



HARMONIZED SYSTEM
COMMITTEE

-
26th Session
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NC0286E1
(+ Annexes I and II)
O. Eng.

Brussels, 17 October 2000.

CLASSIFICATION OF THE "MEDIA COMPOSER 1000"

(RESERVATION BY THE EC)

(Item VII.4 on Agenda)

Reference documents :

40.179 (HSC/17)	41.100, Annex K/16 (HSC/19)
40.260, Annex IJ/26 (HSC/17 – Report)	NC0071E1 (HSC/23)
40.600, Annex IJ/4 (HSC/18 – Report)	NC0090E2, Annex IJ/36 (HSC/23 – Report)
40.892 (HSC/19)	NC0151E1 (HSC/24)
41.000, Annex A/VIII (HSC/19 – Report)	NC0160E2, Annex H/18 (HSC/24 – Report)
41.100, Annex F/8 (HSC/19)	

I. BACKGROUND

1. On 25 September 2000, the Secretariat received the arguments from the European Community in support of the reservation it had entered in respect of the decision at the Harmonized System Committee's 24th Session to classify a machine called "Media Composer 1000" in subheading 8471.49 and to delete present Classification Opinion 8543.89/4. This Note is reproduced in Annex I to this document. To facilitate discussion, the Secretariat has numbered the paragraphs in that Annex, and has corrected some printing errors in respect of document numbers.

II. SECRETARIAT COMMENTS

2. The Secretariat would like to point out first that the note of the EC was submitted to the Secretariat less than 60 days (in effect 49 days) before the opening of the forthcoming session of the Committee, which is not in accordance with Rule 20 of the Committee's Rules of Procedure. The last paragraph of this Rule, which was recently amended by the Council, reads as follows :

"When, pursuant to the provisions of paragraph 3 of Article 8 of the Convention and Council Decision No. 298, any matter is referred in whole or in part to the Committee for re-examination, the Contracting Party which has requested that the matter be re-examined shall submit to the Secretary General, not less than 60 days before the opening date of the next

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session of the Committee, a note setting out its reasons for requesting the re-examination, together with its proposals for resolving the matter. The Secretary General shall circulate this note to the other Contracting Parties.”

3. The deadline laid down in Rule 20 (i.e., submission of the note not less than 60 days before the beginning of the next session of the Committee) allows the Secretariat to prepare and distribute the working document to Contracting Parties in good time. To maintain this practice, Contracting Parties are urged to adhere to the deadline laid down in the Committee’s Rules of Procedure, in the future.
4. With respect to the question at issue, the Secretariat presents the following review of events. The classification of the “Media Composer 1000” appeared on the Committee’s agenda for the first time at its 17th Session (April 1996), and Classification Opinion 8543.89/4 was adopted by the Committee at its 19th Session (April 1997). In March 1999, the United States Administration informed the Committee that the nature of certain of the components in the system as described in Doc. 40.179 (HSC/17) had been misunderstood and requested the Committee to reconsider the classification of the “Media Composer 1000”.
5. At its 24th Session (October 1999), the Committee decided that a machine called “Media Composer 1000” should be classified in heading 84.71 (subheading 8471.49) (14 votes to 7) and that present Classification Opinion 8543.89/4 on page 40a of the Compendium should be deleted. A description of the “Media Composer 1000”, which is the same as in paragraph 2 of Doc. NC0151E1, prepared by the Secretariat following the manufacturer’s demonstration, is given in Annex II to this document.
6. Although the EC has not provided a full product description, the Secretariat understands that paragraph 13 of Annex I apparently describes the apparatus to be classified. This description is basically the same as the one given in paragraph 3 of Doc. 40.179, though a reference to the “audiomedia II sound board” is missing. In addition, no reference is made to the “Media Composer” software, which appears in the description prepared after the presentation of the Media Composer (see Annex II).
7. Whatever the case may be, the Committee should, in the view of the Secretariat, first agree on the description of the apparatus to be classified. In other words, is the apparatus to be classified (i) the apparatus indicated in paragraph 13 of Annex I, (ii) the apparatus described in Annex II or (iii) both.
8. With respect to the classification, the Secretariat understands that the main questions at issue are whether or not the apparatus at issue is a freely programmable machine (or system) of heading 84.71, or apparatus having a function other than automatic data processing.
9. Finally, based on the decision taken in respect of the apparatus to be classified (see paragraph 7 above), the Committee is requested to reconsider the appropriateness of Classification Opinion 8543.89/4.

III. CONCLUSION

10. The Harmonized System Committee is invited to re-examine the classification of apparatus called “Media Composer 1000”, taking into account the arguments put forward by the EC reproduced in Annex I to this document, and the Secretariat’s comments in paragraphs 2 to 9 above. It is also invited to indicate what further action, if any, should be taken with regard to this matter.

