Commission Implementing Regulation (EU) 2017/635 of 30 March 2017 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) 2017/635. (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, 30 March 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) 2017/635. (See end of Document for details)*

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
An article in the form of an empty cylindrical cartridge made of clear plastic approximately 44 mm long and sealed with a removable plastic stopper at the lower end as a protective cap. The upper part of the cartridge is shaped like a mouthpiece and has a small hole through which vapour can be inhaled. The user fills the empty cartridge with a special liquid called ‘e-liquid’ and the cartridge is then inserted into the e-cigarette. The same cartridge can be refilled and reused for smoking between 10 and 20 times before being disposed of as waste. The mouthpiece plays the role of the filter on conventional tobacco cigarettes. When the cartridge is inserted in the e-cigarette, the user places the mouthpiece end in the mouth and inhales. This causes the atomiser in the e-cigarette to convert the liquid into a gentle stream of mist which is then released through the mouthpiece into the user's mouth. See images[a]	8543 90 00	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 2(s) to Chapter 39, note 2(b) to Section XVI, and by the wording of CN codes 8543, and 8543 90 00. The user would not put an e-cigarette into the mouth without the presence of the mouthpiece and the stream of mist would not be released without activating the atomiser via the mouthpiece. Therefore, the cartridge with the specially shaped upper part is an essential part to the operation of the e-cigarette and not a simple container made of plastics. Classification under heading 3926 as an article of plastics is therefore excluded. According to the Harmonized System Classification Opinion 8543 70/5, a complete e-cigarette is to be classified as another electrical machine or apparatus under subheading 8543 70. Consequently, the cartridge is to be classified under CN code 8543 90 00 as parts of electrical machines and apparatus, having individual functions, not specified or included elsewhere in that chapter.

a The images are purely for information.