

ICC input to WCO HS Study Team

I. Introduction

As the institutional representative of over 45 million businesses, reaching more than 170 countries, the International Chamber of Commerce (ICC) operates with a mission to make business work for everyone, every day, everywhere.

ICC as the industry observer on WCO HSC and RSC matters, welcomes the opportunity to provide additional input to the WCO HS Study Team on the specific questions below. This submission builds off initial informal inputs shared during the recent ICC – WCO Study Team discussion. We are pleased to follow up on our commitment to re-circulate our survey to solicit additional input as well as to share an updated, formal, version of inputs for the consideration of the HS Study Team.

The inputs provided below have been shared with the ICC HS Working Group, but are consolidated inputs received from member companies as well as trade associations (e.g., vertical or sector specific associations or coalitions) that are part of the ICC HS Working Group and/or members of respective ICC National Committees who shared the survey with their respective members.

As shared during our discussion, ICC's network spans across all sectors of the economy in addition to companies of all sizes (i.e., MSMEs to MNCs with global footprint). The inputs detailed below cover inputs from a range of business sectors.

We stand ready to evaluate and respond to requests from the WCO on the HS Study as well as any other HSC and/or RSC related requests.

II. Specific Questions and Consolidated Responses

A.1 Topic 1: Identification of goods subject to HS provisions presented at borders

Study Team Summary and Context: Related to goods identification according to HS provisions at the border, certification schemes and import licenses seem to be the two popular solutions to verifying the identification of goods, in particular to certain traded goods (e.g., organic food, goods subject to environmental restrictions, etc.).

A.2 Related Questions to Members and Member Responses:

1. Do you support certification schemes for goods presented at borders?

Members do not support certification schemes for goods presented at borders.

As a general matter, member companies are very concerned with mandated 3rd party certification. In particular, there is concern over sharing of confidential business information, including IP protections.

Depending on the sector, it is possible that other types of certifications (non-mandatory) could be discussed. However, any such discussion and approach must allow for a self-certification approach. It should be noted that these schemes should not be embedded in the HS itself.

2. Do you feel these certification schemes should be embedded in the HS? If so, do you perceive challenges that could arise?

Members do not support that certification schemes should be embedded in the HS.

From a practical perspective, there are differences in what could be an acceptable approach at the global vs. domestic level related to the HS. It is possible that some certification approaches could be more feasible at a domestic level. However, any scheme or approach considered must be supported by industry consensus on validity and applicability. This requires transparency, collaboration, and close consultation with the trade as any approaches are considered.

3. Do you support the creation of additional licensing requirements for goods?

Members do not support the creation of additional licensing requirements for goods. Import licensing, for example, is viewed as a non-tariff barrier to trade, which can and do drastically increase overall landed costs as well as cause delays in time to market.

As a general matter, and possibly sector dependent, consideration could be given to a licensing approach or proposal. However, any proposal would need to include trade or facilitation benefits for additional processing time and/or qualification of goods directly when implemented.

Some members have noted possible consideration could be in the event additional schemes are needed to support quality and safety, key to member and brand credibility.

4. Do you perceive additional costs to either certification schemes or imports licenses?

There were numerous inputs related to the additional costs (financial, time, as well as resources) of either certification schemes or import licenses. Examples are as follows:

- Globally, public and private sectors, are trying to streamline administrative processes. Any additional steps in a process will incur extra costs (e.g., time, financial and non-financial resources).
- Every additional required step in a process carries a cost to meet it.
- There will inevitably be various fees and compliance costs inherent in any certification and licensing requirement.
- The fact that a new scheme is added is going to create added work streams, that will require their own effort, management, input, resolutions, compliance with them – for no real added value. If the scheme is part of the pre-HS process, it is not part of the HS process and thus synchronisation will be required and have to be managed.
- 3rd party certification adds complexity and cost, but this is difficult to quantify until there is a better understanding of specific *possible* requirements of the certification schemes or import licenses.
- There will be costs associated with the necessary time to prepare documentation and conduct any needed testing, etc.
- Every import license process requires time to process and potential delays that will result in additional costs, including costs for processing/requesting the license, warehousing, etc. Further, normally government agencies do not have the capacity to issue import licenses in a timely and transparent fashion which adds even more costs.

