



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

-
29th Session
-

NC0590E2

(HSC/29/May 2002)

O. Eng./Fr.

Brussels, 31 May 2002.

REPORT TO THE CUSTOMS CO-OPERATION COUNCIL
ON THE 29th SESSION OF THE HARMONIZED SYSTEM COMMITTEE

| | |
|--------|--|
| Note : | This Report is subdivided in four parts : |
| | Part I : Body of the Report and Annexes A to K |
| | Part II : Annexes L/1 to L/12 |
| | Part III : Annex L/13 to N/9 |
| | Part IV : Annexes O to S |

1. The Harmonized System Committee (HSC) held its 29th Session from 22 to 31 May 2002 at the Headquarters of the World Customs Organization in Brussels under the chairmanship of Mr. J. HINDSDAL (Denmark).
2. The following 63 Members (62 Countries and one Customs or Economic Union) were represented :

Countries :

| | | |
|-----------------------|--------------------------------------|----------------|
| ARGENTINA | GERMANY | PAKISTAN |
| AUSTRALIA | HUNGARY | PHILIPPINES |
| BANGLADESH | INDIA | POLAND |
| BELGIUM | INDONESIA | PORTUGAL |
| BRAZIL | IRAN (Islamic Rep.) | ROMANIA |
| BULGARIA | IRELAND | RUSSIA (Fed.) |
| BURKINA FASO | ISRAEL | SAUDI ARABIA |
| CAMEROON | JAPAN | SENEGAL |
| CANADA | JORDAN | SLOVAKIA |
| CHINA (People's Rep.) | KENYA | SLOVENIA |
| CONGO (Dem. Rep.) | KOREA (Rep.) | SOUTH AFRICA |
| CÔTE D'IVOIRE | LATVIA | SRI LANKA |
| CROATIA | LIBYAN ARAB JAMAHIRIYA | SWITZERLAND |
| CYPRUS | MACEDONIA (The Former Yugoslav Rep.) | THAILAND |
| CZECH REPUBLIC | MADAGASCAR | TUNISIA |
| DENMARK | MALAYSIA | TURKEY |
| EGYPT | MEXICO | UNITED KINGDOM |
| ESTONIA | MOROCCO | UNITED STATES |
| FINLAND | NETHERLANDS | VIETNAM |
| FRANCE | NIGERIA | ZIMBABWE |

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

NC0590E2
(HSC/29/May 2002)

GABON

NORWAY

Customs or Economic Union

EUROPEAN COMMUNITY (EC).

3. The following eight Members of the Council and four international organisations were represented by observers :

ALBANIA
BENIN
CONGO (Rep.)
DOMINICAN REPUBLIC
KAZAKHSTAN
KUWAIT
UNITED ARAB EMIRATES
YEMEN

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

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

I. ADOPTION OF THE AGENDA
(Doc. NC0512E2)

5. The Committee decided to have a preliminary discussion only on Agenda Items VIII.5, IX.1, 6 and 14.
6. The Committee was informed that there would be two presentations during the meeting, one on starch products and the other on the **PlayStation 2**. A discussion ensued on the procedure the Committee should follow when presentations were to be given. The Committee agreed that in such cases, administrations should inform the Secretariat in advance of the meeting of the content or scope of the presentation. The Secretariat in advance of the meeting would then prepare a summary document for the Committee. The Committee would then decide on whether to have the presentation or not. To the extent possible, these presentations should be made in both official languages.

7. The Committee then decided to accept the proposed presentations on the starch products and the PlayStation 2 on the 27th and 28th of May, respectively.
8. Subject to the foregoing, the Committee adopted the Agenda reproduced in Annex A to this Report. This Annex also serves as the Table of contents.

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

(Doc. NC0514E1)

9. Mr. H. KAPPLER, the Director, informed the Committee that the Administrations of Bahrain and Yugoslavia (Fed. Rep) had become the 105th and 106th Contracting Parties to the HS Convention. He took the opportunity to congratulate them and welcome them to the Committee. He also encouraged administrations which had not yet acceded to the Convention to do so as soon as possible.
10. Moving on to the implementation of the 2002 HS amendments, the Director expressed his disappointment that to date, only 58 of the 106 Contracting Parties had officially notified the Secretariat that they had implemented this important Recommendation. He believed that the Secretariat had done everything in its power to enable the remaining administrations to implement the 2002 amendments on time. As this situation was seriously detrimental to the uniform application of the Nomenclature, he invited the administrations present to indicate their situation with regard to implementation and, where appropriate, to give the Committee the reasons for non-implementation. The latter request applied in particular to the countries of Africa, only two of which had implemented the amendments.
11. In response to this invitation a number of administrations – and particularly those from Africa – explained that their non-application of this Recommendation was attributable primarily to procedural problems (administrative, bureaucratic, political) rather than technical difficulties. Thus, more than 20 African administrations which were Contracting Parties to the Convention were bound by community legislation. One of their first problems was that the "Customs unions" to which they belonged were not WCO Members, let alone HS Contracting Parties. Moreover, not all of the members of these "Customs unions" were WCO Members, and even those which were WCO Members were not HS Contracting Parties. As it was up to the secretariats of these "Customs unions" (UMEOA, ECOWAS and CEMAC) to prepare, publish and issue the national tariffs, the members of the unions that were HS Contracting Parties were having to drag the entire union along with them in order to implement the 2002 amendments. Given the rate of progress, it was clear that implementation could not take place before the end of the year. Other delegates added that given the modest resources available to these economic, monetary and Customs unions, there might be problems of priority. Cameroon and Nigeria indicated that technical assistance from the Secretariat would be desirable, in order to permit the rapid implementation sought. Other administrations which had not yet implemented the 2002 amendments suggested that the Secretariat could help to make the policy-makers in their countries, as well as the secretariats of the "Customs unions", more aware of the importance of implementation, and could offer them expert assistance if they needed it.

12. Continuing the discussions, the Delegate of Jordan indicated that his administration had implemented the HS 2002 amendments in March, and the Secretariat had received copies of Jordan's tariff. Morocco, Nigeria and Kenya informed the Committee that, bearing in mind the technical and procedural problems they had had to overcome, their countries would probably be implementing HS 2002 on 1/7/2002.
13. Turning to the other HS-related Council Recommendations, the Director pointed out that only four administrations had accepted the new Recommendation on the Use of Standard Units of Quantity. He also expressed concern at the fact that, to date, only one of the 22 administrations that which had accepted the previous Recommendation on this subject had accepted the new one. Finally, he urged all administrations to accept WCO Recommendations as soon as they could, and to inform the Secretariat of their acceptance.
14. The Committee took note of this information, and encouraged administrations which had not yet done so to implement HS 2002 as rapidly as possible, and to notify the Secretariat promptly when they had accepted this - or any other – Council Recommendation. Finally, the Committee invited administrations which were not yet Contracting Parties to the HS Convention to accede to it as soon as possible.
15. On the basis of the new information provided during the session, the Secretariat prepared an amended statement of the position regarding Contracting Parties to the HS Convention and related matters, which is reproduced at Annex B/3 to this Report.
16. The list of Contracting Parties to the HS Convention and the list of administrations which – as of 31 May 2002 – were applying a tariff or statistical nomenclature based on the Harmonized System, are reproduced at Annexes B/1 and B/2, respectively, to this Report.

II.2. PROGRESS REPORT ON THE IMPLEMENTATION
OF THE 2002 EDITION OF THE HARMONIZED SYSTEM
(Doc. NC0515E1)

17. Further to this report on progress with regard to the implementation of the 2002 version of the Harmonized System, the Director explained that following the entry into force of HS 2002, the Secretariat was continuing to update its HS-related publications to reflect the amended Nomenclature. Thus, in addition to the four single-language editions of the Nomenclature (English, French, Spanish and Russian), the Explanatory Notes and the Compendium of Classification Opinions, new publications such as the brochure on the classification decisions taken by the HS Committee from its 1st to its 26th Session, were already available. The 1st Amending Supplement to the HS Classification Handbook was currently being printed and would soon be available. It was expected that the revised Alphabetical Index would be issued by the end of June at the latest. As for the Customs Laboratory Guide, the Secretariat was awaiting information from Members' laboratories and hoped to issue an amending supplement before the end of the year. The Director stressed that he was very concerned about administrations' reluctance to purchase the Harmonizer which, nevertheless, was extremely well-received at HS seminars. He believed that the lack of sales might be attributable to language problems. In order to remedy the situation, and

given that sales of the 96 version had been lower than anticipated, and in fact had not been sufficient to cover the Organization's costs, the Secretariat was working towards the inclusion of Spanish and Russian in the 2002 edition. Finally, the Director announced that as a result of certain technical problems with the printing firm, the HS Commodity Data Base on CD-ROM, which should already have been available, would not be issued until June.

18. The Committee took note of the information provided in Doc. NC0515E1, and the clarifications offered by the Director.

II.3. REPORT ON THE MEETING OF THE POLICY COMMISSION (46th SESSION) (Doc. NR0209E1)

19. The Director presented the conclusions of the 46th Session of the Policy Commission on the Australian proposal regarding an innovative approach to restructuring and simplifying the Harmonized System. In addition to the information contained in the working document, the Director reported on new developments with regard to the Policy Commission's decision that the Secretary General and the Council Vice-Chairmen be asked to solicit papers from the WCO regions, national administrations and the private sector. The Director mentioned that the Secretariat had sent letters to each of the Vice-Chairmen and the International Chamber of Commerce (ICC) inviting papers with regard to this question. The Secretariat's letters included an extensive list of issues for the consideration of the Vice-Chairmen and administrations and the Vice-Chairmen had been asked to collate the information from their regions into regional papers or proposals. The deadline for receipt of comments was mid-April, which was short, in order to allow the Secretariat to prepare a new document for the consideration of the Policy Commission. The Director added that comments had been received from a limited number of WCO regions and individual administrations, the EC and the ICC, on which basis the Secretariat had prepared a working document for the next Policy Commission meeting. He urged delegates to obtain copies of that working document once it was published and give their input on this issue to their representatives on the Policy Commission.
20. Several delegates agreed that a thorough look at the Harmonized System would be useful to ensure that it would function well, but strongly advised caution in proceeding with a fundamental review. In this regard, it was pointed out that (i) the impact of a fundamental review would be tremendous on commercial and trade policies and regional trade agreements which were based on the Harmonized System, (ii) the fundamental review itself would take a long time, and (iii) there were no existing framework or resources for such a fundamental review. Meanwhile, it was also observed that nothing should stop the on-going review of the Harmonized System on the basis of technological developments and changes in trade patterns and, in this connection, the Chairman urged all delegations to submit their proposals as soon as possible.
21. The Australian Delegate reiterated the statement that had been made by Australia at the last Policy Commission meeting. He clarified that the concentration on the expression "blank page approach" was perhaps an unfortunate one, given that the Australian proposal was not meant to undermine the Harmonized System nor endanger its function, but was meant to provide an opportunity for all to play a role to ensure that the Harmonized System would serve its purpose more effectively. Referring to the EC proposal to significantly amend the information technology Chapters, he pointed out that there were common concerns that

parts of the Harmonized System needed to be modernised. He agreed that a fundamental review of the Harmonized System needed to proceed with caution and that was why it should be separate from the current review cycle to avoid confusion or jeopardising the current review cycle.

22. On the other hand, one delegate pointed out that there was a need to improve the effectiveness of the existing classification dispute settlement mechanism and the implementation of decisions taken by the HSC. With regard to paragraph 12 of the working document, in particular, another delegate pointed out that it was obvious that there were differences in the world regarding the classification of certain products that the HSC had examined and he fully agreed with the Secretary General's remark in favour of the trade's needs for greater certainty and uniformity in the interpretation and application of the Harmonized System and a faster and binding system for resolving classification disputes.
23. The Director observed that he took note of the point made by Australia that the concentration on the expression "blank page approach" was perhaps an unfortunate one. As he understood the situation, the trade was interested in speeding up the classification of goods in the Harmonized System and making the Committee's decisions more certain, rather than in changing the System completely. He suggested that the Australian proposal was important in prompting the HSC to take another look at the way it was doing its business, focusing on such issues as how to improve the effectiveness of the existing classification dispute settlement mechanism and the uniform application of decisions taken by the HSC.
24. In response to a question, the Director offered his estimate that, having not yet received comments from all WCO regions, the Policy Commission would not take a final decision at its June meeting on the issue of an innovative approach to the Harmonized System and would continue to examine this issue at its December session.
25. The Committee took note of the Secretariat's report on developments in the Policy Commission regarding the Harmonized System.

II.4. APPROVAL OF DECISIONS TAKEN BY THE HARMONIZED SYSTEM
COMMITTEE AT ITS 28th SESSION
(Docs. NG0033E1 and NC0516E1)

26. The Chairman noted that a single reservation had been entered during the intersession. If a decision were taken at the Council's 99th/100th Sessions (June 2002) to refer this question back to the HSC, it could be re-examined at the 30th Session.
27. Following that clarification, the Committee took note of the Secretariat's report that the decisions taken by the Committee at its 28th Session had been 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 Contracting Party :
- the  Administration concerning the "classification of bakers' wares (waffles)" (Annex G/5 to Doc. NC0510E2).

**II.5. TECHNICAL ASSISTANCE ACTIVITIES OF THE NOMENCLATURE
AND CLASSIFICATION SUB-DIRECTORATE**

(Doc. NC0518E1)

28. The Director explained that the security situation in the World after 11 September 2001 had impacted the delivery of the WCO Annual Training Plan for Council year 2001/2002. Nevertheless, the Secretariat had undertaken and was planning to carry out a number of national and regional HS seminars over the remainder of this Council year, which included regional seminars in Jordan (for the Middle East/North African Region), Nicaragua (for the American/Caribbean region) and Singapore (for the Asia/Pacific region). In addition, he informed the Committee that a regional seminar on Customs laboratory matters would be held in Brazil in the near future.
29. He thanked the Japanese Administration for its tremendous contribution to the Secretariat's technical assistance activities and informed the Committee that the Secretariat was in the process of completing its training plan for the Council year 2002/2003. As soon as that plan was available, it would be published on the WCO Web site.
30. The Delegate of Jordan, supported by the Moroccan Delegate, thanked the Japanese Administration and the Secretariat for organising a regional seminar in Jordan, thus enhancing the skill and competence of the region's Customs officers.
31. The Delegate of Kazakhstan thanked the Secretariat for organising a seminar in his country in 2001.
32. Finally, the Director explained that it was very important for the Secretariat to have exact knowledge of the Members training needs. In this respect, he underlined the importance of responding to the questionnaire which the Secretariat had sent to all Members in order to identify their training and technical assistance needs.

II.6. CO-OPERATION WITH OTHER INTERNATIONAL ORGANISATIONS

(Doc. NC0519E1)

33. The Director briefed the Committee on the important activities which had occurred during the intersession in respect of co-operation with other international organisations. He reminded the Committee of the work with the WTO in connection with the examination of ITA-related classification issues and the assistance provided to the OPCW with regard to the OPCW Handbook on Chemicals. He expressed his appreciation to both the UNSD and ICC for the assistance that they had provided to the Committee and the Secretariat. Finally, he mentioned a fair number of contacts with the UNEP, participating in workshops and expert meetings, and stressed the important role to be played by Customs in the enforcement of the various environmental conventions and agreements.
34. The representative of the WTO informed the Committee that good progress had been made on the implementation of the HS 1996 amendments with regard to the WTO schedules of tariff concessions. She recalled the new procedures that had been introduced to implement the HS 2002 amendments with regard to the WTO schedules of concessions and indicated that these procedures would expedite the exercise. She thanked the Committee for the co-operation extended in this regard.

NC0590E2
(HSC/29/May 2002)

35. The representative of the UNSD informed the Committee that co-operation between the WCO Secretariat and the UNSD continued successfully and contributed significantly to the promotion of the implementation of the HS 2002 amendments and the compilation of more reliable and useful international merchandise trade statistics. In this regard, he highlighted the events described below :
- (i) WCO experts had participated in UN statistical workshops, and UNSD staff had participated in training seminars conducted by the WCO;
 - (ii) the UNSD had provided the WCO with data on world trade for each of the 6-digit HS subheadings and had received Secretariat advice regarding various classification issues;
 - (iii) the UNSD had reviewed and provided comments on the correlation tables between the 2002 and the 1996 versions of the Harmonized System established by the WCO and, on that basis, had published correlation tables between HS 2002 and the SITC, Rev. 3, etc., to assist countries in adjusting their data processing procedures. The latter correlation tables had been sent to all countries in hard copy and had been made available on the UNSD Web site for free (<http://unstats.un.org/unsd/class.>).
36. He confirmed that the UNSD would continue its co-operation with the Committee and the WCO Secretariat.
37. The representative of the ICC informed the Committee that the ICC was very pleased with its close working partnership with the WCO. The ICC, in the near future, would be working with the WCO to provide trade comments on two WCO initiatives :
- (i) the Customs Data Model, and
 - (ii) the Unique Consignment Reference Number (UCR).
38. The **EC** Delegate informed the Committee that the **EC** was presently studying a proposal from international organisations to consider certain amendments to the Nomenclature concerning the chemicals listed in the Annexes to the Rotterdam Convention. He felt that this would be difficult but important work and the proposal would be submitted, as soon as possible, in order to enable the Secretariat to prepare a working document in time for the next Review Sub-Committee session.

