



Committee on Market Access

COMMUNICATION FROM THE CHAIRPERSON ON BEHALF OF THE COMMITTEE ON MARKET ACCESS TO THE HARMONIZED SYSTEM COMMITTEE OF THE WORLD CUSTOMS ORGANIZATION

The Committee on Market Access (CMA) is the World Trade Organization's (WTO) main forum for discussions on issues relating to tariffs, and it regularly updates its Members about the Harmonized System (HS) and the relevant linkages with the work of the World Customs Organization (WCO). In light of the COVID-19 pandemic, and to improve Members' preparedness and response to future crises, the CMA has organized a series of experience sharing sessions where Members have exchanged views on issues relating to trade in COVID-19 essential goods and the respective policy responses to combat the pandemic. In carrying out this exercise, WTO Members have recognized the work done by the WCO and representatives from the WCO Secretariat were invited in the CMA sessions to share their insights, particularly on the classification of COVID-19 essential goods.

As a result of the first two experience sharing sessions¹, WTO Members identified two issues that they would like to bring to the attention of the Harmonized System Committee (HSC). These are:

1. Lack of clarity on the proper HS classification of certain COVID-19 essential products. Members are aware that some COVID-19 essential products are not specifically identified in the HS as the specific description for some of these products lacked precision or referred to categories of goods that are classified under multiple subheadings. Due to this lack of clarity and the variability in products' characteristics, Members have classified certain essential products, like facemasks and face shields, under different HS subheadings, which resulted in significant challenges for the formulation of policy measures as part of the pandemic response.
2. Lack of a harmonized approach for the creation of national tariff lines or statistical codes to implement national policies and monitor trade in COVID-19 essential products. As HS subheadings are generally much broader in scope than the specific products identified as "essential" to combat the COVID-19 pandemic, several Members introduced new national tariff lines or statistical codes in their national nomenclature to better target their policies and improve monitoring of trade flows. However, Members did not follow a harmonized approach in the establishment of those national breakouts and, as a result, trade data for these products is not standardized making it extremely challenging to analyse global trade flows in COVID-19 essential products.

While WTO Members benefitted from non-binding guidance for the HS classification of these products by the WCO and other international organizations², they have also recognized that these reference documents did not include certain essential products and that such guidance did not always solve the classification ambiguity for some of them. With a view of improving Members' readiness and preparedness, and recognizing the work of the HSC in this regard, the CMA would like to invite the HSC to consider the following:

- a) Clarify the classification in the HS2022 nomenclature of those COVID-19 essential goods that remain ambiguous or that Members currently classify in different HS codes (e.g., facemasks, protective garments, and other products to be determined). WTO Members will

¹ The first two experience sharing sessions were held on 4 March and 26 April 2022. A summary report was circulated by the Secretariat under the document series JOB/MA/152.

² See for example [HS classification reference for Covid-19 medical supplies HS 2022 Edition, Joint Indicative List of Critical COVID-19 Vaccine Inputs for Consultation \(Version 1.0\)](#).

continue to coordinate with their national authorities to identify additional products that may require special attention by the HSC.

- b) Consider the creation of new subheadings in the HS2027 amendment to improve and simplify the classification of essential medical goods. The Annex to this letter offers some examples of possible changes to the HS as identified by Members, with further products to be identified by WTO Members in collaboration with their national authorities.
- c) Explore the possibility of issuing WCO Recommendations on the insertion in national statistical nomenclatures of subheadings for monitoring international trade in products essential to combat COVID-19.³ While non-binding, these recommendations will contribute to the harmonization of the classification across Members and improved data collection on these essential goods.
- d) Explore the possibility of creating a mechanism where the WCO Secretariat can hold ad hoc consultations with the HSC to issue, in collaboration with other relevant international organizations such as the WTO, classification guidelines in emergency situations. Such a mechanism would allow for a more agile response by the international community to future crises.

The CMA appreciates the opportunity to share these observations with the HSC and its Contracting Parties and looks forward to strengthening the collaboration between the two organizations.

Sincerely

Mr. Chakaran Komolsiri
Chairperson
Committee on Market Access

³ See WCO Recommendations related to the Harmonized System: http://www.wcoomd.org/en/about-us/legal-instruments/recommendations/hs_recommendations.aspx.

ANNEX

**EXAMPLES OF CHANGES TO THE HARMONIZED SYSTEM ON ESSENTIAL MEDICAL GOODS THAT COULD BE CONSIDERED
IN THE CONTEXT OF THE HS2027 AMENDMENT**

Note: These examples are without prejudice to the current classification of individual WTO Members, as well as to the proposals that may be submitted by individual WTO Members to the Harmonized System Committee.

Product	Indicative classification(s) ¹	Possible amendment	Comments
Facemasks and respirators, of a kind used for medical, surgical, dental or veterinary purposes, and their accessories	4818.50 6307.90 9020.00	Reorganization to group all types under a new heading/subheading, or identify them within existing subheadings	Facemasks are currently classified in the HS according to their constituent material and under residual subheadings that group a wide range of other non-medical products. The HS could be amended to group all the medical facemasks and their accessories under a single heading/subheading, irrespective of their material (e.g., paper, textile) and whether or not they have filters. If necessary, subdivisions could also be established to differentiate by the material as a secondary criterium.
Protective garments of a kind used for medical, surgical, dental or veterinary purposes, and their accessories (e.g., hospital gowns, nets, headcaps and other safety headgear, paper shoe covers)	3926.20 4015.90 4818.50 4818.90 6113.00 6210.10 6210.20 6210.30 6210.40 6210.50 6211.32 6211.33 6211.42 6211.43 6211.49 6505.00 6506.10 6506.91	Reorganization to group all types under a new heading/ subheading, or identify them within existing subheadings	The garments and accessories used to protect medical personnel, sometimes referred to as Personal Protective Equipment (PPEs) are currently classified in the HS under a wide range of chapters, headings and subheadings, and are classified together with many other non-medical products. The HS could be amended to group all of them under a single heading irrespective of their material. If necessary, subdivisions could also be established to differentiate on the type of product (e.g., garments, disposable garments, and the different types of accessories) and material used as a secondary criteria.

Product	Indicative classification(s) ¹	Possible amendment	Comments
Different types of vaccines	3002.41	Disaggregation of the subheading (split)	Currently, all vaccines for human use are classified under HS subheading 3002.20. This subheading could be further subdivided to differentiate COVID-19 vaccines, as well as the other main vaccines used for immunization around the world. Such additional categories could be determined in collaboration with the World Health Organization.
Ambulances and mobile clinics and other medical vehicles with operating theatre, anaesthetic equipment and other surgical apparatus	87.03 8705.90	Reorganization to group them under a new heading/subheading, or identify them within existing subheadings	Ambulances and mobile clinics are not specifically identified in the Harmonized System.

¹ Based on the following sources: a) the WCO-WHO HS classification reference for COVID-19 medical supplies, second edition; b) Discussions in the context of the Committee on Market Access; and c) national breakouts used by some WTO Members.