



Committee on Market Access

**PROCEDURE FOR THE INTRODUCTION OF HARMONIZED SYSTEM 2017 CHANGES
TO SCHEDULES OF CONCESSIONS USING THE CONSOLIDATED
TARIFF SCHEDULES (CTS) DATABASE**

DRAFT DECISION

The General Council,

Having regard to Articles IV:2 and IX:1 of the WTO Agreement;

Recalling that the contracting parties to the GATT 1947, by their Decision of 12 July 1983¹, agreed on a method to introduce the Harmonized System (HS) into schedules of concessions;

Recalling that the contracting parties to the GATT 1947, by their Decision of 8 October 1991², decided on simplified procedures to introduce HS changes to schedules of concessions;

Noting that WTO Members established a Consolidated Tariff Schedule (CTS) database which, although not legally binding, could serve as a valuable tool for the verification and certification of commitments;

Taking into account the desire of Members to facilitate and simplify the introduction of HS changes into WTO schedules by making a better use of the CTS database;

Decides that:

1 PREPARATION AND DISTRIBUTION OF THE DRAFT HS2017 FILE

1. The Secretariat shall prepare for Members a comprehensive set of information on the Harmonized System 2017 nomenclature (HS2017) changes, which shall include - in electronic form - the HS2017 nomenclature at the level of HS six-digit subheading, concordance tables between the HS2012 and the HS2017 nomenclatures³, and the layout of the electronic formats to be used for the transposition files. This information shall be circulated to all Members no later than 31 December 2016.

2. The Secretariat shall transpose the schedules of Members, except for those who undertake to prepare their own transposition and submit a notification to this effect no later than [31 December 2016]. Members that decide to undertake their own transposition shall submit all the required information to the Secretariat - in electronic form - no later than 30 September 2017. A description of the required information is provided in Annex 1.

3. The transposition work shall be based on each Member's latest schedule, as reflected in the Consolidated Tariff Schedule (CTS) database. If tariff lines affected by changes in the HS2017 nomenclature are not yet certified in the HS2012 nomenclature, then the draft HS2012 files shall be used as the basis for those tariff lines.

¹ BISD 30S/17.

² BISD 39S/300.

³ The Secretariat shall take into account the Recommendation adopted by the Council of the World Customs Organization on 27 June 2014, as well as Recommendation adopted on 11 June 2015, which includes corrections and complementary amendments to Chapter 44. It shall also take into account subsequent work at the Harmonized System Committee of the WCO.

4. In preparing the HS2017 transposition, and to the extent possible, the scope of the concessions and other commitments shall remain unchanged. Any tariff line for which a change in the scope of a concession may have occurred due to the complex technical nature of the transposition shall be clearly flagged. Paragraph 5 of Annex 2 and paragraph 15 below describe how these situations shall be addressed.

Transposition work by the Secretariat

5. The Secretariat shall introduce into the Member's schedule, as reflected in the CTS database, all HS2017 changes, as well as the Recommendation adopted by the Council of the World Customs Organization on 11 June 2015, which includes corrections and complementary amendments to Chapter 44. The Secretariat shall update all the tariff codes and descriptions that change due to the introduction of the HS2017 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, the Secretariat shall abide by the technical procedures described in Annex 2 to this Decision. The Secretariat shall prepare, based on the updated CTS database in the HS2017 nomenclature, a separate file to reflect the changes in nomenclature that were introduced. This separate file shall be prepared as described in Annex 1 and shall be considered the "draft HS2017 file" for the purpose of this Decision.

6. The Secretariat shall send to the Member its draft HS2017 file for examination as soon as the technical work has been completed. The date of this communication shall hereinafter be referred to as the "first date for a file prepared by the Secretariat". Upon receipt of this file, the Member shall have the possibility to seek clarifications from the Secretariat and propose changes as laid out in Section II.

Members preparing their own transposition

7. Members that undertake to prepare their own transposition shall update all the tariff codes and descriptions that change due to the introduction of the HS2017 nomenclature, including those relating to tariff quotas and export subsidies, if applicable. In doing this work, they shall abide by the technical procedures described in Annex 2 to this Decision. These Members are expected to submit to the Secretariat their draft HS2017 files for examination and final formatting not later than the date provided to this effect in paragraph 2. The date of receipt shall hereinafter be referred to as the "first date for a file prepared by the Member".

