Commission Regulation (EC) No 155/2008 of 21 February 2008 concerning the classification of certain goods in the Combined Nomenclature

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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 of that table.

(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 Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 155/2008. (See end of Document for details)*

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 code indicated in column 2 of that table.

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 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 2008.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

Description of the goods	Classification CN code	Reasons
(1)	(2)	(3)
Article consisting of two preformed soft cellular plastic cups covered on both surfaces with knitted fabric. Knitted bands are sewn on to the edges of the cups to reinforce their oval shape. The cups are joined together with a magnetic metal clasp. The inside of each cup is coated with an adhesive which is protected by a plastic film. Following removal of the plastic film, the adhesive enables the cups to adhere to the breasts when in direct contact with the skin. The article is designed to be worn next to the skin. (brassière) (See photographs Nos 643A and 643B)[a]	6212 10 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, notes 2(a)(5) to Chapter 59 and 2(a) to Chapter 61 and the wording of CN codes 5903, 6212, 6212 10 and 6212 10 90. As the cellular plastic of the cups is combined with textile fabric on both faces, the textile fabric is regarded as having a function beyond that of mere reinforcement within the meaning of note 2(a)(5) to Chapter 59, it confers the essential character of textile to the combined material of the cups and consequently is considered to be the constituent material of the article (see also the HS Explanatory Notes to Chapter 39, General, 'Plastics and textile combinations', (d) and seventh paragraph). Thus, the article is a textile article of section XI and not a plastic article of apparel of subheading 3926 20. The article has the characteristics of a brassière, i.e. the oval shaped, preformed, cellular plastic cups which are reinforced along the edges, together with the magnetic metal clasp hold the breasts in place. Instead of the classic straps reaching around the back of the body, this article adheres to the body by means of an adhesive coating on the inside of the cups. Due to the thickness of the cellular plastic cups when

a The photographs are purely for information.