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Harmonized System (HS) – Revision 2022: Amendments and Implications

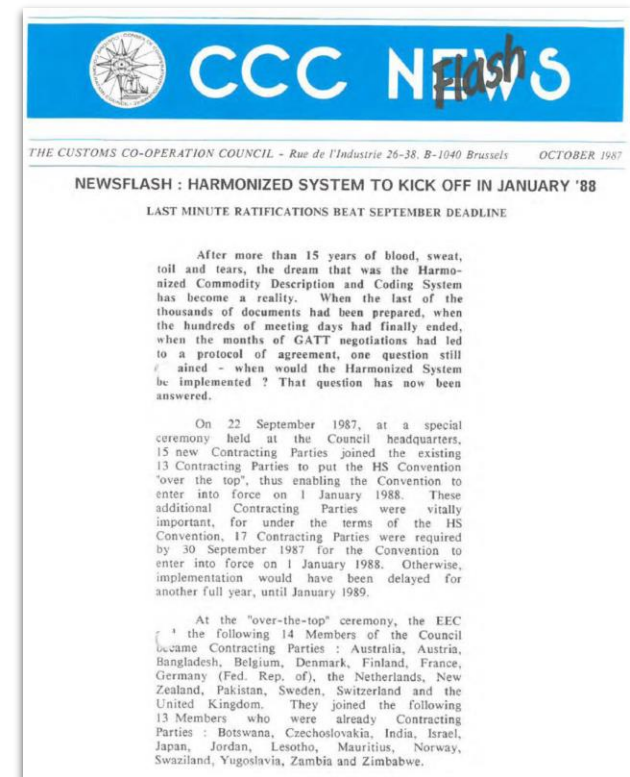
Kolja Mendel, Webinar ICPA Europe, 23.11.2021

Contents

- Fundamentals of the Harmonized System
- Structure of the Harmonized System
- Amendments of the Harmonized System
- HS 2022 – Changes at a glance
- Correlation and reclassification
- Changes in relevant legal basis and their effects
- Intended reform of the HS

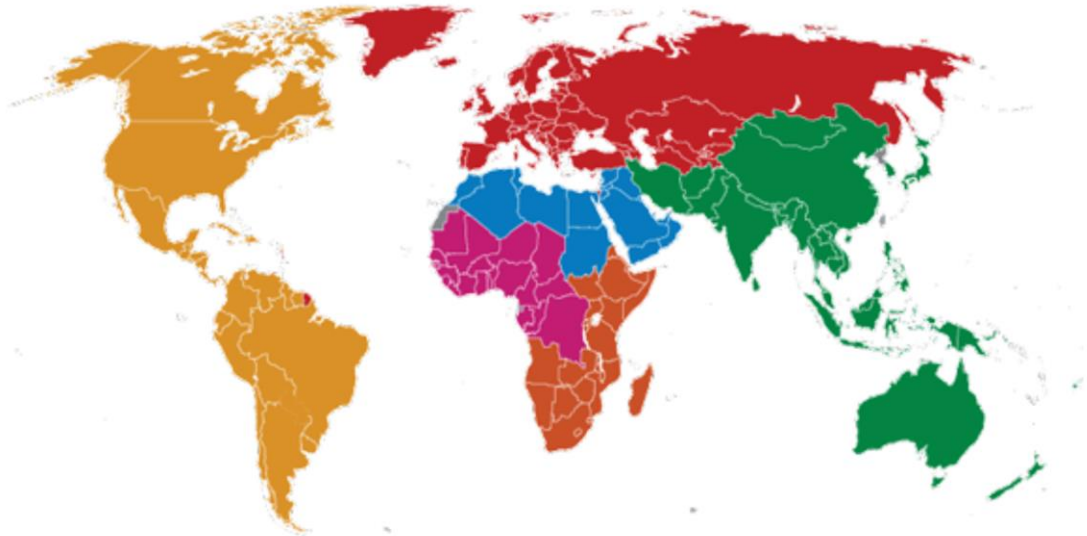
Fundamentals of the Harmonized System I

- Harmonized System, abbreviated HS, stands for 'Harmonized Commodity Description and Coding System'
- Developed by the Customs Co-operation Council (CCC) in the 70s on the basis of the Brussels Tariff Nomenclature of 1955
- Adopted in 1983, successively ratified and applied since 1988
- Since the CCC was renamed the World Customs Organization (WCO) in 1994, under the aegis of the WCO



