



HARMONIZED SYSTEM
COMMITTEE

-
25th Session

NC0250E2

(HSC/25/March 2000)

O. Eng./Fr.

Brussels, 31 March 2000.

REPORT TO THE CUSTOMS CO-OPERATION COUNCIL
OF THE TWENTY-FIFTH SESSION
OF THE HARMONIZED SYSTEM COMMITTEE

This Report is divided into four parts :	Annexes A to K Annexes L/1 to L/7 Annexes L/8 to O Annexes P/1 to T
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1. The Harmonized System Committee held its 25th Session from 20 March to 31 March 2000 at the Headquarters of the World Customs Organization in Brussels under the chairmanship of Mr. J.-L. ROBYR (Switzerland).
2. The following 58 Members (57 Countries and one Customs or Economic Union) were represented :

Countries :

AUSTRALIA	IRELAND	RUSSIA (Fed. of)
ALGERIA	JAPAN	SAUDI ARABIA
BANGLADESH	JORDAN	SENEGAL
BELARUS	KENYA	SLOVAKIA
BELGIUM	KOREA (Rep. of)	SOUTH AFRICA
BRAZIL	LATVIA	SPAIN
BULGARIA	LIBYAN ARAB	SRI LANKA
CANADA	JAMAHIRIYA	SUDAN
CHINA	MADAGASCAR	SWEDEN
CONGO (Dem. Rep. of)	MALAYSIA	SWITZERLAND
CZECH REPUBLIC	MEXICO	THAILAND
DENMARK	MOROCCO	MACEDONIA (The
EGYPT	NETHERLANDS	Former Yugoslav Rep. of)
ESTONIA	NEW-ZEALAND	TUNISIA
FINLAND	NORWAY	TURKEY
FRANCE	PAKISTAN	UGANDA
HUNGARY	PANAMA	UNITED KINGDOM
INDIA	POLAND	UNITED STATES
INDONESIA	PORTUGAL	VIETNAM
IRAN	ROMANIA	

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The following 5 Members of the Council and 8 international organizations were represented by observers :

ALBANIA
COLOMBIA
KUWAIT
MAURITANIA
SYRIAN ARAB REPUBLIC

INTERNATIONAL CHAMBER OF COMMERCE (ICC)
INTERNATIONAL CONTAINERS BUREAU (ICB)
INTERNATIONAL TRADE CENTRE-UNCTAD/WTO
ORGANISATION FOR THE PROHIBITION OF CHEMICAL WEAPONS (OPCW)
SECRETARIAT OF THE BASEL CONVENTION-UNEP
SECRETARIAT GENERAL OF THE CO-OPERATION COUNCIL FOR THE ARAB STATES OF THE GULF
UNITED NATIONS STATISTICS DIVISION (UNSD)
WORLD TRADE ORGANIZATION (WTO).

4. A list of delegates and observers who attended the meeting is reproduced in Annex T to this Report.

I. ADOPTION OF THE AGENDA
(Docs. NC0164E2 and NC0236E1)

5. The Committee agreed with the proposal of the Canadian Administration to delete items IX.1 and IX.2 from the Agenda, since the Contracting Parties concerned had agreed to settle the problem by negotiation between them. It was agreed that the Committee would be informed about the outcome of those negotiations.
6. Subject to the foregoing, the Committee adopted the Agenda reproduced in Annex A to this Report. This Annex also serves as the Table of Contents.

II.1 POSITION REGARDING CONTRACTING PARTIES TO THE
HS CONVENTION AND RELATED MATTERS
(Doc. NC0166E1)

7. The Committee welcomed Haiti as the 99th Contracting Party to the HS Convention and noted that the Convention had entered into force in respect of Haiti on 17 January 2000.
8. The Committee also noted that Rwanda and Sudan had not yet informed the Secretariat about the implementation of the 1996 amendments to the HS.

9. Mr. H. KAPPLER, the Director, once again drew the attention of the Committee to the fact that the intention of the amendments to the Council Recommendations on (i) Standard Units of Quantity, (ii) Chemical Weapons and (iii) Narcotic Drugs was to facilitate their acceptance. He therefore strongly urged administrations to accept these, as well as the other Council Recommendations, at their earliest convenience and to notify the Secretariat accordingly.
10. The representative of the UNSD pointed out that the acceptance of the Council Recommendations on Standard Units of Quantity and Reporting Trade Data to the UNSD were extremely important in the context of collecting and analyzing international trade statistics. He requested Council Members and HS Contracting Parties to accept and implement these recommendations as soon as possible.
11. The Tunisian Delegate, referring to the list of Contracting Parties in the Annex to the working document, corrected the date of entry into force of the HS Convention in respect of Tunisia, i.e., 1 January 1990.
12. The Committee took note of the other information provided in Doc. NC0166E1 and the Annex thereto.
13. The list of Contracting Parties to the HS Convention and the list of administrations applying a tariff or nomenclature based on the HS, as of 31 March 2000, are reproduced in Annexes B/1 and B/2, respectively.

II.2 REPORT ON THE MEETING OF THE POLICY COMMISSION (42nd Session)
(Doc. NC0167E1)

14. The Committee took note of the developments at the Policy Commission as reported in Doc. NC0167E1.
15. In this connection, the Director drew the attention of the Committee to the fact that the Policy Commission had taken note of the circulation of the questionnaire on non-application of HSC classification decisions; the result of the survey, which was the subject of discussions under Agenda Item III.1, would be reported to the next session of the Policy Commission.

II.3 APPROVAL OF DECISIONS TAKEN BY THE HARMONIZED SYSTEM COMMITTEE
AT ITS 24TH SESSION
(Docs. NG0013E1 and NC0168E1)

16. The Committee took note of the communication from the Secretariat that the decisions taken by the Committee at its 24th Session were deemed approved by the Council, in accordance with Article 8.2 of the Harmonized System Convention, except for the following five decisions in respect of which reservations had been entered by the named administrations :
 - One by the European Community concerning the "classification of bakers' wares (waffles)" (Doc. NC0160E2/G/8).

- One by the European Community concerning the "classification of the "Media Composer 1000"" (Doc. NC0160E2/H/18).
- One by the Canadian Administration concerning the "amendment of the Explanatory Note to heading 38.16" (Doc. NC0160E2/G/11 and K/1).
- One by the Japanese Administration concerning the "classification of the "Iris 3047" ink-jet printer" (Doc. NC0160E2/G/16).
- One by the Japanese Administration concerning the "classification of the "Color QuickCam"" (Doc. NC0160E2/G/19).

17. The first two questions would be referred to the Council at its 95th/96th Sessions in July 2000, whereas the last three questions would be re-examined by the HSC at this session, under Agenda Items VIII. 5, 6 and 7.

II.4 RECOMMENDATION OF 25 JUNE 1999 CONCERNING THE
AMENDMENTS TO THE HARMONIZED SYSTEM
(Doc. NC0231E1)

18. The Committee approved *ex post facto* the adjustments made by the Secretariat in the certified copies of the accepted amendments to the HS, consequential upon objections raised by the US Administration concerning proposed new Subheading Note 2 to Chapter 85 and subheadings 8524.31 to 8524.40 and 8524.91.
19. One delegate, while agreeing with the actions taken by the Secretariat, raised two points of concern. First, the Annex to the working document should, in his view, have been published in bilingual format and second, the issue should have been placed on the Agenda as an Item III issue, since it requested the approval of the Committee. The Committee agreed that, in future, this point would be considered as a "General question", rather than an issue under the item "Report by the Secretariat", as was the case for the current Agenda.

II.5 TECHNICAL ASSISTANCE ACTIVITIES OF THE
NOMENCLATURE AND CLASSIFICATION SUB-DIRECTORATE
(Doc. NC0169E1)

20. The Director informed the Committee that, with the assistance and support of the Japanese Administration, the Secretariat was vigorously continuing to provide technical assistance to developing countries in respect of the HS-related matters. He noted that the Secretariat was in the process of preparing its technical assistance plan for the next financial year and invited administrations to let the Secretariat know their needs in this area.
21. The Moroccan Delegate thanked the Secretariat for organizing an HS seminar in his country in November 1999.

22. The Delegates of Vietnam and Malaysia thanked the Secretariat and the Japanese Administration for organizing HS seminars in their countries in November and December 1999, respectively. The Delegate of Vietnam also expressed appreciation for the technical assistance provided by France, Denmark and New Zealand to his administration. Both delegates hoped that their administrations would receive further assistance from the Secretariat and developed country members in the future.
23. The Committee took note of the information given in Doc. NC0169E1 and the Annex thereto, as well as the information provided by the Director and the Delegates of Malaysia, Morocco and Vietnam.

II.6 CO-OPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS (Doc. NC0170E1)

24. The Committee took note of the information provided by the Secretariat concerning co-operation with other international organizations.
25. The representative of the WTO explained the status of the implementation of the HS1996 amendments in the WTO schedules of tariff concessions. While WTO Members who had introduced the HS1996 changes in their national tariffs needed to reflect these changes in their WTO schedules, there were certain Members who had been granted waivers allowing them time to carry out the necessary procedures after having implemented the changes. According to the provisions contained in the General Council Decision of 4 November 1999 extending the limit of those waivers until 30 April 2000, it was envisaged that the Members concerned would submit by that date the complete documentation related to the introduction of the HS1996 changes in their WTO schedules.
26. In this connection, she reported that there were 28 Members under waiver until 30 April 2000. Twenty-three Members had now requested an extension of the waiver until 31 October 2000. The WTO Market Access Committee would be considering these requests at its forthcoming meeting of 23 March 2000.
27. On the submission of HS1996 documentation, she stated that 12 submissions had been certified, seven submissions had been approved and documentation was in the process of being prepared for certification. Twenty-four cases, whether the Member concerned had requested an extension of the waiver or not, remained pending due to ongoing consultations and/or negotiations.
28. The WTO representative also informed the Committee that informal consultations were being held on how to expedite the exercise of introducing the HS1996 amendments into WTO schedules of tariff concessions. During these informal consultations delegations highlighted the problems hindering the process and provided some solutions. No decision had been taken regarding any of the points raised, but the WTO Market Access Committee was taking a very active interest in this question especially in view of the future HS2002 amendments.

29. The representative of the United Nations Statistics Division (UNSD) thanked the Director and all the staff of the Tariff and Trade Affairs Directorate for their excellent co-operation. In particular UNSD was thankful for (a) assistance with the review of the International Merchandise Trade Statistics Compilers Manual, (b) contributions to the work of the Expert Group on International Economic and Social Classifications, and (c) the preparation of the Correlation Tables between the HS2002 and HS1996.
30. He also indicated that implementation of the HS2002 was a matter of importance not only for the WCO but also for the UNSD. In this connection UNSD intended to (a) write to national statistical offices and recommend implementation of the HS2002 in their external trade statistics, (b) make necessary changes in its training materials to describe HS2002 and its relationship with HS1996, and (c) prepare a correlation table between HS2002 and the Standard International Trade Classification, Revision 3. UNSD would continue to assist the WCO and participate in the development of future revisions of the HS.
31. The representative of the International Chamber of Commerce (ICC) thanked the Director for his guidance and assured continued support of the ICC Technical Advisory Committee. He stated that it was their intention to maintain a close partnership.

II.7 CO-OPERATION WITH THE TECHNICAL COMMITTEE ON RULES OF ORIGIN (Doc. NC0171E1)

32. The Committee took note of the developments in the Technical Committee on the Rules of Origin, as set out in Doc. NC0171E1.

II.8 DEVELOPMENT OF HS AUDIOVISUAL TRAINING MATERIALS (DOC. NC0172E1)

33. The Director informed the Committee that the HS training "Harmonizer" CD-ROM would be available by the end of April. Sales brochures and order forms were distributed to the delegates. As for the Internet version the Secretariat was still considering technical possibilities and the financial repercussions with the Swedish Administration.
34. On behalf of the Committee, the Chairman expressed thanks to the Swedish Administration for the on-going development of the CD-ROM.

II.9 DEVELOPMENT OF CORRELATION TABLES (Doc. NC0173E1)

35. With regard to the status of the Correlation Tables between the HS1996 and HS2002, the Committee agreed that the Tables should not have legal status and should be regarded simply as a guide, as suggested in paragraph 8 of Doc. NC0173E1.

36. The Director invited the attention of the Committee to the same paragraph and informed the Committee that the Secretariat intended to publish the Tables after making necessary corrections based on comments to be made by administrations. Therefore, he asked delegates to submit their comments by the end of May.
37. Stressing the importance of the Correlation Tables with regard to the start of GATT Article XXVIII negotiations concerning the 2002 amendments, the Delegate of Japan stated that WTO Members needed the Correlation Tables to be prepared by the WCO in order to implement the HS2002 amendments and asked the Committee to adopt the draft Correlation Tables as soon as possible, otherwise it could become difficult for his country to implement the HS2002 amendments on a timely basis.
38. However, other delegates were of the view that although the Tables were a guide, the Committee should adopt them after examining various comments from administrations, in particular, different views to be reflected in the Tables regarding the classification of specific products, as mentioned in paragraph 7 of Doc. NC0173E1.
39. In this connection, the Observer for the UNSD stated that the correlations with respect to headings 29.37 and 38.22 should be indicated by listing major transfers instead of general references only.
40. One delegate indicated that in view of the fact that the Tables would only be a guide, they should be prefaced by a statement indicating that individual Member administrations may have classified products differently in actual practice from the classifications shown in the Tables.
41. Finally, the Committee agreed that the Correlation Tables should be examined and adopted by the Committee at its next session and administrations were invited to submit their comments as soon as possible to the Secretariat.
42. The draft Correlation Tables under consideration, which were placed in square brackets, are reproduced in Annexes R/1 and R/2 to this Report.

II.10 HS DATABASES AND WEB SITES (Doc. NC0174E1)

43. Explaining the reasons for publishing Doc. NC0174E1, the Director requested administrations to inform the Secretariat about new developments in this field, to enable the Secretariat to up-date the information regularly. The Committee took note of the useful information provided in the Annex to the working document and the Director's comments.

II.11 FORMAT OF THE HS COMMITTEE DOCUMENTS
(Doc. NC0201E1)

44. The Canadian Delegate pointed out that, despite its bilingual status, his administration was prepared to accept the Secretariat proposal for preparing the HS working documents and reports with monolingual annexes on a trial basis, provided that the English and French versions were published simultaneously. Nevertheless, Canada preferred keeping the status quo, as having bilingual annexes made it easier to compare, understand and interpret proposals and to detect any possible misalignment between the English and French versions.
45. The EC Delegate noted that the HS Convention had been written in the English and French languages, both texts being authentic. From the legal point of view, therefore, publishing HS documents and reports with bilingual annexes provided security to administrations that worked on the basis of both versions. He further stated that certain WCO Members had to translate the HS-related documents into their own languages from either English or French. However, when such countries had difficulty with one version, they were most of the time able to find solutions to those problems by referring to the other version. Finally, with regard to publishing documents and reports with monolingual annexes, many administrations would be requesting both versions, possibly making the cost of publications higher than at present. Therefore, he was in favour of maintaining the status quo. Nevertheless, he would not oppose a decision by the Committee based on an indicative vote as to whether to maintain the status quo or not.
46. The Director explained that the Secretariat believed that the proposed practice would simplify and speed up the preparation of documents and reports and would result in some cost savings to the WCO as well. He stressed that administrations would be able to receive both versions of documents upon request. He also pointed out that the proposal was for a trial period and it was always possible to return to the past practice depending on the results of the trial.
47. The US Delegate noted that the Secretariat proposal was for a trial period. Although he was not against the proposal, it would be appropriate to establish some criteria to evaluate the results of such a trial, e.g., as to whether monolingual annexes would enhance the timely preparation of documents, result in cost savings, etc.
48. After discussion, the Committee, by an indicative vote of 12 to 7, agreed to maintain the status quo, i.e., publication of HS documents and reports with bilingual annexes.

II.12 DRAFT CORRIGENDUM AMENDMENT
TO THE HARMONIZED SYSTEM
(Doc. NC0244E1)

49. One delegate stated that this Agenda item should be included under Item III (General Questions) for reporting purposes, since the Committee was asked to take a decision on a corrigendum amendment to the 25 June 1999 Council Recommendation concerning the 2002 amendments to the Harmonized System. In respect of the proposed corrigendum

amendment regarding the use of “glycol” instead of “glycols” in the French version of subheading 3404.20, he believed that the use of the plural form was not an editorial mistake arising out of the 1999 Recommendation, since the French text in the present nomenclature had always been in the plural. Finally, as to the submission of editorial amendments to the Council, he recalled that in the course of the last HS revision the Committee proposed two or three such amendments to the Council and suggested that for the purposes of the 2002 amendments it would be appropriate to include all of the minor editorial amendments in a single document and to submit it to the Council at its 2001 sessions for adoption.

50. The Director explained that the Secretariat was concerned about the timely printing of 2002 versions of the Nomenclature, the Explanatory Notes and other HS-related publications, taking into account the fact that a number of complaints had been received from administrations with regard to the late printing of those publications before the entry into force of the 1996 amendments. Therefore, the Secretariat was proposing the submission of minor editorial amendments to the Council at its next sessions in July 2000.
51. Another delegate as a compromise solution proposed that all possible editorial modifications be submitted to the Secretariat before the 26th Session of the Committee. The Secretariat could then combine such modifications in one document and submit it to the Committee for examination and adoption at its 26th Session.
52. In this connection, it was also noted that the only body which could propose amendments to the Harmonized System to the Customs Co-operation Council was the Harmonized System Committee. Therefore, such amendments should be first adopted by the Committee itself. The Secretariat could start its work on printing the HS publications immediately after the adoption of any amendments by the Committee at its next session, while the Council would adopt the amendments at its 2001 sessions.
53. After discussion, administrations were invited to submit any minor editorial errors they found in the 25 June 1999 Council Recommendation to the Secretariat as soon as possible. The Secretariat was instructed to combine all such errors in a single document and prepare a draft proposal of amendments for examination and adoption by the Committee at its next session.
54. Finally, in respect of the proposal that the reference to “polyethelene glycol” in the French version of the new text of subheading 3404.20 should be in the singular (i.e., polyéthylène glycol), Dr. Sluis, the Chairman of the Scientific Sub-Committee explained that the matter had been examined and agreed at the 15th Session of the Sub-Committee. The Committee decided to place the amendment proposed in the Annex to Doc. NC0244E1 in square brackets until its next session, as this text was to be included in the aforementioned single document.
55. The text placed in square brackets is set out in Annex Q to this Report.

III. GENERAL QUESTIONS

56. The Committee's conclusions concerning Agenda Item III are reproduced in Annex C to this Report.

IV. RECOMMENDATIONS

57. The Committee's conclusions concerning Agenda Item IV are reproduced in Annexes D and N to this Report.

V. REPORT OF THE SCIENTIFIC SUB-COMMITTEE (15th Session)

58. The Harmonized System Committee examined the conclusions reached by the Scientific Sub-Committee at its 15th Session.
59. The results of this examination are reproduced in Annexes E and P/1 to this Report.
60. On behalf of the Committee, the Chairman thanked the Scientific Sub-Committee and its Chairman for the excellent work accomplished at the 15th Session of the Sub-Committee.

VI. REPORTS OF THE HS REVIEW SUB-COMMITTEE (20th and 21st Sessions)

61. The Harmonized System Committee examined the conclusions reached by the Review Sub-Committee at its 20th and 21st Sessions.
62. The results of this examination are reproduced in Annexes F, L, M and P/24 to this Report.
63. On behalf of the Committee, the Chairman thanked the HS Review Sub-Committee and its Chairman for the excellent work accomplished at the 20th and 21st Sessions of the Sub-Committee.

