



HARMONIZED SYSTEM  
REVIEW SUB-COMMITTEE

NR0119E1

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22<sup>nd</sup> Session  
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H2 – 1  
H3 – 1

Brussels, July 14 2000.

POSSIBLE AMENDMENT OF NOTE 5 (B) TO CHAPTER 85

(Item III.B.9 on Agenda)

Reference documents :

NC0077E1 (HSC/23)  
NC0090E2, Annex IJ/14, paragraph 6 (HSC/23 – Report)

I. BACKGROUND

1. At its 23<sup>rd</sup> Session, in May 1999, the Harmonized System Committee agreed to classify the Pentium ® II processor in subheading 8473.30, bearing in mind (1) that Note 5 (B) (a) to Chapter 85 was not applicable, as the product at issue was not a monolithic integrated circuit, (2) that Note 5 (B) (b) was not applicable as the Pentium ® II did not possess a substrate on which thin- or thick-film circuits had been formed, and (3) that Note 5 (B) (c) was not applicable, as the Pentium ® II was not a micro-assembly (see Annex IJ/14 to Doc. NC0090E2 (HSC/23/May 99 – Report)).
2. During the consideration of that question several delegates felt that the legal text and the Explanatory Note to heading 85.42 required updating to better represent present-day technology.
3. The aim of this document is to examine the possible updating of the relevant texts of Chapter 85 for consideration by the Review Sub-Committee.

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## II. SECRETARIAT COMMENTS

4. During the discussions on the classification of the Pentium ® II processor, the Committee took note of concerns expressed by trade circles, which favoured classification in heading 85.42 on the basis of the product's function, rather than in heading 84.73 which, according to their arguments, would give precedence to production processes over function.
5. In considering the possibility of updating of the relevant texts of Chapter 85, the Secretariat would first of all point out that the HSC decision to classify the Pentium ® II in subheading 8473.30 confirmed that the product could not be considered to be an electronic integrated circuit or microassembly of heading 85.42, under the present texts.
6. In this respect, the Secretariat would also note that the scope of electronic integrated circuits and microassemblies is defined by Note 5 (B) to Chapter 85. It would therefore be best to begin by assessing the scope of that definition in terms of present-day technology.
7. In light of the analysis used by the HSC to classify the Pentium ® II in subheading 8473.30 (see Doc. NC0077E1 – HSC/23), the Secretariat understands that in addition to the fact the product was neither a monolithic integrated circuit nor a microassembly as defined in Notes 5 (B) (a) and (c), the product did not satisfy the criteria of Note 5 (B) (b) in that the interconnections or circuits affixed on the substrate were not obtained by thin- or thick-film technology, but by printing and etching copper foil.
8. The Secretariat is not convinced that printing and etching should be considered to be merely a method of manufacture, because it is the printed and etched copper foil connectors at issue - intended to be plugged into the motherboard of an automatic data processing machine via a single edge connector - which determine the product's use with respect to specific machines.
9. In fact, whereas in both thin-film technology (film formed by molecular deposition) and thick-film technology (the film being a layer of paste or ink) the circuits are affixed after their layout has been designed and a photoresistant layer has been removed from the substrate, in the new processes, printing or etching can be regarded as being the circuit design itself.
10. Hence, the Secretariat believes that inserting a reference to new processes, such as printing and etching, for obtaining passive elements in Note 5 (B) to Chapter 85 would alter the scope of heading 85.42.
11. The Secretariat would therefore ask the Sub-Committee to assess whether the referenced methods for making electronic integrated circuits and microassemblies of heading 85.42, as defined by Note 5 (B) to Chapter 85, should be expanded to include new processes such as printing and etching, or perhaps even other technology.
12. Finally, the Secretariat points out that a sample Pentium ® II microprocessor will be made available to the delegates during the meeting.

III. CONCLUSION

13. Bearing in mind the remarks above, the Sub-Committee is invited to rule on the desirability of amending Note 5 (B) to Chapter 85 with regard to the classification of electronic integrated circuits and microassemblies of heading 85.42.

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