Commission Regulation (EC) No 2126/2005 of 22 December 2005 amending Regulation (EEC) No 350/93 concerning the classification of certain goods in the Combined Nomenclature

COMMISSION REGULATION (EC) No 2126/2005

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amending Regulation (EEC) No 350/93 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) Commission Regulation (EEC) No 350/93 of 17 February 1993 concerning the classification of certain goods in the Combined Nomenclature[(2)] lays down measures concerning the classification in the Combined Nomenclature of a pair of shorts described in point 8 of the Annex to that Regulation (photo 509).

(2) It is necessary to specify the description of the pockets of the garment in question and to align the second paragraph of the reasons accordingly, in order to avoid divergent classification. Up to now, the fact that the pockets have no closing system was merely illustrated in photo 509.

(3) Moreover, in the reasons given for the classification of the garment in question reference is made to Note 8 of Chapter 62 of the Combined Nomenclature without mentioning which paragraph of that Note has been applied, which might lead to divergent classifications.

(4) In order to ensure uniform application of the Combined Nomenclature it should be made clear that the classification laid down in Regulation (EEC) No 350/93 was not based on the first paragraph of Note 8 and was therefore not determined by the reason that the garment in question has a cut which clearly indicates that it is designed for women.

(5) Provision should be made that the second paragraph of Note 8 to Chapter 62 was applied and that the garment in question was classified within CN code 6204 63 90 because the cut of the garment in question does not give ample indications as to whether it was intended for men or women and therefore cannot be identified as either men's or boy's garment or as women's or girls' garment.

(6) Regulation (EEC) No 350/93 should therefore be amended accordingly.

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 2126/2005. (See end of Document for details)*

HAS ADOPTED THIS REGULATION:

Article 1

Point 8 of the Annex to Regulation (EEC) No 350/93 is amended as follows:

1. in column 1 (Description) the last sentence is replaced by the following:

   The garment has an open inside pocket on each side and a knitted inside brief (65 % polyester, 35 % cotton), sewn at the waist (as for shorts) (see photograph No 509) (*).;

2. in column 3 (Reason) the text is replaced by the following:

   Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature, by the second paragraph of Note 8 to Chapter 62, as well as by the texts of CN codes 6204, 6204 63 and 6204 63 90.

   Classification as swimwear is excluded because this garment, by virtue of its cut, general appearance and the presence of side pockets without a firm fastening system cannot be deemed as intended to be worn solely or mainly as swimwear.

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, 22 December 2005.

For the Commission

László KOVÁCS

Member of the Commission