COMMISSION REGULATION (EC) No 1028/2008

of 19 September 2008

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 code indicated in column 2, by virtue of the reasons set out in column 3 of that table.

(4) It is appropriate to provide that, subject to the measures in force in the Community relating to double-checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, can continue to be invoked for a period of 60 days 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 code indicated in column 2 of that table.

Article 2

Subject to the measures in force in the Community relating to double-checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, 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 60 days, under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

This Regulation shall enter into force on the 20th day following that of 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, 19 September 2008.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1.

[2] OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Article made up of knitted fabric of different colour, of man-made fibres. The fabric is suitable for swimwear. The article is to be worn next to the skin, reaching down to just below the bust. Two triangle-shaped pieces of textile fabric form cups for the breasts, when the article is worn. Each of the two triangles is lined with a single-coloured knitted fabric and is hemmed at the three edges. The hem at the lower edge forms a tunnel through which an elastic textile string is passed. An elastic textile string is sewn on the pointed upper edge of each triangle. The two vertical elastic strings are tied behind the neck and the horizontal elastic string is tied at the back of the wearer. (brassiere) (See photographs Nos 644 A, 644 B and 644 C) (*)	6212 10 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, note 2(a) to Chapter 61 and the wording of CN codes 6212, 6212 10 and 6212 10 90. Although, from its general appearance, cut and nature of fabric the article appears to be an upper part of a two-piece bathing costume ('bikini'), classification in heading 6112 (swimwear) is excluded, because the article lacks the lower part of the 'two-piece bathing costume'. See also the HS Explanatory Notes to heading 6112, (C). Moreover, the article is not an 'incomplete article' of heading 6112 (swimwear) within the meaning of GIR 2 (a), because the article does not have the essential character of the complete article (i.e. a two-piece bathing costume), since it cannot be used for swimming as such. The article has the characteristics of a brassiere, since by means of the textile strings the two triangle-shaped pieces of textile fabric form cups for the breasts, when the article is worn. By tying the horizontal and vertical strings tightly around the body, allows the breasts to be raised and supported. Thus, the article is of a kind 'designed for wear as body-supporting garment' within the meaning of the HS Explanatory Notes to heading 6212, first paragraph. Furthermore, like other brassieres, the article is designed to be worn next to the skin. The article is to be classified as a brassiere in heading 6212, because this heading includes brassieres of all kinds (see the HS Explanatory Notes to heading 6212, second paragraph, (1)).

(*) The photographs are purely for information.



644 A



644 B



644 C