Commission Implementing Regulation (EU) 2015/183 of 2 February 2015 amending Regulation (EC) No 635/2005 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) 2015/183

of 2 February 2015

amending Regulation (EC) No 635/2005 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 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)(a) thereof,

Whereas:

(1) Pursuant to Commission Regulation (EC) No 635/2005[(2)], a product comprised of dried, pre-cooked wheat flour noodles and spices, put up for retail sale in a bowl, being ready for consumption after adding boiling water to it, was classified under heading 1902 of the Combined Nomenclature. Classification of the product under heading 2104 of the Combined Nomenclature was excluded on the grounds that the addition of water into the bowl is not sufficient to prepare a soup or broth but gives the product the characteristics of a noodle dish.

(2) Pursuant to Commission Implementing Regulation (EU) No 767/2014[(3)], a sufficiently similar product consisting of a block of dried pre-cooked noodles, a sachet of seasoning, a sachet of edible oil and a sachet of dried vegetables, put up for retail sale as a set, being ready for consumption after adding boiling water to it, was classified under heading 1902 of the Combined Nomenclature. Classification of the product under heading 2104 of the Combined Nomenclature was excluded on the grounds that the product is a set for retail sale within the meaning of General Rule 3(b) for the interpretation of the Combined Nomenclature and the essential character of the set is given by the noodles considering that they constitute the largest proportion of it.

(3) Although the classification of both products is identical, the reasons for excluding classification of each of those products under heading 2104 of the Combined Nomenclature are different. The reasons regarding the first product make the classification dependent on the quantity of water added to it, whereas the reasoning for the second product depends on the quantity of the noodles it contains. However, making the added quantity of water a criterion for the classification of such products may lead to divergences in their classification that would be unjustified given the same objective characteristics and properties of both products. The sole applicable criterion should therefore be the quantity of noodles contained in the product.

(4) Since item 1 in the table set out in the Annex to Regulation (EC) No 635/2005 has become redundant owing to changes to the description of product described therein and the reasons given for its classification, it should be deleted.

(5) As a consequence, it is appropriate to amend Regulation (EC) No 635/2005 in order to avoid potential divergences in tariff classification and to ensure the uniform application of the Combined Nomenclature within the Union.

(6) Regulation (EC) No 635/2005 should therefore be amended.

(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 1 in the table set out in the Annex to Regulation (EC) No 635/2005 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, 2 February 2015.

For the Commission,

On behalf of the President,

Heinz ZOUREK

Director-General for Taxation and Customs Union