

**PROCEDURE FOR THE INTRODUCTION OF HARMONIZED SYSTEM 2012
CHANGES TO SCHEDULES OF CONCESSIONS USING THE
CONSOLIDATED TARIFF SCHEDULES (CTS) DATABASE**

*Decision of 30 November 2011**

The General Council,

Having regard to Articles IV:2 and IX:1 of the WTO Agreement;

Recalling that the Contracting Parties to GATT 1947, by their Decision of 12 July 1983¹, agreed on a method to introduce the Harmonized System (HS) into schedules of concessions;

Recalling that the Contracting Parties to GATT 1947, by their Decision of 8 October 1991², decided on simplified procedures to introduce HS changes to schedules of concessions;

Noting that Members established a Consolidated Tariff Schedule (CTS) database which, although not legally binding, could serve as a valuable tool for the verification and certification of commitments;

Taking into account the desire of Members to facilitate and simplify the introduction of HS changes into WTO schedules by making a better use of the CTS database;

Decides that:

I. PREPARATION AND DISTRIBUTION OF THE DRAFT HS2012 FILE

1. The Secretariat shall prepare for Members a comprehensive set of information on the Harmonized System 2012 nomenclature (HS2012) changes, which shall include - in electronic form - the HS2012 nomenclature at the level of HS six-digit subheading, concordance tables between the HS2007 and the HS2012 nomenclatures, and the layout of the electronic formats to be used for the transposition files. This information shall be circulated to all Members no later than 31 December 2011.

2. Developed country Members shall prepare their own transposition. The Secretariat shall transpose the schedules of developing country Members, except for those who undertake to prepare their own transposition and submit a notification to this effect no later than 31 December 2011. Members who decide to undertake their own transposition shall submit all the required information to

* Secretariat note: Adopted in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council in November 1995 (WT/L/93).

¹ BISD 30S/17.

² BISD 39S/300.

the Secretariat - in electronic form - no later than 30 September 2012. A description of the required information is provided in Annex 1.

3. The transposition work shall be based on each Member's latest schedule, as reflected in the Consolidated Tariff Schedule (CTS) database. If tariff lines affected by changes in the HS2012 nomenclature are not yet certified in the HS2007 nomenclature, then the draft HS2007 files shall be used as the basis for those tariff lines.

4. In preparing the HS2012 transposition, and to the extent possible, the scope of the concessions and other commitments shall remain unchanged. Any tariff line for which a change in the scope of a concession may have occurred due to the complex technical nature of the transposition shall be clearly flagged. Paragraph 5 of Annex 2 and paragraph 15 below describe how these situations shall be addressed.

Transposition work by the Secretariat

5. The Secretariat shall introduce into the Member's schedule, as reflected in the CTS database, all the Harmonized System 2012 (HS2012) changes. The Secretariat shall update all the tariff codes and descriptions that change due to the introduction of the HS2012 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, the Secretariat shall abide by the technical procedures described in Annex 2 to this Decision. The Secretariat shall prepare, based on the updated CTS database in the HS2012 nomenclature, a separate file to reflect the changes in nomenclature that were introduced. This separate file shall be prepared as described in Annex 1 and shall be considered the "draft HS2012 file" for the purpose of this Decision.

6. The Secretariat shall send to the Member its draft HS2012 file for examination as soon as the technical work has been completed. The date of this communication shall hereinafter be referred to as the "first date". Upon receipt of this file, the Member shall have the possibility to seek clarifications from the Secretariat and propose changes as laid out in Section II.

Members preparing their own transposition

7. Members that undertake to prepare their own transposition shall update all the tariff codes and descriptions that change due to the introduction of the HS2012 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, they shall abide by the technical procedures described in Annex 2 to this Decision. These Members are expected to submit to the Secretariat their draft HS2012 files for examination and final formatting not later than the date provided to this effect in paragraph 2. The date of receipt shall hereinafter be referred to as the "first date".

