COMMISSION IMPLEMENTING REGULATION (EU) 2018/396

of 13 March 2018

amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

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)(e) thereof,

Whereas:

(1) Regulation (EEC) No 2658/87 established a nomenclature of goods (hereinafter referred to as the 'Combined Nomenclature' or the 'CN'), which is set out in Annex I to that Regulation.

(2) Additional note 10 to Chapter 22 of Part Two of the CN stipulates that for the purposes of subheadings 2206 00 31 and 2206 00 39 fermented beverages, other than those put up in bottles with 'mushroom' stoppers held in place by ties or fastenings, with an excess pressure of not less than 1,5 bar, measured at a temperature of 20 °C, are regarded as 'sparkling'.

(3) Subheading note 1 to Chapter 22 of Part Two of the CN stipulates that for the purposes of subheading 2204 10, the expression 'sparkling wine' means wine which, when kept at a temperature of 20 °C in closed containers, has an excess pressure of not less than 3 bar.

(4) Council Directive 92/83/EEC [2] states that 'other sparkling fermented beverages', falling not only within headings 2204 and 2205 but also within CN code 2206 00 91, as applicable at the time of the adoption of the Directive (currently CN codes 2206 00 31 and 2206 00 39), have an excess pressure of 3 bar or more.

(5) It cannot be justified, scientifically or otherwise, to have different thresholds as regards the excess pressure for sparkling fermented beverages, regardless of their classification within CN codes 2204, 2205 or 2206.

(6) In the interest of legal certainty, it is necessary to amend Additional note 10 to Chapter 22 of Part Two of the CN by replacing the existing threshold of 'not less than 1,5 bar' by '3 bar or more'.

(7) In order to ensure consistency and uniform interpretation of the Combined Nomenclature throughout the Union with regard to the definition of 'sparkling beverages', Additional note 10 to Chapter 22 of Part Two of the CN should be amended.

(8) Regulation (EEC) No 2658/87 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

In Chapter 22 of Part Two of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, the second indent of Additional note 10 is replaced by the following:

'— *fermented beverages otherwise put up, with an excess pressure of 3 bar or more, measured at a temperature of 20 °C.*'.

[1] OJ L 256, 7.9.1987, p. 1.
[2] Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21).

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, 13 March 2018.

For the Commission

The President

Jean-Claude JUNCKER