VII. REPORT OF THE WORKING PARTY

64. The Harmonized System Committee examined the conclusions reached at the Working Party's pre-session meeting. The conclusions of the Committee are reproduced in Annex G to this Report.
65. The texts finalized by the Working Party and adopted by the Committee are set out in Annexes P/4 to P/22 to this Report.
66. On behalf of the Committee, the Chairman congratulated the Chairman and the Members of the Working Party on their excellent work.

VIII and IX. FURTHER STUDIES AND NEW QUESTIONS

67. The Committee's conclusions concerning Agenda Items VIII and IX are reproduced in Annexes H, IJ, P/2, P/3 and P/23 to this Report.

X. ELECTION OF CHAIRMAN AND VICE-CHAIRMEN OF
THE HARMONIZED SYSTEM COMMITTEE

68. Due to the late hour, on the proposal of the Director, the Committee agreed to elections of its Chairman and Vice-Chairmen by acclamation of the candidates.
69. In this respect, at the end of the 25th Session, the Committee unanimously elected Mr. J. HINDSDAL (Denmark) as Chairman for its 26th and 27th Sessions.
70. Mr. M. BELARBI (Morocco) was unanimously re-elected First Vice-Chairman.
71. Mr. S. AHMAD (Pakistan) was unanimously elected Second Vice-Chairman.

XI. OTHER BUSINESS

72. The Committee's conclusions concerning Agenda Item XI are reproduced in Annexes K and S to this Report.

STAFF CHANGES IN THE NOMENCLATURE AND
CLASSIFICATION SUB-DIRECTORATE

73. The Director informed the Committee that Mr. R. CASTIAUX (Belgium) and Mr. J.-H. KIM (Rep. of Korea) had recently joined the Secretariat as Technical Attachés.

OTHER

74. The Chairman announced that he was shortly to take his retirement, as was Mr. G. BEDARD (Canada). He very much hoped that the Committee would continue to ensure that the Harmonized System remained an important instrument of international trade.
75. The Director informed the Committee that Mr. L. BELLAGAMBA, Head of the Interpretation Service, was leaving the Secretariat after a career of 35 years.
76. On behalf of the Committee, Mr. J. VALENTINE (US) and Mr. ALARCÓN CAÑONES (EC) wished a happy retirement to Mr. ROBYR, whose competence and devotion to duty would be remembered in HSC meetings as a shining example.

XII. DATES OF THE NEXT SESSIONS

77. The provisional dates of the next meetings of the Review Sub-Committee, the Working Party, the Harmonized System Committee and the Scientific Sub-Committee are as follows :
- (a) Review Sub-Committee (22nd Session)
- Monday 18 September 2000 (10 a.m.) to
Friday 22 September 2000.

(b) Working Party

Wednesday 8 November 2000 (10 a.m.) to
Friday 10 November 2000.

(c) Harmonized System Committee (26th Session)

Monday 13 November 2000 (10 a.m.) to
Friday 24 November 2000.

(d) Scientific Sub-Committee (16th Session)

Monday 15 January 2001 (10 a.m.) to
Friday 19 January 2001.

J.-L. ROBYR,
Chairman.

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8.	Classification of the "Smirnoff Mule" beverage	H/8
9.	Deleted	
10.	Possible amendments to the Nomenclature and/or Explanatory Notes to clarify the classification of certain crisps in heading 19.05	H/9, P/3
11.	Classification of "high fat cream cheese" and possible creation of a definition of cheese of heading 04.06	H/10
12.	Amendment of the Explanatory Notes arising from the classification of "chicken sauce" in subheading 2103.90	H/11
13.	Classification of vibrators	H/12
14.	Classification of multifunctional digital copiers	H/13
15.	Possible amendments to the Explanatory Notes to clarify the classification of "smart cards"	H/14, P/23

16. Classification of the "Tata Sumo 483" motor vehicle	H/15
17. Classification of a compression type refrigerating unit	H/16
IX. New questions	67 IJ
1. Classification of "Rougher headed lumber"	IJ/1
2. Classification of "Notched lumber"	IJ/2
3. Classification of certain special textile yarns	IJ/3
4. Classification of uncooked pizza	IJ/4
5. Possible amendment of the Explanatory Note to heading 84.71 with regard to "readers which decode data inscribed on cards or tape"	IJ/5
6. Classification of automatic control units	IJ/6
7. Classification of touch panels	IJ/7
8. Classification of game controllers	IJ/8
9. Classification of print engines	IJ/9
10. Classification of graphic tablets/digitizers	IJ/10
11. Classification of DVD storage units	IJ/11
12. Classification of optical and tape autoloaders and libraries	IJ/12
13. Deleted	
14. Classification of proprietary storage formats	IJ/13
15. Classification of flash electronic storage cards	IJ/14
16. Classification of the "Whistler 1120"	IJ/15
17. Study with a view to establishing guidelines for the classification of vehicles of headings 87.02, 87.03 and 87.04	IJ/16
18. Study of the scope of the terms "domestic" and "household" in the Nomenclature and the Explanatory Notes	IJ/17
19. Classification of lumbar support belts	IJ/18
20. Deleted	
21. Classification of tire inflation valves	IJ/19

Annex A to Doc. NC0250E2
(HSC/25/March 2000)

Additional list

1.	Classification of a tobacco mixture known as "Basic Blended Strip"	IJ/20
X.	Election of Chairman and Vice-Chairmen	68 to 71
XI.	Other business	72 to 76 K, S
1.	List of questions which might be examined at a future session	K, S
XII.	Dates of next sessions	77

* * *

ANNEX B/1

LIST OF CONTRACTING PARTIES
TO THE HARMONIZED SYSTEM CONVENTION

Situation as of 31 March 2000

(98 countries and 1 Customs or Economic Union)

Algeria	Iceland	Panama
Argentina	India	Peru
Australia	Indonesia	Poland
Austria	Iran	Portugal
Bangladesh	Ireland	Romania
Belarus	Israel	Russia (Federation of)
Belgium	Italy	Rwanda
Botswana	Japan	Saudi Arabia
Brazil	Jordan	Senegal
Bulgaria	Kenya	Slovakia
Burkina Faso	Korea (Rep.)	Slovenia
Cameroon	Latvia	South Africa
Canada	Lebanon	Spain
Central African Republic	Lesotho	Sri Lanka
Chad	Libyan	Sudan
China	Arab Jamahiriya	Swaziland
Congo (Dem. Rep. of)	Lithuania	Sweden
Côte d'Ivoire	Luxembourg	Switzerland
Croatia	Madagascar	Thailand
Cuba	Malawi	The Former Yugoslav
Cyprus	Malaysia	Republic of Macedonia
Czech Republic	Mali	Togo
Denmark	Malta	Tunisia
Egypt	Mauritius	Turkey
Estonia	Mexico	Uganda
Ethiopia	Mongolia	United Kingdom
Fiji	Morocco	United States
Finland	Myanmar	Uzbekistan
France	Netherlands	Venezuela
Germany	New Zealand	Vietnam
Greece	Niger	Zambia
Guinea	Nigeria	Zimbabwe
Haiti	Norway	EC
Hungary	Pakistan	

* * *

ANNEX B/2

LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC
UNIONS USING THE HARMONIZED SYSTEM

Situation as of 31 March 2000

(Total 177)

Albania	Haiti	Saint Pierre and Miquelon (French Terr.) x.....
Algeria	Honduras	Saint Vincent and the Grenadines±.....
Antigua & Barbuda x	Hong Kong, China..... x	Saudi Arabia
Argentina	Hungary±.....	Senegal
Australia	Iceland±.....	Sierra Leone±.....
Austria	India	Singapore
Azerbaijan	Indonesiax.....	Slovakia
Bahamas	Iranx.....	Slovenia
Bahrain	Ireland	Solomon Islands
Bangladesh	Israel±.....	South Africa
Barbados	Italyx.....	Spain ±.....
Belarus	Jamaica	Sri Lanka
Belgium	Japan	Sudan x.....x.....
Belize.....	Jordan	Suriname
Benin	Kazakhstan.....	Swaziland
Bermuda.....	Kenyax.....	Sweden±.....
Bolivia.....	Kiribati	Switzerland
Botswana.....	Korea (Rep.)±.....	Syrian Arab Rep.....
Brazil	Kuwait	Tanzania±.....
Brunei Darussalam x	Latvia	Thailand
Bulgaria	Lebanon	The Former Yugoslav Republic of Macedoniax.....
Burkina Faso	Lesotho±.....	Togo±.....
Cameroon.....	Libyan Arab Jamahiriya +	Tonga±.....
Canada	Liechtenstein	Trinidad and Tobago .x..... x
Cape Verde	Lithuaniax.....	Tunisia.....±.....
Central African Rep..... +	Luxembourg	Turkey±.....
Chad	Macau, China	Tuvalu±.....
Chile	Madagascar	Uganda
China	Malawi	Ukraine
Colombia	Malaysiax.....	United Arab Emirates±..... x
Comoros	Malix.....	United Kingdom
Congo (Dem. Rep. of)..... +	Malta	United States±.....
Congo (Rep. of).....	Mauritiusx.....	Uruguay±.....
Cook Islands	Mexicox.....	Uzbekistan.....x.....
Costa Rica	Mongoliax.....	Vanuatu±.....
Côte d'Ivoire	Morocco±.....	Venezuela
Croatia	Mozambique	Viet Nam±.....
Cuba	Myanmar	Wallis and Futuna (French Terr.)±.....
Cyprus	Namibia	Yemen±.....
Czech Republic	Netherlands±.....	Zambiax.....
Denmark	Nepal±.....	Zimbabwe
Djibouti	New Caledonia (French Terr.) . x	EC±.....
Dominica	New Zealandx.....	Andean Community (CAN)..... +x
Dominican Rep.	Nicaraguax.....	Caribbean Community (CARICOM)±.....
Ecuador	Niger	Commonwealth of the Independent States(CIS).....
Egypt	Nigeria	Economic and Monetary Community of Central Africa (CEMAC) (former CAQEU) +x
El Salvador	Niuex.....	Economic Community of Western African States (ECOWAS) +x
Equatorial Guinea x	Norway	Gulf Cooperation Council(GCC)+x
Estonia	Pakistan	Latin American Integration Association (LAIA).....±..... +x
Ethiopia	Panama	Southern Cone Common Market (MERCOSUR)
Fiji	Papua New Guinea x	
Finland	Paraguay	
France	Peru	
Gabon	Philippines	
Gambia.....	Poland	
Germany	Polynesia (French Terr.) x	
Ghana	Portugal	
Greece	Qatar	
Grenada	Romaniax.....	
Guatemala	Russiax.....	
Guinea	Rwanda	
Guinea Bissau.....	Saint Kitts and Nevis .x..... x	
Guyana	Saint Lucia	x x

Notes :

+ Acceptance (i.e., Contracting Party to the Harmonized System Convention).

x Indicates application only.

+x Some Members are Contracting Parties to the Harmonized System Convention.

* * *

ANNEX C

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0175E1	Survey on the non-application of HSC decisions.			

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

Results of the survey

1. Congratulating the Secretariat on its study, the EC Delegate sought clarification on other Members' responses summarized in paragraph 11 of the working document regarding the inability to change long-standing national practices as a reason for non-application. With regard to paragraph 31, he clarified that when ruling on a classification case, the courts did not in all cases take HSC classification decisions into consideration but took into account all information at hand, including that provided by economic operators and administrators, amongst whom HS decisions were frequently quoted.
2. In response, the Chairman explained that the difficulty of certain administrations in applying some HSC classification decisions in light of long-standing national practice often related to products which were of economic importance for Members (e.g., cases which required a change of tariff rate).
3. The US Delegate stated that his administration was encouraged by the results of the survey by the Secretariat which confirmed that there was wide-spread application of HSC classification decisions. The US strongly supported the efforts of the HSC to achieve transparency and greater uniformity in the classification of goods. Towards that end he pointed out that his administration currently made its classification decisions available on the Internet. He encouraged other administrations to do the same.
4. Thanking administrations that had responded to the questionnaire, the Director stated that the questionnaire had been sent to all HS Contracting Parties (98 at that time) and responses represented about 50% of the Contracting Parties, which was quite good. He encouraged all Contracting Parties to respond to the Secretariat's questionnaires, while explaining that the Secretariat had been trying not to abuse the use of questionnaires by limiting their use to the study of important issues only.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Council Recommendation

5. On the issue of a possible Council Recommendation requesting HS Contracting Parties to notify the Council if they could not implement an HSC classification decision, the EC Delegate stressed the importance of transparency and efficiency regarding the implementation of HSC decisions. Although he favoured a Recommendation which would impose certain obligation of notification on all HS Contracting Parties, he remarked that the possibility of a Recommendation should first be examined and the study should be open to different ideas. He suggested that the draft Recommendation could include (1) notification of the decisions not applied by Members, (2) the specific reasons for non-application, and (3) an indication of a flexible period of time to submit such notification (e.g., two years after their approval). He further questioned whether the Secretariat had ever received any such notification in the past.
6. Responding to the last point, the Director informed the Committee that the Secretariat had received one notification of non-application in the past and would consider whether to publish that notification after consultations with the administration concerned.
7. The US Delegate stated that his administration could support notification to the WCO Secretariat of the non-application of classification decisions and publishing the information on the WCO Web site. Moreover, he stated that the US could, in principle, support the study of a Recommendation by the Council provided that the Recommendation included explicit language recognizing that compliance was subject to national legal procedures. He suggested that, since the situation regarding implementation of HSC classification decisions was quite satisfactory, a Recommendation might not be necessary and that Members could simply be requested to provide notification to the WCO so as to make more rapid progress. In this regard, the Delegate of Japan stated that many possibilities should be studied.
8. The Chairman concluded that most delegations consulted (43) were in favour of a Council Recommendation requesting all HS Contracting Parties to notify the Council if they could not implement an HSC classification decision and instructed the Secretariat to pursue the study. Apart from a draft Council Recommendation, the Secretariat would also look at different options to improve transparency regarding the application of HSC classification decisions and put forward its proposals for consideration by the Committee at its next session. The issue relating to the application or non-application of HSC classification decisions would remain on the HSC Agenda for the time being and it would be decided later whether to make it a permanent Agenda item or not.

* * *

1	2
NC0176E1	Survey on the use of the HS Explanatory Notes.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. At the outset, the Director explained the background and the objective of the survey by referring to Doc. NC0176E1 and expressed his appreciation to those countries that had sent replies to the questionnaire, including Tunisia and Syria which were not listed in paragraph 5 of the above document.
2. He also explained that there was a problem with the distribution of the Explanatory Notes at the regional or local level and that there was also an interest in the publication of less expensive versions of the Explanatory Notes. He added that the Secretariat would consider selling a cheaper version when publishing the 2002 version of the Explanatory Notes. In this connection, the Moroccan Delegate expressed his interest in the publication of a cheaper version without binders.
3. The Director further explained the possibility of publishing the Explanatory Notes via the Internet, subject to the approval of the Finance Committee in April of this year.
4. Concerning the WCO's copyright with regard to the Explanatory Notes, he stated that in addition to freely allowing the translation and printing of the Explanatory Notes in languages other than French or English, the WCO had authorized Member administrations to print copies of the Explanatory Notes in French and English for the use of the administration only.
5. The EC Delegate expressed concern over the fact that there were problems in developing countries with regard to the discrepancy between the original version incorporating all the amendments and the translated version of the Explanatory Notes not incorporating those amendments so that uniform application of the HS might be undermined. He took the view that the Secretariat could contemplate technical assistance to those countries in this connection.
6. The Committee took note of the information provided.

* * *

1	2
NC0177E1	Annual survey to determine the percentage of national revenues represented by Customs duties.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. At the outset, the Director explained that the survey had been broadened to encompass over 100 administrations, as compared with the survey on 74 HS Contracting Parties last year. The information was provided for the most recent three years available. The results of the survey showed a modest but clear decline in the importance of Customs duties over the most recent three years. At the same time, in the case of one-fifth of countries surveyed, more than 30 % of the national revenue came from Customs duties. He emphasized that Customs duties remained important and would continue to remain important for many developing countries.
2. The EC Delegate pointed out that the Customs duties collected by the EC Member Customs administrations constituted part of the resources of the EC and did not belong to individual administrations. Within the EC there were no Customs frontiers between Members and, therefore, the share of Customs duties and average Customs duties should be the same among the EC Members. He also stated that the data for EC Member States should be grouped together with the EC data for this survey next year.
3. In response to the comments of the EC, the Director stated that the Secretariat would contact the EC when preparing next year's survey.
4. The Committee took note of the results of the survey.

* * *

1	2
NC0240E1	Procedure for adopting the amendments to the Explanatory Notes and the Compendium of Classification Opinions consequential upon the Article 16 Recommendation.

Amendments to the Explanatory Notes

Amendments arising from the HS2002 amendments

1. The Director explained that it was important to publish the amendments as early as possible so as to give administrations sufficient time to prepare for their implementation. To this end, he requested the Committee to agree with the Secretariat's proposal to provisionally adopt the amendments to the Explanatory Notes at this session and to formally approve all the amendments together at the 26th Session.
2. One delegate expressed concern about what action would be taken if the Committee was not able to finalise the examination of all amendments at the 26th Session. It was pointed out in this regard that the whole review process should not be blocked by a very small number of unresolved questions and the Committee should strive to achieve the finalisation of the Explanatory Notes. If there were still unresolved issues, they could be discussed on a case by case basis at the 27th Session. It was mentioned that one way of dealing with them could be the issuance of a corrigendum, since all of these amendments were of a corrigendum nature.
3. The Committee agreed with the Secretariat's proposal as mentioned in paragraph 1 above. The Committee also confirmed that the publication of the amendments to the Explanatory Notes, once adopted, should be as a complete set and that the reservation procedure regarding these amendments would apply after their final adoption at the 26th Session.

Amendments by corrigendum

4. The Committee agreed with the Secretariat's proposal as mentioned in paragraph 8 of Doc. NC0240E1 regarding further amendments to be made by corrigendum. In this connection, the Committee confirmed that, starting from the 27th Session, when classification decisions are taken, the Committee should indicate the classification of the products both in the present version of the Nomenclature and the 2002 version.

Compendium of Classification Opinions

5. The Committee endorsed the action to be taken by the Secretariat as mentioned in paragraph 11 of Doc. NC0240E1, i.e., to prepare the amendments on the basis of both the 1996 and 2002 versions of the HS wherever necessary and to take appropriate action for publishing them.

* * *

ANNEX D

RECOMMENDATIONS

Working Doc.	Subject	Recommendations
1	2	
NC0179E1 NC0239E1 NC0241E1	Draft Recommendation of the Customs Co-operation Council concerning artisanal products.	<u>See Annex N.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Observer for the ITC (UNCTAD/WTO) pointed out that the proposal to the WCO concerning artisanal products had been made about three years ago on behalf of developing countries and transition economies. Only a separate codification in trade and Customs nomenclatures would make it possible to collect data about such products, and thereby allow subsequent analysis of trade flows by policy makers for promoting trade in these products for the economic and social benefits of not only developing countries but also developed countries around the world. Therefore, the Committee's discussions on the Draft Recommendation would be crucial and decisive for the future of the international craft sector and trade.
2. Several delegates noted that, although they were not against the idea of adopting a Council Recommendation concerning hand-made products, their preference was for the separate identification of such products at legal level on the basis of product characteristics. Other options could be the (a) creation of a new heading for hand-made products at the end of each relevant Chapter, (b) insertion of a new heading in Chapter 96 for all hand-made products or (c) use of Chapter 99 for the purpose.
3. However, another delegate explained that, on the basis of the ITC proposal, the separate identification of hand-made products at legal level had been studied by the Review Sub-Committee for about two years. The result of that study was not fruitful, as the Review Sub-Committee could not come up with a definition of hand-made products acceptable for HS purposes at world level. The Sub-Committee therefore had proposed to the Harmonized System Committee the idea of adopting a Council Recommendation in this respect and that idea had already been approved by the Committee at its 23rd Session. He further indicated that, taking into account the pressing needs expressed by the Observer for the ITC, the Recommendation drafted by the Secretariat, after suitable modifications, could be a good starting point in respect of collecting trade data on hand-made products. Based on the results obtained through the implementation of the Recommendation, the separate

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

identification of these products at legal level could be taken up again during a future review cycle.

