



**WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES**

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HARMONIZED SYSTEM
COMMITTEE
-
23rd Session
-

NC0087E1

O. Fr.

H9-3

Brussels, 28 April 1999.

CLASSIFICATION OF THE "COLOR QUICKCAM"

(Item VIII.14 on Agenda)

Reference documents :

42.081 (HSC/22)
42.750, Annex H/11(HSC/22 – Report)
NC0051E1 (HSC/23)

I. BACKGROUND

1. On 26 April 1999, the Secretariat received the following Note from the Argentine Administration concerning the classification of the "Color Quickcam".

II. NOTE FROM THE ARGENTINE ADMINISTRATION

2. "The General Directorate of Argentine Customs is writing in connection with the classification of the "Color Quickcam", which is on the Agenda for the Harmonized System Committee's 23rd Session (Item VIII.14, Doc. NC0051E1).
3. In that document, under "Background", it is stated that the Committee Chairman pointed out that the question whether the apparatus could be regarded as a set within the meaning of GIR 3 (b) remains to be settled pending a decision on the "Children's Bible Book". In respect of the latter, it should be noted that the Committee decided to classify the books and the recorded magnetic media separately, by application of Note 6 to Chapter 85; the books were classified in heading 49.01 and the magnetic media in heading 85.24, by application of GIR 1.
4. The Argentine Administration points out that Doc. NC0051E1 was prepared after the decision had been taken regarding the classification of the "Children's Bible Book" and yet that decision is not mentioned in the document.
5. Furthermore, in the document, the Committee is invited to take account of the additional information in that document when examining this Agenda item, i.e., it is

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considered that all the points made in Docs. 42.081 and 42.750, Annex H/11 (HSC/22 – Report) remain valid, particularly :

- (a) Note 6 to Chapter 85 is not applicable since the diskettes containing software are not reproduced by a digital camera but by a computer and, as all the articles in the box for retail sale are put up together to meet a particular need, they are classifiable on the basis of GIR 3 (b). If Note 6 to Chapter 85 is applied, all the articles in the box would be classifiable by application of GIR 3 (b), except the diskettes which would fall in heading 85.24 (Doc. 42.081, paragraphs 3 and 4).
- (b) The Delegate of the EC argued that the digital camera gave the whole its essential character (see Doc. 42.750, Annex H/11 – HSC/22 – Report).

6. The Argentine Administration has the following comments in this respect.

7. With regard to point (a) above, it should be noted out that in the case of the "Children's Bible Book", it was decided that Note 6 to Chapter 85 was applicable even if the cassettes accompanying the books are not reproduced therein; that being the case, the fact that the diskettes containing software are not reproduced by a digital camera but by a computer does not prevent that Note being applied, particularly as in this case apparatus are involved and the Note refers to such articles. With regard to the possibility of applying GIR 3 (b) to the rest of the goods making up the set, after application of Note 6 to Chapter 85 (i.e., with the exception of the diskettes), the Argentine Administration feels that once the set has been divided, it is not possible to constitute another set with the rest of the articles, to be classified on the basis of GIR 3 (b). Those articles have to be classified separately by application of the Rules, starting with GIR 1.

8. Otherwise, we would be going against the principle of the uniform classification of goods worldwide, which is the fundamental objective of the Nomenclature.

9. With regard to point (b) above, the Argentine Administration feels that, to maintain consistency in the decisions to be adopted regarding application of Note 6 to Chapter 85, the existence of that Note cannot be ignored in this particular case by virtue of direct application of GIR 3 (b). In fact, in the case of the "Children's Bible Book" a contrary criterion has been used and the two cases are similar, as affirmed by the Committee Chairman himself in paragraph 6 of Annex H/11 to Doc. 42.750 (HSC/22 – Report).

10. The Argentine Administration requests that a document be prepared reproducing all the points made in this letter so that these comments can be taken into account when the classification of the "Color Quickcam" is considered at the Harmonized System Committee's 23rd Session (Item VIII.14 on the Agenda)."

III. SECRETARIAT COMMENTS

11. As requested by the Argentine Administration, the Secretariat has reproduced in full the Argentine Administration's comments in paragraphs 2 to 10 above. However, due to the late arrival of the letter, it is unable to provide any comment on its content.

IV. CONCLUSION

12. The Committee is invited to take account of the Note from the Argentine Administration when it examines this agenda item.
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