COMMISSION IMPLEMENTING REGULATION (EU) 2016/935

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 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.

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 consisting of a metallised polyethylenterephthalate ('PET') film used as a raw material source to manufacture an aluminium pigment, having the following characteristics: — at least eight layers of aluminium of a purity of 99,8 % or more, — the optical density of each aluminium layer is not more than 3,0 D, — each aluminium layer is separated by an acrylate polymer layer, — the thickness of each aluminium layer is up to 30 nanometres (0,03 μm), — the aluminium and acrylate polymer layers are on a PET (polyethylenterephthalate) carrier film having a thickness of 12 μm. The product is presented on rolls of up to 50 000 metres in length.	7616 99 90	Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 7616, 7616 99 and 7616 99 90. Classification under heading 3212 as a stamping foil is excluded because the product does not consist of a metallic powder agglomerated with a binder, or of a metal or pigment deposited on a supporting sheet, and it is not of a kind used for printing. Consequently, in accordance with Note 6 to Chapter 32 the product is not a stamping foil. As the PET carrier film acts as a structural support layer for the aluminium and acrylate polymer layers put on either side of that PET carrier film, it does not give the product its essential character. The essential character is given by the aluminium. Classification as foils of polyesters or plastics under heading 3920 or 3921 is therefore excluded. In accordance with Note 1(d) to Chapter 76, foils of heading 7607 consist only of a single layer of aluminium which can be backed with, for instance, plastics. The product has a more complex structure as it consists of several aluminium layers separated by acrylate polymer layers, supported by a PET carrier film in the centre of that structure. Consequently, classification under heading 7607 as an aluminium foil, backed with plastics, is also excluded. The product is therefore to be classified in CN code 7616 99 90 as other articles of aluminium.