



Customs Flash Belgium

Classification of certain medical devices in the Combined Nomenclature



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On 25 September 2014, the European Commission issued Regulation (EU) n° [1038/2014](#) regarding the classification of certain medical devices in the Combined Nomenclature (Council Regulation (EEC) n° [2658/87](#) of 23 July 1987 on the tariff and statistical nomenclature and the Common Customs Tariff).

The Regulation has been published in response to the different interpretations adopted by the customs authorities of the European Member States on the commodity code applicable to certain medical devices, such as **balloon catheter, guide catheter, wire guides or parts thereof**. According to certain Member States, such medical devices should have been classified under heading 9021, while to others, such products should have been classified under headings 8413 or 9018.

In order to solve the dispute and to ensure a uniform interpretation and application of the Combined Nomenclature, the Commission adopted - in Annex of Regulation n°1038/2014 - specific guidelines on the classification of such medical devices.

In a nutshell, the aforementioned Regulation foresees that classification under heading 9021 should be excluded considering that such articles are removed after treatment and/or are not worn, carried or implemented in the body to compensate for a defect or disability. Therefore, such medical devices can be identified as instruments or appliances of heading 9018.

What does it mean for you?

The guidelines settled by Regulation n° 1038/2014 may impact business if companies export and/or import such medical devices. In addition and depending on the goods concerned, the VAT rate applicable to products could be impacted (i.e. reduced or increased).

What to do?

If dealing with medical devices as described above, one should verify if the commodity codes currently applied to your products are still correct or if they should be adapted based on the new guidelines. It should be underlined that the application of incorrect commodity codes could lead to business impacts like: blocking of the supply chain, over- or underpayment of customs duties and VAT, potential application of penalties and interests, etc.

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