

**THE EXPLORATORY STUDY ON
A POSSIBLE STRATEGIC REVIEW OF THE HARMONIZED SYSTEM (HS)**

INTERIM REPORT - PUBLIC VERSION

Introduction

1. Preliminary analysis of input has commenced. The following provides the Harmonized System Committee with a summary of the progress to date of the analysis.
2. It should be noted that this is still a work in progress and additional elements from input may still be added.
3. To ease reading, certain of the areas being considered have been divided with various aspects of the HS, the tools, and procedural matters being described separately. However, there is a significant overlap, and these may be amalgamated in the next report.
4. After consideration of specific areas, consideration of the HS in response to emerging demands has been considered. This covers possible options if major structural changes were desired after consideration of the Study.

Specific area analysis

1) The HS – General Interpretive Rules (GIRs)

Understanding of correct use - GIRs

5. Close to a quarter of the survey participants responded that they rarely use the General Rules for the Interpretation (GIR) of the HS during the classification of goods, while another quarter employed them for a range of 25% to 49% of their classified goods. More than half of the total respondents expressed challenges in comprehending the application of the GIRs.
6. The GIRs are located on a single page at the start of the HS, and hence not overly visible to new users.
7. The only official information on the use of the GIRs is in the Harmonized System Explanatory Notes (HSEN), which is not freely available.

Focus of the preliminary analysis

8. Consideration is being given to:
 - How the GIRs can be made more visible (physical placement); and
 - Potential means to improve the understanding of the GIRs (education, awareness raising).

Ambiguity of concepts

9. The GIRs have a degree of subjectivity. Respondents pointed out that the terms “essential character”, “most specific”, “goods put up in sets for retail sale”, “insofar as this criterion is applicable” and “among those that equally merit consideration” cause difficulty.

10. In addition, some input raised concerns that the subjectivity of the GIRs simplified portraying commercial fraud as either a genuine error or as an arguable classification. They noted that the concept of essential character made it easier to make minor variations to the goods in order to claim a different classification.

Focus of the preliminary analysis

11. Consideration is being given to:
 - The possibility of reviewing the current guidance material on the GIRs in the Harmonized System Explanatory Notes (HSEN), with a view to improving clarity, including alternative possibilities for performing such a review, possible workload, and whether there would be benefit for an analysis of selected jurisdiction's bodies of national judicial precedent on the GIRs;
 - The possibility of creating public guidance tools (free) to explain the GIR concepts, including whether this could have an effective reach, if there is sufficient material from HSC deliberations and the existing HSEN to base this on, the question of clarity on its status in relation to national practice and national legal precedent; and the requirements for endorsement; and
 - The potential for reviewing the GIRs themselves with a view to improving clarity and the potential repercussions of changing the GIRs, including noting both the potential benefits (including simpler, less ambiguous classification) and potential risks (including the risk of new, unforeseen outcomes as courts establish a new body of judicial precedent).

2) THE HS – Notes, their usability, and their relationship to the terms

12. There are 1,228 headings and 480 legal notes in the HS 2022. GIR 1 gives equal weight to the terms of the headings and legal notes. This equal weight is replicated at the subheading levels through GIRs 1 & 6 in combination. Therefore, terms and Notes must be read in conjunction with each other.
13. Both direct inputs into the Study and anecdotal reports indicate that, concerning, many users, are either unaware of the existence of potentially relevant Notes or do not consider them when classifying.
14. The relationship between the Notes and terms complicates an already concerning trend noted: that is the tendency for other organizations to create “flat” versions of the terms.
15. There are several issues with the use of legal Notes that were identified.

Definitional Notes

16. For the provision of “definitional” notes, that is Notes that legally define a word or phrase in the context of the HS, there is no set procedure or practice for determining if a word or phrase being introduced into the HS should be legally defined. It is simply dependent on whether a proposal to do so was introduced and considered during the drafting process.
17. Where there are legal definitions provided, the level of clarity and ease of location can vary.

18. Some provisions are quite clearly defined in Notes based on objective physical characteristics, e.g., the use of physical test results in Note 3 to Chapter 34, or the use of weights, thicknesses, materials, and the type of physical support used in Note 4 to Section XI.
19. Other words and terms have more general definitions that include components based on design use or other concepts that in themselves require some interpretation e.g., “of the kind commonly used for domestic purposes” in Note 4 to Chapter 85.
20. To locate if a term has a defined meaning requires a careful reading of the legal Notes, not only in the Chapter or Section relevant to your provisions, but also across any other Section or Chapter that may use the same term as it may or may not be in the same chapter or section as the provision being considered.

Example: “Fine animal hair”

Fine animal hair is referred to in multiple chapters of Section XI, but the legal definition is not in the Section Notes, it is in the Chapter 51 Notes.

21. Currently there are 21 legal Notes with a whole-of-Nomenclature scope, and these are scattered across various Sections and Chapters. These are all Notes that define words or terms. While some provisions use references to Notes (e.g., “specified in”), this is not common. There are generally few references to Notes in the terms of headings or subheadings, especially where outside of the Section or Chapter where the Note is located. When the definition is outside of the Chapter of the classification a user is dealing with and there is no reference to that Note, this further increases the risk that they will not know that a relevant word or term is legally defined.
22. For importers simply looking at tariff provisions, it may also simply not occur to them that a particular word or term might be legally defined.

Example: “Suit”

Suit is legally defined for Chapters 61 and 62 in the respective Chapter Notes. But input indicates that awareness of the Notes is low and as this is a common word, importers can easily assume that it uses the “ordinary meaning”.

Focus of the preliminary analysis

23. Consideration is being given to:
 - different methods that might be used to indicate within provisions that a word or phrase is legally defined (e.g., italics, underline, asterisks, footnotes, etc.);
 - different methods that might be used to reference relevant Notes in the provisions themselves;
 - the possibilities, advantages and disadvantages around grouping either all nomenclature-wide Notes, or all definitional Notes together for easier consultation (e.g. at the beginning of the nomenclature);
 - the workload and potential benefits and disadvantages of conducting a review or survey to identify the words and terms most likely to result in disputes; and

- the potential utility of requiring an explicit decision on whether definitions are needed for all new proposals to ensure that this is considered during drafting.

Notes directing the means of classification

24. A number of Notes give direction on how goods are to be classified, thereby preventing the use of GIRs 2 to 5. It is uncertain if there is a wide understanding of this among users.

Example: Note 3 to Chapter 29

3.- Goods which could be included in two or more of the headings of this Chapter are to be classified in that one of those headings which occurs last in numerical order.

This Note prevents GIR 3 (a) and GIR 3 (b) being used and imposes a method of deciding between two competing headings in the Chapter that is equivalent to GIR 3 (c). This can produce counter-intuitive results in classification in Chapter 29 where an earlier heading provides a better description or describes the principal component of a chemical. A lack of awareness of the requirement to use this Note can result in misclassification.

25. The difficulties for non-experts in clearly understanding the relationship between Notes that direct the means of classification and the GIRs is part of the wider issue of complexity of use that applies to the HS as a whole.

Focus of the preliminary analysis

26. Consideration is being given to:
- how greater clarity of the role and function of Notes may be introduced; and
 - if it could be better specified, within the Note or through other means, where a note alters the availability of GIRs 2 to 5 (i.e., where it "otherwise requires" in the language of GIR 1).

Notes including, excluding or otherwise directing the scope of terms

27. Notes that narrow or broaden the scope of sections, chapters, headings, or subheadings by either specifically excluding or including certain goods or providing further clarification of the scope are common.
28. These Notes are generally essential to simplify classification as they give clarity on the coverage of goods that would otherwise be ambiguous. However, the issues of; awareness of the Notes; the possibility of needing to refer to exclusions in multiple areas; and the ability for some of these Notes to seem to contradict each other can cause significant problems.

Example: vehicle headlights

Note 2 to Section XVII is the primary exclusionary Note that affects the classification of vehicle parts under heading 87.08. However, it excludes multiple goods on the basis of their classification in specific chapters or headings, e.g., 2 (g) “Articles of Chapter 90”. Hence there is a need to read the exclusion Notes for those provisions as well to determine coverage.

Taking headlights, as an example, the following is a potential path.

