



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
COMMITTEE

-
30th Session
-

NC0655E2
(HSC/30/Nov. 2002)

O. Eng./Fr.

Brussels, 29 November 2002.

REPORT TO THE CUSTOMS CO-OPERATION COUNCIL
ON THE 30th SESSION OF THE HARMONIZED SYSTEM COMMITTEE

Note :	This Report has been divided into four parts : PART I : Body of the Report and Annexes A to J PART II : Annexes K to L/7 PART III : Annexes L/8 to M/8 PART IV : Annexes N/1 to Q
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1. The Harmonized System Committee (HSC) held its 30th Session from 18 to 29 November 2002 at the Headquarters of the World Customs Organization in Brussels. The meeting was chaired by Mr. C.E. (Ed) DE JONG (The Netherlands).
2. The following 66 Members (65 Countries and one Customs and Economic Union) were represented :

Countries :

ALGERIA	FRANCE	NORWAY
ARGENTINA	GABON	PANAMA
AUSTRALIA	GERMANY	POLAND
BAHRAIN	HUNGARY	PORTUGAL
BANGLADESH	INDONESIA	ROMANIA
BELGIUM	IRAN (Islamic Rep.)	RUSSIA (Fed.)
BRAZIL	IRELAND	RWANDA
BURKINA FASO	ISRAEL	SENEGAL
CAMEROON	JAPAN	SLOVAK Rep.
CANADA	JORDAN	SLOVENIA
CHINA (People's Rep.)	KENYA	SOUTH AFRICA
COLOMBIA	KOREA (Rep.)	SPAIN
CONGO (Dem. Rep.)	LATVIA	SRI LANKA
CÔTE D'IVOIRE	LITHUANIA	SWITZERLAND
CROATIA	MADAGASCAR	THAILAND
CYPRUS	MALAYSIA	TURKEY
CZECH REPUBLIC	MALTA	UKRAINE
DENMARK	MEXICO	UNITED KINGDOM
EGYPT	MOROCCO	UNITED STATES
ESTONIA	NETHERLANDS	YUGOSLAVIA
ETHIOPIA	NEW ZEALAND	ZIMBABWE
FINLAND	NIGERIA	

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

Customs and Economic Union

EUROPEAN COMMUNITY (EC).

3. The following Member of the Council and three international organisations were represented by observers :

MOLDOVA

CO-OPERATION COUNCIL FOR THE ARAB STATES OF THE GULF (GCC)
INTERNATIONAL CHAMBER OF COMMERCE (ICC)
UNITED NATIONS STATISTICS DIVISION (UNSD).

4. A list of delegates and observers is reproduced in Annex R to this Report.

I. ADOPTION OF THE AGENDA
(Doc. NC0592E2)

5. At the request of the Delegate of **Norway**, Agenda Item VIII.1 was deleted from the Agenda. At the request of the **US** Delegate, Agenda Item VIII.22 was postponed to the next session.
6. The Committee decided to have a preliminary discussion only on Agenda Items VIII.21 and VIII.25.
7. The Committee accepted that there would be a presentation, outside of the meeting room, on the **Media Composer 1000**.
8. 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. NC0594E1)

9. Mr. H. KAPPLER, the Director of Tariff and Trade Affairs, informed the Committee that Cambodia, the United Arab Emirates, Ukraine, Yemen and Colombia had become the 107th, 108th, 109th, 110th and 111th Contracting Parties to the HS Convention. He took the opportunity to congratulate these five administrations and welcome them to the Committee, while also thanking them for making this commitment to the international trading system.
10. However, he pointed out that 50 Members of the WCO had still not become Contracting Parties to the Convention. He encouraged the administrations concerned to do so as soon as possible, adding that the Secretariat stood ready to assist them in this matter, as required.

11. In a similar vein, the Director observed that only 70 HS Contracting Parties had notified the Secretariat officially that they were applying the 2002 version of the Harmonized System (for further details, see Item II.2 below).
12. Moving on to the acceptance of HS-related Recommendations, the Director described the current situation, as set out in the Annex to Doc. NC0594E1, as a "mixed bag". Progress was fairly good with regard to the Recommendations on substances that deplete the ozone layer and binding pre-entry classification information, but could only be described as dismal in the case of certain other Recommendations, including in particular the Recommendation on standard units of quantity.
13. Where the latter was concerned, it was noteworthy that there had been 23 acceptances under the old Recommendation, but only 10 so far for the 2002 version. The Director emphasised the importance of this Recommendation and urged administrations to work seriously towards acceptance.
14. Finally, the Director invited administrations which had not already done so to supply the Secretariat with a copy of the 2002 version of their Customs tariff as soon as possible.
15. The Committee took note of the information provided in the working document and the Director's oral remarks and urged administrations to notify the Secretariat of the acceptance of the Council Recommendations as soon as possible.
16. On the basis of new information provided immediately prior to, and during, the meeting, the Secretariat prepared an amended statement of the position regarding Contracting Parties to the HS Convention and related matters, which is reproduced at Annex B/3 to this Report.
17. The list of Contracting Parties to the HS Convention and the list of administrations which – as of 29 November 2002 – were applying a tariff or statistical nomenclature based on the Harmonized System, are reproduced at Annexes B/1 and B/2, respectively, to this Report.

II.2. PROGRESS REPORT ON THE IMPLEMENTATION OF THE 2002 VERSION
OF THE HARMONIZED SYSTEM
(Doc. NC0595E1)

18. At the outset, the Director explained what the Secretariat had been doing to promote the implementation of the 2002 version of the Harmonized System.
19. Where WCO publications were concerned :
 - Amending Supplement No. 1 to the Customs Laboratory Guide was available,
 - The Alphabetical Index to the 2002 version of the Harmonized System was available from the WCO Publications Service,
 - Amending Supplement No. 1 to the Classification Handbook, which took account of the HS 2002 amendments, had been available since March 2002,
 - A new booklet, entitled "Classification Decisions taken by the HS Committee from its 1st to its 26th Sessions (1988-2000)", had been available since June 2002.

20. On the subject of the Harmonizer HS interactive learning programme (on CD-ROM), the Director announced that work on the updating of the French and English texts to reflect HS 2002 was almost finished. However, the Secretariat was not in a position to publish an HS 2002 version of the Harmonizer at this time, given that the preliminary results of a survey of Members were not particularly positive, suggesting that it would not even be possible to recoup the production costs of the updated version. This was extremely disappointing, as the Harmonizer itself was an excellent product and had been enthusiastically received by students at the Secretariat's national and regional HS seminars. Moreover, the Secretariat had tried all means at its disposal to publicise and market the product.
21. In order to address this problem, one delegate suggested proposing to the Finance Committee that the production of the Harmonizer be identified as one of the WCO's capacity building measures and that the Harmonizer be made available to developing administrations free of charge. This proposal was supported by the Committee.
22. Turning to the implementation of HS 2002 by Contracting Parties, the Director announced that HS 2002 had now been implemented by 70 Contracting Parties and eight other Member administrations (see Annex B/3 to this Report). That left 41 Contracting Parties which had not yet implemented the latest version, or had not yet responded to the Secretariat's requests for information.
23. The Director again drew delegates' attention to the fact that acceptance of the 2002 amendments to the Harmonized System was not an option for Contracting Parties, but a legal obligation. He informed administrations that the Secretariat had provided a substantial amount of technical assistance with regard to this issue, and stood ready to provide additional assistance if requested. The Secretariat had also contacted various regional organisations with offers of assistance for the amendment of their common tariffs. He believed that the Secretariat had done everything it could, and the matter now required concrete action by administrations.
24. The Chairperson then invited delegates representing administrations which had not yet implemented HS 2002 to provide a progress report on the work being done towards implementation in their respective countries.
25. In response, the delegates of certain Member countries belonging to the UEMOA informed the Committee that this West African regional organisation planned to apply HS 2002 with effect from 1 January 2003. A few delegates referred to various procedural problems which were delaying the adoption of draft texts by the competent authorities. Others blamed the delay on extraneous circumstances (political, etc.). Yet others cited technical factors (for example, the incorporation of HS 2002 in ASYCUDA).
26. The Committee took note of the information provided in the working document and by the Director in his oral remarks and urged administrations which had not yet done so to implement HS 2002 as rapidly as possible and to notify the Secretariat promptly when they had accepted it.

II.3. REPORT ON THE MEETINGS OF THE POLICY COMMISSION (47th Session) AND
THE COUNCIL (99th and 100th Sessions)
(Doc. NR0268E1)

27. The Director drew the attention of the Committee to a few of the most important HS-related issues raised at the last sessions of the Policy Commission and the Council. First of all, he took this opportunity to again congratulate Cambodia, the United Arab Emirates, Ukraine, Yemen and Colombia on becoming Contracting Parties to the HS Convention and stated that the Secretariat looked forward to their active participation in all of the HS committees.
28. Secondly, the Director highlighted the Secretary General's statement that discussions were now under way with the Inter-American Development Bank (IDB) and Spanish speaking administrations related to the use of Spanish as a working language for the Harmonized System. Since the IDB had agreed to fund this work, the Secretariat was now in the process of determining priorities and modalities for the use of those funds. Indicating that more details as to these discussions would be reported under Agenda Item III.1, he hoped that the WCO would soon be able to establish a system for Spanish similar to that being used for the Russian language.
29. Thirdly, regarding the sensitive issue of report reading at the end of meetings, the Director informed the Committee that the Council had finally agreed that reports should only be read at the end of meetings in the case of a limited number of working bodies, including the HS Committee and its Working Party, but not including the Review Sub-Committee or the Scientific Sub-Committee. He noted that the new procedure had already been utilised for the Review Sub-Committee at its 26th Session in September 2002.
30. Finally, with respect to the Australian proposal for a "radical" review of the Harmonized System, the Director reported that the Secretariat had invited comments from all of the WCO regions with regard to this issue and that he had reported to the Policy Commission that the responses indicated that there was not a great deal of enthusiasm for such a review. Two issues had been identified in the Australian proposal, the first relating to the structure of the Harmonized System and the second to procedural matters. While noting that there was no question that certain parts of the Harmonized System needed to be updated, he had indicated to the Policy Commission that that matter was being addressed satisfactorily by the existing review process.
31. Concerning the procedural matters, the Director had pointed out to the Policy Commission that many of these issues had been discussed at length in the past with mixed results. With regard to the way forward, he had suggested establishing a High-Level Working Group to examine the HS-related procedural issues once again and there had been unanimous support for this proposal.
32. The Director further reported that the first meeting of the Working Group had taken place in early November. The make-up of the Working Group included senior executives familiar with the Harmonized System and the operation and the needs of Customs and the international trade community as a whole. The group had held initial discussions on, among other matters, the length and frequency of the HS Review Cycles, speeding up the HS decision making process, the possible establishment of HS dispute settlement panels,

making HSC decisions binding, how to increase the number of HS Contracting Parties, how to improve the acceptance of HS Recommendation by the Members, and how to make HS publications available and affordable to developing country Customs administrations.

33. The Director commented that the discussions were of a very high calibre and many useful suggestions had come out of the meeting, including suggestions for the amendment of the HS Convention (for example, with regard to reservations), procedural changes to speed up decision making, and improving the visibility of the Harmonized System. He indicated that these issues would be examined in greater detail at the next meeting of the Working Group, which was scheduled for early March 2003. The Secretariat would report on developments within the Working Group to the Committee and to the Policy Commission at an appropriate time in the future.
34. The Committee took note of the report on the meetings of the Policy Commission and the Council in the working document and the Director's oral report.

**II.4. APPROVAL OF DECISIONS TAKEN BY THE HARMONIZED SYSTEM COMMITTEE
AT ITS 29TH SESSION**
(Docs. NG0037E1 and NC0596E1)

35. The Chairperson reported that four reservations had been entered during the intersession. The reservation entered by **Mexico** had been submitted to the Council at its 99th/100th Sessions in June 2003, and the Council had referred the matter back to the Committee for re-examination at the present session. The other three questions in respect of which reservations had been entered would, at the request of the administrations concerned, be submitted to the Council at its 101st/102nd Sessions (June 2003).
36. Following that clarification, the Committee took note of the Secretariat's report that the decisions taken by the Committee at its 29th Session had been deemed approved by the Council, in accordance with Article 8.2 of the Harmonized System Convention, except for the following four questions in respect of which reservations had been entered by the Contracting Parties named below :
- the **Mexican** Administration, concerning the "application of Note 3 to Chapter 29 at the subheading level" (Doc. NC0590E2/H/1).
 - the **Cameroon** Administration, concerning the "classification of concentrated milk with added sugar" (Doc. NC0590E2/H/2).
 - the **EC**, concerning the "classification of the "Palm V TM" presented as a set with cradle and installation software" (Doc. NC0590E2/H/9).
 - the **Japanese** Administration, concerning the "classification of the "PlayStation 2 (PS2)"" (Doc. NC0590E2/H/10).
37. One delegate requested that the Secretariat go ahead with the study on the possible conflict between the classification of "**Bonnet Bleu**" and Classification Opinion 2106.90/21, as referred to in Annex R to Doc. NC0590B2 (HSC/29/May 2002). He added that, in his view, the fact that **Cameroon** had entered a reservation should not prevent the conduct of this study, which might in fact facilitate the re-examination of the question in November 2003.

38. The Secretariat indicated that it saw no reason not to conduct this study if the Committee wished it to do so. The Committee therefore instructed the Secretariat to proceed with the study, which would be presented to it for examination at its next session.

II.5. CAPACITY BUILDING ACTIVITIES OF THE NOMENCLATURE AND
CLASSIFICATION SUB-DIRECTORATE
(Doc. NC0597E1)

39. The Director informed the Committee that the Secretariat was continuing to provide technical assistance to developing countries in the form of seminars and expert missions with respect to the implementation and uniform application of the Harmonized System, the establishment of Customs laboratories, the improvement of tariff classification work infrastructure and the explanation of the 2002 amendments to the Harmonized System.
40. He thanked the Japanese Administration for its great contribution to the Secretariat's capacity building activities and informed the Committee that the Nomenclature and Classification Sub-Directorate's plans with regard to the capacity building activities for fiscal year 2002/2003 not yet had been approved. As soon as that plan was approved, it would be published on the WCO Web site, and prospective recipients would be informed.
41. Finally, the Director informed the Committee that, at the invitation of UNCTAD, a technical advisory mission to prepare Bhutan's application to the WTO had been organised in Bhutan, and that the Secretariat had assisted Kenya, Malawi and the West African Economic and Monetary Union in checking their HS 2002 tariffs and the United Arab Emirates in checking its HS training materials.
42. The Delegate of Brazil thanked the Japanese Administration and the Secretariat for organising a regional seminar on HS-related Customs laboratory matters in Brazil. He also thanked the administrations that had provided facilitators for the Seminar (Japan, Canada, the United States and the Netherlands), reporting the Seminar had been very successful.
43. The Delegate of Mexico thanked the Secretariat for organising an HS seminar in his country in June 2002.
44. The Committee took note.

II.6. CO-OPERATION WITH OTHER INTERNATIONAL ORGANISATIONS
(Doc. NC0598E1)

45. The Director informed the Committee about the important activities which had occurred during the intersession in respect of co-operation with other international organisations. He highlighted the co-operation with UNEP, OPCW and UNSD that was reported in the working document and the contributions made by those organisations to many documents on the agenda of this Committee as well as the Review Sub-Committee.

46. The representative of UNSD affirmed that the successful co-operation between UNSD and WCO was contributing, in various forms, to the promotion of HS 2002 and to the compilation of more reliable international merchandise trade statistics. She indicated that the participation of WCO experts in the work of the United Nations Statistical Commission and the Expert Group involved in drafting the "Compilers Manual" publication had been especially useful.
47. The Committee was also informed that this year UNSD had produced two-way correlation tables between HS 2002 and SITC, Rev.3, as well as between HS 2002 and the Classification by Broad Economic Categories (BEC). These tables assisted countries in adjusting their data processing procedures in connection with the implementation of HS 2002. Hard copies of the correlation tables had been sent to all countries, and free, downloadable copies had been made available on UNSD's Web site : <http://unstats.un.org/unsd/cr> (see "Downloads"). Correlations between HS 1996 and SITC, Rev.3 were also available on this Web site.
48. She confirmed that UNSD would continue to co-operate with the Committee and with the WCO Secretariat, particularly with regard to the HS 2007 review cycle.

II.7. NEW INFORMATION PROVIDED ON THE WCO WEB SITE (Doc. NC0559E1)

49. The Director informed the Committee of the latest developments on the Public and Members' Web sites, in particular with respect to the on-line Harmonized System Explanatory Notes, and the preparatory work for the public documentation database. With respect to the latter issue, he expected that the documents from the 20th, 21st, 22nd, 23rd and 24th Sessions of the Committee would be published for comment by the end of December 2002.
50. During the session, the Secretariat also gave a demonstration of the various sources of information available to the public and to Members, on the WCO Web sites, i.e., the Harmonized System Explanatory Notes on-line, the Nomenclature, the classification advice given by the Secretariat, the Discussion Forums and the list of documents to be published for the public documentation database.
51. The Committee appreciated the presentation made by the Secretariat and took note of the information referred to in the working document.

III. GENERAL QUESTIONS

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

IV. RECOMMENDATION
(NC0601E1)

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

V. REPORT OF THE REVIEW SUB-COMMITTEE
(26th Session)

54. The Harmonized System Committee examined the conclusions reached by the Review Sub-Committee (RSC) at its 26th Session.
55. The results of this examination are set out in Annexes E, L, M and N to this Report.
56. On behalf of the Committee, the Chairperson thanked the Review Sub-Committee and its Chairperson for the excellent work accomplished at the 26th Session of the Sub-Committee.

VI. REPORT OF THE WORKING PARTY

57. The Harmonized System Committee examined the conclusions reached at the Working Party's pre-session meeting. The conclusions of the Committee in this connection are reproduced in Annexes F/1 to F/8 to this Report.
58. The texts finalised by the Working Party and adopted by the Committee are set out in Annexes L/7 to L/14 to this Report.
59. The Chairperson congratulated the Chairperson of the Working Party and its Members on their work.

VII., VIII. and IX. FURTHER STUDIES AND NEW QUESTIONS

60. The Committee's conclusions concerning Agenda Items VII, VIII and IX are reproduced in Annexes G and H to this Report.

X. OTHER BUSINESS

LIST OF QUESTIONS WHICH MIGHT BE EXAMINED
AT A FUTURE SESSION

61. The Committee's conclusions concerning Agenda Item X.1 (List of questions which might be examined at a future session) is reproduced in Annexes IJ and P to this Report.

ACCEPTANCE OF THE RUSSIAN VERSION OF
THE COMPENDIUM OF CLASSIFICATION OPINIONS

62. Following the acceptance of the Russian version of the HS 2002 Explanatory Notes at the previous sessions, the Committee accepted the Russian version of the HS 2002 Compendium of Classification Opinions.
63. The Committee further accepted the Russian version of the amendments to the Explanatory Notes and the Compendium of Classification Opinions, the English and French versions of which are set out in Annexes L/2 to L/5 and L/7 to L/21 to this Report.

STAFF CHANGES

64. The Director informed the Committee that Mr. N. Goonewardena and Mr. S. Koças, who had returned to their home administrations to take up senior positions, had been replaced by Ms. K. Piršelová (Slovakia) and Mr. J. Valentine (United States), respectively, as technical officers.