II.7. CO-OPERATION WITH THE TECHNICAL COMMITTEE ON RULES OF ORIGIN (Doc. NC0520E1)

39. The Committee took note of the developments in the Technical Committee on Rules of Origin, as set out in Doc. NC0520E1.

II.8. NEW INFORMATION PROVIDED ON THE WCO WEB SITE
(Doc. NC0521E1)

40. The Director, while pointing out the various developments listed in the document and informing the Committee that the WCO continued to improve its Web sites, invited Members to make full use of them and to notify the Secretariat of any shortcomings. He also indicated that at the next session, a live demonstration would be given.
41. Responding to a question put forward by one delegate, the Director indicated that the Secretariat would study the possibility of using compressed electronic files in cases where the size of documents in electronic format might cause problems for users when downloading them.
42. Following observations from a number of delegates about necessary amendments to be made to the list of e-mail addresses of contact points, the Committee took note of the other information referred to in the working document.

II.9. ANNUAL SURVEY TO DETERMINE THE PERCENTAGE OF NATIONAL REVENUE
REPRESENTED BY CUSTOMS DUTIES
(Doc. NC0522E1)

43. In opening this agenda item, the Director informed the Committee that this survey was the latest edition of the Secretariat's annual survey on the percentage of national revenues represented by Customs duties. He noted that the information had remained relatively stable since last year and that he was surprised at the difficulties encountered in obtaining current data in this regard. He also stated that Customs duties for the vast majority of Member states had remained important in terms of national revenues.
44. The Delegate of Cyprus noted that it was difficult for her country to provide this kind of information due to a recent change in its Customs system which was designed to liberalise Customs duties as a candidate member of the EC.
45. The Delegate of India explained his country's continuing efforts to bring down its Customs duty rates and noted that his country's Customs duty rates may be even lower in the future.
46. Concerning Note 2 to Annex I of the working document, the EC Delegate informed the Committee that the share of Customs duties going to the EC Member States as administrative collection expenses had risen from 10 % to 25 % several months ago. He also raised a question as to why the Secretariat had included data for the EC Member States although they did not have their own Customs duties. The EC was of the view that the reference to Member States in this table should be deleted. In this regard, the Director noted that the figures for the EC Member States represented the Customs duties collected by the 15 EC countries as a whole on behalf of the EC. He stated that the Secretariat would discuss this matter with the EC during the intersession in order to improve the presentation in this regard.

47. The Delegate of the Democratic Republic of Congo requested the Secretariat to explain to other international organisations such as the IMF and the World Bank that the implementation of the HS 2002 amendments would not have a negative impact on a country's revenue collection. In this regard, the Director noted that the figures in this survey were mainly based on IMF statistics and that the WCO Secretariat would make this point in the future in discussions with these organisations. He also stressed that the implementation of the HS 2002 amendments was not an option but a legal obligation of the Member states and that the amendments should be implemented as soon as possible.
48. The Committee took note of the results of the survey.

II.10. SURVEY ON FREE TRADE AGREEMENTS (Doc. NC0523E1)

49. In opening this agenda item, the Director stressed the importance of free trade agreements in world trade. He informed the Committee that 145 countries were signatories to one or more free trade agreements and more than 40% of world trade took place between member countries of free trade agreements. He also noted that the Harmonized System played an important role in the successful implementation of these free trade agreements.
50. Many delegates expressed their thanks to the Secretariat for providing very useful information. However, some delegates requested the Secretariat to make certain corrections with regard to the information presented in Annex I to the working document.
51. The Delegate of Cyprus stated that there was an association agreement between the EC and Cyprus, which constituted neither a Customs union nor a free trade agreement.
52. The Delegate of the EC pointed out that :
- (i) the agreement between the EC and Malta was not a Customs union;
 - (ii) since Denmark and the United Kingdom became the Members of the EC in 1973, the relevant part of item 24 of Annex 1 to Doc. NC0523E1 (EC/Overseas countries and Territories) should be corrected;
 - (iii) there were also Customs unions between the EC and the Vatican and between the EC and San Marino; and
 - (iv) care should be taken to ensure that, where Customs and economic unions were concerned, the provisions of Article 6.4 of the HS Convention were complied with.
53. The Delegate of Hungary informed the Committee that free trade agreements between Hungary and Croatia and between Hungary and Yugoslavia would go into effect soon.
54. The Delegate of the Democratic Republic of Congo pointed out that his country was a member state of the COMESA which was listed in item 119 of Annex I to Doc. NC0523E1.

55. The Delegate of Brazil informed the Committee that the MERCOSUR countries applied different external tariff rates on several different tariff lines, including on ITA products, even though they had common tariff rates on other products.
56. The Director noted that the terms “Customs unions” and “Free trade area” used in Annex I to Doc. NC0523E1 were mainly based on the information from the WTO as mentioned in paragraphs 4 and 5 of the same document and that the Secretariat would continue this survey, taking into account the above comments, and would try to obtain appropriate feedback from Member countries.
57. The Committee took note of the results of this survey.

II.11. CORRIGENDUM TO THE THIRD EDITION (2002) OF THE
EXPLANATORY NOTES
(Doc. NC0524E1)

58. The Director explained that, while most of the editorial errors found in the 2002 edition of the Explanatory Notes could be corrected by hand (Annexes II (French) and III (English) to the working document), a number of corrections were somewhat more substantial (as listed in Annex I to the same document). It would be appropriate to include the latter group in the next Amending Supplement.
59. Subject to a few editorial modifications in the English version, the Committee agreed with the texts proposed by the Secretariat. The texts adopted are set out in Annexes L/1 (Corrigendum to the Third Edition (2002) of the HS Explanatory Notes) and Q (Erratum to the HS Explanatory Notes - Corrections to be made by hand (French and English)) to this Report, respectively.
60. The Director clarified that the corrections to be made by hand (French and English) would be sent to Member Administrations after the session for ease of reference for the correction by Members of their Explanatory Notes as soon as possible. Nevertheless, if any of the Explanatory Note pages corresponding to the pages referred to in those lists were amended by Corrigendum in the future for other reasons, the corrections (made by hand) would be incorporated by the Secretariat in the replacement pages.

III. GENERAL QUESTIONS

61. The Committee's conclusions concerning Agenda Item III are reproduced in Annexes C/1 to C/5 and P to this Report.

IV. RECOMMENDATIONS
(NC0529E1)

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

V. REPORT OF THE SCIENTIFIC SUB-COMMITTEE
(17th Session)

63. The Harmonized System Committee examined the conclusions reached by the Scientific Sub-Committee (SSC) at its 17th Session.
64. The results of this examination are reproduced in Annexes L/10 to L/14, N/1 and O/1 to this Report.
65. On behalf of the Committee, the Chairman thanked the Scientific Sub-Committee and its Chairman for the excellent work accomplished at the 17th Session of the Sub-Committee.

VI. REPORT OF THE REVIEW SUB-COMMITTEE
(25th Session)

66. The Harmonized System Committee examined the conclusions reached by the Review Sub-Committee (RSC) at its 25th Session.
67. The results of this examination are reproduced in Annexes F, N/2 to N/9, O/2 to O/4 and L/16 to this Report.
68. On behalf of the Committee, the Chairman thanked the HS Review Sub-Committee and its Chairman for the excellent work accomplished at the 25th Session of the Sub-Committee.

VII. REPORT OF THE WORKING PARTY

69. The Harmonized System Committee examined the conclusions reached at the Working Party's presessional meeting. The conclusions of the Committee are reproduced in Annexes G/1 to G/8 to this Report.
70. The texts finalized by the Working Party and adopted by the Committee are set out in Annexes L/2 to L/9 to this Report.
71. The Chairman urged the Members of the Working Party to be more diligent in submitting textual proposals to the Working Party and not waiting til the Harmonized System Committee meeting to do so. Netherless, on behalf of the Committee, the Chairman congratulated the Chairman of the Working Party and its Members on their work.

VIII. and IX. FURTHER STUDIES AND NEW QUESTIONS

72. The Committee's conclusions concerning Agenda Items VIII and IX are reproduced in Annexes H and IJ to this Report.

X. OTHER BUSINESS

LIST OF QUESTIONS WHICH MIGHT BE EXAMINED
AT A FUTURE SESSION

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

ACCEPTANCE OF THE RUSSIAN VERSION OF
THE HS 2002 EXPLANATORY NOTES

74. Following the acceptance of the Russian version of the HS 2002 Explanatory Notes at the 28th Session, the Committee accepted the Russian version of the Amending Supplement No. 1 to those Explanatory Notes (NG0031R1).
75. The Committee further accepted the Russian version of the amendments to the Explanatory Notes, the English and French versions of which are set out in Annexes L/1, L/2, L/6, L/14 and L/16 to this Report.

STAFF CHANGES IN THE NOMENCLATURE AND
CLASSIFICATION SUB-DIRECTORATE

76. The Director informed the Committee that Mr. S. KOCAS (TURKEY) and Mr. N. GOONEWARDENA (SRI LANKA) would soon be returning to their respective administrations. He thanked both Mr. Koças and Mr. Goonewardena for their outstanding service and wished them both all the best in their future endeavours.
77. The Director also informed the Committee that Ms. K. PIRŠELOVA (SLOVAKIA) and Mr. J.-D. M'BOMY MALUKU (DEMOCRATIC REPUBLIC OF THE CONGO) had recently joined the Secretariat to work on the Comprehensive Review of the Explanatory Notes and other Secretariat work. He expressed his appreciation to the Slovakian and Democratic Republic of the Congo Administrations for the generous secondment of their officers.

POSTPONEMENT OF AGENDA ITEMS

78. At the conclusion of the Committee's technical work, the Delegate of Morocco again requested the Committee to examine two items (IX.9 and IX.10 on the Agenda) for which his administration required immediate decisions by the HSC. The Chairman indicated that, while he was sympathetic to administrations' needs, it was not possible to consider any further issues, given the abbreviated schedule of the Committee at this session and its heavy workload. Regrettably a higher than normal number of Agenda Items had to be postponed to the next session. He assured delegates that those issues would receive priority consideration at the next session.

XI. ELECTION OF CHAIRMEN AND VICE-CHAIRMEN
OF THE HARMONIZED SYSTEM COMMITTEE,
THE HARMONIZED SYSTEM REVIEW SUB-COMMITTEE,
AND THE WORKING PARTY

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

79. On the proposal of the US Delegate, the Committee unanimously elected Mr. C.E. (Ed) DE JONG (Netherlands) as Chairman of the Harmonized System Committee.
80. On the proposal of the Delegate of Japan, the Committee unanimously re-elected Mr. J. F. JAUREGUI (Mexico) as first Vice-Chairman of the Harmonized System Committee.
81. On the proposal of the Delegate of Kenya, the Committee unanimously elected Mr. S. GAIKWAD (UK) as second Vice-Chairman of the Harmonized System Committee.

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

82. On the proposal of the Delegate of Morocco, the Committee unanimously re-elected Mr. D. BECK (United States) as Chairman of the Review Sub-Committee.
83. On the proposal of the Delegate of Switzerland, the Committee unanimously elected Mr. G. TEBBUTT (Canada) as Vice-Chairman of the Review Sub-Committee.

ELECTION OF CHAIRMAN OF THE WORKING PARTY

84. On the proposal of the Delegate of Cyprus, the Committee unanimously elected Mr. P. JOFFRE (France) as Chairman of the Working Party.

XII. DATES OF NEXT SESSIONS

85. 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 (26th Session)

Monday, 16 September 2002 (10 a.m.) to
Friday, 27 September 2002

(b) Working Party

Thursday, 14 November 2002 (10 a.m.) to
Friday, 15 November 2002

NC0590E2
(HSC/29/May 2002)

(c) Harmonized System Committee (30th Session)

Monday, 18 November 2002 (10 a.m.) to
Friday, 29 November 2002.

J. HINDSDAL,
Chairman.

* * *

ANNEX A
TABLE OF CONTENTS

| Agenda Item Number | <u>Subject</u> | <u>Paragraphs in Reports or Annexes</u> |
|--------------------------|---|---|
| I. | Adoption of the Agenda | 5 to 8, A |
| II. | Report by the Secretariat | |
| 1. | Position regarding Contracting Parties to the HS Convention and related matters | 9 to 16, B/1 to B/3 |
| 2. | Progress report on the implementation of the 2002 edition of the Harmonized System | 17 and 18 |
| 3. | Report on the meeting of the Policy Commission (46 th Session) | 19 to 25 |
| 4. | Approval of decisions taken by the Harmonized System Committee at its 28 th Session | 26 and 27 |
| 5. | Technical assistance activities of the Nomenclature and Classification Sub-Directorate | 28 to 32 |
| 6. | Co-operation with other international organisations | 33 to 38 |
| 7. | Co-operation with the Technical Committee on Rules of Origin | 39 |
| 8. | New information provided on the WCO Web site | 40 to 42 |
| 9. | Annual survey to determine the percentage of national revenue represented by Customs duties | 43 to 48 |
| 10. | Survey on Free Trade Agreements | 49 to 57 |
| 11. | Corrigendum to the Third Edition (2002) of the HS Explanatory Notes | 58 to 60 |
| III. | General questions | 61 |
| 1. | Proposed amendment of the Compendium of Classification Opinions | C/1 |
| 2. | Use of references to specific administrations in future reports of the Harmonized System Committee | C/2 |
| 3. | Establishment of a correlation between the Harmonized System and the WTO instruments and agreements | C/3 |

| | | |
|------|--|---------------------------|
| 4. | How should the HS Committee deal with the classification of products that are no longer being manufactured but are still being traded internationally ? | C/4 |
| 5. | Terms of reference and work plans for the HS Committee, its sub-committees and Working Party | C/5 |
| IV. | Recommendations | 62 |
| 1. | 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 | D |
| V. | Report of the Scientific Sub-Committee | 63 to 65 |
| 1. | Report of the 17 th Session of the Scientific Sub-Committee | E/1, L/10 to L/14 |
| 2. | Matters for decision by the Harmonized System Committee | N/1, O/1 |
| 3. | Classification of new INN products (WHO Lists 84 and 85) | E/2, L/15 |
| VI. | Report of the HS Review Sub-Committee | 66 to 68 |
| 1. | Report of the 25 th Session of the HS Review Sub-Committee | F, L/16 |
| 2. | Matters for decision by the Harmonized System Committee | O/2 to O/4, N/2 to N/9 |
| VII. | Report of the pre-sessional Working Party | 69 to 71 |
| 1. | Amendments to the Explanatory Notes arising from the classification of fresh strawberries preserved by means of a protective gas in subheading 0810.10 | G/1, L/2 |
| 2. | Amendments to the Compendium of Classification Opinions arising from the classification of a mixed grease product in subheading 1517.90 | G/2, L/3 |
| 3. | Amendments to the Compendium of Classification Opinions arising from the classification of a vitamin preparation in subheading 2106.90 | G/3, L/4 |
| 4. | Amendments to the Compendium of Classification Opinions arising from the classification of a reinforcement grid called "Fortrac 35/35-40" in subheading 3926.90 | G/4, L/5 |

| | | |
|-------|--|----------|
| 5. | Amendments to the Compendium of Classification Opinions and the Explanatory Notes arising from the classification of certain repeaters used in LAN systems in subheading 8471.80 | G/5, L/6 |
| 6. | Amendments to the Compendium of Classification Opinions arising from the classification of a radio equipment (transmitter/receiver) assembly in subheading 8525.20 | G/6, L/7 |
| 7. | Amendments to the Compendium of Classification Opinions arising from the classification of a passenger motor vehicle with a "hybrid" power system in subheading 8703.22 | G/7, L/8 |
| 8. | Amendments to the Compendium of Classification Opinions arising from the classification of foot-propelled scooters in subheading 9501.00 | G/8, L/9 |
| VIII. | Further studies | 72 |
| 1. | Guidelines with regard to the possible application of GIRs 3 (a) and 3 (c) in the context of the classification of certain chemical products | H/1 |
| 2. | Classification of concentrated milk with added sugar | H/2 |
| 3. | Possible amendments to the Explanatory Notes with a view to clarifying the classification of vitamin preparations | H/3 |
| 4. | Classification of a medicated bone graft substitute called "OSTEOSET®T" | H/4 |
| 5. | Classification of certain modified starches or sizing preparations | H/5 |
| 6. | Classification of certain acid-added clay products | H/6 |
| 7. | Possible amendments to the Explanatory Notes to Chapter 48 to clarify the classification of so-called "photo-copying" paper (Proposal by the Egyptian Administration) | H/7 |
| 8. | Possible amendments to the Explanatory Notes with regard to various women's and girls' garments | H/8 |
| 9. | Classification of the "Palm V™" presented as a set with cradle and installation software | H/9 |
| 10. | Classification of DVD drives and DVD players, including game players | H/10 |
| 11. | Possible amendments to the Explanatory Notes to clarify the classification of certain electronic memory modules (SIMMs and DIMMs) | H/11 |
| 12. | Possible amendments to the Explanatory Notes with a view to clarifying the classification of laundry type and industrial washing machines | H/12 |

