



HARMONIZED SYSTEM  
COMMITTEE

NC0011E1

-  
23rd Session

O. Eng.

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H1-1

Brussels, 26 April 1999.

POLICY ISSUES RELATING TO THE HARMONIZED SYSTEM

FAST-TRACK PROCEDURE FOR HS RESERVATIONS

(Item III.4 (a) on the Agenda)

Reference documents:

42.007 (HSC/21)	42.550 (PC/39 – Report)
42.107 (HSC/21)	42.402 (HSC/22)
42.110 (HSC/21)	42.750, Annex C/4 (HSC/22 – Report)
42.100, Annex C/1 (HSC/21 – Report)	42.832 (PC/40 – Report)
42.377 (PC/39)	NC0004 (HSC/23)

I. BACKGROUND

1. At its 22<sup>nd</sup> Session, the Harmonized System Committee examined the question of developing a fast-track procedure for HS reservations. Extracts from the Report of that Session (Annex C/4 to Doc. 42.750) are set out below :
2. “The Delegate of the United States said that his Administration was in favour of a simplified text for the Draft Council decision and proposed certain modifications to the Secretariat's draft (in the Annex to Doc. 42.402). He circulated an alternative text (English version) incorporating the proposed modifications. In particular, he referred to the following suggestions :
  - (a) The Council should authorize the Secretary General to follow the procedure, rather than delegate its power as suggested in paragraph 1 of the Secretariat's text;
  - (b) The procedures specified in paragraphs 2 (a) and 2 (b) should be amended to eliminate the step requiring the Secretariat to write back to the Contracting Party entering a reservation;
  - (c) Paragraph 3 should be deleted, given that, under the current procedure, if a reservation was filed, any other Contracting Party could pursue action based on that reservation.

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3. The Delegate of the EC said that he was in favour of the fast-track approach and that the US suggestions to modify the text seemed acceptable. However, he would like to re-examine the text along with the French version in consultation with legal experts. He could therefore take a final position on the draft text only at the Committee's next session, after its examination by the EC's legal service. He also suggested keeping paragraph 3 in the text, as proposed by the Secretariat, for re-consideration at the next session.
4. The Delegate of Japan stated that he could accept the Secretariat's draft, although it represented a step backwards compared with the previous proposal put forward at the last session. He noted that the last sentence of paragraph 2 (a) of the United States text should be deleted, because the Director General should take a firm and conscious decision in respect of the choice between the fast-track and the ordinary-track approach.
5. After discussion, the Committee agreed to re-examine the issue at its next session on the basis of the United States text, after inserting paragraph 3 of the Secretariat text. The texts concerned, placed in square brackets, are set out in Annex P to this Report (Doc. 42.750)".
6. At its 40<sup>th</sup> Session (December 1999), the Policy Commission agreed strongly with the principle that a fast-track procedure should be introduced in order to speed up the HSC decision-making process in cases where a reservation had been entered. The Harmonized System Committee was urged to reach agreement on the details of such a procedure at its next session, so that a final proposal could be submitted to the Commission for examination at its June 1999 Session (see paragraph 28 of Doc. 42.832, PC/40 - Report).

## II. SECRETARIAT COMMENTS

7. For ease of reference, the proposed text (Annex P to Doc. 42.750) is reproduced in the Annex to this document (with minor editorial amendments).
8. As mentioned in paragraph 6 above, the Harmonized System Committee was urged by the Policy Commission to reach agreement on the details of the fast-track procedure at the 23<sup>rd</sup> Session.
9. As regards the last part of paragraph 2 (a) of the proposed text, the Secretariat shares the view expressed in paragraph 4 above. In this connection, if some Contracting Party were to inadvertently omit the indication as to which course of action it wished to take, namely, the procedure as mentioned either in paragraph 2 (a)(i) or 2 (a)(ii), the Secretariat would ask the Party concerned its preference. Therefore, the Secretariat considers that the phrase "provided that such Contracting Party does not specify whether the matter should be referred to the Council or directly to the Committee, the matter will be referred to the Council" would not be necessary.
10. Regarding paragraph 3 of the proposed text, the Secretariat feels it sufficient to clarify the situation regarding the procedure mentioned in paragraph 2 (a) (ii) in the Annex. In that case, the Secretariat considers that the desire of any Contracting Party to enter the reservation only relates to the same Party and that once the Party concerned withdraws the reservation, the original decision of the Harmonized System Committee should be deemed to be approved by the Council, unless a similar request from another Contracting Party is still

pending. The Secretariat is therefore of the view that paragraph 3 should be retained by amending the reference to paragraph 2 (a) to read “paragraph 2 (a) (ii)”.

11. The Secretariat would also propose to replace the term “paragraph 2” by “paragraphs 2 and 3” in the Preamble of the draft text, since the procedures described in the proposed text also relate to paragraph 3 of Article 8 of the Harmonized System Convention. The proposed amendment is placed in square brackets.
12. In this connection, the Secretariat points out that sentences or expressions which require examination by the Committee in view of divergent opinions expressed in the past have also been put in square brackets.

### III. CONCLUSION

13. The Committee is invited to examine the draft text for a Decision of the Council set out in the Annex to this Document, taking into account of the Secretariat’s comments above.

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Annexe au Doc. NC0011B1  
Annex to

(CSH/23/mai 99)  
(HSC/23/May 99)

ANNEXE

PROJET DE DECISION DU CONSEIL EN CE QUI CONCERNE  
LA PROCEDURE DE RESERVE PREVUE PAR LES ARTICLES 8.2 ET 8.3  
(Point III.4 a) de l'ordre du jour)

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ANNEX

DRAFT COUNCIL DECISION CONCERNING ARTICLE 8 (2) AND 8 (3) :  
RESERVATION PROCEDURE  
(Item III.4 (a) on Agenda)



[PROJET DE DECISION DU CONSEIL N° ...

