



HARMONIZED SYSTEM
COMMITTEE

NC0340E2

-
26th Session

(HSC/26/Nov. 2000)

O. Eng./Fr.

Brussels, 24 November 2000.

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

This Report is divided into six parts : Body of the Report + Annexes A to L
Annex M
Annexes N to R2
Annex S1 – volume 1
Annex S1 – volume 2
Annexes S2 to W

1. The Harmonized System Committee held its 26th Session from 13 to 24 November 2000 at the Headquarters of the World Customs Organization in Brussels under the chairmanship of Mr. J. HINDSDAL (Denmark).
2. The following 57 Members (56 Countries and one Customs or Economic Union) were represented :

Countries :

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

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The following 5 Members of the Council and 6 international organizations were represented by observers :

BENIN

GHANA

MAURITANIA

PHILIPPINES

YEMEN

INTERNATIONAL CHAMBER OF COMMERCE (ICC)

INTERNATIONAL CUSTOMS TARIFF BUREAU (ICTB)

SECRETARIAT OF THE BASEL CONVENTION - UNEP

SECRETARIAT GENERAL OF THE CO-OPERATION COUNCIL FOR THE ARAB STATES
OF THE GULF

UNITED NATIONS STATISTICS DIVISION (UNSD)

WORLD TRADE ORGANIZATION (WTO).

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

I. ADOPTION OF THE AGENDA

(Doc. NC0257E3)

5. The Committee decided to postpone the examination of four items to its next session, namely Items VII.4, VII.18, VII.19 and IX.2.

6. Subject to the foregoing, the Committee adopted the Agenda reproduced in Annex A to this Report. This Annex also serves as the Table of Contents.

II.1. POSITION REGARDING CONTRACTING PARTIES TO
THE HS CONVENTION AND RELATED MATTERS

(Doc. NC0259E1)

7. Mr. H. KAPPLER, Director of Tariff and Trade Affairs, congratulated Azerbaijan, Gabon and the Maldives on becoming new Contracting Parties to the HS Convention. He informed the Committee that, during the last Council Sessions (July 2000), a number of Directors General had told him that their administrations were actively working on accession to the HS Convention.
8. He also noted that the Council adopted the new HS-related WCO Recommendation on hand-made products in July, but not surprisingly, the Secretariat had not received any acceptances so far. He mentioned that the Slovak Republic should be added to the lists of acceptances of the WCO Recommendations on the Use of Standard Units of Quantity and on Reporting Trade Data to the UNSD. Finally, he urged Contracting Parties to consider the acceptance of the HS-related WCO Recommendations and to send the Secretariat the latest versions of their Customs tariffs or statistical nomenclatures.
9. The EC Delegate pointed out that, especially for the purposes of trade negotiations and tariff arrangements (e.g., WTO agreements, the Generalised System of Preferences), it was very important to know which Contracting Parties had not yet implemented the 1996 version of the HS. However, this was not clear in the working document. In addition, the normal procedure for the acceptance of HS-related WCO Recommendations was to send a formal notification to the Secretary General. The Secretariat should, therefore, invite those administrations which had announced the acceptance of certain recommendations in the HS Committee or at Council Sessions to send a notification to the Secretariat in writing. Finally, he requested the Secretariat to amend the last column of the Annex to the working document for member States of the EC, as the latest versions of the EC Combined Nomenclature communicated to the WCO Secretariat in all of the EU languages was the 2000 version.
10. Drawing the attention of the Committee to paragraph 3 of the working document, the Director clarified that Rwanda and Sudan had not yet informed the Secretariat about the date of implementation of the HS 1996. The Director also invited the administrations which had announced the acceptance of recommendations in meetings to send formal notifications to the Secretariat. Otherwise, such administrations would be deleted from the Annex to the next working document on this standing Agenda item.
11. As regards the Contracting Parties whose date of implementation of HS 1996 was indicated in square brackets in Doc. NC0259E1, i.e., Egypt, Gabon and the Maldives, the Director explained that, since these countries had not notified the Secretariat of a specific date regarding the entry into force of the Convention in respect of them, the date indicated was to be regarded as the implementation date in accordance with the provisions of Article 13 of the HS Convention.
12. The Delegate of Egypt stated that his Administration would soon be sending a letter to the Secretariat clarifying that it had already implemented the HS 1996.

13. The list of Contracting Parties to the HS Convention and the list of administrations applying a tariff or nomenclature based on the HS, as of 24 November 2000, are reproduced in Annexes B/1 and B/2 to this Report, respectively.

II.2. REPORT ON THE MEETINGS OF THE POLICY COMMISSION (43rd Session)
AND THE COUNCIL (95th and 96th Sessions)
(Doc. NR0105E1)

14. The Director emphasized some of the most significant discussions at the July meetings of the Policy Commission and the Council, which were eventful ones from the standpoint of the Harmonized System.
15. The Director informed the Committee that the prominence given to the Harmonized System passing the 100-member milestone at the Council prompted a number of Directors General to assure the Secretariat that their administrations were also well advanced in the process of becoming Contracting Parties.
16. The Council approved a revised WCO Strategic Plan, which included the updating and improvement of the HS Explanatory Notes to reflect changes in technology and trade patterns. In this connection, the Director noted that, acting on the Council's recommendation, a concrete proposal was being included in the Secretary General's report to the Policy Commission for approval at its December Session.
17. The Council had approved the Council Recommendation on hand-made products, on which the Committee and its Review Sub-Committee had spent a long time at past meetings.
18. With regard to the use of additional languages as working languages for the Harmonized System, the Director felt that, with due regard to the decisions taken by the Council, very little progress would be made toward the use of Spanish as a working language for the HS until after the next Council Sessions in June 2001. On the other hand, the Council had agreed in principle to accept the use of Russian as a working language for the HS, bearing in mind the generous offer by the Russian Federation with regard to funding the initiative. Reporting on the Secretariat's efforts in exploring the Russian proposal with the Russian administration, the Director pointed out that there were many questions that needed to be settled before work on this matter could begin, including various issues regarding the scope of the undertaking. He assured the Committee that it would be fully informed of all further developments. With regard to the use of other additional languages (e.g., Arabic), the Policy Commission was instructed to develop a set of specific criteria in order to facilitate the examination of any future request and to suggest how best to deal with the funding difficulties associated with the adoption of additional languages in the current budgetary environment.
19. In respect of the Council's approval of placing the HS Explanatory Notes and the HS Commodity Data Base on the WCO Web site on a subscription basis, the Director indicated that the fee structure would be re-examined after one year and the Secretariat hoped to have these publications up on the Web site by early January 2001.
20. The Committee took note of the information contained in Doc. NR0105E1 and the latest developments highlighted by the Director.

II.3. APPROVAL OF DECISIONS TAKEN BY
THE HARMONIZED SYSTEM COMMITTEE AT ITS 25th SESSION

(Docs. NG0018E1 and NC0261E1)

21. The Committee took note of the communication from the Secretariat that the decisions taken by the Committee at its 25th Session were deemed approved by the Council, in accordance with Article 8.2 of the Harmonized System Convention, except for the following four decisions in respect of which reservations had been entered by the named administrations :
- One by the Argentine Administration concerning the "classification of the "Color QuickCam"" (Doc. NC0250E2/H/5).
 - One by the Australian Administration concerning the "classification of "high fat cream cheese"" (Doc. NC0250E2/H/10).
 - One by the Brazilian Administration concerning the "classification of the "TATA SUMO 483" motor vehicle"" (Doc. NC0250E2/H/15).
 - One by the Polish Administration concerning the "classification of a tobacco mixture known as "Basic Blended Strip"" (Doc. NC0250E2/IJ/20).
22. These questions would be re-examined by the HSC under Agenda Items VII.5, 6, 7 and 8.
23. One delegate wondered whether the statement made in the fourth paragraph of the working document (NC0261E1) concerning the procedure followed for re-examining HSC decisions (reservations) did not in fact run counter to Article 8 of the HS Convention. In his opinion, the fast-track procedure should only be envisaged in cases where the Council did not meet between the two HSC sessions. If this were not the case, all reservations should be systematically submitted to the Council.
24. In response, the Director stated that the Secretariat was of the view that, based on Rule 20 of the HSC's Rules of Procedure (in accordance with Council Decision No. 298), there was no limitation on the use of the fast-track procedure. In other words, at the option of the reserving administration, a request to refer a question directly back to the Committee could be made at any time.
25. In light of the foregoing and in order to provide Contracting Parties with more information, the Secretariat agreed to carry out a study on the matter for examination by the Committee at its next session.

II.4. TECHNICAL ASSISTANCE ACTIVITIES OF THE NOMENCLATURE
AND CLASSIFICATION SUB-DIRECTORATE

(Doc. NC0262E1)

26. The Director explained that the Secretariat funded its technical assistance activities in two basic ways : the Customs Co-operation Fund and the so-called Japan Fund. He specially thanked the Japanese Administration for supporting the Secretariat's training programs. He also thanked Iran for sponsoring a series of mini-regional seminar for the Council (not only on the HS, but also other issues) over the past year. He noted that, in the case of Iran, a developing country had shared its facilities and resources to host a regional seminar for developing and developed countries alike.
27. He pointed out that information on the Secretariat's planned technical activities for the current Council year could be found on the Members' Web site.
28. He explained that the Secretariat planned its technical assistance activities early in the calendar year. Therefore, if any administration wanted the Secretariat to provide a program for the next Council year, the Secretariat should be informed as soon as possible, preferably by the end of this year.
29. Finally, if there were any administrations that could provide assistance to Uganda, Chile, Malawi and Zambia this year, they were urged to do so.
30. The Chairman also thanked the Japanese Administration for its support. He drew the attention of the Committee to the fact that at least 60 countries had benefited from the seminars provided by the Secretariat during the last Council year. He noted that the seminars for the current year should give a special emphasis to the HS 2002 amendments.
31. Belarus, Brazil and China thanked the Secretariat for organizing HS seminars in their countries.
32. The Delegate of Switzerland informed the Committee that his Administration had organized an HS seminar in Côte d'Ivoire in September 2000. The seminar consisted of 184 lessons on classification rules and 38 lessons on training methods. Twenty officers from nine African countries and one officer from Haiti attended the seminar.
33. The Delegate of Australia informed the Committee that his Administration had arranged an HS seminar in Brunei Darussalam, in co-operation with Japan. Two Japanese and one Australian officer gave lectures to 25 officers of the Brunei Darussalam Administration.
34. The Chinese Delegate informed the Committee that the UK and his Administration organized training courses for Chinese Customs officers this year. He also expressed his thanks for the technical assistance from the UK.

35. The Delegate of Japan expressed appreciation for the Secretariat's efforts with regard to organizing technical assistance activities on the HS. She informed the Committee that her Administration would continue to support these activities, in co-operation with the Secretariat.

II.5. CO-OPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS

(Doc. NC0263E1)

36. The Committee took note of the information provided by the Secretariat concerning co-operation with other international organizations.
37. The Director made special note of the continued assistance provided by the International Chamber of Commerce (ICC), the Secretariat's participation in the ITA meetings in Geneva as well as assistance to the UNSD with regard to the preparation of the Compilers Manual.
38. He also mentioned that the ITA issue had come up during the WCO Open Days for international trade, held on 6 and 7 November 2000, and that he had informed the participants to that meeting that the WCO had offered the WTO any assistance they might need with regard to eliminating any non-uniformity in the classification of ITA products. Geneva had not yet taken the WCO up on that offer. He had also invited any administrations that might be concerned about such non-uniformity to bring their concerns to the HSC.
39. Finally, the Director regretted not mentioning the co-operation extended by the International Dairy Federation (IDF) during the intersession with regard to the question of the classification of high fat cream cheese in Doc. NC0263E1. He thanked the IDF for all the assistance they have provided over the years.
40. The Representative of the WTO explained the status of the implementation of the HS 1996 amendments in the WTO schedules of tariff concessions. This had been a long process and progress had only been achieved gradually. While many members had now completed the process, there were still many who remained under waiver, more than 20, or who had not submitted the necessary documentation. Work had been hindered due to the large number of HS 1996 changes and also due to problems related to procedures in the WTO. During the past year, the Market Access Committee in the WTO had intensified its efforts by holding numerous informal meetings to address the problems encountered in the HS 1996 exercise. This approach had been very fruitful and was expected to continue in the coming months, so that all HS 1996 changes could be finalized in the WTO schedules.
41. With regard to HS 2002, she informed the Committee that the Market Access Committee was examining ways to improve or streamline the process of introducing HS 2002 changes in the WTO schedules. She also indicated that the HS 2002 changes had been circulated in the WTO document G/MA/W/24 and stressed that the members of WTO would need the Correlation Tables urgently to commence their work.
42. The Representative of the ICC thanked the WCO and specially the Director for his support and guidance. He also indicated that during this year, the ICC had the privilege of providing several experts to make presentations and to provide documentation for the use of

the Secretariat's technical staff on issues under discussion by the HSC. The ICC looked forward to continuing this partnership in 2001.

II.6. CO-OPERATION WITH THE TECHNICAL COMMITTEE ON RULES OF ORIGIN

(Doc. NC0264E1)

43. The Committee took note of the developments in the Technical Committee on Rules of Origin, as set out in Doc. NC0264E1.

II.7. DEVELOPMENT OF HS AUDIO-VISUAL TRAINING MATERIALS

(Doc. NC0265E1)

44. The Director informed the Committee that the "Harmonizer" CD-ROM had been available for sale since July 2000 and that current sales of the CD-ROM were quite good considering that about 220 CD-ROM's had been sold as of mid-November. He added that the CD-ROM had been demonstrated during the last Open Days for Trade and that it was now available for purchase via credit card.
45. Responding to the question as to whether other language versions would be made available in the future, the Director stated that the preparation of other language versions would be difficult since it had not been budgeted, but could be considered in the future together with the issue of additional working languages for the Harmonized System.

II.8. PUBLICATION OF THE CLASSIFICATION HANDBOOK

(Doc. NC0266E1)

46. The Director announced that the Classification Handbook was in the final stages of preparation and, hopefully, would be printed by the end of this year or early next year. Referring to the Table of Contents of the Handbook set out in the Annex to the working document, he explained that the Handbook basically contained all of the most useful information about the HS in one handy place. He noted that the Secretariat would make the Handbook available in loose-leaf form so that it could be easily updated in accordance with the changes in the information it contained. The only confidential information in the Handbook was the List of Contact Points and that information would not be made available in the version to be sold to the public.
47. The US Delegate pointed out that the List of Contact Points ought to be a very important source of information to the Members, as it provided them the opportunity to contact each other. He asked the Secretariat to regularly update the information that the List contained and urged Members to inform the Secretariat of any changes as soon as they occurred.

II.9. NEW INFORMATION PROVIDED ON THE WCO WEB SITE

(Doc. NC0312E1)

48. One delegate suggested including the invitation to attend the Harmonized System Committee's Session on the Members' Web site, while another delegate indicated that the "webmaster" address should be better indicated.
49. The Committee supported these suggestions and took note of the information set out in Doc. NC0312E1.

II.10. OTHER

50. In connection with the HS-related Recommendations of the Council, the Director mentioned that the Recommendations would need to be updated to reflect the 2002 version of the HS. The Secretariat will be preparing an update as soon as the Correlation Tables are finalized and draft amendments would then be submitted to the Committee at its next session.
51. One delegate indicated that the Alphabetical Index would also have to be updated to take account of the 2002 amendments. The Director replied that the Secretariat would do so in 2001. The Committee took note of these statements.

III. GENERAL QUESTIONS

52. The Committee's conclusions concerning Agenda Item III are reproduced in Annexes C, M/1 and M/2, O, R/2 and S/3 to this Report.

