II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1367

of 6 August 2021

concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([1]), and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ([2]), 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 provisions of the Union, 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 code 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 issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.

(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 code indicated in column (2) of that table.

([1]) OJ L 269, 10.10.2013, p. 1.
([2]) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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, 6 August 2021.

For the Commission,
Gerassimos THOMAS
Director-General
Directorate-General for Taxation and Customs Union

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Four-wheeled vehicle with a DC 24V 800W electric motor powered by two 12V rechargeable batteries with 45Ah-capacity. It is approximately 65 cm wide, 125 cm long and 129 cm high (measured at the seat back, 85 cm with the seat back folded down). Its total weight is approximately 107 kg (108 kg including the batteries). The maximum load is approximately 130 kg. The vehicle has the following characteristics: — a horizontal platform connecting the front and rear sections; the platform cannot be adjusted in any way (e.g. folded or tilted) to suit the user's needs, — two sprung axles, rear-axle drive and an 820mm wheelbase, — gradient capability 13°, — turning circle 210 cm, — two sets of inflatable tyres (the rear tyres being larger than the front ones), — a configurable, height-adjustable rotating seat with supports and armrests and a non-slip surface for the feet, — an adjustable fold-down steering column with oval-shaped handlebars, — front and rear lights, direction indicators and rear-view mirrors. The steering column also has a dashboard featuring a switch box, a speed control, a horn button, an engine-idle button, a blinker switch, a light switch, a battery-status indicator and a speed adjuster. The vehicle has two manually operated levers for accelerating, braking and reversing. The steering can be adjusted to allow operation with one hand. It has a 'smart' regenerative electromagnetic braking system. With fully charged batteries, the vehicle has a maximum range of up to 45 kilometres and can reach a maximum speed of approximately 15-16 km/h. It may be fitted with small anti-tipping wheels at the back, a shopping basket, a walking-stick holder, etc.	8703 10 18	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 10 and 8703 10 18. Classification under heading 8713 as a carriage for disabled persons is excluded as the vehicle is not specially designed for the transport of disabled persons: it has no special features to alleviate a disability. Although the vehicle is designed so that the steering can be controlled with one hand and features a comfortable rotating seat with supports and a non-slip surface for the feet (and may optionally be fitted with small anti-tipping wheels), such characteristics do not objectively constitute special features designed to alleviate a disability (see also the Combined Nomenclature Explanatory Notes (CNEN) to subheading 8713 90 00, the Harmonized System Explanatory Notes to heading 8713 and HS classification opinion 8703.10/1). In addition, vehicles fitted with a separate, adjustable steering column and those reaching a maximum speed over 10 km per hour are excluded from heading 8713 (see also CNEN to subheading 8713 90 00). The vehicle is used for transporting persons and upon presentation to customs authorities it is not recognisable as a vehicle designed solely for disabled persons (see Case C-198/15 ([1])), based on its objective characteristics and properties which must be assessed at the time of customs clearance (see Case C-286/15 ([2])). Any subsequent post-clearance modification of the vehicle is disregarded as is any assessment of the vehicle that may be carried out by a national authority for purposes other than those laid down in customs legislation. The vehicle is a special type of vehicle for the transport of persons. It is therefore to be classified under CN code 8703 10 18 as a motor vehicle principally designed for the transport of persons, similar to golf cars.

The vehicle may be stowed for transport purposes. It may be used on roads, pavements, footpaths, pathways in parks, cycle paths and certain leisure trails, or in pedestrian areas (e.g. shopping precincts). See image (*).		

(*) The image is purely for information.

([1]) Judgment of the Court of 26 May 2016, *Invamed Group Ltd and Others v Commissioners for Her Majesty's Revenue & Customs*, C-198/15, ECLI:EU:C:2016:362.

([2]) Judgment of the Court of 26 May 2016, *Latvijas propāna gaze*, C-286/15, ECLI:EU:C:2016:363, paragraph 33.

