Commission Implementing Regulation (EU) 2017/1170 of 26 June 2017 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1170

of 26 June 2017

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 3 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) 2017/1170. (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 3 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, 26 June 2017.

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) 2017/1170. (See end of Document for details)*

ANNEX

Description of the goods	**Classification (CN code)**	**Reasons**
(1)	**(2)**	**(3)**
A compact battery-operated fingertip apparatus (so called 'pulse oximeter') combining an electronic processor, a pair of light emitting diodes (LED), a photo diode and an LED display (offering various display modes) in one unit. It is also equipped with a low battery indicator, an alarm function in case of high or low pulse rate or blood oxygen, and a 'clip in' attachment to the finger. It is used as a non-invasive method of monitoring a person's oxygen saturation and for measuring a pulse by means of optical radiation. After attaching to a person's finger, the LED pass two different wavelengths of light through the finger to a photo diode. It measures the changing absorbance at each of the wavelengths and subsequently determines/ calculates the oxygen saturation and heart rate. It can be used in professional medical practice and in research, sport, business etc. (for example, oxygen chambers, extreme mountaineering in low oxygen atmosphere, deep-sea diving; by pilots, firefighters, astronauts etc.). See image[a].	9018 19 10	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9018, 9018 19 and 9018 19 10. The apparatus falls under the scope of heading 9018 which covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice to prevent or treat an illness or to operate, etc. The instruments and appliances classified here may be equipped with optical devices; they may also make use of electricity (see also the Harmonised System Explanatory Notes to heading 9018). While this kind of apparatus can be used by non-professionals, it is of a kind used for medical purposes as it provides information concerning 'vital body functions' that may need to be further analysed by professionals. Classification under heading 9027 as instruments and apparatus for physical or chemical analysis using optical radiation is consequently excluded. It is therefore to be classified under CN code 9018 19 10 as instruments and apparatus used in medical science, monitoring apparatus for simultaneous monitoring of two or more parameters.

a The image is purely for information.