DEPARTURE OF MR. JAROLF (FINLAND) AND MR. BERNALDO PAEZ (SPAIN);
RETIREMENT OF MR. BELARBI (MOROCCO)

65. The Chairperson informed the Committee that Mr. T. Jarolf, Delegate of Finland, and Mr. E. Bernaldo Paez, Delegate of Spain, would soon be leaving their respective administrations and would, consequently, no longer represent their countries in the Committee. He thanked them for their valuable contributions to the Committee over many years. The Delegate of the European Community joined in this tribute. Mr. Jarolf and Mr. Bernaldo Paez thanked all of the Members of the Committee for their kind co-operation and friendship.
66. The Delegate of Morocco informed the Committee that Mr. M. Belarbi, who had been the Delegate of Morocco for many years, had recently retired. The Chairperson, on behalf of the Committee, wished Mr. Belarbi a long and prosperous retirement.

XII. DATES OF NEXT SESSIONS

67. The provisional dates of the next meetings of the Scientific Sub-Committee, the Review Sub-Committee Working Group, the Review Sub-Committee, the Working Party and the Harmonized System Committee are as follows :
- (a) Scientific Sub-Committee (18th Session)
- Monday, 13 January 2003 (10 a.m.) to
Friday, 17 January 2003
- (b) Review Sub-Committee Working Group (1st Session)
- Monday, 10 February 2003 (10 a.m.) to
Wednesday, 12 February 2003

(c) Review Sub-Committee (27th Session)

Monday, 24 March 2003 (10 a.m.) to
Friday, 4 April 2003

(d) Working Party

Monday, 12 May 2003 (10 a.m.) to
Wednesday, 14 May 2003

(e) Harmonized System Committee (31st Session)

Thursday, 15 May 2003 (11:30 a.m.) to
Wednesday, 28 May 2003.

C.E. (Ed) DE JONG,
Chairperson

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ANNEX B/1

LIST OF CONTRACTING PARTIES
TO THE HARMONIZED SYSTEM CONVENTION

Situation as of 29 November 2002

(110 countries and 1 Customs or Economic Union)

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

* * *

ANNEX B/2
LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC
UNIONS USING THE HARMONIZED SYSTEM

Situation as of 29 November 2002

(Total 188)

Albania	x	Guyana	x	Rwanda	+
Algeria	+	Haiti	+	Saint Kitts and Nevis	x
Andorra	x	Honduras	x	Saint Lucia	x
Antigua and Barbuda	x	Hong Kong, China	x	Saint Pierre and Miquelon (French Terr.)	x
Argentina	+	Hungary	+	Saint Vincent and the Grenadines	x
Armenia	x	Iceland	+	Saudi Arabia	+
Australia	+	India	+	Senegal	+
Austria	+	Indonesia	+	Sierra Leone	x
Azerbaijan	+	Iran	+	Singapore	x
Bahamas	x	Ireland	+	Slovakia	+
Bahrain	+	Israel	+	Slovenia	+
Bangladesh	+	Italy	+	Solomon Islands	x
Barbados	x	Jamaica	x	South Africa	+
Belarus	+	Japan	+	Spain	+
Belgium	+	Jordan	+	Sri Lanka	+
Belize	x	Kazakhstan	x	Sudan	+
Benin	x	Kenya	+	Suriname	x
Bermuda	x	Kiribati	x	Swaziland	+
Bhutan	x	Korea (Republic)	+	Sweden	+
Bolivia	x	Kuwait	x	Switzerland	+
Botswana	+	Kyrgyzstan	x	Syrian Arab Republic	x
Brazil	+	Latvia	+	Tanzania	x
Brunei Darussalam	x	Lebanon	+	Thailand	+
Bulgaria	+	Lesotho	+	Togo	+
Burkina Faso	+	Libyan Arab Jamahiriya	+	Tonga	x
Cambodia	+	Liberia	x	Trinidad and Tobago	x
Cameroon	+	Liechtenstein	x	Tunisia	+
Canada	+	Lithuania	+	Turkey	+
Cape Verde	x	Luxembourg	+	Turkmenistan	x
Central African Republic	+	Macedonia (The Former Yugoslav Republic)	+	Tuvalu	x
Chad	+	Macau, China	x	Uganda	+
Chile	x	Madagascar	+	Ukraine	+
China	+	Malawi	+	United Arab Emirates	+
Colombia	+	Malaysia	+	United Kingdom	+
Comoros	x	Maldives	+	United States	+
Congo (Democratic Republic)	+	Mali	+	Uruguay	x
Congo (Republic)	x	Malta	+	Uzbekistan	+
Cook Islands	x	Mauritania	+	Vanuatu	x
Costa Rica	x	Mauritius	+	Venezuela	+
Côte d'Ivoire	+	Mexico	+	Viêtnam	+
Croatia	+	Mongolia	+	Wallis and Futuna (French Terr.)	x
Cuba	+	Morocco	+	Yemen	+
Cyprus	+	Mozambique	x	Yugoslavia (Federal Republic)	+
Czech Republic	+	Myanmar	+	Zambia	+
Denmark	+	Namibia	x	Zimbabwe	+
Djibouti	x	Netherlands	+	EC	+
Dominica	x	Nepal	x	Andean Community (CAN)	+x
Dominican Republic	x	New Caledonia (French Terr.)	x	Caribbean Community (CARICOM)	+x
Ecuador	x	New Zealand	+	Commonwealth of the Independent States (CIS)	+x
Egypt	+	Nicaragua	x	Economic and Monetary Community of Central Africa (CEMAC)	+x
El Salvador	x	Niger	+	Economic Community of Western African States (ECOWAS)	+x
Equatorial Guinea	x	Nigeria	+	Gulf Co-operation Council (GCC)	+x
Estonia	+	Niue	x	Latin American Integration Association (ALADI)	+x
Ethiopia	+	Norway	+	Southern Cone Common Market (MERCOSUR)	+x
Fiji	+	Oman	x		
Finland	+	Pakistan	+		
France	+	Panama	+		
Gabon	+	Papua New Guinea	x		
Gambia	x	Paraguay	x		
Georgia	x	Peru	+		
Germany	+	Philippines	+		
Ghana	x	Poland	+		
Greece	+	Polynesia (French Terr.)	x		
Grenada	x	Portugal	+		
Guatemala	x	Qatar	x		
Guinea	+	Romania	+		
Guinea Bissau	x	Russia (Federation)	+		

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.

* * *

HS POSITION as of 29-11-2002
(Contracting Parties)

Annex B/3 to Doc. NC0655E2
(HSC/30/Nov. 2002)

Country / Customs Union	HS Contracting Parties		HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
	Date of Accession	Date of entry into force	Date of Implementation	Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Algeria	24-10-1991	01-01-1992	01-01-2002										French	1999
Argentina	11-01-1994	11-01-1994	03-05-2002	18-03-1997			17-09-1996	14-08-1998					Spanish	2002
Australia	22-09-1987	01-01-1988	01-01-2002	06-08-2002		06-08-2002							English	1996
Austria	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC German)	(2003)
Azerbaijan	07-07-2000	07-07-2000	01-01-2002							16-01-2002	16-01-2002		(CIS Russian)	(1996)
Bahrain	14-12-2001	01-01-2002	01-01-2002										Arabic / English (GCC)	2002
Bangladesh	22-09-1987	01-01-1988	07-06-2002										English	2002
Belarus	21-10-1998	01-01-2000	01-07-2002										Russian	1997
Belgium	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC French / Dutch)	(2003)
Botswana	13-02-1987	01-01-1988	01-04-2002											
Brazil	08-11-1988	01-01-1989	01-01-2002	12-07-1996			19-06-1996	24-04-1998					Portuguese (MERCOSUR)	2002
Bulgaria	30-10-1990	01-01-1992	01-01-2002				20-02-1996						Bulgarian English	2000 1996
Burkina Faso	25-09-1990	01-01-1992											French (ECOWAS)	1998
Cambodia	27-06-2002	01-01-2003												
Cameroon	16-05-1988	01-07-1989			25-03-1998								(CEMAC French)	(1998)
Canada	14-12-1987	01-01-1988	01-01-2002	18-09-1996	29-09-1998	05-05-1999	23-03-1998	23-03-1998	14-02-2001				English French	2002 2002
Central African Rep.	11-06-1998	18-05-1998											(CEMAC French)	(1998)
Chad	05-09-1990	01-01-1992											(CEMAC French)	(1998)
China	23-06-1992	01-01-1993	01-01-2002							27-06-2002	27-06-2002		Chinese / English	2002
Colombia	21-10-2002	21-10-2002					29-11-2002*	29-11-2002		29-11-2002			Spanish	1996
Congo (Dem. Rep.)	10-11-1987	01-01-1988											French	1997
Côte d'Ivoire	25-01-1990	01-01-1991											(ECOWAS)	(1998)

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(Contracting Parties)

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	Date of Accession	Date of entry into force		Date of Implementation	Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language
Croatia	29-09-1994	29-09-1994	01-01-2002										Croatian English	1996 1996
Cuba	03-11-1995	01-01-1997		09-02-1998			23-07-1996	09-02-1998					Spanish	1998
Cyprus	21-03-1994	21-03-1994	01-01-2002	22-01-2002			22-01-2002						English	2002
Czech Rep.	16-11-1993	16-11-1993	01-01-2002		07-08-2001								Czech	1999
Denmark	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Danish)	(2003)
Egypt	27-05-1999	01-01-2001											Arabic	1994
Estonia	26-05-1993	01-01-1995	01-01-2002		08-12-1997		13-11-1995						Estonian	1996
Ethiopia	01-03-1995	01-03-1995											Ethiopian / English	1998
Fiji	23-12-1997	01-01-1998											English	1997
Finland	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Finnish)	(2003)
France	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC French)	(2003)
Gabon	07-07-2000	01-01-2002											French	2002
Germany	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC German)	(2003)
Greece	15-07-1988	01-01-1990	01-01-2002	07-01-1997			07-10-1996						(EC Greek)	(2003)
Guinea	23-09-1997	01-01-1998											French (ECOWAS)	1998
Haiti	17-01-2000	17-01-2000											French	1996
Hungary	27-08-1990	01-01-1991	01-01-2002	03-09-2002	13-01-1998		16-11-1999*	16-11-1999		18-03-2002			Hungarian	1996
Iceland	28-10-1987	01-01-1988	01-01-2002										Icelandic English	1994 1994
India	23-06-1986	01-01-1988	01-01-2002										English	2000
Indonesia	05-07-1993	01-01-1995					30-10-1998						Indonesian / English	1996
Iran	28-02-1995	01-01-1997				10-03-1999				19-01-2002			Farsi	1998
Ireland	22-12-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC English)	(2003)
Israel	05-08-1987	01-01-1988	01-01-2002										English	1997
Italy	31-05-1989	01-01-1991	01-01-2002	07-01-1997			07-10-1996						(EC Italian)	(2003)
Japan	22-06-1987	01-01-1988	01-01-2002	24-03-1997									Japanese / English	2002

HS POSITION as of 29-11-2002
(Contracting Parties)

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Jordan	10-06-1985	01-01-1988	01-03-2002										Arabic / English	2002
Kenya	29-07-1988	01-07-1989	13-06-2002										English	2002
Korea (Rep.)	27-11-1987	01-01-1988	01-01-2002	07-08-1996	26-10-1998		26-10-1998	07-08-1996					Korean / English	1999
Latvia	04-01-1996	01-06-1996	01-01-2002	19-07-1999	25-01-1999		10-11-2000			31-07-2002			Latvian English	1997 2002
Lebanon	03-05-1996	03-05-1996	01-01-2002											
Lesotho	12-12-1985	01-01-1988	01-01-2002										English	1993
Libyan Arab Jamahiriya	17-05-1993	01-01-1995											Arabic	1998
Lithuania	20-06-1994	01-01-1995	01-01-2002	25-08-1997	08-12-1997	09-11-1998	03-08-1998						Lithuanian	1997
Luxembourg	11-07-1988	11-07-1988	01-01-2002	07-01-1997			07-10-1996						(EC French)	(2003)
Macedonia (The Former Yugoslav Rep.)	31-03-1995	31-03-1995	01-01-2002										Macedonian	2002
Madagascar	22-12-1987	01-01-1988											French	2000
Malawi	25-10-1988	01-04-1989	15-04-2002										English	1996
Malaysia	15-12-1987	01-01-1988	01-01-2002	10-06-1997									English	1996
Maldives	07-07-2000	01-01-2002			11-07-2002								English	2000
Mali	15-06-1994	01-01-1995											French	1997
Malta	20-12-1989	01-01-1990	01-04-2002		27-01-1998								English	1997
Mauritania	03-04-2001	01-01-2003*											French	2000
Mauritius	10-06-1985	01-01-1988	01-01-2002		15-11-1999					11-11-2002			English	2002
Mexico	06-09-1991	06-03-1992	01-04-2002	20-08-1996									Spanish	1996
Mongolia	30-09-1991	01-01-1993											Mongolian / Russian / English	1998
Morocco	27-02-1992	01-07-1992	01-07-2002						24-04-2001	25-02-2002	25-02-2002		French	1997
Myanmar	05-12-1994	01-01-1995					20-09-1995						English	1996
Netherlands	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Dutch)	(2003)
New Zealand	22-09-1987	01-01-1988	01-01-2002										English	2002

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HS POSITION as of 29-11-2002
(Contracting Parties)

Country / Customs Union	HS Contracting Parties		HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
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Niger	16-03-1990	01-01-1991											French (ECOWAS)	1998
Nigeria	15-03-1988	15-03-1988			12-02-1998								(ECOWAS)	(1998)
Norway	27-08-1987	01-01-1988	01-01-2002	18-09-1996	07-01-1998		08-12-1999*			19-12-2001			Norwegian	2002
Pakistan	22-09-1987	01-01-1988	15-06-2002	03-12-2001		03-12-2001							English	2002
Panama	24-08-1998	01-01-2000												
Peru	09-07-1998	01-01-2000	01-01-2002				13-02-2001	13-02-2001					Spanish (CAN)	1998
Philippines	28-06-2001	28-06-2001											English	2001
Poland	12-09-1995	01-01-1996	01-01-2002	03-07-2001									Polish English	2002 1996
Portugal	04-11-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Portuguese)	(2003)
Romania	05-12-1996	01-01-1997	01-01-2002	23-06-1997									Romanian	1997
Russia	18-06-1996	01-01-1997	01-01-2002	15-07-2002			15-07-2002*			04-08-2002			Russian English	2002 1994
Rwanda	29-07-1992	01-01-1994												
Saudi Arabia	10-03-1988	01-01-1990	01-01-2002		30-08-2001		08-01-2001						Arabic	2002
Senegal	21-09-1989	01-01-1991					24-10-2002*	24-10-2002	24-10-2002				(ECOWAS)	(1998)
Slovakia	07-06-1993	07-06-1993	01-01-2002	04-06-1997	08-11-2000								Slovak English	2002 2001
Slovenia	23-11-1992	23-11-1992	01-01-2002	02-06-1997									Slovene	1996
South Africa	25-11-1987	01-01-1988	01-01-2002		06-03-1998								English	1998
Spain	28-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Spanish)	(2003)
Sri Lanka	03-05-1988	01-01-1989	23-03-2002				25-04-2002*						English	2002
Sudan	10-12-1993	10-12-1993											Arabic	1992
Swaziland	26-11-1985	01-01-1988												
Sweden	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC Swedish)	(2003)
Switzerland	22-09-1987	01-01-1988	01-01-2002	06-02-1997	11-02-1998		18-09-2000*			13-09-2002	13-09-2002		French	2002
Thailand	16-12-1991	01-01-1993	01-01-2002										Thai / English	2002
Togo	12-02-1990	01-01-1991											(ECOWAS)	(1998)
Tunisia	28-10-1987	01-01-1989	01-04-2002	12-09-1997										

HS POSITION as of 29-11-2002
(Contracting Parties)

Annex B/3 to Doc. NC0655E2
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Country / Customs Union	HS Contracting Parties		HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
	Date of Accession	Date of entry into force	Date of Implementation	Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Turkey	15-12-1988	01-01-1989	01-01-2002	06-10-1997	24-07-1998		06-10-1997	06-10-1997					English	1997
Uganda	11-07-1989	01-01-1991											English	1997
Ukraine	26-08-2002	01-01-2004*											Ukrainian	1993
United Arab Emirates	27-06-2002	01-07-2002											Arabic (GCC)	1999
United Kingdom	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						(EC English)	(2003)
United States	31-10-1988	01-01-1989	10-01-2002	27-02-1997	06-11-1998	06-11-1998							English	1999
Uzbekistan	17-11-1998	01-01-2000												
Venezuela	23-10-1998	02-11-1998											Spanish	1999
Vietnam	26-03-1998	01-01-2000											Vietnamese / English	1996
Yemen	30-09-2002	01-01-2003											Arabic	2002
Yugoslavia (Fed. Rep.)	09-01-2002	09-01-2002												
Zambia	22-12-1986	01-01-1988	01-03-2002										English	1997
Zimbabwe	05-11-1986	01-01-1988	13-09-2002										English	1997
European Community (EC)	22-09-1987	01-01-1988	01-01-2002	07-01-1997			07-10-1996						Danish Dutch English Finnish French German Greek Italian Portuguese Spanish Swedish	2003 2003 2003 2003 2003 2003 2003 2003 2003 2003
TOTAL	111		70	40	19	6	38 (7*)	10	3	11	4	0		79
		* Unless an earlier date is specified					* 1999 version							

Country / Customs Union	HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
		Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Albania												
Andorra												
Antigua and Barbuda											(CARICOM English)	(1993)
Armenia												
Bahamas											English	1996
Barbados											(CARICOM English)	(1993)
Belize											(CARICOM English)	(1993)
Benin											(ECOWAS)	(1998)
Bermuda											English	1997
Bhutan											English	2002
Bolivia	X		10-10-2000								Spanish (CAN)	1999
Brunei Darussalam											English	1991
Cape Verde											Portuguese (ECOWAS)	1998
Chile											Spanish	1989
Comoros											French	1993
Congo (Rep. of the)											(CEMAC French)	(1998)
Cook Islands											English	1989
Costa Rica	X										Spanish	1998
Djibouti												
Dominica											(CARICOM English)	(1993)
Dominican Rep.												
Ecuador												
El Salvador												
Equatorial Guinea											(CEMAC French)	(1998)

HS POSITION as of 29-11-2002
(Administrations applying HS)

Annex B/3 to Doc. NC0655E2
(HSC/30/Nov. 2002)

Country / Customs Union	HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
		Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Gambia											(ECOWAS)	(1998)
Georgia	X											
Ghana											(ECOWAS)	(1998)
Grenada											(CARICOM English)	(1993)
Guatemala												
Guinea Bissau											(ECOWAS)	(1998)
Guyana											(CARICOM English)	(1993)
Honduras												
Hong Kong, China	X										Chinese / English	2002
Jamaica											English	1993
Kazakhstan	X										English	1996
Kiribati											English	1989
Kuwait		21-05-1997									Arabic (GCC)	2001
Kyrgyzstan												
Liberia											(ECOWAS)	(1998)
Liechtenstein												
Macau, China	X										Chinese / Portuguese / English	2002
Mozambique											Portuguese	1991
Namibia												
Nepal											English	2001
New Caledonia (French Territory)												
Nicaragua												
Niue											English	1989
Oman											Arabic	2002
Papua New Guinea												

Country / Customs Union	HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
		Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Paraguay	X										(MERCOSUR Spanish)	(1996)
Polynesia (French Territory)												
Qatar											Arabic (GCC)	1999
Saint Kitts and Nevis											(CARICOM English)	(1993)
Saint Lucia											(CARICOM English)	(1993)
Saint Pierre and Miquelon (French Territory)												
Saint Vincent and the Grenadines											English	1998
Sierra Leone											English (ECOWAS)	1998
Singapore											English	1996
Solomon Islands											English	1998
Suriname											(CARICOM English)	(1993)
Syrian Arab Republic											Arabic	2001
Tanzania											English	1996
Tonga											English	1995
Trinidad and Tobago											English	1993
Turkmenistan												
Tuvalu											English	1989
Uruguay	X										(MERCOSUR Spanish)	(1996)
Vanuatu												
Wallis and Futuna Islands (French Territory)												
Andean Community (CAN)					(13-08-1999)	(13-08-1999)		(13-08-1999)			Spanish	2001
Caribbean Community (CARICOM)											English	1993
Commonwealth of the Independent States (CIS)											Russian	1996
Economic and Monetary Community of Central Africa (CEMAC)											French	1998

HS POSITION as of 29-11-2002
(Administrations applying HS)

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(HSC/30/Nov. 2002)

Country / Customs Union	HS 2002 Implementation	Acceptance of Recommendations (by date of receipt of the notifications)									HS-based Tariffs available in the Secretariat	
		Pre-entry Classification 1996	UNSD Trade Data 1997	Good Classification Work Model 1998	Ozone 1995 / 1999 *	Chemical Weapons 1996 (Amend. 99)	Hand-made Products 2000	Units of Quantity 2001	Application of HSC Decisions 2001	Firearms 2002	Language	Version
Economic Community of Western African States (ECOWAS)											(English) (French) (Portuguese)	(1998) (1998) (1998)
Gulf Cooperation Council (GCC)											(Arabic / English)	(2001)
Latin American Integration Association (ALADI)											Spanish	1996
Southern Cone Common Market (MERCOSUR)	(X)										Spanish (Portuguese)	1996 (2002)
TOTAL : 69 Countries + 8 Unions	8	1	1									36
Contracting Parties : 111	70	40	19	6	38 (7 *)	10	3	11	4	0		79
111 Contracting Parties + 77 Applications	78	41	20	6	38 (7 *)	10	3	11	4	0		115
	(X) Not included in the total				* 1999 Version							

* * *

ANNEX C

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0600E1	Use of the Spanish language for HS matters.			