| | |
|---|-------|
| 13. Classification of flash electronic storage cards | H/13 |
| 14. Classification of MP3 players | H/14 |
| 15. Classification of safety seats for infants and toddlers | H/15 |
| 16. Possible amendment of the Explanatory Notes to clarify the classification of foot-propelled scooters | H/16 |
| 17. Classification of grounding rods | H/17 |
| IX. New questions | 72 |
| 1. Possible amendments to the Explanatory Notes to headings 01.05 and 01.06 with regard to geese, ducks, wild geese and wild ducks (Proposal by the Norwegian Administration) | IJ/1 |
| 2. Possible amendment of the Explanatory Note to heading 04.06 (Proposal by the EC) | IJ/2 |
| 3. Classification of "Mosstanol L" | IJ/3 |
| 4. Classification of a polyurethane resin in dimethyl formamide | IJ/4 |
| 5. Possible amendment of Classification Opinion 3907.20/1 (Proposal by the Canadian Administration) | IJ/5 |
| 6. Classification of certain panels of wood | IJ/6 |
| 7. Classification of quilted, decorative pillow coverings (shams) | IJ/7 |
| 8. Classification of certain stationery sets | IJ/8 |
| 9. Classification of sliding doors for lifts (elevators) | IJ/9 |
| 10. Classification of "roller shoes" | IJ/10 |
| 11. Possible contradiction between the Explanatory Notes to and legal text of heading 85.36 | IJ/11 |
| 12. Classification of milk substitutes for coffee called "Vana©Blanca 35T" and "Non Dairy Creamer 23H" | IJ/12 |
| 13. Classification of a machine called "NOACK 900 BLISTER PACKER" | IJ/13 |
| 14. Classification of an electrostatic chuck and distinction between chucks of headings 84.66 and 85.05 | IJ/14 |
| 15. Classification of a "hydraulic salt/sand spreader" for clearing snow from roads | IJ/15 |

| | |
|--|----------|
| 16. Possible amendments to the Nomenclature regarding the classification of cameras | IJ/16 |
| 17. Use of the terms “hygienic”, “sanitary” and “toilet” | IJ/17 |
| 18. Classification of banknote substrates of plastics | IJ/18 |
| 19. Classification of pumicing blocks in connection with the possible amendment of the Explanatory Note to heading 40.16 | IJ/19 |
| X. Other business | 73 to 78 |
| 1. List of questions which might be examined at a future session | K, R |
| XI. Elections | 79 to 84 |
| XII. Dates of next sessions | 85 |
| List of delegates. | S |

* * *

ANNEX B/1

LIST OF CONTRACTING PARTIES
TO THE HARMONIZED SYSTEM CONVENTION

Situation as of 31 May 2002

(105 countries and 1 Customs or Economic Union)

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

* * *

ANNEX B/2
LIST OF COUNTRIES, TERRITORIES AND CUSTOMS OR ECONOMIC
UNIONS USING THE HARMONIZED SYSTEM
Situation as of 31 May 2002
(Total 183)

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

* * *

HS POSITION as of 31-05-2002
(Contracting Parties)

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

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

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

HS POSITION as of 31-05-2002
(Contracting Parties)

| Country / Customs Union | HS Contracting Parties | | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|----------------------------|------------------------|-----------------------------|---------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|--------------|
| | Date of Accession | Date of entry into force | Date of Implementation | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Congo (Dem. Rep.) | 10-11-1987 | 01-01-1988 | | | | | | | | | | French | 1997 |
| Côte d'Ivoire | 25-01-1990 | 01-01-1991 | | | | | | | | | | (ECOWAS French) | 1998 |
| Croatia | 29-09-1994 | 29-09-1994 | 01-01-2002 | | | | | | | | | Croatian English | 1996 1996 |
| Cuba | 03-11-1995 | 01-01-1997 | | 23-07-1996 | | 09-02-1998 | 09-02-1998 | | | | | Spanish | 1998 |
| Cyprus | 21-03-1994 | 21-03-1994 | 01-01-2002 | 22-01-2002 | | 22-01-2002 | | | | | | English | 2002 |
| Czech Rep. | 16-11-1993 | 16-11-1993 | 01-01-2002 | | | | | | 07-08-2001 | | | Czech | 1999 |
| Denmark | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Danish) | 2002 |
| Egypt | 27-05-1999 | 01-01-2001 | | | | | | | | | | Arabic | 1994 |
| Estonia | 26-05-1993 | 01-01-1995 | 01-01-2002 | 13-11-1995 | | | | | 08-12-1997 | | | Estonian | 1996 |
| Ethiopia | 01-03-1995 | 01-03-1995 | | | | | | | | | | Ethiopian / English | 1998 |
| Fiji | 23-12-1997 | 01-01-1998 | | | | | | | | | | English | 1997 |
| Finland | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Finnish) | 2002 |
| France | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC French) | 2002 |
| Gabon | 07-07-2000 | 01-01-2002 | | | | | | | | | | (CEMAC French) | 1998 |
| Germany | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC German) | 2002 |
| Greece | 15-07-1988 | 01-01-1990 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Greek) | 2002 |
| Guinea | 23-09-1997 | 01-01-1998 | | | | | | | | | | (ECOWAS French) | 1998 |
| Haiti | 17-01-2000 | 17-01-2000 | | | | | | | | | | French | 1996 |
| Hungary | 27-08-1990 | 01-01-1991 | 01-01-2002 | 16-11-1999 | 18-03-2002 | | 16-11-1999 | | 13-01-1998 | | | Hungarian | 1996 |
| Iceland | 28-10-1987 | 01-01-1988 | 01-01-2002 | | | | | | | | | Icelandic English | 1994 1994 |
| India | 23-06-1986 | 01-01-1988 | 01-01-2002 | | | | | | | | | English | 2000 |

HS POSITION as of 31-05-2002
(Contracting Parties)

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

| Country / Customs Union | HS Contracting Parties | | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|---|------------------------|-----------------------------|---------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|--------------|
| | Date of Accession | Date of entry into force | Date of Implementation | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Indonesia | 05-07-1993 | 01-01-1995 | | 30-10-1998 | | | | | | | | Indonesian / English | 1996 |
| Iran | 28-02-1995 | 01-01-1997 | | | 19-01-2002 | | | | | 10-03-1999 | | Farsi | 1998 |
| Ireland | 22-12-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC English) | 2002 |
| Israel | 05-08-1987 | 01-01-1988 | 01-01-2002 | | | | | | | | | English | 1997 |
| Italy | 31-05-1989 | 01-01-1991 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Italian) | 2002 |
| Japan | 22-06-1987 | 01-01-1988 | 01-01-2002 | | | 24-03-1997 | | | | | | Japanese / English | 2002 |
| Jordan | 10-06-1985 | 01-01-1988 | 01-03-2002 | | | | | | | | | Arabic / English | 2002 |
| Kenya | 29-07-1988 | 01-07-1989 | | | | | | | | | | English | 1996 |
| Korea (Rep.) | 27-11-1987 | 01-01-1988 | 01-01-2002 | 26-10-1998 | | 07-08-1996 | 07-08-1996 | | 26-10-1998 | | | Korean / English | 1999 |
| Latvia | 04-01-1996 | 01-06-1996 | 01-01-2002 | 10-11-2000 | | 19-07-1999 | | | 25-01-1999 | | | Latvian English | 1997 2002 |
| Lebanon | 03-05-1996 | 03-05-1996 | 01-01-2002 | | | | | | | | | | |
| Lesotho | 12-12-1985 | 01-01-1988 | 01-01-2002 | | | | | | | | | English | 1993 |
| Libyan Arab Jamahiriya | 17-05-1993 | 01-01-1995 | | | | | | | | | | Arabic | 1998 |
| Lithuania | 20-06-1994 | 01-01-1995 | 01-01-2002 | 03-08-1998 | | 25-08-1997 | | | 08-12-1997 | 09-11-1998 | | Lithuanian | 1997 |
| Luxembourg | 11-07-1988 | 11-07-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC French) | 2002 |
| The Former Yugoslav Rep. of Macedonia | 31-03-1995 | 31-03-1995 | 01-01-2002 | | | | | | | | | Macedonian | 2002 |
| Madagascar | 22-12-1987 | 01-01-1988 | | | | | | | | | | French | 2000 |
| Malawi | 25-10-1988 | 01-04-1989 | 15-04-2002 | | | | | | | | | English | 1995 |
| Malaysia | 15-12-1987 | 01-01-1988 | | | | 10-06-1997 | | | | | | English | 1996 |
| Maldives | 07-07-2000 | 01-01-2002) | | | | | | | | | | English | 2000 |

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

HS POSITION as of 31-05-2002
(Contracting Parties)

| Country / Customs Union | HS Contracting Parties | | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|----------------------------|------------------------|-----------------------------|---------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|--------------|
| | Date of Accession | Date of entry into force | Date of Implementation | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Mali | 15-06-1994 | 01-01-1995 | | | | | | | | | | French | 1997 |
| Malta | 20-12-1989 | 01-01-1990 | 01-04-2002 | | | | | | 27-01-1998 | | | English | 1997 |
| Mauritania | 03-04-2001 | 01-01-2003 (*) | | | | | | | | | | French | 2000 |
| Mauritius | 10-06-1985 | 01-01-1988 | 01-01-2002 | | | | | | 15-11-1999 | | | English | 2002 |
| Mexico | 06-09-1991 | 06-03-1992 | 01-04-2002 | | | 20-08-1996 | | | | | | Spanish | 1996 |
| Mongolia | 30-09-1991 | 01-01-1993 | | | | | | | | | | Mongolian / Russian / English | 1998 |
| Morocco | 27-02-1992 | 01-07-1992 | | | | | | 25-02-2002 | | | 24-04-2001 | French | 1997 |
| Myanmar | 05-12-1994 | 01-01-1995 | | 20-09-1995 | | | | | | | | English | 1996 |
| Netherlands | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Dutch) | 2002 |
| New Zealand | 22-09-1987 | 01-01-1988 | 01-01-2002 | | | | | | | | | English | 2002 |
| Niger | 16-03-1990 | 01-01-1991 | | | | | | | | | | (ECOWAS French) | 1998 |
| Nigeria | 15-03-1988 | 15-03-1988 | | | | | | | 12-02-1998 | | | (ECOWAS English) | 1998 |
| Norway | 27-08-1987 | 01-01-1988 | 01-01-2002 | 08-12-1999 | 19-12-2001 | 18-09-1996 | | | 07-01-1998 | | | Norwegian | 2002 |
| Pakistan | 22-09-1987 | 01-01-1988 | | | | 03-12-2001 | | | | | | English | 2001 |
| Panama | 24-08-1998 | 01-01-2000 | | | | | | | | | | | |
| Peru | 09-07-1998 | 01-01-2000 | 01-01-2002 | 13-02-2001 | | | 13-02-2001 | | | | | (CAN Spanish English) | 1998 1999 |
| Philippines | 28-06-2001 | 28-06-2001 | | | | | | | | | | English | 2001 |
| Poland | 12-09-1995 | 01-01-1996 | 01-01-2002 | | | | | 03-07-2001 | | | | Polish English | 2002 1996 |
| Portugal | 04-11-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Portuguese) | 2002 |
| Romania | 05-12-1996 | 01-01-1997 | 01-01-2002 | | | 23-06-1997 | | | | | | Romanian | 1997 |
| Russia | 18-06-1996 | 01-01-1997 | 01-01-2002 | | | | | | | | | Russian English | 2000 1994 |

HS POSITION as of 31-05-2002
(Contracting Parties)

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

| Country / Customs Union | HS Contracting Parties | | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|----------------------------|------------------------|-----------------------------|---------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|--------------|
| | Date of Accession | Date of entry into force | Date of Implementation | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Rwanda | 29-07-1992 | 01-01-1994 | | | | | | | | | | | |
| Saudi Arabia | 10-03-1988 | 01-01-1990 | 01-01-2002 | 08-01-2001 | | | | | 30-08-2001 | | | Arabic | 2002 |
| Senegal | 21-09-1989 | 01-01-1991 | | | | | | | | | | (ECOWAS French) | 1998 |
| Slovakia | 07-06-1993 | 07-06-1993 | 01-01-2002 | | | 04-06-1997 | | | 08-11-2000 | | | Slovak English | 1997 2002 |
| Slovenia | 23-11-1992 | 23-11-1992 | 01-01-2002 | | | 02-06-1997 | | | | | | Slovene | 1996 |
| South Africa | 25-11-1987 | 01-01-1988 | 01-01-2002 | | | | | | 06-03-1998 | | | English | 1998 |
| Spain | 28-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Spanish) | 2002 |
| Sri Lanka | 03-05-1988 | 01-01-1989 | 23-03-2002 | | | | | | | | | English | 1999 |
| Sudan | 10-12-1993 | 10-12-1993 | | | | | | | | | | Arabic | 1992 |
| Swaziland | 26-11-1985 | 01-01-1988 | | | | | | | | | | | |
| Sweden | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC Swedish) | 2002 |
| Switzerland | 22-09-1987 | 01-01-1988 | 01-01-2002 | 18-09-2000 | | 06-02-1997 | | | 11-02-1998 | | | French | 2001 |
| Thailand | 16-12-1991 | 01-01-1993 | 01-01-2002 | | | | | | | | | Thai / English | 2002 |
| Togo | 12-02-1990 | 01-01-1991 | | | | | | | | | | (ECOWAS French) | 1998 |
| Tunisia | 28-10-1987 | 01-01-1989 | 01-04-2002 | | | 12-09-1997 | | | | | | | |
| Turkey | 15-12-1988 | 01-01-1989 | 01-01-2002 | 06-10-1997 | | 06-10-1997 | 06-10-1997 | | 24-07-1998 | | | English | 1997 |
| Uganda | 11-07-1989 | 01-01-1991 | | | | | | | | | | English | 1997 |
| United Kingdom | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | (EC English) | 2002 |
| United States | 31-10-1988 | 01-01-1989 | 10-01-2002 | | | 27-02-1997 | | | 06-11-1998 | 06-11-1998 | | English French | 1999 1997 |
| Uzbekistan | 17-11-1998 | 01-01-2000 | | | | | | | | | | | |
| Venezuela | 23-10-1998 | 02-11-1998 | | | | | | | | | | Spanish | 1999 |
| Viet Nam | 26-03-1998 | 01-01-2000 | | | | | | | | | | Vietnamese / English | 1996 |
| Yugoslavia | 09-01-2002 | 09-01-2002 | | | | | | | | | | | |

| Country / Customs Union | HS Contracting Parties | | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|-------------------------------|------------------------|--|---------------------------|--|----------------------|------------------------------|-------------------------------------|--|--|----------------------------|--|---|--|
| | Date of Accession | Date of entry into force | | Date of Implementation | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language |
| Zambia | 22-12-1986 | 01-01-1988 | | | | | | | | | | English | 1997 |
| Zimbabwe | 05-11-1986 | 01-01-1988 | | | | | | | | | | English | 1997 |
| European Community (EC) | 22-09-1987 | 01-01-1988 | 01-01-2002 | 07-10-1996 | | 07-01-1997 | | | | | | Danish Dutch English Finnish French German Greek Italian Portuguese Spanish Swedish | 2002 2002 2002 2002 2002 2002 2002 2002 2002 2002 |
| TOTAL | 106 | | 61 | 34 | 4 | 37 | 8 | 2 | 18 | 5 | 2 | | 75 |
| | | (* Unless an earlier date is specified | | | | | | | | | | | |

HS POSITION as of 31-05-2002
(Administrations applying HS)

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

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

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

HS POSITION as of 31-05-2002
(Administrations applying HS)