- Reading Note 2 (k), which excludes “Lamps or lighting fittings of heading 94.05”. may lead to the conclusion that they are excluded from Section XVII and covered under heading 94.05.
- However, reading exclusion Note 1 (f) to Chapter 94 shows that “Lamps or lighting fittings of Chapter 85” are excluded from the Chapter.
- Turning to Chapter 85, it can be found that heading 85.12 covers “Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles”.
- From this it can be concluded that Note 2 (k) to Section XVII does not exclude headlamps.
- However, Note 2 (f) to Section XVII excludes “Electrical machinery or equipment (Chapter 85), and as they can fit into the terms “electrical lighting of hence it is still excluded, but not by Note 2 (k).

It should also be noted that for parts where the exclusion Notes are silent, e.g., fuel tanks, people unfamiliar with the exclusion Notes would still need to read multiple Notes very carefully to be sure that they are not actually covered.

29. Further analysis of the potential confusion around interacting Notes will be done, including looking at specific examples to see how they are being handled currently in practice and whether any guidance is offered in the existing HSEN.
30. There is also some concern that there may be a tendency in some cases to a view that if it is not excluded, it must be included. It is not clear if this is a common problem or not, there is simply anecdotal accounts of arguments that used this reasoning, ignoring the need to also comply with the terms and, when appropriate, to apply GIR 3.

Example: **Do plastic covered textiles go to Chapter 39 or Section XI?**

Chapter 39 Notes

2.- This Chapter does not cover :

(...)

(p) Goods of Section XI (textiles and textile articles);

Section XI Notes

1.- This Section does not cover :

(...)

(h) Woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39;

This is an example of exclusionary Notes that have caused confusion for trade by giving the appearance of being contradictory. On first glance, it can appear that Chapter 39 cannot cover textiles, but Section XI cannot cover plastic covered textiles.

This is not true.

The confusion occurs because of a lack of understanding of the “of” in exclusionary Notes that use the “of (section, chapter, heading or subheading)”. This configuration requires first determining if the goods *could* be covered in the excluded area.

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Example: Do plastic covered textiles go to Chapter 39 or Section XI - continued

Deciding on whether a plastic covered textile is in Chapter 39 or Section XI requires consideration of third note as well, Note 2 to Chapter 59.

2.- Heading 59.03 applies to :

- (a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square metre and whatever the nature of the plastic material (compact or cellular), other than :
- (1) Fabrics in which the impregnation, coating or covering cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;
 - (2) Products which cannot, without fracturing, be bent manually around a cylinder of a diameter of 7 mm, at a temperature between 15 °C and 30 °C (usually Chapter 39);
 - (3) Products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39);
 - (4) Fabrics partially coated or partially covered with plastics and bearing designs resulting from these treatments (usually Chapters 50 to 55, 58 or 60);
 - (5) Plates, sheets or strip of cellular plastics, combined with textile fabric, where the textile fabric is present merely for reinforcing purposes (Chapter 39); or
 - (6) Textile products of heading 58.11;
- (b) Fabrics made from yarn, strip or the like, impregnated, coated, covered or sheathed with plastics, of heading 56.04.

Textiles covered with plastics that DO meet the description of Note 2 (a) or (b) to Chapter 59 but DO NOT meet a description in Note 2 (a) (1) to (6) are classifiable in Chapter 59 of Section XI and hence Note 2 (p) to Chapter 39 APPLIES and they **cannot** be classified in Chapter 39. **BUT**, if a description of Note 2 (a) (1) to (6) applies, then they are not covered in heading 59.03, or in any other heading of Section XI, hence Note 2 (p) to Chapter 39 DOES NOT APPLY, so they can be goods of Chapter 39 and Note 1 (h) excludes them from Section XI, so they **can** be classified in Chapter 39. This set of Notes has caused confusion.

Focus of the preliminary analysis

31. Consideration is being given to:
- how greater awareness of the Notes on scope could be fostered;
 - if it is possible to better link interacting Notes on scope;
 - methods of improving explanations in the HSEN of how to read Notes affecting scope, e.g., general guidance or specific coverage in problem areas; and
 - the advisability of a separate study to map the interaction of Notes

Clarity of Notes

32. In addition to the problems of understanding the interactions between Notes, or between Notes and the GIRs, the language of the Notes can also be complex within a Note.

33. The wording in Notes, as within the HS as a whole, can lead to confusion for users if they are not familiar with the HS style. There is a great deal of underlying implicit meaning in phrases and layout, e.g., the considerations around priority when a “goods of” construction is used or the implications of the “goods of” compared to bracketed directions to HS areas, that can lead to misclassifications even when the texts are read in the official languages.
34. Much of the discussion on clarity of Notes overlaps with the discussions raised about specific types of Notes, so this is covered in more depth there and also in the section on clarity of terms of provisions.
35. In addition, the use of standards and industry definitions is discussed in the sections below in relation to the terms and to the Harmonized System Explanatory Notes and other tools.
36. One point to bear in mind throughout, is that the age profile of Notes and provisions spans from provisions inherited from the Brussels Tariff Nomenclature (renamed Customs Cooperation Council Nomenclature in 1976) to those newly made for HS 2022. During a span of many decades, it is inevitable that there are some inconsistencies in style and language that occur. In addition, over the decades, certain styles, conventions, and shared understandings develop of how certain terms are used, and these may not always be easily understood outside of the domain of HS experts, forming a barrier for non-expert users. This also needs to be taken into account in considering the level of clarity.

Example: Note 6 to Chapter 90

6.- For the purposes of heading 90.21, the expression “orthopaedic appliances” means appliances for :

- Preventing or correcting bodily deformities; or
- Supporting or holding parts of the body following an illness, operation or injury.

Orthopaedic appliances include footwear and special insoles designed to correct orthopaedic conditions, provided that they are either (1) made to measure or (2) mass-produced, presented singly and not in pairs and designed to fit either foot equally.

The first part of the Note provides that “orthopaedic appliances” include those that support or hold, but the second part for footwear and special insoles only has “designed to correct”. As the phrase “(2) mass-produced, presented singly and not in pairs and designed to fit either foot equally” refers to fracture boots, this creates problems in that fracture boots only hold and support, they do not correct.

The complexity of the language in Notes can make it hard to detect potential problems in Notes as well as making it harder to apply them correctly.

Focus of the preliminary analysis

37. Consideration is being given to:
 - the workload and potential utility of a review of the Notes for consistency of language, style and clarity.

3) THE HS – the terms

The ability to incorporate new provisions in the structure

38. There are two primary issues identified in relation to this.
39. The first is that within six digits, the limits are being reached in some areas for subdivision, particularly in relation to chemicals and fishery products.
40. The second is that the headings within a chapter have a certain order and this can create difficulties in creating new headings that would 'naturally' occur earlier in the chapter than the end. If an appropriate heading number is not available from earlier deletions, then this requires putting them out of that expected order or placing them at the end and then renumbering a range of other headings to move them to follow the new heading.
41. While not entirely consistent, chapters generally start with the less processed forms of the products of the chapter, through to forms more structurally or specifically defined, then to broader classes based on function or area of use, and often ending in headings for goods that are very broad residual headings, such as headings for goods not elsewhere specified in the Chapter. The implications of this structure can vary between a small increase the difficulty of locating the right heading to very serious problems with the use of "last occurring" Notes or GIR 3 ©.

Lack of clarity in, and information on, the drafting conventions

42. A particular issue is that there appears to be a low level of understanding of the grammatical and stylistic conventions used in the HS. There is no "style manual" or other interpretation guide to assist drafters to maintain consistency and users to understand the language of the HS.
43. Conventions such as "A or B" meaning A or B or A and B are not explained. Other language that is used frequently, such as the phrase "of a kind" or the structure "(good) for (purpose)" have varying levels of explanation in the HSEN depending on which occurrence the HSEN entry covers, but there is no explanation that gives clarity by noting how it is used throughout the HS.

Example: The problem of "or"

In the HS, the word "or" is usually used in the inclusive sense. So, if terms say "for switching or protecting", then it means it can be for switching, or for protecting, or for switching and protecting. It is an 'inclusive or', not an 'exclusive or' unless the context otherwise requires.