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

1. The Director reminded the Committee that the Spanish working language version of the HS 2002 Nomenclature had been accepted by the Committee at its 27th Session, and that this version had been printed under the WCO logo.
2. He also informed the Committee that the Inter-American Development Bank had approved a project to support the use of Spanish as a working language in the Harmonized System Committee (in the amount of €140.000), and that they were in the process of identifying consultants and developing an action plan for the execution of the project in close collaboration with the Secretariat for the Latin American countries, Spain and Portugal.
3. As to the Spanish version of the HS 2002 Explanatory Notes, the Director informed the Committee that the Mexican Customs Administration had recently notified the Secretariat that this version had now been approved by the Latin American countries, Spain and Portugal. He let the Committee know that an agreed Spanish version of the HS 2002 Explanatory Notes was available in the meeting room for inspection and asked the Committee to accept this version. The EC Delegate informed the Committee that this version was the official Spanish language version of the European Community.
4. Subsequently, the Committee accepted the agreed Spanish working language version of the HS 2002 Explanatory Notes. The Delegate of Mexico expressed his gratitude to the HS Committee for accepting the Spanish version of the Explanatory Notes. In particular he was grateful to the Spanish Administration for its active contribution during the preparation of these Explanatory Notes. He also thanked the Committee and the Secretariat for supporting the use of Spanish as a working language in the HS Committee, and was therefore looking forward to the active participation of Spanish speaking countries in the future meetings of the Committee.

* * *

ANNEX D

RECOMMENDATION

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature Amendments	Other
1	2	3	4	5	
NC0601E1	Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the collection and comparison of data on the international movement of substances controlled by virtue of amendments to the Montreal Protocol on substances that deplete the ozone layer.				<u>See Annex K.</u>

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

1. On the basis of the original proposal by UNEP as well as the modified UNEP proposal distributed during the meeting (English only), the Committee examined the Draft Council Recommendation on the creation of national subdivisions for certain mixtures containing ozone depleting substances (ODS).
2. In opening the discussion of this agenda item, the Chairperson informed the Committee that, in its modified proposal, UNEP had withdrawn national subdivisions for substitutes for ODS covered by the Kyoto Protocol from its original proposal (in response to the Secretariat's questions in paragraph 23 of Doc. NC0601E1). The Committee was also informed that the word "including" in paragraph 23, item (iv) of Doc. NC0601E1 should be replaced by "not including" in both English and French.
3. Taking into account the fact that there already existed two Council Recommendations concerning ozone layer depleting substances, i.e., the Recommendation of June 1995 and the Recommendation of June 1999, which operated in parallel, the Committee agreed to go along with the Secretariat's suggestion and to work on a new Council Recommendation which would allow the earlier Recommendations to remain in force.

4. In this connection, one delegate stressed that the new Recommendation should include all substances already covered by the 1995 and 1999 Recommendations to ensure that the new Recommendation would not disturb the existing ones while enabling administrations which had not yet adopted any of these Recommendations to adopt a single new Recommendation.
5. He further stated that in accordance with the modified proposal from UNEP it would be preferable to include in the new Recommendation only products covered by the Montreal Protocol and to leave out national subdivisions for products covered by the Kyoto Protocol. In addition, he proposed that the matter be submitted to the Scientific Sub-Committee to examine whether the scope of the proposed national subdivisions for mixtures containing ODS was clear and whether the terminology used in the UNEP proposal was technically sound.
6. Another delegate supported the statement of the previous delegate and also proposed to ask the Scientific Sub-Committee to examine the technical aspects of the UNEP proposal and the classification of mixtures containing ODS, in particular. The Scientific Sub-Committee could also express its view as to whether introduction of all of the proposed national subdivisions would be desirable.
7. In view of the above, the Committee agreed to modify the Draft Recommendation by deleting the references to the Kyoto Protocol in the title and in the Preamble. It also agreed to delete national subdivisions for substitutes for ODS under subheadings 3813.00, 3814.00 and 3824.90, as well as references to these substitutes in the texts of other proposed national subdivisions for mixtures containing ODS.
8. The Committee further agreed to use the expression "halogenated only with" uniformly throughout all of the proposed national subdivisions, since UNEP had informed the Secretariat that it could accept such approach. Two proposed national subdivisions under subheading 3813.00 were modified accordingly in the Draft Recommendation.
9. Finally, the Committee agreed to send this matter to the Scientific Sub-Committee and to ask them to examine the questions mentioned in paragraphs 5 and 6 above.
10. The Draft Recommendation, as modified, was placed in square brackets and is set out in Annex K to this Report.

* * *

ANNEX E

REPORT OF THE HS REVIEW SUB-COMMITTEE

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0332E3	Report of the 26 th Session of the HS Review Sub-Committee.		<u>See Annexes L/16 to L/20 and N/1 to N/3.</u>	<u>See Annexes M/1 to M/7.</u>
NC0602E1	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 Report of the 26th Session of the HS Review Sub-Committee.
2. The decisions taken by the Committee are set out below with reference to the relevant Annexes of the Sub-Committee's Report (Doc. NR0332E3).

Annex B/1 – Reports on the meetings of the Policy Commission (47th Session) and the Council (99th and 100th Sessions)

3. The Committee took note of the fact that the Sub-Committee had been informed about the latest developments regarding the issues that were of particular interest to the Sub-Committee.

Annex B/2 – Decisions taken by the Harmonized System Committee at its 29th Session affecting the work of the Review Sub-Committee

4. The Committee took note of the fact that the Sub-Committee had been informed about the decisions taken by the HS Committee at its 29th Session and of the outstanding questions which affected the work of the Sub-Committee.

Annex B/3 – Possible deletion of headings/subheadings with a small volume of trade

5. The Committee took note of the fact that this matter would be re-examined at a future session of the Sub-Committee on the basis of an updated version of the working document containing new information from administrations.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes C/1 and F/7 - Possible amendments to the Nomenclature regarding the classification of waffles

6. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next Session, after having once more consulted the industry with regard to the proposed subheadings for waffles with a water content not exceeding [20] percent and waffles with a water content exceeding [20] percent.

Annex C/2 - Possible amendments to the Nomenclature regarding the classification of sauces

7. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next Session on the basis of new ideas to be submitted to the Secretariat. In this connection, the EC Delegate pointed out that the EC had not promised to submit a new proposal in this regard, meaning that the EC would continue to support its existing proposal.

Annex C/3 – Possible amendment of heading 21.06 to specifically mention “food supplements”

8. The Committee took note of the fact that the Sub-Committee had reached a consensus not to pursue the study of this issue during this review cycle.

Annex C/4 – Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

9. The Committee took note of the fact that the Sub-Committee had reached a consensus not to pursue the study of this issue during this review cycle.

Annexes C/5 and F/1 - Possible amendment of Part (C) of the Explanatory Note to heading 28.04

10. The Committee adopted the texts approved by the Sub-Committee.
11. The texts adopted are set out in Annex L/16 to this Report.
12. As a consequence, on the basis of a suggestion made by the Chairperson, the Committee agreed to delete the first part of the amendments to the Explanatory Notes to Chapter 28 (Article 16 Procedure) in page 1 of Annex O/3 to Doc. NC0590B2 since the relevant text was adopted by the Corrigendum procedure because the text was within the framework of the present Nomenclature.

Annexes C/6 and F/6 - Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21

13. The Committee took note of the fact that the Review Sub-Committee had decided to ask the Scientific Sub-Committee to examine what kind of products would be transferred to new heading 38.21 from other headings under the proposed three options.

Annex C/7 - Possible amendments to the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration)

14. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next Session on the basis of further information and proposals, if any, from the Australian Administration.

Annexes C/8 and F/8 - Proposal by the US Administration to amend the Nomenclature to Chapter 41

15. The Committee examined the proposal to insert a reference to “leather”, in parentheses in headings 41.04 to 41.06.
16. One delegate drew the Committee’s attention to the fact that there were several examples in the text of the Nomenclature where the French text could not be directly translated into English and therefore different terminology had been used for the two versions. He added that in certain cases English terms had been inserted in parentheses in the French text to clarify the scope of the two versions. He believed that adding the reference to “leather” in parentheses to the English text would bring the legal text in line with the terminology used by the industry and the trade and would have no impact on the scope of the headings at issue.
17. Another delegate saw no need to amend the legal text that had been recently approved on the basis of a proposal from the leather industry during the second review cycle. He took the view that amending the English text in the proposed way would have an impact on the scope of the headings at issue and possibly on the alignment of the English and French versions. In order to allow time for further consultations with the industry, he suggested that the question should be re-visited by the Committee at its next session.
18. After this exchange of views, the Committee agreed to postpone a final decision on this issue to its next session.
19. The texts under consideration are set out in square brackets in Annex M/1 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes C/9 and F/2 - Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the EC)

20. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next Session on the basis of the EC proposal, as well as the Canadian proposal discussed during the last RSC meeting.

Annexes C/10 and F/3 - Possible amendments to the structured nomenclature to heading 84.18

21. The Committee provisionally adopted the texts approved by the Sub-Committee.
22. The texts provisionally adopted are set out in Annex M/2 to this Report.
23. The Committee agreed that the new wording of this text did not entail any transfer of goods.

Annexes C/11 and F/4 - Possible amendments to the Nomenclature and Explanatory Note to heading 84.42 and related provisions

24. The Committee provisionally adopted the texts approved by the Sub-Committee.
25. The texts provisionally adopted are set out in Annexes M/3 and N/1 to this Report.
26. The Committee agreed that the new wording of these texts did not entail any transfer of goods.

Annex C/12 - Proposal by the US Administration to amend the structured nomenclature to heading 84.82

27. The Committee took note of the fact that the Sub-Committee had decided not to continue examining this question.

Annex C/13 - Amendment of the Explanatory Notes to clarify the classification of DVD drives, standalone DVD players and game players

28. The Committee took note of the fact that the Sub-Committee had decided to postpone the discussion of this item until its next session.

Annexes C/14 and F/9 - Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

29. The Committee took note of the fact that the Sub-Committee had decided to re-examine this question at its next session.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes C/15 and F/5 - Proposal by the US Administration to amend the Nomenclature to heading 85.19

30. The Committee took note of the fact that the Sub-Committee had decided to re-examine this question at its next session on the basis of a new document.

Annex C/16 - Possible amendments to the Nomenclature regarding the classification of cameras

31. The Committee took note of the fact that the Sub-Committee had agreed to first discuss the revision of the information technology Chapters before continuing its study of the regrouping of all cameras in one heading.

Annexes C/17 and F/10 - Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)

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

Annexes C/18 and F/11 - Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers

33. The Committee took note of the fact that the Sub-Committee had agreed to continue to examine this issue at its next session, and that the Working Group would also examine these proposals in February 2003.

Annex C/19 - Possible amendments to the structured nomenclature to heading 90.30 (Proposal by the US Administration)

34. The Committee took note of the fact that the Sub-Committee had agreed that the US Administration would reconsider its proposal for the next session of the RSC.

Annexes C/20 and F/12 - Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys

35. The Committee took note of the fact that the Sub-Committee had agreed to re-examine to this question at its next session.

Annexes C/21 and F/13 - Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration)

36. The Committee provisionally adopted the texts approved by the Sub-Committee.

37. The texts provisionally adopted are set out in Annex M/4 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

38. The Committee agreed that the new wording of this text did not entail any transfer of goods.

Annex D/1 - Possible amendments to the structured nomenclature to heading 29.41 and the Explanatory Notes to Chapter 29 (Proposal by the Mexican Administration)

39. The Committee took note of the fact that several questions had been addressed to the Scientific Sub-Committee to assist the Review Sub-Committee in its further consideration of this issue.

Annexes D/2 and F/15 - Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of flash electronic storage cards

40. The Committee took note of the fact that the Sub-Committee had agreed to re-examine this question in the light of subsequent developments concerning the revision of Chapter 85.

Annex D/3 - Possible amendments to the Nomenclature and the Explanatory Notes regarding the classification of controller units for anti-lock braking systems (ABS) (Proposal by the Australian Administration)

41. The Committee took note of the fact that the Sub-Committee had suggested that the Australian Administration should re-examine its proposal during the intersession.

Annexes D/4 and F/16 - Possible amendments to the structured nomenclature to heading 38.24 (Proposal by UNEP)

42. The Committee took note of the fact that the Sub-Committee had agreed to send the proposal to the Scientific Sub-Committee for examination together with several questions.

Annex D/5 - Possible amendments to Chapters 84, 85, 90 and 95 concerning information technology products (Proposal by the EC)

43. The Committee took note of the fact that the Sub-Committee had agreed that the Working Group would study this question in February 2003 and that the Secretariat would prepare a comprehensive document, setting up an outline for the discussions.

44. The Director informed the Committee that the first meeting of the Working Group would take place from 10 to 12 February 2003.

Annexes D/6 and F/17 to F/19 – Possible amendments to the Nomenclature and the Explanatory Notes to correct certain texts and to align the English and French versions (Proposal by the Secretariat)

45. The Committee provisionally adopted the texts approved by the Sub-Committee.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

46. The texts provisionally adopted are set out in Annexes M/5, M/6, N/2 and N/3 to this Report.
47. The Committee agreed that the new wording of these texts did not entail any transfer of goods.
48. The Committee, finally, took note of the fact that the proposed Explanatory Note amendments set out in Annex F/18 were still under discussion by the Sub-Committee.
- Annexes D/7 and F/20 - Possible amendments to the Nomenclature with regard to the classification of apparatus for transmission or reception of voice, data or images (Proposal by the US Administration)
49. The Committee took note of the fact that the US Administration might put forward a new, revised proposal, for examination by the Working Group.
- Annexes D/8 and F/21 - Possible modification of heading 85.42 and Note 5 (B) to Chapter 85 (Proposal by the US Administration)
50. The Committee took note of the fact that the Sub-Committee had agreed to place the entire proposal in square brackets and to forward it to the Working Group.
- Annexes D/9 and F/14 - Possible amendments to subheadings 2306.10 to 2306.30 (Proposal by the EC)
51. The Committee provisionally adopted the texts approved by the Sub-Committee.
52. The texts provisionally adopted are set out in Annex M/7 to this Report.
53. The Committee agreed that the alignment of these texts did not entail any transfer of goods.
- Annex D/10 - Possible alignment of the French and English texts of Note 9 to Chapter 71 (Proposal by the EC)
54. The Committee took note of the fact that the Sub-Committee had agreed to defer this matter to its next session.
- Annexes E/1 and F/22 - Possible deletion of certain references to "whales" in the Explanatory Notes
55. The Committee agreed to retain the Type I references and to delete the Type III references from the Explanatory Notes.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

56. As regards the Type II references, the Delegates of **Japan** and **Norway** were of the view that they should be retained in the Explanatory Notes. In this connection, the Delegate of **Japan** noted that the whale products mentioned in the Explanatory Notes to headings 15.04 and 15.22 and the whale catchers and factory vessels for processing whales listed in the Explanatory Note to heading 89.02 did exist in world trade.

57. Another delegate was however of the view that it was logical to take a consistent approach with the CITES and IWC conventions and that, consequently, those references should be deleted from the Explanatory Notes.

58. When the questions were put to a vote, the Committee decided to delete the Type II references from the Explanatory Notes. The results of the votes were as follows :

- (a) Deletions with regard to the Explanatory Notes to headings 15.04 and 15.22 : 21 votes in favor to 6,
- (b) Deletion with regard to the Explanatory Note to heading 89.02 : 21 votes in favor to 4, and
- (c) Deletion with regard to the Explanatory Note to heading 96.01 : 20 votes in favor to 3.

59. Finally, the Committee adopted the proposed amendments to the Explanatory Notes (deletions), subject to certain editorial modifications.

60. The amendments adopted are set out in Annex L/17 to this Report.

Annexes E/2 and F/23 - Possible amendment of the Explanatory Note to heading 29.37

61. The Committee took note of the fact that the Review Sub-Committee had agreed to refer this question to the Scientific Sub-Committee, asking it to examine whether the proposed amendments were technically correct.

Annexes E/3 and F/24 - Possible amendment of the Explanatory Note to heading 29.35

62. The Committee took note of the fact that the Sub-Committee had agreed to postpone a full examination of this agenda item until its next session.

Annexes E/4 and F/25 - Possible amendment of the Explanatory Note to heading 29.41

63. The Committee took note of the fact that the Sub-Committee had agreed to submit this matter to the Scientific Sub-Committee for examination.

Annexes E/5 and F/26 – Possible amendment of the Explanatory Note to heading 30.02

64. The Committee took note of the fact that the Sub-Committee had agreed to ask the Scientific Sub-Committee, whether it could recommend any other substance suitable to be used as an example in connection with the proposed text, in addition to *leridistim*.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes E/6 and F/27 - Possible amendment of the Explanatory Notes to Chapter 44

65. The Committee adopted the texts approved by the Sub-Committee.

66. The texts adopted are set out in Annex L/18 to this Report.

Annex E/7 - Possible amendment of the Explanatory Notes to headings 61.03 and 61.04

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

Annexes E/8 and F/28 - Possible amendment to the Explanatory Note to heading 70.17

68. The Committee adopted the texts approved by the Sub-Committee.

69. The texts adopted are set out in Annex L/19 to this Report.

Annex E/9 - Possible amendment of the Explanatory Note to heading 84.71

70. The Committee took note of the fact that the Sub-Committee had agreed to maintain this issue on its agenda, subject to the receipt of written comments.

