COMMISSION IMPLEMENTING REGULATION (EU) No 443/2013

of 7 May 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 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, 7 May 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)
A product presented as small bites in the form of an arch, flavoured with cheese and composed of maize meal, vegetable oil, cheese powder (yeast extract, colorants), milk powder, salt, starch and dextrose. The product is produced from dried, crushed maize (maize meal), which is moistened with water (6 % to 9 %). The water is added as a process agent. The mixture is forwarded into the extrusion machine under high pressure and heat. When the paste meets the atmospheric pressure it expands. The extrusion process takes place at a temperature of 150 °C. After the extrusion the product is dried and slightly roasted at a temperature of 120-130 °C in an electrical drier. Then it is forwarded into a coating tumbler where it is coated with a mix of oil and dry goods. The product is put up for retail sale in packings with a net weight of 34 g to 450 g.	1904 10 10	Classification is determined by the General Rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 1904, 1904 10 and 1904 10 10. As the product is obtained from maize paste extruded by pressure and heating, it is considered to have been obtained by swelling. Consequently, it is considered to be prepared foods obtained by the swelling or roasting of cereals or cereal products within the meaning of subheading 1904 10 (see also the Harmonized System Explanatory Notes (HSEN) to heading 1904, (A)). Classification under heading 1905 is excluded as the product is neither made from dough nor further heated, (see also HSEN to heading 1904, (A), fifth paragraph). The product is therefore to be classified under CN code 1904 10 10.