

COMMISSION IMPLEMENTING REGULATION (EU) 2018/198**of 7 February 2018****repealing Implementing Regulation (EU) No 716/2012 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 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of certain goods.
- (2) By Implementing Regulation (EU) No 716/2012 ⁽³⁾, the Commission classified two kinds of encapsulated colostrum powders under heading 1901 of the Combined Nomenclature as 'food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included'. Classification of the products under heading 2106 of the Combined Nomenclature was excluded as the Commission took the view that the wording of heading 1901 described the products at issue more specifically than the wording of heading 2106.
- (3) By Implementing Regulation (EU) 2017/1343 ⁽⁴⁾, the Commission introduced a new additional note 4 to Chapter 19 of the Combined Nomenclature to ensure that the classification of certain edible food preparations complies with the case law of the Court of Justice of the European Union. In accordance with the new additional note 4 to Chapter 19 of the Combined Nomenclature, the encapsulated colostrum powders concerned by Implementing Regulation (EC) No 716/2012 are to be classified under heading 2106.
- (4) As a consequence, Implementing Regulation (EU) No 716/2012 should be repealed in order to avoid potential divergences in tariff classification of encapsulated colostrum powders and to ensure the uniform application of the Combined Nomenclature within the Union.
- (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

Implementing Regulation (EU) No 716/2012 is repealed.

*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*.⁽¹⁾ OJ L 269, 10.10.2013, p. 1.⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).⁽³⁾ Commission Implementing Regulation (EU) No 716/2012 of 30 July 2012 concerning the classification of certain goods in the Combined Nomenclature (OJ L 210, 7.8.2012, p. 6).⁽⁴⁾ Commission Implementing Regulation (EU) 2017/1343 of 18 July 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 186, 19.7.2017, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 February 2018.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*
