



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0105E1

-
22nd Session
-

O. Eng.

Brussels, 24 July 2000.

REPORT ON THE MEETINGS
OF THE POLICY COMMISSION (43RD SESSION)
AND THE COUNCIL (95TH AND 96TH SESSIONS)

Reference documents :

NC0160E2 (HSC/24 – Report)
NC0250E2 (HSC/25 – Report)
SP0028E1 (PC/43)
SP0038E1 (PC/43)

SP0040E1 (PC/43)
SP0043E1 (PC/43)
SP0045E2 (PC/43 - Report)
SC0015 (Minutes of the 95th/96th Sessions of the Council)

I. REPORT OF THE POLICY COMMISSION

1. At its 43rd Session, held in Brussels from 3 to 5 July 2000, the Policy Commission examined several issues relating to the Harmonized System. The main points of discussion and conclusions of the Policy Commission on these issues and other issues relevant to the HS are summarized 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 forthcoming accession of Azerbaijan, Gabon and the Maldives at the Council Sessions, the number of Contracting Parties to the HS Convention would grow to 102. He outlined the time-frame for the preparation for implementation of the 2002 amendments to the HS, and that for the drafting, approval and preparation for implementation of the 2007 amendments to the HS. He highlighted two areas of work for the HS Committee, namely, achieving greater efficiency in the application of the HS and the revision of the Explanatory Notes to bring them up to date.
4. The Policy Commission took note of the Secretary General's Report.

File No. 2030

WCO Strategic Plan for the Years 2000/2001 to 2002/2003

5. The Policy Commission examined the revised WCO Strategic Plan as set out in the Annex to Doc. SP0035E1 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 Part B under Function 1.

6. Although no specific Harmonized System issue was discussed at the Policy Commission, the following policy issues which related to the HS were examined:

(1) Use of Spanish for Harmonized System matters

7. It was recalled that a proposal to introduce Spanish as a working language for HS matters had been discussed in detail by the Policy Commission and Council in June 1999. The Council had agreed in principle that Spanish should be introduced for HS matters only, but had recommended that the Finance Committee be instructed to study the cost of this initiative and how it could be financed.

8. The Finance Committee at its April 2000 meeting had discussed these matters at length on the basis of costings prepared by the Secretariat and had agreed that the Secretariat's cost estimate of about 40 million BF over the first four years of operation seemed reasonable.

9. The question of how to finance this expenditure had posed a very difficult problem for the Finance Committee. The Finance Committee concluded that, given the Council's overall policy stance on expenditure – zero real growth in operating expenditures, no increase in Members' total contributions, expenditure of an ongoing nature not to be financed from the reserves, the only way of financing the expenditure from the WCO's budget would be to reduce other expenditures. The Finance Committee saw no way of achieving this given the economies already being exercised and the high priority attached to all existing activities by the Members. Therefore, the Finance Committee could only suggest that it be asked to explore further, in April 2001, other options involving financing by those interested in the use of Spanish for HS matters, coupled with any sponsorship which might be available.

10. The Delegate of Spain, who had initiated this proposal on behalf of the Spanish-speaking Members, stressed that in June 1999 the Council had agreed in principle that Spanish should be introduced for HS matters. He argued strongly that the Council had clearly intended the Finance Committee to make proposals for financing the cost from the WCO's budget. He suggested that in proposing that the Spanish-speaking Members meet the costs themselves, the Finance Committee had not complied with the instructions received from the Council.

11. During a lengthy debate on this sensitive issue, a number of delegates pointed out that the Finance Committee had fulfilled its mandate but had been faced with an insoluble problem : how to secure long-term financing for this useful initiative, which the Council had indeed agreed upon in principle, while respecting the Organization's current budgetary principles.

12. After considering a number of possible options which were unlikely to prove productive, the Policy Commission sought a pragmatic solution which would prevent an already prolonged debate from continuing for another year. This had to do with the

commitment made earlier by Spanish-speaking Members to assist with the use of Spanish for HS matters by providing the Secretariat with two Technical Attachés, and it was suggested that this commitment could be honoured while the arrangements for implementing the Council's decision were still under discussion. This would enable preparatory work on official Spanish language versions of the WCO's HS material to begin promptly. No WCO funds would be committed pending possible further developments on budget issues.