Fundamentals of the Harmonized System II

- WCO is an independent intergovernmental body with the mission to enhance effectiveness and efficiency of customs administrations
- WCO is the only international organization with competence in customs matters
- Currently 183 WCO members in 6 regions, $\frac{3}{4}$ of them developing countries
- HS is the most successful WCO convention ahead of RKC, ATA and SAFE



Fundamentals of the Harmonized System III

- 160 contracting parties and 52 applicants of the HS Convention
- Today almost complete coverage of international trade under the HS
- Goods crossing borders are classified in a uniform manner based on their objective characteristics
- The HS has become a universal economic language and code for goods and is used also beyond customs purposes

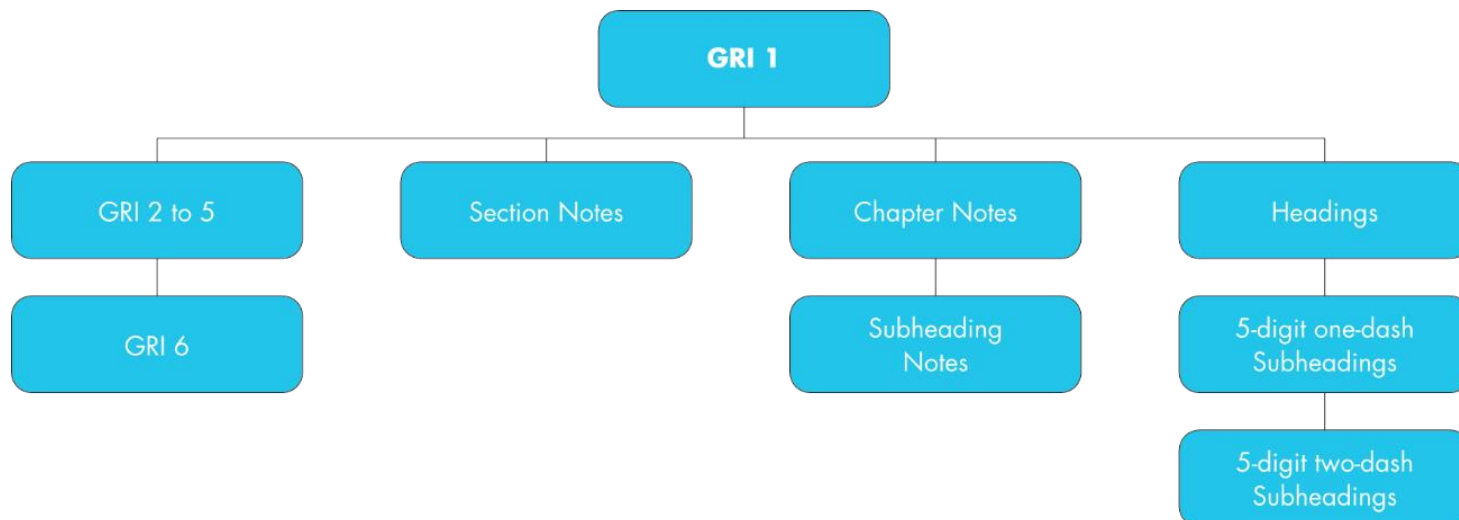
1 October 2020			
List of 212 countries, territories or customs or economic unions applying the Harmonized System.			
160 Contracting Parties (159 countries and the European Union)			
Afghanistan (Islamic Republic of)	x	Eswatini	+
Albania	+	Ethiopia	+
Algeria	+	Fiji	+
Andorra	+	Finland	+
Angola	+	France	+
Antigua and Barbuda	x	Gabon	+
Argentina	+	Gambia	+
Armenia	+	Georgia	+
Australia	+	Germany	+
Austria	+	Ghana	+
Azerbaijan	+	Greece	+
Bahamas	+	Grenada	x

Structure of the Harmonized System I

The HS is a Convention with a preamble and 20 Articles and the Annex with

- General Rules for the Interpretation (GRI) of the HS (for the classification of goods)
- Section and chapter notes (inclusions, exclusions, definitions of goods and manufacturing processes as well as specific methods for classification)
- Chapters, headings and subheadings

HS Explanatory Notes (EN) and Classification Opinions are not part of the HS!