IV. RECOMMENDATIONS

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

V. REPORT OF THE HS REVIEW SUB-COMMITTEE

(22nd Session)

54. The Harmonized System Committee examined the conclusions reached by the Review Sub-Committee at its 22nd Session.
55. The results of this examination are reproduced in Annexes E, S/2, S/4 to S/7, T, and U to this Report.
56. On behalf of the Committee, the Chairman thanked the HS Review Sub-Committee and its Chairman for the excellent work accomplished at the 22nd 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 preessional meeting. The conclusions of the Committee are reproduced in Annex F to this Report.
58. The texts finalized by the Working Party and adopted by the Committee are set out in Annexes P/3 to P/13 to this Report.
59. On behalf of the Committee, the Chairman congratulated the Chairman of the Working Party and its Members on their excellent work.

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

60. The Committee's conclusions concerning Agenda Items VII, VIII and IX are reproduced in Annexes G, H, I/J, P/14 to P/16 to this Report.

X. AMENDMENTS TO THE EXPLANATORY NOTES CONSEQUENTIAL UPON THE ARTICLE 16 RECOMMENDATION OF 25 JUNE 1999 (COMPREHENSIVE TEXT)

61. The Committee's conclusions concerning Agenda Item X are reproduced in Annexes K, S/1 and S/8 to this Report.

XI. OTHER BUSINESS

STAFF CHANGES IN THE NOMENCLATURE AND CLASSIFICATION SUB-DIRECTORATE

62. The Director informed the Committee that Mr. R. CASTIAUX (Belgium) had recently joined the Secretariat as a new Technical Officer. Mr. Castiaux is a former Technical Attaché who has replaced Mr. G. BORSU who recently returned to the Belgian Administration. The Director welcomed Mr. Castiaux to the Secretariat and to the work of the Committee. He also thanked Mr. Borsu for his outstanding services and wished him all the best in his future endeavours.

DEATH OF Mr. VANDEPLASSCHE

63. On a sad note, the Director informed the Committee of the death earlier this year of Mr. Gérard VANDEPLASSCHE of Belgium, one of the founding fathers of the Harmonized System. On behalf of the Committee and the Secretariat he expressed condolences to Mr. Vandeplassche's family.

XII. ELECTION OF CHAIRMAN OF THE WORKING PARTY AND CHAIRMAN
AND VICE-CHAIRMAN OF THE HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

ELECTION OF CHAIRMAN OF THE WORKING PARTY

64. On the proposal of the Director, the Committee unanimously elected Mr. C.E. (Ed) DE JONG (Netherlands) as Chairman of the Working Party.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN OF
THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE

65. On the proposal of the Director, the Committee unanimously re-elected Mr. D. BECK (United States) as Chairman of the Review Sub-Committee.
66. On the proposal of the Director, the Committee unanimously re-elected Mr. C.E. (Ed) DE JONG (Netherlands) as Vice-Chairman of the Review Sub-Committee.

XIII. DATES OF NEXT SESSIONS

67. The provisional dates of the next meetings of the Scientific Sub-Committee, the Review Sub-Committee, the Working Party and the Harmonized System Committee are as follows :
- (a) Scientific Sub-Committee (16th Session)
- Monday, 15 January 2001 (10 a.m.) to
Friday, 19 January 2001
- (b) Review Sub-Committee (23rd Session)
- Monday, 19 March 2001 (10 a.m.) to
Friday, 23 March 2001
- (c) Working Party
- Wednesday, 2 May 2001 (10 a.m.) to
Friday, 4 May 2001

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(d) Harmonized System Committee (27th Session)

Monday, 7 May 2001 (10 a.m.) to
Friday, 18 May 2001.

J. HINDSDAL,
Chairman.

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ANNEX B/1

LIST OF CONTRACTING PARTIES
TO THE HARMONIZED SYSTEM CONVENTION

Situation as of 24 November 2000

(101 countries and 1 Customs or Economic Union)

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

* * *

ANNEX B/2

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

Situation as of 24 November 2000

(Total 179)

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

Notes :

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

x Indicates application only.

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

* * *

ANNEX C

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0267E1 NC0333E1 NC0343E1	Development of Correlation Tables.			<u>See Annexes M/1 and M/2.</u>

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

1. With respect to the Introduction to the Correlation Tables, the Committee unanimously agreed with the text presented in Annex V to Doc. NC0267E1. In this connection, the US Delegate noted his agreement with the statement set out in paragraph 2 of Doc. NC0267E1 that "individual Member administrations might have classified products differently in actual practice from the classifications shown in the Correlation Tables". He stressed that the Correlation Tables did not represent or constitute the formal expression of classification decisions taken by the Committee, and that the Tables should simply be a guide published by the Secretariat. Finally, any examination of the Tables by the Committee should be informal and should not result in an official decision for submission to the Council under the terms of Article 8.2 of the HS Convention.
2. The EC Delegate endorsed the introduction to the Correlation Tables proposed in Annex V to Doc. NC0267E1. He did not support the idea put forward by a delegate at the Committee's 25th Session that the introduction should contain a statement indicating that certain Member administrations might have classified products differently in practice from the classifications shown in the Tables. This could harm the image of the Harmonized System Committee, as it might mistakenly be thought that the Committee had been aware of differences in classification and had done nothing or had not succeeded in ensuring the uniform application of the HS Nomenclature. The EC, therefore, wished to maintain the consensus that had been reached between all the Contracting Parties when preparing the Correlation Tables between the 1992 and 1996 versions of the HS contained in Annex F/1 to Doc. 38.760.
3. The Committee agreed with the proposed amendments to the Tables, set out in Annex I to Doc. NC0267E1 (taking into account the corrections contained in Doc. NC0343E1 and the additional information received from Japan (Doc. NC0333E1)), except for the amendments proposed for subheadings 4601.10, 4805.24 and 4805.25, and 4810.29, 4810.31, 4810.32, 4810.39, 4810.92 and 4810.99 in Table I and subheadings 4601.10 and 4805.10 in Table II. The Committee further agreed with the proposal set out in

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex III to Doc. NC0267E1 concerning the references for the subheadings of heading 29.37 and with the references for heading 38.22, as set out in Option 2 of Annex IV to Doc. NC0267E1 (noting that Chapter 41 should also be mentioned).

4. Finally, the Committee agreed with the suggestion of the EC Delegate that, in the future, to the extent possible, Correlation Tables should be produced at the time the Committee provisionally adopts new legal texts.
5. The Representative of the UNSD appreciated the work done by the HS Committee and stressed the importance of the Tables for other international organizations. On the basis of the Tables he would work on the amendments to SITC Rev. 3.
6. The agreed Correlation Tables are set out in Annexes M/1 and M/2 to this Report.

* * *

1	2
NC0268E1	The application of Harmonized System Committee decisions.

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

1. The Chairman introduced Doc. NC0268E1, including the draft Council Recommendation on the application of HSC decisions set out in the Annex to the working document.
2. The Director explained that, among the options for improving transparency regarding the implementation of HSC decisions, the Secretariat had concentrated on the draft Council Recommendation, which incorporated all elements discussed at the last session. Inviting comments and other ideas on how to improve transparency, he indicated that the Recommendation could be improved by more strongly encouraging Contracting Parties to accept the decisions of the HS Committee.
3. There was general support in the Committee for the efforts to achieve greater transparency and uniformity regarding the implementation of HSC decisions by way of a Council Recommendation. One delegate pointed out that this represented an improvement based on several years of work by the HSC in this regard. It was also pointed out that a Council Recommendation would enable decisions adopted by administrations to be made better known to economic operators. In this regard, the Representative of the ICC thanked the HS Committee for taking this step toward greater transparency. He stated that the Council Recommendation would help to provide important information for the international trade community.
4. With regard to the contents of the draft Council Recommendation, the following points were put forward by delegates :
 - 4.1. It was pointed out that the title of the Recommendation should read "... ON THE IMPLEMENTATION OF DECISIONS " instead of "... ON THE APPLICATION OF CLASSIFICATION DECISIONS ...".
 - 4.2. It was suggested that the full text of Article 8.2 of the HS Convention should be used to replace the reference to "HSC classification decisions" in the "RECOMMENDS" paragraph of the draft Recommendation, so as to give full coverage to all those decisions, including the Explanatory Notes, Classification Opinions and other advice on the interpretation of the HS, etc., prepared by the HSC. The Director pointed out that the "NOTING" paragraph had taken care of that concern, but indicated that the Secretariat would take this proposal into consideration in the redraft of the Recommendation. It was also agreed to replace the word "approved" by "deemed to be approved", to align on the text of Article 8.2 of the HS Convention.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- 4.3. One delegate suggested that a phrase should be added in the "RECOMMENDS" paragraph of the draft Recommendation to provide that the obligation to notify non-application should be subject to national legislative procedures. He indicated that this additional condition would be necessary to encourage as many Contracting Parties as possible to accept the Recommendation. In this connection, another delegate suggested that this concern could be addressed more properly in the "CONSIDERING" paragraph of the draft Recommendation. The Committee agreed.
- 4.4. In regard to the time limit for notification of non-application, one delegate indicated that, although the obligation would be fulfilled in good faith and all administrations were expected to notify as to non-application as soon as possible, national situations could sometimes prevent administrations from complying within the six-months period, as suggested in the draft Recommendation. Therefore, his administration preferred to adopt a flexible approach by using the term "a reasonable period of time" instead of a specified time period. Other delegates, although also in favour of introducing some flexibility, preferred to maintain a definite time limit and it was suggested that a maximum of 12 months after the Council's deemed approval of an HSC decision would be more appropriate. The Chairman noted that the six-months period was comparable to the provision regarding a six-months period stipulated in Article 16.3 of the HS Convention.
- 4.5. In respect of the final paragraph requesting administrations to publish their classification decisions on the Internet, one delegate clarified that this request was not included in the "Recommends" part of the Recommendation and therefore should not be read as an obligation, merely a request, since some administrations did not have access to the Internet. Another delegate suggested that the "REQUESTS" paragraph should be expanded to refer to free and easy electronic access on Members Web sites. In this connection, it was pointed out that, Web site access was not available, administrations could be requested to make their classification decisions, which were already published in their official gazettes, available to other administrations.
- 4.6. The Director remarked that it would be better to keep the present wording in its general terms, bearing in mind that publication of classification decisions on the Internet was meant to be in an easily accessible form and that Members would be requested to do so as far as possible. The Chairman and the Delegate of Morocco also informed the Committee that their administrations were currently considering putting their classification decisions on their Web sites.
5. The Committee agreed to a proposal that the examination of the draft Council Recommendation should be completed at the next session so that it could be submitted to the Council for approval in June 2001. For that reason, the Chairman urged all administrations to submit their suggestions in writing to the Secretariat as soon as possible, so as to enable the Secretariat to prepare and circulate a revised version of the draft Council Recommendation for Members' comments well in advance of the next session of the Committee.

* * *

1	2	3	4	5
NC0269E1	Corrigendum amendments to the Article 16 Recommendation of 25 June 1999.	<u>See Annex R/2.</u>	<u>See Annex S/3.</u>	<u>See Annex O/1.</u>

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

1. With the exception of the text of subheading 9021.10, which would be reviewed at the next session, the Committee unanimously approved the corrigendum amendments to the Article 16 Recommendation of 25 June 1999 as proposed in the Annex to Doc. NC0269E1.
2. The texts approved are set out in Annexes O/1 (Amendments to the legal texts), S/3 (Amendments to the Explanatory Notes) and R/2 (Amendments to the Compendium of Classification Opinions) to this Report.

* * *

1	2
NC0313E1	Use of information technology to speed-up decisions by the Harmonized System Committee.

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

1. Explaining the background of this Agenda item, the Director proposed that the Committee should begin a discussion on how to further streamline working methods and how to better use the information technology available to do its work more effectively and efficiently. He outlined three initiatives currently being explored by the Secretariat, namely, to publish the Secretariat's classification advice on the Members WCO Web site, to create a "virtual classification forum" on the Web site to allow for the exchange of views via the Internet and to use the Internet to allow for "virtual meetings", e.g., to hold certain working groups electronically. He stressed that these means of communication would be in addition to the normal means of communication currently used by the Secretariat. For the time being, the Committee was merely being asked to take note of these developments and to submit any suggestions for expediting the work of the Committee and the Secretariat, particularly with a view to the greater and more effective use of modern information technology.
2. The Committee took note of the information provided in Doc. NC0313E1 and by the Director.

* * *

1	2
NC0328E1	UN/SPSC Commodity Classification System.

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

1. The Director, while indicating the Secretariat's concern vis-à-vis the introduction of the UN/SPSC classification system, invited administrations to provide feedback on any problems encountered in this respect. He also invited the Committee to indicate what further action should be taken, if any.
2. The Observer for the UNSD shared the concerns expressed by the WCO Secretariat, pointing out that the UN had several commodity classification systems based on the Harmonized System. He was, however, not aware whether the UN/SPSC had actually been implemented and whether there were any problems as a result.
3. One delegate pointed out that the working document had only been published recently, and that he, therefore, was not yet able to provide the requested feedback.
4. Taking note of the late publication of this document, the Chairman invited administrations to inform the Secretariat of any problem they might encounter in this respect, and asked the Secretariat to determine whether the system was actually being applied. Based on this information and pending a possible response from UNDP, the Committee agreed to continue discussions of this issue at its next session.

* * *

ANNEX D

RECOMMENDATIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0270E1 NC0339E1	Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the draft Protocol concerning firearms covered by the UN Convention against transnational organized crime.			<u>See Annex N.</u>

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

1. Opening the discussion, the Delegate of Canada suggested deleting the part of the Preamble referring to the possible grouping of certain subdivisions, given the fact that the number of subdivisions requested had already been reduced. In this context he reminded delegations that a detailed commodity listing was necessary in order to be able to monitor and control the goods at issue. However, at the suggestion of the EC Delegate the Committee agreed to leave the text at issue in square brackets, thus allowing delegations time to reflect on this matter during the intersession.
2. The Delegate of Canada agreed with the suggestions put forward by the Secretariat in paragraphs 5 to 7 of Doc. NC0270E1, i.e., to refer in the French version to "Fusils et carabines comportant au moins un canon lisse" as the equivalent of "Shotgun" in the English version, and to "Fusils et carabines" as the equivalent of "Rifles". While he could also accept deleting references to "other" in subheadings 9303.10, 9303.30, 9305.10 and 9305.29 (paragraphs 9 to 13 of Doc. NC0270E1), he could not accept the Secretariat's suggestion to delete the last entry referred to in subheading 9305.90.
3. With respect to the French text proposed for subheading 9305.91, he suggested to refer to "De mitrailleuses, de mitraillettes, ou de fusils et carabines comportant au moins un canon lisse". Other delegates were of the view that the part "comportant au moins un canon lisse" would restrict the scope of this entry in the French version, and would no longer be in alignment with the scope of the English text. Pending further discussions at the next session, this text was placed in square brackets.
4. The EC Delegate questioned whether it was possible to recognize the various commodities. In this context he also suggested that the Committee first classify the various

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

items before taking a final decision on the draft Recommendation. This view was shared by a number of other delegations.

