



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

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

HARMONIZED SYSTEM
COMMITTEE

NC0430E2

-
27th Session

(HSC/27/May 2001)

O. Eng./Fr.

Brussels, 18 May 2001.

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

Note :	This Report is divided into two parts : PART I - Body of the Report and Annexes A to L PART II - Annexes M to S
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1. The Harmonized System Committee (HSC) held its 27th Session from 7 to 18 May 2001 at the Headquarters of the World Customs Organization in Brussels under the chairmanship of Mr. J. HINDSDAL (Denmark).
2. The following 58 Members (57 Countries and one Customs or Economic Union) were represented :

Countries :

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

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

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

BOLIVIA
CHILE
COLOMBIA
KUWAIT
YEMEN

GULF CO-OPERATION COUNCIL (GCC)
INTERNATIONAL CHAMBER OF COMMERCE (ICC)
INTERNATIONAL CONTAINER BUREAU (ICB)
SECRETARIAT OF THE BASEL CONVENTION - UNEP
UNITED NATIONS STATISTICS DIVISION (UNSD)
WORLD TRADE ORGANIZATION (WTO).

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

I. ADOPTION OF THE AGENDA
(Doc. NC0344E3)

5. The Committee decided to delete Item VIII.3 and examine it at its next session. The Committee also decided to postpone the examination of Items VIII.10, X.1 and X.2 to its next session.
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. NC0347E1)

7. Mr. H. KAPPLER, the Director, congratulated Mauritania on becoming the 103rd Contracting Party to the Harmonized System (HS) Convention.
8. He informed the Committee that Egypt and Sudan had notified the Secretariat that they have implemented the 1996 version of the HS, leaving Rwanda as the only Contracting Party not to have notified the implementation of HS 1996.
9. Also, as requested by the Committee at its last session, the Secretariat had asked administrations to submit formal notifications in writing of the acceptance of the HS-related recommendations. Members that have not submitted formal notifications were deleted from the Annex to Doc. NC0347E1.

10. Finally, he urged administrations to accept the HS-related recommendations and to send the Secretariat the latest versions of their Customs tariffs and statistical nomenclatures.
11. One delegate pointed out that the date of acceptance of a recommendation by his administration was earlier than the date shown in the Annex to Doc. NC0347E1 and this had been reported in the letter sent to the Secretariat. The Chairman explained that, as specified in the relevant title of the Annex, the acceptances were listed "by date of receipt of the notifications".
12. 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 18 May 2001 are reproduced in Annexes B/1 and B/2 to this Report, respectively.

II.2. REPORT ON THE MEETING OF THE POLICY COMMISSION (44th Session)
(Doc. NC0348E1)

13. The Director informed the Committee of developments regarding Harmonized System related issues raised in the Policy Commission.
14. With regard to the review of the HS Explanatory Notes, the Secretariat had proposed a five-year work plan and administrations had been asked to second Technical Attachés to assist the Secretariat in carrying out this work. In this connection, the Director reported that the Secretariat had been looking into some tentative responses from certain administrations. It was also noted that the Secretariat was proposing to expand the length of the Review Sub-Committee sessions to two weeks each, in accordance with the decision of the Committee.
15. Concerning the issue of the length of time needed for the HS Review Cycle, the Director drew the attention of the Committee to the fact that this matter would be dealt with under a separate Agenda Item (III.2).
16. The Director noted that the issue of the publication of certain WCO documents, including HS documents, would be considered by the Policy Commission at its June 2001 meeting. He indicated that there was great interest by the private sector in HSC documents and that there was an interest in making the work of the WCO as transparent as possible. He added that if the Policy Commission agreed to pursue the publication of WCO documents, the WCO could model its procedures in this regard on those of the World Trade Organization (WTO), which already published its documents to the public.
17. It was on this issue that a lengthy discussion ensued. Referring to paragraph 3 of the working document, one delegate observed that, while his administration was not against the idea of publishing HSC documents to improve transparency, the matter needed careful consideration, in particular, regarding the issue of confidential information, and bearing in mind that the WCO was an inter-governmental organization. Furthermore, referring to Article 7 of the HS Convention, and in particular paragraph 1 (d), in respect of the functions of the HSC regarding collating and circulating information, he asked whether, from a legal point of view and as a matter of principle, the HSC should give its opinion in respect of this issue to assist the Policy Commission in its final decision. In this connection, he added that

since not all the HS Contracting Parties were Members of the Policy Commission, a decision made regarding this matter by the Policy Commission or the Council without consulting the HSC might take away the prerogatives of some Contracting Parties under the HS Convention. In view of the urgent nature of this matter he proposed that the Committee be given some time to consider the matter carefully so as to be able to express its views, instead of merely taking note.

18. The Director explained that, because the matter also concerned the publication of documents of other committees, it would be submitted directly to the Policy Commission, so that the Council could take a corporate decision on their publication as a whole. He confirmed that concerns expressed by Members in the past, including the issue of confidentiality, had been taken into account in the Secretariat's proposal. He clarified that the proposal only concerned historical documents relating to issues on which the HSC had already concluded its examination. He further explained that as a likely benchmark the WTO published its documents according to certain procedures, which would be taken into account in developing the WCO procedures in this regard.
19. Another delegate confirmed that his administration had been making HSC documents available to the public upon request, while confidentiality was safeguarded, and he wondered about the situation in this regard in other administrations. In particular, he questioned how useful it would be for the WCO to prevent HSC documents from being made available to the public if a large number of administrations had already been making them so available.
20. Following this discussion, the Committee agreed to re-examine this Agenda Item later during the session.
21. Resuming the discussion on this Agenda Item, the Director provided further explanation regarding the Secretariat's proposal. With regard to the scope of the proposed documentation database, he clarified that WCO publications, non-papers, business confidential information and current working documents would not be included. In respect of how to make the documents available to the public, the Director noted that this could be done by making the WCO Members' documentation database, which the Secretariat was in the process of developing, partially accessible to the public. Having explained the rationale behind the Secretariat's proposal, he stressed that in the event that the Policy Commission and the Council approved the project in principle, the Secretariat intended to develop a simplified set of procedures, which would enable administrations to voice their objection to publishing certain documents. The Director further indicated that there would be no significant extra cost in making the WCO Members' documentation database partially accessible to the public, and that should the Policy Commission recommend that the Council approve the project, it would also need to indicate whether the WCO should sell the documentation to the public or provide it free of charge.
22. Numerous delegates spoke in favour of the Secretariat's recommendation, which represented another major step toward improving transparency, given the clarifications provided by the Director and that the concerns of delegations would be addressed by the procedures to be developed. It was observed that making the HSC documents available to the public was very important to enhance public understanding of how the HSC worked as

well as appreciation of the legitimacy and authority of its work on the part of the trade. It was also suggested that the issue of transparency was vital in providing information on the application of the HS.

23. The Committee also clarified the following specific points :

- (1) In respect of the criteria regarding confidential information, one delegate suggested that these could include business confidential information, similar to that excluded in the publication of the HS Classification Opinions, and the statements of Members' positions on particular classification questions. He further suggested that, in the event that approval would be given to this project, future Secretariat documents could contain a general warning to administrations that all documents would be made available to the public once their examination had been completed, unless otherwise requested by administrations. In this regard, the Chairman mentioned that the format of future working documents could be revised to contain a separate Annex where business confidential information would be set out.
- (2) In response to a question as to how certain administrations "published" HSC documents at national level, it was confirmed that HSC documents had been provided to interested parties upon request only, subject to the protection of confidential information, and that no administration published HSC documents.
- (3) One delegate sought clarification (i) as to whether the proposed database would also cover older documents of the Interim HS Committee, so as to include all documentation related to the development of the HS, and (ii) on the cost to convert the documents into electronic format. The Director informed the Committee that, although the Secretariat's intention was to go back as far as possible to publish all historical documents in the future, the Secretariat was still in the process of developing the documentation database for Members, which might take several years. He confirmed that there would be no substantial extra cost in making this documentation database partially accessible to the public.
- (4) In response to a concern expressed about possible difficulties of access to such database at national level by Customs officers and the private sector, the Committee shared the sentiment expressed by two delegates that, although there might be difficulties for some administrations in the initial stages, the situation would improve quickly since most administrations and the private sector had access or were obtaining access to the Internet.

24. The Committee finally concluded the discussion by unanimously supporting, in principle, the Secretariat's recommendation to the Policy Commission to make HSC documents accessible to the public, while taking account of the confidential nature of certain data.

25. The Observer for the International Chamber of Commerce expressed his thanks to the HSC for taking this step towards greater transparency in the interest of the international trade community as a whole.

II.3. APPROVAL OF DECISIONS TAKEN BY
THE HARMONIZED SYSTEM COMMITTEE AT ITS 26th SESSION
(Docs. NG0022E1 and NC0349E1)

26. The Director noted that the Secretariat should have mentioned in Doc. NG0022E1 that Annex R/2 to Doc. NC0340E2 (HSC/26 - Report) had also been approved by the Committee. This was an Annex amending the French version of the Compendium of Classification Opinions. As the procedure for approving decisions taken was based on the Report (official document) and not on an information document, this Annex has also been deemed approved by the Council.
27. In the light of the foregoing and the information in the working document, the Committee took note of the communication from the Secretariat that the decisions taken by the Committee at its 26th Session were deemed approved by the Council, in accordance with Article 8.2 of the Harmonized System Convention, except for the following decision in respect of which a reservation had been entered by the named administration :
- One by the US Administration concerning the "classification of repeaters used in various items of LAN equipment" (Doc. NC0340E2/G/13).
28. At the request of the US Administration, this question would be referred to the Council at its 97th/98th Sessions in June 2001.

II.4. TECHNICAL ASSISTANCE ACTIVITIES OF THE NOMENCLATURE
AND CLASSIFICATION SUB-DIRECTORATE
(Doc. NC0350E1)

29. The Director explained that the technical assistance activities, both completed and scheduled for the current Council year had been indicated in the Annex to Doc. NC0350E1. This year, the Secretariat has undertaken 26 missions including four regional seminars in the Americas, Asia, North Africa and sub-Saharan Africa.
30. He noted that, while these efforts have been gratifying in reflecting the interest in HS technical assistance by the WCO members, they have stretched the Secretariat resources to the limits. Thanking the Japanese Administration for its tremendous contribution in supporting the Secretariat in this regard, he invited other administrations as well to assist the Secretariat in carrying out its technical assistance activities. He asked administrations to share with the Committee information on technical assistance activities they had carried out over the past year and, if possible, were planning for the next year.
31. He also pointed out that requests for Members' trainers to participate in WCO technical assistance programmes were expected to continue and, in fact, to increase the next Council year. The Secretariat was very close to finalizing the next year's technical assistance plans and would again publish them on the WCO Web site as soon as they have been approved.

32. The Delegate of Bulgaria expressed the gratitude of her administration to the Secretariat for organizing an HS Seminar in her country as part of the WCO technical assistance activities. She wished that the length of such missions could be extended.
33. The Delegate of Uganda thanked the US Administration for organizing an HS Seminar in her country. She also appreciated the efforts by the Secretariat, Japan and the Nordic countries in providing help to her administration in respect of classification problems.

II.5. CO-OPERATION WITH OTHER INTERNATIONAL ORGANIZATIONS
(Doc. NC0351E1)

34. The Director informed the Committee that, though this was the usual document on co-operation with other international organizations, the activity in this area had been significant during the past intersession. He highlighted co-operation with the ICC, WTO, UNSD and OPCW that was reported in the working document.
35. The representative of the WTO explained the status of the implementation of the HS 1996 amendments with regard to the WTO schedules of tariff concessions. She indicated that the WTO General Council would approve waiver requests of 19 Members at its forthcoming meeting. However, she also indicated that there were Members who were not under waivers but had still not completed the documentation process.
36. With respect to the HS 2002, she explained that since mid 2000 the WTO Market Access Committee had been discussing a new procedure to expedite the process for the introduction of the HS 2002 amendments and indicated that the discussion was nearing conclusion.
37. The representative of the WTO also explained the situation with regard to the classification of information technology products. She informed the Committee that, at the ITA meeting held on 27 April 2001, it was decided to forward List III to Doc. G/IT/W6, as amended, to the WCO for examination and indicated that the WTO wished to work closely with the WCO on this matter.
38. The UNSD representative expressed satisfaction with respect to the successful co-operation between the UNSD and WCO. He indicated that the participation of WCO experts in the Expert Group and Task Force on International Merchandise Trade Statistics was especially useful. The Committee was also informed that a draft correlation table between the HS 2002 and SITC/Rev.3, would be sent to the WCO Secretariat for comments before being made available to national statistical officers. The importance and continuation of UNSD and WCO co-operation in providing technical assistance to developing countries was highlighted.
39. The representative of the UNEP Basel Convention Secretariat (SBC) explained that SBC was in an advanced stage of preparation for the 2002 amendments to the HS, in respect of hazardous wastes. He also indicated that UNEP was co-ordinating submissions for the Basel Convention, Rotterdam Convention (Prior Informed Consent (PIC)) and the Ozone Layer Depleting Substances Secretariats.

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40. He informed the Committee that the Basel Convention Secretariat would submit details with respect to the impact of the changes and additions to the HS on hazardous wastes to the WCO Secretariat later this year and it was also likely that a submission by PIC would be forthcoming.
41. The representative of the International Chamber of Commerce (ICC) thanked the HS Committee and the Secretariat for the continued co-operation and partnership in working with the ICC and its member companies in providing technical information on products under review by the HS Committee.
42. The Committee took note of the information set out in Doc. NC0351E1 as well as the information provided by the Director and the representatives of the WTO, UNSD, UNEP Basel Convention Secretariat and ICC.

II.6. CO-OPERATION WITH THE TECHNICAL COMMITTEE ON RULES OF ORIGIN
(Doc. NC0352E1)

43. The Committee took note of the developments in the Technical Committee on Rules of Origin, as set out in Doc. NC0352E1.

II.7. NEW INFORMATION PROVIDED ON THE WCO WEB SITE
(Doc. NC0353E1)

44. The Director, while explaining the various issues listed in the working document, invited Members to make use of the WCO Web site to the extent possible. He informed the Committee that the opinions and views expressed in the recently opened discussion forums would have no formal status, which was also stated in the discussion forum documentation. With respect to the question whether the discussion forums should also be open to the public, the Committee felt that any forums for the public should be separated from those used by the Members.
45. The Committee agreed that the publication on the Internet of classification advice given by the Secretariat to Members by correspondence needed approval of the administrations concerned. The Secretariat was requested to take the necessary steps to that effect before publishing the correspondence.
46. The Committee took note of the other issues referred to in the working document.

II.8. ANNUAL SURVEY TO DETERMINE THE PERCENTAGE OF NATIONAL REVENUE
REPRESENTED BY CUSTOMS DUTIES
(Doc. NC0354E1)

47. In opening this Agenda Item, the Director explained that this year's survey covered 146 countries for the five years from 1994 to 1998 and that the overall average percentage of national revenues represented by Customs duties had slightly declined from around 20 % to

17 %. He also explained that in the case of developed countries, the average percentage was low and had slightly declined, while in the case of developing countries, the percentage was still high but had also declined. He noted that in the case of one-sixth of the countries surveyed (21 countries), more than 30 % of national revenues came from Customs duties, and that for more than half of the countries (70 countries), over 10 % of the national revenues were derived from Customs duties, stressing that Customs duties were still playing an important role in national revenues.

48. The EC Delegate pointed out that the nature of the percentage regarding the EC was different from that of other countries because the EC's own revenues were different from tax revenues of other countries, as explained in Note 3 to Annex I to Doc. NC0354E1 (page I/4).
49. The Committee took note of the results of the survey.

