

COMMISSION REGULATION (EC) No 1694/2001
of 24 August 2001
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 1230/2001 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to the said Regulation, 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 set 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 annexed to the present Regulation must 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 does not conform to the provisions of this Regulation, can continue to be invoked, under the provisions in Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾, as last amended by European Parliament and Council Regulation (EC) No 2700/2000 ⁽⁴⁾, for a period of three months by the holder.

- (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 annexed table are classified within the Combined Nomenclature under the CN codes indicated in column 2 of the said table.

Article 2

Binding tariff information issued by the customs authorities of Member States which does not conform to 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 20th day following 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, 24 August 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.
⁽²⁾ OJ L 168, 23.6.2001, p. 6.

⁽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>1. Preparation consisting of pulped tomatoes and tomatoe juice, containing seeds, skins and fibrous material of tomatoes</p> <p>The preparation, which has a dry matter content of 7 % by weight, is obtained by the crushing and extruding of tomatoes followed by heat sterilisation. It is put up in hermetically sealed tins with a net content of 2 500 g</p>	2002 90 11	<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 2002, 2002 90 and 2002 90 11</p> <p>Since the tomatoes of this preparation are neither whole nor in pieces, CN code 2002 10 is not applicable</p>
<p>2. Preparation used as a base for the manufacture of non-alcoholic beverages and consisting of the following substances (percentage by weight):</p> <p>— anhydrous phosphoric acid: 40</p> <p>— sulphite ammonia caramel (E 150d): 30</p> <p>— caffeine: 10</p> <p>and water</p>	3824 90 95	<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 3824, 3824 90 and 3824 90 95</p> <p>The caramel present in the preparation is a colouring caramel with a very low residual sugar content and is not edible as such. Taking into account the very low residual sugar content, it has no nutritive value within the meaning of Note 1(b) to Chapter 38 nor is it, for the purposes of Note 1(b) to Chapter 38, considered to be a foodstuff (see the Harmonised System Explanatory Note to Chapter 38, General)</p> <p>Since this preparation contains neither ingredients with nutritive value nor foodstuffs, it cannot be regarded as a food preparation of heading No 2106 (see Note 1(b) to Chapter 38 and the Harmonised System Explanatory Note to heading No 2106, part (B))</p> <p>It cannot be considered to be, within the meaning of Note 3 to Chapter 32, a preparation base on colouring matter of heading 3203</p>