



HARMONIZED SYSTEM
COMMITTEE

-
28th Session
-

NC0478E1
(+Annexes I and II)
O. Eng.

Brussels, 25 September 2001.

CLASSIFICATION OF FOOT-PROPELLED SCOOTERS

(Item VII.17 on Agenda)

Reference documents :

NC0405E1 (HSC/27)
NC0430E2, Annex IJ/6 (HSC/27 – Report)

I. BACKGROUND

1. At its 27th Session, the Committee held a preliminary discussion on the classification of foot-propelled scooters.
2. It was 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. Many delegates agreed with this view, but several 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. Another delegate was of the view that 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.
5. 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

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to prepare a new document on this basis for examination by the Committee at its next session.

II. SECRETARIAT'S ACTION AND COMMENTS

6. On 8 June 2001, the Secretariat invited interested administrations to submit information on the types of foot-propelled scooters currently available in commerce and comments on their classification.

Note from the Russian Federation

7. On 16 July 2001, the Secretariat received the following note from the Russian Federation :

"...Razor Scooter

- 7.1. After careful examination of the issue, we are inclined to consider the Razor scooter as a wheeled toy for children, the primary reasons for that being as follows :

- (i) Maximum rider's weight is limited to less than 70 kg.
- (ii) The wheels of the Razor scooter are quite small in diameter and can easily get hung-up in crack and imperfections of the riding surface.
- (iii) The wheels used have comparatively high rolling resistance, which precludes the rider from going fast. Therefore, the scooter can be safely used by children.

- 7.2. Presumably, the Razor scooter was designed for children to play around on and is therefore classifiable in HS heading 95.01.

Sophisticated foot-propelled scooters

- 7.3. Unlike toy scooters, these ones are equipped with ultra-fast urethane wheels and bearings, have strong machine structure and high levels of craftsmanship applied throughout and in fact are high performance vehicles for adults and young adults. As compared with Razor scooters, these vehicles are evidently designed to be used not by children, but by adults since :

- (i) Maximum rider's weight is more than 100 kg.
- (ii) Wheels are much bigger in diameter to allow the rider to move almost as fast as a bicycle.
- (iii) They have head light and tail light to facilitate driving in night and bad weather conditions.

- 7.4. With due account of their features, we presume that such scooters, whether foot-propelled or with electric/gas powered, are classifiable in HS heading 95.06. As their principal use is having fun, the scooters at issue can hardly be considered as vehicles of HS heading 87.16.

- 7.5. For the time being, we find it difficult to provide any criteria to be inserted into the HS Explanatory Notes. Although (1) maximum rider's weight and (2) diameter of wheels can be taken into consideration by the HS Committee when discussing the matter, a challenge will be to decide on exact figures.

- 7.6. Still, it could be useful to insert a reference to scooters into the Explanatory Note to HS heading 95.06..."

Note from Canada

8. On 28 August 2001, the Secretariat received a note from Canada concerning information on the history of bicycles, history of scooters, current types of scooters and bicycle-like scooters and comments on their classification. The following is an excerpt from the Canadian submission. The full text of the Canadian submission (English and French) and its annexes will be made available to delegates for consultation during the session.

...Adult Inline Scooters

- 8.1. The Razor and similar models have the kick inline scooter configuration having one wheel in front and one in the rear. It is manufactured from aluminium alloys and range in length from 23 to 27 inches. The scooter is steered by means of a steering column that has a small wheel at one end of the column and two handle grips at the other end. The steering column is adjustable to meet the height requirements of both adults and children, and foldable for ease of storage. The two (front and rear) small polyurethane wheels are similar to those of inline skates (roller blades). The standing platform between the wheels is appropriately 5 inches in width and can support persons who are up to 250 pounds in weight. Some models feature a rear compression foot brake that is mounted on the rear wheel. The average weight of the scooter is about six pounds.
- 8.2. Although some manufacturers have asserted that inline scooters may be a practical means of transportation, they are primarily used for recreation and amusement.

