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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2020/1530 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 October 2020

amending Directive (EU) 2016/798, as regards the application of railway safety and interoperability rules within the Channel Fixed Link

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Directive (EU) 2016/798 of the European Parliament and of the Council ⁽³⁾ requires each Member State to establish a national safety authority to be entrusted with the tasks specified in relation to railway safety. In accordance with that Directive, a national safety authority may be a body established unilaterally by the Member State concerned or, alternatively, a body entrusted by several Member States with those tasks in order to ensure a unified safety regime.
- (2) The Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 (‘the Treaty of Canterbury’), established an Intergovernmental Commission to supervise all matters concerning the construction and operation of the Channel Fixed Link (‘the Intergovernmental Commission’).
- (3) Until the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽⁴⁾ (‘the transition period’), the Intergovernmental Commission is the national safety authority within the meaning of Directive (EU) 2016/798 responsible for the Channel Fixed Link.
- (4) At the end of the transition period, the Intergovernmental Commission will become a body established through an international agreement between a Member State, namely France, and a third country, namely the United Kingdom of Great Britain and Northern Ireland (‘the United Kingdom’). Unless otherwise provided for in an international agreement binding upon the United Kingdom, it will no longer be a national safety authority under Union law and Union law will no longer be applicable to the part of the Channel Fixed Link under the jurisdiction of the United Kingdom.

⁽¹⁾ Opinion of 16 September 2020 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 8 October 2020 (not yet published in the Official Journal) and decision of the Council of 14 October 2020.

⁽³⁾ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

⁽⁴⁾ OJ L 29, 31.1.2020, p. 7.

- (5) To ensure the safe and efficient operation of the Channel Fixed Link, it is appropriate to retain the Intergovernmental Commission as the single safety authority responsible for the whole of that infrastructure.
- (6) To that end, Decision (EU) 2020/1531 of the European Parliament and of the Council ⁽⁵⁾ empowers France, under certain conditions, to negotiate, sign and conclude an international agreement, supplementing the Treaty of Canterbury, under which the Intergovernmental Commission is retained as the single safety authority competent for the application of Union law within the Channel Fixed Link.
- (7) To this effect, specific rules should be established regarding specific safety authorities, as well as regarding the duties of the Member State concerned to take all the necessary measures to ensure that Union law is applied at all times by the specific safety authority or, failing that, by its national safety authority.
- (8) Dispute settlement between the Member State concerned and the third country in the area of railway safety may raise questions of interpretation of Union law. Consequently, the Court of Justice of the European Union should be made competent to give preliminary rulings on such questions.
- (9) Directive (EU) 2016/798 should therefore be amended accordingly.
- (10) Since the objective of this Regulation, namely to ensure the safe and efficient operation of the Channel Fixed Link after the end of the transition period, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (11) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Directive (EU) 2016/798

Directive (EU) 2016/798 is amended as follows:

- (1) in Article 3, point (7) is replaced by the following:

‘7. ‘national safety authority’ means:

- (a) the national body entrusted with the tasks regarding railway safety in accordance with this Directive;
- (b) any body entrusted by several Member States with the tasks referred to in point (a) in order to ensure a unified safety regime;
- (c) any body entrusted by a Member State and a third country with the tasks referred to in point (a) in order to ensure a unified safety regime, provided that the Union has concluded an agreement to this effect with the third country concerned or that that Member State has concluded such agreement in accordance with an empowerment granted by the Union to that effect;’;

- (2) in Article 16, the following paragraphs are added:

‘4. Where a single piece of engineering structure is situated partly in a third country and partly in a Member State, that Member State may designate, in addition to the national safety authority otherwise competent for its territory, and in accordance with Article 3, point (7), point (c), and with an international agreement concluded by the Union or whose conclusion is authorised by the Union, a safety authority competent specifically for that engineering structure and all other elements of the rail infrastructure linked to it (‘the specific safety authority’). In accordance with that international agreement, the national safety authority may temporarily assume competence for the part of the engineering structure situated in that Member State.

⁽⁵⁾ Decision (EU) 2020/1531 of the European Parliament and of the Council of 21 October 2020 empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link (see page 4 of this Official Journal).

