

The EU Customs Tariff Framework and the Special Case of Culture

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ABSTRACT: This study explores how the formally objective classification system of the European Union's Combined Nomenclature (CN) is applied in practice to products with cultural significance. To illustrate this, it examines the customs tariff classification debate surrounding the Tomte gnome figure, an iconic element of Swedish and Nordic Christmas folklore. The hypothesis posited that while the harmonized customs tariff is designed to exclude any subjective factors, cultural context at the national implementation level may still lead to divergent classification outcomes. The research combined legal and empirical methods: the relevant legal framework was reviewed, and national classification practices related to the Tomte figure (including Binding Tariff Information rulings) were analyzed, alongside the EU's harmonization measures. The findings indicate that in the Tomte case the same figure was classified differently across member states: some countries treated it as a Christmas article, others as a decoration or toy, resulting in different tariff codes and import duties. This demonstrates that cultural context can influence ostensibly objective classification decisions. At the same time, EU-level harmonization tools (Commission-issued binding classification decisions, and annual CN updates) strive to unify these divergent practices. The research confirms the hypothesis, showing that despite an ostensibly objective framework, national cultural factors can indeed influence customs classification.

KEYWORDS: customs union, customs nomenclature, uniform application of customs law, tariff classification, cultural property, Nordic region.

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Introduction

From the perspective of regulating international trade, the accurate classification of goods under the correct heading is of paramount importance; in the European Union, this is determined by the Combined Nomenclature (CN) system ((EEC) No. 2658/87). Commodity classification is not merely an administrative task, but a complex, multidisciplinary decision-making process that has a direct impact on customs clearance, import and export obligations, and the applicable commercial policy measures. As a result of the growth in e-commerce traffic and the reform of EU regulations on import consignments, customs authorities are required to classify an ever-increasing volume of goods, processed in bulk, according to uniform criteria. Initial experience following the abolition of the €22 exemption threshold has also shown that automatable and predictable tariff classification is essential in the handling of low-value consignments (Bakai, Suba, Szabó, 2022).

The correct determination of the tariff heading is based on the combined assessment of several factors (WCO, General Rules for the Interpretation of the Harmonized System, 2012). Firstly, a precise and comprehensive knowledge of the product is essential, including its intended use, material composition, manufacturing process, and functional and technical characteristics. While determining these characteristics, a sensory examination and visual inspection of the product may often suffice as a first step. However, in many cases this does not provide sufficient information, particularly where the product has a complex structure, consists of several components, or possesses specific physical and chemical properties. In such cases, classifying the goods requires laboratory testing, which may involve, for example, spectroscopic, chromatographic or other analytical methods. The laboratory results enable the accurate and objective determination of the tariff heading, particularly where several different tariff headings may be applicable.

National variations evident in the application of the CN have already been examined several times pointing out that numerous national interpretative practices can be observed even in matters relating to provisions that are objectively measurable (Hartkamp, 2011), or those standardised by the Customs Code Committee (Widdowson, David, 2007), or those covered by EU Court of Justice rulings (Valantiejus, G., Katuoka, S., 2019), a wide range of national interpretative practices can be observed.

The aim of our research is to explore what factors influence the tariff classification of certain products in Member States with different cultural backgrounds, and to what extent these factors pose a challenge to a uniform interpretation of the nomenclature, given that the function of customs tariffs now extends far beyond securing state revenue: they serve as strategic instruments of international trade policy, environmental objectives (Knill, C., 1998), and, in some cases, the exertion of pressure in foreign policy.

Within this context, we pay particular attention to the question of how goods with cultural significance – such as the figure of the Tomte, which plays

a defining role in the Christmas folklore of the Nordic countries – can be integrated into a classification system that is influenced by the cultural heritage of an entire continent yet remains objective. Our initial hypothesis is as follows: *the Combined Nomenclature provides a fundamentally objective and neutral legal framework; however, in practice, national and regional cultural contexts may influence its implementation, which can lead to divergent classifications.*

In a case study – focusing on the customs tariff classification of the ‘Tomte’ figure, characteristic of Swedish cultural tradition – we examine the phenomenon of how objective legislation becomes context-sensitive in practice. In our analysis, we provide a historical and legal overview of the cultural context of the product under examination and then use this example to examine how national characteristics may manifest themselves – even indirectly – in the practice of goods classification.

