

COMMISSION REGULATION (EU) No 112/2011**of 7 February 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 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, 7 February 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)
A module with dimensions of approximately $8,5 \times 30 \times 23$ cm, designed for monitoring the respiratory and anaesthetic gases of a patient under medical treatment (so-called 'Gas Analyser Module'). It works solely in conjunction with and is controlled by a patient monitoring system. The module analyses a patient's respiratory gas by spectroscopy for its content of, for example, carbon dioxide, nitrous oxide, halothane or isoflurane. The patient monitoring system processes the data received from the module and verifies it against prefixed parameters. The results are displayed on the monitor. When those parameters are not met, an alarm is triggered.	9018 19 10	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Chapter 90 and by the wording of CN codes 9018, 9018 19 and 9018 19 10. The module is not considered to be a complete instrument or apparatus for physical or chemical analysis of heading 9027, as its controlling functions and the display of the consequent results are performed by the patient monitoring system. Consequently, classification under heading 9027 is excluded. The module is not recognisable as an ultra-violet or infra-red ray apparatus of CN code 9018 20 00. Consequently, classification under CN code 9018 20 00 is excluded. As the module is not used for providing anaesthesia, it cannot be considered to be an anaesthetic apparatus and instrument of CN code 9018 90 60. Consequently, classification under CN code 9018 90 60 is excluded. As the module is suitable for use solely with an electrodiagnostic apparatus for simultaneous monitoring of two or more parameters, it is therefore, by application of Note 2(b) to Chapter 90, to be classified under CN code 9018 19 10.