



HARMONIZED SYSTEM
COMMITTEE

-
29th Session
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NC0527E1
(+ Annexes I and II)

O. Eng.

Brussels, 26 April 2002.

ESTABLISHMENT OF A CORRELATION BETWEEN THE HARMONIZED SYSTEM AND
THE WTO INSTRUMENTS AND AGREEMENTS

(Item III.3 on Agenda)

Reference documents :

41.316 (HSC/20)
41.600, Annex F/21 (HSC/20 – Report)
42.055 (HSC/21)
42.100, Annex C/7 (HSC/21 – Report)
42.401 (HSC/22)
42.750, Annex C/3 (HSC/22 – Report)
NC0010E1 (HSC/23)

NC0090E2, Annex C/3 (HSC/23 – Report)
NC0409E1 (HSC/27)
NC0430E2, Annex C/7 (HSC/27 – Report)
NC0449E1 (HSC/28)
NC0499E1 (HSC/28)
NC0510E2, Annex C/2 (HSC/28 – Report)

I. BACKGROUND

1. At its 28th Session, the Harmonized System Committee examined a draft Correlation between the product coverage of selected international conventions and the Harmonized System, set out in the Annex to Doc. NC0449E1.
2. With respect to the WTO instruments, referred to in paragraph 7 of Doc. NC0449E1, the Director noted that the Rules of Origin were being developed on the basis of the Harmonized System, the GATT Schedules of Tariff Concessions were largely based on the HS, and the fact that the Agreement on Pharmaceutical Products contained more than 7,000 items whose classification under HS 2002 had not been reviewed. He therefore questioned whether the Correlation should contain references to the WTO instruments.
3. With regard to this issue, one delegate suggested incorporating the WTO instruments on Pharmaceutical Products, Civil Aircraft and the ITA in the Correlation, considering that certain tariff and statistical nomenclatures included references to these products. With respect to Civil Aircraft products, it was indicated that the WTO Committee on Trade in Civil Aircraft had already reviewed the Agreement based on the HS 2002 and had adopted a revised Protocol amending the Annex to the Agreement, which was now open to Members for acceptance.

File No. 2714

4. Another delegate took the view that the purpose of establishing the Correlation had to be considered and that any conventions included in the Correlation should be appropriate in this regard. For future reviews of the Correlation, he also suggested that incorporating the ITA products would be appropriate. He noted that it might be difficult to incorporate the Civil Aircraft products in view of the fact that some of their classifications were based on the use of the products concerned.
5. The Committee finally agreed to publish the Correlation as proposed by the Secretariat (the texts accepted were set out in Annex N to Doc. NC0510B2). The Secretariat was instructed to expand the Correlation by incorporating other conventions and agreements in the future and to prepare documents in this connection future sessions of the Committee. The Secretariat was specifically directed to look into whether and to what extent the ITA, Civil Aircraft and Pharmaceutical Products agreements could be incorporated in the Correlation.

II. SECRETARIAT COMMENTS

6. The Secretariat would note first of all that the Correlation agreed by the Committee at its 28th Session will be published as an Annex to the Classification Handbook and the relevant information will also soon be available on the WCO Web site. The present Correlation contains the Basel Convention and OECD lists relating to hazardous wastes, the Montreal Protocol relating to ozone layer depleting substances, CITES, the Convention with regard to narcotics, etc. and the Chemical Weapons Convention. As agreed, the Correlation has no legal or official status.
7. With regard to the WTO instruments, the Secretariat would like to draw the Committee's attention to the fact that the Observer for the WTO had indicated, at HSC/22, that not all WTO Members automatically applied zero duties on all products, and suggested that a warning to that effect should appear in any correlation, inviting users to check whether an exemption had in fact, been granted (see Annex C/3 to Doc. 42.750). The WTO had also indicated that the WTO would not oppose such a correlation and perhaps a paragraph or a general note could include a reference to the fact that WTO schedules of concessions on goods and some WTO agreements related to rules of origin, civil aircraft, information technology products and pharmaceuticals use the Harmonized System Nomenclature including its changes wherever and whenever possible. It would not be advisable to indicate "contact details" nor a "full up-to-date list of regulated products" concerning the WTO instruments since there was no obligation for WTO Members to use the Harmonized System (see Doc. NC0499E1).
8. Although there is no obligation for WTO Members to use the Harmonized System from the strict legal point of view, it should be noted that the WTO instruments and agreements on the ITA, Civil Aircraft and Pharmaceutical Products have used HS codes in their annexes, etc., in order to define the scope of their concessions. Therefore, if the Committee considers that a similar type of correlation should be established with respect to the above-mentioned WTO instruments and agreements, the Secretariat is of the view that the WTO Secretariat's name and address would suffice with regard to "contact details". As for a list of regulated products, a table of the same type as set out in Annex N to Doc. NC0510B2 should be used.

