Council of the European Union

Brussels, 27 October 2020
(OR. en)

11650/20

Interinstitutional File:
2020/0080(NLE)

UD 263

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 with regard to the adoption of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention

COUNCIL DECISION (EU) 2020/…

of …

on the position to be taken on behalf of the European Union within the World Customs Organization with regard to the adoption of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the Harmonized System under the HS 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 the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By means of 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, inter alia, established the Harmonized System Committee (HSC).

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

(3) Pursuant to Article 8(2) of the HS Convention, Explanatory Notes, Classification Opinions, other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System prepared during a session of the HSC ('HSC decisions') are to be deemed to be approved by the World Customs Organization (WCO) Council if, not later than the end of the second month following the month during which the session at which they were adopted was closed, no Contracting Party to the HS Convention has notified the WCO Secretary General that it requests that such matter be referred to the WCO Council.

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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 OJ L 198, 20.7.1987, p. 11.

(4) Pursuant to Article 8(3) of the HS Convention, where a matter is referred to the WCO Council under the provisions of Article 8(2) of the HS Convention, the WCO Council is to approve such Explanatory Notes, Classification Opinions, other advice or recommendations, unless any WCO Council Member which is a Contracting Party to the HS Convention requests that they be referred in whole or part to the HSC for re-examination.

(5) It is appropriate to establish the position to be taken on the Union's behalf in the WCO with regard to the adoption of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the HS Convention, as the decisions at issue prepared by the HSC will be capable of decisively influencing the content of Union law, namely, Council Regulation (EEC) No 2658/87[1].

(6) It is in the interest of the Union that the positions expressed by the Union in the HSC be established according to principles, criteria and orientations governing the tariff classification of goods. It is also in the interest of the Union that such positions be established in an expeditious manner to allow the Union to exercise its rights in the HSC.

[1] 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).

(7) To preserve the Union's rights, the Commission should also be able to request on behalf of the Union that a matter be referred to the WCO Council and be referred to the HSC for re-examination pursuant to Article 8(3) of the HS Convention, in order to avoid a decision being adopted on a matter on which the Council either is unable to reach a position before the expiry of the deadline provided for in Article 8(2) of the HS Convention or has reached a position which differs in substance from the decision that was adopted by the HSC.

(8) In view of the evolving and highly technical nature of the classification of goods under the HS Convention, the high volume of questions dealt with in the two HSC meetings taking place each year, and the short time available to consider documents issued by the WCO Secretariat and Contracting Parties in preparation of the HSC meetings and the consequent need for the position of the Union to take account of new developments, including new technical and other relevant information presented before or during the meetings of the HSC, necessary steps should be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, for the specification of the Union position.

(9) In view of the recurrent late availability of working documents before HSC meetings, and in order to preserve the Union's rights and interests within the WCO, the Commission should strive to call on the WCO Secretariat to ensure the availability of working documents in conformity with the rules of procedure of the HSC, so that such documents are dispatched at least 30 days before the opening of the relevant session.

(10) To ensure that the Council is able to assess and, where appropriate, revise the policy in this Decision on a regular basis, and in the spirit of the sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, the validity of this Decision should be limited in time,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf on the approval of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention, and on the preparation of such acts in the World Customs Organization, shall be in accordance with the Position to be taken on behalf of the European Union within the World Customs Organization with regard to the adoption of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention[1].

Article 2

The specification of the Union's position to be taken under Article 1 shall be conducted in accordance with the Specification of the position to be taken on behalf of the European Union within the World Customs Organization with regard to the adoption of Explanatory Notes, Classification Opinions or other advice on the interpretation of the Harmonized System and recommendations to secure uniformity in the interpretation of the Harmonized System under the HS Convention[2].

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1 See document ST 11651/20, section I, at http://register.consilium.europa.eu.
2 See document ST 11651/20, section II, at http://register.consilium.europa.eu.

Article 3

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

It shall expire on 31 December 2023.

Done at …,

For the Council
The President