Annex B/3 to Doc. NC0590E2
(HSC/29/May 2002)

| Country / Customs Union | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|--|------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|---------|
| | | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Nepal | | | | | | | | | | English | 2001 |
| New Caledonia (French Territory) | | | | | | | | | | | |
| Nicaragua | | | | | | | | | | | |
| Niue | | | | | | | | | | English | 1988 |
| Oman | | | | | | | | | | Arabic | 2002 |
| Papua New Guinea | | | | | | | | | | | |
| Paraguay | | | | | | | | | | (MERCOSUR Spanish) | 1996 |
| Polynesia (French Territory) | | | | | | | | | | | |
| Qatar | | | | | | | | | | (GCC Arabic) | 1999 |
| Saint Kitts and Nevis | | | | | | | | | | (CARICOM English) | 1993 |
| Saint Lucia | | | | | | | | | | (CARICOM English) | 1993 |
| Saint Pierre and Miquelon (French Territory) | | | | | | | | | | | |
| Saint Vincent and the Grenadines | | | | | | | | | | English | 1998 |
| Sierra Leone | | | | | | | | | | (ECOWAS English) | 1998 |
| Singapore | | | | | | | | | | English | 1996 |
| Solomon Islands | | | | | | | | | | English | 1998 |
| Suriname | | | | | | | | | | (CARICOM English) | 1993 |
| Syrian Arab Rep. | | | | | | | | | | Arabic | 2001 |
| Tanzania | | | | | | | | | | English | 1996 |
| Tonga | | | | | | | | | | English | 1995 |
| Trinidad and Tobago | | | | | | | | | | English | 1993 |
| Turkmenistan | | | | | | | | | | | |
| Tuvalu | | | | | | | | | | English | 1989 |

| Country / Customs Union | HS 2002 Implementation | Acceptance of Recommendations (by date of receipt of the notifications) | | | | | | | | HS-based Tariffs available in the Secretariat | |
|--|------------------------------|--|------------------------------|-------------------------------------|--|--|----------------------------|--|-------------------------------|---|--------------|
| | | Ozone 1995 / 1999 | Units of Quantity 2001 | Pre-entry Classification 1996 | Chemical Weapons 1996 (Amend. 99) | Application of HSC Decisions 2001 | UNSD Trade Data 1997 | Good Classification Work Model 1998 | Hand-made Products 2000 | Language | Version |
| Ukraine | | | | | | | | | | Ukrainian | 1993 |
| United Arab Emirates | | | | | | | | | | (GCC Arabic) | 1999 |
| Uruguay | | | | | | | | | | (MERCOSUR Spanish) | 1996 |
| Vanuatu | | | | | | | | | | | |
| Wallis and Futuna Islands (French Territory) | | | | | | | | | | | |
| Yemen | | | | | | | | | | Arabic | 1997 |
| Andean Community (CAN) | (X) | | | | | | | | | Spanish | 2001 |
| Caribbean Community (CARICOM) | | | | | | | | | | English | 1993 |
| Economic and Monetary Community of Central Africa (CEMAC) | | | | | | | | | | French | 1998 |
| Commonwealth of the Independent States (CIS) | | | | | | | | | | Russian | 1996 |
| Economic Community of Western African States (ECOWAS) | | | | | | | | | | English / French Portuguese | 1998 |
| Gulf Cooperation Council (GCC) | | | | | | | | | | Arabic / English | 2001 |
| Latin American Integration Association (ALADI) | | | | | | | | | | Spanish | 1996 |
| Southern Cone Common Market (MERCOSUR) | (X) | | | | | | | | | Spanish/ Portuguese | 1996 1997 |
| TOTAL : 72 Countries + 8 Unions | 3 | | | | | | 1 | | | | 39 |
| GRAND TOTAL : 106 Contracting Parties + 80 Applications | 64 | 34 | 4 | 37 | 8 | 2 | 19 | 5 | 2 | | 114 |
| | (X) Not counted in the total | | | | | | | | | | |

* * *

ANNEX C
GENERAL QUESTIONS

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|--------------|--|-------------------------|-----------------|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NC0525E1 | Proposed amendment of the Compendium of Classification Opinions. | | | |

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

1. Appreciating the cautious approach taken by the Secretariat with regard to the legal and practical implications of the proposed amendments to the Compendium, the Committee agreed that supplementing the existing Classification Opinions with the pictures or drawings of the articles concerned would clarify the description of the products represented and enhance the understanding of the Opinions.
2. The Secretariat's proposals were approved as follows, subject to the concerns summarised in paragraph 3 below :
 - (i) the texts of the existing Opinions should not be re-opened for discussion;
 - (ii) if there was an objection to the insertion of a picture or drawing, the proposal should be immediately dropped;
 - (iii) the pictures or drawings to be inserted in the Compendium should be those which exist in the Secretariat files and have already been examined by the Committee before its classification decisions (with emphasis on those which had been reproduced in working documents);
 - (iv) in the Secretariat proposals, the pictures or drawings suitable for insertion in the Compendium should be carefully selected (e.g., pictures of the "postoperative shoes" of Classification Opinion 6402.99/2 and the "mini-vehicles" of Classification Opinion 9501.00 provided by the Secretariat as examples in the Annex to the working document);
 - (v) pictures or drawings should represent exactly the specific product classified by the Committee and not a "group" or "class" of products;
 - (vi) to avoid any administrative or financial burden on the Secretariat and the Committee, proposals should be made in groups on a flow basis within the context of the amending supplements to the Compendium;

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

- (vii) trade names of the goods concerned should be suppressed from the pictures or drawings and/or the permission from the copyright holder to publish such pictures or drawings should be requested before being proposed for inclusion by the Secretariat;
- (viii) to avoid any future legal or administrative problems, a disclaimer such as "...Pictures, drawings, or photographs in this Compendium are provided for illustrative purposes only ..." should be inserted in the introductory page of the Compendium;
- (ix) the procedure for inserting additional pictures or drawings in the Compendium should be the procedure set out in Article 8 of the HS Convention.

3. The following concerns were expressed and clarifications given :

- (i) Whether the Committee was allowed to insert pictures or drawings in the existing Classification Opinions ? In this respect, the Director explained that, based on Article 7 of the HS Convention, the Committee was empowered to take any decision regarding the Classification Opinions.
- (ii) In some Contracting Parties, Classification Opinions had binding status. Any change in the Compendium had to be reflected in the national legislation of such Contracting Parties, implying that such changes could result in the re-opening of previously closed classification cases by importers or exporters. The Director, in this regard, noted that the Compendium of Classification Opinions had no "binding" status at international level. Contracting Parties to the HS Convention were free to reflect the decisions taken by the HS Committee in respect of the Classification Opinions in their national legislation.
- (iii) The insertion of pictures and drawings in the Compendium of Classification Opinions might have a considerable impact on the resources (e.g., costs, manpower, technical assistance activities) of the Secretariat, particularly in comparison with the needs of developing country Contracting Parties for assistance in implementing the HS 2002. The Chairman, on the basis of his long experience as a former Secretariat officer, explained that the proposed amendment of the Compendium would not entail major resource allocations, would be spread out over a number of sessions of the Committee and would not involve the technical assistance staff.

4. As to point 2 (viii) above, the Committee decided, by 47 votes to 1, that a disclaimer should be inserted in the Introduction page of the Compendium of Classification Opinions. It was also agreed that this disclaimer would apply to all Classification Opinions.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. On this basis, the Secretariat was instructed to draft a new document for examination by the next preessional Working Party, comprising :
- (a) a new Introduction page to the Compendium of Classification Opinions; and
 - (b) the first set of pictures or drawings to be inserted in the Compendium to supplement the existing Classification Opinions.

* * *

| 1 | 2 |
|----------|---|
| NC0526E1 | Use of references to specific administrations in future reports of the Harmonized System Committee. |

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

1. The Committee examined the policy proposed by the Secretariat with regard to the use of references to specific administrations in future reports of the Committee, to be found in paragraph 3 of the working document.
2. One delegate expressed concern over the status of the proposed policy. He wondered whether the proposed policy should be part of the Rules of Procedures of the Committee, which should then be examined by the Committee more carefully. In this regard, the Committee agreed with the explanations given by the Chairman and Director that the proposed policy should be a “gentleman's agreement” and that there was no need for it to be part of the Rules of Procedures.
3. With regard to paragraph 3 (1) of the working document, the Delegate of **Brazil**, supported by another delegate, argued that a reference to specific administrations should be the general rule rather than the exception for reasons of transparency. In this respect, the Director reiterated that the Policy Commission had decided, as a general policy of the WCO, that Committee reports should be concise and of a summary nature. He stressed that the mentioning of administrations' names as a general rule would not be consistent with the general policy of this organization. By indicative vote, a large majority of delegations were in favour of the policy that, as a general principle, no reference to specific administrations should be made in the Committee's reports.
4. The Committee agreed with the Secretariat's view that no reference to an administration should be made if that administration did not wish it.
5. However, while agreeing that the same views should be grouped together so that the report would be concise, the Committee agreed that the right of administrations to have their names mentioned in the report should also be recognised. It was stated that, for the sake of transparency, a request by an administration would suffice for that administration to be mentioned in the report without having to resort to a vote. In particular, one delegate pointed out that single or additional points as well as analysis and factual statements made by an administration should be mentioned. It was felt therefore that the policy proposed in paragraph 3 (1) and in the last sentence of paragraph 3 (2) was too restrictive and that a flexible approach would be desirable.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. With regard to specific cases where references to specific administrations would be necessary, which was the subject of paragraph 3 (2) of the working document, the Committee supported the Chairman's suggestion that requests made during the adoption of the agenda of the Committee for postponement or preliminary discussion of certain agenda items should also be identified.
7. Taking into account the above observations and on the basis of specific suggestions for modification, the Committee agreed on the following general guidelines with regard to the use of references to specific administrations in future reports of the Committee. The Committee emphasised that the guidelines were designed to assist the Secretariat in drafting the report, and that they were not to be considered as being part of the formal Rules of Procedure of the Committee. In response to a question, the Chairman also clarified the fact that the guidelines would apply to both delegates and observers.
 - (1) As a general principle, it is desirable that no reference to specific administrations be made in the Committee's reports. However, a request by an administration would suffice for that administration to be specifically mentioned in the report.
 - (2) Cases where references to specific administrations are necessary include the following : (i) when an administration makes a proposal or enters a reservation regarding a classification issue; (ii) when a classification issue is the subject of a dispute between two or more Contracting Parties; (iii) requests for postponement or preliminary discussion of certain agenda items; and (iv) other specific cases where a reference to an administration is necessary in order for the record to make sense, for example, when an administration offers to do certain things or makes a particular notification (e.g., with regard to technical assistance activities).
 - (3) In cases other than those listed in paragraph (2) above, where a delegation does not wish to have its name mentioned in the report, the Committee should endeavour to respect that request.

* * *

| 1 | 2 | |
|----------|--|---------------------|
| NC0527E1 | Establishment of a correlation between the Harmonized System and the WTO instruments and agreements. | <u>See Annex P.</u> |

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

1. In opening discussion of this agenda item, the Director reported that the correlation between the product coverage of selected international conventions and the Harmonized System, as accepted by the Committee at its 28th Session would soon be published as an annex to the HS Classification Handbook and the relevant information would also be made available on the WCO Web site.

2. With regard to the WTO instruments, the Director referred to paragraphs 7 and 8 of the working document and noted that although there was 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 had used HS codes in order to define the scope of their concessions. Referring to paragraphs 9 to 11 of the working document, he also noted that :
 - (i) as concerns the Agreement on Trade in Civil Aircraft, the Secretariat had proposed, as the most practical way forward, to incorporate the substance of the revised Protocol (WTO Doc. TCA/4, 23 November 2001) in the correlation, subject to mentioning that the list was a WTO product;
 - (ii) as for the WTO instrument on Pharmaceutical Products, a review by either the Secretariat or the Scientific Sub-Committee would be a huge task, taking into account the fact that it contained more than 7,000 items whose classification under HS 2002 had not been reviewed, and there would be difficult and time-consuming transpositions with regard to hormones and related products; and
 - (iii) as regards the ITA products, the Secretariat considered that it was premature to take up this issue, in view of the fact that the descriptions used in the ITA lists were general and the HS classifications were difficult to determine based on these descriptions and that ITA negotiations were continuing.

3. The Representative of the WTO noted that the Agreement on Trade in Civil Aircraft and the ITA were plurilateral agreements (i.e., not all WTO Members were parties to the Agreement). Committees had been established to oversee implementation of these Agreements. The former was part of the WTO Agreement, while the latter was part of the Singapore Ministerial Declaration of 1996. The Pharmaceutical Agreement had a different status. It was a sectoral agreement with limited membership but unlike the others it had emerged from the Uruguay Round and simply been notified to the GATT in 1994. Additionally, there was no Committee overseeing its implementation.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. She stated that with respect to the Civil Aircraft products, the WTO had no problem with the establishment of a new correlation between such products and the Harmonized System on the understanding that the sentence "list is a WTO product" in paragraph 9 referred to Note 5 as set out in Annex I to Doc. NC0527B1. With respect to ITA products, she shared the view expressed by the WCO Secretariat in paragraph 11 of the working document. For pharmaceutical products, and in relation to the specific question raised in paragraph 10, she indicated that it would not be for the WTO Secretariat nor the WTO Members to do periodic updating of the INN lists. It would be for the parties to that Agreement to do the task. She added that as far as she was aware the parties to the Agreement did intend to do a third review of the product coverage.
5. The Chairman then invited delegates to give their views on the approach proposed by the Secretariat with respect to Civil Aircraft products, and the Committee agreed with the Secretariat's approach. The Committee accepted the Secretariat's proposed amendment to the Correlation as set out in Annex I to Doc. NC0527B1 and agreed to the Secretariat's publication of it in an amending supplement to the HS Classification Handbook and to update the relevant information on the WCO Web site.
6. As for the ITA products, the Committee agreed with the Secretariat's view that it was premature to take up this question at this time.
7. With respect to the WTO instrument on Pharmaceutical Products, the EC Delegate, emphasising the importance of incorporating this instrument in the Correlation taking into account the fact that the classification of these products, especially hormones and related products, was important for the implementation of duty free treatment based on the WTO instrument, took the view that the examination of the transposition of these products should be carried out.
8. Given the importance of this task, the Director suggested that the Secretariat would first undertake a mechanical transposition of the relevant products from the HS 1996 version to the HS 2002 version and identify the size and the magnitude of the task in order to narrow down the problem as mentioned in paragraph 2 (ii) above, and then would submit it to the Scientific Sub-Committee at its next session. In this connection, the EC Delegate stated that as a starting point, he would provide the Secretariat with the Annex to the Combined Nomenclature which listed the classification of the products concerned at subheading level under the HS 2002 version.
9. Finally, the Secretariat was instructed to prepare a new working document on Pharmaceutical Products on the basis of the EC's submission for examination by the Scientific Sub-Committee at its next session.
10. The correlation accepted by the Committee as mentioned in paragraph 5 above is set out in Annex P to this Report.

* * *

| 1 | 2 |
|----------|---|
| NC0528E1 | How should the HS Committee deal with the classification of products that are no longer being manufactured but are still being traded internationally ? |

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

1. The Committee examined the principles proposed by the Secretariat regarding how to deal with the classification of products which were no longer being manufactured but were still being traded internationally, as set out in paragraph 4 of the working document.
2. While agreeing that priority should be given to the examination of the classification of products that were still manufactured and traded, as suggested in paragraph 4 (1), the Committee felt that a hard and fast rule, as suggested in paragraphs 4 (2) and (3), would not be desirable in dealing with the classification of products that were no longer being manufactured and/or traded. In particular, it was pointed out that advice of the Committee might be necessary in cases where the classification of a product, even though no longer manufactured and/or traded, involved a classification dispute or a court case, which could take a long time to resolve.
3. Therefore, the Committee preferred the status quo; deciding that as a general rule, it should concern itself with the classification of products that were still manufactured and traded. There could be exceptions to this rule, to be decided by the Committee on a case-by-case basis.

* * *

| 1 | 2 |
|----------|---|
| NC0569E1 | Terms of reference and work plans for the HS Committee, its sub-committees and the Working Party. |

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

1. The Committee approved, in principle, the draft terms of reference and work plans for the HS Committee, its sub-committees and the Working Party, which were set out in the annexes to the working document. The Committee also asked that the draft terms of reference, especially with regard to membership, observers and the proposed scope and functions of the Committee, be more closely aligned to the terms of the HS Convention.
2. The Secretariat was instructed to ensure that the draft terms of reference, to be submitted to the Policy Commission in December 2002 as part of the Strategic Plan report, would follow closely the terms of the HS Convention, especially with regard to Articles 6 and 7.

* * *

ANNEX D
RECOMMENDATIONS

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|--------------|---|-------------------------|-----------------|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NC0529E1 | Draft Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the draft Protocol concerning firearms covered by the UN Convention against transnational organized crime. | | | <u>See Annex M.</u> |

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

1. Following the request of one delegate, and in order to amplify the considerations text of the Recommendation, the Committee agreed to replace the reference to the ~~Canada~~ Administration in the Preamble, by a reference to the perceived needs of the Customs Co-operation Council. The Committee also agreed to further specify the scope of the Recommendation by indicating that it would refer to articles covered by the Firearms Protocol only.
2. The Committee agreed to include a reference to “silencers and parts thereof”, taking into account that these commodities were mentioned in the Firearms Protocol itself. At the request of several delegations, it was decided not to combine silencers with flash eliminators, but to create separate subdivisions. This would enable administrations to collect data on these commodities separately. References to certain other articles, which were considered to fall outside the scope of the Firearms Protocol, were deleted from the Draft Recommendation.
3. However, the Committee did not adopt (by 15 votes to 28) a proposal to eliminate the further subdivisions for rifles in subheading 9301.90.
4. The Committee also adopted the Secretariat's suggestions with respect to the terminology to be used in the French version of the draft Recommendation (paragraph 17 of Doc. NC0529E1).

not*

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. The Committee also decided (by 30 votes to 8) to adopt a proposal to subdivide the provision for magazines to provide separate lines for “magazines with a capacity of more than 10 rounds” and “magazines with a capacity of 10 rounds or less”.
6. Following these discussions, the Committee unanimously approved the Draft Recommendation, as modified, for adoption by the Council at its next sessions. The text is reproduced in Annex M to this Report.

