COMMISSION REGULATION (EC) No 1156/2008

of 20 November 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 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 Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

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, 20 November 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)
1. An apparatus for the recording, reproducing and displaying of still images (so-called 'digital photo frame'), with overall dimensions 17 (L) × 12,9 (W) × 12,3 (D) cm, consisting of the following main components in a single housing: — a colour display of the liquid crystal device (LCD) type with a diagonal measurement of the screen of 13 cm (5,1 inches) and a resolution of 320 × 240 pixels, — a slot for a Subscriber Identity Module (SIM) card, — an infra-red interface, — an internal memory, and — control buttons. The images are transferred to the internal memory of the apparatus from a compatible device (such as a mobile phone, automatic data-processing machine or digital camera) via an infra-red signal or with an SIM card through Multimedia Messaging Service (MMS). The images can also be transferred from the apparatus via the infra-red signal to a compatible device. The apparatus supports JPEG and GIF formats with a maximum resolution of 1 024 × 728 pixels. The images can be displayed in either single image or slideshow mode. Its internal memory can store up to 50 images.	8528 59 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 90. Since the apparatus is a composite machine in accordance with Note 3 to Section XVI, it is to be classified as if consisting only of that component which performs its principal function. Due to its capability of displaying images, the principal function of the apparatus is considered to be that of a monitor, which is an individual function specified in heading 8528. The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the Harmonised System Explanatory Notes to heading 8528, third paragraph). Therefore, the apparatus is to be classified under CN code 8528 59 90 as a colour monitor.

(1)	(2)	(3)
2. An apparatus for the recording, reproducing and displaying of still and video images, as well as for the recording and reproducing of sound (so-called 'digital picture frame'), with overall dimensions 33 (W) × 24,1 (H) × 4,1 (D) cm, consisting of the following main components in a single housing: — a colour display of the liquid crystal device (LCD) type, with a diagonal measurement of the screen of 25,4 cm (10 inches) and a resolution of 800 × 480 pixels, — an internal memory with a storage capacity of 128 MB, — memory card slots, — built-in loudspeakers, — two USB interfaces, and — control buttons. It supports the following formats: — audio: MP3, — still image: JPEG, GIF, — video: MPEG1, MPEG4, MOV, AVI. Different types of solid-state non-volatile storage devices can be inserted into the memory card slots. The images may be displayed in single image, slideshow or thumbnails mode. The apparatus can be connected to a compatible apparatus, for example, a digital camera, a printer or an automatic data-processing machine.	8528 59 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 90. Since the apparatus is a composite machine in accordance with Note 3 to Section XVI, it is to be classified as if consisting only of that component which performs its principal function. Given the design and the concept of the apparatus, its purpose is to display still and video images. Recording still and video images is to be considered as a secondary function of the apparatus. Therefore its principal function is considered to be that of a monitor, which is an individual function specified in heading 8528. The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the Harmonised System Explanatory Notes to heading 8528, third paragraph). Therefore, the apparatus is to be classified under CN code 8528 59 90 as a colour monitor.