Commission Regulation (EC) No 266/2005 of 17 February 2005 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.

(4) It is appropriate to provide that 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 by the holder for a period of three months, 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 code indicated in column 2.

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, 17 February 2005.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

Description of the goods	**ClassificationCN code**	**Reasons**
(1)	(2)	(3)
Footwear covering the toes and the ball of the foot, leaving the heel and more than half the foot exposed, with a leather upper lined with a textile fabric on the inside and an outer sole of leather, with insoles of a length of less than 24 cm. It is attached to the foot by two elastic bands which go round the heel. (shoe for rhythmic gymnastics) (see photographs No 633 A and No 633 B)[a]	6403 59 91	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, note 3(b) to Chapter 64 and the wording of CN codes 6403, 6403 59 and 6403 59 91. In application of General Rule 1 for the interpretation of the Combined Nomenclature, the term 'outer sole' as used, *inter alia*, in heading 6403 means that part of the footwear which, when in use, is in contact with the ground. See also the Harmonized System Explanatory Note to Chapter 64, General, (C). As only the ball of the foot is allowed to touch the ground in rhythmic gymnastics, the corresponding part of the footwear is the only part in contact with the ground when in use and can, therefore, be considered to be an 'outer sole' as referred to in Chapter 64. Moreover, the objective characteristics (e.g. cut and material) of the article imply that it cannot be used for any other purpose than as footwear for rhythmic gymnastics.

a The photographs are purely for information.