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Note by the EC on the Classification of apparatus called "Media Composer 1000"

Subject: Classification of "Media Composer 1000"
EC reservation (Article 8.2 of the HS Convention)

Ref. Doc : NC0160E2, Annex H/18

SUMMARY OF THE ISSUE

1. At its 18th session in November 1996, the Harmonised System Committee classified the "Media Composer 1000" system in heading 8543.89 by 18 votes to 3, basing its decision on Doc. 40.179. Following this decision, the HS Committee unanimously adopted an opinion classifying the same system in heading 8543.89.4 at its 19th Session in April 1997. No reservation has been submitted with regard to these decisions under Article 8 of the HS Convention. They are therefore considered to have been accepted by the Contracting Parties to the HS Convention on 1 February 1997 and 1 July 1997, respectively.
2. The Committee took the view that the "Media Composer 1000" system had to be considered to be a combination of machines designed for recording digital video images, creating video effects and editing and finalising video programmes for broadcasting which, quite clearly, are functions other than data processing. Consequently, it ruled out heading 84.71 pursuant to Note 5 (E) to Chapter 84. Classification in heading 85.21 was also ruled out since the appliance has several functions other than video recording or reproduction and the latter function does not appear to be the main one. Since the creation of video effects, video editing, etc. are not specifically listed in Chapter 85, classification in heading 85.43 as a functional unit in application of Note 4 to Section XVI and Note 5 (E) to Chapter 84 was judged relevant by the HS Committee at these sessions.
3. In this context, the Committee appears to have followed the reasoning of the Secretariat set out in paragraphs 6 to 16 of Doc. 40.179, although the Secretariat, as is usual, left it up to the Committee to decide. Paragraph 2 of Annex IJ/4 to Doc. 40.600 (Report of the 18th HSC Session) states that "The Delegates of the EC and the US, supported by other delegates, agreed with the Secretariat that the appliance was classifiable in the heading 85.43".
4. Two years later, on 4 March 1999, the United States requested that the classification of the "Media Composer 1000" system should be put on the agenda of the HS Committee again. The Committee decided at its 24th Session, held in Brussels from 11 to 22 October 1999, to reclassify the "Media Composer 1000" system in HS heading 84.71. It also decided to delete the present Classification Opinion 8543.89/4 and to draft a new Classification Opinion in heading 8471.49. This decision indicates a change of position in relation to the decisions taken by the Committee at its 18th and 19th Sessions.
5. By letter dated 21 December 1999, the EC asked the Secretary General of the WCO to submit this HS Committee decision to the Council in accordance with Article 8.2 of the HS Convention.
6. Pursuant to Article 20 of the HS Committee's rules of procedure, the EC is submitting the following note setting out the reasons for its request and proposals for resolving the issue.

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7. The EC would underline that the Committee was asked to classify a complete system, presented to Customs as such and cleared through Customs as a complete system. The

question put to the Committee has never been the separate classification of the different components in the light of their different functions.

8. At its 18th Session the Committee considered that the system was a single functional unit to be classified in terms of Note 4 to Section XVI. It was therefore necessary to determine the principal function of the system.
9. The Committee did not therefore consider the individual functions of the system's components since it was the function of the system as a whole, as presented to Customs and cleared by Customs, that was decisive for its classification.
10. In paragraph 2 of Annex IJ/4 to Doc. 40.600 (Report of the 18th Session), the United States, the EC and other delegates declared that "given that it was a digital data-processing system designed to record digital video images, create video effects, or edit and finalise video programmes for broadcasting, and that clearly these were functions other than data processing, classification in heading 84.71 ought to be ruled out by virtue of Note 5 (E) to Chapter 84".
11. In paragraph 7 of Doc. 40.179, the Secretariat at that time appeared to share this opinion, stating that "the article at issue is a digital system" which could be classified in heading 84.71 if its individual features were not taken into account. It went on to say that "however, the system with these features is specially designed to process digital video images and could be excluded from heading 84.71 by application of Note 4 to Section XVI and Note 5 (E) to Chapter 84."
12. In all these statements, it was made clear that the Committee had not overlooked the fact that it was dealing with a data-processing system, but that the system was specially designed with all its components to perform a specific function: editing video programmes. Since this function is not explicitly specified in a specific heading of Chapter 85, the system had to be classified in heading 85.43.
13. In further discussions at the 24th Committee Session, it was stated that the "Media Composer 1000" was not a simple piece of software. However, the EC would stress that the Committee was not asked to classify a simple piece of software but an entire system presented at Customs at the same time and made up of very specific components (in addition to the central processing unit, the monitors and the keyboard) with specific professional functions:
 - 4 and 9 GB (gigabyte) magnetic hard disks,
 - logging software,
 - video coprocessor board,
 - compression board,
 - DVE (Digital Video Effects) real-time board,
 - SCSI-II (Small Computer Systems Interface) accelerator board,
 - two amplified speakers.
14. This situation was accurately described by the United States delegation, which explained that "the system incorporated certain additional hardware whose application was specifically for professional video and audio editing. This hardware included a video monitor, a video board solely for editing and specialised boards for video compression, video effects and audio mixing. As a whole, the principal function of the system was video editing and, therefore, under Legal Note 5 (E) to Chapter 84, classification would be directed to the specific function that is its principal function. In this case the function fell in heading 85.43" (paragraph 5 of Annex IJ/4 to Doc. 40.600, report on the 18th HSC Session).