Annexes E/10 and F/29 - Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions

71. The Committee adopted the texts approved by the Sub-Committee.

72. The texts adopted are set out in Annex L/20 to this Report.

Annex E/11 - Possible amendments to the Explanatory Notes to headings 84.01 to 84.31

73. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/12 - Possible amendments to the Explanatory Notes to headings 84.32 to 84.73

74. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex E/13 - Possible amendments to the Explanatory Notes to headings 84.74 to 84.85

75. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/14 - Possible amendments to the Explanatory Notes to headings 85.01 to 85.09

76. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/15 - Possible amendments to the Explanatory Notes to headings 85.10 to 85.22

77. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/16 - Possible amendments to the Explanatory Notes to headings 85.23 to 85.48

78. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/17 - Possible amendments to the Explanatory Notes to Chapter 87

79. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

Annex E/18 - Possible amendments to the Explanatory Notes to headings 90.01 to 90.10

80. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex E/19 - Possible amendments to the Explanatory Notes to headings 90.11 to 90.33

81. The Committee took note of the fact that the Sub-Committee had agreed to continue discussions with regard to this agenda item at its next session on basis of the comments made during the discussions at its last session and any further comments from administrations.

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ANNEX F

REPORT OF THE PRESESSIONAL WORKING PARTY

1	2	3	4	5
Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
NC0603E1 NC0654B2/A/I	Insertion of a new introductory page and pictures or drawings in the Compendium of Classification Opinions.	<u>See Annex L/7.</u>		

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

1. Concerning Opinion 1602.50/1, the Committee agreed to insert the photograph subject to improving the quality of the photograph.
2. With respect to Opinion 1806.90/2, the Committee decided first of all that the drawing would be preferable to the photographs and agreed to insert the drawing in the Classification Opinion, subject to editorial modifications.
3. As regards Opinion 4202.92/1, while noting the misalignment between the existing French texts and the English texts with respect to the term "sacs" (plural) in the French text and the term "bag" (singular) in the English text, the Committee decided that no corrective action was needed.
4. Subject to the above, the Committee approved the proposed insertion of a new introductory sentence and photographs or drawings in the relevant parts of the Compendium of Classification Opinions
5. The amendments adopted are set out in Annex L/7 to this Report.

* * *

1	2	3
NC0604E1 NC0654B2/A/II	Amendments to the Compendium of Classification Opinions arising from the classification of the "non- dairy Creamer 23H" in subheading 2106.90.	<u>See Annex L/8.</u>

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

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

* * *

1	2	3
NC0605E1 NC0654B2/A/III	Amendments to the Compendium of Classification Opinions arising from the classification of a medicated bone graft substitute called "OSTEOSET®T" in subheading 3004.20.	<u>See Annex L/9.</u>

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

1. The Committee adopted, without modification, the texts finalised by the Working Party.
2. The texts adopted are set out in Annex L/9 to this Report.

* * *

1	2	3
NC0606E1 NC0654B2/A/IV	Amendments to the Compendium of Classification Opinions arising from the classification of certain acid-added clay products in subheading 3802.90.	<u>See Annex L/10.</u>

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

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

* * *

1	2	4
NC0607E1 NC0654B2/A/V	Amendment of the Explanatory Notes to Chapter 48 to clarify the classification of so-called "photo-copying paper".	<u>See Annex L/11.</u>

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

1. The Committee agreed to amend the texts of the Explanatory Notes to headings 48.02 and 48.10 by inserting a reference to "photocopying apparatus". The Committee decided not agree to insert a reference to either "copying apparatus" or "other copying apparatus" since the reference to "photocopying apparatus" was merely illustrative of apparatus in which the paper at issue was used.
2. Subject to the above modifications, the Committee adopted the texts finalised by the Working Party.
3. The texts adopted are set out in Annex L/11 to this Report.

* * *

1	2	4
NC0608E1 NC0654B2/A/VI	Amendment of the Explanatory Notes to heading 63.07.	<u>See Annex L/12.</u>

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

1. The Committee adopted, without modification, the texts finalised by the Working Party.
2. The texts adopted are set out in Annex L/12 to this Report.

* * *

1	2	3
NC0609E1 NC0654B2/A/VII	Amendments to the Compendium of Classification Opinions arising from the classification of flash electronic storage cards in subheading 8523.90.	<u>See Annex L/13.</u>

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

1. The Committee adopted the texts as drafted by the Working Party. The Committee also agreed that the legal basis for the decisions was by application of GIRs 1 and 6 and that this reference should be included after each Classification Opinion.
2. The texts adopted are set out in Annex L/13 to this Report.

* * *

1	2	3
NC0610E1 NC0654B2/A/VIII	Amendments to the Compendium of Classification Opinions arising from the classification of MP3 players.	<u>See Annex L/14.</u>

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

1. The Committee agreed to modify the text of Classification Opinions 8520.90/1 and 8527.13/1 to reflect the text used in the Explanatory Notes as follows : “The microprocessor is programmed to use the MP3 file format.” The Committee agreed that it was not necessary to insert a sentence that would have stated expressly that these apparatus were able to record and play MP3 files.
2. With regard to the French texts in the penultimate sentences for the above Opinions, it was agreed that the expressions “télécharger” and “télécharger et transférer” should be used to reflect the English expressions “downloading” and “downloading or uploading,” respectively.
3. The Committee also agreed that the legal basis for the classification of the apparatus in Classification Opinion 8520.90/2 should include the reference to “Note 3 to Section XVI.”
4. Finally, the Committee agreed to insert the names of the apparatus, as appropriate, in the Annex to the Compendium of Classification Opinions.
5. The texts adopted are set out in Annex L/14 to this Report.

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ANNEX G

FURTHER STUDIES

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0611E1	Correlation tables reflecting all amendments provisionally adopted to date during the 3 rd Review Cycle.		<u>See Annex O/3.</u>	<u>See Annexes O/1 to O/3.</u>

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

1. In opening the discussion of the agenda item and referring to paragraph 1 of the working document, the Director noted that, for the future, the Secretariat would include correlation tables in the "Matters for decision" documents relating to the Reports of the Review Sub-Committee, and that the preparation of this working document was intended to bring the work up to date with this practice.

Correlation with respect to heading 41.03

2. The Committee agreed to replace the reference to "the exclusions in" in the "Remarks" column in Table I by a reference to "the text of" in order to avoid a misunderstanding of the nature of the amendment.

Correlation with respect to subheadings 4823.1 to 4823.19

3. The Committee agreed to insert the explanation "(Note : Deleted since current subheadings 4823.1 to 4823.19 are empty.)" for clarification in the relevant part of Annex III to the correlation.

Correlation with respect to heading 83.11

4. Noting that, practically speaking, there was no transfer from subheading 8311.90 (HS 2002) to subheadings 8311.10 to 8311.30 (HS 2007), the Committee agreed to delete the first row of page I/2 in Table I and the corresponding row in Table II. The Committee also agreed to insert "("*)" in the reference to subheading 8311.90 in Annex III to the correlation for clarification.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Correlation with respect to heading 87.08

5. One delegate was of the view that the transfer of parts of safety seat belts would occur within subheading 8708.2 and there would be no transfer from subheading 8708.99 (HS 2002) to subheading 8708.22 (HS 2007). He therefore stated that "8708.99" should be replaced by "8708.29" in the "2002 version" column in Table I and the corresponding row in Table II. Alternatively references to both subheadings 8708.29 and 8708.99 should be made.
6. Another delegate, however, expressed doubts as to the classification of the parts concerned, noting that they should be classified in subheading 8708.99 under HS 2002 and was of the view that the Committee should examine this classification question at its next session. The Committee, finally, agreed to this suggestion and placed the references to "8708.29" and "8708.99" in Table I and the corresponding references in Table II in square brackets.

Transfers from subheadings 7013.21 and 7013.29 (HS 2002) to subheadings 7013.22 to 7013.37 (HS 2007)

7. The representative of UNSD stated that although she was not in a position to oppose these amendments, she would have technical difficulties in preparing UNSD correlation tables for these 2007 amendments from the statistical point of view. The Committee took note of this statement.
8. Finally, subject to the above modifications, the Committee provisionally adopted the correlation tables, except for the correlation with respect to heading 87.08 as mentioned in paragraph 6 above. The Committee confirmed that these correlation tables did not constitute a formal decision by the Committee and were not legally binding.
9. Annex I (Table I), Annex II (Table II) and Annex III to Doc. NC0611E1, as modified, are set out in Annexes O/1 to O/3 to this Report, respectively.

* * *

1	2
NC0612E1	Classification of the "Media Composer 1000" and the deletion of Classification Opinion 8543.89/4 (Reservations by the EC and the Czech Republic).

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

1. The Delegate of the Czech Republic began the discussion on this agenda item by informing the Committee that her administration believed the "Media Composer 1000" should be classified under heading 85.43, as the Committee had decided at its 18th Session. She pointed out that, at that time, the Committee had been asked to classify a complete system, which was presented to Customs as such and cleared by Customs as a functional unit to be classified in accordance with the terms of Note 4 to Section XVI. This was clear from the first part of the legal basis set out in Classification Opinion 8543.89/4. The question put to the Committee had never been the separate classification of the different components of the system in the light of their different functions.
2. The Committee's decision at its 27th Session was a radical change of position caused, in the Czech Administration's view, by the new description of the "Media Composer 1000" that had been provided at that time. However, she believed that the "Media Composer 1000" systems classified at the Committee's 18th and 27th Sessions were essentially the same. No new technical data had been provided and no change had been made to the legal texts that would justify a change in classification. In examining the description of the products, the only difference between the two systems was that in the "Media Composer 1000" system described in Classification Opinion 8543.89/4, the software was incorporated in the system, whereas in the product classified at the 27th Session the software was presented on a CD-ROM. The function of the "Media Composer 1000" system was still the creation of video effects and the editing and finalising of video programmes for broadcasting. This function was different from data processing. For the preceding reasons, the Czech Republic believed that the "Media Composer 1000" system presented with software on a CD-ROM had to be classified under heading 85.43 in accordance with Note 4 to Section XVI and Note 5 (E) to Chapter 84.
3. The EC Delegate then explained the EC's reservation to the Committee. He first drew the attention of the Committee to the fact that the Committee had classified the "Media Composer 1000" system in subheading 8543.89 by 18 votes to 3, at its 18th Session. Following that decision, the HS Committee had unanimously adopted Classification Opinion 8543.89/4 for the system at its 19th Session. No reservation had been entered with regard to these decisions. Consequently this decision still applied and Classification Opinion 8543.89/4 remained part of the Compendium of Classification Opinions. These decisions were taken with almost no opposition and the EC, the United States and the Secretariat, among others, had agreed to them.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. In his view, the Committee had three issues to examine :

- (1) The merits of the classification of the "Media Composer 1000" system, as described in Classification Opinion 8543.89/4, which was at present in force, and a confirmation of this classification;
- (2) The classification of the "Media Composer 1000" system, as described in Annex II to Doc. NC0286E1; and
- (3) Whether the way in which this system was presented to Customs could influence its classification ?

5. The EC Delegate agreed with the Delegate of the Czech Republic that, at its 18th Session, the Committee had been asked to classify a complete system, which was presented to Customs as such and cleared by Customs as a functional unit to be classified in accordance with the terms of Note 4 to Section XVI. This system was a combination of machines with a processing function (heading 84.71), but also a video recording and reproducing function (heading 85.21) and a function of creating, editing and finalising video effects (heading 85.43). The whole system had been designed with the various elements required to perform this last vital function. Consequently, it was evident that the question put to the Committee had never been the separate classification of the different components of the system in the light of their different functions. It was therefore necessary to determine the principal function of the system. The Committee consequently had not considered the individual functions of the system's components since it was the function of the system as a whole, as presented to Customs and cleared by Customs, which was decisive for its classification ?

6. The EC Delegate urgently asked delegations to examine this vital conclusion, taking into account the conclusion of the Committee at its 18th Session that the system was a functional unit. This could only be based on the exact description of Classification Opinion 8543.89/4 which was unanimously adopted at the Committee's 19th Session. According to this description it concerned :

- (i) a system (not one single appliance or machine);
- (ii) a system "consisting of a combination of machines";
- (iii) a system designed to record digital video images (heading 85.21), create video effects, or edit and finalise video programmes (heading 85.43). This wording "designed to" showed that the system had been deliberately created and the combination of machines chosen was that which best achieved the desired function;
- (iv) inside the system "video signals were converted into digital signals so that they could be processed by the central processing unit" (heading 84.71). This conclusion clearly demonstrated that this function was an intermediate one which was designed to achieve the principal function for which the system was designed which was described under point (iii);
- (v) "the system is capable of sending and receiving video signals". Again this was a function other than data processing;

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- (vi) the key components which made up the system included in addition to "specialised boards", a colour display unit which was an interlaced scanner for video presentations (heading 85.28) and a second non-interlaced unit for displaying data (heading 84.71).
7. The EC Delegate felt that no new technical data had been provided and no change had been made to the legal text that would justify a change in classification. The "Media Composer 1000" system consisted of a combination of machines and software which was also called "Media Composer" which could not be installed or operated separately in any other type of system or ADP machine. Consequently, he felt that the Committee should examine whether the way in which this system was presented to Customs influenced its classification.
8. He then referred to Classification Opinions 8517.30/1 and 9027.30/1 wherein, even though the systems included an ADP machine or units of an ADP machine, the systems had not been classified in heading 84.71 because the principal functions performed by the systems were not ADP functions.
9. The EC Delegate reiterated his contention that the "Media Composer 1000" was a complete system which had been deliberately created to achieve a specific and essential function. Consequently, all the components were required to achieve this end. He also referred to the case law mentioned in Doc. NC0612E1.
10. The EC Delegate agreed that the Committee should not classify the product based on its software. However, he believed that the Committee must classify the entire system with all the components referred to in Classification Opinion 8543.89/4 or in Annex II to Doc. NC0612E1, and consequently account would have to be taken of Note 4 to Section XVI. This would mean that the "Media Composer 1000" would have to be classified under heading 85.43, as the Committee had already decided at its 18th and 19th Sessions, provided, of course, that the Committee maintained its view that the function of recording digital video images, creating video effects or editing and finalising video programmes for broadcasting was the principal function of the system. He concluded by asking the Committee to classify the "Media Composer 1000" system presented with software on a CD-ROM under heading 85.43 for the above reasons and on the same legal basis (Note 4 to Section XVI and Note 5 (E) of Chapter 84) under which the "Media Composer 1000" system presented without the CD-ROM had been classified (Classification Opinion 8543.89/4).
11. Several delegates agreed with this position, giving the following reasons :
- One delegate informed the Committee that, during a demonstration of the "Media Composer 1000", the manufacturer had informed her that the "Media Composer 1000" software could not be loaded onto and run separately on just any ADP machine, as the software required additional memory and specific connections for the monitor;

- The existence, as precedents, of other Classification Opinions, in particular Opinion 8517.30/1, wherein, even though the systems included an ADP machine or units of an ADP machine, the systems had not been classified in heading 84.71 because the principal functions performed by the systems were not ADP functions.
12. Taking a different view, the **US** Delegate reminded the Committee of the entire history of the consideration of the “**Media Composer 1000**” which he said was essential to a proper understanding of the matter. He pointed out that while the Committee had classified the machine in heading 85.43, at first, it had re-examined the matter on the basis of new information with respect to the composition and function of the machine. This new information had important consequences for the classification of the machine.
 13. He observed that in Doc. NC0151E1, the Secretariat had pointed out that, based on a demonstration of the machine, it was apparent that the machine was not dedicated to any particular use but was freely programmable. As a result, the Secretariat had concluded that the machine was classifiable in subheading 8471.49. This view had been accepted by the Committee, not once but twice, as evidenced by its decisions at its 24th and 27th Sessions. But for the two reservations filed by the **EC**, the classification of the machine would have been settled. The Committee had likewise twice decided to delete Classification Opinion 8543.89/4. Under the circumstances, it was the burden of the proponents of classification in heading 85.43 to demonstrate why these decisions were not correct.
 14. Turning to the machine itself, the **US** Delegate explained that classification should be based on the objective characteristics of the machine. Based on the description in the Annex to the working document, the **US** Delegate explained that the machine consisted of a central processing unit and other units, all of which were typically found in an ADP system. There was no hardware in the machine which could be said to remove the machine from classification in heading 84.71.
 15. To the extent that the “**Media Composer 1000**” was able to perform video editing, that capability was attributable to its specialised software. He noted that the machine presented had this specialised software already installed and that the CD-ROM was used as a backup system. Such software was not a machine within the meaning of Notes 3 or 4 to Section XVI. To classify the product on the basis of the software was not permitted under the Harmonized System. Such a result would be a radical departure from normal classification practice. The general consensus in the Committee, as evidenced by several delegates who had spoken on this issue, supported this statement. He went on to explain that none of the examples from the Compendium of Classification Opinions cited in the reservation presented a case in which the software had determined the classification. Therefore, these Classification Opinions were not relevant to the classification of the “**Media Composer 1000**”.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

16. In response to the statement that the software for the "Media Composer 1000" could not be installed or operated separately in any other type of system or ADP machine, the US Delegate indicated that this was incorrect. The software, in fact, could be installed and operated separately in other types of systems and ADP machines.
17. The US Delegate finally stated that there was nothing that made up the "Media Composer 1000" which was other than a normal unit of an automated data processing machine and its software. Accordingly, he urged the Committee to reconfirm its previous two decisions to classify the machine in heading 84.71.
18. Several delegates agreed with this position, giving the following reasons :
- One delegate listed the components of the system to show the Committee that these components all complied with Subheading Note 1 to Chapter 84. Consequently, there was nothing in the product hardware which would exclude it from classification in heading 84.71;
 - Whether or not the software was pre-loaded, it was still an ADP machine of heading 84.71;
 - The ADP components of the package functioned in exactly the same manner as those of any ADP machine;
 - It was a system capable of processing data and not just simply video editing. Furthermore, it was not a combination of machines and there was no video editor; the system merely consisted of an ADP machine and its software;
 - The system was freely programmable and not a system dedicated to performing a single function.
19. When the issue was put to a vote, 28 delegates voted for classification in heading 85.43 (subheading 8543.89) and 19 delegates voted for heading 84.71. The decision to classify the "Media Composer 1000" in heading 85.43 was made by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84. As a consequence of its decision, the Committee also decided to maintain Classification Opinion 8543.89/4. The Committee decided that a second Classification Opinion was not necessary. However, for the sake of clarity, the Committee noted that the classification decision taken at this, its 30th Session, was on a product whose sole material difference from the product which was the subject of Classification Opinion 8543.89/4 was the fact that the software was also presented separately.

* * *

1	2
NC0613E1 NC0616E1	Decision that "photocopying" is limited to the projection of an image onto a photosensitive surface and that present heading 90.09 does not cover digital copying, and the decision to amend the Explanatory Notes accordingly (Reservations by the EC and the Brazilian Administration).