II.9 SURVEY ON FREE TRADE AGREEMENTS (Doc. NC0355E1)

50. In opening this Agenda Item, the Director explained that free trade agreements played a very important role in world trade; 126 countries were involved in one or more free trade agreements and 43 % of world trade occurred between member countries of free trade agreements. He also noted that for more than one-third of the 126 countries, over 50 % of total imports came from member countries.
51. Referring to paragraph 11 of Doc. NC0355E1, he stressed that the HS played an important role in the development and implementation of free trade agreements and was crucial to free trade agreements whose rules of origin were based on change in tariff classification.
52. Some delegates stated that the definition of the term "Customs union" should be clarified as against the expression "free trade area". In this connection, the EC Delegate noted that the free trade agreement between the EC and Andorra and that between the EC and Turkey were, in fact, Customs unions. The Delegate of Mexico also stated that in addition to NAFTA, Mexico had free trade agreements with the EC, Israel and several other Latin American countries.
53. Finally, the Secretariat was instructed to continue this survey, taking into account the above comments as well as other information and to submit a revised and updated document at the next session of the Committee.

II.10 CORRIGENDUM TO DOC. NG0023B1 (CORRELATION TABLES) (Doc. NG0026B1)

54. Responding to a question raised by one delegate, the Secretariat stated that the Corrigendum was issued to correct simple typing errors in the Correlation Tables.

55. The Committee agreed with the Corrigendum to Doc. NG0023B1 as proposed.

II.11 OTHER

56. The Director informed the Committee that by the end of the meeting all the delegates should complete an evaluation form, which had recently been introduced for all WCO meetings. In this regard, he mentioned that the purpose of this form was to help the Secretariat assess future needs with regard to the preparations for, and conduct of, the meetings of this body.
57. He also apologized for the delays in publication of some of the working documents for this session, which stemmed to some extent from a reorganization of the document production personnel in the Secretariat. However, he promised that the timeliness for the next set of HS meetings would be improved. At the same time, he noted that the Secretariat had received an inordinate number of late documents from administrations for this meeting, and he hoped that such comments would be submitted more promptly for future meetings.
58. In order to avoid problems with regard to possible delays in mail delivery and distribution problems in administrations, he encouraged administrations to arrange for access to the WCO Web site in their administrations. In this regard he mentioned that, at present, 112 WCO Members had access to the Web site.
59. The Delegate of the Libyan Arab Jamahiriya informed the Committee that, due to the late arrival of the invitation to this meeting in his country, his administration was not able to send participants from his home administration. The Director responded that invitations had been sent from Brussels 30 days before the opening day of the session, as provided for by the Rules of Procedure, and that this practice would continue. He urged delegations to use their Customs Attachés in Brussels and the WCO Web site to obtain invitations (in addition to mail delivery) in order to avoid such an unfavourable situation in the future.
60. The Director also let the Committee know that the Secretariat had recently issued several publications related to HS matters :
- The Amendments to the Harmonized System Nomenclature with Correlation Tables between the 1996 version and the 2002 version (Effective from 1 January 2002).
 - The Harmonized System Commodity and Description System (Third Edition – 2002).
 - The HS Classification Handbook.
61. In this regard he emphasized that, in his mind, the HS Classification Handbook was an especially useful publication. This publication (prepared in a loose-leaf format) contained all the non-legal information related to the Harmonized System and its development and should therefore be very helpful to administrations. As to whether this handbook, or the publication containing the Harmonized System itself, should include the recommendations related to the HS, the Committee left it to the Secretariat to decide.

III. GENERAL QUESTIONS

62. The Committee's conclusions concerning Agenda Item III are reproduced in Annexes C and M to this Report.

IV. RECOMMENDATIONS

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

V. REPORT OF THE SCIENTIFIC SUB-COMMITTEE (16th Session)

64. The Harmonized System Committee examined the conclusions reached by the Scientific Sub-Committee at its 16th Session.
65. The results of this examination are reproduced in Annexes E, O, P/1, P/2 and Q/1 to Q/4 to this Report.
66. On behalf of the Committee, the Chairman thanked the Scientific Sub-Committee and its Chairman for the excellent work accomplished at the 16th Session of the Sub-Committee.

VI. REPORT OF THE HS REVIEW SUB-COMMITTEE (23rd Session)

67. The Harmonized System Committee examined the conclusions reached by the Review Sub-Committee at its 23rd Session.
68. The results of this examination are reproduced in Annexes F, P/3 to P/6 and Q/20 to Q/23 to this Report.
69. On behalf of the Committee, the Chairman thanked the HS Review Sub-Committee and its Chairman for the excellent work accomplished at the 23rd Session of the Sub-Committee.

VII. REPORT OF THE WORKING PARTY

70. The Harmonized System Committee examined the conclusions reached at the Working Party's pre-session meeting. The conclusions of the Committee are reproduced in Annex G to this Report.
71. The texts finalized by the Working Party and adopted by the Committee are set out in Annexes Q/5 to Q/19 to this Report. The amendments to the Explanatory Notes to be made by corrigendum were adopted by the Committee on a provisional basis pending final approval at its next session.

72. On behalf of the Committee, the Chairman congratulated the Chairman of the Working Party and its Members on their excellent work.

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

73. The Committee's conclusions concerning Agenda Items VIII, IX and X are reproduced in Annexes H, IJ, K and Q/24 and Q/25 to this Report.

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

74. At the end of the 27th Session, on the proposal of the US Delegate, seconded by the Delegate of Pakistan, the Committee unanimously re-elected Mr. J. HINDSDAL (Denmark) as Chairman for its 28th and 29th Sessions.
75. On the proposal of the Delegate of Japan, seconded by the Delegate of Canada, Mr. M. BELARBI (Morocco) was unanimously re-elected First Vice-Chairman.
76. On the proposal of the EC Delegate, seconded by the Delegate of Uganda, Mr. J.F. JAUREGUI (Mexico) was unanimously elected Second Vice-Chairman.

XII. OTHER BUSINESS

77. The Committee's conclusion concerning Agenda Item XII (List of questions which might be examined at a future session) is reproduced in Annexes L and R to this Report.

DEPARTURE OF MR. GU FENG (CHINA)

78. The Chairman informed the Committee that Mr. GU FENG, Customs Attaché at the Embassy of China, would soon be leaving Brussels to return to his Administration. He thanked him for his valuable contribution to the Committee during the last three years.

XIII. DATES OF NEXT SESSIONS

79. The provisional dates of the next meetings of the Review Sub-Committee, the Working Party and the Harmonized System Committee are as follows :

(a) Review Sub-Committee (24th Session)

Monday, 17 September 2001 (10 a.m.) to
Friday, 28 September 2001

(b) Working Party

Wednesday, 7 November 2001 (10 a.m.) to
Friday, 9 November 2001

(c) Harmonized System Committee (28th Session)

Monday, 12 November 2001 (10 a.m.) to
Friday, 23 November 2001.

J. HINDSDAL,
Chairman.

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11. Amendments to the Compendium of Classification Opinions arising from the classification of certain forgings for crank shafts in subheading 8483.10	G/11, Q/15
12. Amendments to the Explanatory Note to heading 85.18	G/12, Q/16
13. Amendments to the Compendium of Classification Opinions arising from the classification of the "Color QuickCam" in subheading 8525.30	G/13, Q/17

14. Amendments to the Compendium of Classification Opinions arising from the classification of the "TATA SUMO 483" motor vehicle in subheading 8702.10	G/14, Q/18
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6. Classification of DVD storage units	H/6
7. Amendment of the Explanatory Note to heading 84.71 to delete certain obsolete equipment	H/7, Q/24
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* * *

ANNEX B/1

LIST OF CONTRACTING PARTIES
TO THE HARMONIZED SYSTEM CONVENTION

Situation as of 18 May 2001

(102 countries and 1 Customs or Economic Union)

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

* * *

ANNEX B/2
LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC
UNIONS USING THE HARMONIZED SYSTEM
Situation as of 18 May 2001
(Total 179)

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

Notes :

- + Acceptance (i.e., Contracting Party to the Harmonized System Convention).
- x Indicates application only.
- +x Some Members are Contracting Parties to the Harmonized System Convention.

* * *

ANNEX C

GENERAL QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0356E1	Study of the fast-track procedure (Rule 20 of the Rules of Procedure of the HSC).			

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

1. The Director presented the working document in detail and invited the views of delegates on this issue.
2. One delegate indicated that his delegation accepted the results of the Secretariat's study and no longer had a problem regarding this issue. He further clarified that it was the legal aspect of the issue that his administration was concerned with and it was important to make it clear that the fast-track procedure should not be restrictive or conditional. However, he expressed concern about the last two sentences of paragraph 5 (2) of the working document concerning the role of the Council with regard to reservations, arguing that these statements were not found in the HS Convention and that the Council procedure regarding reservations remained unchanged.
3. The Chairman explained that, while such wording might appear rather strong to some delegations, in practice, it reflected reality. He urged all administrations to use the fast track procedure as far as possible.
4. The Committee unanimously endorsed the results of the Secretariat's study.

* * *

1	2
NC0357E1	Speeding up the HS review process.

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

1. Given the importance of this issue, the Director gave a detailed introduction of the working document, elaborating on the complex process to amend the Harmonized System.
2. The Chairman concurred that the difficulty of this issue really lay in the need to strike a balance among different groups of users of the Harmonized System. He put forward two questions to the Committee :
 - (1) Could the current HS review cycle of five years, which had been approved by the Council last year, be shortened ?
 - (2) Could the future HS review cycles be shortened ?
3. The Observer for the United Nations Statistics Division confirmed the UN's position that a five-year review cycle was the best compromise for statisticians and other users of the HS and therefore he was in favour of keeping the status quo. He warned that shortening this review cycle would have a negative impact on the quality of UN trade data as well as the data of several other UN statistical systems (e.g., the CPC), which were based on the HS. In this connection, he indicated that some statistical administrations were still trying to implement the 1996 version of the HS.
4. A number of delegates spoke in favour of maintaining the five-year period for the current review cycle. While recognising the need to speed up the HS review process, the Committee felt strongly that it would not be possible to shorten the current review cycle, especially in light of its extensive nature and the fact that it was still in its embryonic stage. The Committee's attention was drawn to the wide range of difficulties involved at national level, as analysed in the working document, including the need for domestic consultation, co-ordination with other trade policy instruments and extensive work in preparation for implementation. It was also stressed that shortening the current review cycle might create problems regarding international harmonization if different versions of the HS were in use.
5. With regard to future review cycles, although the view was expressed that four years might be aimed at, the Committee was of the opinion that it would be premature to make a decision at this time. Referring to paragraph 19 of the working document, the Committee agreed that the amount of time needed for future review cycles would depend on the depth of those cycles and should be established in a flexible manner.
6. Given the views expressed above, the Chairman concluded that there would be no need to amend the HS Convention in the future to shorten the implementation period, referred to in Article 16 of the Convention.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The Observer from the International Chamber of Commerce suggested that the working document be presented at the next Open Day for Trade event of the WCO, with a view to enhancing the understanding of the complexities of the HS review process by the trade, which had previously expressed a strong sentiment that the HS review process needed to be expedited.

* * *

1	2
NC0358E1 NC0426E1	Use of information technology to speed up decisions by the HSC.

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

1. Opening the discussions, the EC Delegate stated that he was against the idea of replacing the Committee's Working Party by an "electronic working party" using the new discussion forum on the WCO Web site, since this solution might contradict the provisions laid down in the HS Convention, in particular Article 6.3. Furthermore, some administrations could be excluded from participating in such an arrangement since they might not have the necessary technical facilities. Similarly, if as suggested in Doc. NC0358E1, the statements and comments of Contracting Parties were not to be translated into the two official languages, a serious problem of understanding could arise. Under the WCO Convention, statements made in one official language were automatically translated into the other. Consideration should also be given to the situation of Contracting Parties that formed part of a Customs Union which, according to Article 6.4 of the HS Convention, could together exercise only one vote. In these circumstances, they must be allowed the time necessary to coordinate a joint position. Moreover, the procedure for taking decisions and conducting discussions would become very complex and has not been settled. It is also important to note that administrations might find themselves obliged to ask for questions to be postponed if the documents were not circulated within the time limits specified in the Committees' Rules of Procedure. The EC therefore wished to make clear its opposition to the proposal to replace Working Party meetings by "electronic meetings".
2. The US Delegate noted that there was nothing in the HS Convention that precluded electronic meetings since under the Convention the location of the meetings was left to the Contracting Parties. However, he concurred with the EC Delegate that the Working Party should not be replaced by an "electronic working party", in particular since a number of administrations would not be in a position to participate if that medium were to be used. Still, the timely submission of observations through the discussion forum might assist the work of the Working Party.
3. Other delegates shared the views expressed by the EC and the US, though the idea was expressed that a study could be carried out by the Secretariat with a view to examining the possibilities of the use of this new way of communication by HS Contracting Parties.
4. In conclusion, the Chairman summarized the discussions vis-à-vis the possible replacement of the Working Party by an "electronic working party", as follows :
 - (i) The HSC/28 Working Party should not be replaced by an "electronic working party", and would be held in accordance with the normal procedures;
 - (ii) It would be left to the Secretariat whether the discussion forum would be used as an additional means of exchanging views on Working Party issues; and

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- (iii) The Secretariat might conduct a survey on the capacity of HS Contracting Parties to use the new discussion forum.
5. He also concluded that the time to explore the possibility of holding virtual meetings had not yet come. The Committee took note of the other issues raised in the working document and complimented the Secretariat on the initiatives being pursued.

* * *

1	2
NC0359E1 NC0425E1	UN/SPSC Commodity Classification System.

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

1. Opening the discussion, the ICC Representative informed the Committee that inland transportation documents, shipping manifests and similar transportation documentation showed, more and more frequently, codes based on the UN/SPSC classification system.
2. The Delegate of Mexico, while indicating that the Harmonized System and its predecessor nomenclature had been successfully used by Customs administrations over the past decades, suggested that the Secretariat should contact the UNDP once more with a view to inserting a statement concerning the use of the Harmonized System in the UN/SPSC Web site page.
3. The UNSD Representative informed the Committee that the UN Statistical Commission had not approved the use of the UN/SPSC classification system, nor had it been involved in its development. The UN statistical systems with respect to international trade data were based on the Harmonized System and would continue to be based on it. He also indicated that so far, no request had been received from statistical administrations to consider the use of the UN/SPSC.
4. In conclusion, the Chairman invited the Secretariat to contact the UNDP and/or Dun and Bradstreet with a view to clarifying the respective uses of the two classification systems.

* * *

1	2
NC0360E1	Progress report on the implementation of the 2002 version of the HS.

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

1. Introducing the purpose of the working document, the Director remarked that the implementation of the 2002 version of the HS had been a major concern of the Secretariat and its technical assistance activities had been conducted to ensure timely implementation by Members. He indicated that while the Secretariat was largely pleased with the responses received from Contracting Parties so far, in some cases the responses received had been disappointing. Having informed delegates about the progress the Secretariat had made with regard to the implementation of the 2002 version of the HS, the Director invited all delegates to report on the progress in their administrations and on the need for technical assistance in this connection.
2. Twenty delegates reported on the progress in their administrations regarding the implementation of the 2002 version of the HS, including translation of the legal amendments and corresponding Explanatory Notes changes, transposition of national tariff and statistical nomenclatures, submission of the amendments for approval via the legislative process, publication and training.
3. Most Contracting Parties indicated that their preparatory work was on schedule and that they would be able to fully implement the 2002 version of the HS by 1 January 2002 as planned. These Contracting Parties were Australia, Brazil, Bulgaria, Canada, China, Estonia, Indonesia, Japan, Mexico, Morocco, New Zealand, Saudi Arabia, Slovakia, Switzerland, Turkey, the United States and the EC (+15 Member countries).
4. Kenya, Pakistan and Uganda indicated that they might have to implement the 2002 version of the HS by 1 July 2002, since for them the financial year started from 1 July.
5. Uganda specifically requested technical assistance in train-the-trainers programs regarding the implementation of the 2002 version of the HS.
6. With reference to paragraph 6 of the working document, one delegate sought clarification as to whether the 2002 version of the HS Commodity Data Base, which was to be published in the Fall of this year, would continue to include the INN products whose classification might change under the 2002 version. In response, the Director confirmed that a number of INN products that were causing classification problems might be dropped from the revised HS Commodity Data Base until the verification of their classification by the Committee.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The Chairman concluded the discussion by encouraging all Contracting Parties to continue to work on their preparation for implementation so as to improve on the percentage of Contracting Parties able to implement the 2002 version of the HS on 1 January 2002, compared with the implementation of the previous two sets of amendments to the HS.

