Commission Implementing Regulation (EU) 2017/2243 of 30 November 2017 on repealing Implementing Regulation (EU) No 1212/2014 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2243

of 30 November 2017

on repealing Implementing Regulation (EU) No 1212/2014 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 Implementing Regulation (EU) No 1212/2014[(2)], the Commission classified a solid, cylindrical, threaded product made of titanium alloy and presented for use in the field of trauma surgery under CN code 8108 90 90.

(2) In its judgment in Case C-51/16[(3)], the Court of Justice ruled that heading 9021 of the Combined Nomenclature (CN) set out in Annex I to Council Regulation (EEC) No 2658/87[(4)], as amended by Commission Implementing Regulation (EU) No 1101/2014[(5)], must be interpreted as meaning that medical implant screws such as those at issue in the main proceedings fall under that heading as those goods have characteristics which distinguish them from ordinary goods, in particular taking into account the finish of their manufacture, their high degree of precision, the method of their manufacture and the specificity of their purpose. In particular, the fact that medical implant screws such as those at issue in the main proceedings can be inserted in the body only by means of specific medical tools, not by means of ordinary tools, is one of the characteristics to be taken into consideration in order to distinguish those medical implant screws from ordinary products.

(3) The product covered by Implementing Regulation (EU) No 1212/2014 corresponds to the ISO/TC 150 standards for implant screws, is presented for use in the field of trauma surgery for setting fractures, is presented in a sterilised package, is marked with a number and therefore traceable throughout production and distribution, and is to be installed in the body using specific tools.

(4) Classification of the product covered by Implementing Regulation (EU) No 1212/2014 under CN code 8108 90 90 is therefore not in line with the findings of the Court of Justice in Case C-51/16.

(5) Implementing Regulation (EU) No 1212/2014 should therefore be repealed.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/2243. (See end of Document for details)*

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

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 1212/2014 is repealed.

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, 30 November 2017.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union