

EUROPEAN COMMUNITIES - CUSTOMS CLASSIFICATION  
OF SOME COMPUTER EQUIPMENT

Request for the Establishment of a Panel by the United States

The following communication, dated 11 February 1997, from the Permanent Mission of the United States to the Permanent Delegation of the European Commission and to the Dispute Settlement Body, is circulated at the request of that delegation.

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On 23 May 1995, the Commission of the European Communities adopted Regulation (EC) No. 1165/95, reclassifying certain local area network ("LAN") adapter cards from category 8471, "automatic data processing machines and units thereof", to category 8517, "telecommunications apparatus". That regulation entered into force on 14 June 1995. The result was to raise the tariff applied to imports of such products into the European Communities from 3.5 per cent to 7.5 per cent, which is above the rate provided for in the European Communities' Schedules ("EC Schedules") annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994 ("GATT 1994").

Since June 1995, customs authorities in the European Communities, including but not limited to those in the United Kingdom and Ireland, have been applying tariffs to imports of all types of LAN equipment - including hubs, in-line repeaters, converters, concentrators, bridges and routers - in excess of those provided for in the EC Schedules. Those products were previously dutiable as automatic data processing equipment under category 8471, but, as a result of the customs authorities' action, are now subject to the higher tariff rates applicable to category 8517, "telecommunications apparatus".

In addition, since 1995, customs authorities in the European Communities, particularly those in the United Kingdom, have increased tariffs on imports of certain personal computers ("PC's") from 3.5 per cent to 14 per cent, which is above the rate provided for in the EC Schedules. These increases have resulted from the reclassification of PCs with multimedia capability from category 8471 to other categories with higher duty rates. For example, PCs that have a CD-ROM drive have been reclassified to be dutiable under category 8521, "video apparatus", and PCs that have video tuner cards or printed circuit boards allowing television capability have been reclassified to be dutiable under category 8528, "televisions".

As a result of EC Regulation 1165/95 and the measures taken with respect to LAN equipment and PCs with multimedia capability, the United States considers that its commerce has been accorded treatment less favourable than that provided for in the EC Schedules, in contravention of the obligations of the European Communities and its member States under Article II of the GATT 1994.

In addition, the application of these measures by the European Communities and its member States nullifies or impairs, within the meaning of GATT Article XXIII:1(b), benefits accruing to the United States directly or indirectly, under the GATT 1994.

In a communication dated 8 November 1996 (WT/DS62/1), the Government of the United States requested consultations with the European Communities regarding these measures pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article XXII:1 of the GATT 1994. Consultations were held on 23 January 1997, but did not result in a resolution of the dispute.

Accordingly, the United States respectfully requests the establishment of a panel to examine the matter with standard terms of reference as set out in Article 7 of the DSU.

The United States asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body scheduled to be held on 25 February 1997.