



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
COMMITTEE

-
24th Session

NC0094E1
(+Annexes I and II)
O. Eng.

Brussels, 8 October 1999.

REPORT ON THE MEETINGS OF THE POLICY COMMISSION (41st SESSION)
AND COUNCIL (93rd AND 94th SESSIONS)
(Item II.2 on Agenda)

Reference documents :

NC0090 (HSC/23 - Report)
SP004 (PC/41)
SP007 (PC/41)
SP008 (PC/41)

SP0011 (PC/41)
SP0013 (PC/41- Report)
SC0005 (Minutes of the 93rd/94th Sessions of the
Council)

I. REPORT OF THE POLICY COMMISSION

1. At its 41st Session, held in Brussels from 21 to 23 June 1999, the Policy Commission examined several issues relating to the Harmonized System. The conclusions of the Policy Commission on these issues and other points relevant to the HS are summarised in the following paragraphs.

Secretary General's Report

2. In his report, the Secretary General explained that having completed its second revision of the Harmonized System, which would be presented to the Council for adoption, the Harmonized System Committee was now embarking upon the preparation of revised HS Explanatory Notes. The Committee had also made progress with the introduction of rules to ensure the more rapid application of HS decisions. However, the sensitive question of whether HS decisions should be made binding, and whether a dispute settlement procedure should be introduced, were rather more difficult to deal with in view of Members' differing stances on the matter, and they had to be given detailed consideration. The Policy Commission took note of the Secretary General's report.

File No. 2030

WCO Vision Statement and Strategic Plan for the Years 1999 to 2002

3. The Policy Commission examined the revised WCO Vision Statement and agreed to recommend the draft Vision Statement to the Council for approval and publication. The Policy Commission also examined the revised WCO Strategic Plan with its new features and in its new format for the forthcoming three years and decided 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.

Harmonized System matters

The Policy Commission examined two HS matters :

(a) Expediting the HS decision-making procedure

4. The Policy Commission examined Doc. SP0007E1 which contained a draft Decision of the Council on the procedure for re-examination of certain matters by the Harmonized System Committee providing for a fast-track procedure with regard to HS reservations, proposed by the Harmonized System Committee following the Policy Commission's decision at its 40th Session.
5. On the issue of whether a reservation should be referred to the Council or directly back to the HSC if a Contracting Party did not indicate if it wished to use the normal procedure or the fast-track procedure, which was the subject of paragraph (c) of the draft Council Decision, one delegate expressed his preference for the reservation to be referred directly to the Harmonized System Committee, since this would better achieve the objective of the fast-track procedure. However there was no support for this proposal, since the Harmonized System Committee had already considered and rejected this idea.
6. The Policy Commission recommended that the Council adopt the draft Council Decision on the procedure for re-examination of certain matters by the Harmonized System Committee, as set out in the Annex to Doc. SP0007E1.
7. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0013E2, paragraphs 40 to 42 (PC/41 – Report).

(b) Development of HS audio-visual training materials

8. The Policy Commission considered Doc. SP0008E1 which set out the conclusions of the Finance Committee regarding the development of new audio-visual training materials concerning the HS (a CD-ROM and an Internet version), to be prepared for the WCO by the Swedish Administration on a no-profit/no-loss basis.
9. The Policy Commission endorsed the Finance Committee's cost/sales analysis and its recommendation that the development of a CD-ROM and an Internet version of HS training materials should proceed as proposed in Doc. SF0015E1. The Policy Commission recommended that the Council approve the budget for the project as set out in Doc. SP0008E1, with effect from the year 1999/2000.

10. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0013E2, paragraphs 43 and 44 (PC/41 – Report).

