review Sub-Committee, he felt that it was appropriate to await the developments on that issue before continuing the discussion on these three subdivisions. He indicated his concern that the same understanding of the terms “monitors” and “displays” should apply throughout the Nomenclature. Furthermore, he had concerns regarding the meaning of the expression “not designed to incorporate” in proposed subheading 8528.11. In light of this, he was not prepared to take a decision on the text at this session and requested that a decision be put off until the March session of the RSC.
3. Several other delegates indicated that they felt that the language of proposed subheading 8528.11 had been carefully developed after much discussion in previous sessions, in an effort to accommodate questions raised by the **Egyptian** Administration. They felt that the text had already been agreed upon by the Sub-Committee.
4. While there were differing views in the Sub-Committee on whether or not to discuss the matter at this session, the Sub-Committee agreed to finally consider the text at its next session in March 2004.

\* \* \*



1	2
NR0462E1	Possible amendment of subheading 8525.40 (Proposal by the <b>US</b> ).

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

Due to lack of time, the Sub-Committee did not discuss this item. It will be discussed at the forthcoming session of the Sub-Committee's Working Group in October 2003.

\* \* \*



ANNEX D  
NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0446E1	Alignment of the texts of subheading 0210.11 (Proposal by the Norwegian Administration).			

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

1. The Delegate of Norway informed the Sub-Committee that this proposal stemmed from the difficulties her administration had encountered in classifying certain dried hams. In these hams the original bones had been taken out and replaced by considerably smaller bones. To her mind, such hams could be classified in subheading 0210.11 by application of the English text of that subheading ("with bone in"), while the corresponding French text ("non désossés") would not cover the same product. She was therefore of the view that these texts needed to be aligned, preferably by aligning the English text on the French text. She also informed the Sub-Committee that from the year 2004 the Norwegian Customs Administration would use the French text as a basis, when translating the subheading texts at issue into Norwegian. Finally, she informed the Sub-Committee that her administration, as an alternative solution, could accept an amendment to the Explanatory Notes to Chapter 2.
2. Several delegates expressed their sympathy for the Norwegian proposal. However, since these countries had not experienced the same problems as Norway, they saw no justification for changing the subheading texts at issue. They pointed out that the expression "with bone in" was used widely in trade, and that their administrations had not experienced the same problems as the Norwegian Administration.
3. As an alternative solution, on the basis of a proposal from one delegate, the Sub-Committee agreed that the situation should be clarified in the Explanatory Notes. Accordingly, the Secretariat was instructed to prepare draft amendments to the Explanatory Notes to Chapter 2 to be examined by the Harmonized System Committee at its next session in November 2003.

\* \* \*



1	2	5
NR0447E1	Possible amendment of Note 4 (c) to Chapter 30 (Proposal by the EC).	<u>See Annex F/15.</u>

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

1. Opening the discussion, the EC Delegate explained that the intention of the EC's proposal was to broaden the scope of heading 30.06, which would involve a transfer of products from several headings of the Nomenclature. He stressed that the products at issue were sterile anti-adhesive mesh made of various materials, whether or not absorbable, which were used in surgery as barriers to separate human or animal tissues and to prevent their sticking together, thus avoiding adhesion after an operation.
2. Currently, these products were classified on the basis of their constituent material. Taking into account their specific characteristics, the question whether they should be classified in heading 30.06 in the future merited consideration. In the view of the EC, it was not necessary to create a separate subheading in heading 30.06 for these products; they could be added to subheading 3006.10.
3. The EC Delegate agreed with the Secretariat's view that the expression "sterile absorbable haemostatic products used for surgical or dental purposes" in the first part of proposed Note 4 (c) to Chapter 30 was synonymous with the existing text of this Note. He was therefore flexible as to whether this expression should be used in new Note 4 (c) or whether the existing text should be maintained.
4. Furthermore, he agreed that the "sterile absorbable surgical or dental yarns" referred to in the EC's proposal could belong to the group of products covered by current Note 4 (a) to Chapter 30. The expression proposed by the EC, however, was more specific since it stressed that the products were "sterile" and "absorbable".
5. A second delegate felt that there might be some difficulties in applying proposed Note 4 (c) to Chapter 30 since, in his view, it (i) concerned textile articles and (ii) was based on end-use criteria. The EC Delegate and the Chairperson reiterated that the concept of proposed Note 4 (c) to Chapter 30 was similar to that of current Note 4 (a) and that heading 30.06 already covered various articles made of textiles, presented for medicinal purposes.
6. A third delegate suggested that the view of the HS Committee might be sought with respect to the classification of the products at issue, before the Sub-Committee should proceed with the proposed amendments. It was the common practice of the Sub-Committee to take account of all consequences vis-à-vis possible product transfers before a proposed amendment was accepted.
7. In order to avoid a possible misunderstanding, the Director suggested the simplification of the proposed text of Note 4 (c) to the extent possible and the use of the current text of this

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Note in the first part of the new wording. He saw no problem in amending Note 4 (a) for clarification purposes by adding the expression "including sterile absorbable surgical or dental yarns" to the current text of the Note. The only substantial amendment of Note 4 (c) would be the addition of the expression "sterile surgical or dental adhesion barriers, whether or not absorbable". He felt that this simplified text could serve as a basis for further discussion. In the meantime, the Secretariat could study the possible transfers related to the proposed amendment.

8. The EC Delegate agreed with the simplification proposed by the Director and suggested that the substance of the omitted part of the original EC's proposal could be inserted in the corresponding Explanatory Notes. He further pointed out that the possible classifications indicated by the EC in the working document were intended to show the great diversity of the products at issue and could serve as a basis for the identification of possible product transfers resulting from the proposed amendment. He invited all administrations to consult their respective pharmaceutical and medical industries, in order to obtain more information about these products and to have a better idea as to where they were classified and how the industry felt about their future classification.
9. Finally, the Sub-Committee agreed to place the proposed texts, as modified during the discussion, in square brackets. It also agreed that it would continue the discussion of this issue at its next session taking into account the outcome of the consultations with industry. The Secretariat was instructed to prepare a conforming amendment to subheading 3006.10 and cross-reference tables indicating possible product transfers resulting from the proposed amendments.
10. The texts placed in square brackets are set out in Annex F/15 to this Report.