4. In respect of the Draft Recommendation prepared by the Secretariat, he invited the Committee to take a pragmatic approach so as to make the Recommendation as flexible as possible and thus acceptable to as many WCO Members and HS Contracting Parties as possible. He therefore proposed that the Recommendation should not impose a definition or a list of subdivisions concerning hand-made products on administrations. Rather, relevant provisions on these issues should be left to their individual discretion. Nevertheless, in order to provide transparency, administrations should be invited to notify the Secretary General of the definition of hand-made products used by their administrations, any provisions concerning the certification of such products and any subdivisions inserted in their statistical nomenclatures. The Committee agreed that Contracting Parties could have as little as one subdivision for hand-made products in their statistical nomenclature.
5. These views were shared by many delegates, but one delegate expressed concern that, due to differences in (a) the definition of hand-made products, (b) the provisions laid down in respect of certification and especially (c) the subdivisions inserted in statistical nomenclatures, the trade statistics obtained from the implementation of the Recommendation might not be as meaningful as the ITC had anticipated by its proposal.
6. The Director explained that this Recommendation was very important for the WCO in the context of its co-operation with other international organizations with a view to helping the economies of developing countries. If adopted as proposed, it would provide a great deal of flexibility to administrations regarding its acceptance, but nevertheless provide important information concerning trade in hand-made products.
7. After discussion, and subject to suitable modifications of the texts proposed by the Secretariat in the Annex to Doc. NC0179E1, the Committee approved the Draft Recommendation of the Customs Co-operation Council on the Insertion in National Statistical Nomenclatures of Subheadings to Facilitate the Collection and Comparison of Trade Data on Hand-Made Products.
8. The texts adopted are set out in Annex N to this Report.

* * *

1	2
NC0180E1	Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the draft Protocol concerning firearms covered by the UN Convention against transnational organized crime.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Opening the discussion, the Delegate of Canada summarized the developments so far, in particular the Canadian Administration's initiatives with regard to the preparation of a Firearms Protocol. It was in this context that his administration had suggested a draft Council Recommendation with a view to inserting in national statistical nomenclatures subdivisions to facilitate the monitoring and control of products covered by the foreseen Protocol.
2. However, given the developments in the various UN bodies and recognizing the importance of having a Council Recommendation on this important issue, he conveyed his administration's formal request to prepare a draft Council Recommendation. He proposed that this draft Recommendation could be worked out on the basis of comments and proposals submitted earlier by his administration (reproduced in the Annex to Doc. NC0180E1), and taking into account any further comments to be received by the Secretariat. This issue could then be further discussed at the Committee's next session.
3. While agreeing with this approach, the EC Delegate indicated that the final coverage of the Firearms Protocol had yet to be established and that a Council Recommendation should reflect that coverage.
4. The Committee agreed to continue the discussions at its next session on the basis of a new working document to be prepared by the Secretariat, with a view to drafting a Council Recommendation, to be presented to the Council upon the completion of the drafting of the Firearms Protocol. This document should take into account the comments presented by Canada in Doc. NC0180E1 and any other comments received by the Secretariat.

* * *

ANNEX E

REPORT OF THE SCIENTIFIC SUB-COMMITTEE

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NS0014E2	Report of the 15 th Session of the Scientific Sub-Committee.		<u>See Annexes F/1 and P/1.</u>	
NC0181E1	Matters for decision by the Harmonized System Committee.			

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee examined the questions arising from the Report of the Scientific Sub-Committee's 15th Session (January 2000). The decisions taken by the Committee are set out below with reference to the relevant Annexes of the Sub-Committee's Report (Doc. NS0014E2).
Annex A/1 – Classification of “high fat cream cheese” and possible creation of a definition of cheese of heading 04.06
2. The Committee agreed to examine this question in the context of Agenda Item VIII.11.
Annex A/2 – Amendment of the Explanatory Notes concerning ramming mixes
3. The Committee agreed to examine this question in the context of Agenda Item VIII.7.
Annex A/3 – Amendment of the Explanatory Notes concerning ammonium nitrate fertilisers
4. The Committee shared the concern expressed by the Scientific Sub-Committee in respect of establishing a demarcation line in the Explanatory Notes with a view to distinguishing between the products of subheading 3102.30 and those of subheading 3102.40.
5. In this connection, it was noted that such a demarcation line could be established on a legal basis, if a Contracting Party made a proposal to the Review Sub-Committee in the course of the next review cycle.
6. The Committee therefore agreed not to take any further action in this regard and left it to the interested administrations to submit proposals for amendments to the legal texts.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes A/4 and B/1 – Classification of certain INN products and pharmaceutical intermediates

7. The Committee approved the classifications agreed upon by the Scientific Sub-Committee concerning (a) the classification of the remaining 28 products from INN List 80, (b) the classification of 43 products from INN List 81 and (c) the classification of 11 INN products on which action was postponed at the 14th Session of the Scientific Sub-Committee.
8. The Committee also took note of the fact that the classifications placed in square brackets would be further examined by the Sub-Committee.
9. The classifications approved and those placed in square brackets are set out in Annex P/1 to this Report.

Annexes A/5 and B/2 - Amendment of the Explanatory Notes concerning subheadings 3920.43 and 3920.49

10. The Committee took note of the fact that the Scientific Sub-Committee's conclusions on this question were forwarded to the Review Sub-Committee's 21st Session (see also Annex F/1 to this Report).

Annexes A/6 and B/3 – Amendment of the Explanatory Notes to heading 29.15

11. The Committee took note of the fact that the Scientific Sub-Committee's conclusions on this question were forwarded to the Review Sub-Committee's 21st Session (see also Annex F/1 to this Report).

Annexes A/7 and B/4 – Amendment of the Explanatory Notes concerning polymer names (see para. 26 of Doc. NR0074E1)

12. The Committee took note of the fact that the Scientific Sub-Committee's conclusions on this question were forwarded to the Review Sub-Committee's 21st Session (see also Annex F/1 to this Report).

Annex A/8 – Amendment of the Nomenclature and the Explanatory Notes to clarify the classification of co-ordination compounds

13. The Committee took note of the fact that the Sub-Committee had agreed to study this question further at its next session.

Annexes A/9 and B/5 - Amendment of the Explanatory Notes regarding the list of narcotic drugs and psychotropic substances

14. The Committee took note of the fact that the Scientific Sub-Committee's conclusions on this question were forwarded to the Review Sub-Committee's 21st Session (see also Annex F/1 to this Report).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (Contd.)

Annexes A/10 and B/6 – Amendment of the Explanatory Notes to clarify the meaning of “erucic acid”

15. The Committee took note of the fact that the Scientific Sub-Committee’s conclusions on this question were forwarded to the Review Sub-Committee’s 21st Session (see also Annex F/1 to this Report).

* * *

ANNEX F

REPORT OF THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

Working Doc.	Subject	Classification Opinions	E.N. Amendments	Nomenclature amendments
1	2	3	4	5
NR0072E2 (RSC/20)	Report of the 20 th Session of the HS Review Sub-Committee.	<u>See Annex M.</u>	<u>See Annexes L/1 - L/21 and P/24.</u>	
NR0101E2 (RSC/21) NR0103B1	Report of the 21 st Session of the HS Review Sub-Committee.			
NC0104E1 (HSC/24) NC0182E1 NC0242E1 NC0247E1	Matters for decision by the Harmonized System Committee.			

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng/Fr.)

1. The Committee examined the questions arising from the Reports of the Review Sub-Committee's 20th Session (September 1999) and 21st Session (February 2000).
2. With regard to the method for provisionally adopting the conclusions of the two sessions of the Review Sub-Committee, the Committee adopted the two-stage approach proposed by the Secretariat in paragraph 4 of Doc. NC0182E1.
3. The decisions taken by the Committee are set out below with reference to the relevant Annexes of the Sub-Committee's reports (NR0072E2 (RSC/20) and NR0101E2 (RSC/21)).

RSC/21

GENERAL QUESTIONS

Adoption procedure for the proposed amendments to the Explanatory Notes

4. This question was considered by the Committee under Agenda Item III.4 (see Annex C/4 to this Report).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Scope of the Third Harmonized System Review Cycle

5. The Committee took note of the conclusions by the Review Sub-Committee in paragraphs 7 and 8 of Doc. NC0182E1.

Increasing the threshold for the creation or deletion of subheadings

6. The Committee adopted the Review Sub-Committee's conclusions regarding the use of data partly based on estimates and the increase of the threshold for the creation or deletion of subheadings from US \$20 million to US \$50 million, subject to the exceptions already approved in the previous review cycles.

Updating of the current Explanatory Notes

7. The Director explained to the Committee that this was a very important issue in order to keep the Harmonized System a viable instrument. He indicated that the Secretariat would set up a working group to look into the priorities in respect of the HS review and the group could identify the important areas in the Explanatory Notes that would require immediate attention for updating. However he emphasized that it would be necessary to make a very strong recommendation to the Council explaining the importance and urgent need of updating the Explanatory Notes and the resources necessary for the Secretariat to carry out this task. Several other delegates also supported these views and stressed the urgent need of updating and modernizing the Explanatory Notes.

8. The Committee agreed that a full-scale revision of the Explanatory Notes should be undertaken. The Committee also agreed to the following suggestions of the Review Sub-Committee as mentioned in paragraph 14 of Doc. NC0182E1 :

- The initial drafting should be undertaken by the Secretariat;
- Sufficient additional resources (i.e., Technical Attachés) to carry out the work should be assigned to the Secretariat;
- The timing of this revision should not be tied to the schedule of the Third HS Review Cycle;
- Restructuring on the basis of the subheading structure should be examined on a case-by-case basis.

9. The Committee then decided that the Secretariat should prepare a suitable project proposal for the Council. The proposal should reflect the urgent need and importance in updating and modernizing the Explanatory Notes. With regard to the question of additional resources, the Committee agreed that this project should be given high priority before it

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

would be too late and therefore delegates were requested to convey this message to their Directors General in order to obtain the support of the Council.

Objections to the HS amendments set out in the Council Recommendation of 25 June 1999

10. The Committee provisionally adopted the draft amendments to the Explanatory Notes, as set out in paragraph 18 of Doc. NC0182E1 and took note of the deletion of the item on digital video discs from the RSC/21 Agenda.
11. The amendments provisionally adopted are set out in Annex L/16 to this Report.

AMENDMENTS TO THE EXPLANATORY NOTES (Doc. NR0101E2)

Annexes B/1 and E/1

Amendments to the Explanatory Note to heading 07.09

12. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
13. The amendments provisionally adopted are set out in Annex L/2 to this Report.

Amendments to the Subheading Explanatory Note to heading 29.33

14. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
15. The amendments provisionally adopted are set out in Annex L/6 to this Report.

16.

Amendments to the Explanatory Notes to headings 33.07, 34.01 and 34.02

17. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
18. The amendments provisionally adopted are set out in Annex L/6 to this Report.

Amendments to the Explanatory Note to heading 35.06

19. The Committee noted the decision at its 24th Session to align the French version of the draft amendment to exclusion (b) of the Explanatory Note to heading 35.06 on the English version (deleting the reference to heading 40.05 and substituting a reference to Chapter 40).
20. The amendments provisionally adopted are set out in Annex L/6 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Amendments to the Explanatory Note to heading 40.10

21. The EC Delegate informed the Committee that he could accept the Secretariat's alternative proposal. However he indicated that the terms in square brackets in the English text should be aligned on the French text to read "and sometimes transversally". With regard to the US alternative, he expressed concern on the possible impact on classification. He indicated that with regard to the HS 2002 amendments, the term "grooves" would not matter since it was not reflected in the legal texts.
22. The US Delegate expressed concern that, as drafted, the first alternative would narrow the current Explanatory Notes reference to grooves in V-belts by limiting it to grooves in V-ribbed belts which constituted only one type of V-belt. However, noting that the Secretariat's alternative proposal combined the text of the current Explanatory Note on "grooves whether moulded or cut" and the new text that described the V-ribbed belts, he suggested that the text be returned to the Review Sub-Committee for further consideration. In this respect, he suggested that two new paragraphs be drafted, i.e., one for the description of V-ribbed belts and one for the description of "grooves whether moulded or cut" into V-belts.
23. The Canadian Delegate informed the Committee that V-ribbed belts were already described by the existing Explanatory Note. He was of the view that the US proposal simply (a) expanded the existing Explanatory Note by indicating which of the existing examples of belts /belting was referred to as "V-ribbed" and (b) clarified that the existing reference to "grooves" was not limited to those which were longitudinal and transverse grooves fulfilled the function described in the existing Explanatory Note. The Secretariat proposal introduced an unnecessarily complicated definition of "V-ribbed" belts and linked the functionality of the grooves solely to V-ribbed belts. According to their research, he indicated that single rib belts, such as shown in examples (A) and (B) in the Explanatory Note to heading 40.10, might also have transverse grooves. Therefore he was of the view that the US proposal allowed for these goods, whereas the Secretariat's proposal did not.
24. The Committee finally agreed to send the above comments to the Review Sub-Committee for further consideration together with the Secretariat's alternative text and a new alternative proposal from the US. While the Secretariat's text was retained in Annex L/7 to this Report in square brackets, the Committee instructed the Secretariat to prepare a new document for the next session of the Sub-Committee.

Amendments to the Explanatory Note to heading 41.12

25. This question was considered by the Committee under Agenda Item VI.5 (see Annex F/3 to this Report).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Amendments to the Explanatory Notes to headings 51.02, 51.05 and 61.10

26. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
27. The amendments provisionally adopted are set out in Annex L/11 to this Report.

Amendments to the Explanatory Note to heading 57.02

28. One delegate stated that although “tissus bouclés par la chaîne” were not cited in the French version of the legal text of heading 58.01, they were mentioned in the Explanatory Note to that heading (page 870, paragraphs 2 and 3). He therefore preferred to maintain the status quo.
29. The Committee decided not to delete the reference to “tissus bouclés par la chaîne” in the French version of the Explanatory Note to heading 57.02 and left the texts unchanged.

Amendments to the Explanatory Note to heading 84.14

30. The Committee adopted the draft amendments to the Explanatory Notes to headings 84.14 and 84.67 regarding industrial blowers.
31. It agreed that the amendments for insertion of a reference to such blowers in the Explanatory Note to heading 84.14 were to be made by corrigendum, whereas the other amendments (i.e., the deletion of exclusion (d) to heading 84.14 and Item (21) of heading 84.67) were to be made under the Article 16 procedure.
32. The texts adopted under the corrigendum procedure are reproduced in Annex P/24 to this Report. The texts provisionally adopted under the Article 16 procedure are reproduced in Annex L/16 to this Report.

Amendments to the Explanatory Note to heading 84.15

33. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
34. The amendments provisionally adopted are set out in Annex L/16 to this Report.

Amendments to the Explanatory Note to heading 85.14

35. The Committee noted the deletion of the expression “very-high-frequency” in the draft amendment to the Explanatory Note to heading 85.14 (Part (I), second paragraph, Item (D)) (decision taken at the 24th Session).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

36. The provisionally adopted texts are reproduced in Annex L/16 to this Report.
Amendments to the Explanatory Note to headings 85.42 and 85.43
37. This question was considered by the Committee under Agenda Item VIII.15 (see Annex H/14 to this Report).
Amendments to the General Explanatory Note to Chapter 90 and to the Explanatory Note to heading 90.32
38. The Committee provisionally adopted the amendments set out in Annex E/1 to Doc. NR0101B2.
39. The amendments provisionally adopted are set out in Annex L/18 to this Report.
Annexes B/2 and E/2 - Amendments to the Explanatory Note to heading 29.15
40. The Committee provisionally adopted the amendments set out in Annex E/2 to Doc. NR0101B2.
41. The amendments provisionally adopted are set out in Annex L/6 to this Report.
Annexes B/2 and E/3 - List of narcotic drugs, etc., at the end of the Explanatory Notes to Chapter 29
42. Subject to minor modifications the Committee provisionally adopted the draft amendments to the list of narcotic drugs, etc., at the end of the Explanatory Notes to Chapter 29 set out in the Annex to Doc. NR0103B1 (corrigendum to Annex E/3 to Doc. NR0101B2).
43. The amendments provisionally adopted are set out in Annex L/6 to this Report.
Annexes B/2 and E/4 - Question concerning polymer names
44. The Committee provisionally adopted the amendments set out in Annex E/4 to Doc. NR0101B2, except those in the French version relating to "polyethylene glycol" (see paragraph 54 of this Report), which were placed in square brackets pending the adoption of the amendment to subheading 3404.20.
45. The amendments provisionally adopted and those in square brackets are set out in Annexes L/6, L/7 and L/16 to this Report.

Annexes B/2 and E/5 - Amendments to the Explanatory Note to heading 39.20

46. The Committee provisionally adopted the amendments set out in Annex E/5 to Doc. NR0101B2.

47. The amendments provisionally adopted are set out in Annex L/7 to this Report.

Annexes B/3 and E/7 - Amendments to the Explanatory Notes to headings 12.05, 15.14 and 23.06

48. As to the reference to *B. juncea*, the Canadian Delegate pointed out that the Codex Alimentarius Draft Standard for named vegetable oils referenced this Latin name both for mustardseed oil and for rapeseed oil. He was therefore of the opinion that this reference should be inserted in the Explanatory Note to heading 12.05.

49. Other delegates, however, were of the view that this reference could be confusing, since *Brassica juncea* was already referred to in the Explanatory Note to heading 15.14 as the Latin name for Indian mustard.

50. The Committee finally decided, by 8 votes to 1, to delete the reference to *B. juncea* in square brackets.

51. As to the references to "canola oil" and "European rape or colza oil double zero", it was agreed, as a compromise, to keep both references.

52. In this respect it was also agreed that in case national regulations or catalogues concerning these designations were changed, the Committee should be notified in order to amend the Explanatory Notes to headings 12.05 and 15.14.

53. The amendments provisionally adopted are set out in Annex L/2 (heading 12.05), Annex L/3 (heading 15.14) and Annex L/4 (heading 23.06) to this Report.

Annexes B/4 and E/6 - Amendments to the Explanatory Note to heading 20.09 concerning Brix value

54. The Committee decided to delete the square brackets and provisionally adopted the amendments set out in Annex E/6 to Doc. NR0101B2.

55. The amendments provisionally adopted are set out in Annex L/4 to this Report.

Annex F/1 to Doc. NC0250E2
(HSC/25/March 2000)

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes B/5 and E/8 - Amendments to the Explanatory Note to heading 27.10

56. The Committee provisionally adopted the amendments set out in Annex E/8 to Doc. NR0101B2.

57. The amendments provisionally adopted are set out in Annex L/5 to this Report.

Annex B/6 - Explanatory Note to heading 46.01

58. The Committee took note of the fact that the Sub-Committee had decided not to amend this Explanatory Note.

Annexes B/7 and E/11 - Amendment to the Explanatory Notes to headings 48.17 and 48.23

59. The Committee provisionally adopted the amendments set out in Annex E/11 to Doc. NR0101B2.

60. The amendments provisionally adopted are set out in Annex L/10 to this Report.

Annexes B/8 and E/9 – Amendments to the Explanatory Notes to Chapter 60

61. This question was considered by the Committee under Agenda Item VI.4 (see Annex F/2 to this Report).

Annexes B/9 and E/12 – Amendments to the Explanatory Note to heading 85.14

62. The Committee provisionally adopted the amendments set out in Annex E/12 to Doc. NR0101B2.

63. The amendments provisionally adopted are set out in Annex L/16 to this Report.

Annexes B/10 and E/13 - Amendments to the Explanatory Note to heading 85.18

64. The Committee provisionally adopted the amendments set out in Annex E/13 to Doc. NR0101B2.

65. The amendments provisionally adopted are set out in Annex L/16 to this Report.

Annexes B/11 and E/14 - Amendments to the Explanatory Notes in respect of new Note 6 to Chapter 85

66. The Committee provisionally adopted the amendments set out in Annex E/14 to Doc. NR0101B2.

67. The amendments provisionally adopted are set out in Annex L/16 to this Report.

Annexes B/12 and E/15 – Explanatory Note to heading 85.25

68. Given that opinions were divided regarding the two proposed amendments to the Explanatory Note to heading 85.25, namely (1) a text to create a new Item (E) relating solely to digital cameras (amended Polish proposal) and (2) a text to amend existing Items (C) and (D) (US proposal), the Committee decided to put the choice between the two variants to a vote.

