

**A PROCEDURE FOR THE INTRODUCTION OF HARMONIZED SYSTEM 2007
CHANGES TO SCHEDULES OF CONCESSIONS USING THE CONSOLIDATED TARIFF
SCHEDULES (CTS) DATABASE**

Decision of 15 December 2006

The General Council,

Having regard to Articles IV:2 and IX:1 of the WTO Agreement;

Recalling that the Contracting Parties to GATT 1947, by their Decision of 12 July 1983¹, agreed on a method to introduce the Harmonized System (HS) into schedules of concessions;

Recalling that the Contracting Parties to GATT 1947, by their Decision of 8 October 1991², decided on simplified procedures to introduce HS changes to schedules of concessions;

Recalling that the General Council, by its Decision of 15 February 2005³, established a procedure for the introduction of Harmonized System 2002 changes to schedules of concessions;

Noting that Members established a Consolidated Tariff Schedule (CTS) database which, although not legally binding, could serve as a valuable tool for the verification and certification of commitments;

Taking into account the desire of Members to facilitate and simplify the introduction of HS changes into WTO schedules by making a better use of the CTS database;

Decides that:

I. PREPARATION AND DISTRIBUTION OF THE DRAFT HS07 FILE

1. The Secretariat shall prepare for Members a comprehensive set of information on the HS2007 nomenclature changes which shall include in electronic form the HS2007 nomenclature at the level of HS 6-digit subheading, concordance tables between the HS2002 and the HS2007 nomenclatures and the layout of the electronic formats to be used for the transposition files. This information shall be circulated to all Members no later than 15 January 2007.

2. Developed country Members shall prepare their own transposition. The Secretariat shall transpose the schedules of developing country Members, except for those who undertake to prepare their own transposition and submit a notification to this effect before 31 March 2007. Members who decide to undertake their own transposition shall submit all the required information in electronic

¹ BISD 30S/17.

² BISD 39S/300.

³ WT/L/605

form to the Secretariat no later than 30 September 2007. A description of the required information is provided in Annex 1.

3. The transposition work shall be based on each Member's latest schedule, as reflected in the CTS. If tariff lines affected by changes in the HS2007 nomenclature are not yet certified in the HS2002 nomenclature, then the draft HS02 files shall be used as the basis for those tariff lines.

4. In preparing the HS2007 transposition, to the extent possible, the scope of the concessions and other commitments shall remain unchanged. Any tariff line for which a change in the scope of a concession may have occurred due to the complex technical nature of the transposition shall be clearly flagged. Paragraph 5 of Annex 2 and paragraph 15 below describe how these situations shall be addressed.

Secretariat transposition work for Members

5. The Secretariat shall introduce into the Member's schedule in the Consolidated Tariff Schedule (CTS) database the Harmonized System 2007 (HS2007) changes. The Secretariat shall update all the tariff codes and descriptions that change due to the introduction of the HS2007 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, the Secretariat shall abide by the technical procedures described in Annex 2 to this Decision. The Secretariat shall prepare, based on the updated CTS database in the HS2007 nomenclature, a separate file to reflect the changes in nomenclature that were introduced. This separate file shall be prepared as described in Annex 1 and shall be considered the "draft HS07 file" for the purpose of this Decision.

6. The Secretariat shall send to the Member its draft HS07 file for examination as soon as the technical work has been completed. The date of the communication shall hereinafter be referred to as the "first date". Upon receipt of this file, the Member shall have the possibility to seek clarifications from the Secretariat and propose changes as laid out in Section II.

Members preparing their own transposition

7. Members that undertake to prepare their own transposition shall update all the tariff codes and descriptions that change due to the introduction of the HS2007 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, they shall abide by the technical procedures described in Annex 2 to this Decision. These Members are expected to submit to the Secretariat their draft HS07 files for examination and final formatting not later than 30 September 2007. The date of receipt shall hereinafter be referred to as the "first date".

II. EXAMINATION OF DRAFT HS07 FILES AND RELEASE FOR MULTILATERAL REVIEW

8. Members for whom the Secretariat has prepared a draft HS07 file are expected to examine their file and provide the Secretariat with a written communication that either approves the file (case 1), or provides specific comments on its contents (case 2). Such communications should reach the Secretariat no later than 60 days following the "first date".

9. The Secretariat shall review the draft HS07 files prepared by Members themselves before their release for multilateral review. If the Secretariat has no comments on the file, it shall be released for multilateral review (case 1). If the Secretariat has comments (case 2), these will be transmitted to the Member concerned no later than 60 days following the "first date".

10. In case 1, the Secretariat shall release the draft HS07 file for multilateral review with a headnote indicating that the draft HS07 file has been approved by the Member.