5. The Delegate of India stated that in Article 2 of the Protocol on firearms under the UN Convention, the definition of “firearms” did not cover “explosives”, the smuggling of which into India was posing a serious problem. Moreover, the wording “any other weapon or detonating device” had been placed in square brackets for deletion. There was a need for widening the scope of the definition of “firearms” to include “explosives”, according to the Delegate of India.
6. It was pointed out by the Secretariat that the title of the Firearms Protocol had been changed recently, the revised title now reading : “Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime” (French : “Protocole contre la fabrication et le trafic illicites d’armes à feu, de leurs pièces, éléments et munitions additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée”). The reference in the draft Recommendation was amended accordingly.
7. The Secretariat further informed the Committee that the United Nations General Assembly had adopted a parent Convention on transnational organized crime and two related Protocols on 15 November 2000. At the same time, a resolution was adopted giving the Ad Hoc Committee a mandate to continue the negotiations on the Firearms Protocol, aiming at the earliest possible completion. The Secretariat also distributed the latest version of the draft Firearms Protocol, dating from the 9th Session of the Ad Hoc Committee (Vienna, 5 – 16 June 2000).
8. Finally, the Committee adopted the Secretariat’s suggestion to take into account the amendments to the HS which would come into force on 1 January 2002, in the draft Recommendation. (Note of the Secretariat : in the texts contained in Annex N no reference is made to subheading 9305.99, given the fact that a transposition from the original text (HS 1996) would lead to a single entry called “Other”.)
9. The Chairman invited administrations to submit their comments to the Secretariat as soon as possible, to allow the Secretariat time to prepare a document to be discussed at the next session.
10. The draft Recommendation, as amended, is set out in Annex N 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
NR0133E2 NC0271E1	Report of the 22 nd Session of the HS Review Sub-Committee. Matters for decision by the Harmonized System Committee.		See Annexes S/4 to S/7 and U.	See Annexes O/2 and T/1 to T/6.

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

1. The Committee examined the questions arising from the Report of the 22nd Session of the Harmonized System 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. NR0133E2).

Annex B/1 – Report on the meetings of the Policy Commission (43rd Session) and the Council (95th and 96th Sessions)

3. The Committee took note of the conclusions of the Review Sub-Committee.

Annex B/2 – Scope of the 3rd HS Review Cycle

4. The Committee endorsed the conclusions of the Review Sub-Committee on the scope of the 3rd HS Review Cycle.

Annexes C/1 and E/1 – Amendment of the HS 2002 Explanatory Notes arising from the classification of bitter limes referred to as “*Citrus latifolia*” and “*Citrus aurantifolia*” in subheading 0805.50

5. The Committee unanimously adopted (for HS 2002) the amendments set out in Annex E/1 to Doc. NR0133B2.
6. The texts adopted are set out in Annex S/4 to this Report. These texts were also inserted in the “Comprehensive Text” in Annex S/1 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes C/2 and E/2 – Amendment of the Explanatory Note to heading 40.10

7. This question was considered by the Committee under Agenda Item V.3 (see Annexes E/2 and S/2).

Annexes C/3 and E/3 – Amendment of the Explanatory Notes to Chapter 41

8. With respect to the texts placed in square brackets by the Sub-Committee, the Committee decided to delete :
- (i) the term “light” from the Explanatory Notes to headings 41.01, 41.02 and 41.03;
 - (ii) the term “into leather” from the Explanatory Notes to headings 41.04, 41.05 and 41.06 (English text only); and
 - (iii) the term “bastards” from the French version of the Explanatory Notes to headings 41.05 and 41.12.
9. Subject to certain minor editorial modifications, the Committee adopted (for HS 2002) the amendments set out in Annex E/3 to Doc. NR0133B2.
10. The texts adopted are set out in Annex S/5 to this Report. These texts were also inserted in the “Comprehensive Text” in Annex S/1 to this Report.

Annexes C/4 and E/4 – Amendment of the Explanatory Note to heading 85.25

11. With regard to the texts placed in square brackets by the Sub-Committee, the Committee decided to :
- (i) keep the term “or digital” in the first paragraph of part (1). Consequently, the square brackets around this term were removed;
 - (ii) delete the term “external” and the last sentence “The signals may also be transmitted by telephone line” from the second paragraph of part (1); and
 - (iii) delete the expression “on internal storage media” from the first sentence of the first paragraph of part (3).
12. In this context, the Committee also considered a US proposal concerning certain modifications to the text proposed by the Review Sub-Committee. The Committee decided to replace the following portions of the texts with the texts proposed by the US, subject to certain drafting changes :

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- (i) Third paragraph of part (1);
- (ii) Second sentence of the first paragraph of part (3); and
- (iii) Second and third sentences of the second paragraph of part (3).

13. Subject to the above, the Committee adopted (for HS 2002) the amendments set out in Annex E/4 to Doc. NR0133B2.

14. The texts adopted are set out in Annex S/6 to this Report. These texts were also inserted in the "Comprehensive Text" in Annex S/1 to this Report.

Annex D/1 – Possible amendments to the Nomenclature regarding the classification of sauces

15. The Committee took note of the conclusions of the Review Sub-Committee.

Annexes D/2 and E/5 – Possible amendments to the Nomenclature to clarify the distinction between headings 19.05 and 20.05

16. Subject to the deletion, from the French text, of the expression "ordinaire ou fine" which did not appear in the text of heading 19.05, the Committee provisionally adopted (for HS 2007) the amendments set out in Annex E/5 to Doc. NR0133B2.

17. The texts provisionally adopted are set out in Annex T/2 to this Report.

Annexes D/3 and E/6 – Possible amendments to Note 1 (c) to Chapter 41 regarding hides and skins of camels

18. The Chairman pointed out that the present Note 1(b) to Chapter 51 made a reference to the hair of "camel", noting that this Note would perhaps need to be amended as well. Further, another delegate wondered whether the proposed amendments would result in any product transfer from other headings of the Nomenclature.

19. Therefore, the Committee decided to refer the matter back to the Review Sub-Committee to study the above questions.

Annexes D/4 and E/7 – Proposal by the Canadian Administration to amend the Nomenclature and Explanatory Notes to Chapter 54

20. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session, following examination by the Scientific Sub-Committee at its 2001 Session.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex D/5 – General study of Note 5 to Chapter 84

21. Pursuant to the provisions of paragraph 8 of Article 6 of the HS Convention, the Committee unanimously decided to establish a Working Group with a view to updating and clarifying Note 5 to Chapter 84. The Working Group would report directly to the Review Sub-Committee.

Annex D/6 – Possible amendments to the Nomenclature and Explanatory Note to heading 84.42

22. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session.

Annex D/7 – Possible amendments to the Nomenclature and Explanatory Note to heading 84.71

23. The Committee took note of the conclusions of the Review Sub-Committee.

Annex D/8 – Possible amendment of the text of heading 85.25 to clarify the classification of cameras

24. The Committee took note of the fact that this matter would be examined by the Review Sub-Committee taking into account the Committee's decision on the reservation on the classification of the "Color QuickCam".

Annex D/9 – Possible amendment of Note 5 (B) to Chapter 85

25. The Committee took note of the conclusions of the Review Sub-Committee.

Annex D/10 – Amendment of the text of subheading 9021.10 in order to align the French and English versions

26. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session.

27. In this connection, the Chairman noted that there was still a possibility that this amendment could be inserted in the Corrigendum Amendments to the Article 16 Recommendation of 25 June 1999.

Annexes D/11 and E/8 – Amendments to the legal texts consequential upon the amendments to the Recommendation of 25 June 1999 to be made by corrigendum

28. The Committee examined this issue together with Agenda Item III.3 concerning Corrigendum Amendments to the Article 16 Recommendation of 25 June 1999.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

29. The Committee provisionally adopted, by Article 16 Procedure, the amendments set out in Annex E/8 to Doc. NR0133B2, bearing in mind that these amendments would be included in the next Article 16 Council Recommendation concerning amendments to the HS Nomenclature (for HS 2007).

30. The texts provisionally adopted by Article 16 Procedure are set out in Annex T/1 to this Report.

31. The Committee also unanimously adopted the same amendments by corrigendum. The texts adopted by corrigendum are set out in Annex O/1 to this Report (see also Annex C/3 to this Report).

32. The corresponding Explanatory Note amendments adopted by the Committee consequential upon above corrigendum amendments are set out in Annex S/3 to this Report. These texts were also inserted in the "Comprehensive Text" in Annex S/1 to this Report.

Annexes D/12 and E/9 – Amendment of the text of heading 83.09 in order to align the French and English versions

33. The Committee provisionally adopted, by the Article 16 Procedure (for HS 2007), the amendments set out in Annex E/9 to Doc. NR0133B2.

34. The texts provisionally adopted by the Article 16 Procedure are set out in Annex T/3 to this Report.

35. The Committee also unanimously adopted the same amendments by corrigendum. The texts adopted by corrigendum are set out in Annex O/2 to this Report.

36. The corresponding Explanatory Note amendments adopted by the Committee consequential upon the above corrigendum amendments are set out in Annex S/7 to this Report. These texts were also inserted in the "Comprehensive Text" in Annex S/1 to this Report.

Annexes D/13 and E/10 – Possible amendments to Note 2 (n) to Chapter 48, Note 1 (e) to Chapter 56 and Note 5 (h) to Chapter 59

37. The Committee provisionally adopted (for HS 2007) the amendments set out in Annex E/10 to Doc. NR0133B2.

38. The texts provisionally adopted are set out in Annex T/4 to this Report.

39. The corresponding Explanatory Note amendments provisionally adopted (for HS 2007) by the Committee are set out in Annex U to this Report.

Annexes D/14 and E/11 – Possible amendment of Note 3 (a) to Chapter 64

40. The Committee provisionally adopted (for HS 2007) the amendments set out in Annex E/11 to Doc. NR0133B2.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

41. The texts provisionally adopted are set out in Annex T/5 to this Report.
- Annexes D/15 and E/12 – Possible replacement of Subheading Note 1 (a) to Section XI regarding elastomeric yarn by a new Note to Section XI
42. The Committee provisionally adopted (for the year 2007) the amendments set out in Annex E/12 to Doc. NR0133B2.
43. The texts provisionally adopted are set out in Annex T/6 to this Report.

* * *

1	2	4
NC0332E1	Amendment of the Explanatory Note to heading 40.10.	<u>See Annex S/2.</u>

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

1. The Committee unanimously agreed to the proposal of the Canadian Administration in Doc. NC0332E1 and adopted, subject to minor modifications, the texts set out in the Annex to that document.
2. The texts adopted are reproduced in Annex S/2 to this Report.

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ANNEX F

REPORT OF THE PRESSIONAL WORKING PARTY

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0272E1 NC0338B2/A/I	Amendments to the Explanatory Notes arising from the classification of uncooked pizza in heading 19.01.		<u>See Annex P/3.</u>	

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

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/3 to this Report.

* * *

1	2	3
NC0273E1 NC0338B2/A/II	Amendments to the Compendium of Classification Opinions arising from the classification of certain special textile yarns in heading 56.06.	<u>See Annex P/4.</u>

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

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/4 to this Report.

* * *

1	2	3
NC0274E1 NC0320E1 NC0338B2/AIII	Amendments to the Compendium of Classification Opinions arising from the classification of lumbar support belts in subheading 6212.90.	<u>See Annex P/5.</u>

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

1. The US Delegate began the discussion of this question by indicating that his Administration felt that the reference to "posture correction" should be deleted from the description, given that it was not proven that the lumbar support belt actually had a corrective effect. Moreover, as noted by the Committee in its Report on the decision, the rigid rear boning was essentially designed to prevent the belt from curling up. If the texts were to remain unchanged, the Opinion could be misleading and affect the classification of appliances for posture correction.
2. These concerns were not shared by the EC Delegate, who pointed out that this description was already contained in the original working document (Doc. NC0230E1) and perfectly reflected the lumbar support belt whose classification had been examined by the Committee at its previous session. Deleting the reference to "posture correction" would empty the Classification Opinion of its substance. The reference to "posture correction" was the essential reason why the article was difficult to classify. This classification was in conformity with the legal text and the Explanatory Notes.
3. The Delegate of Canada was concerned by the fact that the Classification Opinion referred to "post-operative support". He pointed out that, with the adoption of new Note 6 to Chapter 90, certain post-operative support articles could be considered orthopaedic appliances of heading 90.21 in the 2002 version of the HS.
4. In this respect, it was recalled that new Note 6 would be applicable only from 2002 onwards and that the belt under examination had to be classified under the present legal provisions, particularly Note 1 (b) to Chapter 90 which stated that supporting belts or other support articles of textile material, whose intended effect on the organ to be supported or held derived solely from their elasticity, were classifiable in Section XI.
5. It was also emphasized that there was no real difference of opinion regarding the classification of the belt at issue and that the problem related essentially to the description of the article.
6. By way of compromise, a variant to the text finalized by the Working Party was proposed referring to "posture correction" only in the last line of the Classification Opinion.
7. When an initial vote was taken, the original version contained in Annex A/III to Doc. NC0338B2 and the above variant both received the same number of votes (17). During the roll call vote that followed, the Committee agreed, by 20 votes to 18 (with 1 abstention) to maintain the description in Annex A/III to Doc. NC0338B2.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. The texts adopted are set out in Annex P/5 to this Report.

* * *

1	2	3
NC0275E1 NC0338B2/ A/IV	Amendments to the Compendium of Classification Opinions arising from the classification of the "Iris 3047" ink-jet printer in subheading 8443.51.	<u>See Annex P/6.</u>

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

1. The Committee approved, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/6 to this Report.

* * *

1	2	3	4
NC0276E1 NC0341B1 NC0338B2/ A/V	Amendments to the Compendium of Classification Opinions and the Explanatory Notes arising from the classification of various items of LAN equipment.	<u>See Annex P/7.</u>	<u>See Annex P/7.</u>

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

1. The Chairman began the discussion by pointing out that, at its 25th Session in March 2000, the Committee had already decided to classify the articles in heading 84.71. However, the Report did not mention any specific subheading.
2. At this juncture, the Committee unanimously agreed with classification in subheading 8471.80 and agreed to delete the square brackets surrounding subheading "80" in the four Classification Opinions.
3. The Committee also agreed to the Secretariat's proposed text for the legal basis for the decisions contained in the four Classification Opinions. In addition, the Committee agreed to a minor editorial correction in the French text of the Explanatory Note to heading 84.71, page 1405, Part (I) (D), first paragraph, second and third lines.
4. Subject to the foregoing, the Committee adopted the texts finalized by the Working Party.
5. The texts adopted are set out in Annex P/7 to this Report.

* * *

1	2	4
NC0277E1 NC0338B2/A/VI	Amendments to the Explanatory Notes arising from the classification of graphic tablets/digitizers in subheading 8471.60.	<u>See Annex P/8.</u>

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

1. Subject to an editorial amendment to the French text and a minor modification in the second sentence of the second paragraph to delete the expression “almost exclusively” and substitute “generally”, the Committee adopted the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/8 to this Report.

* * *

1	2	4
NC0278E1 NC0338B2/A/VII	Amendments to the Explanatory Notes arising from the classification of optical and tape autoloaders and libraries in subheading 8471.70.	<u>See Annex P/9.</u>

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

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

* * *

1	2	4
NC0279E1 NC0338B2/A/VIII	Amendments to the Explanatory Notes arising from the classification of proprietary storage formats in subheading 8471.70.	<u>See Annex P/10.</u>

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

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

* * *

1	2	3
NC0280E1 NC0338B2/ A/IX	Amendments to the Compendium of Classification Opinions arising from the classification of tyre inflation valves in subheading 8481.80.	<u>See Annex P/11.</u>

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

1. The Committee adopted, without modification, the texts finalized by the Working Party.
2. The texts adopted are set out in Annex P/11 to this Report.

