COMMISSION REGULATION (EU) No 310/2010

of 9 April 2010

concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 provisions of the Union, 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 can, for a period of 3 months, continue to be invoked by the holder, pursuant to 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, can continue to be invoked for a period of 3 months pursuant to 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, 9 April 2010.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
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)
An apparatus having the appearance of a walk-through portal used at airport security points (so-called 'mass spectrometer'). It is designed for the detection of illicit substances, such as explosives and narcotics, by using Ion Trap Mobility Spectrometer (ITMS) technology. The analysis is based on samples of air which pass through a semi-permeable membrane and enter an ionisation chamber where an ionisation source emits beta particles resulting in ion formation in the gaseous phase. The ionisation is then pulsed into a drift tube where an electric field accelerates the ions to a collector electrode. The sample is then analysed based on the time taken by the ions to reach the collector. Consequently, the apparatus separates ionised vapours and then measures the mobility of the ions in an electric field. The apparatus does not use optical radiation.	9027 80 17	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9027, 9027 80 and 9027 80 17. Classification under heading 9022 as an apparatus based on the use of beta radiation is excluded, as the radiation is used only in a preparatory step, prior to the analysis, to ionise the sample. The radiation is only an initial stage of the chemical analysis process which uses spectrometry technology. The apparatus for physical or chemical analysis — spectrometers — are specifically mentioned under heading 9027. As the apparatus does not use optical radiation (UV, visible, IR), it is therefore to be classified under CN code 9027 80 17 as other apparatus for physical or chemical analysis.