



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
28th Session
-

NR0468E1
(+ Annex)

O. Eng.

Brussels, 7 August 2003.

POSSIBLE CREATION OF A NEW HEADING FOR SEMICONDUCTOR AND
FLAT PANEL DISPLAY MANUFACTURING EQUIPMENT
(PROPOSALS BY THE **US** ADMINISTRATION AND THE **EC**)

(Item III.A.19 on Agenda)

Reference documents :

42.223 (RSC/18)	NR0045E2, Annex A/2 (RSC/19 - Report)
42.500, Annex A/3 (RSC/18 – Report)	NR0381E1 (RSC/27)
NR0003E1 (RSC/19)	NR0400E3, Annexes D/12 and F/25 (RSC/27 – Report)
NR0042E1 (RSC/19)	NR0417E1 (RSC/28)

I. BACKGROUND

1. After the publication of Doc. NR0417E1, the Secretariat received on 30 July a note from the **Canadian** Administration. The note is reproduced in the Annex to this document.

II. SECRETARIAT COMMENTS

2. Given the recent arrival of the note, the Secretariat has refrained from commenting.

III. CONCLUSION

3. The Sub-Committee is invited to take into account the comments of the **Canadian** Administration as set out in the Annex.

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

File No. 2581

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Note from the Canadian Administration

1. Proposed New Heading 84.86

Canada regards manufacturing and repair machinery as distinct entities. While we support the inclusion of “machines and apparatus for the repair of...” under the proposed heading, we feel that specific reference to them must be included in the heading text. This is reflected in alternate wording that can be found below. A reference to “parts and accessories” was also inserted as we note that where “parts and accessories” are classified together elsewhere in the Nomenclature, an appropriate provision is made in the legal text (e.g. heading 84.48).

- 84.86 Machines and apparatus for the manufacture or repair of semiconductor wafers, semiconductor devices, electronic integrated circuits or flat panel displays; parts and accessories suitable for use solely or principally with the foregoing machines.
- 8486.10 - Machines and apparatus for the manufacture or repair of semiconductor wafers.
- 8486.20 - Machines and apparatus for the manufacture or repair of semiconductor devices, other than wafers, or electronic integrated circuits
- 8486.30 - Machines and apparatus for the manufacture or repair of flat panel displays
- 8486.90 - Parts and accessories

2. Proposed Legal Note 9

Canada agrees with the Secretariat that the proposed note giving priority to proposed heading 84.86 should appear as note to Chapter 84 rather than to Section XVI.

We also recommend that the Sub-Committee consider a simpler version of the Note for the purpose of clarifying its intent. We believe this can be achieved by linking the text directly to the specific HS headings listing the manufactured semiconductor end-products and flat panel displays. That will eliminate the need for complex product definitions in the legal text. To that end, we propose the following:

- 9. Heading 84.86 covers machines and apparatus designed solely or principally for the manufacture or repair of the following goods:
 - (a) Semiconductor wafers or devices, photosensitive semiconductor devices and light emitting diodes specified in heading 85.41;
 - (b) Electronic integrated circuits and microassemblies specified in heading 85.42; and
 - (c) Flat panel displays specified in heading xx.xx

NOTE: The heading reference applicable to “flat panel displays” has been omitted pending discussion of proposed heading XX.X2 resulting from the discussions of the Informal Working Group.

Further, in the opinion of this administration, there is no need for the Note to include a priority clause (i.e. saying that it takes precedence over all other headings). Such a clause is redundant because:

- The Note specifies that only machinery and apparatus used solely or principally for the manufacture of the specified end-products can be classified in heading 84.86;
- Proposed consequential amendments to exclusion Notes 1(b) and (c) in Chapter 84, 1(b) and new (c) in Chapter 85 and 1(g) in Chapter 90 would enshrine the all-inclusive priority status of heading 84.86; and
- The proposed amendment to Note 2 in Chapter 84, i.e. insertion of a reference to heading 84.86 ensures that this heading takes precedence over other headings in Chapter 84.
- Proposed consequential amendments deleting subheading numbers 8456.91, 8543.11, 9010.41, 9010.42 and 9010.49 and amending the text in heading 90.10 provides for the transfer of these products to heading 84.86.

3. Use of the term “manufacturing”

In addition to the foregoing, the Review Sub-Committee may wish to consider whether the term “manufacture” requires clarification. The Canadian courts have broadly interpreted that term, including goods not directly involved in the fabrication of the end-product, unless the legal text imposes a narrower interpretation. As a result, packaging and general handling and storage equipment would fall in heading 84.86 if they are used in relation to the production of semiconductor wafers, semiconductor devices, electronic integrated circuits or flat panel displays, even if they are not dedicated to the production of those goods.

Attached for your use if you so choose is a table that presents our proposed texts alongside the **US**, **EC** and Secretariat proposals. Do not hesitate to contact me should you have any questions on the foregoing.

