

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1610**of 13 September 2022****amending Regulation (EC) No 738/2000 as regards the classification of a vehicle equipped with a hydraulic lifting device fitted with a working platform 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 Commission Regulation (EC) No 738/2000 ⁽²⁾, the item listed in point 5 of the Annex to that Regulation, a four-wheeled vehicle powered by an electric motor, equipped with a hydraulic lifting device with a telescopic jib, of a maximum height of 15,5 m and a lifting capacity of 227 kg, permanently mounted on a flat surface and fitted with a working platform with a safety railing, was classified under Combined Nomenclature (CN) code 8428 90 90, as other lifting machinery.
- (2) The reason for excluding classification of the lifting device from heading 8427 was that it is not suitable for the transport of goods, as it is designed only for elevating goods and persons. However, heading 8427 does not exclude articles that are not designed for the transport of goods. Furthermore, according to the Harmonized System Explanatory Notes to heading 8427, part (B), point (1), heading 8427 includes trucks with mechanically elevating platforms for the maintenance of electric cables, public lighting systems, etc.
- (3) During its 68th session in September 2021, the Harmonized System Committee (HSC) of the World Customs Organisation (WCO) approved classification opinion 8427.10/1 classifying a product called 'Self-propelled Articulated Boom Lift', being an electric motor-powered wheeled base unit works truck with an articulated hydraulic lifting boom, which has a working platform (cage or man-basket) mounted on the boom. This lift has a maximum speed of 5,2 km/h (folded) and 0,8 km/h (unfolded), maximum working height 15,7 m, maximum gross weight 6 500 kg and platform capacity 227 kg. It is designed to accommodate a worker to enable work at heights. It was classified in subheading 8427 10 of the Harmonized System (HS) and, according to its objective characteristics, corresponds to CN Code 8427 10 10, as self-propelled trucks powered by an electric motor, with a lifting height of 1 m or more.
- (4) Given the identical or very similar characteristics of the product with the article described in point 5 of the Annex to Regulation (EC) No 738/2000, the tariff classification of the article, as set out in the Annex to that Regulation, is not in accordance with classification opinion 8427.10/1.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Regulation (EC) No 738/2000 of 7 April 2000 concerning the classification of certain goods in the combined nomenclature (OJ L 87, 8.4.2000, p. 10).

- (5) The Union is, by virtue of Council Decision 87/369/EEC ⁽³⁾, a contracting party of the International Convention on the Harmonized Commodity Description and Coding System, drawn up by the Customs Cooperation Council of the WCO. Classification opinions approved by the HSC are guidance instruments for Union tariff measures.
- (6) With a view to securing uniformity in the interpretation and application of the HS at international level and considering that classification opinion 8427.10/1 is in conformity with the wording of HS heading 8427 and subheading 8427 10, it is necessary to delete point 5 of the Annex to Regulation (EC) No 738/2000.
- (7) Regulation (EC) No 738/2000 should therefore be amended accordingly.
- (8) 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 Annex to Regulation (EC) No 738/2000, the row corresponding to point 5 of the table and illustration C are 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*.

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

Done at Brussels, 13 September 2022.

*For the Commission,
On behalf of the President,
Gerassimos THOMAS
Director-General
Directorate-General for Taxation and Customs Union*

⁽³⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).