However, this is contrary to how "or" is used in the legislation of some Members or in the ordinary usage in some countries. This particular convention is not in the HS or the HSEN.

Focus of the preliminary analysis

44. Consideration is being given to:
 - The possibility of creating a drafting manual and what would be required in terms of work to review and understand the existing text and conventions for this.

Reliance on "ordinary meaning"

45. There is a heavy reliance on the "ordinary meaning" of words. This can create problems in interpretation and consistency of application.

Example: **Heading 95.06**

- Articles and equipment for general physical exercise, gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this Chapter; (...)

Questions on what constitutes an article or a piece of equipment for general physical exercise, sports, or outdoor games have been examined multiple times in the HSC and within administrations and national judicial systems for goods as diverse as yoga mats, jump balls, stress balls, resistance bands, protective sports clothing and even artificial turf for putting greens. There is no definition in the legal Notes of "articles and equipment for general physical exercises", "articles and equipment for other sports" or "articles and equipment for outdoor games".

46. In the HS, most words and phrases are not legally defined. This includes many of the more difficult words and terms used in the HS provisions or GIRs e.g., "toy", "parts", "accessories", "principally", "for use with an automatic data processing machine", "essential character", etc.

Example: **Parts and accessories**

Goods can only be covered on the basis of their status of being a "part" or an "accessory" if there is a legal Note that provides for parts or accessories, or if a heading includes parts or accessories in its terms.

There are legal notes on the classification of parts in some sections or chapters, (e.g. Note 2 to Section XVI, Note 3 to Section XVII, Note 2 to Chapter 90) and some legal notes that restrict the coverage of parts and accessories in a specific section, chapter, or heading by either excluding certain goods from being treated as parts or accessories or placing a "suitable for use solely or principally with" restriction (e.g. Note 2 to Chapter 62, Notes 2 and 3 to Section XVII, Note 2 to Chapter 93, Note 3 to Chapter 95).

However, there is no legal definition of either term for the purposes of the Nomenclature, leaving the 'ordinary meaning' to apply. The only exception to this is the legal definition of the phrase "parts of general use", defined in Note 2 to Section XV.

Focus of the preliminary analysis

47. Consideration is being given to:
- Potential methods to provide information or education to users on how to read the HS, this includes considering the possibilities of:
 - an annex to the HS, which would give legal certainty but reduced ability to update,
 - within the HSEN for simplified updates but without being legally binding, or

- in a new tool, which would give maximum flexibility but provide no legal weight and limited visibility); and
- consideration of the workload and potential utility of a review of the language of the HS for consistency and clarity.

Referencing standards and industry definitions

48. Referencing international standards and industry definitions helps ensure the harmonization of product identification around the world to avoid any subjective, arbitrary, and meaningless definitions.
49. The legal provisions do not directly quote international standards by name except in subheading Note to Chapter 27 and subheading 2707.50. However, the language of the HS does at times make use of terms, descriptions, measurements, and criteria derived from standards, although it was not always clear when such terms had been taken from standards or industry definitions.
50. Conversely, if provisions, Notes, or the HSEN use terms that have a widely accepted meaning in industry or by government, or are defined in widely accepted standards, then *not* using this meaning, or creating a definition that is *not* in accordance with this understanding, risks reducing trade understanding of the correct use of the provision.

Focus of the preliminary analysis

51. Consideration is being given to:
 - whether a more formal policy on the use of standards and industry definitions is required; and
 - how records could be kept of when criteria or description arise from a specific standard or specific industry source

4) THE HS – complexity of verifying the identification and classification of goods

52. Many provisions relate to characteristics that require laboratory analysis to verify if there is doubt. The composition of a chemical compound, the species of fish, the tenacity of yarn – there are numerous provisions based on characteristics that may not be discernible through visual inspection alone.
53. With many new laboratory verification reliant provisions created, proposed or likely, demands on Customs laboratories are expected to grow. Although Customs laboratories play an important role in identifying goods at the border, there are limitations on its use.
54. Faced with difficulties in physical verification, some Members rely on certificates for certain traded goods to verify goods at the national level, e.g., wastes or organic status. However, at the HS level currently reference to certification has not been captured in the legal text of the HS, except for a reference to testing methods in Subheading Note 4 in Chapter 27 and in subheading 2707.50. There is also a reference to “recognised clinical trials” in Note 4 (e) to Chapter 30, which would in some cases involve a certification process, depending on the country, for recognition. There are a few references to the need for recognition by competent national authorities in the HSEN, e.g., the HSEN to subheading 0701.10, but these are not reflected in the HS. Beyond the small exceptions mentioned, there is no direct reference to standards or certifying authorities in the HS.

55. Part of the reason the HSC has not used certification relates to the lack of a single globally recognized certification system for any particular commodity. Referencing a standard would therefore be problematic for Contracting Parties who do not recognize or use a particular standard.
56. Another aspect is the difficulties that could arise if the standards used for the awarding of the certification were changed in such a way that it changed the scope of the goods eligible for certification. This would change the scope of a provision that used the certification as a criterion.
57. It is also noted that certification can be difficult and expensive, making it problematic for MSMEs, particularly in developing and least-developed countries.
58. However, the call to use certification from some stakeholders recognized that there are increasing policy needs to identify goods at the border on the basis of characteristics where certification is currently the only feasible method to use. This will be considered in greater detail in the section on the HS and possible responses to emerging demands.
59. Clarity of language is always challenging in complex legal texts, particularly where translation is required. A frequent requirement for the work of the HSC is to clarify meaning. However, when the HSC does create guidance on the meaning of words for the identification of goods within the HS, it is placed in the Harmonized System Explanatory Notes (HSEN). These exist behind a paywall which reduces availability and there are some difficulties in the relationship between the HS and the HSEN. This will be discussed later in this document.

Focus of the preliminary analysis

60. Consideration is being given to what would be required for alternative methods of identification and verification to be considered for incorporation into the HS.

5) THE HS – Review cycles and implementation

Relationship to the pace of change in technology and practices

61. Advances in technology and changing commercial realities can result in changes in the scope of legal provisions, resulting in risks that the provisions are not performing the role envisaged.

Example: Sub-heading 8471.30

- Portable automatic data processing machines, weighing not more than 10 kg, consisting of at least a central processing unit, a keyboard and a display

This was originally intended to distinguish between portable computers and desktop or larger computers, and, at the time, the 10 kg distinction would have been appropriate, but it is less useful now as it does not reliably separate laptops, notebooks, tablets, and other portable computers from desktop or larger computers.

62. The update of legal provisions entries is dependent upon a proposal being submitted. Therefore, the frequency of updates of provisions is highly variable across the Nomenclature.

Focus of the preliminary analysis

63. Consideration is being given to:
- the potential methods (including virtual Member groups) and workload implications of scheduled reviews on a sectional basis, including the potential issues of classes of goods crossing sections, whether on the basis of functions (e.g., the intersections between foods and medicaments or the intersections between Sections XVI, XII, and XVIII) or on the basis of being potentially classifiable by material or function;
 - the potential utility or difficulties of having a certain degree of involvement of selected external stakeholders in reviews for technical input

Length of the review cycle

64. Different perspectives emerged regarding the duration of the review cycle, falling into three main groups: those supporting a shorter cycle, those favouring the continuation of the current time limit, and those proposing a longer period.
65. Considering these varying perspectives, it is worth noting that 57% of the survey respondents agreed on the appropriateness of the existing five-year cycle. Furthermore, findings from the IFCBA (International Federation of Customs Brokers Associations) survey on the Harmonized System of Tariff Classification (HS) revealed that around 70% of participants shared the view that a five-year review schedule is satisfactory. However, respondents from both surveys highlighted the issue of chapters involving modern technology, expressing concerns that the five-year cycle frequently falls short in addressing these chapters adequately.
66. It is noted that the HSC has some flexibility to alter the review cycle length if needed. The time from when the draft Recommendation is submitted to Council until coming into force is set in the Convention and would require an amendment to alter. However, the time between when draft recommendations are submitted is not under the Convention and hence is at the discretion of the HSC.
67. In the initial analysis, it was noted that those who proposed a shortening of the review cycle were considering the fast development of technology and new products and desiring more frequent updates to keep up with this.
68. However, the obsolescence of fast-changing technology, the lengthy parliamentary approval procedures in many countries, the impact on other international organizations that use the HS, and the time needed for negotiating complex proposals, would all be factors contributing to problems if the cycle is shortened. In addition, there are still Members who have not yet implemented the latest HS version and consistently find it difficult to keep pace with the five-yearly cycles.
69. Therefore, maintaining the current default review cycle of five years would appear to be a balanced approach for stakeholders.
70. If improvements in the HS are made that could alleviate the time taken for negotiations and reduce the impact of the other factors noted above, then this matter could be reconsidered in conjunction with those changes.