13. The Policy Commission eventually reached consensus on a series of recommendations, namely :
- that the Council reaffirm its decision in principle to use Spanish as a working language for Harmonized System matters, and
 - that in the light of the Finance Committee's report the possibilities as regards application of this decision be explored on the basis of the following parameters :
 - (a) that the use of Spanish as a working language for Harmonized System matters be introduced progressively, and in compliance with the budgetary principles in force in the WCO;
 - (b) that following discussions between the Secretariat and the Spanish-speaking Members, a timetable for the gradual introduction of Spanish as a working language for HS matters would be presented to the Policy Commission in June 2001. The timetable would indicate clearly the point at which WCO funding would be required;
 - (c) that the Spanish-speaking Members would then be invited to second two Technical Attachés to the Secretariat to begin work on the project.
14. The relevant part of the Policy Commission' Report concerning the above can be found in Doc. SP0045E2, paragraphs 98-107 (PC/43-Report).

(2) Use of other languages, including Russian, for Harmonized System matters

15. The Delegate of the Russian Federation explained his administration's request that the possibility of using Russian for HS matters be examined by the Policy Commission and the Council. His administration recognized that the WCO had only two official languages – English and French – and considered that this should continue to be the case. All other languages should be regarded as being on an equal footing with each other. The Russian Federation wished to have the Russian language used as a working language for Harmonized System matters, along the same lines as had been proposed in the case of Spanish. The Government of the Russian Federation was prepared to meet all the costs involved.
16. While recognizing the generosity of the Russian Federation in this regard, some delegates questioned whether it would be appropriate for the Policy Commission to recommend the introduction of an additional language for the HS work solely on the grounds that a Member was willing to pay for it. Inevitably there would be many logistical and practical implications which could have an impact on the operations of the Organization as a whole.
17. With that in mind, it was suggested that the Policy Commission should attempt to draw up a series of criteria to help it decide, in this and possible future instances, whether it

would be reasonable to recommend the introduction of an additional language for which a Member was willing to pay. Such criteria might include, for example, the number of WCO Members using a particular language, its relevance to international trade, and the precedents set by other organizations.

18. In this connection, the Deputy Foreign Minister of the Russian Federation pointed out that following the dissolution of the Soviet Union, Russian had become a truly international language, used extensively by the business communities in a number of countries in Europe and Asia. Against this background it was extremely important to those countries, and others wishing to trade with them, that there should be a single, authoritative Russian version of the vital HS publications, administered by the WCO. The current situation, in which each Russian-speaking country had its own version of these publications, was a source of confusion and a hindrance to international trade.
19. In the light of those remarks, the Policy Commission eventually reached agreement on the following recommendations :
- (a) that the Council should reaffirm the principle that the WCO had just two official languages - English and French;
 - (b) that as Russian was an international language of trade, the Council agree in principle on the use of Russian as a working language for HS matters, bearing in mind the very generous offer made by the Russian Federation with regard to the funding of this initiative;
 - (c) that if the Council agreed, the Policy Commission would develop a set of specific criteria on the use of additional languages, in order to facilitate the examination of any future requests of this kind; and
 - (d) that the Council instruct the Policy Commission to suggest how best to deal with the funding difficulties associated with the adoption of additional languages in the current budgetary environment.
20. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0045E2, paragraphs 108-112 (PC/43-Report)

(3) Placing certain publications on the WCO web site for access by paying subscribers

21. The Secretariat presented Doc. SP0040E1, which outlined a proposal to sell certain WCO publications (in particular those relating to the Harmonized System (HS)) through the WCO Web site on a subscription basis. The technical details of how such a subscription system would work were set out in Annex I to the working document. The subscription site would initially offer two main HS publications, namely the HS Explanatory Notes and the HS Commodity Data Base. Other publications would follow, based on the experience gained.
22. Outlining the costs involved in establishing and maintaining such a system, the Secretariat informed the Policy Commission that the actual costs were lower than originally foreseen. Assuming implementation during budget year 2000/2001, the total costs were anticipated to be in the region of BF 650,000. The yearly costs were anticipated to be in the region of BF 50,000 to BF 60,000 to cover credit card transaction fees.

