



KACT, WCO Headquarters, Brussels, Belgium, June, 30 - July, 11, 2014

Harmonized System – GIRs and Hi-Tech and related products

Izaak Wind

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

HELLO

What's my name?
Where do I work?
Why am I here?

Session I: Programme Overview & Positioning

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The Harmonized System

A brief introduction



The HS : a WCO instrument

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

Harmonization and Simplification of Customs Systems and Procedures

- **Conventions, other instruments and best-practice approaches**
- **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 (149 Contracting Parties by June 2014)**
- **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**

- **Many purposes, such as :**

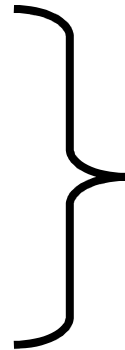
internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis.

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

The Harmonized System (HS)

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!

- **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)

- **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,

"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,...

"...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

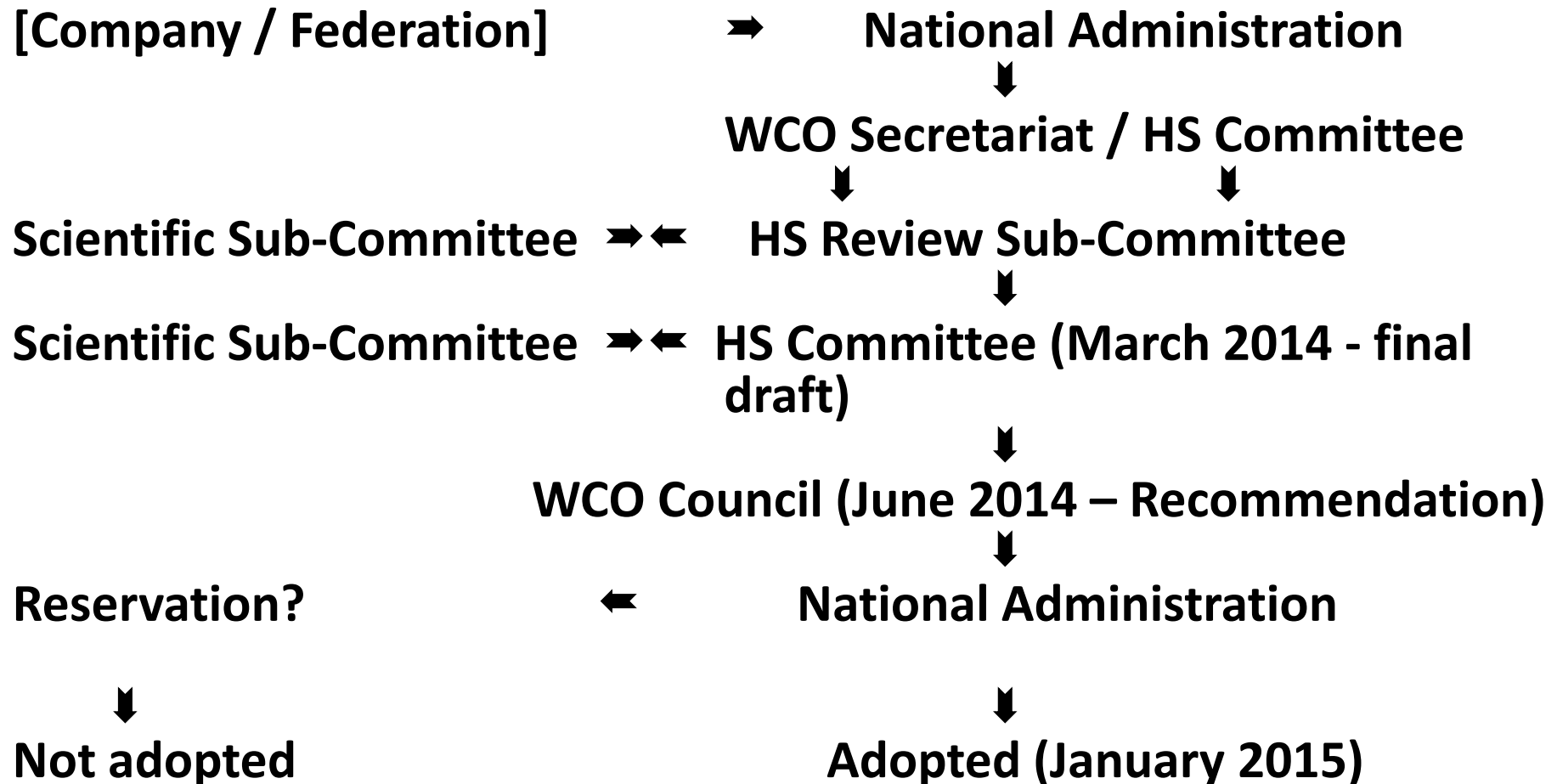
(Amendment procedure)