15. It has been said on numerous occasions that the "Media Composer 1000" system performs the functions of data processing (heading 84.71), recording video images (heading 8521.90), creating video effects, and editing and finalising video programmes (heading 85.43). This is the system which the Committee classified.
16. During the discussions at the Committee's 24th Session, it was stated that the decision to classify this appliance in heading 85.43 was the result of an incorrect analysis of the design of the machine, since the video editing function is performed by the software and the rest is simply a data-processing machine.
17. In response the EC would point out that :
- 1) The Committee was already familiar with this idea (software function) when it classified the product in heading 85.43. Paragraph 5 of working document 40.179 refers to the technical information supplied by the manufacturer, according to which: " "Media Composer 1000" is designed essentially to record digital video images onto a disk, though without the logging software, etc. it can be used for automatic data processing. The various video effects, editing and finalising are performed by the normal data processing function."
 - 2) According to this information, "the system without the software, etc." can be used as an ADPM. The "etc." in the information provided by the manufacturer clearly refers to other components needed to perform the specific functions of creating video effects and editing and finalising video programmes before broadcasting.
 - 3) The EC, the United States, the Secretariat and the Committee were fully aware of the presence of a computer in the "Media Composer 1000" system which was the subject of Classification Opinion 8543.89/4. The Committee classified a system and it never forgot that the system included a data-processing function (heading 84.71), but also a video recording and video reproduction function (heading 85.21) and a functions for creating video effect, editing and finalising video programmes (heading 85.43) and that the whole system had been designed with the various components required to achieve the latter, essential function.
18. Apart from the ITA agreements adopted in Singapore in December 1996, the EC cannot understand what changes have occurred that might justify a revision of the classification decision taken in November 1996 by 18 votes to 3 and consequently of Classification Opinion 8543.89/4 that was recently unanimously adopted by the Committee in April 1997. (Neither the Working Group report nor the Report of the 19th Committee Session record opposing votes.)
19. In the new document NC0151E1, reference is made to the presence of the "Media Composer" software on CD-ROM. This enabled certain delegations to argue for classification of the system in heading 84.71 and of the software in heading 85.24. According to these delegations the video editing function was performed exclusively by this software. However, how would those delegations classify the system if the software on CD-ROM is not presented to Customs, but its content is incorporated directly in the computer's hard disk? In that case, the CD-ROM does not exist. The software is integrated into the system, which has several functions, the principal one being video editing falling in heading 85.43. This could give rise to two different classifications, depending on how the software is presented.
20. The EC leaves it to the Committee to judge whether there is a certain parallel between current Classification Opinion 8543.89/4 and other traditional Committee decisions,

particularly Classification Opinion 8517.30/1. That Classification Opinion refers to an appliance, a voice processor, made up of:

- a data-processing unit comprising a hard disk,
- a diskette reader,
- a keyboard,
- a monitor,
- one or more call detection boards,
- a modem,
- software.

21. This Opinion states that the procedure (the appliance) does not use a modem since the detection boards can recognise analogue signals and transform them into digital signals. The modem with which the processor is equipped is used solely to make long-distance calls for diagnostic purposes. Where appropriate this software is classified separately in heading 85.24.
22. Obviously the "Media Composer 1000" software is specifically designed to perform, with other components of the system, its essential function of creating video effects, editing and finalising video programmes. It goes without saying that the EC considers that, where appropriate, the software (on CD-ROM) be classified separately in heading 85.24 in application of Note 6 to Chapter 85.
23. If the "Media Composer 1000" function is limited to the software present on CD-ROM, the Committee could simply classify that software in heading 85.24. If, however, the Committee is being asked to classify the whole system with all the components referred to in Classification Opinion 8543.89/4, account will have to be taken of Note 4 to Section XVI. This would mean classification in heading 85.43 as the Committee had already decided at its 18th and 19th sessions, in application of General Rule 1, without any need to apply GIR 3 (c).

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Description of the “Media Composer 1000”

System, consisting of a combination of machines, and software which enables it to record digital video images, create video effects, or edit and finalize video programmes for broadcasting. The system is capable of sending and receiving video signals. Inside the system, video signals are converted into digital signals so that they can be processed by the central processing unit. The system consists of the following components :

- (i) one central processing unit;
 - (ii) two colour display units (monitors) (with a non-interlaced scanner for displaying data, and an interlaced scanner for video presentations); one of these units shows digital operations conducted by the central unit and the other shows the final result;
 - (iii) input unit in the form of a keyboard;
 - (iv) 4 and 9 Gb (gigabyte) magnetic hard disk storage;
 - (v) AVID logging software;
 - (vi) video coprocessor board;
 - (vii) JANUS compression board;
 - (viii) DVE real-time board;
 - (ix) audiomeia II sound board;
 - (x) SCSI-II accelerator board;
 - (xi) two amplified speakers.
 - (xii) “Media Composer” software on CD-ROM, which enables the “Media Composer 1000” system to record digital video images, create video effects, or edit and finalize video programmes for broadcasting.
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