



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
25th Session
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NR0221E1
(+ Annexes I to VI)

O. Eng.

Brussels, 28 January 2002.

STUDY OF POSSIBLE AMENDMENTS TO THE NOMENCLATURE
WITH REGARD TO THE CLASSIFICATION OF MULTIFUNCTIONAL DIGITAL COPIERS
(Item III.A.11 on Agenda)

Reference documents :

42.406 (RSC/18)	NC0160E2, Annex H/14 (HSC/24 – Report)
42.498 (RSC/18)	NC0211E1 (HSC/25)
42.500, Annex B/19 (RSC/18 – Report)	NC0243E1 (HSC/25)
42.750, Annex E (HSC/22 – Report)	NC0250E2, Annex H/13 (HSC/25 – Report)
NR0023E1 (RSC/19)	NC0300E1 (HSC/26)
NR0037E1 (RSC/19)	NC0335E1 (HSC/26)
NR0045E2, Annex A/23 (RSC/19 – Report)	NC0430E2, Annex H/4 (HSC/27 - Report)
NC0059E1 (HSC/23)	NR0182E1 (RSC/24)
NC0090E2, Annex IJ/26 (HSC/23 – Report)	NR0205E2, Annex C/14 (RSC/24 – Report)

I. BACKGROUND

1. At its 24th Session, the Review Sub-Committee began discussions on the study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers. The Director indicated that the Secretariat was in favour of moving ahead with proposals for amending the Nomenclature for these multifunctional machines. He saw no reason to await the outcome of the reservations entered on the classification of these machines at HSC/27. In fact, he was concerned that if the Sub-Committee waited for a final decision by the HS Committee, it would not be in a position to complete its work on amendments to the Nomenclature for 2007.
2. During the discussion, delegates indicated that they saw merit in the proposal to group these multifunctional machines in one heading. However, there would have to be careful drafting of the wording with regard to the scope of the heading. In addition, due care should be taken to provide for legal texts which would not be in conflict with the current legal texts. In this regard, any action by the Sub-Committee should have due regard to Note 3 to Section XVI.

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3. One delegate agreed with the idea that the Sub-Committee did not have to await the outcome of the final decision by the Harmonized System Committee on the classification of these multifunctional machines before starting work on proposals for amending the Nomenclature for 2007. He referred to Doc. NR0182E1, paragraph 34 (ii), and indicated that heading 84.72 should also be added for consideration. He also indicated that he was not opposed to the idea of studying the possibility of grouping these machines in one heading. In any event, he informed the Sub-Committee that in order to ensure the uniform application of the Harmonized System with regard to these goods, legal amendments would have to be made. He further suggested that the Secretariat should prepare its own proposal for the future classification of multifunctional digital copiers for the next session of the Sub-Committee. The Director agreed that the Secretariat would endeavour to put forward a working document for the next meeting.
4. The Sub-Committee then agreed to continue to examine this item at its next session, on the basis of a new working document to be prepared by the Secretariat. Administrations were encouraged to submit their own proposals.
5. At its 27th Session, the HS Committee also discussed whether the Nomenclature should be amended for the year 2007, with regard to the classification of multifunction digital copiers. A proposal was made that the Secretariat undertake a study with a view to amending the legal texts. The Director indicated his willingness to look into the matter.
6. The Committee concluded the discussion by instructing the Secretariat to undertake a study with a view to determining whether an amendment could be made to the legal texts and administrations were invited to send in submissions in this connection.

II. SECRETARIAT PROPOSAL

7. In drafting its proposal for the future classification of multifunctional digital copiers, the Secretariat first noted that the Sub-Committee had, in the past, considered four possible headings for the classification of multifunctional digital copiers (headings 84.71, 84.72, 85.17 and 90.09).
8. According to information received by the Secretariat from various sources knowledgeable about the classification of copying apparatus, it would appear that the apparatus covered by present heading 90.09, also known as analogue copying apparatus, will, in all probability, no longer be manufactured by 2007. As a result, it would seem reasonable to delete heading 90.09 from future consideration and to transfer its potential content to Chapters 84 or 85.
9. Most multifunctional digital copiers incorporate a printer, a scanner and sometimes also a fax function. The fax function, apparently added to the printer and scanner combination by the simple insertion of an electronic card, could be regarded as a secondary function. Consequently, it would appear appropriate not to include multifunctional digital copiers in heading 85.17 with facsimile machines in the future.
10. If one considers printing as the principal function of digital copying apparatus, one possibility would be to include such copying apparatus in heading 84.71. However in view of the existing disagreement in the HS Committee as to whether copying equates to printing

and in view of the multifunctional nature of the machines in question, the Secretariat is also inclined to discard heading 84.71 as a possible future home for digital copiers.

