COMMISSION IMPLEMENTING REGULATION (EU) No 1212/2013

of 26 November 2013

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 codes 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 issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 12(6) of Council Regulation (EEC) No 2913/92 [2]. That period should be set at three months.

(5) The Customs Code Committee has not issued an opinion on item 1 of the Annex of this Regulation within the time limit set by its Chairman, the measures provided for under item 2 of the Annex of 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 codes indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 12(6) of Regulation (EEC) No 2913/92 for a period of three months from the date of entry into force of this Regulation.

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, 26 November 2013.

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

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

[2] Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. Heartbeat measuring equipment consisting of: — a heartbeat sensor and a wireless transmitter, incorporated in a chest strap, — a heart rhythm monitoring device incorporating a wireless receiver and a watch, with control buttons and an opto-electronic display, which can be worn on the wrist, — a bracket for fixing the heart rhythm monitoring device to the handle bars of a bicycle. The heartbeats are captured by the sensor and the corresponding data is transmitted wirelessly to the monitoring device which calculates the heart rhythm (actual, maximum or average) and displays the result. The equipment also works as a watch and a stopwatch. (*) See image 1	9031 80 38	Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, note 3 to Chapter 90 and by the wording of CN codes 9031, 9031 80 and 9031 80 38. The heartbeat sensor and the heart rhythm monitoring device are intended to contribute together to a clearly defined function within the meaning of note 3 to Chapter 90 in conjunction with note 4 to Section XVI as the sensor captures the heartbeats and sends the signals to the monitoring device for processing and displaying. The equipment is composite goods made up of components classified under Chapter 90 (measuring or checking device) and Chapter 91 (watch). By virtue of rule 3(b) it is to be classified as if it consisted of the component which gives the equipment its essential character. Given the equipment's objective characteristics, namely the preponderance of components with the heartbeat measuring and monitoring function, the essential character of the equipment is given by the measuring components. The clock function of the equipment is ancillary to its function as a measuring apparatus since an apparatus for performing measurements based on time (heartbeats per minute) relies on a clock for establishing the time comparison when processing the measurement. Consequently, classification under heading 9102 as a watch is excluded. Classification under heading 9018 as a medical instrument or appliance is also excluded as the apparatus is generally not used in medical professional practice (see also the first paragraph of the Harmonised System Explanatory Notes (HSEN) to heading 9018). Performing a measurement in relation to a time factor (determination of the heart rhythm or heartbeats per minute) is not counting a total number of units of any kind (see also the HSEN to heading 9029, point (A)). Consequently, classification under subheading 9029 10 00 as revolution counters, production counters, taximeters, milometers, pedometers and the like is excluded. The determination of the heart rhythm (heartbeats per minute) is not the determination of the speed of revolution or the linear speed (see also the HSEN to heading 9029, point (B)). Consequently, classification under subheading 9029 20 as speed indicators and tachometers is also excluded.

(1)	(2)	(3)
		The equipment is therefore to be classified under CN code 9031 80 38 as other electronic measuring or checking instruments, appliances and machines not specified or included elsewhere in Chapter 90.
2. A heartbeat sensor and a wireless transmitter, incorporated in a chest strap intended to be worn round the chest for sensing heartbeats. The product senses heartbeats and transmits the correspondent data wirelessly to a heart rhythm monitoring device which is not included upon presentation. (*) See image 2	9031 90 85	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 2(b) to Chapter 90 and by the wording of CN codes 9031, 9031 90 and 9031 90 85. The product is suitable for use solely or principally with a heartbeat measuring equipment of heading 9031. It is an essential component for the functioning of heartbeat measuring equipment as the latter cannot work without it. The product is therefore to be classified under CN code 9031 90 85 as other parts of measuring or checking instruments, appliances and machines not specified or included elsewhere in Chapter 90.

(*) The images are purely for information.



Image 1



Image 2