II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2033

of 17 November 2016

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 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([1]), and in particular Articles 57(4) and 58(2) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ([2]), 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 34(9) of Regulation (EU) No 952/2013. 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 code indicated in column (2) of that table.

([1]) OJ L 269, 10.10.2013, p. 1.
([2]) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three 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*.

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

Done at Brussels, 17 November 2016.

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

ANNEX

Description of goods	Classification (CN Code)	Reasons
(1)	(2)	(3)
A product consisting of glitter for toothpaste in the form of dark blue particles which dissolve when brushing the teeth and give a blue colour to the foam formed by the toothpaste. The colouring matter adheres to the cleaned teeth, allowing a reflection of blue light from the teeth enamel, thereby causing the teeth to appear whiter for a limited period of time. The product is composed of the following ingredients (% by weight): — hydroxypropyl methylcellulose approx. 55, — propylene glycol approx. 21, — blue pigment approx. 17, — polysorbate 80 approx. 4, — red dye approx. 3. The blue pigment and the red dye serve as colouring matter. The product is presented in bulk.	3204 19 00	Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 3204, and 3204 19 00. Classification under heading 3912 as cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms, is excluded as the hydroxypropyl methylcellulose, although predominant by weight, serves only as a carrier for the colouring matter but does not give the product its essential character. The blue pigment and the red dye, serving as colouring matter, give the product its essential character. Therefore, the product is to be classified in CN code 3204 19 00 as a preparation based on a mixture of colouring matter of two or more of the subheadings 3204 11 to 3204 19.