



HARMONIZED SYSTEM
COMMITTEE

-
24th Session

NC0100E1

O. Eng.

Brussels, .

POLICY ISSUES RELATING TO THE HARMONIZED SYSTEM

Binding status of HSC decisions

(Item III.3 on Agenda)

Reference Document :

99NL724E – LP/MR – letter to all Contracting Parties to the HS

I. BACKGROUND

1. On 20 August 1999, the Secretariat received a letter from the International Chamber of Commerce (ICC) in response to an earlier Secretariat invitation for comments, on the issue of making the HSC classification decisions binding on Contracting Parties to the HS Convention. The letter is set out below.

II. LETTER FROM THE ICC

2. “This letter refers to your fax of 2 February 1999, in which you solicited suggestions from ICC on improving the existing mechanisms for implementing HS classification decisions, and in particular on whether the implementation of such decisions should be binding on the Contracting Parties to the HS Convention.
3. I am pleased to report that, further to your request, ICC has conducted a survey of its national committees, including the members of its Committee on Customs and Trade Regulations, in order to obtain business views on this important issue.

File No. 2669

4. Specifically, ICC members were asked whether they supported proposals to make final decisions of the World Customs Organization HS Committee on specific classification decisions binding on national Customs administrations, and to provide comments to illustrate their views.
5. A slight majority of the responses received indicated support for making WCO HS Committee classification decisions binding on national Customs administrations. The main reasons cited to justify this support were greater predictability, consistency, and uniformity of treatment, thereby facilitating international trade. Several of the responses in support of this proposal also pointed out the need for reviewing and streamlining of the HS; ensuring transparency and business participation in the classification decision-making process; simplified procedures, shorter timeframes and timely publication of such decisions; and the establishment of an effective appeals process in which business can take part. Several of the responses also noted that these changes would in fact require amendments to the current HS Convention, as well as corresponding changes in national legislation.
6. Slightly less than half of the survey respondents did not support the proposals for making WCO HS Committee classification decisions binding on national Customs administrations. Several reasons were cited by respondents in their comments to justify this opinion. These reasons included: a potential overloading of the HS Committee agenda and longer delays in reaching decisions; the lack of an enforcement mechanism to ensure that binding decisions are effectively implemented by Customs administration; the removal of options for review such as the recourse to national courts in which business can be represented; and the prospect of binding decisions that could be “politically-based” or “outcome-based”, rather than decisions based on rules and technical expertise.
7. I trust that the business views provided by ICC and summarized herewith will provide useful input into the ongoing discussions within the WCO HS Committee on this important matter, which the ICC considers to be a key issue for world business.”

III. SECRETARIAT COMMENTS

8. The Secretariat found that the different business views presented in the ICC letter clearly reflected the various issues relating to the binding status of the HSC decisions which the pre-sessional Working Group is going to examine. Therefore, the Secretariat decided to publish the ICC letter for the information of the Working Group and Committee.

IV. CONCLUSION

9. The Committee is invited to take note of the ICC letter as reproduced above.
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