WORLD CUSTOMS ORGANIZATION
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HARMONIZED SYSTEM
COMMITTEE
-
26th Session

NC0297E1
(+ Annexes I to V)
O. Eng.

Brussels, 13 September 2000.

CLASSIFICATION OF THE "ENW-9500-F FAST ETHERNET ADAPTER"

IN SUBHEADING 8471.80 :

RESERVATION BY THE EUROPEAN COMMUNITY

(Item VII.15 on Agenda)

Reference Documents :

42.047 (HSC/21)	NC0250E2, Annex H/2 (HSC/25 – Report)
42.466, (HSC/22)	NC0305E1 (HSC/26)
42.750, Annex G/24 (HSC/22 - Report)	

1.　　　　At its 25th Session, the Committee discussed the classification of the "ENW-9500-F Fast Ethernet Adapter", following a reservation by the EC. At the request of the same delegation, the Committee, by 16 votes to 15, decided to undertake a study vis-à-vis the line of demarcation between headings 84.71 and 84.73, with respect to units of automatic data processing machines and accessories suitable for use solely or principally with ADP machines, before classifying the Fast Ethernet Adapter within Chapter 84. Doc. NC0305E1 contains the comments submitted by Contracting Parties, as well as the comments by the Secretariat.

II. SECRETARIAT COMMENTS

2.　　　　During the intersession, the Secretariat received observations from Switzerland, Vietnam, Malaysia, Uzbekistan and Cuba on the classification of the "ENW-9500-F Fast Ethernet Adapter", which are set out in Annexes I to V to this document, respectively.

3.　　　　The Cuban Administration believes that the "ENW-9500-F Fast Ethernet Adapter" should be classified under heading 84.73 since, according to them, the product is an "accessory", enabling the provision of different services related to the main function of the [host] machine, which is to connect several machines for data transmission.

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4.   The remaining four administrations are of the view that the "ENW-9500-F Fast Ethernet Adapter" is a separate "unit" of an automatic data processing system and not an "accessory" of such a machine. It meets the requirements of Notes 5 (B) and 5 (C) to Chapter 84. In addition, the Swiss Administration points out that "the Explanatory Note to heading 84.71 specifically mentions in Part (I)(D)(4), 2nd paragraph, "channel to channel adaptors to connect two digital systems to each other"". As this is the function of the "ENW-9500-F Fast Ethernet Adapter", the Swiss Administration believes it should be classified in heading 84.71.

5.   Regarding paragraph 1 above, the Secretariat conducted the aforementioned study and its conclusions are contained in Doc. NC0305E1. The Secretariat, therefore, leaves it to the Committee to decide on the classification of the "ENW-9500-F Fast Ethernet Adapter", once it has decided on the line of demarcation between headings 84.71 and 84.73, with respect to units of automatic data processing machines and accessories suitable for use solely or principally with ADP machines (see Agenda item VIII.1).

III. CONCLUSION

6.   The Committee is invited to rule on the classification of the "ENW-9500-F Fast Ethernet Adapter", taking into account Doc. NC0305E1 (study with a view to determining the line of demarcation between the units of heading 84.71 and the accessories of heading 84.73) and the Committee's deliberations on that document, as well as the Notes from administrations reproduced in Annexes I to V to this document.

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2.

NOTE FROM THE SWISS CUSTOMS ADMINISTRATION

The "ENW-9500-F Fast Ethernet" Adapter referred to in your letter of 4 May 2000 is covered by the generic term "network adapter". It receives and sends data circulating in a Local Area Network (LAN) to expand the scope of this local network or increase the number of devices connectable to it. Moreover, it is intended exclusively for a LAN-type environment, and uses signals and protocols intended solely for the Ethernet LAN network.

On the basis of its technical characteristics, the adapter is used purely for data processing. It performs no specific function other than that; therefore, we believe that applying Note 5 (E) to Chapter 84 (referred to in Note 5 (B)) is ruled out. Hence, we agree with the HSC's decision that there is no reason to exclude the apparatus at issue from Chapter 84.

Since the adapter meets the conditions of Notes 5 (B) and (C) to Chapter 84, it must fall in heading 84.71. The first part of the heading text refers to automatic data processing machines **and units thereof**. Moreover, the Explanatory Note to heading 84.71 specifically mentions in Part (I)(D) "channel to channel adaptors used to connect two digital systems to each other". In view of these provisions, we classify the Fast Ethernet adapter in subheading 8471.80.

Regarding the demarcation line between products covered by heading 84.71 and those of heading 84.73, it must be pointed out that units are mentioned in heading 84.71, while parts and accessories are mentioned in heading 84.73. In accordance with Note 2 (a) to Section XVI, there is no call to apply rules (b) and (c) of that Note, which refer to parts not having a heading of their own. Therefore, provisions of Note 2 to Section XVI do not affect the classification of the apparatus at issue.

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NOTE FROM THE MALAYSIAN ADMINISTRATION

The Fast Ethernet Adapter is a separate unit of an automatic data processing system used in a LAN network to effect interconnections between digital systems/interconnections of the CPU to the other digital data input/output units. According to the Explanatory Notes to Chapter 84, this product is provided for under heading 84.71 as a unit of an automatic data processing system, in which case heading 84.71 seems more appropriate than heading 84.73. In contrast, heading 85.17 seems far-fetched, as this product is not for use in conjunction with line telegraphy/digital line systems.

Consequently, our administration is of the opinion that the Fast Ethernet Adapter should be classified in heading 84.71.

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NOTE FROM THE VIETNAMESE ADMINISTRATION

The "ENW-9500-F Fast Ethernet Adapter" is considered a separate unit of an automatic data processing machine and not an accessory of such a machine. Hence, the "ENW-9500-F Fast Ethernet Adapter" is classifiable in heading 84.71 and, more specifically, in subheading 8471.80, according to Notes 5 (B)(a), 5 (B)(b), 5 (B)(c) and 5 (C) to Chapter 84.

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NOTE FROM THE STATE CUSTOMS COMMITTEE
OF THE REPUBLIC OF UZBEKISTAN

We would like to inform you that having studied the matter, we have come to the conclusion that the Fast Ethernet Adapter falls under heading 84.71 and represents a digital automatic data processing unit.

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NOTE FROM THE CUBAN ADMINISTRATION

We consider this issue as dealing with an accessory of a machine pertaining to heading 84.71, the classification of which complies with heading 84.73.

The use of the adapter provides complementary possibilities, enabling a determined type of service related to the main function of the machine, i.e., connecting several machines for data transmission.

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