II. EXAMINATION OF DRAFT HS2012 FILES AND RELEASE FOR MULTILATERAL REVIEW

8. Members for whom the Secretariat has prepared a draft HS2012 file are expected to examine their file and to provide the Secretariat with a written communication that either approves the file (case 1), or provides specific comments on its contents (case 2). Such communications should reach the Secretariat no later than 60 days following the "first date".

9. The Secretariat shall review the draft HS2012 files prepared by Members pursuant to paragraph 7 before their release for multilateral review. If the Secretariat has no comments on the file, it shall then be released for multilateral review (case 1). If the Secretariat has comments (case 2), these will then be transmitted to the Member concerned no later than 60 days following the "first date".

10. In case 1, the Secretariat shall release the draft HS2012 file for multilateral review with a headnote indicating that it has been approved by the Member.

11. In case 2, both the Member concerned and the Secretariat shall endeavour to reach a common understanding on the issue(s) raised, and reflect any changes accordingly in the draft HS2012 file, with a view to releasing it for multilateral review no later than 90 days from the "first date". In this regard,

- (a) when a common understanding is reached and no change is required, the Secretariat shall release the original draft HS2012 file for multilateral review with a headnote indicating that the file has been approved by the Member.
- (b) when a common understanding is reached and changes to the draft HS2012 file are required, the Secretariat shall prepare a revised file and release it for multilateral review with a headnote indicating that the file has been approved by the Member.
- (c) when a common understanding has not been reached, the Secretariat shall prepare a revised draft HS2012 file including the specific changes proposed by the Member and release the file for multilateral review. The revised file shall include a headnote indicating that the file has been approved by the Member, and shall also provide the Secretariat's observations on the file.

12. If the Secretariat does not receive any response from the Member concerned within 90 days from the "first date", the draft HS2012 file will be released for multilateral review with a headnote indicating that the Member concerned has neither provided any comments nor approved the file.

III. MULTILATERAL REVIEW PROCESS

13. Multilateral review of the draft HS2012 files released shall take place in the framework of informal dedicated sessions of the Committee on Market Access, which shall be scheduled as required. The Secretariat will post these files three or four times a year on the Members' website and on dates that should be at least six weeks prior to the informal sessions scheduled to this effect. Members shall be notified of such postings through a communication by the Secretariat.

14. Modifications agreed at the multilateral review sessions shall be incorporated by the Secretariat into a revised version of the file, which shall then be resubmitted for multilateral review. In case a Member has a query or comment concerning another Member's draft HS2012 file, but is unable to attend the meeting at which these changes are to be reviewed, it may request the Chair to convey those queries/comments to the other Member at the time of the multilateral review.

15. Where the scope of a concession has been modified as a result of the transposition in a way that impairs its value, consultations and renegotiations pursuant to Article XXVIII of the GATT 1994 shall be entered into by the Member concerned.³ The status of discussions and consultations between Members, including Article XXVIII renegotiations, should be reported to other Members at the multilateral sessions to ensure full transparency.

IV. CERTIFICATION OF HS2012 CHANGES

16. When there is no objection remaining on a draft HS2012 file at a multilateral review session, such file will then be considered approved by the Committee on Market Access. The file will be

³ Where a request for renegotiation or consultation has been made under Article XXVIII of the GATT 1994, the Procedures for Negotiations under Article XXVIII (BISD27S/26) shall apply.

certified as provided for in paragraph 17 below, with the exception of any draft HS2012 file released under paragraph 12 where the Member concerned has still neither provided any comments nor approved the file. The latter files shall also be certified as provided for in paragraph 17 below, unless the Member submits in writing to the Secretariat a reservation on its draft HS2012 file within one month from the date of the approval of its file at the multilateral review session.

17. Members having submitted such a reservation are also required to provide in writing to the Secretariat details of the specific reasons for such a reservation no later than 2 months from the date of their initial communication containing their reservation. If such specific reasons are not provided within the deadline, the certification of their HS2012 file shall take place as provided for in paragraph 18 below. In case any amendment is introduced to the HS2012 file, the multilateral review process provided for in Part III shall be resumed for such a file.

