

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 74/2012

of 27 January 2012

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, 27 January 2012.

*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)
<p>A panel made of aluminium and tempered glass, measuring approximately 140 x 30 cm (so-called "shower panel with hydromassage").</p> <p>The panel is equipped with a mixing tap, 6 horizontal hydromassage nozzles, an "anti-calc" handheld shower head, an upper shower head with a wide spraying range, and a shelf for accessories. It is also equipped with control knobs for setting the temperature of the water, its intensity, etc.</p> <p>The panel is designed for mounting in compatible bathroom shower cabins. In addition to the shower function, it also provides hydromassage by narrow water streams under high pressure coming through the nozzles.</p>	9019 10 90	<p>Classification is determined by General Rules 1, 3(c) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 9019, 9019 10 and 9019 10 90.</p> <p>As the panel is made up of a mixing tap with shower heads of heading 8481 and a massage apparatus with 6 hydromassage nozzles of heading 9019, it is considered to be composite goods within the meaning of General Rule 3(b).</p> <p>The absence of additional features for increasing the water pressure, such as a pump, does not preclude classification of the massage apparatus component under heading 9019 (see also HS Explanatory Notes to heading 9019, (II), second paragraph).</p> <p>Given their objective characteristics and properties, neither component gives the panel its essential character.</p> <p>The panel is therefore to be classified under CN code 9019 10 90 as other massage apparatus.</p>