COMMISSION IMPLEMENTING REGULATION (EU) No 1303/2011

of 9 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 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 Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

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 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, 9 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)
Gel put up for the relief of pain containing the following ingredients: — isopropyl alcohol — water — herbal extract (*Ilex paraguariensis*) — acrylic acid polymers (carbomer) — triethanolamine — menthol — camphor — silicon dioxide — methylparaben — glycerine — propylene glycol — tartrazine (E102) — brilliant blue FCF (E133) The quantities of the ingredients are not indicated on the packaging of the product. The packaging advises that the product is used for the temporary relief of minor aches and pains of muscles and joints associated with arthritis pain, backache, strains and sprains.	3824 90 97	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Additional Note 1 to Chapter 30 and the wording of CN codes 3824, 3824 90 and 3824 90 97. The product neither serves a therapeutic use, as it does not treat or cure an illness or disease, nor a prophylactic use, as it does not defend or protect against an illness or disease. In addition, the product does not fulfil the requirements of Additional Note 1 to Chapter 30. Classification as a medicament under heading 3004 is therefore excluded. The product is not to be considered a beauty or make-up preparation as it is not used for skin care. Although the product has the effect of cooling the skin where it is applied, it does not actually treat the skin in any way. Classification under heading 3304 is therefore excluded. The product is therefore to be classified under CN code 3824 90 97 as other chemical products or preparations of the chemical or allied industries not elsewhere specified or included.