In the context of any international agreement referred to in the first subparagraph, the Member State concerned shall take all measures at its disposal under that international agreement to ensure that the specific safety authority complies with the Union law. To this effect, and where necessary for reasons of railway safety, the Member State concerned shall without delay make use of the right granted by that international agreement, whereby the national safety authority is entitled to assume sole competence for the part of the engineering structure situated in that Member State.

5. Where a dispute submitted to arbitration in accordance with an international agreement raises a question of interpretation of Union law, the Court of Justice of the European Union ('Court of Justice') shall have jurisdiction to give a preliminary ruling on the question at the request of the arbitral tribunal set up to settle disputes under that international agreement.

The provisions of Union law governing proceedings before the Court of Justice in accordance with Article 267 of the Treaty on the Functioning of the European Union shall apply *mutatis mutandis* to requests for a preliminary ruling of the Court of Justice made pursuant to the first subparagraph.

Where the arbitral tribunal fails to comply with any ruling of the Court of Justice delivered in accordance with the first subparagraph, the Member State concerned shall without delay make use of the right granted by the international agreement, whereby the national safety authority is entitled to assume sole competence for the part of the engineering structure situated in that Member State.'

Article 2

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 October 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
M. ROTH

DECISIONS

DECISION (EU) 2020/1531 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 October 2020

empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 ('the Treaty of Canterbury'), established an Intergovernmental Commission to supervise all matters concerning the construction and operation of the Channel Fixed Link ('the Intergovernmental Commission').
- (2) Until the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽³⁾ ('the transition period'), the Intergovernmental Commission is a body entrusted by several Member States with the tasks regarding railway safety in respect of the Channel Fixed Link. In this regard, the Intergovernmental Commission therefore constitutes the national safety authority within the meaning of Directive (EU) 2016/798 of the European Parliament and of the Council ⁽⁴⁾. In that capacity, it applies the provisions of Union law relevant to railway safety and, under Directive (EU) 2016/797 of the European Parliament and of the Council ⁽⁵⁾, railway interoperability.
- (3) At the end of the transition period, the Intergovernmental Commission will become a body established through an international agreement between a Member State, namely France, and a third country, namely the United Kingdom of Great Britain and Northern Ireland ('the United Kingdom'). Furthermore, and unless otherwise provided for in an international agreement binding upon the United Kingdom, Union law will no longer be applicable to the part of the Channel Fixed Link under the jurisdiction of the United Kingdom.
- (4) An international agreement with a third country regarding the application of railway safety and interoperability rules in cross-border situations is liable to affect an area covered to a large extent by Union law, and in particular by Regulation (EU) 2016/796 of the European Parliament and of the Council ⁽⁶⁾ and Directives (EU) 2016/797 and (EU) 2016/798. Therefore, any such agreement falls within the Union's exclusive external competence. Member

⁽¹⁾ Opinion of 16 September 2020 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 8 October 2020 (not yet published in the Official Journal) and decision of the Council of 14 October 2020.

⁽³⁾ OJ L 29, 31.1.2020, p. 7.

⁽⁴⁾ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

⁽⁵⁾ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

⁽⁶⁾ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

States may negotiate, or conclude, such an agreement only if empowered to do so by the Union in accordance with Article 2(1) of the Treaty on the Functioning of the European Union (TFEU). Because of the interaction with existing Union legislation, it is also necessary for such empowerment to be granted by the Union legislator in accordance with the legislative procedure referred to in Article 91 TFEU.