69. The Committee finally decided, by 13 votes to 9, to include the amendments at issue in Item (D). In this respect, to answer one delegate's question the Chairman pointed out that in principle, this text should not alter the classification of the "Color Quickcam" in subheading 8525.30 (see Annex H/5 to this Report), from 2002 onwards.

70. The Committee then decided to submit the matter to the Review Sub-Committee for further examination on the basis of a new document in which the Secretariat would try to make the distinction between the three types of the apparatus covered by this subheading.

Annexes B/13 and E/16 – Amendments to the Explanatory Note to heading 90.21

71. The Committee provisionally adopted the amendments set out in Annex E/16 to Doc. NR0101B2. The Secretariat was instructed to prepare a new document endeavouring to differentiate between the different groups of apparatus.

72. The amendments provisionally adopted are set out in Annex L/18 to this Report.

Annexes C/1 and E/17 - Amendments to the Explanatory Note to heading 84.67

73. The Committee discussed the appropriateness of maintaining the word "vibrator" in the Explanatory Note. One delegate believed that vibrators were mentioned in the Explanatory Notes to headings 84.79 and 85.08. In his opinion, vibrators that were classified in heading 84.79 could not be classified in heading 84.67. Consequently, he felt the reference could be deleted.

74. Another view was that, as the Committee was transferring products from heading 85.08 to heading 84.67, it should also transfer the scope of the Explanatory Notes concerned. Consequently, he felt that the reference should be retained.

75. By a vote of 13 to 11, the Committee decided to delete the reference in square brackets to vibrators wherever they occurred in this Note.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

76. The amendments provisionally adopted are set out in Annex L/16 to this Report.

Annexes C/2 and E/18 - Amendments to the Explanatory Note to heading 85.18

77. After some discussion, the Committee decided that this amendment would be carried out by the corrigendum procedure. The Secretariat, using the Canadian text as a basis, was to draft a new text to be examined first at the next session of the Working Party.

Annexes C/3 and F/1 - Amendments to the Compendium of Classification Opinions

78. Following the decision to place the reference to "polyethylene glycol" in the French version in square brackets (see paragraphs 54 of this Report and 43 of this Annex), the relevant part of the amendment to Classification Opinion 3907.20/1 was also placed in square brackets (French text only).

79. The Committee decided, by 11 votes to 2, to delete present Classification Opinions 4410.19/1 and 4410.19/2 from the 2002 version of the Compendium of Classification Opinions and invited administrations to submit a new request for the classification of the products under the 2002 version of the HS, if they so wished.

80. As regards present Classification Opinion 6402.99/2 (postoperative shoes), the Director noted that the question for consideration was whether or not these shoes would satisfy the provisions of new Note 6 to Chapter 90 and that the Opinion clearly indicated that these shoes were mass-produced. Since one delegate wanted to examine the classification of this product based on additional information, the Committee agreed to examine this question at its next session and to maintain the Opinion for the time being.

81. The texts provisionally adopted by the Committee and the one in square brackets are set out in Annex M to this Report.

Annexes C/4 and E/10 – Amendments to the Explanatory Notes to Chapter 41

82. This question was considered by the Committee under Agenda Item VI.5 (see Annex F/3 to this Report).

RSC/20

83. The Committee noted that there had been a proposal to amend the French version of HS subheading 3404.20 (polyéthylène glycols) by corrigendum and that, in the event, a subsequent amendment would have to be made to the Explanatory Notes (see paragraph 43 above).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

84. The Committee also agreed to place in square brackets the following amendments consequential upon the amendments to the Explanatory Notes to Chapter 41. This issue had been submitted to the Review Sub-Committee for examination at its 22nd Session (September 2000).
- Page 43. Heading 05.11. Items (10) and (11);
 - Page 521. Heading 34.02. Part (II). Item (A). Second sub-paragraph. Item (iii);
 - Page 666. Heading 43.01. First and second paragraphs;
 - Page 667. Heading 43.02. First and third paragraphs;
 - Page 668. Heading 43.03. Third paragraph.
 - Page 795. Heading 51.02. Penultimate and last paragraph.
85. The Committee noted the list of amendments in the Annexes to Doc. NR0072B2, amended at the HSC's 24th Session or the RSC's 21st Session or deleted following an objection to the recommended amendments, reproduced in the Annex to Doc. NC0182E1.
86. Subject to the above referenced issues and to the items referred to in Annexes F/2 and F/3 to this Report, the Committee provisionally approved the texts adopted by the Review Sub-Committee at its 20th and 21st Sessions.
87. The texts provisionally approved as well as those still under consideration are reproduced in Annexes L/1 to L/21 to this Report.

* * *

1	2	4
NC0235E1	Amendments to the Explanatory Notes to Chapter 60.	<u>See Annex L/11.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

Chapter 60, General

1. The Committee agreed with the proposal by the Delegate of Switzerland to delete the reference to "fabrics knitted in two colours by a special process" both in the second paragraph of the new penultimate paragraph and in the new Subheading Explanatory Note. It was pointed out that administrations having problems with the classification of such fabrics could always submit the question to the Committee again on the basis of new samples, and ask for a reference to them to be restored in the Explanatory Notes.
2. The Committee also agreed to align the English version of new exclusion (e) on the French (insertion of the word "produced").

Heading 60.02

3. The Committee agreed to :
 - Delete the square brackets around the text concerning textured yarns in the second paragraph;
 - Delete the third paragraph;
 - Retain the "long" version of exclusion (e);
 - Delete exclusions (f) and (g) relating to headings 60.03 and 60.04, respectively.

Heading 60.03

4. The Committee agreed to :
 - Delete the second paragraph;
 - Retain the "long" variant of exclusion (e);
 - Delete exclusions (f) and (g) relating to headings 60.02 and 60.05 or 60.06, respectively.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Heading 60.04

5. The Committee agreed to :
- Delete the square brackets around the text concerning textured yarns in the second paragraph;
 - Delete the third paragraph;
 - Retain the "long" version of exclusion (d);
 - Delete exclusions (e) and (f) relating to headings 60.02 and 60.05 or 60.06, respectively.

Heading 60.05

6. The Committee agreed to :
- Delete the expression "Raschel looms" in the English version of the second paragraph and substitute "Raschel machines";
 - Delete the third paragraph;
 - Retain the "long" version of exclusion (e), including the reference to the goods of heading 59.08;
 - Delete exclusions (f), (g) and (h) relating to headings 60.02, 60.03 and 60.04, respectively.

Heading 60.06

7. The Committee agreed to :
- Delete the third paragraph;
 - Delete exclusion (b) concerning loop-wale yarn of heading 56.06;
 - Retain the "long" version of exclusion (e), including the reference to the goods of heading 59.08.

Heading 61.17

8. The Committee agreed to delete the reference to heading 60.06 in exclusion (g) but to keep the reference to heading 60.02.
9. The Committee provisionally adopted the texts finalized by the Review Sub-Committee, with the changes required to reflect the decisions mentioned above.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

10. The provisionally adopted texts are reproduced in Annex L/11 to this Report.

* * *

1	2	4
NC0238E1	Amendments to the Explanatory Notes to Chapter 41.	<u>See Annex L/8.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee agreed that the Review Sub-Committee should continue its discussion with respect to the proposed Explanatory Notes related to the amendments to Chapter 41. Pending the outcome of these discussions, the proposed amendments to Chapter 41 and related draft amendments in other Chapters (i.e., to headings 05.11 and 34.02, Chapter 43 (General Explanatory Notes), and headings 43.01, 43.02, 43.03 and 51.02 (see Annexes L/1, L/6, L/8 and L/11 to this Report, respectively)), were placed in square brackets. It provisionally approved the other amendments to the Explanatory Notes to Section VIII.
2. The texts of the amendments to the Explanatory Notes to Section VIII in square brackets and those provisionally approved are reproduced in Annex L/8 to this Report.

* * *

ANNEX G

REPORT OF THE PRESESSIONAL WORKING PARTY

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0183E1 NC0249B2/A/I	Draft amendment of the Rules of Procedure of the Harmonized System Committee.			<u>See Annex O.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex O to this Report.

* * *

1	2	4
NC0184E1 NC0249B2/A/II	Amendment of the Explanatory Notes arising from the classification of bitter limes referred to as " <i>Citrus latifolia</i> " in subheading 0805.90.	<u>See Annex P/4.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. With regard to the classification at subheading level of "small green oranges and lemons of a kind used for preserving", one delegate was of the view that such fruit should be classified as oranges or lemons respectively.
2. Another delegate, however, indicated that he was uncertain as to whether such small green lemons were of the species *Citrus limon* or *Citrus limonum*, or another species. He also expressed a similar concern with regard to small green oranges. He therefore proposed to delete the texts in square brackets and to insert a new second paragraph referring to these oranges and lemons.
3. The Committee did not express a definitive view as to the classification at subheading level of "small green oranges and lemons of a kind used for preserving", but agreed to mention these in a new second paragraph, as proposed above. At the same time, Member administrations having difficulties in determining the classification at subheading level of such fruit, were invited to submit their comments to the Secretariat before the Committee's next session.
4. As to the insertion of the sentence "It should be noted that, for the purposes of the Harmonized System, the term "*Citrus aurantifolia*" does not cover "*Citrus latifolia*".", the Secretariat informed the Committee that this text was valid only for the 1996 version of the Harmonized System. The Secretariat would, therefore, submit a new proposal for the 2002 version at the Review Sub-Committee's next session.
5. Subject to the above, the Committee adopted the texts finalized by the presessional Working Party.
6. The texts adopted are set out in Annex P/4 to this Report.

* * *

1	2	3
NC0185E1 NC0249B2/A/III	Amendments to the Compendium of Classification Opinions arising from the classification of "chicken sauce" in subheading 2103.90.	<u>See Annex P/5.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/5 to this report.

* * *

1	2	4
NC0126E1 (HSC/24) NC0186E1 NC0249B2/A/IV	Amendment of the Explanatory Notes concerning the osmotic dehydration process.	<u>See Annex P/6.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. One delegate informed the Committee that his administration had encountered some difficulties in distinguishing fruit preserved by osmotic dehydration of heading 20.08 from crystallised fruit of heading 20.06.
2. Since this problem might have to be resolved by legal amendments, his administration, as well as other administrations having similar problems, were invited to submit their questions to the Review Sub-Committee for consideration.
3. The Committee adopted thereafter, without modification, the texts finalized by the Working Party.
4. The texts adopted are set out in Annex P/6 to this report.

* * *

1	2	3
NC0188E1 NC0249B2/A/V	Amendment of the Explanatory Notes arising from the classification of "gas condensates" in heading 27.09.	<u>See Annex P/7.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. One delegate pointed out that two principles involved in the classification of gas condensates by the Committee were (a) their separation from wet natural gas immediately upon its extraction and (b) their separation by a relatively simple process. These two principles should be reflected in the Explanatory Notes by maintaining the second alternative placed in square brackets by the Working Party.
2. Another delegate noted that wet natural gas had to be stabilised before its transportation. Gas condensates were crude oils formed by simply cooling wet natural gas during the stabilisation process. He therefore suggested the following compromise text which was a combination of the two alternatives that had been placed in square brackets by the Working Party :

"obtained during the stabilisation of natural gas immediately upon its extraction."
3. The Committee agreed to this compromise and adopted the texts prepared by the Working Party subject to the above modification.
4. The texts adopted are set out in Annex P/7 to this Report.

* * *

1	2	3
NC0189E1 NC0249B2/A/VI	Amendments to the Compendium of Classification Opinions arising from the classification of regular "Veegum" in subheading 3824.90.	<u>See Annex P/8.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee approved, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/8 to this Report.

* * *

1	2	3
NC0190E1 NC0249B2/A/VII	Amendments to the Compendium of Classification Opinions arising from the classification of certain drilled lumber used in construction in subheading 4418.90.	<u>See Annex P/9.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Subject to an alignment of the English text on the French with respect to references to the dimensions (i.e., to refer to the decimal metric units first, followed by the equivalent in imperial units in brackets), the Committee adopted the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/9 to this Report.

* * *

1	2	4
NC0191E1 NC0249B2/A/VIII	Amendment of the Explanatory Notes arising from the classification of galvanized steel roofing tiles in subheading 7308.90.	<u>See Annex P/10.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee approved, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/10 to this Report.

* * *

1	2	3
NC0192E1 NC0249B2/A/IX	Amendments to the Compendium of Classification Opinions arising from the classification of a non-electric stainless steel chafing dish ("bain-marie") in subheading 7323.93.	<u>See Annex P/11.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. Subject to minor editorial modifications in the French text of the proposed Classification Opinion, the Committee adopted the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/11 to this Report.

* * *

1	2	3
NC0193E1 NC0249B2/A/X	Amendments to the Compendium of Classification Opinions arising from the classification of a laminated product, called "PolySwitch", in subheading 7506.10.	<u>See Annex P/12.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee adopted the texts finalized by the Working Party, subject to a drafting amendment to align the English version on the French.
2. The texts adopted are set out in Annex P/12 to this Report.

* * *

1	2	3
NC0194E1 NC0249B2/A/XI	Amendments to the Compendium of Classification Opinions arising from the classification of a freezer for foodstuffs in subheading 8418.30.	<u>See Annex P/13.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. Subject to a drafting amendment in the French text of the proposed Classification Opinion, the Committee adopted the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/13 to this Report.

* * *

1	2	4
NC0195E1 NC0249B2/A/XII	Amendment of the Explanatory Note to heading 84.19 arising from the classification of certain microwave ovens in subheading 8514.20.	<u>See Annex P/14.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/14 to this Report.

* * *

1	2	4
NC0197E1 NC0249B2/A/XIII	Amendment of the Explanatory Note to heading 84.71 to delete certain obsolete equipment.	<u>See Annex P/15.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. Regarding the Working Party's request for an example of an "addition which enhanced the processing power of the central processing unit", in Item (3), second paragraph of the Explanatory Note to heading 84.71 (page 1406), the Secretariat suggested keeping the present reference to "floating point units" but without the word "arithmetic", as such units were by their very nature "arithmetic". Since the term was redundant, its deletion should be considered. A delegate expressed concern at having a reference to "floating point units", which seemed contrary to the Committee's decision to delete it. For that reason, and given that all the information had been presented at the meeting itself, he suggested the references be placed in square brackets for verification. Several delegates agreed.
2. Regarding the reference to discs and CD-ROMs at the end of exclusion (c) and in the second paragraph of Part (B), Item (3) of the Explanatory Note to heading 84.71 (page 1407), the Committee endorsed those additions.
3. As for the reference to "readers" in Part C (Item 3), on page 1408 of the same Explanatory Note, the Committee agreed to place both the existing text and the United States' variant in square brackets until the HSC's 26th Session, when the Committee will choose between the two variants or even delete the reference altogether.
4. To enable administrations to verify further all the information presented and given that the deletion of references to certain obsolete equipment would have an impact on other parts of the Explanatory Notes, and that the arrangements for adopting and publishing the Explanatory Notes were yet to be finalized, the Committee agreed to place the entire set of the amendments concerned in square brackets for re-examination at the next session.
5. The texts placed in square brackets are set out in Annex P/15 to this Report.

* * *

1	2	4
NC0199E1 NC0249B2/A/XIV	Amendment of the Explanatory Notes arising from the classification of closed circuit video equipment.	<u>See Annex P/16.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The EC Delegate proposed that the Explanatory Note describing closed circuit video equipment should include a reference to the possibility that these systems could contain automatic data processing machines and/or video recorders, in order to make this description more complete. He felt that such a description had the advantage of corresponding to the equipment which the Committee had examined.
2. For some delegates the addition of such a phrase was unnecessary to explain the scope of Note 4 to Section XVI; those items were not essential to the functioning of the systems at issue. Furthermore, since this was an exclusion Note they felt that the proposed text was clear enough without the additional text.
3. The Committee decided, by 16 votes to 13, to retain the additional text placed in square brackets by the Working Party with a view to mentioning the presence of an ADP machine or a video recorder.
4. The texts adopted are reproduced in Annex P/16 to this Report.

* * *

1	2	3
NC0200E1 NC0249B2/A/XV	Amendments to the Compendium of Classification Opinions arising from the classification of the "PIX-DSX-1 Digital Cross-Connect" in subheading 8536.90.	<u>See Annex P/17.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/17 to this Report.

* * *

1	2	3
NC0213E1 NC0249B2/A/XVI	Amendments to the Compendium of Classification Opinions arising from the classification of the vehicles "Ssang Yong Musso 601" and "Ssang Yong Musso 602" in subheading 8702.10.	<u>See Annex P/18.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee approved, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/18 to this Report.

* * *

1	2	3
NC0202E1 NC0249B2/A/XVII	Amendments to the Compendium of Classification Opinions arising from the classification of two-wheeled golf carts in subheading 8716.80.	<u>See Annex P/19.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee approved, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/19 to this Report.

* * *

1	2	3
NC0203E1 NC0249B2/A/XVIII	Amendments to the Compendium of Classification Opinions arising from the classification of the "SelectSet Avantra 30" in subheading 9006.10	<u>See Annex P/20.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee agreed not to add the expression "also known as film image recorders" after the word "imagesetter".
2. It also decided to include, in brackets, the meaning of the abbreviation "dpi" (dots per inch).
3. Subject to that amendment, the Committee adopted the texts finalized by the Working Party.
4. The texts adopted are reproduced at Annex P/20 to this Report.

* * *

1	2	3	4
NC0204E1 NC0249B2/A/XIX	Amendments to the Compendium of Classification Opinions and the Explanatory Notes arising from the classification of the "FIRE 9000" and "FIRE 1000" apparatus in subheadings 9006.59 and 9006.10, respectively.	See Annex P/21.	See Annex P/21.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Secretariat, upon contacting the manufacturer, was informed that the FIRE 9000 did not print in colour images. With this in mind, the Director offered a new text to take this information into account. This text was supported by the EC Delegate. The US Delegate offered an alternative text and said that it was inaccurate to state, as had been proposed, that "the image is turned into rasterized data". The correct statement, in his opinion, was that "digital data is turned into rasterized data".
2. The US Delegate also noted that the rasterization in the FIRE 9000 was performed by the built-in RIP. In support of this, he drew the Committee's attention to paragraph 1 of the Annex to Doc. NC0121E1, which read "The rasterization is performed by a RIP (raster image processor) machine. This machine is included with the "FIRE 9000", but not with the "FIRE 1000" which depends on an external RIP machine or a host automatic data processing machine for rasterization." As this description made no mention of an ADP machine performing the rasterizing process for the FIRE 9000, he believed that the second text in square brackets (i.e., "by the raster image processor") correctly reflected the factual description of the FIRE 9000. Finally, in response to one delegate's suggestion that the reference to an ADP machine would align this opinion on the opinion for the FIRE 1000, he indicated that the two Classification Opinions were distinct entities and, consequently, alignment was neither necessary nor advisable.
3. The EC Delegate expressed support for the first text in square brackets for the Classification Opinion on the FIRE 9000 laser photoplotter (i.e., "by an automatic data processing machine or raster image processor"), because that text, copied from the description of the apparatus in the Annex to Doc. NC0121E1 (last part of paragraph 1), would maintain the consistency of the wording of the two Classification Opinions adopted and make it unnecessary in this context to differentiate between an automatic data processing machine and a raster image processor.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. The Committee took two votes with regard to the Classification Opinion on the FIRE 9000 laser photoplotter. In the first vote, regarding the machine that performed the rasterization, by 18 votes to 6, the Committee voted for the text "by an automatic data processing machine or raster image processor". In the second vote, concerning the wording relating to the colour image, by 18 votes to 5, the Committee voted for the proposal made by the Director and supported by the EC Delegate.
5. The texts of the Classification Opinion for the FIRE 1000 laser photoplotter and the amendments to the Explanatory Notes, which had been finalized by the Working Party, were adopted by the Committee without modification.
6. The texts adopted are set out in Annex P/21 to this report.

