

KACT, WCO Headquarters, Brussels, Belgium
June, 22 – 24, 2015

Module 3
Harmonized System
GIRs and Hi-Tech and related products

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Ground Rules

- Be on time
- No PCs or mobile phones
- Respect
- There is no such thing as a stupid question
- Support
- Team Work
- Active participation
- Have fun

Introductions

- Who is who?
- I make a living by . . . ?
- What do I expect from the Academy?

Module 3: Programme Overview & Positioning

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Session II

The Harmonized System

A brief introduction

WCO



- ✓ **WCO : the intergovernmental organization uniquely competent in Customs matters**
- ✓ **180 Members (newest Member : Palestine)**
- ✓ **Global Centre of Customs expertise**
- ✓ **Leading role in development, and implementation of modern Customs procedures**

Harmonization and simplification

- **Conventions**
- **Other instruments**
- **Best-practice approaches**

Objective:

- **Harmonization and simplification of Customs systems and procedures**

The Harmonized System (HS)



- Multipurpose Goods Nomenclature
- Basis for Customs Tariffs and Trade Statistics of 200 countries and economies
- More than 98 % of World trade in terms of the HS
- A universal economic language and code for transportable goods
- Implemented internationally in 1988 by the HS Convention (153 Contracting Parties by June 2015)
- Maintained by WCO through the HS Committee
- Nomenclature Sub-Directorate acts as Secretariat

The Harmonized System (HS)



Main objectives :

- To facilitate international trade
- Collection, comparison and analysis of trade statistics
- Standardization of trade documentation and transmission of data

The Harmonized System (HS)



Used by :

- Customs and statisticians
- Governments
- International organizations
- Private sector

The Harmonized System (HS)



Many purposes, such as :

internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis.

A universal economic language and code for goods, and an indispensable tool for international trade

The Harmonized System (HS)

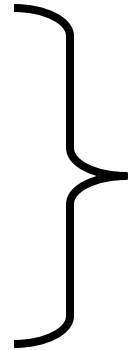


- Universal economic language and code for goods
- Indispensable tool for international trade

The Harmonized System (HS)

Convention

- Preamble
- 20 articles
- Annex



“The Harmonized
Commodity Description and
Coding System”

commonly referred to as

“Harmonized System”, “HS”,
or “Nomenclature”

The Harmonized System (HS)



Structure (2012-edition)

21 Sections: I to XXI

– 96 Chapters: 1 to 97

- 1,224 headings (4 digits)

– 5,205 descriptions of commodities (6 digits)

The Harmonized System (HS)

Section, Chapter and Subheading Notes

- To define the scope of :
 - Section
 - Chapter
 - Heading (or group of headings)
 - Subheading
- Form an integral part of the HS
- Commonly known as “legal notes”

The Harmonized System (HS)

- General definitions limiting the scope of a subheading or heading or the meaning of particular terms
- Examples :
 - Note 4 to Chapter 85 – definition of “flash memory cards” and “smart cards”
 - Note 5 (A) to Chapter 84 – definition of “ADP-machines”

The Harmonized System (HS)



- Non exhaustive list of products covered
 - example :
 - Note 2 to Chapter 86 –
“parts of railway or tramway locomotives or rolling-stock”
of heading 86.07
- Exhaustive list of goods covered by a heading or group of headings
 - example :
 - Note 3 to Chapter 85 –
scope of heading 85.09

The Harmonized System (HS)



- Exclusions (products not covered)

- example :

- Note 1 to Chapter 85 –
list of products not classified in Chapter 85
+ indication where to be classified

NB. Almost all Chapters have an exclusion Note!