\* \* \*

1	2	4	5
NR0426E1	Possible amendment of the structured nomenclature and Explanatory Note to heading 39.07 regarding poly(lactic acid) (Proposal by the US Administration).	<u>See Annex F/16.</u>	<u>See Annex F/16.</u>

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

1. There was agreement among the delegates of the Sub-Committee that poly(lactic acid) represented a new product class with a significant volume of trade which was expected to grow in the future. Consequently, they could accept the creation of a separate new subheading for this commodity.
2. With regard to the wording of the new subheading proposed by the US Administration, several delegates shared the concerns of the Secretariat reproduced in paragraph 13 of the working document. The Sub-Committee felt that the proposed wording of the new subheading should only use the IUPAC chemical name "poly(lactic acid)" and agreed not to refer to the alternative name "polylactide" in the subheading text.
3. One delegate supported the opinion of the Secretariat that poly(lactic acid) was classifiable in heading 39.07 (subheading 3907.99) of the current Nomenclature. In addition, he suggested that, due to the technical nature of the issue, the proposed amendment of the Explanatory Note to heading 39.07 should be sent to the Scientific Sub-Committee for examination.
4. The Sub-Committee finally agreed to use the Secretariat's proposal for the amendments to the Explanatory Note to heading 39.07 as a basis for further discussion and, leaving it in square brackets, to send it to the Scientific Sub-Committee for examination.
5. The Nomenclature texts approved as well as the Explanatory Notes proposal placed in square brackets are set out in Annex F/16 to this Report.

\* \* \*



1	2	5
NR0427E1	Possible amendment of the Nomenclature with respect to bamboo products (Proposal by INBAR).	<u>See Annex F/31.</u>

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

1. Opening the discussions, the observer from the International Network for Bamboo and Rattan (INBAR) expressed his gratitude to the Members of the Review Sub-Committee for considering the INBAR proposals and to the WCO Secretariat for reformatting the INBAR proposals into the HS structure. Deforestation and environmental concerns had prompted governments to consider and to promote the use of bamboo, he said. He continued that the availability of data on international trade in bamboo and rattan products would support the use of bamboo in the world and would enhance the export capacities of the producing countries, nearly all of them least-developed or developing countries. Several delegates shared the concerns expressed by the INBAR representative.
2. Following these statements, the Sub-Committee considered the proposed amendments set out in Annex II to the working document. Given the nature of the samples provided by the INBAR Secretariat (i.e., laminated products), the Sub-Committee agreed that an amendment of the structure of heading 44.09 would not be appropriate. However, with a view to incorporating a reference to parquet flooring panels and strips and friezes for parquet flooring of bamboo in the appropriate heading of Chapter 44, it agreed to re-address this issue when considering the **EC** proposal for new heading 44.22 at its next session (see Annex C/10). In this context, the Director informed the Sub-Committee that the classification of certain panels that resemble parquet flooring would be on the agenda of the forthcoming session of the Harmonized System Committee (November 2003).
3. Following a proposal by the **Swiss** Delegate, the Sub-Committee agreed to insert a reference to "rattan" in Note 1 to Chapter 46.
4. The Sub-Committee agreed that references in various headings of Chapter 48 for bamboo products could cause complications with respect to the structured nomenclature. Furthermore, since trade figures were not available or showed very low volumes, the Sub-Committee decided not to amend headings 48.02, 48.10 and 48.11. It could, however, accept the separate identification of bamboo products in subheading 4823.60, although the wording, as suggested by the Secretariat, might be somewhat ambiguous. The Chairperson suggested reporting this matter to the Committee.
5. At the suggestion of some delegates, the Sub-Committee agreed to combining the proposed subheadings for products of bamboo and of rattan in headings 94.01 and 94.03. It also agreed not to insert a separate reference to parts of bamboo under subheading 9401.90, given the fact that international trade in these products was likely to be negligible.
6. The texts approved are reproduced in Annex F/31 to this Report.

\* \* \*



1	2	5
NR0428E1	Simplification of the textile Chapters (Secretariat proposal).	<u>See Annex F/17.</u>
NR0457E1	Possible amendments to headings 52.05 and 52.06 (Proposal by the Romanian Administration).	

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

1. The Sub-Committee examined the plans to simplify the textile Chapters as proposed by the Secretariat in the Annex to Doc. NR0428E1, in conjunction with the Romanian proposal to amend the structured nomenclature to headings 52.05 and 52.06 set out in the Annex to Doc. NR0457E1.

**Headings 51.03 and 51.04**

2. The Delegates of Japan and the EC were in favour of the proposed simplification, whereas the Delegates of Canada, Australia and India preferred to retain the separate identification of garnetted stock, which was considered to be a different product from waste by the trade.
3. In order to be able to continue to differentiate between these products, the Delegate of Canada proposed that the garnetted stock of wool or of fine or coarse animal hair be covered by a separate subheading within the proposed new heading 51.03.
4. Canada's proposal, which was placed in square brackets and amended slightly to take account of delegates' comments during the meeting, is set out in Annex F/17 to this Report. It will be re-examined at the next session.