- (5) By letter of 16 July 2020, France requested an empowerment from the Union to negotiate and conclude with the United Kingdom an international agreement supplementing the Treaty of Canterbury.
- (6) To ensure the safe and efficient operation of the Channel Fixed Link, it is appropriate to retain the Intergovernmental Commission as the single safety authority responsible for the whole of that infrastructure. Considering the special position of the Channel Fixed Link as a railway link involving a single, complex engineering structure situated partly in the territory of France and partly in the territory of a third country, it is appropriate to empower France to negotiate, sign and conclude an international agreement with the United Kingdom regarding the application of the railway safety rules of the Union to the Channel Fixed Link in order to maintain a unified safety regime, subject to certain conditions.
- (7) The Intergovernmental Commission is capable of fulfilling the role of national safety authority responsible for the part of the Channel Fixed Link under France's jurisdiction provided that Directive (EU) 2016/798 is amended and certain conditions are fulfilled.
- (8) The Intergovernmental Commission should apply the same rules over the entire Channel Fixed Link. Those rules should be the relevant provisions of Union law, and in particular Regulation (EU) 2016/796 and Directives (EU) 2016/797 and (EU) 2016/798, as amended or replaced, as well as the acts adopted on the basis of those legal acts.
- (9) In accordance with the Treaty of Canterbury, disputes between France and the United Kingdom relating to the interpretation or application of that Treaty are to be settled by an arbitral tribunal. Where such disputes raise questions of interpretation of Union law, in order to ensure the correct application of Union law, the arbitral tribunal should request the Court of Justice of the European Union ('Court of Justice') to give a preliminary ruling on such questions and should be bound by its ruling.
- (10) It is necessary to establish specific rules regarding the implementation of Union law in the part of the Channel Fixed Link under France's jurisdiction, in order to ensure that Union law is correctly implemented at all times and that the Commission can oversee its application under the control of the Court of Justice, including in circumstances of urgency or in the event of failure by the Intergovernmental Commission to comply with a decision of the arbitral tribunal. To that end, France should retain the right to act unilaterally, where necessary, to ensure the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction.
- (11) In order to ensure effective legal protection in the fields covered by Union law, courts or tribunals to which Article 19(1) of the Treaty on European Union (TEU) applies should be exclusively competent for applications brought by concessionnaires and users of the Channel Fixed Link against decisions of the Intergovernmental Commission.
- (12) The elements described in Recitals (8) to (11) should be reflected in the international agreements between France and the United Kingdom regarding the Channel Fixed Link. Those international agreements should be compatible with Union law in all respects,

HAVE ADOPTED THIS DECISION:

Article 1

This Decision hereby sets out the conditions pursuant to which France is empowered to negotiate, sign and conclude an international agreement ('the Supplementing Agreement') with the United Kingdom supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionnaires of a Channel Fixed Link ('the Treaty of Canterbury') as regards the application of railway safety rules within the Channel Fixed Link.

Such an international agreement shall enter into force after the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and shall comply with the following conditions:

- (a) in order to maintain a unified safety regime on the whole Channel Fixed Link, the Intergovernmental Commission shall ensure the application, as regards the Channel Fixed Link, of the provisions of Union law, as interpreted by the Court of Justice of the European Union ('Court of Justice'), relevant to the tasks of the national safety authority within the meaning of Article 3, point (7), of Directive (EU) 2016/798, and in particular of Regulation (EU) 2016/796 and Directives (EU) 2016/797 and (EU) 2016/798, as amended or replaced, as well as of acts adopted on the basis of those legal acts;
- (b) where a dispute submitted to arbitration in accordance with Article 19 of the Treaty of Canterbury raises a question of interpretation of Union law, the arbitral tribunal shall not have the power to decide on any such question. In such a case, the arbitral tribunal shall request the Court of Justice to give a preliminary ruling on the question. The preliminary ruling of the Court of Justice shall be binding on the arbitral tribunal;
- (c) where necessary, in particular in circumstances of urgency or in case of failure by the Intergovernmental Commission to comply with a decision of the arbitral tribunal, France shall retain the right to act unilaterally with a view to ensuring the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction;
- (d) courts or tribunals to which Article 19(1) TEU applies shall be exclusively competent to decide on remedies sought by concessionnaires and users of the Channel Fixed Link against decisions taken by the Intergovernmental Commission in its capacity as a national safety authority within the meaning of Article 3, point (7), of Directive (EU) 2016/798;
- (e) it must be compatible with Union law in all respects.

Article 2

France shall keep the Commission regularly informed of the negotiations with the United Kingdom on the Supplementing Agreement and, where appropriate, invite the Commission to participate in the negotiations as an observer.

Upon completion of the negotiations, France shall submit the resulting draft Supplementing Agreement to the Commission. The Commission shall inform the European Parliament and the Council thereof.

Within one month from the receipt of the draft Supplementing Agreement, the Commission shall take a decision as to whether the conditions set out in Article 1 of this Decision are fulfilled. Where the Commission decides that they are fulfilled, France may sign and conclude the Supplementing Agreement.

France shall provide the Commission with a copy of the Supplementing Agreement within one month of its entry into force or, where the Supplementing Agreement is to be applied provisionally, within one month of the start of its provisional application.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 21 October 2020.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

M. ROTH

II

(Non-legislative acts)

DECISIONS

COUNCIL DECISION (EU) 2020/1532

of 12 October 2020

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.
- (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.

