



HARMONIZED SYSTEM
COMMITTEE

-
27th Session
-

NC0388E1

O. Eng.

Brussels, 9 April 2001.

CLASSIFICATION OF FLASH ELECTRONIC STORAGE CARDS

(Item VIII.5 on Agenda)

Reference documents :

42.448 (HSC/22)

NC0160E2, Annex G/17 (HSC/24 – Report)

NC0225E1 (HSC/25)

NC0250E2, Annex IJ/14 (HSC/25 – Report)

NC0301E1 (HSC/26)

NC0340E2, Annex G/18 (HSC/26 – Report)

I. BACKGROUND

1. At its 25th Session, the Committee considered the possible classification of flash electronic storage cards. A number of delegates supported the Secretariat's view in Doc. NC0225E1 that the cards at issue had an individual function (i.e., storage of data) and were, therefore, classifiable as apparatus under their appropriate heading (e.g., heading 85.43, as suggested by the Secretariat).
2. The US Delegate, however, held the view that the Committee should consider a specific sample, rather than a number of articles representing a class of goods. He suggested a further study on the basis of information his administration could provide. The Delegate of China informed the Committee that his administration would submit detailed information to the Secretariat on this subject.
3. The Chairman concluded that a new document should be prepared based on the information to be provided by the United States and China, and taking into account the observations of the Secretariat in Doc. NC0225E1. Finally, the EC Delegate requested that the example referred to in Annex VIII to Doc. 42.448 and its description given in paragraph 2 of Doc. NC0225E1 should be included in the new document.
4. Following the conclusions of the Committee, the Secretariat prepared a new document, taking into account the observations received from the United States and China (Doc. NC0301E1).
5. At its 26th Session, the Committee decided to postpone discussions on the classification of flash electronic storage cards, due to the late publication of the document.

File No. 2804

II. SECRETARIAT COMMENTS

Product information

6. During the intersession, the Secretariat held consultations with representatives of the ICC. As a result of these consultations, the Secretariat received further details concerning the smaller types of flash storage cards as follows : “SanDisk flash memory cards are assemblies formed by adding one or more integrated circuits and in most cases, passive components, onto a PCB. None of the passive elements within the cards have been created by thin-or-thick-film technology. The SmartMedia™ card has no passive components, other than a connector, attached to or embedded in its PCB.” The full text of the submission will be made available to delegates in the meeting room.
7. To facilitate the discussions of the Committee, the Secretariat has reproduced the description of the various types of flash memory cards in the boxes below, taking into account the observations in (i) Doc. NC0301E1 and (ii) the producer’s submission.

<p>(a) Large type</p> <p>Solid-state, non-volatile data storage device (known as a “flash memory card” or “flash electronic storage card”), consisting of a printed circuit board onto which are mounted (i) one or more flash memories (“FLASH E²PROM”) in the form of integrated circuits, (ii) a microcontroller in the form of an integrated circuit, (iii) a number capacitors and resistors, and (iv) a connecting socket.</p>
<p>(b) Small type</p> <p>(i) Solid-state, non-volatile data storage device (known as a “flash memory card” or “flash electronic storage card”), consisting of a printed circuit board (PCB) onto which are mounted one or more flash memories (“FLASH E²PROM”) and a controller, in the form of integrated circuits, and passive elements, such as capacitors and resistors, the traces and through hole connection being of copper, with a connecting socket. The various components are mounted by surface mount technology onto the PCB, which is subsequently top and bottom lidded or bonded to a plastic card.</p> <p>(ii) Solid-state, non-volatile data storage device (known as a “flash memory card” or “flash electronic storage card”), consisting of a printed circuit board (PCB) onto which is mounted one flash memory (“FLASH E²PROM”), in the form of an integrated circuit, with a connecting socket. The component is attached by epoxy onto the PCB, which is subsequently attached to a plastic frame by gluing.</p>
<p>In all types, data from an external source, such as navigation and global positioning systems, data collection terminals, portable scanners, medical monitoring appliances, audio recording apparatus, personal communicators (“pagers”), mobile phones and digital cameras, can be stored onto and read from the card once it has been connected to that particular appliance. The data can also be loaded into an automatic data processing machine by using a special adapter. The storage capacities of the cards range from 2 MB to 500 MB. The card only uses power from the appliances to which it is connected and requires no battery.</p>