The Combined Nomenclature and the classification of products

To establish a commodity nomenclature that would simultaneously meet the requirements of both the Common Customs Tariff and the European Community’s external trade statistics, the Customs Code Committee ordered a review of the customs tariff based on the Harmonised Commodity Description and Coding System in 1987. This resulted in the creation of the Combined Nomenclature (hereinafter: CN), which was established by Council Regulation (EEC) No 2658/87.

Structurally, the CN consists of 21 sections and 99 chapters. The classification of goods into the nomenclature is governed by general, normative rules (Folsom, R. H. 2018).

Within the system, six so called the General Rules for the Interpretation of the Combined Nomenclature set out the basic principles of goods classification. These define the fundamental steps and interpretative criteria to be followed during the classification of goods. The rules build upon one another; therefore, their order is highly important. The numbering of the rules itself indicates the chronological order of their application; that is, in every case, an attempt must first be made to classify goods using Rule 1, and only if this proves unsuccessful may Rules 2, 3 and 4 be applied.

Rule 6 forms an exception, as it specifies classification according to subheadings (classification in the subheadings of a heading). Following the application of Rule 1 – once the heading has been determined, Rule 6 is applied to determine the appropriate subheading – Rule 6 must be applied to determine classification under a subheading.

Rule 5 is supplementary in nature: it governs the tariff treatment of packing materials and packing containers of a kind normally used for packing such goods. This rule may be applied in conjunction with any other rule of interpretation.

At the beginning of each Section and Chapter, there are notes containing special provisions relevant to tariff classification for that particular chapter or chapter section. Among other things, these may exclude certain types of goods from the chapter section in question; or they may expressly stipulate that a specific type of goods must be classified under that chapter section. Further types of notes include subheading notes and supplementary notes, which contain more detailed explanations and definitions. These explanations may cover: the manufacture or processing of the product; general exceptions; and the definition of technical terms.

In many cases, however, neither the General Rules for the Interpretation nor the notes provide sufficiently specific guidance. To remedy this shortcoming, commodity classification guides have been developed, foremost among them the HS and CN Explanatory Notes. These provide a more detailed and precise description of goods than the text of the tariff heading or the notes, and in many cases, it is only by taking them into account that the correct tariff heading can be determined with certainty.

Nevertheless, there are also plenty of cases where even the additional descriptions contained in the explanatory notes do not provide sufficient guidance for accurate classification. In such cases, it may happen that the same product is classified under different tariff headings by different Member States.

It is worth drawing attention here to the specific interplay between soft law and binding provisions. Although the Court of Justice of the European Union has clearly established that the Explanatory Notes, as soft law instruments, are not binding but merely supplementary in nature. At the same time, however, Article 34(7) of the UCC stipulates that Member States are obliged to withdraw any Binding Tariff Information (hereinafter: BTI) that conflicts with the explanatory notes, which de facto makes the application of these soft law instruments mandatory. Lasiński-Sulecki examined this contradiction in his 2022 study, pointing out that the de facto 'hard law'-like binding nature of soft law in commercial law causes problems for national customs authorities (Lasiński-Sulecki, K., 2022). Brigstock's research also addressed this same topic, highlighting that whilst these soft law instruments do not undergo the legislative process with its inherent safeguards, they nevertheless carry binding force (Brigstock, P., 2024).

To harmonise such differing classifications – particularly in the case of product groups affecting several Member States or significant commercial interests – Classification Opinions are issued, possibly in connection with the issuing of a BTI decision. These determine the tariff classification of a specific product in the form of a Commission Implementing Regulation. Accordingly, Classification Opinions are binding on the customs authorities of all Member States during customs procedures, and their reasoning also provides valuable guidance for the correct classification of 'similar products'.

Every physically existing, tangible item can be classified under a specific tariff heading. However, several factors may influence the classification of a product, in particular:

- ▶ its composition,
- ▶ its intended use,
- ▶ the degree of working or processing,
- ▶ its size and weight,
- ▶ the specific proportion of certain constituents (e.g. cocoa content, alcohol by volume), etc.

