Commission Regulation (EC) No 1051/2009 of 3 November 2009 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 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1051/2009. (See end of Document for details)*

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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1051/2009. (See end of Document for details)*

ANNEX

Description of the goods	**Classification(CN code)**	**Reasons**
(1)	(2)	(3)
1. A new four-wheeled vehicle (so-called 'All Terrain Vehicle') with a spark-ignition internal combustion piston engine with a power of approximately 15 kW, and a dry weight of approximately 310 kg. The vehicle has the following characteristics: — a single seat of a length of approximately 600 mm accommodating the driver only, — motorcar type steering system based on the Ackerman principle controlled by a handlebar, — brakes on the front and rear wheels, — an automatic clutch and reverse gear, — an engine specially designed for use in difficult terrain and capable in low ratio of delivering sufficient power, — a power transmission shaft drive to the rear wheels, — tyres with a deep tread design for off-road use, — a hole with fittings for attaching various coupling devices, — a towing capacity of approximately 1 170 kg (non-braked), and	8701 90 11	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2 to Chapter 87 and the wording of CN codes 8701, 8701 90 and 8701 90 11 As the vehicle is equipped with a hole with fittings for attaching various coupling devices and shaft drive to the wheels, its intended use is to carry out work in difficult terrain and to haul or push other vehicles, appliances or loads (Note 2 to Chapter 87) Classification under heading 8703 is excluded as the vehicle meets the definition of Note 2 to Chapter 87 and is able to haul or push at least twice its dry weight (non-braked) (see also the CN Explanatory Notes to subheadings 8701 90 11 to 8701 90 90) The winch gives the vehicle the character of a forestry tractor (see also the CN Explanatory Notes to subheadings 8701 90 11 to 8701 90 50) The vehicle is therefore to be classified under CN code 8701 90 11