

COMMISSION REGULATION (EU) No 42/2010
of 15 January 2010
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 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 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 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 code 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, 15 January 2010.

For the Commission,
On behalf of the President,
László KOVÁCS
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Product consisting of (% by weight):</p> <p>— barley grass, powdered 28,8</p> <p>— honey 27,5</p> <p>— wheatgrass, powdered 21,5</p> <p>— alfalfa, powdered 21,5</p> <p>— stearic acid 0,4</p> <p>— pepper 0,25</p> <p>— chromium picolinate 0,01</p> <p>(corresponds to 8,7 µg Cr per tablet)</p> <p>The product is presented for retail sale, in tablet form and used as a food supplement (one tablet twice a day).</p>	2106 90 98	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 2106, 2106 90 and 2106 90 98.</p> <p>The product does not meet the requirements of Note 2(b)(2) to Chapter 19 because of its composition, presentation and use as a food supplement.</p> <p>The product does not meet the requirements of Additional Note 1 to Chapter 30 as no statements on the use for specific diseases or the concentration of active substances are given. It should therefore not be considered as herbal medicinal preparation within the meaning of heading 3004.</p> <p>The product is therefore considered to be covered by the terms of heading 2106 as a food preparation not elsewhere specified or included and is used as dietary supplement indicated to maintain general health or well-being. (See also HSEN to heading 2106, second paragraph, number 16).</p>