Adult Bicycle-like Scooters

- 8.3. The “kickbike”, “chariot”, “sidewalker”, and all terrain (ATV) scooter styles have a more robust design that features many bicycle components. These models are manufactured from heavy-duty steel and can be up to 58 inches in length. The front wheel, steering column and handlebars are manufactured from bicycle components and are assembled in a bicycle configuration. Several models feature bicycle brakes mounted on the handlebars. The standing platform is much wider. The rear wheel configuration varies. Some models feature two small inline skate wheels that are “side-by-side” mounted. Other models have one or two inflatable bicycle type wheels. More recent models are beginning to incorporate seats. The average weight ranges from 15 to 19 pounds.
- 8.4. There are also bicycle-like scooters that possess a single pedal attached chain and sprocket system. The pedal-operated mechanical system is adjunct to the standard push design features of the scooter. Bicycle-like scooters are marketed for sports and transportation applications as well as for general recreation and amusement. Recently, this style of scooter has been used in organized competitions that have included crossing the United States.

Market

- 8.5. ...Following consultations with Canadian recreational and bicycle/scooter industry, we learned that :
- scooters, that are designed to be ridden by children, are marketed as toys for the amusement of children;
 - scooters, that are designed to be ridden by both adults and children or only adults, are marketed for transportation, recreational, sports or amusement functions; and
 - bicycle-like scooters, that are designed to be ridden by both adults and children or only adults, are sold as an alternative to bicycles.

General Classification Concerns

- 8.6. Under the current HS structure, only scooters, that are designed to be ridden by children, are specifically covered (heading 95.01). These scooters are considered to be wheeled toys. Accordingly, the principle design function of these models is for the amusement of children. Any recreational, sport or transportation function is purely ancillary.
- 8.7. However, scooters, that are designed to be used by adults, are currently not specifically provided for in the HS. These models are marketed as multi-functional products (transportation, recreation, sport and amusement). In Chapter 95 Note 1 (n) and exclusion (ij) of the Explanatory Notes to heading 95.06, sports vehicles (other than bobsleighs (bobsleds), toboggans and alike) of Section XVII are excluded from this Chapter.
- 8.8. In paragraph 17 to Doc. NC0405E1, the Secretariat indicated that “the scooters in question are by definition toys designed to be ridden by children”. This premise is taken from the 1937 Draft Customs Nomenclature of the League of Nations and the Explanatory Note to heading 97.01 of the Brussels Nomenclature (circa 1951) as well as the definition from the *Webster’s Third New Dictionary*. In all three cases, scooters were considered something to be ridden by children.
- 8.9. The bicycle-like and inline scooters were developed during the latter 1990’s and could not have been foreseen during the development of the HS. With the rapid development of this market, these scooters will likely increase as major product for both adults and children. Further, with the evolution and hybridization of the bicycle-like scooter, it may soon lose any resemblance to the traditional children’s scooter of the mid nineteenth and early mid twentieth centuries that are covered in heading 95.01 and in the references cited by the Secretariat.
- 8.9. The Committee should consider the recent design changes and emerging market trends. Additional product literature on the “Razor” scooter indicates that it can support individual weighing up to 220 pounds. Clearly the scooter is designed for adults as well as children. Recent television advertisements have portrayed adults (as well as children) using these scooters.
- 8.10. The bicycle-like style of scooter is marketed towards both children and adults. The ATV versions would appear to be marketed specifically towards teenagers and young adults. Accordingly, the fact that both types of scooters are designed and marketed towards both children and adults must be taken into account for the purposes of classification.

