COMMISSION REGULATION (EC) No 728/2004 of 15 April 2004

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.
- (4) It is appropriate to provide that, subject to the measures in force in the Community relating to double checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, binding tariff information issued by the customs authorities of Member States in respect of the

- classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, can continue to be invoked for a period of 60 days 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 good 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.

Article 2

Subject to the measures in force in the Community relating to double checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, 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 60 days, under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

This Regulation shall enter into force on the 20th 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, 15 April 2004.

For the Commission Frederik BOLKESTEIN Member of the Commission

⁽¹) OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 2344/2003 (OJ L 346, 31.12.2003, p. 38).

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the Act of Accession of 2003.

ANNEX

Description	Classification CN code	Reasons
(1)	(2)	(3)
A set of two garments put up for retail sale, consisting of: A) shiny self-coloured fabric (100 % polyester), with a close-fitting mandarin-style collar, with a partial front opening crossing from center neck to the left armpit and fastened right over left by buttons and loops. The bulky buttons consist of rolled narrow woven fabric. Bound at the sleeve ends, collar, the front opening and at the base. The base of the garment and the sleeve ends are curved and have side vents. The garment is cut straight and intended to cover the upper part of the body as far as the hips. It has an embroidered motif on the front.	6206 40 00	The classification is determined by the provisions of general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 13 to Section XI, notes 3(b) and 8 to Chapter 62 and the wording of CN codes 6204, 6204 63, 6204 63 18, 6206 and 6206 40 00.
		Classification as an ensemble is ruled out according to note 3(b) to Chapter 62, because the two garments in question are not made up in identical fabric.
		Classification as pyjamas is excluded, because the garments in question, by reason of their objective characteristics, are not identifiable
(blouse) (See photograph No 632 A) (*)		as intended to be worn exclusively or essentially as nightwear.
B) A loose-fitting lightweight garment made of a woven shiny printed fabric (100% polyester), intended to cover the lower part of the body reaching from the waist to the ankles, enclosing each leg separately, cut straight. It has an elasticated waist without opening and is bound in plain fabric at the leg ends. The leg ends are curved and have side vents.		
(trousers)		
(See photograph No 632 B) (*)		

 $(\mbox{\ensuremath{*}})$ The photographs are purely for information.