**Headings 52.05 and 52.06**

5. Opinions were divided regarding the proposals by Romania and the Secretariat to simplify headings 52.05 and 52.06 : one delegate was willing to accept the major simplification proposed by the Secretariat, another was in favour of maintaining the status quo, whereas a third could possibly accept a simplification of the structured nomenclature to these headings, while still maintaining three of the five current subheadings concerning yarn measurement, namely (1) 714.29 decitex or more, (2) less than 714.29 decitex but not less than 232.56 decitex and (3) less than 232.56 decitex.
6. The Sub-Committee agreed to work on the basis of the Romanian proposal, which was placed in square brackets and which is set out in Annex F/17 to this Report, for examination at its next session on the basis of information or comments to be submitted by the relevant administrations, after consulting their trade circles.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

**Subheadings 5309.11 to 5309.29**

7. The Delegate of **Canada** was not in favour of the proposed amendment, but would consult his industry on the need to maintain a distinction on the basis of the percentage by weight (85% or less) of the material, as set out in the current Nomenclature for fabrics of flax.
8. The Delegate of the **EC** questioned the origin of this subdivision and the Sub-Committee agreed, pending the results of research to be carried out by the Secretariat, to place this proposal in square brackets for re-examination at the next session.
9. The texts placed in square brackets are set out in Annex F/17 to this Report.

\* \* \*

1	2	5
NR0451E1	Possible amendment of Note 1 to Chapter 95. (Proposal by the Canadian Administration)	<u>See Annex F/18.</u>

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

1. Several delegates supported the proposal to amend Note 1 to Chapter 95.
2. One delegate nevertheless felt that there was a lack of alignment between the English and French versions of the new Note 1 (v). To remedy this, he suggested also including references to “kitchen linen” and “table linen” in the English text. The Sub-Committee agreed to this proposal.
3. Subject to the above amendments, the Sub-Committee approved the texts presented in the working document.
4. The texts approved are set out in Annex F/18 to this Report.

\* \* \*

1	2	4	5
NR0452E1	Possible creation of a new Note 8 to Chapter 29 (Proposal by the Canadian Administration).	<u>See Annex F/33.</u>	<u>See Annex F/33.</u>

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

1. Due to the highly technical nature of the proposal, the Sub-Committee decided to send the matter to the Scientific Sub-Committee for examination. The Scientific Sub-Committee was asked to address the following questions :
  - (i) Whether the wording of proposed Note 8 to Chapter 29 would be acceptable from the technical point of view;
  - (ii) Whether proposed Note 8 to Chapter 29 would clarify classification of sulphonamides and sultams without changing the scope of current headings or whether there would be a product transfer, if it were accepted.
2. The proposed texts, which were placed in square brackets, are set out in Annex F/33 to this Report.

\* \* \*

1	2
NR0453E1	Possible creation of a new Note 4 to Chapter 38 (Proposal by the Canadian Administration).

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

At the request of the Canadian Administration, the Sub-Committee agreed to delete this item from the Agenda and from further consideration during this review cycle.

\* \* \*

1	2	5
NR0454E1	Possible amendment of heading 39.24 (Proposal by the <b>US</b> Administration).	<u>See Annex F/35.</u>

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

1. The Sub-Committee agreed with the **US** proposal to amend the English version of heading 39.24. The **EC** Delegate, while referring to the decision taken by the HS Committee on the classification of certain hygienic products under heading 39.24, pointed out that the amendment would not entail any transfer of goods.
2. The texts approved are reproduced at Annex F/35 to this Report.

\* \* \*

1	2	5
NR0455E1	Possible amendment of heading 84.56 (Proposal by Croatia).	<u>See Annex F/36.</u>

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

1. A number of delegates welcomed the proposal by the Croatian Administration to add "machine-tools operated by water jet" to the list of categories of machine-tools for cutting metal which are listed in the text of heading 84.56. They considered that this proposal would contribute to the updating of the HS Nomenclature in order to reflect new technologies.
2. However, some delegates considered that the machines in question could pose certain problems of identification. For that reason, they suggested that further information was needed in order to establish exactly what operating principle was employed by the machine-tools referred to in the Croatian proposal. Others supported this view, adding that difficulties of interpretation could ensue, particularly in respect of the application of Note 2 to Chapter 84.
3. Moreover, given the process involved (namely "by water jet"), there might sometimes be certain risks of overlap with other headings, such as headings 84.24, 84.61, 84.64 or 84.79. In this connection, the Delegate of Canada pointed out that an exclusion for the machine-tools concerned might have to be inserted in the legal text of heading 84.24.
4. Finally, the Secretariat indicated that it had received some documentation on the subject, and relevant information would be made available to the Sub-Committee in a new working document.
5. Consequently, the Sub-Committee agreed to place the draft text prepared by the Secretariat in Doc. NR0455E1 in square brackets, and to return to this question at its next session, in March 2004. Administrations were also invited to submit information about "machine-tools which use a jet of water to cut metal".
6. The texts in square brackets are reproduced in Annex F/36 to this Report.

\* \* \*



1	2
NR0457E1	Possible amendments to headings 52.05 and 52.06 (Proposal by the Romanian Administration).

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

This Agenda item was examined in conjunction with the Secretariat proposal to simplify the textile Chapters (see Annex D/5 to this Report).

\* \* \*

1	2
NR0460E1	Possible amendment of heading 83.05 (Proposal by the Canadian Administration).

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

1. One delegate opened the discussion of this agenda item by indicating his agreement with the position of the Secretariat in paragraph 5 of the working document. He was of the view that the proposed legal amendment was unnecessary given the fact that the first part of heading 83.05 covered office articles and similar supplies, and the second part (after the semi-colon) covered all kinds of staples in strips, of base metals. Only staples not put up in strips were classified according to their constituent material (headings 73.17 and 74.15, and subheading 7616.10).
2. Several other delegates agreed with this interpretation and were of the view that there was no classification problem with respect to this heading. Moreover, there was a risk that the proposal would further complicate classification, and an Explanatory Note could clarify the matter adequately.
3. The Delegate of Canada explained that the rationale behind his administration's proposal was simplification. In their view, it was preferable that heading 83.05 cover only articles which could be used in an office. Thus, as a consequence of their proposal, industrial-type staples put up in strips would be classified with similar staples not in strips. There was, however, no support for this view in the Sub-Committee.
4. Given the lack of support for this proposal, the Sub-Committee agreed to drop it from further consideration during this review cycle.