Classification of Adult Inline Scooters

- 8.11. Inline scooters that are designed either for adults or both adults and children are primarily marketed and used for recreational, sports and amusement applications. Accordingly consideration would have to be given to classifying them in Chapter 95. Although adult inline scooters are based on the same design as traditional inline children’s scooters of heading 95.01, this heading is specifically restricted to “wheeled toys designed to be ridden by children”. This would exclude the adult inline scooters at issue from heading 95.01.
- 8.12. Heading 95.06 provides for “articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table tennis) or outdoor games not specified or included elsewhere in this Chapter”. The text of the heading clearly indicates that if the articles are not specified or included in another heading of Chapter 95 they are to be classified in heading 95.06. Accordingly, in the opinion of the Canadian Administration, inline scooters that are designed either for adults or both adults and children are classified in heading 95.06 (subheading 9506.99).

Classification of Adult Bicycle-like Scooters

- 8.13. Bicycle-like scooters have many of the design features and characteristics of bicycles and are very similar to early two-wheeled vehicles. Apart from being propelled by means of the rider's foot pushing off the surface of the road, bicycle-like scooters have fundamentally different design characteristics from inline scooters. Further, they are designed as sports vehicles as well as for transportation, recreation and amusement applications. As sports vehicles, they are excluded from Chapter 95 by virtue of Note 1 (n) to Chapter 95 and exclusionary Explanatory Note (ij) to heading 95.06, page 1717.
- 8.14. In Chapter 87, headings 87.12, 87.13, 87.15 and 87.16 provide for non-motorized vehicles. Headings 87.13 and 87.15 are not applicable since they refer to very specific types of vehicles namely : invalid carriages (wheelchairs) and baby carriages respectively.
- 8.15. Heading 87.12 provides for non-motorized bicycles and other cycles. In this regard, bicycle-like scooters clearly incorporate many bicycle design elements and parts. However, bicycle-like scooters, with the exception of "single-pedal" models, are not "pedal-operated" as specified in the Explanatory Note to heading 87.12.
- 8.16. Heading 87.16 includes vehicles that are not mechanically propelled. Since bicycle-like scooters are propelled by the direct pressure of the rider's foot against the ground, they would satisfy the "not mechanically propelled" requirement. However, the Explanatory Note to heading 87.16 specifies, "vehicles of this heading are designed to be towed by other vehicles (tractors, lorries, trucks, motorcycles, bicycles, etc.), to be pushed or pulled by hand or drawn by animals". While the scooters appear to satisfy the general provisions of the heading text, they do not apparently meet this design parameters outlined in the Explanatory Note.
- 8.17. It would appear that the bicycle-like scooters (not pedal operated) do not meet all the prerequisites of either heading 87.12 or 87.16. Although the Canadian Administration recognizes that arguments could be readily made to support a classification in heading 87.16, it currently favours a classification in heading 87.12. There is the unmistakable and significant presence of bicycle design characteristics, features, parts and components in the design envelop of these scooters. In contrast, the scooters do not share any significant design characteristics, features, parts and components of trailers, semi-trailers and other vehicles cited in the Explanatory Note to heading 87.16. Further, single-pedal variant of these scooters satisfy the parameters of the Explanatory Note to heading 87.12.
- 8.18. The bicycle-like scooters are fast becoming a major item in international trade and need to be specifically addressed in the HS. Accordingly, the classification decision with respect to the bicycle-like scooters might also include an amendment to the relevant Explanatory Note in order to specifically cover this type of scooter. Such an amendment to the Explanatory Note would eliminate any ambiguity or confusion.

Note : Pedal operated scooters are classified in heading 87.12.

Recommendations

- 8.19. Inline scooters, that are designed to be ridden by adults or both children and adults, are classified in heading 95.06.
- 8.20. Bicycle-like scooters, that are designed to be ridden by adults or both children and adults, are classified in heading 87.12. Further the Explanatory Note to heading 87.12 should be amended to specifically mention scooters. The following amendment could be inserted after item (7), page 1557:

“This heading also includes bicycle-like scooters designed to be ridden by adults and children or exclusively by adults. These scooters incorporate many bicycle design characteristics, features and components but are propelled by the direct pressure of the rider’s foot against the ground rather than pedal-operated.”

