COMMISSION IMPLEMENTING REGULATION (EU) No 896/2011

of 2 September 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 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 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 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, 2 September 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)
Retro-reflective tapes intended for application to safety clothing and uniforms by means of a heat activated adhesive. The product has a thickness of 140-155 µm (protective paper liner not included) and is composed of the following layers: — 60-70 µm of micro glass balls with a metallic mirror on one side, bound with an elastomer of poly(butadiene-co-acrylonitrile) (the thickness of that elastomer is 15-20 µm), — 80-85 µm of a heat activated polyester adhesive, and — a protective paper liner to be removed before use. The product is presented in individual strips or in rolls.	4008 21 90	Classification is determined by General Rules 1, 3 (b) and 6 for the interpretation of the Combined Nomenclature, Notes 1 and 9 to Chapter 40 and the wording of CN codes 4008, 4008 21 and 4008 21 90. The product is made up of different layers of components and has therefore to be classified according to the constituent materials which give the product its essential character. The role of the micro glass balls is important in the retro-reflective process, but a classification under heading 7018 as glass microspheres is excluded because the role of the elastomer, maintaining the micro glass balls in position, is predominant. Although the polyester layer is the thickest layer, a classification under heading 3920 as a sheet of thermoplastic polymer is excluded because the elastomer, in which the micro glass balls are embedded, is the most essential component for the cohesion of the micro glass balls and accordingly, for the conferral of its retro-reflective properties on the product. As the elastomer gives the product its essential character it is therefore to be classified, in accordance with General Rule 3 (b), under heading 4008 as plate, sheets, strip of vulcanised rubber other than hard rubber.