

Original: English

EUROPEAN COMMUNITIES - CUSTOMS CLASSIFICATION  
OF SOME COMPUTER EQUIPMENT

Request for Consultations by the United States

The following communication, dated 8 November 1996, from the Permanent Mission of the United States to the Permanent Delegation of the European Commission and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the European Communities pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") regarding tariff reclassification by the customs authorities of the Communities and their member States of Local Area Network ("LAN") adapter equipment and personal computers ("PCS") with multimedia capability.

On 24 May 1995, the European Commission's DG-XXI published Regulation (EC) 1165/95, reclassifying certain LAN adapter cards from category 8471, automatic data processing machines and units thereof, to category 8517, telecommunications apparatus. The result was to raise the tariff applied to such products from 3.5 per cent to 7.5 per cent. Since that time, various member State customs authorities have reclassified imports of all types of LAN equipment into the tariff category applicable to telecommunications apparatus.

In addition, member State customs authorities have reclassified imports of PCS with multimedia capability from category 8471 to other categories with higher duty rates. For instance, a decision by the VAT Tribunal of the United Kingdom in April 1996 confirmed a decision by the United Kingdom Commissioners of Customs and Excise reclassifying certain personal computers imported in 1995 from category 8471 to category 8528, television receivers, because such computers had television capability. Furthermore, the Customs Service in Scotland has stated to importers through a "Flash Sheet" dated February 1996 that computers containing a CD-ROM drive and sound card are to be classified under category 8521 as "video apparatus" dutiable at 14 per cent; and that computers containing a video tuner card are to be classified under category 8528 dutiable at 14 per cent. Other reclassification actions by member State customs authorities have also taken place or are under study.

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The United States considers that these measures impair the treatment provided for in the Communities' Schedules LXXX and CXL, in contravention of the obligations of the European Communities under Article II of the GATT 1994. This impairment of concessions affects an increasing volume of trade which already amounts to hundreds of millions of dollars per year. The United States reserves the right to raise additional factual claims and legal matters during the course of the consultations.