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-  
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(+ Annex)

O. Eng.

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COMPREHENSIVE REVIEW OF THE EXPLANATORY NOTES

POSSIBLE AMENDMENT OF THE EXPLANATORY NOTES

TO HEADINGS 85.01 TO 85.09

(Item III.C.14 on Agenda)

I. BACKGROUND

1. At its 23<sup>rd</sup> Session (March 2001), the Review Sub-Committee discussed the issue of the comprehensive review of the HS Explanatory Notes, taking into account the points raised by the Secretariat in Doc. NR0150E1, in particular the scope of the updating of the existing Explanatory Notes, by :
  - Deleting references to obsolete products and technology,
  - Substituting references to current products and technology,
  - Restructuring the Notes to make them easier to understand, and
  - Supplementing the Notes to make them more complete.
2. In accordance with these discussions, amendments to the Explanatory Notes to headings 85.01 to 85.09 have been prepared as a joint proposal from the Secretariat and an officer of the Australian Administration.
3. The Australian "Explanatory Memorandum" and the Secretariat's own proposals (in bold) are reproduced below.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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## II. SECRETARIAT COMMENTS

4. The proposed amendments are set out in the Annex to this document. In this context, the Secretariat would like to clarify that only those parts of the Explanatory Notes (ENs) have been reproduced which are affected by the amendments. Proposed deletions are indicated by “strikethrough” text, whereas new texts are indicated by underlining. Throughout the recommended amendments to the ENs, when a new numbered or lettered paragraph was added the remaining paragraphs in the sequence were consequently renumbered or re-lettered.

### **Recommended amendment to the General Explanatory Note to Section XVI**

5. The terms “analogue” and “digital” in the context of signal processing formats are commonly used terms in the fields of information or data processing, telecommunications, sound and video recording, etc. As the terms are commonly used throughout the ENs, it is recommended that the General Explanatory Note to Section XVI be amended by the inclusion of an explanation of the meaning of these terms.

The following text, relative to telecommunications, provides some guidance in developing such an amendment :

Essentially analogue signals move down telephone lines as electromagnetic waves. Their speed is expressed in frequency which refers to the number of times per second that a wave oscillates back and forth in a complete cycle. The frequency of these waves is stated in hertz (Hz). Conversely, instead of waves digital signals are transmitted in the form of binary bits, that is there are only two values for transmitted voice and data bits, on and off, or positive or negative voltages. Increasingly the poorer quality analogue signals are being replaced with the more reliable digital alternative. (Source : Annabel Z. Dodd, The Essential Guide to Telecommunications (NJ, Prentice Hall, 1998).

### **Explanatory comments for each heading**

#### **Heading 85.01**

6. No changes are recommended.
7. The advice from industry is that electric motors and generators are a very mature article with very little change over the last 50 years.

#### **Heading 85.02**

8. No changes are recommended.
9. The industry declined to comment on the articles of this heading and research showed that the HS 2002 ENs are sufficient.

**Heading 85.03**

10. No changes are recommended.
11. The industry declined to comment on the articles of this heading and research showed that the HS 2002 ENs are sufficient.

**Heading 85.04**

12. "Ballasts..." were added to the third paragraph of (I), because ballasts are mentioned in subheading 8504.10.
13. In the same paragraph a reference to "baluns..." was included as baluns are a specific example of a type of transformer that would fall in the heading.
14. The amendment to the penultimate paragraph of (II) "supplies" was made on advice from industry that "supplies" is a more correct term. The addition of "uninterruptible", and the change from "machines of heading 84.71" to "a range of electronic equipment" was made because Classification Opinion 8504.40/1 relates to these stabilised supplies but refers to them as "uninterruptible power supply apparatus which supply a range of electronic equipment". The reference to "machines of heading 84.71" was deleted because, as the Classification Opinion states, these apparatus are used with a greater range of equipment than just ADP machines. The word "units" used in the 2002 Explanatory Notes was not amended because the Classification Opinion refers to apparatus forming a single unit.

