



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0209E1

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25<sup>th</sup> Session  
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O. Eng.

Brussels, 31 January 2002.

REPORT ON THE MEETING OF THE POLICY COMMISSION (46<sup>TH</sup> SESSION)

(Item II.2 on Agenda)

Reference documents :

NC0510E2 (HSC/28 - Report)  
SP0088E1 (PC/46)

SP0084E1 (PC/46)  
SP0090E1 (PC/46 – Report)

I. REPORT OF THE POLICY COMMISSION

1. At its 46<sup>th</sup> Session, held in Brussels from 10 to 12 December 2001, the Policy Commission examined a document submitted by the Australian Administration entitled "Innovative Approach to the Harmonized System". The Policy Commission also examined the Report and recommendations of the Ad Hoc Group on Committee Structures and Working Methods. The conclusions of the Policy Commission on these two issues relating to the Harmonized System are summarised in the following paragraphs. The Report of the Policy Commission is set out in Doc. SP0090E1.

**Innovative Approach to the Harmonized System**

2. Under Agenda Item XII (c) the Policy Commission examined an Australian paper entitled "Innovative Approach to the Harmonized System".
3. A representative of the Australian Administration was invited to present the paper (circulated as Doc. SP0088E1) proposing a fundamental review of the Harmonized System, which Australia had called for at the June 2001 Council Sessions.

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

File No. 2030

4. The Observer for Australia stated that although the Harmonized System was an outstanding achievement of the WCO, having served its purpose for 13 years, a number of factors had emerged which suggested that it was no longer providing the optimum as a means to facilitate trade. These factors included :
  - the changing nature of traded goods, particularly in the technology Chapters, which tested the current structure of the Harmonized System;
  - the complex nature of the Section Notes, Explanatory Notes, legal texts, etc., which regularly led to disputes over the correct classification of goods;
  - the International Information and Technology Agreement of 1998, which provided for duty-free trade in information technology goods – a development which the HS structure did not always facilitate;
  - the need for a better system for resolving classification disputes, given that the current decision-making process was too slow;
  - other issues, including various problems with the textiles Chapters, and the relationship of the Harmonized System to, and interaction with, non-preferential Rules of Origin.
5. Australia believed that a fundamental review of the Harmonized System, separate from the five-year review cycle, should ensure that the HS would be able to facilitate trade well into the future. Using the “blank page” approach, fresh views could be solicited from people independent of the current cyclical review process. The fundamental review of the Harmonized System should fit into the priorities of the WCO. The issues raised by this proposal could be examined by a variety of means, i.e. :
  - outsourcing to a consultancy;
  - using the current Committee structure;
  - establishing an “ad hoc” Committee;
  - inviting each WCO region to prepare a paper on the subject for submission to the Secretariat, which would co-ordinate the responses and make recommendations to the next Policy Commission session;
  - other, including any combination of the above.
6. The Policy Commission appreciated the importance and timeliness of the Australian proposal, and there was agreement in principle on the need for a forward-looking approach regarding the Harmonized System in changing times.
7. One delegate agreed that a “blank page” review of the Harmonized System was needed, arguing that the HS was based on previous systems going back 70 years.
8. However, most of the delegates who took the floor expressed concerns about a fundamental review of the Harmonized System. It was suggested that great care should be taken, and that it would first be necessary to look more closely at the impact of this proposal. In particular, it should be considered against the existing advantages of the Harmonized

System, which had been a pillar of the WCO. While the current HS review cycle was rather long, most classification difficulties could be resolved and the need for stability and certainty should be recognized. Furthermore, a fundamental review of the Harmonized System itself would take a long time, and it might not be possible to keep pace with the change in products and trade patterns during the process.

9. At the same time, it was pointed out that improvements were needed in terms of the effectiveness of the existing classification dispute settlement mechanism and the implementation of decisions taken by the Harmonized System Committee. It was also mentioned that the fast-track procedure for the re-examination of contested decisions should be used as far as possible, and that extensive use of the right to enter reservations was undesirable.
10. It was suggested that the first step should be to decide whether issues of process or questions relating to the structure of the Harmonized System were in fact under discussion. The cost of change, both to governments and to business, also had to be considered. Moreover, fundamental changes in the Harmonized System would have a massive impact, at national level, on WTO tariff negotiations, on harmonized non-preferential rules of origin, on anti-dumping and countervailing duties, and on the work of other government agencies using the Harmonized System.
11. Among the various options proposed for moving the issue forward, there was a clear preference for the proposal that papers be submitted to the Secretariat from the regions. It was suggested that views should also be sought from national administrations, as well as from the European Commission, the private sector and other Harmonized System stakeholders. The necessary contacts would be made through the Secretary General and the Vice-Chairmen.
12. The Secretary General observed that he understood Australia's proposal not as a negative vision involving the destruction of the Harmonized System, but rather as a means of ensuring that the Harmonized System would serve its purpose even more effectively. Referring to discussions regarding HS dispute settlement which had taken place a few weeks earlier at the Open Day for Trade, the Secretary General recalled that rather than criticizing the HS and the process for reviewing it, the Trade was calling for greater certainty and uniformity in the interpretation of the Harmonized System at international level. Indeed, the Trade wanted an international arbitration body to ensure the correct classification of goods in a legally binding manner. In this connection, the Secretary General observed that the WTO might begin to deal with classification issues as they were of great interest to the Trade, and this might pose a threat, in the long term, to classification work at the WCO.
13. The Chairman concluded that the Policy Commission had agreed as follows :
  - the Harmonized System had been serving as a pillar of the WCO, but a proactive approach was necessary to ensure that it would continue to serve its purpose well in the future;
  - the Secretary General and the Vice-Chairmen should invite papers on this subject from the WCO regions, from national administrations and from the private sector, to be analyzed by the Secretariat; and
  - on the basis of the contributions received, the Policy Commission would re-examine this issue at its next session.

**Report and recommendations of the Ad Hoc Group on Committee Structures and Working Methods**

14. Under Agenda Item X the Policy Commission examined the Report and recommendations of the Ad Hoc Group on Committee Structures and Working Methods.
15. The Policy Commission approved the recommendations of the Ad Hoc Group as set out in Doc. SP0084E1, including the recommendation that reports should only be read at the end of a meeting where there was a necessity to do so. The Policy Commission also requested the Secretariat to begin preparations for submitting the package of detailed proposals - recommendations and guidelines - to the Policy Commission and Council in June 2002. The Policy Commission further agreed that the criteria arising out of the recommendations would already be applied during the first six months of 2002.

II. CONCLUSION

16. The Review Sub-Committee and the Harmonized System Committee are invited to take note of the above developments in the Policy Commission (46<sup>th</sup> Session). It is to be noted that, as a result of the Policy Commission's approval of the recommendations of the Ad Hoc Group on Committee Structures and Working Methods, the new procedure for the approval of reports of the Review Sub-Committee, accepted by the HSC at its 28<sup>th</sup> Session, will take effect at the RSC's Spring 2002 Session (see Agenda Item II.1 of the 25<sup>th</sup> Session of the Review Sub-Committee).
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