The Harmonized System (HS)



- Relation to national Customs tariffs
 - *Customs tariffs and statistical nomenclatures shall be in conformity with the HS :*
 - use all headings and subheadings together with their related numerical codes
 - general rules of interpretation, all section notes, chapter notes and subheading notes
 - follow the numerical sequence of the HS
 - no modifications permitted except textual adaptations for the purposes of domestic law

The Harmonized System (HS)



- Make publicly available import and export trade statistics in term of 6-digit of the HS

Exceptions :

- for reasons of commercial confidentiality or national security
 - goods of no commercial value
- To implement HS amendments on the date of their entry into force (art. 16)

The Harmonized System (HS)



Maintained by : Harmonized System Committee (HSC)

- Composed of the representatives of HS Contracting Parties
- Two sessions in a year
- Classification questions (including disputes)
- Classification Opinions
- Explanatory Note amendments
- Legal Text amendments
- HS-related Council recommendations
- General questions and policy matters relating to the HS

The Harmonized System (HS)



- **Working Party (WP)**
 - finalizing drafts of Classification Opinions and Explanatory Notes
- **Review Sub-Committee (RSC)**
 - keeping the HS up to date in terms of trading patterns and changes in technology
- **Scientific Sub-Committee (SSC)**
 - assisting the HSC and other WCO committees

Session III

Amending the Harmonized System

Amending the HS

PREAMBLE

INTERNATIONAL CONVENTION ON

"The Contracting Parties to this Convention, established under the auspices of the Customs Cooperation Council,

THE HARMONIZED COMMODITY

"Considering the importance of ensuring that the Harmonized System is kept up-to-date in the light of change in technology or in patterns of International trade,...

DESCRIPTION AND CODING SYSTEM

"...Have agreed...

Amending the HS

ARTICLE 8

(Role of the Council)

“The Council shall examine proposals for amendment of this Convention, prepared by the Harmonized System Committee, and recommend them to the Contracting Parties...”

ARTICLE 16

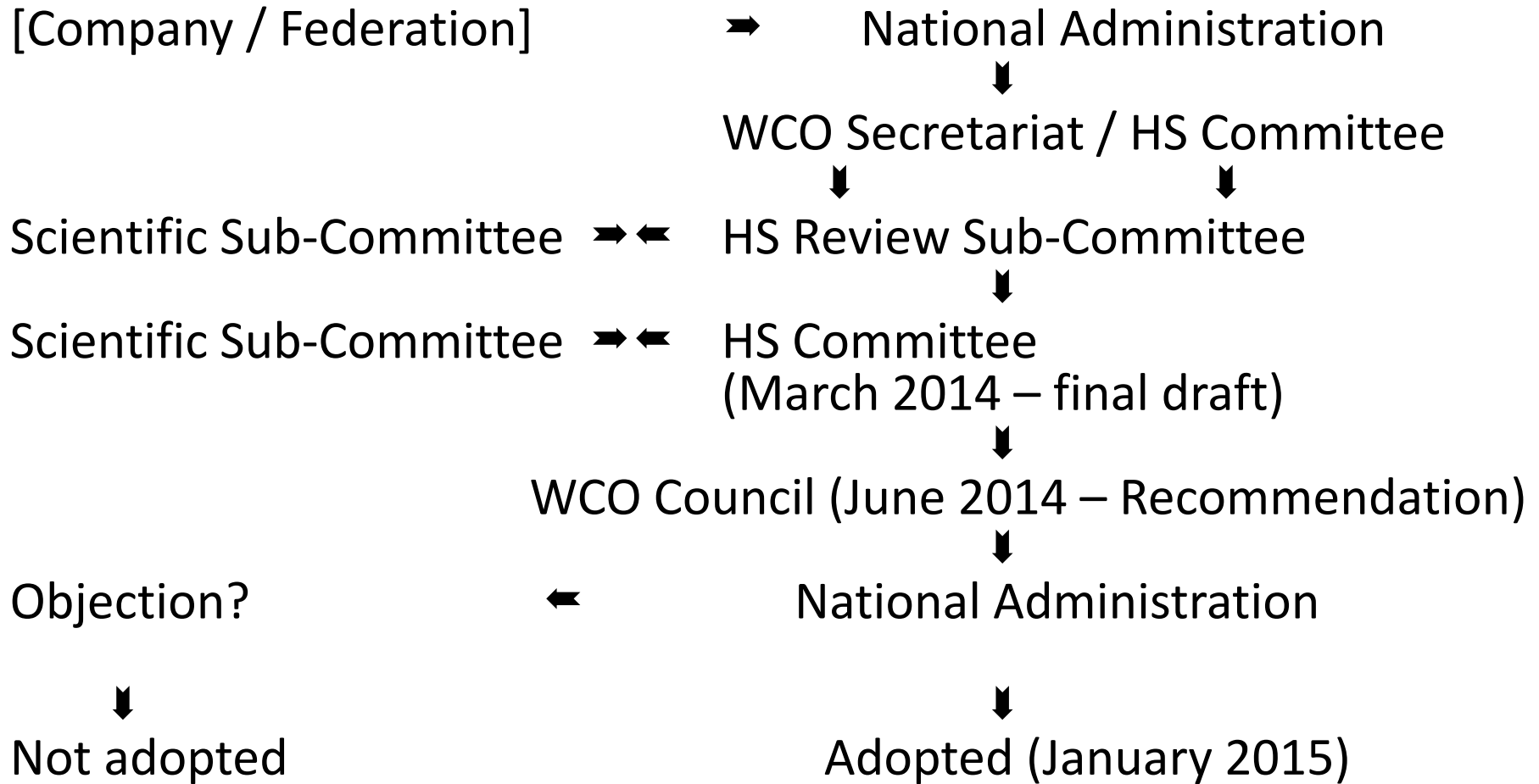
(Amendment procedure)

