Commission Implementing Regulation (EU) No 155/2012 of 21 February 2012 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

COMMISSION IMPLEMENTING REGULATION (EU) No 155/2012

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amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

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) By Commission Implementing Regulation (EU) No 620/2011[(2)] two new subheadings, 8528 71 15 and 8528 71 91, have been introduced in Annex I to Regulation (EEC) No 2658/87. Both cover apparatus with a microprocessor-based device incorporating a modem for gaining access to the Internet, and having a function of interactive information exchange, capable of receiving television signals, so-called 'set-top boxes which have a communication function'. According to the wording of the subheadings the apparatus include apparatus incorporating a device performing a recording or reproducing function, provided that they retain the essential character of a set-top box which has a communication function.

(2) In the interest of legal certainty it is necessary to clarify the scope of those new subheadings with regard to the terms 'modem' and 'interactive information exchange'. A new Additional Note should therefore be inserted in Chapter 85 of the Combined Nomenclature to ensure a uniform interpretation of those subheadings throughout the territory of the Union.

(3) Regulation (EEC) No 2658/87 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Chapter 85 of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, as amended by Commission Implementing Regulation (EU) No 1006/2011[(3)], the following Additional Note 3 is inserted:

3. *For the purposes of subheadings 8528 71 15 and 8528 71 91 only, the term "modem" covers devices or equipment that modulate and demodulate incoming and outgoing signals,*

such as V.90 modems or cable modems, and other devices that utilise akin technologies for gaining access to the Internet, such as WLAN, ISDN and Ethernet. The extent of access to the Internet may be limited by the service provider.

Apparatus of these subheadings must enable a two-way communication process or a two-way flow of information for the purposes of providing an interactive information exchange.

Article 2

This Regulation shall enter into force on the 20th day following 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, 21 February 2012.

For the Commission, On behalf of the President,

Algirdas ŠEMETA

Member of the Commission