



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

-  
24<sup>th</sup> Session  
-

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(+Annex)

O. Eng.

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REPORT ON THE MEETINGS OF THE POLICY COMMISSION (45<sup>th</sup> SESSION)  
AND COUNCIL (97<sup>th</sup> AND 98<sup>th</sup> SESSIONS)

(Item II.1 on Agenda)

Reference documents :

NC0340E2 (HSC/26 - Report)  
NC0430E2 (HSC/27 - Report)  
SP0065E1 (PC/45)  
SP0066E1 (PC/45)

SP0075E2 (PC/45 - Report)  
SC0025E1 (Minutes of the 97<sup>th</sup>/98<sup>th</sup> Sessions of the  
Council)

I. REPORT OF THE POLICY COMMISSION

1. At its 45<sup>th</sup> Session, held in Brussels from 25 to 27 June 2001, the Policy Commission examined two issues relating to the Harmonized System. The conclusions of the Policy Commission on these issues are summarised in the following paragraphs.

**Secretary General's Report**

2. The Secretary General reported on the developments since the Council's last sessions on the work relating to updating, promoting and uniformly applying the Harmonized System.
3. In his oral report, the Secretary General drew the attention of the Policy Commission to the fact that, with the accession of Mauritania and the forthcoming accession of the Philippines, the number of Contracting Parties to the HS Convention would grow to 104.

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4. Reminding the Policy Commission of the fact that at the Council's 95<sup>th</sup>/96<sup>th</sup> Sessions, it had been agreed in principle to approve the use of Russian and Spanish as working languages for HS matters without entailing any cost on the WCO, he highlighted the introduction of these two new languages in the work of the HS. The Secretary General reported that in April 2001 he had signed an agreement with the Russian Administration, providing for the Russian translation of HS publications, interpretation into Russian at all HS meetings, secondment of a Russian co-ordinator to the Secretariat, etc. He stated that the HSC's November 2001 Session would be the first session with working documents in Russian and with Russian interpretation.
5. As for Spanish, he informed the Policy Commission that the work on the introduction of Spanish was proceeding more deliberately. He stated that following the acceptance of the Spanish version of the HS Nomenclature in May 2001, Spanish versions of the Explanatory Notes and Classification Opinions would be submitted to the HS Committee for acceptance in 2002 and two Spanish-speaking attachés would be seconded to the Secretariat in 2003.
6. The Policy Commission took note of the Secretary General's Report.

**WCO Strategic Plan for the Years 2001/2002 to 2003/2004**

7. The Policy Commission examined the revised WCO Strategic Plan as set out in the Annex to Doc. SP0070E1 for the forthcoming three years and agreed to present it to the Council for adoption. Among the five functions of the WCO as set out in the draft Strategic Plan, the activity entitled "Update, promote and uniformly apply the Harmonized System" was presented as Focus Area B under Function 1. In this area, there have been no changes to the basic structure of the Plan apart from its normal updating and streamlining.
8. In addition to the above, the following specific Harmonized System issues were discussed by the Policy Commission.
  - (1) **Possible establishment of a WCO documentation database which would be accessible to the public**
9. The Policy Commission examined Doc. SP0065E1 which explained the rationale behind the Secretariat's proposal to establish a WCO documentation database that would be accessible to the public, and suggested which kinds of documents could be made available and under what conditions.
10. The Policy Commission strongly supported in principle the Secretariat's proposal, which was considered to be a significant step towards improving transparency, consistency and partnership with the private sector, as well as the uniform application of the Harmonized System.
11. The majority of delegates also found the criteria and procedures proposed by the Secretariat for making WCO documents accessible to the public to be reasonable and acceptable, particularly with regard to the non-publication of business confidential information, although it was pointed out that further elaboration of the criteria and procedures would be necessary.

12. On the issue of whether the documents should be made available to the public via the WCO Web site free of charge, most delegates preferred this option in the interests of promoting WCO objectives, and given that no significant cost would be involved. On the other hand, a few delegates suggested a cost recovery policy. In this connection, there was support for the idea of asking the Finance Committee to examine the issue with a view to advising the Policy Commission and the Council on the matter.
13. In summary, the Policy Commission agreed to recommend to the Council :
- (i) to approve the principle of making WCO documents (as defined and limited in paragraphs 5 and 6 of Doc. SP0065E1) available to the public via the WCO Web site;
  - (ii) to agree in principle with the criteria and procedures for doing this, as proposed in paragraphs 11 to 13 of Doc. SP0065E1;
  - (iii) to instruct the Secretariat to consult the Technical Committee on Customs Valuation, the Technical Committee on Rules of Origin and the Permanent Technical Committee on the question of making their historical documents and reports available to the public; and
  - (iv) to request the Finance Committee to examine the question of whether to charge a nominal fee to the public for this service on a cost recovery basis, taking into account the interest of transparency and the fact that there would be no significant cost involved in making the WCO Members' documentation database partially available to the public.
14. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0075E2, paragraphs 43 to 50 (PC/45 – Report).