“The Council may recommend amendments to this Convention to the Contracting Parties.”

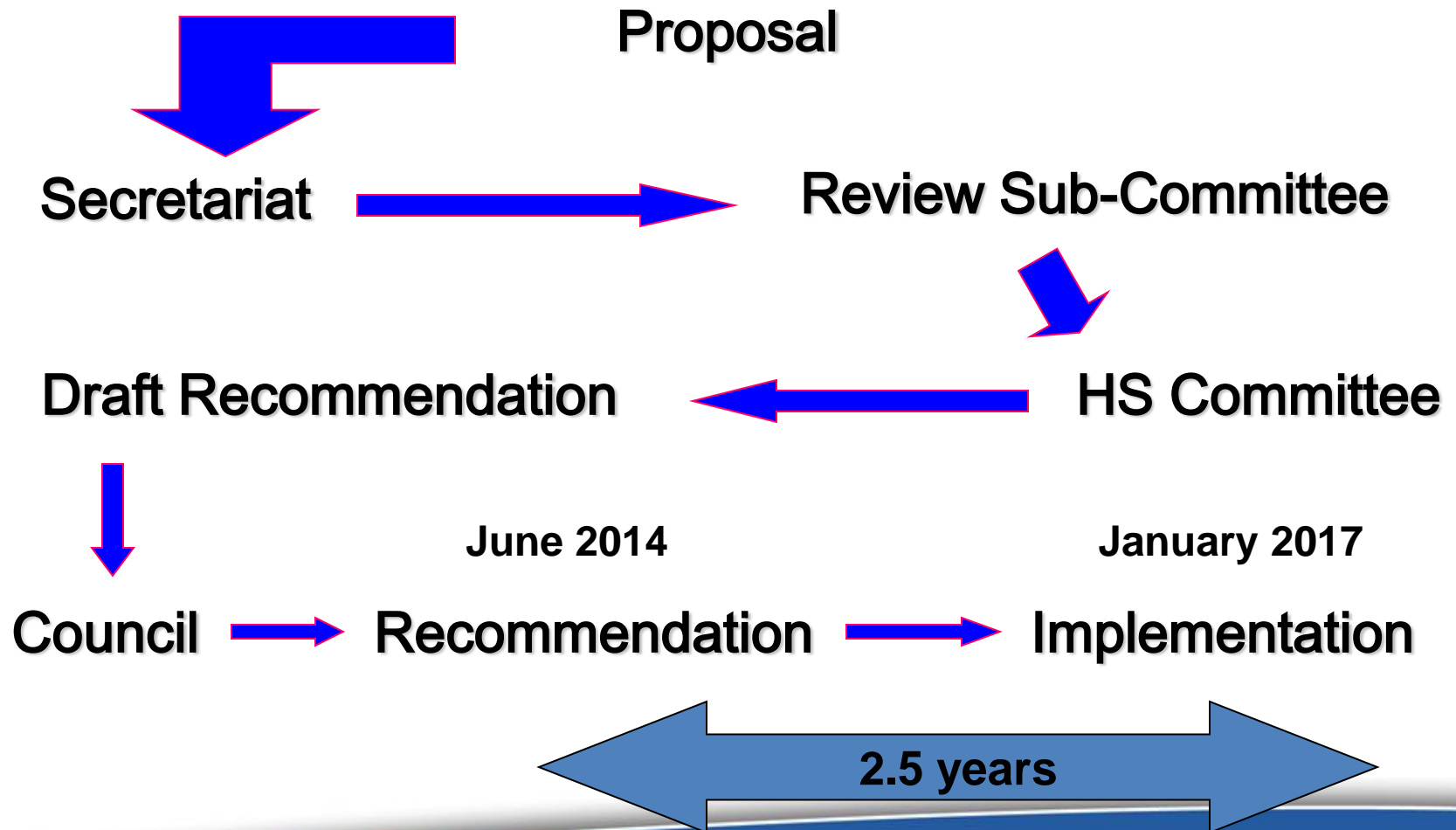
Amending the HS (Current review)

