

**INTERNATIONAL CHAMBER OF COMMERCE**  
**Submission**  
**WCO Conference on Revitalizing the Harmonized System**  
**What is needed for a 21<sup>st</sup> century Harmonized System? (2-3 May 2019)**

The International Chamber of Commerce (ICC) is the world's largest business organization, representing more than 45 million companies in over 100 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, ICC promotes international trade, responsible business conduct and a global approach to regulation. ICC members include many of the world's leading companies, small and medium-sized enterprises (SMEs), business associations and local chambers of commerce.

The ICC Commission on Customs and Trade Facilitation focuses on customs modernisation and reform, as well as the implementation of transparent, simplified and harmonised customs policies and procedures.

ICC values its longstanding cooperation and partnership with the World Customs Organization (WCO), existing in many incremental steps dating back to providing private sector input to the Customs Cooperation Council in the 1950s. In line with the joint Memorandum of Understanding, ICC has continued to play a leading private sector role in interfacing with the various WCO technical committees and working groups. ICC represents global industry views in the Harmonized System Committee (HSC) and Review Subcommittee (RSC) meetings, and provides private sector input on technical questions at the request of the WCO Secretariat.

The Harmonized Commodity Description and Coding System - commonly known as the Harmonized System or simply the HS - serves as the unifying code that classifies products through an international product nomenclature. The WCO instrument is used by most countries around the world as the basis of their domestic customs tariff, whether or not they are a Contracting Party (CP) to the HS Convention.

The HS has served as an effective uniform instrument for the classification of traded goods for customs purposes, but it is used for more than just product classification from a customs perspective (e.g., trade agreement negotiations, WTO schedules, rules of origin, trade statistics, regulation of prohibited or restricted goods and accessing applicable rates of customs duty). The benefits and predictability provided by the HS can be undermined when a country fails to implement the current version of the HS in a timely manner, impacting stakeholders across the supply chain.

The work of the WCO in leading harmonised classification worldwide, including the engagement and practical expertise of the private sector, ensures that the HS remains fit for purpose for public and private stakeholders, from a multitude of sectors, across the developed and developing world. ICC applauds WCO efforts to maintain and update this critical tool.

In an effort to revitalise the HS to determine how to best modernise the system for improved accuracy, consistency and accessibility, and to ensure that it remains fit for purpose within the context of the ever-evolving global trade environment, the WCO is convening relevant stakeholders to obtain additional ideas on “What is needed for a 21<sup>st</sup> Century HS?”. ICC appreciates the opportunity to provide technical inputs to this discussion on behalf of world business. The below recommendations are representative of ICC’s vast and diverse membership.

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Given the complexity of the HS, the primary objective of this review should be to ensure a simple and predictable system that reduces opportunities for misinterpretation and inconsistency and is focused on keeping pace with technological developments and changes in international trade trends.

ICC is of the view that the HS is still fit for purpose as the hierarchical structure for describing all goods for global trade, revenue collection and statistical purposes. However, there are a number of process improvements that could be implemented to better enable the WCO and the HS to keep pace with product innovation and the evolution of the global supply chain.

ICC believes that a large undertaking such as massive simplification or an overhaul at this time would result in significant and broad implications for public and private sector users across all sectors. However, in terms of assessing areas in need of updating, ICC would suggest surveying interested parties to determine key areas and priorities for discussion, with a view to simplifying the HS by introducing more general descriptions, eliminating redundant tariff lines and verifying how the nomenclature can be refined in line with technological developments. Any ideas or concepts aimed at amending or updating the HS that come from the HS Revitalization Conference could be incorporated into the 7<sup>th</sup> Review Cycle.

### **Changing face of trade and the HS**

Modern innovations in global supply chains may be better served by specific improvements within the HS. Consideration could be given to:

- Further simplification of and adjustment in areas of the HS that tend to give rise to differing classifications across member states. ICC can assist in providing examples.
- Focus on highly-traded industry sectors (e.g., chemicals, textiles, pharmaceuticals, technology), similar to the approach taken in 2007.
- Replace out-dated terminology (e.g., automated data processing machine).
- Assess with the intent to clarify and improve the basket provisions (i.e., Other).
- Explore options for providing additional support and resources for smaller governments and business users.
- Free access to the Explanatory Notes database and Compendium of Classification Opinions, which is especially valuable to SMEs.
- Additional private sector engagement, which has proven successful in both large and smaller scale HS amendments.

- Increased coordination with the WTO to better understand the potential impact of HS changes to global tariff agreements.

The HS Review should draw from lessons learned during the 2007 Rewrite on Chapters 84, 85 and 90, and must lay out a clear implementation process. Additional clarity would benefit both the public and private sectors immensely as well as help to potentially avoid market access or downstream implications.

While a revised HS must embrace technologies of the modern economy, it is also important to note that a significant share of HS users, including developing and least developed countries (LDCs), have limited access to advanced information technology (IT) systems. Therefore, improvements to the HS cannot exclusively rely on IT systems, but can nevertheless embrace their potential to facilitate trade around the world. As such, there are opportunities to develop e-tools and leverage artificial intelligence (AI) technology to potentially assist in the classification of goods. There is the opportunity to leverage data analytics to achieve greater consistency of terminology across the HS. The transparent usage of these methods for binding tariff information could also support their acceptance across borders.