PROCEDURE A SUIVRE POUR LE REEXAMEN DE CERTAINES QUESTIONS  
PAR LE COMITE DU SYSTEME HARMONISE

LE CONSEIL,

VU l'article III de la Convention portant création du Conseil de coopération douanière,

VU les articles 6, 7 et 8 de la Convention internationale sur le système harmonisé de désignation et de codification des marchandises (dénommée ci-après Convention sur le système harmonisé),

VU l'article 20 du Règlement intérieur du Comité du système harmonisé,

CONSIDERANT qu'il est souhaitable d'adopter une procédure rapide qui permette de réexaminer dans les meilleurs délais une question à propos de laquelle une demande a été formulée conformément aux articles 8.2 et 8.3 de la Convention sur le système harmonisé,

DECIDE ce qui suit :

1. A la demande d'une Partie contractante, le Conseil autorise le Secrétaire général à renvoyer directement devant le Comité du système harmonisé les questions couvertes par le paragraphe 2 de l'article 8 de la Convention sur le système harmonisé.
2. La procédure ci-après s'applique chaque fois qu'une Partie contractante à la Convention sur le système harmonisé demande, conformément au paragraphe 2 de l'article 8 de ladite Convention, que soient soumis au Conseil les Notes explicatives, les avis de classement, les autres avis se rapportant à l'interprétation du Système harmonisé et les recommandations visant à assurer une interprétation et une application uniformes du Système harmonisé qui ont été élaborés au cours d'une session du Comité du système harmonisé, conformément aux dispositions du paragraphe 1 de l'article 7 :

- a) La Partie contractante peut notifier par écrit au Secrétaire général que la question doit être soumise
- 1°) au Conseil, ou  
2°) renvoyée directement devant le Comité du système harmonisé pour un nouvel examen lors de sa prochaine session,

avant la fin du deuxième mois qui suit celui au cours duquel cette session du Comité du système harmonisé a été close.

[Toutefois, lorsque cette Partie contractante ne précise pas si la question doit être renvoyée devant le Conseil ou directement devant le Comité, la question est soumise au Conseil.];

- b) Lorsqu'une demande est reçue conformément au paragraphe 2 a) 2°), le Secrétaire général inscrit la question à l'ordre du jour de la session suivante du Comité du système harmonisé pour un nouvel examen; [autrement la question est soumise au Conseil.];
- c) Lorsqu'il est demandé que la question soit renvoyée 1°) directement devant le Comité du système harmonisé et 2°) devant le Conseil, elle est renvoyée devant le Conseil;
- d) Le Secrétaire général informe toutes les Parties contractantes dès qu'il reçoit une demande formulée conformément au paragraphe 2 a).

[3. Toute Partie contractante à la Convention sur le système harmonisé qui formule une demande conformément au paragraphe 2 a) 2°) ci-dessus a la faculté de la retirer à tout moment avant que la question soit réexaminée par le Comité du système harmonisé. La décision prise initialement par ce dernier est alors réputée approuvée par le Conseil, sauf si aucune décision n'a été prise au sujet d'une demande analogue déposée par une autre Partie contractante.]]

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[DRAFT DECISION OF THE COUNCIL No. ....

PROCEDURE FOR RE-EXAMINATION OF CERTAIN MATTERS BY THE HARMONIZED  
SYSTEM COMMITTEE

THE COUNCIL,

HAVING REGARD to Article III of the Convention establishing a Customs  
Co-operation Council,

HAVING REGARD to Articles 6, 7 and 8 of the International Convention on the Harmonized  
Commodity Description and Coding System (hereinafter referred to as the  
Harmonized System Convention),

HAVING REGARD to Rule 20 of the Rules of Procedure of the Harmonized System  
Committee,

CONSIDERING that it is desirable to introduce an expeditious procedure which would enable  
timely re-examination of a matter for which a request has been made under  
[paragraphs 2 and 3] of Article 8 of the Harmonized System Convention,

DECIDES as follows :

1. The Council authorizes the Secretary General, at the request of a Contracting Party, to refer directly back to the Harmonized System Committee matters arising under paragraph 2 of Article 8 of the Harmonized System Convention.
2. The following procedure shall apply whenever a Contracting Party to the Harmonized System Convention requests under paragraph 2 of Article 8 of the said Convention, that the Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System or recommendations to secure uniformity in the interpretation and application of the Harmonized System prepared during a session of the Harmonized System Committee under the provisions of paragraph 1 of Article 7 be referred to the Council :

(a) not later than the end of the second month following the month during which the session of the Harmonized System Committee was closed, a Contracting Party may request in writing to the Secretary General that such matter be referred :

(i) to the Council, or

(ii) directly back to the Harmonized System Committee for re-examination at its next session

[provided that such Contracting Party does not specify whether the matter should be referred to the Council or directly to the Committee, the matter will be referred to the Council];

(b) if a request is received in accordance with paragraph 2 (a) (ii), the Secretary General shall place the matter on the Agenda of the following session of the Harmonized System Committee for re-examination [otherwise the matter shall be referred to the Council];

(c) if requests are received for both (1) referring the matter directly to the Harmonized System Committee and (2) referring it to the Council, the matter shall be referred to the Council;

(d) The Secretary General shall inform all Contracting Parties on receipt of a request received pursuant to paragraph 2 (a).

[3. A Contracting Party to the Harmonized System Convention making a request in terms of paragraph 2 (a) (ii) above may withdraw its request at any time before the matter is re-examined by the Harmonized System Committee. In that case, the original decision of the Harmonized System Committee shall be deemed approved by the Council, unless a similar request from another Contracting Party is pending decision.]]

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