2 EXAMINATION OF DRAFT HS2017 FILES AND RELEASE FOR MULTILATERAL REVIEW

8. Members for whom the Secretariat has prepared a draft HS2017 file are expected to examine their file and to provide the Secretariat with a written communication that either approves the file (case 1), or provides specific comments on its contents (case 2). Such communications should reach the Secretariat no later than 60 days following the "first date" for a file prepared by the Secretariat.

9. The Secretariat shall review the draft HS2017 files prepared by Members pursuant to paragraph 7 before their release for multilateral review. If the Secretariat has no comments on the file, it shall then be released for multilateral review (case 1). If the Secretariat has comments (case 2), these will then be transmitted to the Member concerned no later than 60 days following the "first date" for a file prepared by the Member.

10. In case 1, the Secretariat shall release the draft HS2017 file for multilateral review with a headnote indicating that it has been approved by the Member.

11. In case 2, both the Member concerned and the Secretariat shall endeavour to reach a common understanding on the issue(s) raised, and reflect any changes accordingly in the draft HS2017 file, with a view to releasing it for multilateral review no later than 90 days from the appropriate "first date". In this regard,

- (a) When a common understanding is reached and no change is required, the Secretariat shall release the original draft HS2017 file for multilateral review with a headnote indicating that the file has been approved by the Member.

- (b) When a common understanding is reached and changes to the draft HS2017 file are required, the Secretariat shall prepare a revised file and release it for multilateral review with a headnote indicating that the file has been approved by the Member.
- (c) When a common understanding has not been reached, the Secretariat shall prepare a revised draft HS2017 file including the specific changes proposed by the Member and release the file for multilateral review. The revised file shall include a headnote indicating that the file has been approved by the Member, and shall also describe the Secretariat's observations on the file.

12. If the Secretariat does not receive any response from the Member concerned within 90 days from the appropriate "first date", the draft HS2017 file will be released for multilateral review with a headnote indicating that the Member concerned has neither provided any comments nor approved the file.

3 MULTILATERAL REVIEW PROCESS

13. Multilateral review of draft HS2017 files released pursuant to Section II of these procedures shall take place in the framework of informal dedicated sessions of the Committee on Market Access, which shall be scheduled by the Secretariat as required. The Secretariat will post these files three or four times a year on the Tariff Analysis Online (TAO)⁴ and on dates that should be at least six weeks prior to the informal sessions scheduled to this effect. Members shall be notified of such postings through a communication by the Secretariat.

14. Modifications agreed at the multilateral review sessions shall be incorporated by the Secretariat into a revised version of the file, which shall then be resubmitted for multilateral review in accordance with paragraph 13. In case a Member has a query or comment concerning another Member's draft HS2017 file, but is unable to attend the meeting at which these changes are to be reviewed, it may request the Chair to convey those queries/comments to the other Member at the time of the multilateral review.

15. Where the scope of a concession is modified as a result of the transposition in a way that impairs its value, consultations and renegotiations pursuant to Article XXVIII of the GATT 1994 shall be entered into by the Member concerned.⁵ The status of discussions and consultations between Members, including Article XXVIII renegotiations, should be reported to other Members at the multilateral sessions to ensure full transparency.

4 CERTIFICATION OF HS2017 CHANGES

16. When there is no objection remaining on a draft HS2017 file at a multilateral review session, such file will then be considered approved by the Committee on Market Access. The file will be submitted for certification as provided for in paragraph 17 below, with the exception of any draft HS2017 file released under paragraph 12 where the Member concerned has still neither provided any comments nor approved the file. The latter files shall also be submitted for certification as provided for in paragraph 17 below, unless the Member concerned submits in writing to the Secretariat a reservation within one month from the date of approval of its draft HS2017 file at the multilateral review session.

17. Members having submitted such a reservation shall also provide in writing to the Secretariat details of the specific reasons no later than 2 months from the date of their initial communication containing their reservation. If such specific reasons are not provided within the deadline, the certification of their HS2017 file shall take place as provided for in paragraph 18 below. In case any amendment is introduced to the HS2017 file, the multilateral review process provided for in Part III shall be resumed for such a file.

18. The Secretariat shall prepare a draft paper version of the changes, as contained in the approved HS2017 file which shall be circulated pursuant to the 1980 Decision on Procedures for Modification and Rectification of Schedules of Tariff Concessions (L/4962).

