COMMISSION IMPLEMENTING REGULATION (EU) 2017/1477

of 11 August 2017

amending Regulation (EC) No 1051/2009 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) By Regulation (EC) No 1051/2009 ([2]), the Commission classified a new four-wheeled vehicle described in the first column of point 2 of the table of the Annex to that Regulation under CN code 8701 90 90.

(2) In Case C-91/15 Kawasaki ([3]), the Court of Justice ruled that point 2 of the table of the Annex to Regulation (EC) No 1051/2009 is invalid in so far as it classifies the vehicle in question under subheading 8701 90 90 of the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 ([4]), as amended by Commission Regulation (EC) No 948/2009 ([5]), and not under subheadings 8701 90 11 to 8701 90 39 of that Combined Nomenclature.

(3) For reasons of legal certainty, it is appropriate to remove provisions which are no longer applicable from the Union legal order. The provision declared invalid should therefore be deleted in order to avoid potential divergences in tariff classification of certain vehicles and to ensure the uniform application of the Combined Nomenclature within the Union.

(4) Regulation (EC) No 1051/2009 should therefore be amended accordingly.

(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

In the table of the Annex to Regulation (EC) No 1051/2009, point 2 is deleted.

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*.

([1]) OJ L 269, 10.10.2013, p. 1.
([2]) Commission Regulation (EC) No 1051/2009 of 3 November 2009 concerning the classification of certain goods in the Combined Nomenclature (OJ L 290, 6.11.2009, p. 56).
([3]) Judgement of the Court of Justice of 22 September 2016, Kawasaki Motors Europe, C-91/15, ECLI:EU:C:2016:716.
([4]) 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).
([5]) Commission Regulation (EC) No 948/2009 of 30 September 2009 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 287, 31.10.2009, p. 1).

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

Done at Brussels, 11 August 2017.

For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union