

HS Convention(Detailed Reading Material)

Link: http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs_convention.aspx

The International Convention on the Harmonized Commodity Description and Coding System (HS Convention) entered into force on 1 January 1988. The objectives of the HS Convention are (i) to facilitate international trade and the collection, comparison, and analysis of statistics by harmonizing the description, classification, and coding of goods in international trade; (ii) to reduce the expenses related to international trade and (iii) to facilitate the standardization of trade documentation and the transmission of data.

The HS Convention comprises a Preamble, 20 Articles and an Annex. The Preamble sets out why the international community supported the adoption of the HS. The 20 Articles include provisions for obligations of Contracting Parties, role of the Council and the Harmonized System Committee, settlement of disputes between Contracting Parties, and the amendment procedure. The Annex is the HS Nomenclature itself. Contracting Parties are obliged to ensure that their Customs tariffs and statistical nomenclatures for both imports and exports are in conformity with the Harmonized System. They should also make publicly available their import and export trade statistics in conformity with the six-digit codes of the Harmonized System, or on their initiative, beyond that level.

After its implementation, the use of the HS quickly spread and there are now more than 200 economies and Customs or Economic Unions currently using the System as a basis for their national Customs tariffs. However, its use is not confined to Customs tariffs. It is also used for many other purposes. Among the most important uses of the HS are the following:

As a basis for Customs tariffs.

As a basis for the collection of international trade statistics.

As a basis for rules of origin.

As a basis for the collection of internal taxes.

As a basis for trade negotiations (e.g., the WTO schedules of tariff concessions and Free Trade Agreements);

As a basis for transport tariffs and statistics.

As a basis for the monitoring of controlled goods (e.g., wastes, narcotics, chemical weapons, ozone layer depleting substances and endangered species);

As a vital element of core Customs process areas of Customs controls and procedures, including risk assessment, information technology and compliance.

Preamble

Article 1: Definitions

Article 2: The Annex

Article 3: Obligations of Contracting Parties

Article 4: Partial application by developing countries

Article 5: Technical assistance for developing countries

Article 6: Harmonized System Committee

Article 7: Functions of the Committee

Article 8: Role of the Council and re-examination procedure

Article 9: Rates of Customs duty

Article 10: Settlement of disputes

Article 11: Eligibility to become a Contracting Party

Article 12: Procedure for becoming a Contracting Party

Article 13: Entry into force

Article 14: Application by dependent territories

Article 15: Denunciation

Article 16: Amendment procedure

Article 17: Rights of Contracting Parties in respect of the Harmonized System

Article 18: Reservations

Article 19: Notifications by the Secretary General

Article 20: Registration with the United Nations

(Done at Brussels on 14 June 1983)

(As amended by the Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System of 24 June 1986)

Preamble

The Contracting Parties to this Convention, established under the auspices of the Customs Co-operation Council, desiring to facilitate international trade, desiring to facilitate the collection, comparison, and analysis of statistics, in particular those on international trade,

Desiring to reduce the expense incurred by re-describing, reclassifying, and recoding goods as they move from one classification system to another in the course of international trade and to facilitate the standardization of trade documentation and the transmission of data,

Considering that changes in technology and the patterns of international trade require extensive modifications to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs, done at Brussels on 15 December 1950,

Considering also that the degree of detail required for Customs and statistical purposes by Governments and trade interests has increased far beyond that provided by the Nomenclature annexed to the above-mentioned Convention,

Considering the importance of accurate and comparable data for the purposes of international trade negotiations,

Considering that the Harmonized System is intended to be used for the purposes of freight tariffs and transport statistics of the various modes of transport,

Considering that the Harmonized System is intended to be incorporated into commercial commodity description and coding systems to the greatest extent possible,

Considering that the Harmonized System is intended to promote as close a correlation as possible between import and export trade statistics and production statistics,

Considering that a close correlation should be maintained between the Harmonized System and the Standard International Trade Classification (SITC) of the United Nations,