5. Beyond certification schemes or import licensing requirements, are there any other possible solutions that could help address the issue of identifying goods subject to special HS requirements?

- The HS was created for assessing rates of duty and for statistical purposes. Review of possibly adding statistical digits (at national levels) could be considered to address certain of these needs. There is currently a Recommendation on the agenda for the 72nd HSC regarding such a matter, and the Council has recently approved 3 other such Recommendations (e.g., related to ozone depleting chemicals [ODCs]).
- Include objective measurable criteria as much as possible in the legal texts to be able to identify and classify commodities using speedy, simple, cheap and reliable approaches.
- Link to specific classification, documentation review, risk analysis (to identify high risk shipments - country of origin, shipper history), physical inspection depending on risk analysis, advanced technology (chemical detectors or other detectors to identify restricted/prohibited goods). Additional suggestions to improve the process overall are as follows: comprehensive and frequent training for customs, importers/exporters to improve understanding of HS classification and special requirements. More collaboration at domestic levels between customs and industry (the trade) to share information about products and HS requirements.
- Governmental agency flags to trigger additional forms/reporting.

B.1 Topic 2: Harmonized System Correlation Tables

Study Team Summary and Context: At the end of an HS Review Cycle the WCO Secretariat produces non-binding correlation tables that detail the correlation between the previous (current) and newest (future) HS (e.g., HS2017 to HS2022) and vice versa. Currently, the correlation table drafting process starts after the adoption of the recommended amendments to the HS (in other words, once the future version changes have been adopted and are deemed final).

B.2 Questions to Members:

1. Are there benefits to drafting the correlation tables as part of the process used by the Harmonized System Committee (HSC) for adopting amendments and developing the Explanatory Notes (ENs) for the HS?

In other words, do you see benefits to working simultaneously on the correlation tables and the adopted amendments before they are approved?

There were some members that supported this and others that did not. Please see additional inputs as follows for those members supporting “yes”:

- It enables the importer to conduct preliminary internal reviews in preparation for the HS changes.
- It will be useful if draft correlation tables are routinely included in all RSC working (discussion) documents with proposed Nomenclature amendments (except where there is no product shift envisaged).
- Some RSC and HSC working documents in the past contained such correlations, so this practice can likely be adopted as a standard in developing HS amendments.
- Update of accompanying Explanatory Notes or terms does not generally accompany new/changed headings. Also, example classification opinions (COs) would also help clarify new goods. By way of context, regarding COs for newly classified goods, the practice is for HSC delegates to request COs. The general view is COs are useful for HS users writ large.

2. Are there benefits to having the private sector (i.e., ICC) review and comment on how the transitions from the current to future HS Nomenclature (e.g., HS2022 to HS2028)?

Members indicate that yes, there are benefits to having the private sector (i.e., ICC) review and comment on the transitions from the current to future HS Nomenclature (e.g., HS2022 to HS2028).

Specific supporting points are as follows:

- Experience of the trade is vital to ensure that legislation will work in reality.
- Early dialogue is always helpful to allow for addressing unforeseen challenges or issues that might not be immediately picked up by Customs.
- The private sector (i.e., industry or the trade) is a key player in the HS review process, thus it should be consulted regarding the transition to next versions of the HS, to make the process more inclusive and meaningful.
- To help influence a transition period of no more than 18 months to 2 years. It would also be very beneficial to have up-to-date links to tariff schedules of the countries that have transitioned to the most recent amendment.

About the International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 170 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.



33-43 avenue du Président Wilson,
75116 Paris, France

T +33 (0)1 49 53 28 28 E icc@iccwbo.org
www.iccwbo.org @iccwbo