



## Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

30 April 2020 \*

(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Customs Union and Common Customs Tariff — Tariff classification — Combined Nomenclature — Subheading 8525 80 91 — Digital cameras — Video camera recorders — Digital video camera recorder capable of capturing and recording still images and sequences of video with a resolution quality of less than 800 × 600 pixels)

In Case C-810/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Krajský súd v Trnave (Regional Court, Trnava, Slovakia), made by decision of 3 December 2018, received at the Court on 21 December 2018, in the proceedings

**DHL Logistics (Slovakia) spol. s r. o.**

v

**Finančné riaditeľstvo Slovenskej republiky,**

THE COURT (Seventh Chamber),

composed of P.G. Xuereb, President of the Chamber, T. von Danwitz and A. Kumin (Rapporteur),  
Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- the Slovak Government, by B. Ricziová, acting as Agent,
- the European Commission, initially by A. Tokár and A. Caeiros, and subsequently by A. Tokár, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

\* Language of the case: Slovak.

## Judgment

- 1 This request for a preliminary ruling concerns the interpretation of tariff subheading 8525 80 91 of the Combined Nomenclature ('the CN') set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), in its versions resulting, successively, from Commission Regulation (EC) No 1031/2008 of 19 September 2008 (OJ 2008 L 291, p. 1), Commission Regulation (EC) No 948/2009 of 30 September 2009 (OJ 2009 L 287, p. 1), Commission Regulation (EU) No 861/2010 of 5 October 2010 (OJ 2010 L 284, p. 1), Commission Regulation (EU) No 1006/2011 of 27 September 2011 (OJ 2011 L 282, p. 1, and corrigendum OJ 2011 L 290, p. 6) and Commission Implementing Regulation (EU) No 927/2012 of 9 October 2012 (OJ 2012 L 304, p. 1).
- 2 The request has been made in proceedings between DHL Logistics (Slovakia) spol. s r. o. ('DHL') and the Finančné riaditeľstvo Slovenskej republiky (Directorate of Finances of the Slovak Republic; 'the Directorate of Finances') concerning the tariff classification of digital video camera recorders.

### EU law

- 3 It is apparent from the documents before the Court that the versions of the CN applicable to the facts in the main proceedings are those relating to the years 2009 to 2012, resulting from Regulations No 1031/2008, No 948/2009, No 861/2010 and No 1006/2011 and from Implementing Regulation No 927/2012, respectively. The provisions of the CN referred to in the case in the main proceedings, however, remained identical from one version of the CN to another.
- 4 The general rules for the interpretation of the CN, which are set out in Part One, Section I.A, thereof, provide as follows:

'Classification of goods in the [CN] shall be governed by the following principles.

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.
- ...
6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and *mutatis mutandis* to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of the rule the relative section and chapter notes also apply, unless the context otherwise requires.'
- 5 Part Two of the CN, entitled 'Schedule of Customs Duties', contains Section XVI, entitled 'Machinery and mechanical appliances; electrical equipment; parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles'.
- 6 Note 3, under the heading of that section of the CN, is worded as follows:

'Unless the context otherwise requires, composite machines consisting of two or more machines fitted together to form a whole and other machines designed for the purpose of performing two or more complementary or alternative functions are to be classified as if consisting only of that component or as being that machine which performs the principal function.'

- 7 Chapter 85, contained in that section of the CN, is entitled ‘Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles’. That chapter includes the following headings and subheadings:

8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders:
...	...
8525 80	– Television cameras, digital cameras and video camera recorders:
...	...
8525 80 30	– – Digital cameras – – Video camera recorders:
8525 80 91	– – – Only able to record sound and images taken by the television camera
8525 80 99	– – – Other’

- 8 In accordance with the first indent of Article 9(1)(a) and Article 10 of Regulation No 2658/87, as amended by Council Regulation (EC) No 254/2000 of 31 January 2000 (OJ 2000 L 28, p. 16), the European Commission, assisted by the Customs Code Committee, is required to issue measures concerning the application of the CN with regard to the classification of goods. It is on the basis of the first of those provisions that Commission Regulation (EC) No 1231/2007 of 19 October 2007 concerning the classification of certain goods in the Combined Nomenclature (OJ 2007 L 279, p. 3) was adopted.

