COMMISSION IMPLEMENTING REGULATION (EU) No 458/2014

of 29 April 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 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.

([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, 29 April 2014.

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. A digital apparatus with the design of a traditional video camera recorder for capturing and recording still and video images onto an internal memory or a memory card. The apparatus is equipped with a 0,8 megapixels charge-coupled device (CCD) and a foldable viewfinder of the liquid crystal display (LCD) type with a diagonal measurement of approximately 7 cm (2,7 inches) that can be used when capturing images or as a screen for displaying recorded images. The apparatus has the following interfaces: — a slot for memory cards, — composite video out, — audio output, — USB. The maximum resolution of the still images is 1 600 × 1 200 pixels (1,92 megapixels). The apparatus can record video at 50 frames per second with a maximum resolution of 720 × 576 pixels. The apparatus offers an optical zoom function during video recording. Upon presentation files cannot be transferred to the apparatus from an automatic data-processing machine via the USB interface.	8525 80 91	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8525, 8525 80 and 8525 80 91. Given the objective characteristics of the apparatus, such as its design and shape, the presence of a CCD with a low resolution of 0,8 megapixels, the ability to record video in a quality of standard DVD video discs (resolution of 720 × 576 pixels at 50 frames per second) and to record still images of poor quality (maximum resolution of 1,92 megapixels), capturing and recording video images is the principal function of the apparatus within the meaning of note 3 to Section XVI (see also the order of the Court of Justice of the European Union of 9 December 2010 in Case C-193/10, KMB Europe v Hauptzollamt Duisburg (ECR 2010, p. I-12903, points 23 to 25)). The fact that the camera records video with lower resolution than 800 × 600 pixels does not change the apparatus' principal function. Therefore, classification under subheading 8525 80 30 as a digital camera is excluded. The apparatus is only able to record sound and images taken by the television camera and the possibility of transferring files into the camera cannot be activated after presentation by simple modification of the apparatus by a user who does not have special skills. It is therefore to be classified under CN code 8525 80 91 as video camera recorders only able to record sound and images taken by the television camera.

(1)	(2)	(3)
2. A digital apparatus with the design of a traditional video camera recorder for capturing and recording still and video images onto an internal memory or a memory card. The apparatus is equipped with a 0,8 megapixels charge-coupled device (CCD) and a foldable viewfinder of the liquid crystal display (LCD) type with a diagonal measurement of approximately 7 cm (2,7 inches) that can be used when capturing images or as a screen for displaying recorded images. The apparatus has the following interfaces: — a slot for memory cards, — composite video out, — audio output, — USB. The maximum resolution of the still images is 1 600 × 1 200 pixels (1,92 megapixels). The apparatus can record video at 50 frames per second with a maximum resolution of 720 × 576 pixels. The apparatus offers an optical zoom function during video recording. Upon presentation files can be transferred to the apparatus from an automatic data-processing machine via the USB interface.	8525 80 99	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8525, 8525 80 and 8525 80 99. Given the objective characteristics of the apparatus, such as its design and shape, the presence of a CCD with a low resolution of 0,8 megapixels, the ability to record video in a quality of standard DVD video discs (resolution of 720 × 576 pixels at 50 frames per second) and to record still images of poor quality (maximum resolution of 1,92 megapixels), capturing and recording video images is the principal function of the apparatus within the meaning of note 3 to Section XVI (see also the order of the Court of Justice of the European Union of 9 December 2010 in Case C-193/10, KMB Europe v Hauptzollamt Duisburg (ECR 2010, p. I-12903, points 23 to 25)). The fact that the camera records video with lower resolution than 800 × 600 pixels does not change the apparatus' principal function. Therefore, classification under subheading 8525 80 30 as a digital camera is excluded. As the apparatus is capable of recording video files from sources other than the incorporated television camera, classification under subheading 8525 80 91 as video camera recorders only able to record sound and images taken by the television camera is excluded. The apparatus is therefore to be classified under CN code 8525 80 99 as other video camera recorders.