COMMISSION REGULATION (EC) No 457/2008

of 23 May 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 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.

Article3

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, 23 May 2008.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 360/2008 (OJ L 111, 23.4.2008, p. 9).

[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)
1. A product consisting of a quartz plate coated with chrome and photoresist with overall dimensions of 15 (L) × 15 (W) × 0,6 (D) cm (so-called 'photomask blank'). The product is to be exposed and developed to become a 'photomask' used in the production of semiconductor devices.	3701 99 00	Classification is determined by General Rules 1, 3 (a) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3701 and 3701 99 00. The product is to be classified under heading 3701 because it is an unexposed photographic plate covered with photosensitive material (see the Harmonised System Explanatory Notes to heading 3701).
2. A product consisting of a quartz plate coated with chrome with overall dimensions of 15 (L) × 15 (W) × 0,6 (D) cm upon which circuit diagram patterns have been produced in the same manner as in the case of exposed and developed photographic plates (so-called 'photomask'). The product is used in the manufacture of semiconductor wafers for photographically transferring circuit diagrams onto wafers.	3705 90 90	Classification is determined by General Rules 1, 3 (a) and 6 for the interpretation of the Combined Nomenclature, Note 2 to Chapter 37 and by the wording of CN codes 3705, 3705 90 and 3705 90 90. Classification under heading 8486 is excluded, because a 'photomask' is not an integral part of a machine used for the manufacture of semiconductor boules or wafers, but an independent consumable and interchangeable tool of distinctive attributes. The product is to be classified under heading 3705 because it is an exposed and developed photographic plate of a kind used for the projection of a still image onto a wafer.
3. An appliance designed to increase the amount of natural light in a room, consisting of a prismatic dome lens, a system of tubes and diffuser lenses. The appliance captures light through a dome on the roof and transfers it to the ceiling of the room through its internal reflective system, where the light is diffused.	9013 80 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 9013, 9013 80 and 9013 80 90. Classification under heading 9405 as a lamp or lighting fitting is excluded as the appliance does not create light, but captures, transfers and diffuses daylight using optical means. Therefore, the product is to be classified as an optical appliance under heading 9013.