* * *

1	2
NC0361E1 NC0412E1 NC0432E1	Russian and Spanish as working languages for HS matters.

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

1. Presenting the working document, the Director noted that a great deal of progress had been made since the last meeting of the Committee towards the use of Russian and Spanish as working languages for the Harmonized System.
2. In addition to the information to be found in the working document, he informed the Committee that, in April 2001, the Secretary General of the WCO had signed an agreement with the Russian Customs Administration containing details as to :
 - translation of HS publications, databases, training materials, recommendations, reports and documents into Russian,
 - interpretation at meetings into Russian, starting with the 28th Session of the HSC,
 - secondment of a Russian clerk/co-ordinator to work in the Secretariat, and
 - establishment of a Russian reference library at the WCO.In his view, this agreement would also become the *de facto* model for such agreements concerning other languages.
3. He also informed the Committee about the special working groups which had finalized agreed texts of the Russian and Spanish versions of the HS 2002 Nomenclature and that these special working groups in the near future would also finalize 2002 Russian and Spanish editions of the Explanatory Notes.
4. The Delegate of Russia expressed the gratitude of the Russian Administration to the Secretariat for its support, assistance and co-operation in introducing Russian as a working language. He also thanked the participants of the special working group that had finalized the agreed Russian texts. He was sure that the introduction of Russian as a working language would facilitate the interpretation and application of the HS in the CIS countries and would enable Russian speaking experts to participate in the meetings of the Harmonized System Committee, the Review Sub-Committee and the Scientific Sub-Committee. Finally, he introduced Mr. Alexei SHCHEGLOV who would carry out the duties as a clerk/co-ordinator, as set out in the agreement between the Secretariat and the State Customs Committee of the Russian Federation.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. The Delegate of Mexico informed the Committee of the work carried out within the Multilateral Agreement on Co-operation and Mutual Assistance between the Latin American countries, Spain and Portugal, as to the preparation of a single Spanish 2002 version of the Harmonized System. He also thanked the Secretariat and all other people involved in this important work which, hopefully, would lead to the active participation of 20 Spanish speaking countries in the work of the HS Committee and its Sub-Committees.
6. The EC Delegate confirmed that the EC used this single Spanish version as a basis for its Combined Nomenclature in Spanish, as well as rules in respect of drafting style also contained in this Multilateral Agreement.
7. After this exchange of views, the Committee finally accepted the Russian and Spanish working language versions of the HS 2002 Nomenclature, the next step being to print and publish these versions as WCO publications.

* * *

1	2
NC0409E1	Establishment of a correlation between the Harmonized System and various international conventions.

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

1. In opening discussion of the agenda item and referring to paragraphs 4, 15 and 16 of the working document, the Director noted that (i) the correlation would be unofficial and compiled by the Secretariat, (ii) the correlation did not contain references to the WTO instruments and (iii) the correlation in hard copy should be published as an Annex to the new Classification Handbook; in addition it would also be published on the WCO Web site. Referring to paragraph 9 of the working document, he also explained that all symbols in the "WASTE" columns of the Table had been placed in square brackets, since the Secretariat still had to consult with UNEP before finalization.
2. One delegate stated that due to the late publication of the working document and given the size of the Table, administrations needed more time to review the document. He also stated that the definitions of "X" and "EX" in Note 2 to the Table should be reviewed with a view to further improvement.
3. Concerning the status of the correlation, another delegate expressed the view that it should be unofficial and did not have legal status, and that this notion should be clearly stated in the correlation. In this context, it was suggested that the term "INFORMAL" should be inserted before "CORRELATION" in the title of the Annex to Doc. NC0409E1. Insertion of the word "UNOFFICIAL" was also suggested.
4. Finally, the Committee agreed to continue discussion of this agenda item at its next session and the Secretariat was instructed to prepare a new document taking into account the comments mentioned above, further discussions with the UNEP and, possibly, the WTO Secretariats and other relevant information.

* * *

1	2	4
NC0420E1 NC0436E1	Corrigendum to Annex S/1 to Doc. NC0340B2.	<u>See Annex M.</u>

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

1. In opening this agenda item the Secretariat explained that after publishing Doc. NC0420E1, the Secretariat had identified an additional clerical error with regard to the amendment to subheading 2914.31 in both the English and French versions, to the effect that the amendment had already been incorporated in the current Explanatory Notes in the context of corrigendum amendments to the 1996 version of the HS. It was, therefore, proposed that the amendment to subheading 2914.31 should be deleted from Annex S/1 to Doc. NC0340B2.
2. During the session, the Secretariat issued Doc. NC0436E1 which listed another two clerical errors with respect to headings 84.19 and 84.42 in both the English and French versions. The Director noted that corrections in both versions mainly related to printing instructions and there were no substantial errors.
3. Subject to the addition of the above modifications, the Committee unanimously adopted the Corrigendum to Annex S/1 to Doc. NC0340B2. The texts adopted are set out in Annex M to this Report.

* * *

ANNEX D
RECOMMENDATIONS

Working Doc.	Subject	Recommendations
1	2	
NC0362E1	Draft Recommendation of the Customs Co-operation Council on the implementation of HSC decisions.	<u>See Annex N/1.</u>

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

1. The Committee approved the Draft Recommendation as set out in Annex N/1 to this Report, for adoption by the Council at its next sessions, having made the following modifications to the text proposed by the Secretariat in Annex I to the working document :
 - (1) The word “implementation” was replaced by the word “application” in conformity with usage in the HS Convention, throughout the draft Recommendation;
 - (2) In the CONSIDERING paragraph :
 - the expression “compliance with” was replaced by the expression “application of”;
 - the phrase “is subject to national legislative procedures” was replaced by “may be subject to national legislative procedures”;
 - (3) In the RECOMMENDS paragraph :
 - the reference to the time period of twelve months was adopted by the Committee instead of six months;
 - the phrase “in accordance with paragraph 2 of Article 8 of the Harmonized System Convention” was added to the end of the first sentence;
 - the word “reasons” was replaced by “reason(s)” (no change in the French text);
 - (4) In the REQUESTS paragraph :
 - The word “REQUESTS” was replaced by the word “ENCOURAGES”;
 - the phrase “so as to make them easily available” was adopted instead of “so as to make them easily available and without charge”;

Annex D/1 to Doc. NC0430E2
(HSC/27/May 01)

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- (5) Certain texts in the French version were modified for better alignment with the English version.

* * *

1	2
NC0363E1	Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the draft Protocol concerning firearms covered by the UN Convention against transnational organized crime.

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

1. Opening the discussions of this agenda item and pointing out that the United Nations had not yet formally approved the Firearms Protocol, the Chairman put the question to the Committee whether or not a draft Recommendation should be presented to the WCO Council during its forthcoming sessions. All delegations that spoke, were of the view that at this stage no draft Recommendation should be prepared or presented. They held the view that the Protocol should be signed first.
2. The US Delegate informed the Committee about the note his administration had submitted recently. He suggested that the content of this note should be incorporated into a new working document to be presented at the Committee's next session.
3. The EC Delegate indicated that the sentence in square brackets in the RECOMMENDS paragraph should be retained, since he doubted whether it would be feasible or appropriate for administrations to include all the subheadings, as reproduced in Annex II to the working document, in their statistical nomenclatures. Simplification of the proposed structures would be welcomed for ease of application. Noting that there might be some identification problems vis-à-vis the various items listed, he suggested inviting a representative of the appropriate UN agency to be present at the Committee's next session, with a view to clarifying these and possibly other issues.
4. The Delegate of Cyprus added that it would be inappropriate to start discussions as long as the Protocol had not been signed, given the fact that its scope might still be changed. Consequently, discussions at the technical level could not be finalized, since the Recommendation should be restricted to the commodities covered by the Protocol.
5. Addressing the issue of the level of detail, the Delegate of Canada pointed out that this had been worked out very closely with the UN working group and other agencies involved with the issue. The aim of the detail was to track, to the extent possible, the international movement of the various weapons.
6. Responding to an inquiry from the Delegate of Morocco, the Director clarified that the codes beyond the HS level might be different in the statistical nomenclatures of the various countries. The appropriate structure in the Harmonized System could, however, be considered at some time in future, in the context of the HS 2007 amendments.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. In conclusion, the Chairman reiterated the position of the Committee that the Firearms Protocol should be adopted before the draft Recommendation could be finalized. Nonetheless, he requested administrations to submit their comments as soon as possible, to enable the Secretariat to prepare a new working document in good time for the next session. Once the Recommendation had been adopted, the Review Sub-Committee might consider appropriate amendments to the Nomenclature.

* * *

1	2	
NC0364E1	Amendments to the HS-related Recommendations to take into account the 2002 HS amendments.	<u>See Annex N/2.</u>

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

Recommendation on the use of standard units of quantity

1. The Committee recognized the fact that, as a result of the 2002 amendments to the HS, the 20 June 1995 Recommendation of the Council on the use of standard units of quantity (as amended in 1999) and the list of HS codes in the Annex thereto should be updated.
2. The Committee appreciated the Secretariat proposal for the insertion of an ASSUMING paragraph in the body of the draft revised Recommendation in that such a paragraph could possibly help Member administrations and HS Contracting Parties which have already accepted the 1995 Recommendation avoid going through the acceptance and notification procedure once again for the revised Recommendation. Nevertheless, it was noted that an "assumption" by the Committee that such administrations have been "deemed" to have accepted the revised Recommendation might create certain legal problems, since each time the Council adopted a new Recommendation, Member administrations and HS Contracting Parties were supposed to send a formal notification to the Secretary General once they had accepted and implemented that new Recommendation.
3. At the suggestion by the Chairman, the Committee unanimously agreed to follow the conventional procedure. Accordingly, the ASSUMING paragraph of the draft revised Recommendation was deleted.
4. Subject to the foregoing and an editorial modification in the French version, the Committee approved, to enter into force on 1 January 2002, the texts in Annex I to Doc. NC0364B1.
5. The texts approved, for submission to the Council for adoption at its next sessions, are set out in Annex N/2 to this Report.
6. In this connection, the Committee instructed the Secretariat to send a letter to administrations explaining that the 1995 Recommendation had been revoked and a new Recommendation had been adopted and inviting them to accept this new Recommendation. A standard form of notification of acceptance could also be prepared by the Secretariat and attached to this letter to facilitate the notification procedure.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Recommendation on narcotic drugs and psychotropic substances

7. The Committee recognized the fact that, as a result of the 2002 amendments to the HS, all of the substances listed in the 18 June 1996 Recommendation on narcotic drugs and psychotropic substances (as amended in 1999), except for “concentrates of poppy straw” of heading 13.02, had been separately identified in the HS.
8. Therefore, the Committee unanimously agreed :
 - (a) to recommend the Council to revoke, from 1 January 2002, the 18 June 1996 Recommendation on narcotic drugs and psychotropic substances (as amended in 1999); and
 - (b) not to adopt the new draft Recommendation in Annex II to Doc. NC0364B1.
9. Nevertheless, the Committee was fully aware of the fact that “concentrates of poppy straw” were still controlled under the Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and the 1971 Convention on Psychotropic Substances.
10. Therefore, it was stressed that, although the 18 June 1996 Recommendation on narcotic drugs and psychotropic substances would be revoked from 1 January 2002, Member administrations and HS Contracting Parties, regardless of whether or not they have already accepted this Recommendation, were free to provide in their nomenclatures national subheadings for “concentrates poppy straw”. In addition, the Secretariat was requested to send a letter to administrations explaining the conclusions of the Committee in this connection.
11. Finally, it was also noted that the Secretariat was already in contact with the UN International Narcotics Control Board (INCB) to see whether it still needed a WCO Recommendation for “concentrates of poppy straw” as well as for any additional substances. If the INCB submitted a new request, the Committee was ready to examine it.

* * *

ANNEX E

REPORT OF THE SCIENTIFIC SUB-COMMITTEE

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NS0034E2 NS0035E1 NC0365E1	Report of the 16 th Session of the Scientific Sub-Committee. Matters for decision by the Harmonized System Committee.		<u>See Annexes Q/1 to Q/4.</u>	<u>See Annexes P/1 and P/2.</u>

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

- The Committee examined the questions arising from the Report of the Scientific Sub-Committee's 16th Session (January 2001). The decisions taken by the Committee are set out below with reference to the relevant annexes of the Sub-Committee's Report (Doc. NS0034E2).

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

- The Committee approved the classifications agreed upon by the Scientific Sub-Committee concerning (a) the classification of products from INN List 82, (b) the classification of products from INN List 83 and (c) the classification of other INN products.
- The Committee also took note of the fact that the classifications placed in square brackets would be further examined by the Sub-Committee.
- The classifications approved are set out in Annex Q/1 to this Report.

Annexes A/2 and C/2 – Amendments to the Nomenclature and the Explanatory Notes to clarify the classification of co-ordination compounds

- The Committee decided to place the proposed text relating to Note 5 (c) (3) to Chapter 29 in square brackets pending completion of the discussions concerning the Explanatory Notes to be held by the Scientific Sub-Committee at its next session.
- The texts placed in square brackets are set out in Annexes P/1 and Q/2 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex A/3 – Review of the classification of certain INN products

7. The Committee approved the classifications agreed upon by the Sub-Committee concerning midaxifylline and corifollitropin alfa in subheadings 2939.50 and 2934.90, respectively.

Annex A/4 – Amendment of the Subheading Explanatory Notes concerning subheadings 2932.29 and 2933.79

8. The Committee approved the classification of zopiclone in subheading 2933.79, in accordance with the principles specified in paragraph 7.A(2) to Doc. 37.886, bromazepam in subheading 2933.39 on the basis of GIRs 1 and 6, and sildenafil citrate as a sulphonamide in subheading 2935.00.
9. The Committee also took note of the fact that the Subheading Explanatory Notes to subheadings 2932.29 and 2933.79 would be further examined by the Sub-Committee.

Annexes A/5 and C/3 – Proposal by the Canadian Administration to amend the Nomenclature and Explanatory Notes to Chapter 54

10. This question would be examined by the Committee in the context of Agenda Item VI.

Annexes A/6 and C/4 – Classification of certain chemical products relating to the Chemical Weapons Convention

11. One delegate indicated that certain chemical products in the OPCW Handbook marked with “*” in Annex Q/3 to this Report might not be covered by the Chemical Weapons Convention.
12. At the request of another delegate, the Committee agreed, for verification purposes, to place the whole list in square brackets for further examination at its next session.
13. Administrations were invited to send the Secretariat their comments on this question by 30 June 2001 at the latest.
14. The Committee also instructed the Secretariat to get in touch with the OPCW to confirm whether or not the chemical products marked with “*” were covered by the Chemical Weapons Convention.
15. The texts placed in square brackets are set out in Annex Q/3 to this Report.

Annexes A/7 and C/5 – Classification of certain chemical products in the HS Commodity Data Base

16. The Committee agreed to classify fonofos in subheading 2930.90 and ciprofloxacin and enrofloxacin in subheading 2933.59.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

17. The Committee agreed that the reference to neodecanoc acid should be deleted from the Data Base.

18. The Committee also approved the classification agreed upon by the Scientific Sub-Committee for the other products of Annex C/5 to Doc. NS0034E2.

19. The Committee took note of the fact that the Sub-Committee would further examine the classification of the products placed in square brackets.

20. The classifications approved are set out in Annex Q/4 to this Report.

Annexes A/8 and C/6 – Proposal by the Japanese Administration to amend subheading 3004.32

21. The Committee provisionally approved the text proposed by the Sub-Committee for the amendment of subheading 3004.32 in the 2007 version of the Harmonized System.

