

COMMISSION REGULATION (EC) No 129/2005**of 20 January 2005****concerning the classification of certain goods in the Combined Nomenclature and amending Regulation (EC) No 955/98**

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 codes indicated in column 2, by virtue of the reasons set out in column 3.

(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 classification of 'audio-frequency apparatus' in Commission Regulation (EC) No 955/98 of 29 April 1998 concerning the classification of certain goods in the Combined Nomenclature⁽³⁾ has led to classifications of so-called 'home cinema systems' under CN code 8543 89 95. Since such classifications are not in accordance with the classification set out in the Annex to this Regulation, they have to be considered as incorrect.

(6) Regulation (EC) No 955/98 should therefore be amended accordingly.

(7) 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 codes indicated in column 2.

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

Point 2 of the Annex to Regulation (EC) No 955/98 is deleted.

Article 4

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1989/2004 (OJ L 344, 20.11.2004, p. 5).

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

⁽³⁾ OJ L 133, 7.5.1998, p. 12.

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

Done at Brussels, 20 January 2005.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

Description	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>1. A product put up in a set for retail sale, consisting of:</p> <ul style="list-style-type: none"> — a composite machine (an amplifier, AM/FM radio-broadcast receiver and a DVD/CD player), — a subwoofer, — five speakers, and — a remote control. <p>The product (known as a 'home cinema system') is designed to provide audio and video entertainment in the home, mainly by reproducing sound and images stored on a DVD.</p>	8521 90 00	<p>Classification is determined by the provisions of General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8521 and 8521 90 00.</p> <p>The product is a set put up for retail sale, in which the component giving the set its essential character is the composite machine (GIR 3(b)).</p> <p>Within the meaning of Note 3 to Section XVI, the component which provides for the principal function of the composite machine is the DVD/CD player. The amplification of sound and the reproduction of radio-broadcast signals are considered to be secondary functions compared with the video reproduction function.</p> <p>Consequently, the set is classifiable as video reproduction apparatus under CN code 8521 90 00.</p>
<p>2. A product put up in a set for retail sale, consisting of:</p> <ul style="list-style-type: none"> — an AM/FM radio-broadcast receiver with an amplifier, — a DVD/CD player, — a subwoofer, — five speakers, and — a remote control. <p>The product (known as a 'home cinema system') is designed to provide audio and video entertainment in the home, mainly by reproducing sound and images stored on a DVD.</p>	8521 90 00	<p>Classification is determined by the provisions of General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8521 and 8521 90 00.</p> <p>The product is a set put up for retail sale, in which the component giving the set its essential character is the DVD/CD player.</p> <p>Consequently, the set is classifiable as video reproduction apparatus under CN code 8521 90 00.</p>
<p>3. A network analyser, consisting of an analyser module, a capture memory and an interface to an automatic data processing (ADP) machine, in a single housing.</p> <p>The analyser is designed to provide information on the performance of networks by monitoring network activity, decoding all major protocols, and generating network traffic.</p> <p>The ADP machine is not presented with the analyser.</p>	9031 80 39	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 5(E) to Chapter 84, Additional Note 1 to Chapter 90 and by the wording of CN codes 9031, 9031 80 and 9031 80 39.</p> <p>The analyser, performing a specific function by means of the analyser module, is excluded from heading 8471 by application of note 5(E) to Chapter 84.</p> <p>The analyser is specifically designed for analysing the traffic in a network and not for measuring or checking electrical quantities, thus being excluded from heading 9030.</p>

(1)	(2)	(3)
<p>4. A network analyser consisting of a central management bus, an analyser module, an automatic data processing machine, a monitor and a keyboard, in a single housing.</p> <p>The analyser is designed to perform the following functions:</p> <ul style="list-style-type: none"> — analysing the operational state of existing networks and network products, — simulating traffic and fault conditions into existing networks and network products, — generating network traffic. 	9031 80 39	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 5(E) to Chapter 84, Additional Note 1 to Chapter 90 and by the wording of CN codes 9031, 9031 80 and 9031 80 39.</p> <p>The analyser, performing a specific function by means of the analyser module, is excluded from heading 8471 by application of Note 5(E) to Chapter 84.</p> <p>The analyser is specifically designed for analysing the traffic in a network and not for measuring or checking electrical quantities, thus being excluded from heading 9030.</p>