\* \* \*

1	2	5
NR0463E1	Possible amendment of the structured nomenclature to headings 68.11 and 68.13 (Proposal by the <b>Swiss</b> Administration).	<u>See Annex F/19.</u>

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

1. One delegate opened the discussion by indicating that he was in a position to support this proposal, which would make it easier to control the trade in asbestos. However he had some concerns about the following points : (1) there did not appear to be full consistency between the heading texts and the corresponding subdivisions, (2) there was a risk that the expressions “containing” and “not containing” would give rise to problems of application if their meaning was not clarified, (3) given that trade in articles of asbestos was dying out, he suggested that only one subheading be used for these products in order to avoid creating empty tariff items.
2. Other delegates added that grouping these articles together in a single subheading would be ideal. However there was a problem at the level of the four-digit heading, which covered both articles of asbestos and articles of asbestos-cement.
3. The Delegate of **Switzerland** thanked the Sub-Committee for supporting the proposal and emphasised that : (1) the expressions “containing” and “not containing” should be understood as applying to articles containing or not containing asbestos in any quantity, (2) the structured nomenclature proposed by his administration was based on estimations revealing that there were more products containing than not containing asbestos (88% to 12%), but a growing trend for products not containing asbestos had been noted, and (3) although trade in products containing asbestos was forbidden, this was for purely technical reasons and, because of their low cost, a significant amount of traffic would continue to be encountered. He ended by stating that his administration would take account of all the ideas put forward by delegates in the meeting, in order to refine the proposal.
4. At the end of the discussion, the Sub-Committee agreed to place the proposed text in square brackets for re-examination at its next session. Administrations were urged to send the Secretariat their written views on the proposal.
5. The texts in square brackets are reproduced in Annex F/19 to this Report.

\* \* \*

1	2	3	4	5
NR0464E1	Possible alignment of the French and English texts of heading 02.10, subheading 0210.9 and heading 76.02, and Classification Opinion 3207.30/1. (Proposal by the EC)	<u>See Annex F/37.</u>	<u>See Annex F/37.</u>	<u>See Annex F/37.</u>

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

1. The Sub-Committee unanimously approved the EC's proposals for the amendment of the English text of subheading 0210.9 and the French text of Classification Opinion 3207.30/1. The English text of the Explanatory Note to heading 76.02 was aligned on the legal text.
2. The texts approved by the Sub-Committee are reproduced in Annex F/37 to this Report.

\* \* \*

1	2	5
NR0465E1	Possible creation of a new Note 4 (I) to Chapter 30 (Proposal by the EC).	<u>See Annex F/38.</u>

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

1. Beginning the discussion, the EC Delegate explained that products for ostomy use, such as colostomy, ileostomy and urostomy pouches and their adhesive wafers or faceplates were important commodities in trade. However, since they were not identified separately in the Harmonized System, it was not easy to obtain statistical data concerning these products at the international level. The intention of the EC proposal was to address this problem by specifying the appliances identifiable for ostomy use under heading 30.06 by creating a new Note 4 (I) to Chapter 30, which would direct their classification to that heading.
2. Several delegates supported the idea and the Sub-Committee approved the proposed new Note.
3. The Chairperson then wondered under which subheading of heading 30.06 the Sub-Committee wanted the appliances for ostomy use to be identified. After some discussion, during which it was pointed out that trade in these products appeared to be sufficiently high to warrant a separate subheading, the Sub-Committee agreed to specify the products at issue at the two-dash level, moving, at the same time, current subheading 3006.80 ("waste pharmaceuticals") to the two-dash level and renumbering it as subheading 3006.92.
4. The Sub-Committee further concluded that there was no need to reproduce the whole text of new Note 4 (I) to Chapter 30 in new subheading 3006.91 and that the wording "appliances identifiable for ostomy use" would be sufficient.
5. The texts approved are set out in Annex F/38 to this Report.

\* \* \*



1	2	5
NR0449E1	Possible amendment of the Nomenclature to align the French and English texts of heading 84.27 (Proposal by the EC).	<u>See Annex F/39.</u>

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

1. The EC Delegate explained that the proposal to align the French text of heading 84.27 on the English had in fact arisen as a result of certain difficulties of interpretation caused by the fact that the expression "chariots autopropulsés" in the French version was used in subheadings 8427.10 and 8427.20, but did not appear in the text of heading 84.27.
2. The Delegate of Canada indicated that his administration would favour maintaining the *status quo*. They saw no lack of alignment between the French and English versions of the heading text as the "self-propelled" criterion was only applied as a means of subdividing the goods at the subheading level.
3. As subsequent interventions suggested that the concern was whether the French term "chariots" had the same scope as the English term "trucks", the Sub-Committee invited the EC to provide further information about its proposal, so that the matter could be examined with a full understanding of the facts.
4. The Delegate of Canada indicated that his administration would also study the French and English texts of heading 84.27.
5. Consequently, the Sub-Committee decided to place the draft texts prepared by the Secretariat in Doc. NR0449E1 in square brackets and to return to the question at its next session, in March 2004.
6. The texts placed in square brackets are reproduced in Annex F/39 to this Report.

\* \* \*



1	2
NR0439E1	Study of a possible milk content limit for products of Chapter 4.