- 9 The Annex to Regulation No 1231/2007 classifies within the CN the goods described in the first column of the table set out in that annex under the corresponding code indicated in the second column of that table, by virtue of the reasons set out in the third column of that table. With regard to subheadings 8525 80 30 and 8525 80 91, that table reads as follows:

<p>'3. A digital camera for capturing and recording images onto an internal storage device with a capacity of 22 MB [megabytes] or onto a memory card of a maximum capacity of 1 GB [gigabyte].</p> <p>The camera is equipped with a 6 megapixels charge-coupled device (CCD) and a liquid crystal device (LCD) with a diagonal measurement of 6.35 cm (2.5 inches) that can be used as a display when capturing images or as a screen for displaying pre-recorded images.</p> <p>The maximum resolution of the still images is 3 680 × 2 760 pixels.</p> <p>Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 290 still images. Using the resolution of 640 × 480 pixels and the 1 GB memory of the card, it is capable of recording approximately 7 550 still images.</p> <p>The maximum resolution of the video is 640 × 480 pixels.</p> <p>Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 11 minutes of video at 30 frames per second.</p> <p>The camera offers an optical zoom function which cannot be used during video recording.</p>	<p>8525 80 30</p>	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the [CN], Note 3 to Section XVI and the wording of CN codes 8525, 8525 80 and 8525 80 30.</p> <p>The camera is not classifiable under subheadings 8525 80 11 or 8525 80 19 as a television camera because it is capable of recording still images and video.</p> <p>The product can capture and record still images of a high quality.</p> <p>However, the product can only capture and record video of a quality of less than 800 × 600 pixels and has no zoom function during video recording. (See the CN Explanatory Notes to subheading 8525 80 30).</p> <p>Within the meaning of Note 3 to Section XVI, the principal function of the camera is the capturing and recording of still images and, therefore, the product is to be classified as a digital camera of subheading 8525 80 30.</p>
<p>4. A digital camera for capturing and recording images onto a memory card of a maximum capacity of 1 GB.</p> <p>The camera is equipped with a 6 megapixels charge-coupled device (CCD) and a foldable viewfinder of a liquid crystal device (LCD) type with a diagonal measurement of 5.08 cm (2.0 inches) that can be used when capturing images or as a screen for displaying pre-recorded images.</p> <p>The maximum resolution of the still images is 3 680 × 2 760 pixels.</p> <p>Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 300 still images. Using the resolution of 640 × 480 pixels and the 1 GB memory</p>	<p>8525 80 30</p>	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the [CN], Note 3 to Section XVI and the wording of CN codes 8525, 8525 80 and 8525 80 30.</p> <p>The camera is not classifiable under subheadings 8525 80 11 or 8525 80 19 as a television camera, because it is capable of recording still images and video.</p> <p>The product can capture and record still images of a high quality.</p> <p>Although the product has the design of a video camera recorder, has a zoom function during video recording and is capable of recording approximately 42 minutes of video using the resolution of 640 × 480 pixels, the recording of the video remains a secondary function because the product can only capture and record</p>