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

1. The EC Delegate began the discussion of this agenda item by explaining the EC's reservation. He pointed out that the Committee's decision at its 27th Session had been based on Note 3 to Section XVI, i.e., the principal function characterising (as a whole) a machine designed to perform several different functions, provided for under different headings of Section XVI. Moreover, the Committee had decided that the machines were not photocopiers of heading 90.09 after having decided that this heading did not cover digital copying but was restricted to copying by projecting an image onto a photosensitive surface.
2. He reiterated that the EC could not find a legal basis in the Committee's decision that would permit such a restrictive interpretation of the legal text of heading 90.09, so as to exclude digital technology from the scope of that heading. He asked the Committee to confine itself to analysing the legal texts of the HS Nomenclature on this point, in order to determine whether those texts allowed such a restriction. The fact that the (non-binding) Explanatory Notes did not refer to digital technology did not mean that it was excluded from heading 90.09, but merely that the Explanatory Notes were drafted at a time when the technology did not yet exist. In any event, these devices were also designed to make copies as an essential, not a subsidiary, function. This photocopying function was distinct from the printing function which these machines also possessed.
3. The EC Delegate admitted that the Explanatory Notes were a useful tool for interpreting the legal texts but were not determinative for classification purposes. As had been mentioned before in the Committee, the Explanatory Notes could not broaden or restrict the scope of a heading. He agreed with several delegates who mentioned that the Explanatory Notes, the way that goods were bought and sold, as well as technical literature, should be consulted and considered. However, in arriving at a decision, he believed that it was the legal text, on the one hand, and the case law on the other, which was determinative for classification.
4. He informed the Committee that the EC had conducted a detailed study of the current scope of heading 90.09. This study went as far as the European Court of Justice, which had declared that, in addition to photocopiers incorporating an optical system and of the direct reproduction type, heading 90.09 included those which incorporated an intermediate for reproduction by the indirect process. The indirect reproduction process consisted of converting the image into digital data. It went without saying that this judgement was binding on the EC and its Member States.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. The **EC** Delegate believed that the restrictive interpretation of the text of heading 90.09 adopted by the Committee at its 27th Session, prevented this heading from being considered from the outset, and therefore strongly influenced the classification adopted. The **EC** was convinced that one of the functions of these machines, their photocopying function, fell within heading 90.09 and, consequently, since these were multifunction machines which must be classified according to their principal function, heading 90.09 must also be considered alongside the other functions of these machines. This meant that Note 3 to Section XVI could not be the legal basis for classifying these machines, given that it only applied to articles of Chapters 84 and 85. Classification should therefore be based on General Interpretative Rule 3. He noted that in practice, these machines were sold, traded and called photocopying machines.
6. In this connection, if the Committee could agree on the principal function of the machines, that would determine their classification (under General Rule 3 (b)). However, if the Committee could not determine their principal function, the machines should be classified on the basis of General Rule 3 (c), in which case they would fall in heading 90.09, this being the last possible heading in numerical order.
7. The **EC** Delegate concluded by emphasising that there was already a specific heading for copying apparatus in heading 90.09. There was no legal reason for excluding digital copying apparatus from heading 90.09 and, consequently, the Committee should not do so. He, therefore, urged the Committee to reverse its previous decision so as to allow heading 90.09 to cover digital copying and to not limit "photocopying" to the projection of an image onto a photosensitive surface.
8. The Delegate of **Brazil** then explained his administration's reservation. He drew the attention of the Committee to the fact that, as several delegates had pointed out, the Explanatory Note to heading 90.09, written many years ago, could not describe products which incorporated modern technologies. The Explanatory Notes were very important as a guide for classification, but only the legal texts could limit the scope of HS headings. Nobody denied that the machines in question could perform several functions, including copying. And, more importantly, the copying function of all these machines could work independently of an automatic data processing machine. Therefore, in order to classify these products, he believed that the Committee must decide which heading in the Harmonized System covered the digital copying function.
9. He believed that the Committee, at its 27th Session, had only decided that heading 90.09 did not cover digital copying but it had not decided which heading covered the digital copying function. Simply stated, having disregarded heading 90.09 for classification, the Committee had considered heading 84.71 and heading 85.17. Following that, some machines had been classified in heading 84.71 and others in heading 85.17.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

10. In the **Brazilian** Administration's view, heading 90.09 or even heading 84.72 could cover the digital copying function of these machines. The text of heading 90.09 read "Photocopying apparatus incorporating an optical system or of the contact type and thermo-copying apparatus". The question was the scope of the term "optical system" in this context. If the Committee has a new product in front of it, then it cannot limit the meaning of the heading text by the strict terms of the Explanatory Notes, which only describe products existing at the time they were written. In this connection, the **Brazilian** Administration believed the Committee's decisions taken at its 27th Session used the Explanatory Notes to restrict the scope of the heading. He referred the Committee to paragraph 36 of Doc. NC0613E1, wherein the **Brazilian** Administration had explained its reasons for supporting the possibility of classifying these machines in heading 90.09 as follows :
- (1) The laser is, in fact, an optical phenomenon (it is a narrow beam of concentrated light, according the dictionaries);
 - (2) In these machines, there is an optical system which projects, by means of a laser, the optical image of an original document onto a light-sensitive surface for the developing and printing of an image;
 - (3) Therefore, the legal text of heading 90.09 does not exclude the laser printing system, and only the legal texts, not the Explanatory Notes, can limit the scope of a heading;
 - (4) The first sentence of Part B of the Explanatory Note to heading 90.09 gives an indication of the basic difference between photocopiers incorporating an optical system and contact type photocopiers, which do not have an optical system and only make copies of the actual size of the documents to be reproduced;
 - (5) In multifunctional copiers, the optical system (lenses, etc.) enables them to produce copies of variable dimensions; therefore, in this sense, even the Explanatory Notes do not exclude these machines from classification in heading 90.09.
11. The **Brazilian** Delegate reiterated that the Explanatory Notes could not be used to expand or, as in this case, restrict the scope of a heading. Heading 90.09 was not limited to analogue systems. The Explanatory Notes reflected the state-of-the-art at the time they were drafted. The Committee must use legal reasons to support an exclusion from heading 90.09. In the future, if the Committee decided to change the legal text, the Committee could then revise the Explanatory Notes as part of its normal work. He urged the Committee, therefore, to base its decisions strictly on the legal text. On this basis, the Committee should decide that heading 90.09 covered digital copying and that "photocopying" was not limited to the projection of an image onto a photosensitive surface.

12. The **US** Delegate began the explanation of his administration's position by agreeing that the question of the scope of heading 90.09 was one of interpreting the legal text. Clearly the question before the Committee was to determine the scope of the term "photocopying" within the meaning of the heading text. In order to do that, one should look not only at the Explanatory Notes, but also at the meaning of the term "photocopying" based on technical literature and commercial usage.
13. The **US** Delegate stated that while not determinative, the Explanatory Notes were a useful indication of the meaning of the term. The Explanatory Notes provided that the heading covered machines that projected an image onto a photosensitive surface. The digital machines before the Committee did not fit this description. Instead, they operated in a completely different fashion. The document was optically scanned and the image was converted into digital electrical impulses which were then printed. These were scanning and printing functions of heading 84.71.
14. He observed that this process was fundamentally different from that which occurred in photocopiers. Heading 90.09 was a heading that was based on the process or technology of photocopying. It was clear that digital copying was not embraced within that term.
15. The **US** Delegate further noted that in addition to the Explanatory Notes description of the goods of heading 90.09, there were other sources that should be taken into consideration. He pointed to the McGraw-Hill Dictionary of Science and Technology which defined the photocopying process as : "any of the means by which a copy is created on a sensitized surface (generally paper, film, or metal) by the action of radiant energy."
16. This substantiated the view of the **United States** that based on technical literature, the term "photocopying" was limited to the process described in the Explanatory Note to heading 90.09; namely the use of an optical system to transfer an image to a photosensitive surface.
17. In addition, the **US** Delegate observed that the machines at issue were not known as photocopiers in the trade. Commercially, a clear distinction was made between analogue or traditional copiers of the light lens type and digital copiers. This commercial usage was further evidence that digital copying was not photocopying of heading 90.09.
18. He also drew the Committee's attention to the fact that there was a precedent in the Harmonized System for drawing a distinction between goods which used digital technology and those that used analogue technology. That precedent (by analogy) was with regard to cameras. Photographic cameras were classifiable in heading 90.06, while digital cameras were classifiable in heading 85.25. In his view the analogy was quite apt : in cameras as in copiers the use of digital technology did not satisfy the requirement that a photographic process be used.
19. Summing up, the **US** Delegate concluded that based on the Explanatory Notes, technical literature and commercial usage, the legal text to heading 90.09 could not be said to cover digital copiers. He urged that the Committee's previous decision to this effect be affirmed.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

20. Several delegates agreed with this position, giving the following reasons :
- Digital copiers were not photocopiers, according to dictionary definitions;
 - The industry did not refer to digital copiers as photocopiers and, in fact, distinguished between the two processes;
 - There was nothing in the heading text to suggest that digital copiers were photocopiers;
 - Digital copiers functioned by scanning and then printing. The data was stored and could be manipulated and/or printed later. Photocopiers, on the other hand made an image of the document for each copy;
 - In photocopying, the original image was projected onto a light-sensitive surface. In digital copying, the original image was scanned, converted to a series of "1s" and "0s" and then either put on paper or stored. The original document was not projected onto a light-sensitive surface;
 - In classification, it was common practice to interpret words using the common meaning of the terms. To not do so would mean that anything could be classified in heading 90.09. There had been no external evidence provided to support the argument that photocopying in heading 90.09 could cover digital copying.
21. When the matter was put to a vote, 22 delegates voted to reaffirm the Committee's previous decision that "photocopying" was limited to the projection of an image onto a photosensitive surface and that present heading 90.09 did not cover digital copying, while 24 delegates voted to reverse these decisions. On the basis of this vote, the Committee decided that "photocopying" was not limited to the projection of an image onto a photosensitive surface and that present heading 90.09 did cover digital copying.
22. In order to reflect this decision, the Secretariat was instructed to prepare draft amendments to the Explanatory Notes for examination by the Committee at its next session.

* * *

1	2
NC0613E1	Classification of the "HP Mopier 320" digital copier (Reservations by the EC and the Brazilian Administration).

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

1. The Chairperson opened the discussion on this issue by indicating that the Committee should begin by deciding whether it was necessary to determine the principal function of the product within the meaning of GIR 3 (b). If not, its classification should be dealt with by application of GIR 3 (c) because, following the Committee's previous decision regarding the scope of heading 90.09, Note 3 to Section XVI could not be invoked, as this note only applied to goods of Section XVI and did not apply to goods of Chapter 90.
2. However, the Delegate of **Brazil** stated that in his administration's view, there was a fundamental question which the Committee had never studied, and which should be examined first. Citing paragraphs 39 and 40 of Doc. NC0613E1, which were part of the Note submitted by his administration, he argued that the first step should be to determine whether a machine which performed different functions could be classified by application of GIR 3 (b), given that this Rule referred to composite goods consisting of different materials or made up of different components. Thus, given the significance of this question in terms of the classification of other multifunction machines, his administration would suggest that the Committee study it in more detail before taking a final decision. He added that the fundamental question of whether or not GIR 3 (b) was applicable to the classification of multifunction machines had been included on the agenda for **Brazil's** First Goods Classification Forum, to be held in December 2002. If appropriate, his administration would be prepared to send the Secretariat the relevant extract from the Forum Report in order to facilitate the examination of this question.
3. The Committee agreed that understanding this threshold question was extremely important in resolving the classification of the multifunction machines before it. In particular it was crucial to determine whether GIR 3 (b) could be applied in these cases and whether the determination of essential character would be based on the determination of principal function.
4. The Committee therefore agreed to instruct the Secretariat to undertake a study, for examination by the Committee at its next session, (i) to determine whether GIR (b) can be applied to multifunction machines which perform functions covered by headings in Chapter 84, 85 or 90 and (ii) to determine the consequences of the Committee's previous decision (that heading 90.09 covered digital copying) on the application of GIRs 3 (b) and 3 (c) for the classification of the multifunction machines before it. The machines which were the subject of agenda items VII.4 to VII.9 would all be included in this study.

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1	2
NC0613E1	Classification of the "Xerox Document Centre 340 ST" digital copier with fax function (Reservations by the EC and the Brazilian Administration).
NC0613E1	Classification of the "Xerox Document Centre 340 ST" digital copier without fax function (Reservations by the EC and the Brazilian Administration).
NC0614E1	Classification of the "Brother MFC-8600" digital copier (Reservation by the US Administration).
NC0614E1	Classification of the "Brother 1970mc" digital copier (Reservation by the US Administration).
NC0615E1 NC0649E1	Classification of the "Xerox Document Centre 230 DC" digital copier.

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

For discussions related to these annexes, refer to Annex G/4 to this Report.

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1	2
NC0620E1	Classification of bakers' wares (waffles) (Reservation by the US Administration).

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

1. The Chairperson introduced the working document by pointing out that two classification questions were involved with regard to this question : (1) whether the product at issue should be classified in the subheading for waffles (subheading 1905.32), regardless of its water content, and (2) whether the Explanatory Note to heading 19.05, limiting the water content in waffles to 10%, should be taken into consideration.
2. At the outset of the discussion, the **US** Delegate underscored that “**Kellogg’s Eggo Frozen Waffles**” were fully baked waffles, as mentioned in the working document and as clearly shown in the photographs of the waffles in the Annex to the working document. Furthermore, since the product at issue was commercially and commonly known as a waffle, presented and traded as a waffle, known and purchased by consumers in retail stores as a waffle and satisfied the common definition of a waffle (i.e., a bakers’ ware baked between patterned metal plates), it should be classified in the HS Nomenclature as a waffle in subheading 1905.32, regardless of the water content limit relating to waffles in the Explanatory Note to heading 19.05.
3. The **EC** Delegate agreed that the products referred to in paragraph 32 of the working document, containing 10 – 13.7 % water, should be accepted as waffles. This meant that the current Explanatory Note to heading 19.05, setting out a 10% water limit, was too restrictive. However, classifying the product at issue - with a water content of 48% - as waffles, was a different matter. Moreover, he questioned whether a product should be classified in accordance with the name given to it by the manufacturer. This, in his view, was not acceptable with regard to the classification of products in the HS Nomenclature. Common sense had to be applied and the nature of the product had to be determined and, therefore, a product containing 48% water could not be considered to be a waffle. Objective criteria, such as water content, were needed to distinguish between the many kinds of bakers' wares. He reminded the Committee that this product had already been classified by the Committee in subheading 1905.90, by application of GIR 1, in accordance with the existing legal texts, and not the Explanatory Notes.
4. Many delegates supported the view expressed by the **United States**. In this regard it was pointed out that the legal texts and not the Explanatory Notes were controlling, and thus, whether the waffles at issue contained 13% water or 48% water was irrelevant. With regard to the water content of the waffles at issue, it was pointed out that coming directly from the freezer such products would have a much higher water content than at room temperature; meaning that the water content criterion was not reliable.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. On the other hand, many other delegates shared the opinion of the EC. In this regard, attention was called to the fact that dictionary definitions referred to waffles as “crisp” products. A product containing 48% water could, in their view, not be regarded as crispy. Accordingly, such products had to be classified in subheading 1905.90 as “other” bakers’ wares.
6. Following a lengthy discussion, when the question was put to a vote, the Committee decided, by 25 votes to 22, to classify “Kellogg’s Eggo Frozen Waffles” in subheading 1905.32, by application of GIRs 1 and 6.
7. In order to reflect this decision, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination, in the first instance, by the next preessional Working Party.
8. In addition, the Secretariat was instructed to prepare necessary amendments to the Explanatory Note to heading 19.05, item (A) (9) for examination by the Committee at its next session.

* * *

1	2
NC0621E1	Application of Note 3 to Chapter 29 at the subheading level (Reservation by the Mexican Administration).

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

1. Opening the discussion, the Delegate of Mexico explained the impact of the application of Note 3 to Chapter 29 at subheading level vis-à-vis classification decisions taken in the past and certain references in the subheadings of headings 29.32 to 29.34. He argued, specifically, that the references to alfentanil, bezitramide and bromazepan in subheading 2933.33 and loprazolam in subheading 2933.55 should be reviewed, since they might be classifiable in subheading 2933.99 by application of the said Note at subheading level.
2. Another delegate seconded the view expressed by Mexico, noting that the decision taken might have serious repercussions on international agreements based on the Harmonized System. He, therefore, suggested a further study of this issue, in particular with respect to the application of the phrase “unless the context otherwise requires” in connection with the application of Note 3 to Chapter 29 at subheading level. In the meantime, the Committee could ask the Scientific Sub-Committee to clarify whether the classifications of INN products suggested in the past had been based on the application of Note 3 to Chapter 29 or otherwise.
3. A third delegate argued, on the other hand, that the Committee should address the legal situation rather than discussing the implications of the decision. In his view, General Interpretative Rule (GIR) 6 provided the basis to apply Note 3 to Chapter 29 at the subheading level. The classification of chemical substances resulting from the second part of paragraph 7 A (2) of Doc. 37.886, which paragraph had apparently been used in numerous cases as the basis for the classification of INN products, was fully in conformity with the provisions of Note 3 to Chapter 29.
4. Yet another delegate pointed out that the Committee had not classified a specific product, but had taken a decision on the interpretation of GIR 6. The first part of this Rule indicated that GIRs 1 to 5 were applicable, *mutatis mutandis*, at the subheading level. Consequently, when reading these Rules the word “subheading” could be substituted whenever the word “heading” was used. The wording of the second part of GIR 6 specified that the Section and Chapter Notes were also applicable, unless the context otherwise required. Therefore, Note 3 to Chapter 29 could be applied at the subheading level, unless the context otherwise required.
5. He further noted that the Delegate of Mexico had only summarised the possible impact of the decision taken, but had not given a rationale as to why Note 3 to Chapter 29 should not be applicable at subheading level. In his view, a discussion on the impact of the decision was irrelevant. He did not agree with the suggestion to ask the Scientific Sub-Committee to review the rationale used when it had considered the possible classification of INN products

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

in the past. It was up to the Committee to interpret the legal provisions, not the Scientific Sub-Committee.

6. The Director explained that understanding the significance of the second sentence of GIR 6 was crucial in this discussion. In considering the application of Note 3 to Chapter 29 at subheading level, it was necessary to decide whether or not there was a context "which otherwise required". He could support the idea of a further Secretariat study of this issue.
7. The Committee, finally, agreed to ask the Secretariat to carry out a study for its next session on the phrase "unless the context otherwise requires" as used in GIR 6, and within the specific context of the application of Note 3 to Chapter 29.

* * *

1	2	4
NC0622E1	Amendment of the Explanatory Notes with a view to distinguishing between medicated bone graft substitutes and bone reconstruction cements.	<u>See Annex L/1.</u>

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

1. In opening this agenda item, the **US** Delegate explained that the **United States** had recently submitted a non-paper with alternative texts regarding the Explanatory Notes to heading 30.04 and 30.06, in order to provide for a clearer distinction between medicated bone graft substitutes of heading 30.04 and bone reconstruction cements of heading 30.06. The Committee agreed to examine the amendments to the Explanatory Notes on the basis of the **US** alternative texts. In this connection, the Director noted that although the term “adsorbed” appeared in the Secretariat text, the term “absorbed” was used in the **US** text.
2. The Committee felt that, in addition, there appeared to be certain textual questions to be studied and agreed to send this issue to the next pre-sessional Working Party. The Secretariat was therefore instructed to prepare a new working document on the basis of the **US** texts, for consideration, in the first instance, by the next pre-sessional Working Party.
3. The **US** texts, which were placed in square brackets, are reproduced in Annex L/1 to this Report.