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

1. Several delegates expressed concerns as to the various elements of the **Cameroon** proposal to insert a new Note 4 (b) in Chapter 4. Moreover, they regretted that **Cameroon** was not present at this meeting of the Sub-Committee to further clarify its proposal and to answer questions from other delegates related to the proposal. In particular, these delegates wanted **Cameroon** to clarify the following questions :
  - Does the proposal apply to the whole Chapter (or only to the headings concerning milk and cream, i.e., headings 04.01 to 04.03) ?
  - Does the proposed 30 % limit also apply to non-animal fats ?
  - Where do the proposed limits (30 % and 50 %) come from, i.e., what is their basis ?
  - The proposal refers the products excluded to be classified in Chapters 19 and 21. Why have corresponding legal Notes not been proposed for these Chapters ?
  
2. Given the lack of support for the **Cameroon** proposal, it was agreed that the proposal should not be re-examined at the Sub-Committee's next session (March 2004), unless the HS Committee decided otherwise at its next session (November 2003) after re-examining the classification of "**Bonnet Bleu**".

\* \* \*



1	2	4
NR0429E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 84.01 to 84.29.	<u>See Annex F/21.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 84.01 to 84.29 set out in the Annex to Doc. NR0429E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.
2. The Chairperson began discussion of the Comprehensive Review items by confirming that there was agreement not to hold long discussions on specific amendments. If there was a dispute with regard to a particular amendment, it would be dropped from the proposal.
3. As instructed by the Sub-Committee, the Secretariat studied those amendments which required a re-lettering of present items and the movement of the texts of these items and concluded that the movement of these texts would all be beneficial in bringing the Explanatory Notes into line with the structured nomenclature.

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

4. This amendment was dropped, as no consensus was reached. Those against the insertion believed that the insertion was inappropriate as it conflicted with Note 5 to Chapter 84 and the corresponding General Explanatory Note (E) to Chapter 84.

Page 1405. Heading 84.05. New Exclusion (b).

5. The Sub-Committee agreed to the text in square brackets after the addition of the expression “e.g.”.

Pages 1458 and 1459. Heading 84.26. Sixth paragraph. New Item (6).

6. The Sub-Committee agreed to the **US** text found in Doc. NR0459E1.

Page 1463. Heading 84.28. Part (III). Item (A).

7. The Sub-Committee agreed with the **US** proposal in Doc. NR0459E1, to separate “escalators” and “moving walkways”, in order to explain the difference between elevators on the one hand and moving walkways on the other. To effect this change, Item (A) was amended and a new Item (B) added.

Page 1464. Heading 84.28. Part (III). New item (M).

8. The Sub-Committee agreed to add the phrase “, stairway walls or the stairs” after the term “banisters”.

Annex E/1 to Doc. NR0470E3  
(RSC/28/Sept. 2003)

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

9. The texts approved are reproduced in Annex F/21 to this Report.

\* \* \*

1	2	4
NR0430E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 84.30 to 84.40.	<u>See Annex F/22.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 84.30 to 84.40 set out in the Annex to Doc. NR0430E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.  
  
Page 1480. Heading 84.34. Part (I). Third paragraph.
2. The Sub-Committee agreed with the **US** Delegate that the most appropriate placement for this text was the third paragraph.  
  
Pages 1495 to 1496. Heading 84.39. Part (I) (A). Item (9).
3. The Sub-Committee agreed to maintain the reference to “**Masonite**” defibrators” in the Explanatory Notes and, consequently, deleted this proposal.  
  
Pages 1495 to 1496. Heading 84.39. Part (I) (A). New Item (7) and Item (E) (new Item D).
4. The Sub-Committee agreed to maintain the *status quo* with respect to the reference to refiners and, consequently, deleted the proposals found under Part (I), Item (A) (7) and also under new Item (D), as both references to “refiners” were for use in making pulp.  
  
Pages 1496 to 1497. Heading 84.39. Part (II). Item (A).
5. The Sub-Committee agreed to the first option for Item (A), with the addition of the **US** proposed amendment in Doc. NR0459E1, Annex I, page I/3.  
  
Page 1498. Heading 84.39. PARTS.
6. The Sub-Committee agreed to delete the reference to “wire mesh”.  
  
Page 1498. Heading 84.39. Exclusion (c).
7. The Sub-Committee agreed to delete the reference to “wire” and added a reference to “of textile material”.
8. The texts approved are reproduced in Annex F/22 to this Report.

\* \* \*

1	2	4
NR0431E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 84.41 to 84.59.	<u>See Annex F/23.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 84.41 to 84.59 set out in the Annex to Doc. NR0431E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.

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

2. The Sub-Committee agreed to the second option with the addition of the sentence "The terms "Computer Numerical Control" and "Numerical Control" can be regarded as synonymous." found in the first option.
3. The texts approved are reproduced in Annex F/23 to this Report.

\* \* \*

1	2	4
NR0432E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 84.60 to 84.85.	<u>See Annex F/24.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 84.60 to 84.85 set out in the Annex to Doc. NR0432E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.

Page 1566. Heading 84.67. Fifth paragraph.

2. The Sub-Committee agreed with the **US** Delegate to add an exclusion for hand-directed machines on wheels at the end of the exclusion paragraph. The text agreed upon could be found in Doc. NR0459E1, Annex I, page I/6.

Page 1585. Heading 84.72.

3. The Sub-Committee agreed to insert new item (22).

Page 1586. Heading 84.72. Exclusion (c).

4. After some discussion, the Sub-Committee agreed to the second option, but with the deletion of the expression “solely or principally used with”.

Page 1602. Heading 84.79. Item (11).

5. The Sub-Committee agreed to the English-only deletion of the comma after “Chapter 82” and consequential editorial amendments.

6. The texts approved are reproduced in Annex F/24 to this Report.

\* \* \*

1	2	4
NR0433E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 85.01 to 85.16.	<u>See Annex F/25.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 85.01 to 85.16 set out in the Annex to Doc. NR0433E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.

