REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 384/2013

of 22 April 2013

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, subject to the measures in force in the Union relating to double checking systems and to prior and retrospective surveillance of textile products on importation into the Union, binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, may continue to be invoked for a period of 60 days 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 limits 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

Subject to the measures in force in the Union relating to double checking systems and to prior and retrospective surveillance of textile products on importation into the European Union, binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation may continue to be invoked for a period of 60 days 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, 22 April 2013.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1.

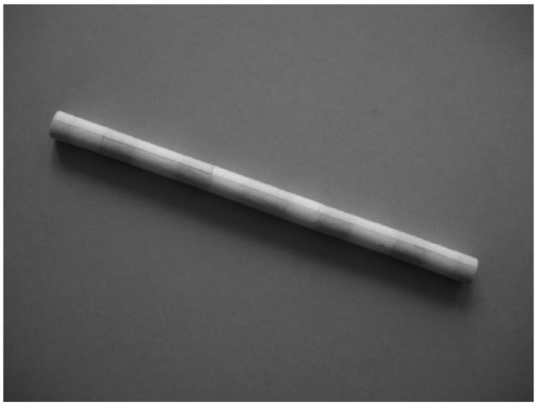
[2] OJ L 302, 19.10.1992, p. 1.

ANNEX

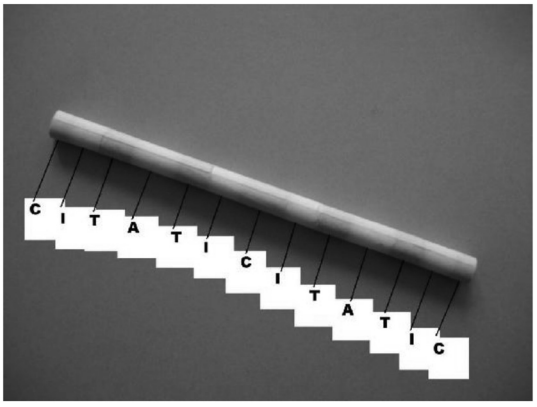
Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
An article having the shape of a cylinder with a diameter of approximately 7 mm and a length of approximately 130 mm, consisting of an outer layer of paper that holds the following components in place: — three filters of cellulose acetate fibres with activated carbon (C), — four filters of cellulose acetate fibres also containing impregnated fibres (impregnated with an agglutinating substance that does not penetrate into the inner layers of the fibres) (I), — two filters of cellulose acetate fibres (A), — four components of flavourful oriental tobacco of the kind used in cigarettes (T). As far as the cellulose acetate fibres in the different filters are concerned (C, I, A), the fibres are oriented parallel to each other. The fibres form a flexible, spongy body of even thickness, and are readily separable and 'pluckable'. Within the cylinder, the components are placed in the following order: — C (approximately 6 mm long), — I (approximately 10 mm long), — T (approximately 10 mm long), — A (approximately 13 mm long), — T (approximately 10 mm long), — I (approximately 10 mm long), — C (approximately12 mm long), — I (approximately 10 mm long), — T (approximately 10 mm long), — A (approximately. 13 mm long), — T (approximately 10 mm long), — I (approximately 10 mm long), — C (approximately 6 mm long).	5601 22 10	Classification is determined by General Rules 1, 4 and 6 for the interpretation of the Combined Nomenclature (GIR) and the wording of CN codes 5601, 5601 22 and 5601 22 10. The article contains more filtering than tobacco components. The tobacco may remain placed between two filters and hence may not be combusted but only used as a flavouring component in a cigarette. The tobacco constitutes only approximately one third of the volume of the article. Consequently, the different filters give the article its essential character within the meaning of GIR 3(b). The plain cellulose acetate fibres (A) together with the impregnated ones (I) constitute a higher percentage by weight and by volume than the cellulose acetate fibres with activated carbon (C). Consequently, the filters made of the plain and the impregnated cellulose acetate fibres (A, I) give the article its essential character within the meaning of GIR 3(b). The filters made of the plain and the impregnated cellulose acetate fibres (A, I) do not have the required cohesion and strength. Consequently, classification under headings 5602 as 'felt' or 5603 as 'nonwovens' is excluded. The filters made of the plain and the impregnated cellulose acetate fibres (A, I) are not made from a textile 'fabric' within the meaning of Note 1 to Chapter 63. Consequently, classification under heading 6307 is excluded. Within the filters made of the plain and the impregnated cellulose acetate fibres (A, I), the fibres are oriented parallel to each other. Consequently, they are excluded from classification under heading 5601 as 'articles of wadding'. Since filters made of the plain and the impregnated cellulose acetate fibres (A, I) cannot be classified under any heading in accordance to GIR 1 to 3, they are to be classified by application of GIR 4 in the heading appropriate to the goods to which they are most akin. Since the fibres are readily separable and 'pluckable', and form a flexible, spongy body of even thickness, their outward appearance is that of wadding. Consequently, the filters (A, I) are to be classified under heading 5601 (see also the HS Classification Opinion classifying 'rods for making cigarette filter tips' under subheading 5601 22).

(1)	(2)	(3)
The percentage by weight of the different materials in the article is as follows: — C: approximately 17 %, — I: approximately 16 %, — A: approximately 8 %, — T: approximately 41 %, — paper: approximately 18 %. The article is designed to be cut up and to be used in the production of filter cigarettes. It is not evident from the objective characteristics of the article how it will be cut up. (See photographs nos. 664 A and B) (*)		The impregnation of the cellulose acetate fibres (I) does not exclude classification under heading 5601, because the agglutinating substance does not penetrate into the inner layers of the fibres (see the HS explanatory notes to heading 5601, (A), fourth paragraph). The article is therefore to be classified under CN code 5601 22 10 as 'articles of wadding of man-made fibres'.

(*) The photographs are purely for information.



664 A



664 B