



HARMONIZED SYSTEM  
COMMITTEE

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O. Eng.

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CLASSIFICATION OF PARTS OF MACHINES FOR SAWING MONOCRYSTAL  
SEMICONDUCTOR BOULES INTO SLICES, OR WAFERS INTO CHIPS

(REQUEST FROM THE WTO)

(Item VIII.11 on Agenda)

I. ORIGIN OF THE QUESTION

1. On 1 July 2001, the Secretariat received a note from the Chairman of the World Trade Organization (WTO) Committee of Participants on the Expansion of Trade in Information Technology Products, requesting WCO's opinion on the classification of certain commodities.

2. The classification of parts of machines for sawing monocrystal semiconductor boules into slices, or wafers into chips, is one of the issues listed in the WTO request. The pertinent part of the Report of the Informal Meeting of Customs Experts from ITA Participants reads as follows :

"The US circulated a written explanation and product literature in their support of classifications under 8466.10, 8466.20 and 8466.30. Discussions focused on the issue of "parts" versus "accessories". The US noted that the HS Explanatory Note with respect to heading 84.66 gave meaning to the "part" versus "accessories" issue. The EC noted that they would classify "tool holders" as accessories, and not as parts. The EC was also concerned about the issue of "end use" after importation. The group noted four possible classifications for this item based on the classification of the host apparatus : 8466.10, 8466.20, 8466.30 and 8466.91.

The group suggested that this item be referred to the HSC. The issue of how to distinguish "parts" and "accessories" for items 8466.10, 8466.20 and 8466.30 was the pertinent issue to be transmitted, as the group held differing interpretations on this for these items."

3. The information provided by the US referred to the "Rainbow™ 4500/4520 Oxide Etch System Electrostatic Chuck (ESC)".

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4. Since the documentation received from the WTO did not include a full description of the commodity at issue, the Secretariat contacted the International Chamber of Commerce (ICC) with a view to obtaining more information vis-à-vis the product. On 22 August the Secretariat received further information from the ICC, indicating that “Lam’s Rainbow Series Dry Etch processing systems remove materials from the surface of a silicon wafer or from films deposited on the wafer through exposure to plasma, a highly reactive chemical species created in an etch reactor. These systems are not machines for sawing monocrystal semiconductor boules into slices or wafers into chips.”.
5. It continues saying that “(. . .) [the] bipolar electrostatic chuck (ESC) uses electrostatic attraction to firmly hold the wafer on the electrode inside the main chamber of the system. Once the wafer is held in place by the ESC, the plasma etching can take place.”

## II. SECRETARIAT COMMENTS

6. As can be seen from the information received from the ICC, the machine or system to which the chuck(s) will be mounted is not a sawing machine but a system which removes material by the use of plasma, which is classifiable in heading 84.56. Parts (and accessories) of these machines are classifiable in heading 84.66, which reads : “Parts and accessories suitable for use solely or principally with the machines of headings Nos. 84.56 to 84.65, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine-tools (. . .)”.
7. The Secretariat presents the following description, which has been extracted or constructed from the information received from the ICC. Interested parties may wish to complete the description if deemed necessary.

Bipolar electrostatic chuck (work holder), used in the processing of wafers, using electrostatic attraction to firmly hold the wafer on the electrode, inside the main chamber of a plasma etching system. Applying a voltage to the chuck activates the electrostatic attraction. The wafer will be released when the voltage is removed.

8. With respect to the classification of parts of machines of Section XVI, attention should be given to the provisions laid down in Note 2 to that Section. In other words, it should be first determined whether the work holder at issue is classifiable as a commodity in any of the headings of Chapters 84 and 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.85, 85.03, 85.22, 85.29, 85.38 and 85.48) (Note 2 (a) to Section XVI). If not, it is to be classified in heading 84.66 by virtue of subparagraph (b) of the same Note.
9. The Secretariat considers that the electrostatic work holder is not covered by another heading of Chapters 84 and 85. Consequently, classification in heading 84.66 seems appropriate (by application of General Interpretative Rule 1 – Note 2 (b) to Section XVI and the heading text).
10. Within heading 84.66 subheading 8466.20 would apply, since it refers, expressly, to “Work holders” (application of General Interpretative Rules 1 and 6).
11. Having said this, the Secretariat fails to see, within the context of HS classification, the discussion issue referred to in the WTO submission, i.e., whether a work holder should be considered as a “part” or as an “accessory” (see paragraph 2 above). Heading 84.66 refers in pertinent part to : (i) parts suitable for use solely or principally with the machines of headings 84.56 to 84.65, (ii) accessories suitable for use solely or principally with the machines of headings 84.56 to 84.65, and (iii) tool holders for any type of tool for working in the hand. The classification of parts of this heading is governed by Note 2 to Section XVI,

whereas accessories are classified in heading 84.66 if they are (i) suitable for use solely or principally with the machines of headings 84.56 to 84.65, and (ii) not covered by a more specific heading of the Nomenclature. The Explanatory Note to heading 84.66, first paragraph, Item (B), on page 1392, gives guidance vis-à-vis the scope of the term “accessories” in this respect. So, at heading level, no distinction is made between the terms “parts” and “accessories”.

12. At subheading level no reference is made to “parts” or “accessories”. Subheadings 8466.10 to 8466.30 mention specific type of parts or accessories, whereas subheadings 8466.91 to 8466.94 refer to the headings covering the machines for which the parts and accessories are intended. In the case that parts or accessories can be equally used for machines referred to in two or more of the subheadings 8466.91 to 8466.94, the Secretariat would be inclined to classify them in accordance with General Interpretative Rule 3 (c).
13. The Secretariat also fails to see how work holders falling within the scope of heading 84.66, could be classified in subheading 8466.10, 8466.30 or 8466.91 (as noted by the WTO group – see paragraph 2 above), since work holders are classified in subheading 8466.20, regardless the machine they will be used on.
14. The Representatives of WTO and other interested parties may wish to clarify the above-referenced points, in particular those raised in paragraphs 11 to 13 above.
15. In conclusion, the Secretariat believes that the commodities described in paragraph 7 are to be classified in heading 84.66, subheading 8466.20, regardless of whether they should be considered as a “part” or as an “accessory” of the dry etch processing system.
16. Finally, as a general point, the Secretariat is concerned about the fact that Customs classification experts have been discussing HS classification issues at international forums outside WCO. It is the view of the Secretariat that any question raised at the international level concerning the appropriate HS classification of a commodity should be dealt with within the context of the HS Convention, i.e., either on the basis of Article 10 of the HS Convention (Settlement of disputes) or by referring the issue to the HS Committee for consideration. From the report of the Participants of the Informal Meeting of Customs Experts from ITA Participants, it cannot be concluded whether or not the provisions of the HS Convention had been taken into account when considering the classification issues. The Secretariat would appreciate receiving the Committee’s view on this issue.

### III. CONCLUSION

17. The Committee is invited to express its view on the classification of the commodity described as “electrostatic chuck”, taking into account the comments of the Secretariat in paragraphs 6 to 15 above, and to indicate what action should be taken, if any.
18. The Committee is also invited to express its view on the fact that HS classification discussions are being held in international forums outside WCO (see paragraph 16 above).

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