18. A paper version of the changes, as contained in the approved HS2012 file, shall be prepared and circulated by the Secretariat for the purpose of certification. The procedures for modification and rectification of schedules of tariff concessions (L/4962) shall be followed in this regard.

V. PERIODIC REPORT BY THE SECRETARIAT

19. The Secretariat shall prepare a periodic report on the status of work, which shall include - to the extent possible - the following information: (i) the draft HS2012 files that will be prepared by the Members themselves, (ii) the draft HS2012 files that remain to be prepared by the Secretariat, (iii) the draft HS2012 files that have been completed by the Secretariat and the date when they were sent to Members, (iv) the draft HS2012 files released for multilateral review, including a mention of any relevant headnote, (v) the progress made on each draft HS2012 file, including Members raising reservations, the tariff lines subject to reservation, a summary of the reason for the reservation; (vi) the draft HS2012 files that have been approved in the multilateral review and the date of their circulation in paper format for the purpose of certification; (vii) the approved HS2012 changes that have been certified.

ANNEX 1

Draft HS2012 file

1. The draft HS2012 file shall cover all tariff lines under headings with changes introduced by the HS nomenclature, as well as the corresponding concordance tables with the concessions and commitments in the HS2007 nomenclature. The Secretariat and Members that undertake to prepare their own transposition are expected to provide - as a separate file which will not be subject to multilateral review - a complete draft CTS file in the HS2012 nomenclature. This additional file will facilitate the preparation of an updated version of the CTS database once the transposition procedures are finalized and certified.
2. The draft HS2012 file shall contain for each bound tariff line, *inter alia*, the following data elements:
 - Tariff line code in HS2012 nomenclature (including suffix or ex)
 - Product description
 - Base duty (if year of implementation is later than 2012)
 - Final bound duty
 - Other duties and charges
 - Special safeguard
 - Legal instrument (present and earlier)
 - INR (present and earlier if available in the CTS)
 - Implementation period (if year of implementation is later than 2012)
 - Certification indicator
3. Additional tables containing other relevant concessions and commitments (e.g. tariff quotas and agricultural export subsidies; ITA and Pharma special sections; etc.) shall also be included.
4. Members who undertake to prepare their own transposition shall submit all the above mentioned information in electronic format and follow the layout that will be circulated by the Secretariat in accordance with Paragraph 1 of this Decision.

ANNEX 2

Technical note on transposition procedure

1. The following note describes the relevant technical procedures, which shall be applied in the preparation of the draft HS2012 files.

Concession elements

2. The CTS database contains not only tariff concessions, but also a number of other commitments. Although several of these are expressed at the tariff-line level in the different Parts and Sections of the schedules, there are some which are not. As a result, not all elements currently included in the CTS are required for the HS2012 transposition. It is therefore suggested to retain in the draft HS2012 file only those elements which are required for this purpose (see Annex 1).

Procedural Issues

3. All affected tariff lines shall be converted into the HS2012 nomenclature and shall be clearly flagged. Detailed tariff line codes and descriptions may have to be adjusted in certain instances (e.g. example 1, table 3b and example 2, table 8) in order to generate a meaningful and intelligible schedule. The transposition of any tariff line requiring manual modifications shall also be clearly flagged for verification and approval by Members.

Methodological issues

4. Each new HS2012 subheading/tariff line will be derived from one or more HS2007 tariff lines or part of these lines. If a HS2012 subheading/tariff line matches with two or more HS2007 tariff lines and if these lines have the same levels or contents of concessions (e.g. same bound duties, INRs, etc.), the original concession elements can be merged into one new concession at the level of the new HS2012 subheading/tariff line. If the concessions of the original HS2007 tariff lines are different, the concession elements of the new HS2012 subheading/tariff line should reflect this. In this case, the HS2012 subheading/tariff line should normally be broken down to a more detailed level so that the draft HS2012 file reflects fully the same level of concessions as the CTS in HS2007.

