



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
COMMITTEE

NC0717E1

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31st Session

O. Eng.

Brussels, 28 April 2003.

NON-APPLICATION OF HSC DECISIONS

(Item II.9 on Agenda)

I. NOTE FROM THE CANADIAN ADMINISTRATION

1. The Secretariat has received the following note, dated 17 February 2003, from the Canadian Administration :

“With regard to the Recommendation of the Customs Co-operation Council on the application of Harmonized System Committee decisions (30 June 2001), Canada is not in a position to apply a Harmonized System Committee (HSC) decision deemed to have been approved by the Council in accordance with Article 8.2 of the International Convention on the Harmonized System.

The decision which Canada is not in a position to apply is that of the classification, in subheading 2106.90, of a vitamin C preparation put up for retail sale. That decision was taken at the HSC’s 28th Session in November 2001, and deemed approved by the Council.

Canada’s position with regard to that classification is based on a decision by the Canadian Federal Court of Appeal, which led to the classification of several vitamin products in heading 30.04. The Federal Court worked on the assumption that if vitamins and minerals were taken to prevent or reverse a deficiency that may lead to a disease or an ailment, it must follow that the purpose of ingesting vitamins and minerals was to prevent that disease or ailment. In keeping with the Federal Court of Appeal’s reasoning, Canada must classify the product examined at the HSC’s 28th Session in heading 30.04.

Pending an amendment to the HS Nomenclature to explicitly take account of such a category of products, it appears extremely unlikely that the Canadian Administration will be able to apply the HSC decision.”

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

File No. 2930

II. SECRETARIAT COMMENTS

2. The Secretariat has not received a notification from **Canada** that it has accepted the above-mentioned Recommendation. Therefore, **Canada** is invited to clarify its status with regard to this Recommendation. In any case, the above-mentioned note from **Canada** fully reflects the spirit of the Recommendation and the Secretariat appreciates the action taken by the **Canadian** Administration in this instance.

III. CONCLUSION

3. The Committee is invited to take note of the information provided by the **Canadian** Administration as mentioned above.
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