Use of Spanish for Harmonized System matters

11. The Secretary General introduced Doc. SP0004E1, which contained the Secretariat's study on the use of Spanish as a working language for HS matters following a proposal made by Spain at the Policy Commission's December 1998 session.
12. Although none of the delegates who participated in the lengthy discussions objected to the principle of introducing Spanish for Harmonized System matters, there was no consensus on the questions of how the use of Spanish for HS work should be financed, and what precedent this might set with regard to other languages such as Arabic, Russian and Chinese which were shared by a significant number of WCO Members.
13. In conclusion the Policy Commission agreed in principle that Spanish should be introduced for HS matters only. The Policy Commission recommended that the Finance Committee be instructed to study the cost of this initiative and suggest ways of keeping it to a minimum, as well as making proposals as to how that cost could be financed. The Policy Commission welcomed a commitment that the Spanish-speaking Members would assist with the management of the Spanish version of the WCO's HS instruments, in particular by making two Technical Attachés available to the Secretariat on an ongoing basis at no cost to the Organization.
14. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0013E2, paragraphs 19 to 25 (PC/41 – Report).

Placing Certain WCO Publications on the WCO Web Site

15. On the basis of Doc. SP0011E1, the Policy Commission examined the results of a survey of WCO publication customers carried out by the Secretariat following the Policy Commission's decision at its June 1998 session.
16. Based on the information obtained, the potential fall in sales of paper copies of HS publications had been estimated at 10 %. The minimum Web site installation and maintenance costs had been estimated at BF 3,000,000. The Policy Commission instructed the Secretary General to ask the Finance Committee to examine the budgetary consequences, and invited the Council to take note of its own recommendations to the effect that :
- the Harmonized System Commodity Data Base, the Nomenclature, the Explanatory Notes and other data on the Harmonized System, currently marketed on CD-ROM, should be made available on the Web site subject to a subscription payable by all users; and
 - the subscription should be such as to cover all the production costs (installation, licence for the management software, maintenance and updating of data, subscription management and site access).
17. The Policy Commission noted that the costs related to the Web site would be included in the specific Publications budget covering all expenses involved in the production of publications for sale.

18. The relevant part of the Policy Commission's Report concerning the above can be found in Doc. SP0013E2, paragraphs 58 to 61 (PC/41 – Report).

II. DECISIONS TAKEN BY THE COUNCIL

The 93rd and 94th Sessions of the Council were held in Brussels from 24 to 26 June 1999. The relevant parts of Minutes of the Council on matters relating to Nomenclature and Classification can be found in Doc. SC0005E1, paragraphs 42 to 47, 76 to 79 and 168 to 174 (Minutes of the 93rd/94th Sessions of the Council).

Reports of the Harmonized System Committee

19. The Chairman of the Harmonized System Committee presented the Reports of the 22nd and 23rd Sessions of the Committee (Docs. 42.750 and NC0090E2).
20. On the basis of these Reports, the Council :
- (1) adopted the draft Article 16 Recommendation concerning the amendment of the Harmonized System, as set out in Annex Q to Doc. NC0090E2, noting that the draft Recommendation had been the result of six years of work by the Harmonized System Committee and stressing the importance of keeping the Harmonized System up-to-date as a tool for international trade;
 - (2) adopted the proposed amendments to the three existing Recommendations (on standard units of quantity, chemical weapons, and narcotic drugs) which had been modified with a view to expanding their acceptance by Contracting Parties to the Harmonized System Convention, as set out in Annexes P/1 to P/3 to Doc. NC0090B2;
 - (3) adopted the proposed Recommendation concerning ozone layer depleting substances, which would replace the existing Council Recommendation on the same matter, as set out in Annex P/4 to Doc. NC0090B2;
 - (4) referred back to the HS Committee for re-examination the following 6 decisions taken by the Committee at its 22nd and 23rd Sessions in respect of which reservations had been entered under Article 8 (2) of the HS Convention, as indicated in Part III of the HS Committee Chairman's Report to the Council :
 - Classification of various items of networking equipment (Doc. 42.750/G/5) (by the EC).
 - Classification of "FIRE 9000" and "FIRE 1000" apparatus (Doc. 42.750/G/10) (by the United States Administration).
 - Classification of limes referred to as "Citrus latifolia" (Doc. 42.750/G/13) (by the United States Administration).
 - Classification of "chicken sauce" (Doc. 42.750/G/15) (by the Norwegian Administration).
 - Classification of "ENW-9500-F Fast Ethernet Adapter" (Doc. 42.750/G/24) (by the EC).

