

2003 UNDERSTANDING ON THE CRITERIA FOR CLASSIFICATION IN THE ASEAN HARMONISED TARIFF NOMENCLATURE

Signed in Langkawi, Malaysia on 20 December 2003

The Directors-General of Customs of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, the Union of Myanmar, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, of the Association of South East Asian Nations (hereinafter referred to as "ASEAN"):

RECALLING the Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature (hereinafter referred to as "the Protocol") signed on 7 August 2003 by the ASEAN Finance Ministers;

RECALLING that Article 6(3) of the Protocol provides that the ASEAN Directors-General of Customs is the body responsible for allowing amendments to the ASEAN Harmonised Tariff Nomenclature (hereinafter referred to as "AHTN");

DESIRING to establish common criteria for classification of ASEAN subheadings at levels beyond the 6-digit, in the event of amendments to the AHTN, so as to meet the objectives as set out in Article I of the Protocol;

Have agreed as follows:

ARTICLE 1 CRITERIA FOR CLASSIFICATION

The following criteria for classification shall be utilised and adhered to for the amendment of the AHTN:

- a) classifications should reflect a single, unique code for a defined commodity to avoid ambiguous criteria for classification;
- b) classifications should be provided where the significance in trade for a subheading for a Member State is high;
- c) classifications should not be further provided where the tariff rates for groups of ASEAN subheadings are equal in the respective Member States;
- d) classifications can be based on the criteria which have been utilized by a majority of Member States;
- e) classifications should take into account international conventions;
- f) classifications for exceptional cases (e.g. prohibitions, diplomatic exemptions) shall be avoided and be handled through customs procedures instead;
- g) classifications should avoid end use criterion;

- h) classifications for national statistical and other non-tariff purposes may be dealt with at the national level, at the 8-digit level and beyond;
- i) classifications based on seasonal tariff rates should be dealt with through domestic procedures of the affected Member State(s);
- j) classifications, other than the above, for tariff purposes, and which is country-specific should be dealt with in accordance with the procedures in Articles 5 and 6 of the Protocol. In this case, efforts should be made to establish common regional criteria for affected subheadings to avoid a proliferation of tariff lines;
- k) classifications can be created for the purposes of tariff reduction and these may be reflected as an extraction of the AHTN subheading as a transitional measure.

ARTICLE 2 OTHER PROVISIONS

1. New members of ASEAN shall accede to this Understanding.
2. Any disputes relating to the implementation of this Understanding shall be settled amicably between the Member States.
3. By agreement of all Member States, this Understanding may be amended.
4. Member States shall make no reservations with respect to any of the Criteria set out in Article 1 of this Understanding.
5. The ASEAN Directors-General of Customs shall review, amend and monitor all aspects relating to the implementation of this Understanding.

IN WITNESS WHEREOF the undersigned, being duly authorised to sign the Understanding, have signed this Understanding on Criteria for Classification in the ASEAN Harmonised Tariff Nomenclature.

DONE at Langkawi, Malaysia on the 20th day of December 2003, in a single copy in the English Language.

For the Government of Brunei Darussalam: **PENGIRAN HAJI NASERUDIN BIN PENGIRAN HAJI TEJUDIN**, Acting Controller of Customs and Excise

For the Government of the Kingdom of Cambodia: **PEN SIMAN**, Delegate of the Royal Government In-Charge of the Customs and Excise Department

For the Government of the Republic of Indonesia: **EDDY ABDURRACHMAN**, Director-General of Customs and Excise

For the Government of the Lao People's Democratic Republic: **NOUHACK NALUKHOT**, Director-General of Customs

For the Government of Malaysia: **TAN SRI ABDUL HALIL BIN ABD MUTALIB**, Director-General of Customs

For the Government of the Union of Myanmar: **COLONEL KHIN MAUNG LINN**, Director-General Customs

For the Government of the Republic of the Philippines: **EDGARDO B. ABON** Chairman Tariff Commission

For the Government of the Republic of Singapore: **NG HOW YUE**, Director-General of Customs

For the Government of the Kingdom of Thailand: **CHAVALIT SETHAMETEEKUL**, Director-General of Customs

For the Government of the Socialist Republic of Viet Nam. **TURONG CHI TRUNG**, Vice-Minister of Finance, Director General of Customs