22. The text provisionally approved is set out in Annex P/2 to this Report.

Annex A/9 – Classification of “MYKON ATC Blue”

23. This question would be examined by the Committee in the context of Agenda Item VIII.16.

Annex B/1 – Oral Report by the Chairman on the 1st Conference of European Customs Chemists

24. The Committee took note of this report.

Annex B/2 – Regional seminar on Customs laboratories

25. The Committee took note of this report.

Annex B/3 – WCO Web site discussion forum on Customs laboratory issues

26. The Committee took note of this development (see also Agenda Item II.7).

* * *

1	2
NC0366E1	Guidelines with regard to the possible application of GIRs 3 (a) and 3 (c).

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

1. Opening the discussion, one delegate indicated that the Scientific Sub-Committee had in the past classified a large number of INN products by application of GIR 3 (a) (i.e., in the subheading referring to a specific function rather than in the residual subheading “other”). If this approach were to be changed, the Committee would need to re-examine all of these past classification decisions.
2. Another delegate agreed. Moreover he took the view that classification rationales should be considered on the basis of specific products, rather than on a general basis.
3. This point of view was shared by a third delegate who said that neither the reports of the Scientific Sub-Committee nor those of the HS Committee mentioned the legal basis on which these products had been classified. Consequently, he considered that the answer which the Committee might give to the question raised by the Sub-Committee (classification of a single substance having two different functions each classifiable in a different subheading) would not be such as to change any classification principle.
4. This viewpoint was supported by other delegates who explained that the matter should be considered from a legal point of view, i.e., the application of the GIRs. With respect to the case at issue, they agreed with the Secretariat that the two products were not mixtures or composite goods, but were single products having two different functions. These products could be classified in the residual subheading on the basis of GIR 2 (b) (i.e., a reference in a subheading to goods of a given material or substance includes a reference to goods consisting wholly or partly of such material or substance), without the need to refer to GIR 3. Otherwise classification by virtue of GIR 3(c) should be considered.
5. The Committee finally agreed to re-address the classification of the two products at issue at its next session, on the basis of a new document to be prepared by the Secretariat, which should contain full descriptions of the specific products.

* * *

1	2	
NC0367E1	Classification of certain products under the 2002 version of the HS.	<u>See Annexes O and Q/3.</u>

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

1. Drawing the attention of the Committee to certain classifications left in square brackets and remarks made by the Secretariat in Annexes I to IV to the working document, which covered INN products, the Chairman indicated that these annexes could be referred to the Scientific Sub-Committee for examination of the classifications proposed by the Secretariat under the 2002 version of the HS.
2. However, with regard to Annex V (which dealt with the classification of certain Chemical Weapons Convention (CWC) chemicals) he recalled the decision taken by the Committee at this session to examine the classifications proposed by the Scientific Sub-Committee in respect of 929 chemicals related to the CWC at its next session (see Annex E/1, paragraph 12 to this Report). He, therefore, indicated that Annex V could be dealt with along with the entire list of 929 chemicals at the next session.
3. One delegate suggested that it would be appropriate to refer the entire set of Annexes (I to V) to the Scientific Sub-Committee for examination of the proposed classifications in the HS 2002. He was of the view that careful consideration should be given to this exercise, as these classifications would be subsequently used to control and monitor these chemicals in international trade.
4. The Director explained that the Organization for the Prohibition of Chemical Weapons (OPCW) had forwarded its Handbook on Chemicals, May 2000 and had requested the WCO to confirm the HS codes of 929 chemicals incorporated in that Handbook. He further explained that this request had been made in November 2000 and that the Scientific Sub-Committee had examined the classifications of these chemicals in January 2001.
5. He then explained that the classifications suggested by the Secretariat in Annex V to the working document only involved a mechanical transposition from the 1996 to the 2002 version of the HS. He indicated that since the Committee had already decided to examine the classifications of the 929 CWC chemicals in November he could see no reason not to examine Annex V which also related to CWC chemicals at the same time. He finally stressed the importance of providing these classifications to the OPCW as early as possible.
6. The Committee finally decided to refer only Annexes I to IV to the Scientific Sub-Committee for examination of the classifications proposed by the Secretariat under the 2002 version of the HS.
7. Annexes I to IV were placed in square brackets and have been reproduced in Annex O to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. The Committee decided to examine Annex V at its next session along with the classification of the 929 chemicals from the OPCW Handbook, as set out in Annex Q/3 to this Report. The Committee, however, agreed that if any problems were encountered at the next session, those should be referred to the Scientific Sub-Committee for its examination.

* * *

ANNEX F

REPORT OF THE HS REVIEW SUB-COMMITTEE

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NR0165E2 NC0368E1	Report of the 23 rd Session of the HS Review Sub-Committee. Matters for decision by the Harmonized System Committee.		<u>See Annexes Q/20 to Q/23.</u>	<u>See Annexes P3 to P6.</u>

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

1. The Committee examined the questions arising from the Report of the 23rd Session of the HS Review Sub-Committee.
2. The decisions taken by the Committee are set out below with reference to the relevant Annexes of the Sub-Committee's Report (Doc. NR0165E2).

Annex B/1 – Decisions taken by the Harmonized System Committee at its 26th Session concerning the Report of the 22nd Session of the Review Sub-Committee and pending questions

3. The Committee took note of the fact that the Review Sub-Committee was informed about the decisions taken by the Harmonized System Committee at its 26th Session concerning the Report of the 22nd Session of the Review Sub-Committee and pending questions.

Annex B/2 – Review of the HS Explanatory Notes by the Review Sub-Committee

4. The Committee took note of the conclusions of the Review Sub-Committee on the HS Explanatory Notes work plan and the 3rd HS Review Cycle.
5. With regard to the 3rd HS Review Cycle, the Chairman again reminded delegates that there were only six sessions of the Review Sub-Committee left to meet the deadline of completing the review work by the Spring of 2004 and requested them to submit proposals as early as possible.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

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

6. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session on the basis of a new document to be prepared by the Secretariat (with contributions from Contracting Parties and the industry).

Annexes C/2 and E/2 – Possible amendments to Note 1 (c) to Chapter 41 regarding hides and skins of camels

7. The Committee provisionally adopted the texts approved by the Sub-Committee, and took note of the correlation tables prepared by the Secretariat.
8. The relevant transfers, in the view of the Secretariat, could be presented in the following way :

HS 2007	HS 2002	Observations
4103.90	4103.90 ex 4301.80 ex 4301.90	Raw hides and skins of camels (including dromedaries) have been added to the exclusions in Note 1 (c) to Chapter 41.
4301.80	ex 4301.80	
4301.90	ex 4301.90	

HS 2002	HS 2007
4103.90	ex 4103.90
4301.80	ex 4103.90 ex 4301.80
4301.90	ex 4103.90 ex 4301.90

9. The texts provisionally adopted are set out in Annexes P/3 and Q/20 to this Report.

Annexes C/3 and E/3 – Proposal by Canada to amend the Nomenclature and Explanatory Notes to Chapter 54

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

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex C/4 – Possible amendments to the Nomenclature and Explanatory Note to heading 84.42

11. The Committee took note of the fact that the Secretariat would produce a concrete proposal, based on contributions from administrations, for heading 84.42 for the next session of the Review Sub-Committee.

Annexes C/5 and E/1 – Possible amendments to the Explanatory Note to heading 84.71

12. The Committee took note of the development in the Sub-Committee.

Annex C/6 – Possible amendment of the text of heading 85.25 to clarify the classification of cameras

13. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session on the basis of a new document to be prepared by the Secretariat.

Annex C/7 – Possible amendment of Note 5 (B) to Chapter 85

14. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee after the examination of the classification of *SIMM* and *DIMM* modules by the Committee (see Agenda Item IX.4).

Annexes C/8 and E/4 – Amendment of the text of subheading 9021.10 in order to align the French and English versions

15. The Committee examined the texts presented by the Review Sub-Committee aimed at aligning the legal texts of heading 90.21 and subheading 9021.10 in the French and English versions.

16. Some delegates felt that there was a lack of alignment between the two versions and proposed, firstly, that the terms “articles and” be added to the English text given that it currently only referred to “appliances” and, secondly, that the French text of subheading 9021.10 refer to “Articles et appareils d’orthopédie ou pour fractures”.

17. Other delegates pointed out that the English text should not be amended, as the insertion of a new term might be interpreted as an extension of the scope of heading 90.21. A consultation concerning this matter between various English speaking countries took place.

18. Following that consultation, the Committee finally provisionally adopted the proposed amendment to the French text of subheading 9021.10, but decided to leave the English text unchanged agreeing that, in this context, the English term “appliances” covered articles as well, which corresponded to the French expression “articles et appareils”.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

19. The texts provisionally adopted are set out in Annex P/4 and Q/21 to this Report.

Annex C/9 – Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

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

Annex C/10 – Study with a view to amending the structure of Chapter 87

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

Annexes C/11 and E/5 – Study with a view to amending the structure of heading 73.21

22. The Committee provisionally adopted the texts approved by the Review Sub-Committee.

23. With regard to the correlation tables presented by the Secretariat in Doc. NC0368E1, subject to certain amendments, the Committee took note of the new amended correlation tables as set out below :

HS 2007	HS 2002
7321.19	ex 7321.11 7321.13
7321.89	ex 7321.81 7321.83

HS 2002	HS 2007
7321.11	7321.11 ex 7321.19
7321.13	ex 7321.19
7321.81	7321.81 ex 7321.89
7321.83	ex 7321.89

24. The texts provisionally adopted are set out in Annexes P/5 and Q/22 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes D/1 and E/6 – Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

25. The Committee took note of the developments in the Sub-Committee in respect of headings 85.19, 85.20 and 85.24.
26. In respect of heading 84.69, the Committee provisionally adopted the amendments set out in Annex E/6 to Doc. NR0165B2.
27. The texts provisionally adopted are set out in Annexes P/6 and Q/23 to this Report.

Annex D/2 – Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03

28. 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/3 – Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21

29. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee, following examination by the Scientific Sub-Committee at its 2002 Session.

Annex D/4 – Proposal by the US Administration to amend the Nomenclature to Chapter 41

30. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session on the basis of a new document to be prepared by the Secretariat.

Annex D/5 – Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 70.13

31. 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/6 – Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 84.82

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

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex D/7 – Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 85.19

33. The Committee took note of the fact that this matter would be re-examined by the Review Sub-Committee at its next session on the basis of a revised text or alternative texts prepared by the Secretariat (see also Annex D/1 to Doc. NR0165E2).

Annex D/8 – Proposal by the US Administration to amend certain subheadings of heading 87.08

34. 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/9 – Proposal by the Australian Administration to amend the Nomenclature to heading 70.19 concerning glass fibres

35. The Committee took note of the fact that Australia was asked to refine its proposal before re-submitting it to the Review Sub-Committee.

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ANNEX G

REPORT OF THE PRESSIONAL WORKING PARTY

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0369E1 NC0428B2/A/I	Amendments to the Compendium of Classification Opinions arising from the classification of "high fat cream cheese" in subheading 0405.20.	<u>See Annex Q/5.</u>		

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

1. The Delegate of Australia proposed that, in the both Classification Opinions, the last sentence (This dairy spread is sometimes referred to as "high fat cream cheese") should be deleted from the product description to avoid any possible confusion as to the classification of cheeses and dairy spreads. Several other delegates, however, held the view that the sentences concerned must be retained as finalized by the Working Party. They pointed out that, since the beginning of the discussion of this question, the Committee had always referred to this agenda item as the classification of "high fat cream cheese", but had finally classified the products at issue as "dairy spreads".
2. Another delegate noted that he could agree to the proposed deletion, subject to the addition after the trade mark "Triple M Cheese" in Column 4 of the Annex to the Compendium of Classification Opinions of the expression "Dairy spread also referred to as "high fat cream cheese"" in brackets.
3. After discussion, the Committee agreed, by 27 votes to 1, to retain the sentences concerned in the both Classification Opinions as finalized by the Working Party.
4. As regards the addition of the expression mentioned in paragraph 2 above to "Triple M Cheese" in the Annex to the Compendium, the Committee felt that the proposed wording might be misinterpreted to the effect that any product referred to as "high fat cream cheese" would be covered by "Triple M Cheese".
5. Therefore, by way of compromise, the Committee decided, by 15 votes to 11, to add the reference "(This dairy spread is also referred to as "high fat cream cheese")" after "Triple M Cheese" in Column 4 of the Annex to the Compendium of Classification Opinions.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. Subject to the foregoing, the Committee adopted the texts finalized by the Working Party.
7. The texts adopted are set out in Annex Q/5 to this Report.

* * *

1	2	3
NC0370E1 NC0428B2/A/II	Amendments to the Compendium of Classification Opinions arising from the classification of uncooked pizza in subheading 1901.20.	<u>See Annex Q/6.</u>

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

1. Subject to an editorial amendment in the English text, the Committee adopted the texts finalized by the Working Party.
2. The texts adopted are set out in Annex Q/6 to this Report.

* * *

1	2	4
NC0371E1 NC0428B2/A/III	Amendments to the Explanatory Notes arising from the classification of “chicken sauce” in subheading 2103.90.	<u>See Annex Q/7.</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 provisionally adopted are set out in Annex Q/7 to this Report.

* * *

1	2	3
NC0372E1 NC0428B2/A/IV	Amendments to the Compendium of Classification Opinions arising from the classification of a tobacco mixture known as "Basic Blended Strip" in subheading 2401.20.	<u>See Annex Q/8.</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 Q/8 to this Report.

* * *

1	2	3
NC0373E1 NC0428B2/A/V	Amendments to the Compendium of Classification Opinions arising from the classification of non-aromatic cut tobacco in subheading 2403.10.	<u>See Annex Q/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 adopted are set out in Annex Q/9 to this Report.

* * *

1	2	3
NC0374E1 NC0428B2/A/VI	Amendments to the Compendium of Classification Opinions arising from the classification of various women's or girls' garments.	<u>See Annex Q/10.</u>

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

1. The Committee adopted the texts finalized by the Working Party, subject to a drafting amendment to align the French version on the English.
2. The texts adopted are set out in Annex Q/10 to this Report.

* * *

1	2	3
NC0375E1 NC0428B2/A/VII	Amendments to the Compendium of Classification Opinions arising from the classification of a non- electric barbecue in subheading 7321.11.	<u>See Annex Q/11.</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 Q/11 to this Report.

* * *

1	2	3
NC0376E1 NC0428B2/A/VIII	Amendments to the Compendium of Classification Opinions arising from the classification of welded tube mill machinery presented without welding equipment in subheading 8462.21 or 8462.29.	<u>See Annex Q/12.</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 Q/12 to this Report.

* * *

1	2	3
NC0377E1 NC0428B2/A/IX	Amendments to the Compendium of Classification Opinions arising from the classification of the "ENW-9500-F Fast Ethernet Adapter" in subheading 8471.80.	<u>See Annex Q/13.</u>

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

1. The Committee agreed to replace the text in square brackets with the following : "It is designed to be placed within the housing of an automatic data processing (ADP) machine." The Committee also agreed to certain editorial amendments consequential upon its acceptance of the new text.
2. The Committee then adopted the texts prepared by the Working Party without further amendments.
3. The texts adopted are set out in Annex Q/13 to this Report.

* * *

1	2	3
NC0378E1 NC0428B2/A/X	Amendments to the Compendium of Classification Opinions arising from the classification of a video card, sound card and software therefor.	<u>See Annex Q/14.</u>

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

1. With reference to the potential repercussions of the amendments introduced by the 2002 version of the HS, mentioned in paragraph 12 of Doc. NC0378E1, the Committee agreed that the examination of the conditions for applying the new wording of Note 6 to Chapter 85 would be included on the Agenda for the next session. In this connection, the Secretariat was instructed to prepare a document taking account of the transpositions already adopted for other Classification Opinions.
2. With regard to determining the classification of the magnetic disc (floppy disc) containing the installation software for the video cards and sound cards at issue, the Committee unanimously agreed that the text should be limited to the four-digit classification reference of heading 85.24.
3. The Committee adopted, without any further modification, the texts finalized by the Working Party.
4. The texts adopted are set out in Annex Q/14 to this Report.

