



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0188E1

-
24th Session
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O. Eng.

Brussels, 24 July 2001.

STUDY OF NOTE 5 TO CHAPTER 84

(Item C.1 on Agenda)

Reference documents :

NC0250E2, Annex H/6 (HSC/25 – Report)
NR0115E1 (RSC/22)
NR0133E2, Annex D/5 (RSC/22 – Report)

I. BACKGROUND

1. At its 22nd Session, the Review Sub-Committee agreed that a separate Working Group outside the Sub-Committee should be set up with a view to updating and clarifying Note 5 to Chapter 84, given the rapid development of information technology.
2. A number of delegates referred to interpretation problems they were encountering, as well as to difficulties in administering the Note properly. Other delegates indicated that headings covering apparatus provided for by Note 5 to Chapter 84 as well as headings covering apparatus connected to or working in conjunction with that covered by the Note, should also be included in the study. The Chairman concluded that the Sub-Committee favoured a Special Working Group to examine Note 5 to Chapter 84, including any related legal provisions.

II. SECRETARIAT COMMENTS

3. At the time of preparing this document, the Secretariat had not yet received formal proposals or suggestions from administrations or the private sector with respect to a possible redrafting of Note 5 to Chapter 84. Nonetheless, it would like to start discussions on this issue as early as possible, and offers, therefore, the following non-exhaustive list of issues for consideration by the Review Sub-Committee.

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(i) Distinction between digital, analogue and hybrid machines no longer appropriate

4. Note 5 (A) to Chapter 84 and heading 84.71 make a distinction between digital, analogue and hybrid automatic data processing machines. Although import/export statistics for subheading 8471.10 show high volumes of trade during recent years, the Secretariat believes that this data is based on erroneous classifications, since automatic data processing (ADP) machines are today exclusively of the digital type. Consequently, there seems no reason for maintaining this distinction made in Note 5 (A) and in the structure of heading 84.71.

(ii) An ADP machine presented in the form of a “system” can be classified by application of Note 4 to Section XVI

5. The first sentence of Note 5 (B) to Chapter 84 stipulates that ADP machines may be in the form of systems consisting of a variable number of separate units. This part of the Note was taken from CCCN Note 3 (B) to Chapter 84, where it was necessary to have such a stipulation, since there was no provision for the classification of a machine presented in the form of two or more individual components. In the Harmonized System, however, Note 4 to Section XVI was introduced, specifying that “where a machine (...) consists of individual components (...) intended to contribute together to a clearly defined function covered by one of the headings of Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.” This provision would, in the view of the Secretariat, be sufficient to classify an ADP machine in the form of a system as one machine in heading 84.71. Consequently, the first sentence of Note 5 (B) to Chapter 84 could be deleted.
6. Moreover, the Secretariat has the feeling that most of the “systems” are being traded as separate units (e.g., central processing unit whether or not with built in disk drive(s), monitors, keyboards, printers), rather than as complete systems.

(iii) Classification of “units” in heading 84.71 should not have priority over another heading

7. The wording of Note 5 (C), which reads : “Separately presented units of an automatic data processing machine are to be classified in heading 84.71.”, is ambiguous and could be interpreted as meaning that, separately presented apparatus meeting the criteria for units as set out in Note 5 (B) should be classified in heading 84.71 and in no other heading of the Nomenclature. The Secretariat feels that it should not be interpreted in that way and has some doubts whether it was indeed the intention of the authors of this Note to do so. Moreover, heading 84.71 refers specifically to ADP machines “and units thereof” (emphasis added).

(iv) Apparatus using “IT” or similar technology classifiable in a single Chapter in Section XVI

8. As a result of the developments in digital technologies (in particular the use of electronic integrated circuits), many apparatus are now using the same technology and, consequently, the distinction between functions of what were distinct apparatus of Chapters 84, 85 and 90, has blurred. Combining such apparatus (and their parts) of, for example headings 84.69 to 84.73, 85.17 to 85.29 and 90.09 in a single Chapter within Section XVI may be appropriate. This could be achieved by using Chapter 77 and renumbering current Chapters 78 to 85 as Chapters 77 to 84, thus leaving Chapter 85 for these commodities.

9. Within this new Chapter, the structure could be along the lines of the current headings at issue. At the same time, consideration could be given to “cleaning” the scope of heading 84.71, by giving separate status (one or more headings) to ADP units used in the peripherals of data processing.
10. By way of example and to facilitate possible discussions on this issue, the Secretariat has reproduced the decisions taken by the HS Committee during recent years with respect to articles which can be used in conjunction with or could be related to an ADP machine in the table below (in the order of subheadings).

