



2024/964

27.3.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/964
of 21 March 2024
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 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, 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 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 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (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 which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

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 269, 10.10.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/952/2022-12-12>.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1, ELI: <http://data.europa.eu/eli/reg/1987/2658/2023-06-17>).

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

Done at Brussels, 21 March 2024.

*For the Commission,
On behalf of the President,
Gerassimos THOMAS
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
A wrist-wearable, battery-operated device (so-called 'smart watch'), consisting of a touch sensitive AMOLED colour display with a diagonal measurement of approximately 2,8 cm and a silicone strap, put up in a set for retail sale together with its charger. The device also contains: — 2 MB RAM, 32 MB ROM; — 159 mAh battery; — accelerometer sensor, gyro sensor, optical heart rate sensor; — Bluetooth 5.1 connectivity. The device is not equipped with an eSIM/SIM card and neither can a SIM card be inserted in it. It does not have Near Field Communication capability. The device, without being paired with another device, can be used for the following: — displaying the time and date; — measuring heart rate; — measuring the time of the phases of sleep; — counting the number of steps taken; — recording speed. The device can be paired or connected with another device, such as a smartphone ('host device') via Bluetooth. After pairing, the measured data is transmitted to the host device for further processing (via its applications). After pairing, the device also allows features such as: — receiving phone call notifications with the possibility to reject them only (the phone calls cannot be answered), — checking SMS notifications by displaying the first part of the text and reacting to them (the device offers an SMS quick reply function with predefined short texts, however it is not possible to compose a full, customised message), — operating music player applications on the host device, — operating various functions related to physical health and sport activities programmes, — tracking stress level.	9102 12 00	Classification is determined by general rules 1, 3(b), 3(c) and 6 for the interpretation of the Combined Nomenclature ('GIR'), Note 1(n) to Section XVI and by the wording of CN codes 9102 and 9102 12 00. The smart watch and the charger are considered as goods put up in a set for retail sale within the terms of GIR 3(b). The smart watch is the component which gives the whole the essential character. The smart watch is a composite article designed for the purpose of performing functions of heading 8517 (communication apparatus), heading 9029 (pedometer), heading 9031 (measuring or checking apparatus) and heading 9102 (wristwatch). The smart watch has numerous functions of other headings than of heading 8517 which can be performed without being paired with another device, such as measuring heart rate, counting the number of steps taken or displaying the time and date. The various functions performed by the smart watch are equally important for its use. Consequently, it is not possible to determine its principal function, i.e. the component that gives the device its essential character within the meaning of GIR 3(b). The smart watch is thus not comparable to the article described in the Harmonized System Classification Opinion 8517.62/23. Consequently, the smart watch is to be classified under the CN code which occurs last in numerical order among those which equally merit consideration by application of GIR 3(c). Therefore, the smart watch is to be classified under CN code 9102 12 00 as wristwatches, electrically operated, whether or not incorporating a stopwatch facility, with opto-electronic display only.