

**CONCESSIONS UNDER THE HARMONIZED COMMODITY  
DESCRIPTION AND CODING SYSTEM**

A Procedure for Introduction of Harmonized System 2002  
Changes To Schedules of Concessions

*Decision of 18 July 2001*

The General Council,

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

*Recalling* that the Contracting Parties of the GATT 1947 had originally agreed to a method for introducing the Harmonized System (HS) into schedules by their Decision of 12 July 1983<sup>1</sup>;

*Recalling* that the Contracting Parties to GATT 1947, by their Decision of 8 October 1991<sup>2</sup>, decided on simplified procedures for the implementation of HS changes to Schedules;

*Noting* the increased complexity of introducing HS changes into WTO schedules and the lengthy period of time it has taken to introduce HS 1996 changes into WTO schedules;

*Taking into account* the desire of Members to further facilitate and simplify the introduction of HS 2002 changes to WTO Schedules and that many WTO Members will need to implement HS 2002 changes into their customs tariffs on 1 January 2002 as a result of their commitments undertaken in the World Customs Organization (formerly known as the Customs Co-operation Council);

*Decides as follows:*

1. The proposed changes to schedules required to implement HS 2002, on the basis of Attachment A to this Decision, shall be implemented pursuant to the Procedures contained in the Attachment B to this Decision.

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<sup>1</sup> BISD 30S/17

<sup>2</sup> BISD 39S/300

## Attachment A

### ELECTRONIC VERIFICATION

#### 1. Overview of Harmonized System 2002 (HS2002) Changes and Electronic Verification

The changes proposed to the HS by the Harmonized System Committee (HSC) of the World Customs Organization (WCO) for 2002 are similar to those introduced by the WCO in 1996. They can be summarized as follows: (1) new break-outs of the nomenclature, (2) condensing of the nomenclature, (3) textual changes of the nomenclature, and (4) typographical changes or corrections, based on the information from the WCO (HS2002 changes in G/MA/W/24 and correlation tables in G/MA/W/26).

The purposes of using electronic verification are to utilize the electronic means available in order to aid Members in the work of verifying HS2002 changes. While, in all instances electronic means cannot substitute for a manual verification, they can help to speed up the process. Electronic verification would reduce considerably the volume of items to be verified individually by Members and would thus bring this very time-consuming exercise within an easily manageable dimension. This section will set out the possibilities for electronic verification. For the purposes of electronic verification, the HS2002 changes have been analyzed and delineated so as to better explain what will be done in the electronic verification. The break-down can be summarized as follows (also see Summary table for full details in G/MA/W/27/Add.1):

<u>373</u>	<u>HS2002 changes or sets of changes</u>
87	New break-outs of the nomenclature (1)
48	Condensing (or deletion) of the nomenclature (2)
130	Textual changes of the nomenclature (3)
108	Typographical changes or corrections (4)

Thus, there are textual changes that would need to be verified (item numbers 3 and 4), and changes affecting tariff concessions (items 1 and 2).<sup>3</sup>

##### (a) Textual Changes

With respect to the textual changes for HS2002, the Secretariat could perform the verification that all textual changes were made and included in the WTO schedules.

However, it should be noted that many of the textual changes solely involve changes to the Chapter Notes or Subheading Notes. In analyzing the existing WTO schedules of Members, it should be noted that very few Members<sup>4</sup> included these Chapter Notes or Subheading Notes in their WTO schedules, therefore these items are not incorporated in the WTO schedules unless the Member chooses to do so at the time of introduction of HS2002 changes. Thus, the Secretariat proposes that these 103 items that are solely changes to Chapter Notes or Subheading Notes not be included in the electronic verification, as there would be nothing to verify. However, for the few Members that have the Notes incorporated, the Secretariat could verify these electronically if the Members so wished.

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<sup>3</sup> In addition, there are a few textual changes in the nomenclature (3) that may also involve a subsequent tariff change and verification, 14 items. This is based on the information provided by the WCO. However, Members may wish to examine these on an individual basis (see table in G/MA/W/27/Add.1 and inform the Secretariat if they believe there are other items that may have consequential tariff implications that the WCO did not identify.

