Commission Regulation (EC) No 1231/2007 of 19 October 2007 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION REGULATION (EC) No 1231/2007

of 19 October 2007

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

(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 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 of that table.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1231/2007. (See end of Document for details)*

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

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, 19 October 2007.

For the Commission

László KOVÁCS

Member of the Commission

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1231/2007. (See end of Document for details)*

ANNEX

Description of the goods	Classification(CN code)	Reasons
(1)	(2)	(3)
1. An infrared home sauna, intended to be incorporated into a building, designed to hold up to two persons, consisting of: — six 'ready to assemble' prefabricated wooden panels, — a bench, — ventilation equipment, — an air ioniser. Some of the panels are equipped with: — a door with a window, — a ceramic far-infrared heater, — digital controllers or, — loudspeakers. The wavelength of the rays generated by the ceramic far-infrared heater is 5,6–15 μm. The product combines the functions of a sauna and an infrared heat therapy device. It provides recreational and relaxing treatment.	8516 79 70	Classification is determined by General Rules 1, 2(a), 3(b) and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8516, 8516 79 and 8516 79 70. The mechanical appliances and electronic equipment confer upon the whole its essential character. Classification under heading 4421 as other articles of wood is, therefore, excluded. The product does not provide any medical treatment and, therefore, classification under heading 9018 as a medical instrument or appliance is excluded. Classification under heading 9406 is excluded as the product is not a 'stand-alone' complete or incomplete prefabricated building. Since the ceramic far-infrared heater, performing the principal function of the product, is an electro-thermic appliance having a function specified elsewhere in Chapter 85 (heading 8516), classification under heading 8543 is excluded. As the ceramic far-infrared heater is mainly for heating up the body and not only for spaceheating, the product is excluded from subheading 8516 29 as an electric space heating apparatus. Therefore, it is to be classified under subheading 8516 79.

a [2005] ECR I-8151.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1231/2007. (See end of Document for details)*

2. A stand-alone device for recording digital code representing video on a digital versatile disc (DVD) from a video camera recorder. The device is equipped with a USB interface for connecting it to a video camera recorder or to an automatic dataprocessing machine. When the device is connected to the video camera recorder, the video recording is controlled by the latter apparatus and records only in a video format. The device can also be used as a storage device for data on a DVD when it works in conjunction with an automatic dataprocessing machine.	8521 90 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 5(E) to Chapter 84 and by the wording of CN codes 8521 and 8521 90 00. Since the device has a specific function, video recording from a camera, classification as a storage unit under subheading 8471 70 is excluded (see Note 5(E) to Chapter 84). Because the device is specified in heading 8521 (as a video recording apparatus), classification as a transcribing device under heading 8471 (subheading 8471 90) is excluded. Since the device has a function specified elsewhere in Chapter 85 (heading 8521), classification under heading 8543 is excluded.
3. A digital camera for capturing and recording images onto an internal storage device with a capacity of 22 MB or onto a memory card of a maximum capacity of 1 GB. The camera is equipped with a 6 megapixels charge-coupled device (CCD) and a liquid crystal device (LCD) with a diagonal measurement of 6,35 cm (2,5 inches) that can be used as a display when capturing images or as a screen for displaying pre-recorded images. The maximum resolution of the still images is 3 680 × 2 760 pixels. Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately	8525 80 30	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and the wording of CN codes 8525, 8525 80 and 8525 80 30. The camera is not classifiable under subheadings 8525 80 11 or 8525 80 19 as a television camera because it is capable of recording still images and video. The product can capture and record still images of a high quality. However, the product can only capture and record video of a quality of less than 800 × 600 pixels and has no zoom function during video recording. (See the CN Explanatory Notes to subheading 8525 80 30).

a [2005] ECR I-8151.

290 still images. Using the resolution of 640 × 480 pixels and the 1 GB memory of the card, it is capable of recording approximately 7 550 still images. The maximum resolution of the video is 640 × 480 pixels. Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 11 minutes of video at 30 frames per second. The camera offers an optical zoom function which cannot be used during video recording.		Within the meaning of Note 3 to Section XVI, the principal function of the camera is the capturing and recording of still images and, therefore, the product is to be classified as a digital camera of subheading 8525 80 30.
4. A digital camera for capturing and recording images onto a memory card of a maximum capacity of 1 GB. The camera is equipped with a 6 megapixels charge-coupled device (CCD) and a foldable viewfinder of a liquid crystal device (LCD) type with a diagonal measurement of 5,08 cm (2,0 inches) that can be used when capturing images or as a screen for displaying pre-recorded images. The maximum resolution of the still images is 3 680 × 2 760 pixels. Using this highest resolution and the 1 GB memory of the card, it is capable of recording approximately 300 still images. Using the resolution of 640 × 480 pixels and the 1 GB memory of the card, it is capable of recording approximately 7 750 still images. The maximum resolution of the video is 640 × 480 pixels. Using this highest resolution and the 1 GB memory of	8525 80 30	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and the wording of CN codes 8525, 8525 80 and 8525 80 30. The camera is not classifiable under subheadings 8525 80 11 or 8525 80 19 as a television camera, because it is capable of recording still images and video. The product can capture and record still images of a high quality. Although the product has the design of a video camera recorder, has a zoom function during video recording and is capable of recording approximately 42 minutes of video using the resolution of 640 × 480 pixels, the recording of the video remains a secondary function because the product can only capture and record video of a quality of less than 800 × 600 pixels. (See the CN Explanatory Notes to subheading 8525 80 30).

a [2005] ECR I-8151.