COMMISSION REGULATION (EC) No 1452/2007

of 7 December 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.

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, 7 December 2007.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1352/2007 (OJ L 303, 21.11.2007, p. 3).

[2] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. A slewing ring, consisting of two concentric forged steel rings, one of which has teeth cut into it. The rings are capable of rotation when separated by rows of steel ball bearings. The steel ring with teeth provides rotational torque transfer. This product is designed to be incorporated in an excavator.	8483 90 89	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 (a) to Section XVI and by the wording of CN codes 8483, 8483 90 and 8483 90 89. As the slewing ring, considering its function, belongs to goods included in a heading of Chapter 84, classification under heading 8431 as part of an excavator is excluded. It is not to be considered as 'gears or gearing' of subheading 8483 40 because it consists of a single toothed ring. The turning (slewing) motion, provided by the teeth, determines the function of the product and, therefore, the slewing ring is to be classified as a transmission element presented separately under subheading 8483 90 89.
2. A three-wheeled vehicle, so-called 'Trike', with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity of 1 584 cm^3. The vehicle has no bodywork and is designed to transport two persons. It is equipped with a handle-bar and a motorcycle-type steering mechanism. The vehicle is also equipped with a gearbox having four forward gears, a reverse gear, and a differential.	8703 23 19	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8703, 8703 23 and 8703 23 19. Although the vehicle is steered by means of a handle-bar and has the appearance of a motorcycle, it cannot be considered as a motorcycle of heading 8711, because of the presence of the reverse gear and the differential. Therefore, the product is to be classified as a motor vehicle of a simpler construction, designed for the transport of persons, of heading 8703 (see the HS Explanatory Notes to heading 8703, second paragraph).