COMMISSION IMPLEMENTING REGULATION (EU) No 757/2011

of 27 July 2011

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 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 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, 27 July 2011.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1.

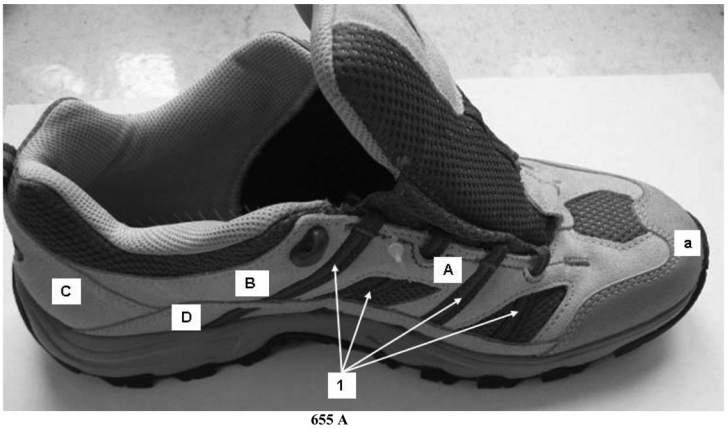
[2] OJ L 302, 19.10.1992, p. 1.

ANNEX

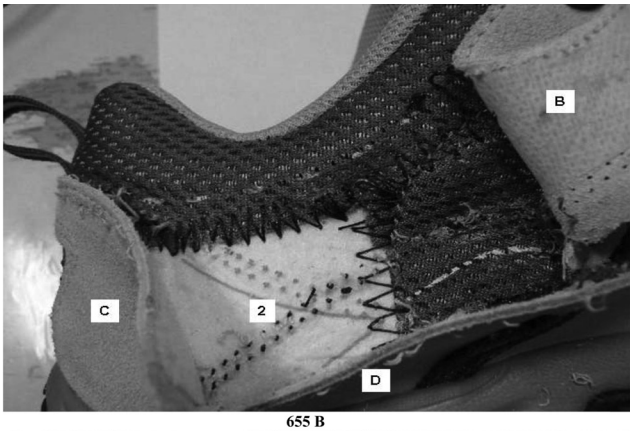
Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Footwear not covering the ankle and not identifiable as men's or women's footwear, with insoles of a length of more than 24 cm. The outer sole is made of rubber and the mid-sole of low-density polymers. The upper consist of pieces of textile, leather and plastics. Grey textile material covers the whole surface of the upper with the exception of a piece of white textile (felt) [2 (*)] at the heel of the footwear (See photo No 655 B). This white textile material is covered by several pieces of grey leather. It is covered mainly by one piece on the heel [C (*)], and partly by two pieces along both sides of the shoe [D (*)], and two pieces curved around the instep [B (*)] (see photo No 655 C). At the furthest end of the heel this white textile material is covered by a piece of black impermeable textile material and a piece of dark grey plastic [b (*)] sewn on top (see photo No 655 C). The black textile is visible through small openings in the plastic piece. Abovementioned grey textile materials are sewn to each other and attached to the sole. On one side of the shoe two pieces of grey textile are assembled with a zigzag stitching supplemented by a saddle stitch on both sides of the zigzag stitching (see photo No 655 D). The same saddle stitches are fixing a textile strip underneath the two textile pieces to reinforce the assemblage. In the front of the shoe a piece of grey plastic [a (*)] is covering the grey textile material underneath. On both sides of the shoe pieces of grey leather [A (*)] are attached to the textile material and, on top of the leather/grey textile material, four vertical straps of textile [1 (*)] have been added, as well (see photos Nos 655 A and 655 D). In addition one textile strap is attached as a loop to the textile material at the heel of the footwear. (training shoe) (see photos Nos 655 A, 655 B, 655 C and 655 D) (**)	6404 11 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 4(a)(b) to Chapter 64 of the Combined Nomenclature, Additional Note 1 to Chapter 64 and the wording of CN codes 6404 and 6404 11 00. When identifying the constituent material of the upper within the meaning of Note 4(a) to Chapter 64, no account is to be taken of the grey piece of plastic covering the front of the shoe [a (*)], because it is protecting the toes by reinforcing the grey textile material underneath. Likewise, no account is to be taken of the four vertical straps of textile [1 (*)] on both sides of the footwear, because they are reinforcing the sides of the footwear, and of the textile loop at the heel of the footwear, because it is an accessory serving to aid when putting the shoes on. Also likewise, no account is to be taken of the pieces of grey leather attached to the grey textile material on both sides of the footwear [A (*)], since they are also reinforcing the sides of the footwear. The white textile material [2 (*)] cannot be considered to be a constituent material of the upper either, because it is not even partly exposed on the outside surface of the footwear (see the CN EN to Chapter 64, General, (1)(a), first sentence of second paragraph). Whereas, the pieces of grey leather [B, C, D (*)] that are mainly or partly covering the white textile material [2 (*)] (see photos Nos 655 B and 655 C) qualify as constituent materials of the upper, since their surface is partly or totally exposed on the outside surface and they are neither accessories nor reinforcements. The black impermeable textile material underneath the dark grey plastic material at the heel of the footwear [b (*)] does not qualify as constituent material of the upper, because it is only an insert that hinders water penetrating through the openings of the piece of plastic. Therefore, the piece of dark grey plastic at the heel of the footwear also qualifies as constituent material of the upper within the meaning of Note 4(a) to Chapter 64. The grey textile materials qualify as constituent material of the upper within the meaning of Note 4(a) to Chapter 64, because they are attached to each other and to the other aboveidentified constituent materials of the upper [B, C, D, b (*)] by means of a durable method of assembling (see the CN EN to Chapter 64, General, (1) (a), last phrase of second paragraph, together with (1) (c), last phrase of second paragraph). Moreover, the aboveidentified constituent materials of the upper [B, C, D, b (*) and the grey textile materials] (see photo No 655 C), have the characteristics of an upper,

(1)	(2)	(3)
		that is to say, provide sufficient support for the foot to enable the wearer to walk in the footwear (see the second phrase of the first paragraph of Additional Note 1 to Chapter 64). After removal of the abovementioned reinforcements and accessories (see photo No 655 C) the grey textile materials have a greater external surface area than the other materials [B, C, D, b (*)] identified above as constituent materials of the upper and, therefore, the footwear is considered to have an upper of textile materials within the meaning of Note 4(a) to Chapter 64. The part of the sole in contact with the ground is of rubber within the meaning of Note 4(b) to Chapter 64. Thus, the footwear has an outer sole of rubber.

(*) The number/letter refers to the numbers/letters in the photos.
(**) The photos are purely for information.



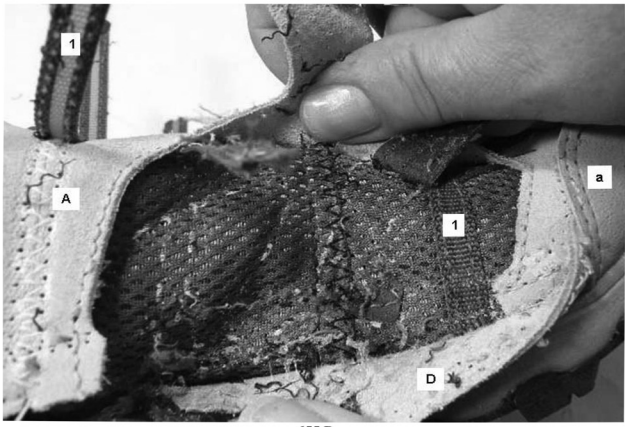
655 A



655 B



655 C



655 D