8.21. The text of heading 87.12 could eventually be amended to include a reference to bicycle-like scooters...”

9. Pictures of the types of scooters provided by Canada in the annexes to its note (and referred to in subparagraphs 8.1, 8.3 and 8.4 above) are set out in Annex I to this document.

Information found by the Secretariat

10. The Secretariat also found pictures of several other scooters (see Annex II to this document).

- Picture A : Two-wheeled scooter for children of ages from 4 and up. 84 cm in height, 100 cm in length, 6 kg in weight. No adjustable steering column. No brake.
- Picture B : Three-wheeled scooter for children of ages from 3 to 8. 76 cm in height, 88 cm in length, 8 kg in weight. No adjustable steering column. No brake.
- Picture C : Three-wheeled scooter trolley : 143 cm in length, 68 cm in width. With a 65 x 58 cm plastic laminate platform for the transport of goods. 150 kg. maximum load capacity. Foot brake on the rear wheel.
- Picture D : Kicksleds.

Secretariat comments

11. From the information available so far, there exist five types of foot-propelled scooters :

- Type 1 : Two- or three-wheeled scooters designed to be ridden by children, with non-adjustable steering column, small solid or inflatable wheels, sometimes equipped with bicycle-type handle-bar and/or a hand brake (see Annex II, Pictures A and B and Annex I, Pictures D and E).
- Type 2 : Two- or three-wheeled (e.g., the “Razor” type) scooters designed to be ridden by children, youngsters and adults, with adjustable steering column, small solid front and rear wheels and generally a foot brake on the rear wheel (see Annex I, Picture A (Kick inline) and Annex to Doc. NC0405E1 (“Razor”)).
- Type 3 : Bicycle-like two- or three-wheeled scooters designed to be ridden by youngsters and adults, generally with adjustable bicycle-type handle-bar, bicycle-type front and rear inflatable wheels and bicycle-type hand brakes. The “Chariot” type has a bicycle-type inflatable front wheel and two small solid wheels. The “ATV” type has 40 cm pneumatic tires (see Annex I, Pictures B, C, F and G).
- Type 4 : Pedal-driven bicycle-like scooters designed to be ridden by children, youngsters and adults, with bicycle-type adjustable steering column and handle-bar, inflatable wheels, frame and hand brakes. They are equipped with a single pedal attached chain and sprocket system (see Annex I, Picture H).

- Type 5 : Three-wheeled scooter trolleys designed for the transport of goods, with non-adjustable steering column, small solid wheels (two at the front and one at the rear), a platform on the two front wheels for loading goods and a foot brake on the rear wheel (see Annex II, Picture C).
12. There is also one article called “kicksled”. It is propelled by the direct pressure of the rider’s foot on the snow covered ground as well as it can be pushed by hand.
 13. The Secretariat is of the view that Type 1 scooters (with small size light construction, small wheels and non-adjustable steering column) have clearly been designed as wheeled toys to be ridden by, and for the amusement of, children. As such, they should be classified in heading 95.01 by application of GIR 1.
 14. Type 4, pedal-driven bicycle-like scooters, have almost all design features and characteristics associated with regular bicycles. They have been designed for propulsion by the rider by means of a single pedal to transmit power to the rear wheel through a chain. Such pedal-driven bicycle-like scooters should be classified in heading 87.12, since all bicycles (including “children’s bicycles”) fall therein by application of GIR 1.
 15. Difficulty arises with the classification of Type 2 scooters and Type 3 bicycle-like (but not pedal operated) scooters. Regardless of the material used for their production and the equipment installed thereon, in terms of their basic structure, they are propelled by direct pressure of the rider’s foot against the ground (as described in the Explanatory Note to heading 95.01, Part (A), introductory paragraph). However, they are ridden, for transport, recreation, sports and amusement purposes, not only by children and youngsters, but also by adults, thanks to their strong structures and adjustable steering columns.
 16. On this basis, it is very important for the Committee to give an answer to the question of whether Type 2 and Type 3 foot-propelled scooters should be considered as :
 - (a) Vehicles, within the meaning of Section XVII in general and Chapter 87 in particular;
 - (b) (i) Toys; or (ii) Articles for general physical exercise or sports, within the meaning of Chapter 95.
 17. Before answering to this question, the Committee is requested to take into account the following two interrelated points that such scooters are used :
 - (a) For (i) amusement, (ii) recreation or sports and (iii) transport purposes;
 - (b) By (i) children, (ii) youngsters and (iii) adults.
 18. In this connection, it should be noted that the term “child” has not been defined for the purposes of the HS. The Committee is reminded that, at its 24th Session, it agreed that it was very difficult to define the term “persons” in the HS and therefore it was impossible to establish a criterion referring to “adults of normal size” since the meaning of these expressions differed from one country to another in accordance with their national regulations (see Annex H/7 to Doc. NC0160E2, HSC/24 – Report). Similarly, the Secretariat believes that it would also be very difficult to define the term “child” for HS purposes. (At the time of the drafting of this document, the older daughter of the Secretariat officer who prepared this document was 16 years old, 169 cm tall and weighed 72 kg – she was neither a child, nor an adult, but a youngster).