<p>of the card, it is capable of recording approximately 7 750 still images.</p> <p>The maximum resolution of the video is 640 × 480 pixels.</p> <p>Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 42 minutes of video at 30 frames per second.</p> <p>The camera offers an optical zoom function which can be used during video recording.</p>		<p>video of a quality of less than 800 × 600 pixels. (See the CN Explanatory Notes to subheading 8525 80 30).</p> <p>Within the meaning of Note 3 to Section XVI, the principal function of the camera is the capturing and recording of still images and, therefore, the product is to be classified as a digital camera of subheading 8525 80 30.</p>
<p>5. A digital video camera for capturing and recording images onto a memory card of a maximum capacity of 2 GB.</p> <p>The camera is equipped with a 5 megapixels charge-coupled device (CCD) and a foldable viewfinder of an organic light-emitting diode (OLED) device type with a diagonal measurement of 5.59 cm (2.2 inches) that can be used when capturing images or as a screen for displaying pre-recorded images.</p> <p>It is equipped with a microphone input, and an audio-video output.</p> <p>The maximum resolution of the video is 1 280 × 720 pixels.</p> <p>Using this highest resolution and the 2 GB memory of the card, it is capable of recording approximately 42 minutes of video at 30 frames per second.</p> <p>Using the resolution of 640 × 480 pixels and the 2 GB memory of the card, it is capable of recording two hours of video at 30 frames per second.</p> <p>The maximum resolution of the still images is 3 680 × 2 760 pixels.</p> <p>Using this highest resolution and the 2 GB memory of the card, it is capable of recording approximately 600 still images.</p> <p>Using the resolution of 640 × 480 pixels and the 2 GB memory of the card, it is capable of recording approximately 15 500 still images.</p> <p>The camera offers an optical zoom function which can be used during video recording.</p>	<p>8525 80 91</p>	<p>Classification is determined by General Rules 1 and 6 for the interpretation of the [CN], Note 3 to Section XVI and the wording of CN codes 8525, 8525 80 and 8525 80 91.</p> <p>The camera is not classifiable under subheadings 8525 80 11 or 8525 80 19 as a television camera because it is capable of recording still images and video.</p> <p>Within the meaning of Note 3 to Section XVI, the principal function of the camera is the capturing and recording of video, because it can record video of a higher quality than 800 × 600 pixels for approximately 42 minutes using the resolution of 1 280 × 720 pixels, at 30 frames per second. Furthermore, the camera offers an optical zoom function which can be used during video recording. (See the CN Explanatory Notes to subheadings 8525 80 91 and 8525 80 99).</p> <p>The product, being only able to record sound and images taken by the television camera, is classified as a video camera recorder of subheading 8525 80 91.'</p>

<sup>10</sup> The Explanatory Notes to the Combined Nomenclature of the European Union (OJ 2011 C 137, p. 1) concern the CN in the version resulting from Regulation No 861/2010 ('the CN Explanatory Notes'). They are nevertheless relevant to the case in the main proceedings since, as is apparent from paragraph 3 of the present judgment, the wording of heading 8525 and of subheadings 8525 80 30

and 8525 80 91 of the CN remained identical following the amendments made to the CN by Regulation No 1006/2011 and by Implementing Regulation No 927/2012. The CN Explanatory Notes concerning those headings and subheadings read as follows:

8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders ...
...	...
8525 80 30	<p>Digital cameras</p> <p>Digital cameras of this subheading are always capable of still-image recording, whether on an internal storage medium or on interchangeable media.</p> <p>Most cameras of this subheading have the design of a traditional photographic camera and do not have a foldable viewfinder.</p> <p>These cameras may also have video-capture capability to record sequences of video.</p> <p>Cameras remain classified in this subheading unless they are capable, using the maximum storage capacity, of recording, in a quality of 800 × 600 pixels (or higher) at 23 frames per second (or higher) at least 30 minutes in a single sequence of video.</p> <p>Compared to the video camera recorders of subheadings 8525 80 91 and 8525 80 99, many digital cameras (when functioning as video cameras) do not offer an optical zoom function during video recording. Unaffected by the storage capacity, some cameras automatically terminate the recording of video after a certain period of time.</p>
8525 80 91 and 8525 80 99	<p>Video camera recorders</p> <p>Video camera recorders of these subheadings are always capable of recording sequences of video, whether on an internal storage medium or on interchangeable media.</p> <p>In general, the digital video camera recorders of these subheadings have a design which differs from digital cameras of subheading 8525 80 30. They often have a foldable viewfinder and are frequently presented together with a remote control. They always offer an optical zoom function during video recording.</p> <p>These digital video camera recorders may also have still image recording capability.</p> <p>Digital cameras are excluded from these subheadings if they are not capable, using the maximum storage capacity, of recording, in a quality of 800 × 600 pixels (or higher) at 23 frames per second (or higher) at least 30 minutes in a single sequence of video.'</p>