⁴ <https://tao.wto.org>.

⁵ Where a request for renegotiation or consultation has been made under Article XXVIII of the GATT 1994, the Procedures for Negotiations under Article XXVIII (BISD27S/26) shall apply.

5 PERIODIC REPORT BY THE SECRETARIAT

19. The Secretariat shall prepare a periodic report on the status of work, which shall include - to the extent possible - the following information: (i) a list of the Members that will prepare their own draft HS2017 files, (ii) a list of the draft HS2017 files that remain to be prepared by the Secretariat, (iii) the draft HS2017 files that have been completed by the Secretariat and the date when they were sent to Members, (iv) the draft HS2017 files released for multilateral review, including a mention of any relevant explanatory note, (v) the progress made on each draft HS2017 file, including Members having raised reservations, the tariff lines subject to reservation, and a summary of the reasons; (vi) the draft HS2017 files that have been approved in the multilateral review and the date of circulation pursuant to the 1980 Procedures ; (vii) the approved HS2017 changes that have been certified.

ANNEX 1**DRAFT HS2017 FILE**

1. The draft HS2017 file shall cover all tariff lines under headings with changes introduced by the HS nomenclature, as well as the corresponding concordance tables with the concessions and commitments in the HS2012 nomenclature. The Secretariat and Members that undertake to prepare their own transposition are expected to provide - as a separate file which will not be subject to multilateral review - a complete draft CTS file in the HS2017 nomenclature. This additional file will facilitate the preparation of an updated version of the CTS database once the transposition procedures are finalized and certified.

2. The draft HS2017 file shall contain for each bound tariff line, *inter alia*, the following data elements:

- Tariff line code in HS2017 nomenclature (including suffix or ex)
- Product description
- Base duty (if the final bound duty is not fully implemented at the date of the transposition)
- Final bound duty
- Other duties and charges
- Special safeguard
- Legal instrument (present and earlier)
- INR (present and earlier if available in the CTS)
- Implementation period (if the final bound duty is not fully implemented at the date of the transposition)
- Certification indicator

3. Additional tables containing other relevant concessions and commitments that may be affected by the HS2017 transposition (e.g. tariff quotas and agricultural export subsidies; ITA, ITA Expansion, and Pharma special sections; etc.) shall also be included.

4. Members who undertake to prepare their own transposition shall submit all the above mentioned information in electronic format and follow the layout that will be circulated by the Secretariat in accordance with Paragraph 1 of this Decision.

ANNEX 2**TECHNICAL NOTE ON TRANSPOSITION PROCEDURE**

1. The following note describes the relevant technical procedures, which shall be applied in the preparation of the draft HS2017 files.

Concession elements

2. The CTS database contains not only tariff concessions, but also a number of other commitments. Although several of these are expressed at the tariff-line level in the different Parts and Sections of the schedules, there are some which are not. As a result, not all elements currently included in the CTS are required for the HS2017 transposition. It is therefore suggested to retain in the draft HS2017 file only those elements which are required for this purpose (see Annex 1).

Procedural issues

3. All affected tariff lines shall be converted into the HS2017 nomenclature and shall be clearly flagged. Detailed tariff line codes and descriptions may have to be adjusted in certain instances (e.g. example 1, table 3b) in order to generate a meaningful and intelligible schedule. The transposition of any tariff line requiring manual modifications shall also be clearly flagged for verification and approval by Members.

Methodological issues

4. Each new HS2017 subheading/tariff line will be derived from one or more HS2012 tariff lines or part of these lines. If a HS2017 subheading/tariff line matches with two or more HS2012 tariff lines and if these lines have the same levels or contents of concessions (e.g. same bound duties, INRs, etc.), the original concession elements can be merged into one new concession at the level of the new HS2017 subheading/tariff line. If the concessions of the original HS2012 tariff lines are different, the concession elements of the new HS2017 subheading/tariff line should reflect this. In this case, the HS2017 subheading/tariff line should normally be broken down to a more detailed level so that the draft HS2017 file reflects fully the same level of concessions as the CTS in HS2012.