* * *

1	2
NC0543E1 (HSC/29) NC0623E1	Classification of certain modified starches or sizing preparations.

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

1. Several delegates expressed the view that, on the basis of observations made by the Scientific Sub-Committee at its 17th Session, as well as additional information reproduced in Doc. NC0623E1, the products at issue were modified starches classifiable in heading 35.05.
2. One delegate, however, was of the view that, in the light of additional information that had been received concerning the four products, "CATO® 15 A", "CATO-SIZE® 52 A", "Penford® Gum 270" and "Astro X-101 Starch", the matter should be sent back to the Scientific Sub-Committee.
3. The Committee agreed and decided to address the following questions to the Scientific Sub-Committee :
 - (i) whether the addition of other ingredients has changed the character of the modified starches and turned them into preparations;
 - (ii) what the roles of the added ingredients were and their effect on the use of the products in a particular industry ?
4. Another delegate noted that this classification issue had been raised by the Colombian Administration which was not represented in the Committee and which had still not provided additional information regarding the products "ETHYLEX® 2040 Gum" and "STALOK® 400". The Secretariat was therefore instructed to again contact this administration in order to obtain the additional information needed, so that the Scientific Sub-Committee could re-examine all six products. The Colombian Administration should also be asked to submit its opinion on the classification of the products at issue, including a justification, to be submitted to the Committee at its next session.

* * *

1	2	4
NC0547E1 (HSC/29) NC0651E1	Amendments to the Explanatory Notes to clarify the classification of certain electronic memory modules (SIMMs and DIMMs).	<u>See Annex L/3.</u>

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

1. The Committee agreed to use the alternative text proposed by the **US** Administration for the new fourth paragraph to the General Explanatory Note to Chapter 85. Furthermore, for each of the new Explanatory Note texts, the Committee agreed to include a reference to SIMMs and DIMMs as examples of electronic memory modules.
2. The adopted texts are set out in Annex L/3 to this Report.

* * *

1	2	4
NC0548E1 (HSC/29)	Possible amendments to the Explanatory Notes with a view to clarifying the classification of laundry type and industrial washing machines.	<u>See Annex L/2.</u>

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

1. One delegate opened the discussion by indicating that the English text should be aligned on the French text by deleting “in laundry situations” and “soiled” in the English version of the draft text to heading 84.50 found in the Annex to Doc. NC0548E1. In addition, he believed that it was not necessary to insert pictures of examples of industrial washing machines in the Explanatory Notes.
2. Another delegate agreed with the deletion of the previously mentioned texts in the English version of the Annex, as well as the suggestion that it was not necessary to insert pictures of examples of industrial washing machines in the Explanatory Notes. In addition, he suggested that it was not necessary to have the expression “or to dye or bleach” inserted in Part (A) of the Explanatory Note to heading 84.51, since Part (B) of that note already made reference to those machines.
3. On the basis of the foregoing modifications, the Committee unanimously agreed to the text of the proposed amendments to the Explanatory Notes.
4. The texts adopted are set out in Annex L/2 to this Report.

* * *

1	2	4
NC0625E1 NC0653B1	Amendment of the Explanatory Note to heading 85.18 with a view to clarifying the function of repeaters used in telephony.	<u>See Annex L/4.</u>

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

1. Opening the discussion, one delegate pointed out that many administrations would have difficulties identifying the four types of repeaters, covered respectively by headings 84.71, 85.17, 85.18 and 85.43, on the basis of the uses specified in paragraph 7 of Doc. NC0625E1.
2. The same delegate highlighted a potential lack of alignment between the French and English versions of the exclusion concerning local area network (LAN) repeaters to be inserted on page 1654 of the Explanatory Notes, and suggested aligning the English on the French.
3. To this end, and to ensure greater clarity in the English text, the Committee decided to add the expression "Local area network" in full before the abbreviation (LAN).
4. The Committee also agreed with the Secretariat not to mention in the exclusions to be inserted in the Explanatory Notes to headings 84.71 and 85.17 electric amplifiers used as repeaters in telephony, which were mentioned in the Explanatory Note to heading 85.18.
5. Subject to the above modifications, the Committee adopted the draft amendments to the Explanatory Notes set out in Doc. NC0653B1.
6. The texts adopted are set out in Annex L/4 to this Report.

* * *

1	2	4
NC0626E1	Amendment of the Explanatory Notes to clarify the classification of flash electronic storage cards.	<u>See Annex L/22.</u>

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

1. The **US** Delegate began the discussion on this issue by explaining his administration's proposal, which had been circulated as a non-paper in English only, and which presented a more general amendment of the texts of the Explanatory Notes.
2. The Chairperson then asked the Committee whether it wished to work on the basis of the **US** or Secretariat's proposal. Because the **US** proposal had been submitted late and in one language only, the Committee decided that it would maintain both proposals and send them for examination to the next preessional Working Party. In addition, the Secretariat was instructed to study both proposals with a view to seeing if even a third (combined) proposal could be drafted.
3. Before concluding discussion on this issue, one delegate proposed that the inclusion of a specific reference to memory capacity should be deleted, as manufacturers were continually making improvements in this area.
4. The **US** and Secretariat proposals are set out in square brackets in Annex L/22 to this Report.

* * *

1	2	4
NC0627E1	Amendment of the Explanatory Notes to clarify the classification of MP3 players and similar apparatus.	<u>See Annex L/5.</u>

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

1. Subject to some modifications proposed from the floor, the Committee adopted the proposed amendments to the Explanatory Notes, as reproduced in the Annex to Doc. NC0627E1, including the texts which had been placed in square brackets.
2. In this connection, the Delegate of **Japan** requested the advice of the Committee on the classification of a new type of MP3 player, noting that a distinction should be drawn between “passive recording” and “active recording”, the latter being covered by heading 85.20. The Chairperson invited the **Japanese** Delegation to submit this question to the Secretariat in writing, with a view of discussing it at the Committee’s next session.
3. The texts adopted are set out in Annex L/5 to this Report.

* * *

1	2
NC0423E1 (HSC/27) NC0551E1 (HSC/29)	Classification of safety seats for infants and toddlers.

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

1. The **US** Delegate began the discussion of this question by indicating that in his administration's view, the article at issue fulfilled the conditions for classification in subheading 9401.20 as "seats of a kind used for motor vehicles". In his country, the use of these seats was obligatory in vehicles transporting infants and toddlers, in order to ensure their safety. He added that the manufacturer's "instructions for use" leaflet indicated that seats of this kind were for use in motor vehicles and explained how they should be installed in a motor vehicle. Finally, he did not agree with the Secretariat's interpretation that the seats of subheading 9401.20 had to be original motor vehicle equipment. This view was shared by a number of delegates, who also drew the Committee's attention to the fact that the text of subheading 9401.20 referred simply to seats of a kind used for motor vehicles, and contained no reference to their being permanent fixtures.
2. Conversely, several delegates stated that they did not share this view, adding that in addition to its use in motor vehicles, the article at issue could also be used on many other modes of transport (planes, ships, etc.). Moreover, the manufacturer's literature indicated that the seat could be fitted to shopping trolleys, used as a baby carrier, and used as a baby seat in the home. They therefore favoured subheading 9401.80 for the classification of this article. However, one delegate wondered whether the seat might also be considered for classification in subheading 9401.69 or 9401.79, depending on its constituent material (wood or metal).
3. In response to this concern, the Chairperson indicated that articles of this kind were normally made of plastics, and that the photograph reproduced in the Annex to the working document showed clearly that the seat did not have a wooden or metal frame.
4. Another delegate said that beginning with the 2000 model year, 80 percent of North American motor vehicles were designed with mounting brackets and anchor points especially for such safety seats.
5. When the matter was put to a vote the Committee decided, by 26 votes to 13, to classify the safety seat for infants and toddlers in subheading 9401.80, by application of GIRs 1 and 6.
6. In order to give effect to this classification decision, the Committee instructed the Secretariat to prepare, for its next session, a draft amendment to the Explanatory Note to heading 94.01, which would reflect the reasoning which had led the Committee to classify this article in subheading 9401.80.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. At the request of the **US** Administration, the Secretariat was also instructed to prepare a draft Classification Opinion for examination, in the first instance, by the next presessional Working Party.

* * *

1	2	4
NC0552E1 (HSC/29) NC0645E1 NC0652E1	Possible amendments to the Explanatory Notes to clarify the classification of foot-propelled scooters.	<u>See Annex L/15.</u>

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

1. Subject to a minor change in the English text, the Committee accepted a new text for the Explanatory Note to heading 87.12 on page 1744 as set out in the Annex to Doc. NC0552E1.
2. The Committee then considered the proposals by the **EC** for the Explanatory Notes to heading 87.16 on pages 1747 and 1748. Subject to minor changes, the Committee adopted the proposals. Because the Committee adopted these proposals to amend Part (B) of the Explanatory Note to heading 87.16 in order to describe certain vehicles propelled by foot, it was decided that it was not necessary to adopt the proposal in the Annex to Doc. NC0552E1 for new Explanatory Notes on foot-propelled three-wheeled scooters and kicksleds on page 1749.
3. Finally, with regard to the proposal to amend the Explanatory Note to heading 95.01, several delegates felt that, on the basis of the Committee's decisions and the resulting Classification Opinion, the Explanatory Notes should clearly indicate that these scooters were designed to be ridden by children, as well as youngsters and adults. Under these circumstances, the text proposed by the Secretariat was more appropriate.
4. The **US** Delegate indicated that the legal text to heading 95.01 provided, in part, for "wheeled toys designed to be ridden by children (for example, tricycles, scooters, pedal cars)". The proposed amendments to the Explanatory Note to heading 95.01 covered certain scooters "designed to be ridden by children, youngsters and adults." While certain products examined by the Committee were capable of being ridden by youngsters and adults as well as by children, the reference in the proposed amendments to the Explanatory Notes to "youngsters and adults" after the word "designed" conflicts with the legal text. In order to avoid this conflict (and possible confusion in the application of heading 95.01), the **United States** proposed to modify the proposed amendments by deleting the words "as well as" and inserting the phrase "but capable of being ridden by".
5. At the request of the **US** Delegation, the Committee took a roll call vote. By a vote of 26 to 15 (with 3 abstentions), the Committee adopted the text proposed by the Secretariat in the Annex to Doc. NC0552E1, as amended by an alignment of the French text on the English.
6. The texts adopted by the Committee are set out in Annex L/15 to this Report.

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1	2
NC0582E1 NC0584E1(HSC/29) NC0628E1	Classification of grounding rods.

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

1. The Chairperson introduced this question by pointing out that the Committee had to rule on the classification of the products described in boxes 1 and 2 of paragraph 8 of Doc. NC0628E1, and asked the parties in dispute (**Argentina** and **Brazil**) with regard to this issue whether the above-mentioned descriptions corresponded to the products their administrations wished to classify.
2. In response, the Delegate of **Argentina** agreed with the Secretariat's description of the product presented by his administration in paragraph 8 (box 2), but wished to add a reference to the length of the rod (1 to 3 m), the process of coating it with copper (by electrolysis) and the thickness of the coating (minimum of 254 microns). The Delegate of **Brazil** was also in agreement with the description of the product set out in paragraph 8 (box 1) of the document.
3. The Delegate of **Argentina** then presented his argument that the two articles described in paragraph 8 of Doc. NC0628E1 were grounding rods and the only difference between them being that the product that his administration wished to have classified was presented with pre-soldered connection elements (cables, wires, couplings, etc.). He remained that both products had an electrical function which was the protection of electrical circuits and met his country's technical standards for such electrical devices. These articles were used to connect an electrical installation to the ground and to discharge surplus electrical energy into the ground. He added that in his opinion, these grounding rods were similar in shape and were produced by the same process as electrolytic lightning arresters described in item (C) to the Explanatory Note to heading 85.35, which were also electrolytically covered with copper. He concluded by pointing out that the **Argentine** Administration had no doubt that these articles were classifiable in Chapter 85, and more specifically in subheading 8535.90 or 8536.30, depending on whether they were "for a voltage exceeding 1000 volts" or not.
4. The Delegate of **Brazil** pointed out that his administration had requested the classification of the product described in paragraph 8 (box 1) of Doc. NC0628E1, presented either alone or together with accessories. He regretted the fact that the Secretariat had not yet expressed its opinion on the classification of the grounding rods at issue in cases where they were presented with accessories, a problem which his administration had been stressing since it first wrote to the Secretariat about these products in 1999. In his opinion, the essential function of the product submitted by his administration for classification was conferred by the passive element used for its conductivity. His administration did not consider that this article could be classified in heading 85.35 or 85.36, because it was

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

definitely not an article performing switching functions classifiable in those headings. He added that his administration had envisaged the possibility of classification in heading 85.44 in view of the conductivity of the product, but had ruled this out because the product was not electrically insulated, this being a requirement of the legal text of this heading and the accompanying Explanatory Notes, where wire, cable and other electric conductors were concerned.

5. Consequently, the **Brazilian** Administration would rule out the headings of Chapter 85 for the classification of the product, and proposed that it be classified with reference to its constituent material, in Chapter 73; in that eventuality, the only heading which could be considered was residual heading 73.26, which the **Brazilian** Administration had been using for the classification of products of this kind since 1990. With regard to the product presented by **Argentina**, the **Brazilian** Administration still had some doubts as to the nature of the product since, judging by the **Argentine** Administration's interventions on the subject, the only difference between the two products was the presence, in the product presented by **Argentina**, of a conductor welded to the copper-covered steel rod which constituted the product referred to by **Brazil**. On the other hand, the product description contained in box 2 in paragraph 8 of the working document also referred to the existence of inspection boxes, which were not presented to Customs.
6. Several delegates then took the floor to support the point of view of the Delegate of **Argentina**, that the two products were "grounding rods", used to harness and discharge surplus electrical energy into the ground, and consequently classifiable in heading 85.35 or 85.36, depending on the voltage.
7. One delegate stated that, should the Committee decide that grounding rods without terminals and bronze couplings were not electrical apparatus for protecting electrical circuits, they should be considered "unfinished grounding rods" and classified pursuant to GIR 2 (a) since, according to the description of the product, they were committed by design to providing safe, effective and durable grounding.
8. Other delegates agreed with the reasoning of the Delegate of **Brazil**, in favour of classifying the two products in heading 73.26.
9. A third group of delegates was in favour of separate classification – heading 73.26 for the first product and heading 85.35 or 85.36 for the second product – as recommended by the Secretariat in the working document.
10. The Chairperson finally decided to put the classification of the two products mentioned in paragraph 8 of Doc. NC0628E1 to a vote. In this respect, the Delegate of **Brazil** indicated that he preferred to abstain from and not to express his view on these classifications.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

11. The Committee initially agreed, by 26 votes to 13, to classify the articles described in box 1 of paragraph 8 of Doc. NC0628E1 as "grounding rods" in subheading 7326.90, by application of GIRs 1 (Note 7 to Section XV) and 6 for the reasons given by the Secretariat in the document.
12. The Committee then decided, by 33 votes to 3, to classify the "grounding devices welded to cables and connection wires" described in box 2 of paragraph 8 to Doc. NC0628E1 in Chapter 85. As for the relevant subheadings, the Committee finally chose subheading 8535.90 or 8536.30, depending on the voltage, again for the reasons set out by the Secretariat in the working document.
13. In order to reflect these decisions, and at the request of the administrations concerned, the Committee instructed the Secretariat to prepare two draft Classification Opinions for examination, in the first instance, by the next pre-session Working Party.
14. With regard to the product in box 2, since the Committee did not have precise information on the voltage that this product could withstand (less than or in excess of 1,000 volts), the draft Classification Opinion should take account of additional information to be submitted by Argentina during the intersession.

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ANNEX H

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0564E1 (HSC/29) NC0624E1	Possible amendments to the Explanatory Notes to headings 01.05 and 01.06 with regard to geese, ducks, wild geese and wild ducks (Proposal by the Norwegian Administration).			

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

At the request of the Delegate of **Norway**, the Committee agreed to delete this item from the Agenda.

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1	2
NC0553E1 (HSC/29) NC0644E1	Possible amendment of the Explanatory Note to heading 04.06 (Proposal by the EC).

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

1. At the outset of the discussion the **US** Delegate indicated that his administration was aware that a mutant strain, *Penicillium roqueforti* PW1, could be used to produce cheese with a greyish pigmentation, and that this cheese was very similar to blue-veined cheese. However, the legal texts of the Harmonized System had to be followed. The legal text to subheading 0406.40 was very clear, and classifying anything else than cheese with blue veins in that subheading would run counter to that legal text. His administration had reviewed several French dictionaries, and in the context of cheese, the term “persillée” (literally meaning “parsleyed”) always referred to cheese with blue or green veins. Cheese with similar characteristics, but not being blue- or green-veined, therefore had to be classified outside subheading 0406.40. His administration was therefore against the proposed Subheading Explanatory Note which would result in a transfer of goods, entailing legal and administrative problems. He was not necessarily against a change in the scope of the subheading, but maintained that such a change could be effected only through a of legal text amendment. The Committee should therefore consider sending this issue to the Review Sub-Committee for consideration.
2. The **EC** Delegate pointed out that this issue was both easy and complicated at the same time. He agreed that there was a difference in terminology in the French and English texts to subheading 0406.40, but was of the view that the scope was the same in both languages. According to producers, “blue-veined cheese” was a trade name which did not necessarily refer to the colour of the cheese, but referred to the manufacturing process involved which was the important factor here. He was therefore of the opinion that cheese with grey or white veins should also be classified in subheading 0406.40.
3. Another delegate, supporting the **United States**, pointed out that this issue seemed to stem from the **EC**'s own Explanatory Notes which appeared to have gone one step further than the HS Nomenclature.
4. The Delegate of **Canada** underlined that the important question before the Committee was whether “blue-veined cheese” only covered cheese with blue veins. He referred to a terminology database which defined “blue-veined cheese” as “a general class of cheese on the market known as blue-veined cheese ... because the curd containing lactic acid organisms was inoculated with a selected species of blue-green mould *Penicillium roqueforti* which growth gave a green streaked or marbled appearance”. He therefore concluded that such cheese did not necessarily have to be blue.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. After further discussion the Committee concluded that it was not possible to reach agreement as to the proposed Subheading Explanatory Note. The Director pointed out that the status quo was not an acceptable state of affairs, since this situation would not assure uniform classification of the cheese at issue throughout the world. He therefore proposed to submit this issue to the Review Sub-Committee for consideration.
6. The Committee agreed with this approach and instructed the Secretariat to submit a proposal to the RSC which would ensure that these cheeses could be classified in the same subheading irrespective of their colour.

* * *

1	2
NC0555E1 (HSC/29) NC0641E1	Classification of "Mosstanol L".

