COMMISSION IMPLEMENTING REGULATION (EU) No 827/2011

of 12 August 2011

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 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.

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, 12 August 2011.

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 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Blue polymethine dye (fluorescent dye) diluted in a mixture of the solvents ethylene glycol and methanol. Composition (% by weight): — Ethylene glycol 96,9 — Methanol 3,0 — Polymethine dye 0,002 The product is meant to be used in automatic blood analysers. It is used for staining leukocytes by means of fluorescent marking after they have undergone a specific preparatory treatment. The product is put up in a small, labelled container for use in laboratories.	3212 90 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 to Section VI and the wording of CN codes 3212 and 3212 90 00. Colouring matter of heading 3204 put up for retail sale is classified under heading 3212. Such products are not covered by heading 3822 and therefore the product in question cannot be classified under that heading as a diagnostic or laboratory reagent. See also the products excluded from heading 3822 under point (c) of the Harmonized System Explanatory Notes (HSEN) to that heading. According to its characteristics, the product is a dye within the meaning of heading 3212, and is used for the purposes of staining. Due to the fact that the product is classifiable under heading 3212 and is put up in measured doses or for retail sale, it fulfils the provisions of Note 2 to Section VI. Thus, it is to be classified under this heading and under no other heading of the nomenclature. See also the third paragraph of point C of the HSEN to heading 3212.