



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 September 2013

13033/13

**Interinstitutional File:
2013/0098 (NLE)**

**TDC 11
UD 206**

NOTE

From: General Secretariat
To: Permanent Representatives Committee

No. Cion prop.: 8383/13 TDC 3 UD 80

Subject: Proposal for a Council Regulation amending Annex I to Regulation (EEC)
No 2658/87 on the Tariff and Statistical Nomenclature and on the Common
Customs Tariff
= *Analysis of the final compromise text*

I. INTRODUCTION

1. On 10 April 2013, the Commission submitted to the Council the above proposal based on Articles 31 of the Treaty on the Functioning of the European Union and aiming at providing, on an autonomous basis, duty free treatment for flat panel displays which are able to display signals from automatic data-processing (ADP) machines with an acceptable level of functionality.

2. The Working Party on Customs Union examined the proposal at various meetings under the IE and LT Presidencies and, following its meeting on 2 September 2013, decided to submit to the Permanent Representatives Committee a compromise text prepared by the LT Presidency, as laid down in the Annex.

II. STATE OF PLAY

3. At the meeting of the Working Party on Customs Union on 2 September 2013, a majority of delegations could support the compromise text as laid down in the Annex.
4. However, PL, supported by HU, maintains at this stage a substantial reservation on this text.

III. CONCLUSION

5. Against this background, the Permanent representatives Committee is invited to give its approval to the compromise text set out in the Annex and to submit this text to the Council for adoption as an item without discussion.

Proposal for a

COUNCIL REGULATION
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 on the Functioning of the European Union, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) HS subheading 8528 51 comprises monitors, other than cathode-ray tube (CRT) monitors, of a kind solely or principally used in an automatic data-processing system of heading 8471. Monitors other than of a kind solely or principally used in an automatic data-processing system of heading 8471 are classified under HS subheading 8528 59.
- (2) In accordance with settled case-law of the Court of Justice of the European Union¹, classification of monitors under either HS subheading 8528 51 or 8528 59 has to be based on an overall assessment of the objective characteristics and properties of each particular monitor.

¹ Case C-376/07 *Kamino* [2009] ECR I-1167.

- (3) Due to the convergence of digital technologies it has become very difficult to determine, by reference to mere technical characteristics, whether or not a particular monitor is of a kind solely or principally used in an automatic data-processing system of heading 8471. In particular, ensuring the correct and uniform classification of flat panel displays which can display, with an acceptable level of functionality, signals from both automatic data-processing systems and other sources has become technically impossible.
- (4) In order to ensure a rational development of production and an expansion of consumption within the territory of the Union and to promote trade between Member States and third countries, it is both in the interest of Union consumers and industry to provide for a duty free treatment for the above-mentioned monitors.
- (5) Annex I to Regulation (EEC) No 2658/87 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

1. Annex I to Regulation (EEC) No 2658/87 is amended as set out in the Annex to this Regulation.
2. The amendments to the CN subheadings provided for in this Regulation shall be applicable as TARIC subheadings until 31 December 2013.

Article 2

This Regulation shall enter into force on the twentieth day following that of 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,

For the Council

The President

In Part Two, Section XVI, Chapter 85 of Annex I to Regulation (EEC) No 2658/87 the rows for CN codes 8528 59, 8528 59 10, 8528 59 40 and 8528 59 80 are replaced by the following:

"8528 59	-- Other:		
	-- -- Flat Panel Displays able to display signals from automatic data-processing machines with an acceptable level of functionality:		
8528 59 20 ⁽¹⁾	---- Monochrome	14 ⁽⁵⁾	p/st
	---- Colour:		
8528 59 31 ⁽²⁾	----- With a screen of the liquid crystal display (LCD) technology	14 ⁽⁵⁾	p/st
8528 59 39 ⁽³⁾	----- Other	14 ⁽⁵⁾	p/st
8528 59 70 ⁽⁴⁾	--- Other	14	p/st.

- (1) TARIC code 8528 59 10 20
- (2) TARIC code 8528 59 40 91
- (3) TARIC code 8528 59 80 91
- (4) TARIC codes 8528 59 10 90, 8528 59 40 99 and 8528 59 80 99
- (5) Autonomous rate of duty: Free"