COMMISSION REGULATION (EEC) No 3558/81

of 8 December 1981

on the classification of goods falling within subheading 71.16 A 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 the Act of Accession of Greece, 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 stud earrings, whether or not put up in sterile packaging, made of gold- or silver-plated steel, consisting of a shank with a decorative head and a 'butterfly' fastening, this shank being used to pierce the ear by means of a special device which secures it in the ear lobe ;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 [2], as last amended by Council Regulation (EEC) No 3300/81 [3], lists imitation jewellery under heading No 71.16 and surgical instruments under heading No 90.17 ; whereas for the classification of the abovementioned articles the aforesaid headings merit consideration ;

Whereas these articles do not require under normal conditions of use the intervention of a medical practioner to make a diagnosis, or to prevent or treat an illness, or to operate within the meaning of the first paragraph of the Explanatory Notes to heading 90.17 of the Customs Cooperation Council nomenclature ; whereas even during the period of the healing process when they also serve to prevent the pierced holes from closing up their main function is that of an object of personal adornment within the meaning of Note 10 (a) to Chapter 71 ;

Whereas, therefore, these stud earrings fall within heading No 71.16 ; whereas, being of base metal, they must be classified under subheading 71.16 A ;

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

HAS ADOPTED THIS REGULATION :

Article 1

Stud earrings, whether or not put up in sterile packaging, made of gold- or silver-plated steel, consisting of a shank with a decorative head and a 'butterfly' fastening, this shank being used to pierce the ear by means of a special device, which secures it in the ear lobe, shall be classified in the Common Customs Tariff as follows :

71.16 Imitation jewellery

A. Of base metal

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, 8 December 1981.

For the Commission

Karl-Heinz NARJES

Member of the Commission

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(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 172, 22. 7. 1968, p. 1.
(3) OJ No L 335, 23. 11. 1981, p. 1.