COMMISSION IMPLEMENTING REGULATION (EU) 2015/1723

of 22 September 2015

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 codes 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 issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 [2]. That period should be set at three months.

(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 codes indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

[1] OJ L 256, 7.9.1987, p. 1.
[2] Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

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 September 2015.

For the Commission,
On behalf of the President,
Heinz ZOUREK
Director-General for Taxation and Customs Union

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. A product with a stoichiometric composition consisting of magnesium aluminate (magnesium aluminium oxide) with the crystalline structure of spinel, a chemically defined product, in the form of irregular granules, lumps or powder. The product has a magnesium content, calculated as magnesium oxide, of approx. 28 % by weight, and an aluminium content, calculated as aluminium oxide, of approx. 72 % by weight. The product is used in the manufacture of refractory bricks and tiles used in the steel industry. The product is obtained from a chemical reaction between magnesium oxide and aluminium oxide by fusion in a rotary furnace.	2841 90 85	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 28 and the wording of CN codes 2841, 2841 90 and 2841 90 85. The product is obtained from a chemical reaction by fusion of raw materials in a rotary furnace. It is a stoichiometric compound (chemically defined) in which the numbers of atoms of the elements present can be expressed as a ratio of small whole numbers. It is not a raw mineral product or an ore and therefore cannot be classified in Chapters 25 or 26. Products in the form of irregular granules, lumps or powder are the raw material for the production of products of heading 6815. Classification under heading 6815 is excluded because the products are neither finished articles nor semi-finished products. Because of its stoichiometric composition, the product fulfils Note 1(a) to Chapter 28 which stipulates that the headings of this Chapter apply only to chemically defined compounds (i.e. having a stoichiometric composition). As a chemically defined product, spinel is to be classified as an inorganic chemical of Chapter 28 according to its chemical composition. The product is therefore to be classified under CN code 2841 90 85 as other salts of oxometallic or peroxometallic acids.
2. A product with a non-stoichiometric composition with a magnesium content, calculated as magnesium oxide, of approx. 20-35 % by weight and an aluminium content, calculated as aluminium oxide, of approx. 58-78 % by weight. The product has the crystalline structure of spinel, in form of irregular granules, lumps or powder. The product is used in the manufacture of refractory bricks and tiles used in the steel industry. The product is obtained from a chemical reaction between magnesium oxide and aluminium oxide by fusion in a rotary furnace.	3824 90 96	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 3824, 3824 90 and 3824 90 96. The product is obtained from a chemical reaction by fusion of raw materials in a rotary furnace. It is not a raw mineral product or an ore and therefore cannot be classified in Chapters 25 or 26. Because of its non-stoichiometric composition, the product does not fulfil Note 1(a) to Chapter 28 which stipulates that the headings of this Chapter apply only to chemically defined compounds (i.e. having a stoichiometric composition) and is therefore excluded from Chapter 28. Products in the form of irregular granules, lumps or powder are the raw material for the production of products of heading 6815. They are not classified under heading 6815 because they are neither finished articles nor semi-finished products. The product is therefore to be classified under CN code 3824 90 96 as other chemical products and preparations of the chemical or allied industries, not elsewhere specified or included.

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
3. A product named 'fused magnesia chrome' in form of irregular grey granules, fragments or powder of varying grain size, with a non-stoichiometric composition of magnesium oxide and chromium oxide. The product has the crystalline structure of spinel and is used in the manufacture of refractory bricks and tiles used in the steel industry. This product is obtained by fusion of magnesium oxide and chromium ore in an arc furnace.	3824 90 96	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 3824, 3824 90 and 3824 90 96. The product is obtained from a chemical reaction by fusion of raw materials in an arc furnace. It is not a raw mineral product or an ore and therefore cannot be classified in Chapters 25 or 26. Because of its non-stoichiometric composition, the product does not fulfil Note 1(a) to Chapter 28 which stipulates that the headings of this Chapter apply only to chemically defined compounds (i.e. having a stoichiometric composition) and is therefore excluded from Chapter 28. Products in the form of irregular granules, lumps or powder are the raw material for the production of products of heading 6815. They are not classified under heading 6815 because they are neither finished articles nor semi-finished products. The product is therefore to be classified under CN code 3824 90 96 as other chemical products and preparations of the chemical or allied industries, not elsewhere specified or included.