19. If the Committee decides that Type 2 and Type 3 foot-propelled scooters should be considered as articles of heading 95.01 or 95.03, they would be excluded from Section XVII by application of Note 1 to that Section, even if they were used for transport purposes. In that case, the Committee should also decide whether Type 2 and Type 3 scooters are "wheeled toys". If so, they should be classified in heading 95.03 since they have been designed to be ridden not only by "children", but "both by children and adults".
20. If the Committee concludes that Type 2 and Type 3 scooters are articles for general physical exercise or sports, it will also be necessary to clarify whether or not they are "sports vehicles", because, sports vehicles (other than bobsleighs, toboggans and the like) of Section XVII are excluded from Chapter 95, according to Note 1 (n) to that Chapter.
21. Finally, if the Committee agrees that Type 2 and Type 3 foot-propelled scooters are vehicles designed for the transport of persons, they should be classified in Chapter 87. Nevertheless, the Secretariat is not in a position to agree with the Canadian Administration on the classification of Type 3, bicycle-like (not pedal operated) scooters in heading 87.12. Although bicycle design characteristics, features, parts and components are significantly present in the design envelop of Type 3 scooters, they are still propelled by the direct pressure of the rider's foot against the ground. However, heading 87.12 covers pedal-operated vehicles, but both Type 2 and Type 3 scooters should be regarded as "non-mechanically propelled" vehicles.
22. Non-mechanically propelled vehicles are covered by heading 87.16 (other than those of the preceding headings). Although the Explanatory Note to this heading describes three groups of vehicles (Trailers and semi-trailers; hand propelled vehicles; and vehicles drawn by animals), foot propelled vehicles are not covered by those three groups. As such, it appears that the Explanatory Note to heading 87.16 could be read to unduly restrict the scope of this heading.
23. Nevertheless, the Secretariat agrees with the Canadian Administration that the classification of Type 2 and Type 3 vehicles, which were developed in late 1990's, could not have been foreseen during the drafting of the HS. Therefore, if the Committee concludes that such types of scooters should be classified in heading 87.16, appropriate amendments to the Explanatory Notes must be effected as soon as possible to reflect the Committee's decision.
24. The classification of Type 5, three-wheeled scooters is also an interesting question. These scooters are also foot-propelled and have been constructed for the transport of goods in, e.g., supermarkets, factories, warehouses, post offices, etc. As presented, they could be considered as another type of non-mechanically propelled vehicles. If the Committee so decides, they would be classified in heading 87.16. This would also entail an amendment to the Explanatory Note to heading 87.16 to specify the inclusion of foot-propelled vehicles, as already explained in the previous paragraph.
25. As regards "kicksleds", the Secretariat understands that these articles are propelled by pushing by hand and/or by foot and used both by children and adults for the transport of persons as well as for amusement and recreation. Under the present provisions of the legal texts and the Explanatory Notes, the Secretariat would like to bring the following issue before the Committee : On one hand, according to Note 1 (n) to Chapter 95, Note 1 to Section XVII and Item (B) (14) of the Explanatory Note to heading 95.06, page 1717, "kicksleds" appears to be classifiable in heading 95.06. On the other hand, however, the first paragraph of the

