



HARMONIZED SYSTEM
COMMITTEE

-
25th Session
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NC0196E1

O. Fr.

H9-3

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CLASSIFICATION OF THE "IRIS 3047" INK-JET PRINTER

IN SUBHEADING 8443.51

(RESERVATION BY JAPAN)

(Item VIII.6 on Agenda)

Reference documents :

40.266 (HSC/17)	41.600, Annex F/20 (HSC/20 – Report)
40.726 (HSC/18)	42.057 (HSC/21)
40.600, Annex IJ/6 (HSC/18 – Report)	42.015 (HSC/21)
40.885 (HSC/19)	42.119 (HSC/21)
41.124 (HSC/19)	42.750, Annex G/30 (HSC/22 – Report)
41.100, Annex G/19 (HSC/19 – Report)	NC0048E1 (HSC/23)
41.315 (HSC/20)	NC0139E1 (HSC/24)
41.598 (HSC/20)	NC0160E2, Annex G/16 (HSC/24 – Report)

I. BACKGROUND

1. At its 24th Session (October 1999), the Harmonized System Committee examined the classification of the "Iris 3047" ink-jet printer and decided, by 21 votes to 2, to classify it in heading 84.43 rather than in heading 84.71, by application of GIR 1 and Notes 5 (B) and 5 (E) to Chapter 84. The Committee also agreed that subheading 8443.51 was the appropriate classification at subheading level.
2. By letter of 10 December 1999, the Japanese Administration notified the Secretary General of its request that this matter be referred directly back to the Harmonized System Committee for re-examination at its 25th Session, in accordance with Article 8.2 of the Harmonized System Convention and paragraph 2 (a) (ii) of Council Decision No. 298.

File No. 2618

II. DESCRIPTION

Digital ink-jet printer which reproduces continuous-tone colour images (formats up to A0 – 864 x 1,189 mm), using variable-sized dots, on a wide range of media : newsprint, mat, semi-mat or glossy papers, transparent or translucent medium, watercolour paper, coated fabric, etc. This apparatus, weighing 272 kg and measuring 1070 x 1520 x 760 mm (H x W x D) is used in the printing industry as a colour proofer and for industrial applications such as reflective or back-lit signage, exhibit displays, fine art, packaging, etc. The printing is effected on the basis of data provided by an external automatic data processing machine, to which the apparatus can be connected by a parallel interface.

III. COMMENTS BY JAPAN

3. "At its 24th Session, the HS Committee examined the classification of the "Iris 3047" ink-jet printer. After an exchange of views, the Committee decided, by 21 votes to 2, to classify the "Iris 3047" ink-jet printer in heading 84.43 by application of GIR 1 and Notes 5 (B) and 5 (E) to Chapter 84. The Committee then agreed that subheading 8443.51 would be appropriate.
4. However, the Japanese Administration believes that the HSC classified the apparatus in heading 84.43 without a complete knowledge of the facts and, therefore, Japan has entered the reservation in order to have the HSC re-examine the classification of the "Iris 3047" ink-jet printer.
5. According to the texts of heading 84.43, this heading covers ink-jet printing machines other than those of heading 84.71. The scope of the ink-jet printing machines of heading 84.43 is further clarified by Item (2) of the second paragraph on page 1339 of the Explanatory Note to heading 84.43, which reads "Ink-jet printing machines, except those specifically designed to form a unit of heading 84.71".
6. As Note 5 (D) stipulates that printers which satisfy the conditions of Note 5 (B) (b) and (B) (c) are in all cases to be classified as units of heading 84.71, it could be considered that heading 84.43 covers only stand-alone ink-jet printing machines which incorporate a computer (i.e., the computer only performs a secondary function whereas the ink-jet printer performs the principal function within the meaning of Note 3 to Section XVI).
7. Moreover, it should be recalled that, while the RSC (7th Session) was examining the 1996 amendments of the HS regarding heading 84.43 and subheading 8443.50, it was pointed out that, as the Committee had approved the draft amendment to Note 5 (B) to Chapter 84, these machines, which should be regarded as office machines (printers), could henceforth be classified in heading 84.71, provided that they were connectable to the central processing unit (see paragraph 11, Annex VII to Doc. 37.650, RSC/7 – Report).
8. It can therefore be argued that Note 5 (E) to Chapter 84 does not exclude the ink-jet printers from heading 84.71 if they are only used in connection with the ADP machine.

9. On the basis of the additional information provided by the Secretariat in paragraph 9 of Doc. NC0048E1, the "Iris 3047" ink-jet printer must be connected to a Macintosh computer (ADP machine) via IQ PRO software; when disconnected, the "Iris 3047" is not capable of operation on its own. Therefore, there is no doubt that it can only be used in connection with the ADP machine.
10. Consequently, the Japanese Administration believes that the "Iris 3047" ink-jet printer should be classified in heading 84.71 and more precisely in subheading 8471.60 as an output unit, by application of Note 5 (D) to Chapter 84."