* * *

* Doc. NC0591B1

ANNEX E
REPORT OF THE SCIENTIFIC SUB-COMMITTEE

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|----------------------|---|-------------------------|--|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NS0060E2 NC0530E1 | Report of the 17 th Session of the Scientific Sub-Committee. Matters for decision by the Harmonized System Committee. | | <u>See Annexes L/10 to L/14 and O/1.</u> | <u>See Annex N/1.</u> |

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

1. The Committee examined the questions arising from the Report of the Scientific Sub-Committee's 17th Session (January 2002). The decisions taken by the Committee are set out below with reference to the relevant annexes of the Sub-Committee's Report (Doc. NS0060E2).

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

2. The Committee approved the classifications agreed upon by the Scientific Sub-Committee concerning the products listed in INN Lists 80, 82 and 83.
3. The Committee took note of the fact that the classification of pegacaristim and pegnartograstim had been placed in square brackets, pending further discussion at the Sub-Committee's next session.
4. The classifications approved are set out in Annex L/10 to this Report.

Annex A/2 – Possible guidelines to facilitate the classification of INN products

5. The Committee took note of the developments with respect to this issue.

Annexes A/3 and C/2 – Amendments to the Nomenclature and the Explanatory Notes to clarify the classification of co-ordination compounds

6. The Committee provisionally adopted the text relating to new Note 5 (c) (3) to Chapter 29, and the corresponding amendments to the Explanatory Notes.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. The texts provisionally adopted are set out in Annexes N/1 and O/1 to this Report, respectively.

Annexes A/4 and C/3 – Amendments to the Explanatory Notes to Chapter 29 to clarify the classification of certain organic chemical compounds

8. One delegate indicated that the term “cycles” used in the proposed amendment to the Explanatory Note to heading 29.35, on page 460, should read “rings” (English version only), whereas another delegate expressed his doubt as to whether the reference to “sildenafil citrate” in the proposed Explanatory Note to the same heading was correct.

9. The Committee, while taking note of the work carried out to date, decided to place the proposed amendments in square brackets, pending the submission by the Sub-Committee of a comprehensive proposal. It also requested the SSC to consider the comments referred to in paragraph 8 above.

10. The texts placed in square brackets are reproduced in Annex L/11 to this Report.

Annex A/5 – Classification of certain hormones in the HS Commodity Data Base

11. The Committee approved the recommended classification of thymostimulin in heading 30.01 (subheading 3001.20), as an extract of glands or other organs or of their secretions.

Annexes A/6 and C/4 – Classification of certain chemical products under the 2002 version of the Harmonized System

12. The Committee approved the classifications recommended by the Sub-Committee, except for **Labradimil** whose classification (subheading 2937.19 or 2937.90) would be reexamined at the next session of the SSC.

13. The list containing the approved classifications is reproduced in Annex L/12 to this Report.

Annex A/7 – Proposal by the **US** Administration to amend the Nomenclature and Explanatory Note to heading 38.21

14. The Committee took note that this issue would be considered under Item VI of the Agenda.

Annex A/8 – Classification of certain acid-added clay products

15. The Committee took note of the fact that this issue would be discussed under Item VIII.6 of the Agenda.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes A/9 and C/5 – Review of the classification of certain chemical products relating to the Chemical Weapons Convention

16. While approving the suggested classifications, the Committee noted that the Sub-Committee would have further discussions on the possible classification of six products marked with "***" in Annex C/5 to the Sub-Committee's Report, once additional information had been received. The six products concerned were :

Phosphonodithioic acid, methyl-, O,O-diethylester;

Phosphonic acid, methyl-, dimethyl ester, polymer with tris(2-chloroethyl) phosphate;
1,3,5,2,4,6-Trioxatriphosphorinane, 2,4,6-tripropyl-, 2,4,6-trioxide, polymer with oxirane;

Phosphonic acid, ethenyl-, bis(2-chloroethyl) ester, polymer with dimethyl methylphosphonate;

Phosphonic acid, methyl-, dimethyl ester, polymer with oxirane and phosphorus oxide (P₂O₅);
and

Phosphonic acid, methyl-, diphenyl ester, polymer with 4,4'-(1-methylethylidene) bis[phenol].

17. The Committee instructed the Secretariat to inform the OPCW Secretariat about developments with regard to this issue, indicating that the Committee had given its view only on the classification of the products listed, and not on the question of whether or not the products fell within the scope of the Chemical Weapons Convention.

18. The list of approved classifications is reproduced in Annex L/13 to this Report.

Annexes A/10 and C/6 – Possible amendments to the HS Nomenclature and its Explanatory Notes regarding silicones (proposal by the US Administration)

19. The Committee took note of the fact that this issue would be discussed under Item VI of the Agenda.

Annex A/11 – Classification of sucralose

20. The Committee unanimously approved the recommended classification of sucralose in heading 29.32 (subheading 2932.19).

Annexes A/12 and C/7 – Proposed amendment of subheading 2941.40

21. Two delegates indicated that, in their view, the products referred to as derivatives of chloramphenicol in the proposed amendment of the Explanatory Note to heading 29.41, were in fact not derivatives and, therefore, not classifiable in that heading. They were of the view that this issue should be referred back to the Sub-Committee for further reflection, in

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

combination with a study to be undertaken on the scope of the term “derivatives” within the context of Sub-Chapter XIII of Chapter 29. However, by 28 votes to 5, the Committee decided not to do so, and approved, by 31 votes to 4, the suggested classification of thiamphenicol and florfenicol in heading 29.41 (subheading 2941.40).

22. The Committee also adopted (by 30 votes to 5) the proposed amendment to the Explanatory Note to heading 29.41.
23. The Committee took note of the Sub-Committee Chairman's invitation to administrations to forward proposals for any further amendments to the Explanatory Notes to clarify the scope and the classification of “derivatives” in heading 29.41.
24. The amendment adopted by the Committee is set out in Annex L/14 to this Report.

Annex A/13 – Functions of prasterone and tibolone

25. The Committee unanimously approved the recommended classification of prasterone and tibolone, in subheading 2937.29.

Annex A/14 – Scope of headings 35.05 and 38.09

26. The Committee took note of the fact that this issue would be discussed under Item VIII.5 of the Agenda.

Annex A/15 – Classification of a medicated bone graft substitute called “Osteoset^{R.T.M.} T”

27. The Committee took note of the fact that this issue would be discussed under Item VIII.4 of the Agenda.

Annex B/1 – Decisions taken by the HSC at its 27th and 28th Sessions affecting the work of the Scientific Sub-Committee

28. The Committee took note.

Annex B/2 – New procedure for the approval of Scientific Sub-Committee reports

29. The Committee took note.

Annex B/3 – WCO regional seminars on Customs laboratory matters

30. The Committee took note.

Annex B/4 – Development of the WCO Web site in the context of Customs laboratory issues

31. The Committee took note.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex B/5 – Presentations on how to support Customs laboratories in developing countries

32. The Committee took note.

Annex B/6 – Presentations on the role of Customs laboratories in the context of social and environmental concerns

33. The Committee took note.

* * *

| 1 | 2 | 3 |
|----------|---|------------------------|
| NC0570E1 | Classification of new INN products (WHO Lists 84 and 85). | <u>See Annex L/15.</u> |

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

1. With regard to the new lists of INN products (WHO Lists 84 and 85), the Committee agreed with the proposed classification of 96 INN products as indicated in bold type in the Annex to Doc. NC0570E1.
2. The Committee also agreed that the remaining INN products (16 cases from Lists 84 and 21 cases from List 85), whose classification had been placed in square brackets in the Annex to Doc. NC0570E1, would be submitted to the next session of the Scientific Sub-Committee for advice.
3. The list of products and the classifications approved are set out in Annex L/15 to this Report.

* * *

ANNEX F
REPORT OF THE HS REVIEW SUB-COMMITTEE

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|----------------------|---|-------------------------|---|--------------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NR0265E2 NC0531E1 | Report of the 25 th Session of the HS Review Sub-Committee Matters for decision by the Harmonized System Committee. | | <u>See Annexes O/2 to O/4 and L/16.</u> | <u>See Annexes N/2 to N/9.</u> |

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

1. The Committee examined the questions arising from the Report of the 25th Session of the HS Review Sub-Committee.
2. On a question relating to correlation tables, the Director informed the Committee that the Secretariat would prepare a document for its 30th Session containing correlation tables reflecting all amendments provisionally adopted so far during this Review Cycle. For the future, it was the Secretariat's intention to include correlation tables in the "Matters for decision" documents relating to the Reports of the Review Sub-Committee.
3. The decisions taken by the Committee are set out below with reference to the relevant Annexes of the Sub-Committee's Report (Doc. NR0265E3).

Annex B/1 - Approval of Review Sub-Committee Reports

4. The Committee took note of the fact that the Sub-Committee had been informed about the new report-reading procedure of the Sub-Committee.

Annex B/2 – Report on the meeting of the Policy Commission (46th Session)

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

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex B/3 – Decisions taken by the Harmonized System Committee at its 28th Session affecting the work of the Review Sub-Committee

6. The Committee took note of the fact that the Sub-Committee had been informed about the decisions taken by the HS Committee at its 28th Session and of the outstanding questions which affected the work of the Sub-Committee.

Annex C/1 - Possible amendments to the Nomenclature regarding the classification of waffles

7. The Committee took note of the fact that this matter would be re-examined by the Sub-Committee at its next session on the basis of alternative proposals and further comments to be submitted by administrations.

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

8. The Committee took note of the fact that the Sub-Committee had decided to postpone the discussion of this issue to the next session.

Annexes C/3 and F/3 – Possible amendments to the Nomenclature and the Explanatory Note to heading 84.42

9. The Committee took note of the fact that the Sub-Committee had decided that the text approved would not be submitted to this meeting for provisional approval.

Annex C/4 – Possible amendments to the Nomenclature regarding the classification of cameras

10. The Committee took note of the fact that the Sub-Committee had decided that the Harmonized System Committee should be asked to rule on whether or not to regroup all cameras in one heading and, if so, in which heading (see Item IX.16 on Agenda).

Annex C/5 - Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24

11. The Committee took note of the fact that the Sub-Committee would re-examine this issue at its next session on the basis of a new **Polish** proposal.

Annexes C/6 and F/6 - Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items

12. The Committee took note of the fact the Sub-Committee had agreed to review these amendments at its next session on the basis of a new document to be prepared by the Secretariat with its new proposals and proposals to be submitted by several administrations.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annexes C/7 - Proposal by the US Administration to amend the Nomenclature to Chapter 41

13. The Committee took note of the fact the Sub-Committee had decided to reconsider this matter at the next session, based on a new Secretariat document setting out various options with regard to the term “reversible” and the expression “hides and skins”.

Annexes C/8 and F/4 - Proposal by the US Administration to amend the Nomenclature to heading 84.82

14. The Committee took note of the fact the Sub-Committee had decided to defer this issue to its next session.

Annexes C/9 and F/5 - Proposal by the US Administration to amend the Nomenclature to heading 85.19

15. The Committee took note of the fact the Sub-Committee had recognized that it would be more appropriate to await the Harmonized System Committee’s decision on the classification of MP3 players and therefore had agreed to continue its examination at its next session (see Agenda Item VIII.14).

Annexes C/10 and F/1 - Proposal by the US Administration to amend certain subheadings of heading 87.08

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

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

Annex C/11 - Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers

18. The Committee took note of the fact the Sub-Committee had decided to continue to examine this issue at its next session on the basis of new proposals.

Annex C/12 - Study of possible amendments to heading 30.01 with regard to human organs, tissues, etc.

19. The Committee took note of the fact the Sub-Committee had decided not to take further action with regard to this issue.

Annex C/13 - Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)

20. The Committee took note of the fact the Sub-Committee had decided to return to this matter at its next session, on the basis of a new written proposal by the US Administration.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex C/14 - Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration)

21. The Committee took note of the fact the Sub-Committee had agreed to first request the Harmonized System Committee to clarify the scope of headings 39.22, 39.24 and 39.26, in the context of possible misalignment of the heading texts (see Item IX.17 on Agenda).

Annex C/15 - Possible amendment of heading 21.06 to specifically mention "food supplements"

22. The Committee took note of the fact the Sub-Committee had decided to leave all proposals open for consideration at its next meeting.

Annexes C/16 and F/7 - Possible amendment of the Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration)

23. The Committee took note of the fact that the Sub-Committee had agreed to delete the texts in square brackets from further consideration.
24. The Committee also took note of the fact the Sub-Committee had agreed to consider a possible amendment of Part (C) to the Explanatory Note to heading 28.04 at its next session.
25. The Committee then provisionally adopted the texts approved by the Sub-Committee.
26. The texts provisionally adopted are set out in Annexes N/4 and O/3 to this Report.

Annexes C/17 and F/8 - Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys

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

Annexes C/18 and F/12 - Proposal by the US Administration to amend the Nomenclature and Explanatory Note to heading 38.21

28. The Committee took note of the fact that the Sub-Committee had agreed to re-consider this issue at its next session on the basis of a new US proposal.

Annexes D/1 and F/9 - Possible amendment of the texts of subheadings 0805.40 and 2009.2 in order to align the French and English versions (Proposal by ALADI)

29. The Committee provisionally adopted the texts approved by the Sub-Committee. The Committee agreed that the alignment of these texts did not entail any transfer of goods.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

30. The texts provisionally adopted are set out in Annex N/5 to this Report.

Annexes D/2 and F/2 - Possible amendments to the Nomenclature and the Explanatory Notes concerning heading 26.20 (Proposals by the Australian Administration and the Secretariat)

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

32. The texts provisionally adopted are set out in Annexes N/3 and O/2 to this Report.

Annexes D/3 and F/10 - Possible deletion of subheadings 4823.12 and 4823.19 (Proposal by the Brazilian Administration)

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

34. The texts provisionally adopted are set out in Annexes N/6 and O/4 to this Report.

Annexes D/4 and F/11 - Possible amendments to the structured nomenclature to heading 84.18 (Secretariat proposal)

35. The Committee provisionally adopted the texts approved by the Sub-Committee with regard to items 1 and 3 in Annex F/11. However, since several delegates pointed out that the proposed English and French texts for subheading 8418.50 might be misaligned, it was decided to refer these texts (item 2) back to the Sub-Committee for further consideration.

36. The texts provisionally adopted are set out in Annex N/7 to this Report.

Annex D/6 - Possible amendments to headings 02.03 and 02.10 with regard to hams (Proposal by the Australian Administration)

37. The Committee took note of the fact the Sub-Committee had decided not to support the Australian proposal and not to examine this matter further.

Annexes D/7 and F/13 – Possible amendments to the text of heading 08.02 to provide for macadamia nuts (Proposal by the Australian Administration)

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

39. The texts provisionally adopted are set out in Annex N/8 to this Report.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex D/8 - Possible amendments to the structured nomenclature to heading 39.20 to provide for banknote substrates of plastics (Proposal by the Australian Administration)

40. The Committee took note of the fact the Sub-Committee had agreed that the Committee should first decide on the appropriate classification of the product at issue (see Item IX.18 on Agenda) before taking up this issue again at its next session.

Annex D/9 - Possible creation of a new Note to Chapter 69 to define the term "refractory" (Proposal by the Australian Administration)

41. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting on the basis of new proposals.

Annex D/10 - Possible amendment of the text of subheading 9504.20 (Proposal by the Australian Administration)

42. The Committee took note of the fact the Sub-Committee had agreed to re-examine this question at its next meeting, both from a linguistic standpoint and in respect of the subheading concerned.

Annexes D/11 and F/14 - Possible amendment to the structured nomenclature to heading 90.30 (Proposal by the US Administration)

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

Annexes D/12 and F/16 - Possible amendment of subheading 8413.20 (Proposal by the European Community)

44. The Committee provisionally adopted the texts approved by the Sub-Committee (French text only). The Committee agreed that the alignment of these texts did not entail any transfer of goods.

45. The texts provisionally adopted are set out in Annex N/9 to this Report.

Annex D/13 - Possible amendments to the structured nomenclature to headings 73.04 and 73.06 (Proposal by the European Community)

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

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex D/14 - Possible amendment of the Explanatory Note to heading 84.71 concerning CD drives and DVD drives (Proposal by the US Administration)

47. The Committee took note of the fact the Sub-Committee had decided that this question should be re-addressed after the HS Committee had concluded its examination of the classification of DVD drives.

