Commission Implementing Regulation (EU) 2017/705 of 19 April 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

COMMISSION IMPLEMENTING REGULATION (EU) 2017/705

of 19 April 2017

amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[(1)], and in particular Article 9(1)(b) and (e) thereof,

Whereas:

(1) Regulation (EEC) No 2658/87 established a nomenclature of goods (hereinafter referred to as the 'Combined Nomenclature' or the 'CN'), which is set out in Annex I to that Regulation.

(2) The current text of CN code 1905 90 60 refers to added sweetening matter, which gives rise to doubt as to the coverage of that CN code and is not precise enough to allow classification on the basis of laboratory analysis. The wording 'with added' should be deleted, because it is impossible to ascertain whether the sugar content is natural, so that the product must be classified under CN code 1905 90 90, or if the sugar has been added, so that the product must be classified under CN code 1905 90 60. The wording 'sweetening matter' is too vague, as it covers all natural and artificial substances with a sweet taste without indicating any threshold for the content of sweetener in the product. This could lead to different minimum thresholds being applied or to a lack of objectivity in proving the presence of sweetening matter in a product.

(3) A statistical analysis as regards current CN codes 1905 90 60 and 1905 90 90 was undertaken to assess the amounts of customs duties collected at the import of products containing less than 5 %, by weight, of sucrose, invert sugar or isoglucose under each of those CN codes. The statistical analysis showed that in a significant number of imports, products classified in CN code 1905 90 60 should have been classified in CN code 1905 90 90 or vice versa, having regard to the criterion of 'sweetening matter'. Hence, the text of CN code 1905 90 60 needs to be amended in order to introduce a clear criterion for the distinction between the two product groups. The percentage, by weight, of sucrose, invert sugar or isoglucose provides a more objective criterion and is therefore more easily applied for the purposes of laboratory analysis.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/705. (See end of Document for details)*

(4) As the CN is also a statistical nomenclature, it is necessary to alter the seventh and eighth digit of the CN codes in question at the same time as the change of the coverage of those CN codes in order to allow proper statistical data handling after the change.

(5) Taking into account that, in accordance with Article 12 of Regulation (EEC) No 2658/87, Annex I to that Regulation is to be replaced with effect from 1 January 2018, those new CN codes should only apply from 1 January 2018.

(6) Regulation (EEC) No 2658/87 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

Chapter 19 of Part Two of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87 is amended as follows:

(a) the rows for CN codes 1905 90 60 and 1905 90 90 are deleted;

(b) the following rows are inserted:

‘1905 90 70	Containing 5 % or more, by weight, of sucrose, invert sugar or isoglucose	9 + EA MAX 24,2 + AD S/Z[a]	—
1905 90 80	Other	9 + EA MAX 20,7 + AD F/M[a]	—

a See Annex 1.’

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*.

It shall apply from 1 January 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 April 2017.

For the Commission

The President

Jean-Claude JUNCKER