Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken, on behalf of the European Union, in the 66th session of the Harmonized System Committee of the World Customs Organization in relation to the envisaged adoption of Classification Opinions, classification decisions, amendments to the Harmonized System Explanatory Notes or other advice on the interpretation of the Harmonized System, and of recommendations to secure uniformity in the interpretation of the Harmonized System under the Harmonized System Convention

COUNCIL DECISION (EU) 2020/…

of …

**on the position to be taken, on behalf of the European Union,
in the 66th session of the Harmonized System Committee
of the World Customs Organization in relation to the envisaged adoption
of Classification Opinions, classification decisions, amendments
to the Harmonized System Explanatory Notes or other advice
on the interpretation of the Harmonized System, and of recommendations
to secure uniformity in the interpretation of the Harmonized System
under the Harmonized System Convention**

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, thereof, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By Council Decision 87/369/EEC[1], the Union approved the International Convention on the Harmonized Commodity Description and Coding System[2], and the Protocol of Amendment thereto[3] (HS Convention), which established the Harmonized System Committee (HSC).

(2) Pursuant to points (b) and (c) of Article 7(1) of the HS Convention, the HSC is, inter alia, responsible for preparing Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and for preparing recommendations to secure uniformity in the interpretation and application of the Harmonized System.

(3) The HSC is expected to decide on Classification Opinions, classification decisions, amendments to the Explanatory Notes or other advice on the interpretation of the Harmonized System and to decide on recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention at its September 2020 session.

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1 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).

2 OJ L 198, 20.7.1987, p. 3.

3 Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System (OJ L 198, 20.7.1987, p. 11).

(4) It is important to recall that, according to the settled case law of the Court of Justice of the European Union, in the interests of legal certainty and ease of verification, the decisive criterion for the classification of goods for customs purposes is, in general, to be sought in their objective characteristics and properties as defined in the wording of the relevant heading of the customs nomenclature and the relative section and chapter notes.

(5) In view of the Classification Opinions, classification decisions, amendments to the Explanatory Notes or other advice on the interpretation of the Harmonized System, and of recommendations to secure uniformity in the interpretation of the HS Convention, it is appropriate to establish the position to be taken on the Union's behalf, because, once accepted, those Classification Opinions, and certain of those classification decisions and amendments will be published in a Commission Communication under point (a)(iii) of Article 34(7) of Regulation (EU) 952/2013 of the European Parliament and of the Council[1], and become applicable to Member States. The position will be expressed at the HSC.

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

(6) This Decision supplements Council Decision (EU) 2020/…[1+],

HAS ADOPTED THIS DECISION:

[1] Council Decision (EU) 2020/… of … on the position to be taken, on behalf of the European Union, in the 66th session of the Harmonized System Committee of the World Customs Organization in relation to the envisaged adoption of Classification opinions, classification decisions, amendments to the Harmonized System Explanatory Notes or other advice on the interpretation of the Harmonized System, and of recommendations to secure uniformity in the interpretation of the Harmonized System under the Harmonized System Convention (OJ L …).

[+] OJ: Please insert in the text the number of the Decision contained in document ST 10706/20 and insert the number, date, and OJ reference of that Decision in the footnote.

Article 1

The position to be taken, on behalf of the Union, in the 66th session of the Harmonized System Committee of the World Customs Organization on the approval of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and of recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention, is set out in the Annex[1].

Article 2

Minor technical changes to the position referred to in Article 1 may be agreed upon by the representatives of the Union without further decision of the Council.

Article 3

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

Done at Brussels,

For the Council
The President

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[1] See document ST 11214/20.