Structure of the Harmonized System II

- General Rules of Interpretation (GRI) precede and regulate classification
- Table of contents with 21 sections and 97 chapters (only) for navigation purposes
- Preceding notes to the sections and the chapters are legal text and binding
- ‘HS codes’ for the description of the individual goods

General Rules for the Interpretation (GRI) 1 to 6	The General Rules govern classification in the headings and subheadings of the Harmonized System and serve to resolve classification conflicts.
21 Sections (I to XXI)	<p>The sections classify the goods according to their affiliation to different areas of production of products.</p> <p>Binding notes on classification in the relevant section may precede it.</p>
97 Chapters	<p>Each section contains one or more chapters (chapter 77 is reserved for possible future use). The chapters are arranged according to the nature, use or function of the goods.</p> <p>Binding notes on classification in the relevant chapter precede it.</p>
ca. 5,400 HS codes	The HS codes contain the detailed description or determination of the individual goods.

Structure of the Harmonized System III

- The general rules define the classification and serve to resolve classification ambiguities between headings and, subsequently, subheadings
- They are to be gone through separately for each hierarchical level of the nomenclature, in the HS as well as regional or national subheadings

GIR 1	Defines the heading terms in conjunction with the section and chapter notes as binding for classification and, unless otherwise required therein, opens GIR 2 to GIR 5 for the resolution of ambiguities.
GIR 2	Extends the heading wording to incomplete, unfinished and disassembled goods (GIR 2a). Extends the heading wording to mixtures and combinations of materials and corresponding articles (GIR 2b), does not serve for classification but only opens GIR 3.
GIR 3	Regulates conflicts between headings via the <ul style="list-style-type: none"> – precise wording of the items in question (GIR 3a) – essential character of a material or intended use (GIR 3b) – last-mentioned heading, i.e. higher heading number, in the HS nomenclature (GIR 3c).
GIR 4	Classifies as a catch-all rule for new or unusual goods in the heading of the most similar good.
GIR 5	Contains rules for the classification of packaging with or independently of the goods.
GIR 6	Extends the above rules to the individual levels of the HS subheadings, but logically also those of the national tariff nomenclatures.

Structure of the Harmonized System IV

- HS codes are (only) the subheadings of the HS
- Four-digit headings and five-digit subheadings are zeroed to HS codes due to lack of further subdivisions
- Use of complementary or residual (sub-)headings to fully address all goods (both 'new' and 'dropped' goods).

[05.09]		
05.10	0510.00	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved.
05.11		Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption.
	0511.10	- Bovine semen - Other :
	0511.91	-- Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3
	0511.99	-- Other

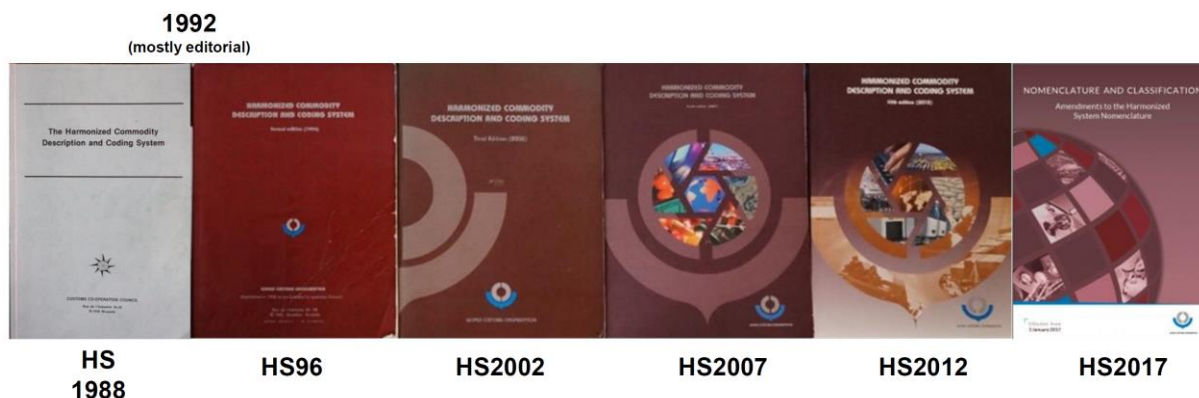
Structure of the Harmonized System V

- For goods nomenclatures and customs tariffs, usually subdivisions takes place
- The Combined Nomenclature (CN) has approx. 9,500 end lines, the EU TARIC approx. 15,900 end lines
- Statistical and customs tariff nomenclature may differ

