COMMISSION IMPLEMENTING REGULATION (EU) 2023/1131

of 5 June 2023

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, 5 June 2023.

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

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
Vitamin gummies in the form of orange bears, with an average weight of ca. 3 g each, one gummy consisting of (% by weight): — malt syrup (54,3) — sucrose (35,0) — glucose (5,6) Additionally, one gummy has a content of between 10 to 100 % of the recommended daily allowance of the following vitamins and minerals: — vitamin A (as retinol acetate) 375 µg — vitamin B3 5 mg — vitamin B6 1 mg — vitamin B7 5 µg — vitamin C 20 mg — vitamin D 5 µg — vitamin E 10 mg — Selenium 10 µg Furthermore, the following substances are present: Beta-carotene, lutein, lycopene, pectin, sodium citrate, citric acid, vegetable oil and natural orange flavour. The product is put up for retail sale to maintain general health or well-being. The concentration of vitamins, minerals, and the recommended daily dose (one gummy bear per day) are indicated on the label.	2106 90 98	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, Additional note 5 to Chapter 21, Additional note 1 to Chapter 30, and the wording of CN codes 2106, 2106 90 and 2106 90 98. Due to its high vitamin content, the product has lost the characteristics of a sugar confectionery of heading 1704 (see also the Harmonized System Explanatory Notes to Chapter 17, General (exclusion), point (b)). Product composition and the labelling, which *inter alia* includes information about the amount of vitamins per dose unit, indicate that the product is a food preparation for the maintenance of general health or well-being (see also the Harmonized System Explanatory Notes to heading 2106, point (16)). The product does not meet the requirements of Additional note 1 to Chapter 30, and therefore cannot be classified under heading 3004. Consequently, the product is to be classified under CN code 2106 90 98 as a food preparation not elsewhere specified or included.