COMMISSION IMPLEMENTING REGULATION (EU) 2018/1531

of 10 October 2018

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.

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 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).

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

Done at Brussels, 10 October 2018.

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

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
Flat flexible article made from an air bubble type sheet of plastics, circular in shape, with a diameter of approximately 305 cm. The article is presented as a cover for a swimming pool or paddling pool to keep the water at an optimal temperature and to keep the pool clean. See images (*).	3926 90 92	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3926, 3926 90 and 3926 90 92. Classification of the article under heading 9506 as a part or an accessory of a swimming pool or a paddling pool is excluded, because the article is not identifiable as being suitable for use solely or principally with swimming pools or paddling pools within the meaning of note 3 to Chapter 95. Moreover, the article cannot be considered a part or an accessory to a swimming pool or a paddling pool of heading 9506, because it is neither indispensable for the functioning of a swimming pool or a paddling pool, nor does it adapt those pools to a particular operation or increase their range of operations or enable them to perform a particular service connected with their main function which is swimming or paddling (see judgment of the Court of Justice of 16 June 2011, *Unomedical*, C-152/10, ECLI:EU:C:2011:402, paragraphs 29 and 36). The swimming pool or paddling pool cannot be used when covered. Classification as 'plates, sheets, film, foil and strip' under headings 3920 or 3921 is excluded by virtue of note 10 to Chapter 39, because the article is cut into a round shape, rather than being uncut or being cut into a rectangle. The article is therefore to be classified according to its constituent material under CN code 3926 90 92 as 'other articles of plastics, made from sheet'.

(*) The images are purely for information.



