



HARMONIZED SYSTEM
COMMITTEE

-
25th Session
-

NC0167E1

O. Eng.

Brussels, 7 March 2000.

REPORT ON THE MEETING OF THE POLICY COMMISSION (42nd SESSION)

(Item II.2 on Agenda)

Reference documents :

NC0160E2 (HSC/24 - Report)
SP0021E1 (PC/42)
SP0025E2 (PC/42 - Report)

I. REPORT OF THE POLICY COMMISSION

1. The Policy Commission held its 42nd Session in Brussels from 6 to 8 December 1999. Two issues relating to the Harmonized System were examined. Developments regarding those issues are summarized in the following paragraphs.

Secretary General's Report

Calendar for the amendment of the Harmonized System

2. In his oral presentation, the Secretary General pointed out that the amendments to the Harmonized System which the Council had adopted in June 1999 would enter into force in 2002. Preparations would soon begin for the next set of amendments, to enter into force in 2007, where the emphasis would be on simplifying the HS and updating the high-technology Chapters.

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3. In response to an enquiry as to whether this long lead-in time could be reduced in order to keep pace with the fast-changing environment, the Director of Tariff and Trade Affairs, explained that the HS Convention provided for a period of two and a half years between the adoption of amendments and their implementation. This allowed time for the Secretariat and the Harmonized System Review Sub-Committee to amend the HS Explanatory Notes and various other HS publications as well as providing technical assistance for the implementation of the new version. Meanwhile, Members would be translating the HS amendments into their national languages and dealing with the necessary legislative processes for their implementation.
4. The Director further explained that, even if it were possible to complete the complex amendment process more swiftly, experience suggested that a five-year review cycle was sufficiently frequent for administrations - some of which had not yet been able to introduce the 1996 amendments - and also for statistical and other agencies which used the HS as a basis for their work and desired a degree of stability in that respect.

Harmonized System Matters

Possibility of making HS Committee decisions binding

5. The Director, Tariff and Trade Affairs, presented Doc. SP0021E1 which set out the reports of the 24th Session of the Harmonized System Committee (HSC) and its Working Group with regard to this issue.
6. He explained that based on the responses to the Secretariat's questionnaire regarding the extent and scope of non-application of HSC classification decisions, the HS Committee would consider options for dealing with the problem, including possible measures to achieve greater transparency with regard to the application and non-application of HSC classification decisions. Further developments would be reported to the Policy Commission and the Council in July 2000. For the time being, he invited the Policy Commission to take note of the developments with regard to this issue.
7. Stressing the importance of harmonization in the area of tariff classification as one of the WCO's main contributions to international trade, one delegate stated that HSC classification decisions should be implemented by Contracting Parties as far as possible. While cognisant of the domestic judicial difficulties experienced by some Contracting Parties, he indicated that HSC decisions should first be made administratively binding in cases where no domestic legal difficulties arose. Where domestic legal difficulties did arise, the issues should be brought to the attention of the HSC for clarification during the next HS review cycle so as to avoid misinterpretation. Emphasizing the importance of predictability and transparency with regard to the implementation of HSC decisions by Contracting Parties to the HS Convention, he supported the survey by the Secretariat to improve uniform application of the HS.
8. Questions were raised regarding which HSC decisions should be made binding, on whom they should be made binding and for how long they should be made binding. One delegate pointed out that a protocol to be signed by two-thirds of HS Contracting Parties should be appropriate for giving binding status to HSC classification decisions, and that binding status should apply only to the specific article examined by the HSC and not to the same class or kind of articles. He also stated that binding classification decisions should be

approved by a two-thirds majority of the HSC and that it would be reasonable to provide a 6-month period for national implementation of those decisions.

9. In response, the Director observed that the points raised had been discussed by the HSC and would be discussed again at its next session. He pointed out that while the future outcome of the discussion could include making HSC classification decisions administratively binding and improving transparency to achieve greater predictability and uniformity, for the time being the need was to collect specific information on non-application of HSC decisions, and decide on that basis what action to take to respond to the problem.
10. The Chairman concluded that the Policy Commission took note of the information provided in Doc. SP0021E1, and that the Secretariat had taken note of the questions raised by delegates and would forward them to the HSC. The Policy Commission welcomed the HSC's decision to conduct a survey on non-application of HSC decisions by Contracting Parties, and looked forward to a report on this issue at its July 2000 session.
11. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0025E2, paragraphs 80 to 85 (PC/42 – Report).
12. The result of the survey on the non-application of HSC decisions is set out in Doc. NC0175E1 for discussion at the 25th Session of the HSC (Agenda Item III.1).

II. CONCLUSION

13. The Committee is invited to take note of the developments in the Policy Commission (42nd Session).
