Commission Implementing Regulation (EU) 2018/1209 of 27 August 2018 concerning the classification of certain goods in the Combined Nomenclature

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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) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87[(2)], 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 apply also 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 provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to 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.

(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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1209. (See end of Document for details)*

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

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, 27 August 2018.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1209. (See end of Document for details)*

ANNEX

Description of the goods	Classification(CN code)	Reasons
(1)	(2)	(3)
Footwear (so-called 'dancing shoe') covering the foot but not the calf, open at the vamp. The footwear is made of one piece of textile material sewn together at the sole and the heel counter and has a textile lining. The sole has two leather pieces sewn on, one at the ball of the foot and the other at the heel part. The front textile part of the sole is raffled to create the round shape for the toes. The textile part of the sole between the two leather pieces is raffled and elasticated by means of an elastic band sewn on the inside of the footwear. It serves to tighten the sole from toes to heel when dancing. The footwear has two pieces of cellular foam covered with textile material sewn on the inside above the leather pieces, which are slightly larger than the leather, yet smaller than the sole making contact with the ground when the footwear is in use. The opening of the footwear can be tightened by an elastic string. Two elastic bands are fixed in the quarter area in order to secure the footwear to the foot. When the footwear is in use (worn while standing on the ground) the part of the footwear that does not cover the sides and top of the foot and that makes contact with the ground consists of	6405 20 99	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 4 to Chapter 64 and by the wording of CN codes 6405, 6405 20 and 6405 20 99. The article is not excluded from Chapter 64 by virtue of Note 1 (b) to Chapter 64 because the article has parts of the outer sole sewn on. Moreover, the raffled front part creates a round shaped relatively hard sole for the toes. As the material of the upper also forms part of the sole, in order to identify the demarcation between the upper and the sole, the sole is considered to be the portion of the footwear that does not cover the sides and the top of the foot (see also the identification of the upper in the Harmonised System Explanatory Notes (HSEN) to Chapter 64, General, (D)). The constituent material of the outer sole is the textile material, because it has the greatest surface area in contact with the ground when the shoe is in use (worn while standing on the ground) within the meaning of Note 4 to Chapter 64 (see also the HSEN to Chapter 64, General, (C)). The article is therefore to be classified under CN code 6405 20 99 as other footwear with uppers and outer soles of textile materials.

a The images are purely for information.