Annex D/15 - Possible amendments to Note 3 to Chapter 90 and Note 1 (m) to Section XVI (Proposal by the Canadian Administration)

48. The Committee took note of the fact the Sub-Committee had agreed to revisit this question once it had decided on the regrouping of cameras and the classification of multifunctional digital copiers.

Annex E/1 – Possible deletion of certain references to “whales” in the Explanatory Notes

49. The Committee took note of the fact the Sub-Committee had agreed to examine this issue at its next session on the basis of a new document.

Annex E/2 - Possible amendments to the Explanatory Note to heading 39.26

50. The Committee took note of the fact the Sub-Committee had agreed to delete this item from its agenda.

Annexes E/3 and F/15 - Possible amendments to the Explanatory Note to heading 40.16

51. The Committee adopted the texts approved by the Sub-Committee after having deleted the reference to “pumicing blocks” (with regard to "pumicing blocks" see Annex IJ/19 to this Report).

52. The texts adopted are set out in Annex L/16 to this Report.

Annex E/4 - Possible amendments to the Explanatory Notes to Chapter 44

53. The Committee took note of the fact the Sub-Committee had agreed to postpone discussions of this item till its next session.

Annex E/5 - Possible amendments of the Explanatory Notes to headings 61.03 and 61.04

54. The Committee took note of the fact the Sub-Committee had agreed to postpone a full discussion of this item until its next session.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

Annex E/6 - Possible amendment of the Explanatory Note to heading 70.17

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

Annex E/7 - Possible amendments to the Explanatory Note to heading 84.71

56. The Committee took note of the fact the Sub-Committee, due to lack of time, had agreed to postpone this item to the Sub-Committee's next session.

Annex E/8 - Amendments to the Explanatory Notes to correct shortcomings and to align the English and French versions

57. The Committee took note of the fact the Sub-Committee, due to lack of time, had agreed to postpone this item to the Sub-Committee's next session.

* * *

ANNEX G
REPORT OF THE PRESESSIONAL WORKING PARTY

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|------------------------------|---|-------------------------|-----------------------|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NC0532E1 NC0588B2/ A/I | Amendments to the Explanatory Notes arising from the classification of fresh strawberries preserved by means of a protective gas in subheading 0810.10. | | <u>See Annex L/2.</u> | |

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

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

* * *

| 1 | 2 | 3 |
|---------------------------|--|-----------------------|
| NC0533E1 NC0588B2/A/II | Amendments to the Compendium of Classification Opinions arising from the classification of a mixed grease product in subheading 1517.90. | <u>See Annex L/3.</u> |

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

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

* * *

| 1 | 2 | 3 |
|----------------------------|---|-----------------------|
| NC0534E1 NC0588B2/A/III | Amendments to the Compendium of Classification Opinions arising from the classification of a vitamin preparation in subheading 2106.90. | <u>See Annex L/4.</u> |

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

1. In supporting the **Canadian** proposal that the last sentence concerning the label should be deleted from the draft texts, since labelling requirements with regard to the effectiveness of the product might differ from country to country, one delegate emphasised that HS classifications should be based on legal provisions and not labelling provisions.
2. Many delegates were, however, of the view that the sentence should be retained to reflect the decision taken by the Committee. In this connection, it was pointed out that information obtained from the label had been one of the key elements in deciding the classification. It was also pointed out that Classification Opinion 2106.90/20 with respect to "Aloe vera tablets", already mentioned the label provision of the product concerned.
3. As a compromise, it was proposed to replace the word "label" in the last sentence of the draft texts by the words "product information". However, the Committee, by 27 votes to 15, preferred to keep the word "label" in the draft Classification Opinion.
4. Finally, the Committee adopted, without modification, the texts finalised by the Working Party.
5. The texts adopted are set out in Annex L/4 to this Report.

* * *

| 1 | 2 | 3 |
|---------------------------|--|-----------------------|
| NC0535E1 NC0588B2/A/IV | Amendments to the Compendium of Classification Opinions arising from the classification of a reinforcement grid called "Fortrac 35/35-40" in subheading 3926.90. | <u>See Annex L/5.</u> |

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

1. The Committee agreed to delete the word "then" in the second line of the proposed Classification Opinion since it did not contribute to understanding the reasoning for the decision.
2. The Committee then adopted the texts prepared by the Working Party, without further modification.
3. The texts adopted are set out in Annex L/5 to this Report.

* * *

| 1 | 2 | 3 |
|--------------------------|---|-----------------------|
| NC0536E1 NC0588B2/A/V | Amendments to the Compendium of Classification Opinions and the Explanatory Notes arising from the classification of certain repeaters used in LAN systems in subheading 8471.80. | <u>See Annex L/6.</u> |

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

1. Concerning the square brackets in both Classification Opinions, the Committee decided on the text “data circulating within a LAN system”.
2. With regard to the Explanatory Notes amendment, the Committee accepted a proposed text by the **EC** and subsequently amended by the **US** Delegate, which involved a rearrangement of the text that had been accepted by the Working Party. In addition, the Committee replaced the phrase “LAN data” in the first sentence by “data circulating in a LAN system”, as it had in the two Classification Opinions.
3. With respect to the proposed exclusion to heading 85.17 regarding telephone system repeaters, and taking into account the observations made by some delegates to the Working Party to the reference in the Explanatory Notes to heading 85.18 to electric amplifiers used as repeaters, the Committee agreed to study this matter at its next session, on the basis of a new document to be prepared by the Secretariat, in order to ascertain whether the function of the repeaters used in telephony was sound amplification or sound amplification plus other functions such as regeneration and retiming. The Chairman invited interested administrations to forward their comments to the Secretariat. The exclusionary notes proposed by the Working Party were therefore deleted from the texts adopted by the Committee at this time.
4. The text adopted are set out in Annex L/6 to this Report.

* * *

| 1 | 2 | 3 |
|---------------------------|---|-----------------------|
| NC0537E1 NC0588B2/A/VI | Amendments to the Compendium of Classification Opinions arising from the classification of a radio equipment (transmitter/receiver) assembly in subheading 8525.20. | <u>See Annex L/7.</u> |

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

1. The Committee adopted, without modification, the texts finalised by the Working Party.
2. The texts adopted are set out in Annex L/7 to this Report.

* * *

| 1 | 2 | 3 |
|----------------------------|---|-----------------------|
| NC0538E1 NC0588B2/A/VII | Amendments to the Compendium of Classification Opinions arising from the classification of a passenger motor vehicle with a “hybrid” power system in subheading 8703.22. | <u>See Annex L/8.</u> |

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

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

* * *

| 1 | 2 | 3 |
|-----------------------------|---|-----------------------|
| NC0539E1 NC0588B2/A/VIII | Amendments to the Compendium of Classification Opinions arising from the classification of foot-propelled scooters in subheading 9501.00. | <u>See Annex L/9.</u> |

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

1. The Committee adopted Classification Opinion 9501.00/2 without modification.
2. As regards the Working Party's observation concerning the need for the insertion of the expression "but capable of being ridden by" in the text of draft Classification Opinion 9501.00/3 before the terms "youngsters and adults", some delegates noted that the legal text of heading 95.01 was limited to "wheeled toys designed to be ridden by children". Thus, a reference to scooters designed to be ridden (in addition to children) by "youngsters and adults" conflicted with the legal text. Consequently, the draft Classification Opinion should be modified by the addition of the expression "but capable of being ridden by youngsters and adults".
3. Other delegates pointed out that the Committee at its 28th Session had taken its classification decision (which had not been the subject of a reservation) on the basis of the product description found in the previous working documents. The Secretariat's text of draft Classification Opinion 9501.00/3 was the full reflection of that description. Re-opening the discussions on the classification of the scooters in question at this stage was inappropriate and unacceptable.
4. The Director explained that it was undoubtedly clear that foot-propelled scooters designed to be ridden by "children" were classifiable in heading 95.01. The main purpose of draft Classification Opinion 9501.00/3 was to clarify that foot-propelled scooters designed to be ridden by "children, youngsters and adults" would also fall in the same heading. If there was no reference to "youngsters and adults", there would be no need for the Classification Opinion.
5. The Committee finally decided, by a considerable majority (38 votes to 8), that the expression "but capable of being ridden by" should not be inserted in draft Classification Opinion 9501.00/3.
6. The texts adopted by the Committee are set out in Annex L/9 to this Report.

* * *

ANNEX H
FURTHER STUDIES

| Working Doc. | Subject | Classification Opinions | E.N. amendments | Nomenclature amendments |
|--------------|---|-------------------------|-----------------|-------------------------|
| 1 | 2 | 3 | 4 | 5 |
| NC0540E1 | Guidelines with regard to the possible application of GIRs 3 (a) and 3 (c) in the context of the classification of certain chemical products. | | | |

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

1. Opening the discussion, the **Brazilian** Delegate indicated that the statement made by the Secretariat in paragraph 13 of the working document was an important one, although debatable. The reference to “*mutatis mutandis*” in the first sentence of General Interpretative Rule (GIR) 6 should be looked at in connection with the second sentence of that Rule, thus resulting in the application of the Section and Chapter Notes (especially Note 3 to Chapter 29) at subheading level.
2. Another delegate, while supporting the view expressed by the first speaker that Note 3 to Chapter 29 would be applicable at subheading level, referred to the second sentence of GIR 6, which read : “For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.” (emphasis added). The term “also”, as used in this sentence, meant that the Section and Chapter Notes were applicable at subheading level, unless the context otherwise required. Consequently, in the framework of the provisions of GIR 6, Note 3 to Chapter 29 was applicable at subheading level, unless the context otherwise required.
3. A number of other delegates supported the above view.
4. Yet another delegate clarified that the expressions “*mutatis mutandis*” and “unless the context otherwise requires” were frequently used in the Nomenclature, each of the terms having its own meaning and being non-interchangeable. In the case at issue (i.e., Note 3 to Chapter 29), he had difficulty in replacing the term “heading” by the term “subheading”, which would allow the application of that Note at subheading level. Such a replacement would, in his view, alter the meaning of that Note. If the authors of the Harmonized System had had the intention that all Section and Chapters Notes were to be applied at the subheading level, they would have used the expression “*mutatis mutandis*” in the second sentence of GIR 6, and not the expression “unless the context otherwise requires”. Some other delegates supported this view.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. The view expressed by one delegate that the question should be examined on the basis of the classification of existing merchandise, rather than having a theoretical discussion, was not supported. Reflecting on this statement, some of the other delegates considered that the question at issue would provide advice (which had been specifically requested by the Scientific Sub-Committee) on the interpretation of the Harmonized System; this being one of the functions of the Committee, as described in paragraph 1 (b) of Article 7 of the HS Convention.
6. The Director agreed that one of the functions of the Committee was interpretation of the Nomenclature and therefore the Committee should respond to the question raised by the SSC. While clarifying the Secretariat's position, he drew the Committee's attention to the fact that GIR 6 had been drafted in such a way that it was intended to stand alone. He continued in saying that the two sentences of GIR 6 differed in scope and in wording from each other, since the first one (which referred to the application at the subheading level of GIRs 1 to 5) included the expression "*mutatis mutandis*", whereas the second one (which referred to the application of Section and Chapter Notes) used the term "also". In addition, he felt that in the case at issue the context otherwise required : Note 3 to Chapter 29 dealt with the structure of the headings. Consequently, this Note should not be applied at the subheading level.
7. When the issue was put to a vote, 33 delegations against 12 were of the view that Note 3 to Chapter 29 was applicable at subheading level.
8. To reflect this decision, it was agreed to expressly inform the Scientific Sub-Committee. The Committee also decided to amend the General Explanatory Note to Chapter 29 and instructed the Secretariat to prepare a new document in this connection for consideration at its next session.

* * *

| 1 | 2 |
|--|---|
| NC0400E1 (HSC/27) NC0541E1 NC0583E1 | Classification of concentrated milk with added sugar. |

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

1. At the outset of the discussion, the Committee unanimously agreed that, based on the results of the laboratory analyses from four administrations (~~Japan, Mexico, Norway and the United States~~), the product being discussed ("~~Bonnet Bleu~~") did not contain fat other than animal fat. Consequently, it decided not to consider classification in heading 19.01. Following this consensus, there were however still two opposing views in the Committee with regard to the classification of the product at issue, i.e., headings 04.02 and 21.06.
2. The Delegate of ~~Cameroon~~ pointed out that his administration's previous preference to classify this product in heading 19.01 was based on an analysis report concluding that the product contained vegetable fat. Since it was now clear that this was not the case, he could agree that the product was not classifiable in heading 19.01. However, he could not agree to classify this product in heading 04.02. He drew the Committee's attention to the fact that the HS Committee had already classified a similar product (containing 69 % sugar, 29 % milk powder and 2 % dextrin) in heading 21.06 because of its high sugar content (Classification Opinion 2106.90/21). In his opinion, the Committee should abide by its previous decision and also classify "~~Bonnet Bleu~~" in heading 21.06. In this regard it was pointed out that, calculated on the dry matter, the product at issue contained 68.7 % sucrose, thus making this product almost identical to the product referred to in the Classification Opinion.
3. Several delegates supported this view. They were of the opinion that Classification Opinion 2106.90/21 should be taken as a precedent to classify products with a comparable sugar content in heading 21.06. Classifying a similar product in heading 04.02 would, in their view, create a difficult situation and could also put at risk the Committee's reputation in certain parts of the world. It was also argued that "~~Bonnet Bleu~~" contained more sugar than milk and accordingly had lost the character of "milk ... containing added sugar" of heading 04.02.
4. The Delegate of ~~Brazil~~ considered that according to the legal texts and the Explanatory Notes, there was no major difference between the products in question and the product covered by Classification Opinion 2106.90/21. Thus, he stated he was not in a position to take a stand on the classification of the product in question, unless the aforementioned Classification Opinion was scrutinized by the Committee.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. The EC Delegate argued that "Bonnet Bleu" and the product referred to in Classification Opinion 2106.90/21 were two different products. Since "Bonnet Bleu" was a liquid product containing 48.7 % sugar and, equally important, since it did not contain dextrin, "Bonnet Bleu" was clearly different from the other product. In his mind, the product at issue had not lost the essential character of "milk ... containing added sugar" of heading 04.02. He recalled that the Committee had already decided that there were no limits on added sugar for the products of heading 04.02, provided that they did not thereby lose the character of articles of these headings. Furthermore, not allowing such products to be classified in heading 04.02 would, in his view, entail the transfer of many products from this heading.
6. Many delegates supported this view. In this regard one delegate emphasised that the composition of "Bonnet Bleu" was only slightly different from that given in the Codex Alimentarius standard for "sweetened condensed milk", and that heading 04.02 would become empty if the sugar content (on a dry matter basis) of such products had to be taken into consideration when classifying the products. It was also pointed out by another delegate that the analysis results from four laboratories clearly confirmed that the product at issue consisted only of concentrated milk and sugar, thus meeting the terms of the text of heading 04.02, since this heading contained no limit as to the maximum sugar content. By application of GIR 1 this product therefore had to be classified in heading 04.02.
7. The Delegate of Mexico pointed out the technical differences between starch, dextrins and sugar, the latter compound being allowed under the text of heading 04.02. He further stated that starch could be added to powdered milk as stated in the Explanatory Notes but the addition of dextrins would preclude the classification of the preparation in heading 04.02.
8. After further discussion, the Committee decided, by 31 votes to 12, to classify the product at issue ("Bonnet Bleu") in heading 04.02 (subheading 0402.99), by application of GIRs 1 and 6.
9. The Delegate of Cameroon expressed his concern with regard to this decision. In his mind the Committee had taken contradictory decisions with regard to two apparently similar products and argued that, for developing countries, this was an example which could create damaging consequences. It would be desirable that the RSC look into setting minimum limits on the milk content allowed in Chapter 4.
10. To reflect the above decision, the Secretariat was instructed to prepare a draft Classification Opinion for examination by the next preessional Working Party. At the request of some delegates it was also decided that the Secretariat should carry out a study to see whether this decision and Classification Opinion 2106.90/21 were contradictory and that this question should be examined by the Committee at its next session.

* * *

| 1 | 2 |
|----------|--|
| NC0542E1 | Possible amendments to the Explanatory Notes with a view to clarifying the classification of vitamin preparations. |

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

1. All delegates that spoke on this issue were of the opinion that it was not necessary to amend the Explanatory Note to heading 29.36. They pointed out that the Explanatory Note to that heading (on page 462) already mentioned that vitamins of heading 29.36 could not contain plant extracts, fruit concentrates or mineral salts, as referred to in the Secretariat's proposal in Doc. NC0542E1. These delegates therefore preferred the status quo. Consequently, the Committee decided not to amend the Explanatory Note to heading 29.36.
2. During the discussion it was pointed out that the real problem in this regard was not to distinguish between vitamins of heading 29.36 and vitamin preparations of heading 21.06, but to distinguish between medicaments of headings 30.03 and 30.04 and food supplements of heading 21.06. The Chairman reminded the Committee that the definition of "food supplements" was an ongoing issue in the Review Sub-Committee, and therefore invited administrations to submit their proposals in that forum.

