Commission Implementing Regulation (EU) No 459/2014 of 29 April 2014 amending certain regulations on the classification of goods in the Combined Nomenclature

COMMISSION IMPLEMENTING REGULATION (EU) No 459/2014

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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) Council Regulation (EU) No 953/2013[(2)] amended Annex I to Regulation (EEC) No 2658/87 and replaced CN codes 8528 59 10, 8528 59 40 and 8528 59 80 by CN codes 8528 59 20, 8528 59 31, 8528 59 39 and 8528 59 70.

(2) Certain Commission Regulations concerning the classification of goods, adopted in order to ensure the uniform application of the Combined Nomenclature established by Regulation (EEC) No 2658/87, make reference to CN codes which no longer exist. They should therefore be amended in order to take into account the appropriate CN codes in force.

(3) The Customs Code Committee has not issued an opinion on the item of Annex III of this Regulation within the time limit set by its Chairman, the measures provided for under Annex I, II and IV of this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1 The Annex to Commission Regulation (EC) No 1156/2008[(3)], as amended by Implementing Regulation (EU) No 441/2013[(4)], is replaced by the text set out in Annex I to this Regulation.

2 Item 1 of the Annex to Commission Regulation (EC) No 1172/2008[(5)], as amended by Implementing Regulation (EU) No 441/2013, is replaced by the text set out in Annex II to this Regulation.

3 The Annex to Commission Implementing Regulation (EU) No 1196/2011[(6)] is replaced by the text set out in Annex III to this Regulation.

4 The Annex to Commission Implementing Regulation (EU) No 698/2012[(7)] is replaced by the text set out in the Annex IV to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 459/2014. (See end of Document for details)*

Article 2

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, 29 April 2014.

For the Commission,

On behalf of the President,

Algirdas ŠEMETA

Member of the Commission

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 459/2014. (See end of Document for details)*

ANNEX I

ANNEX Description of the goodsClassification (CN code)Reasons(1)(2)(3)An apparatus for the recording, reproducing and displaying of still images (so-called “digital photo frame”), with overall dimensions 17 (L) × 12,9 (W) × 12,3 (D) cm, consisting of the following main components in a single housing:a colour display of the liquid crystal device (LCD) type with a diagonal measurement of the screen of 13 cm (5,1 inches) and a resolution of 320 × 240 pixels,a slot for a Subscriber Identity Module (SIM) card,an infra-red interface,an internal memory,control buttons.The images are transferred to the internal memory of the apparatus from a compatible device (such as a mobile phone, automatic data-processing machine or a digital camera) via an infra-red signal or with a SIM card through the Multimedia Messaging Service (MMS).The images can also be transferred from the apparatus via the infra-red signal to a compatible device.The apparatus supports JPEG and GIF formats with a maximum resolution of 1 024 × 728 pixels.The apparatus can display images in a single-image or slideshow mode.Its internal memory can store up to 50 images.8528 59 70Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 70.As the apparatus is designed for the purpose of performing three functions within the meaning of note 3 to Section XVI (recording, reproducing and displaying images), it is to be classified as if consisting only of that machine which performs the principal function.Due to its capability of displaying images, the principal function of the apparatus is considered to be that of a monitor, which is an individual function specified in heading 8528.The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the Harmonized System Explanatory Notes (HSEN) to heading 8528, third paragraph).The apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.An apparatus for the recording, reproducing and displaying of still and video images, as well as for the recording and reproducing of sound (so-called “digital picture frame”), with overall dimensions 33 (W) × 24,1 (H) × 4,1 (D) cm, consisting of the following main components in a single housing:a colour display of the liquid crystal device (LCD) type, with a diagonal measurement of the screen of 25,4 cm (10 inches) and a resolution of 800 × 480 pixels,an internal memory with a storage capacity of 128 MB,memory card slots,built-in loudspeakers,two USB interfaces,control buttons.It supports the following formats:audio: MP3,still image: JPEG, GIF,video: MPEG1, MPEG4, MOV, AVI.Different types of solid-state non-volatile storage devices can be inserted into the memory card slots.The images may be displayed in single image, slideshow or thumbnails mode.8528 59 70Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3 to Section XVI and by the wording of CN codes 8528, 8528 59 and 8528 59 70.As the apparatus is designed for the purpose of performing three functions within the meaning of note 3 to Section XVI (recording, reproducing and displaying images), it is to be classified as if consisting only of that machine which performs the principal function.Given the design and the concept of the apparatus, its purpose is to display still and video images. Recording still and video images is to be considered as a secondary function of the apparatus. Therefore its principal function is considered to be that of a monitor, which is an individual function specified in heading 8528.The fact that the signals are not displayed directly from external sources does not exclude classification under heading 8528 since monitors of that heading may be capable of receiving a variety of signals from different sources (see also the HSEN to heading 8528, third paragraph).The apparatus is not able to display signals directly from an automatic data-processing machine as the USB interfaces are only used for the transfer of media files. Consequently, classification under subheadings 8528 51 00 and 8528 59 31 is excluded.The apparatus is therefore to be classified under CN code 8528 59 70 as other monitors.