COMMISSION IMPLEMENTING REGULATION (EU) No 1216/2014

of 11 November 2014

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 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 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 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.

([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).

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, 11 November 2014.

For the Commission,
On behalf of the President,
Heinz ZOUREK
Director-General for Taxation and Customs Union

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
An electronic apparatus with dimensions of approximately 10 × 4 × 1 cm, comprising, amongst others, the following components: — a processor, — a system memory of 1 GB, — an internal memory of 4 GB, — a built-in module for wireless connection to the internet. It is equipped with the following interfaces: — HDMI, — USB, — micro USB, — micro SDHC. The apparatus does not incorporate a video tuner. When connected to a television set or a monitor, the apparatus enables the user to access the internet, for example, for exchanging e-mails, watching videos, playing games or downloading software applications. It also is able to reproduce multimedia files such as video, photo and music from memory cards or USB memories.	8528 71 91	Classification is determined by general rules 1, 3(c) and 6 for the interpretation of the Combined Nomenclature, additional note 3 to Chapter 85, and by the wording of CN codes 8528, 8528 71 and 8528 71 91. Within the meaning of note 3 to Section XVI, the apparatus is designed to perform two or more alternative functions (automatic data-processing of heading 8471, telecommunication of heading 8517, video reproduction of heading 8521 and reception of television of heading 8528). It is not possible to determine the apparatus' principal function, as each function is equally important for the use of the apparatus. Consequently, the apparatus is to be classified under the heading which occurs last in numerical order among those which equally merit consideration. Classification under headings 8471, 8517 or 8521 is therefore excluded. As the apparatus does not contain a video tuner and allows interactive exchange of information, it is therefore to be classified under CN code 8528 71 91 as apparatus with a microprocessor-based device incorporating a modem for gaining access to the internet, and having a function of interactive information exchange, capable of receiving television signals (so-called 'set-top boxes which have a communication function', including those incorporating a device performing a recording or reproducing function, provided that they retain the essential character of a set top box which has a communication function).