* * *

1	2	3
NC0379E1 NC0428B2/A/XI	Amendments to the Compendium of Classification Opinions arising from the classification of certain forgings for crank shafts in subheading 8483.10.	<u>See Annex Q/15.</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 Q/15 to this Report.

* * *

1	2	4
NC0380E1 NC0403E1 NC0408E1 NC0410E1 NC0416E1 NC0427E1 NC0428B2/A/XII	Amendments to the Explanatory Note to heading 85.18.	<u>See Annex Q/16.</u>

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

1. The Committee examined the parts of the draft text which had been placed in square brackets by the Working Party.
2. Firstly, the Committee unanimously agreed to maintain the term “generally” in the first sentence of the first paragraph.
3. However, opinions were divided regarding the proposal to add a new third sentence to the first paragraph, intended to explain that prenatal listening apparatus of heading 85.18 did not include a recording device.
4. The US Delegate pointed out that the Committee was drafting an Explanatory Note in order to provide guidance as a result of its discussion and classification of a prenatal listening device. He also pointed out that the Committee had not taken a formal classification decision with regard to such apparatus containing a recording device. He therefore felt that it would be inappropriate to insert an exclusion for such a product.
5. The EC Delegate noted that the text at issue was an inclusion note relating to “prenatal listening apparatus”. It was therefore important to specify that the apparatus at issue did not include a recording device, otherwise they would be covered by the text of another heading, namely 85.20.
6. When the matter was finally put to a vote the Committee decided, by 16 votes to 11, to maintain this reference.
7. At this juncture, the Committee provisionally adopted the texts finalized by the Working Party.
8. The texts provisionally adopted are set out in Annex Q/16 to this Report.

* * *

1	2	3
NC0381E1 NC0428B2/A/XIII	Amendments to the Compendium of Classification Opinions arising from the classification of the "Color QuickCam" in subheading 8525.30.	<u>See Annex Q/17.</u>

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

1. The Committee deleted the square brackets from the texts approved by the Working Party and adopted the entire text.
2. The texts adopted are set out in Annex Q/17 to this Report.

* * *

1	2	3
NC0382E1 NC0428B2/A/XIV	Amendments to the Compendium of Classification Opinions arising from the classification of the "TATA SUMO 483" motor vehicle in subheading 8702.10.	<u>See Annex Q/18.</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 Q/18 to this Report.

* * *

1	2	3
NC0383E1 NC0428B2/A/XV	Amendments to the Compendium of Classification Opinions arising from the classification of certain motorised scooters in subheading 8703.10.	<u>See Annex Q/19.</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 Q/19 to this Report.
3. The Committee agreed that it would be helpful to insert, to the extent possible, a picture of the article concerned in the Compendium of Classification Opinions, particularly in interesting cases such as the motorised scooters at issue.
4. The Secretariat was asked to contact the manufacturer to obtain pictures of the motorised scooters concerned.

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ANNEX H

FURTHER STUDIES

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0146E1 (HSC/24) NC0283E1 (HSC/26) NC0384E1 NC0422E1	Classification of bakers' wares (waffles) (Reservation by the EC).			

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

1. The US Delegate emphasized that the waffles referred to in his administration's comments in Doc. NC0422E1 ("Kellogg's Eggo Frozen Waffles") had exactly the same composition as the "Kellogg's® Bredia" waffles which, according to information submitted by the Japanese Administration, were no longer manufactured. The only difference was that these two types of waffles contained different leavening agents. He was therefore of the opinion that the Committee should be in a position to classify "Kellogg's® Bredia" waffles on the basis of the new information submitted by his administration. Since similar products were traded all over the world, it was very important that the Committee take a final decision with regard to the classification of such products at this session.
2. On the other hand, the EC Delegate pointed out that, since "Kellogg's® Bredia" waffles were no longer manufactured, it would, in his view, be against this Committee's principles to classify a product which no longer existed. He could agree to classify the new product submitted - "Kellogg's Eggo Frozen Waffles", and he could be in agreement to eventually change the Explanatory Note to heading 19.05, and even to change the legal texts with regard to waffles, but not at this session. He noted that Doc. NC0422E1, paragraph 9, merely stated that Kellogg's Eggo "was similar in every respect to Bredia waffles" but, obviously, the Committee would have to classify this new product on the basis of its exact composition and not on the basis of its resemblance or similarity to a product that was no longer marketed. This information would have to be communicated to the Committee so that it could be studied in detail. He therefore proposed to postpone the classification of this product to the Committee's next session in November.
3. After further discussion, and in view of the fact that "Kellogg's® Bredia" waffles, the classification of which had been the subject of a reservation by the EC, were no longer manufactured, the Committee decided, by 14 votes to 12, not to pursue the classification of this product. This decision was in line with the views of the enquiring administration (Japan) and the administration (the EC) which had entered the reservation.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. As a replacement for this classification issue, the Committee agreed to classify a comparable waffle product ("Kellogg's Eggo Frozen Waffles") at its next session. During the intersession the US Administration would provide necessary information as to the exact composition of this product. Furthermore, the Committee agreed that a decision should also be taken at the next session with regard to possible Explanatory Notes and/or legal text amendments.

* * *

1	2
NC0286E1 (HSC/26) NC0385E1	Classification of the "Media Composer 1000" (Reservation by the EC).

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

1. The discussion of this agenda item began with the Committee agreeing that it was dealing with one machine, i.e., that the machine covered by Classification Opinion 8543.89/4 and the machine described in Annex II to Doc. NC0286E1 were one and the same machine.
2. The EC Delegate argued out that the machines classified by the Committee in 1996 and again in 1999 were the same machine. No new technical data had been presented and there had been no change in the legal text that would justify a change in classification. At its 18th Session, the Committee considered that the system in question was a single functional unit to be classified in accordance with the terms of Note 4 to Section XVI. It was therefore necessary to determine the principal function of the system. The Committee therefore did not consider the individual functions of the system's components since it was the function of the system as a whole, as presented to Customs and cleared by Customs, which was decisive for its classification.
3. He referred to paragraphs 17.1 and 17.3 of Annex I to Doc. NC0286E1, wherein the EC had pointed out that the Committee was already familiar with the software function when it classified the product in heading 85.43. The Committee classified a system and it never forgot that the system included a data-processing function (heading 84.71), but also a video recording and video reproduction function (heading 85.21) and functions for creating video effects and editing and finalising video programmes (heading 85.43), and that the whole system had been designed with the various components required to achieve the latter, essential function. None of these other functions were data processing functions.
4. He made reference to the Report of 18th Session of the Committee, wherein both the EC and US Delegates, supported by other delegates, agreed that the system was classifiable in heading 85.43. This conclusion was reached because the "Media Composer 1000" was a digital data-processing system, designed to record digital video images, create video effects, or edit and finalize video programmes for broadcasting. As these were clearly functions other than data processing, classification in heading 84.71 was ruled out by virtue of Note 5 (E) to Chapter 84. Heading 85.21 was also ruled out, given that the appliance performed various functions other than video recording or reproducing. As the principal function of this system was the creation of video effects, etc., and as it was not specifically mentioned in any heading of Chapter 85, the Committee had decided that the system was classifiable in heading 85.43 as a functional unit by application of Note 4 to Section XVI.
5. The EC Delegate then concluded that the system was specially designed to perform a specific function : editing video programmes. As there was no change in the technical data

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

nor in the legal text and as the Committee was classifying the same device as it did at its 18th Session, he proposed that the Committee should confirm its 1996 decision of classifying the "Media Composer 1000" system in subheading 8543.89, by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84.

6. Several delegates agreed with this position for the following reasons :

- Concern was expressed that classifying machines in heading 84.71 just because they had a data processing function was a dangerous practice;
- There was some doubt as to whether the "Media Composer 1000" software could be loaded onto and run separately on any ADP machine;
- There was also concern that one of the monitors was dedicated to video broadcasts and, as such, would be classifiable in heading 85.28;
- The existence, as precedents, of other Classification Opinions, in particular 8517.30/1;
- Finally, doubt was raised as to whether the system met the terms of Note 5 (A) (a) (3) to Chapter 84.

7. The US Delegate informed the Committee that a change in the original decision taken by the Committee in 1996 was warranted on the basis of new information as to the nature of the system. Contrary to the assumptions made at the 18th Session, the system did not include special hardware devices which performed a function other than data processing or which dedicated or limited the system to the function of a video editor. In fact, the only "hardware" components of the system were all units of an ADP machine.

8. He disagreed with classification in heading 85.43, which was based inherently on the suggestion that software must be considered as a component when classifying the "Media Composer 1000" system. In this connection, he pointed out that if this reasoning were to be adopted, the classification of any ADP machine would be based on readily changeable software programmes rather than on the approach that has long been accepted, i.e., classification by the objective characteristics of the machine. In his view, classification should be without regard to the nature of the software. The presence of software did not alter the fact that the machine remained freely programmable. The objective characteristics of this machine or system were that it consisted of a CPU, input units and output units. The input units included signal converters, i.e., the video cards and the compression boards which allowed analogue information to be converted into digital signals for processing by the ADP machine.

9. While the software may be special, he believed that it was not relevant to the classification of the machine. Consequently, in his view, Note 5 (E) to Chapter 84 was inapplicable because there was no specific function other than data processing. He concluded by proposing that the Committee reconfirm the decision taken at its 24th Session

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

to classify the "Media Composer 1000" in heading 84.71, as the system met all of the requirements of Note 5 (A) and (B) for an ADP machine presented in the form of a system.

10. Several delegates agreed with this position for the following reasons :

- The manufacturer of this product confirmed that the software would run on any platform that had the minimum standard requirements;
- Data processing is binary. It deals with 1s and 0s and there is no requirement to differentiate between text, numbers or pictures;
- Whether or not the software is pre-loaded, it is still an ADP machine of heading 84.71;
- The ADP components of the package function in exactly the same manner as those within any ADP machine. The only difference is the operating speed;
- Referring to Note 5 (E) to Chapter 84, it was pointed out that in order for the Note to apply, the specific function must be other than data processing. For this to occur, the machine would have to be physically different from other ADP machines. As this was not the case, Note 5 (E) to Chapter 84 did not apply.

11. When the issue was put to a vote, 18 delegates voted for classification in heading 84.71 and 15 delegates voted for heading 85.43, thereby re-confirming the Committee's decision taken at its 24th Session to classify the "Media Composer 1000" system in heading 84.71 (subheading 8471.49). This decision was made by application of Notes 5 (A) and (B) to Chapter 84.

12. The Committee instructed the Secretariat to prepare draft amendments to the Compendium of Classification Opinions for review by the next pre-session Working Party reflecting the decision to classify the "Media Composer 1000" system in subheading 8471.49, as well as deleting current Classification Opinion 8543.89/4.

* * *

1	2
NC0386E1	Amendment of the Explanatory Note to heading 56.06 with a view to defining the scope of the expression "chenille yarn".

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

At the request of the Secretariat, the Committee decided to delete this item from the Agenda and discuss it at its next session in November 2001.

* * *

1	2
NC0300E1 (HSC/26) NC0398E1	Classification of multifunctional digital copiers.

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

1. The Chairman began the discussion of this agenda item by suggesting that the Committee have a general discussion on the classification of the multifunctional digital copiers at issue and then move on to discuss each machine individually. He provided a brief synopsis of Doc. NC0300E1 and then asked the Delegates of Japan and the United States to summarize their submissions. Afterwards, he opened the floor for discussion.

2. The Delegate of Brazil drew the Committee's attention to paragraph 9 of Doc. NC0211E1, wherein the common features of all multifunctional digital machines were described, and page 1592 of the Explanatory Notes. He pointed out that the descriptions in both were similar. Each description referred to an optical system which projected the optical image of an original document onto a light-sensitive surface, and components for the developing and printing of the image. In his administration's view, the marking of paper by a laser was, in fact, an operation carried out by an optical system. This view was supported by dictionary definitions of the term. As a consequence, in his administration's view, heading 90.09 provided for these multifunctional digital copiers. He felt that the Secretariat and certain Contracting Parties, in ruling out this conclusion, were invoking an interpretation of the Explanatory Note to heading 90.09 that was too restrictive.

3. The Delegate of Brazil also cited the first sentence of Part B of the Explanatory Note to heading 90.09 which gave an indication of the difference between photocopiers incorporating an optical system and contact type photocopiers, noting that the latter had no optical system and only made copies of the actual size of the documents to be reproduced. In his opinion, this Note indicated that, in general, any machine incorporating an optical system that enabled it to produce copies of variable dimensions to suit the needs of the users could, in principle, fall in heading 90.09.

4. The EC Delegate supported the possibility of classifying these multifunctional digital copiers in heading 90.09. In his view, an analysis of the text to that heading supplied the appropriate legal basis for that position. He noted that the Secretariat had used the fact that the Explanatory Notes did not mention digital types of photocopiers to exclude classification in heading 90.09. When those Notes were drafted, these types of apparatus did not exist, but it went without saying that the Explanatory Notes could not expand or restrict the legal scope of a heading. There was no legal basis for excluding the digital photocopying function from heading 90.09. This view appeared to be confirmed by decisions of the European Court of Justice which had found that the present heading 90.09 included, in addition to optical and direct-reproduction photocopiers, those that used an intermediate for indirect reproduction.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

The indirect reproduction process could take the form of the conversion of images into digital data.

5. Furthermore, the machines at issue were composite machines. Consequently, it was necessary to determine their principal function. These machines could scan, copy, fax and print. They could be used in conjunction with an automatic data processing (ADP) machine but also in a stand alone mode. It would be difficult to determine the main function at time of importation. One should not confuse the main function with principal use. The use was determined in accordance with the needs of the user and these were not known at the time of clearance. In addition, at time of importation, they were not presented with an ADP machine. Given these facts, he wondered how the machines in question could satisfy the terms of Note 5 (B) to Chapter 84, as being of a kind solely or principally used in an ADP system, as their principal use could only be determined after importation. If it was not possible to determine the principal function, then classification according to Note 3 to Section XVI was ruled out and one must turn to GIRs 3 (b) or 3 (c). In addition, the possible application of Note 5 (E) to Chapter 84 should also be considered.
6. The EC Delegate saw a general trend in the Committee to classify any product connectable to an ADP machine in heading 84.71, as an output unit of an ADP machine. However, he questioned this practice. All products which could fulfil the conditions of Note 5 (B) to Chapter 84 did not necessarily have to be classified in heading 84.71. Just because a machine was connectable to an ADP machine did not automatically mean that it was an output unit of an ADP machine. In this regard, he referred to the recent classification of an ink-jet printing machine in heading 84.43, even though it was connectable to an ADP machine and could only function when connected to an ADP machine (see Classification Opinion 8443.51/1).
7. Several other delegations expressed their support for the conclusions reached by the EC Delegate. Comments were expressed that it would be difficult to classify these machines as output units of ADP machines when they could operate autonomously and were not presented with an ADP machine. Furthermore, the Explanatory Note to heading 90.09 referred only to the technology available at the time of its drafting. Technology evolved and, in the view of certain delegates, the copying of a document by whatever means was still a process covered by the scope of heading 90.09.
8. The US Delegate stated that for purposes of classification in heading 90.09, the phrase "digital photocopiers" was a contradiction in terms. In his view, "photocopying" was limited to the projection of an optical image directly onto a photosensitive surface. He expressed support for the Secretariat's position in Doc. NC0300E1 that "photocopying" did not include the conversion of an image into digital data by a scanner and the printing of that data by the printer as was done by the machines under consideration. There was substantial support from other delegates for this point of view.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