Considering the desirability of meeting the aforementioned needs through a combined tariff/statistical nomenclature, suitable for use by the various interests concerned with international trade,

Considering the importance of ensuring that the Harmonized System is kept up to date in the light of changes in technology or in patterns of international trade,

Having taken into consideration the work accomplished in this sphere by the Harmonized System Committee set up by the Customs Co-operation Council,

Considering that while the above-mentioned Nomenclature Convention has proved an effective instrument in the attainment of some of these objectives, the best way to achieve the desired results in this respect is to conclude a new international Convention,

Have agreed as follows:

ARTICLE 1

Definitions

For the purpose of this Convention:

(a) the "Harmonized Commodity Description and Coding System", hereinafter referred to as the "Harmonized System", means the Nomenclature comprising the headings and subheadings and their related numerical codes, the Section, Chapter and Subheading Notes and the General Rules for the interpretation of the Harmonized System, set out in the Annex to this Convention.

(b) "Customs tariff nomenclature" means the nomenclature established under the legislation of a Contracting Party for the purposes of levying duties of Customs on imported goods.

(c) "statistical nomenclatures" means goods nomenclatures established by a Contracting Party for the collection of data for import and export trade statistics.

(d) "combined tariff/statistical nomenclature" means a nomenclature, integrating Customs tariff and statistical nomenclatures, legally required by a Contracting Party for the declaration of goods at importation.

(e) "the Convention establishing the Council" means the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950.

(f) "the Council" means the Customs Co-operation Council referred to in paragraph (e) above.

(g) "the Secretary General" means the Secretary General of the Council.

(h) the term "ratification" means ratification, acceptance, or approval.

ARTICLE 2

The Annex

The Annex to this Convention shall form an integral part thereof, and any reference to the Convention shall include a reference to the Annex.

ARTICLE 3

Obligations of Contracting Parties

1. Subject to the exceptions enumerated in Article 4 :

(a) Each Contracting Party undertakes, except as provided in subparagraph (c) of this paragraph that from the date on which this Convention enters into force in respect of it, its Customs tariff and statistical nomenclatures shall be in conformity with the Harmonized System. It thus undertakes that, in respect of its Customs tariff and statistical nomenclatures:

(i) it shall use all the headings and subheadings of the Harmonized System without addition or modification, together with their related numerical codes.

(ii) it shall apply the General Rules for the interpretation of the Harmonized System and all the Section, Chapter and Subheading Notes, and shall not modify the scope of the Sections, Chapters, headings, or subheadings of the Harmonized System; and

(iii) it shall follow the numerical sequence of the Harmonized System.

(b) Each Contracting Party shall also make publicly available its import and export trade statistics in conformity with the six-digit codes of the Harmonized System, or, on the initiative of the Contracting Party, beyond that level, to the extent that publication is not precluded for exceptional reasons such as commercial confidentiality or national security.

(c) Nothing in this Article shall require a Contracting Party to use the subheadings of the Harmonized System in its Customs tariff nomenclature provided that it meets the obligations at (a) (i), (a) (ii) and (a) (iii) above in a combined tariff/statistical nomenclature.

2. In complying with the undertakings at paragraph 1 (a) of this Article, each Contracting Party may make such textual adaptations as may be necessary to give effect to the Harmonized System in its domestic law.

3. Nothing in this Article shall prevent a Contracting Party from establishing, in its Customs tariff or statistical nomenclatures, subdivisions classifying goods beyond the level of the Harmonized System, provided that any such subdivision is added and coded at a level beyond that of the six-digit numerical code set out in the Annex to this Convention.

ARTICLE 4

Partial application by developing countries

1. Any developing country Contracting Party may delay its application of some or all of the subheadings of the Harmonized System for such period as may be necessary, having regard to its pattern of international trade or its administrative resources.

2. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article agrees to make its best efforts towards the application of the full six-digit Harmonized System within five years of the date on which this Convention enters into force in respect of it or within such further period as it may consider necessary having regard to the provisions of paragraph 1 of this Article.

3. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article shall apply all or none of the two-dash subheadings of any one one-dash subheading or all or none of the one-dash subheadings of any one heading. In such cases of partial application, the sixth digit or the fifth and sixth digits of that part of the Harmonized System code not applied shall be replaced by "0" or "00" respectively.
4. A developing country which elects to apply the Harmonized System partially under the provisions of this Article shall on becoming a Contracting Party notify the Secretary General of those subheadings which it will not apply on the date when this Convention enters into force in respect of it and shall also notify the Secretary General of those subheadings which it applies thereafter.
5. Any developing country which elects to apply the Harmonized System partially under the provisions of this Article may on becoming a Contracting Party notify the Secretary General that it formally undertakes to apply the full six-digit Harmonized System within three years of the date when this Convention enters into force in respect of it.
6. Any developing country Contracting Party which partially applies the Harmonized System under the provisions of this Article shall be relieved from its obligations under Article 3 in relation to the subheadings not applied.

ARTICLE 5

Technical assistance for developing countries

Developed country Contracting Parties shall furnish to developing countries that so request, technical assistance on mutually agreed terms in respect of, inter alia, training of personnel, transposing their existing nomenclatures to the Harmonized System and advice on keeping their systems so transposed up to date with amendments to the Harmonized System or on applying the provisions of this Convention.

ARTICLE 6

Harmonized System Committee

1. There shall be established under this Convention a Committee to be known as the Harmonized System Committee, composed of representatives from each of the Contracting Parties.
2. It shall normally meet at least twice each year.
3. Its meetings shall be convened by the Secretary General and, unless the Contracting Parties otherwise decide, shall be held at the Headquarters of the Council.
4. In the Harmonized System Committee Each Contracting Party shall have the right to one vote; nevertheless, for the purposes of this Convention and without prejudice to any future Convention, where a Customs or Economic Union as well as one or more of its Member States are Contracting Parties, such Contracting Parties shall together exercise only one vote. Similarly, where all the Member States of a Customs or Economic Union which is eligible to become a Contracting Party under the provisions of Article 11 (b) become Contracting Parties, they shall together exercise only one vote.
5. The Harmonized System Committee shall elect its own Chairman and one or more Vice-Chairmen.
6. It shall draw up its own Rules of Procedure by decision taken by not less than two-thirds of the votes attributed to its members. The Rules of Procedure so drawn up shall be approved by the Council.

7. It shall invite such intergovernmental or other international organizations as it may consider appropriate to participate as observers in its work.

8. It shall set up Sub-Committees or Working Parties as needed, having regard, in particular, to the provisions of paragraph 1 (a) of Article 7, and it shall determine the membership, voting rights and Rules of Procedure for such Sub-Committees or Working Parties.

ARTICLE 7

Functions of the Committee

1. The Harmonized System Committee, having regard to the provisions of Article 8, shall have the following functions:

(a) to propose such amendments to this Convention as may be considered desirable, having regard, in particular, to the needs of users and to changes in technology or in patterns of international trade.

(b) to prepare Explanatory Notes, Classification Opinions, or other advice as guides to the interpretation of the Harmonized System.

(c) to prepare recommendations to secure uniformity in the interpretation and application of the Harmonized System.

(d) to collate and circulate information concerning the application of the Harmonized System.

(e) on its own initiative or on request, to furnish information or guidance on any matters concerning the classification of goods in the Harmonized System to Contracting Parties, to Members of the Council and to such intergovernmental or other international organizations as the Committee may consider appropriate.

(f) to present Reports to each Session of the Council concerning its activities, including proposed amendments, Explanatory Notes, Classification Opinions, and other advice.

(g) to exercise such other powers and functions in relation to the Harmonized System as the Council or the Contracting Parties may deem necessary.

2. Administrative decisions of the Harmonized System Committee having budgetary implications shall be subject to approval by the Council.