## **(2) Frequency of amendments to the Harmonized System**

15. The Policy Commission examined Doc. SP0066E1 which explored the difficult question of whether the HS review cycle could be shortened in order to help the Harmonized System keep pace with changes in technology and international trading patterns.
16. A number of delegates were convinced by the arguments in favour of the status quo put forward by the Secretariat and supported by the Harmonized System Committee, which were considered to be well balanced and based on sound reasons. It was stated that the five-year period for the current review cycle was a reasonable one, and that trying to shorten the review cycles would create problems of implementation and inconsistency in trade statistics. An additional argument was made that shortening the review cycle by only a few months, which might perhaps be feasible, would not bring significant benefits, but might compromise the quality of the review. It was also suggested that more frequent amendments to the Explanatory Notes, to take account of technology developments, could help to compensate for the length of the legal review process.
17. In summary, the Policy Commission took note of the content of Doc. SP0066E1 and agreed with the Harmonized System Committee that :
- (i) the length of the current HS review cycle should not be changed;

- (ii) the length of future review cycles should be determined flexibly before each review cycle began, based on an assessment of the scope of the review; and
  - (iii) there was no need to amend the HS Convention in order to shorten the Contracting Parties' implementation period.
18. The Policy Commission also agreed that the Secretariat should take every opportunity to explain to the trade the complexities of the HS review process, and endorsed the proposal that the Secretariat present its document on the frequency of the HS review cycles at the next WCO Open Day for Trade.
19. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0075E2, paragraphs 51 to 55 (PC/45 – Report).

## II. DECISIONS TAKEN BY THE COUNCIL

20. The 97<sup>th</sup> and 98<sup>th</sup> Sessions of the Council were held in Brussels from 28 to 30 June 2001. As an experiment, the Council examined nomenclature and classification questions as well as other technical matters first at preparatory sessions, which were held at the same time as the main Council sessions on topical questions. The results of the preparatory discussions were then presented to the plenary session for the formal adoption by the Council.

### Reports of the Harmonized System Committee

21. The Chairman of the Harmonized System Committee presented the Reports of the 26<sup>th</sup> and 27<sup>th</sup> Sessions of the Committee (Docs. NC0340E2 and NC0430E2).
22. On the basis of these Reports, the Council (in plenary session) :
- (1) adopted the proposed corrigendum amendments to the Article 16 Recommendation of 25 June 1999 as set out at Annexes O/1 and O/2 to Doc. NC0340B2.
  - (2) adopted the proposed Recommendation on the application of HSC decisions as set out at Annex N/1 to Doc. NC0430B2.
  - (3) revoked the existing Recommendation on standard units of quantity and adopted the proposed replacement Recommendation on units of quantity as set out at Annex N/2 to Doc. NC0430B2.
  - (4) revoked the present Recommendation on narcotic drugs and psychotropic substances.
  - (5) at the request of the US Delegation, referred back to the HS Committee for re-examination the decision on the classification of certain repeaters used in LAN systems (Doc. NC0340E2/G/13), taken by the Committee at its 26<sup>th</sup> Session in respect of which a reservation had been entered under Article 8.2 of the HS Convention by the US Administration.

23. The Council took note that :
- (1) at its 26<sup>th</sup> Session, the HS Committee had taken 20 classification decisions, adopted eight sets of amendments to the Explanatory Notes and approved 10 Classification Opinions. These classification decisions, amendments to the Explanatory Notes and Classification Opinions had been deemed approved by the Council at the end of January 2001 under Article 8.2 of the HS Convention;
  - (2) at its 27<sup>th</sup> Session, the HS Committee had taken 76 classification decisions (including 69 decisions relating to pharmaceutical products) and approved 18 Classification Opinions. These actions were subject to the deemed approval procedure by the Council until the end of July 2001 under Article 8.2 of the HS Convention;
  - (3) at its 27<sup>th</sup> session, the HS Committee had provisionally adopted three sets of amendments to the Explanatory Notes, which would be formally adopted at the Committee's 28<sup>th</sup> Session, so that they could be published in early January 2002 as part of the 1<sup>st</sup> Amending Supplement to the HS 2002 Explanatory Notes;
  - (4) with regard to questions referred back to the HS Committee by the Council at its 95<sup>th</sup>/96<sup>th</sup> Sessions, the Committee, at its 26<sup>th</sup> Session, had reconfirmed three of its earlier decisions, and, at its 27<sup>th</sup> Session, had reconfirmed its previous decision on the classification of the "Media Composer 1000" and had agreed not to pursue the classification of bakers' wares (waffles);
  - (5) the HS Committee, at its 26<sup>th</sup> Session, had also reconfirmed three of its previous decisions in respect of which reservations had been entered under the new fast-track procedure.
24. The Council further took note of various other developments mentioned in the HS Committee Chairman's written and oral reports, including the standard Russian and Spanish working language versions of the HS 2002 Nomenclature, the adoption of the Correlation Tables between HS 1996 and HS 2002, the adoption of the amendments to the Explanatory Notes and the Compendium of Classification Opinions arising from the HS 2002 amendments, the initiation of the Third HS Review Cycle and the general review of the Explanatory Notes, the sale of audio-visual training materials on the Harmonized System, the new information provided on the WCO Web site, the activities of the Scientific Sub-Committee, and the election of officers.
25. One Director General expanded his comment made earlier after the Secretary General's report on the need for a fundamental review of the Harmonized System. He explained that, since the HS had been designed many years ago and given the extent to which it had been changed and expanded, it might be time now for the Council to consider a revised and simplified classification system for the use of the WCO and other organizations. With regard to methodology, he suggested starting with a blank piece of paper and seeing what the outcome would be. He stressed that, although this exercise might take a number of years, the Council should begin considering it now.
26. Another Director General endorsed the proposal by suggesting that it could be a valuable option to be studied by the Policy Commission.