9. At the conclusion of its general discussion, the Committee, by a vote of 22 to 14, decided that "photocopying" was limited to the projection of an image onto a photosensitive surface and that, therefore, present heading 90.09 did not cover digital copying. The Committee then looked at the classification of each individual machine.
10. The Committee first looked at the "HP Mopier 320". The Chairman drew the Committee's attention to the fact that this was a composite machine encompassing a printer and scanner. As a result of the Committee's decision, classification in heading 90.09 was ruled out and, as a consequence, Note 3 to Section XVI could apply. He pointed out that if it was not possible to determine the principal function, then GIR 3 (c) would come into play.
11. Taking into account the issues raised during the general discussion, the Committee further discussed the classification of the "HP Mopier 320". The following additional points were raised. One delegate pointed out that the printing output of 32 pages per minute had to be taken into account, as it related to the essential character of the machine. Another delegate viewed the principal function of this machine as being provided by the printing function. In his view, at the time of importation, Note 5 (B) to Chapter 84 applied, given that the text of the Note stated that it was "of a kind solely or principally used in an ADP system". This was the case with this machine, as it was connectable to an ADP machine at time of importation. What the user did after importation was not relevant to the classification of this product. Other delegates pointed out that this was a machine that could operate either independently or in conjunction with a computer. They considered that the Committee's principle had always been to classify machines that could function independently outside heading 84.71 and, moreover, it had already been noted that the Committee had recently classified a printer designed to operate exclusively with an ADP machine in heading 84.43.
12. Before the Committee voted on the classification of the machine, the Committee first voted on whether it was the printing or copying function which provided the principal function. By a vote of 22 to 10, the Committee decided that it was the printing function which was the principal function.
13. The Committee then voted on the classification of the machine. By a vote of 21 to 8, the Committee voted in favour of the view that the conditions of Note 5 (B) to Chapter 84 were fulfilled and, as a consequence, the product was classifiable in subheading 8471.60 as a printer, by application of GIR 1 (Note 3 to Section XVI and Note 5 (B) to Chapter 84). The Committee then instructed the Secretariat to prepare a draft amendment to the Compendium of Classification Opinions for review by the next pre-sessional Working Party, reflecting the decision to classify the "HP Mopier 320" in subheading 8471.60.
14. The EC Delegate was of the view that based on the earlier discussions in the Committee, 14 delegations would classify this machine in heading 90.09 by application of GIR 3 (c). The Chairman agreed with this assessment.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

15. After some discussion, the Committee decided to postpone the classification of the "Océ 3133" to its next session, on the basis of a new document to be presented by the Secretariat that would provide additional information on the nature of the machine, i.e., the precise nature of the options included with the machine.
16. Taking into account the issues raised during the general discussion, the Committee then took up classification of the "Xerox Document Centre 340 ST" without fax function. After further discussion, the EC Delegate requested a roll call vote. Twenty-two delegates opted for classification in subheading 8471.60, 12 opted for classification other than in heading 84.71 and there was one abstention. The Committee then instructed the Secretariat to prepare a draft amendment to the Compendium of Classification Opinions for review by the next preessional Working Party, reflecting the decision to classify the "Xerox Document Centre 340 ST" without fax function in subheading 8471.60, by application of Note 3 to Section XVI and Note 5 (B) to Chapter 84. The EC Delegate requested that the Report note that the EC was of the view that the machine should be classified in heading 90.09.
17. Taking into account the issues raised during the general discussion, the Committee next examined the "Xerox Document Centre 340 ST" with fax function. The EC Delegate pointed out that a similar machine had been the subject of a recent decision by the European Court of Justice which had decided to classify the machine in heading 90.09. He reiterated the arguments that the machine could operate autonomously. Furthermore, given the faxing speed and quality, it was not possible to state that the fax component was only an accessory function subordinate to the printing function. In his view, the faxing and digital copying functions were more important than the printing function, or at least as important. Given this, headings 85.17, 84.72 or 90.09 should be considered for classification and GIR 3 should be used.
18. The US Delegate stressed to the Committee that it must be consistent in its decisions. The Committee had already decided that heading 90.09 did not cover digital copying. Furthermore, it had decided that the "HP Mopier 320" was classified in subheading 8471.60. The only difference between this machine and the previous machine was the addition of the faxing function. In his view, looking at the technical characteristics, this machine was not purchased as a fax machine. It was the printing function which was the principal function. As there was no factual basis upon which to make a different decision, he concluded that the conclusion was the same, i.e., classification in subheading 8471.60 by application of Note 3 to Section XVI and Note 5 (B) to Chapter 84.
19. By a vote of 20 to 13, the delegates gave the Chairman an indication that they viewed the printing function as the function which represented this machine's principal function. Before the Chairman called for a vote, the EC Delegate requested that the Report indicate that all of the machines that were being classified could work on a stand alone basis or in conjunction with an ADP machine. The Chairman confirmed that all of the machines being considered could work either on a stand alone basis or in conjunction with an ADP machine.
20. The Chairman then called for a vote. By a vote of 20 to 14, the Committee classified the "Xerox Document Centre 340 ST" with a fax function in subheading 8471.60 by

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

application of Note 3 to Section XVI and Note 5 (B) to Chapter 84. To reflect this decision, the Committee instructed the Secretariat to prepare a draft amendment to the Compendium of Classification Opinions for review by the next preessional Working Party.

21. Taking into account the issues raised during the general discussion, the Committee next examined the "Xerox Document Centre 230 DC". The Delegate of Brazil called the Committee's attention to the fact that this machine, as presented, was not connectable to an ADP machine and that when adapted to be connectable to an ADP machine it became a different machine, the "Xerox 230 ST". After some discussion, the Committee decided to postpone the classification of this machine to its next session, on the basis of a new document to be presented by the Secretariat that would provide additional information on the nature of the machine, i.e., whether it was connectable to an ADP machine as imported and the difference between the DC and ST models. Administrations were also invited to provide any additional information.
22. Based on the Committee's previous decision not to classify a machine that was no longer being manufactured, the Chairman suggested, and the Committee agreed, that the classification of the "HP OfficeJet Pro 1175C" be dropped from the Agenda.
23. The Committee then examined the classification of the "Brother MFC-8600" and the "Brother 1970mc". Several delegates felt that there were differences between these two machines and those previously classified by the Committee during the present session. This was particularly evident with regard to the print output speeds of 12 and 2 pages per minute (ppm), respectively. This compared to the 30+ ppm of previous machines. As a consequence, these delegates viewed the faxing function as representing the principal function.
24. The US Delegate stated that the situation was indistinguishable from the analysis applied to the previous machines classified by the Committee. In his view, a decision on the importance of the print function could not be made solely on the output speed of the printer. Printers of heading 84.71 existed wherein the typical output speed was less than 12 ppm. He noted that the function of the printer components in these composite machines, when assessed with respect to the fax or scanner components, provided the principal function, i.e., by providing direct output from an ADP machine, as well as by providing the output for the scanner or fax components. Consequently, classification in heading 84.71 by application of Note 3 to Section XVI and Note 5 (B) to Chapter 84 was warranted. Other delegates agreed.
25. The EC Delegate referred to the technical information contained in Annexes VII and VIII to Doc. NC0300E1, which clearly showed the importance of the fax function when compared to the other functions. In this context, these machines should be classified in heading 85.17 by application of GIR 1, Note 3 to Section XVI and Note 5 (E) to Chapter 84.
26. When asked by the Chairman, a majority of the delegates indicated that they were in a position to decide on the principal function of the two Brother machines. The Chairman then called for a separate vote on each machine.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

27. By a vote of 17 to 12, the Committee classified the "Brother MFC-8600" in heading 85.17 (subheading 8517.21), as a fax machine rather than a print device of heading 84.71, by application of Note 3 to Section XVI. The Committee then voted on the classification of the "Brother 1970mc". By a vote of 19 to 12, the Committee classified the "Brother 1970mc" in heading 85.17 (subheading 8517.21), as a fax machine rather than a print device of heading 84.71, by application of Note 3 to Section XVI. To reflect these decisions, the Committee instructed the Secretariat to prepare draft amendments to the Compendium of Classification Opinions for review by the next presessional Working Party.
28. The US Delegate requested that the Committee look at amending the Explanatory Note to heading 90.09 to reflect the Committee's decision that heading 90.09 did not cover "digital copying". This request was not supported by the EC Delegate.
29. As there were differing viewpoints within the Committee, the Chairman put the matter to a vote. By a vote of 15 to 7, the Committee decided to amend the Explanatory Notes to reflect its decision that heading 90.09 did not cover "digital copying". The question was to be submitted to the Committee for consideration at its next session. The EC Delegate drew the Committee's attention to the fact that, in his view, this amendment would be contrary to the legal text of heading 90.09.
30. Following this, a discussion ensued as to whether the Nomenclature should be amended for the year 2007, with regard to the classification of multifunction digital copiers. A proposal was made that the Secretariat undertake a study with a view to amending the legal text. The Director indicated his willingness to look into the matter.
31. The Committee concluded the discussion by instructing the Secretariat to undertake a study with a view to determining whether an amendment could be made to the legal text and administrations were invited to send in submissions.
32. During the course of the Committee's deliberations, the Chairman asked the Committee to take Note of the fact that Annex X to Doc. NC0300E1 had been submitted by the Norwegian Administration and not by the Danish Administration as indicated in the document.
33. Finally, during the course of the discussion on this item, a number of statements were made regarding the impact of the Committee's decisions on the ITA agreement. In response, the Chairman re-affirmed the basic tenet that this Committee was responsible for the classification of products according to the rules of the Harmonized System. The effect of such decisions on other international agreements was not, therefore, a concern of this Committee.

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1	2
NC0301E1 (HSC/26) NC0388E1	Classification of flash electronic storage cards.

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

1. After the Committee agreed to discuss the issue on a preliminary basis, the Chairman proposed to consider first the type of storage card described in paragraph 7 (b) (ii) (i.e., the type consisting of a PCB and one integrated circuit only), since the classification rationale for this type of card might be different from that of the other types.
2. A number of delegates took the view that this type of card would be classifiable in heading 85.42, since it fulfilled the conditions set out in Note 5 (B) to Chapter 85.
3. Other delegations, however, questioned whether the application of Note 5 to Chapter 85 was appropriate, taking into account that assemblies formed by mounting one or more discrete components on a support, were excluded from heading 85.42, as indicated in the last paragraph of the Explanatory Note to heading 85.42, on page 1517. One delegate pointed out that it would be necessary to determine whether the PCB, being a passive element, was produced by thin- or thick-film technology.
4. In conclusion, the Committee requested the Secretariat to gather more information with respect to the questions whether the PCB was considered to be a passive element, and whether or not it was produced by thin- or thick-film technology in the case at issue.
5. With respect to the other types of cards at issue, delegations were divided on the question of whether or not the cards had an individual function. A number of delegates agreed with the view expressed by the Secretariat that they did have an individual function, as required for classification in heading 85.43. Other delegates argued, however, that classification in other headings, such as 84.71 (as storage units for ADP machines) and 85.23 (as prepared media for recording) should be considered first, since heading 85.43 was a residual heading. Moreover, other delegates were also of the view that the cards did not have an individual function. Consequently, classification in heading 85.48 as parts for use with two or more different machines would be more appropriate if classification in heading 84.71 or 85.23 would not be feasible.
6. The Delegate of Japan, supported by other delegates, pointed out that classification in headings 85.23 and 85.24 should be considered because there were no limitations in those heading texts with regard to the structure of the articles covered and the function of the flash memory cards could be considered the same as that of the media of headings 85.23 and 85.24, since they could record digital data and could be used for apparatus such as ADP machines, audio/video players, etc. Therefore, unrecorded flash memory cards could be classified in heading 85.23 and recorded ones could be classified in heading 85.24.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. In this context, one delegate indicated that the Explanatory Note to heading 85.23 might need updating, if the commodities at issue were to be classified in that heading.
8. After further discussion, the Chairman concluded that the following questions should be addressed at the Committee's next session :
 - (i) Do the cards have an individual function; and
 - (ii) Do they answer to a description given in a heading other than heading 85.43.
9. The Secretariat was instructed to prepare a new working document for the next session of the Committee on this basis.

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1	2
NC0389E1	Classification of DVD storage units.

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

- In introducing this agenda item, the Chairman pointed out that, at its 26th Session, the Committee had agreed to consider the classification of specific products but it needed information about “mixed” or “dual use” DVD drives, if they existed at all. As indicated in paragraph 10 of Doc. NC0389E1, no information had been provided to the Secretariat from administrations regarding (a) the existence of so-called “mixed” or “dual use” DVD drives and (b) any specific product for consideration by the Committee. Nevertheless, on the basis of the information submitted by Canada and the ICC, he invited the Committee to express its view as to whether it agreed with the Secretariat that DVD drives should be classified in heading 84.71.
- One delegate indicated that he could agree, in principle, with classifying DVD drives which operated solely in conjunction with automatic data processing (ADP) machines in heading 84.71. However, referring to the Committee’s conclusion on this matter at the 26th Session (paragraph 5 of Doc. NC0389E1), he felt that the Committee should classify both DVD drives and DVD players at the same time, since establishing a demarcation line between DVD drives and DVD players was very important in respect of amending the Explanatory Notes with a view to indicating not only what was included in the headings concerned but also what was excluded therefrom. He added that the Committee should also consider the Canadian concerns expressed in subparagraphs 9.6 to 9.9 of Doc. NC0302E1 regarding (i) the difficulty of distinguishing internal assemblies of DVD drives and DVD players and (ii) the possibility of grouping various DVD drive systems in one heading by means of legal amendments to the HS. He also noted that, according to the information submitted by the ICC (subparagraph 8.16 of Doc. NC0389E1 and the Annex thereto), there were video and audio DVD players and also game-type DVD players in commerce. However, no information was available to enable the Committee to decide whether DVD game players were classifiable together with DVD drives or with other types of DVD players or somewhere else. For the reasons mentioned, he proposed that the Committee take a “provisional” decision at this session on the classification of DVD drives and “final” decisions at its next session on the classification of not only DVD drives but also DVD video/audio/game players, as well as on the further actions to be taken to reflect its decisions. He believed that such an approach would provide clearer information to the Member administrations and the trade community and would avoid any possible misuse of the Committee’s decisions. It was finally noted that the HS was the basis for various bilateral and multilateral tariff or trade agreements. An incomplete decision taken on the classification of DVD drives and DVD players might have the consequence of interfering with the application of these instruments.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

3. Several other delegates agreed with this approach and questioned why the Committee had to classify DVD drives at this session.
4. The Chairman explained that the Committee's work had to be efficient and effective as expected by the Council and the trade community. He stated that he did not see any reason for delaying the classification of DVD drives, since there was almost a consensus in the Committee in respect of the heading under which they should fall. He also stressed that goods in international trade have always been classified in the HS by the Harmonized System Committee. Any problems encountered in respect of trade agreements, etc. had to be dealt with by the bodies responsible for the administration of those instruments.
5. The Director pointed out that the original purpose behind this classification question was to update the Explanatory Note to heading 84.71. He agreed with the Chairman that the Committee could take at least one step in this direction at this session by classifying DVD drives. The new questions of the classification of various types of DVD players, the study of distinguishing between internal assemblies of DVD drive systems or possible amendments to the HS, etc., could be taken up at a later stage, if necessary.
6. Many other delegates concurred with the view of the Chairman and the Director, stating that the immediate question before the Committee was the classification of DVD drives exclusively used in conjunction with ADP machines and indicated that they were in a position to take a decision in this regard.
7. At this point, the Chairman proposed a compromise solution. The Committee could classify DVD drives at this session, but would decide not to amend the Explanatory Notes until after the decision on the classification of the various types of DVD players. Although this idea was supported by many delegates, other delegates were still not convinced. The latter group preferred a "provisional" decision on the classification of DVD drives at this session and asked the Secretariat to obtain further information on the other types of DVD drives, presently available on the market : DVD video/audio players and DVD game players.
8. The Director emphasized that administrations were also responsible for the submission of information and comments to the Secretariat, particularly with regard to questions as to which they were concerned. In any case, the Secretariat in its study would take into account the information already provided by the ICC in Doc. NC0389E1.
9. Finally, the Committee decided that DVD drives exclusively used in conjunction with ADP machines were, in principle, classifiable in heading 84.71. However, it was agreed that the final decisions on the classification of DVD drives, DVD video/audio players, DVD game players and on the further actions to be taken to reflect these decisions would be taken at the next session. The Committee also invited interested administrations to submit all the necessary information to the Secretariat with their comments on the types of the above-mentioned DVD drives and DVD players. The Secretariat was instructed to prepare a new document on this basis for examination by the Committee at its next session.