* * *

| 1 | 2 |
|----------------------------------|--|
| NS0059E1 (SSC/17) NC0562E1 | Classification of a medicated bone graft substitute called "OSTEOSET®T". |

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

1. The Committee unanimously agreed to classify a medicated bone graft substitute called "OSTEOSET®T" in heading 30.04 (subheading 3004.20), by application of GIRs 1 and 6, as recommended by the Scientific Sub-Committee.
2. In order to reflect this decision, and at the request of the Jordanian Administration, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination by the next preessional Working Party.
3. Furthermore, the Committee instructed the Secretariat to prepare a draft text of amendments to the relevant part of the Explanatory Notes for examination at its 30th Session, with a view to clarifying how to distinguish between medicated bone graft substitutes and the bone reconstruction cements classifiable in heading 30.06. In this regard, it was pointed out that the text should reflect the contents of paragraphs 2 and 3 of Annex A/15 to Doc. NS0060E2. Administrations were also invited to submit their proposals in this connection to the Secretariat as soon as possible.

* * *

| 1 | 2 |
|----------|---|
| NC0543E1 | Classification of certain modified starches or sizing preparations. |

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

Due to a lack of time, the Committee agreed to postpone this item to its next session in November 2002.

* * *

| 1 | 2 |
|--|---|
| NS0045E1 (SSC/17) NC0404E1 (HSC/27) NC0563E1 | Classification of certain acid-added clay products. |

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

1. The Chairman began the discussion of this item by pointing out that there had been consensus in the Scientific Sub-Committee at the 17th Session that the controlled addition of sulfuric acid to clay products via the patented process mentioned in the working documents went beyond simple washing within the meaning of Note 1 to Chapter 25.
2. The Committee first of all unanimously agreed that the process went beyond simple washing within the meaning of Note 1 to Chapter 25, and therefore classification in Chapter 25 should be ruled out, as recommended by the Sub-Committee.
3. With respect to the question as to whether the products in question were activated or not, opinions were divided.
4. Certain delegates expressed the view that the process in question did not change the structure of the products and they could therefore not be regarded as activated natural mineral products. They were of the view that heading 38.02 should be ruled out and, consequently, the products would be covered by heading 38.24. One delegate supported classification in heading 38.24, indicating the possibility that the product could be used after further treatment.
5. The large majority of delegates, however, pointed out that according to the chart showing the results of the surface area test, as set out in paragraph 5.9 of Doc. NS0045E1, the surface area of the products could be regarded as being acid-activated because of the differences of their properties as compared with raw materials. The products therefore met the criteria set out in Parts A (I) and A (II) of the Explanatory Note to heading 38.02, and should be classified in heading 38.02 as activated natural mineral products. In support of this view, it was pointed out that the added sulfuric acid remained in the product and it would certainly change their chemical structure since the sulfuric acid had activated the products as a proton donor.
6. When the question was put to a vote, the Committee decided, by 42 votes to 3, to classify the "Pure-Flo B81", "Pure-Flo Pro-Active" and "Pure-Flo Color Master" acid-added clay products, in heading 38.02 (subheading 3802.90), by application of GIRs 1 and 6.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

7. In order to reflect this decision, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination by the next preessional Working Party. In this connection, the Chairman suggested that although the "Pure-Flo B81" product would be the most suitable product for drafting a Classification Opinion, the Secretariat should contact the Colombian Customs Administration to confirm its preference due to its absence at this Session.

* * *

| 1 | 2 |
|--|--|
| NC0488E1 (HSC/28) NC0544E1 NC0577E1 | Possible amendments to the Explanatory Notes to Chapter 48 to clarify the classification of so-called “photo-copying” paper (Proposal by the Egyptian Administration). |

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

1. At the outset, the Chairman drew the attention of the Committee to the fact that in addition to the texts proposed by the **US** Administration and the Secretariat as set out in the working documents, the **EC** had submitted a non-paper to the Committee.
2. The **EC** Delegate pointed out that the three texts submitted for consideration were very similar and suggested that these texts should be sent to the next Working Party for consideration.
3. The **US** Delegate supported this proposed approach since there was only a slight distinction in terminology between the three texts.
4. Finally, the Committee agreed to submit this issue to the next Working Party and instructed the Secretariat to prepare a new working document in which the three texts would be combined into one and the options for consideration would be reflected.

* * *

| 1 | 2 |
|--|---|
| NC0393E1 NC0413E1 NC0414E1 NC0418E1 NC0429E1 (HSC/27) NC0453E1 NC0503E1 (HSC/28) NC0572E1 | Possible amendments to the Explanatory Notes with regard to various women's or girls' garments. |

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

1. Opening the discussion of this Agenda item, the Chairman recalled the background to this question and the proposals made by various administrations, which were reproduced in the working documents.
2. The first question was whether the Explanatory Notes should be amended along the lines proposed by the Secretariat or the administrations concerned.
3. Several delegates considered that there was no need to amend the Explanatory Notes concerned and that it would be preferable to maintain the texts unchanged, as some of the proposed definitions of the articles at issue might conflict with the existing legal texts. It was also stressed that the text of heading 62.12 contained no reference to undergarments. The legal text referred to brassières – a term which was not defined in any legal Note.
4. Other delegates felt that some of the proposed Explanatory Note texts might have helped to clarify the scope of the legal texts. However, they could also accept the status quo since the present texts appeared sufficiently clear to allow classification of the articles at issue.
5. On the other hand, it was pointed out that for the purposes of Note 13 to Section XI and the classification of textile garments, the articles of heading 62.12 were not regarded as garments.
6. The Committee finally agreed that the current situation was sufficiently clear to enable the articles at issue to be classified, and that it would therefore not be necessary to amend the Explanatory Notes.
7. The Committee also decided not to take up in this session the Moroccan proposal to amend the text of subheading 6212.10 which had been reproduced in paragraph 3 of Doc. NC0413E1. The Moroccan Administration was invited to submit a new request, for examination by the Review Sub-Committee, if they so wished.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

8. With regard to Mexico's proposal to insert a new item in the Explanatory Note to heading 63.07 describing the article covered by Classification Opinion 6307.90/5, the Committee decided to refer this proposal to the Working Party, together with an alternative version proposed during the meeting by the US Delegate.

* * *

| 1 | 2 |
|----------------------|---|
| NC0545E1 NC0585E1 | Classification of the Palm V™ presented as a set with cradle and installation software. |

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

1. The US Delegate began the discussion by describing to the Committee his administration's interpretation of Note 6 to Chapter 85. According to the first paragraph of that Note, "records, tapes and other media of heading 85.23 or 85.24 remain classified in those headings when presented with the apparatus for which they are intended", while in the second paragraph it was clearly stipulated that the Note did not apply when such media were presented with articles other than the apparatus for which they were intended. In this case, given that the installation software (which was intended for use and installation on a personal computer) could be installed on the Palm V™, it was not media presented with the apparatus for which it was intended. Thus, Note 6 to Chapter 85 was not applicable to the media with the installation software. The set consisting of the Palm V™ organizer, a CD-ROM on which the installation software was recorded, a cradle, a metal stylus, a plastic stylus, a user manual, a getting started guide, a rechargeable battery and a protective cover, met the conditions of GIR 3 (b). In light of the Committee's previous decision to classify the Palm V™ in heading 84.71, his administration therefore believed that the entire set should be classified in heading 84.71 because the Palm V™ is the article that imparts the essential character to the set.

not*
2. Several delegates supported the view that Note 6 to Chapter 85 was not applicable in this particular case. Among the arguments put forward, one delegate referred to the examples set out in the General Explanatory Note relating to Note 6 to Chapter 85 on page 1619, which implied that the media in question had to be inserted or installed in the other components of the set.
3. The EC Delegate, while agreeing with the Committee's unanimous decision to classify the Palm V™ in heading 84.71, considered that when classifying software and applying the HS, the legal texts should take precedence over any practical considerations. The provisions of Chapter Note 6 would remain applicable until the implementation of the next version of the HS (2007). In addition, the provisions of the second paragraph of Note 6 to Chapter 85 were clear and precise regarding the conditions governing the application of the said Note. From a purely legal perspective, the phrase "apparatus for which they are intended" definitely did not mean "apparatus in which they will be installed". It was also obvious that the software at issue was intended for the Palm V™, as it was used to optimize the function of the said apparatus by giving it a multitude of applications, and particularly to exchange data with an external computer. The EC Delegate therefore felt that proper application of Note 6 to Chapter 85 was necessary for the classification at issue. While accepting the principle that the other components accompanying the Palm V™ should be classified with it, as the Committee had already done in similar cases by application of GIRs 1 and 6, he still felt that

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

the CD-ROM containing the Palm V™ application software should be classified separately in heading 85.24 in keeping with a strict legal interpretation of Note 6 to Chapter 85.

4. The Delegate of Brazil added that in his administration's opinion, the first sentence of Note 6 to Chapter 85 constituted an exception as regards the implementation of GIR 3 (b) and, consequently, that sentence should be interpreted restrictively.
5. Several delegates supported this interpretation, agreeing that the second paragraph of Note 6 to Chapter 85 did not necessarily require the insertion of media into the apparatus with which it was entered. They pointed out that from a legal perspective, there was undoubtedly a difference between "inserted" and "intended". Application of Note 6 to Chapter 85 therefore seemed obligatory in this case.
6. In response to a question raised by one delegate concerning the possible uses of the software at issue, the Chairman pointed out that according to previous discussions, the software was designed solely to connect the Palm V™ to personal computer (PC). Supplementing this information, the EC Representative pointed out that the CD-ROM contained HotSync™ software which, once loaded into a PC, made it possible to connect any other peripheral unit that recognized the HotSync™ program without having to insert the CD-ROM again. He pointed out that the HotSync™ software was also commercially available as standalone software.
7. At this point in the discussion, given that opinions were still divided, the Chairman decided to put the question to a vote.
8. The Committee finally decided, by 23 votes to 21, to classify the set comprising the Palm V™ and the other components presented with it for retail sale (including the CD-ROM containing the installation software) in subheading 8471.30, by application of GIRs 3 (b) and 6.
9. In the light of this decision, the Committee also decided that there was no longer any need to examine the question raised in part (ii) of paragraph 21 of Doc. NC0545E1 concerning incomplete sets, leaving it to administrations to resubmit this question to the Secretariat if they deemed it necessary.
10. To reflect this classification decision, the Committee instructed the Secretariat to prepare, for its next session, a draft text amending the General Explanatory Note relating to Note 6 to Chapter 85. The text should indicate that in this context, the word "intended" was used in the same sense as "inserted". The Secretariat was also instructed to prepare a draft Classification Opinion for the set described in the working document, for review by the next preessional Working Party.

* * *

| 1 | 2 |
|----------|---|
| NC0546E1 | Classification of DVD drives and DVD players, including game players. |

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

Classification of DVD drives and DVD players

1. In response to the Secretariat's request, the Committee unanimously decided that :
 - (a) DVD drives exclusively used in conjunction with ADP machines were classifiable in heading 84.71 (subheading 8471.70) by application of GIR 1 (Note 5 (B) to Chapter 84) and GIR 6; and
 - (b) Standalone DVD players designed to be used for video reproduction (both image and sound) on television receivers or video monitors were classifiable in heading 85.21 (subheading 8521.90) by application of GIR 1 and GIR 6.

Classification of the "Sony PlayStation® 2" ("PS2")

2. The Delegate of Japan, in his opening remarks, stressed that (i) the components of the "PS2" were very similar to those of ADP machines currently available on the market; (ii) the only function performed by the "PS2" was data processing; and (iii) the "PS2" was capable of being freely programmed by the user to run word processing, spreadsheet or computation programmes as well as game programmes. As such, the "PS2" satisfied the criteria set out in Note 5 (A) (a) to Chapter 84 and, therefore, was classifiable in heading 84.71 as an ADP machine by application of GIR 1.
3. Another delegate supported Japan, indicating that the "PS2" could not only reproduce data from audio/video files but also process such data with its central processing unit. It could not simply be considered a game player but, rather, an ADP machine.
4. Many other delegates, however, were of the view that the "PS2" was a sophisticated versatile device, capable of performing the functions of an ADP machine (heading 84.71), sound reproducing apparatus (heading 85.19), video reproducing apparatus (heading 85.21) and a video game player (heading 95.04). Nevertheless, any machine having the capability of "being freely programmed" or "processing data" should not automatically be regarded as being solely or principally an ADP machine within the meaning of the Harmonized System. The "PS2" was advertised, marketed, imported and presented for retail sale as a video game player in a box containing a console, a game controller and connection cables and was designed to be used with a television receiver. Its main function was playing video games and, thus, it should be excluded from Section XVI by application of Note 1 (p) thereto and be classified as a composite machine in Chapter 95 by application of GIR 1.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. In response, the Delegate of Japan pointed out that goods could not be classified by reference to conditions governing their advertising or marketing. The "PS2" was an ADP machine fulfilling the provisions of Note 5 (A) (a) to Chapter 84, and not a machine performing a specific function other than data processing, nor a machine which was used for more than one purpose and, therefore, was not subject to Note 5 (E) or Note 7 to Chapter 84. Neither could Note 1 (p) to Section XVI apply, without first establishing that the "PS2" was an article of Chapter 95. Further, GIR 3 (b) was not applicable, due to the fact that the "PS2" was not a "composite good". Even if GIR 3 (b) were applicable, the "PS2" would fall in heading 84.71, because its essential character would be provided by its central processing unit and/or its data processing function. Finally, machines having the capability of being freely programmable within the meaning of Note 5(A)(a) to Chapter 84 should be classified in heading 84.71 inasmuch as they met the criteria of that provision.
6. Several other delegates expressed their concern about the different rationales provided by the previous speakers in support of their differing views on the classification of the "PS2" and invited the Committee to be cautious in establishing the legal basis for its final decision.
7. On the basis of the foregoing, the Committee decided to classify the "Sony PlayStation 2" in heading 95.04 (subheading 9504.10) as a "video game of a kind used with a television receiver", by 39 votes to 5 (heading 84.71), by application of GIR 1 (Note 1 (p) to Section XVI) and GIR 6.

Classification of new types of products identified by the International Chamber of Commerce in Annex I to the working document

8. The Committee unanimously agreed that the classification of these products could be considered at a future session, but only if submitted by a Member administration.

Further action to be taken

9. To reflect its classification decisions, the Committee instructed the Secretariat :
 - (a) to draft a new Classification Opinion in respect of the classification of the "PS2" for examination by the next presessional Working Party, at the request of the Japanese Administration; and
 - (b) to draft amendments to the Explanatory Notes pertinent to the classification of "DVD drives", "standalone DVD players" and the "PS2". In this connection, the Secretariat was also requested to consider whether or not there was a contradiction between the legal texts and exclusion (b) in the Explanatory Note to heading 95.04 (page 1917), and to consider whether it would be possible to clarify the text of that exclusion.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

10. Referring to the instruction regarding the amendments to the Explanatory Notes, the Director clarified that this matter was pending on the agenda of the HS Review Sub-Committee and proposed that the draft texts be submitted to the RSC for consideration at its next session.
11. The Committee concurred with the Director's proposal.

* * *

| 1 | 2 |
|----------|--|
| NC0547E1 | Possible amendments to the Explanatory Notes to clarify the classification of certain electronic memory modules (SIMMs and DIMMs). |
| NC0548E1 | Possible amendments to the Explanatory Notes with a view to clarifying the classification of laundry type and industrial washing machines. |

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

Due to a lack of time, the Committee agreed to postpone these items to its next session in November 2002.

* * *

| 1 | 2 |
|----------------------|---|
| NC0549E1 NC0566E1 | Classification of flash electronic storage cards. |

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

1. Opening the discussion, one delegate reiterated his administration's position, as presented in Doc. NC0502E1 (HSC/28), that flash electronic storage cards were in fact "prepared media" and therefore classifiable in heading 85.23, if not containing data, and in heading 85.24 if they did contain data. Similar to the other commodities referred to in these headings, the cards could not be regarded as active apparatus; they were merely passive media onto which data was recorded by an apparatus.
2. Several delegates supported this view, one of them further clarifying that the function performed by the cards was the same as that of magnetic tapes and diskettes of headings 85.23 and 85.24. He added that the control unit, which was found on some of the cards, had a secondary function, i.e., as a File Allocation Table (FAT) tool. The same FAT was found on CD-ROMs, which were classified in heading 85.24. He disagreed with the Secretariat's view that the cards had not been "prepared", given the meaning of that word, i.e., "processed in a particular way". Since the integrated circuit(s) on the cards had been processed to receive and store data in an electronic way (i.e., the way the transistors in the integrated circuit had been obtained), they were to be considered as "prepared" media. Furthermore, it was, in his view, not correct to compare the flash electronic storage cards with SIMMs and DIMMs, since the latter operated differently, i.e., they needed to be electrically charged to maintain the data, unlike the flash storage cards.
3. Another delegate, however, concurred with the view expressed by the Secretariat, i.e., the cards were not "prepared" and were not "media". He added that these cards did not exist when the HS was being drafted. It would doubtless be desirable to classify these cards in heading 85.23 or 85.24 in the future, but at present the decisive factors for their classification, provided by the existing heading texts, prevented them from being classified as straightforward audio/video media. Since these terms were not met, the cards could not be classified in heading 85.23 or 85.24 (as the case might be). In that context, he also considered that the presence in these cards of components such as control units, printed circuits, etc., would enable them to have an active function. Classification of the cards in heading 85.23, as "prepared media", might have serious consequences in respect of the classification of similar products, or of products utilising the cards. In conclusion, the cards could not be considered to be products of heading 85.23 or 85.24, but had to be classified, in his view, as electrical apparatus having an individual function, not elsewhere specified or included, of heading 85.43.
4. When the matter was put to a vote, the Committee decided, by 31 votes to 13, to classify the flash electronic storage cards in heading 85.23 (subheading 8523.90), rather than in heading 85.43.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. In order to reflect this decision, the Committee instructed the Secretariat to prepare three draft Classification Opinions on the specific products in question for examination by the next preessional Working Party, as well as appropriate amendments to the Explanatory Notes for examination by the Committee at its next session.