US Proposal	EC Proposal	Secretariat's Proposal	Canadian Alternative
(a) New Heading 84.86			
<p>84.86 Machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat panel displays, as defined in Note 9 to this Chapter.</p> <p>8486.10 - For manufacturing (but not further processing) monocrystal semiconductor boules or wafers</p> <p>8486.20 - For manufacturing or repairing masks or reticles</p> <p>8486.30 - For manufacturing (but not further processing) glass substrates used in the production of flat panel displays</p> <p>- For projection or drawing of circuit patterns on sensitised semiconductor materials:</p> <p>8486.41 -- Direct write-on-wafer apparatus</p> <p>8486.42 -- Step and repeat [apparatus] [aligners]</p> <p>8486.49 -- Other</p> <p>- Other, for processing (but not assembling) wafers or glass substrates, including cleaning and</p>	<p>84.86 Machines and apparatus for the manufacture of semiconductor wafers, devices or flat panel displays.</p> <p>8486.10 - Machines and apparatus for the manufacture of wafers</p> <p>8486.20 - Machines and apparatus for the manufacture of semiconductor devices</p> <p>8486.30 - Machines and apparatus for the manufacture of flat panel displays</p> <p>8486.90 - Parts [and accessories]".]</p>	<p>84.86 Machines and apparatus for the manufacture of semiconductor wafers, of semiconductor devices, of electronic integrated circuits or of flat panel displays [; accessories suitable for use solely or principally with the foregoing machines].</p> <p>8486.10 - Apparatus for the manufacture of wafers</p> <p>8486.20 - Apparatus for the manufacture of semiconductor devices or of electronic integrated circuits</p> <p>8486.30 - Apparatus for the manufacture of flat panel displays</p> <p>8486.90 - Parts [and accessories]</p>	<p>84.86 Machines and apparatus for the manufacture or repair of semiconductor wafers, semiconductor devices, electronic integrated circuits or flat panel displays; parts and accessories suitable for use solely or principally with the foregoing machines</p> <p>8486.10 - Machines and apparatus for the manufacture or repair of semiconductor wafers</p> <p>8486.20 - Machines and apparatus for the manufacture or repair of semiconductor devices, other than wafers, or of electronic integrated circuits</p> <p>8486.30 - Machines and apparatus for the manufacture or repair of flat panel displays</p> <p>8486.90 - Parts and accessories</p>

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<p>polishing machines and apparatus:</p> <p>8486.51 -- For dry-etching patterns on semiconductor materials</p> <p>8486.52 -- Ion implanters for doping semiconductor materials</p> <p>8486.53 -- Other, for processing wafers</p> <p>8486.59 -- Other</p> <p>- Other:</p> <p>8486.81 -- For assembling semiconductor devices</p> <p>8486.82 -- For assembling flat panel displays</p> <p>8486.89 -- Other</p> <p>8486.90 - Parts and accessories</p>			
New Note 9 to Chapter 84			
<p>9. For the purposes of heading 84.86, the expression "machines and apparatus for the manufacture of semiconductor devices, electronic integrated circuits and flat panel displays" covers :</p> <p>(a) machines and apparatus solely or principally used for the manufacture of monocrystal semiconductor boules or wafers, diodes, transistors and similar semiconductor devices, photosensitive semiconductor</p>	<p>9. Heading 84.86 covers apparatus solely or principally designed for the manufacture of semiconductor wafers, semiconductor devices (as specified in Note 5 to Chapter 85) or flat panel displays [(as specified in heading XX.XX)].</p> <p>This heading shall take precedence over any other heading in the Nomenclature which might cover the function of the above mentioned products.</p>	<p>9. Heading 84.86 applies only to machines and apparatus which are solely or principally used for the manufacture of semiconductor wafers, of semiconductor devices, of electronic integrated circuits or of flat panel displays.</p> <p>Notes 5 (A), 5 (B) (b) and 5 (B) (c) to Chapter 85 also apply with respect to the expressions "diodes, transistors and similar semiconductor devices" and "electronic integrated circuits" as used in this Note and in heading 84.86. However, for the purposes</p>	<p>9. Heading 84.86 covers machines and apparatus designed solely or principally for the manufacture of the following goods:</p> <p>(a) Semiconductor wafers or devices, photosensitive semiconductor devices and light emitting diodes specified in heading 85.41;</p> <p>(b) Electronic integrated circuits and microassemblies specified in heading 85.42; and</p>