- Classification of drilled lumber (Doc. NC0090E2/IJ/9) (by the United States Administration).

21. The Council took note of the following developments as reported by the Chairman of the HS Committee :
- (1) at its 22nd Session, the HS Committee had adopted 174 classification decisions (including 140 relating to pharmaceutical products), 9 sets of amendments to the Explanatory Notes and 26 Classification Opinions. At its 23rd Session, it had adopted 470 classification decisions (including 452 relating to pharmaceutical products), 6 sets of amendments to the Explanatory Notes and 28 Classification Opinions;
 - (2) the HS Committee had confirmed nine of its earlier decisions referred back to it by the Council, but had reversed one decision by agreeing to classify books and audio cassettes separately, and had revised the wording of two Classification Opinions. The EC and the United States had re-entered reservations following the Committee's confirmation, at its 22nd Session, of the decisions to classify various items of networking equipment in heading 84.71 (EC reservation) and the "FIRE 9000" and "FIRE 1000" apparatus in heading 90.06 (US reservation).
22. The Council also took note of various other developments mentioned in the Committee Chairman's Report, including the study on the binding status of HSC decisions (Agenda Item III 3); the correlation between the HS and various international Conventions dealing with internationally controlled goods; the activities of the Scientific Sub-Committee; and the election of officials at the Committee's 22nd Session.
23. Finally, the Council approved the Reports of the 22nd and 23rd Sessions of the Harmonized System Committee.

Report of the Policy Commission

24. The Council approved the Policy Commission's recommendation that it adopt Council Decision No. 298 concerning the (fast-track) procedure for re-examination of certain matters by the Harmonized System Committee. The approved Council Decision, which can be found in Annex V to Doc. SC0005E1 (Minutes of the 93rd/94th Sessions of the Council), is reproduced at Annex I to this document.
25. The Council endorsed the recommendation by the Policy Commission that it approve the budget for the development of audio-visual training materials (an interactive CD-ROM and an Internet version) on the Harmonized System, with effect from the year 1999/2000.
26. In regard to the use of Spanish for HS matters, the Council endorsed the conclusions of the Policy Commission summarised in paragraphs 11 to 14 above. The Council also instructed the Secretariat to take up the requests made by the United Arab Emirates and the Russian Federation that Arabic and Russian be introduced under the same arrangements, with a view to presenting detailed studies and proposals to the Policy Commission which would subsequently be examined by the Council.

27. Concerning the possibility of placing certain WCO publications on the WCO web site, the Council noted that the budgetary repercussions of this proposal would be studied further, and that subject to the results of that study the Policy Commission favoured making a range of WCO publications available on the Web site, with a subscription to be payable by all users.
28. The Council approved the Vision Statement for publication and adopted the revised version of the Strategic Plan for implementation with effect from 1999/2000. The approved Strategic Plan, which includes "update, promote and uniformly apply the Harmonized System" as Part B under Function 1, can be found in Annex III to Doc. SC0005E1. The part of the Strategic Plan relating to the HS is reproduced in Annex II to this document.

III. CONCLUSION

29. The Committee is invited to take note of the above developments in the Policy Commission (41st Session) and in the Council (93rd and 94th Sessions).