- Drafting period (± 5 years)
mid 2009 to spring 2014
- Adoption period (± 6 months)
July 2014 to January 2015
- Implementation period (± 2 years)
January 2015 to January 2017
- Entry into force
1 January 2017

Amending the HS



PRINCIPLES



Adoption period

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.

[...]

Implementation period

Article 16 - Amendment procedure

[...]

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.

Implementation period (1)

WCO



- Development of requisite correlation tables between the old and the new versions of the HS
(recently published by WCO)
- Drafting of amendments to the Explanatory Notes
- Updating and re-publication of all HS related publications, e.g.:
 - Nomenclature
 - Explanatory Notes
 - Classification Opinions
 - Alphabetical Index
 - [Commodity Database, Harmonizer,] etc.)
- Updating the WCO Web site

Implementation period (2)

Other than WCO

- Translation of the texts into third language (if necessary)
- Legislative process in Member administrations
- Updating of affected computer databases in Member administrations
- Training of Customs, other affected government agencies and trade
- WTO negotiations concerning the possible impairment of tariff concessions
- Revision of the trade statistical systems of the United Nations (for example, the SITC, CPC)

Co-operation with other international organizations

- WTO (Schedules of tariff concessions)
- UNSD
- CITES (Endangered species)
- WHO (pharmaceuticals)
- FAO (food security program)
- UNEP :
 - Ozone Secretariat (Ozone Layer Recommendation)
 - Basel Convention (Hazardous wastes)
- ICC (Technical issues – input from industry)

Input from private sector

Input from the private sector :

- Proposals
- Commentary

Input from private sector

Direct or through the national association:

- National Customs authority

Through global association:

- ICC
- National Customs authorities

No requests from private sector to WCO!

Session IV

the General Interpretative Rules



Classification : an easy or complex exercise?

General Interpretative Rules

- **Rule 1 : Terms of headings and Notes**
- **Rule 2 : Expanding the scope of headings**
- **Rule 3 : Classification under two or more headings**
- **Rule 4 : Akin**
- **Rule 5 : Packaging**
- **Rule 6 : Subheading level**

But first :

HOW TO CLASSIFY A COMMODITY ?

- wii
- what material or substance is it made of ?
- what is its function or use ?
- under what form is it
presented/imported/exported ?
- is it the only possible classification ?