5. In case where it is unavoidable to combine tariff lines or parts of tariff lines with different concessions, there are four possible methodologies that could be used to arrive at the new rate in accordance to the 1983 procedures on a method to introduce the Harmonized System (HS) into schedules of concessions¹ These are: 1) applying the lowest rate of any previous tariff line to the whole of the new tariff line, 2) applying the rate previously applied to the tariff line with the majority of trade, 3) applying the trade weighted average rate of duty for the new line, or 4) applying the arithmetic average of the previous rates of duty where no basis exists for establishing reasonably accurate trade allocations. In the context of the HS2007 transposition, the Secretariat suggested to use the duty rate with the most frequent occurrence (i.e. the mode) for special cases.² If any of the above methodologies is used, the selected option shall be specified at the tariff line level. The choice of methodology shall also be explained, except for those situations in which the first option is selected (i.e. selecting the lowest duty). If options 2) or 3) are selected, the Member concerned shall also supply the necessary import data (last three years available). The implication of a combination of tariff lines on other elements of the concessions, such as INRs, ODCs and SSGs, shall also be taken into account by Members to assess whether the value of the concession has been impaired and GATT Article XXVIII negotiations need to be followed (See paragraph 15 above).

6. Examples 2 show that the "collapsing" of tariff lines to HS 6-digit subheadings significantly simplifies the tariff structure and the workload involved. It requires less manual intervention and is, thus, less likely to be controversial. Having a maximum number of concessions defined at the

¹ Decision of 12 July 1983, BISD 30S/17.

² This was the case of HS2007 Heading 84.86. See paragraph 1.4 of JOB/MA/108.

level of HS 6-digit subheadings would also make it easier to transpose the new schedule into any new national applied schedule based on HS2017 nomenclature.³

Reference documents

7. The transposition shall be based on the information provided by the World Customs Organization, which is included in the WTO documents G/MA/W/121, G/MA/W/122, and G/MA/W/122/Corr.1. A detailed concordance table between the HS2012 and the HS2017 nomenclatures shall be prepared by the Secretariat using these documents as the basis.

Example 1: Split

8. HS2012 subheading 0805.20 is split into three new HS2017 subheadings due to the amendments adopted as a result of the proposal by FAO:

Table 1.a HS 2012		Table 1.b HS 2017	
HS code	Product description	HS code	Product description
0805	Citrus fruit, fresh or dried.	0805	Citrus fruit, fresh or dried.
0805.10	- Oranges	0805.10	- Oranges
0805.20	- Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids	0805.21	-- Mandarins (including tangerines and satsumas)
		0805.22	-- Clementines
		0805.29	-- Other
0805.40	- Grapefruit, including pomelos	0805.40	- Grapefruit, including pomelos
0805.50	- Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>)	0805.50	- Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>)
0805.90	- Other	0805.90	- Other

9. In the CTS database, a Member has four national tariff lines under HS2012 subheading 0805.20:

Table 2 CTS in HS2012		
TL code	Product description	Bound duty
0805	Citrus fruit, fresh or dried.	
0805.20	- Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids	
0805.2010	-- Mandarins (including tangerines and satsumas)	10
0805.2020	-- Clementines	20
0805.2030	-- Wilkings	30
0805.2090	-- Other	30

10. In theory, all four national tariff lines could go under each of the three new HS2017 subheadings. If the conversion is done by a computer program, it would generate 12 possible HS2017 tariff lines. However, not all of the 12 new national tariff lines are appropriate when the product descriptions are considered. For instance, HS2012 national tariff line "0805.2010 – Mandarins (including tangerines and satsumas)" cannot not be kept under the HS2017 subheading "0805.22 - Clementines", and it should stay only under "0805.2100 "Mandarins (including tangerines and satsumas)". Similarly, the HS2012 national tariff line "0805.2020 -- Clementines" can only stay under HS2017 subheading "0805.2200 - Clementines". Therefore, each tariff line generated by computer program shall be reviewed manually to determine whether it shall stay

³ This would not preclude that concessions defined only at the level of subheadings could be broken down again into tariff line detail by the Members concerned.

under the corresponding new HS2017 subheading. In this example, Table 3 shows the tariff lines which are retained under each HS2017 subheadings and their corresponding tariff lines in HS2012.