* * *

1	2	4
NC0390E1	Amendment of the Explanatory Note to heading 84.71 to delete certain obsolete equipment.	<u>See Annex Q/24.</u>

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

1. The Committee agreed to delete the reference to “magnetic tape transports” in Item (2) of Part (I) (D) of the Explanatory Note to heading 84.71, on page 1406, for the reasons given in paragraph 8 of Doc. NC0390E1.
2. It also agreed (i) to insert an exclusion for the electronic integrated circuits and microassemblies of heading 85.42 in the Explanatory Note to heading 84.71 and (ii) to delete exclusion (h) in the Explanatory Note to heading 84.41, as suggested by the Secretariat.
3. With a view to facilitating the ongoing discussions within the Review Sub-Committee on possible amendments of the Explanatory Note to heading 84.71, the Chairman suggested to incorporate the amendments into the Sub-Committee’s working document. The Committee agreed.
4. The texts provisionally adopted are set out in Annex Q/24 to this Report.

* * *

1	2
NC0391E1 NC0411E1	Amendments to the Explanatory Notes to headings 87.03 and 87.04.

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

1. Introducing Doc. NC0391E1, the Chairman indicated that the Committee should specifically rule on the issues identified in the underlined texts in paragraphs 12 to 21 of the document. He then invited the US Delegate to introduce the most recent US proposal presented in Doc. NC0411E1.
2. The US Delegate reminded the Committee that his administration had submitted a revised proposal at the 26th Session and the issues addressed therein had been reflected by the Secretariat in Doc. NC0391E1 and the Annex thereto. The intention of the most recent US proposal was to clarify the draft Explanatory Notes amendments on the basis of the Committee's previous decisions. This proposal contained certain key issues to be reflected in the draft amendments (e.g., insertion of a reference to "gross vehicle weight", deletion of the term "dual-use"), while other issues were simply of an editorial nature.
3. The Director reminded the Committee that it should confine its discussions to the fundamental issues highlighted in the two working documents but not to deal with issues of minor importance. On the basis of its conclusions on those fundamental issues at this session, editorial questions should be sent to the next pre-session Working Party (WP) for finalization.

Amendment of the General Explanatory Note to Chapter 87

4. The Committee unanimously confirmed its decision at the 26th Session that it was not necessary to amend the General Explanatory Note to Chapter 87.

Draft amendments to the Explanatory Note to heading 87.03

5. As regards the US proposal for the insertion of the phrase "typically have a gross vehicle weight rating of approximately 5 tonnes or less", it was noted that the term "typically" was missing from the French version. A proposal was made to replace the term "typically" with the term "generally". Also, using the term "approximately" together with "5 tonnes or less" would not be appropriate. The Committee therefore agreed on the replacement of the US proposal with "typically have a gross vehicle weight rating of less than 5 tonnes". However, the question of using, in both versions, the term "typically" or "generally" was left to the next WP.
6. In respect of the Canadian proposal to insert the term "crossover" in addition to "multipurpose" or "dual use" vehicles, the French speaking delegates noted that the translation of this term into French (hybrid) was not understandable. By 23 votes to 3, the

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Committee decided not to insert the term “crossover” in the draft amendments. The Committee also agreed with the United States, by 21 votes to 12, that the term “dual use” should be deleted from the draft texts. Consequently as a result of this decision, the term “variously” which had been proposed by the Canadian Administration was also deleted.

7. Concerning the US proposal for the deletion of the reference to “pick-up vehicles”, there was agreement with the concern expressed by the Secretariat that the Committee had in the past classified a double-cab “pick-up” vehicle in heading 87.03. It was noted, however, that while the expression used in the French version was “certains véhicules du type “pick-up” (certain “pick-up” type vehicles), the term “type” did not appear in the English version. The Committee resolved this question by aligning the English version on its French counterpart (i.e., the term “type” was inserted in the English version).
8. As to the Canadian proposal for the insertion of a reference to “cargo bed” (i.e., new draft Item (a)), the Committee decided to delete this proposed new Item (a) by 23 votes to 6.
9. Concerning Item (e), the US Delegate withdrew his administration's proposal for using the term “designed”.
10. The Committee considered that the remaining questions, which were of an editorial nature, could be resolved by the next WP.

Draft amendments to the Explanatory Note to heading 87.04

11. As with the draft amendments to the Explanatory Note to heading 87.03, the Committee preferred the expression “typically vehicles having a gross vehicle weight of less than 5 tonnes” (subject to resolution of the question of “typically” vs. “generally” – see paragraph 5 above).
12. The Committee unanimously agreed that the term “principally” (designed for the transport of goods) in the second line of the French version and the third line of the English version should be deleted, as this term was not used in the text of heading 87.04.
13. As to the US proposal to include a reference to “double-cab pick-up vehicles”, recalling the Secretariat’s concern expressed on several occasions (see paragraph 7 above), the Committee did not agree with the United States. The term “double-cab” was deleted, by 21 votes to 5, from the introductory paragraph, Item (b) and Item (c) of the draft text.
14. In respect of the Canadian proposal for the insertion of a reference to “cargo bed” (i.e., new draft Item (a)), the Committee decided to delete this proposed new Item (a) by 17 votes to 14.
15. Once again, the Committee considered that the other questions, which were of an editorial nature, could be resolved by the next WP.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Inclusion of "Cargo or Load Capacity" as a criterion in the Explanatory Notes, in the legal texts or in neither

16. Although some delegates reminded the Committee that this criterion had been used by the Committee in the past in connection with the classification of certain motor vehicles and thus had been included in several Classification Opinions, the Chairman pointed out that those references were to the "technical specifications" of the motor vehicles concerned. One delegate noted that, if a reference to the "cargo or load capacity" as a feature (or criterion) were to be inserted in the draft Explanatory Note amendments, this might (i) result in the change of the classification of certain motor vehicles which had been classified by the Committee in the past and (ii) might be misinterpreted by front-line Customs officers in classifying the motor vehicles of headings 87.03 and 87.04 in the future. By 17 votes to 11, the Committee decided not to include this feature (or criterion) in the draft texts.
17. Nevertheless, any proposal for the amendment of legal texts in this connection could be taken up by the Committee or by the Review Sub-Committee in the future, if requested.
18. Notwithstanding the foregoing, the Committee unanimously stressed that :
 - (a) The intention of this exercise was to provide in the Explanatory Notes certain "guidelines" regarding the classification of the vehicles which might fall in headings 87.03 or 87.04; and
 - (b) The Explanatory Notes amendments, once adopted by the Committee, would not entail any change in the classification of motor vehicles which had been classified by the Committee in the past.
19. The Committee requested the next presessional WP to consider the draft texts to be prepared by the Secretariat on the basis of the two working documents for this session and the conclusions outlined above.

* * *

1	2
NC0392E1 NC0434E1	Possible amendments of the Explanatory Note to heading 84.71 to clarify the line of demarcation between the units of heading 84.71 and accessories of heading 84.73.

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

The Chairman indicated that there were a number of agenda items for the Committee as well as for the Review Sub-Committee, all dealing with draft amendments to the Explanatory Note to heading 84.71. To facilitate discussions and to maintain an overall view on the developments concerning this Explanatory Note, he suggested sending the draft amendments to the Review Sub-Committee, with a view to having them discussed with the other proposed amendments for the Explanatory Note to heading 84.71. The Committee agreed.

* * *

1	2
NC0393E1 NC0413E1 NC0414E1 NC0418E1 NC0429E1	Possible amendments to the Explanatory Notes with regard to various women's or girls' garments.

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

At the request of one delegate, the Committee decided to postpone discussion of this Agenda item until its next session in November 2001.

* * *

1	2	4
NC0394E1	Study of the possible misalignment between the French expressions “ébauches de forge” and “ébauches brutes de forge” and the English expression “roughly shaped by forging” in the Explanatory Notes to headings 72.07 and 84.83.	<u>See Annex Q/25.</u>

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

1. The Committee provisionally adopted the amendments as proposed by the Secretariat.
2. The texts provisionally adopted are set out in Annex Q/25 to this Report.

* * *

1	2
NC0318E1 NC0395E1	Classification of a reinforcement grid called "Fortrac 35/35-40".

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

1. The Chairman began the discussion of this Agenda Item by recalling that the issue was whether, for the application of Note 2 (a) (3) to Chapter 59, the "Fortrac 35/35-40" reinforcement grid should be considered completely embedded in plastics, given that the surface of the fabric contained non-coated open parts of varying dimensions.
2. Several delegates pointed out that the classification of this product should be determined principally on the basis of Note 2 to Chapter 59 and that, in accordance with item (a) (3) of that Note, the "FORTRAC" reinforcement grid was excluded from heading 59.03 and should be classified in Chapter 39, given that it was entirely coated in plastics. It was therefore a fabric with a coating visible to the naked eye, and the plastics completely covered the textile yarn.
3. Other delegates felt that given the presence of large open parts not coated by plastics, only the yarns were coated whereas the actual fabric was not fully embedded in plastics. For those delegates, the grid did not meet the criteria of Note 2 (a) (3) to Chapter 59 and was therefore classifiable in heading 59.03. It was, in fact, argued that the product met the criteria of Note 2 (b) to Chapter 59, thus providing another justification for classification in heading 59.03.
4. On the other hand, one delegate stressed that Note 2 (b) to Chapter 59 was not applicable. In that note there was a reference to heading 56.04 and the product at issue was not made of the yarns mentioned in heading 56.04.
5. When the matter was put to a vote, the Committee decided, by 31 votes to 4, to classify the "FORTRAC 35/35-40" reinforcement grid in Chapter 39, by application of Note 2 (a) (3) to Chapter 59.
6. A difference of opinion then cropped up concerning the interpretation of Note 10 to Chapter 39 and the classification of the product in this Chapter.
7. One delegate felt that the product under examination could, by application of Note 10 to Chapter 39, be considered as plates, sheets, film, foil or strip of heading 39.21 and that this heading should be taken into consideration before envisaging classification in a residual heading 39.26. He noted that there was nothing in the legal Note nor in the common understanding of the term "sheets" that precluded them from having open areas.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. However, other delegates agreed with the Secretariat that a fabric with large open parts could scarcely qualify as plates, sheets, film, foil or strip within the meaning of Note 10 to Chapter 39 and should therefore be classified in heading 39.26.
9. The Committee agreed to postpone the final classification at heading level in Chapter 39 of the product at issue until the next session; classification in Chapter 39 to be examined on the basis of additional information concerning the application of Note 10 to that Chapter to be provided by the US Administration.
10. The Canadian Delegate finally requested that, should the Committee decide that the product was excluded from Chapter 59 by virtue of Note 2 to that Chapter, he would appreciate it if the ensuing Classification Opinion or Explanatory Note amendment would contain sufficient information to help his administration reconcile the apparent contradiction between that decision and another one under subheading 5903.10 on a similar product in the Compendium of Classification Opinions.

* * *

1	2
NC0307E1 NC0396E1	Classification of grounding rods.

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

1. The Contracting Parties involved in this dispute (Brazil and Argentina) requested consideration of this question to be delayed to the next session. They said that given the bilateral negotiations currently in progress, a compromise might be reached during the intersession.
2. The Director recalled that the examination of this question had already been postponed at the 26th Session to permit the administrations involved to reach a compromise. He hoped that they would arrive at an agreement in accordance with Article 10 of the HS Convention, thus obviating the need for the Committee to examine the question. If they did not reach an agreement, the Committee would, of course, have to settle the question at its next session based on a clear description of the goods in dispute, which would need to be provided by the parties.
3. In the light of the foregoing, the Committee agreed to re-examine this question at its next session, if necessary. It also invited the administrations involved to inform the Secretariat and the Committee of the results of their negotiations as soon as possible.

* * *

1	2
NC0397E1 NC0417E1	Classification of the "PALM V™".

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

1. Opening the discussion of this agenda item, the Chairman noted that delegates had had the opportunity to obtain additional information thanks to the practical demonstrations of the "PALM V™" given at WCO Headquarters during this session. He thanked the ICC for its valuable co-operation in this regard.

2. One delegate took the floor to request that the examination of this issue be confined to a preliminary discussion, given uncertainty about the manner in which the apparatus could be examined in the framework of the HS, as well as a number of points which still had to be clarified. Several other delegates supported this request. The main doubts remaining as to the classification of the "PALM V™" related to the following aspects :
 - (i) Whether the "PALM V™" was programmable "in accordance with the requirements of the user", as required by Note 5 to Chapter 84 ? While it was agreed that the "PALM V™" was freely programmable, it was also noted that not all freely programmable apparatus was necessarily classifiable in heading 84.71. Certain freely programmable devices were classified in headings 84.70, 84.72, 85.31 and 90.18. These devices could not use other programs than the software sold in a "package" by the manufacturer of the devices, which limited their free programmability.
 - (ii) Whether the memory space taken up by the installation software could have an influence on the capacity of the apparatus ?
 - (iii) Whether the absence of a hard disk (all the programs were installed in the working memory) could serve to distinguish the "PALM V™" from full size automatic data processing machines, given that unlike the latter, the apparatus at issue lost data in the event of a power or technical failure ? Consequently the programs were part of the actual apparatus, and could not be removed by the user.
 - (iv) Possible application of Note 3 to Section XVI, Note 5 (E) to Chapter 84 and GIR 3 (c).

3. However, the above delegates pointed out that since the conditions set by Note 5 (A) seemed to be met, heading 84.71 should not be ruled out for classification purposes. Finally, they pointed out that the "PALM V™" appeared to be potentially classifiable in headings 84.70, 84.71 and 84.72.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. Numerous other delegates felt that the information made available to the Committee was sufficient to take a decision at this session. In particular, they stressed that the "PALM VTM" met the criteria of Note 5 (A) (a) to Chapter 84 and that it should therefore be classified in heading 84.71 as an automatic data processing machine. To that end, one delegate felt that the text of subheading 8471.30 corresponded exactly to the description of the apparatus, while other delegates stated that their respective administrations had already examined the "PALM VTM" and had classified it in that subheading.
5. In response to the comments concerning the characteristics of the apparatus, some delegates expressed the following opinions :
 - (i) The "PALM VTM" was programmable using programming languages such as C++ and Basic, and ran over 7,000 applications. The manufacturer encouraged new applications to be added constantly.
 - (ii) According to the information obtained during the practical demonstrations, the capacities of the "PALM VTM" were comparable to those of other automatic data processing machines recognized as being high-performance (such as the Apple "PowerBook"). In this respect, it was pointed out that Note 5 (A) (a) did not set any conditions limiting the capacity of automatic data processing machines in terms of the software that could run on the machines.
 - (iii) Moreover, it was also pointed out that in terms of the design of automatic data processing machines, the Explanatory Note to heading 84.71 did not set any requirements for a hard disk, referring only to a central processing unit, input unit and output unit, all of which the "PALM VTM" contained.
6. Finally, it was stressed that since the "PALM VTM" was a product sold on a large scale, the time required to take a classification decision should take account of the needs of operators and of the administration presenting the classification question. However, it was also noted that the primary objective of the HSC must be uniform classification by all Members.
7. At the end of this rather intensive discussion, which failed to result in a consensus, the Committee approved the motion proposed by the Chairman to postpone a final decision on this question with the proviso that this decision would be taken without fail at the HSC's 28th Session in November 2001.

* * *

1	2
NC0329E1 (HSC/26)	Classification of an electric stainless steel chafing dish.