<sup>4</sup> The Secretariat has only been able to identify 2 Members that have included these notes in their WTO schedules. However, during the HS96 exercise, only one of these Members had the notes in its submission.

Thus, of the 238 textual changes, minus the 102 'Notes' items, the Secretariat would verify 136 textual changes electronically.

(b) Changes Affecting Tariff Concessions and Other Concessions

As noted previously, the verification that the appropriate tariff treatment is given to the tariff lines/products concerned would require the use of a comparable electronic base, such as the Consolidated Tariff Schedules (CTS) database, in order to have a basis to compare rates. The CTS database has no legal status. However, for such an exercise, the CTS database could be used solely as a tool to permit electronic verification. Only the HS2002 changes which would be verified by WTO Members and subsequently certified would have legal status after conclusion of the process.

It should be noted that there are other concessions granted in schedules. These can be on a tariff-line basis or included in other parts of the schedule. Tariff-line concessions could include such things as initial negotiating rights (INRs), special safeguards (SSG), and other duties and charges (ODCs). Concessions in other parts of the schedule could include headnotes, tariff quotas, and other commitments made under the agricultural parts of the schedule. It should be noted that in the recent HS96 process, most countries did not include these in their HS96 submissions,<sup>5</sup> so it is presumed that these would not be submitted for HS2002, unless Members decide otherwise.

Therefore, assuming that the use of a comparable electronic base can be agreed, the Secretariat could verify many of the tariff concessions as well. To further explain, there are HS2002 changes that a) involve new breakout emanating from a single tariff line, b) transfers of a whole tariff line or part thereof to an existing tariff line, c) conversion of a few or many tariff lines into a new or existing tariff line or lines, and d) complex cases.<sup>6</sup>

In the first example (a), the appropriate tariff concession would be quite clear and easily identifiable in the electronic base, and thus the new tariff lines would appropriately have the rate from the emanating tariff line.<sup>7</sup>

In examples (b) and (c), the situation is not entirely clear as there could be differing rates from a number of different tariff lines. There are 64 such items. As is outlined in the 1983 Decision Related to the Introduction of the Harmonized System (BISD 30S/17), the basic principle was that tariff bindings should remain unchanged. This would normally involve a process that creates new breakouts in the nomenclature to maintain the existing concession on the product or products transferred. However, the Decision notes that in the case where it was unavoidable to combine tariff lines or parts of tariff lines, there were four basic methodologies for arriving at the new rate: 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. It is recommended that a similar set of principles be applied here and the Member making the submission provide the details of which methodology (1-4 noted above) or 5) other (provide explanation) was taken for each particular item. In order for the electronic verification to proceed, if options 2) or 3) above were indicated, and the Member concerned did not have a current IDB submission in the Secretariat, the Member would also need to supply the necessary trade data.

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<sup>5</sup> Some countries submitted tariff quota information, but hardly any submitted other information.

<sup>6</sup> Those items where there are multiple conversions or break-outs and/or allowing for the possibility of various options (e.g. transfer of certain wastes). These would have to be handled manually.

<sup>7</sup> The work has thus far been analyzed at the 6-digit HS level. There may be ensuing difficulties if a Member has a complex tariff system at the 8-, 9- or 10-digit tariff level, as the rate could emanate from a number of tariff lines.

Finally, there are complex cases (d) (19 items), which would likely have to be dealt with manually, without the use of electronic verification.

Thus, of the 149 changes that require verification of rates of tariff concessions, 67 have rates that are easily identifiable (see (a) above) and could be electronically verified, 64 have a more complex situation and as noted above may require additional information to electronically verify, and 19 are complex cases that would have to be handled manually (no electronic verification). After electronic verification by the Secretariat, a verification sheet would be prepared outlining the discrepancies found.

