COMMISSION IMPLEMENTING REGULATION (EU) No 897/2011

of 2 September 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, 2 September 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 goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Product put up for retail sale in a bottle of 500 ml, containing (% by weight): — water 45,9 — fructose 33,3 — oligofructose 7,6 — apple juice concentrate 3,6 — blackcurrant juice concentrate 2,3 — vegetable oligopeptides 2,3 — citric acid 3,6 — maté concentrate 0,7 — food yeast 0,5 — L-carnitine 0,1 — potassium sorbate 0,1 The product is a reddish brown, cloudy, slightly viscose liquid with a density of 1,1812 g/cm^3 and a Brix value of 40. According to the packaging the product is based on water enriched with nutrients, which is destined to be integrated into the diet. Instructions for use: 50 ml of the product diluted with 100 ml of water or juice.	2106 90 92	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 2106, 2106 90 and 2106 90 92. Due to the content of sugars and some other ingredients like potassium sorbate and citric acid, the product requires dilution before consumption and therefore it cannot be regarded as a beverage of heading 2202 (see also Combined Nomenclature Explanatory Notes to Chapter 22, General, second paragraph). The product is therefore to be classified as a food preparation not elsewhere specified or included of heading 2106 (see also Harmonized System Explanatory Notes to heading 2106, second paragraph, point 7).