COMMISSION REGULATION (EC) No 1439/2007

of 5 December 2007

concerning the classification of certain goods in the Combined Nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], and in particular Article 9(1)(a) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3 of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature, but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [2].

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

This Regulation shall enter into force on the 20th day following 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, 5 December 2007.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 580/2007 (OJ L 138, 30.5.2007, p. 1).

[2] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
Set consisting of several plasters and pads which contain the following ingredients (% by weight): — Tourmaline 4 — Chitosan 5 — Wood vinegar 30 — Pearl powder 4 — Pure silica 4 — Glycolic acid 3 — Dextrin 50 According to the information on the package the product is intended to improve circulation of blood in the feet to activate the metabolism of the cellular tissue and detoxify the body. The pads are to be worn on the soles of the feet for 8-10 hours with the aid of the plasters supplied. The product is presented in a folding card pack for individual sale.	3824 90 98	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 3824, 3824 90 and 3824 90 98. The product cannot be considered to be a preparation for the care of the skin nor for the care of the foot as it is not designed primarily for that purpose (Harmonized System Explanatory Notes to heading 3304, (A) (3), and (B)). The pads give the essential character to the product. They do not provide a scientifically tested therapeutic effect, by reducing toxicity in the whole body and cannot be classified in either heading 3004 or 3005. They have to be classified as other chemical preparations not elsewhere specified or included.