28						Chapter of the Harmonized System
28	36					Heading of the Harmonized System
28	36	99				Subheading of the Harmonized System
28	36	99	17			Subheading of a harmonised tariff nomenclature (e.g. Combined Nomenclature (CN) of the EU, ASEAN Harmonized Tariff Nomenclature (AHTN), Nomenclatura Común del MERCOSUR (NCM), Nomenclatura Común de la Comunidad Andina (NANDINA), Nomenclature of the GCC, of the CARICOM, ...) or national subheading
28	36	99	17	80		National subheading or additional code e.g. for statistical purposes. As the case may be subheading of a harmonised tariff nomenclature such as TARIC (Tarif Intégré des Communautés Européennes) or in the Common Customs Tariff (ETT) of the Eurasian Economic Union (EAEU)
28	36	99	17	80	10	National subheading or additional code e.g. for statistical purposes or the encoding of further measures

Amendments of the Harmonized System I

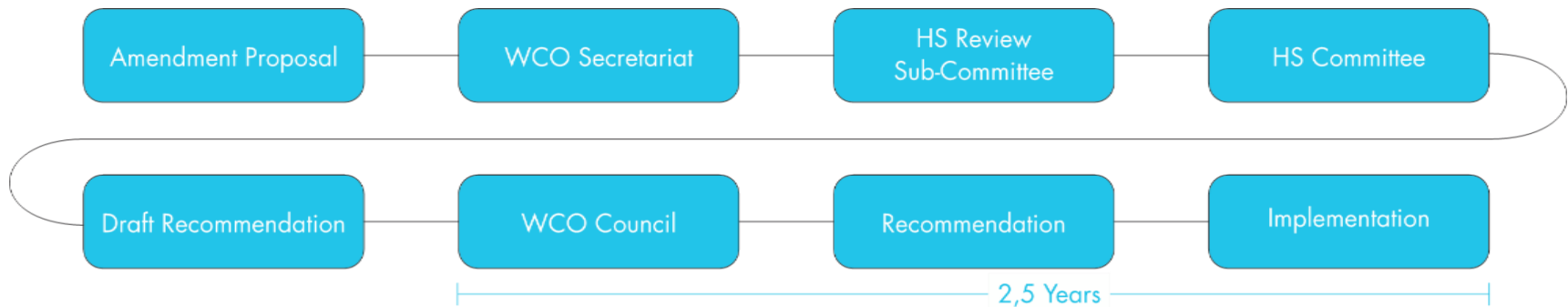
- Changes were foreseen every 4 to 6 years, 5 years is the rule cycle
- After the basic version, there have been 5 revisions and 6 editions so far
- The versions are named after the year of their introduction, the next 'HS 2022'



Completion	1983	1989	1993	1999	2004	2009	2014	2019	2024
Implementation/ Version	1988	1992	1996	2002	2007	2012	2017	2022	2027
Revision	-	0	1	2	3	4	5	6	7
Edition	0	1	2	3	4	5	6	7	8

Amendments of the Harmonized System II

- Vote on the amendments in the HS Review Sub-Committee and HS Committee
- Adoption of the amendment recommendation in the WCO Council, 6-month objection period
- Publication of the amendments 2½ years before the introduction of the new version



Amendments of the Harmonized System III

Changes to the HS are regularly made for the following reasons:

- Trading volume (USD 100 million for headings, USD 50 million for subheadings)
- Technological progress/changes in production and procurement processes
- Public interest and public goods (natural resources)
- Proposals of the contracting parties/ experiences with classifications and ambiguities

N° 04.10.

Nouvelle rédaction :

"04.10 Insectes et autres produits comestibles d'origine animale, non dénommés ni compris ailleurs.

0410.10 - Insectes

0410.90 - Autres".

Heading 04.10.

Delete and substitute :

"04.10 Insects and other edible products of animal origin, not elsewhere specified or included.

0410.10 - Insects

0410.90 - Other".



Amendments of the Harmonized System III

- Individual amendments can cover several subheadings, but also affect section and chapter notes
- Amendments available as tabular overview (English and French), correlation tables are separate and useful but non-binding aids
- While the number of headings is stable, that of HS codes tends to increase

Implementation/Version	1988	1992	1996	2002	2007	2012	2017	2022
Amendments	Implementation	Editorial	393	374	354	225	233	351
HS headings	1241	1241	1241	1244	1221	1224	1222	1228
HS codes	5019	5018	5113	5224	5052	5205	5387	5607

HS 2022 – Changes at a glance I

- HS 2022 creates 8 new headings, 2 are dropped
- Heading changes give first overview of the main amendments
- 369 new HS codes are added, 147 are deleted, thus the number increases by 222

