

COMMISSION REGULATION (EC) No 295/2009**of 18 March 2009****concerning the classification of certain goods in the Combined Nomenclature**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 Community provisions, 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*.

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

Done at Brussels, 18 March 2009.

For the Commission

László KOVÁCS

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
A set put up for retail sale consisting of a digital apparatus in its own housing for the recording and reproducing of sound and images in various formats, capable of receiving data from various sources (for example, satellite television receivers, automatic data-processing machines, video camera recorders) and of various elements such as connector cables, a CD-ROM, a manual, screws and a screwdriver. The apparatus incorporates a printed circuit board with active and passive elements (necessary for sound and video recording and reproducing), including a microprocessor. It is equipped with the following interfaces: — a USB port, — VGA, and — audio and video ports. It is also equipped with control buttons (power, play, pause, volume) and an infrared receiver for a remote control. The apparatus is designed to incorporate a hard disk.	8521 90 00	Classification is determined by General Rules 1, 2(a), 3(b) and 6 for the interpretation of the Combined Nomenclature, Additional Note 1 to Section XVI and by the wording of CN codes 8521 and 8521 90 00. Since the apparatus has all the necessary electronics for the performance of the functions of heading 8521, except for the hard disk, and since these components, even in the absence of the hard disk, cannot be used for any other functions than for the recording and reproducing of sound and images, it is to be considered as having, by virtue of General Rule 2(a), the essential character of a complete or finished product of heading 8521. Therefore the fact that the apparatus does not incorporate a hard disk does not prevent its classification as a complete or finished product. Classification under heading 8522 as a part suitable for use solely or principally with an apparatus of heading 8521 is therefore excluded. Accordingly, the apparatus is to be classified under heading 8521 as a video recording or reproducing apparatus. The screwdriver is to be classified with the apparatus, for the assembly or maintenance thereof, by virtue of Additional Note 1 to Section XVI.