



HARMONIZED SYSTEM
COMMITTEE

-
29th Session
-

NC0569E1
(Annexes I to VI)

O. Eng.

Brussels, 24 April 2002.

TERMS OF REFERENCE AND WORK PLANS FOR THE HS COMMITTEE

ITS SUB-COMMITTEES AND WORKING PARTY

(Item III.5 on Agenda)

Reference documents :

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

SC0025E1 (Minutes of the 97th/98th Sessions of the
Council)

I. BACKGROUND

1. At its 44th Session, the Policy Commission confirmed the need for a comprehensive review of the WCO's committee structures and practical working methods, with the objective of ensuring that the committees and their subsidiary bodies made the best possible contribution to the implementation of the Strategic Plan.
2. Acting on the instructions of the Policy Commission, in early 2001 an ad hoc group was constituted, comprising representatives from some 15 Member administrations drawn from all six WCO regions.
3. After meeting three times, the Ad Hoc Group has recommended, *inter alia* - that the Policy Commission should review and endorse the terms of reference and work plans of all working bodies as part of its ongoing review of the Strategic Plan. It has further recommended that each WCO working body should update its terms of reference and work plans regularly and report periodically against its plans (see paragraphs 10-12 of Doc. SP0084E1).
4. The Policy Commission at its December 2001 Session approved this recommendation. Accordingly, as a working body established under the auspices of the WCO, the HS Committee is requested to develop its terms of reference and work plan at its 29th Session, enabling them to be forwarded to the Policy Commission in December 2002 as part of the Strategic Plan report.

File No. 2923

II. SECRETARIAT COMMENTS

5. Based on the above instructions, the Secretariat has prepared draft terms of reference and a work plan for the HS Committee, the Review Sub-Committee, the Scientific Sub-Committee and the Working Party, as set out in Annexes I to V to this document.
 - 5.1. The draft terms of reference are based on the HS Convention and the Rules of Procedure of the HS Committee and its sub-committees.
 - 5.2. The aim of the work plan is to provide focus, transparency, accountability and evaluation of progress/outcomes of the work of the HS Committee, its sub-committees and the Working Party. The basis for the development of the work plan is the WCO Strategic Plan for 2001/2002 - 2003/2004, approved at the 97th/98th Council Sessions (June 2001) (see Annex III to Doc. SC0025E1). For ease of reference, the relevant part of the Strategic Plan is attached as Annex VI of this document.
6. The Secretariat considers that the work plan for the HSC would cover those of the sub-committees and the Working Party and therefore has prepared only one consolidated work plan attached as Annex V to this document.

III. CONCLUSION

7. The HS Committee is invited to examine the draft terms of reference and work plan set out in Annexes I to V to this document and to approve them, subject to any appropriate modifications.

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HARMONIZED SYSTEM COMMITTEE

Terms of Reference

Drafted – May 2002

Confirmed by the Policy Commission – December 2002

Harmonized System Committee

Chairman : Mr. J. Hindsdal (re-elected in May 2001)
Vice-Chairmen : Mr. M. Belarbi (re-elected in May 2001)
Mr. J.F. Jauregui (elected in May 2001)
Established : 1988
Duration : Unspecified

1. Mandate

The HS Committee performs functions as described in Article 7 of the HS Convention. To that end, the Committee acts under the overall direction of the WCO Council and Policy Commission, with administrative support provided by the WCO Secretariat.

The Committee therefore refers issues concerned to the Council on the basis of the provisions of Article 8.1 (Article 16 amendments) or Articles 8.2 and 8.3 (corrigendum amendments, etc) of the Harmonized System (HS) Convention.

The Committee also reports on its work as specified in Rule 24 of the Rules of Procedure of the HS Committee.

2. Membership

As described in Article 11 of the HS Convention, the following are eligible to become Contracting Parties (CPs) to the Convention :

- Member States of the Council;
- Customs or Economic Unions to which competence has been transferred to enter into treaties in respect of some or all of the matters governed by the Convention; and
- any other State to which an invitation to that effect has been addressed by the Secretary General at the direction of the Council.

Each Contracting Party to the Convention may nominate one delegate and one or more alternates to be its representatives on the Committee (Rule 3 of the Rules of Procedure of the HS Committee).

The representatives should be officials responsible for and specialised in HS classification matters. They may be assisted by advisers.

The Secretary General may invite representatives of States which are not Members of the Council and, subject to the approval of the Chairman of the Committee, representatives of intergovernmental or other international organizations and any experts whose participation is considered desirable to attend meetings of the Committee as observers.