* * *

1	2	3
NC0205E1 NC0249B2/A/XX	Amendments to the Compendium of Classification Opinions arising from the classification of laser pointers in subheading 9013.20.	<u>See Annex P/22.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/22 to this report.

* * *

ANNEX H

FURTHER STUDIES

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0120E1 NC0153E1 (HSC/24)	Classification of various items of networking equipment (Reservation by the EC).			

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The EC Delegate opened the discussion in support of the reservation the EC had entered in respect of the decision at the Harmonized System Committee's 22nd Session to classify various items of networking equipment in heading 84.71. He informed the Committee that the classification of the four units at issue should be dealt with on the basis of the legal text only and that the issue concerned devices used for communication between ADP machines in a network. ADP machines and units thereof were provided for in heading 84.71. However, he explained that the scope of this heading was limited by Note 5 to Chapter 84. He referred to Doc. NC0120E1, paragraph 13. While he could agree that the specific products at issue fulfilled requirements (a) (b) and (c) of Note 5 (B), they did not fulfill the requirements of the introductory part ("subject to paragraph (E)") of that same Note 5 (B) and hence those of Note 5 (E) (specific function other than data processing).
2. The EC Delegate asked whether the products had their own specific function. If the answer was "yes" and having due regard to Note 5 (E) and the introductory part to Note 5, then the products had to be classified in the specific heading to which they belonged or, if there was no specific heading, then a residual heading should be applied, but never heading 84.71. The EC Delegate argued that heading 85.17 was the most specific heading. However, if the Committee determined that heading 85.17 was restricted to telephony and telegraphy equipment, then heading 85.43 was the next appropriate heading. He referred to paragraph 19 of Annex G/5 to Doc. 42.750, in which the Secretariat had stated that : "though the term used in heading 85.17 was limited to the telephone or telephone line system, the term used in the context of heading 85.43 was not limited in this manner."
3. Referring to paragraph 19 of Doc. NC0120E1, he stated that the function performed by the apparatus in question was essentially data transmission and not data processing. Networking equipment enabled information (data) to be transmitted and thus performed a communications function. Transmission of data was a particular function which differed from data processing and "communication" was covered by various headings in the Nomenclature. He argued that the concept of telecommunication was not entirely clear. He

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

informed the Committee that if heading 84.71 were chosen, then the Committee risked widening the meaning of the term “ data processing“, thereby resulting in the classification of many products in heading 84.71 that should not be classified there.

4. The EC Delegate made reference to the recent decisions taken by the Committee on the Colour QuickCam and the SelectSet Avantra and noted that, while these machines were connectable to an ADP machine, they were not classified in heading 84.71, even though they could only work in connection with an ADP machine.
5. The US Delegate began by observing that the Committee was discussing the classification of the four items of network equipment for the third time, as a result of the two reservations by the EC. Twice previously the Committee had classified these items in heading 84.71, rather than in headings 85.17 or 85.43.
6. The US Delegate observed that none of the facts or circumstances before the Committee had changed since its initial consideration of this matter. The items before the Committee were the same, and the legal texts and Explanatory Notes had not changed. Moreover, the arguments advanced against classification in heading 84.71 had been previously considered and rejected by the Committee. There was, therefore, no basis for reaching a different conclusion this time.
7. He invited the Committee to have regard first to the legal texts. The items at issue clearly satisfied all the conditions set forth in Note 5 (B) to Chapter 84 for units of automatic data processing machines. The units all served to ensure connections between other ADP units within a local area network. Contrary to the suggestion by the EC Delegate, these units were not capable of functioning over the Internet or over the telephone network.
8. The US Delegate strongly disagreed with the argument that these items performed a specific function other than data processing. Clearly heading 85.17 could be ruled out since the heading was limited to apparatus for telephone line systems. More importantly, the function of these units was an essential part of a modern ADP system. Note 5 explicitly recognized that ADP machines might be in the form of systems. Such systems required that data be shared and exchanged between and among units of ADP machines. To apply Note 5 (E) to these units would severely restrict the scope of heading 84.71.
9. Moreover, the US Delegate pointed out that these units were described in the Explanatory Note to heading 84.71 as control and adapter units. Thus, on the basis of the legal texts and the Explanatory Notes, the bridges, cluster controllers, multi station access unit and optical fibre converter were all classifiable in heading 84.71 as units of ADP machines.
10. The EC Delegate stated that these products were not simply cables or devices for connecting the various units of a system, but apparatus enabling messages to be communicated and transmitted between units or between systems. In this context, to differentiate between heading 85.17 and 85.71 on the basis of the type of network – public network, local or private network (LAN) – was not relevant for the purposes of the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Harmonized System. This distinction did not exist in the HS and its meaning was far from clear. The fact that these apparatus were placed "upstream" from the modem or any other device acting as interface with the telephone network located "downstream" of such apparatus was not a reason to exclude them from heading 85.17. He stressed that the latter's text had been amended in 1996 to mention telecommunication apparatus for digital line systems, and in that respect he endorsed the Secretariat's statement in Doc. 41.309, paragraph 11, that "there is a risk that it might become difficult to make the distinction between headings 84.71 and 85.17, because the apparatus of both headings use digital signals".

11. After much discussion, the Committee agreed to vote on the products individually with only headings 85.17 and 84.71 as the options for classification. The vote for heading 85.17 was to be taken to include a vote for heading 85.43.
12. The results of the voting were as follows :
 - (a) Communication controllers or routers (including "LAN bridges") :

29 votes in favour of heading 84.71;
10 votes in favour of heading 85.17;
3 abstentions.
 - (b) Cluster controllers (including remote control units) :

29 votes in favour of heading 84.71;
10 votes in favour of heading 85.17;
 - (c) Multistation access unit :

29 votes in favour of heading 84.71;
10 votes in favour of heading 85.17;
13. At this point, the Committee had a discussion on the description and function of the optical fibre converter at issue. The EC Delegate believed that this product transmitted light waves which were electromagnetic waves. The signals emitted by the product could be transmitted over long distances by telephone lines because the frequencies mentioned in the working document fell within the framework of the telephone line system. He reiterated that the legal text to heading 85.17 had been amended to cover digital signals.
14. The US Delegate expressed the view that this product could not be used to transmit data over telephone lines because it did not have the ability to provide the correct encoding for a telephone line system. He argued that its function was to convert signals from copper wire to optical fibres so that data could be shared in the system.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

15. The result of the vote was as follows :

(d) Optical fibre converter :

19 votes in favour of heading 84.71;

11 votes in favour of heading 85.17;

16. At the request of the US Delegate, the Secretariat was instructed to prepare draft Classification Opinions for all four products and to indicate that Note 5 (E) to Chapter 84 was not applicable to the classification of these products, the decision being based on GIR 1 and Note 5 (B). The EC Delegate requested that the Secretariat use the product descriptions in the boxes as the basis for the Classification Opinions to indicate that these were LAN products. The Committee also agreed to insert these four products in the Explanatory Notes as examples of automatic data processing units and the Secretariat was instructed to prepare these amendments. The draft Classification Opinions and amendments to the Explanatory Notes were to be submitted to the next pre-sessional Working Party.

* * *

1	2
NC0124E1 (HSC/24)	Classification of the "ENW-9500-F Fast Ethernet Adapter" in subheading 8471.80 (Reservation by the EC).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The EC Delegate informed the Committee that the Fast Ethernet Adapter was comprised of printed circuits. It was to be placed in an automatic data processing (ADP) machine to provide the connection with an ethernet network. He noted that the Committee had not made a decision on the meaning of "telecommunication" within the scope of heading 85.17, nor had it defined the demarcation line between units of heading 84.71 and parts and accessories of ADP machines of heading 84.73. He expressed concern that the Committee would decide that a simple communication component in an ADP system was a unit of an ADP machine. It was his view that one could not avoid the communication of computers over telephone lines. He noted that a home computer was first connected to a telephone line and then could be connected to the Internet.
2. The EC Delegate stated that the function of the slot-in card in question was to facilitate connection to an ethernet network. Once installed, it could send digital signals to the ethernet. The card therefore had a specific function of connection and communication and hence could not be regarded as a data processing unit. Classification of such cards in heading 84.71 was liable to broaden the scope of the heading. Thus, he pointed out that one Contracting Party had already classified a simple cable with connector in heading 84.71 as a computer unit. He took the view that the product was a slot-in card whose essential function was the interconnection and transmission of digital signals between units or between data processing systems and was therefore classifiable in heading 85.17.
3. Turning to whether these slot-in cards should be considered as a part or an accessory, the EC Delegate reiterated that the Committee had not ruled on this question. One difficulty in classifying these cards, he informed the Committee, was deciding whether or not they were accessories or units of ADP machines. In this connection, he made reference to the fact that this apparatus did not come in a housing and it was not necessary for the functioning of the machine. He concluded by stating that heading 85.17 was the most specific heading, by application of GIR 1, confirmed by Notes 5 (B) (introductory paragraph) and (E) of Chapter 84 or, failing that, the card in question should be classified in heading 85.43.
4. The Delegate of Canada informed the Committee that his administration viewed these adapter cards as accessories suitable for use solely or principally with ADP machines of heading 84.71. He made reference to the Explanatory Note to heading 84.73, page 1412, paragraph 2, and concluded that these adapter cards had an individual function, which extended the performance of a computer beyond its intrinsic or original function. They

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

enabled the ADP machine to share and exchange data, thereby adapting them to a particular function they could not otherwise perform. While these adapter cards controlled the ability of the ADP machine to communicate with other machines, he argued that they did not directly affect the processing of data. Consequently, his administration would classify the Fast Ethernet Adapter as an accessory in heading 84.73.

5. The US Delegate began by informing the Committee that the card was inserted into a computer to enable the computer to communicate with other units in the LAN. He argued that heading 85.17 could be disregarded because the Committee had ruled earlier in the day that units in a LAN system which enabled data transfer between the components of a LAN were classified in heading 84.71 and not as apparatus for line telephony or telegraphy in heading 85.17. In looking at the Fast Ethernet Adapter, he argued that there was nothing in its design that would affect the scope of its ability to interact with other units such as, for example, the four units that the Committee had classified in heading 84.71.
6. He explained that this card needed to format the data so that the data could be exchanged in a LAN and, in addition, it had the ability to correct errors. This card was used solely in a LAN and, as a result, could be considered as a control and adapter unit of heading 84.71. Looking at the "level of specificity", these cards met all the requirements of a unit for purposes of Note 5 (B) to Chapter 84. They met the legal and Explanatory Note requirements of data processing. Furthermore, he argued, that, as the Committee had already decided that heading 84.71 covered external units, such as hubs and routers, that permitted the exchange of information in a LAN, the Committee should accept classification of a unit that performed the same function but was inserted into the ADP machine.
7. Regarding one delegate's reference to Internet access, the US Delegate indicated that the Committee should keep the discussion focussed on the product before the Committee. As to another delegate's reference that a product required a housing to be classified as a unit of an ADP machine of heading 84.71, he drew the Committee's attention to Note 5 (C) to Chapter 84, page 1232, where it made reference to separately presented units of ADP machines being classified in heading 84.71. He pointed out that there was no requirement for a unit to be "separately housed". He concluded by stating that these units met all the requirements of Notes 5 (B) and 5 (C) to Chapter 84, and that these units did not have a specific function other than data processing.
8. The Committee finally voted on the classification of the Fast Ethernet Adapter and the results were as follows :

23 votes in favour of Chapter 84
8 votes in favour of Chapter 85.
9. Before voting on the heading within Chapter 84, the EC requested that a study be undertaken to determine the line of demarcation between headings 84.71 and 84.73 with respect to units and accessories. Four delegates supported this request in response to a question by the Chairman. Another delegate indicated that there had been sufficient information at the Committee's 22nd Session to classify the product and wondered how the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

situation had changed. After further discussion, the Committee voted and, by 16 votes to 15, decided to undertake the study suggested by the EC Delegate before classifying the Fast Ethernet Adapter within Chapter 84, i.e., in heading 84.71 or 84.73.

10. The US Delegate requested that the study be completed before the Committee's next session and that a decision be taken on the classification of the Fast Ethernet Adapter at that session. No consensus was reached on this issue.

* * *

1	2
42.449 (HSC/22) NC0049E1 (HSC/23) NC0245E1	Classification of repeaters used in LAN systems or in the telephone line system.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Chairman began by explaining the difficulty the Secretariat had in obtaining information on this issue and asked the Delegate of Japan if his administration still required a classification decision. The Delegate of Japan said that it did and noted that there was enough information present on which to base a decision.
2. One delegate indicated that this product was different from the LAN equipment classified by the Committee earlier in the session. Paragraphs 6 and 7 of Doc. 42.449 described the function of this repeater as regenerating and retiming of a signal that had been distorted, without creation or conversion of the data. He reiterated his administration's position that not everything in a LAN system did not have a simple ADP function. In addition, he argued that there was no possibility of making a distinction between telephone and LAN repeaters. He referred to paragraph 12 of Doc. 42.449 wherein the Secretariat said it could be argued that data processing only covered operations in which data were transformed into new data. In other words, a repeater which simply regenerated attenuated or distorted signals into their original forms and did not create new data, should not be regarded as performing the function of data processing but the function of the transmission and reception of data (i.e., communication). As a consequence, he stated that repeaters were not a product of heading 84.71 by application of Note 5 (E) but could be regarded as products of headings 85.17 or 85.43.
3. Another delegate referred to the specific features of the product in the Annex to Doc. 42.449. In his view, this product enabled LAN data to be shared between ADP units in the LAN. It performed the function of regeneration and retiming of the signals, thereby enabling the data processing to be carried out without error during the exchange of data in the ADP system. He informed the Committee that this product by its design and physical characteristics could only work in a LAN environment. He argued that it met all the conditions of Note 5 (B) to Chapter 84. The Committee had decided earlier that units which enabled components of an ADP system to work together were to be classified in heading 84.71 because they performed data processing characteristic of those units. As the product at issue performed a similar function, the Committee should be consistent and classify this product in heading 84.71.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. The Committee discussed whether to classify one product (the LE605A-R3) or to classify three repeaters that were listed in the Annex to Doc. 42.449. As it seemed to be the case that some delegates did not have the complete Annex to Doc. 42.449 and therefore did not have all necessary information, the Committee decided to postpone further discussion of this item until the 26th Session.
5. The Director requested clarification as to what exactly the Committee wanted the Secretariat to do. After some discussion, the Committee decided that, at its 26th Session, it would examine three repeaters – the LE605A-R3, LE624A and LE628A models.
6. One delegate indicated that the Committee should be aware that the classification of these repeaters should be examined in the light of ADP network standards and was used only in a LAN environment, and that the distance at which repeaters could operate was not relevant. Another delegate expressed the view that one of the criteria for classification should be the distance over which repeaters could operate.

* * *

1	2
NC0052E1 NC0074E1 (HSC/23)	Classification of a video card, sound card and software therefor.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. One delegate stated that video cards and sound cards were designed to be installed in an automatic data processing machine so as to convert analogue signals into digital data for processing by the ADP machine. As these appliances were clearly signal converting units, they fulfilled the conditions required by Note 5 (B) to Chapter 84 and they were specifically described in Item (5) of the Explanatory Note to heading 84.71 (page 1406). These units were therefore classifiable in subheading 8471.80.
2. Another delegate stressed that these cards were products with a specific function other than data processing. In his opinion, and in harmony with the Secretariat statement in paragraph 4 of Doc. 42.467, these were converters intended to convert analogue video and sound signals into digital signals. This function was comparable to the functions of modems, tuners and fax cards which were not classifiable in Chapter 84 but in Chapter 85. In the light of the foregoing, he concluded that these products should fall in heading 85.43, in the absence of a more specific heading. This classification was supported by several delegates.
3. A third delegate maintained that as these cards provided images and sound that enhanced the capacity of an automatic data processing machine these products fulfilled the conditions laid down by the Explanatory Note to heading 84.73 for the classification of parts and accessories of the machines of heading 84.71. In the light of the foregoing, his administration would classify the said products in subheading 8473.30. Other delegates also supported the classification of these cards as accessories of automatic data processing machines.
4. The Chairman noted that the Committee must first decide whether these articles had a specific function other than automatic data processing or whether they were articles classifiable in Chapter 84. The issue was put to a vote and the Committee decided, by 19 votes to 14, that these cards did not have a specific function other than data processing and therefore to classify the video card and sound card in Chapter 84.
5. As the Secretariat had been asked to undertake a study aimed at drawing a dividing line between the units of heading 84.71 and the parts and accessories of heading 84.73, the Committee decided to postpone the classification of these articles at 4-digit level until its 26th Session.