Timing of the review cycle

71. A notable 45% of survey respondents have expressed approval for their respective country's approach to managing changes within the HS framework. Nonetheless, the absence of a standardized release schedule, combined with certain administrations releasing revised national tariff amendments later in the year in preparation for the launch of the new HS edition on January 1st, several respondents have expressed concerns about facing limited time limits to effectively prepare and implement the necessary adjustments. The survey results additionally demonstrate that 59% of respondents from the private sector view a time limit of at least 9 months from the issuing of the **national** correlation tables as necessary for the timely implementation of a new HS edition.
72. Inputs from the private sector noted that the start date of HS editions coming into force, 1 January, has posed challenges for many businesses. This coincides with two major holiday periods in many countries, Christmas and New Year. This can make it expensive and difficult for businesses with complex inventories and high levels of transactions to manage the change-over, often requiring staff and IT professionals to be on standby during statutory holidays.
73. They noted that the difficulties were compounded when there was late publication of national tariff amendments and national correlation tables, which in some cases could be as late as November through to mid-December before the entry into force on 1 January.
74. In addition, there were multiple inputs on the problems caused by Contracting Parties not all implementing at the same time.
75. The date of implementation is a procedure directed by Article 13 of the HS Convention.
76. However, as noted, multiple Contracting Parties do not implement in accordance with the Convention. While national practices are outside of the scope of this Study, it is strongly recommended that the WCO remind Contracting Parties of their obligations under the Convention and encourage them to meet the scheduled start date. (In this context it is noted that this may need some practical support. The work of the EU-WCO HS Africa Programme and its positive outcomes in implementation demonstrates the value of such support.)
77. While noting that it is very difficult to find a date that does not impact at least some countries in terms of falling within an extended holiday period, as well as the preference of some countries preferring 1 January to fit in with their fiscal year, it is recognized that the current date can pose practical difficulties with timing in a significant number of countries. Given this, the possibility of changing the implementation date to another practical date could be considered.
78. However, as this does not impact on the HS itself or its tools, it is not truly in the scope of recommendations from the Study. Instead, it may be something that the HS Contracting Parties could raise in the HSC, and ultimately, the Policy Commission and Council if they believe a change should be made.
79. In relation to the late issuing of national amendments and national correlation tables, this is also outside of the scope of this Study.
80. It can be noted that improvements in the HS correlation process could assist Members in better timing if these improvements lead to an earlier production of the HS correlation table. This is addressed below.

Correlation Tables

81. The correlation tables are currently accessible in three ways:
 - the basic correlation tables are freely available on the WCO website;
 - a paper version, with more in-depth explanations, is available in the WCO bookshop; and
 - the information on correlations is embedded in the subscription-based version of the online WCO Trade Tools.

82. Major concerns with the correlation tables included:
 - lack of detailed information on the scope and intent of changes in freely available correlation tables;
 - insufficient information to clarify the impact on rules of origin in Free Trade Agreements (FTAs);
 - low level of awareness of the paper version booklet on the correlation tables (“Amendments to the HS 2022”);
 - lack of legal or official status for the correlation tables;
 - low levels of user-friendliness (e.g., read-only format on the WCO website, hard to find on the WCO Trade Tools);
 - the timing of preparation for the draft correlation tables; and
 - the timing of issuance at the national level (will be discussed under the theme “Timing of the review cycle”).

83. When drafting this document, various usability issues had already been addressed or are under consideration. An updated online version of the WCO Trade Tools gives more visibility and user-friendliness to the correlation information, and the best format for the publication of the next correlation tables is being actively considered.

84. The current practice is that correlations are not considered until the negotiation part of the cycle is complete and the full set of draft amendments has gone to Council.

85. One possibility to improve the process would be to consider the correlation of new individual amendments as they are provisionally adopted during the negotiation cycle. This could potentially be done as either part of the HSC Pre-sessional Working Party work or directly to the HSC as it is currently.

86. An advantage of this is that it would enable the release of the correlations to be timed with, or shortly after, the release of the adopted Recommendation for the new edition (approximately two years prior to the implementation date). It would have the additional benefit that if the process of determining the correlations illustrates any problem, there would usually be time to consider this (apart from those provisionally adopted at the final meeting of the negotiation cycle).

87. There are some potential disadvantages, including an increase in workload and HSC time taken when dividing up the correlations into multiple agenda items and the risk of counterproductive repeated discussions of negotiation points that were considered before the provisional acceptance provisions, and these are currently being considered.

88. The issue of the status of the correlations was also raised by several parties.

Focus of the preliminary analysis

89. Analysis in the area focuses on:

- what level of detail is needed or desired in the correlation tables and the impacts of providing this on the HS Committee (HSC) and Secretariat workload;
- the comparison of the level of detail between the basic correlation table, the booklet, and the subscription-based online version; and
- consideration of the status of the correlations and any impacts this may have.

6) The HS System procedures (*this section discusses internal and meeting procedures and is not part of the public version*)

7) The Harmonized System Explanatory Notes and other HS tools

Information availability and barriers to accessing the HS tools

90. The need for more public information, guidance, and tools, along with increased accessibility to existing tools, was underlined by multiple stakeholders. It was considered by these stakeholders that this was essential to improve predictability and uniformity of classification work, and hence improve trade compliance.

91. One issue that was repeatedly raised was that the cost of the tools reduced their use and placed a barrier to good understanding and compliance. This has affected both the private sector and Members. The survey results emphasize that those who make use of the HS tools consider them highly effective for classification purposes.

92. The WCO Policy Commission and the Council in June 2016 examined the issue of free or reduced fee availability and decided to maintain the current policy of having the publications as payable content.

93. The general lack of transparency, which resulted from the restrictions on the dissemination of meeting documents was also questioned. This was in relation to both public release and sharing with other relevant IGOs.

Focus of the preliminary analysis

94. The following are being undertaken:

- an analysis to assess the financial implications of different options for potential revenue models for the tools; and
- consideration of whether the current publicly available information was sufficiently visible.

Referencing standards and industry definitions in the HSEN

95. The discussion on references to standards in relation to the HS also applies here.

96. In the HSEN, references either direct or indirect, to standards are more common than in the HS. The HSEN, unlike the HS, does not have legally binding force, it simply provides a commentary

on the scope of each heading or subheading, hence there has been more openness to referring to standards.

97. One of the potential problems/issues identified is that it is not always clear when a definition has come from a standard. Determining when a particular definition or explanation of goods came from an authoritative source, such as an international standard or an umbrella industry body's glossary currently requires examination of past meeting records. These may or may not note the source of the information. Standards may be used as source material for descriptions of goods, whether directly, or from descriptions being taken from other publications or submissions, whether or not acknowledged in those sources. This makes it more difficult to review if any definitions are up-to-date.
98. Standards and trade terms can evolve and change with changes in technologies and methods. There is no systematic procedure to check the currency of references to standards or trade terms in the HS or HSEN and no provision for such references to be read as also referring to the updated versions of standards.

Focus of the preliminary analysis

99. Consideration is being given to:
 - Whether a formal policy on the use of standards or industry definitions is required; and
 - How records could be kept of when criteria or definitions arise from a specific standard or a specific industry source.

Formatting and drafting styles

100. The study of the current HSEN revealed that the impact of differing drafting styles over more than 30 years has led to some inconsistencies in how the Explanatory Notes are written.
101. The discussions around language in relation to the HS also apply here.

