COMMISSION IMPLEMENTING REGULATION (EU) 2016/933

of 8 June 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 Article 57(4) and Article 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.

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.

([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 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, 8 June 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 in the form of a yellow powder with a scent of banana, consisting of: — enzymatically hydrolysed whey protein isolate (90 % by weight expressed in proteins), — soy lecithin (emulsifier), — natural banana flavour, — E 104 (colouring agent), and — sucralose (sweetening agent). The product is put up for retail sale in a plastic container with a net content of 1,8 kg. The product is intended to be mixed with beverages. According to the label, one measuring spoon (30 g) has to be mixed with around 3 dl of water or milk.	2106 90 92	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 2106, 2106 90 and 2106 90 92. The product contains hydrolysed proteins and therefore cannot be classified under heading 3502. The product cannot be classified under heading 3504 due to the presence of some ingredients (inter alia, sweetening, colouring and emulsifying agents) which provide the character of a food preparation within the scope of heading 2106. The product is a food preparation, put up for retail sale and is therefore to be classified under CN code 2106 90 92.