* * *

1	2
NC0210E1 NC0233E1	Classification of the "Color QuickCam" (Reservation by Japan).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Delegate of Japan first of all confirmed the agreement of his administration as to the separate classification of the diskettes in accordance with Note 6 to Chapter 85 and classification of the rest of the system as a single unit.
2. He recalled that heading 85.25 covered only three groups of products. The first group covered transmission apparatus and hence could not be taken into consideration. Neither could the "Color QuickCam" be classified in subheading 8525.30 as a television camera, since the images captured by the apparatus could not be reproduced by means of an external television receiver, and such classification would hence be contrary to GIR 1. Although the apparatus at issue had a similar function to a television camera, it could only be classified in that subheading by virtue of GIR 4. Finally, it could not be classified in subheading 8525.40 as a still image video camera since it had no internal or removable media and therefore could not record still images. Therefore, heading 85.25 should be ruled out.
3. Accordingly, the apparatus would have to be classified in heading 84.71 or possibly in heading 85.43 if it was regarded as performing a specific function other than data processing. In that respect, he pointed out that "Color QuickCam" was only utilizable with an automatic data processing machine, to which it must be connected. The apparatus captured light images and converted them into digital signals suitable for processing by the automatic data processing machine, to which it sent that data. Those functions corresponded to those of an input unit, as described in the Explanatory Note to heading 84.71, page 1403.
4. The apparatus had virtually the same functions as a keyboard, except that keyboards transmitted characters and had switches, whereas the "Color QuickCam" captured light images and contained photosensitive devices similar to optical readers.
5. The broad function of both was identical, that of data input into an automatic data processing machine, for that reason the apparatus should fall in subheading 8471.60 as an input unit.
6. Another delegate recalled that at its 24th Session the Committee had decided by a large majority that the apparatus performed a specific function other than data processing and should hence be excluded outright from heading 84.71 and classified in a heading appropriate to that function, or failing that, in a residual heading. The fact that it could not record images and must be connected to an automatic data processing machine in no way altered its function.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. Furthermore, neither the text of subheading 8525.40 nor Part (D) of the Explanatory Note to heading 85.25 specified that still image video cameras must comprise a built-in recorder; in his view, the apparatus of that subheading could use an external memory, such as that of an automatic data processing machine, to record images.
8. He would therefore classify the "Color QuickCam" in subheading 8525.40 but could, if necessary, accept classification in subheading 8525.30 given that the apparatus had a similar function to that of a television camera.
9. Another delegate also felt that the apparatus performed a specific function mentioned in heading 85.25. However, it had no built-in or external recording device, and the legal text of subheading 8525.40 ruled out classification in that subheading. There was no definition of television cameras for the purposes of the Harmonized System, and the "Color QuickCam" performed the same function as such cameras, as described in the working document. He would therefore classify the apparatus at issue in subheading 8525.30.
10. Yet another delegate recalled that automatic data processing machines could come in the form of systems, and he felt that the apparatus at issue, which could only function when connected to such a machine, met the conditions of Note (B) to Chapter 84. The function of the apparatus was to capture still or moving images and send them, after conversion, to an ADP machine; Note 5(E) to Chapter 84 was not applicable in this particular case.
11. Apparatus of subheading 8525.40 consisted of a combination of a video camera and a video recording or reproducing apparatus, which was clearly not the case for the "Color QuickCam".
12. While agreeing to classification in heading 84.71, he stated that his administration could accept classification in subheading 8525.30, the apparatus performing a similar function to that attributed to television cameras by the encyclopaedias such as the McGraw-Hill. The fact that the images were not reproduced on a television screen did not rule out classification in that subheading.
13. The ICC Observer pointed out that there was no definition of data processing for the purposes of the Harmonized System. The function of the apparatus at issue, which had no amplification or modulation device, was to capture video images, convert a flow of data into digital signals which could be used by an automatic data processing machine, and send the signals to that machine through a cable using the Universal Serial Bus (USB) protocol.
14. In the first of two votes, the Committee decided, by 27 votes to 9, that the "Color QuickCam" was classifiable elsewhere than in heading 84.71. It then unanimously decided to classify it in heading 85.25 and, also unanimously, in subheading 8525.30. This classification was made on the basis of GIR 1 and GIR 6 (texts of heading 85.25 and subheading 8525.30, Notes 5 (B) and (E) to Chapter 84). The question of whether or not apparatus of subheading 8525.40 should have a built-in memory was not considered by the Committee.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

15. Argentina's proposal to classify each element separately received no support from the Committee, which took the view that the apparatus should not be regarded as a set within the meaning of GIR 3 (b), and should hence be classified on the basis of GIR 1.
16. To reflect this decision the Secretariat was instructed to prepare a draft Classification Opinion and a draft amendment to Part (C) of the Explanatory Note to heading 85.25, to be studied by the next preessional Working Party.
17. One delegate suggested that the question of the possible revision of heading 85.25 should be studied by the Review Sub-Committee during its review cycle, bearing in mind the difficulties encountered in classifying the types of cameras at subheading level.

* * *

1	2
NC0196E1	Classification of the "Iris 3047" ink-jet printer in subheading 8443.51 (Reservation by Japan).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Delegate of Japan recalled that the "Iris 3047" printer could only function when connected to an automatic data processing machine and that the printer complied with the conditions of paragraphs (B) (b) and (B) (c) of Note 5 to Chapter 84. He further indicated that Note 5 (D) stipulated that printers which satisfied the conditions of those two paragraphs were in all cases to be classified as units of heading 84.71 and more specifically in subheading 8471.60 as output units.
2. He added that Note 5 (D) referred solely to the two paragraphs concerned, and hence the introductory part of Note 5 (B) had to be left aside when interpreting paragraph D. He stressed that this classification should be made on the basis of the legal texts as they stood and not on the intention of the authors of those texts. He further drew the Committee's attention to the text of heading 84.43 which explicitly excluded ink-jet printing machines of heading 84.71, and also to the Explanatory Note to heading 84.71, page 1404, Part A, fourth paragraph, which confirmed that interpretation.
3. Another delegate supported this view, pointing out that the provisions of Note 5 (D) made no reference to the introductory part of paragraph (B) or to paragraph (E) of Note 5. Thus the printers concerned fell in heading 84.71 provided they met the conditions of paragraphs (B) (b) and (B) (c). With reference in particular to the explanatory brochure concerning the HS amendments that had entered into force on 1 January 1996, he noted that the amendment of Note 5 to Chapter 84 had broadened the scope of heading 84.71, to cover all printers utilizable as units of automatic data processing machines, which was also clear from the text of heading 84.43.
4. Another delegate took the view that this ink-jet printer was classifiable in heading 84.43 (subheading 8443.51) for the reasons set out in Doc. NC0196E1, particularly paragraphs 14, 16 and 20.
5. A fourth delegate pointed out that following the amendments made to the text of heading 84.43 it was clear that ink-jet printers were classifiable in two different headings, 84.43 and 84.71. While it could be argued on the basis of the Explanatory Note to heading 84.71 (page 1404, fourth paragraph) that all printers connectable to an automatic data processing machine were classifiable in that heading, such an interpretation would raise the question as to what type of ink-jet machines were intended to be included in heading 84.43.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. He accepted that the printer at issue could not function unless connected to an automatic data processing machine, but pointed out that the machine performed a specific function in the printing industry. Accordingly, taking into account its design and its function he was still of the opinion that the "Iris 3047" machine was classifiable in heading 84.43 as an ink-jet printing machine, by application of Notes 5 (B), (D) and (E) to Chapter 84.
7. The Delegate of Japan asked what part of the legal texts directed the classification of the "Iris 3047" in heading 84.43, since the application of Note 5 (E) was not allowed by GIR 1, in this particular case.
8. The Chairman recalled that at its 24th Session the Committee had agreed that paragraph (D) of Note 5 to Chapter 84 was to be considered in the overall context of Note 5. Hence for that paragraph's application, sub-paragraphs (B) (b) and (B) (c) and the introductory part of Note 5 (B) had to be read in conjunction, and the rules laid down therein were applicable, subject to Note 5 (E).
9. After this discussion, the Committee confirmed by 27 votes to 4, the classification of the "Iris 3047" ink-jet printer in heading 84.43 (subheading 8443.51), rather than in heading 84.71, by application of GIR 1 (Notes 5 (B), 5 (D) and 5 (E) to Chapter 84). The Committee also confirmed the interpretation it had placed on Note 5 (D) to Chapter 84 at its 24th Session, as mentioned in paragraph 14 of Doc. NC0196E1 and as recalled during the discussion.
10. To put its decision into effect, the Committee instructed the Secretariat to draft a Classification Opinion for examination by the next pre-session Working Party. It also asked the Secretariat to study the possibility of amending the Explanatory Notes to headings 84.43 and 84.71 in order to reflect that decision. For this purpose, the Committee agreed to mention the interpretation placed on Note 5 (D) to Chapter 84 should be mentioned in the Explanatory Notes concerned.
11. In addition, given the differences of interpretation the Committee agreed that it would be necessary to undertake a general study of Note 5 to Chapter 84 with a view to an amendment to ensure uniform application. It was suggested that such a study should be carried out by administrations, at the Secretariat's initiative : thus the Secretariat would examine the possibility of setting up a special working group to examine the question and, if appropriate, make a joint proposal to the Review Sub-Committee.

* * *

1	2	4
NC0207E1	Amendment of the Explanatory Notes to heading 38.16 (Reservation by Canada).	<u>See Annex P/2.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Canadian Delegate recalled the background of the amendments to the Explanatory Note to heading 38.16 and stated that when the HSC had agreed to amend the Explanatory Note to heading 38.16 to include the term “hydraulic” in the penultimate line of the first paragraph of the Explanatory Note to that heading, the Canadian Administration had decided to enter a reservation as the accepted wording was technically incorrect. He explained that sodium silicate, magnesium fluosilicate and zinc fluosilicate were non-hydraulic binders.
2. He further pointed out that the Scientific Sub-Committee at its 15th Session agreed with this position and recommended the changes proposed by Canada. He therefore requested the Committee to accept the Scientific Sub-Committee recommendations as indicated in paragraph 21 of Doc. NC0207E1.
3. One delegate expressed his concern in respect of the proposed amendments to Item (b) of the third paragraph and the exclusions in the last paragraph of the Explanatory Note to heading 38.16 (page 576 of the Explanatory Notes) as set out in Annex II to Doc. NC0207B1. He explained that since those amendments referred to “dolomite ramming mixes”, the current English wording of the legal text of subheading 2518.30 would lead to further confusion. He indicated that those amendments would be appropriate consequential upon the Article 16 Recommendation of 25 June 1999 in which the text of subheading 2518.30 had been amended to read “Dolomite ramming mix”.
4. Another delegate explained that the HS2002 amendments to the legal text of subheading 2518.30 were only intended to align the English text on the current French text and there would be no change in the scope of heading 25.18. Therefore, he was of the view that the proposed amendments by the Scientific Sub-Committee would be acceptable.
5. It was also pointed out that, as the Secretariat had indicated in paragraph 3 of Doc. NC0130E1, the expression “Ramming mixes” in the English Explanatory Note to heading 38.16 seemed to be well aligned with the corresponding French expression “Les mélanges de damage”.
6. The Committee finally agreed that the amendments to Item (b) of the third paragraph and the exclusions of the last paragraph of the Explanatory Note to heading 38.16 (page 576 of the Explanatory Notes), should be made under Article 16 procedure, while the remaining amendments should be made by corrigendum.
7. The texts adopted are set out in Annex P/2 to this Report.

* * *

1	2
NC0062E1 (HSC/23) NC0206E1	Classification of the "Smirnoff Mule" beverage.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Since the "original" "Smirnoff Mule" beverage apparently no longer existed on the market, it was decided that it was not worthwhile continuing the examination of this product.
2. As to the classification of the "new" "Smirnoff Mule", consisting of an aromatic compound and vodka, it was unanimously decided that this product should be classified in heading 22.08 (subheading 2208.90).
3. It was also decided that the Explanatory Note to heading 22.06 should be amended to reflect that, provided that they retained the character of products falling in the heading, fermented beverages fortified with alcohol were classified in heading 22.06.
4. To reflect this decision, the Committee instructed the Secretariat to draft appropriate amendments to the Explanatory Notes to heading 22.06 for consideration by the Committee at its next session.

* * *

1	2	4
NC01281E1 (HSC/24)	Possible amendments to the Nomenclature and/or Explanatory Notes to clarify the classification of certain crisps in heading 19.05.	<u>See Annex P/3.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Referring to the US proposal in Doc. NC0128E1, the US Delegate stated that the proposal was intended to reflect in the relevant parts of the Explanatory Notes the classification decisions taken for two types of "crisps". It would be useful to mention flour, meal and powder of potatoes as ingredients of the products of heading 19.05 in the Explanatory Note to that heading and it would constitute good guidance for the classification of such products.
2. The EC Delegate invited the attention of the Committee to the EC proposal submitted during the meeting and explained that the proposal was a simplified text, which would indicate that heading 19.05 also covered products made from flour, meal and powder of potatoes. He pointed out that cereal flours were the most common ingredients of bakers' wares and listing flour, meal and powder of potatoes in the same manner as cereal flours was a bit exaggerated.
3. The Committee agreed, by 12 votes to 8, to examine the amendments on the basis of the EC proposal.
4. As regards the first paragraph of Item (A) of heading 19.05 (page 151), the EC proposed to add the following sentence at its end : "Subject to Note 3 to Chapter 20, the products of this heading may also be obtained from a dough based on flour, semolina or potato powder".
5. Several delegates were of the view that the expression "Subject to Note 3 to Chapter 20" should be deleted since the classification of "POM-BÄR" in heading 19.05 had been decided by application of GIR 1 and Note 3 to Chapter 20 had not been taken into consideration.
6. The EC Delegate argued that Note 3 to Chapter 20, having binding force, should be reflected in the Explanatory Note to heading 19.05. It would help readers to classify various products made from flour, meal or powder of potatoes found in the trade since all products made from flour, meal or powder of potatoes would not necessarily fall in heading 19.05, most would be classified in Chapter 20. Note 3 to Chapter 20 determined the scope of heading 20.05 and a reference to this Note would facilitate the understanding of the distinction between products of Chapters 19 and 20.
7. After discussion, the Committee decided, by 19 votes to 15, to delete the reference to "Subject to Note 3 to Chapter 20" in the proposed text. Further modifications were also made to align the English text on the French text.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. Subject to the above and after making necessary modifications to the remaining part of the proposal, the Committee adopted the texts proposed by the EC. The texts adopted are set out in Annex P/3 to this Report.
9. The Committee also agreed to look into possible amendments to the legal texts and requested the Secretariat to prepare a proposal to the Review Sub-Committee for examination at its next session.

* * *

1	2
NS0002E1 (SSC/15) NC0248E1	Classification of "high fat cream cheese" and possible creation of a definition of cheese of heading 04.06.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Chairman emphasized that the classification of these products had to be determined on the basis of the present legal texts. He stressed that the Explanatory Notes contained many examples of cheese and that information with regard to the chemical composition of cheese could be found in literature and on the Internet. He therefore wondered whether it was necessary to wait for the Codex Committee on Milk and Milk Products (CCMMP) to take a final decision on the definition of cheese.
2. The Delegate of Japan reminded the Committee that this item had already been discussed five times in the HS Committee and two times in the Scientific Sub-Committee. He was of the opinion that the scientific and technical information available should make it possible to classify at least samples A, B and C. Since the CCMMP was in the final stages of the Codex procedure of adopting a new definition for cheese, he was of the opinion that a classification decision could be taken on the basis of the draft definition, which included a minimum 6 % limit as to protein content on a dry matter basis.
3. The Australian Delegate, on the other hand, was of the opinion that it was inappropriate to establish any minimum levels of protein at this stage. He reminded the Committee that the Scientific Sub-Committee, at its last session, had proposed that certain questions should be submitted to the International Dairy Federation (IDF) to accelerate the process of taking a final decision. The Committee should therefore defer the classification decision until the CCMMP had reached a final agreement on the definition of cheese - hopefully before the next meeting of the Committee.
4. Another delegate was of the same view as the Chairman, that is to say, that classification had to be determined on the basis of the present legal texts. Furthermore, as a matter of principle, he was strongly opposed to the idea that the Committee should wait for another international organization to take a decision before taking its own independent decision.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. After a long discussion the Committee decided, by 19 votes to 10, to classify samples A, B and C at the present session. However, in view of uncertainties, as to, e.g., the test results and the protein content in the dry matter, the Committee, after further discussion, decided not to classify sample A. The Committee also decided to classify products B and C on the basis of the test results provided by Australia in April 1999 :

	Sample B	Sample C
Fat content	70.4 %	72.5 %
Fat content – dry matter	97.8 %	98.8 %
Protein content	1.06 %	0.996 %
Protein content – dry matter	1.5 %	1.4 %
Moisture	28.0 %	26.6 %
Lactose content	1.3 %	1.4 %

6. Japan was of the opinion that samples B and C had to be classified as dairy spreads because of their physical, chemical and organoleptic characteristics.
7. Other delegates took the view that these products could not be classified as cheese for the following reasons :
- the very low protein content, which in their view was too low for coagulation (as prescribed in the present CODEX definition for cheese),
 - the elevated fat content, and
 - the description in the test reports from the majority of Customs laboratories (indicating that these samples were of the water-in-oil emulsion type).
8. The Australian Delegate, on the other hand, opposed classification in heading 04.05. In his mind, dairy spreads of heading 04.05 had to contain less than 2 % by weight of milk solids-non-fat content as prescribed for butter. Due to the extra water in dairy spreads, they had to contain even fewer solids-non-fat than butter. Furthermore, since these products were “phase variable”, they could not be regarded as water-in-oil emulsion types.
9. After further discussion, the Committee decided, by 27 votes to 6, not to classify sample B as cheese. With regard to the final classification, the Committee decided by 24 votes to 2, to classify sample B in heading 04.05 (subheading 0405.20), on the basis of GIRs 1 and 6 and Note 2 (b) to Chapter 4.
10. The Committee further decided to classify sample C in heading 04.05 (subheading 0405.20) by 23 votes to 2, on the basis of GIRs 1 and 6 and Note 2 (b) to Chapter 4, after having decided that this sample as well, by 26 votes to 5, could not be regarded as cheese.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

11. To reflect the above decisions, the Secretariat was instructed to prepare two draft Classification Opinions for examination by the next pre-session Working Party.
12. One delegate was of the view that, a minimum level of protein content might be inserted in the Explanatory Notes before the year 2007 to facilitate the classification of cheese in the meantime. Several delegates were however of the view that the results of the classification decisions concerning these products should not be "expanded". The decisions were taken using a variety of reasons - not only protein level. Furthermore, they were not in favour of introducing an exact protein level in the Explanatory Notes.
13. As to possible future amendments of the legal texts and the Explanatory Notes, it was concluded that the Secretariat should carefully follow developments in the IDF. However, possible legal amendments would be studied by the Review Sub-Committee only on the basis of proposals from interested administrations.

* * *

1	2
NC0208E1	Amendment of the Explanatory Notes arising from the classification of "chicken sauce" in subheading 2103.90.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Referring to the proposal submitted during the meeting to introduce quantitative criteria in the Explanatory Note to heading 21.03 (which was the proposal set out in item (b) of paragraph 32 of Doc. NC0123E1), the Norwegian Delegate explained that the proposal was intended to lay down an objective criterion to distinguish sauces of heading 21.03 from products of Chapter 20. The Secretariat's proposal would make the scope of heading 21.03 too broad and a number of products currently falling in headings 20.01 or 20.05 would be transferred to heading 21.03.
2. Supporting the views expressed by the Norwegian Delegate, the EC Delegate indicated that the texts proposed by the Secretariat should be reviewed. He was of the view that the current quantitative reference to "very little solid matter" in the Explanatory Notes should not be replaced by quantitative criteria but by guidelines in respect of the volume of fruit or vegetables usually contained in sauces. In this regard, he recalled the Committee's instruction at the last session that the Secretariat could take into consideration the definition of sauces applied by the EC in its Combined Nomenclature and any other proposals to be submitted by interested Contracting Parties. He explained that the proposed texts by the Secretariat would make it difficult to distinguish between headings 21.03 and 20.05 with regard to products consisting of sauces with vegetables and vegetables put up in a sauce, and therefore stressed that further guidance should be indicated.
3. Another delegate expressed the view that since quantitative criteria were not reflected in the legal texts it would cause legal problems if such quantitative criteria were reflected only in the Explanatory Notes. He therefore opposed having quantitative criteria and indicated that the Secretariat's draft was a good start. He was of the view that commercial realities, such as how products were marketed and how they were used, should be reflected in the Explanatory Notes rather than quantitative criteria.
4. That delegate, while agreeing to proceed on the basis of the Secretariat's draft, however, indicated that the reference to "not intended to be eaten by themselves" might cause difficulty in distinguishing certain products of headings 20.01 and 20.05 from those of 21.03.
5. When a vote was taken to decide whether to work on the basis of the Secretariat's draft or with another alternative proposal reflecting quantitative guidelines, opinions were equally divided by 16 votes to 16. The Committee therefore instructed the Secretariat to prepare a new document, taking into account the Secretariat's original proposal, the proposal made by Norway and other proposals to be submitted by administrations, for examination at the next session.

* * *

1	2
NC0209E1	Classification of vibrators.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Chairman recalled that the question had arisen from the Report on the RSC's 21st Session (cf. Annex E/17/1) and concerned the reference to "vibrator" in the Explanatory Note to new heading 84.67.
2. Referring to the Secretariat's proposals in Doc. NC0209E1, one delegate felt that the classification of such vibrators in heading 84.79 might have some repercussions for the scope of the legal text of heading 84.67. He accordingly proposed deleting the reference to "vibrator" in the draft text.
3. Another delegate stated that the Committee should consider the consequences of the deletion of the reference to "vibrators" because the goods transferred from heading 85.08 in 2002 included tools for working in the hand which incorporated an electric motor or vibrator. This reference was currently in the Explanatory Note to heading 85.08 and, for that reason, should be retained in the Explanatory Note to heading 84.67.
4. A third delegate pointed out that the vibrator concerned had the characteristic of having a mechanical function which ought to be taken into consideration. He felt that the reference to "vibrator" would prevent tools with built-in vibrator from being classified in heading 84.67 given the text of that heading; accordingly, a transfer of products might result.
5. Finally, the Committee agreed to continue its examination of this question under Agenda Item VI (see Annexes F/1 and L/16).