Focus of the preliminary analysis

102. Analysis of the potential workload and impact of creating a drafting manual (a document outlining important conventions in terms of the use of grammar, certain words and phrases, and formatting) for the HSEN to assist the HSC and RSC in maintaining a consistent style is being considered.
103. Part of this would also involve outlining the possibilities of the use of the content of such a manual. It could be an internal WCO-only document, or it could be made public, either through inclusion in the HSEN or as a separate public tool, to aid understanding in reading the HSEN. However, any public release would be dependent on the HSEN first being reviewed to ensure existing provisions match the drafting manual.
104. The analysis for both will need to consider both the workload and cost involved in creating such a manual and in updating the HSEN to match the conventions agreed on by Contracting Parties.
105. In addition, the question of how interpretation guidance for the HS itself might be given shall depend on Members' consideration. This includes considering the possibilities of a section within the HSEN on the drafting conventions for the HS, a separate tool, or even an annex, if created.

Other tools – Database, Classification Opinions

106. Inputs were centred on the possibility of creating a WCO HS-related database (e.g., advance rulings) and improving search functions with a view to enhancing the usability and transparency of information.

Analysis

107. When the Study project started, the IT team had already been working on the analysis work of the WCO new website. While this project is currently on hold, concerns such as user-friendliness were already considered.
108. Since the advanced search for Classification Opinions has already been realized on the WCO Trade Tools website, the analysis in this area focused on the feasibility of creating WCO HS-related central databases for advance rulings.
109. A quick survey on the status of the implementation of advance rulings was conducted at the side of the 71st Session of the HSC and the 62nd Session of the RSC. 37 out of 60 Members interviewed have implemented advance ruling systems and published them either on websites or in a booklet, 11 have implemented but kept the rulings internally, and the remaining 12 have not yet implemented a system. Such key factors as the level of details to the rulings, ruling format, period of ruling validity, the procedure for ruling revocation and modification as well as languages vary among Members.
110. Initial analysis shows that the lack of standardization on fields e.g., format, period of validity, language, and cost prohibitive posed major difficulties in creating a database.
111. In addition, it would be uncertain if Members would agree to sharing the rulings, and, crucially, would ensure that the data in it was current and still valid. Trade potentially relying on a ruling found on a WCO database when that had been revoked or changed by the administration without the WCO database being simultaneously updated would pose extremely serious issues.
112. For these reasons, the Study will not recommend the possibility of implementing a database within the final report.
113. However, maintaining a central page with links to published rulings could be easily achieved. Its usefulness would depend on the number of Members who provided their links. This could be done within the general work of the Secretariat.

The HS and possible responses to emerging demands analysis

114. The previous sections look at potential improvements to the HS in specific areas. But there is also a question as to whether the HS is sufficient for future needs. This requires consideration of a larger question on the HS as a whole. The following issues or ideas were raised in input to the Study.

Emerging demands on the HS

115. The strengthening policy agenda in relation to trade and environmental issues, including those related to the circular economy, biodiversity, plastic pollution, and climate change, has led to an increasing demand to monitor and measure specific products. The pace of new policy development in this area also appears to be increasing. This is increasing expectations that

Customs, and the HS, will be able to respond to new global policy imperatives by creating HS provisions.

116. These new demands come with specific problems for the HS. For example, in identifying environmentally sensitive goods the challenges include establishing workable criteria for goods of interest and the diffuse nature of the stakeholders.
117. The HS provisions are, almost entirely, based on objective characteristics. While some provisions, for example, “collector’s pieces”, have a degree of subjectivity, in general, the intent within the HSC is to create provisions based on objective characteristics that can either be checked at the border or verified through testing. However, with goods that are environmentally sensitive, their status is not always based on their physical characteristics. For some, it is based on external production factors (e.g., the use of sustainable energy sources or the reduction of harm to biodiversity in production) or on end-use (e.g., when used in green energy production rather than polluting energy production).
118. Challenging criteria are not an entirely new problem. For example, the HSC is already working on goods that demand a more complex identification, from how to specify the contamination of wastes to how to delineate goods on the borderline of “medicaments” and “general well-being products”, and this has already made for slow and difficult progress on needed and well-supported proposals. This is a real concern that this trend of complex provisions to negotiate is set to not only continue, but to become the vast majority of proposals.
119. The green agenda brings this challenge to a new high level, with the criteria often completely divorced from the discernible physical characteristics.
120. The diffuse nature of the stakeholders and their expertise is also challenging.
121. When provisions are created in the HS for a specific agreement or convention, then the relevant organization entrusted with the agreement or convention is the single point of contact and can usually provide exact information on what is required to be covered and how it is identified.
122. However, requests for the WCO and its Members to create provisions to support emerging policy measures by identifying goods of concern that are relatively non-specific requests (e.g. requests to identify problematic plastics without a clear list of goods to be identified in trade, or to identify goods for humanitarian aid) are becoming more frequent and these are coming from multiple organizations and Members. This means that it can be difficult to have clarity and consensus on what should be covered and even harder to reach consensus on how it should be identified.
123. The pandemic also highlighted two other issues that are likely to reoccur. One was the need, in the event of global emergencies, to be able to quickly respond to the need to identify critical goods and inputs in trade. The other was that there is a concerning level of fragility of global value chains in the face of such events and that the pandemic highlighted how difficult it was currently to identify the movement of goods and materials through value chains internationally. The lack of HS codes for intermediate goods was highlighted, as was the inability to identify certain critical inputs through insufficient granularity in classification.
124. As with many environmentally sensitive goods, creating provisions to identify critical goods on the basis of the value chains they participate in (e.g. goods for use in pharmaceutical

manufacturing) or when for certain end-uses that must be facilitated (e.g. garments for medical workers), can also be very problematic in establishing criteria for identification at the border.

125. One of the issues that arises from these growing concerns around both new policy needs and the potential for shocks to the trading system, is that the desired speed of response to new policy needs is not always compatible with the time it takes to create new provisions. From the introduction of a new proposal to it being in force as part of a new edition takes somewhere between just over 3 years to just over 7 years, depending on the meeting at which it is introduced. This creates difficulties when the need is urgent.
126. Finally, there are challenges to the ability of the HS to achieve its underlying goal of promoting a base level of global uniformity in the identification of traded goods. There are two aspects to this. One is where Members differ in their classification of goods, that is, trade faces discrepancies in treatment from Customs. The other aspect is how reliable is the classification of goods by importers and exporters, that is, how much can the data generated from declarations be trusted by Customs and statistical agencies.
127. In terms of the reliability of classifications on import and export declarations, the changing nature of trade has compounded the already existing problems in this area. The complexity of classification, and, in some cases, the financial incentives to misclassify, have always created issues around the accuracy of classification. However, the move to increasing numbers of e-commerce shipments and the increase in individuals and MSME without any real expertise in classification as exporters or importers are other factors that impact the reliability of declarations.
128. The major areas raised as requiring consideration for improvement of the HS to meet future needs can be summarised as:
 - Greater capacity to identify goods more specifically;
 - Ability to identify goods using a broader range of non-physical criteria;
 - Improved alignment with the development of global policies and policy analysis needs (both in timing and in consultation); and
 - Increased simplicity of use.

Preliminary analysis of potential future avenues for the HS

129. Looking at the basics, the expectation is that the HS:
 - classifies all possible entities in its domain of “all tradeable goods”; and
 - all entities within the system have one, and only one, classification.
130. Any possible changes are being considered against the impact on the HS’s capacity to meet these expectations.
131. Looking at the current status, the HS *can* classify all possible entities, albeit with the use of large numbers of very broad “basket” provisions and the backup of GIR 4.
132. In terms of all entities having a single class, the reality is that the HS is not well set up for this as it stands. This is why it has such a high level of complexity within the GIRs and within the interactions between different provisions and Notes.