### **The dispute in the main proceedings and the question referred for a preliminary ruling**

- 11 It is apparent from the documents before the Court that, between 2009 and 2012, DHL imported goods identified in the written customs declaration as ‘digital video camera recorders’ (‘the goods at issue’), coming within CN subheading 8525 80 91, which concerns ‘video camera recorders only able to record sound and images taken by the television camera’ and to which a rate of customs duty of 4.9% applies.
- 12 On 13 November 2012, DHL submitted 35 requests to the Colný úrad Trnava (Customs Office, Trnava, Slovakia) (‘the customs office’) for reimbursement of the import duties imposed on it by decisions taken in the course of the customs procedure, arguing that the goods at issue should have been classified under CN subheading 8525 80 30, which relates to ‘Digital cameras’ and to which a zero import duty rate applies.
- 13 Following the rejection of those requests by the customs office, DHL appealed to the Directorate of Finances.
- 14 By decision of 5 June 2017, that national authority dismissed the appeal and thus upheld the decisions of the customs office. DHL then brought an action seeking annulment of that decision of the Directorate of Finances before the referring court, the Krajský súd v Trnave (Regional Court, Trnava, Slovakia).
- 15 That court points out that the goods at issue are devices which combine several functions. They can, on the one hand, produce uninterrupted video recordings of more than 30 minutes, with an image resolution of  $720 \times 576$  pixels at 50 frames per second, during which a ‘zoom’ function can be activated by the user. On the other hand, those devices also allow still images to be captured and recorded at a resolution quality of  $800 \times 600$  pixels, or even  $1\,600 \times 1\,200$  pixels for some models. The referring court also states that video recordings and still images are stored on a memory card.
- 16 In order to determine the tariff classification of the goods at issue, it is necessary, according to the referring court, to comply with the general rules for the interpretation of the CN, read in conjunction with the notes in Section XVI thereof, and in particular Note 3, as referred to, respectively, in paragraphs 4, 5 and 6 of the present judgment. Thus, it is necessary to determine the principal function which characterises those goods, taking into account the wording of the subheadings and the relevant CN Notes.
- 17 However, the disagreement between the parties to the main proceedings relates precisely to the question of what is the principal function of the goods at issue.
- 18 DHL essentially takes the view that those goods, which allow videos to be captured and recorded with a maximum image resolution quality of  $720 \times 576$  pixels — that is to say, a lower image resolution quality than that required by the Annex to Regulation No 1231/2007 for classification under CN subheading 8525 80 91) — are ‘digital cameras’ coming under CN subheading 8525 80 30, since their principal function is to capture and record still images.
- 19 In support of its view, DHL points out, in particular, that, in the light of the ‘binding tariff information’ issued for the same goods in various Member States, namely, inter alia, the Netherlands, the United Kingdom and France, the goods at issue should have been classified under CN subheading 8525 80 30 as ‘digital cameras’.
- 20 According to the Directorate of Finances, the goods at issue produce low resolution still images, that is to say, of only  $1\,600 \times 1\,200$  pixels, or even of  $800 \times 600$  pixels in the case of some models. Therefore, it is submitted, it cannot be maintained that their principal function is to capture and record still images. Those goods should therefore be classified as ‘video camera recorders’ coming within CN

subheading 8525 80 91. Moreover, the only criterion fulfilled by those goods for classification under CN subheading 8525 80 30 as ‘digital cameras’ is the image resolution quality lower than 800 × 600 pixels when the device is used to capture and record video.

- 21 According to the referring court, the goods at issue fulfil all but one of the criteria for classification under CN subheading 8525 80 91 as ‘video camera recorders’, that is to say, the criterion relating to image resolution quality when the device is used to capture and record video. That said, that criterion is regarded by the CN Explanatory Notes as fundamental for classification of those goods under CN subheading 8525 80 30 as ‘digital cameras’.
- 22 It was in those circumstances that the Krajský súd v Trnave (Regional Court, Trnava) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘Must the wording of [CN] subheading 8525 80 91 ... be interpreted as meaning that goods such as the digital video camera recorders at issue in the present case may also be classified under that subheading even though they are capable of capturing and recording video images only of a quality of less than 800 × 600 pixels, specifically, 720 × 576 pixels, given that their other function — the capturing and recording of still images — is limited to a still image quality of 1 600 × 1 200 pixels (1.92 megapixels)?’