3. Purpose and Scope

The purpose and scope of the HS Committee is to :

- interpret the HS legal texts in the most appropriate manner to secure uniform classification of goods, including settlement of classification disputes between CPs, thus facilitating trade (uniform interpretation and application);
- amend the HS legal texts to reflect developments in technology and changes in trade patterns as well as other needs of HS users (updating);
- promote widespread application of the HS (promotion);
- examine general questions and policy matters relating to the HS (general and policy matters)

4. Key Deliverables

The HS Committee's key deliverables are to :

Uniform interpretation and application

- settle classification questions and disputes;
- revise the HS Explanatory Notes and Classification Opinions;
- secure speedy and uniform implementation of classification decisions;
- draft recommendations to secure uniformity in the interpretation and application of the HS, for example, the Recommendations on Pre-entry Classification Programmes and the Good Classification Work Model;
- support the work of the Secretariat in ensuring uniform application of the HS, such as with regard to the publication of the HS Commodity Data Base (CD-ROM), "Harmonizer" HS training CD-ROM, Correlation Tables between HS 1996 and 2002, HS Classification Handbook and Alphabetical Index.

Updating

- amend legal texts to reflect developments in technology and changes in trade patterns as well as other needs of HS users (Amendments entered into force in 1992, 1996 and 2002. The next set of amendments is envisaged for 2007).
- encourage CPs to implement the amendments in a timely manner.

Promotion

- support the initiatives of the Secretariat to provide guidance to non-Contracting Party HS user countries to accede to the HS Convention and to assist non-HS user countries to apply the HS;
- encourage the use of the HS in non-traditional areas and provide guidance to such users (e.g., with regard to ozone depleting substances, hazardous wastes, chemical weapons, CITES, narcotics).

General and policy matters

- examine a series of general questions that are not directly related to the HS Nomenclature, but certainly provide assistance with regard to the uniform application and maintenance of the HS, e.g., surveys on Customs duties and Free Trade Agreements, promotion of the use of the Discussion Forums on the WCO Web site.

5. Means of Operation

The Committee, under its Chairman who is elected from among the delegates, examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

Representatives of 40% or 40 of the Members of the Committee, whichever is lower, constitute a quorum.

Each CP has the right to one vote. However, the EC and its members together exercise one vote in accordance with Article 6.4 of the HS Convention.

Decisions concerning amendments to the Rules of Procedure of the Committee are taken with not less than two-thirds of the votes attributed to its Members (Rule 19 of the Rules of Procedure of the HS Committee and Article 6.6 of the HS Convention).

Decisions concerning amendments to the Convention are taken by a majority of not less than two-thirds of the votes cast by Members (Rule 19 of the Rules of Procedure of the HS Committee) followed by unanimous acceptance of the CPs (Article 16 of the HS Convention).

Other decisions (classification decisions, adoption of the Explanatory Note, Classification Opinions, etc) are taken by a simple majority of the votes cast by the Members of the Committee (Rule 19 of the Rules of Procedure of the HS Committee), followed by a deemed approved procedure of the Council (Articles 8.2. and 8.3 of the HS Convention).

The Committee invites observers from intergovernmental organizations such as WTO, UNSD, UNEP (ozone depleting substances, hazardous wastes), OPCW (chemical weapons), CITES, etc.

The Committee also invites international organizations such as ICC to participate as technical experts.

The Committee's activities are supported by the Review Sub-Committee (for updating of the HS), the Scientific Sub-Committee (for chemical matters), the Working Party (for drafting

texts of the Explanatory Notes, Classification Opinions, etc.) and the Nomenclature and Classification Sub-Directorate.

6. Resources Required

The HS Committee meets twice a year. Each session lasts two weeks.

The WCO Secretariat is responsible for :

(a) preparation for each meeting, including :

- administrative preparation, including typing, sorting, filing of documents;
- inviting comments of Members of the HS Committee regarding technical and other matters;
- distributing an annotated agenda eight (8) weeks prior to meeting dates in the two official languages;
- drafting comments on working documents, etc. which are generally completed eight weeks prior to the meeting;
- ensuring that all working documents are available to Members of the HS Committee four (4) weeks prior to meeting dates in the two official languages and Russian (working language of the HSC) as hard copy and on the WCO Web site.

(b) the meeting itself, including :

- presenting reports and proposals;
- facilitating the course of the meeting;
- taking note of discussions;
- preparing a draft report.

(c) follow-up to the meeting, including :

- preparing the final meeting report and distributing it to Members of the HS Committee;
- publishing instruments adopted by the HS Committee, after approval by the WCO Council.