## 2. Documentation for HS2002 Changes

The documentation to be submitted for HS2002 changes would consist of two parts— 1) the looseleaf schedule (LLS) and 2) concordance tables. These would need to be submitted in electronic form and hard copy, but the specific format is flexible. While it is preferable that the documentation be submitted in database (e.g. MS Access) or spreadsheet format (e.g. MS Excel), the Member could also submit in a tabular text format (e.g. MS Word tables). With technological developments of standard software packages, the interchangeability has improved and thus the Secretariat is flexible with any of these formats.

For the loose-leaf part of the schedule, the Member concerned would need to submit only the items affected by HS2002 changes in the standard LLS format (see G/L/138).<sup>8</sup> However, all the items in the respective 4-digit category of the change would also need to be submitted for clarity. As shown in the example below, not only would the two tariff lines affected (0101.10 and 0101.90) need to be shown, but also the 4-digit level (0101) and any other applicable lines in the same 4-digit category.

HS	Description	Bound rate	etc.....
0101	Live horses, asses, mules and hinnies		
0101.10	- Pure-bred breeding animals	0	
0101.90	- Other	5	

For the concordance tables, the usual format (including rates) would be followed. This would include the concordance from HS96 to HS2002, and HS2002 to HS96.<sup>9</sup> This would be in a tabular 2-column format. See examples of documents to be submitted.

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<sup>8</sup> Members are advised to add an additional column to indicate the methodology involved in arriving at the new tariff rate. The items would be coded 1, 2, 3, 4, or 5 to correspond to the examples noted in the paragraph at the bottom of page 3.

<sup>9</sup> Correlation of the nomenclature that is in the old WTO schedule to the new nomenclature.

**Example – Loose-leaf part of the schedule**

HS2002	Description	Rate of duty		Implement- ation	Present concession established	INR	Concession first incorp. in GATT schedule	INRs on earlier concessions	ODCs	Rate Indication column
		Base	Bound							
0101	Live horses, as..									
0101.10	-Pure-bred bre..									
0101.10.10	--Horses		0					0		
0101.10.90	--Other		5		UR/94			0		
0101.90.00	-Other	15	5	2002	UR/94			0		
0106	Other live ani....									
	-Mammals:									
0106.11.00	--Primates		10		UR/94			0		
0106.12.00	--Whales, dolphins and ...		10		UR/94			0		2
0106.19.00	--Other		10		UR/94			0		
0106.20.00	-Reptiles ....		10		UR/94			0		
	-Birds:									
0106.31.00	--Birds of prey		10		UR/94			0		
0106.32.00	--Psittaciformes.		10		UR/94			0		
0106.39.00	--Other		10		UR/94			0		
0106.90.00	-Other		10		UR/94			0		

**Example – Concordance Tables**

1996 to 2002

HS96 nomenclature	rate	HS2002 nomenclature	rate
0101.11.00	0	0101.10.10	0
0101.20.10	5	0101.10.90	5
0101.19.00	5	0101.90.00	5
0101.20.90	5	0101.90.00	5
ex0106.00	10	0106.11.00	10
ex0106.00	15	0106.12.00	10
etc....			

2002 to 1996

<b>HS2002 nomenclature</b>	<b>rate</b>	<b>HS96 nomenclature</b>	<b>rate</b>
0101.10.10	0	0101.11.00	0
0101.10.90	5	0101.20.10	5
0101.90.00	5	0101.19.00	5
0101.90.00	5	0101.20.90	5
0106.11.00	10	ex0106.00	10
0106.12.00	10	ex0106.00	15
etc...			

## Attachment B

### PROCEDURE TO INTRODUCE HS2002 CHANGES TO SCHEDULES OF CONCESSIONS

Contracting parties to the HS Convention are required, pursuant to Article 16 of the HS Convention, to introduce HS changes into their national tariffs on 1 January 2002. WTO Members who are HS contracting parties should introduce these changes to their schedules of concessions. In addition, WTO Members applying the HS on a *de facto* basis and who intend to implement HS changes to their national tariffs should also introduce the relevant changes to their WTO schedules of concessions. For the purpose of introducing HS changes to schedules of concessions, a decision entitled "GATT Concessions under the Harmonized Commodity Description and Coding System - Procedures to Implement Changes in the Harmonized System" (Annex to L/6905, BISD 39S/300) was adopted by the GATT Council on 8 October 1991. However, for those Members intending to apply HS2002 changes to national tariffs, specific procedures to introduce those changes to schedules of concessions have been drawn up and are set out below.

