

**COMMISSION REGULATION (EC) No 1049/2006**  
**of 10 July 2006**  
**concerning the classification of certain goods in the Combined Nomenclature**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>(1)</sup>, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex should be classified under the CN code indicated in column 2, by virtue of the reasons set out in column 3.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup>.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column 2 of that table.

*Article 2*

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

*Article 3*

This Regulation shall enter into force on the twentieth day following 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, 10 July 2006.

*For the Commission*

László KOVÁCS

*Member of the Commission*

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 949/2006 (OJ L 174, 28.6.2006, p. 3).

<sup>(2)</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

## ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
<p>1. Product made up of two hollow hemispherical wafers joined together, filled with a milky cream that does not contain cocoa, and embedding an almond. The product has a white coating on the outside which consists of a preparation based on sugar, vegetable fat, skimmed milk and coconut milk, and is covered with grated coconut.</p> <p>The product has the shape of a ball with a diameter of approximately 2,5 cm. The baked wafer, which is not visible from the outside, is approximately 2 mm thick.</p>	1704 90 99	<p>Classification is determined by General Rule 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 1704, 1704 90 and 1704 90 99.</p> <p>Although the product is manufactured using a baked wafer in the shape of a ball, the product has the character of a sugar confectionery of heading 1704, and the stability of the product does not depend entirely on the wafer.</p> <p>Wafers can only be classified in heading 1905 if they have the character of baker's wares. Heading 1905 does not contain an upper limit for the filling content of pastries. However, the wafer does not give the product its essential character as it only serves to shape and separate the filling from the coating. Consequently, the product cannot be classified in heading 1905.</p>
<p>2. Product made up of two hollow hemispherical wafers joined together, filled with a creamy nougat and nut centre containing cocoa, and a hazelnut. It is completely coated on the outside with chocolate and chopped hazelnuts.</p> <p>The product has the shape of a ball with a diameter of approximately 3 cm. The baked wafer, which is not visible from outside, is approximately 2 mm thick.</p>	1806 90 19	<p>Classification is determined by General Rule 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, Note 1(a) to Chapter 17, Note 2 to Chapter 18 and the wording of CN codes 1806, 1806 90 and 1806 90 19.</p> <p>Although the product is manufactured using a baked wafer in the shape of a ball, the product has the character of a filled chocolate of heading 1806 (Explanatory Notes to the Combined Nomenclature to subheadings 1806 90 11 and 1806 90 19). The stability of the product does not depend entirely on the wafer.</p> <p>Wafers can only be classified in heading 1905 if they have the character of baker's wares. Heading 1905 does not contain an upper limit for the filling content of pastries. However, the wafer does not give the product its essential character as it only serves to shape and separate the filling from the coating. Consequently, the product cannot be classified in heading 1905.</p>