* * *

1	2	3	4
NC0281E1 NC0324B1 NC0338B2/ A/X	Amendments to the Compendium of Classification Opinions and the Explanatory Notes arising from the classification of the "Whistler 1120" in subheading 8512.30.	<u>See Annex P/12.</u>	<u>See Annex P/12.</u>

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

1. After some discussion on the description of the applicable legal basis for determining the correct subheading for this product (8512.30), the Committee confirmed that GIR 3 (b) was used to determine classification at subheading level (sound signaling equipment).
2. The Chairman proposed and the Committee accepted to describe the legal basis as follows : "Application of GIR 1 and 6, classification at subheading level being based on GIR 3 (b)".
3. The Committee adopted the texts finalized by the Working Party subject to the above modification.
4. The texts adopted are set out in Annex P/12 to this Report.

* * *

1	2
NC0282E1 NC0338B2/ A/XI	Amendments to the Explanatory Note to heading 85.18.

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

1. The Chairman began the discussion of this issue by asking the Committee to rule on whether to maintain the exclusion for "electronic diagnostic monitors of heading 90.18" in the Explanatory Note to heading 85.18.
2. The Delegate of Canada emphasized the importance of this part of the text to clarify the classification of this type of apparatus.
3. However, several delegates were against maintaining this reference, given that the classification of the monitors at issue had not been examined by the HSC.
4. In this connection, one delegate suggested deleting "electronic diagnostic foetal monitors" and substituting "electro-diagnostic apparatus", for the sake of alignment on the legal text of heading 90.18.
5. At this stage, several delegates presented new proposals aimed at better defining the scope of the text proposed for the new Explanatory Note to heading 85.18.
6. With regard to the Explanatory Note to heading 90.18, the US Delegate proposed specifying that apparatus for non-medical use were excluded from that heading. In addition, the adverb "generally" should be inserted before the list of the various elements making up the apparatus at issue. He felt that this reference would help to make the Explanatory Notes to headings 85.18 and 90.18 more consistent.
7. In response, the EC Delegate proposed deleting the term "generally" in the Explanatory Note to heading 85.18. He also pointed out that the text of that heading was restrictive in nature and therefore felt that, if it were decided to retain the term "generally", the accompanying Explanatory Note should contain a provision to explain that the prenatal listening apparatus of that heading did not contain devices for recording or reproducing sound. If not, such apparatus could be classified in heading 85.20.
8. Given the number of issues raised with regard to the texts in question, the Committee decided to ask the next presessional Working Party to re-examine these texts on the basis of a new document to be prepared by the Secretariat, taking account of the new proposals.

* * *

1	2	4
NC0293E1 NC0338B2/A/XII	Amendment of the Explanatory Note to heading 22.06 arising from the classification of the "Smirnoff Mule" beverage in subheading 2208.90.	<u>See Annex P/13.</u>

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

1. The Committee adopted, without modification, the text finalized by the Working Party.
2. The text adopted is set out in Annex P/13 to this Report.

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ANNEX G

FURTHER STUDIES

Working Doc.	Subject	Classification Opinion	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0146E1 (HSC/24) NC0283E1	Classification of bakers' wares (waffles) (Reservation by the EC).			

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

- The EC Delegate opened the discussion by pointing out that, according to the description given in the original working document (NC0069E1), the “Kellogg’s® Breadia” waffles at issue contained 40 - 50 % by weight of water. In his view, this description indicated that the classification question under consideration dealt with the classification of a batter, and not waffles. With reference to the products described in the Annex to Doc. NC0146E1, he could agree to classify these products as waffles in subheading 1905.30, since these products contained no more than 10 - 13.7 % by weight of water, but he could not agree to classify a product containing up to 50 % of water in the same subheading. This arose out of the actual nature of waffles. In this respect, the EC could accept a rewording of the Explanatory Note concerned to indicate that the “proportion of water in the finished product is relatively low, generally not exceeding 15 % by weight.” That percentage, provided by way of an indication, could be amended by the Committee following a study that could be carried out in conjunction with the industry. The EC Delegate noted that all the waffles presented to the Committee in the Annex to Doc. NC0146E1 had an average water content of between 10 % and 13.7 %.
- The US Delegate recalled that the Committee had previously classified the Kellogg’s Breadia waffles in subheading 1905.30 as waffles. These waffles were commercially and commonly known as waffles. There were no technical or legal standards that limited the water content in waffles. The legal text in subheading 1905.30 placed no restrictions on the water content for waffles. Therefore, in view of the fact that the Explanatory Notes could not function to narrow or broaden the scope of a heading or subheading, he stated that the 10 % water content limitation found in the Explanatory Notes to heading 19.05 could not function to limit the waffles of subheading 1905.30 to those with a water or moisture content of 10 % or less. Thus, he concluded that the Breadia frozen waffles were properly classified in subheading 1905.30.
- With respect to the water content in the frozen waffles, the description of the waffles in Doc. NC0069E1 appeared to indicate that the reference to “water (40 – 50 %)” was the water content of the waffle batter before baking and freezing. It was pointed out, however, that the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

available information on the product indicated that the frozen waffles as presented contained 40 – 50 % water.

4. Acknowledging that the stated moisture content probably reflected the condition of the waffles when presented, the US Delegate then indicated that the 40 – 50 % moisture content stated to be found in the frozen waffles was not relevant to their classification because there exist no water or moisture content limitation for waffles. Accordingly, the Committee had sufficient information in which to take a vote.
5. A third delegate informed the Committee that the Explanatory Notes had legal status in his country. His administration had therefore carried out laboratory analyses on similar products. However, since it was not possible to test the water content in a frozen product, his laboratory had carried out several analyses on defrozen products. He informed the Committee that their findings as to the water content varied from 12 to 17 %, depending on the testing conditions such as temperature and humidity.
6. The Director reminded the Committee that an eventual Classification Opinion regarding this product had to comprise information as to the composition. In his view, the discussion had revealed that the Committee did not have sufficient information as to the composition of the product being considered. He saw no reason to rush to a decision without a full knowledge of all relevant facts, and therefore proposed to postpone the final discussion of this classification issue to the next session of the Committee, awaiting more information concerning the composition of the product after it has been baked, but before being frozen.
7. The Committee finally agreed to postpone final discussion of this Agenda item until its next session. In the meantime, the Japanese Administration would carry out the necessary laboratory analysis as to the water content if it could obtain samples of the waffles in question. The Secretariat was asked to contact the manufacturer to obtain information on the exact composition (including the water content) of the product after it has been baked, but before being frozen.

* * *

1	2
NC0284E1	Classification of non-aromatic tobacco (Reservation by Switzerland).

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

1. The Delegate of Switzerland opened the discussion in support of the reservation the Swiss Administration had entered in respect of the decision taken at the Harmonized System Committee's 23rd Session to classify non-aromatic cut tobacco in heading 24.03 (subheading 2403.10). He emphasized that Docs. 12.000 (Annex G), 13.102 and 13.450 (Annex F) included important background information concerning the creation of the Explanatory Notes to headings 24.01 and 24.03. Since these Explanatory Notes were still effective under the HS, due consideration should be given to the information appearing in these documents.
2. In this regard, he pointed out that cut tobacco and cased tobacco had been classified as unmanufactured tobacco of heading 24.01 for 35 years, and he saw no reason to change this practice. He further pointed out that, in his opinion, the French word "fabriqué" (manufactured) in the text of heading 24.03 only referred to products ready for distribution to the trade. Products which had to be further flavoured before they were "ready for smoking" were certainly not classified in heading 24.03 and should therefore, according to the Explanatory Note to heading 24.01, be classified in heading 24.01.
3. Certain delegates were of the same opinion as Switzerland. In their mind, products of heading 24.03 should be prepared and packed to meet all the requirements of the consumer. Intermediate products should therefore be classified in heading 24.01.
4. One delegate however pointed out that the product at issue was fermented, stemmed and stripped tobacco which was cut into narrow (about 1 mm wide) strips of varying lengths (up to 4 cm). Her administration classified tobacco with all or almost all veins removed, initially moistured, comminuted, mixed and initially cased in heading 24.01. Tobacco subjected to any other treatment was classified in heading 24.03, even if not ready for smoking. The product at issue was an intermediate product in the cigarette manufacturing process, and should therefore be regarded as manufactured tobacco of heading 24.03. She also pointed out that, according to her information, this product was a mixture of cut tobacco of different types such as Virginia, Burley and Oriental, and she emphasized that all non-aromatic cut tobacco was prepared for the production of specific brands of cigarettes.
5. Another delegate also pointed out that technical methods for the production of tobacco had changed since the preparation of the Explanatory Notes. It was, therefore, difficult to base the classification of tobacco on the Explanatory Notes. Furthermore, the HS Nomenclature did not include a specific heading for intermediate tobacco products. However, since the product at issue only had to undergo, after importation, a second homogenisation and the addition of flavourings before it was ready for smoking, it should be classified as an unfinished article having the essential character of the finished article in heading 24.03.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. In this regard it was pointed out that Chapter 24 included three headings : heading 24.01 covered unmanufactured tobacco, heading 24.02 covered the finished articles and heading 24.03, covered manufactured tobacco, including intermediate products which had been subjected to some form of manufacturing. The semi-manufactured tobacco at issue, therefore, had to be classified in heading 24.03.
7. This delegate stated that the key factor in the classification of the tobacco in question was that it was cut to size in narrow, short strips. Thus, it was processed beyond the terms of heading 24.01, and was properly classified in heading 24.03 as "other manufactured tobacco".
8. When the matter was put to a vote, the Committee decided, by 28 votes to 9, to reconfirm the classification of the non-aromatic cut tobacco at issue in heading 24.03 (subheading 2403.10).
9. To put this decision into effect, the Committee instructed the Secretariat to draft a Classification Opinion for examination by the next preessional Working Party.
10. It was also decided that a study of the legal texts and Explanatory Notes to Chapter 24 was required. Administrations were therefore invited to submit information and proposals so that the Review Sub-Committee could prepare necessary amendments.

* * *

1	2	4
NC0285E1	Amendment of the Explanatory Notes arising from the classification of "Bio-Add" (Reservation by Switzerland).	<u>See Annex P/14.</u>

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

1. The Delegate of Switzerland opened the discussion of this question by indicating that Switzerland accepted the classification of the two "Bio-Add" products in heading 38.08, which had been decided by the Committee at its 22nd Session, but that Switzerland was concerned about the proposed amendment to the Explanatory Notes which had been adopted by the Committee at its 23rd Session.
2. He explained that the Swiss Administration could not agree to these Explanatory Notes amendments, since there were products on the market with similar composition which were used to reduce the pH value in the digestive tract of animals, to improve the utilization of nutrients, or to improve feed conversion and animal performance. The Swiss Administration considered that such preparations had the character of preparations of a kind used in animal feeding of heading 23.09 and were not classifiable in heading 38.08.
3. Responding to the comments of the Delegate of Switzerland, one delegate explained that the Committee took a decision on the classification of the two "BIO-ADD" products at the 22nd Session and then adopted the relevant Classification Opinion and amendments to the Explanatory Notes at the 23rd Session, with no mention of any opposition to this decision in the Report of that session. He also pointed out that a text similar to the text for the amendment of the Explanatory Note to heading 23.09 had been reflected in Classification Opinion 3808.40/1.
4. Regarding the statement in paragraph 6 of Doc. N00285E1, he explained that one of the "Bio-Add" liquids classified in heading 38.08 contained 20 % propionic acid. However, the role of this acid as an "energy" nutrient was insignificant. Propionic acid was described as a colourless, oily liquid with a rancid odour used as a mould inhibitor, a general fungicide, a herbicide and a grain preserver. Hence, products similar to "Bio-Add" should not be classified in heading 23.09. He also said that acceptance of the text proposed by Switzerland in paragraph 7 of Doc. NC0285E1 might nullify the effect of the Committee's decision and empty the Explanatory Note adopted by the Committee at its 23rd Session of its content.
5. Another delegate explained that the role of propionic acid would be similar to acetic acid and therefore propionic acid should not be considered as a nutrient when determining the character of a preparation used in animal feeding. He expressed the view that those preparations with compositions similar to "Bio-Add" should be classified in heading 38.08.
6. Drawing the attention of the Committee to Items (C) (1) and (2) of the Explanatory Note to heading 23.09 (pages 187 and 188) with regard to "premixes", the Swiss Delegate stated

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

that the products falling in heading 23.09 were not limited to those which had a nutritional value. He therefore felt that it was very risky to generalize, for the purposes of the Explanatory Notes, the text of a Classification Opinion drafted for a very specific product and stressed that in accepting the proposed amendment of the Explanatory Note to heading 23.09, it would be necessary to look at the entire Explanatory Note to that heading.

7. When the question was put to a vote, the Committee confirmed, by 28 votes to 2, its earlier decision with regard to the amendment of the Explanatory Note to heading 23.09 arising from the classification of "Bio-Add".
8. The texts adopted are set out in Annex P/14 to this Report.

* * *

1	2
NC0286E1	Classification of the "Media Composer 1000" (Reservation by the EC).

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

1. After an exchange of views, the Committee agreed that both types of equipment, i.e., the one classified by the Committee at its 18th Session (see Classification Opinion 8543.89/4) and the one discussed by the Committee at its 24th Session, should be demonstrated.
2. Following this, the Committee decided to postpone the discussion of this Agenda item until its next session in May 2001, and asked the Secretariat to organize the demonstrations.

* * *

1	2
NC0287E1 NC0321E1 NC0336E1 NC0342E1	Classification of "high fat cream cheese" (Reservation by Australia).

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

1. The Delegate of Australia informed the Committee that his Administration had lodged a reservation because the goods in question, in their mind, were not classified in accordance with the present legal texts. Australia was of the opinion that these goods were properly classified as cheese in heading 04.06. He recalled that the Committee, at its last session, had decided that these goods could not be classified as cheese because of their very low protein content, high fat content and emulsion type.
2. In this connection he pointed out that there was nothing in the HS legal texts or in the Explanatory Notes which defined cheese on the basis of these criteria. Nor were these criteria used to define cheese in the present CODEX standard for cheese. Furthermore, it was pointed out that these goods could not be classified as dairy spreads for the following two reasons :
 - 2.1. they contained too much Milk Solids Non Fat (MSNF) to be regarded as dairy spreads. Dairy spreads were essentially butter with an elevated moisture level which diluted the MSNF, meaning that the MSNF in dairy spreads had to be less than 2 %. The products at issue contained 2.5 to 2.6 % MSNF – accordingly they could not be classified as dairy spreads.
 - 2.2. their emulsion type was uncertain and such tests were normally not applied to cheese. These products were "phase variable" and could not be regarded as water-in-oil emulsions. Moreover, there was no internationally agreed method for testing the emulsion type.
3. He suggested that steps need to be taken to ensure that emulsion tests were reliable, repeatable and based on internationally accepted test methods.
4. He also reminded the Committee that the International Dairy Federation (IDF) had confirmed that the products at issue satisfied the criteria in the present CODEX standard for cream cheese.
5. Supporting the Australian view, one delegate pointed out that the present legal texts said very little as to the definition of cheese. In view of the fact that cream cheese was mentioned in the Explanatory Note to heading 04.06, and since the industry regarded this product as cheese, the only option, in his mind, was to classify these products as cheese.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The Delegate of Japan pointed out that there was no reference to MSNF in Note 2 (b) to Chapter 4. Therefore, there was no justification for the maximum 2 % figure of MSNF content in dairy spreads, as referred to by Australia.
7. As to emulsion type, he emphasized that none of the nine countries, which had tested the products at issue, had concluded that their emulsion was of the oil-in-water type. In addition, he reminded the Committee that the Observer for the IDF, at the 15th Session of the SSC, had confirmed that the expression "phase variable" was unknown to him.
8. He also informed the Committee that a final conclusion from the CODEX Committee on Milk and Milk Products (CCMMP), as to the minimum protein content in cheese, could not be expected until 2004. The HS Committee should therefore take a final classification decision at this session, on its own merits. A further delay could entail reliability problems to the HS Nomenclature in future trade negotiations, and should therefore be avoided.
9. Another delegate recalled that Note 2 (b) to Chapter 4, defining dairy spreads, comprised these three conditions :
 - emulsion of the water-in-oil type
 - milkfat as the only fat
 - a milkfat content by weight between 39 % and 80 %.
10. In his opinion, the laboratory test results in the Annexes to Doc. NS0002E1 confirmed that these products were of the water-in-oil type. Furthermore, milkfat was the only fat in the products and the stipulated range in the definition covered this fat content. He went on to question whether these products could be regarded as cheese. According to the experts consulted by him, a minimum protein content of 6 to 8 % was required for the coagulation of cheese. Since these products contained a maximum of 1.5 % protein on dry matter content basis, it was certainly questionable whether they could be regarded as cheese.
11. After this discussion the matter was put to a roll call vote, and the Committee confirmed, by 33 votes to 3 (with 3 abstentions), the classification of samples (B) and (C) of "high fat cream cheese" in heading 04.05 (subheading 0405.20), rather than in heading 04.06, by application of GIR 1 and 6 (Note 2 (b) to Chapter 4).
12. To put its decision into effect, the Committee instructed the Secretariat to draft two Classification Opinions for examination by the next pre-session Working Party.