23. The subscription fees would be set at BF 10,000 per year for a single access for non-Members and commercial clients. Members would pay BF 5,000 per year and, as recommended by the Finance Committee, would have multiple accesses for that fee. The subscription fees would be reviewed after the system had been operational for a year to determine whether they were still reasonable and valid.
24. The Policy Commission noted that this was a revenue neutral venture which would not impact on the general operating expenses, and agreed to recommend to the Council that it approve the project for implementation during 2000/2001.
25. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0045E2, paragraphs 119-122 (PC/43-Report).

II. DECISIONS TAKEN BY THE COUNCIL

26. The 95th/96th Sessions of the Council were held in Brussels from 6 to 8 July 2000. The Council examined the following matters relating to Nomenclature and Classification.

Reports of the Harmonized System Committee

27. Since the outgoing HS Committee Chairman, Mr. Robyr of Switzerland, had retired from Customs earlier this year, Mr. J. Hindsdal (Denmark), the new chairman of the Harmonized System Committee, presented the Report on the 24th and 25th Sessions of the Harmonized System Committee (Docs. NC0160E2 and NC0250E2).
28. On the basis of these Reports, the Council :
- recommended the Secretariat to prepare a concrete project proposal for the updating and modernizing of the HS Explanatory Notes for approval by the Policy Commission at its next session;
 - adopted the draft amendment to the Rules of Procedure of the Harmonized System Committee, as set out at Annex O to Doc. NC0250B2, noting that more than two-thirds of the votes attributed to the Members of the HSC had approved the proposed amendment (Article 6.6 of the HS Convention). It was recalled that the proposed amendment to the Rules of Procedure of the Harmonized System Committee was intended to incorporate into a new Rule 20 of the Rules of Procedures of the HSC both the fast-track procedure regarding reservations, which had been approved as Decision No. 298 at the Council's 93rd/94th Sessions, and the fact that reservations should only be entered after the end of the Committee's sessions and not during the Committee's sessions;
 - adopted the draft Council Recommendation on the insertion in national statistical nomenclatures of subheadings to facilitate the collection and comparison of trade data on hand-made products, which had been proposed with a view to supporting trade promotion strategies at international level for such products, as set out at Annex N to Doc. NC0250B2;
 - referred back to the HS Committee for re-examination the five questions taken at its 23rd, 24th and 25th Sessions in respect of which reservations had been entered and which had been referred to the Council, as indicated in Part III of the HS Committee Chairman's Report.

29. Following the Committee Chairman's report, a ceremony for the deposit of instruments of accession to the HS Convention was held at the Council Sessions. The Directors General of Azerbaijan, Gabon and the Maldives deposited with the Secretary General, the Chairman of the Council and the Director, Tariff and Trade Affairs, their instruments of accession to the HS Convention. The three countries hereby became the 100th, 101st and 102nd Contracting Parties to the HS Convention.
30. The Observer for the World Trade Organization (WTO) informed the Council that WTO Members were still in the process of implementing the 1996 version of the HS. He indicated that this was a lengthy and complicated process due to existing commitments and WTO rules. He said that there were still 20 WTO Members who operated under waiver from the WTO obligations in order to be able to implement HS 1996. WTO Members had recognised that this process was not adequate and too slow, in particular in light of the changes coming from the 2002 version of the HS and would give serious consideration to this problem.
31. The Observer for the International Chamber of Commerce (ICC) made a statement on ICC-WCO co-operation in various fields relating the WCO's activities. With regard to the Harmonized System, he mentioned that co-operation between the HS Committee and the ICC had resulted in the formation of a technical advisory group that provided on-going technical information to the HSC from the private sector in the areas of rapidly changing technology. Recently the ICC had written to the Secretary General pointing out that certain parts of the HS had been found to be obsolete and thus useless for trade, especially in the high-tech and other industrial sectors. The ICC encouraged the review, updating and modernization of these sectors and was ready to support this large-scale task, especially by providing technical information.
32. The Observer for the United Nations Statistical Division (UNSD) emphasised that the quality, availability and timeliness of international trade statistics were determined by the work of Customs administrations. He advised the Council that the UNSD had been publishing trade statistics on the basis of the HS in the form of microfiche up to 1998 but would now discontinue the microfiche and would issue a CD-ROM in co-operation with the International Trade Centre later this year. This would contain the HS-based trade data of approximately 100 countries for the last five years up to 1999 at six-digit level of the HS. Referring to the discrepancy between the number of countries from which the UNSD received statistics (100-110) and those applying the HS (over 177), he indicated that the UNSD had a problem in obtaining official trade statistics from many countries. He therefore appealed to Customs administrations to promote the sending of international trade statistics to the UNSD for inclusion in its database and CD-ROM.
33. On co-operation with the WCO, he informed the Council that the UNSD provided lecturers to WCO regional seminars and workshops and the WCO was invited to provide lecturers at UN workshops, which were truly beneficial to both Customs and the trade. In addition, the UNSD had provided estimates of world trade data at six-digit level of the HS to the WCO as its input in the consideration of the elimination of HS codes based on the level of world trade. In this context, he re-iterated that it was in the interest of WCO Members themselves to ensure that a complete set of trade statistics be made available that would feed back to the HS review process.
34. One delegate raised the question of how the HSC's decision-making procedure could be accelerated. In reply, the Director proposed that the HS Committee begin a discussion on how to further streamline its working methods – including the possibility of so-called virtual