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

1. On the basis of a request by one administration, the Committee agreed to have a preliminary exchange of views with regard to the classification of "Mosstanol L". Opening the discussion, the Polish Delegate explained the background of the question and stated that in her administration's opinion, the product did not fulfil the requirements of Chapter 22 or heading 38.24 and, therefore, favoured classification in heading 38.14.
2. The EC Delegate and several other delegates supported this view, explaining that the product was a complex mixture containing 63 – 65 % of ethyl alcohol, 35 – 37 % of isopropyl alcohol and a maximum 1 % of C₃/C₄ alcohols, obtained by Fischer-Tropsch synthesis. The isopropyl alcohol had not been added and therefore, in terms of the definition in paragraph 5 of Doc. NC0555E1, the product could not be regarded as being "denatured". Furthermore, the amount of isopropyl alcohol in the product was significantly higher than that necessary to denature alcohol and to render it unfit for drinking. The product was therefore considered to have the characteristics of a composite organic solvent of heading 38.14.
3. One delegate expressed the view that there was no need to define explicitly all denaturants in the Explanatory Note to heading 22.07 or to refer to the proportions in which they should be added to ethyl alcohol and other spirits to render them unfit for drinking.
4. After this exchange of views, there seemed to be a consensus in the Committee with regard to the classification of the product. Another delegate then suggested that if there were no delegation feeling that further information or further study of the matter was necessary, the Committee could take a final decision on the classification at this session.
5. The Committee accordingly agreed to finalise the issue and decided to classify "Mosstanol L" in heading 38.14 (subheading 3814.00) by application of General Interpretative Rule 1. Only one delegation was of the view that the product should be classified in heading 22.07. The Committee also felt that it was not necessary to identify precisely the denaturants and proportions thereof in the context of the Harmonized System.
6. In order to reflect this decision, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination, in the first instance, by the next preessional Working Party.

* * *

1	2
NC0554E1 (HSC/29)	Classification of a polyurethane resin in dimethyl formamide.

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

1. The Committee unanimously agreed with the reasoning of the Secretariat in the working document and concluded that dimethyl formamide was a volatile organic solvent. Consequently, the product at issue was classified in heading 32.08 (subheading 3208.90) by application of General Interpretative Rule 1, Note 4 to Chapter 32 and Note 2 (d) to Chapter 39.
2. The Committee instructed the Secretariat to contact the **Pakistani** Administration to ask whether a Classification Opinion would be necessary to reflect this decision; in which case the Secretariat would draft the Opinion for examination, in the first instance, by the next pre-sessional Working Party.

* * *

1	2	3
NC0565E1 (HSC/29)	Possible amendment of Classification Opinion 3907.20/1 (Proposal by the Canadian Administration).	<u>See Annex L/6.</u>

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

1. The Committee adopted the proposed amendment of the French text of Classification Opinion 3907.20/1, subject to an editorial correction.
2. The text adopted is set out in Annex L/6 to this Report.

* * *

1	2
NC0556E1 (HSC/29) NC0650E1	Classification of certain panels of wood.

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

1. Opening the discussion on this agenda item, the Delegate of **Japan** pointed out that the classification of the product at issue should be in line with the level of its manufacturing. He further explained that the panels of wood should be considered wood in primary form and, therefore, the product should be classified in one of the headings 44.01 to 44.13. In his view, given that the thickness of the panels exceeded 6 mm, the wooden panels should be classified in heading 44.07. He requested the Secretariat to carry out an additional study of the issue and suggested that the Committee should take up the issue again at its next session.
2. However, other delegates expressed support for the proposal by the Secretariat to classify the product in heading 44.21. One delegate noted that the expression “end-jointed” in the text of heading 44.07 did not cover edge-jointed products. Therefore, classification in heading 44.07 was ruled out. Another delegate clarified that since the product did not meet the terms of any other heading of Chapter 44, the panels had to be classified in the residual heading, i.e., in heading 44.21.
3. When the question was put to a vote, the Committee decided, by 33 votes to 2, to classify the panels in question in heading 44.21 (subheading 4421.90), by application of GIRs 1 and 6.
4. In order to reflect this decision, the Chairperson suggested that the Secretariat should contact the Customs Administration of **Malta**, which had raised this question originally, and ask them whether they would need a Classification Opinion. If so, a draft Classification Opinion should be prepared by the Secretariat for examination, in the first instance, by the next pre-session Working Party.

* * *

1	2
NC0559E1 (HSC/29)	Classification of quilted, decorative pillow coverings (shams).

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

1. Judging by the sample, delegates considered that even though its front panel consisted of a quilted fabric, the pillow sham took the form of a pocket made from textile fabric into which a pillow or cushion could be inserted and could not be regarded as being “stuffed or internally fitted with any material” within the meaning of heading 94.04, particularly as the layer of padding was quite thin.
2. They also agreed that this pillow covering was clearly of a decorative nature, and that its classification as an article of bed linen would not be justified.
3. Consequently, the Committee unanimously decided that this article, made up from a woven fabric of cotton, should be classified in heading 63.04 (subheading 6304.92) by application of GIRs 1 and 6.
4. In order to give effect to this decision, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination, in the first instance, by the next preessional Working Party, and agreed that there was no need for a ruling on the interpretation of the expression “stuffed or internally fitted with any material”.

* * *

1	2
42.437 (HSC/22) NC0560E1 (HSC/29)	Classification of certain stationery sets.

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

1. The Chairperson introduced this item by reminding the Committee that it had decided, at its 24th Session, to classify these stationery sets as sets by application of GIR 3 (b), but that the precise heading remained to be determined given the lack of specific information on the sets' components.
2. The Delegate of **Argentina** opened the discussion by pointing out that since each of the components making up the sets at issue had a specific function, the value of each component should be considered as the basis for determining the sets' essential character. On that assumption, it was the plastic holder that made up from 44 to 53 % of the sets' value and therefore gave the sets their essential character. The sets should consequently be classified in subheading 3926.10, by application of GIRs 3 (b) and 6.
3. One delegate stated that the concept of essential character was fluid and had to be applied on a case-by-case basis. In the present case, it was his administration's view that the plastic holder imparted the essential character to the set because it presumably had greater monetary value than that of the other articles, predominated by weight and size, and played a central role in holding all the other articles together.
4. The Committee confirmed that value could be taken into account in determining the sets' essential character and on that basis agreed that it was the plastic holder that gave these sets their essential character. The Committee therefore unanimously decided to classify the "**Desk Organizer No. P9155**" described in paragraph 5 of Doc. NC0560E1 in subheading 3926.10, by application of GIRs 3 (b) and 6.
5. At the end of the discussion, some delegations expressed doubts as to the classification of the staple remover in subheading 8472.90, as suggested by the Secretariat in paragraph 6 of the working document, instead deeming it to be a hand tool of heading 82.05.

* * *

1	2
NC0557E1 (HSC/29)	Classification of sliding doors for lifts (elevators).

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

1. Opinions were divided on the classification of the sliding doors at issue.
2. A number of delegates agreed with **Morocco** that these exterior doors and this mechanism were not an integral part of the lift and were consequently classifiable in heading 73.08 because (1) they were imported separately and (2) they did not travel up and down with the lift, but remained fitted to the landing on each floor.
3. Other delegates supported the Secretariat's viewpoint, considering that the doors functioned only in combination with the lift cage (cabin). These doors were, consequently, classifiable in heading 84.31 covering parts suitable for use solely or principally with the machinery of headings 84.25 to 84.30, by application of the legal text which placed no restrictions on goods of this heading.
4. When the matter was put to a vote, the Committee decided by 21 votes to 14 to classify these sliding doors (and their mechanism) in subheading 7308.30 by application of GIRs 1 and 6.
5. In order to reflect this decision, and at the request of the **Moroccan** Administration, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination, in the first instance, by the next presessional Working Party.

* * *

1	2
NC0558E1 (HSC/29)	Classification of "roller shoes".

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

1. Opening the discussion of this agenda item, the Delegate of **Morocco** briefly described the "roller shoes" in question and stated that he could support the argument put forward by the Secretariat in the working document. He nevertheless pointed out that since this was an article that could be used, depending on the position of the wheels, as a "normal" walking shoe (Chapter 64) or an "in-line skate", it should be classified in heading 95.06 by application of General Interpretative Rule 3 (c).
2. The Committee unanimously agreed to classify the shoe at issue in heading 95.06 (subheading 9506.70). However, given the existing legal provisions (heading and subheading texts and Notes 1 (f) to Chapter 64 and 1 (g) to Chapter 95) cited by several delegates, the classification was determined by application of GIRs 1 and 6.
3. In order to reflect this decision, and at the request of the **Moroccan** Delegate, the Committee instructed the Secretariat to prepare a draft Classification Opinion, with a supporting photo, for examination, in the first instance, by the next preessional Working Party.

* * *

1	2
NC0561E1 NC0568B1 NC0586E1 (HSC/29) NC0629E1	Possible contradiction between the Explanatory Notes to and legal text of heading 85.36.

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

1. As a result of a judicial decision, the **EC** Delegate explained that the **EC** was no longer in a position to apply the last sentence in Part (C) of the Explanatory Note to heading 85.36. He indicated that the Explanatory Note appeared to exclude all junction boxes if they were not fitted with a means of electrical connection. Based on the court decision, there were incomplete or unfinished junction boxes which, although not fitted with connections, were of a type that had a provision for fitting with electrical connections. By application of GIR 2 (a) these types of junction boxes should be classified in heading 85.36.
2. He then noted that both the proposal by the Secretariat in paragraph 27 of Doc. NC0561E1 and the **Canadian** proposal in paragraph 8 of Doc. NC0629E1 could resolve the issues because these proposals would establish a two-part test to determine whether certain junction boxes remained classifiable in heading 85.36. He indicated that these proposals could satisfy his concerns and make it clear that junction boxes, which incorporated a provision for being fitted with electrical connections, were classifiable in heading 85.36. Only those junction boxes that were not fitted with electrical connections and did not have provision for electrical connections would be excluded from heading 85.36. It was his opinion that the Committee could address the amendment to the Explanatory Note without resorting to the consideration of specific examples because the proposals were not intended to change the scope of the heading nor to classify a specific sample.
3. However, another delegate stated that the current Explanatory Note was clear and correctly described the types of products that were included and excluded from heading 85.36. He also stated that samples should be submitted to the Committee before taking a decision that would possibly affect the scope of heading 85.36. He pointed out that the Committee should have the opportunity to examine specific types of junction boxes, including the junction box considered by the **European** court before considering any amendment to the Explanatory Notes. In his opinion, a junction box without electrical connections could not be classified in heading 85.36 because, as presented, it failed to satisfy the terms of that heading.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. At the suggestion of the Director and the Chairperson, the Committee agreed to a further study, with photographs or other representations, on the three types of junction boxes that existed, i.e., junction boxes fitted with electrical connections, junction boxes not fitted with electrical connections or with any provision for electrical connections, and junction boxes not fitted with electrical connections but having provision for electrical connections. The Delegate of **Morocco** pointed out that products similar to those under examination, if designed for a voltage of more than 1,000 V were classifiable in heading 85.35. Therefore, the Secretariat was also asked to consider whether the study could be extended to similar goods of heading 85.35.

* * *

1	2
NC0574E1 (HSC/29)	Classification of a machine called "NOACK 900 BLISTER PACKER" (NOACK 900).

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

1. After discussing the functions of the machine in question, the Committee agreed unanimously that it was classified as packing machinery in heading 84.22 and, specifically, in subheading 8422.40 by application of GIRs 1 and 6.
2. Concerning the use of the term "packing" in heading 84.22, the question was raised whether the term included "packaging". In this respect it was pointed out by one delegate that the terms in the French text, "empaqueteur" and "emballer," referred to both packaging and packing. Therefore, it was suggested and agreed that the Review Sub-Committee could be asked to study the meaning of the expressions used in the English ("packing or wrapping") and in the French ("à empaqueteur ou à emballer") texts with a view to ensuring that both texts clearly covered packing and packaging.

* * *

1	2
NC0575E1 (HSC/29)	Classification of an electrostatic chuck and distinction between chucks of headings 84.66 and 85.05.

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

The Committee agreed that electrostatic chucks, for machines of heading 84.56, were work holders classified in heading 84.66 and specifically in subheading 8466.20 by application of GIR 1 (Note 2 (b) to Section XVI) and GIR 6. In taking this decision, the Committee agreed that electrostatic chucks did not operate by electromagnetic principles and were not covered by heading 85.05.

* * *

1	2
NC0576E1 (HSC/29)	Classification of a "hydraulic salt/sand spreader" for clearing snow from roads.

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

1. The Chairperson opened the discussion by drawing the Committee's attention to the fact that this matter had been the subject of a dispute between the **EC** and **Poland** which, during the adoption of the Agenda for the present session, had requested that it be withdrawn. He then invited the two parties to present their case.
2. The Delegate of **Poland** took the view that this product fell to be classified in heading 84.24 by application of the heading text, Note 3 to Section XVI and Note 2 to Chapter 84, given that the principal function of the machine was to project and disperse salt and sand, even though it could, accessorially, grind up the salt. However, she stated that her administration was willing to accept the decision of the Committee.
3. The **EC**, for its part, recognised that classification in heading 84.74, which it had previously proposed, was not appropriate. Furthermore, classification in heading 84.24 was impossible since the machine did not spray liquids or powder and was not one of the steam or sand blasting machines or similar jet projecting machines mentioned in the last. Therefore, on the basis of the arguments developed by the Secretariat in the working document, the **EC** now classified this machine in heading 84.79 in accordance with Note 3 to Section XVI. In fact, the principal function of the machine was not covered by any other heading in Section XVI, given that the principal function was to clear snow from roads by means of three operations, namely storing, crushing/grinding and spreading salt or sand in the form of granules.
4. When the matter was put to a vote, the Committee decided by 33 votes to 3 to classify this machine in heading 84.79 by application of GIRs 1 and 6. Where the choice of subheading was concerned the Committee, following a suggestion by the **US** Administration, unanimously opted for subheading 8479.10 covering machinery for public works, building or the like.
5. In order to reflect this decision, the Committee instructed the Secretariat to prepare a draft Classification Opinion and a draft amendment to Part (D) of Explanatory Note to heading 84.79 for examination, in the first instance, by the presessional Working Party.

* * *

1	2
NC0579E1 (HSC/29) NC0640B1	Use of the terms “hygienic”, “sanitary” and “toilet”.

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

1. The **EC** Delegate, while referring to the non-paper prepared by his organisation and distributed during the meeting, explained that there was no need to amend the French text of heading 39.24, since the scope was aligned in both language versions. He suggested drafting a non-exhaustive list of commodities classified in heading 39.24, which could be based on the list of articles referred to in paragraph 11 of Doc. NC0579E1. He also suggested considering the matter further at the Committee’s next session on the basis of a document to be prepared by the Secretariat, indicating the various options, i.e., amendments to the legal texts or status quo.
2. Another delegate argued, however, that some of the articles listed in the Secretariat’s document might not be covered by the English term “toilet”, as used in heading 39.24. Consequently, there seemed to be a misalignment between the two versions. He suggested reporting this to the Review Sub-Committee and leaving any further action to that Sub-Committee.
3. Finally, the Committee agreed to continue the study of the question at its next session, focussing on the classification of the products listed in paragraph 11 of Doc. NC0579E1 with a view to seeing whether or not the legal texts needed to be amended.

* * *

1	2
NC0630E1	Classification of an injectable intracutaneous gel referred to as “Restylane”.

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

1. One delegate began the discussion of this issue by suggesting heading 90.21 as a classification possibility because the main component of the product, being inert in nature, was similar to inert gels used for breast implants. The proposal did not receive support within the Committee.
2. A second delegate indicated that he agreed with the Secretariat on the headings to be considered. While this product might be considered to be a medicament in the widest sense of the term, he questioned whether it was a medicament in terms of the Harmonized System. He believed that “beauty” was not an illness and, consequently, it would be difficult to say that this product was for therapeutic or prophylactic use. Furthermore, the fact that this product was to be applied in procedures carried out by doctors did not mean that the product would fall in Chapter 30.
3. Turning to the legal text, he believed that it was difficult to avoid classification in Chapter 33. Referring to Note 1 (d) to Chapter 30, he pointed out that Chapter 30 did not cover preparations of headings 33.03 to 33.07, even if they had therapeutic or prophylactic properties. Consequently, based on this legal Note, Chapter 33 had priority over Chapter 30. In addition, the General Explanatory Note to Chapter 33 (third paragraph on page 613), indicated that products of headings 33.03 to 33.07 remained in those headings whether or not they contained subsidiary pharmaceutical or disinfectant constituents which could be viewed as having a certain prophylactic use. He concluded by asking the Committee to classify the product in heading 33.04.
4. Several delegates supported this classification. They believed that aging was not an illness and the way the product was administered was not determinative for classification purposes. Consequently, they believed it was not excluded from classification in heading 33.04.
5. Another delegate spoke in favour of classification in heading 30.04. He explained to the Committee that the product was used when there was a breakdown in the skin. He believed that because of this fact, as well as the way the product was presented and administered, classification in heading 30.04 should be given serious consideration. He also felt that not to do so would be applying an overly strict interpretation of what was therapeutic for the purposes of heading 30.04. In this connection, he questioned the applicability of Note 1 (d) to Chapter 30.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. When the matter came to a vote, 27 delegates voted for heading 33.04 (subheading 3304.99) while 5 delegates voted in favour of heading 30.04. The legal basis for the decision was by application of GIRs 1 and 6. In view of the fact that it was put up as a set the product was also classified by application of GIR 3 (b).
7. In order to reflect this decision, the Secretariat was instructed to prepare draft amendments to the Explanatory Notes for examination, in the first instance, by the next preessional Working Party.

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1	2
NC0631E1	Classification of an antimycotic agent referred to as "Natamax".

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

1. One delegate began the discussion of this issue by indicating that the question revolved around the relationship between Note 1 (b) to Chapter 38 and heading 21.06. He referred the Committee to the Explanatory Note to heading 21.06, page 181, item (B), second sentence. In his opinion, the product at issue fit this description, as it was a mixture of a chemical and a foodstuff used to enhance the keeping qualities of foodstuffs. He draw the Committee's attention to the high content of lactose and questioned the role of the lactose in the preparation. In this connection, his administration felt that it was necessary to have more information on this point. As a result, he urged the Committee to ask the Scientific Sub-Committee to provide its views on the role of lactose in the preparation.
2. Another delegate pointed to the description of the product in Doc. NC0631E1, which described the product as an antimycotic agent used in food manufacture to prevent the growth of mould and yeasts. He questioned whether such a product should be classified in heading 21.06. He also drew the attention of the Committee to paragraph 20 of the working document, in which the Secretariat had indicated that "Natamax" extended the useful life of food products. Therefore, it could be regarded as being of a kind used for the preservation of foodstuffs. At the same time, as stated in the first paragraph of the Annex to the working document, "Natamax" had no effect on the appearance, colour or flavour of food products and did not interfere with the nutritional value, taste or odour of food products.
3. He then made reference to the General Explanatory Note to Chapter 38, page 669, second paragraph, which read "The mere presence of "foodstuffs or other substances with nutritive value" in a mixture would not suffice to exclude the mixture from Chapter 38, by application of Note 1 (b)". In his opinion, this Note was directly applicable to the situation at hand. He concluded that although "Natamax" was not identical to "Nisaplin" or to salts for curing or salting mentioned in Item (30) of the Explanatory Note to heading 38.24 as regards composition, consistency in the interpretation of Note 1 (b) to Chapter 38 should be maintained. He was, therefore, of the view that the product should be classified in heading 38.24 as proposed by the Secretariat. However, he did not object to submitting the matter to the Scientific Sub-Committee.
4. The Committee finally agreed to send the issue to the Scientific Sub-Committee in order to examine the role of lactose in "Natamax".

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1	2
NC0632E1	Possible amendments to subheading 2929.10 and to the Explanatory Note to heading 29.29 to clarify the classification of isocyanates and related products (Proposal by the Iranian Administration).