* * *

1	2
NC0288E1	Classification of a tobacco mixture known as "Basic Blended Strip" (Reservation by Poland).

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

1. Opening the discussion, the Delegate of Poland recalled that the Committee, at its last session, had classified "Basic Blended Strip" ("BBS"), consisting of a mixture of 75 % uncut stemmed tobacco leaves (i.e., strip) and 25 % reconstituted tobacco in heading 24.01, as a mixture by application of GIRs 2 (b) and 3 (b), since the unmanufactured tobacco constituted the greater part of the product. However, in her view, both parts of the mixture were manufactured tobacco of heading 24.03 and, accordingly, the product had to be classified in heading 24.03.
2. In this regard, she informed the Committee that the Polish Customs Laboratory had tested the "BBS" tobacco mixtures at issue by gas chromatography and mass spectrometry, and had encountered considerable amounts of propylene glycol, glycerol and sugars in the mixtures – and in the different ingredients examined separately. Moreover, she pointed out that these ingredients were not natural ingredients in tobacco, but were commonly used to sauce and flavour tobacco. In her opinion, these findings had to be taken as evidence that these products had not been cased mainly in order to prevent mould and drying or to preserve the flavour, but to improve the flavour, aroma and other qualities of the tobacco. Finally, she pointed out that "BBS" mixtures (after simple cutting) were used for the production of special brands of cigarettes, thus containing a fixed amount of reconstituted tobacco to secure the required quality of the cigarettes. These mixtures, therefore, had to be classified in heading 24.03 as manufactured tobacco, by application of GIR 1.
3. Another delegate pointed out that, due to the presence of 25 % reconstituted tobacco in the mixture, the product had lost its character as unmanufactured tobacco of heading 24.01. He too was therefore of the opinion that the "BBS" mixtures had to be classified as manufactured tobacco of heading 24.03, also by application of GIR 1.
4. A third delegate pointed out that "BBS" was presented as dried leaves of tobacco. Moreover, according to the Explanatory Note to heading 24.01, every one of the processes referred to by the Polish Delegate was allowed for the products of that heading. He particularly referred to the words "blended" and "mainly" in this Explanatory Note which, in his mind, indicated that heading 24.01 covered mixtures, and that such products could be cased, not only to prevent mould and drying or to preserve the flavour, but also for other reasons. He also felt that since this product contained 75 % unmanufactured tobacco and 25 % reconstituted tobacco, it could not be considered, as presented, a product "ready for smoking" within the meaning of the Explanatory Note to heading 24.01.
5. A fourth delegate was of the opinion that the presence of propylene glycol, glycerol and sugars in the mixtures should be regarded as simple casing in order to prevent mould and drying. Manufactured tobacco of heading 24.03 was, according to his information, further

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

flavoured with, e.g., vanilla extract, cinnamon extract, and even wine, to improve the taste and aroma.

6. Because of its technical nature, the Delegate of Poland proposed to submit this question to the Scientific Sub-Committee for further consideration. However, the Polish proposal was not supported and the matter was put to a vote. The Committee confirmed, by 25 votes to 4, the classification of "Basic Blended Strip" ("BBS") in heading 24.01 (subheading 2401.20), rather than in heading 24.03, by application of GIRs 2 (b) and 3 (b).
7. To put its decision into effect, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination by the next preessional Working Party.

* * *

1	2
NC0289E1	Classification of the "Color QuickCam" (Reservation by Argentina).

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

1. The Delegate of Argentina began the discussion by pointing out that the "Color QuickCam" should not be regarded as a television camera since (i) it processed only digital signals and (ii) it could not be connected directly to a television screen or a video recorder. He also felt that this apparatus met the criteria of Note 5 (B) to Chapter 84 and was therefore classifiable in heading 84.71 as a unit of an automatic data processing machine.
2. In this connection, one delegate stated that the fact that the apparatus was specially designed to function as an input unit of an automatic data processing machine should be the decisive element in determining classification.
3. Another delegate pointed out that the Committee was examining a second reservation in respect of a classification decision which the HS Committee had taken by a large majority.
4. Referring to the demonstration of the apparatus (organized by the ICC during the session), he stressed that the function of the "Color QuickCam" was to capture images and that, in itself, constituted a specific function. Although the apparatus met the conditions (a), (b), (c) in Note 5 (B) to Chapter 84, he felt that Note 5 (E) to that same Chapter had to be applied for classification purposes. He was therefore of the view that the apparatus should be classified in heading 85.25 (specific function) or in heading 85.43 (residual heading). He pointed out that cameras could have a built-in or an external memory; the apparatus at issue sent batches of signals to the automatic data processing machine and that suggested the existence of a memory capacity.
5. Yet another delegate noted that in order to function, the "Color QuickCam" had to be connected to an automatic data processing machine. The only function that could be taken into consideration was that of a television camera, but that was clearly not possible since the apparatus could not be connected to a video device.
6. By way of additional information and with reference to the comment at the end of paragraph 4 above, the ICC Representative explained that, in reality, the apparatus transferred fragments of images which were assembled by the automatic data processing machine to constitute a complete image. If the image is to be sent to a television, the signal must be routed through a special converter card. This would then be an optional function or an enhanced function and not a normal function for the Color QuickCam.
7. When a vote was taken, the Committee first decided, by 30 votes to 5, that the "Color QuickCam" was classifiable elsewhere than in heading 84.71. It then opted for heading 85.25 as the most appropriate classification, by 25 votes to 5. Finally, by 30 votes to 3, it concluded that the "Color QuickCam" was classifiable in subheading 8525.30 by application of GIRs 1 and 6 and Note 5 (E) to Chapter 84, thus confirming the decision taken at its 24th and 25th Sessions.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. Finally, at the Argentine Administration's request, the Committee instructed the Secretariat to draft a Classification Opinion to reflect this decision for examination by the next preessional Working Party.

* * *

1	2
NC0290E1	Classification of the "TATA SUMO 483" motor vehicle (Reservation by Brazil).

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

(a) Re-examination of the classification of the "TATA SUMO 483" motor vehicle

1. The Delegate of Brazil reiterated his Administration's arguments that there were no objective criteria in the HS to define the size and dimensions of seats of motor vehicles in order to determine whether a vehicle was suitable for the transport of 10 or more persons, including the driver. Since the Harmonized System was designed to ensure the uniform classification of goods at world level, the Committee should come up with a demarcation line on the basis of an objective criterion. This criterion could be the definition of an adult of normal size, i.e., of a weight of 70 kg and a height of 1.70 m, as previously proposed by the Argentine Administration, since these measurements corresponded to the average measurements applied by many countries around the world for various regulatory purposes. If this criterion were adopted, then, without doubt, the "TATA SUMO 483" motor vehicle could not be used for the transport of ten or more persons and, thus, would fall in heading 87.03. Establishing a demarcation line between headings 87.02 and 87.03 was also very important in respect of determining tariff policy measures applicable to public transport vehicles of heading 87.02 on one hand and private vehicles of heading 87.03 on the other.
2. The Delegate of Argentina fully supported Brazil, noting that an internationally agreed criterion should be inserted in the HS to provide for the uniform classification of motor vehicles of headings 87.02 and 87.03, because national regulations in different countries established different criteria in this respect.
3. A third delegate said that he felt sympathy for the views expressed by the first two speakers, since he was of the view that the motor vehicle in question was not the type of vehicle which was foreseen by the drafters of the HS as being within the scope of heading 87.02. However, the Committee had to classify goods on the basis of the present legal texts. Drawing the attention of the Committee to the texts of headings 87.02 and 87.03, he pointed out that heading 87.02 covered motor vehicles for the transport of "ten or more persons, including the driver". He believed that this text provided the necessary objective criterion for the classification of the vehicle under consideration. An alternative heading for classification could be heading 87.03, but that heading covered motor vehicles "principally designed" for the transport of persons, which meant that such vehicles could also be used for the transport of goods.
4. As regards the argument that the term "persons" should be taken to refer to "adults of normal size", he pointed out that the present legal texts did not include such a reference. Further, he expressed his concern about inserting in the present Explanatory Notes, 70 kg and 1.70 m as the average weight and height of an adult of normal size, since he was not sure whether such parameters could be considered as "normal" in all countries of the world. He therefore concluded that, on the basis of the information provided to the Committee in the previous working documents and the information he had found on the Internet regarding the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

specifications of the "TATA SUMO 483" motor vehicle, such a vehicle had to be classified in heading 87.02.

5. Nevertheless, he agreed with the Secretariat that, for the future, the matter should be referred to the HS Review Sub-Committee for consideration during the current review cycle.
6. A number of other delegates concurred with this view.
7. The Delegate of India clarified that the "TATA SUMO 483" vehicles were being manufactured in India and agreed with an earlier decision of the Committee to classify them in heading 87.02.
8. At this point, the Delegate of Brazil noted that in many cases the texts of headings were clarified by the Explanatory Notes (e.g., heading 19.05). Therefore, he still believed that the definition of the term "persons" could be clarified in the Explanatory Notes. In this connection, the Chairman emphasized that in all cases the Explanatory Notes should be read in conjunction with the relevant legal provisions.
9. The Director stated that in his view there was not a lack of uniformity in the classification of the vehicles concerned, as in the past the Committee had always been consistent in its decisions. He also felt that, especially for many developing countries, the problem involved in the classification of the "TATA SUMO 483" type vehicles was not a Harmonized System concern but rather a duty or tax concern. He believed that such problems could be solved at national level by changing the duty or tax structure.
10. After discussion, by 33 votes to 3, the Committee confirmed its previous decision that the "TATA SUMO 483" motor vehicle should be classified in heading 87.02 (subheading 8702.10), by application of General Interpretative Rules 1 and 6.
11. At the request of the Brazilian Administration, the Committee instructed the Secretariat to prepare a draft Classification Opinion concerning the "TATA SUMO 483" motor vehicle for examination by the next pre-sessional Working Party.

(b) Brazilian proposals for amendments to the present Explanatory Notes and for the insertion of a new Legal Note to Chapter 87, regarding the dimensions of the seats of motor vehicles
12. One delegate pointed out that the legal texts of headings 87.02 and 87.03 were clear enough to decide on the classification of the vehicles concerned. He therefore believed that there was no need to amend the Explanatory Notes by Article 8 procedure. However, he was not against referring the question of amendments to the Nomenclature by Article 16 procedure to the Review Sub-Committee; but on the basis of a more concrete proposal.
13. In this connection, the Director questioned whether the Review Sub-Committee should confine its study to the Brazilian proposal or should look at the broader question including, for example, the possibility of creating a new heading for the type of vehicles in question.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

14. The Committee generally agreed that the matter should be examined by the Review Sub-Committee on the basis of more concrete proposals. Interested administrations were invited to provide the Secretariat with their proposals as soon as possible. On this basis, the Secretariat was instructed to prepare a new document for consideration by the Review Sub-Committee.

* * *

1	2
NC0291E1 NC0311E1	Classification of uncooked pizza at the subheading level within heading 19.01.

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

1. At its 25th Session, the Committee had decided that uncooked pizza was classifiable in heading 19.01. It was, however, not able to agree on classification at subheading level; that question being left for decision at this session.
2. Referring to his Administration's comments in Doc. NC0311E1, the Delegate of Norway opened the discussion by emphasizing that all products of heading 19.05 did not necessarily have to be classified in subheading 1901.20 when presented uncooked. Such products could also be classified in subheading 1901.90. In his opinion, a dough of subheading 1901.20 could certainly comprise other ingredients, e.g., cheese and ham, but only in the mass itself. An uncooked pizza base would certainly be classified in subheading 1901.20, but the addition of a topping containing a substantial amount of other ingredients would turn the product into a completely new product which, in his view, had to be classified in subheading 1901.90.
3. Supporting the views expressed by the Norwegian Delegate, one delegate explained that this product had to be regarded as something more than a dough mentioned in subheading 1901.20. The addition of cheese, meat, etc., deprived this product of its character of dough. Accordingly, it had to be classified in subheading 1901.90, since it did not satisfy the terms of the preceding subheadings in heading 19.01.
4. Another delegate referred to the Explanatory Note to heading 19.05, Item (A) (14), which clearly pointed out that cooked or pre-cooked pizzas were classified in heading 19.05 as bakers' wares, without taking into account the topping and its ingredients. He was therefore of the opinion that a corresponding uncooked pizza, with or without topping, had to be classified in subheading 1901.20 by application of GIRs 1 and 6. In his opinion, mixes and doughs of subheading 1901.20 could certainly contain other ingredients, not only in the mass itself, but also as a topping.
5. When the matter was put to a roll call vote, the Committee decided, by 28 votes to 15, to classify the uncooked pizza at issue in subheading 1901.20, by application of GIRs 1 and 6.
6. To put this decision into effect, the Committee instructed the Secretariat to draft a Classification Opinion for examination by the next preessional Working Party.

* * *

1	2	4
NC0292E1	Amendment of the Explanatory Notes arising from the classification of "chicken sauce" in subheading 2103.90.	See Annex P/1.

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

1. The Committee first examined the question as to whether or not the amendments to the Explanatory Notes should reflect quantitative criteria.
2. Those who were in favour of quantitative criteria took the view that it was important to distinguish the classification of products between headings 21.03 and 20.05 based on manageable guidelines for the purpose of uniform classification in the Harmonized System. They stated that since different types of products were present on the market, classification on the basis of the trade names could be misleading.
3. The EC Delegate explained that their proposal set out guidelines in respect of the volume of vegetables or fruit usually contained in sauces. The figure 40 % was based on the "Chicken Tonight" product which had been examined by the Committee. He further explained that such a percentage should reflect commercial realities and was of the view that a quantitative criterion which was qualified by the word "normally" would not create legal problems, given that this was simply a "guiding" criterion. He considered that the current Explanatory Notes contained many other examples of such types of criteria.
4. Those who were not in favour of quantitative criteria were of the view that such criteria would unduly narrow the scope of heading 21.03 and might not reflect commercial realities. Since there were different eating habits throughout the world, they feared that there could be certain sauces which might be excluded from heading 21.03 due to such quantitative criteria. In this connection, it was pointed out that even a guideline, such as "normally exceeding 40 %", as proposed would eventually be used as a rigid criterion by front line Customs officers.
5. It was also pointed out that since quantitative criteria were not reflected in the legal texts it would cause legal problems if such quantitative criteria were set out in the Explanatory Notes.
6. When a vote was taken, the Committee agreed, by 20 votes to 17, not to introduce quantitative guidelines in the Explanatory Notes. The Committee therefore decided to proceed with the Secretariat's proposal as reflected in the Annex to the working document of the last session (NC0208E1).
7. The US Delegate proposed, that the phrase "mainly liquids, emulsions or suspensions", in the Secretariat's proposal be deleted because it would unduly restrict the scope of heading 21.03. Certain delegates however opposed this proposal, explaining that sauces could not be in solid form and therefore these references should be retained. There being no

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

consensus, the matter was put to a vote. The Committee decided by 26 votes to 6 to retain the references to liquids, emulsions or suspensions.

