



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
22nd Session
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NR0115E1

O. Eng.

Brussels, 8 August 2000.

GENERAL STUDY OF NOTE 5 TO CHAPTER 84

(Item III.5 on Agenda)

Reference document :

NC0250E2, Annex H/6 (HSC/25 – Report)

I. BACKGROUND

1. At its 25th Session, the Harmonized System Committee agreed that it would be necessary to undertake a general study of Note 5 to Chapter 84 with a view to an amendment to ensure uniform application. It was suggested that such a study should be carried out by administrations, at the Secretariat's initiative : thus the Secretariat would examine the possibility of setting up a special working group to examine the question and, if appropriate, make a joint proposal to the Review Sub-Committee.
2. The above-mentioned decision was taken within the context of the classification of the "Iris 3047" ink-jet printer.

II. SECRETARIAT COMMENTS

3. The Secretariat would like to point out first that the appropriate application of Note 5 to Chapter 84 (i.e., whether or not a particular type of apparatus should be classified as a unit of an automatic data processing machine) has been the subject of numerous discussions over the last few years. These discussions were, in the view of the Secretariat, closely related to the development of the WTO Information Technology Agreement (ITA). Under this agreement zero rates of import duty were agreed upon, inter alia, for the goods of heading 84.71, while rates of import duties for goods of other headings, covering apparatus similar to or to be used in connection with apparatus of heading 84.71, were not changed.

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4. Furthermore, while a few years ago the use of digital technology was more or less restricted to other automatic data processing (ADP) machines of heading 84.71, it is now used extensively in other areas (e.g., telecommunications, audio and video equipment, copying apparatus, cameras). Some consequences of this development are that (i) ADP machines can be used in connection with apparatus having a totally different function than data processing and (ii) other apparatus may be able to perform functions similar to automatic data processing.
5. Third, given the technology developments and the consequential change in the possible use of other machines and apparatus in connection with ADP machines (see paragraph 4 above), the Secretariat considers that the current wording of Note 5 to Chapter 84, in particular part (B), might no longer serve its initial purpose (i.e., the elaboration of the provisions of Note 4 to Section XVI in respect of so-called mainframes). Reconsideration of the wording of the relevant parts of the Note might be necessary.
6. Fourth, to clarify the scope of the Note (and the relevant parts of the texts of heading 84.71 and its subheadings) the expression "data processing" might need to be reconsidered to cover a wider range of machines or apparatus using the same (digital) technology. On the other hand, one might wish to challenge the appropriateness of the Note (as currently worded), since it might be interpreted to have the effect of classifying apparatus according to the technology used. In this context it should be noted that heading 84.71 falls within the group of headings covering apparatus which are classified by reference to the field of industry (i.e., office use) and not by reference to their function (see part (B) of the General Explanatory Note to Chapter 84, page 1234).
7. Finally, statistics may be blurred and the structure of heading 84.71 may become inadequate when apparatus are classified in heading 84.71 as units of ADP machines on the sole basis of being connectable to an ADP machine (see in this respect also Agenda Item III.B.7). In other words, one question to be considered should be whether Note 5 to Chapter 84 should be reworded to cover a large range of different apparatus which can be connected to an ADP machine, or whether its scope should be restricted to cover a limited number of apparatus ("units").
8. In conclusion, the Secretariat suggests setting up a special working group to examine the questions referred to above and any other questions related to Note 5 to Chapter 84. The working group's findings should subsequently be reported to the Review Sub-Committee for consideration.

III. CONCLUSION

9. The Sub-Committee is invited to consider the establishment of a special working group, which should address questions related to Note 5 to Chapter 84 and should provide appropriate recommendations vis-à-vis the future scope and wording of that Note and, consequently, of heading 84.71.
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