* * *

| 1 | 2 |
|----------|--------------------------------|
| NC0550E1 | Classification of MP3 players. |

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

1. Opening the discussion, the  delegate, while referring to those types of MP3 players which used flash electronic storage, reminded the Committee that flash electronic storage cards had just been classified by the Committee as prepared media in heading 85.23 (Annex H/13 to this Report). MP3 players using flash memory should, therefore, be considered as sound recording devices of heading 85.20. However, MP3 players using solely an external flash memory card are not considered to be recording devices and should, therefore, be classified as reproducing apparatus of heading 85.19. Certain other delegates supported this view.
2. Yet another delegate took the view that the transcription of data files was not sound recording in the sense of heading 85.20. He added that classification should be based on the function of the apparatus and not its use. Consequently, MP3 apparatus which could only reproduce sound from a pre-loaded electronic file, should be considered to be reproducing apparatus of heading 85.19.
3. When the question was put to a vote, 32 delegates supported the view that the expression "sound recording" as used in heading 85.20 should be interpreted in a broad sense, i.e., that it also covered the transcription of data files onto flash memory. Two delegates were of the view that transcription could not be considered to be sound recording.
4. Following this vote, the Committee unanimously classified the apparatus described in paragraph 7 of the working document as follows :
 - paragraph 7 (i), (ii), (iii), (v) and (vi) : subheading 8520.90;
 - paragraph 7 (iv) : subheading 8527.13;
 - paragraph 7 (vii) : subheading 8521.90; and
 - paragraph 7 (viii) : subheading 8519.99.
5. The Committee agreed that the above-referenced classifications were based on the application of General Interpretative Rules 1 and 6. However, with respect to the classification of item 7 (v), one delegate explained that, since the apparatus was apparently connectable to a TV set and might therefore also reproduce video signals, the classification should be based on the application of Note 3 to Section XVI, which stipulated that machines designed to perform two or more complementary or alternative functions, were to be classified as being that machine which performed the principal function. Consequently, a reference to Note 3 to Section XVI should, in his view, be included in the classification rationale. Due to lack of the requisite information with regard to the apparatus at issue, the  Administration, being the initial proponent, was invited to provide the necessary

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

information. The Secretariat was instructed to look into this question during the intersession and to take into account the information to be submitted by ~~Switzerland~~ when preparing the relevant Classification Opinion for the next preessional Working Party.

6. In order to reflect the above classification decisions, the Committee instructed the Secretariat to prepare draft Classification Opinions for the apparatus described in paragraphs 7 (i), (iv), (v), (vii) and (viii) for examination by the next preessional Working Party. It also instructed the Secretariat to prepare appropriate amendments to the Explanatory Notes, taking into account the proposal submitted by the EC, as set out in Annex III of the working document, to be examined by the Committee at its next session.

* * *

| 1 | 2 |
|--|---|
| NC0423E1 (HSC/27) NC0551E1 | Classification of safety seats for infants and toddlers. |
| NC0552E1 | Possible amendment of the Explanatory Notes to clarify the classification of foot-propelled scooters. |
| NC0307E1 (HSC/26) NC0396E1 (HSC/27) NC0582E1 NC0584E1 | Classification of grounding rods. |

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

Due to a lack of time, the Committee agreed to postpone these items to its next session in November 2002.

* * *

ANNEX IJ
NEW QUESTIONS

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

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

The Delegate of ~~Norway~~ suggested that discussion of this Agenda item should be postponed to the next session of the Committee. The Committee agreed to that proposal.

* * *

| 1 | 2 |
|----------|---|
| NC0553E1 | Possible amendment of the Explanatory Note to heading 04.06 (Proposal by the EC). |

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

At the request of the ~~US~~ Delegate, the Committee agreed to postpone the discussion of this Agenda item to its next session.

* * *

| 1 | 2 |
|----------------------------------|---|
| NC0555E1 | Classification of "Mosstanol L". |
| NC0554E1 | Classification of a polyurethane resin in dimethyl formamide. |
| NC0565E1 | Possible amendment of Classification Opinion 3907.20/1 (Proposal by the Canadian Administration). |
| NC0556E1 | Classification of certain panels of wood. |
| NC0559E1 | Classification of quilted, decorative pillow coverings (shams). |
| NC0560E1 | Classification of certain stationery sets. |
| NC0557E1 | Classification of sliding doors for lifts (elevators). |
| NC0558E1 | Classification of "roller shoes". |
| NC0561E1 NC0568B1 NC0586E1 | Possible contradiction between the Explanatory Notes to and legal text of heading 85.36. |

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

Due to a lack of time, the Committee agreed to postpone these items to its next session in November 2002.

* * *

| 1 | 2 |
|----------|---|
| NC0571E1 | Classification of milk substitutes for coffee called "Vana@Blanca 35T" and "Non Dairy Creamer 23H". |

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

"Vana@Blanca 35T"

1. After the Polish Delegate had explained that the classification of this product was not the subject of a dispute between her administration and the EC, and after having clarified that her administration was also of the view that "Vana@Blanca 35T" should be classified in heading 21.06, the Committee unanimously decided to classify this product in heading 21.06 (subheading 2106.90).

"Non Dairy Creamer 23H"

2. The EC Delegate stressed that there had been much correspondence and many bilateral meetings between the two administrations in an effort to arrive at a bilateral agreement. He added that this product contained only 18% skimmed milk powder, and stressed that this component was the only component covered by Chapter 4 in the product. It was therefore quite clear, in his mind, that this product did not have the character of "food preparations of goods of headings 04.01 to 04.04" as required by the text of heading 19.01. Moreover, he explained that the Explanatory Note to heading 19.01, part (III), relating to this part of the heading text, clearly indicated that the food preparations of this heading derived their essential character from the natural milk constituents in these products. He was therefore of the opinion that this product did not possess this essential character and had to be classified in heading 21.06 as "food preparations not elsewhere specified or included".
3. The Delegate of Poland explained that her administration had classified coffee creamers containing milk in heading 19.01 since 1995. Moreover, she made it clear that since exclusion (d) of the General Explanatory Note to Chapter 19 excluded certain powders not being preparations based on goods of headings 04.01 to 04.04 from that heading, the amount of products of headings 04.01 to 04.04 which had to be present in a given product had to be clarified before it could be classified in heading 19.01. She stated that her administration had asked this question of the EC, but had not received an answer.
4. She also explained that the former Nomenclature Committee in 1964 had decided that the term "with a basis of" should be taken to mean the ingredient which gave a product its essential character, even if this ingredient was present in a relatively low proportion by weight; even 20% or less. In the light of this decision, she was of the opinion that "Non Dairy Creamer 23H" had to be classified in heading 19.01 since the skimmed milk powder gave this product its essential character, even when it constituted only 18% of the total weight.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

5. In reply to the question posed, the  Delegate said it had been made clear on several occasions that neither the heading text nor any other legal text specified the exact quantity of the products of headings 04.01 to 04.04 which had to be present in the preparations of heading 19.01. He also emphasised that since the fat fraction in this product was more essential than the milk fraction, this was another argument for classifying this product in heading 21.06. In this regard, he drew the Committee's attention to Classification Opinion 2106.90/12, where a product containing 51% coconut oil and 49% skimmed milk powder had been classified in heading 21.06.
6. When the matter was put to a vote, the Committee, by 37 votes to 6, decided to classify "Non Dairy Creamer 23H" in heading 21.06 (subheading 2106.90) by application of GIRs 1 and 6.
7. To put its decision into effect, the Committee instructed the Secretariat to prepare a draft Classification Opinion for examination by the next preessional Working Party.

* * *

| 1 | 2 |
|----------|--|
| NC0574E1 | Classification of a machine called "NOACK 900 BLISTER PACKER" |
| NC0575E1 | Classification of an electrostatic chuck and distinction between chucks of headings 84.66 and 85.05. |
| NC0576E1 | Classification of a "hydraulic salt/sand spreader" for clearing snow from roads. |

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

Due to a lack of time, the Committee agreed to postpone these items to its next session in November 2002.

* * *

| 1 | 2 |
|----------|--|
| NC0578E1 | Possible amendments to the Nomenclature regarding the classification of cameras. |

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

1. The Delegate of **Japan** began the discussion of this agenda item by drawing the Committee's attention to the fact that digital cameras were electronic equipment since they captured images by means of light sensitive integrated circuits such as CCD or CMOS sensors and converted them into electronic signals. The converted images could be processed (e.g., displayed or recorded) in various ways. Cameras of heading 90.06, on the other hand, were photographic instruments that irreversibly changed silver halide film exposed to light by a chemical reaction. Thus, the "capture mechanisms" were different. Furthermore, Chapter 85 covered electrical machines and digital cameras were one such machine and should therefore remain classified in that Chapter. Conventional or traditional cameras on the other hand should remain classified in heading 90.06.

2. He believed that the Committee should take the basic nature of the Harmonized System into consideration when considering amendments to the HS. In this connection, he explained that Chapter 85 covered electrical machines, whereas Chapter 90 covered instruments, *inter alia*, optical instruments, e.g., photographic apparatus. Moreover, if the digital and analogue cameras were regrouped under one heading, it was the view of Japan that such a change would influence the classification of other equipment with both digital and analogue versions. In this connection, he pointed out that, under the 2002 version of the Harmonized System, digital projectors were classified in heading 85.28, whereas analogue projectors were covered by heading 90.08. If the basic nature of Section XVI and Chapter 90 were ignored and digital cameras and photographic cameras were regrouped in one heading, such amendments would lead to confusion in the classification of other digital and analogue apparatus (e.g., projectors). In this connection, **Japan** provided the further example of a videophone combining the functions of a telephone and a digital camera, currently classified under heading 85.25. If digital cameras were classified in Chapter 90, then Note 3 to Section XVI would no longer be applicable to videophones with this combination of components. In accordance with the provisions of Note 1 (m) to Section XVI, videophones with digital cameras would be excluded from Section XVI and would be classifiable under Chapter 90. Such a situation should be avoided and, therefore, **Japan** did not agree with the integration of digital cameras of heading 85.25 and the photographic cameras of heading 90.06.

3. The Delegate of **Canada** acknowledged the electronic nature of digital cameras and the capability to manipulate the digital image after it was captured. However, he pointed out that digital and photographic cameras had the same function; i.e., taking pictures. The only fundamental difference between the two was the media on which the image was captured. In his view, the two types of cameras shared many of the same components.

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

4. It was the Delegate of ~~Canada~~'s view that, in order to reflect the functional orientation of the Harmonized System, and to eliminate the need to classify certain camera parts and accessories by end-use rather than function, the re-grouping of all cameras in a single heading was desirable. He stressed that, in order to have a cleaner, more modern Nomenclature, all cameras should be grouped in one heading. While ~~Canada~~'s preference was for Chapter 90 and, more specifically, heading 90.06, ~~Canada~~ could accept a regrouping in Chapter 85.
5. Several delegates expressed support for maintaining the distinction between digital cameras of Chapter 85 and film-based cameras of Chapter 90; in other words, the status quo. At the same time, one of those delegates was of the opinion that the RSC should look at restructuring the text of heading 85.25 in order to more clearly delineate the distinction between digital and analogue, non-film-based cameras.
6. Other delegates expressed support for the regrouping of all cameras in a single heading noting that we were not discussing the classification of cameras under the 2002 version of the HS, but the amendment of the Harmonized System for 2007. One of these delegates reminded the Committee that the task before it was to provide advice to the Review Sub-Committee on whether or not it should continue its study on a possible regrouping of all cameras in a single heading. After all, one of the reasons for the Review Sub-Committee was to ensure that changes in technology and trading patterns were reflected in the Harmonized System.
7. After discussion, the Committee took an indicative vote and a large majority of delegates were in favour of the RSC continuing to study a possible regrouping of cameras in a single heading.
8. The Committee therefore concluded its examination of this agenda item by agreeing to instruct the RSC to continue to study the regrouping of all cameras in one heading.

* * *

| 1 | 2 |
|----------|---|
| NC0579E1 | Use of the terms "hygienic", "sanitary" and "toilet". |

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

The  Delegate requested that this issue be postponed to the next session, since consultations with linguistic experts had not yet been concluded. The Committee agreed to this request.

* * *

| 1 | 2 |
|----------|--|
| NC0580E1 | Classification of banknote substrates of plastics. |

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

1. Opening the discussion of this agenda item, the Australian Delegate clarified the description of the product given in paragraphs 7 to 14 and 19 of Doc. NC0580E1 by explaining that the coatings applied to the surface of the plastic film were deposited in a single operation by printing. The size and design of the sheets was determined by the size and design of the banknotes to be printed on the substrate. The security features were arranged in prescribed positions on the sheet to ensure that they appeared in the correct position in relation to the final banknotes. These security features were, in his view, not merely incidental to the use of substrate and were essential to the finished banknotes. The substrates could not be used for any other purpose than the manufacture of specific banknotes.
2. Pointing out the differences between the product at issue and a finished banknote, some delegates expressed their doubts as to the classification of the product in Chapter 49 as an unfinished printed article by application of GIR 2(a).
3. In this connection one delegate stated that, in accordance with Note 10 to Chapter 39, printing was allowed for sheets of plastics falling in Chapter 39. The fact that the product had been printed was not sufficient to exclude the product from Chapter 39 by virtue of Note 2 to Section VII, since the printing was minor and the product at issue had not lost the character of the products of Chapter 39. He therefore preferred classification in heading 39.20.
4. However, the Delegate of Brazil, while referring to the Explanatory Note to General Interpretative Rule 2 (a), Item (II) (on page 2), stated that the banknote substrates could be considered to be blanknotes, not ready for direct use, which could only be used for completion into the finished article. In his view, this product was classifiable in heading 49.07 by application of General Interpretative Rule 2 (a) as an unfinished article. He also agreed with the Australian Delegate that the printing operations which the substrate had undergone could not be considered merely incidental to the primary use of the substrate, and argued that the product therefore had to be classified in Chapter 49 by application of Note 2 to Section VII.
5. The US Delegate disagreed with the view that the product was classifiable in heading 49.07 by application of General Interpretative Rule 2 (a). The product did not have the essential character of a finished banknote of heading 49.07, as required by General Interpretative Rule 2 (a).

DECISIONS OF THE HARMONIZED SYSTEM COMMITTEE (contd.)

6. The Chairman agreed that the threshold question was whether the printing on the substrate in question was merely incidental to the primary use of the substrate (i.e., in the production of banknotes). When the question was put to a vote, the Committee decided, by 20 votes to 19, that the printing was merely incidental. Consequently, the Committee classified the banknote substrate of plastics in subheading 3920.20, in accordance with Note 10 to Chapter 39.
7. The Committee concluded that it was not necessary to draft a Classification Opinion or to amend the Explanatory Notes to reflect this classification decision, but asked the Secretariat to inform the Review Sub-Committee of its decision.

* * *

| 1 | 2 |
|----------|---|
| NC0581E1 | Classification of pumicing blocks in connection with the possible amendment of the Explanatory Note to heading 40.16. |

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

1. In connection with the possible amendment of the Explanatory Note to heading 40.16, the Committee examined whether the reference to "pumicing blocks" should be inserted in the proposed new Item (13) of the Explanatory Note.
2. The Committee felt that it was not necessary to refer to this article in that Explanatory Note and therefore decided not to include this reference (see Annexes F and L/16).

* * *

ANNEX K
OTHER BUSINESS

| Working Doc. 1 | Subject 2 | Classification Opinions 3 | E.N. amendments 4 | Nomenclature amendments 5 |
|-------------------|--|------------------------------|----------------------|------------------------------|
| NC0573E1 | 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 SYSTEM COMMITTEE (O. Fr.)

1. The Committee took note of the list of questions in the Annex to Doc. NC0573E1.
2. This list, updated by the addition of all the questions raised during the session for examination in greater detail at subsequent meetings, is reproduced in Annex R to this Report.

* * *