8. Subject to minor modifications, the Committee agreed that the texts as set out in Annex P/1 to this Report, which were placed in square brackets, would be examined by the next preessional Working Party. The US Delegate stated that the following points should be taken into account in that context :

- 8.1. the expression "certain food dishes" in the Explanatory Notes to headings 20.01 and 21.03 should be replaced by the expression "food dishes"; and
- 8.2. the expression "sometimes contain" in the Explanatory Note to heading 21.03 should be replaced by the expression "may contain".

* * *

1	2
NC0294E1	Amendment of the Explanatory Note to heading 56.06 with a view to defining the scope of the expressions "chenille yarn" and "loop wale-yarn".

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

1. The Committee examined the present Explanatory Note to heading 56.06 in the light of the Secretariat's information and comments in Doc. NC0294E1, with a view to providing initial guidance on the questions raised therein.
2. Regarding chenille yarn, the Committee agreed to maintain the first sentence of the description in the Explanatory Note to heading 56.06, Part (B), first paragraph, subject to possibly amending the expression "which stand out practically perpendicularly", the wording of which still had to be refined.
3. The Committee accepted that this description did not cover all chenille yarn on the market. It was, however, agreed that the Explanatory Note could not cover all the manufacturing methods for such yarn, and that any list prepared could not be exhaustive.
4. The Committee also noted that the present Explanatory Note already included information on chenille yarn manufacturing methods, in particular by referring to special looms; examples could usefully be added (e.g., ring twisting looms and Raschel looms).
5. Regarding the issue of yarn obtained by flocking, one delegate said that it would be inappropriate to delete the word "chenille" in the Explanatory Note while maintaining the second paragraph under Part (B) "Chenille yarn", and that in the absence of precise information on this subject it would be better to retain the present text of this paragraph.
6. With regard to the use of chenille yarn, the Committee accepted that the present paragraph of the Explanatory Note on this subject could usefully be supplemented with further examples.
7. The Secretariat was instructed to prepare, for the next session, a draft amendment to the Explanatory Note on chenille yarn, based on the Committee's indications and on any additional information that might be supplied by administrations during the intersession.
8. As far as "loop wale-yarn" was concerned, the Review Sub-Committee would not examine a draft amendment to the relevant Nomenclature or Explanatory Note, unless the Secretariat received further information from administrations.

* * *

1	2
NC0295E1	Classification of post-operative shoes in the 2002 version of the Harmonized System.

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

1. The discussion clearly showed a difference in the interpretation of new Note 6 to Chapter 90. Some delegates, felt that new Note 6 to Chapter 90 should be interpreted fairly broadly and that it was sufficient for the article to meet one of the two conditions contained in the first part of the Note in order to be classifiable in heading 90.21. As the shoe under examination served to support or hold a part of the body, it met the second condition in the first part of new Note 6 to Chapter 90 and there was no need to refer to the second part of the Note which merely provided an example of orthopaedic appliances. In these delegates' opinion, this shoe should therefore be classified in heading 90.21 in the 2002 version of the HS.
2. In this respect, it was pointed out that the very reason that new Note 6 to Chapter 90 had been drafted was in order to consider this type of post-operative shoe as an orthopaedic appliance of heading 90.21 in the 2002 version of the HS.
3. However, other delegates felt that the second part of the new Note 6 to Chapter 90 set out all the criteria to be fulfilled by orthopaedic footwear of heading 90.21. Recognizing the obvious intent of Note 6 to provide for post-operative shoes in heading 90.21, they argued that the term "correct" did not permit this since it was clear that the post-operative shoe at issue had no correcting function. Therefore, they concluded that the post-operative shoe remained classified in heading 64.02 in the 2002 version of the HS.
4. The question was put to a vote and the Committee finally decided, by 27 votes to 6, to maintain the classification of the post-operative shoe at issue in subheading 6402.99 in the 2002 version of the HS.
5. Administrations wishing to propose a new amendment to the legal texts in this connection were invited to submit a new proposal for examination by the Review Sub-Committee.

* * *

1	2
NC0296E1	Classification of certain repeaters used in LAN systems.

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

1. The US Delegate noted that consideration of this question had been postponed in order to make certain that these repeaters were designed for use solely in LAN systems. He then pointed out that the facts contained in Doc. NC0296E1, specifically paragraph 6 and Annex II, made this absolutely clear and made it clear that there were identifiable differences in design and functionality between repeaters used in a LAN system and those used in a telephone line system. For example, the repeaters in a LAN application must be designed to detect instances of the collision of signals and operate to generate signals to inform other stations on the LAN that data was not to be transmitted at that time.
2. He stated that all four LAN repeaters at issue met the criteria of Note 5 (B) to Chapter 84. Note 5 (B) (c) required that an ADP unit be able to accept or deliver data in a form usable by the system. This was data handling. LAN repeaters maintained, regulated, rebuilt and retimed the data bytes sent from one ADP machine to another in an ADP system. They detected instances of competing signals; protected against loss of signal by producing jamming signals to prevent conflicting transmissions by other stations on the LAN. These were data processing functions, and these LAN repeaters were used solely in an ADP system. He concluded that these repeaters must be classified as units of ADP machines.
3. He then pointed out LAN repeaters and telephonic line repeaters were not interchangeable. Furthermore, it was clearly possible to distinguish between the two types of repeaters. The information from the Secretariat's research made this obvious. Inasmuch as the LAN repeater had to be able to identify data and regenerate it in order to maintain the integrity of the original data, the repeater was involved in data processing. Consequently, in his administration's view, Note 5 (B) to Chapter 84 applied and the four LAN repeaters at issue were classifiable in heading 84.71.
4. The EC Delegate stressed that it was important to determine whether the function performed by LAN repeaters was data processing or not. If not data processing, then LAN repeaters would be considered as machines performing a specific function other than data processing. In his opinion, LAN repeaters were not a unit of an ADP machine. They functioned to regenerate and retime the signal so that a complete data signal arrived at its destination. This was the same function performed by repeaters in a local or telephone line system.
5. He informed the Committee that a modem was present in the LAN repeaters in question. While a LAN repeater would have to be adapted to be used outside a LAN system, it still performed the same function as that of a repeater in a telephone line system; that is, the regenerating and retiming of the signal.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The EC Delegate felt that it was difficult to differentiate between the two types of repeaters. This difficulty would be even greater if a distinction had to be made between the functions of the two types of repeaters. He referred to the reference in the Explanatory Notes to heading 85.17, page 1473 and saw no difference in the function described there and the function of LAN repeaters. Consequently, the four LAN repeaters could not be considered to be units of ADP machines. In his view, they performed the same function as repeaters in a local or telephone line system and, consequently, had to be classified in heading 85.17 or, failing that, in heading 85.43.
7. Another delegate agreed with classification in heading 85.17 for the four LAN repeaters because, in his view, these devices had their own specific function, i.e., the communication of data. Regenerating and retiming data did not contribute to data processing.
8. By 16 votes to 13, the Committee decided to classify the four LAN repeaters outside of heading 84.71.
9. The Director informed the Committee that, in his view, it was not necessary to vote between headings 85.17 and 85.43 as, clearly, heading 85.43 was the only choice. LAN repeaters could not be used in line telephony or line telegraphy applications, thereby precluding classification in heading 85.17.
10. The Committee agreed to classify LAN repeaters in heading 85.43 by application of GIR I (Note 5 (B), introductory paragraph, and Note 5 (E) to Chapter 84), since the function of LAN repeaters was not regarded as data processing. The Committee then agreed upon classification in subheading 8543.89.
11. The Secretariat was instructed to prepare draft Classification Opinions for the three types of products listed in paragraph 7 of Doc. NC0296E1 and to submit them for consideration by the next preessional Working Party.

* * *

1	2
NC0297E1 NC0330E1	Classification of the "ENW-9500-F Fast Ethernet Adapter".

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

1. The Chairman began discussion on this item by reminding delegates to take account of the conclusions drawn by the Committee earlier in the day on the demarcation line between units of heading 84.71 and accessories of heading 84.73. He also reminded delegates that at HSC/25, the Committee had taken a decision that these goods were classifiable in Chapter 84 and that all that was left for the Committee to do was choose the appropriate heading from that Chapter.
2. One delegate agreed with the Chairman that the Committee had decided on Chapter 84 for this product and, in his view, the only competing headings were headings 84.71 and 84.73. Based on the Committee's earlier discussions, it was necessary for the Committee to decide whether the Ethernet Adapter fulfilled the conditions of Note 5 (B) to Chapter 84. As he believed that this was indeed the case, classification in heading 84.71 was appropriate.
3. Other delegates, however, supported the view that the Ethernet Adapter should be classified in heading 84.73. One of these delegates indicated that, in his opinion, the product only increased the range of operation of the ADP machine and, as a consequence, should be classified as an accessory. In responding to this comment, another delegate referred to paragraph 2 of Doc. NC0330E1. The primary function of this apparatus was to facilitate the interconnection of ADP machines to allow them to "communicate". In his view, this statement demonstrated that this apparatus was absolutely essential to the interconnection of ADP machines and not simply an apparatus to increase their range of operation.
4. By a vote of 25 to 5, the Committee decided to classify the "ENW-9500-Fast Ethernet Adapter" in heading 84.71 (subheading 8471.80) rather than in heading 84.73, by application of GIRs I (Note 5 (B) to Chapter 84) and 6.
5. The Committee instructed the Secretariat to prepare a draft Classification Opinion for examination by the next pre-sessional Working Party.

* * *

1	2
NC0298E1	Classification of a video card, sound card and software therefor.

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

1. The Chairman began the discussion of this issue by pointing out that, at its 25th Session in March 2000, the Committee had already decided to classify the video card and sound card at issue in Chapter 84.
2. The EC Delegate stated that the EC was aware of the decision taken by the Committee at its previous session. However, the EC wished to reiterate that it still considered these cards to be products performing a specific function other than data processing. They performed the function of converting video signals and similar sound signals into digital signals. That function was comparable to the functions of modems, tuners and fax cards which were not classified in Chapter 84 but in Chapter 85.
3. In light of the foregoing, the EC felt that the cards at issue could be classified in heading 85.43 in the absence of a more specific heading, given that they were excluded from heading 84.71 by application of the introductory paragraph to Note 5 (B) and by Note 5 (E) to Chapter 84. The EC Delegate noted that a similar question had been submitted to the Court of Justice of the European Community, which would have to rule on the interpretation of Note 5 to Chapter 84 in the coming months. The EC would be required to abide by the Court's decision, insofar as the legal texts had not changed, and for that reason would abstain from the discussion of the classification of these cards during this Session of the Committee. The EC would keep the Committee informed of developments regarding this issue. Finally, the EC supported the classification of the software in heading 85.24 by application of Note 6 to Chapter 85.
4. Referring to the conclusion in the Committee's study to establish a dividing line between the "units" of heading 84.71 and the "accessories" of heading 84.73 (see Annex H/1 to this Report), another delegate pointed out that the video card and the sound card at issue clearly met all the criteria set by Note 5 (B) to Chapter 84. He also stated that the apparatus at issue performed no function other than automatic data processing.
5. After a brief discussion, the Committee decided to classify the two articles in subheading 8471.80 as other units of automatic data processing machines.
6. The Committee also decided that the software for the video card and sound card was classifiable in heading 85.24, by application of Note 6 to Chapter 85. However, it instructed the Secretariat to seek further information so as to determine the appropriate subheading.
7. Finally, the Secretariat was instructed to prepare two separate Classification Opinions for the video card and the sound card; the exact classification of the software therefor would be mentioned in each of the Classification Opinions. The draft texts would initially be examined by the next pre-session Working Party.

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1	2	4
NC0299E1	Amendment of the Explanatory Notes to headings 84.43 and 84.71 to take account of the classification of the "Iris 3047" ink-jet printer in subheading 8443.51.	<u>See Annex P/2.</u>

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

1. After some discussion, the Committee agreed to maintain the reference in the Annex to Doc. NC0299E1, referring to "ink-jet" printers. The Committee also agreed to a minor amendment to the proposed text of the Explanatory Note to heading 84.71, page 1404, (I) A, fourth paragraph, first sentence. This amendment was for the English version only.
2. The texts adopted are set out in Annex P/2 to this report.

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1	2
NC0300E1	Classification of multifunctional digital copiers.

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

At the request of the Delegate of Brazil, the Committee decided to postpone discussion of this Agenda item until its next session in May 2001.

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1	2
NC0301E1	Classification of flash electronic storage cards.

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

Due to the late publication of the working document, the Committee decided to postpone discussion of this Agenda item until its next session in May 2001.

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1	2
NC0302E1	Classification of DVD storage units.

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

1. At the request of one delegate, the Committee continued its preliminary discussion on the classification of DVD drives.

2. That delegate felt that, on the basis of the information given in the working document, there existed three types of DVD drives : (i) DVD-ROM/Recordable drives which could operate solely in conjunction with automatic data processing machines, (ii) standalone DVD players and (iii) "mixed" or "dual use" DVD drives, as the information on page 3 of Annex I to the working document implied. Although, according to Canada and the Secretariat, DVD-ROM drives which could operate solely in conjunction with automatic data processing machines should be classified in heading 84.71, this "sole use" criterion was not the only criterion provided in the legal texts. As indicated in paragraph 9.3 of the working document, this type of DVD drive could perform the functions described by headings 85.19 and 85.21, and if this was the case, they would fall outside heading 84.71 by application of Note 5 (E) to Chapter 84. Also, it was not clear whether DVD-Recordable drives could record from external sources other than automatic data processing machines (e.g., video or audio reproducers through an appropriate interface). The second type of DVD drive, i.e., standalone DVD players, could reproduce video or audio or both, but the information available so far was not clear enough to determine what their principal function was. Finally, "mixed" or "dual-use" DVD drives could be used either in conjunction with automatic data processing machines or in conjunction with audio or video reproducers and they should therefore be classified by application of the General Interpretative Rules. For these reasons, he agreed with the concerns expressed by Canada in paragraphs 9.6 and 9.7 of the working document. For the future, the Committee should look at the possibility of classifying various DVD drive systems in one heading as proposed by Canada.

3. Another delegate pointed out that the Canadian concerns involved difficulties in distinguishing the individual components of DVD drives, but not the finished products of DVD-ROM drives and DVD players. He believed that, on the basis of the information provided in the working document and on page 4 of Annex I thereto, DVD players were clearly distinguishable from DVD drives and classifiable in Chapter 85. DVD drives, which could operate solely in conjunction with automatic data processing machines, were drives which were nowadays replacing CD-ROM drives to enable consumers to use both CDs and DVDs in one drive. A DVD-ROM drive was a read-only ADP storage unit that could not be connected directly to a video apparatus in the absence of an external adapter or decoder. The main issue raised by the previous delegate was to determine the principal function of such drives and this could be done by considering the classification of specific products.