5. In case where it is unavoidable to combine tariff lines or parts of tariff lines with different concessions, there are four possible methodologies that could be used to arrive at the new rate in accordance to the 1983 procedures on a method to introduce the Harmonized System (HS) into schedules of concessions.⁴ These are: 1) applying the lowest rate of any previous tariff line to the whole of the new tariff line, 2) applying the rate previously applied to the tariff line with the majority of trade, 3) applying the trade weighted average rate of duty for the new line, or 4) applying the arithmetic average of the previous rates of duty where no basis exists for establishing reasonably accurate trade allocations. If any of the above methodologies is used, the selected option shall be specified at the tariff line level. The choice of methodology shall also be explained, except for those situations in which the first option is selected (i.e. selecting the lowest duty). If options 2) or 3) are selected, the Member concerned shall also supply the necessary import data (last three years available). The implication of a combination of tariff lines on other elements of the concessions, such as INRs, ODCs and SSGs, shall also be taken into account by Members to assess whether the value of the concession has been impaired and GATT Article XXVIII negotiations need to be followed (See paragraph 15 above).

⁴ Decision of 12 July 1983, BISD 30S/17.

6. Examples 2 show that the "collapsing" of tariff lines to HS 6-digit subheadings significantly simplifies the tariff structure and the workload involved. It requires less manual intervention and is, thus, less likely to be controversial. Having a maximum number of concessions defined at the level of HS 6-digit subheadings would also make it easier to transpose the new schedule into any new national applied schedule based on HS2012 nomenclature.⁵

Reference Documents

7. The transposition shall be based on the information provided by the World Customs Organization, which is included in the WTO documents G/MA/W/100 and G/MA/W/105. A detailed concordance table between the HS2007 and the HS2012 nomenclatures shall be prepared by the Secretariat using these documents as the basis.

Example 1: Split

8. HS2007 subheading 071490 becomes four new HS2012 subheadings due to amendments adopted as a result of the FAO proposal to enhance the monitoring of the global food security:

| Table 1a HS2007 | | Table 1b HS2012 | |
|-----------------|--|-----------------|--|
| HS Code | Product description | HS Code | Product description |
| 0714 | Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith. | 0714 | Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith. |
| 071410 | - Manioc (cassava) | 071410 | - Manioc (cassava) |
| 071420 | - Sweet potatoes | 071420 | - Sweet potatoes |
| 071490 | - Other | 071430 | - Yams (Dioscorea spp.) |
| | | 071440 | - Taro (Colocasia spp.) |
| | | 071450 | - Yautia (Xanthosoma spp.) |
| | | 071490 | - Other |

9. In the CTS database, a Member has five national tariff lines under HS2007 subheading 071490:

| TL code | Product description | Duty Rate |
|----------|--|-----------|
| 0714 | Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith. | |
| 071490 | - Other | |
| 07149010 | -- Water chestnut | 30 |
| 07149020 | -- Yams (Dioscorea spp.) | 10 |
| 07149030 | -- Taro (Colocasia spp.) | 20 |
| 07149040 | -- Yautia (Xanthosoma spp.) and Arrowroot | 30 |
| 07149090 | -- Other | 30 |

⁵ This would not preclude that concessions defined only at the level of subheadings could be broken down again into tariff line detail by the Members concerned.

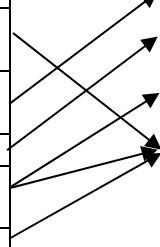
10. In theory, the five national tariff lines could go under each of the four new HS2012 subheadings. If the conversion is done by computer program, it would generate 20 possible HS2012 tariff lines. However, not all of the 20 new national tariff lines are appropriate when the product descriptions are considered. For instance, the HS2007 national tariff line "07149030 -- Taro (Colocasia spp.)" cannot not be kept under the HS2012 subheading "071450 -Yautia (Xanthosoma spp.)", and it should stay under "07144000 -Taro (Colocasia spp.)". Similarly, the HS2007 national tariff line "07149020 -- Yams (Dioscorea spp.)" can only stay under HS2012 subheading "07143000 - Yams (Dioscorea spp.)". Therefore, each tariff line generated by computer program shall be reviewed manually to determine whether it shall stay under the corresponding new HS2012 subheading. In this example, Table 3 shows the tariff lines which are retained under each HS2012 subheadings and their corresponding tariff lines in HS2007.