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

1. At the outset, the Delegate of Iran explained that isocyanates as separate chemically defined organic compounds and mixtures of isomers of the same organic compounds, whether or not containing impurities, were classified in Chapter 29 in accordance with Note 1 to that Chapter. His administration was aware that isocyanates occurred in a monomeric form, in the form of a mixture (of isomers, oligomers, monomers, dimers and trimers), or in a polymeric state (such as diphenylmethane diisocyanate (MDI), toluene diisocyanate (TDI) or hexamethylene diisocyanate (HDI)), and that they could even be of a prepolymeric kind having a low molecular weight.
2. In his administration's view, isocyanates in the monomeric form should be classified in heading 29.29 (subheading 2929.10). If they were a mixture other than mixtures of Chapter 29, they would fall in subheading 3824.90 and polymeric isocyanates would fall in Chapter 39 (subheading 3909.30). He further stated that prepolymeric isocyanates should be classified in accordance with Item (e) of the General Explanatory Note to Chapter 39 (page 716), and those having a low molecular weight were classifiable in subheading 3824.90.
3. The Iranian Delegate drew the Committee's attention to the relevant part of the "Condensed Chemical Dictionary" which explained the term "prepolymer" to be an adduct or a reaction intermediate of a polyol and a monomeric isocyanate, in which either component was in considerable excess of the other. He therefore felt that isocyanates in the form of an adduct should be excluded from Chapter 29 and classified on the basis of their molecular weight. Those with a higher molecular weight would fall in Chapter 39 and those with a lower molecular weight in subheading 3824.90.
4. Several other delegates suggested submitting the matter to the Scientific Sub-Committee for examination before a final decision was taken by the Committee.
5. One delegate expressed his preliminary views with regard to the questions set out in paragraph 23 to Doc. NC0632E1. He was of the opinion that polymeric isocyanates and mixtures of monomers, dimers and trimers would be classifiable in some cases in subheading 3909.30 and in other cases in subheading 3911.90. Mixtures of separately chemically defined organic compounds should be classified in heading 38.24. He further felt that the proposed amendment to subheading 2929.10, in connection with Note 1 to Chapter 29, would not be necessary.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The Committee, finally, agreed to send the matter to the Scientific Sub-Committee and to ask it to come up with suggestions as regards the questions set out in paragraph 23 of Doc. NC0632E1. The Scientific Sub-Committee was also asked to express its views on the classification of the various forms of isocyanates and on how prepolymers should be classified at heading and subheading level. The Scientific Sub-Committee was further asked to examine what the precise nature of isocyanate mixtures of monomers, dimers and trimers was, what their essential characteristics were, whether they still had the character of products of Chapter 39 and whether they could be regarded as prepolymers.
7. The Committee was informed that the references to subheading "2919.10" in paragraphs 1, 2 and 3 of Doc. NC0632F1 (French version) should read "2929.10".

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1	2	4
NC0633E1	Possible amendments to the Explanatory Note to heading 29.33 (Proposal by the Mexican Administration).	<u>See Annex L/21.</u>

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

1. Opening the discussion, the Delegate of Mexico explained that the first Subheading Explanatory Note on page 458 defined the term "derivatives" in a precise manner. Subheading 2933.52 covered malonylurea (barbituric acid) and its salts, but not their derivatives. The reference to that subheading in the Subheading Explanatory Note should therefore, in his administration's view, be replaced by "subheading 2933.54" covering other derivatives of malonylurea (barbituric acid) and salts thereof.
2. In addition, he stated that since subheading 2933.53 listed certain specific derivatives of malonylurea by chemical name, their classification was clear and he saw no need to refer to subheading 2933.53 in the title of the Subheading Explanatory Note. This view was supported by another delegate.
3. A third delegate pointed out that subheadings 2933.11 and 2933.21, mentioned in the title of the Subheading Explanatory Note, included parent compounds as well as derivatives thereof. In this connection, he expressed certain concerns as to whether the reference to subheading 2933.52, covering barbituric acid as a parent compound and its salts, should not be maintained in the title together with subheadings for derivatives of these compounds. He could, however, also accept deletion of the reference to subheading 2933.52 in the title. Furthermore, he preferred not to amend the reference to "barbituric acid" in the first sentence of the Subheading Explanatory Note.
4. In his view, the products of subheading 2933.53 were derivatives of barbituric acid since they retained the basic structure of barbituric acid and met the provisions of the Subheading Explanatory Note at issue. Therefore, he saw no obstacle to referring to subheading 2933.53 in the title of the Subheading Explanatory Note dealing with derivatives. On the other hand, he could go along with the views of the previous speakers and could also accept deletion of the reference to subheading 2933.53 from the proposed amendment to the title of the Subheading Explanatory Note.
5. The Director reiterated that the title of the Subheading Explanatory Note should refer to respective subheading code numbers covering derivatives. Given the fact that subheading 2933.53, as such, specifically listed certain derivatives, it did not need to be mentioned in the title of the Subheading Explanatory Note. He further explained that the first sentence of the Subheading Explanatory Note was a general statement characterising parent compounds of the derivatives at issue. Thus, the reference to "barbituric acid (subheading 2933.52)" was justified in that sentence and there was no need to amend it.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The Committee, finally, agreed not to amend the first sentence of the Subheading Explanatory Note and not to include the reference to subheading 2933.53 in the amendment to the title of the same Subheading Explanatory Note. Subject to these modifications, the Committee unanimously agreed to the text of the proposed amendment to the Explanatory Notes.
7. The text adopted is set out in Annex L/21 to this Report.

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1	2	5
NC0634E1 NC0648E1	Possible amendments to the Nomenclature with regard to the Rotterdam Convention (Proposal by the EC and the Interim Secretariat for the Rotterdam Convention).	<u>See Annex M/8.</u>

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

1. Opening the discussion, the Delegate of the EC reiterated that the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade was adopted at a Conference of Plenipotentiaries in Rotterdam on 10 September 1998. To date it had 73 signatories, 33 of them already deposited their instruments of ratification. It would enter into force as soon as 50 instruments of ratification had been deposited. He informed the Committee that the EC and its Member States already applied the Rotterdam Convention procedure. As the aim of this Convention was to protect the environment and to control products for which the trade was restricted, the serious environmental concerns of the international community served as a basis for the proposal to amend the HS Nomenclature.
2. He explained that the matter was put forward by the Interim Secretariat for the Rotterdam Convention with the support of the EC. The concrete proposals by the Interim Secretariat for the Rotterdam Convention and by the EC were reproduced in Annex I and in Annexes II and III to Doc. NC0634E1, respectively.
3. Given the extremely technical nature of the issue, he suggested that the matter be submitted to the Scientific Sub-Committee for examination. He expressed his hope that a representative of the Interim Secretariat for the Rotterdam Convention, which was not able to attend this Committee's session, could participate and contribute to the technical discussions of the Scientific Sub-Committee.
4. He further expressed the view that by the time when the nomenclature amendments for 2007 would be submitted to the Council, the Rotterdam Convention would be in force, since at the beginning of November 2002 it had already 33 of necessary 50 instruments of ratification deposited and 9 other signatories had indicated they would ratify it in the next few weeks. On the other hand, there was no reference to the Rotterdam Convention itself in the proposed nomenclature amendments. The fact that in June 2004 the Rotterdam Convention would not yet been in force should therefore not create difficulties for the Council in accepting the Nomenclature amendments which would, in fact, reflect environmental concerns.
5. With regard to Secretariat's comments in paragraph 29 of Doc. NC0634E1, a second delegate, pointed out that the Committee could apply the same approach as it had already applied in the past, e.g., with the nomenclature amendments concerning ozone layer depleting substances. If the proposed nomenclature amendments could not be introduced in 2007 Nomenclature, a new Council Recommendation regarding the Rotterdam Convention

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

could be prepared to be adopted by the Council as an interim measure. He felt that the Committee could have a parallel Draft Council Recommendation available for such a case.

6. The Director explained that there was no need to take a decision on that question at this meeting and the Committee could move to the new Council Recommendation at a later stage, if necessary. The Committee agreed with this suggestion.
7. In connection with the proposed nomenclature amendments set out in Annex IV to Doc. NC0634E1, the Delegate of the **EC** explained that they would :
 - (i) prefer to include dinoseb acetate and salts of 2,4,5 –trichlorophenoxyacetic acid in the nomenclature amendments despite that they were not listed directly in Annex III of the Rotterdam Convention. According to the “Decision Guidance Document” which provided clarification as regards the scope of coverage of that Convention (see paragraph 3 of Doc. NC0648E1) these chemical substances were also subject to the PIC procedure;
 - (ii) accept to use the word “containing” rather than “based on” in the proposed amendments to heading 38.08;
 - (iii) prefer to have three separate subheadings in headings 29.03 and 38.24 for polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) and polybrominated biphenyls (PBBs) and for mixtures and preparations containing them, respectively.
8. A second delegate agreed with the **EC** to include dinoseb acetate and salts of 2,4,5 –trichlorophenoxyacetic acid in the proposed Nomenclature amendments. Referring to Annex IV to Doc. NC0634E1, he raised questions as to whether :
 - (i) it would be necessary to include the “ISO” designations in the proposed amendments;
 - (ii) it would not be possible to modify the proposed text of subheading 2903.51, since it could give a false impression that it referred to three different chemicals;
 - (iii) camphechlor (proposed subheading 2903.52), being a complex mixture and not just a mixture of isomers, would not be classifiable in heading 38.08;
 - (iv) PCBs, PCTs and PBBs, being neither separate chemically defined compounds nor simple mixtures of isomers, would fall in heading 29.03 and not in subheading 3824.90;
 - (v) the classification of pesticides at subheading level in heading 38.08 would be correct, since some of the substances proposed to be listed in subheadings for insecticides and fungicides were so-called “multipurpose pesticides” which could fall in subheading 3808.90.
9. He also pointed out that the subheading codes proposed by the **EC**, which had been deleted since 1996, could be reused if the proposed Nomenclature amendment would enter into force on 1 January 2007, since a period of 10 years would have already elapsed by that time.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

10. Finally, the Committee agreed to submit the matter to the Scientific Sub-Committee for examination, asking it to express its views as regards the questions set out in paragraphs 65 and 66 of Doc. NC0634E1 and with regard to all of the comments on Annex IV to Doc. NC0634E1, expressed above.
11. The proposed texts, which were placed in square brackets, are set out in Annex M/8 to this Report.

* * *

1	2	4
NC0635E1	Possible amendment of the Explanatory Note to heading 95.05 (Proposal by the EC).	<u>See Annex L/23.</u>

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

1. The Committee decided to conduct only a preliminary examination of this question.
2. The EC Delegate pointed out that the EC's proposal for an amendment of the Explanatory Note to heading 95.05 also stemmed from problems encountered when translating the Explanatory Notes into a language other than French and English. He agreed with the Secretariat that the misalignments stemmed largely from different cultural practices in English and French speaking countries and indicated that he could basically support the Secretariat's approach for this issue to draft a new text for this Explanatory Note, as set out in the Annex to Doc. NC0635E1. This would be a very good starting point for solving this problem.
3. Another delegate supported this suggestion and pointed out in that connection that it would be preferable to delete the English expression "of a kind" from the Secretariat's draft.
4. The Committee finally agreed to place the texts proposed by the Secretariat in square brackets for re-examination at its next session.
5. The Committee also instructed the Secretariat to prepare a new document taking account of the views expressed during the meeting as well as any additional contributions by administrations.
6. The texts placed in square brackets are set out in Annex L/23 to this Report.

* * *

1	2
NC0636E1 NC0647E1	Classification of a Fanta beverage base.

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

At the request of the **US** Delegate, the Committee decided to postpone the discussion of this agenda item to its next session in May 2003.

* * *

1	2
NC0637E1	Classification of a "baby walker".

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

1. Opening the discussion of this agenda item, the Delegate of **Nigeria** noted that the article at issue was a multi-function product. Its use as a seat gave the whole its essential character, and the toys, casters, table and even the walker were of secondary use compared to what was the primary use (i.e., the seat). The **Nigerian** Administration felt that this article was purchased for use as a seat, and therefore classified it in subheading 9401.70, by application of GIRs 3 (b) and 6.
2. One delegate indicated that since this product was classified in, and met the terms of, heading 94.01 as a seat, it could not be classified in residual heading 94.03.
3. Several other delegates also supported classification in heading 94.01. However, they felt that since the article at issue, being a seat, fulfilled the conditions specified in the text of heading 94.01, it would be sufficient to apply GIR 1 directly when classifying the article in that heading.
4. A number of other delegates did not share that opinion. They felt that the Committee should confirm the Nomenclature Committee's decision (classification in heading 94.03), insofar as the article at issue had all the characteristics of a walker. It was indeed intended to help a baby walk rather than sit. In practice, the baby was more often in a standing than a seated position when in the walker. Moreover, the fabric serving as a seat was simply intended to prevent the infant from falling and the article, as presented to Customs, enabled the baby to move around in safety rather than to remain seated. For the above reasons, they felt that the article at issue could not be classified as a seat in heading 94.01, but was rather classifiable in heading 94.03.
5. When the question was put to a vote, the Committee decided, by 26 votes to 14, to classify the "baby walker" at issue in subheading 9403.70, by application of GIRs 1 and 6.
6. In order to reflect this decision, the Committee instructed the Secretariat to prepare a Classification Opinion for examination, in the first instance, by the next preessional Working Party.

* * *

1	2
NC0638E1	Classification of yarn put up in hanks.

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

1. Opening the discussion of this agenda item, the Delegate of **Ethiopia** presented the problem and pointed out that it was difficult to determine, simply by means of a visual inspection (independent of laboratory analysis), whether or not yarn put up in hanks was cross-reeled. As the yarn was already dyed, the hank at issue would not be used for dyeing, although the Explanatory Notes stated that cross-reeled hanks were principally used for that purpose.
2. The same delegate pointed out that the Customs laboratory consulted twice by the Secretariat had maintained its view that the product at issue was not a cross-reeled hank. This scientific view should consequently be followed and the yarn at issue should be classified as yarn put up for retail sale, by application of Note 4 (A) (b) (ii) to Section XI; the product not being covered by the exceptions listed in paragraph (B) of the said Note.
3. There was agreement in the Committee that the sole issue to be decided was whether the yarn in question was cross-reeled. If it was, the yarn should be classified in heading 55.09 by application of GIR 1 (Note 4 (B) (d) (i) to Section XI). If it was not, the product would be classified in heading 55.11 by application of GIR 1 (Note 4 (A) (b) (ii) to Section XI).
4. In this connection, the Committee agreed with the Delegate of **Ethiopia** that it was not always easy to determine with certainty, by means of a simple visual inspection, whether a hank was cross-reeled. It nevertheless felt that this question was not closely linked to a chemical analysis, but should rather be resolved by textile experts.
5. To that end, the Committee invited the **Ethiopian** Administration to submit four additional samples of the product at issue to the Secretariat. The latter was instructed to forward them to the Member administrations having volunteered, namely **Canada**, **Finland** (EC), **Mexico** and the **United States**, so that their national experts could examine them and, in full knowledge of the facts, answer the question of whether or not the product at issue constituted a cross-reeled hank.
6. The Committee decided to continue examining the classification of this product at its next session, on the basis of the views to be sent to the Secretariat by the relevant administrations during the intersession.

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1	2
NC0639E1	Classification of a cellular plastics-covered nonwoven.

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

1. At the request of one delegate, the Committee decided to conduct only a preliminary examination of this question only at this session.
2. The Delegate of **Iran** explained that cellular plastics-covered nonwovens could be classified either in Chapter 39 or in heading 56.03, by application of Note 1 (h) to Section XI and Note 3 (c) to Chapter 56. He felt that the Explanatory Notes would be clearer if, in the General Notes to Chapter 39, the part entitled "Plastics and textile combinations", item (d), second paragraph, a reference to nonwovens and felts were added in the English version to indicate that these provisions applied not only to fabrics, but also to felts and nonwovens.
3. It was pointed out that this proposal seemed logical and would clarify the texts. As to whether the French version should also be amended, the Delegate of the **EC** referred to the existing texts in the Explanatory Notes to Chapter 40 (pages 750 and 762) which already mentioned felts and nonwovens. He felt that it might be useful to align the texts of the Explanatory Notes to Chapter 39 on those of Chapter 40.
4. After this discussion, during which it was also pointed out that the product described in the working document should read "polyvinyl chloride" in English, the Committee asked the Secretariat to conduct an additional study on the texts at issue and instructed it to prepare a new working document for examination at its next session.

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1	2
NC0642E1	Classification of battery packs used in cellular (mobile) telephones.

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

1. The Committee considered the descriptions of the battery packs as presented in paragraph 10 of the working document. Several delegates indicated that neither Note 3 nor Note 4 to Section XVI were applicable, and that the classification of the battery packs should be in accordance with GIR 1.
2. By a vote of 40 to 0, with 2 abstentions, the Committee decided that both battery packs were classifiable in heading 85.07 by application of GIR 1. At the subheading level, the nickel cadmium battery pack was classifiable in subheading 8507.30 and the nickel hydride battery pack was classified in subheading 8507.80.
3. The Committee also agreed that two Classification Opinions should be prepared by the Secretariat for consideration, in the first instance, by the next pre-sessional Working Party.

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1	2
NC0646E1	Classification of a semi-automatic goods-vending machine – Scope of heading 84.76.

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

1. Given the late addition of this item to the Agenda, the Delegate of **Israel** suggested that the Committee initially limit itself to a preliminary examination.
2. He explained the reasons why his administration had classified the "semi-automatic goods-vending machine" at issue in heading 84.76. These included the fact that it contained a programmable microprocessor to manage the machine's various functions, including the device for adjusting the price of the beverages which it dispensed.
3. Referring to the extracts (photos and menus) from the instruction manual which his administration had made available to delegates during the session, he pointed out that the machine was designed, manufactured and used as a goods-vending machine and that, contrary to the argument put forward in paragraph 22 of Doc. NC0646E1, the absence of a coin collecting mechanism should not be taken into consideration when classifying the machine, as the machine in question could be delivered with such a mechanism installed or without the mechanism (in which case the mechanism could be installed later). The basic machine was the same. He therefore felt that at the time of importation, the machine imported without the coin collecting mechanism was an incomplete goods-vending machine within the meaning of GIR 2 (a).
4. As for the scope of the term "vending" in the text of heading 84.76, he felt that it would be more appropriate to give it the wider definition of "distribution", but added that this statement had no bearing on the Committee's classification of the machine at issue, given that at the time of importation it was already an incomplete vending machine within the meaning of heading 84.76.
5. At this stage in the discussion, the Director pointed out that it seemed clear from the above presentation that this was a machine designed for vending goods, which could be presented with or without a device for means of payment, and that the Secretariat would be willing to re-examine its views on the basis of the additional information which had now been supplied by the **Israeli** Administration.
6. The Committee therefore decided to continue its examination of this question at its next session.

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ANNEX IJ

OTHER BUSINESS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature Amendments
1	2	3	4	5
NC0643E1	List of questions which might be examined at a future session.	<u>See Annex P.</u>	<u>See Annex P.</u>	<u>See Annex P.</u>

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

1. The Committee took note of the information provided in Doc. NC0643E1.
2. A list, which contains all of the questions raised during the session for examination in greater detail at subsequent meetings, is reproduced in Annex P to this Report. This list also includes the question concerning the possible conflict between the classification of "Bonnet Bleu" and Classification Opinion 2106.90/21 (see paragraphs 37 and 38 of the body of this Report).

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