4. Two other delegates drew the attention of the Committee to the risk of confusing the terms "function" and "use" for the purpose of classification. From a purely legal point of view, a reference to the principal function of various DVD drives should be based on the functions

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

performed by the components incorporated in the products, in accordance with the provisions set out in Note 3 to Section XVI. They felt that, in this particular case, it might be more appropriate to refer to the "principal purpose" as stipulated in Note 7 to Chapter 84, if the machines at issue were designed to be used for different purposes. One delegate expressed his regret that there was no Legal Note in Chapter 85 corresponding to Note 7 to Chapter 84 but hoped that measures could be taken in this regard within the present review cycle.

5. In this connection, several delegates believed that the function of DVD drives which operate solely in conjunction with automatic data processing machines remained the same, i.e., as a storage unit of such machines, while they could be used for different purposes. Heading 84.71 contained a clear subheading for the classification of these storage units. It was also noted that the mechanism for reading DVDs was the same, but the finished specific products were different.
6. However, the delegate who expressed his concerns about the identification of "mixed" or "dual use" DVD drives noted that such products should be classified on the basis of their principal function, not on the basis of their principal use. Similarly, it was also necessary to determine whether DVD players should be classified in heading 85.19 or 85.21.
7. At this point, the Director noted that there was agreement in the Committee to consider the classification of specific products, but requested the Committee to clarify whether in fact two or three types of DVD drives were available on the market. It was agreed in this regard that the Committee needed information about "mixed" or "dual use" DVD drives, if they existed at all. The Representative of the ICC stated that, if the Committee agreed, the ICC would volunteer to provide more information about the types of DVD drives and players being discussed by the HS Committee and would arrange for a demonstration of these products at the next session of the Committee. The Committee agreed, provided that the demonstrations would represent the industry as a whole.
8. The ICC and interested administrations were invited to submit additional information about the types of DVD drives and players. The Secretariat was instructed to prepare a new document on the classification of specific products which were representative of the types of DVD drives (including "mixed" or "dual use" DVD drives) and players on the market for examination by the Committee at its next session.

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1	2	4
NC0303E1	Amendment of the Explanatory Note to heading 84.71 to delete certain obsolete equipment.	<u>See Annex P/15.</u>

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

1. One delegate was concerned about the reference to the processors and coprocessors cited as proposed examples of additions which enhanced the processing power of the central processing unit in Item (3) on page 1406 of the Explanatory Note to heading 84.71. These references could lead to confusion with the integrated circuits of heading 85.42. For example, if these integrated circuits were assembled onto a printed circuit board, they would be classifiable in heading 84.71; if not, they would be classifiable in heading 85.42. To avoid any ambiguity, he recommended including a reference in the Explanatory Note to heading 84.71 excluding integrated circuits and other articles of heading 85.42 which were defined in Note 5 to Chapter 85.
2. While supporting this point of view, a second delegate expressed his concern regarding the reference to "magnetic tape transports" under "Additional storage external to the central processing unit" in Item (2) of this Explanatory Note. Based on enquiries carried out among industrial circles in his region, this type of article had become obsolete.
3. The Committee decided to retain the reference to floating point processing units, among the examples in Item (3) on page 1406.
4. With regard to the reference to readers in Part (C) (Item (2)) on page 1408, the Committee decided to accept the variant proposed by the United States.
5. Following this discussion and given that all the parts of the Explanatory Note to heading 84.71 had to be published at the same time by the corrigendum procedure, the Committee agreed to provisionally adopt the texts at issue and to place square brackets around the part relating to page 1406 of that Explanatory Note, for re-examination at its next session. During the intersession, the Secretariat was requested to make further enquiries regarding additional storage on magnetic tape transports, and to undertake a study to distinguish the processors and coprocessors of heading 84.71 from those of heading 85.42.
6. The texts provisionally adopted and those placed in square brackets are set out in Annex P/15 to this Report.

* * *

1	2
NC0304E1	Study with a view to establishing guidelines for the classification of vehicles of headings 87.02, 87.03 and 87.04.

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

1. On the basis of the US and Secretariat comments presented in paragraphs 6.2 and 8 (a) of the working document, the Committee confirmed that the amendments to the Explanatory Notes to Chapter 87 in the context of this study would be made by corrigendum (i.e., Article 8 Procedure). These amendments should not entail any change in the classification of the motor vehicles already classified by the Committee.
2. The Committee agreed that, for the time being, it was not necessary to amend the General Explanatory Note to Chapter 87.
3. As to the question of whether the Explanatory Note to heading 87.02 should be amended, the Committee recalled that this question would be examined by the Review Sub-Committee as a result of the Committee's decision on the classification of the "TATA SUMO 483" motor vehicle (see Annex G/8 to this Report).
4. In response to the question of whether "cargo or load capacity" should be included as a feature in the proposed Explanatory Note amendments, several delegates believed that this criterion could be a useful criterion in addition to the features listed in the proposed amendments in paragraph 14 of the working document. They noted that this criterion had been applied by the Committee in the past and had also been used in several Classification Opinions. However, other delegates strongly opposed this idea, because cargo or load allocation had only recently been applied as a classification criterion for only one type of vehicle. They believed that, although cargo or load allocation could be applicable only to "pick-up" type motor vehicles, it could inappropriately be applied by many administrations to other types of vehicles (e.g., van type vehicles) because it would be considered easy to use. One delegate indicated that this could, in fact, result in the reclassification of these vehicles from the heading in which they were currently classified. Therefore, the Committee had to continue to apply the traditional criteria so far used in classifying the motor vehicles of the headings concerned and not to refer to new criteria.
5. Regarding the choice between the US proposal and the Secretariat proposal for amendments to the Explanatory Notes to headings 87.03 and 87.04, the US Delegate appreciated the Secretariat's comments on the original US proposal, but pointed out that he had submitted to the Secretariat a new text of revised US proposals to take care of several concerns. He invited the Committee to take the revised US proposals into account together with the Secretariat's proposals.
6. In respect of the question of whether the design characteristics included in the proposals might be applicable all around the world, another delegate noted that, at the 25th Session of the Committee, many delegates had supported the idea of amending the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Explanatory Notes to Chapter 87 in the context of this study. He urged those administrations to co-operate with the Secretariat to find the appropriate answer to that question.

7. After this discussion, the Committee agreed to continue its consideration of the possible amendments to the Explanatory Notes to headings 87.03 and 87.04 on the basis of the Secretariat's proposals set out in paragraph 14 of the working document and the revised US proposals. Administrations were invited to provide the Secretariat with their comments and proposals, if any. The Secretariat was instructed to prepare a new document for examination by the Committee at its next session. The Committee would also rule, at its next Session, on the possible use of the "cargo or load capacity" criterion.

* * *

1	2	
NC0322E1 NC0331E1	Review of the classification of certain INN products.	<u>See Annex Q.</u>

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

The Committee unanimously agreed that this matter should be referred back to the Scientific Sub-Committee to review the classifications of the two INN products in question, namely midaxifylline and corifollitropin alfa.

* * *

1	2	3
NC0323E1	Amendments to the Compendium of Classification Opinions consequential upon the Article 16 Recommendation of 25 June 1999 (comprehensive text).	<u>See Annex R/1.</u>

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

1. One delegate pointed out that the corrections set out in Annex I to the working document should be regarded simply as information by the Secretariat and not be treated as the corrigendum to Annex M to Doc. NC0250B2 as mentioned in the title of the working document so that the Committee would not have to publish a report in this regard.
2. He also reminded the Committee to confirm that Classification Opinion 6402.99 with regard to postoperative shoes should be retained unchanged as agreed under Item VII.13 on the Agenda of this session. The Committee so agreed.
3. Subject to the above and other minor modifications, the Committee unanimously approved the amendments to the Compendium of Classification Opinions consequential upon the Article 16 Recommendation of 25 June 1999.
4. The texts formally approved are reproduced in Annex R/1 to this Report.

* * *

ANNEX H

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0305E1 NC0316E1	Study with a view to determining the line of demarcation between the units of heading 84.71 and the accessories of heading 84.73.			

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

1. The Committee welcomed the results of the Secretariat's study, as set out in Doc. NC0305E1, which were considered to be very illustrative.
2. After an exchange of views, for purposes of determining whether an article was a unit of an ADP machine or an accessory for an ADP machine, the Committee concluded that :
 - (i) There was no definition in the Harmonized System of the term "accessories";
 - (ii) To be classified in heading 84.71 as a unit for an automatic data processing (ADP) machine, the unit should perform a data processing function, should meet the criteria set out in Note 5 (B) to Chapter 84, including the introductory paragraph, and should not be excluded by the provisions of Note 5 (E) to that Chapter;
 - (iii) If a unit did not meet the criteria set out in Note 5 (B) to Chapter 84, or was not performing a data processing function, it should be classified according to its characteristics by application of General Interpretative Rule (GIR) 1, if necessary in combination with GIR 3 (a); and
 - (iv) A possible inconsistency, as indicated by the Secretariat in paragraph 23 of Doc. NC0305E1, might exist between Note 5 (B) and Subheading Note 1 to Chapter 84.
3. To reflect these decisions, the Committee instructed the Secretariat :
 - (i) To prepare a new document, containing (minor) draft amendments to the Explanatory Note to heading 84.71, to be dealt with by the Committee at its next session; and
 - (ii) To include, in a document to be submitted to the Review Sub-Committee, further amendments to the Explanatory Note to heading 84.71 in the context of an overhaul of

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

these Notes, and possible amendments to the legal text, with emphasis on Note 5 and Subheading Note 1 to Chapter 84.

4. The Chairman invited delegations to submit their proposals in this respect as soon as possible.

* * *

1	2
NC0306E1	Classification of "roamabouts".

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

1. A delegate asked about the type of apparatus or devices that the Committee was being asked to rule on. It was recognized that "roamabouts" constituted a new kind of technology and that they could take various forms, potentially classifiable in a number of different Nomenclature headings.
2. With regard to the "Bluetooth" system described in Doc. NC0306E1, a delegate pointed out that this technology used a short-range radio frequency and that this was therefore a "roamabout" used within a limited area.
3. Given that this involved very recent technology and in the absence of specific examples or sufficiently precise information on the various components of the "roamabouts", the Committee felt that it would be premature to express a view on any classification.
4. It was agreed that the Secretariat should continue the study in the light of any additional information it might obtain from trade circles and interested administrations. This question would be re-examined at a future session once comprehensive data was available.

* * *

1	2
NC0307E1	Classification of grounding rods.

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

1. The Delegate of Brazil began the discussion of this question by informing the Committee that his administration had requested the Secretariat's opinion on the classification of the product described in Annex I to the working document, which seemed to differ from the product submitted by Argentina. His administration fully concurred with the Secretariat's analysis and opinion, as it classified the article at issue in subheading 7326.90 by application of GIRs 1 (Note 7 to Section XV) and 6.
2. The Delegate of Argentina maintained that the product, whose classification he was requesting, was identical to that submitted by Brazil. It consists of a grounding rod with its connectors and couplings. This device could be used only to protect electrical circuits. His Administration classifies this product in subheading 8535.40. It uses the same technology that one of the types of lightning arresters mentioned in the Explanatory Notes to heading 85.35, paragraph (C), i.e., electrolytic arresters, and it is intended for protecting electrical circuits as stated in the legal text of that heading. On the basis of Note 1 (f) to Section XV, he ruled out classification in Chapter 73 and told the Committee that the product he wished to classify had no uncovered cables or wires, as indicated in Annex II to the working document.
3. A third delegate stated that the Committee could only perform its role effectively if it properly identified the products that the two administrations wished to classify. In his opinion, the difference between the two products seemed to be the connectors, and the Committee had to be vigilant regarding manufacturers' names for products, which were not always the same as the terms used in the Nomenclature.
4. Another delegate pointed out that heading 85.35 only covered "electrical apparatus". The lightning arresters at issue were not electrical apparatus and, consequently, they could not fall in heading 85.35. The mere fact that they were made of base metal capable of conducting electricity was not enough to qualify them as electrical apparatus. To that effect, he stated that cables and wires of base metal, as illustrated in the non-paper, were classified in Section XV, however, if they were insulated they would fall in heading 85.44 as electrical cables. In the light of the foregoing, he favoured classification on the basis of constituent material in Section XV.
5. However, other delegates proposed classifying the products in heading 85.35, stating that any comparison between this article and an ordinary "stake" (rod) of heading 73.26 would be erroneous. They were also concerned by the apparent lack of uniformity between the content of Chapter 85, the legal text of heading 85.35, subheading 8535.40 and the information in the Explanatory Note to heading 85.35. The description of the lightning arresters in the Explanatory Note to heading 85.35 did not seem to be precise, and resulted

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

in confusion in the case of non-electrical arresters. The Explanatory Note to heading 85.35 should be amended to clarify the situation.

6. Given that there were still doubts regarding the identification of the products to be classified, the Committee agreed not to rule on this issue at the present session. It hoped that the two parties could reach a compromise during the intersession, bearing in mind that the administrations in dispute over this issue (Brazil and Argentina) belonged to the same economic area (Mercosur).
7. However, if a compromise could not be reached, the Committee agreed that the Secretariat should prepare a new document based on new information to be submitted by the administrations concerned, for re-examination of the question at its next session. The Secretariat should also carry out a study of the term "lightning arresters" in heading 85.35, in conjunction with the Review Sub-Committee, for examination at a future session.

* * *

1	2
NC0308E1	Classification of vibrator motors.

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

1. The EC Delegate recalled that the suppression of present heading 85.08 involved the transfer of electromechanical apparatus from that heading to heading 84.67 in the 2002 version of the HS. He pointed out that, as far as heading 85.01 was concerned, its scope did not change. He felt that the former Nomenclature Committee's conclusions that vibrator motors had a specific function were justified. These apparatus should therefore remain in heading 84.79.
2. The Delegate of Sweden said that, in view of their specific function, vibrator motors could be used for various purposes and they therefore performed an individual function. He drew the Committee's attention to the Explanatory Note to heading 84.31 which referred, inter alia, to "drums or rollers (whether or not incorporating driving motors)". Those articles were in fact merely geared motors whose power came from the specially designed cylindrical casing. Since those drums and rollers which were clearly very similar to electric motors were not regarded as electric motors, vibrator motors could not be regarded as electric motors and they were therefore classifiable in heading 84.79. The term "vibrators" used in the Explanatory Notes to headings 85.08 and 85.10 should be looked at more closely since it could be that these were actually linear motors classifiable in heading 85.01. If that were the case, appropriate amendments should be made to the Explanatory Notes.
3. Following this discussion, the Committee unanimously agreed that vibrator motors were classifiable in heading 84.79.
4. Finally, the Committee invited administrations to submit proposals to the Secretariat if they felt that amendments needed to be made to the Explanatory Notes.

* * *

1	2
NC0309E1	Classification of various women's or girls' garments.

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

1. The Committee examined the classification of the four articles submitted by the Argentine Administration and described in Annex I to Doc. NC0309E1.

Sample 1

2. Some delegates felt that this garment was a sports brassière. While providing good support, this article allowed ease of movement during sports activities and, being similar to a brassière, it was classifiable in subheading 6212.10.
3. As far as other delegates were concerned, the garment's use should not be taken into consideration for the classification, which ought to be made on the basis of the article's characteristics. Given the low percentage of elastomeric yarn, this article did not have a real support function and should therefore be classified in heading 61.14.
4. When a vote was taken the Committee decided, by 20 votes to 6, to classify this article (94 % cotton, 6 % elastomeric yarn) in subheading 6114.20, by application of GIRs 1 and 6.