The estimated resource requirement of the WCO Secretariat in respect of the above responsibilities is as follows :

ESTIMATED RESOURCE REQUIREMENT OF THE WCO SECRETARIAT

(Unit : staff days)

		HSC	RSC	SSC	WP	Total
Technical Staff	Preparation	220x2=440	185x2=370	110	40x2=80	
	Meeting	180x2=360	150x2=300	90	30x2=60	
	Follow-up	85x2=170	70x2=140	50	10x2=20	
	Total	970	810	250	160	2,190
Support Staff	Preparation	55x2=110	44.5x2=85	25	7.5x2=15	
	Meeting	55x2=110	44.5x2=85	25	7.5x2=15	
	Follow-up	55x2=110	44.5x2=85	25	7.5x2=15	
	Total	330	255	75	45	705

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HS REVIEW SUB-COMMITTEE

Terms of Reference

Drafted – May 2002

Confirmed by the Policy Commission – December 2002

HS Review Sub-Committee

Chairman : Mr. D. Beck (re-elected in Nov. 2000)
Vice-Chairman : Mr. C.E. De Jong (re-elected in Nov. 2000)
Established : 1988
Duration : Unspecified

1. Mandate

The Review Sub-Committee (RSC) acts under the overall direction of the HS Committee with administrative support provided by the WCO Secretariat.

2. Membership

As described in Rule 2 of the Rules of Procedure of the Sub-Committee, the Sub-Committee consists of :

- Representatives of the Contacting Parities to the HS Convention;
- Representatives of any Member of the Council which is not a Contacting Pastry to the HS Convention; and
- subject to invitation by the Secretary General, the following :
 - representatives of States which are not Members of the Council;
 - representatives of intergovernmental or other international organisations;
 - in consultation with the Chairman of the Sub-Committee, any experts whose participation is considered desirable on the basis of the contribution they might be expected to make to the work of the Sub-Committee.

3. Purpose and scope

The purpose and scope of the Sub-Committee is to :

- pursue a review of the HS under the general guidance of the HS Committee;

- propose to the Committee such amendments to the HS as may be considered desirable having regard, in particular, to the needs of users and to changes in technology or in patterns of international trade; and
- prepare, to the extent appropriate, any consequential amendments to the Explanatory Notes and the Compendium of Classification Opinions for consideration by the Committee.

4. Key Deliverables

The Review Sub-Committee's key deliverables are :

- amendments to HS legal texts at predetermined intervals for uniform application by all users (Amendments entered into force in 1992, 1996 and 2002. The next set of amendments is envisaged for 2007); and
- consequential amendments to the Explanatory Notes as well as the Compendium of Classification Opinions.

5. Means of Operation

The HS Committee elects its Chairman from among the Members of the HS Committee.

The Sub-Committee examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

The Sub-Committee seeks to reach a consensus on any matter examined and reports to the Committee. If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported to the HS Committee.

6. Resources Required

The Sub-Committee holds its sessions as and when required and subject to approval by the Committee and the Council. It usually meets twice a year. Each session lasts one to two weeks depending on the number of items on the agenda.

The responsibilities of the WCO Secretariat are the same as those for the HS Committee (see page I/4 of Annex I).

As for the estimated resource requirements, see also page I/5 of Annex I.

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SCIENTIFIC SUB-COMMITTEE

Terms of Reference

Drafted – May 2002

Confirmed by the Policy Commission – December 2002

Scientific Sub-Committee

Chairman : Mr. G.J. Sluis (re-elected in Feb. 1999)
Vice-Chairman : Mr. I. Reese (re-elected in Feb. 1999)
Established : 1987
Duration : Unspecified

1. Mandate

The Scientific Sub-Committee acts as an advisory body of the Council on questions involving chemical or other scientific matters. In practice, the Sub-Committee acts under the instruction of the HS Committee.

2. Membership

As described in Rule 2 of the Rules of Procedure of the Scientific Sub-Committee, each Member of the Council and any other Contacting Party to a Convention established or administered by the Council have the right to be represented.

3. Purpose and scope

The purpose and scope of the Scientific Sub-Committee is to :

- assist the HS Committee and the Review Sub-Committee in their technical work, in particular with regard to questions involving the classification of chemical products;
- serve as a forum for the exchange of views by heads of the Customs laboratory services of Council Members.

4. Key Deliverables

The Sub-Committee's key deliverables are to :

- advise the HS Committee on classification questions involving scientific issues;
- draft HS legal texts and Explanatory Notes involving scientific issues at the request of the HS Committee or the Review Sub-Committee;

- carry out studies for improvement of texts concerning chemical Chapters of the Harmonized System (mainly Chapters 25 to 40);
- exchange views among delegates with regard to the role of Customs laboratories, analytical methods, etc.; and
- provide guidance to the Secretariat in its technical assistance programmes on Customs laboratory matters.