The aim of correct commodity classification is to ensure that the same tariff heading designates the same product worldwide, as this is the only way the nomenclature can fulfil its intended function. One prerequisite for this is that the nomenclature containing the code system is accepted and applied as widely as possible (Weerth, Carsten, 2008).

For any given product, a few characteristics collectively determine its classification within the nomenclature and assessing which of these factors are relevant requires extensive knowledge of tariff codes and commodity classification. Many factors influence the process of commodity classification. Sometimes the decisive factor is primarily the material composition of the product; at other times, it is the presence of a specific component, the degree of processing, or indeed the typical intended use.

In resolving ambiguous cases, in addition to the text of the tariff heading, the following aids play a key role:

- ▶ Section and Chapter Notes to product categories and product groups,
- ▶ Explanatory Notes,
- ▶ issued WCO Classification Opinions and Commission Implementing Regulations.

The explanatory notes usually contain general definitions and illustrative lists regarding which tariff heading a product or group of products falls under, and in which cases a given product is excluded from classification under that tariff heading. In contrast, Classification Opinions always describe a specific product with detailed parameters, which in practice often makes them too specific for the purposes of broader application by analogy. For all these reasons, correct classification is, in most cases, a complex and intricate technical task, which requires a high level of expertise in tariff matters, legal interpretation and product knowledge.

In a significant proportion of cases, it is difficult even to determine the precise meaning of a particular definition or concept. The cultures, customs and religious traditions of the more than 200 countries that apply the Harmonised System (HS) are extremely diverse. This inevitably means that certain definitions must be interpreted broadly; moreover, it remains an open question to what extent a particular interpretation can be extended without losing the essential content. The problem arises particularly when classifying items of symbolic significance associated with festivals: to what extent is a given Member State bound by the religious and cultural practices of other countries when classifying goods?

Cultural and legal interpretation issues relating to the classification of goods associated with the Christmas festive season

Due to the nature of the supply chain, there is a significant increase as early as August in the turnover of product categories whose use is typically associated with the peak Christmas period. However, cultural differences play a pivotal role in determining which goods individual countries regard as ‘Christmas-related’.

These differences raise questions as to the criteria for determining whether a given product is specifically intended for the Christmas festivities, and how it should be classified under a particular tariff heading, taking cultural characteristics into account.

The starting point for classification is the wording of the tariff heading and the relevant interpretative notes. Heading 9505 falls under the collective category of ‘festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes’. Within this, HS subheading 9505 10 – Articles for Christmas festivities (Regulation No 952/2013 of the European Parliament and of the Council).

In its decision of March 2024, the WCO broadened the interpretation of HS subheading 9505 10 (Articles for Christmas festivities) by classifying general, everyday decorative items and figurines – which bear symbols associated with Christmas – under this subheading: *“decorative articles mainly used during Christmas celebrations, such as figurines or hanging items with Christmas-related symbols (e.g., figurines holding a candy cane or wearing clothes or accessories which have the colours, design and shape resembling those of Father Christmas.”* (WCO: Amendments to the HS, 2025).

The critical point in the explanation is the definition of ‘Christmas-related symbols’, which did not specify any cultural or national affiliation (e.g. Nordic).

According to point (a) of the Additional Note to Chapter 95 – which was deleted from the CN on 1 November 2025 – products falling under this heading are articles which:

- ▶ are broadly recognised as traditionally used at Christmas festivities and
- ▶ exclusively manufactured and designed as articles for Christmas festivities

According to the illustrative list in the explanatory notes, this category includes, amongst others:

- ▶ articles associated with the nativity (nativity scenes, nativity figurines, Bethlehem stars, the Three Kings),
- ▶ articles recognised as being used at Christmas festivities due to long standing national traditions (artificial Christmas tree, Christmas stockings, imitation yule logs, Christmas crackers, Father Christmases, Christmas angels).

This category specifically excludes decorative items which – although winter-themed – are not used exclusively at Christmas (e.g. snowflakes, icicles, snowmen, reindeer).

Point (b) of the supplementary note also specifies Christmas tree decorations, which are intended for decorating Christmas trees and are generally made of light, non-durable materials (Commission Implementing Regulation 2025/1926).

