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# *European Customs & Trade Communiqué*

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# *Greetings from the Editor*

## *Welcome to the forty ninth edition of our Newsletter on Customs and Trade issues*

In this edition we have included, articles on the EU Commission's action following the WTO Dispute Settlement Body's decision, the Commission's proposal for reform of GSP, the start of AEO in Switzerland, AEO mutual recognition, duty suspension for LCD Monitors, export controls alerts and textile and footwear update as well as the usual Classification updates.

**Andre Stoop, Editor**

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If any of the articles in this month's edition are of interest and you would like further details, please contact the author or your local PwC contact - their details are listed at the back of this Communiqué

# Response of EU Commission on decision of the WTO Dispute Settlement Body

Following the decision of the WTO Dispute Settlement Body (hereafter: “DSB”) regarding the application of the ITA within the EU, the EU Commission was obliged to adapt its legislation by July 1, 2011, to bring it in line with the ITA.

In view of this obligation, on 25 June 2011, the EU Commission published a regulation to amend the Combined Nomenclature (‘CN’) This Regulation enters into force as of 1 July 2011 and relates to the classification of television set top boxes and multi-functional printers, i.e. the Regulation introduces changes in the CN-codes for these products.

## Set top boxes

With respect to set top boxes, the Commission has changed the description included in the CN, such that it now allows for set top boxes, which are eligible for duty free treatment, to include devices for recording or reproducing (e.g. hard disks) as long as the products “*retain the essential character of a set top box which has a communication function*”.

Whether, with this adjusted description, the Commission continues to limit the zero rate only to products having access to the internet via a modem is to be seen as, simultaneously, the EU withdrew the Explanatory Notes that, amongst others, explicitly excluded the products that have access to the internet via other means e.g. an Ethernet connection. Adding to this, Consideration 7.985 of the DSB decision, in our view, provides that the technical definition of how the communication with the internet is processed is not relevant.

Therefore, we are of the opinion that there are good grounds to also include set top boxes that access the internet via other means in this CN-code.

However, if the strict interpretation remains in place, there may still be room to question whether the EU legislation on the set top boxes is fully in line with the ITA.

## Multi-functional printers

As explained above, the Regulation is the EU’s reaction to the decision of the WTO DSB on the fact that duties were levied on multi-functional printers, in breach of the ITA.

Following the introduction of this new Regulation, the CN-subheadings of HS-code 8443 31 will be amended. All current subheadings of 8443 31 will be deleted and will be replaced by two new CN subheadings. The two new subheadings are:

8443 31 20 for “*Machines having digital copying as principal function, where the copying is performed by scanning the original and printing the copies by means of an electrostatic print engine*”; and

8443 31 80 for “*Other*”

Based on the new Regulation, we conclude that only multi-functional printers that:

1. have copying as its principal function; and
  2. use an electrostatic print engine (i.e. toner printers),
- are classified under the new subheading 8443 31 20, with a duty rate of 2.2%.

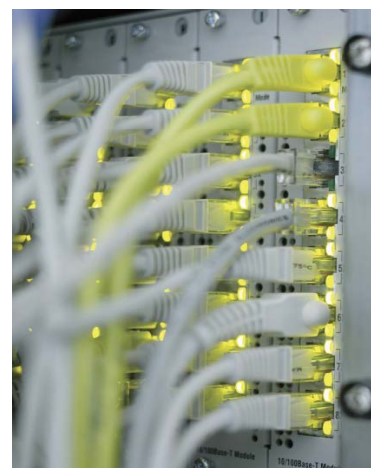
All other multi-functional printers will be classified under the new subheading 8443 31 80 with a duty rate of 0%. This new subheading will, therefore, include toner printers for which copying is not the principal function, e.g. toner printers whereby the copying function is equal (or less relevant) to the printing and/or scanning function.

## Impact of the Regulation

In the Regulation the Commission explicitly states that the Regulation “*shall have neither retroactive effect nor provide interpretative guidance on a retroactive basis*”. In other words, the Commission is trying to eliminate refund requests for imports in prior years. However, based on jurisprudence of the European Court of Justice, e.g. the Sky Broad Casting case (C-288/09), there is room for challenging this position in court.

