



HARMONIZED SYSTEM
COMMITTEE
-
30th Session
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NC0610E1
(+ Annex)
O. Eng.

Brussels, 25 September 2002.

AMENDMENTS TO THE COMPENDIUM OF CLASSIFICATION OPINIONS
ARISING FROM THE CLASSIFICATION OF MP3 PLAYERS
(Item VI.8 on Agenda)

Reference documents :

NC0497E1 (HSC/28) NC0550E1 (HSC/29)
NC0510E2, Annex H/20 (HSC/28 – Report) NC0590E2, Annex H/14 (HSC/29 – Report)

I. BACKGROUND

1. At its 29th Session, having first decided, by 32 votes to 2, that the expression “sound recording” as used in the text of heading 85.20 should be interpreted as covering the transcription of data files onto flash memory, the Committee unanimously classified the apparatus described in paragraph 7 of Doc. NC0550E1 as follows :
 - Paragraph 7 (i), (ii), (iii), (v) and (vi) : subheading 8520.90;
 - Paragraph 7 (iv) : subheading 8527.13;
 - Paragraph 7 (vii) : subheading 8521.90; and
 - Paragraph 7 (viii) : subheading 8519.99.

2. The Committee agreed that the above-referenced classifications were based on the application of General Interpretative Rules 1 and 6. However, with respect to the classification of item 7 (v), one delegate explained that, since the apparatus was apparently connectable to a TV set and might therefore also reproduce video signals, the classification should be based on the application of Note 3 to Section XVI, which stipulated that machines designed to perform two or more complementary or alternative functions, were to be classified as being that machine which performed the principal function. Consequently, a reference to Note 3 to Section XVI should, in his view, be included in the classification rationale. The Swiss Administration was invited to provide the necessary information. The Secretariat was instructed to look into this question during the intersession and to take into account the information to be submitted by Switzerland.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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3. In order to reflect the above classification decisions, the Committee instructed the Secretariat to prepare draft Classification Opinions for the apparatus described in paragraphs 7 (i), (iv), (v), (vii) and (viii) for examination by the next presessional Working Party as well as appropriate amendments to the Explanatory Notes, taking into account the proposal submitted by the EC, as set out in Annex III of Doc. NC0550E1, to be examined by the Committee at its next session. (see Item VII.18 on Agenda)

II. NOTE FROM SWITZERLAND

4. On 22 July 2002, the Secretariat received the following note from Switzerland :

"Classification of MP3 players

- 4.1. Switzerland has carefully examined the information contained in paragraph 5 of Annex H/14 to Doc. NC0590E2.
- 4.2. According to the technical information (see Annex), the apparatus at issue can perform several functions : voice recording, "digital" music storage, encoding to compressed format, etc. Paragraph 7 (5) of Doc. NC0550E1 also contains a technical description of the apparatus. It refers, *inter alia* (as does the apparatus' technical documentation), to a video connection making it possible to link up to a TV for animation displays.
- 4.3. Switzerland agrees with the opinion expressed by one delegate in paragraph 5 of Annex H/14 to Doc. NC0590E2 whereby the classification of the apparatus at issue should clearly be based on Note 3 to Section XVI of the HS, given the apparatus' principal function as "other sound recording device". Switzerland feels that the other functions are purely secondary in nature.
- 4.4. The Swiss Administration would also point out that the apparatus in question, which was "up to date" in 2000, is being superseded by other apparatus on the market that could potentially perform the same functions, yet based on different technologies (e.g., multipurpose "DVD players", also capable of playing music in MP3 format)..."

III. SECRETARIAT COMMENTS

5. Draft Classification Opinions prepared by the Secretariat on the basis of the Committee's instructions are appended hereto.

IV. CONCLUSION

6. The Committee is invited to approve the appended amendments to the Compendium of Classification Opinions once they have been finalised by the presessional Working Party.

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