

RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL*
ON THE IMPROVEMENT OF TARIFF CLASSIFICATION WORK
AND RELATED INFRASTRUCTURE

(25 June 1998)

THE CUSTOMS CO-OPERATION COUNCIL,

NOTING that the Harmonized System has been widely adopted by countries and Customs or Economic Unions,

RECOGNIZING that correct and uniform application of the Harmonized System in an efficient manner would facilitate international trade and investment and promote compliance with fiscal and trade rules or laws,

RECOGNIZING that classification practices should be objective, predictable and transparent for ensuring voluntary compliance by the trade community,

REALIZING that achieving the above objectives requires well-defined and effective classification practices and infrastructure therefor,

RECOMMENDS that Member administrations, Contracting Parties to the Harmonized System Convention and Customs or Economic Unions, taking into account the elements of a good tariff classification work model set out at the Appendix hereto, take all appropriate steps to improve their Harmonized System classification work by :

- (a) Establishing an adequate classification work infrastructure to carry out classification work in an efficient manner;
- (b) Carrying out classification work so as to facilitate international trade and investment and to ensure compliance with both fiscal and trade rules or laws with emphasis being placed on the pre-entry and post-clearance stages and not only on the declaration-processing stage;
- (c) Providing adequate training for Customs officers and the trade community, encouraging integrity and making classification-related information available to the public in order to enable Customs to achieve the above objectives;
- (d) Setting up appeal procedures satisfactory both to the Customs administration and to the trade community for the settlement of classification disputes,

and

REQUESTS Member administrations, Contracting Parties to the Harmonized System Convention and Customs or Economic Unions to notify the Secretary General of their acceptance of this Recommendation and of the date of its application.

°

° °

* "Customs Co-operation Council" is the official name of the World Customs Organization.

APPENDIX

Main elements of a good tariff classification work model

Introduction

1. A good tariff classification work model is essential to promote correct and uniform classification of goods in the Harmonized System (HS). Such a model would facilitate international trade and investment and promote compliance with fiscal and trade rules or laws as well as equal treatment of all members of the trade community. This would result in, among other things, a reduction in losses to the revenue and to businesses due to misclassification.
2. Adequate classification work infrastructure at both headquarters and regional/local levels, including the establishment of a classification centre, is a prerequisite for achieving such objectives.
3. Classification work can be carried out at three different stages : pre-entry, declaration-processing and post-clearance stages. The determination of classification at the pre-entry stage and checking of classification at the post-clearance stage help reduce classification delays at the declaration-processing stage.
4. Appropriate appeals systems should be available to the trade community.
5. Adequate training in classification is a prerequisite for developing and maintaining good classification skills. Such training should assist Customs officers in achieving a high level of commitment and integrity when performing their duties.
6. Customs officials and the trade community should be provided with updated classification aids in order to ensure accurate and uniform classification. As more information is made available to the trade community, the level of voluntary compliance will improve.

Part I

Classification infrastructure

7. Classification infrastructure consists of the offices or departments within a Customs administration or a Customs or Economic Union, responsible for determining the classification of goods for the purposes of HS-based Customs tariffs and statistical nomenclatures.
8. It should be supported by an adequate number of classification experts with clearly defined functions and responsibilities. The experts should be provided with classification aids such as national tariffs, the HS Convention and Nomenclature, HS and/or national Explanatory Notes, Compendium of Classification Opinions, national classification rulings and guidelines and a classification database. In a modern Customs environment, the classification aids are made available on a computer terminal to officers involved in classification work (e.g., the HS Commodity Data Base).

Headquarters and classification centre

9. The classification work may be co-ordinated by the headquarters. This co-ordination function may be performed, for example, through a classification committee composed of appropriate members. The committee may invite comments from the trade community and government departments interested in classification matters. Ad hoc

meetings could be held frequently within the department to discuss classification questions.