11. In case 2, both the Member concerned and the Secretariat shall endeavour to reach a common understanding on the issue(s) raised, and reflect any changes accordingly in the draft HS07 file, with a view to releasing it for multilateral review no later than 90 days from the "first date". In this regard,

- (a) when a common understanding is reached and no change is required, the Secretariat shall release the original draft HS07 file for multilateral review with a headnote indicating that the file has been approved by the Member.
- (b) when a common understanding is reached and changes to the draft HS07 file are required, the Secretariat shall prepare a revised file and release it for multilateral review with a headnote indicating that the file has been approved by the Member.
- (c) when a common understanding has not been reached, the Secretariat shall prepare a revised draft HS07 file including the specific changes proposed by the Member and release the file for multilateral review. The revised file shall include a headnote indicating that the file has been approved by the Member, and shall also provide the Secretariat observations on the file.

12. If the Secretariat does not receive any response from the Member concerned within 90 days from the "first date", the draft HS07 file will be released for multilateral review with a headnote indicating that the Member concerned has neither provided any comments nor approved the file.

III. MULTILATERAL REVIEW PROCESS

13. Multilateral review of the draft HS07 files that have been released shall take place in the framework of informal dedicated sessions of the Committee on Market Access, which shall be scheduled as required. The Secretariat will post these files three or four times a year on the Members' website and on dates that should be at least six weeks prior to the informal sessions scheduled to this effect. Members shall be notified of such postings through a communication by the Secretariat.

14. Modifications agreed at the multilateral review sessions shall be incorporated by the Secretariat into a revised version of the file, which shall then be resubmitted for multilateral review. In case a Member has a query or comment concerning another Member's draft HS07 file, but is unable to attend the meeting at which these changes are to be reviewed, it may request the Chair to convey those queries/comments to the other Member at the time of the multilateral review.

15. Where the scope of a concession has been modified as a result of the transposition in a way that impairs the value of the concession, GATT Article XXVIII consultations and renegotiations shall be entered into by the Member concerned.⁴ The status of discussions and consultations between Members, including Article XXVIII renegotiations, should be reported to other Members at the multilateral sessions to ensure full transparency.

IV. CERTIFICATION OF THE HS2007 CHANGES

16. When there is no objection remaining on a draft HS07 file at a multilateral review session, it may then be considered approved by the Committee, with the exception of any draft HS07 file released

⁴ Where a request for renegotiation or consultation has been made under GATT Article XXVIII, the Procedures for Negotiations under Article XXVIII (BISD27S/26) shall apply.

under paragraph 12 where a written communication by the Member approving the file would also be required.

17. A paper version of the HS2007 changes, as contained in the approved HS07 file, shall be prepared and circulated by the Secretariat for the purpose of certification. The procedures for modification and rectification of schedules of tariff concessions (L/4962) shall be followed in this regard.

V. PERIODIC REPORT BY THE SECRETARIAT

18. The Secretariat shall prepare a periodic report on the status of work, which shall include the following information, to the extent possible: (i) the draft HS07 files that will be prepared by the Members themselves, (ii) the draft HS07 files that remain to be prepared by the Secretariat, (iii) the draft HS07 files that have been completed by the Secretariat and the date when they were sent to Members, (iv) the draft HS07 files released for multilateral review, including a mention of any relevant headnote, (v) the progress made on each draft HS07 file, including Members raising reservations, the tariff lines subject to reservation, a summary of the reason for the reservation; (vi) the draft HS07 files that have been approved in the multilateral review and the date of their circulation in paper format for the purpose of certification; (vii) the approved HS2007 changes that have been certified.

ANNEX 1

Draft HS07 file

1. The draft HS07 file shall cover all tariff lines under headings with changes introduced by the HS nomenclature, as well as the corresponding concordance tables with the concessions and commitments in the HS2002 nomenclature. The Secretariat and Members that undertake to prepare their own transposition are expected to provide -as a separate file which will not be subject to multilateral review- a complete draft CTS file in the HS2007 nomenclature. This additional file would facilitate the preparation of an updated version of the CTS database once the transposition procedures are finalized and certified.

2. The draft HS07 file shall contain for each bound tariff line, *inter alia*, the following data elements:

- Tariff line code in HS2007 nomenclature (including suffix or ex)
- Product description
- Base duty (if year of implementation is later than 2008)
- Final bound duty
- Other duties and charges
- Special safeguard
- Legal instrument (present and earlier)
- INR (present and earlier if available in the CTS)
- Implementation period (if year of implementation is later than 2008)
- Certification indicator

3. Additional tables containing other relevant agricultural concessions and commitments (tariff quotas and export subsidies, if applicable) shall also be included.

4. Members who undertake to prepare their own transposition shall submit all the above-mentioned information in electronic format and following the layout to be circulated by the Secretariat in accordance with Paragraph 1 of this Decision.

ANNEX 2

Technical note on transposition procedure

1. The following note describes the relevant technical procedures, which shall be applied in the preparation of the draft HS07 files.