9. As concerns the Agreement on Trade in Civil Aircraft, the WTO Committee on Trade in Civil Aircraft has already reviewed the Agreement based on HS 2002 and has adopted a revised Protocol amending the Annex to the Agreement. Details of the revised Protocol were set out in WTO Doc. TCA/4, 23 November 2001, entitled "Protocol (2001) Amending the Annex to the Agreement on Trade In Civil Aircraft". The Secretariat therefore considers that as the most practical way forward it would be possible to incorporate the substance of this revised Protocol in the Correlation set out in the "Classification Handbook" subject to mentioning that the list is a WTO product. The Secretariat has sent an inquiry to the WTO in this regard and the WTO is requested to express its view. The Committee is also requested to express its view with regard to this approach. The Secretariat's proposed amendment to the Correlation is set out in Annex I to this document. The new text is indicated by shading.
10. As for the WTO instrument on Pharmaceutical Products, the Secretariat would again like to point out that it contains more than 7,000 items whose classifications under HS 2002 have not been reviewed. The Secretariat would also point out the fact that although the correlations between HS 1996 and HS 2002 are largely mechanical, their would be difficult and time-consuming transpositions with regard to hormones and related products. A review by either the Secretariat or the Scientific Sub-Committee, would be a huge task and the Secretariat is afraid that it does not have the requisite resources at this time. Nevertheless, this work may be accomplished within the context of the periodic updating of the INN lists by the WTO. The Secretariat has already sent an inquiry to the WTO asking them to detail their plans in this connection. The WTO is requested to explain the situation in this respect. The Secretariat would also ask the Committee for its guidance.
11. As regards the ITA products, the Secretariat would like to point out that the descriptions used in the ITA lists are general and the HS classification is, therefore, difficult to determine based on these descriptions (see Annex II to this document). At the same time, ITA negotiations are continuing. Given the difficulties mentioned above, the Secretariat considers that it is premature to take up the question of a possible ITA correlation at this time. The Committee is invited to provide its view in this regard.

III. CONCLUSION

12. Taking into account the Secretariat comments above, the Committee is invited to express its views as to whether to go ahead with the establishment of new correlation with regard to the WTO instruments on Civil Aircraft products, Pharmaceutical Products and the ITA.

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EXTRACT FROM THE ITA AGREEMENT

Attachment A, Section 2

Semiconductor manufacturing and testing equipment and parts thereof

<u>HS Code</u>	<u>Description</u>	<u>Comments</u>
ex 7017 10	Quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for production of semiconductor wafers	For Attachment B
ex 8419 89	Chemical vapor deposition apparatus for semiconductor production	For Attachment B
ex 8419 90	Parts of chemical vapor deposition apparatus for semiconductor production	For Attachment B
ex 8421 19	Spin dryers for semiconductor wafer processing	
ex 8421 91	Parts of spin dryers for semiconductor wafer processing	
ex 8424 89	Deflash machines for cleaning and removing contaminants from the metal leads of semiconductor packages prior to the electroplating process	
ex 8424 89	Spraying appliances for etching, stripping or cleaning semiconductor wafers	
ex 8424 90	Parts of spraying appliances for etching, stripping or cleaning semiconductor wafers	
ex 8456 10	Machines for working any material by removal of material, by laser or other light or photo beam in the production of semiconductor wafers	
ex 8456 91	Apparatus for stripping or cleaning semiconductor wafers	For Attachment B
8456 91	Machines for dry-etching patterns on semiconductor materials	
ex 8456 99	Focused ion beam milling machines to produce or repair masks and reticles for patterns on semiconductor devices	
ex 8456 99	Lasercutters for cutting contacting tracks in semiconductor production by laser beam	For Attachment B
ex 8464 10	Machines for sawing monocrystal semiconductor boules into slices, or wafers into chips	For Attachment B
ex 8464 20	Grinding, polishing and lapping machines for processing of semiconductor wafers	
ex 8464 90	Dicing machines for scribing or scoring semiconductor wafers	
ex 8466 91	Parts for machines for sawing monocrystal semiconductor boules into slices, or wafers into chips	For Attachment B
ex 8466 91	Parts of dicing machines for scribing or scoring semiconductor wafers	For Attachment B
ex 8466 91	Parts of grinding, polishing and lapping machines for processing of semiconductor wafers	
ex 8466 93	Parts of focused ion beam milling machines to produce or repair masks and reticles for patterns on semiconductor devices	
ex 8466 93	Parts of lasercutters for cutting contacting tracks in semiconductor production by laser beam	For Attachment B
ex 8466 93	Parts of machines for working any material by removal of material, by laser or other light or photo beam in the production of semiconductor wafers	
ex 8456 93	Parts of apparatus for stripping or cleaning semiconductor wafers	For Attachment B
ex 8466 93	Parts of machines for dry-etching patterns on semiconductor materials	
ex 8477 10	Encapsulation equipment for assembly of semiconductors	For Attachment B
ex 8477 90	Parts of encapsulation equipment	For Attachment B
ex 8479 50	Automated machines for transport, handling and storage of semiconductor wafers, wafer cassettes, wafer boxes and other material for semiconductor devices	For Attachment B
ex 8479 89	Apparatus for growing or pulling monocrystal semiconductor boules	
ex 8479 89	Apparatus for physical deposition by sputtering on semiconductor wafers	For Attachment B
ex 8479 89	Apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays	For Attachment B