10. A classification centre that is responsible for ensuring the correct and uniform classification of merchandise throughout the importing country or the Customs or Economic Union may also be established at the headquarters' level. The centre may, among its other duties, provide useful guidance to the classification officers in the field. It may also act as a technical advisory body to higher-level management (and, if appropriate, to the classification committee) on classification matters, particularly on the settlement of classification disputes. At the headquarters' level, the following functions may be performed :
 - (a) Examining classification questions referred by the regional or local offices, as well as pre-entry classification requests from the trade community and issuing classification rulings for uniform application throughout the country or Customs or Economic Union.
 - (b) Updating the national tariffs and complementary classification-related publications.
 - (c) Preparing and updating centralized information (including a database) on tariff classification matters and disseminating it to the field offices and to the trade community.
 - (d) Publishing binding tariff information or other tariff classification data for the information of the public and the trade community.
 - (e) Serving as a liaison with the WCO and the HS Committee, and facilitating the implementation of the HS Committee's classification decisions.
 - (f) Maintaining contacts with other Customs administrations and Customs or Economic Unions on classification matters.
 - (g) Co-ordinating with other government departments and agencies on tariff, statistical and other nomenclature related matters.
 - (h) Maintaining contacts with manufacturers, scientific institutions, universities, etc. to keep abreast of developments in technology and changes in patterns of international trade.
 - (i) Co-ordinating training activities on the HS.
11. At the headquarters' level (including the classification centre), centralized information (such as a database) on suspected or known classification fraud, or on goods for which misclassification frequently occurs, may be kept to assist the field officers with risk management. In many administrations, however, the responsibility for gathering, analysing and disseminating intelligence and information to field units is carried out by an independent unit or agency at the headquarters' level. Such a unit or agency has overall responsibility for collecting intelligence and conducting investigations of suspected or alleged Customs offences (including commercial fraud) and consulting with other Customs administrations and regional or international organizations on these matters.
12. In a Customs or Economic Union, regional classification centres may be established at the headquarters of the individual members for co-ordinating the classification work between the field offices and the headquarters of the Union.

Regional or local classification offices

13. At the regional level of the Customs organization or at major Customs offices, where the actual tariff classification of goods takes place on importation or exportation, the following units may be established :
- (a) A classification unit composed of classification experts to give advice to declaration-processing units, to issue pre-entry classification information at the request of the trade community, and to serve as a liaison with the headquarters or classification centre.
 - (b) Declaration-processing units which handle routine tariff classification work. In major Customs offices, such units may be organized on the basis of industry sectors or HS Chapters. Where classification disputes or problems occur, the entry-processing units should refer the matter to a classification unit for advice or a ruling (which may, in turn, decide to refer the matter to headquarters or the classification centre).
 - (c) Risk assessment units which should help target suspect or high-risk declarations on tariff classification fraud or help target goods for which misclassification frequently occurs. This might be achieved by, for example, marking high-risk commodity categories, screening the cargo manifests, gathering intelligence, keeping surveillance, keeping importers' profiles, etc. and alerting the declaration-processing units or post-clearance audit units. The risk assessment function may be centralized at headquarters' level for higher efficiency.
 - (d) Post-clearance audit units. These units may be established in order to check classifications on the basis of risk assessment or random selection. Audits may be carried out in the Customs offices or at importers' or exporters' premises. Audits may be more effectively performed at an importer's or exporter's premises because the records and operations of the company can be more easily and comprehensively examined. These audits may include checking and comparing the classification of a company's goods cleared by any Customs office. Reviewing all the importing and exporting activities of a given company will increase the probability of detecting possible Customs offences.

Part II

Classification procedure

14. The classification of goods is one of the basic requirements in Customs procedures and in international trade and investment. This is a specialized job requiring expertise and involving various aspects such as checking of Customs declarations and other relevant documents, examination of goods, laboratory analysis, referring to technical literature and classification aids. However, delays in clearance of goods on account of classification should be minimized to the extent possible for facilitating international trade and investment.
15. Therefore, a combination of all the three following procedures is recommended in order to achieve a balance between trade facilitation and compliance. In all these cases, consultation between Customs and the economic operator as well as reference to competent technical bodies for advice (e.g., Customs laboratory, experts in the industry) should be encouraged.

Pre-entry classification*

- (a) Pre-entry classification should be furnished in the Customs administration (headquarters, classification centre, regional or local office). The number of authorities having the ability to issue binding classification information may be limited to ensure uniform classification.
- (b) Details of pre-entry classification information issued should be included in a centralized database so as to enable checking by others (headquarters, classification centre or other regional/local offices) and thus avoid issuance of conflicting information on the same product by different offices.
- (c) Binding classification information is highly desirable, and ideally it should be issued within a prescribed time and should remain valid for a specific period unless found to be incorrect, altered or withdrawn. It is also highly desirable to institute a procedure for delayed application of a change or modification of a ruling for the recipient of the original ruling who has satisfactorily demonstrated that it has relied on the original to its detriment.
- (d) It is highly desirable that any pre-entry or binding classification information (or ruling) issued to an importer or prospective importer or an exporter should also be published in order to provide guidance to the general public on the classification of similar or related merchandise.