Page 1625. Heading 85.04. Part (I). Third paragraph. Second sentence.

2. The Sub-Committee agreed to the **Canadian** suggestion to include “or tubes” after “discharge lamps”.

Page 1644. Heading 85.15. Part (I). Item (A). Second paragraph. New three last sentences.

3. The Sub-Committee agreed to retain only the reference to 450 °C.

Page 1650. Heading 85.16. PARTS. New last sentence.

4. After a brief discussion on the meaning of the term “jugs”, the Sub-Committee agreed to delete the proposal for a new last sentence.

5. The texts approved are reproduced in Annex F/25 to this Report.

\* \* \*

1	2	4
NR0434E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 85.17 to 85.22.	<u>See Annex F/26.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 85.17 to 85.22 set out in the Annex to Doc. NR0434E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.  
  
Page 1651. Heading 85.17. First paragraph.
2. The Sub-Committee agreed to the **US** proposed text found in Doc. NR0459E1, Annex I, page I/8.  
  
Pages 1651 to 1652. Heading 85.17. Part (I). Exclusion Note.
3. The Sub-Committee agreed to move the exclusion note with regard to cellular telephones or mobile phones to the end of Item (C) so that it applies to all of the text before it.  
  
Page 1653. Heading 85.17. Part (I). Item (E).
4. The Sub-Committee agreed to the deletion of the proposed paragraph on multifunction machines, as the issue of their classification was still before the Harmonized System Committee.  
  
Page 1654. Heading 85.17. New Part (III). (A).
5. The Sub-Committee could not reach consensus on the use of the term “automatic data processing machines”. It agreed to add the word “microprocessors” to the text and to submit the two terms in square brackets to the Harmonized System Committee for consideration.  
  
Page 1654. Heading 85.17. Present Part (III). Second paragraph. Item (C).
6. The **US** Delegate expressed concern with regard to the reference to heading 85.43 in the exclusion paragraph. The Sub-Committee agreed to delete the exclusion paragraph, as well as the word “also” in the main part of the text.  
  
Page 1654. Heading 85.17. Present Part (III). Second paragraph. Item (E).
7. The Sub-Committee agreed to delete this proposal since concern was expressed as to the exact form in which this equipment was traded.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Page 1654. Heading 85.18. Part (D). Last paragraph.

8. The Sub-Committee agreed to maintain the reference to “and equalisers”.

Page 1657. Heading 85.18. Exclusion (c).

9. The Sub-Committee agreed to delete the exclusion paragraph.

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

10. The Sub-Committee agreed, in the English text, to replace the word “discs” with the word “tokens” in the penultimate line of the first paragraph and the last line of the second paragraph.

Page 1660. Heading 85.20. Second paragraph.

11. Because this paragraph was proposed before the Harmonized System Committee had taken its decision on the classification of MP3 players at the 29<sup>th</sup> Session in May 2002 and the subsequent Explanatory Note amendment at its 30<sup>th</sup> Session in November 2002, concern was expressed that it did not take account of those decisions and might, as a result, cause confusion. Consequently, the Sub-Committee agreed to delete this proposed amendment.

Pages 1660 and 1661. Heading 85.20. Part (A). New item (2).

12. The Sub-Committee agreed to the **US** proposed amendment found in Doc. NR0459E1, Annex I, page I/8.

Page 1661. Heading 85.20. Part (A). New item (3).

13. The Sub-Committee agreed to delete the proposed second sentence.

Page 1661. Heading 85.20. Part (B). Second paragraph. New item (4).

14. The Sub-Committee agreed to delete proposed item (4), as its purpose was to replace current Item (5), which the Sub-Committee felt was more appropriate.

Page 1662. Heading 85.21. Part (A). Second paragraph.

15. The Sub-Committee agreed to delete the expression “e.g., MPEG 2 video players” and replace it with “e.g., digital video recorders”. It then agreed to place the text “by transferring the digital code from an automatic data processing machine” in square brackets and send it to the Harmonized System Committee for consideration.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Page 1662. Heading 85.21. Part (A). Fourth paragraph.

16. The Sub-Committee agreed to replace this paragraph with the sentence "In optical recording, digital data representing the images and sound are encoded by a laser onto a disc."

Page 1662. Heading 85.21. Part (B). Item (1) (b).

17. The Sub-Committee agreed to replace this text with the sentence "Subject to Note 3 to Section XVI, apparatus which are capable of reproducing both video and audio recordings are to be classified in this heading".
18. The texts approved are reproduced in Annex F/26 to this Report.

\* \* \*



1	2	4
NR0435E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 85.23 to 85.48.	<u>See Annexes F/27 and F/32.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 85.23 to 85.48 set out in the Annex to Doc. NR0435E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.

Page 1665. Heading 85.23. First paragraph. Item (5). New second paragraph.
2. The Delegate of the **UK** dropped his objection and the Sub-Committee then accepted the text.

Page 1665. Heading 85.23. Second paragraph.
3. The Sub-Committee could not reach consensus on this text. There was disagreement as to the applicability of Note 6 to Chapter 85 in relation to the classification of the **Palm V**, currently before the Harmonized System Committee. Consequently, the Sub-Committee decided to delete this proposal.

Page 1666. Heading 85.24. Second paragraph.
4. The **US** Delegate expressed concern that the text of this proposed note was not in conformity with the current legal text, as well as the General Explanatory Note to Chapter 85. The Sub-Committee consequently decided to delete this proposal.

Page 1667. Heading 85.25. Part (A). Second paragraph. Item (3).
5. The Sub-Committee agreed to delete the expression “or base stations” in square brackets and then accepted the remaining text.