**Heading 85.05**

15. The amendment to Item (3) was made to clarify that magnetic chucks, etc., used with machine-tools for holding work pieces fall in the heading. It corresponds with the exclusion at paragraph (e) of the 1996 ENs to heading 84.66. **The Secretariat would draw the Review Sub-Committee's attention to the fact that there is a question currently before the Committee on the classification of an electrostatic chuck, as well as the distinction between work holders of headings 84.66 and 85.05.**

**Heading 85.06**

16. All of the amendments made, other than the exclusions after PARTS are to clarify or expand the description of primary cells and batteries. (Sources : McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000; Encyclopaedia Britannica, 1999; Van Nostrand's Scientific Encyclopaedia, Eighth Edition, 1995).
17. Terminals have been added to the exclusions at the end of the ENs at (a) as a terminal for a battery, although a part, would be classified in heading 85.36 vide Section XVI Note 2(a), and as terminals are mentioned in the 1996 ENs to heading 85.36 at paragraph III (B).
18. Solar cells are also mentioned in the exclusions at new (b) mainly because a person attempting to classify such articles may consider heading 85.06 to be a viable option.

### Heading 85.07

19. The term “secondary batteries” was added because the McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000 and Van Nostrand’s Scientific Encyclopaedia, Eighth Edition, 1995 mention the term as an alternative to “storage batteries”.
20. In the opening paragraph of the ENs, a brief description of the defining characteristic of an accumulator was added because it provides a succinct opening sentence to the remainder of the current paragraph, which expands on the charging and discharging process.
21. The last sentence to the second paragraph was added to clarify that accumulators can be of the wet or dry cell type, as stated in Van Nostrand’s Scientific Encyclopaedia, Eighth Edition, 1995.
22. Item (2) on the alkaline accumulators was amended to provide examples of the composition of the most common types currently available on the market. (Sources : McGraw-Hill Multimedia Encyclopaedia of Science & Technology, 2000; Encyclopaedia Britannica, 1999; Van Nostrand’s Scientific Encyclopaedia, Eighth Edition, 1995; Australian Industry).
23. The next paragraph of the EN was amended to explain that many accumulators are manufactured to a specific size and shape, e.g., for cellular phones. The reference to “nickel cadmium” in the sentence which mentions accumulators being in small waterproof containers was deleted to broaden the explanation to include all types of accumulators, not only nickel cadmium types.
24. The sentence commencing : “Accumulators are used for supplying current...” was added to provide indicative examples of the common types of articles which use accumulators.
25. The current penultimate paragraph which excludes “spent electric accumulators...” was deleted and added to the exclusions at the end of the EN, together with “terminals”. This was done to keep the EN consistent in layout with the EN for heading 85.06. The addition of “terminals” was for the same reasons as for heading 85.06.

### Heading 85.09

26. The order of the examples shown at Item (B) was rearranged to reflect the subheading hierarchy, specifically “Kitchen waste disposers”. “Ice shavers” was added at (7) as another indicative example of the class of articles that would fall to the heading. These ice shavers are electro-mechanical domestic appliances that comply with Chapter 85 Note 3 (b) and are classified in heading 85.09 on the basis of General Interpretative Rule (GIR) 1. The reference source was an Australian classification ruling. The example was added at (7) because amended examples (4) to (7) are all of the type that would mainly be used in the kitchen.
27. The first paragraph under the heading **“EQUIPMENT PRESENTED WITH THE APPLIANCES OF THIS HEADING”** was amended by moving the word “attachments” to make the sentence easier to read. The reference to “vacuum cleaners with food mixing or grinding attachments;” was deleted because a specific example of such an article could not be found nor contemplated.

III. CONCLUSION

28. The Sub-Committee is invited to examine the draft amendments to the Explanatory Notes to headings 85.01 to 85.09, as set out in the Annex to this document, as well as the paragraph to include definitions of the terms "analogue" and "digital" mentioned in paragraph 5 above.

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