

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/404**of 12 March 2020****amending Regulation (EC) No 594/2009 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) By Commission Regulation (EC) No 594/2009 ⁽²⁾, a product described in the row corresponding to item 1 in the table in the Annex to that Regulation as consisting of vinylidene fluoride and hexafluoro propylene copolymer in primary form has been classified under CN code 3904 69 90.
- (2) By Commission Regulation (EU) No 861/2010 ⁽³⁾ CN code '3904 69 90 Other' was replaced by CN codes '3904 69 20 Fluoroelastomer FKM' and '3904 69 80 Other' to introduce a specific CN code for fluoroelastomers FKM.
- (3) By Commission Implementing Regulation (EU) No 441/2013 ⁽⁴⁾ CN code 3904 69 90 was replaced by CN code 3904 69 80 in the Annex to Regulation (EC) No 594/2009. Thus, classification of the product described in the row corresponding to item 1 in the table in the Annex to Regulation (EC) No 594/2009 under 'other' was maintained contrary to the general rule that the heading which provides for the most specific description is to be preferred to headings providing a more general description.
- (4) Products such as the one described in the row corresponding to item 1 in the table set out in the Annex to Regulation (EC) No 594/2009 are to be classified in the specific CN code 3904 69 20 'Fluoroelastomers FKM' but not in the residual subheading 'other'.
- (5) As a consequence, the row for point 1 in the table set out in the Annex to Regulation (EC) No 594/2009 should be deleted.
- (6) It is appropriate to provide that binding tariff information issued on the basis of Regulation (EU) No 594/2009 in respect of the goods concerned by this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.⁽²⁾ Commission Regulation (EC) No 594/2009 of 8 July 2009 concerning the classification of certain goods in the Combined Nomenclature (OJ L 178, 9.7.2009, p. 14).⁽³⁾ Commission Regulation (EU) No 861/2010 of 5 October 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 284, 29.10.2010, p. 1).⁽⁴⁾ Commission Implementing Regulation (EU) No 441/2013 of 7 May 2013 amending or repealing certain regulations on the classification of goods in the Combined Nomenclature (OJ L 130, 15.5.2013, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 594/2009 is amended as follows:

(1) in Article 2, the following paragraph is added:

'Binding tariff information issued in accordance with this Regulation as amended by Implementing Regulation (EU) No 441/2013 in respect of the goods described in column (1) of point 1 of the table set out in the Annex to this Regulation in its version adopted on 8 July 2009 may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from 6 April 2020.';

(2) the row for point 1 in the table set out in the Annex is deleted.

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, 12 March 2020.

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