* * *

1	2
NC0211E1 NC0243E1	Classification of multifunctional digital copiers.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Director referred to Annex I to Doc. NC0211E1 and informed the Committee that the HP 320 Mopier did not have a fax capability. All the other machines in Annex I had fax capability. He further explained that the Brother MFC 1970 MC was a thermal machine and not an ink jet machine.

2. The Delegate of Brazil began the discussion with a history of this item dating back to 1998 when the Brazilian Administration requested the RSC to look into amending the structured Nomenclature for 2002 to encompass multifunctional machines in heading 90.09. The RSC left it to the HSC to take a decision on the present-day classification and opted not to amend the nomenclature for multifunctional machines for 2002. While recognizing that this was a preliminary discussion, the Delegate of Brazil reiterated his contention that the machine presented by the Brazilian Administration by way of example, i.e., the Xerox Document Centre 230 DC, was classified in heading 90.09 by application of GIR 3 (b). Furthermore, he reminded the Committee that the machine in question contained a laser and a set of lenses which were used to create an image on the photoreceptor in order to produce a new image which would be revealed after being placed in contact with a chemical toner. In the view of the Delegate of Brazil, this was, in fact, an optical-electrostatic process of the type described in the Explanatory Notes to heading 90.09.

3. The Delegate of Brazil expressed his disappointment that Doc. NC0211E1 did not mention other classification possibilities (85.17 or 90.09), noting that, in his opinion, the Secretariat's document implied classification in heading 84.71 for these multifunctional units and Brazil disagreed with that classification. Referring to paragraphs 7, 8 and 9, he noted several problems. He was unsure as to the meaning of "output technologies" and, specifically, whether this was a reference to printing or photocopying. In any case, he pointed out that these "output technologies" could have an important role in the classification of these machines. That is why he disagreed with the Secretariat's remarks in paragraph 7 (third sentence).

4. Drawing the Committee's attention to the information found in Annex III to Doc. NC0211E1, the Delegate of Brazil informed the Committee that this information was supplied by the manufacturers of these products. While not opposed to the Secretariat receiving such information, he reminded delegates that the HSC classified products according to the rules of the HSC and not according to manufacturers' interests. Finally, in response to the Secretariat's three questions, he informed the Committee that his administration wanted to replace the Xerox 230ST by the Xerox Document Centre 230DC,

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

while maintaining the Xerox Document Centre 340ST on the list of products to be examined. He requested further technical information specific to each product and, finally, did not consider it necessary to receive further product demonstrations but would not be opposed to such demonstrations should other administrations consider them necessary.

5. Another delegate indicated that his administration considered that naming these units “multifunctional digital copiers” was a misnomer. Specifically, the HP Office Jet 1175 and the Brother MFC 1970 MC were not digital copiers and referring to them as such could unduly influence their classification. In his view, the remaining five machines would represent an appropriate cross-section of products for the Committee to consider. A further product demonstration was not strictly necessary.
6. Yet another delegate agreed with the Brazilian requests for further information, as well as for the change in Xerox model numbers. He asked if it was known or could be determined whether the machines listed in paragraph 6 of Doc. NC0211E1 could work on their own, without being connected to an automatic data processing (ADP) machine. He felt it important to include in the study not only machines that could work on their own (standalone), even though they could be connected to an ADP machine but also multifunctional machines that could work only when connected to an ADP machine.
7. The Director confirmed a statement made by one delegate that the “output technologies” referred to by the Secretariat in paragraph 7 were in reference to the marking technology, i.e., thermal, ink jet or laser, and not to printing or photocopying.
8. A fourth delegate felt that it was important to consider classification of these machines in the context of the heading texts. For example, heading 90.09 covered photocopying devices incorporating an optical system. The scanning device incorporated in these systems, if imported separately, would be classified as an optical reader of heading 84.71. Consequently, in examining the classification of these machines, he believed it important to determine the scope of the phrase “incorporating an optical system” in order to determine whether these machines were, in fact, photocopying machines of heading 90.09.
9. It was finally agreed that the machines identified by the Secretariat in the working document were appropriate candidates for the study (subject to the substitution of the Xerox Document Centre 230 DC) and that the Secretariat’s next document would include all classification possibilities, including headings 84.71, 84.72, 85.17, 90.09 and printing machines. The Committee left open the possibility for Contracting Parties to submit other products for the study should they deem it necessary. Finally, the Committee determined that further demonstrations of these machines at the 26th Session were not necessary. Contracting Parties were invited to submit written comments to the Secretariat on the classification of these machines.

* * *

1	2	4
NC0212E1	Possible amendments to the Explanatory Notes to clarify the classification of "smart cards".	<u>See Annex P/23.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. Bearing in mind Doc. NCO212F1, the Committee studied a draft amendment to be inserted in the Explanatory Notes to headings 85.42 and 85.43 by corrigendum, clarifying that "smart cards" with two or more electronic integrated circuits were not classifiable in heading 85.42.
2. Subject to a few drafting amendments, the texts as presented in the Annex to the working document were adopted by the Committee.
3. The adopted texts are reproduced in Annex P/23 to this Report.

* * *

1	2
NC0234E1	Classification of the "TATA SUMO 483" motor vehicle.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Several delegates agreed with the Argentine Administration that the "TATA SUMO 483" motor vehicle should be classified in heading 87.03 for one or more of the following reasons :
 - (a) The information given, on the basis of the certificate by the manufacturer, in paragraph 9 of Doc. NC0234E1 as to the length of the two fold-away bench seats in the rear section of the "TATA SUMO 483" (90 cm) was inconsistent with the information provided by Argentina in paragraph 5.2 (78 cm);
 - (b) It seemed, based on the information given in paragraph 7 of the aforementioned document, that the two fold-away bench seats in the rear section of the vehicles in question were not anchored; rather, they seemed to be removable seats;
 - (c) The depth and height of those two fold-away bench seats and the distance between them were insufficient to accommodate four persons in the rear section;
 - (d) There was no certification from the Argentine authorities (as in the case of the "Ssang Yong MUSSO vehicles classified in heading 87.02 at the 24th Session) as to (i) whether the vehicle in question was registered as a vehicle for the transport of ten or more persons, including the driver and (ii) what type of driving licence was required to drive this type of vehicle;
 - (e) In some countries, classification of the "TATA SUMO 483" and "Ssang Yong MUSSO" type motor vehicles was a very sensitive issue in terms of duty and tax evasion.
2. Another delegate was of the view that the "TATA SUMO 483" vehicle had not been "principally designed for the transport of persons". It was a commercial vehicle for the transport of goods and persons and, as such, had to be classified in heading 87.04.
3. The Secretariat pointed out that, all of the information included in the working document as indicated in paragraphs 4 and 6 thereof had been obtained from the Argentine Administration, not from the manufacturer or importer. According to a drawing provided by Argentina concerning the dimensions of the "TATA SUMO 483" vehicle, the length of the fold-away bench seats in the rear section was "not exactly" but "approximately" 90 cm. Nevertheless, as compared to the 93 cm-long fold-away bench seats (designed for seating three persons) of the twelve-seater model of "Ssang Yong MUSSO" vehicle classified in

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

heading 87.02, the fold-away bench seats of "TATA SUMO 483", even if taken as 78 cm-long, would be larger, since they were designed for seating two persons. These fold-away bench seats were not removable, but had been fixed to the side panels of the vehicles concerned and their leg rests had been designed to be anchored to the floor of the vehicles. Further, they were equipped with safety seat belts or anchor points for safety seat belts and upholstered and covered in the same fashion as the front seats. As such, the "TATA SUMO 483" type motor vehicles should fall in heading 87.02.

4. Many delegates agreed with the Secretariat, further indicating that the Committee in its previous decisions had not taken into account the dimensions of persons when it classified certain motor vehicles for the transport of persons. It was necessary for the Committee to be consistent with its previous decisions. They believed that the information before the Committee was sufficient to follow the rationale so far applied and to consider the classification of the "TATA SUMO 483" motor vehicle at the present session.
5. After discussion, the Committee classified the "TATA SUMO 483" motor vehicle in heading 87.02 (subheading 8702.10) by 19 votes, against 7 votes for heading 87.03 and 1 vote for heading 87.04.
6. As the classification of the vehicles concerned had been requested by Argentina, the Secretariat was instructed to contact that administration as to whether it needed a Classification Opinion. If so, the Secretariat would prepare a draft Classification Opinion for examination by the next preessional Working Party.

* * *

1	2
NC0041E1 (HSC/23) NC0198E1 NC0237E1	Classification of a compression type refrigerating unit.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Chairman recalled that this issue, which had been postponed at the last session, derived from a request by the Argentine Administration. After describing the issue, he stated that it was not clear what questions were being put to the Committee.
2. The EC Delegate pointed out that the Argentine Administration's request related to the text of subheading 8418.61 ("Compression type units whose condensers are heat exchangers"). In Argentina's view, this text did not reflect reality given that all condensers were heat exchangers.
3. Accordingly, the question was whether to amend the legal texts and not the classification of a specific piece of equipment. The EC had sent the Secretariat detailed documentation on heat exchangers and condensers indicating that there were indeed two types of condensers. Hence the legal text of subheading 8418.61 was correct and should not be amended.
4. The Committee confirmed that the texts of subheadings 8418.61 and 8418.69 reflected commercial reality and decided that there was no reason to review their scope during this review cycle.

* * *

ANNEX IJ/1

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0140E1 NC0157E1 (HSC/23) NC0163E1 (HSC/24)	Classification of "Rougher headed lumber".			

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

The Committee agreed to delete this item from the Agenda.

* * *

1	2
NC0141E1 NC0159E1 (HSC/24)	Classification of "Notched lumber".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

The Committee agreed to delete this item from the Agenda.

* * *

1	2
NC0148E1 (HSC/24)	Classification of certain special textile yarns.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Delegate of Japan noted that the method for producing the yarns at issue was markedly different from the methods described in Part B of the Explanatory Note to heading 56.06 for chenille yarn, but drew attention to the fact that the Explanatory Note was not exhaustive. He further pointed out that the manufacturing methods mentioned in that Explanatory Note did not reflect current technology for the manufacture of chenille yarn; the yarns at issue belonged in heading 56.06 as chenille yarn.
2. Several delegates agreed with this view and felt that the yarns at issue were classifiable in heading 56.06 as chenille yarn. In their view, the Explanatory Note concerned should be brought up to date so as to take account of developments in technology for the manufacture of such yarns.
3. The Committee finally decided, unanimously, that the yarns at issue were chenille yarn mentioned in the text of heading 56.06 and were therefore classifiable in that heading by application of GIR 1. The Secretariat was instructed to undertake a study with a view to updating the Explanatory Note to heading 56.06 so as to define more clearly the scope of the expressions "chenille yarn" and "loop wale-yarn" within the meaning of that heading.
4. In addition, so as to reflect its classification decision, the Committee instructed the Secretariat to prepare two Classification Opinions (for the two types of yarn described in the box in the working document, and more particularly examples A and E) which would be examined by the next pre-session Working Party. It was pointed out that for this purpose it might be possible to delete the references to the looms or knitting machines on which such yarns were made.

* * *

1	2
NC0214E1	Classification of uncooked pizza.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Opening the discussion, the Delegate of Norway informed the Committee that this question arose from a binding pre-entry classification decision taken by a regional Customs House in Norway. However, since another Norwegian authority (agricultural) questioned this decision, the Norwegian Customs authorities requested the view of the Harmonized System Committee on the classification of the uncooked pizza in question.
2. Many delegates were of the view that uncooked pizza could not be classified as bakers' wares of heading 19.05. They agreed with the study carried out by the Secretariat, concluding that heading 19.05 did not cover uncooked products (Doc. NC0214E1, paragraph 27). In their view, products of heading 19.05 should at least be pre-cooked. Furthermore, in view of the fact that the Explanatory Note to heading 19.01 already mentioned similar products (item (II) (7)) as an example of doughs formed into a final shape, they were of the view that uncooked pizza should be classified in heading 19.01.
3. One delegate was of the view that this product should be classified in heading 19.05. This product had the essential character of a pizza and was manufactured, sold and consumed as pizza, exactly corresponding to a product which was mentioned in item (14) of the Explanatory Note to heading 19.05. In his view, there was nothing in heading 19.05 to exclude uncooked products from that heading.
4. When the matter was put to a vote, the Committee, by 25 votes to 2, decided to classify the uncooked pizza in question in heading 19.01 by application of GIR 1.
5. As to the classification at subheading level, many delegates were of the view that this product should be classified in subheading 1901.20 as a dough for the preparation of bakers' wares of heading 19.05. They felt that this subheading was related to heading 19.05, in that since cooked (or pre-cooked) pizza was classified in heading 19.05, it was quite clear that a similar, uncooked product should be classified in subheading 1901.20.
6. Many other delegates were, however, of the view that this product was further prepared than a dough. The addition of other ingredients (cheese, mushroom, meat, etc.) made this product a preparation which, in their opinion, was beyond the scope of subheading 1901.20, which provided only for "mixes and doughs", and did not provide for other preparations of heading 19.01. Consequently, this product should be classified in subheading 1901.90.
7. When the matter was put to a vote, opinions were equally divided by 15 votes to 15. It was therefore decided that the classification decision at subheading level should be postponed to the next session of the Committee. Consequently, the Secretariat was instructed to prepare a new working document in this respect for that meeting.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. In addition, the Secretariat was instructed to prepare suitable amendments to the Explanatory Notes to both headings 19.01 and 19.05, for examination by the next preessional Working Party.

* * *

1	2
NC0215E1	Possible amendment of the Explanatory Note to heading 84.71 with regard to "readers which decode data inscribed on cards or tape".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

Agenda Item IX.5 dealt with possible amendments of the Explanatory Note to heading 84.71 with regard to "readers which decode data inscribed on cards or tape". Readers were also the subject of discussion during the Working Party (See Agenda Item VII.14). The Committee decided to combine its consideration of Agenda Item IX.5 with its examination of the Report of the Working Party. The decision of the Committee on this Item can be found in Annexes G/13 and P/15 to this Report.

* * *

1	2
NC0216E1	Classification of automatic control units.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Due to the absence of specific information regarding "automatic control units", the Committee decided to drop this item from the agenda and agreed not to further pursue the study, unless a Contracting Party submitted a specific classification question in this regard.
2. The Committee took note of the fact that the Secretariat has consulted with EUROBIT and that they were not able to provide further information with regard to automatic control units.

* * *

1	2
NC0217E1	Classification of touch panels.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Delegate of the EC pointed out that, being used with a variety of machines, including photocopiers for example, touch panels were potentially classifiable in several different headings. He accepted the fact that certain panels of this type were classifiable in heading 84.71 but took the view that, given the nature of this product, heading 85.37 would be appropriate for touch panels whose end use was not specified. The EC had examined several such products and had classified them in heading 85.37. Thus in his view the panel mentioned as an example in the working document might fall in that heading.
2. The expression "touch panels" covered a range of articles used in several sectors, and the information in the working document fell short of what would be needed to decide on including a reference to such panels in the Explanatory Note to heading 84.71. He was somewhat alarmed at the fact that the working document, in particular paragraph 6, seemed to suggest that all touch panels belonged in heading 84.71.
3. While thanking the ICC for its co-operation and stressing the usefulness of the information it had provided, he suggested that the Secretariat should not confine itself to the information received through the ICC but should extend its inquiries to other sources.
4. In conclusion, the EC was of the view that it was inappropriate to mention touch panels in heading 84.71 as input units for automatic data processing machines, and proposed to maintain the status quo. The EC also felt that the Committee should not examine the classification of the "SattScope 240T" panel unless a Contracting Party specifically requested it.
5. In reply, the Director pointed out that the aim of the Committee was to identify certain articles classifiable in heading 84.71 with a view to improving the Explanatory Note to that heading, and that the Secretariat had never taken the view that all touch panels fell in heading 84.71. The Secretariat's proposal was to amend the terminology of the present Explanatory Note by linking the expression "touch panels" to "touch screens".
6. Regarding the sources of information used he said that the Secretariat did not confine itself to the information received from the ICC but obtained information from other sources, particularly via the Internet. The Secretariat also consulted member administrations. Given the Secretariat's limited resources and the fact that administrations had closer relations with industrial circles, he appealed to administrations to provide all necessary assistance in this regard.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. Another delegation confirmed that certain touch panels were classifiable in heading 84.71, but felt it unnecessary to amend the present Explanatory Note given that touch panels were already covered by the reference to "X,Y co-ordinate input devices" in part D (6) of the Explanatory Note to heading 84.71 (page 1406) and in particular by the expression "touch-sensitive screens". He added that the English expression "touch screen" was not limited to a particular technology.
8. He therefore proposed that the Committee should maintain the status quo regarding the Explanatory Note to heading 84.71 and should not take up the question of the classification of the "SattScope 240T" panel described in the working document.
9. The Committee finally decided not to insert a reference to "touch panels" in the Explanatory Note to heading 84.71 but to maintain the status quo. It further decided not to take up the question of the classification of the "SattScope 240T" control panel, given that no administration had requested it.

* * *

1	2
NC0218E1	Classification of game controllers.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. One delegate indicated he was against the Secretariat's proposal to replace the word "joystick" by "game controller" in the Explanatory Note to heading 84.71. This was principally because not all game controllers were connectable to automatic data processing machines; there were others, like those for connecting to television receivers, which were normally classified elsewhere (e.g., heading 95.04). Several delegates agreed with this view.
2. Other delegates supported the Secretariat's proposal, which they interpreted as relating solely to game controllers connectable to automatic data processing machines. They added that in their view, joysticks were only a type of controller, which was why they could accept the proposed amendment.
3. There being no consensus, the question was put to a vote. The Committee decided by 16 votes to 11 to maintain the status quo as regards the wording of the Explanatory Notes and not to classify the game controllers at issue.

* * *

1	2
NC0219E1	Classification of print engines.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Director began the discussion by indicating that the goal of the Secretariat was to provide as much information to the Committee as possible on the 12 new documents requested by the Committee on the question of the examination of the Explanatory Note to heading 84.71. Given the short timeframe between HSC/24 and this Session, the Secretariat recognized that the discussion on these items would be of a preliminary nature. Consequently, he requested that the Committee examine these items within this framework.
2. One delegate indicated that he agreed with the Secretariat's proposal to have a preliminary discussion on this item. In addressing the question of whether print engines should be referenced in the Explanatory Notes, he mentioned the difficulties this would entail, as print engines could be classified in different headings and the Explanatory Notes should therefore take these different classifications into account. While he agreed to the Secretariat's approach to the document, he indicated that in the next document, the Secretariat should mention the other possibilities for classification of print engines – heading 85.17 (as part of a fax machine) and Chapter 90 (as part of photocopying apparatus), taking into account Note 1 (m) to Section XVI. Furthermore, he expressed the view that if a study was to be undertaken, then it should not be restricted to one single heading but should incorporate all possibilities for the classification of print engines, with the appropriate inclusion and exclusion references.
3. Another delegate informed the Committee that his administration's understanding was that this document was intended to be limited to a discussion of the classification of print engines that were used in printers of heading 84.71 and not to address the classification of print engines that could be classified in other headings. He expressed doubt that the Committee would want to undertake such a broad study. He agreed with the suggestion that a simple reference to print engines in the Explanatory Notes may not be useful, given the need to describe the print engine's components, as well as the machine in which it was used. In view of the importance of the print engine technology to the classification, he indicated that classification on a case-by-case basis would be appropriate to determine the print engine's essential character.
4. The Committee finally decided against the inclusion of a specific reference to print engines in the Explanatory Notes and, as a result, determined that a further study was not necessary. Administrations experiencing problems with the classification of print engines were invited to forward such cases to the Secretariat for inclusion on the agenda of a future HSC meeting.