Page 1669. Heading 85.25. Part (D).
6. The **US** Delegate proposed a new text for Part (D) of the Explanatory Note to heading 85.25. In support of this text, he explained that the heading for Part (D) of the Explanatory Note to heading 85.25 quoted the current legal text to subheading 8525.40, “Still image video cameras and other video camera recorders; digital cameras”. Several problems with the text had already been noted by this Sub-Committee. Firstly, the text utilised an antiquated term, “still image video cameras”. Furthermore, because the subheading text used a semicolon to separate the new (2002) reference to “digital cameras” from the reference to “still image video cameras and other video camera recorders,” the text could be construed to imply that the products on the two sides of the semicolon described mutually

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

exclusive categories. This was clearly not the case, since the HSC classified digital cameras in subheading 8525.40 before there was any reference to digital cameras in the legal text or Explanatory Note. The current Explanatory Notes attempted to explain the scope of each term and therefore only exacerbated the problem. Since the Harmonized System did not distinguish between any individual products among this group, it was not necessary in the Explanatory Note to describe each term, as long as the scope of subheading 8525.40 was accurately described. To that end, the **US** Administration offered a replacement text for Part (D). The **US** Delegate also drew the attention of the Sub-Committee to the fact that the **United States** had proposed an improved legal text for subheading 8525.40 that avoided the current problems, as part of the Sub-Committee's examination of possible Article 16 changes to be implemented in 2007.

7. The Delegate of **Japan** requested more time to examine this **US** proposal and requested that discussion be postponed until the RSC's next session in March 2004. The Acting Deputy Director informed the Sub-Committee that the RSC's March agenda would be very heavy. As an alternative, he suggested forwarding the text to the Harmonized System Committee in November, when the Committee might decide to send it to the Working Party of the 33<sup>rd</sup> Session of the HSC. The Sub-Committee agreed.

8. The Sub-Committee then decided to record this issue in a separate Annex of the Report. The proposed text in square brackets can be found in Annex F/32 to this Report.

Page 1673. Heading 85.27. Part (B). First paragraph. New item (5).

9. As explained in Doc. NR0459E1, Annex I, page I/12, the **US** Delegate informed the Sub-Committee that a reference to speakers should be included, otherwise the stereo system would not be a set for retail sale as defined by the Explanatory Note to General Interpretative Rule 3 (b). The Sub-Committee agreed to add the reference to "loudspeakers" in this text.

Page 1673. Heading 85.28. Second paragraph. Item (1). New second sentence.

10. Concern was expressed by the **US** Delegate that the classification of a television incorporating a modem had not been determined by the Harmonized System Committee. Consequently, he believed that this reference should be dropped. The Sub-Committee agreed to drop this reference.

Page 1674. Heading 85.28. First paragraph. Item (3).

11. The **EC** Delegate expressed the wish to maintain present Item (3) in the Explanatory Notes. As no delegates expressed an opposing view, proposed Item (3) was deleted from the Annex.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Page 1674. Heading 85.28. First paragraph. Item (4). New last sentence.

12. Concern was expressed by the **US** Delegate that the classification of a satellite receiver incorporating a modem had not been determined by the Harmonized System Committee. Consequently, he believed that this reference should be dropped.
13. The Delegate of the **UK** disagreed and pointed to C/O 8528.12/3, wherein the Committee had classified a satellite receiver incorporating a modem.
14. The Sub-Committee agreed to maintain this reference in the Annex.

Page 1686. Heading 85.36. Part (I). Item (A). Third paragraph. Penultimate line.

15. The **US** Delegate informed the Sub-Committee of a potential misalignment between the English and French texts. The English text referred to the word “electronical snap action switches”, while the French text referred to “électro-mécaniques à drain” (electro-mechanical snap action switches). He also raised a question as to what was the nature of a “toggle” switch. He wondered what the history of this term was and suggested that the Secretariat could study this matter.
16. The Acting Deputy Director indicated that it would be appropriate for the **US** Administration to submit a request to the Harmonized System Committee in this connection.

Page 1688. Heading 85.36. Part (III). New item (A) (3).

17. As the **UK** Delegate was unable to provide the Sub-Committee with the additional information it had requested, he suggested that this proposal could be deleted. The Sub-Committee agreed to this suggestion.

Page 1689. Heading 85.37. Second paragraph. New item (4).

18. As the **UK** Delegate was unable to provide the Sub-Committee with the additional information it had requested, he suggested that this proposal could be deleted. The Sub-Committee agreed to this suggestion.

Page 1689. Heading 85.37. Exclusion paragraph. Exclusion (d).

19. The **US** Delegate informed the Sub-Committee that his administration could not apply the Explanatory Note because of a **US** Court decision. For that reason, it had submitted a non-paper seeking a legal text amendment to the Nomenclature for 2007. At the request of the Secretariat, the **US** Delegate indicated that the proposed legal text amendment would be submitted directly to the Harmonized System Committee for consideration. For this reason, the **United States** would not continue to object to this Explanatory Note.
20. The Sub-Committee then accepted the Explanatory Note.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

Page 1700. Heading 85.42. Item (I) (1). New last paragraph.

21. The Sub-Committee decided to include both a reference to “EEPROMS” and “E<sup>2</sup>PROMS” in the text.

Page 1703. Heading 85.43. New items (18) to (21).

22. As the **UK** Delegate was unable to provide the Sub-Committee with the additional information it had requested on proposed item (19), he suggested that this proposal could be deleted. The Sub-Committee agreed to this suggestion. The Sub-Committee then agreed to replace the text of proposed item (20), which would now appear in the Annex to this Report as item (19), by the text which was found in proposed exclusion (f) on page 1692, heading 85.39 (page F/27/5 of this Report) regarding electro-luminescent devices.
23. The texts approved and those placed in square brackets are reproduced in Annexes F/27 and F/32 to this Report.

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1	2	5
NR0436E	Possible amendment of the Explanatory Notes to Chapter 87.	<u>See Annex F/28.</u>

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

1. The Sub-Committee examined the draft amendments to the Explanatory Notes which were reproduced in square brackets in the Annex to Doc. NR0436E1, in the light of the Secretariat's comments.

