



2024/3126

16.12.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/3126

of 9 December 2024

**repealing Implementing Regulation (EU) No 385/2013 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) By Commission Implementing Regulation (EU) No 385/2013 ⁽²⁾, a product composed of 25 wipes made of non-wovens with a size of approximately 15 cm × 20 cm per wipe, impregnated, amongst other ingredients, with water, soybean oil, sweet almond oil (*Prunus dulcis*), cetyl alcohol, xanthan gum, perfume/fragrance, citronellol, geraniol, glycerine, tetrasodium EDTA and disodium cocoamphodiacetate, that is used to remove make-up, tone and purify normal and combination skin, and that is put up in a plastic bag for retail sale, was classified under code 3304 99 00 of the Combined Nomenclature (CN) annexed to Council Regulation (EEC) No 2658/87 ⁽³⁾, as 'preparations for the care of the skin (other than medicaments)'. Since the surface-active agent (disodium cocoamphodiacetate) contained in the product was considered to not give the product its essential character as it has only the function of an emulsifier, classification under heading 3401 was excluded. Classification under heading 3307 was also excluded because Note 4 to Chapter 33 of the CN was considered inapplicable as the product is used to remove make-up, and to tone and purify the skin, and thus the essential character of the product is that of skin care. Consequently, by application of general rules 1, 3(b) and 6 for the interpretation of the CN, the product was classified under heading 3304 as preparation for the care of the skin.
- (2) During its 73rd session in March 2024, the Harmonized System Committee (HSC) of the World Customs Organization (WCO) approved classification opinion 3307.90/4 classifying facial wipes packaged for retail sale, containing 60 rectangular sheets of nonwovens (10 cm × 12 cm), impregnated with water, moisturising agents (dipropylene glycol (DPG), sodium hyaluronate, jojoba oil) and organic surface-active agents as emulsifier (PEG-6 caprylic/capric glycerides and polysorbate 20), intended to be used for the care of the facial skin such as removing make-up, cleansing, toning, soothing and hydrating/moisturising in one step. The product was classified in HS heading 3307 because Note 4 to Chapter 33 of the HS, stipulating that the expression 'perfumery, cosmetic or toilet preparations' in heading 3307 applies, inter alia, to nonwovens, impregnated, coated or covered with perfume or cosmetics, was considered applicable for the classification of the product. Consequently, the product was classified in HS subheading 3307 90, which corresponds to CN code 3307 90 00, by application of general rules 1 (Note 2 to Section VI and Note 4 to Chapter 33) and 6.
- (3) Given the very similar characteristics of the product with the product described in Implementing Regulation (EU) No 385/2013, the tariff classification of the product as set out in the Annex to that Regulation is not in accordance with classification opinion 3307.90/4.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/952/oj>.

⁽²⁾ Commission Implementing Regulation (EU) No 385/2013 of 22 April 2013 concerning the classification of certain goods in the Combined Nomenclature (OJ L 117, 27.4.2013, p. 10, ELI: http://data.europa.eu/eli/reg_impl/2013/385/oj).

⁽³⁾ 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, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

- (4) The Union is, by virtue of Council Decision 87/369/EEC ⁽⁴⁾, a contracting party to the International Convention on the Harmonized Commodity Description and Coding System. Classification opinions approved by the HSC are guidance instruments for Union tariff measures.
- (5) With a view to securing uniformity in the interpretation and application of the Harmonized System at international level and considering that classification opinion 3307.90/4 is in conformity with the wording of Note 4 to Chapter 33 of the CN, HS heading 3307 and HS subheading 3307 90, it is necessary to repeal Implementing Regulation (EU) No 385/2013.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 385/2013 is repealed.

Article 2

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, 9 December 2024.

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

⁽⁴⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1, ELI: <http://data.europa.eu/eli/dec/1987/369/oj>).