11. Thus, by a process of elimination, we are left with heading 84.72 - other office machines. The Secretariat believes that classification in heading 84.72 is quite a good fit for multifunctional digital copiers since they are, in fact, office machines.
12. The Secretariat, therefore, suggests inserting a reference to "copying machines, including combination machines capable of performing copying, printing, scanning or facsimile functions" in that heading. This wording would eliminate the necessity to invoke the application of Note 3 to Section XVI or of General Interpretative Rule 3. Due to the link with Chapters 85 and 90, appropriate amendments have been drafted to reflect the new situation.
13. As regards current heading 84.72, it should also be noted that, according to trade circles, hectograph or stencil duplicating machines are no longer being manufactured. Consequently, reference to those machines should be deleted from heading 84.72, and subheading 8472.10 (Duplicating machines) should be deleted. For the sake of clarity, it should be noted that the expression "duplicating machines" does not refer to small printing machines (heading 84.43).
14. One further option that the Secretariat would consider would be to also transfer facsimile machines and teleprinters of heading 85.17 to heading 84.72 in view of the related nature of these machines with office machines of heading 84.72. That option is set out separately in Annex VI to this document.
15. In the light of the foregoing, the Secretariat has presented two options in Annex VI for the consideration of the Sub-Committee as to the future classification of copying and facsimile apparatus in the Harmonized System. It has, however, refrained from preparing corresponding amendments to the Explanatory Notes, pending the outcome of the discussions.
16. Finally, a number of comments have been received from administrations with regard to this issue. These are set out in Annexes I to V of this document.

III. CONCLUSION

17. The Sub-Committee is invited to examine the Secretariat's proposals and the comments from administrations found in the Annexes to this document when considering this agenda item.

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NOTE FROM THE SOUTH AFRICAN ADMINISTRATION

1. "This administration has also had its fair share of problems relating to the classification of the subject merchandise. We have taken cognisance of the various discussions and proposals that have been made over the years in relation to this particular classification issue, and would comment as follows.
2. During technical discussions with industry, it has become evident that the machines in question do not operate according to the processes currently covered by the scope of heading 90.09. The current method of operation for the majority of these machines utilises "scanning" and "printing" technology to copy, rather than the traditional projection of an optical image onto a photosensitive surface. This is in line with the conclusion reached by the Committee at the 27th Session of the HSC.
3. This administration however also encountered difficulties in ascertaining either the main function or principal use, when it came to specific machines that were put forward for classification purposes. By virtue of this fact and owing to the composite nature of the machines in question, classification using GIR 3 (c) appears to be the reasonable option. Because however of the restrictive nature of the current processes envisaged by heading 90.09, classification has been made very awkward, as GIR 3 (c) could not realistically be applied, as classification within heading 90.09 could not enter the picture.
4. The South African Revenue Service shares the view expressed by the EC Delegate at the 27th Session of the HSC, that due to the fact that the Explanatory Notes have not kept up to date with technological advances in this field, the Nomenclature still reflected the processes utilized at the time of drafting. As we feel that heading 90.09 must be able to be considered in this classification instance, it is suggested that the legal text be amended to also encompass digital type copying. Furthermore it is suggested that the provision then be made for the current genus of machines within 90.09, specifically as multifunction machines that scan, fax, print and copy. A specific Chapter Note to this effect should be inserted to ensure minimum confusion.
5. It should however be stressed (possibly in the form of an exclusion to heading 90.09), that should it be possible for a principal function to be determined, the goods should be classified in accordance therewith. This would particularly apply in respect of headings 84.71, 84.43 and 85.17."

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NOTE FROM THE JAPANESE ADMINISTRATION

The Japanese Administration would like to provide the following comments :

"With a view to clarifying the scope of heading 90.09, the term "directly" be inserted after the term "document" in the third line of the first paragraph of Part (A) of the Explanatory Note to heading 90.09. Therefore, this paragraph should read as "These apparatus incorporating ... which projects the optical image of an original document **directly** on to a light-sensitive surface, ... of the image."

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NOTE FROM THE MOROCCAN ADMINISTRATION

“You sought this administration’s comments and proposals concerning the possible amendment of the Harmonized System with regard to the classification of multifunctional digital copiers.

In reply, I have the honour to inform you that as this question has been submitted to the Harmonized System Committee (HSC), this administration proposes that the HSC’s decision be awaited.”