Rule 1 : Terms of headings and Notes

- Heading 22.06 : Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, n.e.s.o.i.
- Heading 82.14 : Manicure or pedicure sets
- Heading 30.06 : First-aid boxes and kits
- Heading 96.05 : Travel sets for personal toilet

Rule 2 : Expanding the scope of headings (i)

Rule 2 (a) :

- presented incomplete or unfinished
- essential character of the complete or finished article

Rule 2 : Expanding the scope of headings (ii)

Rule 2 (a) :

- presented unassembled or disassembled

However :

- Work trucks fitted with a crane (heading 84.26) or with lifting or handling equipment (heading 84.27)
- Chassis fitted with engines : heading 87.06

Rule 2 : Expanding the scope of headings (iii)

Rule 2 (b)

Reference in a heading to a material =>
includes a reference to *mixtures* or *combinations* of that
material or substance with other materials or substances

Example:

39.26 – [other] articles of plastics (+ other material, e.g., wood
or metal)

However :

17.02 – sugar syrups not containing added flavouring or
colouring matter

Rule 2 : Expanding the scope of headings (iii)

Rule 2 (b)

Reference to goods of a given material or substance => includes goods consisting *wholly or partly* of such material or substance

Example :

Note 1 (a) to Section XVI – articles (...) of vulcanised rubber other than hard rubber

=> Combination of rubber with other material, where the rubber gives the whole its essential character (GIR 3 (b) or 3 (c))

Rule 2 : Expanding the scope of headings (iii)

Rule 2 (b)

Classification of goods consisting of more than one material or substance => Rule 3

Rule 3 : Classification under two or more headings

- (a) Most specific description
- (b) Mixtures / Composite goods consisting of different materials or made up of different components / Goods put up in sets for retail sale
- (c) Heading which occurs last in numerical order among those which equally merit consideration

Rule 3 (a) : Most specific description

What is 'most specific'?

- Tufted textile carpets identifiable for use in cars : heading 57.03 and not 87.08
- Unframed safety glass, shaped and identifiable for use in aircraft : heading 70.07 and not 88.03
- A 'photomask' to be used in machinery of heading 84.86 : heading 37.05 and not 84.86

Rule 4 : Akin

- Only if not possible with recourse to GIRs 1 to 3
- Very rarely applied
- Kinship : description, character, purpose
- Safeguard

Rule 4 : Akin

HS 2002:

Cooking appliances and plate warmers :

7321.11 - - For gas fuel or for both gas and other fuels

7321.12 - - For liquid fuel

7321.13 - - For solid fuel

HS 2007:

Cooking appliances and plate warmers :

7321.11 - - For gas fuel or for both gas and other fuels

7321.12 - - For liquid fuel

7321.19 - - Other, including appliances for solid fuel

Rule 5 : Packaging

- Separate classification of articles and wrapping materials?
- Additional to the foregoing provisions
- Rule 5 gives the answer, unless . . .

Rule 5 (a) : Specific case

- Specific cases and containers
- Conditions :
 - Suitable for long-term use
 - Specially shaped or fitted
 - Presented with the articles for which they are intended
- Classification with such articles when of a kind normally sold therewith
- Rule does not, however, apply to containers which give the whole its essential character

Rule 5 (a) : Specific cases

- * Shaver case containing an electric shaver
- * Binocular case presented with a pair of binoculars, but packed separately
- * But what about the following?

Rule 5 (a) : Specific cases



Rule 5 (b)

- Subject to the provisions of Rule 5 (a)
- Presented with the goods therein
- Of a kind normally used for packing such goods

Not binding :

- Packing materials or packing containers are clearly suitable for repetitive use

Rule 6 : Subheading level

➔ Not applicable if there are no subdivisions :
e.g., heading 22.03

For legal purposes :

- Classification according to the terms of subheadings and any related Subheading Notes
- Mutatis mutandis, to Rules 1 to 5
- Only subheadings at the same level are comparable

Rule 6 : Section and Chapter Notes (1)

Note 3 to Chapter 29 : ‘Goods which could be included in two or more headings of this Chapter are to be classified in that one of those which occurs last in numerical order.’

