COMMISSION REGULATION (EEC) No 251/78
of 7 February 1978
on the classification of goods under heading No 58.10 of the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff (1), as last amended by Regulation (EEC) No 280/77 (2), and in particular Article 3 thereof,

Whereas, in order to ensure uniform application of the nomenclature of the Common Customs Tariff, provisions must be laid down concerning the tariff classification of plain-stitch embroidery, in the piece or in strips, with scalloped edges resulting from cutting which is inherent in the process of manufacturing such embroidery;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 of 28 June 1968 (3), as last amended by Regulation (EEC) No 2560/77 (4) refers, in heading No 58.10, to 'embroidery, in the piece, in strips or in motifs' and, in heading No 62.05, to 'other made up textile articles';

Whereas such embroidery could be regarded as falling within either of the two abovementioned headings; whereas, however, if such embroidery is covered by heading No 58.10, then, in accordance with Note 2 (a) to Chapter 62, it must be classified under this heading and not under heading No 62.05;

Whereas the scallop shape given to such embroidery is considered by the various sectors of the industry and trade concerned to be the usual shape of embroidery in the piece or in strips; whereas such embroidery is obtained during the usual process of industrial manufacture of such goods by cutting very wide fabric along the edge of each embroidered motif so that the base fabric forming the opposite edge is also scalloped; whereas such scalloping is therefore inherent in the manufacture of embroidery in the piece or in strips and does not in any way result from the intention of giving these pieces or strips a final shape other than rectangular;

Whereas, moreover, such scallop-edge embroidery is a less elaborate product than that which, according to the Common Customs Tariff, falls within heading No 58.10; whereas this heading covers, under the terms of Note 5 to Chapter 58, sewn appliqué work of sequins, beads or ornamental motifs of textile or other material;

Whereas, in these circumstances, such embroidery cannot be treated as 'made-up articles' within the meaning of Note 6 (a) to Section XI; whereas, consequently, this embroidery cannot fall within heading No 62.05 and must be classified under heading No 58.10;

Whereas the provisions provided for in this Regulation are in accordance with the opinion of the Committee on the Common Customs Tariff Nomenclature,

HAS ADOPTED THIS REGULATION:

Article 1

Plain-stitch embroidery, in the piece or in strips, with scalloped edges, shall be classified in the following heading of the Common Customs Tariff:

'58.10 Embroidery, in the piece, in strips or in motifs.'

Article 2

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 February 1978.

For the Commission
Étienne DAVIGNON
Member of the Commission

(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 40, 11. 2. 1977, p. 1.
(3) OJ No L 172, 22. 7. 1968, p. 1.
(4) OJ No L 303, 28. 11. 1977, p. 1.