Members should aim to complete the following procedures sufficiently in advance of their implementation of the HS2002 changes so as to allow adequate time for required domestic procedures. They should submit the documentation envisaged under paragraph 1 of the procedures as soon as possible.

#### - Procedures

1. The Member shall submit the proposed changes to its loose-leaf schedule arising from HS2002 (including the four digit HS tariff lines), in hard copy and electronic form to the Secretariat. The submission shall be circulated or made available to all Members in hard copy and electronic form.
2. The Secretariat will review the proposed changes using electronic verification as provided for in Section I, paragraph 1 and will prepare a verification sheet which will be circulated or made available to all Members at the latest four weeks after the circulation of the documentation under 1.
3. Multilateral review of the proposed changes shall take place in the framework of informal dedicated sessions of the Committee on Market Access. Such sessions shall take place every second month or as required.
4. No earlier than six weeks after the circulation of the verification sheet under paragraph 2, the Committee on Market Access will meet as indicated under paragraph 3. Specific queries by Members should, to the extent possible, be submitted by that meeting with respect to a schedule, and the Member to which the questions are addressed should, to the extent possible, respond by the time of the first multilateral review session after the expiry of a six-week period following receipt of the query. The status of bilateral discussions and consultations between Members including Article XXVIII renegotiations<sup>10</sup> should be reported to other Members at these Committee sessions to ensure full transparency<sup>11</sup>. For this purpose, Members are advised to keep the Secretariat informed, to the extent possible.

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<sup>10</sup> In case where a request for renegotiation or consultation has been made under Article XXVIII, the Procedures for Negotiations under Article XXVIII (BISD27S/26) shall apply.

<sup>11</sup> Status reports by the Secretariat would include: the number of countries objecting, the date of objection(s), and the date of response(s).

5. Any revisions and addenda that a Member may wish to introduce to its original submission of proposed changes should be provided in hard copy and in electronic form and they will be circulated or made available to all Members by the Secretariat. Revised verification sheets might need to be prepared in light of the new notification and will be circulated or made available to all Members by the Secretariat. Steps 2 to 4 will apply to the new documentation, unless otherwise agreed by the Committee<sup>12</sup>.
6. The Secretariat will maintain a written record (along the lines of the informal list detailing the status of submissions of HS96 documentation) of the progress made on each schedule which will be circulated to all Members prior to the informal dedicated sessions of the Market Access Committee. Informal records of these informal dedicated sessions will also be prepared by the Secretariat and will be available for consultation.
7. For introducing the proposed changes in the authentic texts of schedules, no later than 4 months after the circulation of the verification sheet by the Secretariat in paragraph 2 above, and provided no specific queries are outstanding in relation to paragraphs 4-5 above, a final version of the schedule incorporating any corrections, revisions and addenda shall be prepared by the Secretariat and certified by the Director-General.
8. Developing country Members may request technical assistance from the Secretariat for the preparation of the relevant documentation in hard copy and electronic form. Bearing in mind that technical assistance takes many forms, it is possible for the Secretariat to prepare a Member's documentation on proposed changes in Geneva subject to the Member providing its national tariff schedule in the HS 2002 nomenclature.
9. In case a Member has a query or comment concerning another Member's HS2002 changes, but is unable to attend the meeting at which these changes are to be verified, it may request, through a written communication to the Chair that the Chair make a statement on its behalf at that meeting.

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<sup>12</sup> The Committee might agree that the changes introduced to the original notification are so minimal in nature so as to not warrant such lengthy time-periods for their review.