Explanatory Note to heading 87.16 states that this heading “includes non-mechanical vehicles not fitted with wheels (e.g., sledges, special sleds running on timber trackways)”. The second paragraph thereof explains that the vehicles of this heading are designed “... to be pushed or pulled by hand...”. On this basis, the Secretariat would appreciate it if the Committee could clarify what types of sledges and sleds fall in heading 87.16 as hand or foot propelled non-mechanical vehicles for the transport of persons and what other types fall in heading 95.06 and as non-mechanical sports vehicles and how they could be distinguished.

26. Finally, regarding the proposals made by the Russian Federation and Canada (see subparagraphs 7.5, 7.6, 8.19, 8.20 and 8.21), the Secretariat feels that the articles at issue should just be classified and the reasoning behind those classification decisions should be established by the Committee. Relevant amendments (to the Explanatory Notes and, if necessary, even to the legal texts) could be drafted at a later stage. However, to guide the Secretariat in its drafting work, the Committee is requested to give its views as to what criteria could be used for distinguishing between the articles at issue.

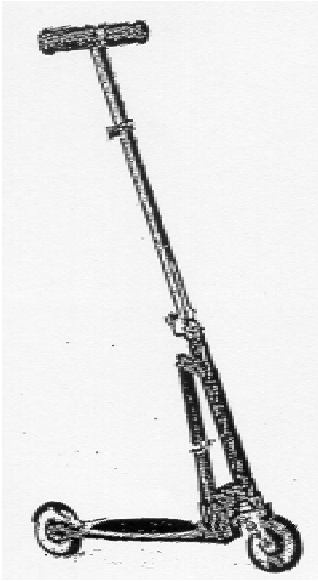
III. CONCLUSIONS

27. Taking into account the information and comments by the Russian Federation (paragraph 7 above), Canada (paragraph 8 above) and the Secretariat (paragraphs 10 to 26 above), the Committee is invited to rule on the classification of the following types of foot-propelled articles :
- (a) Type 1 : Two- or three-wheeled scooters designed to be ridden by children, with non-adjustable steering column, small solid or inflatable wheels, sometimes equipped with bicycle-type handle-bar and/or a hand brake (see Annex II, Pictures A and B and Annex I, Pictures D and E).
 - (b) Type 2 : Two- or three-wheeled (e.g., the “Razor” type) scooters designed to be ridden by children, youngsters and adults, with adjustable steering column, small solid front and rear wheels and generally a foot brake on the rear wheel (see Annex I, Picture A (Kick inline) and Annex to Doc. NC0405E1 (“Razor”)).
 - (c) Type 3 : Bicycle-like two- or three-wheeled scooters designed to be ridden by youngsters and adults, generally with adjustable bicycle-type handle-bar, bicycle-type front and rear inflatable wheels and bicycle-type hand brakes. The “Chariot” type has a bicycle-type inflatable front wheel and two small solid wheels. The “ATV” type has 40 cm pneumatic tires (see Annex I, Pictures B, C, F and G).
 - (d) Type 4 : Pedal-driven bicycle-like scooters designed to be ridden by children, youngsters and adults, with bicycle-type adjustable steering column and handle-bar, inflatable wheels, frame and hand brakes. They are equipped with a single pedal attached chain and sprocket system (see Annex I, Picture H).
 - (e) Type 5: Three-wheeled scooter trolleys designed for the transport of goods, with non-adjustable steering column, small solid wheels (two at the front and one at the rear), a platform on the two front wheels for loading goods and a foot brake on the rear wheel (see Annex II, Picture C).