**Heading 87.01**

2. At the request of the Delegate of **Canada**, the two proposals mentioned by the Secretariat were amalgamated in the draft amendment to the Explanatory Note to heading 87.01, fourth paragraph, first sentence.
3. With regard to the possible replacement of the term "mechanical horses" in the second sentence by "road tractors", the Sub-Committee agreed that this amendment would have the effect of restricting the scope of the term, and decided to maintain the texts unchanged.

**Headings 87.04, 87.05 and 87.07**

4. The Sub-Committee agreed that the proposal to insert the word "(trucks)", in parentheses, after "lorries" in the English version was acceptable, and approved the proposed amendments.

**Heading 87.10**

5. The Sub-Committee did not agree with the proposal that a reference to "armoured personnel carriers" be inserted in the Explanatory Note to heading 87.10, first sentence, fourth paragraph, and as a compromise the **EC** Delegate proposed that these vehicles be cited as an example in the fifth paragraph.
6. The Sub-Committee accepted the proposal that "armoured personnel carriers" be referred to in a new item (E) in the fifth paragraph of the Explanatory Note.

**Heading 87.13**

7. Although the Committee had already reached a consensus in support of the proposal to insert the words "mobility scooters" in the Explanatory Note to heading 87.13, the **EC** Delegate argued that this proposal should not be adopted as the addition of these words, in the English version only, might give rise to confusion and conflict with Classification Opinion 8703.10/1. He therefore proposed that this reference be deleted from the Explanatory Note.

OBSERVATIONS OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE (contd.)

8. The **US** Delegate could not agree, and preferred that the text which had been adopted by the Sub-Committee - and about which in his view there could be no confusion given the restrictive nature of both the text of heading 87.13 and the corresponding Explanatory Note - be maintained. He also requested that the Secretariat conduct some research in an attempt to find an equivalent expression in French, so that the two versions could be aligned.
9. Following this exchange of views, the Sub-Committee decided to place the proposed amendment involving the insertion of the expression "mobility scooters" in square brackets, and to submit the matter to the Harmonized System Committee for decision.

**Heading 87.14**

10. Following an exchange of views which ended with **Canada** withdrawing its proposals to insert the terms "(seat-covers)" and "(fenders)" in items (11) and (15) respectively of Explanatory Note 87.14, the Sub-Committee agreed to leave these texts unchanged.

**Heading 87.16**

11. Following an exchange of views, the Sub-Committee agreed that the proposed amendment, which involved inserting the words "travel trailers", should be made in English only, with the French version remaining unchanged.
12. The texts approved by the Sub-Committee, and the text placed in square brackets for examination by the Harmonized System Committee, are reproduced in Annex F/28 to this Report.

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1	2	4
NR0437E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 90.01 to 90.10.	<u>See Annex F/29.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 90.01 to 90.10 set out in the Annex to Doc. NR0437E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.  
Page 1771. Heading 90.01. New second paragraph.
2. The Sub-Committee agreed to the **US** text found in Doc. NR0459E1.  
Page 1771. Heading 90.01. First paragraph. New item (10).
3. This amendment was dropped, as no consensus was reached.  
Page 1777. Heading 90.06. Part (I).
4. Subject to the deletion of the word “chemical” in the last sentence, the Sub-Committee agreed to the proposed amendment.  
Pages 1777 to 1778. Heading 90.06. Present third paragraph. New items (6) and (7).
5. Subject to modifications suggested by the **US** and **Canada**, the Sub-Committee agreed to the proposed amendment.  
Pages 1777 to 1778. Heading 90.06. Present item (6).
6. This amendment was dropped, as no consensus was reached.  
Pages 1777 to 1778. Heading 90.06. New items (15) and (16).
7. This amendment was dropped, as no consensus was reached.  
Page 1782. Heading 90.08. Item (A). Penultimate paragraph.
8. This amendment was dropped, as no consensus was reached.
9. The texts approved are reproduced in Annex F/29 to this Report.

\* \* \*



1	2	4
NR0438E1 NR0459E1	Possible amendment of the Explanatory Notes to headings 90.11 to 90.33.	<u>See Annex F/30.</u>

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

1. The Sub-Committee examined the possible amendment of the Explanatory Notes to headings 90.11 to 90.33 set out in the Annex to Doc. NR0438E1. The Sub-Committee approved the texts reproduced in that Annex, except as reported below.
2. As instructed by the Sub-Committee, the Secretariat studied those amendments which required a relettering of present items and the movement of the text of these items and concluded that the movement of these texts would not be beneficial in bringing the Explanatory Notes into line with the structured nomenclature (Pages 1807 to 1808. Heading 90.18. Present part (IV). First paragraph. Item (1). Paragraphs (v) to (xii). Consequently, the proposed relettering was dropped from the amendments.  
  
Page 1798. Heading 90.15. Part (VI). Second paragraph. New items (3) to (5).
3. The Sub-Committee agreed to use the phrase "**gradiomètres électromagnétiques**" in the French version of new item (3).  
  
Page 1801. Heading 90.17. Part (D). Third paragraph. New item (5).
4. This amendment was dropped, as no consensus was reached.  
  
Page 1803. Heading 90.18. Part (I). First paragraph. Item (A) (1). New last sentence.
5. Following the suggestion of the **Swiss** Delegate, the Sub-Committee agreed to drop this amendment.  
  
Page 1812. Heading 90.19. Part (V). New item (D).
6. This amendment was dropped, as no consensus was reached.  
  
Page 1813. Heading 90.20. Exclusion paragraph. New exclusion (d).
7. This amendment was dropped, following the deletion of the proposed amendment of heading 90.19.
8. The texts approved are reproduced in Annex F/30 to this Report.

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