### The question referred

- 23 By its question, the referring court asks, in essence, whether the CN must be interpreted as meaning that digital video camera recorders having a dual function, that is to say, to capture and record both still images and sequences of video, come within CN subheading 8525 80 91 as ‘video camera recorders’, even though, as regards sequences of video, those cameras allow such sequences to be captured and recorded only with an image resolution quality lower than 800 × 600 pixels.
- 24 First of all, it must be pointed out that, when the Court is requested to give a preliminary ruling on a matter of tariff classification, its task is to provide the national court with guidance on the criteria which will enable the latter to classify the goods at issue correctly in the CN, rather than to effect that classification itself, a fortiori since the Court does not necessarily have available to it all the information which is essential in that regard. In any event the national court appears to be in a better position to effect the classification in question (judgments of 16 February 2006, *Proxxon*, C-500/04, EU:C:2006:111, paragraph 23, and of 22 November 2012, *Digitalnet and Others*, C-320/11, C-330/11, C-382/11 and C-383/11, EU:C:2012:745, paragraph 61, and order of 22 October 2014, *Mineralquelle Zurzach*, C-139/14, EU:C:2014:2313, paragraph 28).
- 25 In the first place, it should be recalled that it is settled case-law of the Court that, in the interests of legal certainty and for ease of verification, the decisive criterion for the classification of goods for customs purposes is in general to be sought in their objective characteristics and properties as defined in the wording of the relevant heading of the CN and of the notes to the sections or chapters (judgments of 26 September 2000, *Eru Portuguesa*, C-42/99, EU:C:2000:501, paragraph 13, and of 5 March 2015, *Vario Tek*, C-178/14, not published, EU:C:2015:152, paragraph 21 and the case-law cited).
- 26 In the second place, the Court has also held that the intended use of a product may constitute an objective criterion for classification if it is inherent in the product, and that inherent character must be capable of being assessed on the basis of the product’s objective characteristics and properties (judgment of 15 May 2019, *Korado*, C-306/18, EU:C:2019:414, paragraph 37 and the case-law cited). Among the factors relevant in that regard, it is necessary to assess the use for which the product is intended by the manufacturer and the methods and place of its use (judgment of 2 May 2019, *Onlineshop*, C-268/18, EU:C:2019:353, paragraph 29 and the case-law cited).



- 27 In the third place, the tariff classification of a product must be made having regard to its principal function. Thus, Note 3 to Section XVI of Part Two of the CN provides that a machine which has a number of functions must be classified according to its principal function (judgment of 11 June 2015, *Amazon EU*, C-58/14, EU:C:2015:385, paragraph 23). The Court has made clear, in this regard, that it is necessary to take into account what consumers would consider to be principal or ancillary (judgment of 2 May 2019, *Onlineshop*, C-268/18, EU:C:2019:353, paragraph 31 and the case-law cited).
- 28 As regards the goods at issue, it is apparent from the request for a preliminary ruling that those goods have a dual function, that is to say, to capture and record both still images and sequences of video.
- 29 It should be pointed out, as the Slovak Government and the Commission have done in their written observations, that, in the light of the technical properties of those goods, it appears that their principal function is to capture and record sequences of video, with the result that they should be classified under CN subheading 8525 80 91 as ‘video camera recorders’, this being a matter which it is for the referring court to ascertain.
- 30 It is apparent from the documents before the Court that, first, while the resolution quality of the still images captured and recorded is relatively low, that is to say, 1 600 × 1 200 pixels, or even, for some models, 800 × 600 pixels, the resolution quality of the sequences of video captured and recorded, that is to say, 720 × 576 pixels, and the capture speed, that is to say, 50 frames per second, match the quality of a standard DVD. Secondly, the technical properties of those goods, in particular their shape and their foldable viewfinder, give them the appearance of video camera recorders rather than digital cameras. Thirdly, all the goods at issue were offered for sale as digital video camera recorders having the principal function of capturing and recording sequences of video. Fourthly, it appears that, in the instructions for use, the manufacturer itself presented those goods as digital video camera recorders, targeting persons who make video recordings for the purpose of publishing them on YouTube.
- 31 Moreover, the Slovak Government and the Commission rightly point out in their written observations that the fact that the goods at issue do not meet the parameter relating to recording quality, set out in the CN Explanatory Notes, for classification under subheading 8525 80 91 of that nomenclature as ‘video camera recorders’, that is to say, that they are not capable of recording sequences of video with an image resolution quality of at least 800 × 600 pixels, nonetheless does not mean that those goods should automatically be classified under CN subheading 8525 80 30 as ‘digital cameras’.
- 32 In that regard, it should be recalled, on the one hand, that the CN Explanatory Notes, while being an important aid to the interpretation of the scope of the various tariff headings, do not have binding force (see to that effect, inter alia, judgments of 6 September 2018, *Kreyenhop & Kluge*, C-471/17, EU:C:2018:681, paragraph 38 and the case-law cited, and of 16 May 2019, *Estron*, C-138/18, EU:C:2019:419, paragraph 57 and the case-law cited).
- 33 On the other hand, that fact has no impact on the principal function of the goods at issue as determined by their objective characteristics.
- 34 Finally, in so far as the referring court argues that the disagreement between the parties to the main proceedings concerns whether the goods at issue are digital cameras or digital video camera recorders (video camera recorders), within the meaning of the Annex to Regulation No 1231/2007, it is apparent from the Court’s case-law, first, that such a classification regulation is adopted by the Commission when the classification in the CN of a particular product is such as to give rise to difficulty or to be a matter for dispute and, secondly, that such a regulation is of general application in so far as it does not apply to an individual trader but, in general, to products identical to the one thus classified (judgment of 19 February 2009, *Kamino International Logistics*, C-376/07, EU:C:2009:105, paragraph 63).

