Commission Implementing Regulation (EU) No 401/2012 of 7 May 2012 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) No 401/2012

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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 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 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 which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(2)].

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

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: Commission Implementing Regulation (EU) No 401/2012 is up to date with all changes known to be in force on or before 05 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

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 May 2012.

For the Commission, On behalf of the President,

Algirdas ŠEMETA

Member of the Commission

***Changes to legislation:** Commission Implementing Regulation (EU) No 401/2012 is up to date with all changes known to be in force on or before 05 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

Description of the goods	**Classification(CN code)**	**Reasons**
(1)	**(2)**	**(3)**
A conical shaped article (approximately 40 cm high), made by sewing 2 nonwoven triangle shaped panels of red textile material together, with an applied trim of [] white colour at the base, and a white bobble at the top. (headgear) (See photograph no. 658)[a]	6505 00 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 6505 and 6505 00 90. Apart from dolls' hats, other toy hats or carnival articles, hats and other headgear of all kinds, irrespective of the materials of which they are made and of their intended use, are classified in Chapter 65 (see also the Harmonized System Explanatory Notes to Chapter 65, General, first paragraph). Headgear made up from lace, felt or other textile fabric in the piece is classified within heading 6505 (see also the Harmonized System Explanatory Notes to heading 65.05, first paragraph). By virtue of Note 1(o) to Section XI (Textiles and Textile Articles), headgear of Chapter 65 is excluded from that Section. Textile articles that have a utilitarian function are excluded from Chapter 95, even when they have a festive design (see also the Harmonized System Explanatory Notes to heading 95.05, point (A), last paragraph). Classification under subheading 9505 10 90 as other articles for Christmas festivities is therefore excluded. The article clearly has the characteristics of headgear and is designed to be worn as such.

a The photograph is purely for information.