ARTICLE 8

Role of the Council and re-examination procedure

1. The Council shall examine proposals for amendment of this Convention, prepared by the Harmonized System Committee, and recommend them to the Contracting Parties under the procedure of Article 16 unless any Council Member which is a Contracting Party to this Convention requests that the proposals or any part thereof be referred to the Committee for re-examination.

2. Subject to paragraphs 3 to 6 of this Article, with respect to the Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System prepared by the Harmonized System Committee, any Contracting Party to this Convention may enter a request for (i) re-examination of the matter by the Harmonized System Committee or (ii) referral of the matter to the Council. No Contracting Party may request a re-examination by the Harmonized System Committee or a referral to the Council of a matter under this paragraph if the matter has been re-examined two times by the Harmonized System Committee.

3. The Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System, prepared during a session of the Harmonized System Committee under the provisions of paragraph 1 of Article 7, shall be deemed to be approved by the Council if, as of the end of the second month following the month during which that session was closed, no Contracting Party to this Convention has notified the Secretary General that it enters a request for re-examination by the Harmonized System Committee or referral to the Council in accordance with paragraph 2 of this Article.

4. Once a matter has been referred to the Council under the provisions of paragraph 2 of this Article, the Council shall approve such Explanatory Notes, Classification Opinions, other advice, or recommendations, unless any Council Member which is a Contracting Party to this Convention requests that they be referred in whole or in part to the Harmonized System Committee for re-examination.

5. The Harmonized System Committee shall consider a matter in respect of which a request for re-examination has been made at its first session after that matter has been referred to it under paragraphs 2 to 4 of this Article and shall take a decision at the same session unless circumstances require otherwise.

6. Under the provisions of paragraph 2 of this Article, the Harmonized System Committee may re-examine any Explanatory Note, Classification Opinion, other advice on the interpretation of the Harmonized System or Harmonized System related recommendation, no more than two times after it is first prepared by the Harmonized System Committee.

ARTICLE 9

Rates of Customs duty

The Contracting Parties do not assume by this Convention any obligation in relation to rates of Customs duty.

ARTICLE 10

Settlement of disputes

1. Any dispute between Contracting Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them.

2. Any dispute which is not so settled shall be referred by the Parties to the dispute to the Harmonized System Committee which shall thereupon consider the dispute and make recommendations for its settlement.

3. If the Harmonized System Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.

4. The Parties to the dispute may agree in advance to accept the recommendations of the Committee or the Council as binding.

ARTICLE 11

Eligibility to become a Contracting Party

The following are eligible to become Contracting Parties to this Convention:

(a) Member States of the Council.

(b) Customs or Economic Unions to which competence has been transferred to enter into treaties in respect of some or all of the matters governed by this Convention; and

(c) any other State to which an invitation to that effect has been addressed by the Secretary General at the direction of the Council.

ARTICLE 12

Procedure for becoming a Contracting Party

1. Any eligible State or Customs or Economic Union may become a Contracting Party to this Convention:

(a) by signing it without reservation of ratification.

(b) by depositing an instrument of ratification after having signed the Convention subject to ratification; or

(c) by acceding to it after the Convention has ceased to be open for signature.

2. This Convention shall be open for signature until 31 December 1986 at the Headquarters of the Council in Brussels by the States and Customs or Economic Unions referred to in Article 11. Thereafter, it shall be open for their accession.

3. The instruments of ratification or accession shall be deposited with the Secretary General.

ARTICLE 13

Entry into force

1. This Convention shall enter into force on the earliest first of January which falls at least three months after a minimum of seventeen States or Customs or Economic Unions referred to in Article 11 above have signed it without reservation of ratification or have deposited their instruments of ratification or accession, but not before 1 January 1988.

2. For any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention after the minimum number specified in paragraph 1 of this Article is reached, this Convention shall enter into force on the first of January which falls at least twelve months but not more than twenty-four months after it has signed the Convention without reservation of ratification or has deposited its instrument of ratification or accession, unless it specifies an earlier date. However, the date of entry into force under the provisions of this paragraph shall not be earlier than the date of entry into force provided for in paragraph 1 of this Article.