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NOTE FROM THE MEXICAN ADMINISTRATION

On 31 October 2001, the Mexican Administration sent a note to the Secretariat indicating that it did not have any submission to make on this issue.

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NOTE FROM THE SENEGAL ADMINISTRATION

“Please note that the Senegal Administration is in favour of regrouping in a sole and single heading all multifunctional digital copiers.

This option, which is in keeping with the requirements of international trade, would simplify the classification of these apparatus in the HS, as such classification would be determined essentially by their principal function.

A legal Note including the terms of Note 3 to Section XVI should also be added to Chapter 90, so as to better clarify its scope.”

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ARTICLE 16 PROCEDURE
AMENDMENTS TO THE NOMENCLATURE

SECRETARIAT PROPOSAL

Option 1

CHAPTER 84.

Note 5 (D).

Delete "Printers," and substitute "Printers, other than combination machines capable of performing copying, printing, scanning or facsimile functions, of heading 84.72,".

Heading 84.72.

Delete and substitute :

"84.72 Copying apparatus, including combination machines capable of performing copying, printing, scanning or facsimile functions, whether or not connectable to an automatic data processing machine; other office machines (for example, addressing machines, automatic banknote dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil-sharpening machines, perforating or stapling machines).

8472.20 - Addressing machines and address plate embossing machines

8472.30 - Machines for sorting or folding mail or for inserting mail in envelopes or bands, machines for opening, closing or sealing mail and machines for affixing or cancelling postage stamps

8472.40 - Copying apparatus, including combination machines capable of performing copying, printing, scanning or facsimile functions

8472.90 - Other".

Heading 84.73. Subheading 8473.40.

Delete and substitute :

" - Parts and accessories of the machines of heading 84.72 :

8473.41 - - Automatic document feeders of copying apparatus

8473.42 - - Paper feeders of copying apparatus

8473.43 - - Sorters of copying apparatus

8473.44 - - Other”.

CHAPTER 85.

New Note 1 (c).

Insert the following new Note 1 (c) :

“(c) Combination machines capable of performing copying, printing, scanning or facsimile functions, of heading 84.72; or”

Delete “or” from present Note 1 (b) and reletter present Note 1 (c) as 1 (d).

CHAPTER 90.

Note 1 (g).

Delete “(heading 84.70);” and substitute :

“(heading 84.70); copying apparatus (heading 84.72);”.

Heading 90.09.

Delete heading 90.09 and subheadings 9009.1 to 9009.99.

Option 2

CHAPTER 84.

Note 5 (D).

Delete “Printers,” and substitute “Printers, other than combination machines capable of performing copying, printing, scanning or facsimile functions, of heading 84.72,”.

Heading 84.72.

Delete and substitute :

"84.72 Copying apparatus, including combination machines capable of performing copying, printing, scanning or facsimile functions, facsimile machines and teleprinters, all the foregoing whether or not connectable to an automatic data processing machine; other office machines (for example, addressing machines, automatic banknote dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil-sharpening machines, perforating or stapling machines).

8472.20 - Addressing machines and address plate embossing machines

8472.30 - Machines for sorting or folding mail or for inserting mail in envelopes or bands, machines for opening, closing or sealing mail and machines for affixing or cancelling postage stamps

8472.40 - Copying apparatus, including combination machines capable of performing copying, printing, scanning or facsimile functions; facsimile machines and teleprinters

8472.90 - Other".

Heading 84.73. Subheading 8473.40.

Delete and substitute :

" - Parts and accessories of the machines of heading 84.72 :

8473.41 - - Automatic document feeders of copying apparatus

8473.42 - - Paper feeders of copying apparatus

8473.43 - - Sorters of copying apparatus

8473.44 - - Of facsimile machines or teleprinters

8473.45 - - Other".

CHAPTER 85.

New Notes 1 (c).

Insert the following new Note 1 (c) :

“(c) Combination machines capable of performing copying, printing, scanning or facsimile functions, of heading 84.72; or”

Delete “or” from present Note 1 (b) and reletter present Note 1 (c) as 1 (d).

Heading 85.17.

1. Heading text.

Delete and substitute :

“85.17 Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunications apparatus for carrier-current line systems or for digital line systems, other than facsimile machines and teleprinters; videophones.”

2. Subheadings 8517.2, 8517.21 and 8517.22.

Delete these subheadings.

CHAPTER 90.

Note 1 (g).

Delete “(heading 84.70);” and substitute :

“(heading 84.70); copying apparatus (heading 84.72);”.

Heading 90.09.

Delete heading 90.09 and subheadings 9009.1 to 9009.99.
