COMMISSION REGULATION (EC) No 594/2009

of 8 July 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 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.

(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 good 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, 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 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, 8 July 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)
1. Vinylidene fluoride and hexafluoro propylene copolymer in primary form. This material displays the stretching and recovery properties of elastomers but cannot be vulcanised with sulphur. In order to cross-link, this copolymer requires basic compounds or certain peroxides.	3904 69 90	The classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Notes 1, 4 and 6 to Chapter 39, Note 4(a) to Chapter 40, subheading Note 1 to Chapter 39 and the wording of CN codes 3904, 3904 69 and 3904 69 90. Vinylidene fluoride and hexafluoropropylene copolymer does not comply with the definition of synthetic rubbers contained in Note 4(a) to Chapter 40 since it cannot be vulcanised with sulphur. Poly (vinylidene fluoride) is a polymer belonging to Chapter 39 (see the Harmonised System Explanatory Notes (HS EN), General Notes to Chapter 39, list of abbreviations of polymers and Notes relating to heading 3904, last paragraph). A vinylidene fluoride and hexafluoropropylene copolymer in primary form is a fluorinated copolymer to be classified in Chapter 39 under CN code 3904 69 90, according to Notes 1, 4 and 6 to Chapter 39 and subheading Note 1 to Chapter 39.
2. Fluoroelastomer O-ring seals (vinylidene fluoride and hexafluoropropylene copolymer). The constituent material of this product (vinylidene fluoride and hexafluoropropylene copolymer) displays the stretching and recovery properties of elastomers, but cannot be vulcanised with sulphur. In order to cross-link, it requires basic compounds or certain peroxides.	3926 90 97	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Notes 1 and 4 to Chapter 39, Note 4(a) to Chapter 40, Note 2 to Section XVI, Note 2 to Chapter 90 and the wording of CN codes 3926, 3926 90 and 3926 90 97. This product is an elastomeric seal for general use. Therefore it is not a recognizable part of a machine in the meaning of Note 2 to Section XVI and Note 2 to Chapter 90 of the CN, and consequently excluded from Section XVI and Chapter 90. The constituent material of this product does not comply with the definition of synthetic rubbers contained in Note 4(a) to Chapter 40, since it cannot be vulcanised with sulphur. Poly (vinylidene fluoride) is a polymer belonging to Chapter 39 (see the Harmonised System Explanatory Notes (HS EN), General Notes to Chapter 39, list of abbreviations of polymers and Notes relating to heading 3904, last paragraph). Vinylidene fluoride and hexafluoropropylene copolymer is a fluorinated copolymer which should be classified in Chapter 39. Consequently, the product in question is a plastic product belonging to Chapter 39 and not specified or included elsewhere in the combined nomenclature, and should therefore be classified under CN code 3926 90 97.