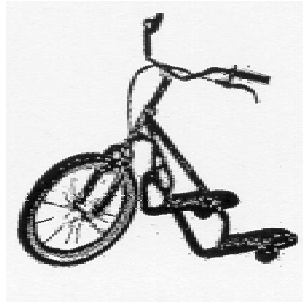
28. The Committee is also invited to clarify whether “kicksleds” should be classified in heading 87.16 as hand or foot-propelled non-mechanical vehicles for the transport of persons or in heading 95.06 as non-mechanical sports vehicles.
29. On the basis of its classification decisions, the Committee is requested to instruct the Secretariat what further actions should be taken to reflect those decisions.

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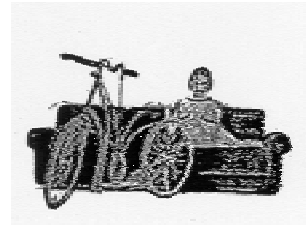
PICTURES SUBMITTED BY THE CANADIAN ADMINISTRATION



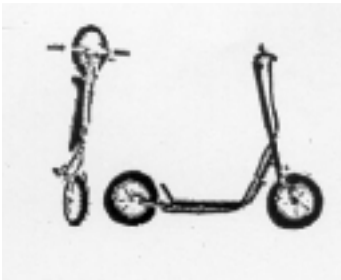
