COMMISSION IMPLEMENTING REGULATION (EU) No 1272/2011

of 5 December 2011

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 3 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 3 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, 5 December 2011.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
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 the goods	Classification CN code	Reasons
(1)	(2)	(3)
1. Flavouring preparation composed of a mixture of odoriferous substances (carvacrol, cinnamaldehyde and capsicum oleoresin) and hydrogenated vegetable fat (micro-encapsulation). The product is used in the animal feeding industry as a feed appetiser in quantities of 75 g to 300 g/1 000 kg of feed for monogastric animals.	3302 90 90	Classification is determined by General Rules 1, 3(a) and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 23, Note 2 to Chapter 33, and the wording of CN codes 3302, 3302 90 and 3302 90 90. The product consists of odoriferous substances within the meaning of Note 2 to Chapter 33. Although the product is intended to be used in animal feed as a premix of appetising substances, it has retained the essential characteristics of the original material (odoriferous substances). Classification under heading 2309 as a preparation used in animal feeding is therefore excluded in accordance with Note 1 to Chapter 23. As the product is to be considered a mixture of one or more odoriferous substances combined with an added carrier, it falls under heading 3302 (see also first paragraph, point (6), of the Harmonized System Explanatory Notes (HSEN) to heading 3302). It is therefore to be classified under CN code 3302 90 90.
2. Flavouring preparation composed of capsicum oleoresin in hydrogenated vegetable fat (micro-encapsulation) with hydroxypropyl methylcellulose as a binder. The product is used in the animal feeding industry as a feed appetiser in quantities of 12,5 g to 50 g/1 000 kg of feed for ruminants.	3302 90 90	Classification is determined by General Rules 1, 3(a) and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 23, Note 2 to Chapter 33, and the wording of CN codes 3302, 3302 90 and 3302 90 90. The product consists of an odoriferous substance within the meaning of Note 2 to Chapter 33. Although the product is intended to be used in animal feed as a premix of appetising substances, it has retained the essential characteristics of the original material (odoriferous substance). Classification under heading 2309 as a preparation used in animal feeding is therefore excluded in accordance with Note 1 to Chapter 23. As the product is to be considered a mixture of one or more odoriferous substances combined with an added carrier, it falls under heading 3302 (see also first paragraph, point (6), of the HSEN to heading 3302). It is therefore to be classified under CN code 3302 90 90.
3. Flavouring preparation composed of a mixture of odoriferous substances (cinnamaldehyde, eugenol) on a silica support, in cellulose and methylcellulose (micro-encapsulation).	3302 90 90	Classification is determined by General Rules 1, 3(a) and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 23, Note 2 to Chapter 33, and the wording of CN codes 3302, 3302 90 and 3302 90 90.

(1)	(2)	(3)
The product is used in the animal feeding industry as a feed appetiser in quantities of 12,5 g to 50 g/1 000 kg of feed for dairy cows.		The products consist of odoriferous substances within the meaning of Note 2 to Chapter 33. Although the product is intended to be used in animal feed as a premix of appetising substances, it has retained the essential characteristics of the original material (odoriferous substances). Classification under heading 2309 as a preparation used in animal feeding is therefore excluded in accordance with Note 1 to Chapter 23. As the product is to be considered a mixture of one or more odoriferous substances combined with an added carrier, it falls under heading 3302 (see also first paragraph, point (6), of the HSEN to heading 3302). It is therefore to be classified under CN code 3302 90 90.