Concession elements

2. The CTS database contains not only tariff concessions, but also a number of other commitments. Although several of these are expressed at the tariff-line level in the different Parts and Sections of the schedules, there are some which are not. As a result, not all elements currently included in the CTS are required for the HS2007 transposition. It is therefore suggested to retain in the draft HS07 file only those elements which are required for this purpose (see Annex 1).

Procedural Issues

3. All affected tariff lines shall be converted into the HS2007 nomenclature and shall be clearly flagged. Detailed tariff line codes and descriptions may have to be adjusted in certain instances (e.g. example 1, table 3b and example 2, table 8) in order to generate a meaningful and intelligible schedule. The transposition of any tariff line requiring manual modifications shall also be clearly flagged for verification and approval by Members.

Methodological issues

4. Each new HS2007 subheading/tariff line will be derived from one or more HS2002 tariff lines or part of these lines. If a HS2007 subheading/tariff line matches with two or more HS2002 tariff lines and if these lines have the same levels or contents of concessions (e.g. same bound duties, same INRs), the original concession elements can be merged into one new concession at the level of the new HS2007 subheading/tariff line. If the concessions of the original HS2002 tariff lines are different, the concession elements of the new HS2007 subheading/tariff line should reflect this. In this case, the HS2007 subheading/tariff line should normally be broken down to a more detailed level so that the draft HS07 file reflects fully the same level of concessions as the CTS in HS2002..

5. In the case where it was unavoidable to combine tariff lines or parts of tariff lines with different concessions, there are four possible methodologies which could be used to arrive at the new rate in accordance to the 1983 procedures on a method to introduce the Harmonized System (HS) into schedules of concessions (BISD 30S/17). These are: 1) applying the lowest rate of any previous tariff line to the whole of the new tariff line, 2) applying the rate previously applied to the tariff line with the majority of trade, 3) applying the trade weighted average rate of duty for the new line, or 4) applying the arithmetic average of the previous rates of duty where no basis exists for establishing reasonably accurate trade allocations. If any of the above methodologies is used, the selected option shall be specified at the tariff line level. The choice of methodology shall also be explained, except for those situations in which the first option is selected (i.e. selecting the lowest duty). If options 2) or 3) are selected, the Member concerned shall also supply the necessary import data (last three years available). The implication of a combination of tariff lines on other elements of the concessions, such as INRs, ODCs and SSGs, shall also be taken into account by Members to assess whether the value of the concession has been impaired and GATT Article XXVIII negotiations need to be followed (See paragraph 15 above).

6. Examples 2 show that the "collapsing" of tariff lines to HS 6-digit subheadings significantly simplifies the tariff structure and the workload involved. It require less manual intervention and is,

thus, less likely to be controversial. Having a maximum number of concessions defined at the level of HS 6-digit subheadings would also make it easier to transpose the new schedule into any new national applied schedule based on HS2007 nomenclature.⁵

Reference Documents

7. The transposition shall be based on the information provided by the World Customs Organization, which is included in the WTO documents G/MA/W/67 and G/MA/W/76. A detailed concordance table between the HS2002 and the HS2007 nomenclatures shall be prepared by the Secretariat using these documents as the basis.

Example 1: Split

8. HS2002 subheading 060310 becomes five new HS2007 subheadings due to the expansion of volume of trade:

HS Code	Product description
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared.
060310	- Fresh
060390	- Other

HS Code	Product description
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared.
06031	- Fresh
060311	--Roses
060312	--Carnations
060313	--Orchids
060314	--Chrysanthemums
060319	--Other
060390	- Other

9. In the CTS database, a Member has five national tariff lines under HS2002 subheading 060310:

TL code	Product description	Duty Rate
0603	- Fresh	
060310	--- Orchids:	
06031011	---- Cymbidium	10
06031019	---- Other	20
06031020	--- Roses	30
06031030	--- Carnations or chrysanthemums	20
06031090	--- Other	30

10. In theory, the five national tariff lines could go under each of the five new HS2007 subheadings. If the conversion is done by computer program, it would generate 25 possible HS2007 tariff lines. However, not all of the 25 new national tariff lines are appropriate when the product descriptions are considered. For instance, the HS2002 national tariff line “06031011 ---- Cymbidium” cannot not be kept under the HS2007 subheading “060312 -- Carnations”, and it should stay under

⁵ This would not preclude that concessions defined only at the level of subheadings could be broken down again into tariff line detail by the Members concerned.

“060313 -- Orchids”. Similarly, the HS2002 national tariff line “06031020 --- Roses” can only stay under HS2007 subheading “060311 -- Roses”. Therefore, each tariff line generated by computer program shall be reviewed manually to determine whether it shall stay under the corresponding new HS2007 subheading. In this example, Table 3 shows the tariff lines which are retained under each HS2007 subheadings and their corresponding tariff lines in HS2002.

