



Council of the  
European Union

Brussels, 14 June 2022  
(OR. en)

9106/22

---

---

**Interinstitutional File:**  
**2022/0129 (NLE)**

---

---

UD 108

#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

---

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the World Customs Organization Council in relation to the approval of draft amendments to the Rules of Procedure of the Harmonized System Committee

---

**COUNCIL DECISION (EU) 2022/...**

**of ...**

**on the position to be taken on behalf of the European Union  
within the World Customs Organization Council in relation to the approval of  
draft amendments to the Rules of Procedure of the Harmonized System Committee**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 31, Article 43(2) and Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The International Convention on the Harmonized Commodity Description and Coding System ('the Convention') was concluded by the Union by Council Decision 87/369<sup>1</sup> and entered into force on 1 January 1988.
- (2) Pursuant to Article 6(6) of the Convention, the Harmonized System Committee ('the HS Committee') is to draw up its own Rules of Procedure by decision taken by not less than two-thirds of the votes attributed to its members. The Rules of Procedure so drawn up are to be approved by the World Customs Organization (WCO) Council.
- (3) The WCO Council is expected to approve draft amendments to the Rules of Procedure of the HS Committee at its June sessions (139<sup>th</sup> and 140<sup>th</sup> sessions on 23-25 June 2022). Such draft amendments are to be approved on the basis of a proposal drawn up by the HS Committee and finalised during its 64<sup>th</sup> (18-27 September 2019) and 68<sup>th</sup> (6-28 September 2021) sessions. The amendments are to enter into force upon their adoption.
- (4) It is of utmost importance that the HS Committee take its decisions in a transparent and efficient way, and that such decisions receive maximum support from the members of the HS Committee.

---

<sup>1</sup> Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).

- (5) Since the draft amendments to the Rules of Procedure of the HS Committee are to be approved by the WCO Council, it is appropriate to establish the position to be taken on the Union's behalf in the WCO Council, as once approved, the amended Rules of Procedure will have legal effects in the Union and be capable of influencing the content of Union law, in particular Annex I to Council Regulation (EEC) No 2658/87<sup>1</sup>.
- (6) The Union's position should be to support the draft amendments to the Rules of Procedure of the HS Committee, as well as any minor editorial or linguistic adaptations that may be deemed necessary,

HAS ADOPTED THIS DECISION:

---

<sup>1</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

*Article 1*

1. The position to be taken on the Union's behalf within the World Customs Organization (WCO) Council at its June 2022 sessions shall be to support the draft amendments to the Rules of Procedure of the Harmonized System Committee, as set out in the Annex to this Decision.
2. The representatives of the Union within the WCO Council may agree to minor editorial or linguistic adaptations to the draft amendments referred to in paragraph 1 in the light of developments at the upcoming WCO Council sessions, in consultation with Member States, or during on-the-spot coordination meetings, without further decision of the Council.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at ...,

*For the Council*

*The President*

---

## ANNEX

### DRAFT AMENDMENTS TO THE RULES OF PROCEDURE OF THE HARMONIZED SYSTEM COMMITTEE

1. Draft amendments to Rule of Procedure 19:

Third paragraph	Decisions concerning amendments to the Convention shall be taken by a majority of not less than two-thirds of the votes cast by the Members of the Committee. However, if there are two or more options for the amendment, then the Committee shall firstly undertake a stepped voting procedure, as outlined below under the simple majority voting procedures, to reduce the options to one. Once there is a single option for the amendment, then a final vote on whether to accept or reject the amendment would be taken under the two-thirds majority rule.
Fourth paragraph	Other decisions shall be taken by a simple majority (more than 50 per cent) of the votes cast by the Members of the Committee. If there are more than two options and none of them has achieved more than 50 per cent of the votes cast by the Members of the Committee, a simple majority voting shall apply a stepped voting practice that reduces the number of options by dropping out the lowest voted option until the highest voted option achieves more than 50 per cent of the votes cast by the Members of the Committee.

2. Draft amendments to Rule of Procedure 20:

Notifications to the Secretary General to refer any matter to the Council or Committee for re-examination pursuant to paragraph 2 of Article 8 of the Convention and Council Decision No. 298 may not be made before the day following the close of the Committee's session, but must be made by the end of the second month following the month during which that session was closed. A notification shall be considered made within the period if it was received by the Secretary General before 24:00 (Brussels time) of the last day of the period.

Pursuant to Council Decision No. 298, the Secretary General may refer matters arising under paragraph 2 of Article 8 of the Convention directly back to the Committee upon the request of a Contracting Party, provided that the request is made within the period specified in the preceding paragraph. The Secretary General shall then place the matter on the Agenda of the following session of the Committee for re-examination.

If requests relating to the same matter are received from different Contracting Parties for referral both to the Council and to the Committee, or if a Contracting Party does not specify whether the matter should be referred to the Council or directly to the Committee, the matter shall be referred to the Council. The Secretary General shall inform all Contracting Parties of the receipt of a request for referral of a matter to the Council or to the Committee.

A Contracting Party making a request for referral of a matter to the Council or to the Committee may withdraw its request at any time before the matter is examined by the Council or re-examined by the Committee. However, the Committee will examine a matter if it has been referred by the Council. In the event that a Contracting Party withdraws a request, the original decision of the Committee shall be deemed to be approved, unless a request from another Contracting Party dealing with the same matter is pending. The Secretary General shall notify Contracting Parties of any withdrawal.

When, pursuant to the provisions of paragraph 3 of Article 8 of the Convention and Council Decision No. 298, any matter is referred in whole or in part to the Committee for re-examination, the Contracting Party which has requested that the matter be re-examined shall submit to the Secretary General, not less than 60 days before the opening date of the next session of the Committee, a note setting out its reasons for requesting the re-examination, together with its proposals for resolving the matter. The Secretary General shall circulate this note to the other Contracting Parties.