* * *

1	2
NC0220E1	Classification of graphic tablets/digitizers.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee unanimously decided to classify graphic tablets/digitizers in subheading 8471.60 and to insert a reference to them in the Explanatory Note to heading 84.71.
2. The Secretariat was asked to reflect this decision by preparing amendments to the Explanatory Notes, for examination by the next preessional Working Party.

* * *

1	2
NC0221E1	Classification of DVD storage units.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. At the request of one delegate who pointed out that, as indicated by the Secretariat, the information obtained so far was very limited in respect of the classification of DVD drives, the Committee held only a preliminary discussion on this Agenda Item.
2. According to that delegate, as noted in paragraph 2 of Doc. NC0221E1, there were two types of DVDs (i.e., Digital Video Discs and Digital Versatile Discs). This suggested that certain DVD drives could operate solely in conjunction with automatic data processing machines whereas others could be connected to apparatus other than automatic data processing machines (e.g., televisions or sound reproducers) which might also use a memory similar to those of automatic data processing machines. He felt, contrary to the view expressed by the Secretariat, that there was a difference between the CD-ROM drives classified in heading 84.71 and the DVD drives under consideration. Further, on the basis of the information available, he was not in a position to clearly distinguish between the three types of DVD drives listed in paragraph 5 of the working document. Therefore, he believed that more detailed information was needed about all types of DVD drives before classifying these products, in order to clearly indicate in the Explanatory Notes not only what was included in heading 84.71 but also what was excluded.
3. Another delegate pointed out that the scope of this study was limited to the classification of DVD drives solely used as storage units in conjunction with automatic data processing machines. He felt that the information provided in paragraphs 4 and 5 of Doc. NC0221E1 was suitable for drafting the relevant amendments to the Explanatory Note to heading 84.71. If more detailed information were obtained, this had to be relevant only to DVD drives solely operated in conjunction with automatic data processing machines, and not any other product, in order to avoid unduly complicating the study.
4. After discussion, the Committee instructed the Secretariat to endeavour to obtain more information on different types of DVD drives from interested administrations and the relevant industry and to prepare a new document on this basis for examination by the Committee at its next session.

* * *

1	2
NC0222E1	Classification of optical and tape autoloaders and libraries.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. On the basis of the descriptions given in paragraphs 2 and 3 and comments made by the Secretariat in paragraph 8 of Doc. NC0222E1, the Committee unanimously decided to classify "tape autoloaders and libraries" and "magneto-optical jukeboxes" in heading 84.71 as additional storage external to the central processing unit (subheading 8471.70).
2. As this classification question was examined in the context of a general study concerning updating of the Explanatory Note to heading 84.71, to reflect its classification decision, the Committee instructed the Secretariat to prepare suitable draft Explanatory Note amendments for examination by the next preessional Working Party. In this connection, one delegation noted that the Secretariat should take into consideration that the term "jukebox" in English was used normally in reference to certain musical systems.

* * *

1	2
NC0224E1	Classification of proprietary storage formats.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee agreed unanimously on the classification of proprietary storage formats, as proposed by the Secretariat in Doc. NC0224E1 (i.e., in subheading 8471.70 on the basis of GIR 1). It was noted that the references to “Mbites” in the working document should read “Mbytes” (English version only).
2. The Committee also agreed that the Explanatory Note to heading 84.71 could be amended to clarify the classification of the devices at issue under that heading.
3. Following these conclusions, the Secretariat was instructed to prepare a draft amendment to the Explanatory Note to heading 84.71, taking into account the suggestions (i) that these apparatus could be in the form of internal as well as external devices, and (ii) that the word “additional” should be retained in the description of the devices. The draft would be examined by the next preessional Working Party.

* * *

1	2
NC0225E1	Classification of flash electronic storage cards.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. A number of delegates supported the Secretariat's view that the cards at issue had an individual function (i.e., the storage of data) and were, therefore, classifiable as apparatus under their appropriate heading (e.g., heading 85.43, as suggested by the Secretariat). These delegates were prepared to take a decision vis-à-vis the classification of the cards at the present session, based on the information provided in the working document.
2. The US Delegate held the view that the Committee should consider a specific sample, rather than a number of articles representing a class of goods. He suggested a further study on the basis of information his administration could provide. The Delegate of China informed the Committee that his administration would submit detailed information to the Secretariat on this subject.
3. The Chairman concluded that a new document should be prepared based on the information to be provided by the US and China, and taking into account the Secretariat's observations in Doc. NC0225E1. In this context, the EC Delegate requested that the example referred to in Annex VIII to Doc. 42.448 and its description given in paragraph 2 of Doc. NC0225E1 should be included in the new document.

* * *

1	2
NC0226E1	Classification of the "Whistler 1120".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The question of the classification of the "Whistler 1120" was submitted by the Polish Administration. The Delegate of Poland in explaining the issue made reference to the Explanatory Notes to heading 85.27 (page 1491, Part (A), first paragraph). She concluded that the heading covered apparatus for the reception of signals by means of electromagnetic waves, i.e., of a very wide range of frequencies and without limiting the range of electromagnetic waves. Referring to Classification Opinions 8527.90/1 and 8527.90/2, the Polish delegate was of the opinion that, as the Whistler operated on a very similar basis, the "Whistler 1120" should be classified in subheading 8527.90. However, if the reception of microwaves was considered as a signalling function, the Polish Administration would be inclined to classify the apparatus in subheading 8512.30 because the apparatus was "of a kind used" in vehicles. Classification in heading 85.12 would therefore preclude classification in heading 85.31.
2. Heading 85.26 received support from one administration. The delegate informed the Committee that his administration classified radar detectors in heading 85.26. While this device was not strictly a radar detector, he felt that classification in subheading 8526.10 would nonetheless be appropriate. Failing that, as a fall-back position, he argued that heading 85.43 was the only other viable alternative.
3. Another delegate argued for heading 85.12 since, in his opinion, headings 85.26 and 85.27 were inapplicable as the apparatus did not fall within the scope of those headings. While heading 85.31 was a possibility, he argued that the heading text to heading 85.12 was more specific, given that the "Whistler 1120" was of a kind used in motor vehicles.
4. The Committee voted on the classification with the following results :

85.26 – 1
85.27 – 2
85.12 – 23.
5. As a result, the Committee classified the "Whistler 1120" in subheading 8512.30 by application of GIRs 1 and 6, classification at the subheading level being based on the essential character of the product, i.e., sound signalling equipment. As the Delegate of Poland requested a Classification Opinion, the Committee instructed the Secretariat to draft a Classification Opinion for the next presessional Working Party.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The Committee also instructed the Secretariat to propose a text, for the next preessional Working Party, in order to include this type of apparatus as an example in the Explanatory Note to heading 85.12.
7. The Committee finally agreed that the basis for the decision was that the apparatus was “of a kind used” in motor vehicles, thereby ruling out classification in heading 85.31.

* * *

1	2
NC0227E1	Study with a view to establishing guidelines for the classification of vehicles of headings 87.02, 87.03 and 87.04.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. One delegate stated that his administration was opposed to the creation of guidelines for the classification of vehicles of headings 87.02, 87.03 and 87.04, as the present provisions of the Nomenclature and the Explanatory Notes to those headings were adequate for the purpose. The guidelines under consideration would be based on developments in the design of the vehicles concerned, but, due to the rapid changes in auto manufacturing technology, any guidelines to be inserted in the Explanatory Notes might become outdated in the near future.
2. Another delegate reminded the Committee that, as indicated in paragraph 3 of Doc. NC0227E, the guiding principle for drafting criteria for insertion in the Explanatory Notes was the agreement by the Committee that the study should not include any criteria that might lead to a classification change from one heading to another. He then pointed out that criterion 1, load capacity, in the Annex to the working document presented a problem because this criterion could lead to a change of classification from one heading to another. Therefore, it was not appropriate for inclusion in the Explanatory Notes. He also added that the Committee so far had classified the vehicles concerned on a "case-by-case basis" and its decisions in the past had always been consistent.
3. However, many delegates indicated that the classification of the motor vehicles in headings 87.02, 87.03 and 87.04 was often the subject of disputes in their administrations, both in respect of collecting appropriate Customs duties as well as certain internal taxes. There was a pressing need on the part of their administrations for detailed guidelines in the Explanatory Notes for distinguishing between the motor vehicles which might fall in those headings. They did not agree with the concern expressed that certain guidelines could result in a change in classification from one heading to another, since these guidelines would only be inserted in the Explanatory Notes. They also believed that the text drafted by the Secretariat in paragraph 7 of the working document and the table presented in the Annex thereto could be a good basis for drafting suitable Explanatory Note amendments.
4. After discussion, the Committee decided, by 20 votes to 2, that the Explanatory Notes should be amended with a view to establishing guidelines for the classification of vehicles potentially classifiable in headings 87.02, 87.03 and 87.04.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. In this connection, the Committee also held a preliminary discussion on the text and list of criteria drafted by the Secretariat, noting that administrations could submit comments and proposals in this respect to the Secretariat at a later stage. The following views were expressed :
- (i) First paragraph of the text : “Seating capacity” might be the most important criterion for the classification of the motor vehicles of heading 87.02 and 87.03, but not those of heading 87.04. Also, it might be appropriate to insert a reference to the presence of “anchor points for installing safety seat belts” in addition to the anchor points for installing seats. The reference to “load capacity” should be deleted;
 - (ii) Second paragraph of the text : The second part was not necessary since it could lead to confusion;
 - (iii) Table :
 - 1st group of criteria : The relation between the space for the passengers and that for the goods and the relation between the weight of the passengers and that of the goods should not be used as criteria;
 - The 2nd and 3rd groups of criteria could be combined;
 - 6th criterion : The nature of the division between the driver/passenger section and the rear section should be clearly indicated;
 - 8th criterion : The accuracy of this criterion should be checked in respect of the vehicles of heading 87.02;
 - Several of the criteria might not be applicable to certain motor vehicles used in different regions around the world.
6. The Committee also agreed that the 11th group of criteria should not be included in the study as it would not be particularly useful in determining the classification of the vehicles concerned.
7. Further, the Secretariat should also study the possibility of inserting the above criteria in the Explanatory Notes as indicative “guidelines” in text form rather than tabular form.
8. Finally, the Secretariat was requested to prepare a new document on the basis of the above discussions for consideration by the Committee at its next session. Administrations were requested to submit their comments and proposals, if any, to the Secretariat during the intersession.

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1	2
NC0228E1	Study of the scope of the terms "domestic" and "household" in the Nomenclature and the Explanatory Notes.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee agreed with the conclusions of the Secretariat that :
 - (a) there would appear to be no situations in the HS which required a dividing line between "domestic" on the one hand and "household" on the other. In other words, there was no (sub)heading covering (certain) articles for domestic use versus a (sub)heading covering the same articles for household use; and
 - (b) there was no need to establish definitions in the HS delineating the scope of the two terms. Furthermore, the two terms did not differ in scope and were interchangeable, and there was no need to align texts.
2. On the basis of the foregoing conclusions the Committee agreed that there was no further action necessary.

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1	2
NC0230E1	Classification of lumbar support belts.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. One delegate felt that what was at issue was not the classification of the sample concerned but whether or not the medical or surgical belts referred to in heading 90.21 were classifiable in subheadings 9021.19 or 9021.90. In his view, the only decision to be taken by the Committee was to refer the question to the Review Sub-Committee for alignment of the English and French versions of subheading 9021.1, clearly indicating to the Sub-Committee that there was a lack of alignment between the two texts.
2. He pointed out that although belts were not appliances, classification in subheading 9021.19 could nevertheless be envisaged on the basis of the English version in the light of the Secretariat's study. However, if Morocco needed a classification decision from the Committee, he felt that some more time for thought was needed before an official ruling on their classification could be given, so as to be able to consult the legal services.
3. The Delegate of Morocco stated that his administration had no problem in classifying these belts at 4-digit level (heading 90.21 owing to the presence of rigid bands); its request concerned classification at subheading level, given the apparent lack of alignment between the two versions of the subheadings to heading 90.21. In his country, official documents on the Harmonized System were published in French, and on that basis his administration classified the belts at issue in subheading 9021.90. Because there was a dispute between the importer and the Moroccan Administration, he would like the Committee to rule on the classification of such belts. In addition, measures should be taken in the Explanatory Notes pending a possible amendment to the HS.
4. Another French-speaking delegate reported that his administration had also encountered this problem as a result of the lack of alignment of the legal texts of subheading 9021.1. Although belts were not appliances, his administration had classified this type of belt in subheading 9021.19, particularly by reference to the Explanatory Notes. He asked the Committee to amend the French version of subheading 9021.1 to read "articles et appareils" rather than simply "appareils", so as to align it on the 4-digit heading text.
5. It was also pointed out that a problem could arise if the courts of a French-speaking country had to rule on this question before the possible amendment of the legal texts, which would not enter into force until the year 2007; furthermore a classification decision by the Committee would probably not be of any help to French-speaking courts.
6. It was therefore suggested that the Secretariat undertake a study, in particular on the legal aspects, to determine whether the procedure for amending the HS by corrigendum could not be applied in this particular case. It was noted that this informal procedure did not require a unanimous vote.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The Director said that the Secretariat should check whether such an amendment to the legal texts could be made by corrigendum. He added that an administration had expressly requested a classification decision by the Committee and that a decision therefore had to be taken on the basis of the two official versions of the HS, as they now stood. However, he said that the Secretariat had no objection to more time being allowed for reflection and to the decision being deferred, given the difficulty caused by the lack of alignment of the texts.
8. The Committee finally agreed to take a decision on the classification question at the present session.
9. One delegate favoured heading 90.21, given the description of the article in the working document. In his view, the presence of rigid bands meant that support did not derive solely from the belt's elasticity, so that Note 1 (b) to Chapter 90 was not applicable. At 6-digit level he would classify the article in subheading 9021.19, but there was indeed a lack of alignment in the legal texts. He therefore supported the Secretariat's proposal to align the two versions of subheading 9021.1.
10. Another delegate felt that if the article did not satisfy the texts of headings 62.12 and 90.21 suggested by the Secretariat, a third possibility could be considered, that of heading 63.07. He mentioned Item (27) of the Explanatory Note to that heading, page 949, concerning support articles of the kind referred to in Note 1 (b) to Chapter 90.
11. The Delegate of Morocco said that his delegation was in no doubt as to the belt's classification in heading 90.21, given its design and particularly the presence of rigid bands at the back, placed so as to support the back following an illness or operation. He pointed out that the effect intended did not derive solely from elasticity and that the belt was not excluded from heading 90.21 by Note 1 (b) to Chapter 90. In addition, it answered to the description of orthopaedic appliances given in the Explanatory Note to heading 90.21 and in particular the medical or surgical belts mentioned in Item (11) of that Explanatory Note.
12. Other delegates took the view that the expression "orthopaedic appliances" within the meaning of heading 90.21 was very restrictive and that the articles of that heading had to be designed to immobilize a member or an organ after an illness or operation. The article at issue was not necessarily used after an illness or operation, and the rigid bands or stays served essentially to prevent the belt from rolling up. They also pointed out that the articles of heading 62.12 could also be reinforced with flexible metallic, whale-boned or plastic stays and could incorporate rigid fittings of metal.
13. Hence in their opinion the belt at issue did not have a particular orthopaedic purpose and was therefore classifiable in Section XI by application of Note 1 (b) to Chapter 90. As regards the heading applicable within that Section, they noted that the text of heading 62.12 included the expression "and similar articles"; hence the belts could be classified in that heading, whereas heading 63.07 covered articles not covered by the text of heading 62.12 and generally used for certain sporting activities.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

14. The Committee finally decided, by 19 votes to 10, that the “Lombacross” lumbar support belt belonged in Section XI and not in heading 90.21. It then decided, unanimously, to classify it in heading 62.12 (subheading 6212.90) rather than in heading 63.07; this classification was on the basis of GIR 1 (text of heading 60.12 and Note 1 (b) to Chapter 90) and GIR 6.
15. To reflect this decision, the Secretariat was instructed to prepare a Classification Opinion for examination by the next presessional Working Party.
16. The Committee also decided to ask the Review Sub-Committee to examine the question of the alignment of the two versions of subheading 9021.1, the Secretariat being instructed to examine the possibility of making such an amendment by corrigendum.

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1	2
NC0232E1	Classification of tire inflation valves.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. The Committee unanimously agreed to classify the tire inflation valves in subheading 8481.80.
2. At the request of the US Delegate, the Committee instructed the Secretariat to draft a Classification Opinion for review at the next preessional Working Party.

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1	2
NC0223E1	Classification of a tobacco mixture known as "Basic Blended Strips".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Eng.)

1. Although the Delegate of China proposed to postpone the discussion of the classification of "Basic Blended Strips", the Committee decided, by 12 votes to 6 to continue the discussion.
2. The US Delegate presented the arguments put forward by his Administration in Doc. NC0223E1 in support of classification of this product in heading 24.01. He stressed that the fundamental question revolved around the fact that this product constituted a mixture - a mixture that consisted of 75 % unmanufactured tobacco classified in heading 24.01, and 25 % reconstituted tobacco classified in heading 24.03. In his view, since heading 24.01 did not exclude mixtures, and since the unmanufactured tobacco provided the greater weight and bulk of the product, the product should be classified in heading 24.01, by application of GIRs 2 (b) and 3 (b).
3. Several delegates supported the US view. Furthermore it was argued that the unmanufactured tobacco not only provided the greater weight and bulk to the mixture, but in addition it gave the product its essential aroma and flavour. One delegate also pointed out that classifying this product in heading 24.03 could lead to the undesirable situation of classifying products containing only a few percent of reconstituted tobacco in that heading.
4. The Polish Delegate pointed out that this tobacco mixture was used for the production of a specific brand of cigarettes, and that a fixed content of reconstituted tobacco had to be present in these cigarettes to secure the required quality of the cigarettes. Furthermore, this product only required a simple cutting process before being used as a cut filler in cigarettes. She was therefore of the view that, due to the presence of 25% reconstituted tobacco in the mixture, the product had lost its character as unmanufactured tobacco of heading 24.01 and, accordingly, had gained the character of manufactured tobacco of heading 24.03. By application of GIR 1, this product should therefore be classified in heading 24.03. In supporting her view, another delegate agreed that blending was an allowed process for products of heading 24.01, but in his view, the heading only covered intermixtures of the different natural tobaccos of that heading – not a mixture consisting of natural tobacco and reconstituted tobacco of another heading.
5. After discussion, the Committee decided (by 23 votes to 5) to classify the tobacco mixture known as "Basic Blended Strip", presented by the US Administration in Doc. NC0223E1 in heading 24.01 (subheading 2401.20) (by application of GIRs 2 (b), 3 (b) and 6).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. To reflect the above decision, the Secretariat was instructed to prepare a Classification Opinion for examination by the next preessional Working Party.

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DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

ANNEX K

OTHER BUSINESS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0229E1	List of questions which might be examined at a future session.	<u>See Annex S.</u>	<u>See Annex S.</u>	<u>See Annex S.</u>

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (O. Fr.)

1. The Committee took note of the list of questions in the Annex to Doc. NC0229E1 and decided to delete questions 6 and 7 intended for the 26th Session or a subsequent HSC session, given that they had been pending for several sessions (since the 18th Session) without the interested organizations submitting the necessary information.
2. Canada informed the Committee that it would send the Secretariat a proposal on Item 5 on the list of questions to be examined at the Review Sub-Committee's 22nd Session or at a later date.
3. The above-mentioned list, updated by deleting the questions mentioned in paragraph 1 and adding a new series of questions raised at the meeting for examination in greater detail or at a later date, is reproduced in Annex S to this Report.

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