TL code	Product description	Bound duty
0603	Cut flowers and flower buds ...	
060310	- Fresh	
0603101	--- Orchids:	
06031011	---- Cymbidium	10
06031019	---- Other	20
06031020	--- Roses	30
06031030	--- Carnations or chrysanthemums	20
06031090	--- Other	30

TL code	Product description	Bound duty
0603	Cut flowers and flower buds ...	
	- Fresh	
06031100	--Roses	30
06031200	--Carnations	20
060313	--Orchids	
06031310	---- Cymbidium	10
06031390	---- Other	20
06031400	--Chrysanthemums	20
06031900	--Other	30

11. A concordance table between the HS2002 and HS2007 nomenclature at the tariff line level would be constructed as follows:

HS2002	e x	Bound Rate in HS02	HS2007	e x	Bound Rate in HS02
06031011		10	06031310		10
06031019		20	06031390		20
06031020		30	06031100		30
06031030	x	20	06031200		20
06031030	x	20	06031400		20
06031090		30	06061900		30

HS2007	e x	Bound Rate in HS02	HS2002	e x	Bound Rate in HS02
06031100		30	06031020		30
06031200		20	06031030	x	20
06031310		10	06031011		10
06031390		20	06031019		20
06031400		20	06031030	x	20
06061900		30	06031090		30

Example 2: Merger

12. Three HS2002 subheadings merge to one new HS2007 subheading:

HS Code	Product Description
0910	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices.
091010	- Ginger
091020	- Saffron
091030	- Turmeric (curcuma)
091040	- Thyme; bay leaves
091050	- Curry
09109	- Other spices:
091091	-- Mixtures referred to in Note 1 (b) to this Chapter
091099	-- Other

HS Code	Product Description
0910	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices.
091010	- Ginger
091020	- Saffron
091030	- Turmeric (curcuma)
09109	- Other spices:
091091	-- Mixtures referred to in Note 1 (b) to this Chapter
091099	-- Other

13. In the CTS database, a Member has four tariff lines related to the three subheadings:

TL code	Product description	Bound duty
0910	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices.	
09101000	- Ginger	
09102000	- Saffron	
09103000	- Turmeric (curcuma)	10
09104000	- Thyme; bay leaves	10
09105000	- Curry	10
09109	- Other spices:	
09109100	-- Mixtures referred to in Note 1 (b) to this Chapter	10
091099	-- Other	10
09109910	--- Fenugreek seed	10
09109990	--- Other	10

14. If the first six digits of the HS2002 tariff lines are substituted by the codes of new HS2007 subheadings:

TL code
09104000
09105000
09109910
09109990

Substitute first 6 digits with 091099 →

TL code	Product description
09109900	- Thyme; bay leaves
09109900	- Curry
09109910	--- Fenugreek seed
09109990	--- Other

15. The new HS2007 codes do not conform to the HS coding rules, since “00” exists twice. Furthermore an HS code ending in “00” cannot coexist under the same subheading with other codes, in this case “10” and “90”. These lines shall be corrected by assigning new codes for HS codes 09109900 as follows:

Table 8 HS2007

TL code	Product description
09109910	--- Fenugreek seed
09109920	--- Thyme; bay leaves
09109930	--- Curry
09109990	--- Other

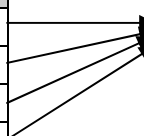
16. If all national tariff lines under a HS 6-digit subheading have the same duties (and other concession elements), these lines could be collapsed to the HS 6-digit subheading level and the transposition exercise will be significantly simplified as shown below. According to Table 6, all HS2002 tariff lines have a duty of 10%. Therefore, the new HS2007 tariff lines 09109910-09109990 could be collapsed to one tariff line 09109900 with bound duty 10%.

Table 9a HS2007 before collapsing

TL code	Product description	Bound duty
09109910	--- Fenugreek seed	10
09109920	--- Thyme; bay leaves	10
09109930	--- Curry	10
09109990	--- Other	10

Table 9b HS2007 after collapsing

TL code	Product description	Bound duty
09109900	-- Other	10



17. A concordance table between the HS2002 and HS2007 nomenclature at the tariff line level shall be constructed as follows:

Table 10a Correlating HS2002 to HS2007

HS2002	e x	Bound Rate in HS07	HS2007	e x	Bound Rate in HS02
09104000		10	09109900	x	10
09105000		10	09109900	x	10
09109910		10	09109900	x	10
09109990		10	09109900	x	10

Table 10b Correlating HS2007 to HS2002

HS2007	e x	Bound Rate in HS07	HS2002	e x	Bound Rate in HS02
09109900	x	10	09104000		10
09109900	x	10	09105000		10
09109900	x	10	09109910		10
09109900	x	10	09109990		10