COMMISSION REGULATION (EEC) No 2055/83

of 20 July 1983

on the classification of goods within heading Nos 84.49 and 85.05 of the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff (1), as last amended by the Act of Accession of Greece, and in particular Article 3 thereof,

Whereas, in order to ensure uniform application of the nomenclature of the Common Customs Tariff, provisions must be laid down concerning the tariff classification of portable machines for giving a finishing cut to edges of lawns along walls, borders or under bushes, with or without supporting wheels, equipped with a cutting device consisting of a thin nylon cord to which is transmitted an extremely rapid circular motion, and driven, depending on the type, either by a self-contained petrol engine mounted on a light-metal frame and fitted with a hand-control grip, or by a self-contained electric motor mounted on a handle about 90 cm long and fitted with a hand-control grip;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68 (2), as last amended by Regulation (EEC) No 604/83 (3), refers under heading No 84.25 *inter alia* to hay or grass mowers, under heading No 84.49 to tools for working in the hand, pneumatic or with self-contained non-electric motor, and under heading No 85.05 to tools for working in the hand, with self-contained electric motor;

Whereas these various headings merit consideration for the purpose of classifying the abovementioned appliances;

Whereas the appliances in question, which are used for giving a finishing cut to lawns, in corners, along walls, under bushes, etc., are designed to be held, controlled and directed by hand during operation;

Whereas only appliances which enable the work of cutting large areas to be performed mechanically are to be regarded as hay or grass mowers;

Whereas, according to the explanatory notes to heading No 84.49 of the Customs Cooperation Council nomenclature, the expression 'tools for working in the hand' means tools designed to be held, controlled and directed by hand during operation, whether or not they are only lifted and moved while work is in progress; whereas, according to these explanatory notes, such tools may be used with auxiliary supporting devices (e.g., tripods, overhead lifting tackle);

Whereas these explanatory notes apply also to tools incorporating electric motors which fall within heading No 85.05;

Whereas the abovementioned appliances must therefore be classified respectively under heading Nos 84.49 and 85.05 according to whether they are driven by a petrol engine or by an electric motor;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Common Customs Tariff Nomenclature,

HAS ADOPTED THIS REGULATION:

Article 1

Portable machines for giving a finishing cut to edges of lawns along walls, borders or under bushes, with or without supporting wheels, equipped with a cutting device consisting of a thin nylon cord to which is transmitted an extremely rapid circular motion, and driven, depending on the type, either by a petrol engine mounted on a light-metal frame and fitted with a hand-control grip, or by a self-contained electric motor mounted on a handle about 90 cm long and fitted with a hand-control grip, shall be classified in the Common Customs Tariff:

(a) when they are driven by a petrol engine, under heading:

84.49 Tools for working in the hand, pneumatic or with self-contained non-electric motor;

(b) when they are driven by an electric motor, under heading:

85.05 Tools for working in the hand, with self-contained electric motor.

Article 2

This Regulation shall enter into force on the 21st day following its publication in the *Official Journal of the European Communities.*

(1) OJ No L 14, 21. 1. 1969, p. 1.
(2) OJ No L 172, 22. 7. 1968, p. 1.
(3) OJ No L 72, 18. 3. 1983, p. 3.

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

Done at Brussels, 20 July 1983.

For the Commission

Karl-Heinz NARJES

Member of the Commission