COMMISSION IMPLEMENTING REGULATION (EU) 2015/803

of 19 May 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 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 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 3 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 code 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 3 months from the date of entry into force of this Regulation.

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*.

[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).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 May 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)
An article in the shape of a human skull made of plastics, measuring approximately 9 × 11 × 7 cm. It contains flashing light emitting diodes (LEDs) that are powered by a battery and are embedded in the eye sockets of the skull and can be turned on and off using a switch at the base of the article. (See photograph) (*)	3926 40 00	Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature (GIR) and by the wording of CN codes 3926 and 3926 40 00. The article cannot be classified as a lamp under heading 9405, because it is not primarily designed to illuminate a room, nor is it a specialised lamp (see also the Harmonised System Explanatory Notes (HSEN) to heading 9405, (I), (1) and (3)). According to its objective characteristics, the article is not exclusively designed as a festive article (see also the Explanatory notes to the Combined Nomenclature to heading 9505). It can be used as decoration throughout the year. Classification under heading 9505 as a festive article is therefore also excluded. The article is made up of different components within the meaning of GIR 3(b). It consists of a component in the shape of a human skull made of plastics and battery powered LED lights, which together form a whole (see also the HSEN to GIR 3(b), (IX)). Due to its objective characteristics, the article is mainly designed for ornamental use. The illumination is only an additional effect enhancing the ornamental use. Consequently, the component in the shape of a human skull made of plastics is the component that gives the article its essential character within the meaning of GIR 3(b). The article is therefore to be classified under CN code 3926 40 00 as other ornamental articles of plastics.

(*) The photograph is purely for information.