⁽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).

- (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) No 952/2013 of the European Parliament and of the Council ⁽⁴⁾, and become applicable to Member States. The position will be expressed at the HSC.
- (6) This Decision supplements Council Decision (EU) 2020/1410 ⁽⁵⁾,

HAS ADOPTED THIS DECISION:

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.

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 Luxembourg, 12 October 2020.

For the Council
The President
J. BORRELL FONTELLES

⁽⁴⁾ 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).

⁽⁵⁾ Council Decision (EU) 2020/1410 of 25 September 2020 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 327, 8.10.2020, p. 1).

ANNEX

This Annex supplements the Annex to Decision (EU) 2020/1410.

II.2. Development of correlation tables between the 2017 and 2022 versions of the Harmonized System (Doc. NC2704, NC2749 and NC2753)

Concerning the correlation table for subheadings 4 407,13 and 4 407,14 (mixtures of S-P-F (spruce, pine and fir) and Hem-fir (Western hemlock and fir)), the Union shall support the correlations proposed by the WCO Secretariat in paragraph 20 of document NC2753.

Concerning the correlation table for subheading 4 418,83 (I beams), the Union shall support the correlations proposed by Japan in paragraph 14 of document NC2753.

Concerning the correlation table for subheading 7 019,71 (veils/thin sheets of glass fibres), the Union notes that the only transfer from HS 2017 would be from subheading 7 019,32.

Concerning the correlation table for subheadings 8 462,62 and 8 462,63 (forging machines), the Union shall support keeping all the subheadings proposed for transfer mentioned under HS 2017, including the ones in square brackets.

Concerning the correlation table for subheading 8 519,81 (telephone answering machines), the Union shall support the proposal of the WCO Secretariat in paragraph 26 of document NC2704.

Concerning the correlation table for subheading 8 539,51 (LED), the Union shall support the WCO Secretariat's conclusion in paragraph 24 of document NC2704.

Concerning the correlation table for new subheading 8 541,51 (semiconductor-based transducers), the Union notes that there is no evidence of parts classified separately in the HS 2017 version. Therefore no additional transfers are needed.

Concerning the correlation table for heading 88.06 (unmanned aircraft), the Union shall support option (i) mentioned in paragraph 25 of document NC2704.

Finally, the Union shall support the correction of some editorial errors in the draft Correlation Tables I and II, as set out in the Annex to document NC2753.

III.4. Classification in HS 2022 of certain collections and collectors' pieces of numismatic interest (Request by the Secretariat) (Doc. NC2711, NC2754)

The Union would classify the three products in the new subheading 9 705,31 in HS 2022. The Union notes that both Canada and the WCO Secretariat support the Union's proposal to delete the mention of the "coins generally known in the trade as 'ancients' or 'ancient coins'" from the second paragraph of Item (4) of new Part (A) of HSENs to heading 97.05.

III.5. Classification in HS 2022 of cartridges for 3D printers (Request by the Secretariat) (Doc. NC2712, NC2755)

The Union shall support the proposal for amending the HSENs which specifies that 3D printer cartridges with electronic components or mechanical mechanisms should be classified as parts of 3D printers.

The Union would classify products presented in both documents NC2712 and NC2755 in heading 84.85 in HS 2022 as parts of 3D printers considering the presence of electronic components for connection to a 3D printer.

III.7. Report of the 57th Session of the HS Review Sub-Committee (Doc. NR1434)

III.8. Matters for decision (Doc. NC2709)

(a) Annexes C/4 and D/8 – Amendments to the Explanatory Notes (HS 2022) (Section VI)

(b) Annexes C/5, D/9 and D/22 – Amendments to the Explanatory Notes (HS 2022) (Section VII)

- (c) Annexes C/8 and D/12 – Amendments to the Explanatory Notes consequential to the Article 16 Recommendation of 28 June 2019 (Section XIII)
- (d) Annexes C/13 and D/17 – Amendments to the Explanatory Notes consequential to the Article 16 Recommendation of 28 June 2019 (Section XX)
- (e) Annexes C/14 and D/18 – Possible amendments to the Explanatory Notes in respect of certain amusement park equipment (Proposal by the United States)

The Union shall agree to all proposed amendments in those documents.

