Commission Implementing Regulation (EU) 2016/2222 of 5 December 2016 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) 2016/2222

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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)(e) thereof,

Whereas:

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

(2) Subheading 9505 10 of the Combined nomenclature covers articles for Christmas festivities.

(3) Some guidance on the interpretation of the term 'articles for Christmas festivities' is given in the Harmonised System Explanatory Notes ('HSEN') to heading 9505, points (A)(1) and (2). However, divergent views still exist on the scope of articles falling under subheading 9505 10.

(4) In the interest of legal certainty, the scope of subheading 9505 10 should therefore be clarified by distinguishing the traditional articles used for Christmas festivities referred to in the HSEN to heading 9505, points (A)(1) and (2), from fashionable articles that are used more generally as decorations during the winter season.

(5) It is therefore necessary to insert an Additional note in Chapter 95 of the Combined Nomenclature to ensure a uniform interpretation of subheading 9505 10 throughout the Union.

(6) Annex I to 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

In Chapter 95 of Part Two of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, the following Additional note 1 is inserted:

1. Subheading 9505 10 covers:

(a) articles that are broadly recognised as traditionally used at Christmas festivities and exclusively manufactured and designed as articles for Christmas festivities.

These are:

(1) articles associated with the nativity (i.e. articles for the traditional Christmas crib), such as nativity figures, nativity animals, Bethlehem stars, the three nativity kings, and nativity scenes;

(2) articles recognised as being used at Christmas festivities due to long standing national traditions, such as:
- artificial Christmas trees,
- Christmas stockings,
- imitation yule logs,
- Christmas crackers,
- Father Christmases with or without a sledge,
- Christmas angels.

The subheading does not cover articles of the winter season which are suitable for a more general use as decorations during that season, because their objective characteristics suggest that they are not exclusively used for Christmas festivities but mainly as decorations during the winter season, such as icicles, snow-crystals, stars, reindeers, robins, snowmen, and other images of the winter season, whether or not the colours or outfits etc. suggest a connection with Christmas.

(b) decorative articles for Christmas trees.

These are articles designed to be hung on a Christmas tree (i.e. lightweight articles of generally non-durable material designed to decorate a Christmas tree). The articles must have a connection with Christmas.

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, 5 December 2016.

For the Commission

Stephen QUEST

Director-General

Directorate-General for Taxation and Customs Union