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

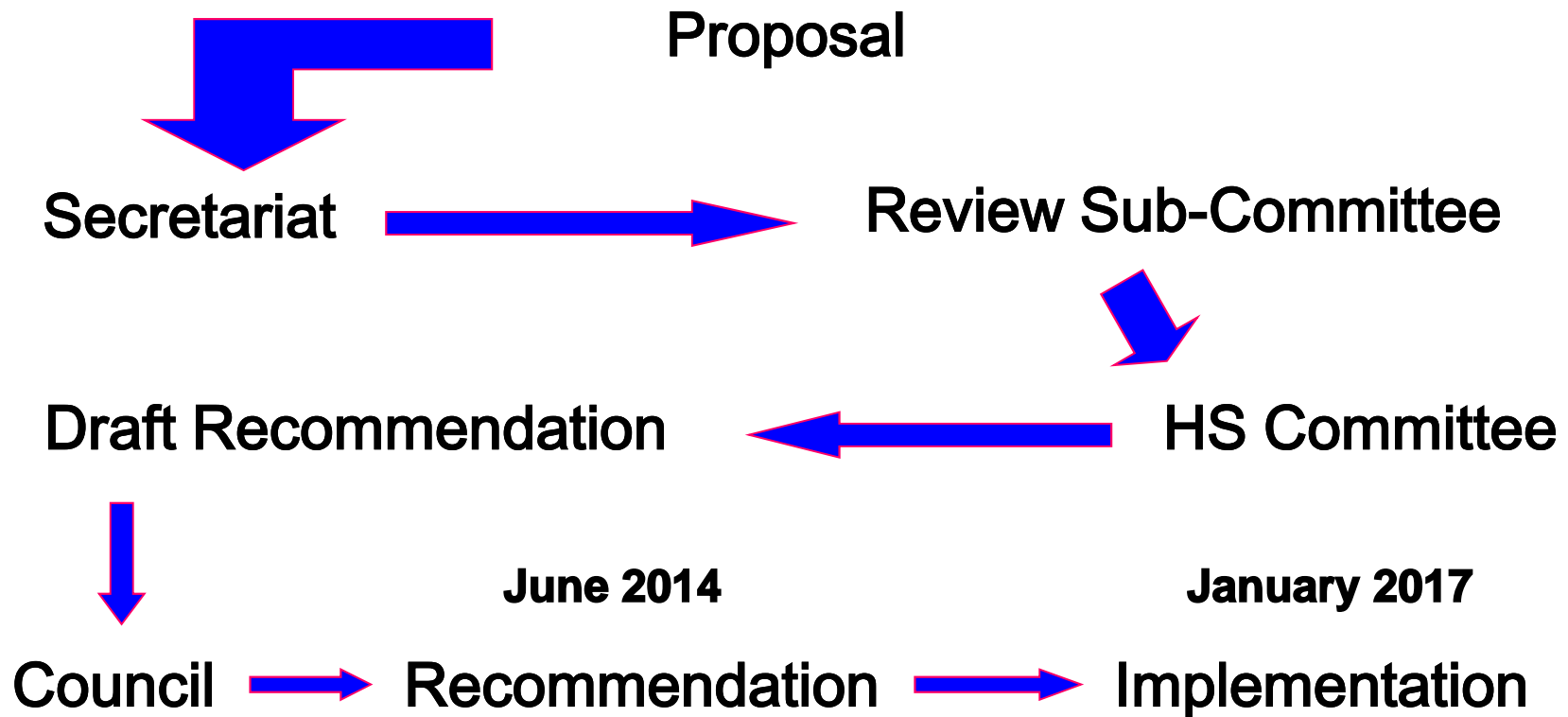
Amending the HS (Current review)

- **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**
- **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)**

the General Interpretative Rules

But first :

HOW TO CLASSIFY A COMMODITY ?