According to the General Rules for the Interpretation, the text of the tariff heading and the notes are decisive for classification, whilst the Additional Notes and Explanatory Notes assist interpretation by listing further specific examples. The HS Explanatory Note to heading 9505 provides further guidance, emphasising that the following are not to be classified here:

- ▶ Statuettes, statues and the like of a kind used for decorating places of worship,
- ▶ Articles that contain a festive design, decoration, emblem or motif and have a utilitarian function.

The CN Explanatory Notes clarify the interpretation of the HS and emphasise that the product in question:

- ▶ must be of a decorative value, and
- ▶ exclusively designed, manufactured and recognised as festive article.

The term ‘festive occasion’ refers to a period celebrated by a community with specific symbols and customs, regardless of whether the event is of religious or secular origin (e.g. Christmas, Easter, Thanksgiving, Halloween). As with the HS Explanatory Notes, the CN Explanatory Notes also exclude articles intended for everyday use, even if their decoration is of a festive nature.

It follows from the above that the diverse cultural traditions of a given community must be considered when interpreting tariff headings. As the HS Convention has been ratified by more than 95% of the world’s countries, professionals carrying out goods classification must assess the meaning and function of individual goods within a global context. If a product is not considered to be associated with a festive occasion within the cultural context of the country carrying out the classification, but is regarded as such in another community, this aspect must not be disregarded, particularly in light of the fact that the explanatory notes, by way of example, also regard birthdays and weddings as festive occasions.

Consequently, no broad interpretation is required to accept items characteristic of occasions that are celebrated more widely (e.g. Christmas).

The case of the Tomte: the classification of the Nordic Christmas elf

In line with the above, a precise understanding of the cultural context and symbolic significance of individual products is essential for their correct tariff classification. One such example is the Tomte, also known as Nisse, who is a

**Figure 1: Christmas card,
Sweden 1899**



central figure in the region's Christmas folklore (O'Connor A., Wolf-Knuts U, 2000). Its origins date back to the Middle Ages, when it was regarded as a being possessing supernatural powers that protected farms and homes. Its role in the Christmas period was manifested in the fact that, in gratitude for its help throughout the year, it received porridge as a reward from the household at the winter solstice (Yuletide). The overlap between these symbolic roles is reinforced by the fact that the etymological root of the term 'Nisse' can be traced back to the personal names Niels or Nicholas, meaning that the figure of the elf is lexically related to Saint Nicholas. From the 19th century onwards, the Tomte – particularly in Sweden – gradually took on the role of Father Christmas, appearing at Christmas as a figure who distributes presents under the

names Jultomte and Julenisse. By this time, his appearance had become characterised by a long white beard, a red pointed cap, and often only a prominent round nose visible, with no other facial features. This iconographic feature allows for the immediate identification of the character with the Christmas festive season. (Swedish Act on Copyright in Literary and Artistic Works, 1960). Therefore, if it retains its traditional attributes (colours, shape, appearance), it can be regarded as a culturally specific, national Christmas item. Because of this cultural embeddedness – taking into account the spirit of the HS and CN Explanatory Notes – the Tomte, as an object based on a traditional Christmas representation dating back centuries, can be classified in the Nordic countries under HS subheading 9505 10 as decorative articles associated with festivities.

In 2020, the US Customs and Border Protection excluded gnome ornaments from the 9505 (Christmas) categorie, on the grounds that 'the gnome is a creature associated with folklore tradition in the Nordic region; not the United States' (U.S. Customs and Border Protection: Tariff Classification, 2020). This highlights the fact that cultural – and, in this case, tariff – classification is not universal, but tied to national and regional contexts.

The Tomte case comes to a head: BTI decisions issued in the EBTI system

In 2024, BTI applications were submitted to the Danish customs authorities concerning four different elves (reference: DK BTI 24-1708332; DK BTI 24-0408670; DK BTI 24-0370780; DK BTI 24-0364579). During a review/search of existing EBTI database revealed that the tariff classification of the products is not consistent across Member States.

Figures 2–5.