Sample 2

5. The Committee agreed that this article was different from sample 1 as mentioned above, given its general appearance and finish (stitching separating the cups) and the presence of thin shoulder straps.
6. Opinions were, nevertheless, divided regarding the classification. Some delegates felt that this article did not have a sufficient support function, in view of its low percentage of elastothane (10 %). They therefore considered it to be an undergarment and not a brassière.
7. Another delegate considered that the article did have some elasticity and provided a degree of support. However, he did not consider it to be a brassière and preferred to classify it in subheading 6212.90 as an article similar to those mentioned in heading 62.12.
8. When an initial vote was taken, 19 delegations were in favour of classification in heading 62.12 whereas 8 delegations classified this article in another heading. The Committee finally decided, by 17 votes to 5, to opt for subheading 6212.10 by application of GIRs 1 and 6.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Sample 3

9. The Committee agreed that although this article provided some support, it could not be considered a brassière. This garment was currently in fashion and was of the stretch bandeau-type, worn next to the skin.
10. The Committee decided, by 23 votes to 1, to classify this knitted garment (90 % polyamide, 10 % elastothane) in subheading 6114.30.

Sample 4

11. Some delegates felt that this nonwoven article, intended to be stuck directly onto the skin under the lower part of the breast, provided a support function and should therefore be classified in subheading 6212.90 as an article similar to those described in heading 62.12.
12. Others considered that the essential function of this article was to shape and show off a particular part of the body and not to support it. As it had no real support function, this article could not be classified in heading 62.12 and was therefore classifiable in heading 63.07.
13. A vote was taken and the Committee decided, by 25 votes to 2, to classify this nonwoven article in subheading 6307.90 by application of GIRs 1 and 6.
14. In order to reflect these classification decisions, the Secretariat was instructed to prepare four Classification Opinions which would be examined by the next preessional Working Party.
15. The Committee also instructed the Secretariat to carry out a more detailed study on the scope of the headings concerned, with a view to possibly amending the corresponding Explanatory Notes on the basis of the above criteria and any comments and proposals submitted by administrations during the intersession.

* * *

1	2
NC0310E1	Classification of the "Palm V".

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

1. The Committee held a preliminary discussion on the classification of the Palm V™.
2. The Delegate of Japan informed the Committee that his Administration had been advised that the Palm V™ was freely programmable. If this was the case, he argued that it would satisfy the conditions of Note 5 (A) to Chapter 84 and, as a result, classification in heading 84.71 would be appropriate.
3. The US Delegate indicated that some information provided by the firm which produces the Palm V™ indicated that the apparatus could possibly be fully programmable. In addition, he understood that several other administrations had received demonstrations of the product in respect of its fully programmable nature. As he was not aware of the results, he asked whether the Committee would agree to a preliminary discussion, pending the acquisition of additional information on the capabilities of the apparatus.
4. Another delegate agreed that the programmable nature or lack thereof was an important criterion. He also noted that heading 84.70 was a more specific heading, given the heading text and the product description provided. Consequently, heading 84.70 would have to be given careful consideration. In addition, he indicated that heading 84.72 could also be considered.
5. At this stage, the Committee unanimously felt that for the purpose of classification, it was necessary to get more information on this apparatus (e.g., the type of hardware, nature of the software, nature of the product as presented to Customs).
6. The ICC Representative recommended to the Committee that it may want to consider asking the Secretariat to draft definitions for the following terms as it seemed that there were no definitions for them in the Nomenclature:
 - data processing,
 - freely programmable,
 - ADP function.
7. The Chairman, in response to the ICC Representative, indicated that perhaps the proposed Working Group on Note 5 to Chapter 84 could work on this question.
8. In conclusion, administrations were requested to provide as much information as possible on the Palm V™ (particularly on its programmability) for consideration by the next session of the Committee.

* * *

1	2
NC0314E1	Classification of certain motorised scooters.

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

1. The Committee agreed that heading 87.11 should be ruled out for the classification of the motorised scooters at issue, since, as noted by the Secretariat in paragraphs 7 and 9 of the working document, this heading normally covered two-wheeled vehicles with motorcycle type engines and the three-wheeled vehicles classified in this heading were only the "delivery tricycle" type vehicles, provided they did not have the character of motor vehicles of heading 87.03.
2. Several delegates noted that heading 87.13 covered carriages or similar vehicles specially designed for the transport of invalids. Such vehicles fitted with means of mechanical propulsion were usually propelled by a light motor. However, they pointed out that the exclusion Note (a) to the Explanatory Note to this heading excluded "normal vehicles simply adapted for use by invalids". They felt that, on the basis of the description given in paragraph 1 of the working document and the illustrations set out in the Annex thereto, the motorised scooters in question were "normal" vehicles "principally designed" for the transport of persons to go shopping, fishing, to local golf courses, etc., but "might be adapted" for use by invalids. Their design features and mechanical structure were similar to those of certain vehicles described in the Explanatory Note heading 87.03. As such, they were similar to the golf carts of subheading 8703.10 and, thus, classifiable in heading 87.03. Furthermore, the text of heading 87.03 only contained an exclusion in respect of the vehicles of heading 87.02.
3. However, several other delegates noted that the motorised scooters at issue were "specially designed", from the ground up, for use by persons having medical problems, impaired mobility, walking difficulties related to age, etc. They were not "normal" vehicles and could easily be distinguished from the vehicles of heading 87.03 on the basis of their design features as they had (i) battery-powered electric motors, (ii) a single rotating chair, height adjustable, with back rest (iii) hand operated controls (iv) very small wheels and were built very close to ground to make climbing on them easier. They felt that the term "invalid" within the meaning of heading 87.13 should also cover "elderly" persons disabled by age and should not be restricted to sick or handicapped people. Therefore, they believed that such vehicles should be classified in heading 87.13, since their "basic design" was intended for invalids.
4. After discussion, the Committee decided to classify the motorised scooters in question in heading 87.03, by 19 votes to 4, by application of GIR 1 and in subheading 8703.10, by 14 votes to 5, by application of GIR 6.
5. To reflect its classification decision, the Committee instructed the Secretariat to draft a single Classification Opinion, for both the three-wheeled and four-wheeled versions of the motorised scooters concerned, for examination by the next pre-session Working Party.

* * *

1	2
NC0315E1	Proposed amendment of the Subheading Explanatory Notes concerning subheadings 2932.29 and 2933.79.

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

Given the technical nature of this question, the Committee unanimously decided to refer this question to the Scientific Sub-Committee for its advice.

* * *

1	2
NC0317E1	Classification of certain forgings for crank shafts.

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

1. The US Delegate began the discussion by providing an explanation as to the manufacturing process of the closed-die crank shaft forging in question. He then indicated that the issue before the Committee was whether or not a forging formed by a closed-die process was a rough forging covered by Note 1 (ij) to Chapter 72. Referring to the product, he acknowledged that it was not a finished product. It required various machining operations that would bring it into the required final dimensional tolerances. He emphasized the fact that no further shaping or bending was required. It already had the shape and appearance of the finished product. The product at issue was, in his opinion, ready for final machining.
2. He referred to the Explanatory Note to heading 72.07, page 1079, (B) for guidance as to the meaning of the phrase “roughly shaped by forging”. The Explanatory Note indicated that the heading covered semi-finished products which required considerable shaping in the forge, press, lathe, etc. The heading excluded a crank shaft forging ready for final machining, as well as dropped forgings and pressings produced by forging between matrices since the articles produced by these operations were ready for final machining. In his view, the closed-die crank shaft forging at issue was covered by the exclusions described in this text. Consequently, Note 1 (ij) to Chapter 72 was not applicable and he would classify the product in heading 84.83 by application of GIR 2 (a) and Note 1 (f) to Section XV.
3. Several other delegates supported this view. One delegate noted that the Explanatory Note for GIR 2 (a) (incomplete or unfinished articles), Item (II), provided a fine dividing line for the distinction between blanks and semi-finished products.
4. Another delegate, however, referred to paragraph 6 of Doc. NC0317E1, which described the work necessary in order to finish the product. As significant amounts of the product needed to be removed in order to reach the necessary tolerances, this supported the view that Note 1 (ij) to Chapter 72 was applicable and, consequently, classification in heading 72.07 was appropriate.
5. By 31 votes to 1, the Committee classified the closed-die crank shaft forging (sometimes described as a blank), in subheading 8483.10 rather than in heading 72.24, by application of GIR 2 (a) and Note 1 (f) to Section XV. Note 1 (ij) to Chapter 72 was not considered applicable since the product at issue was more than roughly shaped by forging. The Committee also agreed that the blanks mentioned in Note 1 (ij) to Chapter 72 referred only to blanks for angles, shapes or sections.
6. The Committee noted that the expressions “ébauches de forge” and “ébauches brutes de forge” in the French version and “roughly shaped by forging” in the English version of the Explanatory Note to heading 72.07, page 1079, Part (B) and in the exclusions to heading 84.83, page 1437, might be misaligned. The Secretariat was asked to study this matter.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The Committee instructed the Secretariat to prepare a Classification Opinion for examination by the next preessional Working Party. In this regard, one delegate suggested that the wording of the product description in paragraph 30 of Doc. NC0317E1 should be used.

* * *

1	2
NC0318E1	Classification of a reinforcement grid called "Fortrac 35/35-40".

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

1. The Delegate of Poland began the preliminary discussion of this question by agreeing with the Secretariat's comments in Doc. NC0318E1 and stating that her administration considered the "Fortrac" reinforcement grid to be classifiable in heading 59.03.
2. The issue regarding the product's classification was whether, for the application of Note 2 (a) (3) to Chapter 59, the expressions "completely embedded in plastics" and "entirely coated or covered with such material" referred only to the textile yarn making up the fabric, or to the entire surface of the fabric if it contained "open" parts of varying dimensions.
3. The majority of delegates who took the floor felt that, in order to meet the conditions of the above-mentioned Note 2 (a) (3), it was enough for the fabric to be coated or covered and any "open" parts or openings not coated on the surface of the fabric were of no relevance, it being understood that the coating or covering had to be visible to the naked eye.
4. Certain delegates reported that their administrations had already had occasion to rule on the classification of products similar to the "Fortrac" reinforcement grid and had classified it in subheading 3926.90 by application of Note 2 to Chapter 59.
5. Another delegate, in supporting classification in Chapter 39, referred to the Classification Opinion concerning "Gamma Grip". In that connection, he felt that the product at issue might be classifiable in heading 39.21.
6. After this preliminary exchange of views, the Committee decided to return to this question, on the basis of Doc. NC0318E1, at its next session.

* * *

1	2
NC0319E1	Classification of welded tube mill machinery presented without welding equipment.

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

1. The Committee agreed unanimously with the conclusions of the United States and of the Secretariat to classify the machinery at issue in heading 84.62, rather than in heading 84.55. In this context, one delegate drew the Committee's attention to the Explanatory Note to heading 84.55, Part (l), second paragraph, on page 1369, stipulating that bending or folding machines were not to be regarded as rolling mills and were therefore excluded from heading 84.55.
2. With respect to the classification at subheading level, it was agreed that subheading 8462.21 would be applicable if the machinery were numerically controlled, whereas subheading 8462.29 would be applicable in other cases. Classification was based on GIRs 1 and 6.
3. To reflect the above decision and at the request of the US Delegate, the Committee instructed the Secretariat to draft a Classification Opinion for examination by the next preessional Working Party.

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ANNEX IJ

ADDITIONAL LIST

Working Document	Subject	Classification Opinions	E.N. Amendments	Nomenclature Amendments
1	2	3	4	5
NC0326E1	Classification of a non-electric barbecue and proposed amendment of the Explanatory Note to heading 73.21.		<u>See Annex P/16.</u>	

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

1. The EC Delegate began the discussion of this question by stating that the classification of the article at issue did not appear to pose any problems in terms of the four-digit legal text. The article was classifiable in heading 73.21; however, the Explanatory Note to that heading, which could be a source of guidance on the classification, referred only to non-electric appliances using fuel. He therefore suggested amending the Explanatory Note to heading 73.21 (page 1121), to take account of non-electric cooking appliances using other energy sources.
2. Following an initial discussion, the Committee unanimously decided that the barbecue at issue was classifiable in heading 73.21 by application of GIR I.
3. With regard to classification at subheading level, the EC Delegate suggested subheading 7321.11 by application of GIR 4. In his opinion, GIR 3 (c) could not be applied in this particular case, as there was no subheading that merited consideration (one of the essential conditions for applying GIR 3 (c)). Several delegates supported this interpretation.
4. The Delegate of the United States found it difficult to accept classification by application of GIR 4 since he could see no analogy between the fuels mentioned in subheading 7321.11 and solar energy. He favoured classifying the barbecue at issue in subheading 7321.13 by application of GIR 3 (c).
5. At the end of the discussion, the Committee decided, by 23 votes to 1 (Subheading 7321.13), that the non-electric domestic barbecue using only solar energy for cooking should be classified in subheading 7321.11 by application of GIR 4. It also decided to amend, by corrigendum, item (ii) in the first paragraph of the Explanatory Note to heading 73.21 (page 1121).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. To reflect this decision, the Secretariat was instructed to prepare a Classification Opinion which would be examined by the next preessional Working Party. A study to amend the structure of heading 73.21 should also be envisaged, for submission to the next session of the Review Sub-Committee.
7. The text of the amendment of the Explanatory Note to heading 73.21 adopted is set out in Annex P/16 to this Report.

* * *

1	2
NC0329E1	Classification of an electric stainless steel chafing dish.

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

Due to the late publication of the working document, the Committee decided to postpone discussion of this Agenda item until its next session in May 2001.

* * *

1	2
NC0334E1	Classification of "MYKON ATC Blue".

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

1. In order to help determine the classification of "MYKON ATC Blue", the Committee unanimously agreed to seek the advice of the Scientific Sub-Committee with regard to the issues set out in paragraph 10 of Doc. NC0334E1, i.e., (i) whether sodium carboxymethyl cellulose (S-CMC) could be considered as an added stabiliser for transport and (ii) whether the pigment in the product could be considered to be an added colouring substance to facilitate identification.
2. The Committee will reconsider this classification question at its next session, based on the advice provided by the Scientific Sub-Committee.

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ANNEX K

AMENDMENTS TO THE EXPLANATORY NOTES CONSEQUENTIAL
UPON THE ARTICLE 16 RECOMMENDATION OF 25 JUNE 1999
(COMPREHENSIVE TEXT)

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0325E1	Amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999 (comprehensive text).		<u>See Annexes S/1 and S/8.</u>	

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

1. The Committee unanimously approved the amendments to the Explanatory Notes with regard to Chapter 48 as set out in Annex I to Doc. NC0325E1. The texts approved are set out in Annex S/8 to this Report.
2. Subject to minor modifications, the Committee unanimously approved the amendments to the Explanatory Notes consequential upon the Article 16 Recommendation of 25 June 1999 set out in Annex II to Doc. NC0325E1 (comprehensive text), including the amendments already adopted under Items III.3, V.2 and V.3 on the Agenda (see Annexes S/2, S/3, S/4, S/5, S/6 and S/7 to this Report) as well as the amendment proposed in Annex I to Doc. NC0325E1 (see Annex S/8 to this Report).
3. The Director informed the Committee that the comprehensive text would be transmitted as soon as possible (a few weeks after the session) to the Contracting Parties. Given the size of this document and its importance, he requested the Contracting Parties to check the texts and report any errors to the Secretariat. If necessary, an erratum document would be issued.
4. The texts formally approved are reproduced in Annex S/1 to this Report.

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ANNEX L

OTHER BUSINESS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0327E1	List of questions which might be examined at a future session.	<u>See Annex V.</u>	<u>See Annex V.</u>	<u>See Annex V.</u>

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

The Committee took note of the list of questions in the Annex to Doc. NC0327E1. That list, updated by adding all the questions raised during the session for examination in greater detail at subsequent meetings, is reproduced in Annex V to this Report.

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