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

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**

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 (a) :

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

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 (b)

- (i) Reference to a material => includes a reference to mixtures or combinations of that material or substance with other materials or substances**
- (ii) Reference to goods of a given material or substance includes goods consisting wholly or partly of such material or substance**
- (iii) 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**

However:

- **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

- Other :

0105.99 - - Other

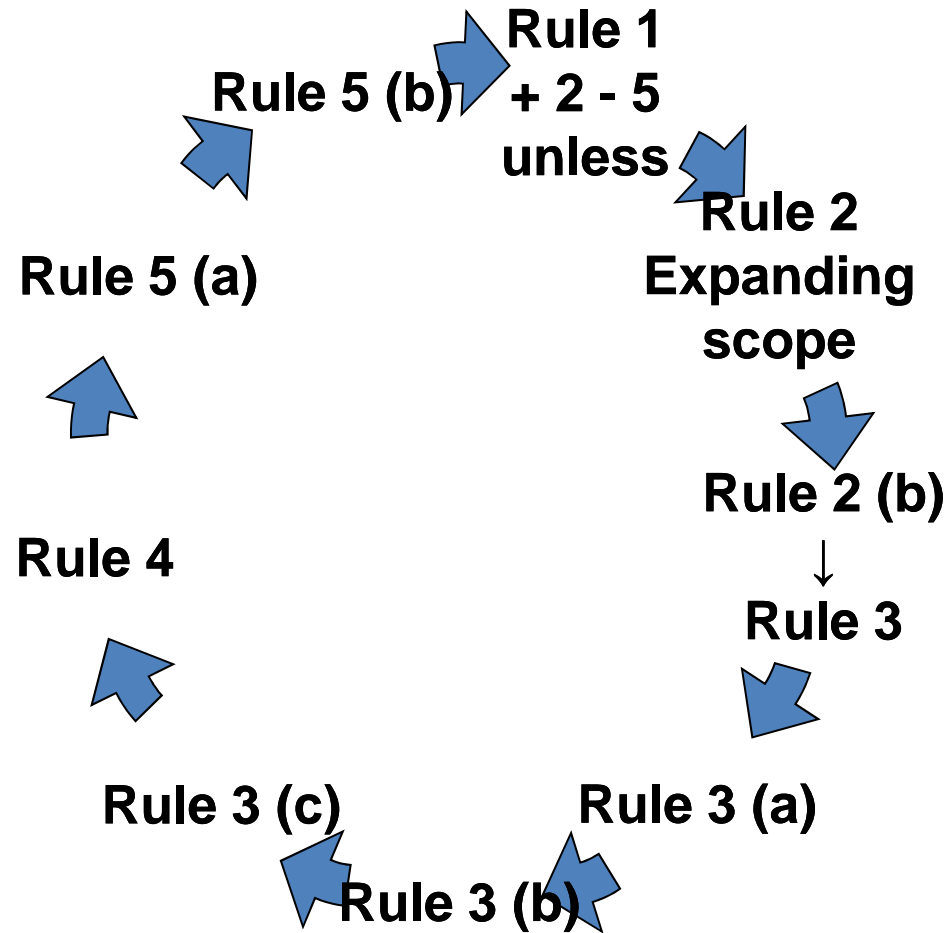
HS Convention

Annex

Article 2 :

Annex = integral part of Convention

**National tariff and statistical
nomenclatures**



The Harmonized System (HS)

**THANK YOU FOR YOUR
ATTENTION**

ANY QUESTIONS ?



Application of GIRs 1 and 6

Session V: Application of GIR 1

Step by step process:

- Identify the goods
- Identify the possible Chapters
- Consider the appropriate Section and Chapter Notes
- Locate the appropriate headings
- [Classify at subheading level]

Session V: Application of GIR 1

First step:

Rule 0

W I I

Session V: Application of GIR 1

First step:

- Identify the goods as presented
- Full description
- Taking into account the HS provisions

Session V: Application of GIR 1

Rule 0

Description of the goods

Wheat flour

Vegetable oils

Salt

Wheat gluten

Mineral salts

Oleoresins

Colorant

? ? ? ? ? ? ? 

Session V: Application of GIR 1

Description of the goods

NOODLES !!!

