

COMMISSION REGULATION (EC) No 1021/2003
of 13 June 2003
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 23176/2002⁽²⁾, and in particular Article 9(1) 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 code 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 this Regulation, can 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⁽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 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 under 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 20th day following that of 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, 13 June 2003.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.
⁽²⁾ OJ L 331, 7.12.2002, p. 3.

⁽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)
<p>Product in the form of discs (approximately 4,5 cm in diameter and approximately 1 cm thick), made of puffed rice, one surface being covered with a thin layer of a dark brown coloured icing, not more than 0,5 mm thick and containing less than 0,4 % of cocoa. The product also contains sugar, vegetable fat, skimmed and half skimmed milk powder, whey powder, carob powder, soya-bean lecithin, colouring agent and flavouring agent. It is put up for retail sale.</p> <p>(See photograph) (*)</p>	1904 10 30	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 18, Note 3 to Chapter 19 and by the wording of CN codes 1904, 1904 10 and 1904 10 30.</p> <p>The product contains, by application of Note 3 to Chapter 19, less than 6 % by weight of cocoa calculated on a totally defatted basis (see the Harmonised System explanatory note to Chapter 19).</p> <p>It cannot be considered to be, within the meaning of Note 3 to Chapter 19, a preparation coated with chocolate of heading 1806 (see also the Harmonised System explanatory note to Chapter 18, exclusion (d)).</p> <p>Since the product is obtained by the swelling or roasting of cereals it, not being covered by any other heading in the Nomenclature, meets the terms of heading 1904 (see the Harmonised System explanatory note to heading 1904, Part (A)).</p>

(*) The photograph is purely for information.