27. The Director, Tariff and Trade Affairs, felt that the proposal was intriguing. In respect of the suggested "blank paper" approach, he observed that, while the history of the Harmonized System went back almost a century and was based on precedent, the Secretariat was open to different options if Members so preferred. Here he indicated that the HS Committee might start to consider this issue at its next session, but stressed that the Secretariat needed input in this regard from both Customs administrations and the trade community as a whole.
28. The Secretary General, in agreeing with the Director, pointed out that the question was one of basic methodologies. He suggested that the expert opinions of the HS Committee as well as other parties including the private sector should be sought. He wondered whether brainstorming sessions could be held with the participation of the trade so that different options could be put forward to the Policy Commission and the Council for consideration, bearing in mind that the Harmonized System had remained the most successful technical instrument of the WCO despite its changes. Having defined the methods, the Council could then proceed to carry out analyses to be reported to its Members. In this regard, he indicated that there was a need to find interested parties from outside the WCO, whose views the WCO would be willing to hear. He stressed that such an undertaking would take a substantial amount of time.
29. An observer for a trade association expressed his support for a radical review of the Harmonized System with a view toward simplification, with the participation of trade. It was suggested that a brainstorming session could be held during the next WCO Open Day for Trade.
30. In conclusion, the Council took note of the views expressed by the two delegates, which would be further studied.
31. Finally, the Council approved the Reports of the 26<sup>th</sup> and 27<sup>th</sup> Sessions of the Harmonized System Committee.

### **Report of the Policy Commission**

#### **(1) Possible establishment of a WCO documentation database which would be accessible to the public**

32. The Council approved the recommendation of the Policy Commission regarding the establishment of a WCO documentation database which would be accessible to the public, set out in paragraph 50 of Doc. SP0075E2 (PC/45 - Report, see also paragraph 8 above).

#### **(2) Frequency of amendments to the Harmonized System**

33. The Director General mentioned in paragraph 25 above further expanded the point made in the same paragraph and suggested that the Secretariat should look at the possibility of amending the Harmonized System more fundamentally in terms of how the various purposes of the HS could be better served and questioned whether it was already too complex.
34. The Director, Tariff and Trade Affairs, remarked that he saw no reason why a radical review with emphasis on simplification could not be considered under the existing procedures regarding the review of the Harmonized System, since each HS review cycle was completely open in terms of its scope. He pointed out that the current review cycle, which

was concentrating on the modernization of the HS, was fairly extensive and ambitious. He also pointed out that most users of the Harmonized System were happy about the ways it had developed and noted that the HS had remained the most successful technical instrument of the WCO and had been used for a wide range of trade monitoring purposes, in addition to its primary statistical and tariff applications.

35. Agreeing with the Director, the Secretary General suggested that since the Secretariat was going to present its document on the frequency of amendments to the HS at the next WCO Open Day for Trade, the Council could come back to the issue, taking account of the reaction of the trade on this issue at the Open Day.
36. The Council endorsed the conclusions of the Policy Commission set out in paragraph 54 of Doc. SP0075E2 (PC/45 – Report, see also paragraph 11 above), taking into account the comments made.

### **(3) Strategic Plan**

37. The Council adopted the Strategic Plan for the years 2001/2002 to 2003/2004, as proposed by the Policy Commission, which includes “Update, promote and uniformly apply the Harmonized System” as Focus Area B under Function 1 (see the Annex to this document).