Source: EBTI database (DK BTI 24-1708332; DK BTI 24-0408670; DK BTI 24-0370780; DK BTI 24-0364579 BTI applications)

Belgium, the Czech Republic, Germany, Spain, France, the Netherlands, Poland and Sweden have also issued BTI decisions on Christmas elves, albeit with different headings:

- ▶ 63.07 – Other made-up articles, including dress patterns,
- ▶ 9503 00 21 – Dolls representing only human beings, whether or not clothed,
- ▶ 9503 00 41 – Stuffed toys representing animals or non-human creatures.

In view of the above discrepancies, the Danish customs authorities initiated a consultation among Member States, which, however, did not lead to a consensus. The matter was subsequently referred to the European Commission.

On 3 December 2024, the European Commission's Directorate-General for Taxation and Customs Union – citing differing classification practices among Member States – suspended the issuance of BTI decisions regarding 'textile gnomes' (Christmas elves) (reference: Taxud.b.5(2024) 9562939), and placed the matter on the agenda of the Tariff and Statistical Nomenclature Section of the Customs Code Committee, specifically for the comitology meetings of the Textiles and Mechanical/Miscellaneous Sub-section.

Based on a review of the EBTI system, it was established that Member States currently classify gnome figurines under three main headings:

- ▶ 63.07 – Other made-up articles, including dress patterns,
- ▶ 95.03 – Toys (toy vehicles, dolls, models, puzzles, etc.),
- ▶ 95.05 – Festive, carnival or other entertainment articles.

Furthermore, certain Member States have issued several BTI decisions even within the same tariff code, further illustrating the lack of a fully uniform interpretation. For CN code 9503 00 21, Germany issued eight BTI decisions, France four, the Netherlands two, and Poland one. Under tariff heading 6307, Germany issued three BTI decisions, while Sweden and the Czech Republic issued one each.

According to the expert opinions of Sweden and the Czech Republic, the products under examination are not toys but primarily decorative items; as such, they have no moving parts, are not made of durable materials and have a base on their underside designed to ensure stable placement.

Consequently, they cannot be classified under CN code 9503 00 41 as toys. The figures do not have human facial features – typically, only a large nose and a merged hair and beard are visible where the face would be, and the absence of limbs is common – and therefore do not qualify as dolls either. According to the position of Sweden and the Czech Republic, the products fall under heading 63.07 as textile articles for decorative purposes.

In Sweden, a national court ruling was also issued on the classification of ‘elf’ or ‘gnome’-like products; the ruling classified these articles under heading 63.07, treating them as mythological creatures.

Other Member States – such as Germany and Belgium – have argued that products which have a head, nose, body and limbs are classified as beings with human characteristics and should therefore be classified under heading 95.03 as dolls. In their view, the fact that the dolls also serve a decorative purpose is irrelevant.

In the case of gnomes without limbs, their classification as toys or ornaments must be determined on the basis of their material and design:

- ▶ if, for example, they are filled with sand and reinforced with wire, and are therefore unsuitable for use as toys, they are to be classified under heading 63.07.
- ▶ if they are filled with soft material and can actually be used as toys, they fall under heading 95.03 as stuffed toys representing non-human beings.

Due to persistent differences in the classification of gnomes, the Customs Code Committee placed the issue on the agenda at its 265th meeting. Owing to a significant divergence of expert opinions, no vote was taken following the initial debate, and consequently no decision was reached to establish a uniform classification of the goods.

It was also raised at the meeting that in certain Nordic countries there is a long-standing tradition of ‘Tomte’ figures associated with the Christmas festivities, which should be classified under heading 95.05. Denmark indicated that the grey-and-red Tomte figures are specifically associated with Christmas in their country; therefore, these should be classified under heading 95.05 as articles used for the Christmas festivities.

The participants agreed that the Directorate-General for Taxation and Customs Union would conduct a written consultation via questionnaire with the Member States in order to ascertain which tariff classification the majority supports with regard to the disputed product range.

The questionnaire was designed to clarify two interrelated fundamental questions:

- ▶ Christmas association: from a tariff perspective, can nordic gnome figurines be linked to the Christmas festive season, i.e. is the application of heading 9505 10 even a possibility?
- ▶ Alternative classification: if the products do not qualify as Christmas articles, is classification under heading 63.07 (other textile articles of a decorative nature) or 95.03 (toys) justified?