Session V: Application of GIR 1

Description of goods

A consignment of drums

Session V: Application of GIR 1

Description of goods

What are the goods? What type of drums?

- Brake drums for bikes, cars, other vehicles
- Containers for materials, for compressed or liquefied gas
- Parts for machinery, plant – industrial, agricultural, etc.
- Musical instruments bass, side drums, toys
- For photocopying machinery
- Weight drums for clocks

Session V: Application of GIR 1

GIR 1

The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

Session V: Application of GIR 1

TITLES

for ease of reference only

- 1) Sections, Chapters and sub-Chapters
- 2) Categories or types of goods
- 3) Not possible to cite them all
- 4) No legal bearing on classification

Session V: Application of GIR 1

Example (1)

Chapter 22: Beverages, spirits and vinegar

Also:

- ✓ ice and snow (22.01)
- ✓ denatured ethyl alcohol (22.07)

Session V: Application of GIR 1

Example (2)

Chapter 28: Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes

Also:

- ✓ organic compounds of mercury (28.52)
- ✓ liquid or compressed air (28.53)

But not:

pure sodium chloride (25.01)

Session V: Application of GIR 1

Example (3)

Section XV: Base metals and articles of base metals

But not:

- ✓ Base metal clad with precious metal (Chapter 71)
- ✓ Vehicles, vessels, aircraft (Section XVII)
- ✓ Toys or sports requisites (Chapter 95)

Session V: Application of GIR 1

Sub-Chapter

- Not all Chapters
- In Chapter 72
- Group of headings

Session V: Application of GIR 1

Chapter 72: Grouped according to production stage and composition

- ✓ Primary materials; products in granular or powder form
- ✓ Iron and non-alloy steel
- ✓ Stainless steel
- ✓ Other alloy steel; hollow drill bars and rods

Session V: Application of GIR 1

Chapter 39: Production stage

- ✓ “Primary form”:
 - i. Also part of the heading text
 - ii. Defined in Note 6 to Chapter 39
- ✓ “Waste; semi-manufactures; articles”:
 - i. Limited scope of “waste” (Note 7 to Chapter 39)
 - ii. No definition for other categories referred to in Sub-Chapter title
 - iii. Reference to “Sub-Chapter” in Note 11 to Chapter 39

Session V: Application of GIR 1

Legal purposes, terms of:

- ✓ Headings
- ✓ And
- ✓ Any relative Section or Chapter Notes

Session V: Application of GIR 1

Legal purposes
Terms of the headings

What it is? Flour
What is it made from? Meat
What is it used for? Human consumption or otherwise

02.10:	<i><u>edible</u> flours and meals of meat or meat offal</i>
23.01:	<i>flours, meals and pellets, of meat or meat offal, (...) <u>unfit for human consumption</u></i>

Session V: Application of GIR 1

Notes

- ✓ Located at the beginning of the Section or Chapter
- ✓ Not all Sections and Chapters do have Notes
- ✓ Do not confuse with Explanatory Notes!

Session V: Application of GIR 1

Nature of Section or Chapter Notes:

- ✓ Restriction of scope
- ✓ Expanding the scope
- ✓ Definitions

Session V: Application of GIR 1

Notes – restricting

- ✓ Exclusion Notes: *'This Section/Chapter does not cover:'*
- ✓ Notes 1 to Section XVI/Chapters 84 and 85
- ✓ Note 2, 2nd and 3rd paragraph, to Chapter 84
- ✓ Note 5 (D) to Chapter 84
- ✓ Note 7 to Chapter 90

Session V: Application of GIR 1

Notes – expanding the scope of a heading or of a term:

- ✓ Note 2 to Chapter 6
- ✓ Note 2 to Chapter 7 (“vegetables”)
- ✓ Note 1 to Chapter 40 (“rubber”)

Session V: Application of GIR 1

Notes - definitions

For the whole Nomenclature:

- ✓ Note 1 to Chapter 39 (plastics)
- ✓ Note 1 to Chapter 40 (rubber)

Session V: Application of GIR 1

Notes – definitions

For the Section, Chapter or heading:

- ✓ Section: Note 5 to Section XVI (“Machines”)
- ✓ Heading: Note 8 to Chapter 84 (“pocket-size”)
- ✓ Subheading: Subheading Note 1 to Chapter 84 (“systems” of 8471.49)

Session V: Application of GIR 1

Notes – classification principles

Priority classification:

- ✓ Notes 1 and 2 to Section VI
- ✓ Note 4 to Chapter 30
- ✓ Note 9 (D) to Chapter 84

Session V: Application of GIR 1

Notes – classification principles

Parts

- ✓ Note 2 to Chapter 82
- ✓ Note 1 to Chapter 83
- ✓ Note 2 to Section XVI
- ✓ Note 2 to Chapter 90

Session V: Application of GIR 1

Rules 2 to 6 applicable?