Table 3a CTS in HS2007

| TL code | Product description | Bound duty |
|-----------------|--|------------|
| 0714 | Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith. | |
| 071490 | - Other | |
| 07141000 | - Manioc (cassava) | 20 |
| 07142000 | - Sweet potatoes | 20 |
| 07149010 | -- Water chestnut | 30 |
| 07149020 | --Yams (Dioscorea spp.) | 10 |
| 07149030 | --Taro (Colocasia spp.) | 20 |
| 07149040 | --Yautia (Xanthosoma spp.) and Arrowroot | 30 |
| 07149090 | -- Other | 30 |

Table 3b CTS in HS2012

| TL code | Product description | Bound duty |
|-----------------|--|------------|
| 0714 | Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith. | |
| 07141000 | - Manioc (cassava) | 20 |
| 07142000 | - Sweet potatoes | 20 |
| 07143000 | - Yams (Dioscorea spp.) | 10 |
| 07144000 | - Taro (Colocasia spp.) | 20 |
| 07145000 | - Yautia (Xanthosoma spp.) | 30 |
| 07149000 | - Other | 30 |



11. A concordance table between the HS2007 and HS2012 nomenclature at the tariff line level would be constructed as follows:

Table 4a Correlating HS2007 to HS2012

Table 4b Correlating HS2012 to HS2007

| HS2007 | e x | Bound Rate in HS07 | HS2012 | e x | Bound Rate in HS12 | HS2012 | e x | Bound Rate in HS12 | HS2007 | e x | Bound Rate in HS07 |
|----------|--------|--------------------|----------|--------|--------------------|----------|--------|--------------------|----------|--------|--------------------|
| 07149010 | | 30 | 07149000 | | 30 | 07143000 | | 10 | 07149020 | | 10 |
| 07149020 | | 10 | 07143000 | | 10 | 07144000 | | 20 | 07149030 | | 20 |
| 07149030 | | 20 | 07144000 | | 20 | 07145000 | | 30 | 07149040 | x | 30 |
| 07149040 | x | 30 | 07145000 | | 30 | 07149000 | | 30 | 07149010 | | 30 |
| 07149040 | x | 30 | 07149000 | | 30 | 07149000 | | 30 | 07149040 | x | 30 |
| 07149090 | | 30 | 07149000 | | 30 | 07149000 | | 30 | 07149090 | | 30 |

Example 2: Merger

12. Four HS2007 subheadings merge to one new HS2012 subheading:

| Table 5a HS2007 | | Table 5b HS2012 | |
|-----------------|---|-----------------|---|
| HS Code | Product Description | HS Code | Product Description |
| 9008 | Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers. | 9008 | Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers. |
| 900810 | - Slide projectors | 900850 | - Projectors, enlargers and reducers |
| 900820 | - Microfilm, microfiche or other microform readers, whether or not capable of producing copies | 900890 | - Parts and accessories |
| 900830 | - Other image projectors | | |
| 900840 | - Photographic (other than cinematographic) enlargers and reducers | | |
| 900890 | - Parts and accessories | | |

13. In the CTS database, a Member has five tariff lines related to the four subheadings:

Table 6 CTS in HS2007

| TL code | Product description | Bound duty |
|-----------------|---|------------|
| 9008 | Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers: | |
| 90081000 | -Slide projectors | 10 |
| 90082000 | -Microfilm, microfiche or other microform readers, whether or not capable of producing copies | 10 |
| 90083 | -Other image projectors: | |
| 90083010 | ---Orthographic projectors | 10 |
| 90083090 | ---Other | 10 |
| 90084000 | -Photographic (other than cinematographic) enlargers and reducers | 10 |
| 90089 | -Parts and accessories: | |
| 90089010 | ---Of microfilm, microfiche or other microform readers | 30 |
| 90089020 | ---Of photographic enlargers and reducers | 30 |
| 90089090 | ---Other | 30 |