The summary of Member States’ replies was presented at the 268th meeting of the Customs Code Committee. Most of the Member States agreed that, as a general rule, Tomte figures cannot be classified under heading 9505 10 as articles for Christmas festivities.

However, the responses were divided:

- ▶ 12 Member States (32% of the votes) took the view that elf figurines wearing a Santa hat (a red, conical hat decorated with a white pompom) should be classified under heading 9505 10. This view was supported by reference to the classification opinion relating to subheading 9505 10, adopted at the 74th meeting of the WCO Harmonised System Committee.
- ▶ Seven Member States (11% of the votes) considered the application of heading 63.07 to be justified.

The referenced WCO Classification Opinion contains the classification of three products classified as Christmas decorations; of these, the following items are of particular relevance to the Tomte case:

- ▶ A plastic Christmas decoration in the shape of a penguin wearing a Santa hat, with a glass dome on its head;
- ▶ A star-shaped (fabric-covered) wire decoration featuring an angel figure, a red star, and motifs of cinnamon and pine cones;
- ▶ Wooden Christmas decoration: a house with a fir tree and a snowman, where the snowman is wearing a Santa hat (a red, pointy hat with a white pompom).

Following the consultation, further technical discussions arose regarding the subheading classification within heading 95.03. In this context, most Member States considered that Tomte figures, which are humanoid and have all limbs (head, arms and legs), constitute toys representing human beings, i.e. dolls, and therefore fall under heading 9503 00 21.

However, this position is qualified by the fact that this approach runs counter to the classification practice set out in Regulation (EU) No 711/2013, which classifies a human-shaped figure depicting a comic-book character (for example: Gargamel) under heading 9503 00 95, on the grounds that the product cannot be regarded as a doll. According to the interpretation set out in the Regulation, a ‘doll’ is typically a male or female character, usually an infant, a little boy, a little girl or a fashion model-type figure. In line with this, the overwhelming majority of Member States agreed that elf figures without limbs or with missing limbs should be classified under heading 63.07.

Based on the BTI decisions, Member State practice was still not uniform at the time of finalising this draft (January 2026): some Member States prefer to apply heading 95.03 (dolls/toys), whilst others prefer heading 63.07. The solution does not involve the adoption of a legal act, but rather the amendment and clarification of the text of the CN Explanatory Notes. Nevertheless, it ensures uniform classification at EU-level, thanks to the provisions of the UCC (Article 34(7)(a)(i)), which elevate the explanatory notes to quasi-legal status. At the same time, it is important to note that this will not be binding on non-EU states. For all customs authorities worldwide to classify nordic gnomes under the same heading, the matter would need to be resolved at HS level, for example by clarifying the relevant text of the HS Explanatory Notes. This goes beyond the EU’s decision-making powers and falls within the remit of the WCO. However, it is precisely the WCO that has issued Classification Opinions in this regard which significantly broaden the scope of the concept of festive occasions – particularly Christmas – by classifying under heading 95.05 products that are less closely associated with Christmas.

In December 2025, the classification of ‘Tomte’ was once again on the agenda of the 277th meeting of the Customs Code Committee. The committee prepared the text of a draft amendment to the Explanatory Notes to the CN, which was further refined at the meeting by experts from the Member States.

According to the draft, Tomte – with the exception of the grey-and-red colour combination, as agreed by consensus – will not be classifiable under heading 95.05 (2.7% duty); depending on its material and nature, it must be classified under heading 95.03 (4.7% duty) or 63.07 (6.3% or 12% duty). This principle of goods classification largely corresponds to the Hungarian customs authorities’ previous practice of goods classification and to the technical position they have taken in this matter. The Hungarian customs authorities classify nordic gnomes without limbs under heading 63.07, whilst, in their view, gnomes with limbs cannot be regarded as dolls and must therefore be classified under subheading 9503 00 95 rather than 9503 00 21 within heading 95.03.

Whilst the classification of goods also serves statistical purposes, it is undoubtedly of primary importance for the assessment of customs duties and in terms of trade policy regulations. In the present case, there are significant differences in duty rates between the relevant headings.