Annex II to Doc. NC0527E1
(HSC/29/May 2002)

ex 8479 89	Die attach apparatus, tape automated bonders, and wire bonders for assembly of semiconductors	For Attachment B
ex 8479 89	Encapsulation equipment for assembly of semiconductors	For Attachment B
ex 8479 89	Epitaxial deposition machines for semiconductor wafers	
ex 8479 89	Machines for bending, folding and straightening semiconductor leads	For Attachment B
ex 8479 89	Physical deposition apparatus for for semiconductor production	For Attachment B
ex 8479 89	Spinners for coating photographic emulsions on semiconductor wafers	For Attachment B
ex 8479 90	Part of apparatus for physical deposition by sputtering on semiconductor wafers	For Attachment B
ex 8479 90	Parts for die attach apparatus, tape automated bonders, and wire bonders for assembly of semiconductors	For Attachment B
ex 8479 90	Parts for spinners for coating photographic emulsions on semiconductor wafers	For Attachment B
ex 8479 90	Parts of apparatus for growing or pulling monocrystal semiconductor boules	
ex 8479 90	Parts of apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays	For Attachment B
ex 8479 90	Parts of automated machines for transport, handling and storage of semiconductor wafers, wafer cassettes, wafer boxes and other material for semiconductor devices	For Attachment B
ex 8479 90	Parts of encapsulation equipment for assembly of semiconductors	For Attachment B
ex 8479 90	Parts of epitaxial deposition machines for semiconductor wafers	
ex 8479 90	Parts of machines for bending, folding and straightening semiconductor leads	For Attachment B
ex 8479 90	Parts of physical deposition apparatus for for semiconductor production	For Attachment B
ex 8480 71	Injection and compression moulds for the manufacture of semiconductor devices	
ex 8514 10	Resistance heated furnaces and ovens for the manufacture of semiconductor devices on semiconductor wafers	
ex 8514 20	Inductance or dielectric furnaces and ovens for the manufacture of semiconductor devices on semiconductors wafers	
ex 8514 30	Apparatus for rapid heating of semiconductor wafers	For Attachment B
ex 8514 30	Parts of resistance heated furnaces and ovens for the manufacture of semiconductor devices on semiconductor wafers	
ex 8514 90	Parts of apparatus for rapid heating of wafers	For Attachment B
ex 8514 90	Parts of furnaces and ovens of Headings No 8514 10 to No 8514 30	
ex 8536 90	Wafer probers	For Attachment B
8543 11	Ion implanters for doping semiconductor materials	
ex 8543 30	Apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays	For Attachment B
ex 8543 90	Parts of apparatus for wet etching, developing, stripping or cleaning semiconductor wafers and flat panel displays	For Attachment B
ex 8543 90	Parts of ion implanters for doping semiconductor materials	
9010 41 to 9010 49	Apparatus for projection, drawing or plating circuit patterns on sensitized semiconductor materials and flat panel displays	
ex 9010 90	Parts and accessories of the apparatus of Headings No 9010 41 to 9010 49	
ex 9011 10	Optical stereoscopic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B
ex 9011 20	Photomicrographic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B
ex 9011 90	Parts and accessories of optical stereoscopic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B