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# Commission proposes reform of GSP

On 10 May 2011, the European Commission issued a press release announcing plans to reform the EU's generalised system of preferences (GSP) when the current regime expires at the end of 2011. The press release includes links to its proposal for a new GSP regulation and to a memo giving further detail. The press release lists the key elements of the proposal as:

1. Concentrating GSP preferences on fewer countries;
2. Reinforcing the incentives under the GSP+ scheme;
3. Strengthening the effectiveness of GSP for the least developed countries (LDCs); and
4. Increasing predictability, transparency and stability.

Clearly, the first of these is of most immediate interest and potential concern. A memo on the proposal simply refers to the aim of concentrating import preferences on those developing countries most in need and suggests that the number of GSP beneficiaries will be cut from 176 to "around 80". Those countries destined to lose their GSP status under the new scheme include:

1. Countries that have achieved a high or upper middle income per capita, according to the internationally accepted World Bank classification (such as Kuwait, Qatar, Russia and Saudi Arabia);
2. Countries with a free trade agreement (FTA) or a special autonomous trade regime with the EU; and
3. Overseas countries and territories (OCT), which have an alternative market access arrangement with the EU.

None of the documents list the countries likely to lose GSP under the new scheme, although it is worth noting that a significant number of countries will fall into categories (2) and (3) above and will continue to benefit from

preference under other arrangements. It is not clear how many countries will fall into category (1) but it will be interesting to see if this prompts more countries to request consultations on an FTA with the EU and/or speeds up negotiations on those FTAs that have stalled, particularly that with the Gulf Cooperation Council.

With regard to reinforcing the GSP+ scheme, which gives duty free access to countries that meet various human and labour rights, environmental and good governance standards, there are two key changes. The first relaxes the criteria slightly to allow more countries to benefit. The proposal carefully does not include a list of countries eligible to apply but we understand that the Commission is likely to propose the inclusion of Pakistan, which could make negotiations particularly difficult with countries, such as Italy, that oppose any liberalisation of textile imports from Pakistan. On which point, it should be noted that there is still no news on the Commission's proposals to grant additional preference to certain products from Pakistan, as the WTO waiver required is still subject to negotiation.

The second change appears to shift the burden of proof that the various international conventions have been ratified from the Commission to the beneficiary country concerned. The press release also refers to GSP+ having strengthened controls and monitoring and more robust procedures for the temporary suspension from the scheme. This is presumably a reaction to the difficulties the Commission encountered when investigating Sri Lanka's non-compliance with the scheme.

Strengthening the effectiveness of GSP for the LDCs appears to rely on

the Commission's belief that restricting GSP to fewer beneficiaries will reduce competitive pressure and make the preferences for LDCs more meaningful. This seems a little odd, as the only countries that will lose all preference are the high or upper middle income countries, which are not generally in competition with the LDCs. Most of those countries likely to lose GSP that are genuine competitors of the LDCs are those who gain preference under other arrangements.

The fourth element of the proposal will be achieved by making the scheme open-ended, rather than the current system of reviewing it every three years. Again, this is slightly misleading, as although a regulation implementing a "new" scheme is published every three or four years, they don't tend to change significantly more frequently than every ten years or so. Under the proposed new scheme, the Commission will present a report on the effects of the scheme every two years, suggesting that changes could be made on a biennial basis, although they wouldn't seek to publish new regulations as frequently.

In order to give time to discuss the draft regulation properly, it is also proposed that the current scheme be rolled over until 31 December 2013 and the new scheme would enter force from 1 January 2014. There is no indication as to the likely lead-in time and it is possible that any new scheme may not be published until late in 2013. It will also be interesting to see, post-Lisbon, what effect the European Parliament's new powers will have. What can one say but watch this space

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## **AEO mutual recognition Update**

The EU is continuing to progress its policy of seeking mutual recognition between its Authorised Economic Operator (“AEO”) status and equivalent security standards in other countries. This will lead to greater trade facilitation and status-recognition benefits for AEO holders in the EU.

