

COMMISSION REGULATION (EC) No 438/2007
of 20 April 2007
concerning the classification of certain goods in the Combined Nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, 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 Community provisions, 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 codes 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 which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽²⁾.

(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 codes indicated in column 2 of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

This Regulation shall enter into force on the 20th day following 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, 20 April 2007.

For the Commission
László KOVÁCS
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 301/2007 (OJ L 81, 22.3.2007, p. 11).

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Preparation in the form of gelatine capsules. Each capsule contains:</p> <p>Coenzyme Q10: 30 mg Soya oil: 178 mg Soya lecithin: 6,3 mg Coconut oil: 15,1 mg Beeswax: 15,1 mg Palm oil: 45,5 mg</p> <p>The oils and wax present in the preparation are used as carrier and filler.</p> <p>The product is put up for retail sale.</p> <p>According to its specifications, Coenzyme Q10 shows antioxidant properties and is used as an auxiliary in circulatory system disorders.</p>	2106 90 92	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1 (a) to Chapter 30 and the wording of CN codes 2106, 2106 90 and 2106 90 92</p> <p>The product is excluded from heading 1517 because the oils and wax contained in the product have the function of carriers and fillers only. The tariff classification of the product is determined by the Coenzyme Q10; its concentration in the preparation is much higher than its natural concentration in vegetable oils</p> <p>The product cannot be classified in Chapter 30 because the recommended dose of Coenzyme Q10 is insufficient for a therapeutic or prophylactic use</p> <p>The product is to be classified as a food preparation of heading 2106</p>