133. The simplest way to achieve distinctive classes, is to have a singular classification basis, for example, a classification of business that uses the number of employees as the basis of its classes, or a classification of dogs based on breed (including classes for mixed breeds).
134. The HS does not have a singular classification basis. It has a complex domain and its provisions are set up for very varied reasons. To deal with this, it uses a mix of criteria, including:
- Material composition (e.g., “of plastics”);
 - Structure (e.g., “cyclic alcohols”);
 - Form (e.g., “in strip”);
 - Processing (e.g., “frozen”);
 - Function (e.g., “weighing machinery”);
 - Purpose (e.g., “machinery for preparing or making up tobacco”);
 - Industry (e.g., “for the industrial preparation or manufacture of food or drink”);
 - Area of use (e.g., “of a kind used in the bedroom”);
 - Product life cycle stage (e.g., “waste”);
 - Name (e.g., “carbon electrodes”); or
 - Absence of a more specific provision (e.g., “not elsewhere specified or included”).
135. When you have such a mix of underlying criteria, the system is set up for overlaps as goods could fall into different categories depending on what aspect you look at. The HS is troubled by a high frequency of “borderline” entities, that is goods that can be correctly classified in two or more otherwise exclusive classes. Goods may fall into different classifications based on different criteria (e.g., something is classifiable on the basis of being made of wood and also classifiable on the basis of being furniture), and hence require the GIRs or Notes to distinguish which should be used. Goods can also be classifiable in multiple provisions on the basis of the *same* criteria type, for example, if they have a composite nature (e.g., an item made of both wood and plastic), multiple functions (e.g. a vehicle that can travel on both rail tracks and road), or a high level of generality (e.g. a part that can be used with many types of goods).
136. While the domain of all tradable goods is naturally complex in nature, it is primarily this problem of borderline goods that has created a high level of complexity in classification in the HS. The GIRs, the Notes, and the tools are all geared to solving this problem by adding another layer of instructions (GIRs and Notes) or guidance (tools) to direct how users should resolve these problems with the intrinsic complexity in the headings and subheadings. As this layer is also complex, it is not always clear if it simplifies or increases the complexity of classification.
137. This brings up another aspect that was clear in the analysis. There was an unfortunate perception among some stakeholders that the HS identifies goods. It does not. The HS provides classes into which goods are classified; it does not identify goods as such. Knowing the goods’ classification provides some information on the goods which helps to understand their identity to a degree. However, the degree of information that a classification gives about a good’s identity is highly dependent on the level of specificity of the classification. For example, knowing the classification is 0101.21 is very specific, it covers live, purebred horses that are for breeding, so knowing it tells you a lot about the identity of what is coming over the border. In contrast, 7326.90, which covers

other articles of iron or steel, tells you very little, other than the negative domain this creates, that is, it isn't something of iron or steel that is classified elsewhere.

138. What is often wanted by policy stakeholders is for the HS to identify specific goods of interest without covering unintended goods. However, as noted the HS does not have classifications that are restricted to specific products, it creates classifications that are for descriptions of a class of products. If you want to be very specific, then a class (heading or subheading) description that is as narrow as possible is required, but if anything not intended to be covered fits that description then, subject to the GIRs, Notes, and other terms, it will still be covered there regardless of the original intent. So creating provisions that will function as intended requires specific consideration of what else might fit that description. It is not always easy to ensure that it will cover only what it was intended to cover, even very specific terms, such as a term that names a type of product, can cover more than expected. This is especially so as technology advances, for example, when "vacuum cleaners" were added, robotic house-hold vacuum cleaners did not exist.
139. A goods identification system is different from a classification system. GS1's system of Global Trade Item Numbers (GTIN), the numbers you see under most barcodes, is a goods identification system. Each GTIN is linked to a specific product line (it is however still combined with an underlying classification system, the GS1 Global Product Classification (GPC) standard, to bring structure and enhanced usefulness to the GTINs). An identification system for all traded goods would be vast. GSI has issued GTINs for over 250 million products but still does not cover all traded goods.
140. Based on the views discussed with stakeholders, the requirement faced is to balance the need to create broad classes that will ensure it is possible to classify all possible goods, with the need to also create narrowly defined classes that will capture goods of particular interest, without the coverage of the broad and narrow categories overlapping.
141. In addition to the overlap problem, this need also raises issues of the capacity of the system in terms of the number of provisions possible. While a system like the HS cannot specify all products individually, it can specify products of particular interest with a relatively high level of specificity. However, as noted previously, the numerical structure places hard limits on how many provisions can be created under headings and five-digit subheadings. While for many headings, this is not a problem, for some headings covering multiple product types of interest, the limit has already been reached.
142. Subheading 2903.7 "halogenated derivatives of acyclic hydrocarbons containing two more different halogens" is an example, of a provision that is already at full capacity, but may need expansion in the future. While it may sound as if it already has a high level of specificity, this group of chemicals includes 17 gasses, HCFC-22, HCFC-123, HCFC-141, HCFC-141b, HCFC-142, HCFC-142b, HCFC-225, HCFC-225ca, HCFC-225cb, Halon-1211, Halon-1301, Halon-2402, CFC-11, CFC-12, CFC-113, CFC-114 and CFC-115, which are all controlled under the Montreal Protocol on Substances that Deplete the Ozone Layer. In addition, the nature of this group of chemicals means that it is likely there will be more chemicals subject to international regulation in the future and that will require separate provisions. In addition, it still needs to allow for any other "halogenated derivatives of acyclic hydrocarbons containing two more different halogens", all within the space of a maximum of nine subheadings.

- Halogenated derivatives of acyclic hydrocarbons containing two or more different halogens :

2903.71 - - Chlorodifluoromethane (HCFC-22)

2903.72 - - Dichlorotrifluoroethanes (HCFC-123)

2903.73 - - Dichlorofluoroethanes (HCFC-141, 141b)
2903.74 - - Chlorodifluoroethanes (HCFC-142, 142b)
2903.75 - - Dichloropentafluoropropanes (HCFC-225, 225ca, 225cb)
2903.76 - - Bromochlorodifluoromethane (Halon-1211), bromotrifluoromethane (Halon-1301) and dibromotetrafluoroethanes (Halon-2402)
2903.77 - - Other, perhalogenated only with fluorine and chlorine
2903.78 - - Other perhalogenated derivatives
2903.79 - - Other

143. The problems of this example subheading are further compounded by the absence of any capacity to further split the five-digit subheading under heading 29.03 (all other five-digit positions either used or deleted too recently to be reused).
144. While there are still relatively few provisions facing this problem, the current environment of increasing demands for better identification of environmentally sensitive trade goods and for goods in other areas of policy interest, this limit will be challenged more frequently.
145. It is noted that there appeared to be a perception among some stakeholders that higher granularity, and hence more provisions, would make the HS more complex to use. However, if the provisions are well written, then specificity generally makes the HS simpler.
146. Examples of how specificity can increase simplicity are found in the previous amendments. For example, in HS 2022, the new provision for smart phones was designed, in part, to eliminate legal challenges on the basis of GIR 3 by providing specifically for smart phones, and the provisions for drones were designed, in part, to eliminate the difficult essential character decisions that were being faced between Sections XVI and XVII. Both simplified classification of these goods.
147. For many types of goods with high trade volumes and importance or having high regulatory requirements, creating clear and specific provisions is the simplest way to improve the ease of classification and identification in trade flows. Very clear and precise provisions usually do not require access to extrinsic materials such as the HSEN or Compendium of Classification Opinions and provide legal certainty.
148. All of the above areas work to highlight that the HS is complex. While for some products classification it can be simple, for a significant proportion of products it requires considerable care and expertise. Even with care and expertise, it is possible for reasonable minds to differ on some classification, as shown by the discussions within the HSC.
149. In a time when the trade community is expanding to include more MSME, new entrants and “consumers as importers”, complexity in one of the basic requirements for international trade can act as an impediment, or even a barrier, to this expanding trader base.
150. This complexity also impacts administrations facing shrinking workforces, high staff mobility or both. Complex disciplines are challenging for training costs and for developing and retaining sufficiently high levels of expertise.
151. Another major problem identified with this complexity is that external entities are attempting to address it in ways that could increase issues in misclassification.

