

**COMMISSION REGULATION (EC) No 231/2004**  
**of 10 February 2004**  
**concerning the classification of certain goods in the Combined Nomenclature**

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<sup>(1)</sup>, 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 also apply 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 the said general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN code indicated in column 2, by virtue of the reasons set out in column 3.
- (4) It is appropriate to provide that binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined

Nomenclature and which is not in accordance with this Regulation, can, for a period of three months, continue to be invoked by the holder, according to Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup>.

- (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.

*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 pursuant to Article 12(6) of Regulation (EEC) No 2913/92.

*Article 3*

This Regulation shall enter into force on the 20th 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, 10 February 2004.

*For the Commission*  
Frederik BOLKESTEIN  
*Member of the Commission*

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 2344/2003 (OJ L 346, 31.12.2003, p. 38).

<sup>(2)</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the Act of Accession of 2003.

## ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
<p>Yellow, oily, liquid preparation containing by weight 70 % or more of petroleum oils and containing additives. The product has the following characteristics:</p> <ul style="list-style-type: none"> <li>— Distillation (ASTM D 86): <ul style="list-style-type: none"> <li>at 250 °C: 0</li> <li>at 266 °C: start of distillation</li> <li>at 339 °C (end of distillation): more than 85 % by volume</li> <li>at 350 °C: more than 85 % by volume</li> </ul> </li> <li>— Flash point (Pensky-Martens): <ul style="list-style-type: none"> <li>Higher than 100 °C</li> </ul> </li> <li>— Infrared spectroscopy: <ul style="list-style-type: none"> <li>Aliphatic hydrocarbons</li> </ul> </li> <li>— Sulphur content (EN ISO 8754): <ul style="list-style-type: none"> <li>Less than 0,05 % by weight</li> </ul> </li> </ul> <p>The preparation can be used as lubricating oil.</p>	2710 19 41	<p>Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, additional notes 1(d) and 1(e) to Chapter 27 and the wording of CN codes 2710, 2710 19 and 2710 19 41.</p> <p>Since 'heavy oils' according to the definition in additional note 1(d) to Chapter 27 comprises oils and preparations, the term 'gas oils' according to the definition in additional note 1(e) to Chapter 27 also comprises oils and preparations.</p> <p>The product cannot be classified as a lubricant since it fulfils the provisions of additional notes 1(d) and 1(e) to Chapter 27. It is therefore to be classified as a gas oil of subheading 2710 19 41 (see also the Explanatory notes to the Combined Nomenclature codes 2710 19 71 to 2710 19 99).</p>