



2023/2217

18.10.2023

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/2217  
of 16 October 2023**

**repealing Regulation (EC) No 901/2007 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 <sup>(1)</sup>, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 901/2007 <sup>(2)</sup>, as amended by Commission Implementing Regulation (EU) No 441/2013 <sup>(3)</sup>, a product consisting of the cut (into pieces of 2 to 5 mm in length), fermented and dried leaves and plant tips of the rooibos plant (*Aspalathus linearis*), also known as 'Red Bush', used to prepare infusions, was classified under code 1212 99 95 of the Combined Nomenclature (CN) annexed to Council Regulation (EEC) No 2658/87 <sup>(4)</sup>, as 'another vegetable product of a kind used primarily for human consumption, not elsewhere specified or included'. The product was excluded from classification under the heading 1211 as the product is not used primarily for the purposes mentioned in the text of that heading ('...of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes'). Consequently, by virtue of general rule 1 for the interpretation of the CN, the product was classified under heading 1212.
- (2) During its 71<sup>st</sup> session in March 2023, the Harmonized System Committee (HS Committee) of the World Customs Organization approved classification opinion 1211.90/1 classifying 'rooibos tea', made from the dried leaves of the rooibos bush (*Aspalathus linearis*) used for making herbal infusions. That product was classified under HS heading 1211 as it was considered that the rooibos plant is of a kind used primarily in pharmacy or similar purposes that remain classified in this heading also when put up in, for example, sachets, for making herbal infusions or herbal 'teas'. Consequently, the 'rooibos tea' was classified under HS subheading 1211 90, which corresponds to CN code 1211 90 86, by application of general rules 1 and 6 for the interpretation of the HS.
- (3) Given the identical or very similar characteristics of the 'rooibos tea' with the product described in Regulation (EC) No 901/2007, the tariff classification of the product as set out in the Annex to that Regulation is not in accordance with HS Committee classification opinion 1211.90/1.
- (4) The Union is, by virtue of Council Decision 87/369/EEC <sup>(5)</sup>, a contracting party of the International Convention on the Harmonized Commodity Description and Coding System. Classification opinions approved by the HS Committee of the World Customs Organization are guidance instruments for Union tariff measures.
- (5) With a view to securing uniformity in the interpretation and application of the Harmonized System at international level and considering that classification opinion 1211.90/1 is in conformity with the wording of HS heading 1211 and HS subheading 1211 90, it is necessary to repeal Regulation (EC) No 901/2007.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

<sup>(1)</sup> OJ L 269, 10.10.2013, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 901/2007 of 27 July 2007 concerning the classification of certain goods in the Combined Nomenclature (OJ L 196, 28.7.2007, p. 31).

<sup>(3)</sup> 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).

<sup>(4)</sup> 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).

<sup>(5)</sup> Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 901/2007 is hereby repealed.

*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, 16 October 2023.

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

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