### **Japan**

On 24 May 2011, the EU and Japan implemented mutual recognition of AEO status. In effect, this means that the AEO status of EU operators will be taken into account in by Japanese Customs when undertaking security assessments for imports from and exports to the EU. Japanese Customs have issued 12 character mutual recognition codes for each EU AEO holder and these should be quoted to their business partners in Japan. (Similarly, the EU has issued Japanese AEO holders with 14 character mutual recognition codes in order for them to benefit from mutual recognition in the EU.).

### **Other updates**

The most anticipated mutual recognition agreement with the USA, now has 31 October 2011 as its proposed implementation date.

However, work on the draft text of the agreement is still on-going. The US Customs Authorities have carried out visits to a number of EU Member States to date and the EU Commission is due to carry out a reciprocal visit to the USA in June.

The EU has also initiated talks with China regarding a proposed AEO mutual recognition agreement.

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## **Switzerland started AEO**

On 1 July 2011, the Federal Customs Administration (FCA) gave the starting signal for obtaining the status of Authorized Economic Operator (AEO) in Switzerland. At the same time, the FCA published a number of changes to the self-evaluation questionnaire. Applications for registration can, therefore, now be submitted to the FCA. This article provides background knowledge and recent news in this area.

Switzerland has introduced the concept of ‘AEO status’, a full three years after the European Union. The legal basis for AEO in Switzerland was implemented from 1 April 2011. The current application procedure incorporates experience gained from the pilot scheme and the corresponding documentation has been revised (compared with the draft documentation).

The FCA has also introduced a number of changes and additions in the final self-evaluation questionnaire.

With the introduction of AEO status in Switzerland, disadvantages experienced by enterprises resident in the EU are eliminated. Enterprises that are deemed to be particularly trustworthy from a customs aspect benefit, inter alia, from simplifications in relevant customs security checks

Pursuant to Art. 42a Customs Law, an applicant must prove that it meets the following four basic criteria:

- Previous compliance with customs requirements;
- A satisfactory system of managing commercial and, where appropriate, transport records, which allow appropriate, relevant customs security controls;
- Proven financial solvency;
- Appropriate security and safety standards (where possible, other certificates, e.g. certifications by the International Organization for Standardization – ISO, will be considered).

An enterprise that has opted for AEO certification, reviews its own organization and completes the self-evaluation questionnaire. This questionnaire has been published as an Excel file and provides a guide through the individual sections using help and multiple choice texts. It refers at times to comments in the EU questionnaire, however the questionnaires are not identical.

The completed questionnaire is submitted, together with supplementary documents, to the FCA. After formal control of the application, the FCA undertakes checks of substance. The latter takes place at the domicile of the applicant enterprise. If the FCA approves the AEO application and confers AEO status on an enterprise, a certificate is issued and the enterprise is included in the AEO database.

Switzerland has already signed a treaty with the European Union covering recognition of the respective AEO statuses. Negotiations are also taking place with Norway and are due to take place with the USA, Japan and China. It is to be expected that AEO status will gain importance in goods traffic with partners outside the European Union. Whether the expense of AEO certification is worthwhile for an enterprise – whether this AEO certification is a “must have” or merely a “nice to have” – must be decided based on the clients’ expectations and requirements. In many cases, AEO registration will be considered a decisive criterion when making bids and offering services. We would be pleased to support you in making the decision and undertaking the preparatory work for AEO certification.

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## **Duty suspension for LCD Monitors**

The European Council has published a Regulation introducing an autonomous duty suspension (0% rate) for certain black and white or colour monitors, which use liquid crystal display (LCD) technology and are classified at (CN) codes 8528 59 10 and 5828 59 40, respectively.

The suspension is valid for a period of six months, from 1 January to 30 June 2011, and is an extension of the duty suspension which expired on 31 December 2010. Discussions are currently on-going with regard to a further extension of this tariff suspension after 30 June 2011.

To benefit from the suspension, the products must meet the criteria laid down in the Regulation relating to technology type (LCD), screen size, pixel density and connectivity.

Importers who have incurred duty on imports of such products since 1 January are entitled to a refund of duty, as the Regulation has retrospective effect.

