II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1661

of 24 September 2019

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.

([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, 24 September 2019.

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)
A pale yellow, liquid product consisting of 93 % fatty acid ethyl esters as well as 7 % oligomers and partial glycerides. The product is made of fish oils from fish species such as anchovy, sardine and mackerel. The production process comprises refining, hydrolysis, ethyl esterification and fractionation. During hydrolysis and ethyl esterification, the triglycerides are transformed into fatty acid ethyl esters. The product is intended for further processing in the food, feed, and pharmaceutical industry. It is packaged and shipped in a protective atmosphere in steel drums with a capacity of 190 kg.	2106 90 92	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 1(b) to Chapter 38 and the wording of CN codes 2106, 2106 90 and 2106 90 92. Classification under heading 1516 is excluded as the product consists mainly of ethyl esters obtained by esterification of fatty acids with ethanol and not with glycerol. The degree of processing that the product has undergone therefore exceeds what is permitted under heading 1516 as only re-esterified triglycerides are covered by that heading (see also the Harmonized System Explanatory Notes (HSEN) to heading 1516, part (B), point (2). Moreover, fatty acid ethyl esters are not animal or vegetable fats and oils (see also the HSEN to Chapter 15, General, part (A), second paragraph). Classification of the product in Chapter 38 is excluded, as the product has nutritive value and is used in the preparation of human foodstuffs (see note 1(b) to Chapter 38). The product is therefore to be classified under CN code 2106 90 92 as other food preparation (see also the HS classification opinion 2106.90/37).