New headings in HS 2022 (complemented)	Old headings from HS 2017 (deleted)
0309 Fish flours	8107 Cadmium
2404 Novel tobacco and nicotine products	8803 Parts of aircraft (moved to 8807)
3827 Mixtures of HFCs	
8485 3D printers	
8524 FPDMS (flat panel display modules)	
8549 E-waste	
8806 Unmanned aircraft (i.e. drones)	
8807 Parts of aircraft	

HS 2022 – Changes at a glance II

- 77 changes in agriculture, followed by chemicals (58), machinery (52), wood (38), base metals (27), transport (22) and textiles (21)
- Other sectors account for 56 further changes

Chapter 02	1	Section VI	1	Section XI	3	Section XVI	2
Chapter 03	23	Chapter 28	2	Chapter 55	1	Chapter 84	21
Chapter 04	7	Chapter 29	14	Chapter 56	2	Chapter 85	29
Section I, total:	31	Chapter 30	12	Chapter 57	1	Section XVI, total:	52
		Chapter 32	1	Chapter 58	1		
Chapter 07	5	Chapter 33	1	Chapter 59	4	Section XVII	1
Chapter 08	4	Chapter 34	2	Chapter 61	2	Chapter 87	13
Chapter 10	1	Chapter 36	1	Chapter 62	5	Chapter 88	7
Chapter 12	1	Chapter 37	1	Chapter 63	2	Chapter 89	1
Section II, total:	11	Chapter 38	12	Section XI, total:	21	Section XVII, total:	22
		Section VI, total:	47				
Section III	1			Chapter 68	5	Chapter 90	10
Chapter 15	11	Section VII	1	Chapter 69	4	Chapter 91	1
Section III, total:	12	Chapter 39	3	Chapter 70	5	Section XVIII, total:	11
		Chapter 40	2	Section XIII, total:	14		
Section IV	1	Section VII, total:	6			Chapter 94	12
Chapter 16	7			Chapter 71	3	Chapter 95	5
Chapter 18	1	Chapter 42	1	Section XIV, total:	3	Chapter 96	4
Chapter 19	1	Section VIII, total:	1			Section XX, total:	21
Chapter 20	7			Section XV	5		
Chapter 21	1	Chapter 44	30	Chapter 73	2	Chapter 97	6
Chapter 22	1	Chapter 46	1	Chapter 74	3	Section XXI, total:	6
Chapter 23	1	Section IX, total:	31	Chapter 75	2		
Chapter 24	3			Chapter 76	2		
Section IV, total:	23	Chapter 48	5	Chapter 78	3		
		Chapter 49	2	Chapter 79	1		
Chapter 25	3	Section X, total:	7	Chapter 80	1		
Chapter 27	2			Chapter 81	8		
Section V, total:	5			Section XV, total:	27		

HS 2022 – Changes at a glance III

Main changes in the agricultural sector are ...

- New heading for fish meal (0309), adaptations in headings 0302, 0303, 0304 and 0307
- Comprehensive consideration of edible insects (0410.10) and their products (chapters 16, 19 and 20)
- Extension of classification for yogurt (0403.20)
- Further differentiation of mushrooms and truffles (0709.52 to 0709.56, 0712.34)
- Individual subheadings for pine nuts (0802.91, 0802.99) and African cherry bark (1211.60)
- Comprehensive consideration of microbial fats and oils and their fractions (chapter 15, 1515.60 and 1516.30) and machinery for their production (8479.83)
- New heading for novel tobacco products (2404) and new subheading for e-cigarettes (8543.40)
- Further differentiation of wood and wood products of chapter 44, impact on chapter 94

HS 2022 – Changes at a glance IV

Main changes in the industrial sectors are ...