152. One way that some organizations attempt to simplify, is to create a “flat” version of the provisions. That is, they try to represent in a single line the scope of a subheading by bringing in text from the parent heading and subheading.
153. This is mainly done in the statistical areas, but with the increasing tendency for importers to use internet searches or AI Chatbots, the impacts could become quite wide. It also appears that some (but not all) of the “AI classification systems” use internet materials for the machine learning or similar ‘flattened’ versions.
154. Unfortunately, a hierarchical system such as the HS is not designed for simple compression. To describe the scope also often requires the consideration of other relevant headings, subheadings, and Notes. Attempts to flatten the HS often cause unfortunate statements where the scope has not been properly understood by the organisation creating the flat version.
155. Ideally, a modern classification system would have a structure and wording style that facilitated incorporation into digital tools and searches. However, at this stage, no clear mechanism to achieve this has been raised or found.
156. The initial analysis of what would be required at the HS system wide level to give the HS the ability to better meet emerging demands is ongoing, but the following are some possibilities that were raised in submissions or in verbal discussions with stakeholders. **Some of these are not considered feasible but are added for completeness of the current state of consideration.**
- Greater capacity to identify goods more specifically:
 - Providing a greater level of granularity in the HS by increasing digits;
 - Providing a global-level instrument that can be used in conjunction with the HS to collect an additional, more detailed, layer of identification of goods;
 - Linkages between the HS and other product identification systems;
 - Creating a replacement system that uses a faceted classification style system (multiple facets of identification).
 - Ability to identify goods using a broader range of non-physical criteria:
 - Introduction of a wider range of criteria, such as the certification, life-cycle stage, packaging, or end-use;
 - Use of a type of “product passport” or other system to record status of goods;
 - Providing a global-level method/instrument that can be used in conjunction with the HS to collect an additional, more detailed, layer of identification of goods.
 - Improved alignment with the development of global policies and policy analysis needs (both in timing and in consultation)
 - Introduction of a variable review cycle lengths for different sections of the HS depending on the needs:
 - Shortening the review cycle;
 - Developing greater collaboration between the WCO and other IGOs and between Customs and other national administrations to ensure policy needs from different administrations (e.g., health, environment, trade) are clear;
 - Increasing the workload capacity of HS bodies by increasing the frequency or length of meetings or creating intersessional work practices.

- Increased simplicity of use:
 - Increase in named or clearly described (more specific) provisions;
 - Significant decrease in the number of provisions to very broad provisions;
 - Creation of a separate classification system for low-value consignments;
 - Increased guidance material and education;
 - Greater access to existing guidance materials;
 - Development of a simplified classification method i.e., simplified GIRs;
 - A major restructuring of provision criteria to reduce circumstances in which two or more classifications could apply;
 - Creation of lists of agreed classifications for goods commonly imported in low-value consignments;
 - Addition of classification to existing identification systems (e.g., to GS1's GTIN) with ability of Customs systems to retrieve the classification when the associated product identifier is input or the creation of a new system to register classification at the product level for customs purposes.

157. As noted, from the initial analysis some of the options suggested are not considered practical due to:

- high costs;
- loss of HS utility/functions;
- high levels of disruption to trade;
- unacceptable consequences for regulatory measures based on classification; or
- creating technical challenges that could not be met currently.

158. However, all of these options are being looked at as part of the analysis. An approach that may not be possible can still yield insights that can open new, more practical ideas.

159. The potential avenues of consideration for the HS as a whole can be further divided on the basis of what would be required. The following gives some initial considerations.

Ideas that would require replacement of a Convention

160. A completely new system to replace the HS would require a new Convention, with the associated loss of the global base and no surety of when such a wide coverage could be re-established. There would also be some countries that would stay with the existing Convention, meaning that there would be two different systems running in parallel for an unspecified amount of time.

161. These considerations are a strong obstacle to developing a new system and the expected benefits would need to be of an exceptionally high level to justify this.

162. At this stage, there has been only one input that has proposed a complete replacement.

163. The idea put forward was to have a type of faceted classification system base block of product types with multiple facets in the description of the block (e.g., "wooden chair", "metal chair",

“bamboo chair”, “metal hammer”, “wooden mallet” etc.). It was proposed that this would have the ability to report trade based on variable intermediate classification structures as required to answer trade statistics questions. So if you wanted information based on use, then they could be grouped by use, e.g. *Furniture* (Wooden Chair, Metal Chair, Bamboo Chair) or *Tool* (Metal Hammer, Wooden Mallet), but if you have more interest in the materials, then they could be grouped on composition, e.g., Wood (Wooden Chair, Wooden Mallet), Metal (Metal Chair, Metal Mallet) and Bamboo (Bamboo Chair).

164. It was noted in the initial discussion and analysis that this system would require new products to be added as they became available/known. This contradicts the basic requirement for any system for Customs classification that all goods crossing the border must be classifiable in the system as it stands. It would not be reasonable to hold goods at the border while a new base-level block was added at the global level. In addition, the size of the system would need to increase radically if the base unit was so specific, the findability of provisions would be challenging, and ensuring that goods were appropriately treated at the border would become more complex.
165. The idea was considered and will add to the thinking of new ways to consider goods, but as presented, it has not been considered as a feasible or practical approach.
166. No other suggestions for a new system to replace the HS has been provided and, at the time of writing, no clearly preferable method of classification has been identified that could serve as a basis for a new system.

Structural changes that could be feasible *without* replacing the Convention

167. There are a number of structural changes that could address multiple issues that would be possible either within the Convention as it stands or with some updates to the Convention text. Among the ideas given above, there are some common themes. Initial analysis has focused on the following aspects so far.
168. In looking at the possibilities for expanding granularity or creating an additional linked instrument as suggested, three possibilities have been considered so far.

a. Expanding the HS to an eight-digit nomenclature to allow for greater granularity where required.

This could be done with only minor changes to Articles 3 and 4 of the Convention.

For many HS areas, the use of the extra digits would not be needed and would simply add “00” at the seventh and eighth digits. However, for areas already under capacity strain or where a high level of demand for divisions is emerging, it would allow the insertion of new subdivisions without major work in restructuring chapters, headings, or existing subheadings.

It could also reduce the need for national subdivisions by moving common breakouts to the global level. This would also improve global statistical information and the ability to analyse existing trade by governments for policy development and by industry for market analysis.

Consideration of the work involved in lengthening national tariffs (governmental and private systems, documentation, etc.) needs to be carefully weighed against the potential benefits as it would be extensive. If considered potentially feasible, a study of the experiences of Contracting Parties who have changed the length of their national tariff classifications would be helpful to give a better view of the work involved.

In addition, the problems around Contracting Parties who do not meet their obligations under the Convention to implement on the given in-force date would be magnified as it would be unclear if the seventh and eighth digits were HS or national level. Therefore, this could require some consideration of whether it was possible to introduce a method of “marking” the edition of classifications.

b. Providing an optional annex to the HS with the legal nature of guidance (non-binding) that, provides an extra two digits or more of new subdivisions for existing subheadings for which greater granularity is required.

This would have the expectation that it will be used by interested Contracting Parties to make new national provisions that have wording, and, where possible in their existing structures, numbering, that is consistent among the Contracting Parties using the annex. As a non-binding tool, it would not impact on the HS Convention.

As a separate annex with specific guidance, national, regional, and international regulatory bodies can utilize this resource to identify the scope of goods that fall under their respective regulations. This could be particularly useful for environmental, health, safety, or security purposes, where precise classification and regulation of goods are crucial.

If used at the end of existing national subdivisions, there would not be consistent numbering and, depending on those existing national subdivisions, the scope may alter even if the wording is kept the same, as the scope of the subheadings above may be different. So, such a tool would be best used directly after the six-digit HS provisions as the 7th and 8th digits to provide for direct comparisons between Contracting Parties using the tool both possible and reliable.

It could also extend to 9, 12, or even more digits, depending on the level of specificity required. This additional granularity would be beneficial in addressing the unique challenges posed by certain goods.

Careful consideration of the level of use and reliability would need to be undertaken as the lack of any obligation under the Convention to keep the same wording, scope, or position may cause problems. This is similar to the existing HS Recommendation tools, so their use provides a potential source of study on how it might be implemented in practice.

The primary advantage over legal instruments is the potentially greater ease of negotiations.

c. Creating a sister Convention that provides, as above, additional subdivisions for use as a separate field to the tariff classification, that is linked to the classification at the six-digit level.

This would have the expectation that it could be used by Contracting Parties to further identify goods, as per the proposal above, but as a separate field from national tariff classifications that would not affect the duty rates against the current national tariff provisions that the additional subdivisions link to.

This would allow it to be for statistical information only if a Contracting Party so desired. It would not impact the WTO-bound rates and any compliance requirements could be decided by the Contracting Party separate from those arising under the national tariff legislation.