Please contact the undersigned if you would like to find out more information regarding the products or require assistance in securing the refund.

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## **Export controls alerts**

### **Consultation to simplify export licence requirements for certain dual-use items**

The EU Commission undertook a public consultation process regarding the licensing arrangement for dual-use items listed in Annex I to Regulation 428/2009, where similar goods are freely available on foreign markets.

This may be an opportunity for EU companies exporting dual-use products. If their products are available in foreign markets without export licensing obligations, based on the consultation results, the Commission may decide to decontrol such products or discuss relevant control list modifications within the international export control regimes. In the future this may spare EU exporters time and effort needed to obtain export licences, shorten time of supply, and make their products more competitive.

### **Export controls of brokering activities**

The Irish Control of Exports (Brokering Activities) Order 2011 entered into force from 1 May 2011. This new legislation follows the introduction of the Control of Exports Act 2008 and implements operational requirements for brokering in military controlled products. Military products are goods, software and technology designed or modified for military use. This legislation now brings Ireland into line with the criteria set out in European Union Code of Conduct on Arms Exports and EU Council Common Position on the control of arms brokering.

Brokering activities include buying, selling and negotiating or arranging transactions that may involve transfer of military controlled products. Negotiating or arranging transfer of such products does not require that the person engaged in the activities must own the products and extends to all parties involved in such activities.

The legislation applies to brokering activities in Ireland as well as activities undertaken by Irish citizens and Irish companies outside of Ireland.

Without prior licence from the Department of Jobs, Enterprise and Innovation (DJEI), companies should not carry out or engage in brokering activities relating to controlled military products listed in the Order when they are undertaken from:

- One country outside of the EU to another country outside of the EU
- Ireland to a country outside of the EU
- Another EU country to a country outside of the EU

### **Restrictive Measures**

A robust EU export compliance program should not only identify what goods (hardware, software and technology), if any, are controlled by EU export control legislation, but should also include screening of the end-user, end-use and destination of all goods against EU restrictive measures.

Since 1 January 2011, the EU has published some 87 regulations, decisions, notices and corrigenda concerning restrictive measures. This should come as no surprise, given the current political unrest in North Africa and the Middle East

EU restrictive measures (sanctions) are in force, as of 26 May 2011, for the following countries:

Belarus, Bosnia and Herzegovina, Burma (Myanmar), China, Democratic Republic of Congo, Cote d'Ivoire (Ivory Cost), Croatia, Egypt, Eritrea, Republic of Guinea (Conakry), Haiti, Iran, Iraq, Democratic People's Republic of Korea (North Korea), Lebanon, Liberia, Libya, Moldova, Serbia and Montenegro (Yugoslavia), Somalia, Sudan, Syria, Tunisia, USA and Zimbabwe

It is worthwhile noting that the majority of sanctioned countries are located in the EMEA region (made up of Europe, the Middle East and Africa). A company's EMEA headquarters, which services this region, is often located in the EU. As such, the risk of violation of trade and financial sanctions among EU entities is high, compared to entities serving less sensitive markets. In particular, this level of risk is due to rapid and frequent changes to EU restrictive measures legislation.

A robust export compliance program implemented and operated efficiently should reduce the risk of non-compliance. Screening tools should be updated regularly to take account of the ongoing changes to restrictive measures. Non-compliance with restrictive measures can leave your company exposed to high penalties, reputational damage and business disrupt.

### **EU Common Military List**

The European Council has published the Common Military List of the European Union, adopted by the Council on 21 February 2011. The Common Military List is a Notice only and must be implemented into national legislation. Traditionally, the Irish Military List mirrors the EU Common Military List, whilst the UK Military List includes additional products of national interest.

The Common Military List, adopted by the Council on 21 February 2011, removes some items, for example the explosive 'NTDNA (2-nitrotriazole 5-dinitranide)', and adds other items, for example weapon sight mounts which are specially designed for e.g. guns, cannon, anti-tank weapons, smooth-bore weapons, etc and which are specially designed for military use. Goods removed from the military list may now be subject

to dual-use controls as opposed to military controls, which are generally less restrictive.