In a 2024 study, Cristina Faone examined the empirical problems of the EU customs union (Faone, 2024). Specific examples {Bluetooth speaker: 8518 21 00 (0% duty) vs. 8519 (6% duty), Surgical gown: 6210 10 92 (12% duty) vs. 4818 50 00 (0% duty), Hair colour chart: 4911 10 90 (0% duty) vs. 6307 90 98 (6.3% duty)}, demonstrating that, although the rules are identical, cultural differences are not even necessary for tariff classifications to vary from country to country. The underlying reason for this – presumably – lies in the differing rates of duty. The forum available for harmonisation, the Customs Code Committee, can reach a consensus in a minimum of 90–120 days (Copenhagen Economics: Analysis of aspects of uniform tariff classification, 2021). The Tomte case is similar: the ‘subjectivity of cultural classification’ exhibits the very same symptoms within the CN system.

Conclusions

The analysis has highlighted that, in the field of customs tariff classification, the practices of individual Member States may diverge along lines of cultural interpretation. For example, in the case of the Tomte figure, some customs authorities treated it as a toy under heading 95.03 or as a human-shaped doll, whilst others classified it as a textile ornament under heading 63.07, and there were also opinions from Member States that classified certain variants – such as those wearing a Santa hat – under heading 95.05, i.e. as a Christmas festive article. This inconsistency highlights the fact that customs tariff systems, however technical in nature, inevitably operate with linguistic and cultural categories (e.g. ‘festive article’, ‘Christmas decoration’, ‘doll’, ‘toy’). These categories do not merely express physical characteristics or size: they often encompass concepts linked to social practices and symbols. Consequently, if a category – such as the adjective ‘Christmas’ – is culturally defined differently across Member States, then even if the wording of the common rule is identical, the underlying meaning may vary from country to country.

Whilst the customs union requires uniform rules, implementation does not take place within a single central authority, but rather across a multitude of Member State authorities, each with differing institutional practices, professional backgrounds, risk-taking appetites and burdens of proof. This is precisely why the EU incorporates harmonisation mechanisms; the most important of these is the Combined Nomenclature itself, the legal basis and purpose of which is to ensure the uniform application of the Common Customs Tariff. Yet in the present case, the very wording of the explanatory notes to the nomenclature leaves room for differing classifications, particularly through the definition of a ‘festive occasion’,

which is identified with a community's cultural customs and traditions. However, cultural and institutional heterogeneity means that, despite harmonisation mechanisms, discrepancies may still arise, particularly in borderline cases where 'function' and 'meaning' are intertwined. It is important to emphasise that the Common Customs Tariff is not merely a technical system: it also determines the rate of customs duties payable, and therefore the creativity inherent in its interpretation can also be understood in terms of material interests.

The EU's customs union requires that customs controls be abolished at internal borders, whilst common rules apply at external borders – in other words, national customs administrations must operate as a unified whole. The logic of the Common Customs Tariff serves precisely this homogeneity: the same goods must be understood and classified in the same way in every Member State under the same heading. At the same time, certain tariff categories necessarily contain a cultural element. The figure of the Tomte is a typical example: the same product is regarded as a 'Christmas' (traditional national) item in one cultural context, whereas elsewhere it is considered a 'general winter decoration' or a 'toy figure'. This difference has led to differing headings and has generated institutional-level debate amongst Member States. The EU's multilingual (24 official languages) legal environment further increases the risk that the same legal category may be interpreted with different nuances in the languages of the Member States. This is particularly critical where the tariff text is brief and uses broad terms, and the details must be worked out from explanatory notes, examples and precedents.

At the same time, the uniform nomenclature imposes a common categorisation system on the market. Producers, importers, logistics providers and even retail chains are increasingly naming products according to tariff categories, and are packaging, documenting and developing them accordingly. This process essentially leads to the standardisation of market language: a product becomes known by the classification assigned to it by the customs tariff. In the longer term, this may also have cultural repercussions (Szabados, 2022). For example, the sales season, marketing and design of festive-themed products may gradually adopt pan-European patterns as a result of the standardisation of tariff categories. It is also important to note that companies often adapt the characteristics of their products (material, size, function, packaging, labelling) so that they qualify for a more favourable tariff classification. This can have not only economic but also cultural implications: certain festive motifs (e.g. the Santa hat) become standardised, whilst others may fade into the background because their use increases the risk of a different classification.