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

1. Following the presentation of the working document, the Chairman asked the Committee, on the basis of paragraph 23 of that document, whether it was appropriate to re-open the classification issue of a non-electric chafing dish which it had classified at the 24th Session.
2. In reply to this question, some delegates stated that the Committee had made a decision on the basis of the information available, that this decision made sense, both in terms of content and form, and that the arguments put forward in the working document and the report were persuasive since that chafing dish was not an electric device and was designed to keep food warm. Hence it was preferable not to re-open this issue, as such an action could not be justified.
3. However, other delegates felt that this issue ought to be re-opened insofar as, in their opinion, the chafing dish that the Committee had classified seemed identical to the one at issue; the only difference being the energy source used (fuel or gel for one and electricity for the other).
4. When the matter was put to a vote, the Committee decided, by 27 votes to 1, not to re-open the issue of the classification of the non-electric chafing dish.
5. With regard to the classification of the electric chafing dish under examination, one delegate was in favour of classification in heading 84.19 on the basis of the fact that it was electrically operated. According to the information in the working document, it was fitted with a heating unit which could heat and cook foodstuffs. He could also support classification in heading 85.16 subject to confirmation that this chafing dish was for domestic purposes.
6. However, several other delegates were concerned by the differences that might exist between this chafing dish and the one already classified by the Committee. They had doubts whether the presence of an electrical heating element could be the basis of classification in heading 84.19 in light of the previous decision on the non-electric chafing dish, since heading 84.19 covered both electrical and non-electrical machinery.
7. They further questioned (i) whether the presence or absence of electricity could alter the classification of such apparatus, (ii) whether the heating elements were removable or permanently fixed, (iii) whether this device, as indicated in paragraph 26 of the working document, could be used for cooking foodstuffs, and (iv) whether the dish could be used for

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

domestic purposes. In their opinion, the Committee could not rule on the classification of the apparatus at issue until these questions were answered.

8. Given that there were still many doubts regarding this issue, the Committee invited the Secretariat to carry out a further study on the classification of the electric chafing dish in question, for re-examination at its next session.

* * *

1	2
NC0334E1 (HSC/26) NS0026E1 NS0032E1 NS0034E2 (SSC/16)	Classification of "MYKON ATC Blue".

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (Eng.)

1. Based on the observations of the Scientific Sub-Committee at its 16th Session, the Committee unanimously decided to classify "MYKON ATC Blue" in heading 38.24 (subheading 3824.90).
2. To reflect the above decision and at the request of the Argentine Delegate, the Committee instructed the Secretariat to draft a Classification Opinion for examination by the next preessional Working Party.

* * *

ANNEX IJ

NEW QUESTIONS

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0399E1	Classification of play tents and play houses.			

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

1. Following the Chairman's presentation of this question, the EC Delegate stated that his delegation agreed with the classification and the legal basis proposed by the Secretariat, which fully concurred with his administration's opinion.
2. Thereupon, the Committee unanimously agreed to classify the play tents and play houses at issue in subheading 9503.90, by application of GIR 1 (text of heading 95.03 and Note 1 (t) to Section XI) and GIR 6 (subheading text).
3. In order to reflect this decision, and at the EC's request, the Committee instructed the Secretariat to prepare the following for examination by the next presessional Working Party :
 - (i) A Classification Opinion, based on the Pop Up Play Camp cited on page 2 of the Annex to the working document;
 - (ii) A draft amendment to the Explanatory Note to heading 95.03 in order to include, in an example, the types of play tents and play houses presented in the Annex to the working document.

* * *

1	2
NC0400E1	Classification of concentrated milk with added sugar.

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

1. This agenda item stemmed from a classification dispute between the European Community (EC) and Cameroon which, in accordance with Article 10 of the HS Convention, had been referred to the HS Committee.
2. After a short exchange of views, the two parties agreed that the reason for this classification dispute was most likely the result of two contradictory laboratory analyses which had been carried out in the exporting and the importing countries with regard to the origin of the fat in the product at issue. According to the analysis made available by the EC, this product contained only animal fat. On the other hand, in accordance with the analysis presented by the Cameroon Administration the product also contained other fat than animal fat.
3. The Committee therefore agreed to send samples of the product at issue to Customs laboratories in other parts of the world for analysis in order to find out the exact composition of the product, particularly with regard to the origin of the fat. Based on the results of these analyses, the dispute between the two Contracting Parties could be settled in accordance with Article 10 of the Convention.
4. The Delegates from Mexico, Japan, Norway and the United States offered their laboratories' assistance in carrying out the necessary analyses in this respect. It was therefore decided that both the Netherlands and Cameroon Administrations should send samples of the product at issue to the Secretariat, which would provide for the necessary transmittals to the Customs laboratories in the above four countries.

* * *

1	2
NC0401E1	Classification of radio equipment (transmitter/receiver).

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

1. Due to the arrival of new comments from the Administration of Senegal, which had only been received during the session, the Committee agreed to confine itself to a preliminary discussion of this issue.
2. The Delegates of the EC and France stated that the equipment to be classified was an assembly comprising three elements or modules; this assembly being imported separately from the optical fibre telecommunication network to which it had to be connected (the network being present before importation). They pointed out that the Committee should rule on whether or not this assembly formed a functional unit classifiable in a single heading, or whether the three constituent modules should be classified separately, it being understood that the three modules were presented separately from the network for clearance.
3. Several delegates felt that additional information was required to enable the Committee to take a reasoned decision. In particular, some delegates wished to obtain more information on the exact nature of the apparatus to be examined and on its operating principle. Other delegates pointed out that the Committee must first determine the conditions under which the classification of the equipment at issue was envisaged. It was also proposed that the specific classification of the network management module be included in the study.
4. After these initial discussions, the Committee decided that this question would be examined from two perspectives, namely (1) separate classification of the three constituent modules and (2) classification of the assembly as a functional unit.
5. It therefore decided to continue its examination of this issue at the next session, on the basis of a new document to be prepared by the Secretariat taking account of the above comments.

* * *

1	2
NC0402E1	Classification of certain electronic memory modules.

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

1. The Committee began its discussion by agreeing that the examination of this issue would be confined to a preliminary examination. It was also agreed that the DRAMs were classifiable in heading 85.42.
2. When the Committee turned to the classification of SIMMs and DIMMs, the Delegate of Australia, referring to paragraph 7 of Doc. NC0402E1, pointed out that his administration had only given separate status to SIMM modules in a statistical subdivision of subheading 8542.13.
3. In the course of the discussion, a number of delegations pointed out that Note 5 (B) (c) to Chapter 85 stipulated that microassemblies and micromodules of heading 85.42 must necessarily be formed of discrete components, and the corresponding Explanatory Note indicated that integrated circuits were not considered as discrete components (see the Explanatory Notes, page 1517, Part (II), third paragraph). In these circumstances, heading 85.42 could not justifiably be taken into consideration, even though the legal texts did not give a formal definition of discrete components.
4. The US Delegate expressed concern with the conclusion in the working document that the Explanatory Note to heading 85.42 regarding electronic microassemblies could be disregarded or amended. In his view, the term “electronic microassemblies” referred to an older and simpler technology in which discrete components were assembled in contrast to the technology for integrated circuits in which multiple components were created in the mass. Microassemblies did not include integrated circuits which were produced by the process described in Note 5 (B) (a) and (b) to Chapter 85. Accordingly, the limitation on electronic microassemblies in the Explanatory Note was fully in line with the legal texts.
5. Moreover, he cautioned that any effort to expand the scope of the term “electronic microassemblies” would be inconsistent with the decisions of the Committee (e.g., with regard to the Pentium II and “smart” cards) and would result in the transfer of many products of other headings to heading 85.42. In his view, this would be a radical change which should be avoided. Any effort to expand the scope of heading 85.42 should be undertaken by amending the legal texts.
6. In the light of the foregoing, the Committee felt that the examination of the classification of the *SIMMs* and *DIMMs* should be continued on the basis of descriptive technical files, the so-called data sheets for these products, which should provide, inter alia, an indication as to their use.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The Committee therefore asked the administrations and the ICC to provide as much information as possible on the electronic modules in question and asked the Secretariat to prepare a new document on the basis of this additional information for consideration at the next session.

* * *

1	2
NC0404E1	Classification of certain acid-added clay products.

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

The Committee unanimously concurred with the views expressed by the Secretariat in paragraph 19 of the working document that this question should be submitted to the Scientific Sub-Committee at its next session. In addition to responding to the questions raised by the Secretariat in paragraph 18 of Doc. NC0404E1, the Sub-Committee was asked to give its views as to whether adding acid to these products for the specified purposes was covered by the term "washing" for purposes of Chapter 25. Also, as proposed by the Secretariat (paragraph 20), samples of the products at issue should be obtained and analysed by the Customs laboratories of Contracting Parties, and the results of those analyses could be submitted to the Sub-Committee as further information.

* * *

1	2
NC0405E1	Classification of "foot-propelled scooters".

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

1. At the request of one delegate, the Committee held a preliminary discussion on the classification of foot-propelled scooters.
2. That delegate pointed out that, even if scooters were mentioned in the text of heading 95.01 and consequently fell in this heading, there also existed certain other more sophisticated types of scooters with different load capacities and different features (e.g., equipped with three wheels, with braking systems and even with electric motors) designed to be ridden by adults. Certain types of these scooters were being used by adults in airports, hospitals, etc. for transportation purposes. However, the Committee did not have any information about this latter category of scooters which was needed in order to allow the Committee to make a clear decision as to whether such scooters should be classified in heading 95.01, 87.16, or elsewhere. The scope of heading 95.01 was limited to wheeled toys "designed to be ridden by children".
3. While many delegates agreed with this view, other delegates stated that the foot-propelled scooters described in the working document and its annex should be classified in heading 95.01 or in heading 95.06 as wheeled sports equipment.
4. The US Delegate confirmed the view expressed by the Secretariat in paragraph 4 of the working document that the US ruling referred to therein was not applicable to foot-propelled scooters because the "Rad Board" was an entirely different product.
5. Another delegate was of the view the scope of heading 95.01 should also be studied, given the fact that the HS did not include a definition of the term "children" in respect of their height or weight.
6. In this connection, other delegates expressed the view that it was not clear that the scooter described in the working document was designed to be ridden by children within the meaning of heading 95.01.
7. On the basis of the foregoing, the Committee invited interested administrations to submit to the Secretariat information on the types of foot-propelled scooters currently available in commerce and comments on their classification. The Secretariat was requested to prepare a new document on this basis for examination by the Committee at its next session.

* * *

1	2
NC0406E1	Classification of motor vehicles with a "hybrid" power system.

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

1. Several delegates requested the Committee to have only a preliminary discussion on this agenda item, because, although the information provided by the importer suggested that the motor vehicle at issue was essentially powered by the electric motor, they believed that the fact might be just the opposite. Therefore, they needed more information on the power system of the motor vehicle concerned and more time to study that information. Further, they felt that the classification question before the Committee was somewhat related to the agenda item on "guidelines with regard to the possible application of GIRs 3 (a) and 3 (b)" (see Annex E/2 to this Report).

2. As regards the classification of the motor vehicle concerned, there was a tendency in the Committee to classify it in subheading 8703.2. Most of the delegates who took the floor pointed out that the "gasoline" (spark-ignition internal combustion reciprocating piston) engine was more powerful than the electric motor (53 kW/rpm vs. 33 kW/rpm maximum output) and powered the vehicle during its normal travelling mode, ran the generator that powered the electric motor, charged the battery and/or ran the air conditioner compressor. By engaging in starting, low speed travelling and stopping, the role of the electric motor was to reduce fuel consumption (thereby increasing the economy and decreasing the quantity of emission gases) and supporting the "gasoline" engine during normal or high speed travelling. Therefore, they felt that the essential character of the hybrid power system was provided by the "gasoline" engine.

3. In respect of the reasoning behind the classification, one delegate stated that he had difficulty in understanding the points raised by the Secretariat in the working document, since he believed that the motor vehicle concerned must be classified in subheading 8703.2 by application of GIRs 1 and 6 because that subheading covered motor vehicles with a "gasoline" (spark-ignition internal combustion reciprocating piston) engine and the residual subheading "8703.90 - Other" was not comparable to subheading 8703.2.

4. Nevertheless, many other delegates appreciated the different classification scenarios presented by the Secretariat to the Committee, indicating that the motor vehicle at issue not only had a "gasoline" engine but also had an electric motor in its "hybrid" power system. A simple application of GIR 1 in this case would totally ignore the electric motor covered by the residual subheading, which was an important consideration in comparison with the "gasoline" engine. Interestingly, in classifying the vehicle in question in subheading 8703.2, while several administrations supported the application of GIRs 3 (a) and 6 since they believed that subheading 8703.2 provided a more specific description than subheading 8703.90, certain others preferred the application of GIRs 3 (b) and 6 because they believed that the essential character of the "hybrid" power system of the vehicle was provided by the "gasoline" engine.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. Based on the above considerations, the Committee agreed to continue its examination of this question at the next session.
6. One delegate proposed that, in the documents to be prepared for the next session, classification of the motor vehicle in question in heading 87.02, 87.03 or 87.04 should be considered.
7. It was noted that the question of the desirability of the separate identification of motor vehicles with a "hybrid" power system could be taken up after the classification of such vehicles was settled.
8. Interested administrations were invited to submit to the Secretariat further information about the motor vehicle with the "hybrid" power system in question and the Secretariat was requested to prepare a new document on this basis (including additional information on and pictures of the vehicle itself) for examination by the Committee at its next session.

* * *

1	2
NC0407E1 NC0419E1	Study to distinguish the processors and coprocessors of heading 84.71 from those of heading 85.42.

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

1. The US Delegate indicated that, since the Committee had adopted an exclusion paragraph in the relevant part of the Explanatory Note to heading 84.71 (see paragraph 2 of Annex H/7 to this Report), there was no longer a problem in distinguishing the processors of heading 84.71 from those of heading 85.42. Consequently, there was no need to refer this issue to the Committee's next session, as initially proposed by his delegation.
2. The EC Delegate, however, considered that more time was needed to study the information presented by the ICC, indicating that the amendments of the Explanatory Note to heading 84.71 at issue had to be discussed in the context of the current legal provisions, and that any proposals to amend the legal texts, as suggested in the ICC submission, should be considered separately. He pointed out that the Committee had been concerned with the question of studying a possible distinction between these processors and coprocessors and the circuits of heading 85.42, taking into account the present scope of Note 5 to Chapters 84 and 85.
3. After further discussion, the Committee agreed to re-address at its next session the question whether or not the references to coprocessors, etc. should be kept in item (3) of Part (I) (D), second paragraph, of the Explanatory Note to heading 84.71, on page 1406 (see Annex Q/24 to this Report), considering that any proposals to amend the legal text could be dealt with by the Review Sub-Committee in the context of the new review cycle. The Secretariat was instructed to prepare a new document for the next Committee session with a view to clarifying the issue on the basis of concrete examples (products).

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ANNEX K

ADDITIONAL LIST

Working Doc.	Subject	Classification Opinions	E.N. amendments	Nomenclature amendments
1	2	3	4	5
NC0421E1	Classification of a mixed grease product.			

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 November 2001.

* * *

1	2
NC0423E1	Classification of car safety seats for infants and toddlers.

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

Following the recent publication of Doc. NC0423E1, and given the fact that the administration which had submitted this question raised no objection, the Committee agreed to return to the examination of this question at its next session and invited administrations to submit their views to the Secretariat as soon as possible.

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ANNEX L

OTHER

Working Doc.	Subject	Classification Opinions	E.N. Amendments	Nomenclature Amendments
1	2	3	4	5
NC0387E1	List of questions which might be examined at a future session	<u>See Annex R.</u>	<u>See Annex R.</u>	<u>See Annex R.</u>

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

1. The Committee took note of the list of questions in the Annex to Doc. NC0387E1 and decided to delete item 3 from that list.
2. That list, updated by deleting the question mentioned in paragraph 1 above and adding all the questions raised during the session for examination in greater detail at subsequent meetings, is reproduced in Annex R to this Report.

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