Annex II to Doc. NC0527E1
(HSC/29/May 2002)

ex 9011 90	Parts and accessories of photomicrographic microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B
ex 9012 10	Electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B
ex 9012 90	Parts and accessories of electron beam microscopes fitted with equipment specifically designed for the handling and transport of semiconductor wafers or reticles	For Attachment B
ex 9017 20	Pattern generating apparatus of a kind used for producing masks or reticles from photoresist coated substrates	For Attachment B
ex 9017 90	Parts and accessories for pattern generating apparatus of a kind used for producing masks or reticles from photoresist coated substrates	For Attachment B
ex 9017 90	Parts of such pattern generating apparatus	For Attachment B
9030 82	Instruments and apparatus for measuring or checking semiconductor wafers or devices	
ex 9030 90	Parts and accessories of instruments and apparatus for measuring or checking semiconductor wafers or devices	
ex 9030 90	Parts of instruments and appliances for measuring or checking semiconductor wafers or devices	
9031 41	Optical instruments and appliances for inspecting semiconductor wafers or devices or for inspecting masks, photomasks or reticles used in manufacturing semiconductor devices	
ex 9031 49	Optical instruments and appliances for measuring surface particulate contamination on semiconductor wafers	
ex 9031 90	Parts and accessories of optical instruments and appliances for inspecting semiconductor wafers or devices or for inspecting masks, photomasks or reticles used in manufacturing semiconductor devices	
ex 9031 90	Parts and accessories of optical instruments and appliances for measuring surface particulate contamination on semiconductor wafers	

Attachment B

Positive list of specific products to be covered by this agreement wherever they are classified in the HS.

Where parts are specified, they are to be covered in accordance with HS Notes 2(b) to Section XVI and Chapter 90, respectively.

Computers: automatic data processing machines capable of 1) storing the processing program or programs and at least the data immediately necessary for the execution of the program; 2) being freely programmed in accordance with the requirements of the user; 3) performing arithmetical computations specified by the user; and 4) executing, without human intervention, a processing program which requires them to modify their execution, by logical decision during the processing run.

The agreement covers such automatic data processing machines whether or not they are able to receive and process with the assistance of central processing unit telephony signals, television signals, or other analogue or digitally processed audio or video signals. Machines performing a specific function other than data processing, or incorporating or working in conjunction with an automatic data processing machine, and not otherwise specified under Attachment A or B, are not covered by this agreement.

Electric amplifiers when used as repeaters in line telephony products falling within this agreement, and parts thereof
Flat panel displays (including LCD, Electro Luminescence, Plasma and other technologies) for products falling within this agreement, and parts thereof.

Network equipment: Local Area Network (LAN) and Wide Area Network (WAN) apparatus, including those products dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units - including adapters, hubs, in-line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof.

Monitors : display units of automatic data processing machines with a cathode ray tube with a dot screen pitch smaller than 0,4 mm not capable of receiving and processing television signals or other analogue or digitally processed audio or video signals without assistance of a central processing unit of a computer as defined in this agreement.

The agreement does not, therefore, cover televisions, including high definition televisions.

Optical disc storage units, for automatic data processing machines (including CD drives and DVD-drives), whether or not having the capability of writing/recording as well as reading, whether or not in their own housings.

Paging alert devices , and parts thereof .

Plotters whether input or output units of HS heading No 8471 or drawing or drafting machines of HS heading No 9017.

Printed Circuit Assemblies for products falling within this agreement, including such assemblies for external connections

Annex II to Doc. NC0527E1
(HSC/29/May 2002)

such as cards that conform to the PCMCIA standard.

Such printed circuit assemblies consist of one or more printed circuits of heading 8534 with one or more active elements assembled thereon, with or without passive elements "Active elements" means diodes, transistors, and similar semiconductor devices, whether or not photosensitive, of heading 8541, and integrated circuits and micro assemblies of heading 8542.

Projection type flat panel display units used with automatic data processing machines which can display digital information generated by the central processing unit.

Proprietary format storage devices including media therefor for automatic data processing machines, with or without removable media and whether magnetic, optical or other technology, including Bernoulli Box, Syquest, or Zipdrive cartridge storage units.

Multimedia upgrade kits for automatic data processing machines, and units thereof, put up for retail sale, consisting of, at least, speakers and/or microphones as well as a printed circuit assembly that enables the ADP machines and units thereof to process audio signals (sound cards).

Set top boxes which have a communication function : a microprocessor-based device incorporating a modem for gaining access to the Internet, and having a function of interactive information exchange.