Companies in the military space should be aware of this new List, its future implementation into national legislation and the implications this may have for their business.

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## ***Textiles and footwear update***

The clothing and footwear sectors have been relatively quiet for the first few months of 2011 and, although there are various issues in the pipeline, many of these are still subject to final confirmation.

Turkey's Council of Ministers published a Decree on 24 March confirming that additional rates of duty would be levied provisionally on products of Chapters 51, 52, 54, 55, 61 and 62 with effect from 22 July 2011, pending the conclusion of its safeguard investigation. This is slightly later than originally envisaged – thought to be as a result of rather more lobbying activity against the measures than the Turkish authorities expected.

The additional duties, which will apply to all third country imports into Turkey, will be 20% for textiles and 30% for clothing and accessories – with lower rates

applicable to goods from preference countries. The measures will not apply to goods of EU origin but they will apply to goods shipped via the EU. There is still some uncertainty with regard to the treatment of goods imported for processing and re-export. If, as a result of the safeguard investigation, the measures are deemed to have been unnecessary, any duties paid will be refunded.

Meanwhile, there have been numerous rumours that China is intending to reduce the export VAT rebate rate for clothing from the current 16% by as much as five or six percentage points in June or July 2011. As a result, some suppliers are advising customers that, if the rebate is reduced, they will have to consider increasing prices. However, although there have been several reports relating to this, the Chinese Government has not published anything official and it is impossible to confirm or deny the rumours.

What can be confirmed is that India is withdrawing its Duty Entitlement Passbook Scheme (DEPB) with effect from 1 July 2011 after it was ruled not to be in compliance with World Trade Organisation (WTO) provisions. Under the scheme, a specific percentage of the FOB value of the goods was allowed as a credit to the exporter, which could be used to credit duty payments for subsequent imports or be sold to other importers. Whilst alternative benefits exist, such as duty drawback and Advanced Licences, the benefits are smaller and a number of suppliers have advised customers that their prices will increase as a result. Importers are advised to try to obtain sufficient information to undertaken an analysis of the comparative benefits under DEPB and either of the other schemes to establish whether any price rises are justified.

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More positive news is that, subject to final confirmation, the EU-South Korea Free Trade Agreement will enter force from 1 July 2011 and most eligible clothing and footwear products imported into the EU from South Korea will be duty free from day one. However, proof of origin under this FTA can only be provided through the use of an origin declaration on an invoice or other commercial document and

EUR1 movement certificates will not be accepted. For consignments with a value of more than EUR6,000 (GBP5,390) the exporter must have been approved by the appropriate authorities. It is critical that companies wanting to export from the EU to South Korea under the FTA apply for approved exporter status in time for the 1 July entry into force of the FTA. Importers are strongly advised to ensure that their South Korean suppliers have approved for exporter status.

From an EU perspective, the FTA will apply to eligible products from South Korea entered to free circulation on or after 1 July and covered by proof of preferential origin issued on or after that date. Such proof cannot be issued prior to 1 July, as there is no legal basis, and any importations supported by proofs of origin issued before 1 July will be denied preferential access. Goods stored in a customs warehouse should, if possible, not be removed to free circulation until on or after 1 July and not before eligible proof of origin has been issued.

Another topic of interest that has been rumbling around for many years is the potential for compulsory origin marking for

certain products, which would include clothing and footwear. The European Parliament has asked the Commission to present a study, by 30 September 2013, on the feasibility of an origin labelling scheme. Meanwhile, the origin marking proposal that was published in December 2005 is still doing the rounds in Brussels and, if agreed, would enter force 12 months after its publication in the Official Journal. There seems to be strong political support for this but very little support from member states at the technical level, as there are concerns as to how it would be enforced. However, there is a strong possibility that it could become a bargaining chip and nothing can be ruled out. It will be interesting to see if it all goes quiet awaiting the results of the Commission's 2013 study or whether the pressure will be kept up by Italy and co.

As ever, we will monitor all these topics and report back in future issues of Communiqué.

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# Classification updates

## ECJ decision on the classification of set-top boxes

The European Court of Justice (ECJ) has issued a decision regarding the tariff classification of certain set-top boxes which incorporate a communication function and a hard disk drive.