- ODS/greenhouse gases (amendment 2903, new item for mixtures of HFCs 3827)
- Placebos and clinical trial kits (3006.93), diagnostic tests (3822.1) and cell products (3002.5)
- Dual-use goods (2844, 2845, 3002, 5501, 8103, 8106, 8109, 8112, 8418, 8419, 8428, 8479, 8514, 8525 and 9027), also new CWC entries
- Clarification for textiles with special functions (particularly electronic textiles)
- Simplification for notes in section XV for base metals and articles of base metals
- Major reconfigurations for the subheadings of heading 7019 for glass fibres and articles thereof as well as for heading 8462 for metal forming machinery, adaptation of heading 8539 for LEDs
- Reconfiguration for the subheadings of heading 7104 to monitor synthetic diamonds
- 3D printers (new heading 8485), smartphones (8517.13), FPDMs (new heading 8524), e-waste (new heading 8549), utility e-vehicles (8701, 8704)
- Drones (new heading 8806) and aircraft parts (moved to new heading 8807)
- Modular building units (9406.20), amusement park paraphernalia (9508)
- Restructuring of chapter 97 covering works of art and antiques

Correlation and reclassification I

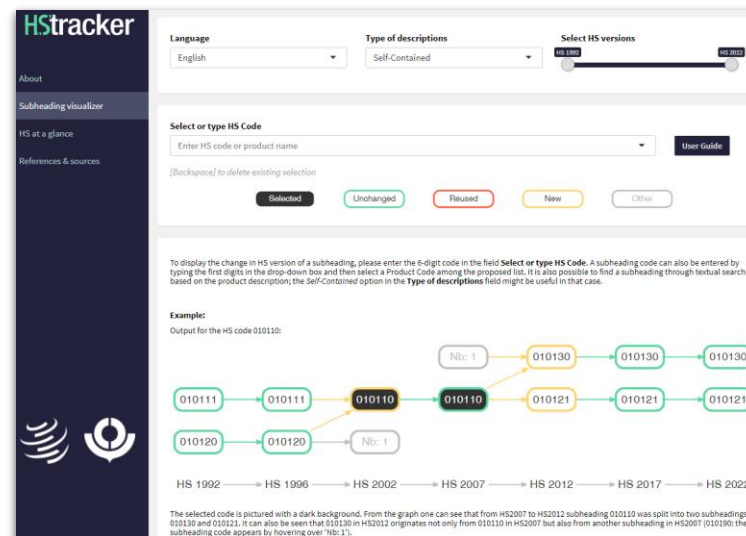
- WCO correlation table from HS 2022 to HS 2017 w. comments (right)
- Technical transposition from HS 2017 to HS 2022 (left)
- Correlations for CN 2022 and third country nomenclatures and tariffs
- Difference between correlation and reclassification

Version 2017 2017 Version	Version 2022 2022 Version
0208.90	0208.90 ex 0410.10
0210.99	0210.99 ex 0410.10
0305.10	0309.10
0306.19	0306.19 ex 0309.90

2022 Version	2017 Version	Remarks
0208.90	ex 0208.90	Amendment of the scope of subheading 0208.90 as a result of the separate identification of edible, non-living insects in new subheading 0410.10. Amendment adopted as a result of the FAO proposal to provide separately in the HS for edible insects. Edible insects were classified differently in the Contracting Parties. This Table includes all likely correlations of edible insects and their preparations that were identified in the discussions.
	ex 0210.99	Amendment of the scope of subheading 0210.99 as a result of the separate identification of edible, non-living insects in new subheading 0410.10.

Correlation and reclassification II

- Particularities in correlation for electronical products (8524, 8529.90, 8541, 8549), e.g. 'applicable subheadings in particular in Chapters 84, 85, 90 and 95'
- Gaps may occur and also be closed in later editions (with a different scope)
- New tool from WCO and WTO to visualise subheading changes across different HS versions available at <https://hstracker.wto.org>



Changes in relevant legal basis

- EU Combined Nomenclature and TARIC/Schedule B and HTS US
- Tariffs and import regimes of third countries
- Recoding schedule and similar correlations
- Legal bases of different areas according to type of references (static/dynamic)

Effects on regulatory areas

- Customs declarations and statistical declarations (e.g. INTRASTAT)
- Authorisations (AEO, special customs procedures and simplified procedures)
- Preferential rules of origin (PSR)
- Non-preferential rules of origin (list rules)
- Export control and related regulations
- Excise duties
- Waste and environmental law
- Other prohibitions and restrictions

Effects in the company

- Subject matter is master data and thus its maintenance
- Affectedness in the company depends on the organisation
- Not only the 'customs' department itself is affected, but all areas that use commodity codes
- Effects also arise for the (mere) transmission of information that includes commodity codes (e.g. invoices or suppliers' declarations)
- Implications in all the aforementioned areas of regulation must be examined

Intended reform of the HS

- Process initiated by the WCO in 2019
- The aim is a fundamental revision separate from the regular updates
- Restructuring should improve applicability and enable greater automation

**Thank you for your
attention!**

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