Commission Implementing Regulation (EU) No 1038/2014 of 25 September 2014 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) No 1038/2014

of 25 September 2014

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) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, 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 codes 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 12(6) of Council Regulation (EEC) No 2913/92[(2)]. 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 codes indicated in column (2) of that table.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1038/2014. (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 12(6) of Regulation (EEC) No 2913/92 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, 25 September 2014.

For the Commission,

On behalf of the President,

Heinz ZOUREK

Director-General for Taxation and Customs Union

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1038/2014. (See end of Document for details)*

ANNEX

Description of the goods	**Classification(CN code)**	**Reasons**
(1)	**(2)**	**(3)**
1. A plastic tube with a length of 142 cm with a plastic balloon at one end (so-called 'balloon catheter'). The proximal segment of the catheter has a diameter of 0,63 mm and is made of hypotube material and coated with polytetrafluorethylene (PTFE). The distal segment of the catheter has a diameter in a range from 0,79 to 1,02 mm and is made of polyether bloc amide (PEBA) material and coated with hydrophilic material. The balloon has a length of 6 to 27 mm and a diameter of 2 to 5 mm. The tube has a Luer connection, an atraumatic (flexible) tip and 2 golden marker bands. The Luer connection makes it possible to connect the tube to an inflating device which is used to inflate the balloon. The atraumatic tip is used to move the catheter via a vein up through the body into the coronary artery. When the catheter is on the right place in the coronary artery, the balloon is inflated so that the fatty deposits (atherosclerotic plaque) are pressed against the wall of the vein. By compressing the plaque, the inside diameter of the vein increases. The marker bands make it possible to locate the exact position of the atraumatic tip in the body.	9018 39 00	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 9018 and 9018 39 00. Due to its objective characteristics, namely the combination of the balloon, the atraumatic tip, the golden marker bands and the Luer connection, the tube can, upon presentation, be identified as an instrument or appliance of Chapter 90, used in medical sciences. Classification under heading 9021 is excluded as the tube is not implanted in the body to compensate for a defect or disability but it is removed after treatment. The product is therefore to be classified under CN code 9018 39 00 as catheters (see also the Harmonized System Explanatory Notes (HSEN) to heading 9018, Group (I)).

a The images are purely for information.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1038/2014. (See end of Document for details)*

The balloon catheter is removed from the body and discarded after treatment. The article is presented in packaging and is sterilised. [a] See image 1		
2. A plastic curved tube (so-called 'guide catheter') with an inner diameter ranging from 1,47 mm to 2,29 mm and a length of 100 cm with a radiopaque marker and an atraumatic (flexible) tip. The article comprises a double interlock knit flat section of stainless steel, encapsulated in plastic material (PEBA, polyphthalamide (PPA), Nylon) and it has a lubricant coating applied to the silicon inner surface of the guide catheter. The guide catheter enables access to the coronary artery through a vein. Other appliances can be directed by this guide catheter to the artery. The radiopaque marker makes it possible to locate the exact position of the atraumatic tip in the body. The guide catheter is removed from the body and discarded after treatment. The article is presented in packaging and is sterilised. [a] See image 2	9018 39 00	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 9018 and 9018 39 00. Due to its objective characteristics, namely the combination of the curve, the radiopaque marker, the atraumatic tip and the lubricant coating, the tube can, upon presentation, be identified as an instrument or appliance of Chapter 90, used in medical sciences. Classification under heading 9021 is excluded as the tube is not implanted in the body to compensate for a defect or disability but it is removed after treatment. The product is therefore to be classified under CN code 9018 39 00 as catheters (see also the HSEN to heading 9018, Group (I)).
3. A flexible metal wire (so-called 'guide wire') with a diameter of 0,35 mm, a length ranging from 180-300 cm, two radiopaque markers and a rounded tip. The wire is made of a metal alloy for biomedical use, with a proximal coating of	9018 39 00	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 9018 and 9018 39 00. Due to its objective characteristics, namely the combination of the design and the radiopaque

a The images are purely for information.

PTFE and a distal coating of silicone or hydrophilic material. The radiopaque markers make it possible to locate the exact position of the wire in the body. The wire is used for guiding and positioning devices for interventions in the coronary artery. The guide wire is removed from the body and discarded after treatment. The article is presented in packaging and is sterilised. [a] See image 3		markers, the wire can, upon presentation, be identified as an instrument or appliance of Chapter 90, used in medical sciences. Classification under heading 9021 is excluded as the wire is not implanted in the body to compensate for a defect or disability but it is removed after treatment. The product is therefore to be classified under CN code 9018 39 00 as wire guides (see also the HSEN to heading 9018 Group (I)).
4. A hand-operated inflation device made of high-strength polycarbonate, equipped with a manometer and a volume scale. It has a high pressure hose connection (Luer-type) and can inflate, with precise pressure adjustments, up to 20 atmospheres (atm). The device is to be used in a medical environment for the inflation and deflation of balloon catheters. The manometer is used for monitoring the pressure inside the balloon catheter when inflating or deflating and during surgery. The volume scale indicates the amount of liquid (maximum 20 ml) that is, by means of pressure, inserted into the catheter and also the amount of liquid that flows back freely as the balloon deflates. The Luer connection makes it possible to connect the inflation device to the balloon catheter.	9018 90 84	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9018, 9018 90 and 9018 90 84. As a small amount of liquid is inserted into the catheter by means of pressure, but then flows back freely, the device does not raise or otherwise continuously displace volumes of liquids (see the HSEN to heading 8413, first paragraph). Consequently, classification under heading 8413 as pumps for liquids is excluded. Due to its objective characteristics, namely the combination of the design, the precise pressure adjustments, the small amount of liquid used and the Luer-type connection, the article can, upon presentation, be identified as an instrument or appliance of Chapter 90, used in medical sciences (see also the HSEN to heading 9018, fifth paragraph). Classification under heading 9021 is excluded as the

a The images are purely for information.