



HARMONIZED SYSTEM
COMMITTEE

NC0434E1

-
27th Session

O. Eng.

Brussels, 8 May 2001.

POSSIBLE AMENDMENTS OF THE EXPLANATORY NOTE TO HEADING 84.71 TO
CLARIFY THE LINE OF DEMARCATION BETWEEN THE UNITS OF HEADING 84.71 AND
ACCESSORIES OF HEADING 84.73

(Item VIII.9 on Agenda)

Reference documents :

NC0250E2, Annex H/2, paragraph 9 (HSC/25 – Report)
NC0305E1 (HSC/26)
NC0316E1 (HSC/26)

NC0340E2, Annex H/1 (HSC/26 – Report)
NC0392E1 (HSC/27)

I. BACKGROUND

1. After the preparation of Doc. NC0392E1, the Secretariat received the following note from the United States Administration.

II. NOTE FROM THE U.S. ADMINISTRATION ON
THE POSSIBLE AMENDMENTS OF THE EXPLANATORY NOTE TO
HEADING 84.71 TO CLARIFY THE LINE OF DEMARCATION BETWEEN THE
UNITS OF HEADING 84.71 AND ACCESSORIES OF HEADING 84.73

2. "The United States Administration appreciates the Secretariat's efforts in seeking to clarify the distinction between the units of heading 84.71 and the accessories of heading 84.73. We have examined the proposed text and find much with which we are able to agree. We have proposed a simpler text which retains the essence of the Secretariat proposal while tracking more closely the legal text. Our text is attached as an Annex to this note.
3. We have substituted the word "good" for "accessory" for clarity.
4. We suggest that we refer to the criteria in Note 5 which relate to the definition of unit, namely Note 5 (B) and 5 (D). We can agree with a reference to the introductory paragraph of

File No. 2820

note 5 (B). In our view, this then makes it unnecessary to refer to the provisions of 5 (E). The essence of note 5 (E) is picked up in the last sentence of our proposed text.

5. Furthermore, we believe that the reference in our proposed last sentence should be to a specific function other than data processing, tracking as stated above, the language of note 5(E).
6. In regards to the Secretariat's proposed text for the Explanatory Note to heading 84.73, we believe that the proposed new penultimate paragraph is overly broad in that it expands the class of goods which are excluded from classification in heading 84.73 beyond those goods listed in the exclusions labeled (a) through (g) in the current text. We find that the current Explanatory Notes provide Customs officials sufficient guidance in this area. In our view, the proposed language for the Explanatory Note to Heading 84.73 is unnecessary in clarifying the line of demarcation between the units of Heading 84.71 and accessories of Heading 84.73. Therefore, we recommend that no new text be added to the Explanatory Note to Heading 84.73 at this time.

Annex to United States Note

Heading 84.71. Part (I) (D). New eighth paragraph.

7. Insert the following new eighth paragraph :

“A good can only be classified in this heading as a unit of an automatic data processing system if it :

Meets the criteria set out in Note 5 (B) or 5 (D) to this Chapter, including the introductory paragraph of that Note. If it does not meet the above criteria or performs a specific function other than data processing it is to be classified according to its characteristics by application of Rule 1, if necessary in combination with Rule 3 (a).”

III. SECRETARIAT COMMENTS

8. Given the late arrival of the observations, the Secretariat has simply reproduced the comments.

IV. CONCLUSION

9. The Committee is invited to take into consideration the comments received from the US Administration, as set out in paragraphs 2 to 7 above, when considering this Agenda item.