IV. SECRETARIAT COMMENTS

11. By way of reminder, the amendments to the HS which entered into force on 1 January 1996 introduced major changes regarding the classification of ink-jet printers :
- (a) Their exclusion from heading 84.24 and their classification in heading 84.43 or 84.71 (Note 2 to Chapter 84, last line);
 - (b) Classification in heading 84.71 of all printers meeting the conditions for them to be regarded as units of automatic data processing machines (exclusion in the text of heading 84.43; Notes 5 (B) and 5 (D) to Chapter 84).
12. The question is therefore whether the printer at issue is classifiable in heading 84.43 as printing machinery, or in heading 84.71 as an output unit of an automatic data processing machine. The Secretariat feels that the classification is based essentially on the interpretation to be given to Note 5 (D) to Chapter 84.
13. The Japanese Administration considers that all printers are classifiable in heading 84.71 as units, provided that they meet the conditions laid down in paragraphs (B) (b) and (B) (c) of Note 5 to Chapter 84. That interpretation results from a strict reading of Note 5 (D), i.e., leaving aside the other provisions of Note 5 (in particular the introductory part of paragraph (B)), and its corollary is that the restrictions laid down in Note 5 (E) do not apply to printers which are connectable to an automatic data processing machine and which can be used solely in conjunction with such a machine.
14. However, at its 24th Session the Committee agreed (Doc. NC0160E2, Annex G/16, paragraph 9 – HSC/24 – Report) that paragraph (D) of Note 5 to Chapter 84 was to be considered in the overall context of Note 5 and, consequently, for that paragraph's application, subparagraphs 5 (B) (b) and 5 (B) (c) **and** the introductory part to Note 5 (B) had to be read in conjunction; that means that the rules laid down therein are applicable subject to Note 5 (E).
15. The interpretation put forward by Japan has the advantage of establishing a clear and easy dividing line between the two headings concerned; printers working solely in conjunction with an automatic data processing machine would always be classified in heading 84.71, whereas other printing machinery, including printing machines incorporating an automatic data processing machine, would fall in heading 84.43. However, this could well extend the scope of heading 84.71 since, given technological progress, the new types of

printing machines increasingly work in conjunction with an automatic data processing machine (it should be noted that Note 5 (D) to Chapter 84 covers all printers and not only ink-jet printers).

16. It is therefore questionable whether, as Japan suggests, the mere fact of being connectable to an automatic data processing machine is sufficient for a printer to be regarded as a unit within the meaning of heading 84.71, as a matter of course.
17. In this connection, the Explanatory Note to heading 84.43 (page 1339, second paragraph, Item (2)), cited by the Japanese Administration, refers to printing machines specifically designed to form a unit of heading 84.71.
18. The Secretariat makes the following points regarding paragraph 11 of Annex VII to Doc. 37.650 (RSC/7 – Report), which is also mentioned by Japan :
 - That paragraph reflects a statement by a delegate and not the Sub-Committee's conclusions;
 - That paragraph refers to printers to be regarded as office machines. It has not been established that the machine at issue, which is specifically used in printshops, is to be regarded as such.
19. If the Committee does not agree with the Japanese Administration's views and it upholds its decision that, in the context of Note 5 (D) to Chapter 84, the two subparagraphs (B) (b) and (B) (c) have to be read in conjunction with the introductory part of Note 5 (B), then the provisions of Note 5 (E) have to be taken into account. In that event, it has to be established whether the printer is part of a "whole" (computer + printer) whose essential function is data processing, in which case the "Iris 3047" printer would constitute an output unit within the meaning of heading 84.71, or whether that printer is to be considered separately as a machine performing a specific function (printing), classifiable in heading 84.43 as printing machinery.
20. On the basis of its design (weight, size), its technical capabilities (resolution, image formatting, types of medium, etc.), its applications and its specific sector of use (versatility, pre-press environment, etc.), the printer at issue has the characteristics of a printing machine working in conjunction with an automatic data processing machine, rather than a mere output unit of such a machine. Consequently, it would seem to have to be classified in heading 84.43 (subheading 8443.51) as a machine performing a specific function (ink-jet printing machine), by application of Note 5 (E) to Chapter 84.
21. In the Secretariat's view, the current legal texts are not as clear as they should be. The Secretariat understands that the intention of the drafters of these texts was to classify ink-jet printers specifically designed to form an output unit of an ADP machine in heading 84.71 and ink-jet printers for the printing industry in heading 84.43. This was in fact the basis for the Committee's decision with regard to the "IRIS 3047" printer at its last session. However, the current text of Note 5 to Chapter 84 could be interpreted in such a way as to classify all ink-jet printers working in conjunction with an ADP machine in heading 84.71 or to exclude all such printers to heading 84.43, depending on whether printing is considered a specific function other than data processing. For that reason it would seem advisable to consider possible amendment of the legal texts during the next review

cycle, as proposed by a delegate at the HSC's 24th Session, in order to set objective criteria with a view to clearly defining the scope of heading 84.71 vis-à-vis heading 84.43.

22. Finally, the Secretariat notes that the Report on the Committee's 24th Session refers to GIR 1 **and** Notes 5 (B) and 5 (E) to Chapter 84 as the relevant legal provisions. The Secretariat questions whether it is appropriate to place these two provisions in parallel since a classification based on Chapter Notes constitutes an application of GIR 1. The Report should have read, for example : "Application of GIR 1 (Notes 5 (B) and 5 (E) to Chapter 84)".

V. CONCLUSION

23. The Committee is invited to re-examine the classification of the "Iris 3047" ink-jet printer and, in particular, to rule on the correct interpretation for Note 5 (D) to Chapter 84, taking account of the Japanese Administration's arguments in support of its reservation, as well as the Secretariat's comments.
24. The Committee is also asked to decide whether the question of possible amendment of Note 5 to Chapter 84 should be submitted to the Review Sub-Committee for examination during the next review cycle.
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