- (f) Annexes C/1 and D/5 – Possible amendments to the Explanatory Notes to heading 15.09 in respect of other virgin olive oils, and heading 15.15 in respect of examples of microbial fats and oils

Concerning the HSEs to heading 15.09, the Union shall support the Union's proposal (option 2) and the new Canadian proposal (option 3). In item (D)(2), the Union shall support the use of “or” (option 2) instead of “and/or”.

Concerning the HSEs to heading 15.15, the Union shall support the use of the expression “single cell organism” (option 1), and the use of “or” (option 2) instead of “and/or”. In examples (a) and (b), the Union shall support the use of the expression “obtained from” (option 2).

- (g) Annexes C/3 and D/7 – Possible amendments to the Explanatory Notes in respect of “placebos” and “double-blinded clinical trial kits” in heading 30.06 (Request by Australia)

Concerning the sentence “The placebos of this heading also include [control vaccines] [controlled vaccines] [vaccines which are used as control substances and] that have been licensed for use in recognized clinical trials.”, the Union shall not support adding this sentence to the text of item (12) of the HSEs to heading 30.06, as it is not clear what kind of substances are described by it. If the other Contracting Parties decide to add it, the Union shall support “vaccines which are used as control substances” (option 3), or if flexibility is needed, “control vaccines” (option 1).

Concerning the sentence “[Active ingredients to be trialled can include herbal medicinal products [for therapeutic or prophylactic uses].]”, the Union shall remain flexible for adding it to the text, but shall not support an open list of examples as suggested by the United States.

- (h) Annexes C/6 and D/10 – Amendments to the Explanatory Notes Consequential to the Article 16 Recommendation of 28 June 2019 (Section IX)

The Union shall support the proposal to add Subheading Explanatory Notes to subheadings 4 412,41, 4 412,42 and 4 412,49. The Union shall request that the proposed text needs to be further analysed and improved in order to bring it in line with the current classification practices in the Union (for example, the orientation of the veneers).

- (i) Annexes C/7 and D/11 – Amendments to the Explanatory Notes consequential to the Article 16 Recommendation of 28 June 2019 (Sections XI and XII)

The Union shall support adding “paraseismic wall covering” and “geotextiles” to the list of examples of electronic textiles. In the text on “geotextiles”, the Union shall support the text “a sensor made of fibres or at least being fully integrated in the fibres” (option 2) as previously suggested by the Union.

The Union shall support provisionally adopting the texts approved by the HS Review Sub-Committee.

- (j) Annexes C/12 and D/16 – Amendments to the Explanatory Notes Consequential to the Article 16 Recommendation of 28 June 2019 (Section XVII)

The Union shall support adding the reference to permanently integrated cameras in paragraph 3 of the HSEs to heading 88.06, provided that the Classification Opinion classifying a drone with an integrated camera in heading 85.25 is reviewed and aligned with HS 2022 and HSEN.

In relation to paragraph 4 of the HSEs to heading 88.06, the Union shall support the proposal by China with additional technical criteria introduced by the Union (second option).

- (k) Annexes C/15 and D/19 – Possible amendment to the Explanatory Notes to Chapter 97 in respect of certain cultural articles (Proposal by the United States)

The Union shall not support the list of items mentioned as examples, as these are very specific and limited to explain the scope of the articles to be classified under subheading 9 705,10.

The Union further notes that the definitions and examples provided would not give clarity on how to classify for example “traditional national costumes” or “old cars”.

- (l) Annexes C/16 and D/20 – Amendment to the GIR’s Explanatory Notes (HS 2022)

The Union shall support the original proposal by the WCO Secretariat (option 1, using the term “merely”, but remaining flexible for the expression “not further worked than”) and shall request to align the texts in English and French.

- III.9. Possible amendment of the Explanatory Note to heading 71.04 in relation to synthetic diamonds (Proposal by the Kimberley Process) (Doc. NC2757)

The Union shall agree to the proposed modifications to the new third paragraph to heading 71.04 and to the creation of new item (3) of the subheading Explanatory Notes to subheading 7 104,91.

- III.10. Classification of a micro-electro-mechanical systems (MEMS) element in HS 2022 (Proposal by the Secretariat)

The Union would classify the product in heading 85.41.

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