

COMMISSION REGULATION (EC) No 1380/2002
of 29 July 2002
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 ⁽¹⁾, as last amended by Commission Regulation (EC) No 969/2002 ⁽²⁾, and in particular Article 9 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 also apply 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 the said general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.
- (4) It is appropriate that binding tariff information issued by the customs authorities of Member States in respect of

the classification of goods in the Combined Nomenclature and which is not in accordance with the provisions of this Regulation, can continue to be invoked by the holder, under the provisions of Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽⁴⁾, for a period of three months.

- (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 are classified within the Combined Nomenclature under the CN codes 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 the provisions of this Regulation can continue to be invoked under the provisions of Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months.

Article 3

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

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

Done at Brussels, 29 July 2002.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.
⁽²⁾ OJ L 149, 7.6.2002, p. 20.

⁽³⁾ OJ L 302, 19.10.1992, p. 1.
⁽⁴⁾ OJ L 311, 12.12.2000, p. 17.

ANNEX

Description of the goods	Classification CN code	Reasons
(1)	(2)	(3)
1. Liquid product consisting of lemon juice, added citric acid (7,6 % by total weight) and preservatives, put up for retail sale in a plastic bottle (e.g., 100 ml) with a nozzle. That nozzle holds lemon essential oils. The product is used to impart a tart taste to foods or beverages.	2106 90 92	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 2106, 2106 90 and 2106 90 92.</p> <p>The product cannot be classified under heading 2009 since, due to the addition of citric acid, it has lost its original character of a fruit juice (see the Harmonised System Explanatory Note to heading 2009, Item (4)). Taking into account its composition, it cannot be considered as a mixed condiment or a mixed seasoning of heading 2103 (see the Harmonised System Explanatory Note to heading 2103)</p>
2. Oily spreadable paste with the following composition (percentage by weight): <ul style="list-style-type: none"> — water 23,3 — tomato puree 17,7 — cheese 15,4 — salami 11,3 — tomato powder 9,6 — butter 6,0 — yogurt 3,6 — garlic preparation 2,8 — sweet whey powder 2,4 — cooking salt 2,3 — capers 1,3 — olive oil 1,2 <p>and small quantities of emulsifying salts, sugar, pepper, oregano, parsley, flavouring, lecithin and potassium sorbate.</p> <p>The preparation is an intermediate product used in the food industry.</p>	2106 90 98	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 2106, 2106 90 and 2106 90 98.</p> <p>The product cannot be regarded as a sauce or mixed condiment of heading 2103 because it is an intermediate product which is not added to a food as it cooks or as it is served. Nor is it, within the meaning of heading 2103, considered to be a preparation used to flavour certain dishes (see the Harmonised System Explanatory Note to heading 2103, Part (A)).</p>
3. Saturated solution of essential oils in ethyl alcohol (60 % by volume) containing approximately 3 grams of orange essential oils per litre, used as a raw material in the food industry (e.g., bakers' wares, chocolate).	3302 10 90	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 to Chapter 33 and by the wording of CN codes 3302, 3302 10 and 3302 10 90.</p> <p>Given the high content of essential oils, the product cannot be consumed as a beverage. Nor is it intended for the manufacture of beverages, for example, simply by dilution with water (see also the Harmonised System Explanatory Note to heading 3302)</p>