Table 3.a CTS in HS2012

TL code	Product description	Bound duty
0805	Citrus fruit, fresh or dried.	
0805.1000	- Oranges	
0805.20	- Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids	
0805.2010	-- Mandarins (including tangerines and satsumas)	10
0805.2020	-- Clementines	20
0805.2030	-- Wilkings	30
0805.2090	-- Other	30
0805.4000	- Grapefruit, including pomelos	
0805.5000	- Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>)	
0805.9000	- Other	

Table 3.b CTS in HS2017

TL code	Product description	Bound duty
0805	Citrus fruit, fresh or dried.	
0805.1000	- Oranges	
0805.2	- Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids :	
0805.2100	-- Mandarins (including tangerines and satsumas)	10
0805.2200	-- Clementines	20
0805.2900	-- Other	30
0805.4000	- Grapefruit, including pomelos	
0805.5000	- Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>)	
08059.000	- Other	

11. A concordance table between the HS2012 and HS2017 nomenclature at the tariff line level would be constructed as follows:

Table 4.a Correlating HS2012 to HS2017

HS2012	e x	Bound duty HS12	HS2017	e x	Bound duty HS17
0805.2010		10	0805.2100		10
0805.2020		20	0805.2200		20
0805.2030		30	0805.2900	x	30
0805.2090		30	0805.2900	x	30

Table 4.b Correlating HS2017 to HS2012

HS2017	e x	Bound duty HS17	HS2012	e x	Bound duty HS12
0805.2100		10	0805.2010		10
0805.2200		20	0805.2020		20
0805.2900	x	30	0805.2030		30
0805.2900	x	30	0805.2090		30

Example 2: Merger

12. Two HS2012 subheadings are merged to one new HS2017 subheading:

Table 5.a HS 2012

HS code	Product description
3705	Photographic plates and film, exposed and developed, other than cinematographic film.
3705.10	- For offset reproduction
3705.90	- Other

Table 5.b HS 2017

HS code	Product description
3705.00	Photographic plates and film, exposed and developed, other than cinematographic film

13. In the CTS database, a Member has four tariff lines listed under the two subheadings:

Table 6 CTS in HS2012

TL code	Product description	Bound duty
3705	Photographic plates and film, exposed and developed, other than cinematographic film.	
3705.10	- For offset reproduction	
3705.1010	-- Containing news or educational material	10
3705.1090	-- Other	10
3705.90	- Other	
3705.9010	-- Microfilms	10
3705.9090	-- Other	10

14. If the first six digits of the HS2012 tariff lines are substituted by the codes of new HS2017 subheadings:

Table 7.a HS2012

TL code
3705.1010
3705.1090
3705.9010
3705.9090

Substitute first 6 digits with 3705.00

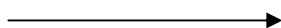


Table 7.b HS2017

TL code	Product description
3705.0010	-- Containing news or educational material
3705.0090	-- Other
3705.0010	-- Microfilms
3705.0090	-- Other

15. If all national tariff lines under a HS 6-digit subheading have the same duties (and other concession elements), these lines could be collapsed to the HS 6-digit subheading level and the transposition exercise will be significantly simplified as shown below. According to Table 6, all HS2012 tariff lines have a duty of 10%. Therefore, the new HS2017 tariff lines could be collapsed to one tariff line 3705.0000 with bound duty 10%.

Table 8.a HS 2017 before collapsing

TL code	Product description	Bound duty
3705.1010	- For offset reproduction, containing news or educational material	10
3705.1090	- For offset reproduction, other	10
3705.9010	- Microfilms	10
3705.9090	- Other	10



Table 8.b HS 2017 before collapsing

TL code	Product description	Bound duty
3705.0000	Photographic plates and film, exposed and developed, other than cinematographic film	10

16. A concordance table between the HS2012 and HS2017 nomenclature at the tariff line level shall be constructed as follows:

Table 10.a Correlating HS2012 to HS2017

HS2012	e x	Bound duty HS12	HS2017	e x	Bound duty HS17
3705.1010		10	3705.0000	x	10
3705.1090		10	3705.0000	x	10
3705.9010		10	3705.0000	x	10
3705.9090		10	3705.0000	x	10

Table 10.b Correlating HS2017 to HS2012

HS2017	e x	Bound duty HS17	HS2012	e x	Bound duty HS12
3705.0000	x	10	3705.1010		10
3705.0000	x	10	3705.1090		10
3705.0000	x	10	3705.9010		10
3705.0000	x	10	3705.9090		10