



HARMONIZED SYSTEM
COMMITTEE

NC0455E1

-
28th Session

O. Fr.

Brussels, 27 September 2001.

CLASSIFICATION OF THE "PALM V™"

(Item VII.13 on Agenda)

Reference documents :

NC0310E1 (HSC/26)
NC0340E2, Annex H/6 (HSC/26-Report)

NC0397E1 (HSC/27)
NC0430E2, Annex H/14 (HSC/27-Report)

I. BACKGROUND

1. At its 27th Session in May 2001, the HS Committee examined the characteristics of the "PALM V™", and compared those characteristics with the criteria to be satisfied by an automatic data processing machine as set out in Note 5 to Chapter 84.
2. As a result of that examination, the headings which could potentially be taken into consideration for the classification of the "PALM V™" appeared to be headings 84.70, 84.71 and 84.72.
3. Following a rather intensive discussion, the Committee decided to postpone its final decision on the classification of the "PALM V™" until the present session.

II. SECRETARIAT COMMENTS

4. The Secretariat would like to begin by recalling the main points which were discussed during the previous session :
5. First, the "PALM V™" was recognized as being freely programmable; it was, however, noted that not all freely programmable apparatus was necessarily classifiable in heading 84.71. In this respect, it was pointed out that certain freely programmable devices were classified in headings 84.70, 84.72, 85.31 and 90.18.

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6. Second, it was pointed out that Note 5 (A) (a) did not set any conditions limiting the capacity of automatic data processing machines in terms of the software that could run on the machines.
7. Third, it was pointed out that in terms of the design of automatic data processing machines, the Explanatory Note to heading 84.71 did not set any requirements for a hard disk, referring only to a central processing unit, an input unit and an output unit, all of which the "PALM V™" contained.
8. Fourth, certain delegates had not ruled out the possibility of applying Note 3 to Section XVI, Note 5 (E) to Chapter 84 and GIR 3 (c) as a basis for classification.
9. As opinions remained divided during the previous session, the Secretariat had attempted to carry out a survey during the intersession to facilitate the decision-making process. Only the South African and Moroccan Administrations have responded.

III. NOTE BY SOUTH AFRICA

10. "In response to your letter 00NL0567F-J/id dated 27 June 2001, the South African Customs Administration would like to offer the following comments in respect of the classification of the "Palm V™" :
 - The subject apparatus has previously been classified in subheading 8470.10 by the South African Customs Administration. This decision was based on the fact that the apparatus conformed to the term "pocket size" in terms of Note 8 to Chapter 84, and, in addition, met the terms of heading 84.70, specifically subheading 8470.10 in terms of Rule 6.
 - The South African Customs Administration is quite comfortable with the above-mentioned classification, and unless the apparatus can be seen to meet the terms of Note 5 to Chapter 84, in terms of data processing abilities, South Africa cannot see any other classification possibility than that of subheading 8470.10.
 - It further appears that, the addition of the wording to heading 84.70 regarding "pocket size data recording, reproducing and displaying machines with a calculating function" and specifically subheading 8470.10, would indicate that the Secretariat specifically intended for this genus of merchandise to fall therein."

IV. NOTE BY MOROCCO

11. "In your above-mentioned letter, you requested this Administration's opinion on the classification of the "PALM V™".
12. I invite you to note that the Moroccan Administration classifies the apparatus at issue in heading 84.71 as an automatic data processing machine, by application of Note 5 (A) to Chapter 84."

V. CONCLUSION

13. The Committee is invited to rule on the classification of the "PALM V™", taking into account the comments by South Africa, Morocco and the Secretariat which are reproduced above.
