Commission Implementing Regulation (EU) 2020/404 of 12 March 2020 amending Regulation (EC) No 594/2009 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) 2020/404

of 12 March 2020

amending Regulation (EC) No 594/2009 concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[(1)], and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

(1) By Commission Regulation (EC) No 594/2009[(2)], a product described in the row corresponding to item 1 in the table in the Annex to that Regulation as consisting of vinylidene fluoride and hexafluoro propylene copolymer in primary form has been classified under CN code 3904 69 90.

(2) By Commission Regulation (EU) No 861/2010[(3)] CN code '3904 69 90 Other' was replaced by CN codes '3904 69 20 Fluoroelastomer FKM' and '3904 69 80 Other' to introduce a specific CN code for fluoroelastomers FKM.

(3) By Commission Implementing Regulation (EU) No 441/2013[(4)] CN code 3904 69 90 was replaced by CN code 3904 69 80 in the Annex to Regulation (EC) No 594/2009. Thus, classification of the product described in the row corresponding to item 1 in the table in the Annex to Regulation (EC) No 594/2009 under 'other' was maintained contrary to the general rule that the heading which provides for the most specific description is to be preferred to headings providing a more general description.

(4) Products such as the one described in the row corresponding to item 1 in the table set out in the Annex to Regulation (EC) No 594/2009 are to be classified in the specific CN code 3904 69 20'Fluoroelastomers FKM' but not in the residual subheading 'other'.

(5) As a consequence, the row for point 1 in the table set out in the Annex to Regulation (EC) No 594/2009 should be deleted.

(6) It is appropriate to provide that binding tariff information issued on the basis of Regulation (EU) No 594/2009 in respect of the goods concerned by this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/404. (See end of Document for details)*

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 594/2009 is amended as follows:

(1) in Article 2, the following paragraph is added:

> Binding tariff information issued in accordance with this Regulation as amended by Implementing Regulation (EU) No 441/2013 in respect of the goods described in column (1) of point 1 of the table set out in the Annex to this Regulation in its version adopted on 8 July 2009 may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from 6 April 2020.;

(2) the row for point 1 in the table set out in the Annex is deleted.

Article 2

This Regulation shall enter into force on the twentieth 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, 12 March 2020.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union