Classification	Description	HSC	Rationale
Separate classification of the components in their own heading	Closed circuit video surveillance system	HSC/24	Note 4 to Section XVI is not applicable. GIR 3 (c) is not appropriate.
Separate classification of the components in their own heading	System comprising several types of apparatus, connected to each other by cables, designed to enable the teacher to control the work of several students using an interactive communication system (language laboratory)	HSC/24	The system does not meet the definition of a functional unit of Note 4 to Section XVI.
8443.51	Digital ink-jet printer	HSC/25	Application of GIR 1 (Notes 5 (B), 5 (D) and 5 (E) to Chapter 84).
8471.49	“Media Composer 1000” system	HSC/27 *)	Application of GIR 1 (Notes 5 (A) and (B) to Chapter 84). Note 5 (E) to Chapter 84 is not applicable.
8471.60	Graphic tablets / digitizers	HSC/25	Application of GIR 1.
8471.60	“HP Mopier 320” multifunctional digital copier	HSC/27 *)	Application of GIR 1 (Note 3 to Section XVI and Note 5 (B) to Chapter 84).
8471.60	“Xerox Document Centre 340ST” multifunctional digital copier without fax function	HSC/27 *)	Application of GIR 1 (Note 3 to Section XVI and Note 5 (B) to Chapter 84).
8471.60	“Xerox Document Centre 340ST” multifunctional digital copier with fax function	HSC/27*)	Application of GIR 1 (Note 3 to Section XVI and Note 5 (B) to Chapter 84).
8471.70	Data storage devices	HSC/25	Application of Notes 5 (B), 5 (C) and 5 (D) to Chapter 84.
8471.70	Digital Linear Tape (DLT) Autoloaders and Libraries	HSC/25	Application of GIR 1.
8471.70	5.25" Magneto-Optical Jukeboxes	HSC/25	Application of GIR 1.

Classification	Description	HSC	Rationale
8471.80	Communications controllers or routers (including "LAN bridges")	HSC/25	Application of GIR 1 (Note 5 (B) to Chapter 84). Note 5 (E) to Chapter 84 is not applicable.
8471.80	Synchronous-network-architecture (SNA) cluster controllers (including remote control units)	HSC/25	Application of GIR 1 (Note 5 (B) to Chapter 84). Note 5 (E) to Chapter 84 is not applicable.
8471.80	Multistation access unit (a passive LAN hub)	HSC/25	Application of GIR 1 (Note 5 (B) to Chapter 84). Note 5 (E) to Chapter 84 is not applicable.
8471.80	Optical fibre converter	HSC/25	Application of GIR 1 (Note 5 (B) to Chapter 84). Note 5 (E) to Chapter 84 is not applicable
8471.80	"ENW-9500-F Fast Ethernet Adapter"	HSC/26	Application of GIR 1 (Note 5 (B) to Chapter 84).
8471.80	Video card and sound card	HSC/26	Application of GIR 1 (Note 5 (B) to Chapter 84).
8471.90	Flatbed table-top scanner	HSC/22	Application of GIR 1 (Note 5 (B) to Chapter 84).
8473.30	Pentium® II processor	HSC/23	Application of GIR 1.
8517.21	"Brother MFC-8600" multifunctional digital copier	HSC/27 *)	Application of GIR 1 (Note 3 to Section XVI).
8517.21	"Brother 1970 mc" multifunctional digital copier	HSC/27 *)	Application of GIR 1 (Note 3 to Section XVI).
8517.30	"MVX" voice processing system	HSC/23	Application of GIR 1 and Note 6 to Chapter 85.
8525.30	"Color QuickCam"	HSC/26	GIRs 1 (Note 5 (E) to Chapter 84) and 6.
8528.21	Display for reproducing computer or video images	HSC/22	Application of GIR 3 (c).
8528.30	Full-colour desktop LCD (liquid crystal display) projector	HSC/22	Application of GIR 3 (c).
8528.30	Graphics projector	HSC/22	Application of GIR 3 (c).
9006.10	Imagesetters	HSC/24	Application of GIR 1.
9006.10	Laser photoplotter	HSC/24	Application of GIRs 1 (Note 1 (m) to Section XVI) and 6.

Classification	Description	HSC	Rationale
9006.59	Laser photoplotter	HSC/24	Application of GIRs 1 (Note 1 (m) to Section XVI) and 6.

*) The HSC/27 decisions were, at the time of preparing this document, not yet deemed to be approved under the procedure laid down in Article 8.2 of the Harmonized System Convention.

11. Finally, the Secretariat has refrained from making any firm proposal with respect to heading 84.71 and related headings, pending the possible direction of the discussions and the reception of proposals to amend the HS.

III. CONCLUSION

12. The Sub-Committee is invited to consider the issues referred to in the paragraphs 3 to 11 above, or any other issue in the context of reviewing Note 5 to Chapter 84 and its related headings.
