



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.1.2005
COM(2005) 2 final

Proposal for a

COUNCIL REGULATION

amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The convergence of the information technology, consumer electronics and telecommunications industries and new technologies has created challenges in classification of new products, in particular those of Chapters 84, 85 and 90 of the Common Customs Tariff (CCT), and their tariff treatment.
2. A recent challenge is the classification of video monitors. Heading 8528 in the CCT covers more than television sets. It is, moreover, the main heading for video monitors. Classification outside that heading, for example in headings 8471 and 8531, requires that certain conditions, based on objective and quantifiable data, are met. With the current trend in industry, whether IT or consumer electronics, to manufacture multi-purpose monitors, it is becoming impossible to determine, by reference to simple technical characteristics, the main purpose of a particular monitor. This is a trend recognised by the Commission services, most Member States and the relevant European Federation, EICTA. Thus, most video monitors (other than the cathode ray tube type) are likely to be classified in heading 8528 under one of the codes associated with a 14% rate of duty, even in those cases where the monitors are actually imported or used after importation with personal computers.
3. The Community's WTO tariff commitments are linked to particular headings in the CCT. An exception to this approach was the Information Technology Agreement (ITA). The ITA tariff concessions are reflected in Attachments A and B to that agreement. The ITA was not intended to include products for use by consumers. Indeed, the text of Attachments A and B to that agreement restricts the scope of the tariff concessions made. Attachment A does not mention video monitors of heading 8528 21 and Attachment B deals only with "monitors" of the CRT type and "flat panel display devices for products falling within this agreement". Thus, the ITA does not provide an economic solution.
4. Faced with this situation and bearing in mind the rapid evolution of technology in the electronics area and a desire to avoid adopting classification regulations for all specific models in the market, the Commission is submitting the attached proposal for a Council Regulation suspending autonomously customs duties (duty rate: "free") until 31 December 2006 for certain types of video monitors falling within CN code 8528 21 90 in the CCT.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) In the Combined Nomenclature, set out in Annex I to Council Regulation (EEC) No 2658/87², the relevant headings for video monitors are 8471, 8528 and 8531.
- (2) For the classification of video monitors outside heading 8528, certain conditions must be met. The convergence of the information technology, consumer electronics industries and new technologies has created a situation where it is becoming impossible, when classifying video monitors, to determine, by reference to simple technical characteristics, the main purpose of a particular monitor. It follows from the case law of the Court of Justice of the European Communities that classification cannot be based on actual use. The correct classification of individual products must be based on objective and quantifiable data. It is currently not feasible to establish unambiguous criteria meeting this requirement.
- (3) Trade data indicate that currently video monitors using plasma or liquid crystal display technology with a screen size of 19" or less and with a screen aspect ratio of 4:3 or 5:4 are mainly used as output units of automatic data-processing machines. However, such monitors are frequently also capable of reproducing video images from a source other than an automatic data-processing machine and therefore do not meet the condition of being solely or principally for use with such machines. Thus, such monitors are not covered by the Agreement on trade in information technology products³, known as the "Information Technology Agreement" (ITA), or by the Communication on its implementation, both of which were approved on behalf of the Community by Council

¹ OJ C

² OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1810/2004 (OJ L 327, 30.10.2004, p.1).

³ OJ L 155, 12.6.1997, p. 3.

Decision 97/359/EC of 24 March 1997 concerning the elimination of duties on information technology products⁴.

- (4) It is in the interest of the Community to suspend totally, for a limited period, the autonomous common customs tariff duties for video monitors using plasma or liquid crystal display technology with a screen size of 19" or less and with a screen aspect ratio of 4:3 or 5:4 classifiable under CN code 8528 21 90. This measure should therefore expire by 31 December 2006, unless the Council decides to prolong it.
- (5) Regulation (EEC) No 2658/87 should therefore be amended accordingly.
- (6) Since the amendment introduced by this Regulation is to be applied from the same date as the Combined Nomenclature for 2005, laid down in Regulation (EC) No 1810/2004, this Regulation should enter into force immediately and apply from 1 January 2005,

HAS ADOPTED THIS REGULATION:

Article 1

In Chapter 85, Section XVI of Part Two, Schedule of Customs Duties, of Annex I to Regulation (EEC) No 2658/87 the text in column 3, for CN code 8528 21 90, is replaced by:

“14^(*).”

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- (*) Customs duty autonomously suspended, until 31 December 2006, for video monitors with a screen size of 19" or less and with an aspect ratio of 4:3 or 5:4 (TARIC codes 8528 21 90 30)”.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2005.

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

Done at Brussels, [...]

For the Council
The President
[...]

⁴ OJ L 155, 12.6.1997, p. 1.

FINANCIAL STATEMENT	
	DATE:
1.	BUDGET HEADING: Chapter 12 Article 120
2.	TITLE: Proposal for a Council Regulation amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff
3.	LEGAL BASIS: Article 26 of the EC Treaty
4.	AIMS: Autonomous exemption for a limited period (until 31.12.2006) from duties for certain video monitors products falling within CN code 8528 21 90.
5.	FINANCIAL IMPLICATIONS: It is very difficult to estimate the loss of own resources involved. Firstly, precise statistics are not available on the imports of this kind of products given that many are currently being misclassified in headings which are subject to a duty free treatment. Nevertheless, judging by the information provided by EICTA, and not taking account of any tariff preferences granted to certain trade partners, the loss of own resources involved may be estimated to be a total of 1 BEURO, of which 800 MEURO relate to those monitors which are actually imported with or used after importation with personal computers.
6.	FRAUD-PREVENTION MEASURES: Application of the normal measures under the Community Customs Code.