ARTICLE 14

Application by dependent territories

1. Any State may, at the time of becoming a Contracting Party to this Convention, or at any time thereafter, declare by notification given to the Secretary General that the Convention shall extend to all or any of the territories for whose international relations it is responsible, named in its notification. Such notification shall take effect on the first of January which falls at least twelve months but not more than twenty-four months after the date of the receipt thereof by the Secretary General unless an earlier date is specified in the notification. However, this Convention shall not apply to such territories before it has entered into force for the State concerned.

2. This Convention shall cease to have effect for a named territory on the date when the Contracting Party ceases to be responsible for the international relations of that territory or on such earlier date as may be notified to the Secretary General under the procedure of Article 15.

ARTICLE 15

Denunciation

This Convention is of unlimited duration. Nevertheless, any Contracting Party may denounce it and such denunciation shall take effect one year after the receipt of the instrument of denunciation by the Secretary General, unless a later date is specified therein.

ARTICLE 16

Amendment procedure

1. The Council may recommend amendments to this Convention to the Contracting Parties.
2. Any Contracting Party may notify the Secretary General of an objection to a recommended amendment and may subsequently withdraw such objection within the period specified in paragraph 3 of this Article.
3. Any recommended amendment shall be deemed to be accepted six months after the date of its notification by the Secretary General provided that there is no objection outstanding at the end of this period.
4. Accepted amendments shall enter into force for all Contracting Parties on one of the following dates:
 - (a) where the recommended amendment is notified before 1 April, the date shall be the first of January of the second year following the date of such notification,Or
 - (b) where the recommended amendment is notified on or after 1 April, the date shall be the first of January of the third year following the date of such notification.
5. The statistical nomenclatures of each Contracting Party and its Customs tariff nomenclature or, in the case provided for under paragraph 1 (c) of Article 3, its combined tariff/statistical nomenclature, shall be brought into conformity with the amended Harmonized System on the date specified in paragraph 4 of this Article.
6. Any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which, at the date when it becomes a Contracting Party, have entered into force or have been accepted under the provisions of paragraph 3 of this Article.

ARTICLE 17

Rights of Contracting Parties in respect of the Harmonized System

On any matter affecting the Harmonized System, paragraph 4 of Article 6, Article 8 and paragraph 2 of Article 16 shall confer rights on a Contracting Party :

- (a) in respect of all parts of the Harmonized System which it applies under the provisions of this Convention; or
- (b) until the date when this Convention enters into force in respect of it in accordance with the provisions of Article 13, in respect of all parts of the Harmonized System which it is obligated to apply at that date under the provisions of this Convention; or

(c) in respect of all parts of the Harmonized System, provided that it has formally undertaken to apply the full six-digit Harmonized System within the period of three years referred to in paragraph 5 of Article 4 and until the expiration of that period.

ARTICLE 18

Reservations

No reservations to this Convention shall be permitted.

ARTICLE 19

Notifications by the Secretary General

The Secretary General shall notify Contracting Parties, other signatory States, Member States of the Council which are not Contracting Parties to this Convention, and the Secretary General of the United Nations, of the following :

- (a) Notifications under Article 4;
- (b) Signatures, ratifications and accessions as referred to in Article 12;
- (c) The date on which the Convention shall enter into force in accordance with Article 13;
- (d) Notifications under Article 14;
- (e) Denunciations under Article 15;
- (f) Amendments to the Convention recommended under Article 16;
- (g) Objections in respect of recommended amendments under Article 16, and, where appropriate, their withdrawal; and
- (h) Amendments accepted under Article 16, and the date of their entry into force.

ARTICLE 20

Registration with the United Nations

This Convention shall be registered with the Secretariat of the United Nations in accordance with the provisions of Article 102 of the Charter of the United Nations at the request of the Secretary General of the Council.

In witness thereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Brussels on the 14th day of June 1983 in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies thereof to all the States and Customs or Economic Unions referred to in Article 11.