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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 493/2005

of 16 March 2005

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) In the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 [1], the CN codes for monitors are 8471 and 8528.

(2) For the classification of monitors outside CN code 8528, certain conditions are to be met. The convergence of information technology, consumer electronics industries and new technologies has created a situation where it is becoming impossible, when classifying monitors, to determine, by reference to simple technical characteristics, the main purpose of a particular monitor. It follows from the case law of the Court of Justice of the European Communities that classification cannot be based on actual use. The correct classification of individual products is to be based on objective and quantifiable data. It is currently not feasible to establish unambiguous criteria meeting this requirement.

(3) Trade data indicate that currently monitors using liquid crystal display technology, with a diagonal measurement of the screen of 48,5 cm or less and a screen aspect ratio of 4:3 or 5:4, are mainly used as output units of automatic data-processing machines. However, such monitors are frequently also capable of reproducing video images from a source other than an automatic data-processing machine and therefore do not meet the condition of being solely or principally for use with such machines. Such monitors are therefore not covered by the Agreement on trade in information technology products [2] or by the Communication on its implementation, both of which were approved on behalf of the Community by Council Decision 97/359/EC of 24 March 1997 concerning the elimination of duties on information technology products [3].

(4) It is in the interest of the Community to suspend totally, for a limited period, the autonomous Common Customs Tariff duties for monitors using liquid crystal display technology, with a diagonal measurement of the screen of 48,5 cm or less and a screen aspect ratio of 4:3 or 5:4 and classifiable under CN code 8528 21 90. This measure should therefore expire by 31 December 2006, unless the Council decides to prolong it.

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

(6) Since the amendment introduced by this Regulation is to be applied from the same date as the Combined Nomenclature for 2005 laid down in Commission Regulation (EC) No 1810/2004 [4], this Regulation should enter into force immediately and apply from 1 January 2005,

HAS ADOPTED THIS REGULATION:

Article 1

The text in column 3 for CN code 8528 21 90 in Chapter 85, Section XVI of Part Two, Schedule of Customs Duties, of Annex I to Regulation (EEC) No 2658/87 shall be replaced by the following:

'14 (*)

(*) Customs duty autonomously suspended, until 31 December 2006, for monitors with a diagonal measurement of the screen of 48,5 cm or less and with an aspect ratio of 4:3 or 5:4 (TARIC code 8528 21 90 30).'

[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1989/2004 (OJ L 344, 20.11.2004, p. 5).
[2] OJ L 155, 12.6.1997, p. 3.
[3] OJ L 155, 12.6.1997, p. 1.
[4] OJ L 327, 30.10.2004, p. 1.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 March 2005.

For the Council
The President
J. ASSELBORN