Based on the available practical examples – in particular the classification debate surrounding Tomte – it can be concluded that our hypothesis is valid. Cultural factors do not always manifest themselves directly, but they do emerge at the levels of interpretation and implementation and are capable of giving rise to differing classification patterns across Member States. In the assessment of cultural property, both cultural nationalism and a form of cultural

internationalism come into play, which fundamentally shape the legal and ethical debates concerning the ownership, movement and protection of cultural objects (Merryman, 1986). Consequently, we can confirm the hypothesis of this thesis: although the Combined Nomenclature is fundamentally an objective and neutral system, cultural factors can indeed influence classification decisions during its implementation. At the same time, it is also true that the institutional response of the EU customs union typically seeks harmonisation: it endeavours to eliminate differences by issuing explanatory notes relating to tariff headings and subheadings or by adopting Commission Implementing Regulations. In the case of the European Union, this can be observed in the annual updating of the CN and in the system of Commission Implementing Regulations. Overall, therefore, the research highlights that, whilst the customs tariff system is fundamentally based on objective logic, its practical application is not free from the influences of cultural context, which the EU's ongoing harmonisation efforts in the application of the law are designed to address.

However, an examination of the timeline reveals that the decision-making process regarding a uniform interpretation is protracted, as the need for harmonisation arose in 2024, when the Danish customs authority highlighted the anomalies in the classification of goods, and a solution is not expected until the second half of 2026.

The idea of a common customs authority was mooted several years ago, and efforts to establish one are gaining momentum. Should such a joint customs authority be established, it is hoped that the duration of protracted decision-making processes will be significantly reduced.

Summary

The aim of this research was to explore how the objectivity of the goods classification system used in the European Union's Combined Nomenclature is applied in practice, with particular regard to products with cultural characteristics. To this end, the study examined, using the example of the Tomte figure – iconic in Swedish and nordic festive traditions – how a fundamentally neutral and uniform classification system can be adapted to a culturally diverse environment. The hypothesis is that, although the harmonised nomenclature (CN) in principle excludes all subjective factors, at the level of implementation by Member States, national cultural contexts may nevertheless indirectly influence classification decisions.

The methodology of the study was based on several pillars. On the one hand, it reviewed the relevant legal framework and international nomenclature and tariff classification rules, including the explanatory notes to the Harmonised System and the EU classification guidelines. Secondly, it carried out an empirical comparison: it analysed the results of Binding Tariff Information decisions (BTIs) and Commission debates concerning the Tomte figurine and assessed

the practices of customs authorities in various Member States. The research drew on the minutes and ad hoc decisions of the Customs Code Committee, which provide insight into how the EU attempts to manage differences in interpretation between Member States at a central level.

The main findings indicate that, although the Combined Nomenclature does indeed provide an objective basis for the classification of goods, in the case of certain goods – particularly those with cultural or traditional significance – the principle of objectivity faces challenges in practice. The Tomte case study clearly demonstrated that the same product can be interpreted differently in different countries: in some places, the figurine was identified as an object associated with the Christmas festive season, whilst in others it was classified as a simple decoration or toy, and customs duties were paid accordingly upon import. These differences in perspective led to the application of different customs CN codes, demonstrating that cultural embeddedness can influence classification. At the same time, the research also highlighted that the institutional frameworks of the European Union are constantly working to reduce such discrepancies by limiting national discretion, in some cases by elevating certain national cultural elements to the EU-level. Central harmonisation mechanisms – such as Explanatory Notes, Implementing Regulations issued by the Commission, and the annual updates to the Combined Nomenclature – play a key role in ensuring the uniform application of the law within the customs union. In summary, this paper confirms that, although the customs tariff classification system is formally objective and uniform, in reality, cultural factors at the level of interpretation and application can lead to differences in interpretation. This realisation, however, highlights the importance of the harmonisation instruments operating within the EU, which are indispensable for bringing Member States' practices into line and maintaining a fair and uniform system of customs clearance throughout the customs union.

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