

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2021/909**of 31 May 2021****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 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 issued in respect of the goods concerned by this Regulation which does not conform to 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.
- (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.

⁽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).

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

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, 31 May 2021.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>A flexible article (so-called pool noodle) made of cellular plastics (plastic foam) in the shape of a hollow tube of a length of approximately 1 m and a diameter of approximately 8 cm. The article floats on water and is presented to be used as a buoyancy aid, complying with a European standard for buoyancy aids for swimming instruction (EN 13138-2:2014). The article is also shock-absorbent and thermally insulating.</p> <p>See images (*)</p>	3926 90 97	<p>Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3926, 3926 90 and 3926 90 97.</p> <p>Classification under heading 9506 as articles and equipment for general physical exercise, gymnastics, athletics, other sports or outdoor games is excluded, because due to its simple, common shape the article cannot be identified as an article designed for physical exercise or sports of heading 9506, although due to its floating abilities the article complies with the standard for buoyancy aids for swimming instructions. Moreover, due to its simple shape and common material, the article could be used for various purposes (for example, as shock absorbing protective products that are wrapped around poles, thermal insulation products that are wrapped around pipes, products for the amusement of kids).</p> <p>Likewise, classification under heading 9503 as other toys is excluded, because the article cannot clearly be identified as an article for the amusement of kids or adults given its design.</p> <p>Consequently, the article is to be classified according to its constituent material (plastics).</p> <p>The article is therefore to be classified under CN code 3926 90 97 as other articles of plastics.</p>

(*) The images are purely for information.

