# Commission Implementing Regulation (EU) No 400/2012 of 7 May 2012 concerning the classification of certain goods in the Combined Nomenclature

## COMMISSION IMPLEMENTING REGULATION (EU) No 400/2012

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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 issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and 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 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) No 400/2012. (See end of Document for details)*

*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:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 400/2012. (See end of Document for details)*

ANNEX

| **Description of the goods** | **Classification(CN code)** | **Reasons** |
|---|---|---|
| **(1)** | **(2)** | **(3)** |
| An article having the shape of an almost square, stylised elephant, measuring approximately 32 × 48 × 24 cm, consisting of two halves that are made of moulded, rigid plastic. It has four wheels and a removable shoulder strap that can also be used to pull the article along.<br>The two halves are held together by an integral hinged seam across the bottom and by two security snap closures at its opposite ends, which stop the article from opening immediately all the way. The hinges allow the two halves of the article to lie flat on the ground when opened.<br>One half of the article is fitted with two textile straps forming an X when linked by a clip. It also has a small flat textile pocket attached on the inside. The other half of the article is fitted with a separation flap of textile material holding one flat pocket with a zip closure. The separation flap is fixed to the side of the article, where the hinges are, and can be attached to the opposite side of that half.<br>(suitcase)<br>(See photographs nos. 660 A and B)[a] | 4202 12 50 | Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1(d) to Chapter 95, and the wording of CN codes 4202, 4202 12 and 4202 12 50.<br>The article has the objective characteristics of suitcases of heading 4202, for example the moulded rigid plastic material, the hinges, the closure system, the straps, separation flap and pockets, the wheels and the fact that it is shaped and can be used as a container that opens like a typical hinged suitcase. These characteristics indicate that the article is to be considered as a suitcase and not a wheeled toy. Therefore, classification as a wheeled toy similar to pedal cars of heading 9503 is excluded.<br>The article is therefore to be classified under CN code 4202 12 50, as a suitcase of moulded plastic material. |

**a** The photographs are purely for information.