COMMISSION REGULATION (EEC) No 1676/89
of 13 June 1989
on the classification of goods in CN codes 2206 00 93 and 6911 10 00

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic 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], as last amended by Regulation (EEC) No 1495/89 [2], and in particular Article 9 thereof,

Whereas, to ensure the uniform application of the combined nomenclature annexed to Regulation (EEC) No 2658/87, provisions are required on the tariff classification of a glass bottle containing 0,7 litres of rice wine (sake), a small procelain jug and three small dringking bowls, also of porcelain, put up together in a box;

Whereas the combined nomenclature annexe to Regulation (EEC) No 2658/87 CN code 2206 00 93 covers other still fermented beverages, in containers holding 2 litres or less and CN code 6911 10 00 covers 'tableware and kitchenware'; whereas, for the classification of the abovementioned goods, these two codes could be envisaged;

Whereas these articles shall not be considered as 'goods put up in sets', within the meaning of general rule 3 (b) for the interpretation of the combined nomenclature, given that they do not satisfy the condition laid down at point X (b) of the Explanatory Notes to the Harmonized System drawn up by the Customs Cooperation Council relating to Rule 3 (b) i.e. they do not 'consist of products ..... put up together to meet a particular need ....';

Whereas correct interpretation of the text of the abovementioned rule 3 (b) leads one to the conclusion that simultaneous use of the articles in question is an insufficient ground for considering that the goods constitute a set; in particular, an alteration leading to the creation of a new product should be involved or the presence of the article should be essential in order to carry out the activity in question;

Whereas the association of the wine and porcelain receptacles in question satisfies none of the abovementioned criteria; whereas the rice wine is already in its original bottle and the use of the receptables in question is neither complementary nor meets a particular need; in these circumstances, the articles in question should be classified separately;

Whereas the Nomenclature Committee has not issued an opinion within the time limit laid down by the chairman,

HAS ADOPTED THIS REGULATION:

Article 1

A glass bottle containing 0,7 litres of rice wine (sake), a small porcelain jug and three small drinking bowls, also of porcelain, put up together in a box, should be classified in the combined nomenclature as follows:

— the rice wine (sake) under CN codes:

2206 00	Other fermented beverages (for example, cider, perry, mead):
	– Other:
	– – Still, in containers holding:
2206 00 93	– – – 2 litres or less

— the porcelain jug and three small drinking bowls under CN codes:

6911 00	Tableware, kitchenware, other household articles and toilet articles, of porcelain or china:
6911 10 00	– Tableware and kitchenware

Article 2

This Regulation shall enter into force on the twenty-first day following its publication in the *Official Journal of the European Communities.*

[1] OJ No L 256, 7. 9. 1987, p. 1.
[2] OJ No L 148, 1. 6. 1989, p. 1.

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

Done at Brussels, 13 June 1989.

For the Commission
Christiane SCRIVENER
Member of the Commission