Commission Implementing Regulation (EU) 2017/803 of 8 May 2017 amending Regulation (EEC) No 316/91 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) 2017/803

of 8 May 2017

amending Regulation (EEC) No 316/91 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 Articles 57(4) and 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 certain goods.

(2) Item 2 of the Annex to Commission Regulation (EEC) No 316/91[(3)] classified a white pasty substance known as 'creamed coconut' which is generally intended for use in the kitchen in the preparation of sauces and other foodstuff and manufactured by fine grinding of coconut pulp and pasteurized, under heading 2008 of the Combined Nomenclature as otherwise prepared nuts, not elsewhere specified or included. Classification of the product under heading 0801 of the Combined Nomenclature was excluded as pasteurisation was not permitted in Chapter 8.

(3) The Combined Nomenclature, established by Regulation (EEC) No 2658/87, is based on the international Harmonized Commodity System ('Harmonized System'), drawn up by the Customs Cooperation Council (now the World Customs Organisation), adopted by the International Convention concluded in Brussels on 14 June 1983, and approved on behalf of the Union by Council Decision 87/369/EEC[(4)].

(4) Note 3 a) to Chapter 8 was introduced in the Harmonized System in 1992. It permits a moderate heat treatment for additional preservation or stabilisation of dried nuts of that Chapter. According to the historical documents from the Harmonized System, the term 'pasteurisation' originally proposed in the text of that note was in the end replaced by the more general expression 'moderate heat treatment'. The Explanatory Notes to the Combined Nomenclature of the European Union[(5)] to Chapter 8 clarified at Union level that pasteurisation is, inter alia, admissible for dried fruits and nuts of that Chapter.

(5) As a consequence, it is appropriate to delete item 2 from the table set out in the Annex to Regulation (EEC) No 316/91, in order to avoid potential divergences in tariff classification of desiccated coconut products such as creamed coconut which received

a moderate heat treatment and to ensure the uniform application of the Combined Nomenclature within the Union.

(6) Regulation (EEC) No 316/91 should therefore be amended accordingly.

(7) 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 row corresponding to item 2 in the table set out in the Annex to Regulation (EEC) No 316/91 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, 8 May 2017.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union