Classification

8. The Secretariat has not received observations from administrations, vis-à-vis the possible classification of flash memory cards. It would, therefore, like to repeat its comments set out in paragraphs 3 to 7 of Doc. NC0225E1, which read as follows :
- “ 3. The Secretariat believes that flash electronic storage cards are classifiable in Section XVI. In this context it should be noted that the cards in some cases form a part of the appliances where they may be used, or are used as additional memory appliances in other cases. In both cases, however, the cards are removable, and their function is the same, i.e., storing data. One could, therefore, argue that the cards have an individual function.
4. Note 2 (a) to Section XVI stipulates that parts which are goods included in any of the headings of Chapters 84 and 85, are to be classified in their respective heading. The Secretariat considers that the cards may fall within the description of heading 85.43 (“electrical machines or apparatus, having an individual function, not specified or included elsewhere”), the Explanatory Note to that heading stipulating that the appliances of that heading must have individual functions, as described in the introductory provisions of the Explanatory Note to heading 84.79. Item (B) of the Explanatory Note to heading 84.79, on page 1423, provides the following description of appliances which are to be regarded as having “individual functions” :
- “... devices which cannot perform their function unless they are mounted on another machine or appliance, or are incorporated in a more complex entity, provided that this function :
- (i) is distinct from that which is performed by the machine or appliance whereon they are to be mounted, or by the entity wherein they are to be incorporated, and
- (ii) does not play an integral and inseparable part in the operation of such machine, appliance or entity.”
5. The Secretariat considers that the cards at issue satisfy the above criteria, i.e., (i) the storing of data is a function distinct from the function performed by any of the appliances referred to in paragraph 2 above, to which the card is to be connected, and (ii) the storing of data does not play a part in the actual function of the appliances.
6. Based on the above considerations, the cards at issue could be classified in heading 85.43 (subheading 8543.89), by application of General Interpretative Rules 1 (Note 2 (a) to Section XVI and heading 85.43) and 6 (subheading 8543.89).
7. If, on the other hand, it is considered that the cards do not have a distinct function as described above, the Secretariat considers that Note 2 (b) to Section XVI would not be applicable, given the fact that the cards can be used in several machines or appliances, falling within different headings. Consequently, Note 2 (c) to Section XVI would be applicable, resulting in the classification of the cards in heading 85.48 (“electrical parts of machinery, not specified or included elsewhere in Chapter 85”), as parts not solely or principally suitable for use with a particular machine.”

9. In addition to the comments presented in the paragraph above, and based on the additional information received, the Secretariat would like to add the following. The types of the flash memory cards referred to in paragraph 7 (b) (ii) above, seem to fall within the scope of “electronic integrated circuits”, as described in Note 5 (B) (a) to Chapter 85. That being the case, they are, in the view of the Secretariat, classifiable in heading 85.42 by application of General Interpretative Rules 1 (Note 2 (a) to Section XVI, Note 5 (B) (a) to Chapter 85 and heading 85.42) and 6 (subheading 8542.21 (HS 2002)).

III. CONCLUSION

10. The Committee is invited to examine the classification of articles known as “flash electronic storage cards”, as described in paragraph 7 above, taking into account the comments of China reproduced in Annex I to Doc. NC0301E1, the information provided by the US (see paragraph 5 of Doc. NC0301E1), and the comments of the Secretariat in paragraphs 6 to 9 above. It is also invited to indicate what further action should be taken with regard to this matter.
-