### Technical specifications

The set-top boxes in question are satellite television receivers, which receive and decode television signals transmitted over the broadcaster's satellite television platform. The signal is decoded when it is being sent to be displayed on a television screen. The set-top box is specifically designed and programmed to receive and decode only digital signals made available by a particular broadcaster's satellite platform.

The set-top box includes a hard disk, part of which is used to record television content received from the satellite television platform. The set-top box cannot record video content from any other external source and cannot play video content from external media, e.g. DVDs or videotapes. In addition, the set-top box cannot record video content onto external media. The hard disk drive is not required in order to watch television using the set-top box. The set-top box cannot function using the hard disk drive without receiving a digital television signal.

The set-top box does not have a video display screen and contains a modem for internet access and, through this, has a function of interactive information exchange.

### Classification

The possible Combined Nomenclature (CN) subheadings for classification of the set-top boxes are:

8521 90 00, with a customs duty rate of 13.9%, which includes video recording or reproducing apparatus, whether or not incorporating a video tuner, which are not of the magnetic tape-type; and

8528 71 13, with a customs duty rate of 0%, which includes reception apparatus for television, whether or not incorporating... sound or video recording or reproducing apparatus, not designed to incorporate a video display or screen: Video tuners: Apparatus with a microprocessor-based device incorporating a modem for gaining access to the Internet, and having a function of interactive data information exchange, capable of receiving television signals ('set-top boxes with communication function')

The Combined Nomenclature Explanatory Notes (CNEN) to subheading 8521 90 00 provides that this subheading includes apparatus without a screen capable of receiving television signals, so-called "set-top boxes", which incorporate a device performing a recording or reproducing function. The CNEN to subheading 8528 71 13 excludes set-top boxes which incorporate a device performing a recording or reproducing function.

Given the disparity between the CN subheadings and the CNEN, the Court commented that while the explanatory notes are an important aid to the interpretation of the scope of the various headings, they do not have legally binding force. Where it is apparent that the CNENs are contrary to the wording of the headings of the CN and the section or chapter notes, the CNEN must be disregarded.

Goods classified under subheadings 8521 90 00 and 8528 71 13 can both receive and record television signals. However, what differentiates the goods of each heading is the main or ancillary character of those functions.

Subheading 8521 90 00 covers recording apparatus with an ancillary function of television apparatus, whereas subheading 8528 71 13 covers television apparatus with an ancillary recording function.

The set-top boxes, which are the subject of this Case, are sold to television service providers who make them available to their customers to enable them to access the programmes they offer. The consumers subscribe to service providers principally in order to be able to access the television programmes offered. The television programme recording function is merely an additional service that is offered.

As such, the set-top box is considered to be principally used to receive television signals and that function is deemed to be the principal function. The recording function is only a secondary function. The set-top box in question is, therefore, classified under subheading 8528 71 13 as a set-top box with a communication function and a hard drive.

### Other points to note

There are a number of important points arising from the judgment:

1. Customs authorities are obliged to issue Binding Tariff Information (BTIs) that are in conformity with the CNEN. However, where it is apparent that the CNEN are contrary to the wording of the headings of the CN and the section or chapter notes, the CNEN must be disregarded
2. The fact that a function of an apparatus is indispensable does not, by itself, mean that it is the principal function. An indispensable function may be secondary or ancillary.

## Classification updates

3. It is necessary to take into account what consumers would consider to be ancillary or principal functions in a product.

4. Although individuals may not rely directly on the provisions of a treaty, such as the Information Technology Agreement (ITA), before the courts under EU law, where the EU has legislated in the field in question, such EU provisions must be interpreted in a manner which is consistent with those treaties.

5. Any trader who has paid customs duty on such products at the 13.9% duty rate may be entitled to a repayment of such duties.

### Explanatory Notes to the Combined Nomenclature of the European Union

The European Commission has published new consolidated Explanatory Notes to the Combined Nomenclature (CNENs). This version of the CNENs includes and, where appropriate, replaces CNENs published up to 10 February 2011.

