II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 273/2013

of 19 March 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 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*.

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

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 March 2013.

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

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. An electronic apparatus (so-called 'body composition analyser') incorporating an indicator panel with dimensions of approximately 30 × 30 × 4 cm, comprising the following main components: — for weighing: a load cell and hardware for processing and displaying the weight, — for measuring: 2 electrodes on the scale upper surface, control buttons and hardware for processing and displaying the measurements. Through the 2 electrodes in contact with the feet, the apparatus sends electrical currents which, using bioimpedance characteristics, allow the apparatus to determine, for example, the percentage of body fat, the percentage of muscle, the bone mass, the body water. The apparatus can also be used as a scale only. The apparatus can store data for 10 users. It can display values from 2 measurements per user. The apparatus is designed for domestic use.	8423 10 90	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8423, 8423 10 and 8423 10 90. The apparatus is a composite article consisting of components classified under Chapter 84 and Chapter 90. By virtue of General Rule 3(b) it is to be classified as if it consisted of the component which gives the article its essential character. Due to its objective characteristics, namely the measurement system with 2 electrodes only, it is considered that the component performing the weighing gives the apparatus its essential character. The apparatus is therefore to be classified under CN code 8423 10 90 as a personal weighing machine.
2. An electronic apparatus (so-called 'body composition analyser') in a form of a personal scale incorporating an indicator panel with dimensions of approximately 36 × 32 × 6 cm, comprising the following main components: — for weighing: a load cell and hardware for processing and displaying the weight, — for measuring: a detachable hand bar with 4 electrodes, 4 electrodes on the scale upper surface, control buttons and hardware for processing and displaying the measurements. Through the 8 electrode system placed in the hands and under the feet, the apparatus sends electrical currents in multi-frequency measurement which, using bioimpedance characteristics, allow the apparatus to determine, for example, the percentage of body fat, the body fat mass, the body mass index (BMI), the skeletal muscle mass, the body water. The apparatus can be used either by health professionals in diagnosing obesity or by other users to provide information about their physique, or to check or improve it for sporting or appearance purposes. The apparatus can also be used as a scale only.	9031 80 38	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9031, 9031 80 and 9031 80 38. Classification under heading 9018 as a medical instrument or appliance is excluded as the apparatus is not generally used in professional practice (see first paragraph of the HS Explanatory Notes to heading 9018). The apparatus is a composite article consisting of components classified under Chapter 84 and Chapter 90. By virtue of General Rule 3(b) it is to be classified as if it consisted of the component which gives the article its essential character. Due to its objective characteristics, namely the measurement technology used, it is to be considered that the component performing the measurement gives the apparatus its essential character. The apparatus is therefore to be classified under CN code 9031 80 38 as other electronic measuring instruments.

(1)	(2)	(3)
The apparatus can store data for 99 users and 300 measurements. The data can be transferred to an automatic data-processing machine using a USB memory stick.		
3. An electronic apparatus (so-called 'body composition analyser') with a weighing base and a column on top of which is a control board incorporating an indicator panel with the dimensions of approximately 120 × 87 × 52 cm, comprising the following main components: — for weighing: a load cell and hardware for processing and displaying the weight, — for measuring: 2 detachable hand bars with 2 electrodes each, 4 electrodes on the scale upper surface, control buttons and hardware for processing and displaying the measurements. Through the 8-point tactile electrode system placed in the hands and under the feet, the apparatus sends electrical currents in multi-frequency measurement which, using bioimpedance characteristics, allow the apparatus to determine, for example, the intracellular water, the extracellular water, the protein mass, the mineral mass, the body fat mass, the total body water, the fat free mass, the body mass index (BMI), the skeletal muscle mass. The apparatus is equipped with the following connectors: — RJ45, — USB, — RS232, — 25 pin D-sub. The apparatus can be used either by health professionals in diagnosing obesity or by other users to provide information about their physique, or to check or improve it for sporting or appearance purposes. The apparatus can be connected to an automatic data-processing machine or a printer.	9031 80 38	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9031, 9031 80 and 9031 80 38. Classification under heading 9018 as a medical instrument or appliance is excluded as the apparatus is not generally used in professional practice (see first paragraph of the HS Explanatory Notes to heading 9018). The apparatus is a composite article consisting of components classified under Chapter 84 and Chapter 90. By virtue of General Rule 3(b) it is to be classified as if it consisted of the component which gives the article its essential character. Due to its objective characteristics, namely the measurement technology used, it is to be considered that the component performing the measurement gives the apparatus its essential character. The apparatus is therefore to be classified under CN code 9031 80 38 as other electronic measuring instruments.