14. If the first six digits of the HS2007 tariff lines are substituted by the codes of new HS2012 subheadings:

| Table 7a HS2007 | | Table 7b HS2012 | |
|-----------------|---|-----------------|---|
| TL code | | TL code | Product description |
| 90081000 | Substitute first 6 digits with 900850 → | 90085000 | -Slide projectors |
| 90082000 | | 90085000 | -Microfilm, microfiche or other microform readers, whether or not capable of producing copies |
| 90083010 | | 90085000 | ----Other image projectors: Orthographic projectors |

| |
|----------|
| 90083090 |
| 90084000 |

| | |
|----------|---|
| 90085000 | ---Other image projectors: Other |
| 90085000 | -Photographic (other than cinematographic) enlargers and reducers |

15. The new HS2012 codes do not conform to the HS coding rules, since “00” exists five times. These lines should reflect the nomenclature used in the national applied tariff when available and possible. If the national applied tariff of the Member is not available, then suffixes could be used to reflect the different tariff lines under the HS2012 subheading. These lines shall be corrected by assigning suffixes for each tariff line under HS code 90085000 as follows:

Table 8 HS2012

| TL code | TLS | Product description |
|----------|-----|--|
| 90085000 | 01 | --Slide projectors |
| 90085000 | 02 | --Microfilm, microfiche or other microform readers, whether or not capable of producing copies |
| 90085000 | 03 | ---Other image projectors: Orthographic projectors |
| 90085000 | 04 | ---Other image projectors: Other |
| 90085000 | 05 | --Photographic (other than cinematographic) enlargers and reducers |

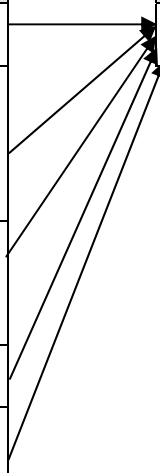
16. If all national tariff lines under a HS 6-digit subheading have the same duties (and other concession elements), these lines could be collapsed to the HS 6-digit subheading level and the transposition exercise will be significantly simplified as shown below. According to Table 6, all HS2007 tariff lines have a duty of 10%. Therefore, the new HS2012 tariff lines 0 could be collapsed to one tariff line 90085000 with bound duty 10%.

Table 9a HS2012 before collapsing

| TL code | Product description | Bound duty |
|----------|---|------------|
| 90081000 | -Slide projectors | 10 |
| 90082000 | -Microfilm, microfiche or other microform readers, whether or not capable of producing copies | 10 |
| 90083010 | --Other image projectors: Orthographic projectors | 10 |
| 90083090 | --Other image projectors: Other | 10 |
| 90084000 | -Photographic (other than cinematographic) enlargers and reducers | 10 |

Table 9b HS2012 after collapsing

| TL code | Product description | Bound duty |
|----------|--------------------------------------|------------|
| 90085000 | - Projectors, enlargers and reducers | 10 |



17. A concordance table between the HS2007 and HS2012 nomenclature at the tariff line level shall be constructed as follows:

Table 10a Correlating HS2007 to HS2012

| HS2007 | e x | Bound Rate in HS07 | HS2012 | e x | Bound Rate in HS12 |
|----------|--------|--------------------------|----------|--------|--------------------------|
| 90081000 | | 10 | 90085000 | x | 10 |
| 90082000 | | 10 | 90085000 | x | 10 |
| 90083010 | | 10 | 90085000 | x | 10 |
| 90083090 | | 10 | 90085000 | x | 10 |
| 90084000 | | 10 | 90085000 | x | 10 |

Table 10b Correlating HS2012 to HS2007

| HS2012 | e x | Bound Rate in HS12 | HS2007 | e x | Bound Rate in HS07 |
|----------|--------|--------------------------|----------|--------|--------------------------|
| 90085000 | x | 10 | 90081000 | | 10 |
| 90085000 | x | 10 | 90082000 | | 10 |
| 90085000 | x | 10 | 90083010 | | 10 |
| 90085000 | x | 10 | 90083090 | | 10 |
| 90085000 | x | 10 | 90084000 | | 10 |
