Commission Implementing Regulation (EU) 2016/1645 of 7 September 2016 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) 2016/1645. (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, 7 September 2016.

For the Commission,

On behalf of the President,

Stephen QUEST

Director-General for Taxation and Customs Union

ANNEX

Description of goods	**Classification (CN Code)**	**Reasons**
(1)	**(2)**	**(3)**
A product in the form of irregular, flat, brown, hard fragments (about 2 mm thick) or flakes, manufactured of (% by weight): — pine resin (also called tall oil rosin or rosin) approx. 58-69, — maleic acid anhydride approx. 1-4, — various phenols approx. 11-24, — formaldehyde approx. 5,5-9, — pentaerythritol approx. 7-12. The product results from a multi-step process starting with rosin and maleic anhydride being transformed into a rosin adduct. After the addition of magnesium oxide (as a catalyst for the subsequent reactions), phenols and formaldehyde a polymerised resin is formed. Finally, free acid groups of the resin are esterified after the addition of pentaerythritol. The product at issue is used in the printing industry as an adhesive.	3909 40 00	Classification is determined by general rules 1, 3(a) and 6 for the interpretation of the Combined Nomenclature (CN) and the wording of CN codes 3909 and 3909 40 00. Classification under heading 3506 as adhesives based on polymers of headings 3901 to 3913 is excluded by application of general rule 3(a) as the product is described more specifically in heading 3909. In the manufacture of a rosin derivative, the rosin adduct is esterified with ethylene glycol, glycerol or another polyhydric alcohol (see also the Harmonized System Explanatory Notes to heading 3806 (D)(I)(7)). However, in the case of the product in question, before esterification with a polyhydric alcohol (pentaerythritol, in this case), a polymerisation reaction with phenol and formaldehyde takes place. Classification under heading 3806 as a derivative of rosin is therefore excluded. The molecules of the polymerised intermediary product have a molecular weight of around 5 000-30 000 g/mol. Subsequently, the free acid groups are esterified through the addition of pentaerythritol and a cross-linking follows with an increase of molecular mass to about 100 000 g/mol. Consequently, the obtained product is a polymer of Chapter 39, which differs from the adducts and derivatives of the rosin of