Commission Implementing Regulation (EU) 2019/1391 of 6 September 2019 amending Regulation (EC) No 1218/1999 concerning the classification of certain goods in the Combined Nomenclature and repealing Implementing Regulation (EU) No 670/2013

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1391

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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 1218/1999[(2)], a garden canopy measuring 3 m × 3 m, consisting of a covering made of thick 100 % cotton woven fabric, presented with metal uprights which make up its framework and tensioning devices by means of which it can be fixed to the ground, was classified under CN code 6306 91 00 as 'other camping goods', because it was open on all four sides. The CN code for that category of products changed owing to changes to the codes in the Harmonised System and the Combined Nomenclature, and Regulation (EC) No 1218/1999 was amended by Implementing Regulation (EU) No 441/2013[(3)] to indicate the new CN code 6306 90 00. By Implementing Regulation (EU) No 670/2013[(4)], the Commission classified an article which has the essential character of an outdoor canopy but is presented without frame, poles or accessories under CN code 6306 90 00 as 'other camping goods', because it has no sides or walls, which permit the formation of an enclosure.

(2) During its 62nd session in September 2018, the Harmonized System Committee (HSC) of the World Customs Organisation (WCO) approved classification opinion 6306.22/1 classifying a product called temporary gazebo, measuring approximately 3 m × 3 m × 2,50 m and consisting of a steel tube frame with connecting pieces and plastic feet, and a roof covering with cladding for the four corner posts. The gazebo is open on all four sides and is not anchored firmly to the ground. It was classified in HS subheading 6306 22, which corresponds to CN code 6306 22 00.

(3) Given the identical or very similar characteristics of the product with the articles described in Regulation (EC) No 1218/1999 and Implementing Regulation (EU) No 670/2013, the tariff classification of the articles as set out in the Annex to those Regulations is not in accordance with WCO HSC classification opinion 6306.22/1.

(4) The Union is, by virtue of Council Decision 87/369/EEC[(5)], a contracting party of the International Convention on the Harmonized Commodity Description and Coding System (known as the 'Harmonized System' or 'HS'), drawn up by the Customs Cooperation Council (known as the WCO). Classification opinions issued by the HSC are in principle guidance instruments for Union tariff measures.

(5) With a view to securing uniformity in the interpretation and application of the Harmonized System at international level and considering that the decision of the HSC is in conformity with the wording of HS subheading 6306.22, the Union should apply WCO HSC classification opinion 6306.22/1.

(6) The legal basis and the adoption procedure for amending Regulation (EC) No 1218/1999 and for repealing Implementing Regulation (EU) No 670/2013 are the same. Therefore, it is appropriate to adopt a single act for those purposes.

(7) Regulation (EC) No 1218/1999 should therefore be amended accordingly.

(8) Implementing Regulation (EU) No 670/2013 should therefore be repealed.

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

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 1218/1999, the row corresponding to point 6 of the table is deleted.

Article 2

Implementing Regulation (EU) No 670/2013 is repealed.

Article 3

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, 6 September 2019.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union