COMMISSION REGULATION (EC) No 377/2007

of 29 March 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 code indicated in column 2, by virtue of the reasons set out in column 3.

(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.

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 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, 29 March 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).

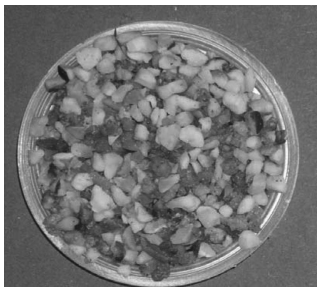
[2] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. Hazelnut preparation consisting of a mixture of hazelnuts and sugar, presented in the form of grains (% by weight) (*), Hazelnut kernels 40 Added sugar 60 Hazelnuts kernels are roasted at 140 °C for 20 to 25 minutes. Sugar is roasted separately at the same temperature for 15 to 17 minutes. Roasted hazelnuts and sugar are then mixed and roasted together for 12 to 15 minutes. The preparation is then cooled and chopped into a particle size of 1 to 4 mm. It is then packed in bags of at least 10 kg for wholesale. This preparation is an intermediate product not intended for immediate consumption but used in the manufacture of chocolates, ice-cream, confectionery and pastry.	2008 19 19	Classification is determined by General Rules 1 and 6 on the interpretation of the CN, the wording of CN codes 2008, 2008 19 and 2008 19 19. This product is not classified in Chapter 17 because it is a sweetened food preparation consisting of a mixture of hazelnuts and sugar (HSEN to Chapter 17, General, paragraph (b)). Heading 1704 does not apply to this sweetened hazelnut preparation as it is not marketed or intended for use as sugar confectionery in its own right (HSEN to heading 1704, first paragraph). This product is covered by Chapter 20 as it is prepared or preserved by a process not specified in Chapter 8 (Note 1(a) to Chapter 20 and CNEN to subheadings 2008 11 10 to 2008 19 99). Being nuts mixed with sugar and having undergone a preparation (roasting), this product is classified in subheading 2008 19 19 (CNEN to subheadings 2008 11 10 to 2008 19 99).
(*) Photograph No 1 is purely for information.		
2. Hazelnut preparation consisting of a mixture of hazelnuts and sugar, presented in the form of powder (% by weight) (**), Hazelnut kernels 40 Added sugar 60 Hazelnuts kernels are roasted at 140 °C for 20 to 25 minutes. Sugar is roasted separately at the same temperature for 15 to 17 minutes. Roasted hazelnuts and sugar are then mixed and roasted together for 12 to 15 minutes. The preparation is then cooled and chopped into a particle size of 1 to 4 mm before being ground to a size of 20 to 30 microns. It is then packed in bags of at least 12,5 kg for wholesale. This preparation is an intermediate product not intended for immediate consumption but used in the manufacture of chocolates, ice-cream, confectionery and pastry.	2008 19 19	Classification is determined by General Rules 1 and 6 on the interpretation of the CN, the wording of CN codes 2008, 2008 19 and 2008 19 19. This product is not classified in Chapter 17 because it is a sweetened food preparation consisting of a mixture of hazelnuts and sugar (HSEN to Chapter 17, General, paragraph (b)). Heading 1704 does not apply to this preparation, as it is a semi-manufactured product, which is not transformed solely into a certain type of sugar confectionery of this heading (HSEN to heading 1704, first paragraph and CNEN to subheadings 1704 90 51 to 1704 90 99, 2nd paragraph). This product is covered by Chapter 20 as it is prepared or preserved by a process not specified in Chapter 8 (Note 1(a) to Chapter 20 and CNEN to subheadings 2008 11 10 to 2008 19 99). Being nuts mixed with sugar and having undergone a preparation (roasting), this product is classified in subheading 2008 19 19 (CNEN to subheadings 2008 11 10 to 2008 19 99).
(**) Photograph No 2 is purely for information.		

(1)	(2)	(3)
3. Hazelnut preparation consisting of a mixture of hazelnuts and sugar, presented in the form of paste (% by weight) (***), Hazelnut kernels 40 Added sugar 60 Hazelnuts kernels are roasted at 140 °C for 20 to 25 minutes. Sugar is roasted separately at the same temperature for 15 to 17 minutes. Roasted hazelnuts and sugar are then mixed and roasted together for 12 to 15 minutes. The preparation is then cooled and chopped into a particle size of 1 to 4 mm before being ground to a size of 20 to 30 microns. The ground preparation is mixed until it reaches the form of a homogeneous paste. It is then packed in bags of at least 20 kg for wholesale. This preparation is an intermediate product not intended for immediate consumption but used in the manufacture of chocolates, ice-cream, confectionery and pastry.	2008 19 19	Classification is determined by General Rules 1 and 6 on the interpretation of the CN, the wording of CN codes 2008, 2008 19 and 2008 19 19. This product is not classified in Chapter 17 because it is a sweetened food preparation consisting of a mixture of hazelnuts and sugar (HSEN to Chapter 17, General, paragraph (b)). Heading 1704 does not apply to this preparation, as it is a semi-manufactured product, which is not transformed solely into a certain type of sugar confectionery of this heading (HSEN to heading 1704, first paragraph, ix, and CNEN to subheadings 1704 90 51 to 1704 90 99, 2nd paragraph). This product is covered by Chapter 20 as it is prepared or preserved by a process not specified in Chapter 8 (Note 1(a) to Chapter 20 and CNEN to subheadings 2008 11 10 to 2008 19 99). Being nuts mixed with sugar and having undergone a preparation (roasting), this product is classified in subheading 2008 19 19 (CNEN to headings 2008 11 10 to 2008 19 99).

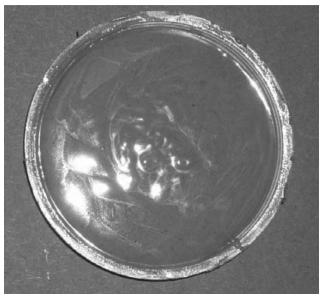
(***) Photograph No 3 is purely for information.



Photograph No 1



Photograph No 2



Photograph No 3