

COMMISSION IMPLEMENTING REGULATION (EU) No 42/2013**of 17 January 2013****amending Regulation (EC) No 1510/96 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) In accordance with Commission Regulation (EC) No 1510/96 of 26 July 1996 concerning the classification of certain goods in the Combined Nomenclature⁽²⁾ plastic shells containing plastic spinning tops and chewing gum have been classified under CN code 9503 90 32 as regards the spinning top and under CN code 1704 10 99 as regards the chewing gum. As a

consequence of the introduction of Note 4 to Chapter 95 of the Combined Nomenclature with effect from 1 January 2007, those items should be classified together as combinations having the essential character of a toy under CN code 9503 00 95.

- (3) Regulation (EC) No 1510/96 should therefore be amended accordingly.
- (4) 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 first item of the table set out in the Annex to Regulation (EC) No 1510/96 is replaced by the text set out in the Annex to this Regulation.

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, 17 January 2013.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 189, 30.7.1996, p. 89.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A plastic capsule, in two pieces, containing:</p> <ul style="list-style-type: none">— a plastic spinning top with a diameter of 2,5 cm,— chewing gum in the form of a sugar-coated ball with a sucrose content by weight of 69,5 % (including invert sugar expressed as sucrose).	9503 00 95	<p>Classification is determined by General Rules 1, 5(b) and 6 for the interpretation of the Combined Nomenclature, Note 4 to Chapter 95 and by the wording of CN codes 9503 00 and 9503 00 95.</p> <p>The spinning top and the chewing gum cannot be considered as 'goods put up in sets for retail sale' under the terms of General Rule 3(b), because they are not put up together to meet a particular need or carry out a specific activity. They are not related to one another and are not intended to be used together or in conjunction with one another (the chewing gum is a consumable product, while the spinning top is to be played with).</p> <p>The spinning top is an article of heading 9503 combined with chewing gum of heading 1704, and the combination has the essential character of a toy (see also the CN Explanatory Notes to Note 4 to Chapter 95).</p> <p>As the plastic capsule is a packing material of a kind normally used for packing such goods, it should therefore be classified under the same code as the goods.</p> <p>It is therefore to be classified under CN code 9503 00 95 as other plastic toys.</p>