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ANNEX I

DECISION OF THE COUNCIL No. 298

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;

- (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;
 - (c) if requests relating to the same matter are received from different Contracting Parties for referral under both 2 (a)(i) and 2 (a)(ii), or if a Contracting Party does not specify whether the matter should be referred to the Council or directly to the Committee, the matter shall be referred to the Council;
 - (d) The Secretary General shall inform all Contracting Parties of the receipt of a request pursuant to paragraph 2 (a).
3. A Contracting Party to the Harmonized System Convention making a request under paragraph 2 (a) may withdraw its request at any time before the matter is examined by the Council or re-examined by the Harmonized System Committee, as the case may be. However, the Committee will examine the matter if it has received a referral from the Council.
 4. In the event that a Contracting Party withdraws a request pursuant to paragraph 3, the decision by the Harmonized System Committee shall be deemed approved, unless a similar request from another Contracting Party is pending.
 5. The Secretary General shall notify the Contracting Parties of a withdrawal pursuant to paragraph 3.

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ANNEX II

EXTRACT OF WCO STRATEGIC PLAN 1999//2000, 2000/01 and 2001/02

Function 1 : Development, promotion, implementation and maintenance of International Customs and Trade Instruments

Focus Area : B

Update, promote and uniformly apply the Harmonized System

Context

Customs administrations contribute to the efficient flow of trade by applying international instruments. The uniform, predictable and transparent application of these instruments facilitates international trade while at the same time ensuring compliance with national laws and regulations.

The Harmonized System (HS) is an essential tool for the collection of Customs revenue and compilation of trade statistics. It is also used for many other purposes in the course of international trade such as rules of origin, freight tariffs, the administration of trade policies and the monitoring of controlled goods.

As a universal language and code for transportable goods, the HS serves as a basis for Customs controls, risk assessment, automation and compliance.

Application of the HS must be accurate and uniform to secure certainty and predictability in the classification of goods in international trade. This requires an efficient mechanism for resolving classification questions and disputes at the global level, as well as a good working infrastructure and classification expertise within Customs at the national level. It also requires the education of the trade community for better self-compliance.

As the key international goods classification system, the HS must be updated at regular intervals to reflect changes in technology and trade patterns as well as the other needs of its users.

Goals

1. To secure uniform interpretation and application of the HS.
2. To update and improve the HS reflecting changes in technology and trade patterns.
3. To promote the use of the HS by Customs Administrations and other government agencies, international organizations and the private sector.

Function 1 (B) - TASKS**Update, promote and uniformly apply the Harmonized System**

Tasks	Responsible party	Due date
GOAL 1		
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, 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	2000
Introduce a fast-track procedure for handling reservations on HSC decisions.	Secretariat, HSC, Policy Commission and Council	2000
Develop a new mechanism for ensuring the Contracting Parties implement the HSC decisions.	Secretariat, HSC, Policy Commission and Council	2000
Promote the classification work model recommendation	Secretariat	Ongoing
Prepare a Classification Practice Handbook for use by Members.	Secretariat	2000
Promote the pre-entry classification programme and other HS-related recommendations.	Secretariat	Ongoing
GOAL 2		
Prepare a Council Recommendation and obtain approval from Contracting Parties to update the HS for implementation by January 2002.	Secretariat, HSC	2000
Disseminate the final list of amendments after approval by Contracting Parties.	Secretariat	2000
Prepare correlation tables between the 1996 HS and the 2002 HS amendments.	Secretariat, HSC	2000
Prepare a brochure explaining the details of the 2002 HS amendments.	Secretariat	2000

Prepare and adopt amendments to the HS Explanatory Notes based on the 2002 HS amendments.	Secretariat, Review Sub-Committee and HSC	2000
Introduce legislative and administrative arrangements for implementation of the 2002 HS amendments.	Contracting Parties	2000/2001
Conduct WTO negotiations and revise WTO schedules of tariff concessions to reflect 2002 HS amendments.	Contracting Parties	2000/2001
GOAL 3		
Develop an HS training CD-ROM.	Secretariat	1999/2000
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

Performance measurements :

- (a) Timely response to classification enquiries.
 - (b) Timely resolution of classification questions and disputes.
 - (c) Timely publication of HSC Decisions.
 - (d) Implementation of HS amendments.
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