5. Means of Operation

The Chairman is elected from among the representatives of the Members.

The Sub-Committee examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

The Sub-Committee seeks to reach agreed views on any matter examined and report them to the Council or the relevant committee as appropriate (normally to the HS Committee). If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported.

6. Resources Required

The Sub-Committee holds its sessions as and when required and subject to approval by the HS Committee and the Council. It normally holds at least one session a year.

The responsibilities of the WCO Secretariat are the same as those for the HS Committee (see page I/4 of Annex I).

As for the estimated resource requirements of the WCO Secretariat, see also page I/5 of Annex I.

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HS WORKING PARTY

Terms of Reference

Drafted – May 2002

Confirmed by the Policy Commission – December 2002

HS Working Party

Chairman : Mr. C.E. De Jong (re-elected in Nov. 2000)
Vice-Chairmen : None
Established : 1988
Duration : Unspecified

1. Mandate

The HS Working Party acts under the overall direction of the HS Committee with administrative support provided by the WCO Secretariat.

2. Membership

There is no specific provision. The Working Party usually consists of :

- representatives of the Contacting Parities to the HS Convention;
- representatives of any Member of the Council which is not a Contacting Pastry to the HS Convention; and
- subject to invitation by the Secretary General, representatives of intergovernmental or other international organisations.

3. Purpose and Scope

The purpose and scope of the Working Party is to draft the texts of possible amendments to the HS Nomenclature, Explanatory Notes and Compendium of Classification Opinions before their final adoption by the HS Committee.

4. Key Deliverables

Same as under Item 3.

5. Means of Operation

The HS Committee elects the Chairman from among the Members of the HS Committee.

The Working Party examines issues on the basis of documents prepared by the Secretariat, which incorporate comments and proposals from administrations.

The Working Party seeks to reach a consensus on any matter examined and reports to the HS Committee. If agreement cannot be reached on a question, the differing views together with their supporting rationales are reported to the HS Committee.

6. Resources Required

The Working Party holds its sessions as and when required and subject to approval by the HS Committee and the Council. It usually meets immediately before the HS Committee meeting.

The responsibilities of the WCO Secretariat are the same as those for the HS Committee (see page I/4 of Annex I).

As for the estimated resource requirement of the WCO Secretariat, see also page I/5 of Annex I.

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WORK PLAN

Task a : To secure uniform interpretation and application of the HS			
Sub-Tasks	Responsible Party	Due Date	Key Measures
1. Resolve classification questions from Members	HSC, SSC, Secretariat	Ongoing	The question is answered expeditiously – normally at the session at which it was first raised
2. Settle classification disputes between Members	HSC, SSC, Secretariat	Ongoing	The dispute is settled expeditiously – normally at the session at which it is first brought to the attention of the HSC
3. Draft amendments to the HS Explanatory Notes and Compendium of Classification Opinions	HSC, SSC, WP, Secretariat	Ongoing	The Notes or Opinions are drafted in a legally sufficient manner – normally at the following session of the HSC after a question/dispute has been resolved
4. Draft HS-related Council Recommendations	HSC, SSC, Secretariat	Ongoing	The Recommendations are drafted in a legally sufficient manner and are approved by the Council
Task b : To update and improve the HS, reflecting changes in technology and trade patterns			
Sub-Tasks	Responsible Party	Due Date	Key Measures
1. Conduct the Third HS Review Cycle for updating and simplifying the HS	RSC, HSC, SSC, Secretariat	Ongoing to 2004	The HS is updated and simplified in a timely basis and legally sufficient manner to reflect changes in technology and trade patterns and the needs of its users
2. Update and improve the HS Explanatory Notes to reflect changes in technology and trade patterns	RSC, HSC, SSC, Secretariat	Ongoing to 2006	The HS Explanatory Notes are updated and simplified in a timely basis and legally sufficient manner to reflect changes in technology and trade patterns and the needs of its users

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STRATEGIC PLAN – 2001/2004

**FUNCTION 1 - DEVELOPMENT, PROMOTION, IMPLEMENTATION AND
MAINTENANCE OF INTERNATIONAL CUSTOMS AND TRADE
INSTRUMENTS**

**FOCUS AREA : B - UPDATE, PROMOTE AND UNIFORMLY APPLY THE
HARMONIZED SYSTEM**

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

Tasks	Responsible Party	Due Date
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 rd 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

Tasks	Responsible Party	Due Date
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

GOAL 3 - To promote the use of the HS by Customs administrations and other government agencies, international organizations and the private sector

Tasks	Responsible Party	Due Date
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.