Certain conditions

- a) And
- b) Provided such headings or Notes do not otherwise require
- c) According to the following provisions

Session V: Application of GIR 1

Provided such headings or Notes do not otherwise require

Example 1:

- ✓ Rule 2 (b) => mixtures or combinations are included in headings/Notes referring to a material or substance
- ✓ Machinery of ceramic material (Note 1 (b) to Chapter 84) => also includes a combination
- ✓ Mixtures of odoriferous substances (heading 33.02)

Session V: Application of GIR 1

Provided such headings or Notes do not otherwise require

Example 2:

- ✓ Rule 2 (a) => unassembled
- ✓ Chassis fitted with engines (heading 87.06)

Session V: Application of GIR 1

Finally:

Rule 1 is

ALLWAYS APPLICABLE

Session V: Application of GIR 1

Q and A

Session V: Application of GIR 6

Copy of GIR 1:

- For legal purposes
- According to the terms of those subheadings
- Any related Subheading Notes

However:

- To the above Rules
- Only subheadings at the same level comparable
- Relative Section and Chapter Notes also apply
- Unless the context otherwise requires

Session V: Application of GIR 6

- Scope of subheading restricted by:
 - ✓ Terms of the heading
 - ✓ Section of Chapter Note
- Any Subheading Note?

Session V: Application of GIR 6

Relative Section and Chapter Notes also apply

- Subheading 3825.30: Clinical waste
- No Subheading Note
- Note 6 (a) to Chapter 38

Session V: Application of GIR 6

Which subheading to classify the following (and why):

T-shirt, made of 50 % (by weight) of cotton and 50 % (by weight) of man-made fibres

Heading 61.09: T-shirts, singlets and other vests:

6109.10 – Of cotton

6109.90 – Other

Session V: Application of GIR 6

Subheading 6109.90 by application of GIR 6:

Subheading Note 2 to Section XI:

Products of Chapters 56 to 63 **containing two or more textile materials** are to be regarded as consisting wholly of that textile material **which would be selected under Note 2 to this Section** for the classification of a product of Chapters 50 to 55 or of heading 58.09 consisting of the same textile materials.

Note 2 to Section XI:

Goods classifiable in Chapters 50 to 55 or in heading 58.09 or 59.02 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified **as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order** among those which equally merit consideration.

Session V: Application of GIR 6

Subheadings at the same level

- One-dash level
- Two-dash level

Note:

- Maximum of HS: two-dash level
- National: no maximum provided

Session V: Application of GIR 6

One-dash level – Example

Heading 84.34:

Milking machines and dairy machinery.

8434.10 – Milking machines

8434.20 – Dairy machinery

8434.90 – Parts

Session V: Application of GIR 6

Two-dash level – Example

Heading 84.67:
**Tools for working in the hand, pneumatic,
hydraulic or with self-contained electric or non-
electric motor.**

– With self-contained electric motor:
8467.22 – – Saws

– Other tools:
8467.81 – – Chain saws

Chain saw with self-contained electric motor: 8467.22 or
8467.81?

Session V: Application of GIR 6

Scope of the subheading shall not extend:

- that of the heading (one-dash level)
- that of the one-dash subheading to which it belongs (two-dash level)

Session V: Application of GIR 6

Heading 22.01 at national level: “Other”

2201 10 19 - - - Other

2201 10 90 - - Other

2201 90 00 - Other

Session V: Application of GIR 6

At national level: “Other”

- 2201 10 - Mineral waters and aerated waters:
 - - Natural mineral water:
 - 2201 10 11 - - - Not carbonated
 - 2201 10 19 - - - Other
 - 2201 10 90 - - Other
- 2201 90 00 - Other

**THANK YOU FOR YOUR
ATTENTION**

ANY QUESTIONS ?

THAT's ALL !