Optionally, it could also be used as part of identification for other revenue-based measures, such as the concessional schemes, rebates, or other measures that are used by some Contracting Parties already, if the Contracting Party so desired.

As a Convention and being linked to the HS level of the tariff classification, it would have greater reliability in terms of the scope and comparability of the data produced globally.

Like the above option, it would be expected to have greater ease of negotiation as it would not be linked to bound rates, but, as with any Convention, this would require major work with considerable resource requirements, both in development and in keeping it up-to-date with the HS. Hence it would require strong support from a significant proportion of Members to be worth consideration.

169. The suggestion of linking to other product identification systems is also being considered.

d. Linking to a product identification system

The use of product identification systems other than the HS to support Customs work was discussed some years ago by the Policy Commission, noting that there was already provision for product identification numbers in the WCO Data Model. It was agreed that product identification numbers are complementary elements to the HS. They could be used for assisting Customs in risk management, strategic trade control and end-use monitoring.

This idea was to look at a deeper use where the classification of a product would be recorded as part of its product identification.

While this would assist with ease of use, possible provision of greater information on goods (depending on what fields were shared) and potentially enabling additional specificity depending on the tightness of the linkages, it would not be a simple option.

One issue is that there is no single product identification system that covers all tradable commodities. The widest in scope would be the GTIN system. From previous consideration several years ago, adding HS codes to the GS1 Global Product Classification (GPC) provisions with the view that all products linked to a specific GPC classification would inherit the classification was not feasible as it was not possible to establish a 1:1 linkage between the GPC and HS. This means that the best that could be done is to add the possible HS classification to the GPC code and to rely on the GTIN creator to select the correct classification.

The issues around what would happen if a product ID (GTIN or other ID) had a classification attribute that a Customs administration disagreed with would be a major issue to resolve. Once an HS classification attribute was linked to a product, it would carry that link globally. If a product was misclassified by the creator of the product ID or if two or more Customs administrations disagreed on the correct classification, how would this be resolved?

The alternative of having a central classifying body assigning classifications would appear to be impractical given the many millions of products involved globally.

In addition, for GS1 or any other product identifying organisations, the issues of accessibility of the information would need to be considered. This includes how the linkages would be made at the declaration level, that is: if a product identifier is declared, how would the Customs system retrieve the linked classification?

Some administrations are looking at how they might utilise product identification systems and this will be looked at by the Study.

170. The possibility of using different criteria is being considered at the level of specific issues, but from a whole of HS perspective, there were two ideas put forward. One related to the use of an associated instrument, and this could be considered in relation to **b.** and **c.** above. The other involved linking to a product identification system that currently records more information on goods. This option is also linked to the ease of use issue.

e. Using a form of product ID created for the purpose of holding specific information (e.g. a product passport or a type of globally accepted certification system).

This would involve using some form of product record, like a product passport, which would record the attributes of interest for the specific products and provide a product ID. In this idea, the verification would be of the product record and hence it could be used as a criterion in the HS.

This idea would also greatly simplify classification for users as the classification would be determined at the time the product ID was created.

The initial assessment is that implementing this globally would require a new convention involving implementation from multiple types of administrations, including those administrations responsible for in-country verification and compliance of any product certifications or requirements, and this, politically and practically, would far exceed what could be done in a WCO context and it would not be a realistic option to consider in the context of this Study.

Of course, if at some stage in the future, the WTO or another body took on hosting negotiations on some type of system of this nature, then it would be vital to consider how it could be best utilised by the HS and to discuss this within the negotiations.

Linked to this, there is currently at least one trial of an “attributes database” where importers would provide specific information on goods by filling in information on a product’s attributes, with the attributes required linked to the classification of the goods. Once completed, this would be available for all future imports of the product. The decision on the attributes required is being considered across different administrations within the countries concerned, looking at the information needed for various governmental purposes at the border. This trial could inform on future possibilities and will be considered.

171. The suggestions offered also looked to the system by which the HS was updated.

f. Revising the HS update system, including cycle timing, workload capacity, input sources, and collaboration

At this time, the HSC is considering several of these matters itself. Consideration and analysis have begun, but the study will use the discussion and any decisions of the HSC within that analysis.

172. The following are some of the other suggestions offered.

g. Reducing the HS to a limited number of very broad provisions

One idea was to go in the opposite direction of greater granularity and reduce the specificity of provisions drastically, e.g., “Clothing”, “Footwear”, etc.

This would go against the current uses of the HS as a statistical tool for governments and industry, create major issues for trade agreements, and work against the growing desire for more information on traded goods. It was not considered feasible by the Study team.

h. Creating a separate classification system limited to a number of very broad provisions for low-value goods

This is the same as **g.** but limited to use for low-value goods.

This is similar to approaches that some administrations have chosen at a national level for low-value goods, providing for very simplified entry procedures.

At a global level, this would also go against the current uses of the HS as a statistical tool for governments and industry, create major issues for trade agreements, and work against the growing desire for more information on traded goods. The principal problem is the growing volume of goods traded as low-value shipments. Implemented at a global level, there would be a growing percentage of trade that was in a “grey zone” with very limited information on what the goods were. This would have flow-on effects on revenue, compliance, statistics, and trade measures.

In addition, if members choose to use such an approach nationally, they can take into account national sensitivities as to what broad categories could be used and which goods should not be included in such a simplified entry system. This flexibility would not be available if it was implemented at the international level.

The other issue with this is what sort of legal status it would have. Unlike the ideas discussed at **b.** or **c.**, this is something that would be intended to impact duty rates. This could include potentially increasing rates for some goods above bound rates where there is a broad grouping of goods from many classifications brought into one provision, which would go against WTO commitments, or, alternatively, forcing members to reduce rates to avoid the issue of exceeding bound rates.

The Study team’s initial analysis is that it would be preferable to work to simplify the HS overall or to consider other methods of simplifying classification, such as methods of linking goods with their classification, rather than creating a second global system related to classification for duty purposes.

i. Improving availability of guidance material or educational material

This is being looked at in relation to information availability and barriers to accessing the HS tools. In addition, consideration will be given to the broader aspects of these suggestions, including considering the resource impacts of increasing the amount of resources devoted at the WCO level to educational materials, particularly if this extends to public materials.

j. Simplifying the GIRs or the structure of the HS

This is being looked at in relation to GIRs, Notes and terms and this area of analysis will be updated as the Study progresses.

k. Providing international guidance through lists of classifications of goods at HS level

To date, this has only been done for the purposes of certain goods required during the Covid pandemic. It has been suggested that this could be done for other sensitive goods or for goods that are frequently traded in low-value consignments.

The consideration of whether this would be feasible will centre on the potential workload, who would be responsible, how such lists could be approved by the HSC, and the status such lists would have with administrations.

Summary

173. This document provides a report on the state of considerations to date. As this is a work in progress, this report does not present any final conclusions.
174. As an interim assessment, the Study notes that the HS still works as trade classification system and no better replacement system has been identified to date.
175. While the HS works, based on the preliminary analysis, improvements in the HS would be both highly desirable and beneficial to Customs and other users.
176. It is a complex system and, for many goods, requires a high level of skill to use appropriately. This complexity creates difficulties for the increasingly diverse trading community, increases the time and resources required by administrations and the private sector to build up and retain expertise, and increases “accidental non-compliance” in classification. In addition, the increasing pace of technological development, the growing volume of multi-functional, multi-purpose or composite goods, and the increasing diversification of product offerings on the market will all contribute to the challenges of classification increasing into the future, putting added strain on the work of Customs and trade.
177. The Study is looking at a range of possibilities to either reduce the complexity of the HS or to provide tools that mitigate some of that complexity, as outlined in the body of the interim report.
178. Looking to the future, many of the demands on the HS that are emerging from the whole-of-government and international policy spaces will also strain the HS and, in many cases, the HS will not be able to meet those demands as they require ways of classifying goods that go beyond the scope of the HS as it stands. The analysis to date is looking at this from two approaches.
 - How can the HS be strengthened to better meet future demands?
 - To meet future demands that the HS is not able to meet on its own, can it be used in conjunction with other existing or new trade tools or with product identification systems?
179. The Study welcomes further input into the Study or comment on any of the matters discussed in this document.