COMMISSION REGULATION (EC) No 56/2009

of 21 January 2009

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 thereon or which adds any additional subdivision thereto 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 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 may, for a period of three months, continue to be relied on 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

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, may continue to be relied on 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 twentieth 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, 21 January 2009.

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)
A bag made of fabric woven from polypropylene strip of less than 5 mm wide, cuboid in shape and measuring approx. 54,5 cm × 74 cm × 25 cm, with two strong handles made of the same material sewn on the two long sides of the bag, each going down to underneath the bottom of the bag. The bag is visibly coated with plastic sheeting on both surfaces, there are no compartments inside, and it can be closed on the top with a zip fastener. The edges are reinforced with a sewn-on band. (container similar to a shopping bag) (See photograph No 649) (*)	4202 92 19	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(m) to Chapter 39, Additional Note 1 to Chapter 42 and the wording of CN codes 4202, 4202 92 and 4202 92 19. Due to its cuboid shape typical for shopping bags and the reinforced handles situated in such a way as to be carried by the shopper's hands and due to the fact that the plastic sheeting, the zip fastener, the reinforced border and the strong handles (continuing along the sides of the bag for reinforcing purposes) enable prolonged use, the bag has the objective characteristics of a 'container similar to a shopping bag'. Containers similar to a shopping bag are covered by heading 4202 (see also the Harmonised System (HS) Explanatory Note to heading 4202, first paragraph, which explicitly mentions that this heading covers only the articles specifically named therein and similar containers). Due to the above-mentioned characteristics the article in question is not the kind of container generally used for the packing or conveyance of all kinds of products, therefore classification in heading 3923 is excluded within the meaning of Note 2(m) to Chapter 39 (see also the HS Explanatory Notes to heading 3923, first paragraph, point (a) and second paragraph). Since the outer surface of the article is covered with plastic sheeting visible to the naked eye, it is to be classified as an article with outer surface of plastic sheeting (see Additional Note 1 to Chapter 42). Consequently the article is to be classified under CN Code 4202 92 19.

(*) The photograph is purely for information.