Declaration-processing stage classification

16. A 100 % classification check at this stage may cause delays and interfere with facilitation of trade. It is therefore recommended to :
- (a) introduce selectivity on the basis of risk management and/or suspect declarations and/or of the random selection method;
 - (b) refer classification doubts or problems to tariff classification experts (headquarters, classification centre or regional/local classification units);
 - (c) consult the declarant before a change of tariff classification is effected by Customs;
 - (d) allow the declarant to amend classification mistakes with or without fine;
 - (e) leave time-consuming tariff classification checks to the post-clearance stage provided that an appropriate security measure is taken to avoid losses of revenue or non-compliance with trade regulations.

Post-clearance stage classification

17. Post-clearance audits may be carried out :
- (a) to check tariff classifications where no checks were performed at the declaration-processing stage;
 - (b) to correct any classification mistakes made at the declaration-processing stage;
 - (c) to check possible classification fraud;

* Note : See also the Recommendation of the Customs Co-operation Council on the introduction of Programmes for Binding Pre-entry Classification Information (18 June 1996).

either in Customs offices or at importers' or exporters' premises on the basis of risk management, random selection method or both.

Part III

Dispute settlement

18. Classification disputes with the trade community can arise at various stages such as the pre-entry classification, the declaration-processing stage or the post-clearance stage. An appropriate mechanism for consultation between the trade community and the Customs Administration should reduce such disputes to a great extent. Therefore, a combination of consultation and formal appeal procedures is recommended for settlement of classification disputes. Speedy, objective and efficient handling of the matter is important in the case of departmental procedures.
- (a) **Consultation procedure** : This is applicable within the Customs department at any of the pre-entry, declaration-processing or post-clearance stages. If appropriate, the responsible unit or office should consult with the importer or exporter on points requiring clarification and convey to him or her its preliminary findings on classification of the merchandise under consideration. If the importer or exporter disagrees with the preliminary findings, he/she should be given a reasonable opportunity to present, within a reasonable time, all relevant information and arguments (both orally and in writing), before a final decision is taken on the classification of the merchandise. A final decision should be appealable under the formal appeal procedure.
- (b) **Formal procedure** : The formal appeal procedure should be clearly outlined, and the legal requirements and procedures should be explained to the trade community, if so requested. The first appeal may be to a designated departmental authority whereas the second appeal or further appeals should be to independent judicial authorities. The headquarters or classification centre should provide all necessary background or technical information at its disposal to such an authority, if so requested by the authority.
19. When a dispute is handled within the Customs administration, a unit or officer which is different from the original unit or officer processing the declaration should handle the matter.

Part IV

Training and other aspects

Training

20. Training is indispensable for the staff in any organization for the development of necessary skills. Soundly based classification training, in addition to training in other related areas of Customs control, should be provided to the staff assigned to tariff classification work. The course content should include the HS Convention, the structure of the HS, classification principles, detailed analysis of HS Chapters, case studies on classification, HS Committee decisions, classification rulings, possible areas of classification fraud, Customs laboratory analysis, etc., to the extent possible or appropriate. Basic and on-the-job training courses should be designed to meet the needs of the Customs administration.

21. The responsibility for organizing the training courses should be with the departmental training division or institute and the course content should be designed in consultation with classification experts at the headquarters and/or classification centre. Ideally, the training should be given by experienced trainers who are specialized in classification. Training materials should include national tariffs, the HS Training Modules, the HS Explanatory Notes and other complementary HS publications and other relevant Customs laws and regulations. The Customs may also provide classification training to the trade community.

Integrity

22. Integrity of the Customs staff engaged in classification work is vital for the successful maintenance of an effective classification infrastructure and for the efficiency of tariff classification work. Though no simple rules can be prescribed to inculcate commitment to work and integrity, a great deal can be achieved by training, and providing incentives for good work, and providing maximum transparency in tariff classification work.

Publishing information

23. Providing the necessary and accurate information on tariff classification matters to the trade community and public is very important for enhancing the efficiency of Customs work. All relevant classification aids, rules, regulations, guidelines, binding tariff information and other relevant details concerning tariff classification should be published, due account being taken of confidential information. This could be in the form of priced publications, official gazettes, bulletins, notices or, if appropriate, through an electronic information system such as Internet. Regulatory changes affecting tariff classification should be made available to public before implementation. There may be a public relations mechanism where the trade community and the public can obtain information and clarification without delay.

x

x x