### **III. CONCLUSION**

38. The Review Sub-Committee and the Harmonized System Committee are invited to take note of the above developments in the Policy Commission (45<sup>th</sup> Session) and the Council (97<sup>th</sup> and 98<sup>th</sup> Sessions), and to express their views on the issue of the need for a fundamental review of the Harmonized System, referred to in paragraphs 25 to 30 and 33 to 36 of this document.

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## **Focus Area : B**

### **Update, promote and uniformly apply the Harmonized System**

#### **Context**

Customs administrations contribute to the efficient flow of trade by applying international instruments. The uniform, predictable and transparent application of these instruments facilitates international trade while at the same time ensuring compliance with national laws and regulations.

The Harmonized System (HS) is an essential tool for the collection of Customs revenue and compilation of trade statistics. It is also used for many other purposes in the course of international trade such as rules of origin, freight tariffs, the negotiation and administration of trade policies and the monitoring of controlled goods.

As a universal language and code for transportable goods, the HS is a vital element of Customs controls and procedures, including risk assessment, information technology and compliance.

Application of the HS must be accurate and uniform to secure certainty and predictability in the classification of goods in international trade. This requires an efficient mechanism for resolving classification questions and disputes at the global level, as well as a good working infrastructure and classification expertise within Customs at the national level. It also requires the education of the trade community for better self-compliance.

As the key international goods classification system, the HS must be updated at regular intervals to reflect changes in technology and trade patterns as well as the other needs of its users.

#### **Goals**

1. To secure uniform interpretation and application of the HS.
2. To update and improve the HS, reflecting changes in technology and trade patterns.
3. To promote the use of the HS by Customs administrations and other government agencies, international organizations and the private sector.



**GOAL 1 - To secure uniform interpretation and application of the HS**

<b>Tasks</b>	<b>Responsible Party</b>	<b>Due Date</b>
Resolve classification questions from Members, and where necessary refer to the HSC for resolution.	Secretariat, HSC	Ongoing
Settle classification disputes between Members.	HS Contracting Parties (CPs), Secretariat, HSC	Ongoing
Publish HSC decisions on the WCO Web site in a timely manner.	Secretariat	Two calendar months after each HSC session
Issue amending supplements to the HS Explanatory Notes and Compendium of Classification Opinions arising from decisions of the HSC.	Secretariat	Twice a year
Revise the HS Commodity Data Base and develop the 3 <sup>rd</sup> edition CD ROM.	Secretariat	2001
Promote HS-related Council recommendations.	Secretariat	Ongoing
Provide technical assistance to developing countries to improve their classification infrastructure.	Secretariat	Ongoing
Publish on the WCO Web site, classification advice by the Secretariat to Member administrations	Secretariat	Ongoing
Facilitate and monitor discussion forums on the WCO Web site	Secretariat and HS CPs	Ongoing
Prepare and adopt amendments to the Alphabetical Index and Laboratory Guide based on the HS 2002 amendments.	Secretariat	2001
Update the "Harmonizer" to reflect the HS 2002 amendments.	Secretariat, Swedish Administration	2001

**GOAL 2 - To update and improve the HS, reflecting changes in technology and trade patterns**

<b>Tasks</b>	<b>Responsible Party</b>	<b>Due Date</b>
Introduce legislative and administrative arrangements for implementation of the HS 2002 amendments.	HS CPs	2001/2002
Conduct WTO negotiations and revise WTO schedules of tariff concessions to reflect the HS 2002 amendments.	HS CPs	2001/2002
Conduct the Third Review Cycle for updating and simplifying the HS.	HS CPs, Secretariat, RSC, HSC	Ongoing to 2004
Update and improve the HS Explanatory Notes to reflect changes in technology and trade patterns.	HS CPs, Secretariat, HSC	Ongoing to 2006

Provide technical assistance to developing countries for implementation of the HS 2002 amendments.	Secretariat	2001/2002
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**GOAL 3 - To promote the use of the HS by Customs administrations and other government agencies, international organizations and the private sector**

<b>Tasks</b>	<b>Responsible Party</b>	<b>Due Date</b>
Co-operate with Members, international organizations and the private sector to enhance the usefulness of the HS for tariff and non-tariff applications.	Secretariat	Ongoing
Provide technical assistance to non-Contracting Party WCO Members to help them accede to the HS Convention, and to WCO Members who are not yet applying the HS..	Secretariat	Ongoing
Assist the UN and the WTO with the adaptation of their instruments to the HS 2002.	Secretariat	2001/2002

**Performance indicators :**

- (a) Timely response to classification enquiries.
- (b) Timely resolution of classification questions and disputes.
- (c) Timely publication of HSC decisions.
- (d) Timely revision and publication of HS publications and CD-ROMS.
- (e) Implementation of HS amendments.

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