#### **Simplicity and user-friendliness: Are people “getting it right?”**

Business supports efforts to update the HS as well as efforts to ensure a more user-friendly system for both the public and private sectors. The simplification of headings and subheadings, whether by modification of provisions for greater clarity or the elimination of provisions that are difficult to administer, may be an effective means in achieving user-friendliness. However, the possibility of over-simplification risks creating doubts and differences in interpretation, impacting both customs administrations and private sector. This may consequently impact business predictability and lead to further potential classification disputes to be settled by the HSC.

Business also notes the proliferation of Preferential (Free) Trade Agreements (PTA) following the stalling of the Doha Round of trade talks. Industry would propose that whenever negotiations for new PTA take place, provisions within the PTA should include a requirement that all parties to the treaty will update use of the HS Codes to the most recent version. This will ensure that industry is not required to use older versions of the HS Codes when trading under PTAs, while already using more recent versions for non-preferential trade. Appropriate levels of capacity building should also be provided by parties to the PTA for effective HS Code update processes to occur evenly among respective treaty members.

#### **Defining the ideal nomenclature: The problems of language**

To avoid misinterpretation, HS classification should be based on objective, technical standards of the physical good in question, regardless of the potential non-primary uses. In lieu of trade descriptions, simplifying the HS by using a common language would streamline classification efficiencies and align with existing practices of appeal bodies, which generally look at the common understanding of the words before considering trade usage. The HS and its users could benefit from the use of industry trade terms (e.g., computer vs. automatic data

processing machine). An interactive database of industry terms and definitions could be useful to all HS users.

### **Keeping pace with the global economy: Shortened review cycles**

The WCO could consider reducing the 5-year HS Review Cycle, potentially to 3 years, to take into account the short innovation and product life cycles of some industry sectors. However, before any concrete action is taken, it is imperative that all consideration be given to potential downstream impacts as well as unintended consequences of such changes.

The WCO may also consider how to increase and further promote the timely implementation of the current version and future versions of the HS. Operating in a predictable environment is critical for businesses of all sizes. Moreover, the fact that all countries are not operating on the same version of the HS poses additional hurdles to any efforts to update and amend the HS.

### **Private sector engagement**

Continued engagement between the WCO and ICC, as the voice of global business, is critical, as is the domestic engagement between customs administrations and members of the private sector. Many, but not all, customs administrations or other delegated agencies solicit industry proposals to amend the HS. This approach should be encouraged to allow for greater business insight and collaboration which can provide a more comprehensive understanding of trade realities. The private sector can provide valuable insight on HS nomenclature, as well as training and technical assistance initiatives.

The evolving context surrounding technology innovation and global trade requires flexibility that can only be achieved through regular dialogue among the WCO, national customs authorities and business representatives. The private sector welcomes further opportunities to work with customs administrations, domestically and internationally, to identify specific areas of interest.

### **Public sector engagement**

The users of the HS go beyond customs administrations and importers, and changes to the HS at any level will have various impacts on international trade. The WCO should encourage customs administrations to prepare for the impacts and potential unintended consequences of any amendments or updates to the HS.

Multilateral agreements, such as the World Trade Organization (WTO) Trade Facilitation Agreement (TFA), can be further strengthened through the promotion of robust national binding advanced rulings and the establishment of an online rulings database. While such tools would aid members of the trade community across all sizes and sectors, implementation would also require solutions to address confidential business information, providing necessary protections to secure proprietary company information. Any rulings database or repository should be easily accessible on the internet and searchable.

### **Access to WCO resources**

There are many HS-related tools, which are available on a fee basis from the WCO, aimed at assisting both the public and private sector with product classification in the HS. Among these tools are the Explanatory Notes (ENs), Compendium of Classification Opinions and Classification Decisions.

The ENs offer official interpretation of the HS at the international level and are indispensable to HS users worldwide. However, access to ENs is only available through a fee-based subscription system, widely restricting access to those who can afford the cost. Free access to the ENs will assist HS users of all sizes in accurately and uniformly interpreting the HS for their needs, including for developing customs administrations and SMEs. This would also ensure alignment with the principles of the WTO TFA.

The Compendium of Classification Opinions is a WCO publication covering the most important, significant or difficult classification decisions taken by the HSC. These Classification Opinions can serve as an invaluable tool and guidance to HS users from both the public and private sector. Similar to the distribution mechanisms of the ENs, the Compendium of Classification Opinions is currently only available through fee-based subscription systems, encompassing both hard and soft copy formats. The WCO should consider providing access to the Compendium of Classification Opinions free of charge.

Additional online resources may assist in a harmonised interpretation and application of the HS among its global users. Countries may be encouraged to provide their public national rulings database and/or rulings to the WCO for incorporation into a central WCO instrument (i.e., database), which would be easily accessible and searchable. Such a tool would provide additional classification reference information and guidance to users.

The WCO may also consider additional easily-accessible resources and trainings to build capacity in customs classification within both the private and public sectors. For example, the WCO could investigate the use of IT solutions to link the WCO HS, international customs tariff, with respective national tariff schedules. With respect to training, ICC applauds WCO on the e-Learning for the Private Sector, which includes a module on the HS in English, French and Spanish.

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ICC appreciates the opportunity to provide input on “What is needed for a 21<sup>st</sup> century Harmonized System?” and to represent the voice of business at the WCO. ICC welcomes future engagement and remains available for additional information throughout the HS Review. Interested parties are invited to contact Rachel Dignam at [Rachel.Dignam@iccwbo.org](mailto:Rachel.Dignam@iccwbo.org).