Applicable at subheading level?

Rule 6 : Section and Chapter Notes (1)

Relative Section and Chapter Notes also apply, unless the context otherwise requires

Subheading Note 2 to Chapter 29 : ‘Note 3 to Chapter 29 does not apply to the subheadings of this Chapter.’

Therefore, classification on the basis of GIR 3

Rule 6 : Section and Chapter Notes (2)

Poults (young turkey) :

01.05 Live (...) turkeys,

0105.12 - Weighing not more than 185 g :
 - - Turkeys

0105.99 - Other :
 - - Other

GIRs : Where do we find them?

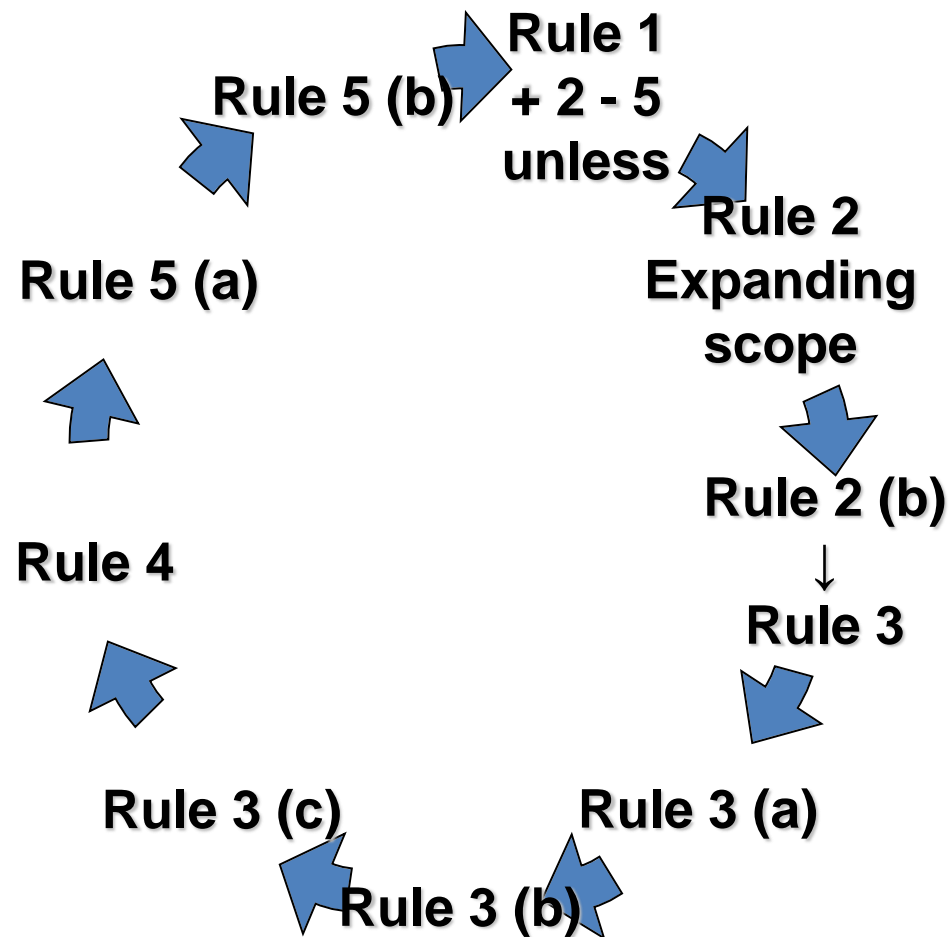
HS Convention

Annex

Article 2 :

Annex = integral part of Convention

**National tariff and statistical
nomenclatures**



The Harmonized System (HS)



**THANK YOU FOR YOUR
ATTENTION**

ANY QUESTIONS ?

THAT'S ALL !

(for today)