meetings – and how the Committee could better use the information technology available to do its work.

35. One question was raised regarding the increasing trends in reservations on HSC classification decisions. In response, the Director confirmed that the number of reservations had increased in recent years. He explained that this had to do with the economic significance of the questions dealt with by the Committee – administrations wanted to ensure that they had exhausted all avenues of redress before accepting a decision that went against their position. In some cases, he further explained, reservations might be entered as a strategic decision so as to allow an administration more time to adjust domestically to the change in classification. He pointed out; however, that the fact that a reservation was entered was not necessarily negative – the Committee occasionally reconsidered its views based on additional information provided by the reserving administration. Furthermore, it was also preferable to have a Member enter a reservation, as opposed to not entering a reservation, and to ignore the decision of the HS Committee. In this connection, he urged all administrations to take HSC decisions seriously and to consider entering a reservation very carefully and to only take such an action when it was absolutely impossible for that country to accept the decision of the Committee.
36. Another question was raised as to why there were still so many Members of the Council that were not HS Contracting Parties. In response, the Director acknowledged that this situation had troubled the Secretariat over years. He suggested that from the Secretariat's point of view, there were no reasons why a Council Member shouldn't also become a Contracting Party of the HS Convention. He noted that almost all Council Members presently applied the HS as a basis for their Customs tariff and trade statistical systems, which was the major requirement for becoming a Contracting Party. He advised that there were no additional costs but only benefits – including having a voice with regard to the classification of goods internationally and with regard to the amendment of the Harmonized System. Although the Secretariat had expended substantial efforts to bring further members into the HS club and stood prepared to provide all assistance necessary, he stressed that in the end it was up to each administration to take the steps necessary nationally to be able to commit itself to becoming a Contracting Party to this major international trade instrument.
37. The Council approved the Reports of the 24th and 25th Sessions of the Harmonized System Committee. The Council welcomed the fact that the HS Convention now had more than 100 Contracting Parties.

Report of the Policy Commission

(1) Use of Spanish for Harmonized System matters

38. One delegate pointed out that, before proceeding further with the language issue, it seemed essential to reaffirm the basic principle that the Organization had just two official languages, and to adopt clear criteria with regard to the use of any other languages. The concern was expressed that, given that a large proportion of WCO Members were having to use a foreign language when participating in the work of the Organization, there was a risk that numerous additional working languages might be requested over time. In this regard, another delegate suggested that the Council set up a working group to lay down rules and criteria which could then be applied to all requests for the introduction of additional working languages.