- 35 However, as the Slovak Government and the Commission rightly point out in their written observations, the goods which are classified in Regulation No 1231/2007, such as those referred to in points 3 to 5 of the table annexed to that regulation, are not identical to the goods here at issue. The digital cameras referred to in those provisions differ from the goods here at issue, in particular in that they make it possible to record, on the one hand, still images of higher quality and, on the other hand, videos of a lower resolution and at a speed of 30 frames per second, whereas the goods here at issue make it possible to record videos at a speed of 50 frames per second.
- 36 It is true that, according to the Court's case-law, the application by analogy of a classification regulation to goods similar to those covered by that regulation facilitates a coherent interpretation of the CN and the equal treatment of traders (judgment of 4 March 2004, *Krings*, C-130/02, EU:C:2004:122, paragraph 35).
- 37 However, such an application by analogy is neither necessary nor possible where the Court, by its answer to a question referred for a preliminary ruling, has provided the referring court with all the information necessary to classify a product under the appropriate CN heading (judgment of 12 April 2018, *Medtronic*, C-227/17, EU:C:2018:247, paragraph 59 and the case-law cited).
- 38 In the light of the foregoing considerations, the answer to the question referred is that the CN must be interpreted as meaning that digital video camera recorders having a dual function, that is to say, to capture and record both still images and sequences of video, come under subheading 8525 80 91 of the CN as 'video camera recorders', even though, with regard to sequences of video, those cameras allow such sequences to be captured and recorded only with an image resolution quality lower than 800 × 600 pixels, provided that the principal function of those digital video camera recorders is to capture and record such sequences, this being a matter which it is for the referring court to ascertain.

### **Costs**

- 39 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

**The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the versions resulting, successively, from Commission Regulation (EC) No 1031/2008 of 19 September 2008, Commission Regulation (EC) No 948/2009 of 30 September 2009, Commission Regulation (EU) No 861/2010 of 5 October 2010, Commission Regulation (EU) No 1006/2011 of 27 September 2011 and Commission Implementing Regulation (EU) No 927/2012 of 9 October 2012, must be interpreted as meaning that digital video camera recorders having a dual function, that is to say, to capture and record both still images and sequences of video, come under subheading 8525 80 91 of the Combined Nomenclature as ‘video camera recorders’, even though, with regard to sequences of video, those cameras allow such sequences to be captured and recorded only with an image resolution quality lower than 800 × 600 pixels, provided that the principal function of those digital video camera recorders is to capture and record such sequences, this being a matter which it is for the referring court to ascertain.**

[Signatures]