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<p>devices, light emitting diodes, electronic integrated circuits and flat panel displays;</p> <p>(b) machines and apparatus solely or principally used for the manufacture and repair of masks and reticles used in the manufacture of diodes, transistors and similar semiconductor devices, photosensitive semiconductor devices, light emitting diodes, electronic integrated circuits and flat panel displays;</p> <p>(c) machines solely or principally used for transport, handling or storage of monocrystal semiconductor boules or wafers, diodes, transistors and similar semiconductor devices, photosensitive semiconductor devices, light emitting diodes, electronic integrated circuits, flat panel displays, glass substrates for the foregoing and masks and reticles used in the manufacture of the foregoing;</p> <p>(d) subject to Note 2 to Section XVI, the parts and accessories solely or principally used with such machines and apparatus.</p>		<p>of this Note and of heading 84.86, the expression "semiconductor devices" also covers photosensitive semiconductor devices and light emitting diodes.</p> <p>For the purposes of this Note and of heading 84.86, the following expressions have the meanings hereby assigned to them :</p> <p>(a) Semiconductor wafers Monocrystal semiconductor boules or wafers.</p> <p>(b) Flat panel displays Liquid crystal displays, light emitting diode displays, gas discharge plasma displays, electro-luminescent displays and vacuum fluorescent displays.</p> <p>Subject to Note 1 to Section XVI and Note 1 to Chapter 84, goods answering to the description in heading 84.86 are to be classified in that heading and in no other heading of the Nomenclature.</p>	<p>(c) Flat panel displays specified in heading xx.xx</p>

Annex to Doc. NR0468E1
 (RSC/28/Sept. 2003)

US Proposal	EC Proposal	Secretariat's Proposal	Canadian Alternative
<p>For the purposes of this Note, the terms "diodes, transistors and similar semiconductor devices" and "electronic integrated circuits" shall be applied in conformance with the definitions set forth in Note 5 to Chapter 85. Also for the purposes of this Note, the term "flat panel displays" refers to units which display images, whether representing pictures or text, by controlling individual picture elements (pixels) which are laid out in a uniform pattern of rows and columns. Flat panel displays include those utilising such display technologies as liquid crystals, light emitting diodes, gas discharge plasma, electroluminescence, and vacuum fluorescence. It does not cover displays which utilise cathode-ray technology. The term "flat panel display" does not refer to the finished goods into which they are incorporated, such as display monitors for automatic data processing machines, display screens for laptop computers, television receivers or video monitors.</p> <p>For the classification of the machines and apparatus defined in this Note, heading 84.86 shall take precedence over any other heading in the Nomenclature</p>			

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<p>which might cover them by reference to, in particular, their function. This heading does not, however, cover testing, measuring or checking instruments and apparatus of Chapter 90.</p>			
Other Legal Text Changes			
Section XVI			
<p>Note 2(a) Delete "84.85" and substitute "84.87"</p>			
<p>Note 2(c) Delete "84.85" and substitute "84.87"</p>			
(a) Chapter 84			
<p>Exclusion Notes 1(b) and 1 (c) Delete and substitute : (b) Except for the articles of heading 84.86, machinery or appliances (for example, pumps) of ceramic material and ceramic parts of machinery or appliances of any material (Chapter 69); (c) Except for the articles of heading 84.86, laboratory glassware (heading 70.17); machinery, appliances or other articles for technical uses or parts thereof, of glass (heading 70.19 or 70.20);</p>			
<p>Note 2 Delete "headings 84.01 to 84.24 and substitute "headings 84.01 to 84.24</p>		<p>Note 2 Subject to the operation of Note 3 to Section XVI and subject to Note 9 to</p>	

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and 84.86".		this Chapter, a machine or appliance which answers to a description in one or more of the headings 84.01 to 84.24, or to the text of heading 84.86 and at the same time to a description in one or other of the headings 84.25 to 84.80 is to be classified under the appropriate heading of the former group or under heading 84.86, as the case may be, and not the latter group.	
<p>Subheadings 8456.9 to 8456.99 Delete and replace with a one-dash subheading "8456.90 - Other"</p>			
<p>Current Heading 84.85 Delete and substitute : 84.87 Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this Chapter. 8487.10 - Ships' or boats' propellers and blades therefor 8487.90 - Other".</p>			
(b) Chapter 85			
<p>Note 1(b) Delete "or" at the end.</p>		<p>Note 1(b) Delete "or" at the end.</p>	
<p>Insert new Note 1(c) Machinery, instruments and apparatus of heading 84.86; or" Reletter present Note 1(c) as 1 (d)</p>		<p>Insert new Note 1(c) Machines and apparatus of heading 84.86; or Reletter present Note 1(c) as 1 (d)</p>	

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<p><u>Subheadings 8543.1 to 8543.19</u> Delete and substitute 8543.10 - Particle accelerators.</p>			
(c) Chapter 90			
<p><u>Exclusion Note 1 (g)</u> Delete "of heading 84.81;" and substitute "of heading 84.81; articles of heading 84.86;</p>		<p><u>Exclusion Note 1 (g)</u> Delete "of heading 84.81;" and substitute "of heading 84.81; machines and apparatus of heading 84.86;</p>	
<p><u>Note 2(a)</u> Delete "(other than heading 84.85, 85.48 or 90.33)" and substitute "(other than heading 84.87, 85.48 or 90.33)"</p>			
<p><u>Heading 90.10 Heading Text</u> Delete "(including apparatus for the projection or drawing of circuit patterns on sensitized semiconductor materials)".</p>			
<p><u>Subheadings 9010.4 to 9010.49</u> Delete these subheadings.</p>			