

COMMISSION REGULATION (EU) No 315/2011**of 30 March 2011****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 20th day following 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, 30 March 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
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)
Electromechanical machine (so-called 'vibrating platform'), comprising a steel platform and a central column equipped with a handle and a control panel. The machine measures approximately 80 × 80 × 120 cm and weighs 34 kg. The control panel has a keypad and buttons for starting, repeating or interrupting the training programmes encoded. The platform is powered by a motor, which makes the platform oscillate from side to side relative to the central column, reproducing movements similar to fast walking. The oscillating movement is transmitted to the feet of the person standing on the platform (and then upwards to the muscles) at a frequency of between 30 Hz and 50 Hz. The machine acts as a stimulator to muscle contraction and is for use, for example, in medicine, physiotherapy and well-being.	8479 89 97	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8479, 8479 89 and 8479 89 97. Classification as a mechano-therapy appliance under heading 9019 is excluded as the machine is not used for the treatment under medical supervision of joints or muscles (See also the Harmonised System Explanatory Notes (HSEN) to heading 9019, (I)). Classification as massage apparatus under heading 9019 is also excluded as the main purpose of the machine is to stimulate all muscles of the body in such a way that they contract naturally. (See also the HSEN to heading 9019, (II)). Classification as articles or equipment for general physical exercise under heading 9506 is excluded as the machine is not intended for physical exercise. (See also the HSEN to heading 9506). Given that the machine acts as a muscle stimulator by mechanical means, it is to be classified under CN code 8479 89 97 as a machine or mechanical appliance having individual functions, not specified or included elsewhere.