39. Another delegate noted that on the one hand the Policy Commission report suggested that no WCO funds would be committed, while on the other it referred to a timetable for the gradual introduction of Spanish for HS matters, which would indicate the point at which WCO funding would be required. In this connection he recalled that the Finance Committee had held serious discussions on this subject, and had expressed the view that no WCO funding should be made available for this purpose.
40. In response to these concerns, the Secretary General provided clarification regarding the situation. He stressed that the Council had already agreed in principle, at its June 1999 sessions, to the introduction of Spanish as a working language for Harmonized System matters, although the practical and financial arrangements remained to be settled.
41. On the issue of how to finance the use of Spanish for HS matters, the Secretary General emphasized that the Policy Commission's proposals were based on the understanding that under the WCO's present budgetary rules there could be no question of using WCO resources for this purpose. In order to progress towards implementation despite this limitation, the Commission was simply suggesting that a timetable for the very gradual introduction of Spanish for HS matters be prepared for examination in June 2001, bearing in mind that the Spanish-speaking Members had agreed to provide two Technical Attachés for this initiative, and they could begin the preparatory work without the Organization having to incur costs. The timetable would reveal the point in time – perhaps five or more years hence – at which it would not be possible to proceed any further towards the introduction of Spanish for HS matters without WCO financing. The preparation of such a timetable in no way implied that the Council would be committed to providing the necessary financing when that point in time was reached. Presumably the decision would depend on whatever budgetary principles and rules might be in force at that time.
42. In response to that, one delegate said that he was perfectly willing to accept the pragmatic approach recommended by the Policy Commission, as he now understood that for the moment it was simply a question of a group of Members interested in having Spanish used for HS matters, who would start work on this project at their own expense. The matter would be brought before the Council again at some point in the future, when a decision would be taken as to whether WCO resources should be used to continue the project.
43. In conclusion, the Council approved the recommendations of the Policy Commission as reproduced in paragraph 13 of this document.

(2) Use of other languages, including Russian, for Harmonized System matters

44. A number of delegates expressed the view that there was a need for criteria against which to assess all requests for the use of additional languages. Such criteria proposed include full costs to be borne by requesting Members, assessment of the impact on the efficiency on Committees, number of WCO Members using the language, whether the language was used in international trade and whether there would be major adverse impact on the WCO's activities if the request was not granted. However, there were different views with regard to some of the criteria (e.g., use in international trade) and whether they should apply to the use of Spanish and/or Russian for HS matters, in light of decisions already made by the Council and the Policy Commission.
45. The importance was stressed of maintaining a clear distinction between the official languages of the WCO and any additional languages of international trade whose use might be authorized in the context of certain specified Committees.

46. In this regard, in response to a question regarding the status of requests for the introduction of Arabic and Russian as official languages for all of the WCO's activities, it was pointed out that in June 1999 the Council had reaffirmed the principle that the WCO should have just two official languages, English and French. Furthermore, the Policy Commission at its December 1999 Commission had concluded that it could not recommend the introduction of Arabic and Russian as working languages of the WCO. Instead, the Policy Commission had suggested that the Arabic and Russian-speaking Members explore with the Secretariat various pragmatic solutions aimed at meeting their wishes at least to some extent, without entailing any significant costs to the Organization. This had given rise to a series of recommendations by the Policy Commission. The reason why the Russian language was now under discussion again was because of the recent request for the use of Russian for HS matters only, whereas no further requests had been received in respect of Arabic.
47. The Delegate of the Russian Federation pointed out that the Policy Commission had discussed the proposal on the basis of documents submitted by the Russian Federation, and during the discussions no country, or group of countries, had sought to introduce the possibility of other additional languages being used. Therefore the Policy Commission had taken a decision on the only request before it at that time, namely the use of Russian for HS matters. Against this background he appealed to the Council to endorse the recommendation made by the Policy Commission, noting that it would in no way preclude the discussion of any future requests which might be made for the use of additional languages.
48. In conclusion the Council adopted the Policy Commission's recommendations which were reproduced in paragraph 19 of this document.

(3) Placing certain publications on the WCO Web site for access by paying subscribers

49. The Council approved this project as outlined in Doc. SP0040E1, for implementation during 2000/2001.

(4) Strategic Plan

The Council adopted the Strategic Plan for the years 2000/2001 to 2002/2003, as proposed by the Policy Commission, which includes "Update, promote and uniformly apply the Harmonized System" as Part B under Function 1.

III. CONCLUSION

50. The Review Sub-Committee and the Harmonized System Committee are invited to take note of the above developments in the Policy Commission (43rd Session) and in the Council (95th and 96th Sessions).
-