COMMISSION IMPLEMENTING REGULATION (EU) 2020/868

of 18 June 2020

repealing Implementing Regulation (EU) 2016/1140 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 Implementing Regulation (EU) 2016/1140 ([2]), the Commission classified within the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 ([3]) two products, one in the form of a self-heating patch and the other in the form of a self-heating belt to relieve pain, under CN code 3824 90 96 as other chemical products or preparations.

(2) In its judgement in Case C-182/19 ([4]), the Court of Justice ruled that Implementing Regulation (EU) 2016/1140 is invalid.

(3) For reasons of legal certainty, an act which has been declared invalid by the Court of Justice should be formally removed from the legal order of the Union.

(4) Implementing Regulation (EU) 2016/1140 should therefore be repealed.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee.

(6) Since Implementing Regulation (EU) 2016/1140 cannot be applied after the ruling of the Court of Justice on 26 March 2020, in order to ensure legal certainty and legal clarity, this Regulation should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2016/1140 is repealed.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

([1]) OJ L 269, 10.10.2013, p. 1.
([2]) Commission Implementing Regulation (EU) 2016/1140 of 8 July 2016 concerning the classification of certain goods in the Combined Nomenclature (OJ L 189, 14.7.2016, p. 1).
([3]) 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).
([4]) Judgment of the Court of Justice of 26 March 2020, Pfizer Consumer Healthcare Ltd, C-182/19, ECLI:EU:C:2020:243.

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

Done at Brussels, 18 June 2020.

For the Commission,
On behalf of the President,
Philip KERMODE
Acting Director-General
Directorate-General for Taxation and Customs Union