A. Kick Inline Scooter



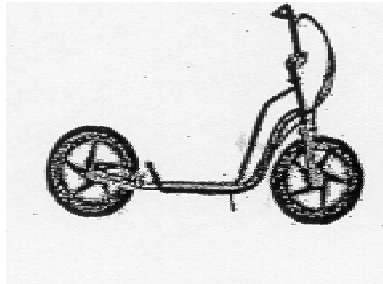
B. Chariot



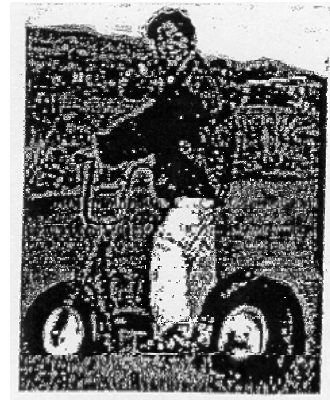
C. Sidewalker



D. Sidewalker Micro



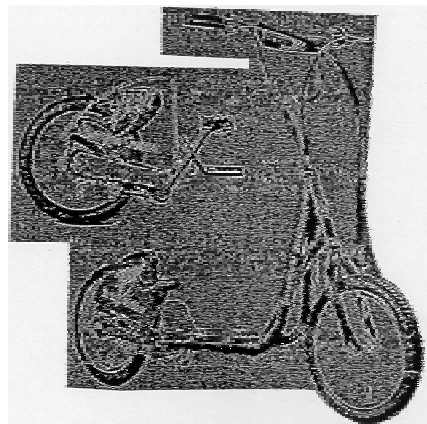
E. Kick scooter



F. ATV Scooter

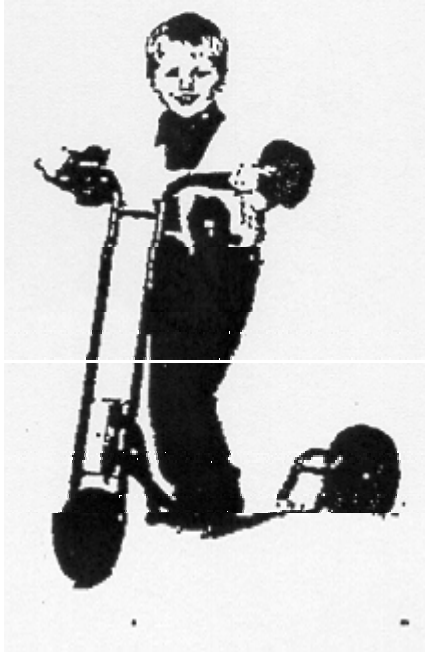


G. Kickbike (Bicycle-like)

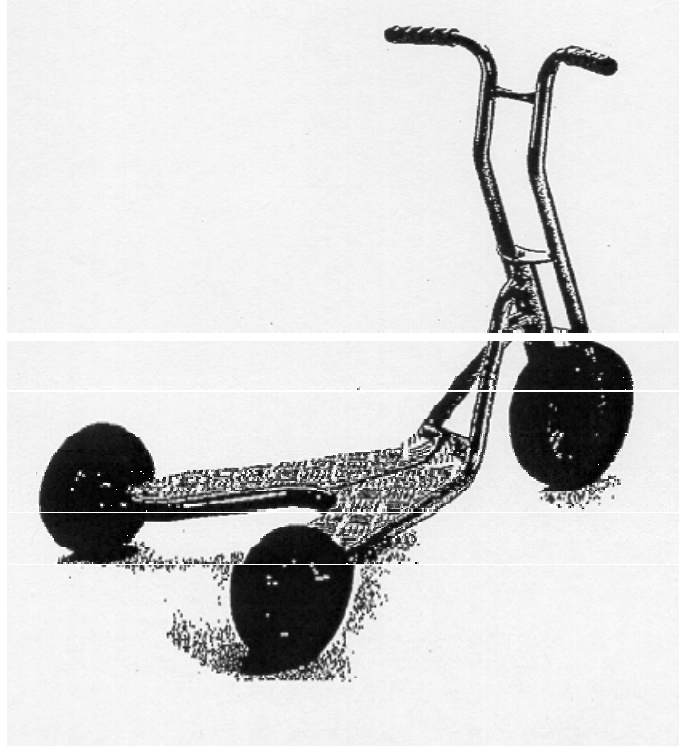


H. Pedal Driven Bicycle-like Scooter

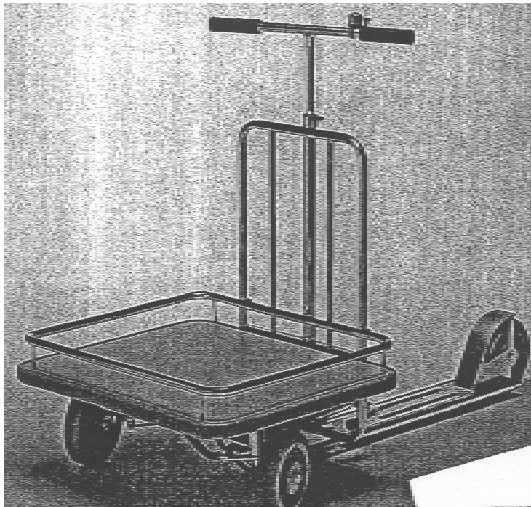
PICTURES FOUND BY THE SECRETARIAT



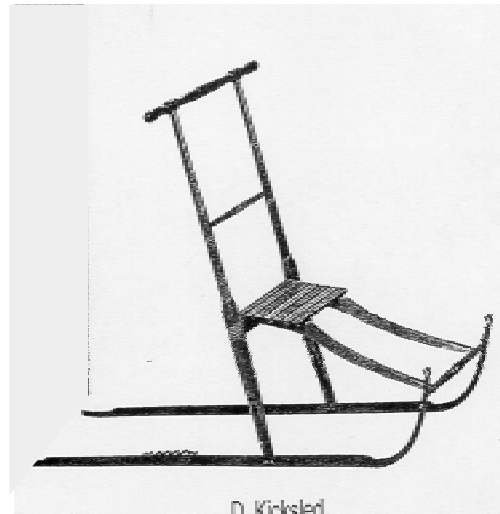
A. Two-wheeled Scooter
for Children ages 4 to up



B. Three-wheeled Scooter
for Children ages 3 to 8



C. Three-wheeled Scooter Trolley



D. Kicksled