The CNENs do not take the place of the Harmonised System Explanatory Notes (HSEs) but rather are complementary to, and should be used in conjunction with them.

It should be noted that the HSEs and CNENs provide guidance to the interpretation of the CN and while recognised as being of persuasive value, are not legally binding.

### Classification Regulations

The Commission published a number of classification Regulations in the last three months. The products concerned were:

An 'ultrasonic transmitter', consisting of a piezo-electric element in the form of a ceramic disc to which a metal membrane with a radially orientated cone is attached. The whole is fixed to a base plate and is fitted into a plastic casing with connecting pins. The article converts electrical signals into ultrasonic waves and is used, for example, for distance measurement in parking aids, space monitoring in car burglar alarms, and liquid level measurement in certain products. The ultrasonic transmitter has been classified at CN code 8548 90 90 as an electric part of machinery or apparatus not specified or included anywhere else.

An 'ultrasonic receiver', consisting of a piezo-electric element in the form of a ceramic disc to which a metal membrane with a radially orientated cone is attached. The whole is fixed to a base plate and is fitted into a plastic casing with connecting pins. The article is used, for example, for distance measurement in parking aids, space monitoring in car burglar alarms, and liquid level measurement in certain products. The ultrasonic transmitter has been classified at CN code 8548 90 90 as an electric part of machinery or apparatus not specified or included anywhere else.

A 'television stand', consisting of a top shelf and two shelves made of clear tempered glass and four cylindrical metal legs, has been classified at CN code 9403 20 80. Tables and similar furniture made of different materials are classified according to the material of which the support (legs and frame) is made, unless the material from which the top is made gives the table its essential character. As the glass top does not give the television stand its essential character, it is classified as "other metal furniture".

An 'infrared thermal camera' for capturing images of infrared radiation by means of a microbolometer (i.e. a thermal sensor used as a detector) and displaying such images in colours representing different temperatures, has been classified at 9025 19 30. The camera can also measure the temperature of a specific point and display the result on a temperature scale. The camera is used for preventative maintenance to detect defective construction or insulation and heat leaks. Given its characteristics, the camera is classified as a thermometer.

A 'vibrating platform' has been classified as a machine or mechanical appliance having individual functions, not specified anywhere else, at 8479 89 97. The vibrating platform is comprised of a steel platform and a central column equipped with a handle and control panel. The machine acts as a stimulator to muscle contraction and is used, for example, in medicine, physiotherapy and well-being.

A used pick-up vehicle, with an unfolding load-carrying platform, for the transport of persons and goods, i.e. a 'multi-purpose vehicle', has been classified at 8703 33 90. The vehicle is classified as a used motor vehicle principally designed for the transport of persons.

Tinned stuffed vine leaves ready for consumption made of a mixture of rice (50%), onion (9%), soya oil, salt, citric acid, black pepper, mint and dill, wrapped in vine leaves (15%) (percentages are an approximate percentage by weight). The essential character of the product is conferred by the rice and, therefore, classification is at 1904 90 10.

# Classification updates

## Classification Regulations

A battery powered aerosol dispenser, which when equipped with an aerosol can disperses portions of fragrance (1) when the dispenser's sensor detects the presence of a person or (2) at regular pre-set intervals, has been classified at 8509 80 00. The dispenser does not disperse the fragrance but activates the spraying mechanism of the aerosol can. Therefore, the dispenser is considered an electromechanical appliance with a self-contained motor, of a kind commonly used for domestic purposes. In addition, the

Regulation classifies a set put up for retail sale, consisting of an aerosol dispenser and an interchangeable aerosol can, at 8509 80 00 as the component that gives the set its essential character is the aerosol dispenser because it can be permanently used, whereas the aerosol can has to be replaced when empty.

A syrupy flavoured liquid which is undrinkable on its own and because of its composition, the product containing flavouring and colouring matter is classified as a flavoured sugar syrup of 2106 90 59.

A syrupy flavoured liquid which is undrinkable on its own and because of its composition, the product containing high quantities of fruit juice and fruit purée is classified as a preparation for the manufacture of beverages under 2106 90 98.

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